



# Dane County

## Minutes

### Board of Adjustment

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Thursday, October 23, 2014

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

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Room 357, City-County Building, Madison, Wisconsin

#### A. Call To Order

*Chair Schulz called the meeting to order at 6:30 pm.*

*Also Present: Hans Hilbert, Assistant Zoning Administrator*

**Present** 4 - Chair STEVEN SCHULZ, Vice Chair SUE STUDZ, BILL OLSON, and MARY HALEY

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

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

#### C. Consideration of Minutes

Minutes of the September 11, 2014 Public Hearing

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

**Ayes:** 3 - SCHULZ, STUDZ and HALEY

**Abstain:** 1 - OLSON

Minutes of the October 9, 2014 Site Inspection Meeting

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

**Ayes:** 4 - SCHULZ, STUDZ, OLSON and HALEY

#### D. Public Hearing for Appeals

Appeal 3659. Appeal by Mt Horeb Centennial VFW Post (Gary Friske, agent) for a variance from minimum required setback from a Class B Highway as provided by Section 10.17(2)(b) , Dane County Code of Ordinances, to permit proposed addition to existing building at 2787 Erbe Rd being in the NW ¼ of the SE ¼, Section 9, Town of Blue Mounds.

*VARIANCES REQUESTED: Purpose: Building addition*

*Setback from Road Variance:*

*Minimum setback from centerline/right-of-way required: 75 / 42 feet.*

*Proposed Setback: From front lot line: 63 / 13.1 feet.*

*VARIANCE NEEDED: 12 / 28.9 feet.*

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

*IN FAVOR: Gary Friske spoke in favor of the variance request.*

*ZONING ADMINISTRATOR'S COMMENTS: No comment.*

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

*Finding of Fact:*

*Existing:*

- Currently the property is used to as a VFW post used for events such as fund raising and other military/funeral functions.*
- Current facility provides seating for approximately 40 guests.*
- Property is bound by County Highway ID to the north, Erbe Road to the east, US Highway 151 to the south, and agricultural land to the west.*

*Proposed*

- Addition to the existing building to the west to allow room for 20 additional seats and correction of fire/emergency exit configuration*

*Zoning Notes:*

- Proposed addition meets all other zoning regulations.*

*History*

- 1991 Permit for meeting room, storeroom, office and handicapped entry addition to existing post.*
- 1990 BOA granted variance for above permit granting relief from setback to Erbe Rd.*

*COMMUNICATIONS:*

*Town of Blue Mounds: 8/29/2014, Acknowledgement; 7/14/2014 Board Action recommending approval of the variance.*

*County Highway Department: 10/14/2014 "We do not have an issue with the proposed addition. If improvements are allowed within the setback, a condition stating "improvements made within the setback shall be removed at the owners expense if future highway needs require additional right- of- way" should be include in the variance to protect the county's future interest.*

*Conclusions:*

*1)Unnecessary Hardship: Lack of relief would result in an unnecessary burden on the property owner to bring the property into compliance with current building/fire code for emergency exits. Proposal is to expand in the direction that requires the least amount*

*of relief.*

*2)Unique Limitations of the Property: The existing building predates zoning requirements for setbacks to established highways.*

*3)No Harm to Public Interests: Granting a variance will not result in the building being located any closer to the highway than the existing building and will not create a more dangerous situation.*

**OLSON/HALEY Motion to approve the variance as requested with the condition that improvements made within the setback shall be removed at the owners expense if future highway needs require additional right-of-way. The motion carried.**

**Ayes:** 4 - SCHULZ, STUDZ, OLSON and HALEY

Appeal 3660. Appeal by Tom Bobek for a variance from minimum required setback from a Class C Highway as provided by Section 10.17(3)(b) , Dane County Code of Ordinances, to permit proposed addition to existing tavern building at 6925 Elder Ln being Lot 1, CSM 9796, Section 22, Town of Bristol.

