

PETITION TO AMEND ZONING ORDINANCE

FILED
02-16-2023 - 22
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334

TO: JEFFERSON COUNTY CLERK
JEFFERSON COUNTY BOARD OF SUPERVISORS

PETITION NO. R-13799A-22
REQUESTS

THIS PETITION, MADE UNDER AND PURSUANT TO PROVISIONS OF §59.97(5)(e)1, WISCONSIN STATUTES, REQUESTS THE JEFFERSON COUNTY BOARD OF SUPERVISORS TO AMEND THE ZONING ORDINANCE OF JEFFERSON COUNTY.

The Boat House of Lake Country REQUEST THAT THE ZONING MAP OF THE TOWN OF Concord
(Petitioner's Name-Please Print)

BE AMENDED TO CHANGE THE ZONING CLASSIFICATION OF THE PROPERTY DESCRIBED

FROM A-1 DISTRICT TO A-2

PROPERTY DESCRIPTION

Tax Parcel/ PIN Number 006-0716-1642-000 Property Address W1432 County Road B, Sullivan WI 53178

Subdivision _____ Lot _____ Block _____ CSM _____ Vol. _____ Page _____

Parent Parcel Size _____ Present Use _____

PROPERTY OWNER(S)

Name Donald & Nancy Brunson Address W1432 County Road B, Sullivan WI 53178
Street City St. Zip

Phone Number 920-751-9185 262 3911886 E-Mail Address _____

PLEASE ATTACH THE FOLLOWING WITH YOUR COMPLETED APPLICATION FORM. Failure to submit a completed application that includes the below-mentioned items could delay scheduling your petition for the next public hearing. All pages including plot plan to be no larger than 11" X 17".

1. Preliminary Certified Survey delineating proposed land division.
2. Reasons for rezoning, evidence that the rezoning meets the Jefferson County Agricultural Preservation and Land Use Plan and Jefferson County Ordinances.
3. Type of use proposed and structures needed.
4. Land modifications necessary.
5. If rezoning from A-1 or N, please refer to the standards for approval on the reverse side of this application.
6. Town Board decision.
7. Other pertinent information such as proposed road access, extraterritorial plat review, etc.

REZONING HEARING FEE IS \$300, PRELIMINARY CSM REVIEW FEE IS \$50, and ADMINISTRATIVE FEE FOR REZONING OUT OF THE A-1 DISTRICT IS \$100. Soils Report by Certified Soil Tester and a Final Certified Survey Map May Be Required Following Approval. Keep a copy of the application and attachments to give to the Town.

PETITIONERS/OWNERS UNDERSTAND THAT NOTICE OF PUBLIC HEARING WILL BE SENT TO THEM, TO TOWNSHIP OFFICIALS, COUNTY BOARD SUPERVISOR FOR THE AREA OF REZONING, AND PROPERTY OWNERS ACCORDING TO SEC. 11.15 OF THE ZONING ORDINANCE. 1/4 mi

AS PETITIONER/OWNER, I UNDERSTAND THAT I MUST CONTACT TOWNSHIP OFFICIALS AND ATTEND A TOWN BOARD/TOWN PLAN COMMISSION MEETING(S) ON THIS MATTER PRIOR TO THE COUNTY'S PUBLIC HEARING; I UNDERSTAND THAT I MUST ALSO ATTEND THE COUNTY'S PUBLIC HEARING OR SEND AN AGENT TO REPRESENT ME.

[Signature] 11-18-21
(Signature of OWNER) (Date)

(Address, if Different From Above)

(Signature of PETITIONER) Boathouse/Jesse M Gaengel Boathouse/Jesse M Gaengel
DBF381058AE3453... DBF024050AE0453... (Date)

The Boat House of Lake Country N7536 Sterlingworth Drive, Elkhorn WI 53121
(Address, if Different From Above)

Extraterritorial _____
County Board Supervisor Jeff Johns (11)
Decision Sheet Sent to Town on 11/30/21

JEFFERSON COUNTY PRELIMINARY REVIEW FOR CERTIFIED SURVEY

A Division of land located in the NW 1/4 of the SE 1/4 of Section 16, Township 6 N, Range 17 E, Town of Concord, Jefferson County, Wisconsin, on Parcel Number 006-0716-1642-000

