



# 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, February 27, 2025

6:30 PM

Hybrid Meeting: Attend in person at the City  
County Building, Room 354.

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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: Staff: Todd Violante, Director of Planning and Development; Rachel Holloway, Assistant Zoning Administrator; Hans Hilbert, Assistant Zoning Administrator.*

**Present** 4 - Secretary SUE STUDZ, ALEXANDER ELKINS, GEORGE CORRIGAN, and AL LONG  
**Excused** 1 - ARLAN KAY

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

*No public comments were made.*

#### C. Consideration of Minutes

1. Minutes of the January 23, 2025 Public Hearing

**STUDZ to approve the minutes. Motion carried.**

**Ayes:** 4 - STUDZ, ELKINS, CORRIGAN and LONG

**Excused:** 1 - KAY

2. Minutes of the February 13, 2025 Site Inspection

#### D. Public Hearing for Appeals

1. Appeal 3727. Administrative appeal by Maier Farms Real Estate LLC (Attorney Christopher T. Nelson, agent) appealing the determination of the zoning administrator regarding a wetland use violation at 7119 Schumacher Rd, being a tract of land in the NW 1/4 NW 1/4 Section 21, Town of Vienna.

*Chair Long opened the public hearing and asked the Board if it was acceptable to ask the interested parties if they needed additional time to brief the preemption issue in the matter. The Board did not object.*

*Attorney Christopher Nelson, representing the appellant, and Attorney Dave Gault, representing the Zoning Administrator each responded to the Board.*

*The Board, in consultation with their Counsel, Attorney Andrew Schauer, deliberated on the preemption matter.*

*Following the vote to postpone the parties agreed that the County would respond by March 7, 2025, and the Appellant would respond by March 14, 2025.*

**CORRIGAN to have Counsel work with the interested parties to prepare a schedule for briefing on the question of whether the preemption/jurisdiction question is timely raised and if the preemption/jurisdiction question is dispositive. In addition, adjourn the hearing until the March 27, 2025 public hearing. Motion carried.**

**Ayes:** 4 - STUDZ, ELKINS, CORRIGAN and LONG

**Excused:** 1 - KAY

- 2. Appeal 3732. Variance appeal by Micah Zielke (Chris Miller, agent) for a variance from the minimum required rear yard setback as provided by Section 10.234(5)(c)1., Dane County Code of Ordinances, to permit proposed addition to a single family residence at 2917 County Highway BB, being a tract of land in the NE ¼ of the NE ¼, Section 7, Town of Cottage Grove.

*Chair Long opened the public hearing.*

*Assistant Zoning Administrator, Rachel Holloway, provided a staff report of the appeal.*

*Chris Miller, agent, along with Micah Zielke, owner, spoke in favor of the variance request and answered questions of the Board.*

*Hilbert, acting for the Zoning Administrator, stated that the applicant had correctly described the exhaustion of alternatives. Staff would typically recommend a legislative solution such as rezoning to a district with a lesser setback, but that option was very unlikely for a 16 acre property adjacent to an incorporated village. Hilbert also explained the zoning district error on AccessDane and asked that the Board not consider that as part of their conclusions for the appeal.*

*Facts of the Case:*

*Existing:*

- *Property contains a single family residence permitted in 1971 and a detached accessory building permitted in 1984.*
- *The site plan from 1971 indicates a rear setback of the residence of 75 feet.*
- *The site plan from 1984 identifies a 62 foot setback for the residence to the rear property line.*
- *A recent survey confirms the existing residence to be set 62.8 feet off the rear property line.*

*Proposed*

- *The current owner proposes an addition to the existing residence that fails to satisfy the required 50 foot setback to the rear property line.*

*COMMUNICATIONS: Town of Cottage Grove, Board action 2/17/25 recommending approval.*

*Conclusions:*

- 1) *Unnecessary Hardship: The alternatives typically available to similar properties are unlikely to be a successful remedy in this situation. The zoning administrator has determined no way to allow compliance without the relief of a variance.*
- 2) *Unique Limitations of the Property: It would be unreasonable for the ordinance to address the rare situation of a 16 acre property adjacent to an incorporated village, with no plans of annexation and subdivision, containing a single family residence, and the uniqueness of the existing development to only allow a residential expansion in the most restrictive direction of the lot.*
- 3) *No Harm to Public Interests: The Town is supportive of the request, and no neighboring property owners have raised any concerns. The granting of the variance will allow mature oak trees to be protected.*

**ELKINS to approve the variance as requested. Motion Carried.**

**Ayes:** 4 - STUDZ, ELKINS, CORRIGAN and LONG

**Excused:** 1 - KAY

### E. Appeals from Previous Meetings

**F. Reports to Committee**

*Hilbert informed the Board that in addition to the administrative appeal, the March meeting would have a variance appeal to be heard.*

**G. Other Business Authorized by Law**

**H. Adjournment**

STUDZ to adjourn at 7:45pm. Motion carried.