



# 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?*

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Thursday, November 21, 2024

6:30 PM

Hybrid Meeting: Attend in person at the City County  
Building, Room 357.

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See below for additional instructions on how to attend the meeting and provide public testimony.

#### A. Call To Order

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

**Present** 5 - ARLAN KAY, Secretary SUE STUDZ, ALEXANDER ELKINS, GEORGE CORRIGAN, and AL LONG

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

*No public comments were made.*

#### C. Consideration of Minutes

1. [2024](#) Minutes of the October 21, 2024 Public Hearing

[MIN-306](#)

**Sponsors:** Board of Adjustment

**Attachments:** [10-21-2024 PH Minutes](#)

**STUDZ/CORRIGAN to approve the minutes. Motion carried.**

**Ayes:** 4 - KAY, STUDZ, CORRIGAN and LONG

**Abstain:** 1 - ELKINS

2. [2024](#) Minutes of the November 14, 2024 Site Inspection Meeting

[MIN-321](#)

**Sponsors:** Board of Adjustment

**Attachments:** [11-14-2024 SI Minutes](#)

**STUDZ to approve the minutes. Motion carried.**

**Ayes:** 3 - STUDZ, ELKINS and LONG

**Abstain:** 2 - KAY and CORRIGAN

## **D. Public Hearing for Appeals**

1. [2024](#)  
[BOA-004](#) Appeal 3730. Appeal by Jason & Amy Zembroski requesting a variance from floodplain development standards and required side yard to permit the removal and replacement of a residence at 362 Lake Shore Drive being lot 13 & 14 Edgerton Beach Park, Section 25, Town of Albion.

**Sponsors:** Board of Adjustment

**Attachments:** [Appeal 3730 Staff Report](#)  
[Comments from WIDNR](#)  
[Appeal 3730 Elevation Certificate](#)  
[Overview map](#)  
[362 Lake Shore Dr Answer To Questions](#)  
[362 Lake Shore Dr Dane Co Variance Application 9302024 Signed](#)  
[362 Lake Shore Dr Description of Project](#)  
[362 Lake Shore Dr Prelim. Floor Plan and Elevations 9062024](#)  
[362 Lake Shore Dr Site Grading Plan 10212024](#)  
[362 Lakeshore Dr Town of Albion Acknowledgement Email Julie Hanewall 9242024](#)

*Chair Long opened the public hearing. Hilbert provided the staff report for the appeal.*

*Jason Zembroski (owner) spoke in favor of the request and answered questions of the Board.*

*The Zoning Administrator stated that the intent of the ordinance is that non-conforming structures need to come into compliance with current development standards and a variance would put the development at risk of flooding. Lake Koshkonong, and this particular neighborhood has a history of disastrous flood events and minimum standards of the ordinance are just that--the minimum needed to protect people and property in the event of the flood.*

*Zembroski was allowed a rebuttal.*

*The Board deliberated.*

**COMMUNICATIONS:**

*Town of Albion: 09/24/2024 acknowledgement; Action: No response as of 11/18*

*WI DNR- Comments from Regional Floodplain Engineer, Will Disser and Floodplain Management Policy Coordinator, Sarah Rafajko.*

**Facts of the Case:**

**Existing:**

- In August of 2008 Lake Koshkonong experienced significant flooding and a number of residences in the Edgerton Beach Park subdivision were inundated with floodwater.*
- The residence on the property at that time was determined to be substantially*

damaged.

- The replacement of substantially damaged structures is required to comply with current floodplain development standards.
- In 2008 the effective flood insurance rate maps for the area were adopted in 2003.
- In November of 2008 floodplain and zoning permits were issued for the removal of the damaged structure and the rebuilding of a new residence, however these permits expired in 2009 because construction had not begun.
- The property was then sold to a new owner who obtained permits in February 2010 to lift and rehabilitate the existing residence.
- In 2009 FEMA updated the rate maps, however there was no change in the base flood elevation of Lake Koshkonong at 784.4 feet, the same as the 2003 maps.
- In 2011, Dane County Zoning issued a certificate of compliance stating that the new residence on the property conformed to the floodplain regulations in effect at the time.
- In 2014, FEMA and the Wisconsin Department of Natural Resources restudied the flood sources in the area and once again revised the flood insurance rate maps. These maps increased the base flood elevation of Lake Kegonsa by ½ foot to 784.9 feet above mean sea level.
- The adoption of the new base flood elevation resulted in the replacement residence becoming non-conforming as it was no longer in compliance with floodplain development standards.
- Based on the 2011 elevation certificate used to determine floodplain development standards, the existing residence:
  - o Has a first floor elevation of 788.2 ft amsl, this is still in compliance.
  - o Has lowest adjacent grades (of soil outside of structure) of 784.4 ft amsl, this is out of compliance.
  - o Has a crawlspace floor elevation of 784.0 ft amsl, this is out of compliance.
  - o The existing structure does not have contiguous dryland access due to the elevation of Lake Shore Drive below the base flood elevation.
- Zembroski purchased the property in 2017.

#### *Proposed*

- The property owner proposed to remove the existing single story residence from the foundation and build a two story residence on the remaining foundation.
- Developments exceeding 50% of the equalized assessed value must comply with current floodplain development standards.
- As proposed the new residence fails to comply with floodplain development standards as well as the required side yard setback.
- Proposed floodplain development standards:
  - o Elevation of lowest floor: Required: 786.9 ft; Proposed: 788.2 ft
  - o Foundation on Fill at 785.9 ft: Required: 15 ft; Proposed: 0 ft
  - o Basement or crawlway: Required: 784.9 ft; Proposed: 784.9 ft
  - o Contiguous dryland access Required: N/A; Proposed: N/A;

VARIANCES REQUESTED: Purpose: Remove and replace residence

#### *Required side yard:*

Minimum setback from lot line required: 10 feet.

Actual Setback: From front lot line: 4.3 feet.

VARIANCE NEEDED: 5.7 feet.

#### *Floodplain Development Standards:*

Fill one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure:

*Minimum fill required: 15 feet  
Proposed: 0 feet  
VARIANCE NEEDED: 15 feet.*

*Conclusions of Law:*

*After hearing the matter the Board concluded the request failed to demonstrate that:*

- a. Literal enforcement of the ordinance will cause unnecessary hardship;*
- b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;*
- c. The variance is not contrary to the public interest; and*
- d. The variance is consistent with the purpose of this ordinance.*
- e. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.*

**KAY motion to denie the variances as requested. Motion carried.**

**Ayes:** 5 - KAY, STUDZ, ELKINS, CORRIGAN and LONG

**E. Appeals from Previous Meetings**

**F. Reports to Committee**

**G. Other Business Authorized by Law**

**H. Adjournment**

**STUDZ motion to adjourn. The Board adjourned by consensus.**