Owner/Petitioner: Donald & Nancy Brunson (A-3 Zone)
Address: W1432 County Road B
Sullivan, WI 53178
Phone: 262 391-1886

In addition to the info required by Sec 236.34 of State Statutes, Sec. 15.04(f) of the Jefferson County Land Division/Subdivision Ordinance requires that the following be shown:

Date Submitted: _____

Revised: _____

Petitioner: The Boat House of Lake Country (A-2 Zone)
Address: N7536 Sterlingworth Drive
Elkhorn, WI 53121
Phone: 262 742-3898

Note to Be Placed on Final CSM

Petition # _____ Zoning _____

Check for subsequent zoning changes with Jefferson County Zoning Department.

Surveyor: **SOUTHWEST**
SURVEYING & ASSOCIATES, Inc.
P.O. BOX K, PALMYRA, WI, 53156
920-674-4884
262-495-4910

Existing buildings, watercourses, drainage ditches and other features pertinent to the proper division.

Location of access to a public road, approved by the agency having jurisdiction over the road.

All lands reserved for future public acquisition.

Date of the map.

Graphic Scale.

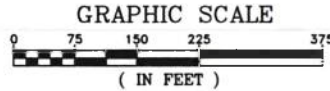
Rezoning

Allowed Division within Existing Zone

Farm Consolidation (A-3 Zone)

35+ Acre Lot in A-1 Zone

Survey of Existing Parcel



Intent and Description of Parcel to be Divided:

Create one 2.0± Acres A-3 Zoned Farm Consolidation Parcel around existing buildings.
Create one 7.4 Acres A-2 Zoned Parcel with Conditional Use for inside boat storage.



NOTE:

This map was compiled from public data supplied by the Jefferson County Land Information Department and is not a substitute for an actual field survey and is limited by the quality of the data from which it was assembled. The dimensions are approximate and will vary upon an actual field survey. To be used for planning purposes only.

Town Board Approval _____ Date: _____
(Includes Access Approval if Applicable)

County Highway Approval _____ Date: _____
(If Applicable)

Extraterritorial Approval _____ Date: _____
(If Applicable)

County Surveyor Approval _____ Date: _____

Zoning Office Approval _____ Date: _____

SHEET 1 OF 1
DATE: NOVEMBER 11, 2021
JOB NO: B-221132

Lot Splits in the A-1 and A-3 Districts

(See Appendix B for current A-1, A-2, and A-3 land use policies from the 1999 Jefferson County Agricultural Preservation and Land Use Plan.)

The major concern at the time of this writing is the potential impact of lot splits permitted in the A-1 zoning district on the land use patterns, traffic flow, and rural character of the community. The *Jefferson County Agricultural Preservation and Land Use Plan*³ provides for a maximum of 521 additional lot splits for new housing units.⁴ Assuming 2.67 persons per household, an exercising of all available lot splits could result in as many as 1,391 additional residents. This could increase the population from its year 2000 level of 2,023, to 3,414 and would irrevocably alter the rural character that residents cherish. Although there is no policy currently in place to either limit or regulate the rate of development on these available splits, under Jefferson County zoning Concord is allowed to further reduce lot splits to address this problem. A citizen questionnaire conducted in November 2008 indicated that of 255 respondents, 138 (54.7%) supported limiting lot splits, and 113 (45.3%) did not support limiting lot splits.

A-2 Agricultural Business District Policies

(See Appendix B for current A-1, A-2, and A-3 land use policies from the Jefferson County Agricultural Preservation and Land Use Plan.)

A small portion of the land in the Town of Concord is zoned A-2 Agricultural Business District under the Jefferson County Zoning Ordinance.⁵ This district provides for agricultural businesses that are related to the sustainability and productivity of agriculture in Jefferson County. The only residential use permitted in the A-2 District is “farm labor housing,” which is to be occupied exclusively by employees or families of employees on farms in Jefferson County. Jefferson County has set forth detailed policies regarding the A-2 District in the *Jefferson County Agricultural Preservation and Land Use Plan*.⁶ One of these policies states that all uses in the A-2 District should be considered conditional uses and should require a conditional use permit. A second policy is that all non-agricultural structures in the A-2 District should be subject to site plan review to evaluate the proposed building and driveway locations with respect to impact on prime farmland.

