



Dane County

Minutes - Final Unless Amended by Committee

Board of Adjustment

Thursday, September 24, 2015

6:30 PM Room 357, City-County Building, Madison, Wisconsin

Room 357, City-County Building, Madison, Wisconsin

A. Call To Order

Chair Schulz called the meeting to order at 6:30 PM and made a statement about the rules and procedures of the Board of Adjustment.

Present 4 - Chair STEVEN SCHULZ, Vice Chair SUE STUDZ, ROBERT PULVERMACHER, and AL LONG

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

No public comments were made.

C. Consideration of Minutes

1. [2015 MIN-292](#) Minutes of the August 27, 2015 Public Hearing

Sponsors: Board of Adjustment

Attachments: [08-27-2015 P.H. Minutes](#)

STUDZ/PULVERMACHER to approve the minutes. The motion carried.

Ayes: 4 - SCHULZ, STUDZ, PULVERMACHER and LONG

2. [2015 MIN-326](#) Minutes of the September 10, 2015 Site Inspection

Sponsors: Board of Adjustment

Attachments: [09-10-2015 S.I. Minutes](#)

STUDZ/PULVERMACHER to approve the minutes. The motion carried.

Ayes: 4 - SCHULZ, STUDZ, PULVERMACHER and LONG

D. Public Hearing for Appeals

- 1. [2015 BOA-004](#) Appeal 3671. Appeal by Daniel & Jill Sears for variance seeking absolution of stormwater management and erosion control requirements as provided by Sections 14.50 and 14.51, Dane County Code of Ordinances, to permit development of single-family residence along State Highway 138 being Lot 1, CSM 11985, in the NW 1/4 NE 1/4 Section 8, Town of Rutland.

Sponsors: Board of Adjustment

Attachments: [BOA Staff Report 09-24-2015](#)
[Appeal 3671 Application](#)

Appeal 3671. Appeal by Daniel & Jill Sears for variance seeking absolution of stormwater management and erosion control requirements as provided by Sections 14.50 and 14.51, Dane County Code of Ordinances, to permit development of single-family residence along State Highway 138 being Lot 1, CSM 11985, in the NW 1/4 NE 1/4 Section 8, Town of Rutland.

VARIANCES REQUESTED: Waiving of 14.50 and 14.51 related to erosion control and stormwater management.

Assistant Zoning Administrator (AZA) Hilbert presented a Staff Report reporting facts of the case.

IN FAVOR: Daniel & Jill Sears spoke in favor of the variance request.

ZONING ADMINISTRATOR'S COMMENTS: Josh Harder, Dane County Land and Water Resources, spoke on behalf of the Zoning Administrator. Harder expressed that the ordinances are intended to protect the community by requiring erosion control and stormwater management practices at various thresholds of development throughout the county. Harder also answered questions of the Board related to the request.

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

Motion: Studz/Schulz to deny the variance request.

Finding of Fact:

Existing:

- *Currently the property is vacant with the exception of an existing gravel driveway install between 2006 and 2008. In 2011 the driveway was appended to provide access to a residence built on an adjacent lot at 4363 State Highway 138.*
- *The property was zoned to allow residential development in 2006. A condition of the zoning was to require a deed restriction be recorded against the RH-3 property requiring "the driveway to have bump-outs allowing access by emergency vehicles".*

Proposed

- *The owners have proposed a residential development in the southeast corner of the lot.*

Zoning Notes:

*DCCO 14.72: 14.72 VARIANCES. (1) An applicant may include in the application a request for a variance from the requirements of sec. 14.50 or 14.51. No variance shall be granted unless applicant demonstrates and the director and the county conservationist find that all of the following conditions are present:
(a) Enforcement of the standards set forth in this ordinance will result in unnecessary*

hardship to the landowner;

(b) The hardship is due to exceptional physical conditions unique to the property; and

(c) Granting the variance will not adversely affect the public health, safety or welfare, nor be contrary to the spirit, purpose and intent of this ordinance.

(2) If all of the conditions set forth in sub. (1) are met, a variance may only be granted to the minimum extent necessary to afford relief from unnecessary hardship, with primary consideration to water quality and impact to downstream conditions.

(3) A person aggrieved by a variance determination by the director may appeal that decision to the committee pursuant to s. 14.71.

(4) A person aggrieved by a decision of the committee regarding a variance may appeal that decision to the board of adjustment pursuant to s. 10.26.

History

- The initial variance appeal to the Director of Land Conservation was denied; the appeal of that denial to the Land Conservation Committee was denied on 7/27/2015.

COMMUNICATIONS:

Town of Rutland: 06/04/2015 Support granting of the requested variance.

Conclusions:

1) *Unnecessary Hardship:* The board found that the financial burden of complying with erosion control and stormwater management was not an unnecessary hardship prevent the use of the land as related to demonstrating a need for a variance.

2) *Unique Limitations of the Property:* The board found that there were not unique limitations specific to the property and that similar amounts of impervious surfaces could be found on other properties and would require similar controls for erosion and stormwater.

3) *No Harm to Public Interests:* Granting a variance could result in additional water runoff and result in additional erosion resulting in aversion of the purpose of protections to the community described in DCCO Chapter 14.

4) *Alternatives:* The applicants are able to have use of their property by complying with the requirements of Chapter 14.

STUDZ/SCHULZ Motion to deny the variance appeal. The motion carried.

Ayes: 4 - SCHULZ, STUDZ, PULVERMACHER and LONG

G. Other Business Authorized by Law

1. [2015 ACT-293](#) Requesting comments from WI DNR regarding shoreland zoning variance appeals

Sponsors: Board of Adjustment

Attachments: [Shoreland Zoning Variance Requests](#)

SCHULZ/STUDZ Motion to approve requesting coments from the Wisconsin Department of Natural Resources for any variance request located within the shoreland zoning district. The motion carried.

Ayes: 4 - SCHULZ, STUDZ, PULVERMACHER and LONG

2. [2015](#)
[ACT-294](#)

ELECTION OF OFFICERS

1. Election of the Chairperson of the Board of Adjustment.
2. Election of the Vice-Chairperson of the Board of Adjustment.
3. Election of the Secretary of the Board of Adjustment.

Sponsors: Board of Adjustment

Members of the Board nominated Schulz as Chair, Studz as Vice Chair, and Pulvermacher as Secretary. The board voted unanimously to approve the nominations.

Ayes: 4 - SCHULZ, STUDZ, PULVERMACHER and LONG

H. Adjournment

LONG/STUDZ to adjourn. The Board adjourned at 7:17 PM.

Ayes: 4 - SCHULZ, STUDZ, PULVERMACHER and LONG