



# Dane County

## Minutes

### 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, August 26, 2021

6:30 PM

Virtual Zoom Meeting: See top of agenda for instructions on how to join the webinar or call in by phone.

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Virtual Zoom Meeting: See top of agenda for instructions on how to join the webinar or call in by phone.

#### A. Call To Order

*Chair Long called the meeting to order at 6:33 pm and made a statement regarding the rules and procedures of the Board.*

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

**Present** 4 - Chair AL LONG, Vice Chair TRAVIS LEESER, ARLAN KAY, and Secretary SUE STUDZ

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

*No public comments were made.*

#### C. Consideration of Minutes

1. Minutes of the June 24, 2021 Meeting

**LEESER/STUDZ to approve the minutes as amended. Motion carried.**

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

#### D. Public Hearing for Appeals

1. Appeal 3715. Appeal by Edith Felts-Podoll for a variance from minimum standards for development in the floodfringe as provided by Section 17.09(3)(a), Dane County Code of Ordinances, to permit proposed single family residence development at 5098 Reynolds Ave being Lot 3, Block 1, Second Ward Beach, Section 28, Town of Westport.

*Chair Long opened the public hearing.*

*Assistant Zoning Administrator (AZA) Hilbert presented a staff report reporting facts of the case. Hilbert answered questions of the Board.*

*IN FAVOR: Melissa Destree, agent, spoke in favor of the variance request and answered questions of the Board. Scott Grabarski, family of owner, also answered questions and stated that the property has been owned by the family since the 1950's.*

*ZONING ADMINISTRATOR'S COMMENTS: Zoning Administrator, Roger Lane, stated he agreed with the applicant that the proposed approach to floodplain regulations would allow for stormwater management in the area. He suggested that any approval be conditioned on an elevation certificate being submitted at the time of construction to verify compliance with required first floor elevations.*

*OPPOSED: None. Chair Long allowed the applicant to respond to the Zoning Administrator's comments.*

*Facts of the Case:*

*Existing:*

- *Property is currently vacant. The existing lot is riparian and entirely within the shoreland zoning district of Lake Mendota and partially within the regulatory floodplain.*

*Proposed*

- *Construct a single family residence and detached garage.*
- *Applicant proposes to meet floodplain zoning requirement of 7 feet of fill surrounding the foundation rather than 15 feet as required by the ordinance.*

*The regulatory floodplain is also within the flood storage district for this property.*

- *Lake Mendota base flood elevation: 852.6 NAVD88*
- *Flood protection elevation: 854.6*
- *Elevation required, 15 foot perimeter: 853.6*

*VARIANCES REQUESTED: Purpose: Residential development within floodfringe*

*Minimum 15 foot perimeter fill elevation surrounding foundation:*

*Required: 15 feet*

*Proposed: 6 feet (minimum, increases to 8 feet on south)*

*VARIANCE NEEDED: 7 and 9 feet*

*Conclusions:*

*1)Unnecessary Hardship: The Board found that the purpose of the floodplain zoning ordinance, to protect people and property during a flood event, could be satisfied through relief from literal enforcement of the ordinance. Literal enforcement would result in unnecessary hardship of managing stormwater around and through the property. The design of the house is long and narrow and not an alternative to reduce the width further. Strict enforcement of the fill requirements would create drainage problems on adjacent properties.*

2) *Unique Limitations of the Property:* The existing development and redevelopment along Reynolds Avenue has occurred under various levels of floodplain regulations. This narrow lot previously housed a small cabin that was destroyed by a fallen tree in the 1990's. The area where the cabin existed is not classified as a wetland, so the residential use of the property must be relocated. Modifying the floodplain with fill to comply with floodplain development regulations, while not creating stormwater management problems in the neighborhood is challenging and is magnified due to the small lot size.

3) *No Harm to Public Interests:* The variance will not result in an increased regional flood elevation, the lot is less than 1/2 acre and is contiguous to existing structures constructed below the regional flood elevation, and the applicant has demonstrated that the request is for the minimum amount of relief necessary and will not cause increased risks to public safety or nuisances or have any change to the existing rescue and relief systems in place.

4) *Alternatives:* Strict compliance with the residential development standards would reduce the building envelope to a point that residential development is not feasible, and providing the required amount of fill will result in the blockage of water from the front of the property to the lake.

**KAY/LEESER to grant relief to the required fill surrounding the foundation as proposed. The approval is conditioned on the finished first floor elevation being at or above 854.77 feet above mean sea level NAVD88. An elevation certificate shall be required to verify compliance at the time of construction. Motion Carried.**

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

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

## **F. Reports to Committee**

*Hilbert updated the Board on the upcoming schedule of meetings in September:*

*September 9: Appeals 3705 and 3706*

*September 16: Appeal 3708*

*September 23: Appeal 3713*

*September 30: Appeal 3714*

*October 28: Appeal 3712*

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

*By consensus the Board asked staff to relay their condolences to the Minihan family for Ed's dedication to public service and his time spend on the Board of Adjustment.*

## **H. Adjournment**

**STUDZ/LEESER to adjourn at 7:40 pm. Motion Carried.**