Criteria for evaluating proposals for rezoning land from A-1 Exclusive Agricultural to A-2 Agricultural Business are also included in the County Plan. One of these criteria is that access to the land proposed for rezoning from A-1 to A-2 should be either from a public road or from a new private access drive that does not divide an existing field. The Town of Concord is in agreement with these A-2 District policies from the *Jefferson County Agricultural Preservation and Land Use Plan*, and they are hereby incorporated as part of the overall policy framework in the Town of Concord Comprehensive Plan.

³ *Jefferson County Agricultural Preservation and Land Use Plan* (Jefferson County, October 1999), pp. 88–91.

⁴ Information from the Jefferson County Zoning Office 11-21-2006 (see Appendix B).

⁵ *Jefferson County Zoning Ordinance No. 11* (Jefferson County Effective January 15, 1975, Last Amended September 11, 2006), pp. 20–21.

⁶ *Jefferson County Agricultural Preservation and Land Use Plan* (Jefferson County, October 1999), pp. 91–92.

Changes to the Plan

Subsequent to printing of the plan and scheduling this public hearing, changes have been made as a result of the following information from Jefferson County regarding zoning ordinances:

“Jefferson County has county-wide zoning administered through the County Zoning Office and County Zoning and Planning Committee. It does have a partnership with each of the 16 towns; however, the creation and administration of the County Zoning Ordinance is under the jurisdiction of Jefferson County. Therefore, the towns in Jefferson County are not able to create zoning ordinances. The towns may, however, institute policies which are more restrictive than Jefferson County in regards to zoning.”

As a result:

Three zoning issues for which the plan called for the creation of zoning ordinances by the Town have been reworded to reflect that the Town policy will be more restrictive than the County in these areas in accordance with our Comprehensive Plan, but the Plan no longer directs the Town to create ordinances.

The issues are:

- Limiting lot splits on non-prime soils
- Restricting conditional uses in the Community Zoning District
- Developing guidelines for the location and operation of large scale farming operations

Limiting lot splits

The Comprehensive Planning Questionnaire sent out November, 2008 gave the following information regarding lot splits:

“Many parcels of agricultural land in Concord qualify for Splitting off up to 6 acres for up to 3 residences under Jefferson County zoning rules. The County zoning department estimates Concord could add an additional 520 residences under these rules. This would increase Concord's present 757 households by 72%. Under County zoning rules Concord is allowed to be more restrictive. Because of the significant impact of such a large housing increase, it has been proposed that Concord limit the new residences to 2 instead of 3 but *not change* the allowable six acres

that can be split off. This would reduce the increase in new households by a third to 346 but allow for larger lots.”

Results of Lot Split Question

Do you support reducing the maximum number of lot splits on agricultural land Zoned A-1 from three splits to two splits?

- a. Support limiting lot splits: 138 (54.7%)
- a. Do not support limiting lot splits: 113 (45.3%)

Menu

Home

Concord's limiting of land splits stems from the vision put forth by the Town of Concord Comprehensive Plan.

The plan was over three years in the making, being developed almost entirely by Concord citizens under the authority of Wisconsin's Comprehensive Planning Law (S.66.1001, Wis. Stats.). Various people who live in Concord volunteered to write almost all of the chapters. Vanessa Kuehner from the firm Ruekert-Mielke was hired to guide our progress. Steve Grabow of the University of Wisconsin Extension was a tremendous help. More than 40 citizens participated in the plan creation process. Bill Ingersoll, a town board supervisor at the time, was the only officially appointed member of the group that created the plan. Visioning sessions were held, and each chapter of the plan was discussed at the monthly meetings as it was being developed.

The rural quality of life in Concord was established to be very important to most citizens. One of the final steps in the planning process was to mail a questionnaire to every household in Concord. The poll results came back with 54% in support of limiting the land splits.

[Here is a link to a slide show that describes the Concord plan development process.](#) (4.4mb pdf)

[Here are many more details of the month-to-month meetings that were held while creating the plan.](#)

The plan was adopted by the [Concord Town Board on July 13, 2009](#), and was set to take effect on November 1, 2009. Since the plan went into effect, lot splits have been limited to two, with the procedure for determining this based on the Jefferson County comprehensive plan. The following quote from the implementation chapter (p. 87 of the paper copy or p. 97 of the electronic copy of the Concord town plan) describes how the Concord Planning Committee is to evaluate Concord petitions for parcel splits zoned A-3 by Jefferson County.

