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January 27, 2022

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

RE: Rezoning petition 11788

Dear Board Members,

Julia and I would like to thank the board for the opportunity to answer questions concerning the rezoning of our property RR-2 to FP-B on January 25, 2022. The United States Supreme Court have recognized successful equal protection claims brought by a "class of one," where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment. See Sioux City Bridge Co. v. Dakota County, 260 U. S. 441 (1923); Allegheny Pittsburgh Coal Co. v. Commission of Webster Cty., 488 U. S. 336 (1989). In so doing, we have explained that" 'the purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.'" Sioux City Bridge Co., supra, at 445 (quoting Sunday Lake Iron Co. v. Township of Wakefield, 247 U. S. 350, 352 (1918)).

Here, the DCS and this ZLR board are intentionally demanding a conditional use from the petitioners that similarly situated citizens under the same criteria, are not required by law to do, in order to support approval. Petition 11788 meets all the strict legal requirements of FP-B and RR-2 does not support “agricultural” or “agricultural accessory use”. One would ask why DCS is and this ZLR board treating the petitioners petition differently when the legal lawful certified ordinance zoning district FP-B zoning has no required conditions from similarly situated property owners, and that this demand by DCS and this board is irrational and arbitrary.

The board’s decision to table the proceedings until February 8, 2022 so they can look at substantial evidence in the record is commendable, however they must look at the law to understand the significance of the substantial record. Julia and I think it is important that the board understand what the law says, about zoning and rezoning.

In our case on October 22, 2021 we inquired into the desired “agricultural” and “agricultural accessory uses” under RR-2. We were told by Mr. Lane in an email dated October 28, 2021, that neither agricultural” and “agricultural accessory uses” were conditional or a permitted by right use in RR-2. Since agricultural and agricultural accessory uses are not allowed under RR-2, and as Mr. Violante reiterated to this board,

“if a desired use for a citizen doesn’t exist in either the permitted by right uses or a conditional use in their current zoning district, citizens will look to other zoning districts for their desired use. In our case RR-2 does not support agricultural” and “agricultural accessory” uses. FP-B zoning district clearly has established by ordinance, both uses as permitted by right uses, to obtain our desired legal lawful zoning.

We would like to address the central theme of Supervisor Bollig and Supervisor Peters questioning concerns to the petitioners, “why we want to change our zoning or why do we need to, if our current zoning allows us to run our business? The simple answer is RR-2 does not support “agricultural” and “agricultural accessory” uses consistent with operating Ironman Buildings from the barn as an agricultural accessory business, and RR-2 does not allow this unless the petitioners file for a conditional use permit to run our agricultural accessory business as a limited family business!

What the DCS have failed to expressly disclose to this board in their report, is that we get to choose to run our current business Ironman Buildings from our 1940 barn and property either under FP-B zoning district or RR-2 as a limited family business. Under current DCO in order for us to legally operate Ironman Buildings, there are two distinct different statutory roads available to the petitioners to accomplish this. Either apply for unconditional FP-B zoning to operate Ironman Buildings as an agricultural accessory use as the law allows, because every written strict condition of the zoning ordinance is met, or we can go through the current RR-2, which requires us to apply to this same board as a limited family business under the conditional use permit process. Both these options are clear legal choices under Wisconsin law that the petitioners get choose, not DCS, nor this board, or the full board, or even Mr Parisi with veto power. The law is what the law, is and the law must be equally applied under the current law according to both the United States Constitution and Wisconsin constitution, using Wisconsin chapter 91, 59.69 wis. Stat, DCO chapters 3, 10, 75.

As this board can clearly establish from the current petitioners record of petition 11788, DCS is not opposed because they have found anything legally incompatible to the petitioners rezoning uses, they are opposed because FP-B doesn’t allow them conditions they feel they are entitled to, even though the law doesn’t grant that power.

It is a material fact that DCS have been opposed to the petitioners right to the legal AG-B zoning district at least since 2013 when they agreed to rezone the property. This isn’t about legal lawful zoning; it is about zoning power under 59.69 and chapter 91. Mr. Lane and DCS want to continue to have statutory power under 59.69 through conditional zoning, conditional use permit, but because the full Dane county board have certified FP-B to the State of Wisconsin for financial considerations to administer FP-B for DATCP, the unambiguous language of the certified ordinance as Mr. Lane has said it has to be verbatim for State certification and the petitioners can benefit from it.

