



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?

Thursday, April 23, 2026

6:30 PM

Hybrid Meeting: Attend in person at the City County Building, Room 357.

See below for additional instructions on how to attend the meeting and provide public testimony.

A. Call To Order

Chair Long called the meeting to order at 6:30 PM, introduced the members of the Board and made a statement regarding the rules and procedures the Board would follow during the meeting.

Also Present: Staff: Hans Hilbert, Interim Zoning Administrator

Present 5 - ARLAN KAY, Secretary SUE STUDZ, Alternate ALEXANDER ELKINS, GEORGE CORRIGAN, and Chair AL LONG

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

No Public Comments.

C. Consideration of Minutes

1. Minutes of the March 26, 2026 Public Hearing

CORRIGAN to approve the minutes. Motion carried.

Ayes: 3 - KAY, CORRIGAN and LONG

Abstain: 2 - STUDZ and ELKINS

2. Minutes of the April 16, 2026 Site Inspection

STUDZ to approve the minutes. Motion carried.

Ayes: 3 - KAY, STUDZ and LONG

Abstain: 2 - ELKINS and CORRIGAN

D. Public Hearing for Appeals

1. Appeal 3741. Appeal by Ted and Peggy Gunderson for a variance from minimum required shoreland setback and maximum viewing and access corridor width as required by Chapter 11.03(2)(a)1. & 11.04(4)(a)1., Dane County Code of Ordinances, to permit stabilization and access to the shoreline at 4284 Jordan Dr, being Lot 10, Block 1, Bricton Park Plat, Section 8, Town of Dunn.

Interim Zoning Administrator (ZA) Hilbert presented a Staff Report reporting facts of the case.

IN FAVOR: Ted Gunderson and Aaron Falkosky (Quam Engineering) spoke in favor of the variance request and answered questions of the board.

ZONING ADMINISTRATOR'S COMMENTS: Zoning Administrator stated he had previously met with the property owners and agent on site to observe the condition of the slope and provide options to mitigate the erosion. It was apparent that some sort of structural retention existed, but was in a failing state and the exact size, location and type could no longer be determined. It is the Zoning Administrator's opinion that mitigating the erosion of the slope without structural retention would not allow the existing development on the property to remain.

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

Finding of Fact:

Existing:

- Principal use of the property is single family residential. The current residence was constructed in 1998. Property is bound by Jordan Drive and Lake Waubesa. The topography drops 28 feet from its high point to the ordinary high water of the lake. The steep slope to the lake appears to have a number of previously existing or existing and failing retaining systems, but is currently exhibiting significant erosion and sloughing. The property currently shares access to the lake via a stair system located on the adjacent property.

Proposed

- The owners wish to address the eroding slope and install their own access to the lake.
- The owners propose to cure the erosion of the steep slope by stabilizing with a combination of systems including the construction of a boathouse, retaining walls, a stairway and revegetation.

Zoning Notes:

- Boathouses and a walkway/stair system up to 5 feet wide for purpose of access to the water are defined as exempt structures not subject to the shoreland setback.
- Retaining walls are not included in the definition of exempt structures and are therefore required to satisfy the shoreland setback which would not allow retaining walls within the vegetative buffer zone (within 35 feet of the ordinary high water mark).
- Existing retaining walls that are non-conforming to the shoreland setback are permitted by right to be repaired or replaced within their existing size and location.

- Exempt structures are required to be located within the access and viewing corridor, which is defined as 35% of the shoreland width.

History

- 1998: Permit for existing residence issued
- 2020: Permit for 300 square foot paver patio issued
- Violation History: No violation history found

VARIANCES REQUESTED: Purpose: Allow retaining walls within vegetative buffer zone

Shoreland Setback:

Minimum shoreland setback required: 75 feet.

Proposed Setback: 9 feet.

VARIANCE NEEDED: 66 feet.

VARIANCES REQUESTED: Purpose: Allow stairway for access to shoreline

Access and Viewing Corridor Width:

Maximum allowed: 35% of lot width (14 ft).

Requested: 42.5% of lot width (17 ft).

VARIANCE NEEDED: 7.5% or 3 feet.

COMMUNICATIONS: Town of Dunn: 3/17/26 acknowledgement; 4/21/26 Town Board recommending approval of the variance.

Conclusions:

- 1) Unnecessary Hardship: The shoreland zoning ordinance allows for exempt structures to be located within the vegetative buffer zone, including for a boathouse and access to the water. It also allows for existing structural retention to be repaired and replaced within its existing location. It would be unnecessarily burdensome to require the applicants to mitigate the erosion in a non-structural way when evidence of a previous structural system exists, but the extents could not be determined administratively.
- 2) Unique Limitations of the Property: The lakeside of the property quickly drops 28 feet in elevation to the ordinary high water mark of Lake Waubesa. The steep slope is eroding which negatively impacts the lake and surrounding properties.
- 3) No Harm to Public Interests: Retaining the steep slope will prevent erosion from reaching Lake Waubesa which is a benefit to the public interest. The proposed plan allows safe access to the water for the property owners.

