

MARCH 24, 2022 BOA PUBLIC HEARING STAFF REPORT

Appeal 3719. Appeal by Mohamad Chowdry (Seth Dizard, court-appointed receiver) for a variance from minimum required setback to a wetland as provided by Section 11.03(2)(a)2., Dane County Code of Ordinances, to permit a truck wash at 6011 US Highway 51 being a parcel of land in the NE ¼ of the NE ¼, Section 8, Town of Burke.

OWNER: Mohamad Chowdry

COURT-APPOINTED RECEIVER: Seth Dizard

AGENTS: Bryant Meyer, Oakbrook Corporation, Roxanne Johnson, P.E., Professional Engineering, LLC

LOCATION: 6011 US Highway 51

ZONING DISTRICT: HC Heavy Commercial

COMMUNICATIONS:

Town of Burke: Acknowledge of appeal, 6/27/22; Board Action (see letter) 7/25/22.

Wisconsin DNR: Acknowledged, Department does not comment on wetland setback appeals as the setback is not a State Statute requirement.

Facts of the Case:

Existing:

- Property was developed as a Citgo gas station which has been abandoned. The building on the property was used as a retail store during the early 2000's however was removed between 2010 and 2014. The diesel canopy remains as the only structure on the property along with degraded concrete and gravel surfaces.
- Property is a listed contaminated site by the Wisconsin Department of Commerce and the Wisconsin DNR. The status of the property is listed as closed. See attached report.
- Property contains wetlands part of a complex that reach to the confluence of Token Creek and the Yahara River.

Proposed

- Applicant proposed to develop the site as a truck wash facility.

Zoning Notes:

- Shoreland zoning is applicable to all lands within 300 feet of a waterway. Portions of the property are within 300 feet of a perennial stream located within the wetland complex to the north and west of the property.
- Dane County Zoning requires a 75 foot setback from the boundary of a wetland greater than 2 acres to all structures. For purposes of wetland setback, structures include buildings, walkways, driveways, and parking areas, etc.
- In addition to the wetland setback, buildings on this property require the following setbacks (see site plan showing building envelope) :
 - 42 feet from the right-of-way line of US Highway 51
 - 30 feet from the right-of-way line of Daentl Road
 - 10 feet from all other property lines
- Relevant citations of the purpose and intent of wetland regulations:
 - Further the maintenance of safe and healthful conditions and prevent and control water pollution.
 - Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - Controlling filling and grading to prevent soil erosion problems.
 - Limiting impervious surfaces to control runoff which carries pollutants.
 - Protect spawning grounds, fish and aquatic life.
 - Preserving wetlands and other fish and aquatic habitat.
 - Regulating pollution sources.
 - Control building sites, placement of structures and land uses.
 - Prohibiting certain uses detrimental to the shoreland-wetlands.

History

- Delinquent property taxes are due on the property.
- Since the property was abandoned as a retail store there have been numerous complaints regarding illegal use of the property made to Dane County Zoning. Uses include storage of junk, residential use, and campground use.

VARIANCES REQUESTED: Purpose: Develop truck wash facility

Minimum required setback to wetland: 75 feet

Proposed setback: 33 feet

VARIANCE NEEDED: 42 feet