



Dane County

Minutes

Board of Adjustment

Consider:

Who benefits? Who is burdened?

Who does not have a voice at the table?

How can policymakers mitigate unintended consequences?

Thursday, March 24, 2022

6:30 PM

The Board of Adjustment meeting is being held
virtually.

A. Call To Order

Chair Long called the meeting to order at 6:32 pm and made a statement about the rules and procedures of the Board. Hilbert explained how the virtual meeting would be conducted.

*Also Present: Staff: Hans Hilbert, Assistant Zoning Administrator
Studz joined the meeting at 7:03 PM.*

Present 5 - Chair AL LONG, Vice Chair TRAVIS LEESER, ARLAN KAY, Secretary SUE STUDZ, and GEORGE CORRIGAN

B. Public Comment for any Item not listed on the Agenda

No public comments were made.

C. Consideration of Minutes

Minutes of the February 10, 2022 special hearing

LEESER/KAY to approve the minutes as amended. Motion carried.

Ayes: 4 - LONG, LEESER, KAY and CORRIGAN

Excused: 1 - STUDZ

Minutes of the March 10, 2022 site inspection meeting

LEESER/KAY to approve the minutes. Motion Carried.

Ayes: 4 - LONG, LEESER, KAY and CORRIGAN

Excused: 1 - STUDZ

D. Public Hearing for Appeals

1. Appeal 3717. By Erik Johnson (Burse Surveying & Engineering, Inc, agent) for variances from maximum height and area of a boathouse in the Shoreland District as provided by 11.03(2)(c)1., Dane County Code of Ordinances, to permit remodel of an existing boathouse at 4525 Fox Bluff Ln being lot 3, CSM 6937 in the NW ¼ of the SW ¼ Section 5, Town of Westport.

Assistant Zoning Administrator (AZA) Hilbert presented a Staff Report reporting facts of the case including the revised plans that had been previously delivered to the Board.

IN FAVOR: Buck Sweeney, agent for owner, spoke in favor of the variance request.

Erik Johnson, and his engineer also spoke in support of the request and answered questions of the Board.

ZONING ADMINISTRATOR'S COMMENTS: Hilbert relayed that the Zoning Administrator stated the revised plans were more inline with the existing neighborhood conditions.

OPPOSED: [None. The Chair stated no rebuttal was needed.]

Facts of the Case:

Existing:

- *Property contains a single family residence, detached garage, and boathouse. The boathouse, constructed in 1991, is located within the vegetative buffer zone, and has a footprint of 897.4 square feet. The height of the existing boathouse is 16.19 feet. Variance 2159 was granted in 1991 allowing the boathouse to exceed the 12 foot maximum height by 4 feet.*

Proposed

- *Property owner proposes to remodel existing boathouse and remove and replace roof. The boathouse will remain within the existing footprint. The proposed roof will result in a boathouse height of 16.46 feet.*

Zoning Notes:

- *The Town of Westport has opted out of County zoning and enforces their own zoning. Dane County Zoning retains jurisdiction over shoreland zoning. Shoreland zoning is applicable to all lands within 300 feet of a waterway.*
- *The State of Wisconsin has set certain regulations within the shoreland zone. County regulations can be no stricter nor more relaxed for regulations set by the State.*
- *Boathouse is defined as a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.*
- *A boathouse is an exempt structure if it is:*
 - o *Located entirely above the ordinary high water mark*
 - o *Entirely within the access and viewing corridor*
 - o *Does not contain plumbing*
 - o *Is not used for human habitation.*
- *An exempt structure is exempt from shoreland setback regulation.*
- *Shoreland setback means an area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited by a shoreland zoning ordinance.*
- *A non-conforming structure in shoreland zoning is defined as a structure that does not comply with the require shoreland setback.*
- *Exempt structures do not require a shoreland setback, therefore the existing boathouse does not meet the requirements to be treated as a non-conforming structure in the shoreland zoning district.*
- *Per state statute, existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and*

does not go beyond the three-dimensional building envelope of the existing structure.

• If the activity expands the footprint or exceeds the building envelope, structural alterations to existing exempt structures requires a shoreland zoning permit and the proposed structure must meet current shoreland zoning regulations.

• Boathouses shall:

o Have a footprint no greater than 450 square feet.

o Not exceed a height of 12 feet measured from the ordinary high water mark.

o Be located entirely within the access and viewing corridor.

History

• 6/14/1991 zoning permit DCPZP-1991-01646 issued for single family residence
• 8/22/1991 Appeal 2159 granted by Dane County Board of Adjustment providing 4 feet of relief from maximum height of a boathouse (12 feet).

• 8/23/1991 zoning permit DCPZP-1991-02055 issued for boathouse.

• 11/21/1991 & 1/23/1992 Appeal 2200 granted by Dane County Board of Adjustment for special exception permit to permit filling, grading, retaining walls, etc. within 300 feet of Lake Mendota.

• 4/29/2016 shoreland zoning permit DCPSHL-2016-00020 reviewed for new single family residence, permit expired before being executed.

• 2/10/2017 shoreland zoning permit DCPSHL-2017-00004 issued for new single family residence and detached garage.

• Violation History: No violation history found.

VARIANCES REQUESTED: Purpose: Remodel of existing boathouse with increased height

Maximum height of a boathouse allowed: 12 feet

Proposed height: 16.46 feet

VARIANCE NEEDED: 4.46 feet (3.25 inches higher than existing)

Maximum footprint of a boathouse allowed: 450 feet.

Actual footprint: 897.4 feet.

VARIANCE NEEDED*: 447.4 feet.

*This variance is only required if the existing boathouse is redeveloped outside of its existing three dimensional building envelope.

Conclusions:

1) Unnecessary Hardship: The board discussed "self imposed hardship" as a unnecessary hardship. While it is unfortunate that zoning regulations create a burden for the property owners to continue to enjoy the use of their property, shoreland zoning allows maintenance, repair, and replacement of the structure as it exists which is self-imposed.

2) Unique Limitations of the Property: The structure has already received relief due to the unique limitations of the property.

3) No Harm to Public Interests: Granting a variance is not inline with the intent of the shoreland zoning regulations.

4) Alternatives: The shoreland regulations allow for the structure to be rebuilt within its three dimensional building envelope.

LEESER/KAY to deny variance request 3717. Motion carried.

Ayes: 4 - LEESER, KAY, STUDZ and CORRIGAN

Noes: 1 - LONG

E. Appeals from Previous Meetings

Written decision of Appeal 3716

STUDZ/LEESER to approve the written decision of appeal 3716. Motion Carried.

Ayes: 5 - LONG, LEESER, KAY, STUDZ and CORRIGAN

F. Reports to Committee

G. Other Business Authorized by Law

H. Adjournment

STUDZ/LEESER to adjourn. Motion carried at 8:19 pm.