

JULY 25, 2019 BOA PUBLIC HEARING STAFF REPORT

1. Appeal 3701 by Peter Weeks for variance from minimum average lot width and minimum lot area in the shoreland zoning district as provided by Section 11.03(1)b, Dane County Code of Ordinances, and Section 5.2, Wisconsin Model Shoreland Zoning Ordinance, to permit consolidation of land to construct a single family residence on County Highway AB described as Lot 13 Colladay Park, Section 2, Town of Dunn.

OWNER: Peter Weeks

LOCATION: County Highway AB

ZONING DISTRICT: R-3 Residential

COMMUNICATIONS: Town of Dunn: 6/18/2019 Town Board action recommending approval
WDNR Request sent 7/5/2019; response 7/11/2019, letter attached.

Facts of the Case:

Existing:

- Vacant lakefront property is included in the shoreland zoning district. Various land subdivision, and reconfiguration of highway right-of-way has left fragments of land in common ownership.

Proposed

- Owner proposes to consolidate fragments into single riparian lot for the future use as a residential lot.
- Owner also wishes to correct an illegal land division that occurred in the past on the adjacent property where he currently resides.
- If a variance is granted a 2 lot CSM will be recorded to bring the entire ownership boundary into compliance with land division regulations.

Zoning Notes:

Under shoreland zoning, lots are required to have an average lot width of 65 feet. Lots that existed prior to the adoption of shoreland zoning are typically grandfathered in, however previous land divisions rendered this exception null for this property, so to be used as a building site this lot requires a variance.

History

- See attached May 30th, 2019 e-mail from Hans Hilbert to Peter Weeks for a history of this property.

VARIANCES REQUESTED: Purpose: Creation of a shoreland lot

Minimum average lot width variance:

Minimum average lot width required: 65 feet.

Proposed average lot width: 59.9 feet.

VARIANCE NEEDED: 5.1 feet.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
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July 11, 2019

Dane County Board of Adjustment
Rm 357 City-County Building
210 Martin Luther King Jr Blvd
Madison WI

Dear Board Members:

We have received notification of the July 25, 2019 variance hearing to hear an appeal by Peter Weeks for a variance from minimum average lot width and minimum lot area in the shoreland zoning district, to permit consolidation of land to construct a single family residence on County Highway AB described as Lot 13 Colladay Park, Section 2, Town of Dunn. This request is to combine several parcels into one lot that is similar in size to other lots in the area. After the lots are combined, a single family residence is proposed to be built on the site.

The Department supports the granting of a variance in this case. While the minimum lot width for new subdivided parcels is 65' for sewerred areas, the width of this lot has been predetermined by the neighboring properties that are already developed. The combined lot has a sewer hook up on site and allows development that meets the shoreland setback and impervious area standards in the shoreland zoning ordinance.

The combination of these lots will allow a reasonable use of the property.

The standards for granting a variance help to ensure protection of the public interest, including the preservation of water quality and fish and wildlife habitat along lakes and rivers. Wisconsin's navigable waterways are held in trust for all people to enjoy. The shoreland ordinance is important to protect the water quality, natural scenic beauty and the fish and wildlife habitat of Wisconsin's waterways. The Department appreciates your commitment to Dane County's water resources and protection of public interests for future generations.

Sincerely,

Kathi Kramasz
Water Management Specialist

From: [Hilbert, Hans](#)
To: [Ben Kollenbroich](#)
Subject: RE: Weeks lot
Date: Friday, May 31, 2019 11:19:09

I would agree with that, just in a different configuration than originally platted back in the times of yore ☺. I think the request is small enough that it will likely be granted.

Hans

From: Ben Kollenbroich <bkollenbroich@town.dunn.wi.us>
Sent: Friday, May 31, 2019 10:36
To: Hilbert, Hans <hilbert.hans@countyofdane.com>
Subject: RE: Weeks lot

CAUTION: External Email - Beware of unknown links and attachments. Contact Helpdesk at 266-4440 if unsure

Hi Hans,

Thanks for sending this over. Quite an interesting history. Based on what I'm seeing on the maps, it looks like if the variance is approved, this won't create any more home sites than was originally platted for? I think that would be the Town's main concern.

Thanks,

Ben

From: Hilbert, Hans <hilbert.hans@countyofdane.com>
Sent: Friday, May 31, 2019 8:53 AM
To: Ben Kollenbroich <bkollenbroich@town.dunn.wi.us>
Subject: FW: Weeks lot

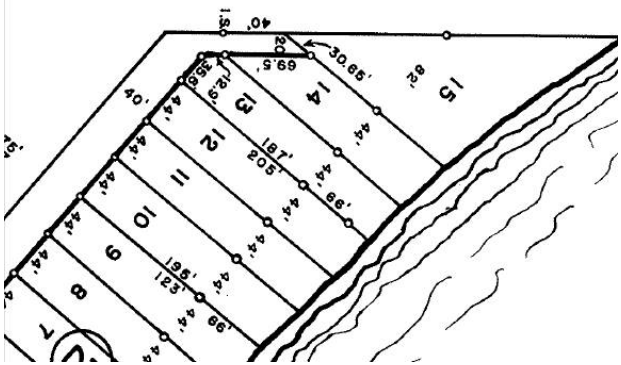
From: Hilbert, Hans
Sent: Thursday, May 30, 2019 16:38
To: 'Peter Weeks' <pweeks@sprynet.com>
Cc: Everson, Daniel <Everson.daniel@countyofdane.com>; Allan, Majid <Allan@countyofdane.com>
Subject: RE: Weeks lot

