



# 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, September 26, 2024

6:30 PM

Hybrid Meeting: Attend in person at the City County Building in Room 354; attend virtually via Zoom.

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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: First Alternate: Alex Elkins; 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

1. Minutes of the August 22, 2024 meeting

**LEESER/CORRIGAN to approve the minutes. Motion carried.**

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

**Abstain:** 1 - STUDZ

2. Minutes of the September 12, 2024 Site Inspection Meeting

**STUDZ/LONG to approve the minutes.**

**Ayes:** 2 - STUDZ and LONG

**Abstain:** 3 - KAY, CORRIGAN and LEESER

#### D. Public Hearing for Appeals

1. Appeal 3728. Appeal by LabCorp (Wayne Whiting, Strang, Inc., agent), for a variance from maximum allowable height of a structure permitted within the Dane County Regional Airport Height Limitation Zone as provided by Section 78.03, Dane County Code of Ordinances, to allow HVAC upgrades to the mechanical penthouse at 3301 Kinsman Boulevard, being Lot 1, Certified Survey Map 12516 in the SE 1/4 NE 1/4 Section 29, Town 08 North, Range 10 East, City of Madison.

*VARIANCE REQUESTED: Allow installation of new HVAC equipment to mechanical penthouse.*

*Airport Height Limitation Zone (AHLZ) Variance:*

*Existing grade elevation 855 feet Above Mean Sea Level (AMSL) per (FAA) (Note: This is the elevation at the base of the existing building, closest to the proposed additions.)*

*Maximum Height of Structure Permitted in AHLZ: 913 ft. AMSL (57 ft. Above Ground Level [AGL])*

*Proposed height of encroachment: 926.2 feet AMSL as per FAA (71 feet AGL as per FAA))*

*VARIANCE NEEDED: 13.2 feet*

*IN FAVOR: Wayne Whiting P.E., Strang, INC. Madison, WI, Agent*

*ZONING ADMINISTRATOR'S COMMENTS: Hilbert related the Zoning Administrator had no objections to the variance as requested.*

*OPPOSED: None.*

*There was no need for rebuttal.*

*Finding of Fact:*

*COMMUNICATIONS:*

*04/19/2024 Email from Katie Bannon, Zoning Administrator, City of Madison acknowledging application for variance within the City of Madison.*

*07/15/2024 Email from Chad Rasmussen, Director of Operations and Public Safety, Dane County Regional Airport, stating airport has no objection to the variance request.*

*06/07/2024 FAA Determination of No Hazard to Air Navigation, with conditions, issued.*

*Airport Height Limitation Zoning authority in all Dane County municipalities within three (3) miles of the Dane County Regional Airport is granted to Dane County Zoning Division under Chapter 78, Dane County Code of Ordinances (DCCO).*

*LabCorp buildings are located adjacent to the Dane County Regional Airport within the City of Madison and in the Airport Height Limitation Zone (AHLZ).*

*Previous variances have been granted for both temporary cranes and permanent structures at this location. Most recently variances include Appeal 3585, granted 12/2009, for a variance of 145 feet or 1,058 feet Above Mean Sea Level (AMSL) from the maximum permitted AHLZ elevation of 913 feet AMSL to allow a temporary construction crane for a proposed Covance project and Appeal 3588, granted 01/2010 for permanent exhaust stacks exceeding the maximum AHLZ.*

*The LabCorp buildings are pre-existing, non-conforming structures in the AHLZ, with a 949.6\* ft AMSL HVAC penthouse height. Part of the complex was built before the AHLZ Ordinance was adopted in 1976, and additions were built before Airport runways were lengthened in the 1990s. At that time, the maximum AHLZ elevation was reduced from 926.2 feet AMSL to 913 feet AMSL. Seven (7) previous variances have been granted for projects including temporary construction cranes and permanent additions.*

*Proposed*

*LabCorp requires new roof-mounted HVAC upgrades on the existing penthouse. The proposed additions will be at or below the existing equipment/building elevations and not*

*create any further encroachment into the AHLZ.*

**Conclusions:**

- 1) Unnecessary Hardship: It would be unnecessarily burdensome to prevent the improvement of an existing, legal non-conforming use in the AHLZ. The proposed HVAC upgrades are required for energy efficiency compliance, so there is no reasonable alternative, and no self-created hardship.*
- 2) Unique Limitations of the Property: The close proximity to the Airport and existing non-conforming height of the LabCorp building, together with the history of the AHLZ changes for this property, are unique limitations for this long-standing permitted use.*
- 3) No Harm to Public Interests: The proposed new upgrades are lower than existing building components. Existing equipment that encroaches further into the restricted zone will be removed as a result of this upgrade. The agent states that LabCorp agrees to comply with all FAA conditions of approval, which protect the public interest.*

**LEESER/STUDZ to grant the variance as requested subject to the conditions of FAA approval. Motion Carried.**

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

**F. Reports to Committee**

*Hilbert informed the committee that under County Board authority, seconds to motions are no longer required for boards with 7 or fewer members. Hilbert provided an update on the October Meeting schedule.*

**G. Other Business Authorized by Law**

*Board Member Corrigan requested an interpretation from Corporation Counsel on recent Federal case law related to administrative appeals. Hilbert will follow up.*

**1. Election of Chair, Vice Chair, and Secretary**

*By voice vote the Board elected Al Long as Chair, Travis Leeser as Vice Chair, and Sue Studz as Secretary of the Board of Adjustment.*

**H. Adjournment**

**STUDZ/LEESER to adjourn. The Board adjourned by consensus at 6:58 pm.**