"The Town will use the procedure established by Jefferson County in the 1999 Jefferson County Agricultural Preservation and Land Use Plan pg. 88-941 to determine "parent parcels" and the number of potential A-3 building sites available. However, the Town will allow a maximum of only two A-3 lots to be created on a non-prime parcel as opposed to the three-lot maximum allowed by the County. The Town would allow a maximum of 6 total acres to be used for the two A-3 lots with the minimum lot size being one acre. Under this procedure, the Town Plan Commission would grant only two petitions for the creation of A-3 lots from a non-prime parent parcel. It will be the responsibility of the Plan Commission to contact the Jefferson County Zoning Department when a petition to create an A-3 parcel comes before them. If the Jefferson County Zoning Department already has two approved petitions for the creation of A-3 building sites on record for the parcel in question, the Plan Commission will reject the petition to approve a third A-3 building site (also see sections 2.B., 2.C., 5.B., 10.B., 10.C., and 10.G.)."

Town of Concord Comprehensive Plan

CHAPTER 17

ZONING

17.01 Jefferson County Zoning Ordinance Adopted

17.01 JEFFERSON COUNTY ZONING ORDINANCE ADOPTED. The provisions of the Jefferson County Zoning Ordinance, passed December 10, 1974, are adopted by reference and made a part of this chapter as if set forth in full.

17.02 NONMETALLIC MINERAL EXTRACTION REGULATION AND CONTROL.

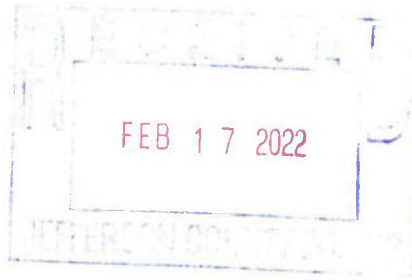
(1) LEGISLATIVE PURPOSE:

- (a) Purpose. The purpose of this ordinance is to regulate and control the operation of non metallic mineral extraction operations in the Town of Concord and to assure such operations are conducted in a manner that promotes successful operation consistent with the standards established in this chapter, as well as to address the health, safety, and welfare concerns of the Concord community
- (b) Definition; "Nonmetallic Mineral Extraction and Processing." Nonmetallic mineral extraction processing operations are conditional uses in Jefferson County, and include mining, quarrying, burrow pits, crushing, washing and other removal or processing of nonmetallic resources, the erection of buildings and the installation of necessary machinery used in said extraction or processing, and the preparation of hot-mix asphalt and ready mixed concrete.

(2) PROCEDURE FOR APPLICATION:

- (a) Permit: No nonmetallic mineral extraction operation shall take place within the Town of Concord until a conditional use permit application has been received, reviewed by the Town Plan Commission (Park and Planning), and approved by both the town board and appropriate Jefferson County zoning authority. Such permit shall be for an initial period as is deemed appropriate to the specific situation but not to exceed three (3) years. To renew an existing permit the applicant shall mail the application at least sixty (60) and no more than one hundred twenty (120) days before the expiration of the original permit. Application after such date shall be treated as an original application. Permit renewal shall not be unreasonably withheld so long as (1) there is no uncured default existing at the time the permit renewal is either applied for or is granted by the Town and (2) the operator has not engaged in a pattern of flagrant and repeated violations of the terms of the permit during the prior term. Repeated violation shall mean three (3) or more separate violations of a similar nature which are identified by written notice from the Town Board. The permit may be rescinded after a public hearing before the Town Board and Plan Commission (Park and Planning) and a new conditional use permit will be required to resume operations. Any alleged violation of the permit shall be identified to the applicant and the property owner in writing, with particularity, and the applicant shall have thirty (30) days to cure such violation unless the violation will result in imminent harm to the health and safety of the Town of Concord neighbors immediately adjacent to the quarry in which case the operator shall take prompt actions to cure such violation. A cease work order may be issued by the Town Board for a violation of the permit and its applicable regulations which may result in imminent harm to the health and safety of those Town of Concord neighbors immediately adjacent to the mineral extraction operation. Such order shall be

Jefferson County Zoning Committee
Jefferson County Courthouse
311 S. Center Ave., Room 201
Jefferson, WI 53549



February 16, 2022

Dear Zoning Committee members,

I would like to request that you deny the Boat House's proposal to rezone 7.4 acres to A-2 and grant a conditional use permit for boat storage barns (Donald and Nancy Brunson, R4379A-22 and CU2108-22).

