



Dane County

Minutes - Final Unless Amended by Committee

Board of Adjustment

Thursday, January 26, 2017

6:30 PM

City County Building, Room 357

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A. Call To Order

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-482](#) Minutes of the June 23, 2016 Board of Adjustment Public Hearing

Sponsors: Board of Adjustment

Attachments: [06-23-2016 PH Minutes](#)

*the 6/23/2016 minutes were amended to change:
"From front lot line" to "From OHWM"
and
the amount of variance approved in the motion from 28.3 feet to 23.8 feet as requested.*

A motion was made by LONG, seconded by MINIHAN, that this Minutes be approved as amended. The motion carried by the following vote:

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

2. [2016 MIN-483](#) Minutes of the January 12, 2017 Board of Adjustment Site Inspection

Sponsors: Board of Adjustment

Attachments: [01-12-2017 S.I. Minutes](#)

A motion was made by LONG, seconded by MINIHAN, that this Minutes be approved. The motion carried by the following vote:

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

D. Public Hearing for Appeals

1. [2016 BOA-006](#) Appeal 3679. Appeal by Denise Lehner (Tony Anderson, agent) for a variance from minimum side yard setback as provided by Section 10.08(7), Dane County Code of Ordinances, to permit proposed teardown and rebuild of condo unit at 4378 Jordan Dr #10 being Unit 10 Watercress Park Condominium, Lot 1 CSM 1670, Section 17, Town of Dunn.

Sponsors: Board of Adjustment

Attachments: [Appeal 3679 Application](#)
[Appeal 3679 BOA Staff Report](#)
[Redevelopment options for Unit 10](#)
[Appeal 3679 Minutes of previous variances for property](#)
[Appeal 3679 Town of Dunn Action](#)

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

IN FAVOR: Tony Anderson, agent and Corey Bushcott, architect, spoke in favor of the Variance request and answered questions of the Board.

Milton Hoesly, President of the Watercress Park Condo Association, spoke in favor of the variance appeal.

ZONING ADMINISTRATOR'S COMMENTS: Hilbert relayed that the Zoning Administrator and zoning staff have worked with the applicant to submit a design that could be recommended to obtain a variance from the Board of Adjustment. The Zoning Administrator also knew the Watercress Park Condo Plat has a history of uniqueness with regards to zoning regulation.

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

Finding of Fact:

Existing:

- The existing use of the property is a multi-unit residential condominium consisting of detached single family residences. There is currently a non-conforming single family residence located on unit 10.
- Unit 10 is one of 14 small residences in the Condominium Plat of Watercress Park Condominium, Inc. Each unit is located within a rectangular area.
- The existing structure located on Unit 10 is not in the floodplain of Lake Waubesa, however a portion of the Unit may be within the floodplain. The entire unit is within the Shoreland district associated with the lake. All the units are all served by public sewer and a shared well.
- The existing 1 story house is 18.5' x 29.6' overall.

Proposed

- The owner proposes to remove the existing house and build a 18.5' x 44.5' 2-story house on a foundation. The proposed house will have a porch area on the lake side of the house located within the existing footprint and expand the residence to the south beyond the required setback to the OHWM.
- The proposed house does not meet the minimum 10 foot side yard setback on either the north or south sides. The Zoning Ordinance does not specifically address the

minimum side yard setbacks required in condominium plats. Previous variance appeals and zoning permits for this condominium plat have used an interpretation requiring that each house be provided with its own 10 foot side yard, as if each house were located on a separate lot.

Zoning Notes and History

•Dane County Zoning has been working with the owner since 2014 on potential development options for this unit. During this time there have been significant changes to State shoreland zoning laws.

•In March of 2015 zoning staff met on site with the owner, staff informed the owner that additional information related to the existing structure and property would be needed to determine various regulations.

•In March of 2016 a memo was provided to the owner outlining two development scenarios to aid the owner in redevelopment of the property. The memo is attached and should be considered part of this staff report.

•A significant portion of regulations pertaining to this property are due to the inclusion in the shoreland zoning district. State laws related to non-conforming structures allows this structure to be rebuilt in it's existing footprint without a shoreland zoning permit, however the proposed plan will require a shoreland zoning permit due to the expansion to the south beyond the existing footprint. The expanded area is subject to shoreland zoning regulations and will require that the increase in the impervious surface ratio of the entire condominium property be mitigated. Based on discussions with the agent and engineer it is likely that the mitigation will be provided in the form of infiltration of stormwater in a common area of the condominium.