The full Dane County board through certification essentially have surrendered that permitted by right uses under FP-B zoning power, back to the State of Wisconsin DATCP under chapter 91 and FP-B zoning. The harsh reality is, DCS want this board to deny this legal lawful zoning petition because they want to skip the legislative process by usurping the legislative authority under chapter 91, because DCS feel they are better

suited to arbitrarily control the adopted permitted by right uses of petitioners FP-B zoning than the State of Wisconsin.

It is a material fact DCS as a matter of law will lose some of the statutory power under 59.69 to control the zoning of petition 11788 under FP-B, that is legislatively designed that way. The legislative intent of chapter 91 is to be carried out, by taking local control power of 59.69, the county zoning statute away from Dane County and let the state decided what uses are defined to carry out the legislative intent of Chapter 91.

The elected process of the peoples mandate, through the Dane County board has adopted the certified ordinance, therefore they have legally surrendered conditional zoning on clearly defined "agricultural" and "agricultural accessory" use controls back to the State of Wisconsin, except for conditional uses of FP-B by certifying their ordinance under chapter 91. This is a material fact, and we are telling this board they cannot deny this petition over a perceived power that doesn't exist by law, for conditional "agricultural" or "agricultural accessory" uses, that was legally adopted by the Dane County board and certified to the State of Wisconsin.

As Supervisor Peters stated during the public hearing on 11788, "typically this board doesn't just grant zoning petitions, without there being a real reason or explanation, we are typically told I want this because of this, not we grant this, and you tell us later and that makes me nervous. It would be much easier for this body to approve anything if you just told us what your planned use is. We have explained the reason and we will explain it again.

The substantial evidence in this record provides the material facts of what petitioners told DCS in 2013, " This answer is easy because our answer has never changed in 10 years, and has always been the same, "We own an agricultural accessory business, Ironman Buildings, we build and have built millions of dollars' worth of agricultural barns for farmers in the agricultural industry, our operation isn't a public nuisance, it has never caused traffic jams, it has never caused any complaints from any of our neighbors, other than made up complaints by DCS, we live in a farm preservation district, our property qualifies as a matter of law with all the strict zoning requirements of FP-B zoning." These are all known material fact to DCS since 2013.

- In 2012 we filed for a building permit in the AG-1EX farm preservation district to rehab the barn to be used in petitioners agricultural accessory business, Ironman Buildings,
- In 2013 we told DCS we operate an agricultural accessory business, and they committed document fraud to the board by having their lawyers fill out documents purporting to be our agent, and fraud by deliberate failure to disclose AG-B as a legal option for rezoning, and failure to rezone the petitioner's property AG-B because they knew petitioners business was agricultural accessory business, instead they rezoned petitioners property in AG-2 so DCS could keep 59.69 conditional zoning powers over the property,
- in 2017 during the deposition testimony of Roger Lane, we asked for a zoning district that would allow our agricultural accessory use and our residence, so Mr. Lane made a conscience decision to commit fraud again when he lied under oath, knowing the petitioners own an "agricultural accessory business" telling

petitioners they would have to split the lots because under chapter 75 DCO they don't allow commercial with residential on a certified survey map property,

- we asked in an email dated, June 28, 2018 to go into FP-B zoning because we have an agricultural accessory business, and because DCS would lose conditional use power under 59.69, they chose to not answer our email so they could keep conditional zoning powers, all while helping our similarly situated neighbors the Knapton's to AG-B zoning,
- We asked again in March of 2019 after it was learned that DCS had illegally rezoned petitioners' property RR-2, knowing the same material facts above, with the same agricultural accessory business, DCS refused because they would have to surrender 59.69 conditional zoning powers,
- We asked DCS who had 3 blanket rezones in the Town of Cottage Grove to fix issues with the comprehensive revisions, and they refused to rezone the property during those blanket rezones to FP-B zoning because they will lose conditional use power under 59.69 zoning powers, if the property was zoned FP-B,
- We sued DCS in Federal District Court for compensation for taking our vested agricultural property rights away without a hearing or compensation, and DCS successfully argued we have to file petition 11788 first before we can sue them for compensation in federal district court.
- This petition 11788 is based on the same set of circumstances DCS has had full knowledge of since 2013, "We own an agricultural accessory business, Ironman Buildings, we have built millions of dollars' worth of agricultural barns for farmers in the agricultural industry, our operation isn't a public nuisance, it has never caused traffic jams, it has never caused any complaints from any of our neighbors, other than made up complaints by DCS, we live in a farm preservation district, our property qualifies as a matter of law with all the strict zoning requirements of FP-B zoning."