CORRIGAN to grant 66 feet of relief from the required shoreland setback and 3 feet relief from maximum access and viewing corridor width to permit development as proposed. Motion carried.

Ayes: 5 - KAY, STUDZ, ELKINS, CORRIGAN and LONG

2. Appeal 3742. Appeal by Jake Swank on behalf of Stefan & Julie Swartzmiller (owners) for a variance from minimum required setback to a highway as required by Chapter 10.102(9)(a)2.d., Dane County Code of Ordinances, to permit the removal and replacement of a single family residence at 2992 Waubesa Ave, being Lot 1, Block 2, Waubesa Beach Plat, Section 5, Town of Dunn.

Interim Zoning Administrator (ZA) Hilbert presented a Staff Report reporting facts of the case.

IN FAVOR: Jake Swank spoke in favor of the variance request and answered questions of the board.

ZONING ADMINISTRATOR'S COMMENTS: Zoning Administrator stated the request fits into the character of the neighborhood and is consistent with previous variance requests in similar situations where they are located adjacent to a Town of Dunn right-of-way that is not intended to be developed, and not intended to be vacated.

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

Finding of Fact:

Existing:

- Applicant proposes to purchase the property in for redevelopment. Property contains a single family residence, detached garage, and boathouse.
- Property is corner lot bound by Waubesa Avenue and the undeveloped Second Street right-of-way.

Proposed

- Applicant proposes to remove existing residence and detached garage and reconstruct a single family residence.

Zoning Notes:

- The typical setback required from a front property line for a lot platted prior to the adoption of the county zoning ordinance is 20 feet, but the ordinance provides an exception for corner lots. The setback along the long side of a corner lot is reduced to 1/5 lot depth, but no less than 12 feet. Condition required Town to grant a permanent easement for a portion of the right-of-way or to vacate the road negating the need for a variance.

History

- 1974: Permit for addition to front of residence
- 1997: Permit for deck addition to residence
- 1998: Permit for detached garage
- The property on the north side of the Second St right-of-way has previously received variances to the required setback. In 2000, appeal 3085, the Board of Adjustment granted 2.9 feet of relief from the setback to Second St to permit a detached garage. In 1991, appeal 2196, the Board of Adjustment granted, with conditions, 10.3 feet of relief to the setback to Second St to permit a new residence.
- Violation History: No violation history was found.

VARIANCES REQUESTED: Purpose: Allow replacement of single family

residence**Town Highway Setback:**

Minimum required setback from right-of-way of town highway (corner lot): 12 feet.

Proposed Setback: 7.4 feet.

VARIANCE NEEDED: 4.6 feet.

COMMUNICATIONS: Town of Dunn: 3/17/26 acknowledgement; 4/21/26 Town Board recommending approval of the variance.

Conclusions:

- 1) Unnecessary Hardship: It would be a unreasonable burden to not afford this property the same setbacks that apply to similar neighboring properties that have side yard property lines rather than frontage based on the unique characteristics of the undeveloped right-of-way.
- 2) Unique Limitations of the Property: The property is a corner lot on an undeveloped right-of-way that serves a park like purpose rather than a thoroughfare.
- 3) No Harm to Public Interests: The proposed development will increase the setback compared to the existing structures and will not adversely affect the wellbeing or use of the right-of-way.

CORRIGAN to grante 4.6 feet of relief to the required 12 foot setback from Second Street to permit the development as proposed. Motion carried.

Ayes: 5 - KAY, STUDZ, ELKINS, CORRIGAN and LONG

E. Appeals from Previous Meetings

1. Appeal 3739. Appeal by Jessica Hornung & Quinn Mischler for a variance from the minimum required setback to a County Highway as required by section 10.102(9)(a)2.b., Dane County Code of Ordinances, to permit riding arena constructed within setback at 7788 County Highway I, being Lot 1, CSM 4466, Section 1, Town of Vienna.

Attorney Robert Procter, representing the owners, provided an update to the Board including a revised proposal reducing the variance request to under 4 feet. The Board reviewed the revision and offered suggestions on modifications that could eliminate the variance request.

CORRIGAN to hold the appeal in abeyance until September 1, 2026 to allow the applicant to potentially bring the property into compliance administratively. Motion carried.

Ayes: 5 - KAY, STUDZ, ELKINS, CORRIGAN and LONG

F. Reports to Committee

1. Approval of revised Dane County Variance Application Form

Hilbert informed the Board that the variance application revision is a work in-progress to bring the form into a format that meets ADA accessibility standards.

G. Other Business Authorized by Law

H. Adjournment

STUDZ to adjourn at 8:36 pm. Motion carried.