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Dane County ZLR board  
210 Martin Luther King Blvd,  
Madison, WI 53703

RE: petitioners reply letter to the board over Staff Update on Rezone Petition 11788

Dear ZLR board Members,

We hope you have spent the last week or so looking at the substantial evidence we have presented and after Tuesday you will vote to approve our rezoning of petition based upon the legal facts. The ZLR board members are the legislative appointment in charge of DCS and to vote to deny zoning map petitions 11788 to the full board for their approval, would violate the petitioners' civil rights. This board has a legal obligation to follow the actual law where the decision must be explained for the record based upon the evidence in the record, not DCS personal opinions that are unsubstantiated by any evidence in the record.

We want to apologize if we have offended any members of this board, or DCS during this process, by some of our statements. And we apologize for the volumes of information, however if there is an appeal by us based upon an adverse decision by this board, the court's review is based upon all the evidence that was in front of the board that they used to make their decision. So, in order for us to raise clear issues of fact in a judicial review, of the law and facts, on appeal, we must show we presented the evidence to the ZLR board and if they ignored the evidence in their decision, their decision would be arbitrary and unreasonable.

The first material fact is, to my family, it has felt like and appeared to us that DCS declared war on my family in 2013 because we had a well in the right of way since the 1800s, when the road was a 3 rod road, probably before there was a legal right away where we asked for 3500.00 towards the purchase of a 10k well deal and then we asked DCS to fix our zoning they screwed up. It felt for us because Roger Lane was forced to rezone our property after he refused to and we contacted his boss Mr. Parisi, and we filed a lawsuit, Mr. Lane has gone out of his way to treat our family with pure hostility ever since that day and his actions are a payback for contacting Mr. Parisi over the 2013 rezoning and the signs, we put in our yard in 2017. This is how we felt, because there is no other logical explanation for the disparaging treatment we have had to endure ever since 2013 from multiple DC departments and nobody will do anything about. We now know what the homosexual groups and the black minority groups must have felt like, who have and continue to be faced with government persecution in this country's despicable history, because somebody didn't like them or the way they looked. That is what it felt to us. We have felt the same power of persecution because we asked DCS to

fix an administrative screw up that may not have been Mr. lanes fault, or Mr. Violantes fault but it dam sure wasn't our fault, and it felt that the treatment we received, is based upon something wholly unrelated to zoning. This is a material fact of how we felt in the record. Let us restate for the record the law as it applies to FP-B and this rezone petition 11788. Mr. Violante seems to wants to conflate the issue and state legal stuff that isn't related to this rezoning petition 11788. The board can see that the,

(1) Purpose. The FP-B Farmland Preservation - Business District is designed to: (a) Provide for a wide range of agriculture, agricultural accessory and **agriculture-related uses**, at various scales with the minimum lot area necessary to accommodate the use. The FP-B district accommodates uses which are commercial or industrial in nature; are associated with agricultural production; require a rural location due to extensive land area needs or proximity of agricultural resources; and do not require urban services. **All done under the permitted by right uses unless they are conditional,**

1. In appearance and operation permitted uses in the FP-B district are often indistinguishable from a farm. **Our property is indistinguishable from a farm**

2. Conditional uses are more clearly commercial or industrial in nature, and may involve facilities or processes that require a remote location distant from incompatible uses, proximity to agricultural products or suppliers and/or access to utility services or major transportation infrastructure. **We are not applying for conditional uses**

3. Examples of activities in the FP-B district may include, but are not limited to, agricultural support services, value-added, or related businesses such as implement dealers; veterinary clinics; farm machinery repair shops; **agricultural supply sales**, marketing, storage, and distribution centers; plant and tree nurseries; and facilities for the processing of natural agricultural products or by-products, including fruits, vegetables, silage, or animal proteins. Such activities are characterized by:

a. Wholesale or retail sales, and outdoor storage/display of agriculture-related equipment, inputs, and products;

b. Parking areas, outdoor lighting, and signage appropriate to the scale of use;

c. Small, medium, or large utilitarian structures/facilities/workshops, appropriate to the scale of use;

d. Low to moderate traffic volumes; **our property has the same traffic volume on Vilas Hope as did America's best who was granted FP-B zoning when it was approved, clearly not an issue because DCS wasn't opposed to their traffic volume which as a resident living close by, they created a lot of traffic! As far as Hwy BB traffic, there is a deed restriction where traffic cannot enter onto BB from the agricultural driveway. All traffic in and out is on Vilas Hope rd.**

e. Noises, odors, dust, or other potential nuisances associated with agriculture-related production or processing; **Mr. Lane is concerned with this but the whole reason FP-B has this is to overcome his concerns.**

f. Meet the requirements for certification as a Farmland Preservation Zoning District under s. 91.38, Wis. Stats. **Our property meets this standard!**

(2) Permitted by right uses. **As was adopted by DCB and certified under chapter 91, and legally approved petition 11788 by the Town Board unanimously.**

