



Dane County

Minutes - Final Unless Amended by Committee

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, September 22, 2022

6:30 PM

A. Call To Order

Chair Long called the meeting to order at 6:30 pm, introduced the Board and made a statement about the rules and procedures of the Board.

Also Present: Staff: Assistant Zoning Administrator Hans Hilbert.

Present 4 - Chair AL LONG, Vice Chair TRAVIS LEESER, 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

1. [2022](#) Minutes of the August 25, 2022 Public Hearing
[MIN-255](#)

Attachments: [8-25-2022 PH Minutes](#)

LEESER/CORRIGAN to approve the minutes. Motion carried.

Ayes: 4 - LONG, LEESER, STUDZ and CORRIGAN

2. [2022](#) Minutes of the September 8, 2022 Site Inspection
[MIN-293](#)

Sponsors: Board of Adjustment

Attachments: [9-8-2022 SI Minutes](#)

STUDZ/CORRIGAN to approve the minutes. Motion carried.

Ayes: 3 - LONG, STUDZ and CORRIGAN

Abstain: 1 - LEESER

D. Public Hearing for Appeals

1. [2022 BOA-002](#) Appeal 3720. Appeal by Adam & Andrea Barnes (Chris Landerud, agent) for a variance from minimum required setback to the ordinary high water mark of Lake Waubesa as provided by Section 11.03(2)(a)1 and minimum required setback to a street as provided by Section 10.102(9)(b), Dane County Code of Ordinances, to permit a new residence at 2801 Willow Ct being Lot 18, Crescent Park, Section 9, Town of Dunn.

Sponsors: Board of Adjustment

Attachments: [Appeal 3720 BOA Staff Report](#)
[Appeal 3720 Variance Application](#)
[Appeal 3720 Town Ack Letter](#)
[Appeal 1252 Filling within 300 feet of lake waubesa](#)
[DCPZP-1984-36473](#)
[PXL 20220908 134431223](#)
[PXL 20220908 134435152](#)
[PXL 20220908 134438388](#)
[PXL 20220908 134451804](#)
[PXL 20220908 134503977](#)
[PXL 20220908 134506519](#)

Chair Long opened the public hearing. Hilbert presented and staff report and answered questions of the Board.

Chris Landerud, agent for the owner, spoke in favor the variance request and answered questions of the Board.

Hilbert relayed the opinion of the Zoning Administrator that the proposed development would result in a more conforming use and that the request fit within the character of the neighborhood.

Adam & Andrea Barnes, owners, spoke in favor of variance request.

Chair Long closed the public hearing and the Board deliberated.

Communications:

Town of Dunn, August 9, 2022 acknowledgement of application, action September 20, 2022.

Facts of the Case:

Existing:

- Lot 18 Crescent Park was previous split into two parcels, the western parcel contains a single family residence, while the eastern parcel contains two cabins, each being used as a single family residence. The cabins appear to be legal non-conforming uses under Chapter 10 Zoning.*
- The west side of Lot 18 abuts the right-of-way of an unnamed platted road.*
- The existing residence on the western parcel and the lakeside cabin on the eastern*

parcel are non-conforming with Chapter 11, shoreland zoning, due to failure to meet 75 foot setback to ordinary high water mark of Lake Waubesa.

- The existing residence on the western parcel is non-conforming with Chapter 10, general zoning, due to failure to meet 20 foot setback to the unnamed road right-of-way line.

Proposed

- Owner proposes to remove all 3 residential structures, combine the parcels into a single legal lot of record and construct a single single family residence.

Zoning Notes:

- Property is within 300 feet of Lake Waubesa and subject to shoreland zoning regulations.
- Chapter 10 allows non-conforming structures to be maintained and repaired within their building envelope, but not rebuilt unless the rebuilding conforms to the requirements of the ordinance.
- Chapter 11 allows non-conforming structures to be maintained, repaired, and expanded vertically within their existing building footprint. Expansions, other than vertical expansions, are limited to lateral expansion, no greater than 200 square feet, or that meet the required setback to the ordinary high water mark. If a lateral expansion is approved it requires a full shoreland mitigation plan and permit.
- The required setback to the ordinary high water mark for a residential structure on the proposed combined lot is 75 feet. The property does not qualify for a reduced setback based on averaging because it is not adjacent to a lot containing a nonconforming structure on each side due to the platted road right-of-way.

History:

- Zoning permit for residence on western parcel 36473, 8/24/84.
- Special exception/variance for filling within 300 feet of Lake Waubesa 1252 5/24/84
- Violation History: No violation history found.

VARIANCES REQUESTED: Purpose: Residential redevelopment

Minimum setback from road right-of-way:

Required: 20.0 ft

Proposed: 10 ft

VARIANCE NEEDED: 10 ft

Minimum setback to ordinary high water mark of Lake Waubesa:

Required: 75 ft

Proposed: 67.2 ft

VARIANCE NEEDED: 7.8 ft

Conclusions:

- 1) *Unnecessary Hardship:* The presence of a road adjacent to the property prevents the owners from the same use of their property as those without an adjacent road. The fact that the road is not intended for vehicular traffic, and currently serves as a pedestrian only access to Lake Waubesa does not require the same setbacks as a vehicular road does for safe passage. Minus the road, the applicant would be able to develop the property as proposed without relief.
- 2) *Unique Limitations of the Property:* The lot is bound by Lake Waubesa, an unimproved road right-of-way, and Willow Court, each requiring setbacks greater than what currently exists for the three non-conforming structures on the property.
- 3) *No Harm to Public Interests:* The proposed development will result in increased setbacks compared to existing conditions as well as less impervious surfaces than

existing. The Town of Dunn acknowledges benefit by removal of a seawall and replacement with riprap on adjacent town property. A pedestrian access does not require the same setback as a vehicular access for public safety.

4) Alternatives: The owner has rights under non-conforming shoreland regulations that allow for the existing structures to be maintained or replaced within their footprint, however they propose to bring the property into greater conformance with current regulations. The agent originally proposed a development requiring greater relief, but revised the request based on staff comments prior to making application.

STUDZ/CORRIGAN to approve the variances as requested with the condition that the property owner, in coordination with the Town of Dunn, remove the concrete seawall encroaching on town land and replace it with riprap. Motion carried.

Ayes: 4 - LONG, LEESER, STUDZ and CORRIGAN

E. Appeals from Previous Meetings

F. Reports to Committee

Hilbert briefed the Board on their options for future meetings starting in November to meet in-person, virtually, or a hybrid of both. The Board discussed the merits and requested that the matter be placed on a future agenda for consideration.

G. Other Business Authorized by Law

H. Adjournment

STUDZ/LEESER to adjourn. The Board adjourned by voice vote at 7:42 pm.