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 DECEMBER 15, 2011 PUBLIC HEARING

MEMBERS PRESENT: Alan Colvin, Al Long, Steven Schulz, Sue Studz.
MEMBERS ABSENT: Carlton Hamre was excused.
OTHERS PRESENT: Assistant Zoning Administrator Kris Schutte, Zoning Inspector Shawn Widish

I. CALL TO ORDER:
Chair Schulz called the meeting to order at 6:35 p.m. in Room 354 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. There were no registrants for public comment.

III. APPROVAL OF MINUTES
Motion by Studz/Long to approve the Minutes of the August 25, 2011 Public Hearing and the Minutes of the December 8, 2011 Site Inspections meeting of the Dane County Board of Adjustment. Colvin mentioned he would abstain from action on the August 25, 2011 Public Hearing, as he did not attend that meeting. Colvin also mentioned he would abstain from action on the December 8, 2011 Site Inspections meeting, as he did not attend that meeting.
Motion carried. 3 – 0 – 1 with Colvin abstaining in regard to the August 25, 2011 Public Hearing; also, Motion carried 3 – 0 – 1 with Colvin abstaining in regard to the December 8, 2011 Site Inspection meeting.

IV. PUBLIC HEARING FOR DECEMBER 15, 2011 APPEALS
1. Appeal 3624. Appeal by Tom and Dawn Verriden (Fredenberg Construction, Agent) for a variance from minimum required lot width at the building setback line for an existing substandard platted lot in the Shoreland District as provided by Sections 11.03(1) and 10.05(4), Dane County Code of Ordinances, to permit removal and replacement of single-family residence at 2243 Williams Point Drive, being Lot 16, William’s Point, Section 19, Town of Pleasant Springs.

VARIANCES REQUESTED: Purpose: Remove existing house; Build new home.
Lot Width Variance
Minimum lot width at building setback line required: 100 feet.
Actual Lot width: 61.5 more or less feet at building setback line.
VARIANCE NEEDED: 38.5 feet.

Zoning Inspector Widish presented a Staff Report reporting facts of the case.

SPEAKING IN FAVOR: Dale Fredenberg, Fredenberg Construction, Cottage Grove, WI - contractor/agent; Tom Verriden, Stoughton, WI – owner.
REGISTERING IN FAVOR: Dawn Verriden, Stoughton, WI – owner.
ZONING ADMINISTRATOR’S COMMENTS: Zoning Inspector Shawn Widish reported Zoning Administrator Roger Lane had no comments or recommendations for the Board, and no objections.
OPPOSED: None. The Chair stated no rebuttal was needed.
**Motion:** Long/Studz to grant the request for a variance of 38.5 feet from the minimum 100 feet lot width at the building setback line required in the Shoreland district, to permit removal of an existing home and detached garage and construction of a new single-family residence, as proposed with the CONDITION on approval that the Town does not find objection per their request, with the understanding that if the town does not accept the proposal the applicant may return to the Board for further action.

**Finding of Fact:**
1. The Verriden parcel is part of the Williams Point Subdivision platted in the 1950s, is zoned R-3 Residential, and is located in the Shoreland district of Lake Kegonsa. At 61.5 feet wide at the building setback line (20 feet from the Williams Point Drive right-of-way), this lot does not meet the minimum 100 feet lot width requirements for the Shoreland district, but it does comply with the minimum 15000 square feet (SF) lot area, at 24,060 SF, as per a Site Plan dated 10/31/2011.
2. The Verridens lot has an existing one-story house located closer than the minimum 10 feet from both side lot lines. The house meets the minimum front setback and the minimum 75 feet setback from the Ordinary High Water Mark (OHWM).
3. Dane County maps show the Flood Storage District (FSD) extending onto this lot at the shoreline, but a new topographic survey shows no FSD encroachment, so the parcel is not in the floodplain and is considered buildable.
4. The Verridens propose to remove the existing house and garage and build a new single family residence, a one story ranch approximately 1600 SF. The new house would meet all Zoning and Shoreland setbacks and regulations, including minimum 10 foot side yards, minimum 75 feet from the OHWM (with 80 feet +/- shown on the site plan), and maximum 30% lot coverage (with less than 10% +/- proposed). The existing detached garage will be removed.
5. The Town of Pleasant Springs requested postponing action by the Board until their January 26, 2012 meeting so that the Town Planning Commission and Board can review the appeal at their scheduled hearings.
6. Mr. Verriden explained no additional land is available to increase the width of this lot. The only variance needed is for lot width, due to the age of the plat. The proposed house would bring the side yard setbacks into zoning compliance and lot coverage would be well below the maximum allowed. He told the Board members he hoped to retain all existing trees, and the project would result in minimal land disturbance and little additional runoff, since lot coverage would not change other than possibly by a couple of percent.

