



# Dane County

## Minutes

### Board of Adjustment

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Thursday, December 18, 2014

6:30 PM

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#### A. Call To Order

*Chair Schulz called the meeting to order at 6:30 p.m. in Room 354 of the City-County Building and made an announcement regarding rules and procedures followed by the Board.*

*Also present: Staff: Hans Hilbert, Assistant Zoning Administrator; Roger Lane, Zoning Administrator*

**Present** 4 - Chair STEVEN SCHULZ, MARY HALEY, ROBERT PULVERMACHER, and AL LONG

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

*Chair Schulz offered an opportunity for public comment on items not included on the current agenda. There were no registrants for public comment.*

#### C. Consideration of Minutes

1. Minutes of the November 20, 2014 Public Hearing

**HALEY/LONG to approve the minutes. The motion carried.**

**Ayes:** 4 - SCHULZ, HALEY, PULVERMACHER and LONG

2. Minutes of the December 11, 2014 Site Inspection Meeting

**HALEY/LONG to approve the minutes. The motion carried.**

**Ayes:** 4 - SCHULZ, HALEY, PULVERMACHER and LONG

#### D. Public Hearing for Appeals

1. Administrative Appeal 3664. Appeal by James Graham D.B.A. Sugar River Properties LLC appealing the denial of zoning permit application by the Zoning Administrator to permit the construction of a private club at 8637 Davis St, being a portion thereof Lot 4, Block 2, Mount Vernon With Byam`s Addition (Springdale), Section 34, Town of Springdale.

*The Chair opened the public hearing.*

*James Graham, agent (Sugar River Properties LLC), presented an opening statement to the Board.*

*Roger Lane, Zoning Administrator, presented an opening statement to the Board.*

*Graham presented his case to the Board. The Board asked questions of Graham. No witnesses were called.*

*Lane presented his case to the Board. The Board asked questions of Lane. NO witnesses were called.*

*Both parties delivered closing statements and the Chair closed the public hearing. The Board deliberated.*

*The Board accepted the written briefs of both parties into the record.*

*Board discussion and action:*

*Having heard the testimony and considered the evidence presented, the Board determines the facts of this case to be:*

*Filing date: November 6, 2014*

*Meeting notice published: December 4 & 11, 2014, Wisconsin State Journal.*

*Hearing Date: December 18, 2014*

*Appellant: James N. Graham, DBA Sugar River Properties, LLC*

*A. The appellant is an interested party of the following described property which is the subject of the appeal: 8637 Davis St, being a portion thereof Lot 4, Block 2, Mount Vernon With Byam`s Addition (Springdale), Section 34, Town of Springdale.*

*B. The property formerly housed a tavern which was destroyed by fire in November of 2009. A zoning permit to reconstruct the tavern was issued on March 3, 2010.*

*C. On May 5, 2012 the reconstructed tavern had not been completed. The footings that had been constructed were filled in with earth and no structure existed on the property. The zoning permit expired.*

*D. On September 23, 2014 Graham applied for a permit to construct a private club on the property. The Zoning Administrator denied the permit application for reasons stated in a letter to Graham dated October 2, 2014. This letter is the subject of the appeal. The appellant requests that the Board agree that the burnt down tavern is a legal non-conforming use that has not been abandoned and a zoning permit for its reconstruction be issued.*

*Conclusions of Law:*

*Based on the above findings of fact the Board concludes that:*

*The zoning administrator's denial of the zoning permit application is correct because:*

- *The Zoning Administrator followed the proper procedures in determining if a pre-existing non-conforming use had been abandoned.*
- *The appellant did not provide sufficient evidence to support that state statute prevents non-conforming uses from being abandoned.*
- *The entirety of the state statute (59.69) regulating non-conforming uses must be considered, not just individual components.*
- *Had the zoning permit been issued, it would have allowed more relaxed regulation than what the zoning ordinance permits.*

*On the basis of the above findings of fact, conclusions of law and the record in this matter the board affirms the Zoning Administrator's denial of the zoning permit application.*

**SCHULZ/LONG to deny the request for an administrative appeal and uphold the decision of the Zoning Administrator. Motion carried.**

**Ayes:** 4 - SCHULZ, HALEY, PULVERMACHER and LONG

### **E. Appeals from Previous Meetings**

### **F. Reports to Committee**

1. Presentation of proposed 2015 Board of Adjustment Schedule for meetings and application deadlines.

**HALEY/SCHULZ to approve the 2015 BOA meeting schedule. The motion carried.**

**Ayes:** 4 - SCHULZ, HALEY, PULVERMACHER and LONG

### **G. Other Business Authorized by Law**

1. Scheduling of administrative appeal #3665

*Administrative appeal #3665 will be heard at the February 26, 2015 public hearing.*

### **H. Adjournment**

*The board adjourned at approximately 8:45 pm.*

**LONG/HALEY to adjourn. Motion carried.**