

Staff Report

Zoning and
Land Regulation
Committee
Questions? Contact:
Majid Allan – 267-2536

Public Hearing: **January 28, 2020**

Zoning Amendment Requested:

FP-35 (General Farmland Preservation) District TO RR-2 (Rural Residential, 2 to 4 acres) District

Size: **2.56 Acres**

Survey Required: **Yes**

Reason for the request:

Separating existing residence from farmland

Petition 11509

Town/Section:

ALBION, Section 18

Applicant

MARY JO JOHNSON

Address:

**1552 COUNTY
HIGHWAY A**



DESCRIPTION: Applicant owns an existing residence and outbuildings located at 1552 County Highway A. The applicant wishes to separate the residence from the ~160 acre farm by creating a new 2.56 acre RR-2 (Rural Residential) parcel.

OBSERVATIONS: Existing use of the property is rural residential and agricultural. The residence is located approximately 2,500' from County Highway A at the end of an unnamed town road. Surrounding land uses include scattered rural residences, agriculture / open space. No sensitive environmental features located on the subject property. No new development proposed.

DANE COUNTY HIGHWAY DEPARTMENT: County Highway A is not a controlled access highway. Any changes in use to an access requires a permit. Joint use of existing accesses will be required.

TOWN PLAN: The property is located in the town's agricultural preservation area.

RESOURCE PROTECTION: No resource protection corridors located on the proposed 2.56 acre parcel.

STAFF (01/28/20 – see update, below): As indicated on the attached density study report, the property will remain eligible for 4 possible splits if the petition is approved since the town does not count separation of residences built prior to June 29, 1979.

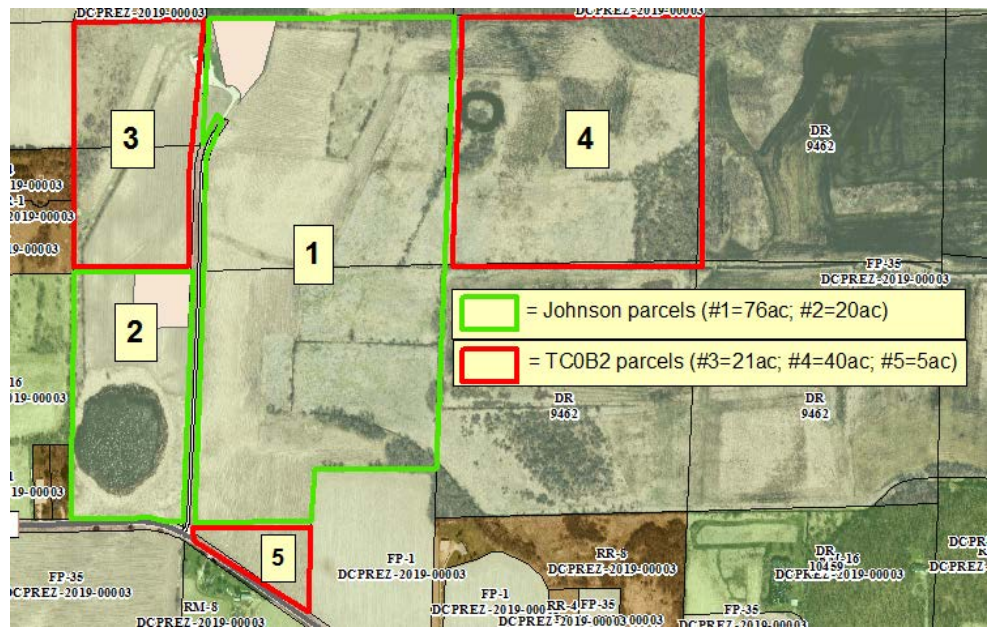
The proposed development is located at the end of a 2500-foot dead end road. The Dane County Land Division Regulations limits the length of cul-de-sacs to a maximum distance of 1000 feet. It appears that the proposal may be inconsistent with land division regulations. One possible solution is to vacate the single-use road and reconfigure the lot.

STAFF UPDATE (10/05/20): This rezoning petition was first considered by the ZLR Committee at its public hearing on January 28, 2020. Another rezoning petition (#11554 - May 26, 2020 ZLR PH) submitted by the applicant sought creation of a new 2-acre RR-2 rural residential building site. Both petitions were postponed at the respective ZLR hearings since the town had not yet taken action. The town still has not taken action.

The town is in the process of attempting to discontinue (a/k/a “vacate”) town roads that provide access to individual residences, including the long dead end road servicing the Johnson property. A recent example of the town’s effort is petition 11405 (April, 2019 ZLR PH), where Brekken Rd was discontinued when the owner proposed to separate the existing residence and buildings. Other towns have engaged in this same process, finding that maintenance, plowing, and repair of such single-user roads represent an undue burden on town taxpayers to the benefit of individual property owners. Ms. Johnson opposes the town discontinuing the road.

It has come to the attention of staff that the owner has subdivided the previous ~160 acre Johnson property. A total of 5 parcels were created following the sale and transfer of ~66 acres of land to another owner (TCOB2 IRREV TR). As a result, 3 new parcels of land under 35 acres were unlawfully created without first obtaining the necessary zoning and land division approvals (parcels 2, 3, and 5 in the graphic at right - see attached violation letter). It is unclear if the sale included any density units (“splits”) for possible creation of future building sites, or whether or not the sales may complicate the town’s efforts to discontinue the road.

“New” parcels on Johnson farm – Parcels 2, 3, and 5 violate zoning & land division regulations



To correct the outstanding land division and zoning violations, the parcels under 35 acres will need to be rezoned out of the FP-35 district and defined by a new Certified Survey Map(s). This will need to be accomplished by the owners submitting new rezoning petition(s). To date, no application(s) has been submitted to correct the violations.

As noted, the town is attempting to discontinue the road servicing the proposed lot and there are outstanding zoning and land division violations that must be addressed. Although the proposed separation of the existing residence is permitted under town plan policies, the proposal is inconsistent with other provisions of the town plan.

- Transportation policy #4 states: *“Roads and private driveways shall meet all other town of Albion and Dane County standards and requirements.”* This petition proposes extension of the dead end town road, including dedication of a cul de sac. Dane county land division regulation 75.19(1)(p) requires that, *“Cul-de-sacs shall not exceed 1000 feet in length...”*. County land division regulation 75.19(1)(o) also require local roads to be a minimum of 4-rods wide (66’). The road is only 3-rods wide so does meet this standard.
- The plan also includes provisions under “governmental operations” calling for the cost-effective and efficient delivery of public services. The town’s effort to discontinue the dead end road represents an effort to achieve that objective. With the town seeking to discontinue the road in its entirety, it is unlikely it would accept the additional dedication required to bring the road up to the minimum 66’ of width standard, nor the cul de sac bulb that is proposed in excess of what is permitted under county ordinance.

Staff recommends that this rezoning petition be denied based on the following findings:

1. There are outstanding zoning and land division violations due to the transfer of lands that occurred, resulting in the creation of 3 new parcels of land under 35 acres in size without the required zoning change and Certified Survey Map approvals. These violations will need to be resolved as part of separate rezoning petitions that have yet to be submitted.
2. The proposal is inconsistent with the town comprehensive plan policy requiring roads to meet county standards and requirements.
3. The existing road does not meet the 66' width requirement in 75.19(1)(o) of the county land division ordinance.
4. The proposed lot design and Certified Survey Map would result in a cul-de-sac which exceeds the 1,000' length limit in 75.19(1)(p) of the county land division ordinance.

TOWN: The town board denied the petition.