

**SUPPLEMENTAL REVISED APPENDIX DOCUMENTS REFERRED TO IN THE
FOOTNOTE SECTION OF REPLY BRIEF TO DCS ZONING REPORT IN PETITION
11788**

1. October 21, 2021 Remzy Bitar email
2. 2013 complete email string between Parisi and Willan that was not included in DCS report
3. January 10, 2012 email string between Lane and Willan
4. 2018 email chain between Gault and Willan over completed site inspection by Sarah Johnson
5. Split zoning email string talked about in Roger Lanes video deposition testimony
6. 7TH CIRCUIT COURT OF APPEALS DECISION IN WILLAN V DANE COUNTY

Remzy Bitar email telling the Willans the steps needed for restoration of vested property rights

Tom Willan

From: Remzy Bitar <rbitar@ammr.net>
Sent: Thursday, October 21, 2021 2:06 PM
To: Tom Willan
Subject: RE: Are your clients going to give us our vested property rights back?

Mr. Willan,

If you have desires or visions for what you want to do with your property, the answer is as follows: file the proper and formal applications with the county land use department to kick-off the process.

Remzy D. Bitar

Municipal Law & Litigation Group, S.C.
Arenz, Molter, Macy, Riffle, Larson & Bitar
730 N. Grand Avenue
Waukesha, WI 53186
Phone: (262) 548-1340
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MunicipalLAW
& LITIGATION GROUP

"Your Municipal Lawyers & Municipal Litigation Defense Team"

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From: Tom Willan <tom@ironmanbuildings.com>
Sent: Thursday, October 21, 2021 11:15 PM
To: Remzy Bitar <rbitar@ammr.net>
Subject: Are your clients going to give us our vested property rights back?

Mr. Bitar,

The court seems to think you are entitled to another kick at the can! So we will give you one little kick.

It is our position that we have vested agricultural property rights under tested Wisconsin law. It is also our position that your clients have illegally taken away our vested agricultural rights during the comprehensive revisions. It is also our position that we have asked you to reinstate our vested agricultural property rights back in March of 2019 and your clients have refused to reinstate our vested agricultural property rights. It is also our position that your clients can no longer grant relief through administrative procedures except through a blanket rezoning to correct their taking of our vested property rights during the comprehensive revisions. It is also our position that there is no way provided by state law to reinstate our vested agricultural property rights from the comprehensive revisions! It is our position that before any possible conditional use can be asked for we need our permitted agricultural rights reinstated since we are in a residential district that doesn't allow agricultural use as a permitted use by right!

Is it your position then, that your clients are going to voluntarily reinstate our vested agricultural property rights by rezoning our property into the agricultural f-pb zoning district or do you want us to sue your clients again for just compensation for an illegal taking of our vested property rights in federal district court? The court will need a final decision on how your clients want to proceed in reinstating our vested agricultural property rights and paying us for the last two and a half years?

Please let me know if your clients want to come to an agreement? Supreme court next!

Thanks Tom and Julia Willan

Sent from my U.S.Cellular© Smartphone
Get [Outlook for Android](#)

From: tom@ironmanbuildings.com [mailto:tom@ironmanbuildings.com]

Sent: Tuesday, January 22, 2013 10:51 AM

To: Parisi, Joseph

Cc: Lane, Roger

Subject: Need your help solving a major Zoning issue?

TOM & JULIA WILLAN
4407 VILAS HOPE RDr
COTTAGE GROVE WI 53527
608-592-7533 or 608-438-3103
tom@ironmanbuildings.com

January 22, 2013

Joe Parisi
210 Martin Luther King Jr Blvd
Madison WI 53703

RE: Screwed up Zoning Permit from 1998

Sent via: Email

Dear Mr. Parisi,

I'm writing you because nobody else at the county seems to want to solve our zoning problem that was caused by Dane County Zoning and Register of Deeds. This is a long story that started in 1998. My name is Tom Willan. On October 31, 2011 My wife Julia and I purchased a property located at 4407 Vilas Hope Rd in the Town of Cottage Grove.

In August of 2012 I was informed by the previous owner John Copenhaver that he received a letter from Pam Dunphy that there was an informational meeting regarding road construction at the corner of Vilas Hope Rd. and Cottage Grove Rd. The reason John Copenhaver had received the letter was because Dane County did not change the new owners name in the system. On August 20, 2012 the same day of the informational meeting I contacted Pam Dunphy who is heading up this road construction project. I let her know John Copenhaver did not own the property, that we were the rightful legal owners of the property and she needed to get in touch with the register of Deeds and inform them of the change. She stated she would let someone in the register of deeds about the owner change. This never happened!

The next thing happens is John Copenhaver gets mailed a generic well agreement created by Pam Dunphy in his name from the Town wanting him to sign off on a well that is supposedly in the right away. I then notified the Register of Deeds myself on September 18, 2012 regarding who the owners are. I was assured that

this would be taken care of. Evidently it has been corrected because I received my tax bill in the mail this December.

The Town of Cottage Grove and me have gone back and forth on the well issue with no resolve. Here is the issue with Dane County. On October 31, 2012 I was up in the Dane County Zoning office inquiring about what buildings I can build on my property. I was informed by Roger Lane that our Property at 4407 Vilas Hope Rd had zoning issues relating back to 1998 when the lot was split. Roger was real nice and said that he would wave any fees and resubmit the 1998 application. I signed a new application and left. I did not hear anything from Roger so I contacted him by telephone in mid December. Roger tells me that he did not submit the application because I did not pay the fee even though he said he would wave it. I personally went up to Dane County Zoning and met with Roger. He gave me copies of the original file from 1998 and stated I needed to get the well issue with the town fixed before he would submit the application. Below you will find what I have ascertained from the 1998 file;

On August 25th, 1998 The Dane County Board conditionally approved CJ Vales Zoning Petition 7341 for a lot split and rezoning. The Conditional Approval was predicated by both Wisconsin State Statute Section 236 and Dane County ordinance which had a non-negotiable requirement to have filed in the Dane County Register of deeds office by December 9, 1998, 1) a certified survey map, and 2) a set of deed restrictions regarding lot 1 with specific language provided by Dane County Zoning. On October 20, 1998 Dane County Zoning shows in the file that they sent a Reminder Notice to CJ Vale, reading in part that the Certified Survey Map and Deed Restrictions were due by December 9th 1998 and "Failure to record the survey map and/or deed restriction will null and void the Zoning Petition. The time period may not be extended." Around October 26th 1998 or soon thereafter Dane County Zoning received a partial hand written signed copy of the deed restrictions regarding lot 1. I see nothing in the record that shows the October 26th, 1998 Deed restrictions were ever filed with the Dane County Register of deeds as required by the boards conditional approval. I show nothing in the record that shows that when the Rezoning Petition 7341 conditional approval deadline of December 9, 1998 had passed for filing with the Dane County Register of Deeds office the Certified Survey Map and Deed Restrictions that, anyone from Dane County Zoning Notified CJ Vale that his Rezoning Petition 7341 was Null and Void? The next thing in the record shows up more than 6 months after the Statutory deadline of December 9th 1998. On June 18th 1999 a Norbert Scribner #6668 with Dane County Zoning stamped and approved for recording the certified Survey Map with the register of deeds office. On June 22, 1999 5:43 PM both the Certified Survey Map and Deed Restriction documents were recorded and accepted in the Register of Deeds office. Within a week or so of the June 22, 1999 recording of the Certified Survey Map and Deed Restriction, Eugene Copenhaver purchased both Lot 1 and 2 from CJ Vale. On July 14, 1999 Eugene Copenhaver sold lot 2 of the Certified Survey Map to John Copenhaver. Eugene Copenhaver continues to owns lot 1. On October 31, 2011 John Copenhaver sold lot 2 of the certified survey map to Thomas M and Julia A Willan. On October 31, 2012 Thomas M Willan was

informed by Dane County Zoning's Roger Lane that the Zoning on Petition 7341 was denied back in 1998 when CJ Vale failed to get filed the certified Survey map and Deed restrictions. There is nothing in the record from Dane County Zoning officially notifying CJ Vale, Eugene Copenhaver, John Copenhaver or anyone that the Zoning petition 7341 was null and void.