This proposal is inconsistent with the Town of Concord's Town Plan, which, for example, restricts new business development to the hamlet, does not support expansion of the hamlet, and restricts nonresidential development near the I-94 interchange, among other criteria—all in order to maintain a rural atmosphere, as citizens have requested. **This proposal is also inconsistent with our past practice**; decisions up until now have followed the Town Plan, with multiple A-2 proposals being turned down for this reason. Because of this, the Concord Plan Commission had voted 4-0 (with Lloyd Zastrow abstaining) to recommend that the Town Board deny this request.

Clear, specific criteria are essential to ensure fair, consistent decisions and clear communication with landowners. I as a Plan Commission member believed that our Town Plan provided us with some such criteria. Our town chair voted *against* this proposal because he is concerned that inconsistency and a lack of criteria could open the town and the county up to lawsuits.

Further, the Plan Commission does not regularly send notices to neighbors about rezoning and CUP requests; we sometimes informally contact neighbors, but in this case we did not because in the past the Town Board has always followed our Town Plan, and so we thought this was a straightforward "no." As a result, most neighbors were not aware of the change and could not provide input at the town level. I have since become aware of some significant neighbor concerns that I believe would have changed the Town Board's decision had they been aware of them at the time.

1. **Drainage:** There are concerns that the proposed retention pond is too small for the area being built up.
2. **Lighting:** The buildings are lit up all night, with very bright lights. Also, while the existing barns are relatively low-lying, the new barns would be on a hill, potentially resulting in more light spread. Agricultural barns usually have much less lighting, and so this lighting gives the boat storage barns a more "industrial" rather than "rural" feel (contradicting the key objective of our Town Plan, which is to maintain a rural atmosphere).
3. **Traffic obstruction:** When a boat is brought to the current barns, they must stop partially on the road to open the locked gate. The shoulder is not wide enough for a

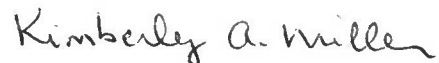
boat trailer with a pontoon to pull fully off the road. Sometimes three boats are brought at once, creating an extended obstruction (three trucks and three trailers). This creates an accident risk on a 55 mph road that is heavily used as a route to reach I-94.

Further, the neighbors indicated that when the existing barns first went in, they expected the boats to be taken out in spring and brought back in fall. Instead, boats are constantly being taken out and brought back, producing much more ongoing traffic than they had anticipated. (During the proposal for the current barns, the Boat House had in fact stated that boats would be moved only in spring and fall.) Were this proposal to be granted, there would be yet more traffic, resulting in more frequent road obstruction. The county would likely need to create a turn lane there.

Thus, the Town Board made this decision with very little community input, meaning they were unaware of the above issues, and with no clear criteria for why this proposal was approved when others were not. Some proposals that were denied would have been approved if the Town Board had been equally lenient with regard to the Town Plan. There is therefore a sense that this decision was affected by personal relationships, and that does not seem appropriate. I am sorry that the family selling the land is experiencing financial hardships, but I do not think that should override the impacts on neighbors and the preferences of the citizens as a whole, as expressed in our Town Plan.

Thank you for your work on the Zoning Committee and your attention to this matter!

Sincerely,



Kimberly A. Miller
Town of Concord Plan Commission member
N6240 Stonewood Dr.
Watertown, WI 53094
608-616-0535

Jefferson County Planning and Zoning Commission:

Re: R4379A-22 & CU2108-22

I respectfully ask that the Planning and Zoning Commission deny the request by the Boat House to rezone 7.4 acres to A-2 for the purpose of expanding their boat storage business to include 10 more large buildings. **This request is not consistent with the *Town of Concord Comprehensive Land Use Plan* or past Town Board decisions** as it creates a new commercial business venture outside the town hamlet. Because of its size and location, it would have a negative impact on the rural character and the quality of life of neighboring residents.