**Conclusions:**
1) Unnecessary Hardship: It is clearly and unnecessarily burdensome that the Verriden’s can not remove an existing residence and put in a more code compliant residence not requiring further variances and within their rights as a permitted residential use of the property.
2) Unique Limitations of the Property: No additional land is available to increase the width of this substandard lot, which is part of a 1950s subdivision plat. The owners were also limited by working around mature trees which cut down on options available to themselves.
3) No Harm to Public Interests: The lot is fairly flat and is handled in a manner consistent in how it is currently being utilized as they are not adding much in terms of square footage of improvements and the likelihood of much additional run-off seems to be minimal. The need for a variance is technical, and minimal relief is requested. Granting the variance balances Chapter 10-Zoning property rights concerns with Shoreland preservation purposes of Chapter 11.

**Motion carried:** 4 - 0
2. **Appeal 3625** Appeal by Darrell and Mary Walker for a variance from minimum required setback from centerline and right-of-way as provided by Section 10.17(1) Class A Highway, Dane County Code of Ordinances, to permit a deck as constructed at 1064 State Highway 78, being part of Outlot 25, Daleyville Assessor’s Plat, Section 17, Town of Perry.

**VARIANCES REQUESTED:** Purpose: Allow construction of rear deck and lower level platform.

**Setback from Road Variance:**
- Minimum setback from Class A highway right-of-way required: 42 feet.
- Minimum setback from Class A highway centerline required: 100 feet.
- Actual Setback: from right-of-way line: 32 feet.
- Actual Setback: from the centerline: 65 feet.

**VARIANCE NEEDED:** 10 feet from setback from right of way or 100 feet from setback from centerline.

Zoning Inspector Shawn Widish presented a Staff Report reporting facts of the case.

**IN FAVOR:** Darrell L. Walker, Mt. Horeb, WI – owner
Darren Walker, Mt. Horeb, WI - son

**ZONING ADMINISTRATOR’S COMMENTS:** Zoning Inspector Shawn Widish reported Zoning Administrator Roger Lane’s recommendation to grant was in reference to 10.16(4)(d) reduced front setback.

**OPPOSED:** None. The Chair stated no rebuttal was needed.

**Motion:** Studz/Long to grant a variance of 10 feet from setback from Class A highway right of way to allow construction of rear deck and lower level platform onto a single family residence.