Dane County Zoning and Dane County Register of Deeds violated WIS Stat 236.34 (2) (b) 1 regarding recording of the certified survey map.

Joe, as Executive of Dane County how are we going to fix this mess that was caused by Dane County employees? I sent Roger Lane another email on January 10, 2013 regarding our situation, asking him to have someone from your Corporation Counsel to contact me and he has not responded. This property has been sold 3 times since Dane County allowed the Certified Survey Map to be recorded. We need resolve on our issues and someone needs to help us! What do I want out of this deal? Nothing more than what I paid for when I bought this house in good faith! RH-1 Zoning. What do we have to do to resolve this issue? Please feel free to contact me at anytime at 608-438-3103 to discuss.

Sincerely,

Thomas M Willan

Cc: Julia Willan

Date: Tue, February 12, 2013 2:49 pm

To: "'tom@ironmanbuildings.com'" <tom@ironmanbuildings.com>

2/12/13

Dear Mr. Willan:

Thank you for your email from January 22, and thank you for your patience while county staff continue to look into the matter of your property. Many years have passed since this rezoning petition and certified survey map (CSM) were processed, and none of the original county staff involved are still with Dane County, making it more challenging to understand what may have transpired. A response and resolution is further complicated by the well and roadway right-of-way issue. Communication across Dane County agencies and with the Town of Cottage Grove is warranted. However, upon review of the various facts of this issue, it certainly seems tangible that it can be resolved relatively expeditiously.

I am earnestly looking into the best means to resolve your situation to the satisfaction of all parties involved. Toward this end, I will follow up with additional correspondence on our best cumulative recommendation by the end of next week. I assure you that your inquiry is being taken seriously and that it has not been forgotten.

As you know, the Dane County Highway Department and the Town of Cottage Grove are working jointly on a federally-funded Highway Safety Improvement Project at the intersection of Highway B and Vilas Hope Road. It is my understanding this project has been postponed for one year, until an agreement on the well can be reached between you and the town.

Thank you for bringing it to my attention and for your consideration as we move toward a solution.

Sincerely,

Joe Parisi

Joseph T. Parisi
Dane County Executive
Room 421, City-County Building
Madison, Wisconsin 53703
(608) 266-4114
(608) 266-9138 TDD
(608) 266-2643 Fax
parisi@countvofdane.com
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Tom Willan

From: Parisi, Joseph <Parisi@countyofdane.com >
Sent: Wednesday, February 27, 2013 9:19 AM
To: Tom Willan
Subject: RE: Need your help solving a major zoning issue.
Attachments: image001.png

2/27/13

Dear Mr. Willan:

After having had a chance for my staff in both the Planning & Development Department and the Public Works & Transportation Department to review, comment, and make suggestions on this matter, there does seem to be a tangible course to resolve your situation.

Todd Violante, Director of our Planning & Development Department, has indicated that his department will in fact waive the fee of a resubmitted rezoning application. Mr. Violante conferred with Zoning Administrator Roger Lane of his department, who confirmed that the Zoning Division is prepared to accept your rezoning application without charge. This rezoning application will bring your property into full zoning compliance with no application fees.

Mr. Violante and Mr. Lane also met with Pam Dunphy of the Public Works & Transportation Department to discuss the issue of your well being in the town road right-of-way. Ms. Dunphy clarified that the intersection improvement at Vilas Hope Road and CTH BB will not be impeded in any way by your current well location once a well agreement is in place. Ms. Dunphy shared a draft copy of a possible 'Continued Well Location Agreement' between you, Mrs. Willan, and the Town of Cottage Grove. It was noted by Ms. Dunphy that this current agreement does not require that you presently relocate your well. The agreement appears to stipulate that only in the event that the well ceases to function and needs to be replaced would you be required to remove the well from the right-of-way. While Dane County would not be party to this potential agreement, it does not appear that you would encumber a \$10,000 cost to remove your well from the right-of-way at this time as stated in your prior communication. At such time as your well ceases to function, you would presumably need to absorb the cost of replacement regardless of whether your well is within or outside of the town right-of-way. Elimination of this near-term replacement cost seems to address your concern in this regard.

Hence, there appears to be 1) a reasonable resolution to bring your property into full zoning compliance at no charge to you, and 2) a possible resolution at no near-term cost to you via the current draft of the 'Continued Well Location Agreement' noted above to the issue of your well being located in the town road right-of-way. These two options seem to address your concerns. If you choose to proceed on your rezoning application, I encourage you to contact Zoning Administrator Roger Lane directly at 266-9078 to begin the process.

Thank you again for raising your concerns with me. I hope that I and my staff have been able to steer you in a helpful and reasonable direction to address your concerns.

Sincerely,

Joe Parisi

Joseph T. Parisi

Dane County Executive
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From: tom@ironmanbuildings.com [mailto:tom@ironmanbuildings.com]
Sent: Monday, February 18, 2013 2:15 PM
To: Parisi, Joseph
Subject: RE: Need your help solving a major zoning issue.

Dear Mr Parisi,

We were on vacation last week and just got back into country. I appreciate your response back and we look forward to resolving this unfortunate incident peacefully without added cost's for anyone. Nobody wins in a lawsuit but a bunch of lawyers who should have reviewed the issues at hand in 1998. I look forward to your suggestions for resolving our issues with the county zoning. We bought this house and property in good faith with the understanding that we were RH-1 zoned and that there were no issues with the well being out by the road. Had we known about the issues we would have forced the previous owner to get them resolved or we would have negotiated a price that was reflective of the issues. As far as the issues with the town go, we just got served with a lawsuit today and we will answer accordingly. It is our position all along that under statue of law the Town had the legal right and the legal opportunity in 1998 to have the well moved or a well agreement signed that would have been part of the deed with the previous owners. The Vales who split the lot are the ones who benefited from the split and should have been forced to move the well as part of the split deal. The Town chose not to exercise that legal right in 1998. Now the Town expects me and my wife to fork over 10k to move a well that they gave up there legal claim to in 1998. Out of the goodness of our hearts we agreed to split the cost with them so we could all move on! They chose to take the stupid government path and file a lawsuit that will cost the town 40 to 50k minimually to see who is right and they still won't hit their August deadline to keep the project moving forward? The Town chairman is directing this deal because he is a spineless weasle that thinks he is smarter than he really is and he does not like me! The town attorney is also directing this deal to fight because it pads their pockets! In my business sometimes things don't always go as planned so as a business man I take my lumps and do the sensible thing to resolve issues, in Government when they screw up they listen to a bunch of attorneys who make them spend 5 times what they should have spent using free common sense! You let us know what you suggest regarding the zoning.

Thanks, Tom

----- Original Message -----

Subject: RE: Need your help solving a major zoning issue.
From: "Parisi, Joseph" <Parisi@countyofdane.com>

Tom Willan

From: Lane, Roger <lane.roger@countyofdane.com >
Sent: Thursday, January 10, 2013 1:45 PM
To: Tom Willan
Subject: FW: Regarding Rezoning Petition 7341 and 4407 Vilas Hope rd

Dear Mr. Willan,

Please see answers to questions below.

Respectfully,

Roger Lane
Dane County Zoning Administrator

-----Original Message-----

From: Violante, Todd
Sent: Thursday, January 10, 2013 12:34 PM
To: Lane, Roger
Subject: FW: Regarding Rezoning Petition 7341 and 4407 Vilas Hope rd

Roger,

Please see the email below. I believe the sender's intent was to send it to you, but may have inadvertently sent it to [Laurie Lane](#) with Dane County instead.