Peter,

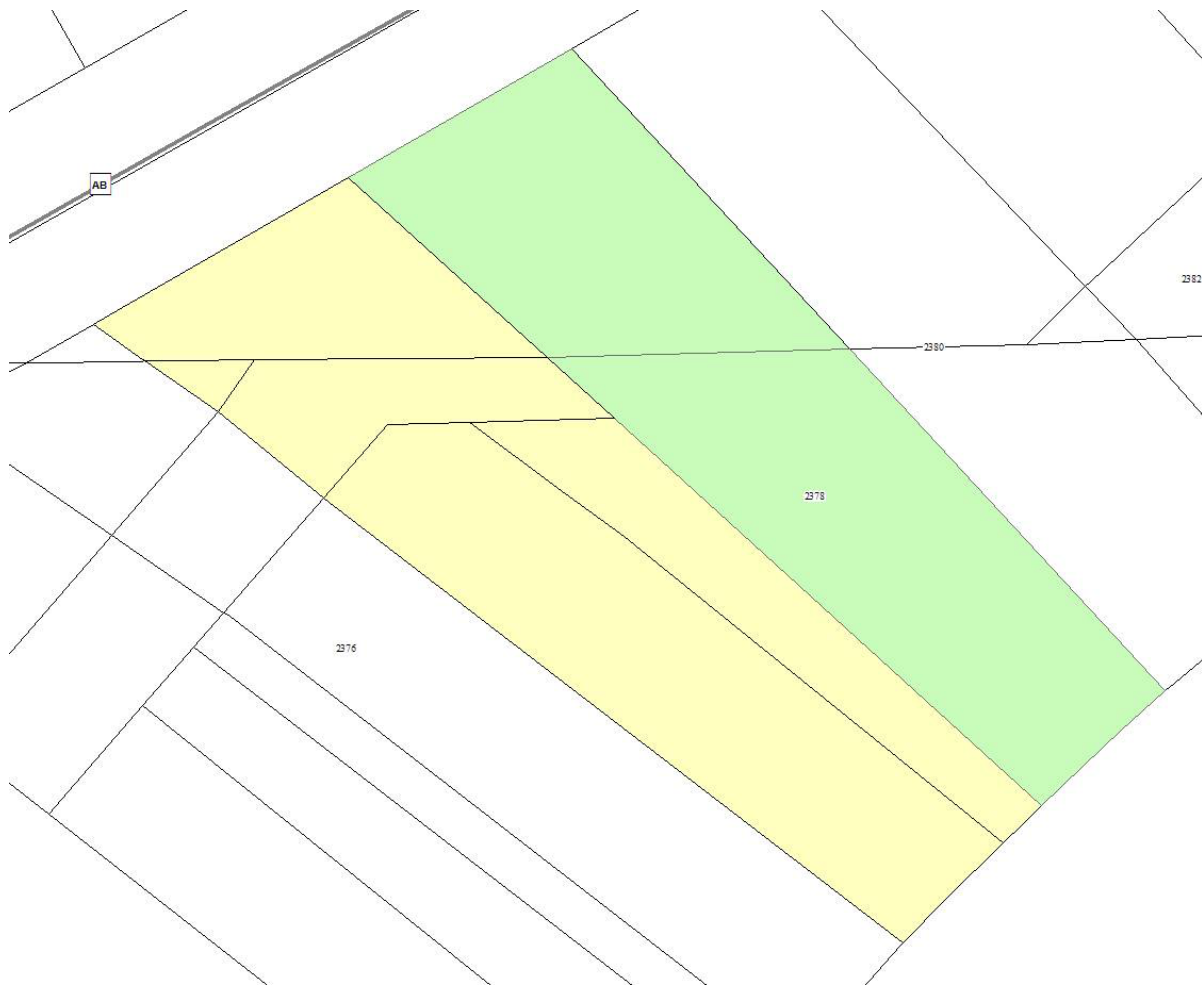
In 2001 all of the land that you currently own was also owned by a single owner, as shaded in green:



In 2002, the realtor requested a parcel status determination from this office to determine if a portion of the property in common ownership could be sold separately. The 2002 determination from our office was for the purpose to state that since the total ownership property contained both lot 13 and lot 14 of the Colladay Park plat, that those were legal lots that could be conveyed separately. Those lots, as platted are shown here:



After that letter was written in 2002, the owner proceeded to sell the developed portion of the property, as shown by the two colors below (ignore the line that bisects the entire map where the 2380 address label falls as it is simply a PLSS line):



Interestingly the resulting land division did not separate lots 13 & 14, as was the intent of the parcel status determination, but included a portion of lot 14 in both ownership boundaries (remnant of lot 14 highlighted):



This ultimately constitutes an illegal land division, as the mechanism for adjusting property lines of a plat is through a certified survey map. This land division was simply done through a quit claim deed. Since your property at 2378 County Highway AB was already developed, it never showed up on our radar as no one was trying to obtain permits.

Fast forwarding to 2019, the bottom line is that in order to develop Lot 13, the remnant of lot 14, and the lands that were create due to the vacation of previously platted right-of-way, you will need to create a legal lot of record by means of recording a certified survey map, which will require a variance from the minimum average lot width for shoreland lots. Since all of these lands are in your ownership at this time, you might consider creating a 2 lot CSM to clean up the illegal land division that results on your developed parcel as well so that it doesn't affect you in the future.

Please let me know if you have any questions,

Hans

From: Peter Weeks <pweeks@sprynet.com>
Sent: Thursday, May 30, 2019 09:30
To: Hilbert, Hans <hilbert.hans@countyofdane.com>
Subject: Re: Weeks lot

Hans

I have attached a letter from Dane County from 2002 that defines the lot as a legal entity. It has a deed, and I bought it as a separate property partly based on the County's opinion that it was a legal lot. Since that time there have not been any changes to the lot lines, nor any certified surveys. The legal description includes all four parcels.

Thoughts?
 Thanks
 peter