Past decisions regarding A-2 zoning requests in the Town of Concord have been consistent with the *Town of Concord Comprehensive Land Use Plan*. This Plan states the following in Chapter 8.B., Economic Development Element/Strategies: "5. The Town will evaluate conditional use applications and rezoning requests for new and expanding business ventures in relation to the anticipated impact on the Town's rural character and quality of life. 9. The Town will limit the establishment of new businesses to areas within the Town of Concord rural hamlet ... 10. The Town will not support expansion of the current rural hamlet or creation of new rural hamlet areas 12. The Town will severely limit any further concentration of non-residential development in the vicinity of the CTH F interchange..."

The Town has done well accommodating requests to rezone to A-2 in light of the criteria set forth in Chapters 8. The Town has approved a number of requests to rezone to A-2. These include (2) requests to enlarge existing A-2 zones for businesses which were longstanding in the Town (Stern – lumber business, and Popp – boat storage), (2) small A-2 zones to allow for the storage of contractor's equipment so that the resident homeowner could store equipment for a business which was operated off the premises (Ott – concrete equipment, Beres - landscape equipment), (1) request for A-2 for Agricultural Use - the use of the property was to remain the same but allowed sale of a parcel less than 35 acres (Anfang), (1) request for beekeeping (Kleefisch).

The Town has consistently denied requests for new commercial enterprises in A-2 zoning. Denials include a wedding barn, a landscape business with business operations and employees onsite, a kennel, a disc golf course, and a wrestling camp.

Aside from its inconsistency with the Town Plan and past decisions, the location of this requested A-2 zone in relation to nearby residential development makes the proposal unsuitable. When evaluating the initial proposal for the Boat House, the Plan Commission considered that the location was in the hamlet and that the land in question was below the grade of the roadway. With this in mind, and a request by the Plan Commission for buffering to screen the development from the road and surrounding properties, the Plan Commission and Town Board approved the proposal. The requested screening was never maintained and most of the trees have died. The remaining trees do not look very healthy. I would argue that the Boat House has not complied with this aspect of the CUP. Rather than being on lower ground, the proposed location of the new buildings is on a hill above the residential development to the north along Hwy E. A hilltop view of 10 large industrial type storage buildings would certainly have a negative impact for the nearby existing residential development. This is not an industrial area, but a rural community area.

So, on the basis of inconsistency with the Town Plan and previous town decisions and unsuitability of the site for this proposal, I ask that the County Planning and Zoning Commission deny this request.

If you choose to approve the request I would ask that the following conditions be attached to the CUP:

1. A requirement to establish a year-round green screen to obscure the whole development from existing residences to the north. Giant arborvitae might work. Plantings should be dense and mature to provide immediate screening.
2. Conditions on the type and brightness of nighttime lighting. Currently, the 5 existing buildings have extremely bright lights which are on all night long. This is not an industrial area, but a quiet rural area. Conditions to mitigate the nighttime light nuisance would be appropriate.

Thank you,

Sally Williams, Town of Concord

February 12, 2022

Jefferson County Courthouse
311 Center Ave.
Jefferson, Wi 53549

Gentlemen:

I am writing this letter to ask for your help in zoning for the Town of Concord.

I am a 30 year resident of the Town of Concord. I moved here from Milwaukee because, having lived on a farm when I was young, I wanted get back to my roots to a small , rural, agrarian hamlet – Concord.

Concord is a tight, but friendly community where everyone helps each neighbor.

We recently were approached by the Boat House for permission to build storage units on the Northern edge of our hamlet, Unfortunately, they were given permission by our board to do so without any input from local residents. Many residents are not in agreement with it, as that goes against the Town of Concord Comprehensive Plan.

Can you please help

FEB 14 2022

Several years ago I informed an elderly gentleman friend that his family would be receiving a heritage plate from the Concord Historical Society. I asked him if he would like me to type up a response from him. He looked thoughtful and said I would say, "We worked hard, helped our neighbors and went to church". Not much has changed in the Town of Concord and we want to keep it that way.

Sincerely,

A handwritten signature in cursive script that reads "Marian Speerless".

Marian Speerless

Our Email is now turley sm2020@Gmail.com