



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, June 26, 2025

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 and introduced the members of the Board.

Also Present: Staff: Hans Hilbert, Assistant Zoning Administrator

Present 5 - ARLAN KAY, Secretary SUE STUDZ, GEORGE CORRIGAN, TRAVIS LEESER, and AL LONG

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

No public comments were made.

C. Consideration of Minutes

Minutes of the April 24, 2024 Public Hearing

STUDZ to approve the minutes. Motion Carried.

Ayes: 3 - STUDZ, CORRIGAN and LONG

Abstain: 2 - KAY and LEESER

Minutes of the June 12, 2025 Site Inspection

STUDZ/LEESER to approve the minutes. Motion Carried.

Ayes: 4 - KAY, STUDZ, LEESER and LONG

Abstain: 1 - CORRIGAN

D. Public Hearing for Appeals

1. Appeal 3736. Appeal by Mark Rettenmund, (Derick Rettenmund, agent) for a variance from the minimum required setback to a highway as provided by Section 10.102(9)(a)2.a., Dane County Code of Ordinances, to permit an existing farm building and addition thereto at 4873 State Highway 78 being a tract of land in the SE ¼ of the SW ¼, Section 35, Town of Black Earth.

VARIANCES REQUESTED: Purpose: Compliance for existing barn and addition thereto

Setback from Road Variance:

Minimum setback from right-of-way required: 42 feet.

Actual Setback: From front lot line: 24 feet.

VARIANCE NEEDED: 18 feet.

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

IN FAVOR: Derick Rettenmund, agent for owner, spoke in favor of the variance request.

ZONING ADMINISTRATOR'S COMMENTS: Hilbert relayed that the Zoning Administrator stated it was an unfortunately mistake that the existing building was misplaced by relying on how it was sited by a licensed professional. The Zoning Administrator felt it was highly unlikely that future highway needs would expand on the down-slope side of the highway as the DOT had obtained additional lands on the up-slope side. The Zoning Administrator did not feel that the existing building or the proposed addition would create any harm to the public.

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

Facts of the Case:

Existing:

- The existing use of the property is a dairy farm with various farm accessory buildings and a single family residence.
- In 2022 a zoning permit was issued to the owner to construct a new barn. The site plan identified a 42-foot minimum setback to the state highway right-of-way and a requirement that a location survey be provided.
- The owner worked with a surveyor to site the barn based on the 42 foot setback, but it was staked out at 24 feet from the right-of-way.
- The building was completed with the understanding that it was in compliance with the required setback.
- A steep slope exists between the highway and the new barn.

Proposed

- In 2025 the owner sought a zoning permit to place an addition to the south end of the 2022 barn, at this point Dane County Zoning became aware of the non-compliance.
- The owner seeks to bring the existing barn into compliance by obtaining a variance. Relief is also being sought for the proposed addition, as this was the intention of the building placement in 2022 as well.

Zoning Notes:

- The Zoning Administrator is not pursuing corrective action on the existing barn given the extenuating circumstances of reliance on information provided by a licensed professional (surveyor), however zoning permits will not be issued for additions to the structure unless the existing structure is brought into compliance with the ordinance.
- Around 2010 the zoning ordinance was amending to require that farm accessory buildings obtain zoning permits. Prior to the change it was common for farm accessory buildings to be build out of compliance with the ordinance and require either removal or a variance to allow the buildings to remain.

History

- 1979, Variance 844 granted for 25 feet of relief from the required setback to allow existing non-conforming house to be relocated with an attached garage encroaching into highway setback
- 1979, Zoning permit for new residence (31789)
- 1980, Zoning permit for accessory building (32076)
- 2021, Zoning permit DCPZP-2021-00674 issued for new pole shed with dairy milking operation to replace old hog barn
- 2022, zoning permit DCPZP-2022-00455 issued for new barn. (SEE ATTACHMENT)
- 2025, application for extension of 2022 barn, setback non-compliance issued identified
- Violation History: Non-compliance with required highway setback

COMMUNICATIONS:

Town of Black Earth: 5/25/2025 acknowledgement, Town Board Action: 6/3/2025, ""Dane Co. Board of Adjustment - variance application, Mark/Derick Rettenmund, 4873 State Hwy 78. Derick Rettenmund explained that the application requests a variance from the minimum required setback from a highway, allowing for the construction of an addition to the existing farm accessory building. Joann Bennett moved and Barb Parrell seconded the motion to support the variance application to the Dane County Board of Adjustment as presented. Motion carried. 3-0."

Dane County Surveyor: "It appears that DOT purchased a large amount of land east of the highway to avoid getting closer to the farm buildings." (See Page 11 from 1988 Transportation Plat)

Conclusions:

- 1) Unnecessary Hardship: The applicant relied on the professional expertise of a licensed professional, however that expertise resulted in a mistake, and such a hardship is not self-imposed. It would be unreasonable to require the removal of the existing building, and not allow the addition to be placed inline with the existing building.
- 2) Unique Limitations of the Property: The location of the farm is adjacent to the Village of Black Earth boundary creating a contrasting location between a rural and more urban setting. It is unlikely that the highway will be

expanded in the down-slope direction. Requiring the proposed addition to conform to the ordinance would result in animal and air circulation issues created by the physical nature of the landscape. Moving the structures further from the highway push the building closer into to a flood hazard zone and into farmland within the farmland preservation zone.

- 3) No Harm to Public Interests: There are other buildings closer to the highway than what is being proposed. The speed limit of the road in this location is a deceleration zone into the village so vehicles are traveling slower.

STUDZ to approve 18 feet of relief as requested to permit the existing building and addition. Motion carried.

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

E. Appeals from Previous Meetings

F. Reports to Committee

Discussion of possible revisions to rules and procedures

The Board will continue to provide feedback to staff for a future revision to the rules and procedures document.

G. Other Business Authorized by Law

H. Adjournment

STUDZ to adjourn. The Board adjourned by voice vote at 7:40pm.