(a) Agricultural uses. **We had this vested right by the Wisconsin bright line building permit rule when we applied for a building permit under AG-1EX.**

(b) Agricultural accessory uses, except those uses listed as conditional uses and subject to the limitations and standards below. **If DCS says we cannot operate Ironman buildings underneath this law because they say we don't fit the definition of a farm, Ironman Buildings can be operated under (15) Agriculture-related use. A facility, whether or not located on a farm, that has at least one of the following as a primary, and not merely incidental, purpose: (a) Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district. (emphasis added)**

1. Any residence lawfully existing as of February 20, 2010, provided all of the following criteria are met: a. the use remains residential, b. the structure complies with all building height, setback, side yard and rear yard standards of this ordinance; and c. for replacement residences, the structure must be located within 100 feet of the original residence, unless site-specific limitations or town residential siting standards in town plans adopted by the county board require a greater distance. Proposals for a replacement residence that would exceed the 100 foot limitation must be approved by the relevant town board and county zoning committee. **We qualify as a matter of law**

2. Agricultural entertainment activities or special events under 10 days per calendar year in the aggregate, including incidental preparation and sale of beverages and food. **Though we have no current plans, it clearly is an interesting permitted by right use to raise money for our soon to be created farm preservation nonprofit we are working on.**

3. Farm related exhibitions, sales or events such as auctions, dairy breakfasts, exhibitions of farm machinery and technology, agricultural association meetings and similar activities occurring on no more than ten days in a calendar year. **This is a great way to promote Ironman buildings and other agricultural vendors we work with. Clearly doable**

4. The seasonal storage of recreational equipment and motor vehicles owned by private individuals other than those residing on the premises, such storage to be in accessory farm buildings existing as of January 1, 2010. The storage of a dealer's inventory or the construction of any new buildings for storage is prohibited **we have no plans for recreational equipment storage or dealer inventory other than ag related storage.**

5. Residential accessory buildings, home occupations, foster care for less than 5 children community living arrangements for less than 9 people or incidental room rental associated with a farm residence approved by conditional use permit. **We own an agricultural accessory building not a residential accessory building.**

6. Sales of agricultural products produced on the farm. **We do produce our own plant seedlings for planting and we do plant a large garden every year, this could be an option for our excess products.**

7. Large animal boarding. **We have absolutely zero interest in large animal boarding,**

(c) Agriculture-related uses, except uses listed as conditional uses below, consistent with the purpose statement for the FP-B district. **(15) Agriculture-related use. A facility, whether or not located on a farm, that has at least one of the following as a primary, and not merely incidental, purpose: (a) Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district. Material fact we are an agricultural related business by legal definition.**

(d) Undeveloped natural resources and open space areas **our property has lots of open space that requires maintenance**

(e) Utility services associated with a farm or a permitted agricultural accessory use. **No desire**

(f) A transportation, utility, communication, or other use that is: **none**

1. required under state or federal law to be located in a specific place, or; **none**

2. is authorized to be located in a specific place under a state or federal law that specifically preempts the requirement of a conditional use permit. **None of this applies**

Julia and I agree with Mr. Violante that a great deal of substantial evidence information has been provided by the applicants in support of their petition. Several of the documents provided contain statements and information with which staff may disagree with, but as their zoning modus operandi of DCS, through this whole proceeding, DCS have not presented any tangible piece of evidence or specific supporting facts for disagreeing with the information we presented nor why they are disagreeing with the affirmative decision by the Town of Cottage Grove after two public hearings, approving this petition. While the petitioners have presented tangible evidence that is relevant to the approval before this board. DCS want to ignore the material fact, that the local Town board of Cottage Grove has lawfully approved our change to FP-B. The reason the Town of Cottage Grove approved it was because as a matter of law their decision would have been an arbitrary discretion of power based upon the material facts in the record presented to their board. FP-B zoning allows the every permitted by right uses discussed with the Town board, it was also the right thing to do, because the petitioners are law abiding citizens who have chosen to change their zoning so they can utilize the permitted by right uses of FP-B created by the Wisconsin legislature, where the intent of chapter 91 Wisconsin law was created to be used in just such a circumstance like this. This is a material fact.

We do agree with Mr. Violante, that it is important for the Committee to keep in mind the actual submitted substantial evidence and pertinent facts of the petition, as it pertains to the Town of Cottage Grove legal lawful approvals after two public hearings, where nobody opposed it, the Wisconsin Farm preservation law and lawful legislative zoning rights to the petitioners. The first piece of evidence is that the lawful elected process of

the Town of Cottage Grove, where the Town of Cottage Grove Board members reside, the petitioners reside and their neighbors come together as community members, who are and will be the recipients of this rezone to FP-B, have voted by unanimous consent to approve it. Isn't that the American way, unanimous consent in this day and age is unheard of?