Todd

Todd A. Violante, AICP, Director
Dane County Planning & Development Department
Room 116, City-County Building
210 **MLK**, Jr. Blvd.
Madison, WI 53703-3342
Phone: (608) 266-4021
Fax: (608) 267-1540
Email: violante@co.dane.wi.us
<http://www.countyofdane.com/plandev/>

-----Original Message-----

From: tom@ironmanbuildings.com [mailto:tom@ironmanbuildings.com]
Sent: Wednesday, January 09, 2013 4:22 PM
To: Lane, Laurie
Cc: Violante, Todd; copenhaverjh@sbcglobal.net; Julia Willan
Subject: Regarding Rezoning Petition 7341 and 4407 Vilas Hope rd

Roger,

Thank you for your assistance in getting me copies of the documents I requested. I also believe we can work through this with the least pain for all concerned. I have reviewed the documents that you provided me regarding Rezoning Petition 7341 Sec 7 Town of Cottage Grove lots 1 and 2. I understand things- as; On August 25th, 1998 The Dane County Board conditionally approved CJ Vales Zoning Petition 7341 for a lot split and rezoning. The Conditional Approval was predicated by both Wisconsin State Statute and Dane

County ordinance which had a non negotiable requirement to have filed in the Dane County Register of deeds office by December 9, 1998, 1) a certified survey map, and 2) a set of deed restrictions regarding lot 1 with specific language provided by Dane County Zoning. On October 20, 1998 Dane County Zoning shows in the file that they sent a Reminder Notice to CJ Vale, reading in part that the Certified Survey Map and Deed Restrictions were due by December 9th 1998 and "Failure to record the survey map and/or deed restriction will null and void the Zoning Petition. The time period may not be extended." Around October 26th 1998 or soon thereafter Dane County Zoning received a partial hand written signed copy of the deed restrictions regarding lot 1. I see nothing in the record that shows the October 26th, 1998 Deed restrictions were ever filed with the Dane County Register of deeds as required by the boards conditional approval. I show nothing in the record that shows that when the Rezoning Petition 7341 conditional approval deadline of December 9, 1998 had passed for filing with the Dane County Register of Deeds office the Certified Survey Map and Deed Restrictions that, anyone from Dane County Zoning notified CJ Vale that his Rezoning Petition 7341 was Null and Void?

See the bottom portion of the Reminder Notice dated 10/20/98 mailed to CJ Vale. Under the IMPORTANT heading: "Failure to record the survey and/or deed restriction will null and void the Zoning Petition. The time period may not be extended."

The next thing in the record shows up more than 6 months after the Statutory deadline of December 9th 1998. On June 18th 1999 a Norbert Scribner #6668 with Dane County Zoning stamped and approved for recording the certified Survey Map with the register of deeds office. On June 22, 1999 5:43 PM both the Certified Survey Map and Deed Restriction documents were recorded and accepted in the Register of Deeds office. Within a week or so of the June 22, 1999 recording of the Certified Survey Map and Deed Restriction, Eugene Copenhaver purchased both Lot 1 and 2 from CJ Vale. On July 14, 1999 Eugene Copenhaver sold lot 2 of the Certified Survey Map to John Copenhaver. Eugene Copenhaver continues to own lot 1. On October 31, 2011 John Copenhaver sold lot 2 of the certified survey map to Thomas M and Julia A Willan. On October 31, 2012 Thomas M Willan was informed by Dane County Zoning's Roger Lane that the Zoning on Petition 7341 was denied back in 1998 when CJ Vale failed to get filed the certified Survey map and Deed restrictions. There is nothing in the record from Dane County Zoning officially notifying CJ Vale, Eugene Copenhaver, John Copenhaver or anyone that the Zoning petition 7341 was null and void.

Here are my questions I pose to Dane County Zoning:

1. Is it Dane County Zoning's position that Rezoning Petition 7341 is null and void completely? Or in Part? Please explain? [Petition 7341 was rendered null and void by the Zoning Division on December 9, 1998 for failure to comply with provisions of County Board Ordinance Amendment #7341.](#)
2. Is it Dane County Zoning's position that Norbert Scribner #6668 had the legal authority on June 18, 1999 to approve recording the Certified Survey Map after the Statutory deadline of December 9, 1998 for accepting it had passed? Please explain? [You bring up a good point. I will have the information reviewed by Dane County Corporation Counsel to see if the signature should be retracted, given that it did not follow the adopted County Board ordinance.](#)
3. Is it the position of Dane County Zoning that it has legal authority to accept the certified survey map as being legal and binding but not the Zoning change when both items were on the same Zoning Petition 7341, both were in violation of the conditional agreement and both documents were filed together at 5:43 PM in the Dane County Register of Deeds on June 22, 1999? Please explain? [Petition 7341 was rendered null and void by the Zoning Division on December 9, 1998 for failure to comply with provisions of County Board Ordinance Amendment #7341. The file shows that the zoning aspect of the petition was rendered null and void.](#)
4. Is it Dane County Zoning's position that lot 1 and 2 are legally split? [There are two lots of record that do not have the proper zoning district assigned to them.](#)
5. Is it Dane County Zoning's position that the Certified Survey map is a legal document under both State and County law? [The Certified Survey Map is a recorded document in the Dane County Register of Deeds office.](#)

This whole incident regarding Rezoning Petition 7341 is an unfortunate for all parties. The Copenhavers, my wife and I purchased lot 2 in good faith with an understanding that it was legally split and Zoned RH-1

Tom Willan

From: Gault, David <Gault@countyofdane.com>
Sent: Wednesday, December 12, 2018 1:15 PM
To: Tom Willan
Subject: RE: You need to quit stalking me and my house!

Ok. I tried.

David R. Gault
Assistant Corporation Counsel for Dane County
Room 419, City-County Building
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
(608) 266-4355

From: Tom Willan <tom@ironmanbuildings.com>
Sent: Wednesday, December 12, 2018 12:03 PM
To: Gault, David <Gault@countyofdane.com>
Cc: Tom Willan <tom@ironmanbuildings.com>; Julia Willan <julia@ironmanbuildings.com>
Subject: RE: You need to quit stalking me and my house!

Mr. Gault,

The United States Supreme Court case law says I don't have to let anyone from the government in my house without a search warrant. It requires probable cause that a criminal law is violated to obtain a search warrant to enter a house if the home owner refuses entry. I don't think having two kitchen violates any criminal law? We have already provided voluntary access to the upstairs to DCZ in accordance with the ordinance, where your inspector observed, that there was no kitchen when she inspected and she can attest to that there was no plumbing hooked up to anything, the stair case was on the inside of the house and the wall was studded *off*. The local building inspector can attest to it also, they signed *off* on it. It is your person who has already witnessed that we upheld our portion of the stipulation and she is the one that has to attest to it, not us. We allowed her access so you didn't have to take our word for it. What is the statute of limitations on the agreed upon stipulation? What is her name and we need the exact date she inspected our property for our records please?

Tell me then Mr. Gault despite any stipulation we may have agreed to, where is having an extra sink and stove in a single family residence a violation of current zoning laws? My wife Julia and I are the only humans living here we can have whatever we want in our house and I don't think you have a case that say's different. It seems a little silly and I'm sure the judge is going to agree that you are suing us over what is in our house and you have no proof that anything is in our house or that we violated any stipulation. I'm not settling this time and I will fight you all the way to the united states supreme court and I know how to file paperwork. I would just take the inspectors word that when she was here she did not see any kitchen, and the wall was studded *off*.

