
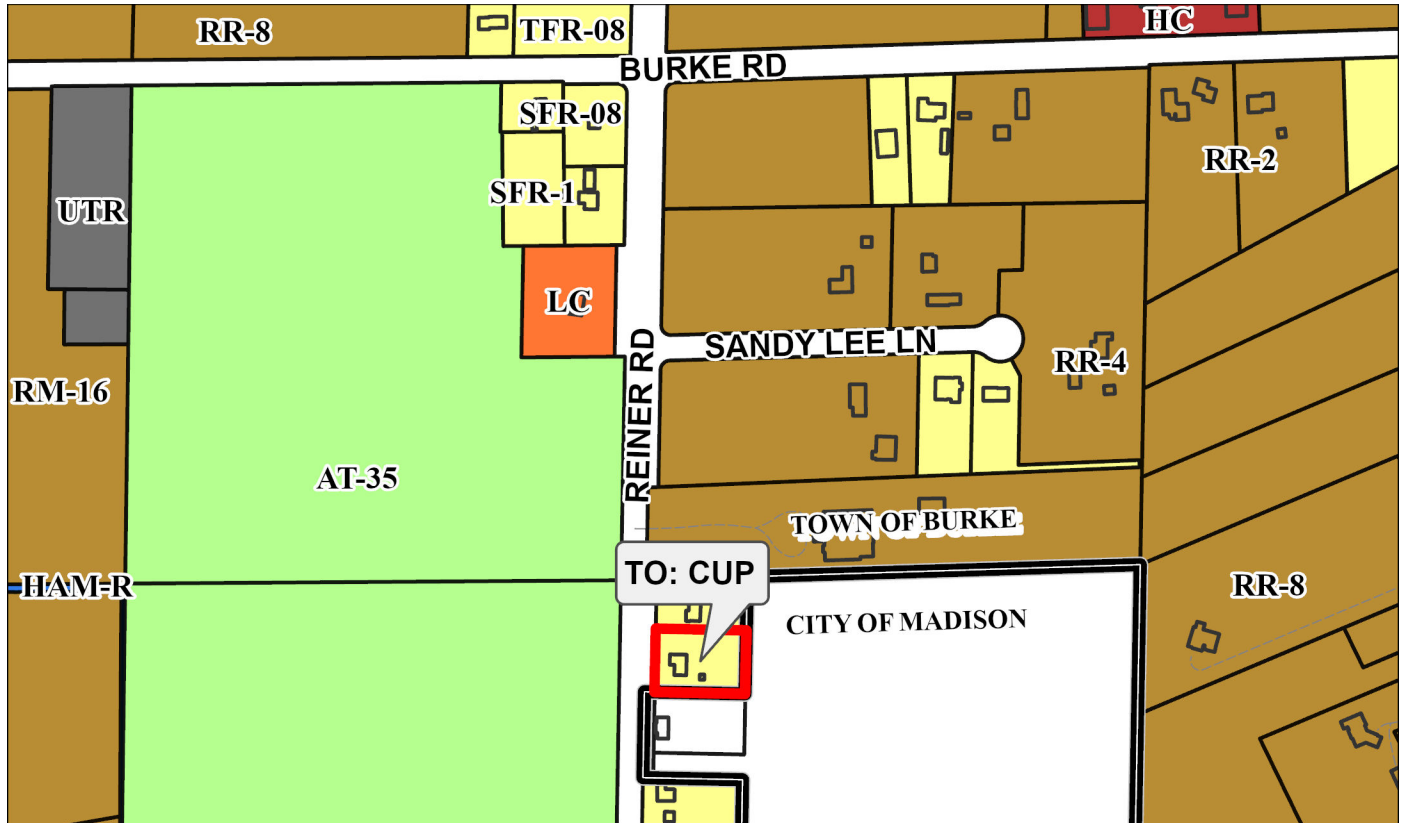


<b>Staff Report</b>  <b>Zoning &amp; Land Regulation Committee</b>	<i>Public Hearing:</i> <b>September 24, 2024</b>		<b>Conditional Use 02635</b>
	<i>Zoning Amendment Requested:</i> <b>TO CUP: C.U.P. FOR ACCESSORY BUILDING OVER 12 FEET IN AVERAGE HEIGHT (16 FEET PROPOSED)</b>		<i>Town, Section:</i> <b>BURKE, Section 25</b>
	<i>Size:</i> <b>0.9 Acres</b>	<i>Survey Required:</i>	
	<i>Reason for the request:</i> <b>C.U.P. FOR ACCESSORY BUILDING OVER 12 FEET IN AVERAGE HEIGHT (16 FEET PROPOSED)</b>		<i>Applicant:</i> <b>ANTHONY LINCOLN</b>
			<i>Address:</i> <b>5200 REINER RD</b>



**DESCRIPTION:** Applicant requests a conditional use permit (CUP) to build a residential accessory storage building over 12 feet in height, which is the maximum average height allowed in the SFR zoning district without special review and permitting. He would like to build a new detached garage that is 26’x50’ in size, 14’ tall in average height, 16’ tall at the roof peak. The building would be placed over 40’ from the side and rear lot lines.