What Dane County Zoning and Roger Lane has labeled Ironman Buildings as an in-home business subject to a conditional use permit for a limited family business under AG-2(2) and RR-2 to move the business to the barn, because it fits their 2013 narrative of rezoning the property AG-2(2) where under 59.69 conditional use, so DCS can maintain an arbitrary power to continue to make up zoning violations using their narrative of rezoning the property RR-2. It is a material fact DCS illegally, without any prior hearing or compensation during the comprehensive revisions in 2019, took away the vested agricultural zoning rights because DCS will have no statutory power under FP-B to arbitrarily interfere with Ironman Buildings operation.

The material facts as applied to this rezone are, Ironman Buildings is defined by Wisconsin Law as an agricultural accessory business. DCS cannot dispute this material fact because it is true, we have owned and operated it as an agricultural accessory business since 2011 from the property, and not a limited family business requiring a conditional use permit, as suggested by Mr. Lane.

The petitioners have never filed for a conditional use permit for a limited family business because they have an agricultural accessory business they want to run out of an agricultural accessory building they have been trying to use. DCS know, and the video tape deposition of Mr. Lane confirms this material fact, that the Wisconsin legislature under Chapter 91 has provided similarly situated citizens, a vehicle to operate an

agricultural accessory business on a minimum 20,000 square foot lot, in a farm preservation district. As a matter of law, the Dane County full board has adopted the certification of the 3 DC Farm preservation ordinances, in exchange for financial considerations from the State of Wisconsin DATCP, to allow similarly situated property and businesses like the petitioners, to apply and receive FP-B zoning when they have a business and property that qualifies to the strict requirements of FP-B.

The first 2 things the Wisconsin legislature requires, is, the petitioner's property must be located in a farm preservation district and Ironman Buildings must be an agricultural accessory business. Once this material fact is established by state law, then the DCO chapter 10 FP-B requirements of DCZ certified ordinance comes into play.

This board as a matter of law cannot ignore these material facts of Wisconsin law, in their decision. That under the current rezoning petition 11788 before this board, that as a matter of law, Ironman Buildings doesn't need a conditional use permit to use the barn and property to operate as an agricultural accessory business under FP-B. As a matter of law, we are telling this board that DCS does not have any legislative zoning powers to oppose petition 11788 based upon any concerns because under current DCO they don't have specific review like cities and villages. This is a legislative function, but DCS want to now usurp the power of the legislature, to rewrite the FP-B zoning they created when they adopted certified farm preservation ordinance to now exclude petioners unless they agree to conditional zoning. The reason DCS doesn't have power to regulate these concerns is because the State of Wisconsin legislature has given those zoning restriction back to the State of Wisconsin DATCP to regulate.

It is obvious from 2013 DCS have been opposed to FP-B zoning since 2013, and it is not because our business was doing anything wrong, it is because their zoning power shifts where the State of Wisconsin which has clear standards and policies that are fair and not arbitrary. For 10 years Julia and I have had to endure arbitrary erratic behaviors by multiple DCS, we have been told lies, and this board is being told a huge lie by DCS, if they believe they can deny this petition for the reasons presented by DCS to this board, they are sadly mistaken. As a matter of law, we have complied with the law and as a matter of law this petition must be approved.

This board has an obligation to follow clear Wisconsin law, not the made-up law DCS has inferred to the board as a legal reason to deny petition 11788. DCS hasn't cited any actual adopted law by any number, legal opinion, ordinance power. DCS law is the Donald Trump fake law where DCS get to arbitrarily add whole new powers under 59.69(4), add a whole new section under chapter 10 because FP-B currently has no way to review concerns they gave back to DATCP, but now they do.