Even if we do have a kitchen which we are denying, it is our position that that the stipulation you forced us to sign so we could finish our project was unconstitutional because there is no such Dane County ordinance that say's home owners in Dane County cannot have more than one kitchen. I settled with you so we could move on in life, had I known that Mr. Lane was going to continue his attack on us I never would have agreed to anything. Please show me where it states in the ordinance how many kitchens a person is limited to? This is another case of Roger Lane's attempt to continue his 7 year harassment campaign against us. You answer those questions and we will continue to talk about your request to resolve this? **(74) Structural alteration.** Any change in the dimensions of a structure or in the interior layout or floor plan of a structure. No walls were added, no change in the dimensions were added, and the layout is the same as drawn on the plan. That being said we do not require any other zoning permit to hang cabinets on an existing wall. The structure is the

From: Gault, David <Gault@countyofdane.com>
Sent: Tuesday, December 11, 2018 3:08 PM
To: Tom Willan <tom@ironmanbuildings.com>
Cc: Lane, Roger <lane.roger@countyofdane.com>
Subject: RE: You need to quit stalking me and my house!

Ok thanks for the response.

David R Gault
Assistant Corporation Counsel for Dane County
Room 419, City-County Building
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
(608) 266-4355

From: Tom Willan <tom@ironmanbuildings.com>
Sent: Tuesday, December 11, 2018 3:07 PM
To: Gault, David <Gault@countyofdane.com>
Cc: Lane, Roger <lane.roger@countyofdane.com>
Subject: Re: You need to quit stalking me and my house!

Go get it mr gault. We have done nothing wrong.

Sent from my U.S. Cellular® Smartphone

----- Original message -----

From: "Gault, David" <Gault@countyofdane.com>
Date: 12/11/18 1:48 PM (GMT-06:00)
To: Tom Willan <tom@ironmanbuildings.com>
Cc: "Lane, Roger" <lane.roger@countyofdane.com>
Subject: RE: You need to quit stalking me and my house!

Mr. Willan:

I really hoped I was done with dealing with your property. The stipulation you signed provided for getting an approved zoning permit for the modifications to your residence. Dane County Ord. s. 10.25(4)(a) requires issuance of a certificate of compliance. Sub(b) states that "every application for a zoning permit shall be an application for a certificate of compliance."

Sub(d) states "No certificate of compliance for a building or addition thereto, constructed after the effective date of this ordinance shall be issued until construction has been substantially completed and the premises inspected and certified by the zoning administrator to be in conformity with the specifications on which the permit was issued."

The Zoning Permit you signed contained the following language: "I hereby consent to the entry on the permitted premises by Dane County zoning inspectors for the purposes of determining compliance with the zoning ordinance. So you have already consented to an inspection.

Since you stated in your e-mail that the addition is completed, a certificate of compliance is required by s. 10.25(4)(a). That requires an inspection. We can do this the hard way if you want. I can go get a Special Inspection

From: Tom Willan <tom@ironmanbuildings.com>
Sent: Wednesday, December 12, 2018 7:25 AM
To: Gault, David <Gault@countyofdane.com>
Cc: Lane, Roger <lane.roger@countyofdane.com>; Julia Willan <iulia@ironmanbuildings.com>; Tom Willan <tom@ironmanbuildings.com>
Subject: RE: You need to quit stalking me and my house!

I want to make some clarifications. The inspector was sent to our house 4407 Vilas Hope rd by Roger Lane. She was met by my wife Julia, who came and got me. Upon meeting her I told her that we didn't call for an inspection, that is when, she told us that she was sent here by Roger Lane to inspect our substantially completed project. She told us that Roger had driven by and made an observation that we had progressed to the point of compliance and that she was here to inspect. We said fine with her wanting to inspect since we were almost completed with the project anyhow and it would save time. I then invited her in to the house where she inspected the inside of our interior house, she walked through the garage addition including the added garage stall, then up the new interior staircase that DCZ made me move, she proceeded to walk out our new exterior deck on the house at the top of the steps, I then walked her back into the house addition where I pointed out and explained to her that DCZ was making me wall off the north east corner and specifically told her to make note of it. We then proceeded back out side where I walked her into the barn, where she inspected the new deck we had installed on the barn, and walked up the new silo stair case to the top of the silo. She then proceeded to tell me that everything was good to go.

Then I never heard from her again until late November where she said she wants to inspect. That is over a year from when she inspected our substantially completed addition previously and since it was inspected by her and we complied with everything and she will testify to that, how can you request a new inspection on a already closed out project? It makes no sense to litigate this from anyone's stand point. Roger Lane does not like me and for 7 years, he has been hassling us, stalking our property, has had conversations with other departments to interfere with my freedom to live peacefully while continuing this assault on us. When is enough, enough? Nobody deserves to be harassed or stalked like we have from a vengeful Roger Lane. Please stop what you are doing and move on?

Thanks, Tom

From: Tom Willan <tom@ironmanbuildings.com>
Sent: Tuesday, December 11, 2018 4:25 PM
To: Gault, David <Gault@countyofdane.com>
Cc: Lane, Roger <lane.roger@countyofdane.com>; Tom Willan <tom@ironmanbuildings.com>; Julia Willan <julia@ironmanbuildings.com>
Subject: RE: You need to quit stalking me and my house!

Dear Mr Gault,

Follow up to our phone call today to make sure we are clear on what was said. As I informed you during the conversation a little bit ago, your inspector showed up to our place unannounced after we were substantially complete and said she was there to do a final inspection of the barn and house. I escorted her personally upstairs, she inspected the stairs to make sure they were in the house and not outside, she seen there was no kitchen during her inspection, I personally showed her the wall was closed off into the north east corner, I then took her in the barn and showed her the silo. That was sometime in September of 2017, The project was substantially complete at that time, all out door siding and roofing was complete and she said we complied. It is our position that we have complied with all inspection requirements for that permit. The law does not allow you to just enter peoples houses when ever you feel like it. You need to issue a certificate of compliance based on that inspection. I don't know what Dane County zoning laws there are regarding decorating the inside of a house? Put this statement in your court filing.

Thanks, Tom

same structure and the layout is the same as was submitted for the permit and it was verified by your inspector. Let us file a joint MOTION FOR DECLARATORY JUDGMENT THAT THE ZONING ORDINANCE IS ARBITRARY, UNREASONABLE AND DISCRIMINATORY, AND HENCE UNCONSTITUTIONAL?

I don't think there is an ordinance that hypothetically if someone did hang any cabinets in their house, it is no more than furniture screwed to a wall just like a picture or art work. Cabinets are permanently hung in kitchens, bathrooms, bedrooms, closets, laundry rooms all over Dane County and if you are going to selectively choose me, then that is harassment. Secondly show me in the zoning law that hypothetically speaking, if a kitchen is added after the addition was completed, why we would need a zoning permit? Are we not entitled to multiple sinks, stoves and microwaves without government intrusion? I don't tell you what you can have in your house, I don't think it is right you tell me what I can have. You show me where in the ordinance this is not allowed I will decide whether I will comply with your request? Secondly, I will show you a house in Dane County that my brother in law owns and put a huge addition on 3 years ago and he has two kitchens with a full wet bar? And Dane County zoning inspected his property and cited no such stipulation? This is just another attempt By Roger Lane, after the fact to hassle and harass us. I have great documentation regarding his intrusions into our life. I have pictures showing the project was substantially completed when she inspected with date stamps. Please provide me with the date she was here and I will email you the pictures of what it looked like. Let me know what ordinance having two kitchens that Mr. Lane is relying on to support his case. The text of this email admits nothing and everything is just hypothetical. Let me know what is next? You won the first round and we settled to stop the madness, it is now time for you to settle this attack on us by Roger Lane, by issuing a certificate of compliance based upon the voluntary inspection we allowed over 12 months ago by your inspector who is eyewitness to no kitchen, no bedroom, and the staircase was moved to the interior of the house a great cost to us.

