



# Dane County

## Minutes - Final Unless Amended by Committee

### Board of Adjustment

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Thursday, June 23, 2016

6:30 PM

Room 357 City-County Building Madison WI

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#### Room 357 City-County Building Madison WI

#### A. Call To Order

*The Chair called the meeting to order at 6:30 PM and made a statement regarding the rules and procedures of the Board.*

*Also present: Hans Hilbert, Assistant Zoning Administrator*

**Present** 5 - Chair STEVEN SCHULZ, Vice Chair SUE STUDZ, ROBERT PULVERMACHER, AL LONG, and EDMOND MINIHAN

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

*No public comments were made.*

#### C. Consideration of Minutes

1. [2016 MIN-122](#) Minutes of the May 26, 2016 Public Hearing

**Sponsors:** Board of Adjustment

**Attachments:** [05-26-2016 PH Minutes](#)

**STUDZ/MINIHAN to approve the minutes. The motion carried.**

**Ayes:** 5 - SCHULZ, STUDZ, PULVERMACHER, LONG and MINIHAN

2. [2016 MIN-123](#) Minutes of the June 9, 2016 Site Inspection

**Attachments:** [06-09-2016 S.I. Minutes](#)

**STUDZ/MINIHAN to approve the minutes. The motion carried.**

**Ayes:** 5 - SCHULZ, STUDZ, PULVERMACHER, LONG and MINIHAN

#### D. Public Hearing for Appeals

1. [2016 BOA-004](#) Appeal 3678. Appeal by Donald Muto (Doug Corning, Corning & Associates, LLC, agent) for a variance from minimum required setback to an ordinary high water mark as provided by Section 11.03(2)(a)1., Dane County Code of Ordinances, to permit proposed relocation of stairway and retaining wall at 2060 Barber Drive being Lot 3 of CSM 8298, Section 26, Town of Dunn.

**Sponsors:** Board of Adjustment

**Attachments:** [Appeal 3678 BOA Staff Report draft](#)

[Appeal 3678 Muto Application](#)

[DCPVAR-1985-01414](#)

[DCPVAR-1994-02665](#)

[DCPZP-2002-01314](#)

[DCPZP-2003-01648](#)

[DCPZP36868](#)

[DCPZP36981](#)

[DCPZP37290](#)

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

*IN FAVOR: Doug Corning, agent and Donald Muto, owner, spoke in favor of the variance*

*request and provided additional photographs of the property to the Board.*

*ZONING ADMINISTRATOR'S COMMENTS: Hilbert relayed that the Zoning Administrator supported this variance request as it was in line with the intent of the ordinance to allow shoreland property owners to maintain, repair, and restore existing developments, however State law does not allow the ZA to be more restrictive than the State Statutes but must enforce the minimum restrictions.*

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

*Finding of Fact:*

*Existing:*

- *Existing use of the property is a single family residence with rear deck abutting the vegetative buffer zone. Within the vegetative buffer zone exists a failing retaining walls and stairs to access the water and the existing boathouse on the property.*

*Proposed*

- *The owner proposes restoring and relocating the retaining wall and walkway/stairs that currently exists in the vegetative buffer zone. The proposed design will result in a reduction of impervious surfaces.*

*Zoning Notes:*

- *Under State law, existing non-conforming impervious surfaces and structures, which lawfully exist may be repaired and replaced in their existing size and location. They may also be relocated as long as the proposed location meets all required setbacks. The shoreland zoning code allows for a walkway, up to 60 inches in width, for the purpose of accessing the water, to be located within the access and viewing corridor, however, structures, including retaining walls, are not permitted within the vegetative buffer zone. The applicant is requesting to relocate a retaining wall currently within the vegetative buffer zone to another location within the vegetative buffer zone, but this location will not meet the required setback from the ordinary high water mark of*

the Lake Kegonsa.

*History*

- *March 1985: New single family residence was constructed on Lot 6 of Lincoln Park. At the time two boathouses existed on the property.*
- *April 1985: Variance 1343 was granted to allow a reduced front setback to allow the owner to build an attached garage on the residence which was under construction.*
- *July 1985: Variance 1414 was granted to allow a reduced setback from the ordinary high water mark to allow the owner to construct a wood deck on the rear of the residence.*
- *May 1995 Variance 2665 granted to allow a CSM to correct a land survey error resulting in smaller lot sizes for this property and two adjacent properties.*
- *2002: Permit issued to allow owner to restake sidewall of boathouse.*
- *2003: Permit issued to allow owner to repair existing boathouse slab and entry way. Included with this permit was the removal of the second boathouse on the property that had been restaked the previous year. It appears the removal of the second boathouse was a condition of this permit, however the documentation is unclear, regardless, the second boathouse was removed at this time and the area was revegetated.*
- *2014: Shoreland zoning permit issued to allow current owner to replace decking on rear deck and do minor alterations to the rails of the deck and boathouse and front entryway.*
- *Violation History: No violation history was found on the property.*

*Conclusions:*

- 1) Unnecessary Hardship: Applicants are requesting the minimum amount of relief to allow them the continued use of their property as it has developed into a single family residential property over the past 3 decades. Strict compliance with the ordinance would result the owner not being allowed to maintain an existing development as intended by the shoreland zoning provisions for existing impervious surfaces.*
- 2) Unique Limitations of the Property: The existing residence replaced two small cottages and two boat houses within the last 30 years. The depth of the lot does not allow for other configurations for erosion control and stormwater management between the existing retaining wall and location of the residence.*
- 3) No Harm to Public Interests: The restoration of the retaining wall will prevent soil from eroding into the lake. The variance allows the existing development to continue to exist.*

*COMMUNICATIONS: Town of Dunn: 5/11/2016; Acknowledgement, 6/20/2016 Board action recommending approval.*

*VARIANCES REQUESTED: Purpose: Allow relocation of existing retaining wall and walkways/stairs*

*Setback from ordinary high water mark:  
Minimum setback from OHWM required: 35 feet.  
Actual Setback: From front lot line: 11.2 feet.  
VARIANCE NEEDED: 23.8 feet.*

**STUDZ/SCHULZ to approve a variance of 28.3 feet from the required setback to the ordinary high water mark to allow the repair and relocation of an existing retaining wall and stairway. Motion carried.**

**Ayes:** 5 - SCHULZ, STUDZ, PULVERMACHER, LONG and MINIHAN

**G. Other Business Authorized by Law**

**H. Adjournment**

STUDZ/MINIHAN to adjourn. The Board adjourned at 7:10 PM.