

## Dane County Planning and Development Department

Room 116, City-County Building, Madison, Wisconsin 53703  
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### MEMORANDUM

Date: January 13, 2026

TO: Members of the Dane County Board of Adjustment

FROM: Roger Lane, Dane County Zoning Administrator

CC: Assistant Zoning Administrator Hans Hilbert

SUBJ: Zoning Administrator's comments regards Appeal #3739

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Dear Board Members,

Please accept the following information as the Zoning Administrator's comments regarding Appeal #3739. I believe it is important to provide the background information of what actions were taken by the Dane County Zoning Division showing that the applicant was fully informed of the setback requirements for the project.

#### Zoning Permit Submittal

- A zoning permit application was submitted to the Dane County Zoning Division for review. The submitted site plan showed that the addition would be located 77 feet from the centerline of the road right-of-way. See Exhibit A
- Zoning Inspector Wade Osterholz made the applicant aware that the building was in close proximity to the 75-foot minimum highway setback and that a location survey would be needed to verify the location of the building once constructed.
- In addition to the setback concern being explained verbally, a condition was placed on the zoning permit (issued August 19, 2024) that emphasized the fact that there is a 75-foot minimum highway centerline setback and that a location survey would be needed to verify the location of the building. See Exhibit B (condition 4 & 5)
- Once the building was constructed, the applicant did not submit a location survey as indicated on the zoning permit.
- On June 30, 2025, a notice of location survey was sent out to the applicant with no response.
- On August 27, 2025, a second notice of location survey was sent out to the applicant.
- On September 22, 2025, a location survey was delivered to the Zoning Division showing the building being located 61.3 feet from the centerline of the road.

#### Granting of a variance

To qualify for a variance, an applicant has the burden of proof to demonstrate that all three criteria defined in state statutes and outlined below are met.

- Unnecessary hardship
  - The property is 325 feet in depth and 819 feet wide, is relatively flat, and has no sensitive environmental features. There is adequate space for a person to construct a building within the setback limits required by the zoning district.
  - The applicant was fully informed of the setback requirements as part of the permit review.
- Unique property limitations
  - The property is 6.7 acres, is relatively flat, and has no sensitive environmental features. There is adequate space for a person to construct a building within the setback limits required by the zoning district.
- No harm to public interests
  - As part of the zoning review process, the applicant was adequately informed both verbally and in writing regarding the setback requirements of the zoning district. The site plan presented showed compliance with the zoning district requirements. Allowing a person to construct a building without adherence to approved plans would render the review process meaningless.

#### Summary

The Zoning Division recommends denial of the variance due to the request failing to meet the 3 criteria as stated above. The applicant was adequately informed of the setback requirement, but simply did not construct the building to the requirements.