Thanks, Tom

From: Gault, David <Gault@countyofdane.com>
Sent: Wednesday, December 12, 2018 10:33 AM
To: Tom Willan <tom@ironmanbuildings.com>
Subject: RE: You need to quit stalking me and my house!

Mr. Willan:

I would really like to resolve this short of further litigation and have this matter resolved once and for all. I understand your concern about government intrusion on your property, although the law certainly allows for it.

The primary concern is the final construction of the upstairs addition. Specifically, the Stipulation provided that there be no kitchen. When the zoning inspector was there in October 2017 she was unable to confirm that, since the walls were framed in but not completed. In order to resolve this short of further legal action, and without further physical inspection of the interior of the residence, are you willing to do the following:

1. Certify in writing that there is no plumbing in the upstairs addition except for the bathroom that was depicted in the submitted plans. (The plans provided for no additional plumbing, to include a kitchen sink.
2. Provide me with pictures of the entire upstairs addition.

If we can substantiate compliance with the Stipulation signed July 7, 2017, I will request that the Certificate of Compliance be issued without further inspection.

David R Gault
Assistant Corporation Counsel for Dane County
Room 419, City-County Building
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
(608) 266-4355

Warrant very easily in this situation. However, if you're going to play this game I'm going to choose to commence a new lawsuit for violation of s. 10.25(4) by refusing to allow the inspection required for a certificate of compliance. This will allow me to seek additional forfeitures as well as injunctive relief.

You certainly are free to bring a 1983 lawsuit in federal court. However since you've already consented to the inspection in writing and it's required by law it would be totally frivolous.

Let me know how you want to proceed.

David R Gault
Assistant Corporation Counsel for Dane County
Room 419, City-County Building
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
(608) 266-4355

From: Lane, Roger <lane.roger@countyofdane.com>
Sent: Tuesday, December 11, 2018 12:27 PM
To: Gault, David <Gault@countyofdane.com>
Subject: FW: You need to quit stalking me and my house!

Dave,

Would you mind responding to this if need be.

Roger

From: Tom Willan [<mailto:tom@ironmanbuildings.com>]
Sent: Tuesday, December 11, 2018 10:38 AM
To: Lane, Roger; Parisi, Joseph
Cc: Julia Willan; Tom Willan
Subject: You need to quit stalking me and my house!

Roger,

Your little stalker lady employee just drove by my house real slowly. She inspected my house when it was rough framed and she saw the stud wall with no door and signed off on it. We completed the addition that way. I specifically pointed it out and that is all we are required to let you inspect. Any more inspections will require a court ordered search warrant. Good luck there. My next lawsuit will be a 1983 suit in federal court. We have already been assessed 80k by the tax assessor and was never asked for an inspection. So you need to quit messing with Julia and me, this is our property and you or your designated employees need to stay off our property. I would hate to see someone mistaken for a criminal get hurt when we are defending our property against the criminal elements! We also have dogs that do bite. Just leave us alone! Thanks Tom

Sent from my U.S. Cellular® Smartphone

Tom Willan

From: Tom Willan
Sent: Thursday, April 27, 2017 9:49 AM
To: Lane, Roger; Hilbert, Hans
Cc: Julia Willan; townboard@towncg.net; Parisi, Joseph; Williams, Danielle; Gault, David; Violante, Todd; Theresa Dvorak
Subject: RE: I would like to know what all my neighbors are zoned?
Attachments: historic photos.pdf

Good Morning again,

We have a photo of what the original house looked like, along with an aerial photo of Bert Hahns place from the 50s showing the property with the beautiful barn on an 80 acre parcel and a what the place looked like in 2007. The aerial photo came from a book called, This is Dane County, Wisconsin : an up-to-date historical narrative with county and township maps and many unique aerial photographs of cities, towns, villages and farmsteads Drury, John, 1898-. It is a book on the history of Dane County before we had a zoning department controlling every move a property owner made, and you can see that the Town was nicely built by common sense folks that worked together and they did not have a zoning department with 8 million ambiguous rules cost the towns people extra money that they didn't have because they were feeding their family with the money. A much simpler time when people worked together with their municipalities doing what is right for property rights while preserving both interests! Not being "A" political with power to control every property right a person works his ass off and pays for. We could build a replica house out in the right-a-way and hook up to the historic well you forced me to abandon! Just kidding on the right--a-way thing! I sent these to show you we are preserving the landscape! Notice the mansard porch on the old house, that is what is on the new house! Looking forward to solutions. Thanks, Tom and Julia

From: Tom Willan
Sent: Thursday, April 27, 2017 6:15 AM
To: Lane, Roger <lane.roger@countyofdane.com>; Hilbert, Hans <hilbert.hans@countyofdane.com>
Cc: Julia Willan <julia@ironmanbuildings.com>; townboard@towncg.net; Parisi, Joseph <Parisi@countyofdane.com>; Williams, Danielle <Williams.Danielle@countyofdane.com>; Gault, David <Gault@countyofdane.com>; Violante, Todd <Violante@countyofdane.com>; Theresa Dvorak <terry@thedvoraks.com>; Tom Willan <tom@ironmanbuildings.com>
Subject: RE: I would like to know what all my neighbors are zoned?

Roger, Todd, Joe, Danielle, and the Town Board,

All we continue to hear from DCZ is what we cannot do, and why we cannot do it, let's look at what we can do with a little cooperation from DCZ, our plans for our property are very consistent with the Town of Cottage Grove comprehensive plans. Unfortunately because you do not like us personally, and you cannot get passed my insults of you and your department for planting little orange signs in our yard and trespassing on my property after you were told to stay off, you choose not to open your ears and eyes to our vision which is clearly in the realm of the Towns comprehensive plan! Your solution is to keep planting little orange stop work order signs in our yard instead of embracing a rural vision that is consistent with the Towns comprehensive plan. Tell me what farm land you are preserving when it comes to our property? It has been a farm homestead for over 100 years with the original house being on the corner. The existing barn has been around since the 1940s and we have spent tens of thousands of dollars our money to preserve and restore it. Every dollar I have to spend on fighting you is one less dollar we have to embrace the Towns comprehensive plan. Now do we have an exact business plan to our property, no but we clearly have some great ideas. And you know what, we have not asked for any tiff money or any government assistance preserving the

Towns rural heritage. So consider all the things we have done to stay within the towns plans when you look at our property. Read below in the red our answers! So when I talked about peace with DCZ, I'm looking at peace through serious negotiations or peace through legal warfare that does not help anyone! You decide my friends? Thanks, Tom and Julia!

The town of Cottage Grove comprehensive plan consists of the following,

Agriculture is a significant part of the local economy and employment. Many of the Town's preferred types of businesses relate to agricultural production, processing, research, and support services. These are seen as very compatible with the Town's rural character and its desire to maintain the agricultural base. Other types of businesses may provide support services and products for residents of the Town. These types of businesses are not suitable in all locations given the public utilities and services they often require. Ironman Buildings is in the agricultural building business that is very compatible with the Towns rural heritage. We build quality Agricultural storage barns and sheds!

Commercial uses of a generally rural purpose (septic services, farm produce, landscaping, plant nursery, etc.) are distributed in small parcels, typically located at road intersections. Industrial uses are almost nonexistent, but there are a couple of storage enterprises located on the west side of Town. We are located at the corner of Cottage grove Rd and Vilas hope rd a major intersection. Americas Best is our neighbor. Our current business model does not have very much walk up business that would cause road and traffic concerns.

Promote and protect the qualities that enhance the Town's rural heritage and identity.