**OBSERVATIONS:** The property is a 0.9-acre residential lot (Lot 1 of CSM #9850), located on the border between the Town of Burke and the City of Madison. The surrounding properties include other residential lots to the north and south, a school to the north, an active quarry to the west, and agricultural land (future development area) to the east.

**RESOURCE PROTECTION:** There are no sensitive environmental features on or within 300 feet of the site (nearby drainageway was determined non-navigable, no shoreland zoning applies).

**COMPREHENSIVE PLAN:** The property is located in the town’s rural residential planning area and will eventually become part of the City of Madison in accordance with town/city cooperative plan. There are no specific policies that address this particular type of request, nor would the proposal trigger City of Madison review under the terms of the cooperative plan. Given the proposed location of the building and existing screening between this and adjoining properties, staff does not anticipate any aesthetic impacts to neighboring property owners. Pending any concerns that may be raised at the ZLR Public Hearing, the proposed use appears reasonably consistent with the town/county comprehensive plan. For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or [allan.majid@danecounty.gov](mailto:allan.majid@danecounty.gov).

**TOWN ACTION:** On August 21, 2024 the Town Board approved the CUP with 8 conditions (see below).

**CONDITIONAL USE PERMIT DECISION MAKING:** “Conditional uses” are those land uses which, because of unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review.

Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a conditional use permit. Below is the list of the applicable standards from Section 10.101(7)(d) of the Zoning Code, and a summary of the relevant facts including the applicant’s testimony with regards to meeting the standards.

**1. *That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.***

The CUP application describes the proposal. The applicant states that the building will be in the rear of the property behind the house, and there will be no commercial activity as it will be used for storage.

**2. *That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.***

The applicant states that the neighboring properties will not be affected by the building in the rear of the house, and the property currently has trees that will make the building hard to notice.

**3. *That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.***

The applicant states that the building will not impede any neighboring properties, that the setbacks and use of the building will have no effect on these properties especially as relates to their improvement or development.

This standard pertains to whether the proposed conditional use would affect *how the surrounding properties could be developed and improved, considering what they are currently zoned for*. This property and most of the surrounding properties are already developed for residential use; other lands slated for future development are not expected to be impacted by the proposed storage building given it is for personal residential use.

**4. *That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.***

The applicant states that with it just being an accessory building for private use the improvements will be made. The site improvements needed for the proposed use are minimal; any utility connections or erosion control related to earthwork and any potential future driveway would be handled through the building permit process.

**5. *That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.***

The applicant states that the use will not change traffic or create congestion. Staff notes the property has an existing driveway, and room to extend it to the back yard if necessary.

**6. *That the conditional use shall conform to all applicable regulations of the district in which it is located.***

The proposed use conforms to the applicable regulations of the SFR-08 zoning district. Accessory buildings up to 16 feet in average height are allowable in this district with an approved CUP. Accessory buildings must also be no larger than 100% of the house footprint; the proposed building is 1,300 SF, smaller than the 2,015 SF house.

**7. *That the conditional use is consistent with the adopted town and county comprehensive plans.***

As noted above, the proposal appears consistent with the Town and County Comprehensive Plans.

**8. *If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s. 10.220(1).***

Not applicable.

**POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE:** The potential nuisances that pertain to large accessory buildings most likely involve visual impacts to neighboring properties. Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103, there are no other special requirements for this type of request.

**TOWN ACTION:** On August 21, 2024 the Town Board approved the CUP with 8 conditions (see below).

**STAFF RECOMMENDATION:** Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the facts noted above, the site and building plans, and the fact that the proposed garage would be over 40 feet away from the lot lines. This is also reflected in the town's approval and conditions.

If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff at the public hearing. Pending any comments at the public hearing, Staff recommends that (1) the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards above, and (2) we recommend approval with the conditions below.

***CUP 2635 Potential Conditions of Approval:***

*Standard Conditions for all Conditional Use Permits from 10.101(7):*

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
2. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.
3. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.
4. Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.
5. Existing onsite wastewater sewage disposal systems, if any, serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought, at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46, Dane County Code.
6. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
7. Off-street parking must be provided, consistent with s. 10.102(8).
8. If the Dane County Highway, Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be borne by the landowner. Costs borne by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
9. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
10. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.
11. Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit.

*Conditions specific to CUP # 2635:*

12. This conditional use is strictly for Anthony Lincoln located at 5200 Reiner Rd in the Town of Burke.
13. This conditional use is strictly for one detached accessory building on parcel 0810-252-9150-0.
14. The building may exceed the height of 12 feet but cannot exceed a height of 16 feet.
15. Driveway access must be on existing driveway off Reiner Rd.
16. Neighbor properties must not be negatively impacted.
17. All hazardous materials or liquids must be stored properly.
18. A location survey may be required by Dane County Zoning to verify setbacks.
19. A Zoning Permit is required by Dane County Zoning.

Please contact Rachel Holloway at (608) 266-9084 or [holloway.rachel@danecounty.gov](mailto:holloway.rachel@danecounty.gov) if you have questions about this petition or staff report.