SITE PLAN

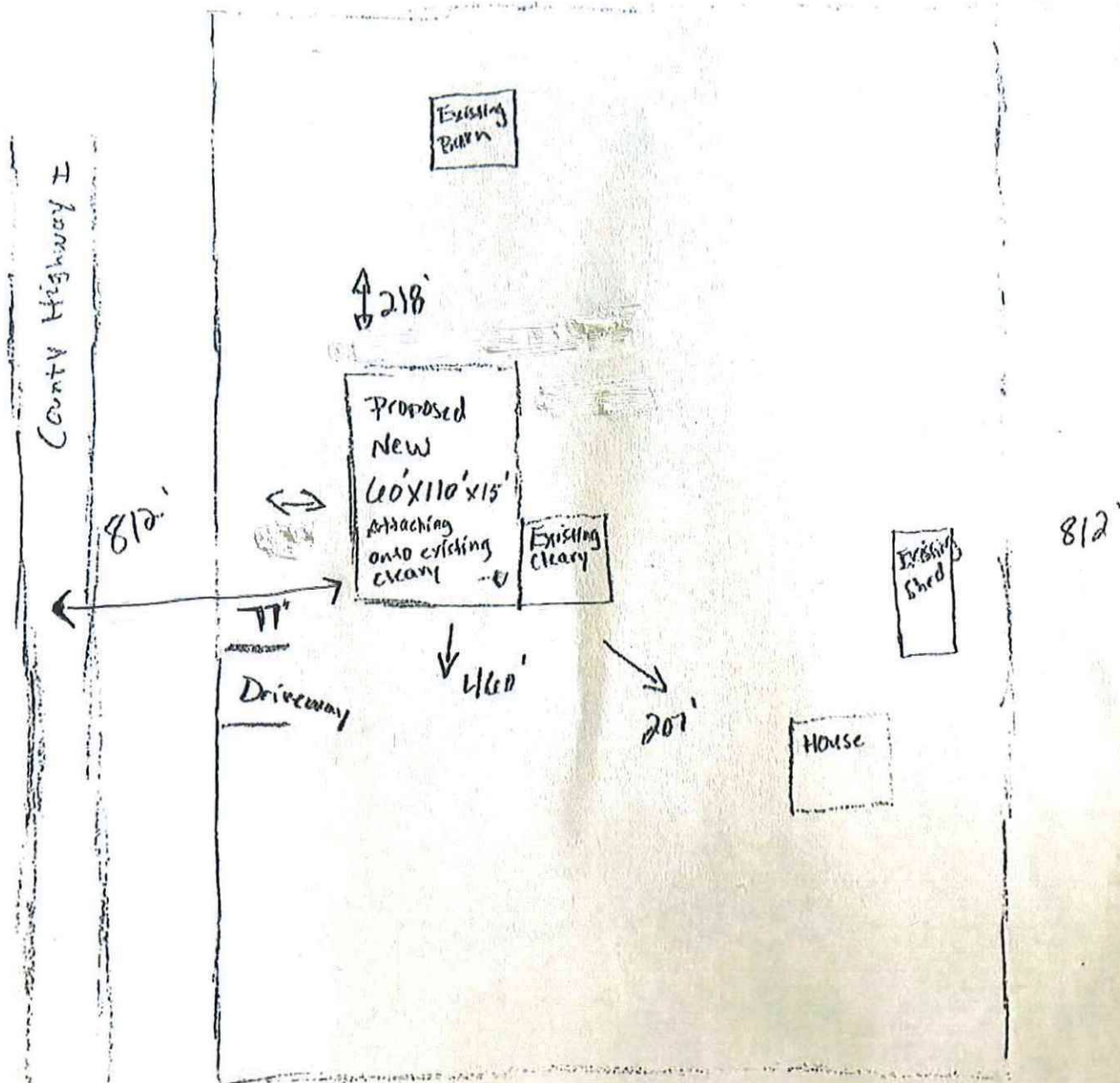
Jessica Horning

7788 County rd. 1

Arlington WI, 53911

↑ NORTH

322'



77' feet end of building to center of road

Exhibit A

# DANE COUNTY ZONING PERMIT

ZONING PERMIT NO.

Page 2 of 2

DCPZP-2024-00396

## Conditions:

1. THIS APPROVAL BY DANE COUNTY ZONING IS ONLY FOR THE PLAN AS PRESENTED. ANY MODIFICATION TO THE PROJECT REQUIRES THE EXPRESS WRITTEN APPROVAL BY DANE COUNTY ZONING. THIS PERMIT SHALL BE NULL AND VOID IF ANY MODIFICATIONS ARE MADE WITHOUT THE EXPRESS WRITTEN APPROVAL OF DANE COUNTY ZONING.
2. THIS APPROVAL BY DANE COUNTY ZONING DOES NOT CONVEY PERMITS OR PERMISSIONS FROM OTHER DANE COUNTY AGENCIES, STATE GOVERNMENT OR LOCAL MUNICIPALITIES. IT IS THE APPLICANT'S RESPONSIBILITY TO OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING A PROJECT.
3. WHEN LAND DISTURBING ACTIVITIES ASSOCIATED WITH DEVELOPMENT OCCUR WITHIN 5 FEET OF ANY PROPERTY LINE, FINISHED GRADES IN THAT AREA SHALL BE RESTORED TO THE TOPOGRAPHY IN EXISTENCE BEFORE THE LAND DISTURBING ACTIVITY BEGAN.
4. PROPOSED PROJECT SHALL MAINTAIN A MINIMUM 75 FOOT SEPARATION FROM THE CLOSEST PART OF THE BUILDING'S/STRUCTURE'S FOUNDATION/SUPPORTING MATERIALS/FINISHED OUTER MOST WALLS TO THE CLOSEST PART OF THE CENTERLINE OF COUNTY HIGHWAY I OR A MINIMUM 42 FOOT SEPARATION FROM THE CLOSEST PART OF THE BUILDING'S/STRUCTURE'S FOUNDATION/SUPPORTING MATERIALS/FINISHED OUTER MOST WALLS TO THE CLOSEST PART OF THE ROAD RIGHT OF WAY, WHICHEVER DISTANCE IS GREATER.
5. A LOCATION SURVEY IS REQUIRED TO VERIFY COMPLIANCE WITH DANE COUNTY ZONING ORDINANCE SETBACKS AND/OR THE MAXIMUM ALLOWABLE BUILDING LOT COVERAGE. THE SURVEY SHALL BE PREPARED BY A WISCONSIN LICENSED LAND SURVEYOR. THE SURVEY SHALL BE DONE AT THE TIME WHEN FOUNDATIONS OR BASEMENT WALLS ARE COMPLETED. IF THE PROJECT DOES NOT INCLUDE FOUNDATIONS OR BASEMENT WALLS THEN THE LOCATION SURVEY SHALL BE COMPLETED ONCE THE BUILDING HAS BEEN ESTABLISHED BEFORE ANY OTHER WORK IS COMPLETED.

I acknowledge the above conditions. INITIALS JH and QM

Other Potential Regulating Agencies:

Dane County Land And Water Resources Department: 608-224-3730

Dane County Environmental Health: 608-242-6515

Wisconsin Department Of Natural Resources: 608-266-2621

Exhibit B