

DECEMBER 18, 2025 BOA PUBLIC HEARING STAFF REPORT

Appeal 3739. Appeal by Jessica Hornung & Quinn Mischler for a variance from the minimum required setback to a County Highway as required by section 10.102(9)(a)2.b., Dane County Code of Ordinances, to permit riding arena constructed within setback at 7788 County Highway I, being Lot 1, CSM 4466, Section 1, Town of Vienna.

OWNER: Jessica Hornung & Quinn Mischler

LOCATION: 7788 County Highway I, Town of Vienna

ZONING DISTRICT: RR-4 Rural Residential

COMMUNICATIONS: Town of Vienna: 10/23/25 acknowledgement; Action pending

Dane County Highway:

While not planned at this time, Dane County Highway is concerned regarding any future expansion of the highway. County Highway I is classified as a Collector. The existing right-of-way is 66 feet (with 33 feet on the subject property), however DCCO 75.19(1)(o) defines a Collector as an 80 foot right-of-way. Future highway expansion would require, at minimum, an additional 7 feet of right-of-way on the subject property.

Dane County Highway recommends that if the Board of Adjustment grants this variance as requested, that it be conditionally approved subject to the owners dedicating the additional land necessary to create a 40 foot right-of-way on their half of the highway, and that a recorded document state that any future expansion requiring/acquiring more ROW than the 40' be at no cost to Dane County, and the owners waive or deny any rights of future highway expansion, including that the structure be may be required to be removed at the owners expense.

Facts of the Case:

Existing:

- Single family rural residential lot with a residence and accessory buildings created in 1984 as a result of separating the pre-existing farmstead from the farmland.
- Original farmstead dates back to at least 1937.
- The original farmhouse was removed and replaced in 1994.

Proposed

- On August 8, 2024, zoning permit DCPZP-2024-00396 was issued for an accessory building addition. The purpose of the addition was to convert an outdoor horse riding arena to an indoor riding arena.
- The site plan included in the permit application indicated the new structure would be located 77 feet from the centerline of County Highway I.
- The permit was issued with a condition that "proposed project shall maintain a minimum 75 foot separation from the closest part of the building's/structure's foundation/supporting materials/finished outer most walls to the closest part of the centerline of county highway i or a minimum 42 foot separation from the closest part of the building's/structure's foundation/supporting materials/finished outer most walls to the closest part of the road right of way, whichever distance is greater."
- The permit was issued with a condition that "a location survey is required to verify compliance with Dane County Zoning ordinance setbacks and/or the maximum allowable building lot coverage. The survey shall be prepared by a Wisconsin licensed land surveyor. The survey shall be done at the time when foundations or basement walls are completed. if the project does not include foundations or basement walls then the location survey shall be completed once the building has been established before any other work is completed."
- A location survey, dated September 17, 2025, was submitted to Dane County Zoning showing the addition was 61.3 feet from the centerline of County Highway I and 28.3 feet from the right-of-way line at its western most point.

Zoning Notes:

- On September 25, 2025 Dane County Zoning notified the owners of the code violation and inconsistencies with permit conditions due to the structure being located in the required setback and provided options to resolve the violation.
- With additional right-of-way, the existing building would be setback 18.3 feet from the right-of-way line at its closest point, encroaching into the required setback 23.7 feet.

History

- 1984: CSM 4466 recorded creating lot
- 1992: DCPZP-1992-01281 issued for a personal storage shed
- 1994: DCPZP-1994-02046 issued for replacement residence
- 2001: DCPZP-2001-01173 issued for addition to shed
- 2021: DCPZP-2021-00284 issued for new horse barn
- 2024: DCPZP-2024-00396 issued for indoor riding arena addition
- Violation History: Addition constructed in required setback to County Highway I

VARIANCES REQUESTED: Purpose: Allow building to remain as constructed

Minimum setback from right-of-way/centerline required: 42/75 feet.

Actual Setback: From front right-of-way/centerline: 28.3/61.3 feet.

VARIANCE NEEDED: 13.7 feet.