



DANE COUNTY PLANNING & DEVELOPMENT

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TO: Zoning and Land Regulation Committee members
FROM: Roger Lane, Dane County Zoning Administrator
SUBJECT: Possible change on appeal process of conditional use permit decisions
DATE: September 20, 2016 Revised: November 2, 2016

The County Board amended the conditional use process in 2011 to provide Towns the ability to approve or deny conditional use permits. The ordinance included an appeal process similar to the previous ordinance. Decisions rendered on Conditional Use Permits could be appealed to the full County Board. See language below:

10.255(2)(c)2.

Either the town board or the zoning committee may deny an application for conditional use permit. If the town board action is denial no further action by the zoning committee is required. The zoning committee may approve or deny a conditional use permit without town action if the town board fails to act within the time period set forth in sub. 1. above. All such decisions may be appealed to the county board under sub. (2)(j). If the county board reverses a denial by the town board, the application shall be referred to the zoning committee with instructions to draft appropriate conditions.

10.255(2)(j)

Appeal. Any person aggrieved by the grant or denial of a conditional use permit, or the county board supervisor of the district in which the affected parcel is located, may appeal the decision of the town board or zoning committee to the county board. Such appeal must specify the grounds thereof in respect to the findings of the zoning committee, town board or both, the reason why the appellant is aggrieved and must be filed with the office of the zoning administrator within 20 days of the final action. The zoning administrator shall transmit such appeal to the county clerk who shall file such appeal with the county board. The county board shall fix a reasonable time for the hearing of the appeal and give public notice thereof as well as due notice to the applicant and the appellant(s) and decide the same within a reasonable time. The action of the zoning committee, town board or both, shall be deemed just and equitable unless the county board by a three-fourths vote of supervisors present and voting reverses or modifies the action appealed from. An appeal from a decision of the zoning committee, town board or both, shall be taken to the county board. No other entity of county government has jurisdiction to hear any such appeal and the avenue of appeal provided for herein is exclusive, notwithstanding any appeal procedure as may be authorized by state law for specific conditional uses.

Since 2011, there have been several appeals that have gone to the County Board. You may recall the Town of Springfield denial of a Limited Family Business (motorcycle repair); the ZLR Committee approval of Christy's Landing Tavern in the Town of Dunn; the ZLR Committee approval of the Enbridge Pumping station in the Town of Medina; and the ZLR Committee approval of the Crazy Acre quarry in the Town of Albion. In the end, all appeals did not achieve the required three-fourth vote to overturn the decision.

This appeal process has been found to be a very ineffective and time consuming for the County Board. The arguments made to the County Board have been redundant to the ones made as part of the Town/ZLR Committee review. The appeals focused upon personal concerns, rather than concentrating on the basis of which the decision was made by the committee and Town. Corporation Counsel is concerned that legal arguments will be made regarding the appeal process due to the restricted time limits placed on the appellant and the amount of information all county board members need to digest in order render a decision. All these points pose the question of whether or not the appeal process to the county board is warranted. Corporation counsel has suggested that the appeal process should be amended to have appeals go directly to circuit court.

11/03 The proposed ordinance amendment was reviewed at the October 19th DCTA meeting. It was suggested that an appeal should go the Board of Adjustment prior to Circuit Court. The process would be similar to the majority of counties in the State. Staff has revised the Ordinance Amendment to reflect the suggestion.