

## **JULY 25, 2019 BOA PUBLIC HEARING STAFF REPORT**

1. Appeal 3700 by Bryan and Mary McMillan (Cory Horton, RA Smith, Agent) for variance from minimum required setback to a wetland as provided by Section 11.03(2)(a)2., Dane County Code of Ordinances, to permit the construction of a single family residence at a property on Exchange Street being a lot in the NW ¼ of the NW ¼, Section 10, Town of Dunn.

OWNER: Bryan and Mary McMillan  
AGENT: Cory Horton, RA Smith  
LOCATION: Exchange Street  
ZONING DISTRICT: A-1 Exclusive Agriculture

COMMUNICATIONS: Town of Dunn: 6/18/2019 Town Board action recommending approval  
WDNR Request sent 7/5/2019

### Facts of the Case:

#### Existing:

- Property is located within 300 feet of the Yahara River and is included in the shoreland zoning district.
- Property contains an abandoned structure that the current owner began reconstruction on without zoning permits. Abandoned structures do not have non-conforming status.
- At the request of the owner, the parcel was determined to be a legally created parcel.

#### Proposed

- Owner proposes to construct a single family residence located partially on the foundation of the abandoned structure. This foundation does not meet the required setback to boundary of a delineated wetland.

#### Zoning Notes:

Under shoreland zoning, Dane County requires a 75 foot setback to the boundary of any wetland greater than 2 acres.

#### History

3/16/2016: Violation notice issued by Dane County Zoning to property owners due to land disturbing activities, residential uses, and floodplain development without necessary permits, as well as the storage of junk and filling of wetlands. The property owner was instructed to obtain a wetland delineation, and remove the junk and camping trailing from the property.

The 2016 violation was ultimately resolved by the owner submitting a wetland delineation, obtaining after-the-fact permits for land disturbance and removing junk and the camping trailer from the property. The following photos show the condition of the property during the time of this violation:





























6/25/2018: A stop work order was issued by the jurisdictional inspector for failure to obtain permits prior to erecting a structure. A copy of the inspection report including photos showing new trusses and block is attached.

6/27/2018: A violation notice was issued to the property owners directing them to remove the camping trailer from the property and remove the trusses from the structure.

August, 2018: RA Smith, agent for owner, submitted documentation that the structure was less than 75 feet from the wetland boundary as delineated in 2016.

8/21/2018: A final notice of violation was issued to the property owner. This notice included a determination that the previous structure is determined to be abandoned by the Zoning Administrator and is not afforded non-conforming status. The property owner was directed to remove the structure, in its entirety, from the property owner. This notice is attached.

9/18/2018: A routine inspection of the property found that the trusses had been removed from the top of the block and were still stored on the property.

September 2018: The property owner requested additional time to explore options to developing a single family residence on the property. The Zoning Administrator granted this request as long as progress was being made, however the order that this structure, in its entirety, must be removed from the property still stands as an active violation order.

**VARIANCES REQUESTED: Purpose: Construction of a single family residence**

**Setback from wetland variance:**

Minimum setback from wetland required: 75 feet.

Proposed Setback: 70 feet.

**VARIANCE NEEDED: 5 feet.**



## INSPECTION REPORT

DATE: June 25, 2018

NAME: Brian J Mcmillan

ADDRESS: 921 Lorena Pkwy  
Madison, WI 53713

Location: Town of Dunn, Section 10, 0610-102-8910-7

ZONING DISTRICT: A-1EX OWNER: X TENENT: \_\_\_ OTHER: \_\_\_

RE: new construction

REPORT: New roof trusses on existing concrete block walls. Stop work order issued

PHOTOS: attached

Scott Schroeckenthaler  
Dane County Zoning Inspector





June 26, 2018-new trusses and issued stop work order



June 26, 2018-Camper park on property and electric permit issued by Town of Dunn





## DANE COUNTY PLANNING & DEVELOPMENT

Room 116, City-County Building, Madison, Wisconsin 53703  
Fax (608) 267-1540

August 21, 2018

Brian J & Mary S McMillan  
921 Lorena Pkwy  
Madison, WI 53713

RE: Violations occurring at Exchange St  
Parcel # 0610-102-8910-7

*Housing &  
Economic Development*  
(608)266-4270, Rm. 362

*Planning*  
(608)266-4251, Rm. 116

*Records & Support*  
(608)266-4251, Rm. 116

*Zoning*  
(608)266-4266, Rm. 116

On June 27, 2018 this department informed you that illegal development is occurring on your property in Section 10 of the Town of Dunn. The letter instructed you to remove the camper as well as the trusses as you failed to obtain a shoreland zoning permit and a general zoning permit prior to beginning construction.

As part of an on-going investigation of this violation Theran Stautz of R.A. Smith submitted a statement dated Wednesday July 18, 2018 stating that the northeast corner of the building under construction is 71 feet from the wetland boundary he had previously delineated. Under Chapter 11 of the Dane County Code of Ordinances all structures are to be setback a minimum of 75 feet from a wetland boundary.

After reviewing photos from a 2016 violation occurring on this property the Zoning Administrator has determined that the remains of the garage previous located on the property is demolished and nonexistent under DCCO 10.23(4). Based on this determination any continuation of construction is subject to being in compliance with current zoning regulations disregarding any nonconforming status.

This letter serves as notice that your property on Exchange Street remains in violation of the ordinance, and further you will be unable to obtain a shoreland zoning permit or general zoning permit for the structure under construction based on its location.

You are hereby instructed to remove the structure under construction in its entirety, including all walls and trusses within 14 days of the date of this letter. When corrected, please submit evidence that the structure has been removed to the Zoning Department so that the corrections can be verified.

Failure to comply with the stated deadline will result in further enforcement action including citations for each day a violation continues to exist and referral to Dane County Corporation Counsel to obtain a judgement against your property in the Dane County Circuit Court.

Your cooperation is appreciated in this matter.

Sincerely,

Hans Hilbert  
Assistant Zoning Administrator  
County of Dane