NOTE: These minutes reflect the notes of the recorder and are subject to correction and approval at a subsequent meeting of the Committee.

DANE COUNTY BOARD OF ADJUSTMENT

MINUTES OF THE JUNE 27, 2013 MEETING

MEMBERS PRESENT: Mary Haley, Al Long, Steven Schulz, Sue Studz.
MEMBERS ABSENT: Robert Pulvermacher, William Olson (Second Alternate)
OTHERS PRESENT: Assistant Zoning Administrator Hans Hilbert

I. CALL TO ORDER:
Chair Schulz called the meeting to order at 6:30 p.m. in Room 357 of the City-County Building and made an announcement regarding rules and procedures followed by the Board.

II. PUBLIC COMMENT
Chair Schulz offered an opportunity for public comment on general items not included on the current agenda.

Cheryl Elkington, 205 Corporate Dr, Madison, WI addressed the Board about her concerns of the effect that poisons are having on the environment. Schulz explained that the issue was outside of the purview of the Board of Adjustment. Board members gave Elkington suggestions on how to proceed with her cause. No action was taken.

III. APPROVAL OF MINUTES
Motion by Haley/Long to approve the minutes of the June 13, 2013 Site Visit.
Motion carried, 4 - 0.

Motion by Haley/Long to approve the minutes of the May 23, 2013 Public Hearing with the following amendments: Amend the conclusions of appeal 3644 to read “The zoning ordinance would be unnecessarily burdensome to not allow for off-street parking requirements.”
Motion carried, 4 - 0.

IV. PUBLIC HEARING FOR JUNE 27, 2013 APPEALS

Appeal 3646. Appeal by Brad Graeve for a variance from minimum required setback from wetlands as provided by Section 11.06(5)(a), Dane County Code of Ordinances, to permit proposed retaining walls and single family residence at 4463 Beale St being lot 1 CSM 7108, in the SE of the NW Section 8, Town of Dunn

VARIANCES REQUESTED:
Purpose: Allow for retaining wall, patio and portion of single family residence as proposed to encroach into the required wetland setback.

Minimum setback from wetland required: 75 feet.
Actual Setback: From wetland: 26 - 75 feet.
VARIANCE NEEDED: 49 feet.

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

IN FAVOR: Brad Graeve, Owner, and Mark Gerhardt, Badger Surveying, agent, spoke in favor of the variance request.

ZONING ADMINISTRATOR’S COMMENTS: Hilbert relayed that the Zoning Administrator felt the variance requested was inline with the intent and purpose of Chapter 11 DCCO as it relates to wetlands.
OPPOSED: None. The Chair stated no rebuttal was needed.

Motion: Schulz/Studz to grant variance of 49 feet of setback to a wetland to permit retaining wall, patio and portion of single family residence as proposed; and the shoreland zoning permit be issued conditionally on the wetland restoration plan, as outlined in the May 10, 2013 Applied Ecological Services study, being implemented.

Finding of Fact:
Existing:
- Existing CSM lot is currently vacant, with remnants of a single family residence removed between 2005 and 2010.
- Wisconsin wetland inventory maps (WI DNR) show mapped wetlands in the southwest corner of the property extending landward approximately 120 feet.
- An Applied Ecological Services study determined that the wetlands extend approximately 205 feet landward from the southwest property corner.

Proposed
- Property owner has proposed a single family residence including a covered porch, deck, and concrete patio, as well as a new 4 foot high boulder retaining wall which will encroach into the required 75 foot setback to a wetland boundary.
- The proposed retaining wall will stabilize the building envelope of the property nearest Beale Street, allowing for the redirection and control of stormwater to reduce runoff velocity and promote infiltration prior to entering the delineated wetland and Lake Waubesa.

COMMUNICATIONS:
Town of Dunn Board, 06/18/2013, Recommendation to approve variance request.
WI DNR, Heidi Kennedy, June 11, 2013, acknowledgment of request for comment.

Conclusions:
1) Unnecessary Hardship:
   a. The required setback to wetlands is unnecessarily burdensome as, without variance, the zoning code would require development to occur on an unstable building site that would likely be detrimental to the long term health of the shoreland and wetland zone.
   b. The ordinance does not allow for any reduction to the required wetland setback, even if the proposed development has shown that it can be implemented and meet the intent and purpose of the shoreland-wetland zoning district.
2) Unique Limitations of the Property:
   a. Steep grades and proximity to Lake Waubesa and wetlands limit the building envelope to the northern portion of the site. The building envelope needs to be stabilized downgrade in order to prevent future erosion of the site.
   b. The property is a conduit for water runoff from the public street as well as neighboring properties.
   c. There is evidence of existing erosion occurring on the steep slope of the site.
3) No Harm to Public Interests:
   a. The proposed design fits the neighborhood development pattern.
   b. The result of the variance will allow the applicant to enhance the shoreland and wetland areas and protect from erosion and implement practices that are the intent of Chapter 11 DCCO.
   c. The variance will minimize future property damage due to erosion.
   d. The proposed development meets all other zoning and shoreland/wetland requirements.
Board members noted that the applicants claim of unnecessary hardship for reasons of accommodating persons with disabilities did not merit a hardship for the granting of a variance request.

**Motion carried: 4 - 0**

**V. OTHER BUSINESS:**

1. Staff update on Appeal 3642 for Andrew & Megan Walker, 3070 Shadyside Drive, bing Lots 8 & 9, Shady Side Park, Section 30, Town of Pleasant Springs. (Discussion Only)

   Hilbert updated the Board that appeal 3642 would likely be withdrawn due to the applicants ability to develop an alternative plan that would meet the requirements of the ordinance. No action was taken.

**VI. ADJOURNMENT:**

**Motion:** Haley/Studz to adjourn.

**Motion carried:** 4 - 0 at 8:21 p.m.

Respectfully submitted,

Hans Hilbert, Dane County Assistant Zoning Administrator, Recording Secretary

MINUTES FILED WITH THE COUNTY CLERK: July 9, 2013