**Finding of Fact:**
1. Existing 0.30+– acre R-2 Residential parcel has a house and detached garage. The house is currently unoccupied. The house was built in 1926, according to the owner. The lot is part of the unincorporated hamlet of Daleyville, settled in the early 1900s and platted in 1944. The entire house is closer than today’s County Ordinance requirement of 100 feet minimum setback to the centerline of State Highway 78, a Class A road.
2. In May 2007 the Board of Adjustment (BOA) granted Appeal 3476 for this property to allow the replacement of the deteriorated stone foundation, raising the house by 2 feet to allow installation of code-compliant basement stairway and concrete floor. The rear porch was to be removed and space to be added to existing living area. Subsequently a zoning permit was issued in May 2007 and a Certificate of Compliance in September 2009.
3. In October 2011 a violation notice was mailed to Darrell Walker for the construction of a rear deck without a permit.
4. The owners propose an addition of 20 feet x 12 feet rear deck with stairs and 20 feet x 12 feet lower level porch for this single family residence to allow for an additional exit for safety proposes. The site plan and floor plans show that the footprint of house does not change except for this porch and stairs on either side.
5. Section 10.16(4)(d) Setback front yard allows an averaged reduced setback if 30% of lots in any one block have a setback line established by construction in plats recorded before the adoption of the ordinance though no average has been made available to our office. Based upon aerial photographs and site inspections, no houses in this block of Daleyville meet the minimum 100 foot setback and Dane County Code of Ordinance’s.
6. Correspondence with the WI Department of Transportation stated they have no authority so will support both the County or Town unless the Assessor’s Plat identifies setback described within the document. Research showed the plat included no such setback requirement.
Conclusions:
1. Unnecessary Hardship: It is unreasonable and burdensome to prohibit the home owner from making an improvement on the back of this historic home that is not encroaching any further into the setback. Board members asserted that sequential variances are not a basis for hardship, and the applicant should not expect further relief.
2. Unique Limitations of the Property: The hamlet of Dalleyville was platted out before the Class A highway setbacks were established. All the houses in Daleyville along State Highway 78 appear to not meet either setback from center line or right-of-way. In light of that it would be unnecessarily burdensome that the applicant be limited when there is nothing else in the neighborhood that meets that requirement. There is no other place on the property that this deck could be placed that would not require a variance and/or a greater variance request.
3. No Harm to Public Interests: The proposed addition does not encroach into the right of way; requires minimum variances in this location; improves safety by allowing for additional exits in the event of an emergency; is a benefit to improving the overall structure as well as community and if sanctioned then could potentially become harmful to public interest.

Motion carried: 4 - 0

V. OTHER BUSINESS:
Widish reported on the following items and distributed materials. Discussion ensued:
1. Status of changes to Chapter 11 – Shoreland, Shoreland-Wetland, & Inland-Wetland Ordinance of the Dane County Code of Ordinances. Reports of changes to Chapter 11 include introduction to the County Board in March with the anticipated adoption within three to four months. No additional information made available other than what is found on the Planning and Development website. The Board took no action.

2. 2012 BOA Schedule. 2012 BOA Schedule with consideration given to holidays identified by the County – Motion to approve as submitted by Colvin/Schulz. Motion carried: 4 – 0

3. Consideration of scheduling Public Hearing for an Administrative Appeal. Administrative Appeal discussion with Kris Schutte stating that it is unlikely that there will be resolution. Discussion continued as to schedules including Zoning Administrator Roger Lane’s availability, and BOA process, preparation, availability of legal counsel, etc.. Creating a schedule based upon scheduling software with all parties involved was discussed. The Board took no action however Chair Steven Schulz, with the consensus of the Board members present, directed that the Oehlhofs’ appeal be included on the Agenda of the Board’s regularly-scheduled January 26, 2012 Public Hearing.

VI. ADJOURNMENT:

Motion: Studz/Schulz to adjourn.

Motion carried: 4 - 0 at 8:05 p.m.

Respectfully submitted,

Shawn Widish, Dane County Zoning Inspector
On behalf of:
Kristine L. Schutte, Dane County Assistant Zoning Administrator, Recording Secretary
MINUTES FILED WITH THE COUNTY CLERK: _____ __, 2011.

MINUTES FILED IN THE OFFICE OF THE DANE COUNTY PLANNING AND DEVELOPMENT DEPARTMENT, DIVISION OF ZONING:

____________________________________   ______________________
SIGNED BY:   Roger W. Lane, III     Date
Dane County Zoning Administrator

THE MINUTES OF THE _____ __, 2011 BOARD OF ADJUSTMENT MEETING WERE APPROVED BY THE BOARD OF ADJUSTMENT ON _______________ AS PRESENTED. / AS AMENDED TO INCLUDE THE FOLLOWING:

_________________________________________________________________________________
_________________________________________________________________________________
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_________________________________________________________________________________
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____________________________________   ______________________
SIGNED BY:   Steven Schulz      Date
Chair, Dane County Board of Adjustment