Now DCS who are not community members of the Town of Cottage Grove, who are unelected officials, have no voting rights, are civil service employees collecting a paycheck, are still opposed even after the petition has qualified in every strict aspect of the FP-B zoning law, and by unanimous consent it was approved by the people of the Town Of Cottage Grove.

Roger Lane and Todd Violante and their staff appear to be hardworking public employees and they very well may be, that's for the record to determine. However, I'm telling you from Julia and my personal experience, and perspective after 10 years of being on the receiving end of hostile interactions to get the correct agricultural zoning, in a farm preservation district, for our property since 2013, DCS have lost touch with reality to the law, and what the main street small rural towns of Dane County want and get to decide.

The substantial evidence pertaining to this material factual statement, can be easily ascertained by the number of rural Towns of Dane County, who first got the State legislature to create a new law to allow towns to withdraw from this militant incompetent disconnected DCS. State law change as radical as that, wasn't, an easy task to come by and it is directed at only Dane County zoning department out of 72 Wisconsin counties. DCS blamed it on a need for a comprehensive revision and then it will all be better. No defecting towns adopted it back and even more have defected, because the new revisions put an unconstitutional amount of arbitrary power in zoning administrator Roger Lane, without any standards. I have learned Mr. Lane is an assuming power-hungry frustrated leader who doesn't care about the law, or small-town America. Roger Lane cares about power and a paycheck where he will lie, violate the law, and do whatever he can to hang onto his power because he believes he knows more than the duly elected people of the legislature and the Town of Cottage Grove.

I speak these words with a heavy heart, because I do not like to talk disparaging about anyone. However, this is a public hearing, Mr. Lane is a public official who has been acting under color of law, who has chosen a course of action that warrants some of these comments. His truthfulness and character of his work over the last 10 years is what I judge him on. Zoning really isn't as complicated as it seems, but when the power of zoning is used for what seems like personal attacks like it has in this case, to get back at us for asking Mr. Lane to fix our zoning in 2013. It is a material fact that the only thing technically wrong with the AG-1EX zoning in 2013 on the property, was our parcel was substandard, meaning we didn't have 35 acres when the parcel was created. It wasn't nonconforming it was substandard for the zoning district and by Wisconsin law all the permitted by right uses were intact under AG-1EX by way of the building permit rule.

There are a couple points I would like to make about the Wisconsin law, and DCO law, and why FP-B zoning is more appropriate than RR-2, is because our agricultural barn

was constructed as an agricultural building in the 1940s, for farming or agricultural accessory uses. It can never meet any commercial codes to operate a limited family business from it as the ordinance requires. Under the DCO limited family business ordinance, the agricultural barn must meet state of Wisconsin commercial codes which the barn is unable to do because of historical design and construction.

As far as Mr. Violante's statements regarding the comprehensive revisions process they used, explaining how fair it was and endless reasons why he believes everything was legal, but as a matter of law he has not supported his opinion with any material evidence, no written policies explaining any criteria used, any legal reason why Roger Lane or Pam Andros ignored our June 28, 2018 email. Mr. Violante has basically said to this board, despite what the evidence shows, we did everything according to what DCS thought they should, even if it was illegal as applied to the petitioner's property because the petitioners didn't attend public hearings on the matter.

Once again, we remind this board about Wisconsin vested agricultural zoning rights as spelled out by the State of Wisconsin Supreme Court, The Wisconsin legislature, codified the bright line building permit rule and the United States Supreme court jurisprudence regarding vested rights, that says the state must give you a hearing **before** the vested right is taken away. These are material facts of law. DCS claim they were picking a similar zoning district than they should have picked Why they picked RR-2 allowed for single-family residences and agricultural uses ('small scale farming')

(140) Small-scale farming does not mean agricultural use as defined by AG-2 or AG-1ex, or FP-B zoning, it means **Any agricultural use operated for recreational, hobby or supplementary income purposes on a site with a non-agricultural principal use.** Animal use is limited to one animal unit per acre.

And under the new ordinance under 10.200 ZONING DISTRICTS. 3. **Land uses not listed as either permitted uses or conditional uses are considered to be prohibited in that zoning district.**

So, you can see why we are entitled to as a matter of law the right to FP-B zoning and from a legal standpoint small scale farming as a matter of law is not the same as permitted by right agricultural zoning. We comply in every legal way and DCS is plain wrong and is leading this board down a legal rabbit hole that can end today by approving this petition 11788.

Therefore based upon the substantial evidence in the record, based upon the Town of Cottage Grove approval under the same set of circumstances as this board, based upon the City of Madison extraterritorial jurisdiction, based upon a possible intergovernmental agreement between Madison and the Town of Cottage Grove which would make it impossible to rezone to FP-B, based upon the material facts of this petition as applied to the property and FP-B zoning, based upon the legislative intent of Farm preservation zoning, based upon 59.69 Wis. Stat, based upon DCO, we respectfully ask this board to grant our petition 11788 for rezone to FP-B.

Sincerely,  
Julia and Tom Willan