*VARIANCES REQUESTED: Purpose: Building remodel and addition  
Setback from Road Variance:*

*Minimum setback from centerline/right-of-way required: 63 / 30 feet.*

*Actual Setback: From front lot line: 1.2 feet.*

*VARIANCE NEEDED: 61.8 / 28.8 feet from Elder Ln, 60.8 / 27.8 feet from Branch Rd.*

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

*IN FAVOR: Tom Bobek presented photos and revised plans and spoke in favor of the variance request; Michael Stier spoke in favor of the variance request; Brian Ballweg spoke in favor of the variance request.*

*ZONING ADMINISTRATOR'S COMMENTS: Hilbert relayed comments from the Zoning Administrator that locating an addition in the central portion of the lot may severely limit the potential to upgrade the septic system and that the requested variance is specific to the building structure not existing signage.*

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

*Finding of Fact:*

*Existing:*

- Property and existing structure was formerly used as a tavern.*
- Zoning Administrator determination that the non-conforming use in the B-1 district has been abandoned.*

*Proposed*

- Building remodeling and additions to allow for use of property as a supper club.*

*Zoning Notes:*

- Owner has made application with Dane County Zoning to change the zoning to C-1 Commercial and application for a CUP for a tavern. Both applications will be heard on the November 25, 2014 Zoning and Land Regulation Committee meeting.*

*History*

- 11/11/1977 Garage addition and additional storage zoning permit issued with variance relief from required highway setback.*
- 10/01/1979 Tavern entry way addition zoning permit issued with variance relief from required highway setback.*
- 09/30/1986 Enclosed entry way and garage/basement addition zoning permit issued with variance from required highway setback.*
- 05/04/1990 Covered Entry and uncovered handicap ramp addition zoning permit issued.*
- 1990 Zoning permit for game room and 2nd floor entry issued. Permit file lost.*
- 2008-2009 Violations for illegal storage of junk vehicles on shared parking area for tavern.*
- 2014 Application for rezone and conditional use permit pending to allow for tavern use.*

*COMMUNICATIONS:*

*Town of Bristol: 9/15/2014 Acknowledgement; Action 10/13/2014: The Board unanimously voted to recommend approval with the condition that the proposed*

addition to the corner of the building be shortened by 4 feet on each side and cut at a 45 degree angle to improve vision at the intersection.

*Conclusions:*

1) *Unnecessary Hardship:* Lack of relief would result in an unnecessary burden on the property owner to make any improvements to the existing structure.

2) *Unique Limitations of the Property:* The existing building is located almost entirely within the required setbacks of the adjacent highways.

3) *No Harm to Public Interests:* The town has recommended approval with a modification that will provide for a vision clearance triangle to continue to exist, thereby protecting the public interest.

*The Board acknowledged that this variance request is specific to the proposed structure and not for existing signage on the property.*

**STUDZ/SCHULZ, Motion to approve the variance with the condition that the addition proposed to the corner of the building at the intersection of Branch Rd and Elder Ln be shortened by 4' on each side (length and width) and cut at a 45 degree angle to improve vision at that intersection. The motion carried.**

**Ayes:** 3 - SCHULZ, STUDZ and HALEY

**Noes:** 1 - OLSON

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

Administrative Appeal 3658: Acceptance of written decision

**SCHULZ/STUDZ Motion to approve the written decision of Administrative Appeal 3658. The motion carried.**

**Ayes:** 3 - SCHULZ, STUDZ and HALEY

**Abstain:** 1 - OLSON

## **F. Reports to Committee**

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

Discussion and action related to the hearing of an untimely administrative appeal for Oak Park Quarry, LLC

*The Board found the appeal to be untimely per the adopted Rules and Procedures of the Board of Adjustment.*

**STUDZ/SCHULZ, Motion to dismiss the administrative appeal by Oak Park Quarry, LLC.**

**Ayes:** 4 - SCHULZ, STUDZ, OLSON and HALEY

## **H. Adjournment**

**HALEY/SCHULZ to adjourn. The Board adjourned at approximately 8:45 PM.**

**Ayes:** 4 - SCHULZ, STUDZ, OLSON and HALEY

