

JUNE 26, 2025 BOA PUBLIC HEARING STAFF REPORT

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.

OWNER: Mark Rettenmund
AGENT: Derick Rettenmund
LOCATION: 4873 State Highway 78
ZONING DISTRICT: FP-35 Farmland Preservation

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."

WisDOT: Pending

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)

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

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.