•As proposed, staff finds that floodplain zoning regulations will be satisfied, but recommends that any variance, if granted, include a condition that: an engineer stamped plan be required stating that no change to the floodplain will result due to this development, that the crawlspace be at or above the base flood elevation, that the first floor be elevated to the flood protection elevation, and that stormwater runoff not be directed toward neighboring condominium units.

•Precedence has been established that in the R-4 Zoning district that each separate structure, regardless of condominium unit boundaries, shall provide the required bulk requirements, such as side yard, independently.

•Violation History: No violation history was found for this unit.

Variance History:

•Numerous variances have been issued for the Watercress Park Condo property, please see the attached minutes of the variances for more information.

<i>Appeal</i>	<i>Date</i>
<i>• 1892</i>	<i>9/7/1989</i>
<i>•1959</i>	<i>3/22/1990</i>
<i>•1974</i>	<i>5/24/1990</i>
<i>•1977</i>	<i>5/24/1990</i>
<i>•2010</i>	<i>7/26/1990</i>
<i>•2023</i>	<i>8/23/1990</i>
<i>•2033</i>	<i>9/27/1990</i>
<i>•2034</i>	<i>9/27/1990</i>
<i>•2035</i>	<i>9/27/1990</i>
<i>•2058</i>	<i>10/25/1990</i>
<i>•2300</i>	<i>9/24/1992</i>
<i>•2572</i>	<i>10/27/1994</i>
<i>•2603</i>	<i>2/23/1995</i>
<i>•2800</i>	<i>2/27/1997</i>
<i>•3014</i>	<i>3/25/1999</i>
<i>•3082</i>	<i>3/23/2000</i>

- 3307 5/27/2004
- 3452 2/22/2007

Conclusions:**1) Unnecessary Hardship:**

Without a variance, the minimum 20 feet required between each two houses would severely limit the buildable area for Unit #10.

2) Unique Limitations of the Property:

Location of original small houses originally built close to the lake and close to each other creates a unique limitation. Improvements to the existing houses over the years reduced spacing between homes. The condominium status of this parcel with single-family residences is unusual.

3) No Harm to Public Interests:

The existing residence is deteriorating and must be replaced to be livable.

Replacement of the home will improve the safety of the neighborhood. The proposed design conforms to shoreland zoning standards. The Condominium Association supports approval.

COMMUNICATIONS:

Town of Dunn: July 28, 2016 acknowledgement; and January 10, 2017 action recommending approval with conditions.

VARIANCES REQUESTED: *Purpose: To allow the proposed teardown/rebuild of a residence.*

Minimum side yard required: 20 feet.

Actual Setback: side yard: 7.2 feet.

VARIANCE NEEDED: *12.8 feet.*

MINIHAN/STUDZ to approve a variance of 12.8 feet from the required minimum side yard setback

to allow the replacement of a single family residence subject to the following conditions:

- An engineer stamped plan be required stating that no change to the floodplain will result due to this development**
 - The crawlspace be at or above the base flood elevation**
 - The first floor be elevated to the flood protection elevation**
 - Stormwater runoff not be directed toward neighboring condominium units**
- Motion carried.**

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

E. Appeals from Previous Meetings

F. Reports to Committee

Hilbert informed the Board of OA 67 which, if passed, would have appealed CUP applications heard before the BOA. Members of the Board requested that, if the OA passes, Corporation Counsel attend a future meeting to discuss the Board's authority in such matters.

G. Other Business Authorized by Law

1. **2016** Election of the Chairperson of the Board of Adjustment
ACT-524

The Board elected Schulz as Chair.

2. **2016** Election of the Vice-Chairperson of the Board of Adjustment.
ACT-525

The Board elected Long as Vice-Chair.

3. **2016** Election of the Secretary of the Board of Adjustment
ACT-526

The Board elected Pulvermacher as Secretary.

4. [2016](#) Approval of the 2017 Board of Adjustment Meeting Schedule
[ACT-527](#)

A motion was made by STUDZ, seconded by MINIHAN, that this Action Item be approved. The motion carried by the following vote:

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

H. Adjournment

The Board adjourned at approximately 7:45 PM.

A motion was made by PULVERMACHER, seconded by MINIHAN, to adjourn. The motion carried by a voice vote.