CULTURAL RESOURCE OBJECTIVES

1. Use farmland and historic resources as defining aspects of the Town's character. We have spent tens of thousands of dollars of our own money restoring and preserving our existing barn because we too have a vision of beauty of the rural farm!
2. Seek opportunities to identify the unique aspects of the Town of Cottage Grove. Look no further, our property without being stifled by DCZ can be the gateway to the Town of Cottage Grove!

CULTURAL RESOURCE POLICIES

1. Value natural and cultural resources as focal points of natural beauty, recreation, and spiritual uplift.
2. Encourage preservation of historically significant structures and archeological resources when specific sites are proposed for development and during highway projects. We have preserved an 80 year old barn that is in keeping with the significance of the Towns rural vision!
3. Request more detailed information from the State Historical Society for when a specific development proposal is offered in an area where there is a known or possible historic or archeological site, if its precise location and character is not readily apparent.
4. Encourage new development forms that celebrate the Town's agricultural heritage. Examples include grouping new residences together at the end of a driveway or road to look like a historic farmstead, incorporating existing farm outbuildings in a new development project, or promoting new building styles consistent with historic styles. We have made our place stay within the vision of the Town!
5. Encourage agritourism to celebrate farming heritage and rural way of life, in collaboration with farmers and potentially the Cottage Grove Chamber of Commerce and the Village. Though we don't have an exact plan in this regards, we are very active in natural gardening, and canning our produce. We have kicked around all sorts of ideas that clearly fit within the Towns comprehensive plan! Canning classes, gardening classes, We even talked about trying to purchase the property around us to put in garden condos for people to garden and enjoy what we enjoy! We love our property and we have some of the greatest sunrises and sunsets in the world.
6. Support efforts of the Cottage Grove Area Historical Society to preserve, document, and communicate the area's history and cultural heritage.

What is Agritourism?

Agritourism, as it is defined most broadly, involves any agriculturally based operation or activity that brings visitors to a farm. Agritourism enterprises might include:

- On-farm direct sales, such as "u-pick" operations or roadside stands. We have kicked around selling some of our garden produce, however with DCZ continually harassing us we have been scared to do anything!

purchase the property around us to put in garden condos for people to garden and enjoy what we enjoy! We love our property and we have some of the greatest sunrises and sunsets in the world.

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- On-farm direct sales, such as "u-pick" operations or roadside stands. We have kicked around selling some of our garden produce, however with DCZ continually harassing us we have been scared to do anything!
- Outdoor recreation, like horseback and hay rides. Though we don't have horses we are not beyond contracting with locals to provide that service?
- Educational experiences, such as cooking classes. We are very active in cooking excellent meals from scratch and we have perfected being able to serve 400 people in one sitting!
- Entertainment and dining, such barn dances, farm breakfasts, and even on-farm restaurants. We have a large barn that our vision could accommodate barn dances for family fun. Not a night club and family friendly place!
- Hospitality services, such as farm stays and tours. We could provide small tours from our property to take them around to local farms to see how our town and country was built!

The Town of Cottage Grove currently has a handful of agritourism enterprises. Its agricultural land base, scenic qualities, and close proximity to Madison support these and other enterprises in the future.

7. Minimize development and preserve scenic qualities along Nora Road-the Town's "Rustic Road" - and pursue designation of other roads as Rustic Roads. See the Conditions and Issues volume for more information on Rustic Roads.

8. In collaboration with the Chamber of Commerce and Village, participate in efforts to update the "brand" of the Cottage Grove area and maintain and update community entryway signs. We would love to put 2 beautify landscaped signs showing the entryway into The Town of Cottage grove. And we believe we could partner with Americas best to make it special!

Within these areas, the Town seeks to maximize farmland preservation and limit the number of houses to a maximum density of one home per 35 acres. As far as our alleged duplex DCZ is claiming, we still only have one house on our property that hasn't taken up any farm land and is in line with the comprehensive plan. We still clearly plan on only personal use. I'm a personal person and having tenants would not be anything I'm interested in.

From: Lane, Roger [<mailto:lane.roger@countyofdane.com>]

Sent: Wednesday, April 26, 2017 10:14 AM

To: Tom Willan <tom@ironmanbuildings.com>; Hilbert, Hans <hilbert.hans@countyofdane.com>

Cc: Julia Willan <julia@ironmanbuildings.com>; townboard@towncg.net; Parisi, Joseph <Parisi@countyofdane.com>; Williams, Danielle <Williams.Danielle@countyofdane.com>; Gault, David <Gault@countyofdane.com>; Violante, Todd <Violante@countyofdane.com>

Subject: RE: I would like to know what all my neighbors are zoned?

Dear Mr. Willan,

The neighboring lots do not have mixed zoning on their lots. In looking at each zoning petition for the properties, one zoning district was established for the entire property. The County is currently working on revising their GIS system with regards to parcels. In the interim, the zoning layer boundaries sometimes does not match up exactly with the lot lines of the parcels. You can clearly see the zoning district boundary shifts on the zoning maps. When the parcel project is completed the zoning layer will be adjusted accordingly. Spot zoning or mixed zoning is only used on extremely large tracts of land which are described in metes and bounds. Just a specific area of the large tract of land is zoned for a specific purpose given that tract overall is being used for a different purpose.

You had submitted a zoning change, petition 10589, in 2013 which was approved changing your property's zoning to A-2(2) Agricultural Zoning District. The current zoning of the property does not allow two family dwelling units nor does it

allow commercial businesses to be operated from accessory buildings. This has been explained to you numerous times. However, you refuse to accept the limitations of your property under the current zoning limitations and the limitations set forth in the Town Comprehensive Plan.

As stated to you numerous times in 2014, adding an additional dwelling unit onto your property would require the property to be rezoned to R-3A. If you would like to run a commercial business from your property, the property would need to be rezoned to a commercial zoning district or potentially obtain a conditional use permit for a limited family business. Your development interest would need two distinct properties to achieve both desired land uses. The property would need to be divided into two lots through the certified survey map process, one for the two family dwelling and one for the commercial business. However, the potential zoning changes of the property will need to meet the Town of Cottage Grove Comprehensive Plan.

As explained to you numerous times, your property is located in the Agricultural Preservation Planning Area as designated on the Town of Cottage Grove Comprehensive Plan. Development within the Agricultural Preservation Area is limited. A housing density right is needed in order to create additional dwelling units on properties. The housing density rights for your property have been exhausted. Adding an additional dwelling unit to your property in the absence of a housing density right would be in conflict with the Town of Cottage Grove Comprehensive Plan. Commercial development is also limited. The Town Plan does not support new commercial development within the Agricultural Preservation Area unless it is an expansion of an existing business. See attached map and policy.

Peace in this matter can be obtained by adhering to the limitations of your property as identified under the current zoning district limitations and the Town of Cottage Grove Comprehensive Plan. Refusing to accept the limitations, conducting development projects without obtaining zoning permits, refusing to comply with stop work orders, and failing to obtaining erosion control permits is not helping this issue.

Respectfully,

Roger Lane
Dane County Zoning Administrator

From: Tom Willan [<mailto:tom@ironmanbuildings.com>]

Sent: Tuesday, April 25, 2017 5:24 PM

To: Hilbert, Hans

Cc: Lane, Roger; Julia Willan; townboard@towncg.net; Tom Willan; Parisi, Joseph; Williams, Danielle

Subject: RE: I would like to know what all my neighbors are zoned?

Hans,

A little follow up on what I understand as current state of Wisconsin zoning law, and feel free to correct me if I'm wrong. DCZ power is derived by Wis stat 59.69 (4) Extent of power. For the purpose of promoting the public health, safety and general welfare the board may by ordinance effective within the areas within such county outside the limits of incorporated villages and cities establish districts of such number, shape and area, and adopt such regulations for each such district as the board considers best suited to carry out the purposes of this section. The board may establish mixed-use districts that contain any combination of uses, such as industrial, commercial, public, or residential uses, in a compact urban form. The board may not enact a development moratorium, as defined ins. 66.1002 (1) (b), under this section ors. 59.03, by acting under ch. 236, or by acting under any other law, except that this prohibition does not limit any authority of the board to impose a moratorium that is not a development moratorium. The powers granted by this section shall be exercised through an ordinance which may, subject to sub. (4e), determine, establish, regulate and restrict: If the powers granted by this section **shall be exercised by ordinance** subject to (4e), determine, establish, regulate, and restrict, how can DCZ have multiple zoning on lots that are not in the ordinance? My understanding is your power only extends to mixed use districts and not mix use lots? Where or when did the parcels listed below gain multiple zoning on single lots. I'm assuming that the petitions under 10.03(3) are in fact some of the lots as being valid amendments to the zoning maps?

when it can be waived by zoning a portion of my lot commercial. Also if I wanted to make little buildings on my property for sale, It would be a permitted use. The answer to peace for all of us, is before us, by helping us with split zoning, in exchange for that peace, we will sign an agreement that we will not sue Dane County for their shenanigans, we will find a mutual solution for the natural water course that was changed by DCZ. We are very reasonable people who want to continue to be good neighbors and productive citizens of our wonderful county. Or we can take the court way and continue with animosity and disdain for each other. It is time for a solution so we can all get on to productive things in our lives! Let me know about the split zoning deal above?

Thanks, Tom

From: Tom Willan

Sent: Tuesday, April 25, 2017 1:14 PM

To: 'Hilbert, Hans' <hilbert.hans@countyofdane.com>

Cc: Lane, Roger <lane.roger@countyofdane.com>; Julia Willan <julia@ironmanbuildings.com>; Tom Willan <tom@ironmanbuildings.com>

Subject: RE: I would like to know what all my neighbors are zoned?

Hans,

The list below in red is what I have identified so far and I have answered your questions. So what I'm looking for is solutions and peace between my family and Dane County and it should not have to come at the end of a court ordered shot gun!. We feel you are continuing to treat us unfairly and your decisions are arbitrary. So let me know what the reason for all the multiple zoning districts going on in our neighborhood! Thanks, Tom

From: Hilbert, Hans [<mailto:hilbert.hans@countyofdane.com>]

Sent: Tuesday, April 25, 2017 11:55 AM

To: Tom Willan <tom@ironmanbuildings.com>

Cc: Lane, Roger <lane.roger@countyofdane.com>; Julia Willan <julia@ironmanbuildings.com>

Subject: RE: I would like to know what all my neighbors are zoned?

Please see my response inline, in light blue, below.

Hans

From: Tom Willan [<mailto:tom@ironmanbuildings.com>]

Sent: Tuesday, April 25, 2017 11:27 AM

To: Hilbert, Hans

Cc: Lane, Roger; Julia Willan; Tom Willan

Subject: I would like to know what all my neighbors are zoned?

Hans,

I would like to know how 5 properties in our neighborhood on Vilas Hope Rd and Cottage Grove rd have split zoning between R-1, ag and commercial on a single parcel?

Which properties are you referring too? Please provide an address or a parcel number.

4311 Vilas hope Rd C-2 and A-1

4277 Vilas Hope Rd C-2 and ag-1

4295 Vilas Hope Rd C-2 and R-3

4300 Vilas Hope rd C-2 and R-1

I would like to know how 5 properties in our neighborhood on Vilas Hope Rd and Cottage Grove rd have split zoning between R-1, ag and commercial on a single parcel?

Which properties are you referring too? Please provide an address or a parcel number.

4311 Vilas hope Rd C-2 and A-1
4277 Vilas Hope Rd C-2 and ag-1
4295 Vilas Hope Rd C-2 and R-3
4300 Vilas Hope rd C-2 and R-1
4292 Vilas Hope Rd R-1 and R-3
4278 Vilas Hope rd A-1 Exclusive, A-2, and R-1
3013 Hwy BB R-1 and C-1

What is the law on split zoning for a single lot as I see nothing in the ordinance allowing it nor have I seen state law authorizing you the right to treat people differently like is going on with us?

The decisions to amending the zoning map are made by policy makers based on plans and past actions of policy makers. In Dane County the policy makers are the Town Boards and the County Board. Some policy making bodies approve multiple zoning districts on a single parcel, others do not.

Well by the looks of the list of parcels above, I can pretty much assume that these amending of the zoning maps are done in my own neighborhood, so as far as my property use goes it would not be out of Character to get split zoning on my property, so we can stop the feud between us? Is it DCZ position to treat us different than our zoned neighbors?

Also what is Dane County's comprehensive plan regarding our area as a whole, with the complete Hodge podge DCZ has created of zoned lots in our neighborhood?

The Dane County comprehensive plan is located here: <http://www.daneplan.org/plan>

The Town of Cottage Grove Comprehensive plan is located here:
http://www.tn.cottagegrove.wi.gov/docs_by_cat_type.asp?doccatid=40&locid=143

Why can't we zone our barn area commercial, and our home residential?

Have you discussed this proposal with the Town of Cottage Grove officials? Have you made such an application to amend the zoning map and been denied?

No I have not discussed it because Roger lane was ordered by the court to rezone our property 4 years ago, he is still pissed because he had to do it, and he fails to accept it was done because DCZ failed to follow their own law when the lot was split off and our lot was put back into A-1 Exclusive from R-1 which is what we assumed we had purchased from the previous owner. R-1 contradicted our use at the time based upon Roger's site visit which was explained what we did and he toured all the buildings and I specifically informed him what we did. He is the one who chose A-2 and never mentioned any split zoning option that would better fit our lot use. The problem I have with having this whole lot stuck in R-3 as you have suggested takes away my ability to build anything over 16' and it now would make my barn and silo nonconforming buildings which devalues my property.

Remember Dane County zoning is the one that had to rezone our property 4 years ago by court stipulation and why didn't Roger who handled the rezone give us a split zoning option when it was obvious what my business was?

As I was not involved at the time, I'm not familiar with what occurred 4 years ago.

Roger can fill you in on the details, however he was ordered by the court and had to rezone our property which he is still pissed about. He still hasn't notified Copenhaver trust that their lot was moved back to A-1 Exclusive. I know that because I talked with the younger Copenhaver this morning and told him of the craziness of what DCZ is doing. And secondly my point is DCZ with all the split zoning in the neighborhood, is treating my personal home addition as if I was putting a strip club next to a church in a residential neighborhood! See the disparity?

I believe the statute of limitations has not run out on that court deal and I will be asking the court to reopen that claim. Remember the lot was illegally zoned R-1 when it was split off and DCZ screwed the rezone making it illegal?

I'm not sure what your question is.

No question, just a legal observation!

We purchased the lot that was not legally split off? Please get me answers, so I can prepare our never ending court battle! Thanks, Tom

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted September 15, 2021 •

Decided September 20, 2021

Before

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 21-1617

THOMAS M. WILLAN and
JULIA A. WILLAN,
Plaintiffs-Appellants,

v.

DANE COUNTY, et al.,
Defendants-Appellees.

Appeal from the United States
District Court for the Western District
of Wisconsin.

No. 19-cv-345-wmc

William M. Conley,
Judge.

ORDER

Thomas and Julia Willan ran a small business out of their barn for nearly a decade, until Dane County rezoned their property for residential use. The Willans sued

• We have agreed to decide this case without oral argument the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

the County and various officials under 42 U.S.C. § 1983 for infringing on their constitutional rights, particularly their rights under the Takings, Due Process, and Equal Protection Clauses of the Constitution. The district court entered judgment on the pleadings for the defendants, ruling that the claims were not ripe for review. Because the Willans never sought a conditional-use permit to operate a business in their barn, we agree that these claims are premature and therefore affirm.

We recount the facts, drawn from the parties' pleadings and attached exhibits, in the light most favorable to the Willans. *Federated Mut. Ins. Co. v. Coyle Mech. Supply Inc.*, 983 F.3d 307, 312-13 (7th Cir. 2020); *Adams v. City of Indianapolis*, 742 F.3d 720, 729 (7th Cir. 2014) (documents attached to motion for judgment on the pleadings are "considered part of the pleadings if they are referred to in the plaintiff's complaint and are central to his claim" (internal quotation omitted)). In 2011, the Willans bought land with a house and a dairy barn in the Town of Cottage Grove, in Dane County, Wisconsin. They spent more than \$75,000 restoring the barn into a space for their small business-selling and contracting to build barns and other agricultural buildings around the Midwest. They ran this business over the next eight years. The business declined, however, and, at some point, the Willans considered renting out the barn to host group gatherings, like weddings.

In 2019, the Dane County Board of Supervisors revised a rezoning ordinance that effectively confined the Willans to using their property for residential purposes. Shortly after, the Town of Cottage Grove adopted the ordinance.

Right away, the Willans objected to the new zoning ordinance. They emailed several members of the County's Planning and Development Department, asking to have their property classified in a business zone, since they wanted to "start renting [their] barn out for private events." When they did not hear back within a couple of weeks, they informed the Department that they wanted to obtain permits to make repairs on the barn. The County's zoning administrator responded that the Willans' property was zoned as residential and that they would need a conditional-use permit to rent the barn for events; he also specified how they could apply for the permit. The Willans took no steps to obtain a conditional-use permit.

Instead, they asked for a construction permit to improve the barn, explaining that they had their "first wedding booked for early July and ... a lot of work to get done this spring to get ready for it." The zoning administrator responded, reiterating that the property was in a residential zone and the Willans needed a conditional-use permit to

use their barn as an events venue. He referred the Willans to his previous letter for directions on how to obtain a permit. The zoning administrator and the director of the Planning and Development Department each followed up that response by denying the Willans' request for a construction permit. In their respective letters, they explained that they understood the proposed renovations to be part of a plan to rent the barn for events, and the Willans had yet to obtain permission to do so. They also told the Willans how to appeal that decision to the County Board of Adjustment. The Willans took no steps toward taking an appeal.

Instead, the Willans wrote back to the director, clarifying that they sought a construction permit not to renovate their barn as an events venue but merely to make general repairs to the barn. Several officials from the Planning and Development Department then met with the Willans to discuss the matter. At the meeting, the local officials rejected the Willans' request to be in a business zone and denied them a permit to repair the barn.

The Willans sued the County and the officials involved in the rezoning decisions. As relevant to this appeal, the Willans asserted that the defendants interfered with their ability to use their barn for business, in violation of their rights under the Takings Clause. The Willans also argued that the defendants violated their due-process rights by withholding unspecified exculpatory evidence and "fabricat[ing] false reports and other evidence." And the defendants violated their equal-protection rights, the Willans added, by passing the rezoning ordinance, which "affected the plaintiffs in a grossly disproportionate manner vis-a-vis similarly-situated citizens."

The district court entered judgment on the pleadings in favor of the defendants. FED. R. Crv. P. 12(c). The court concluded that the Willans had failed to establish that those claims were ripe for adjudication. As the court explained, a state administrative decision about a zoning regulation is not "final" - and thus not ripe-until a plaintiff has availed himself of opportunities to seek a variance, and the Willans had not alleged (nor did their submissions suggest) that they ever applied for a variance or conditional-use permit for their property. To the extent their emails could be construed as an initial petition for such an application, the court noted, there was "no suggestion that the Willans appealed the denial of their rezoning request to the County Board, much less that there has been any final decision rendered on their petition." Regardless, the court continued, the Willans' allegations did not state a takings, due-process, or equal-protection claim.

The Willans moved to vacate the judgment under Rule 59(e) of the Federal Rules of Civil Procedure, asserting that the court overlooked their request to amend their complaint to clarify that this case was about their right to assert constitutional violations rather than to use the barn to host weddings. The district court denied the motion. The court pointed out that it lacked jurisdiction to allow the Willans to amend their complaint unless it first vacated the judgment, and no basis existed to allow the court to do so. In any case, the court continued, the Willans had not proposed any new allegations that could cure the deficiencies in their complaint—namely, that the claims were not ripe.

On appeal, the Willans first challenge the district court's assessment of the ripeness of their claims. They contend that the court overlooked key allegations showing that the County's decision about their property was final. In their view, the County's adoption of the rezoning ordinance—together with the officials' repeated affirmations in emails that the property had been rezoned for residential use—amounted to a final decision that their barn could not be used for business purposes.

We begin with a brief review of the Supreme Court's ripeness jurisprudence in the context of the Takings Clause. Until recently, the Supreme Court recognized two hurdles to a regulatory-takings claim in federal court: The claim was not ripe until the plaintiff (1) received a "final decision regarding the application of the [challenged] regulations to the property at issue" and (2) sought just compensation through available state procedures. *Williamson Cty. Reg'l Plan. Comm'n v. Hamilton Bank of Johnson City*, 473 U.S. 172 (1985). In 2019, the Court overruled the second of these requirements, leaving in place the "finality requirement." *Knick v. Township of Scott*, 139 S. Ct. 2162, 2196 (2019). A decision about a property is final when "there [is] no question ... about how the regulation at issue applies to the particular land in question." *Pakdel v. City & County of San Francisco*, 141 S. Ct. 2226, 2230 (2021) (internal quotation omitted). This requirement is "relatively modest," meaning that it does not require strict "compliance with an agency's deadlines and other critical procedural rules," *id.*, but a property owner should "at least resort to the procedure for obtaining variances and obtain a conclusive determination by the Commission whether it would allow the proposed development, in order to ripen [his] takings claim." *Suitum v. Tahoe Reg'l Plan. Agency*, 520 U.S. 725, 737 (1997) (internal citation and quotation marks omitted).

The district court rightly concluded that the Willans' claims were not ripe for review because the County had not reached a final decision on how the zoning regulation would be applied to the Willans' barn. The Willans' allegations (consistent

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with the emails attached to their pleadings) do not suggest that they took any of the directed steps to obtain a zoning variance or a conditional-use permit, or that anyone at the County ever reached a final decision on whether a variance or permit would be approved if properly sought. *See North Mill St., LLC v. City of Aspen*, 6 F.4th 1216, 1229-30 (10th Cir. 2021) (affirming dismissal of regulatory takings claim as unripe where plaintiff still could apply for site-specific variance after regulatory body denied rezoning application). The only permit the Willans allege to have sought was one to make repairs on their barn, but County officials denied that request-informing the Willans that they needed a conditional-use permit to run a business out of their barn. The Willans do not allege taking any steps toward obtaining that permit. Because "avenues still remain for [Dane County] to clarify or change its decision," *Pakdel*, 141 S. Ct. at 2231, the Willans' challenges to the ordinance are premature.

The Willans also contend that the district court wrongly denied their motion to vacate the judgment so that they could belatedly amend their complaint. They maintain that they needed to amend their complaint to clarify that they meant to litigate their right to continue operating their barn business on their property, not their right to use the barn to host private events.

The district court appropriately denied the Willans' Rule 59(e) motion because they did not point to any manifest error of law or fact that would justify vacating the judgment. *See Edgewood Manor Apt. Homes, LLC v. RSUI Indem. Co.*, 733 F.3d 761, 770 (7th Cir. 2013). Moreover, as the court rightly explained, the Willans' proposed amended complaint would not have survived dismissal. Even if the Willans added allegations that the rezoning ordinance barred them from running their current barn-based business, these allegations do not address the prudential ripeness concerns that remain.

AFFIRMED