What the Wisconsin clear express law says, is, similarly situated citizens faced with 2 legal zoning choices, between getting a conditional use permit for a limited family business under RR-2 to use their barn to run their agricultural accessory business from it or use the permitted by right use to run Ironman Buildings from the property as an agricultural accessory business under FP-B. The state law says, all that is required for any similarly situated citizen of Dane county faced with those 2 exact choices between rezone their property into FP-B zoning or get a conditional use permit for a limited family business, we chose FP-B. We own an agricultural property in a dedicated farm

preservation district(we do), we are required to get Town[1] approval(we got 2 approvals), since the property is within the interterritorial jurisdiction of Madison so approval maybe necessary(We did proactively seek out City of Madison approval so it would not become an issue), and the property meets the strict ordinance requirements of the FP-B(our property configurations, agricultural accessory business use, and setbacks all conform, then as a matter of law it must be approved. So as a matter of law because this rezone qualifies in every aspect of the ordinance, and that they have received unconditional approval from the Town of Cottage Grove board must recommend approval based upon current Wisconsin law

The Wisconsin legislature has defined "Substantial evidence" which means facts and information, other than merely **personal preferences** or **speculation**, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion. I know this is the standard is for a conditional use permit, however 59.69 Wis. Stat cannot be read in segmented isolation to fit a narrative of personal preferences or speculation, it must be read in its entirety to obtain the legislative intent of 59.69 as it coexists with Chapter 91.

Now let's look at the substantial evidence in the current record that supports the material facts of our legal position,

1. Ironman buildings by Wisconsin legislative legal definition[2] is an agricultural accessory business, DCS does not dispute this anywhere in the record, because they cannot, Roger Lane has admitted as such[3].
2. Dane County Zoning staff has known that Ironman Buildings is an agricultural accessory business since 2013[4] Roger Lane has admitted this fact.
3. RR-2 does not allow agricultural accessory business as a permitted by right use or a conditional use[5] so we cannot even get a conditional use permit for those two uses even if we wanted to because it is not listed by ordinance, Roger Lane has admitted this,
4. Currently under Chapter 10 DCO there are only three farm preservation zoning ordinances FP-B, FP-35, and FP-1. FP-B is the only one that allow agricultural and agricultural accessory uses as a permitted by right use or a conditional use, Roger Lane admits this,
5. Dane County has certified all three ordinances to the State of Wisconsin, having full knowledge of the permitted by right uses within chapter 91, Roger Lane admits this,
6. Dane County zoning cannot alter or modify the certified ordinance as Mr Lane told the Town of Cottage Grove clerk Kim Banigan in a 2018 email[6] because the AG-

[1] See R 8 11788 Town of Cottage Grove recording links to the video recordings of the meetings
[2] See R. 6 Wisconsin chapter 91, Dane County ordinance chapter 10, and see R 11-15 Mr. Lanes video testimony and transcripts, that verify his first-hand knowledge admitting we are an agricultural accessory business.
[3] SeeR.6 and R11-15 Mr. Lanes video testimony and transcripts, that verify his first-hand knowledge admitting we are an agricultural accessory business.
[4] See R11-15 deposition video testimony and transcripts where MR. Lane admits this fact
[5] See record 6 page 4 Roger Lane October 28, 2021 email in revised appendix page 4 Mr. Lane is asked, under the current RR-2 zoning district that our property 4407 vilas hope rd is currently in, can the property be used for agricultural accessory purposes as a permitted right or conditional use? Roger Lanes answer is, No. The Agricultural Accessory Land Use is not listed as a permitted use or a conditional use under the RR-2 Rural Residential Zoning District
[6] See R 6 P. 18,19

B(FP-B) was created by DATCP, and it has to be verbatim if you wanted the zoning ordinance certified under the State of Wisconsin AG preservation program, Roger Lane admits this,

7. FP-B zoning it is the only DC zoning ordinance that allows the permitted by right or conditional uses for agricultural and agricultural accessory uses that allows the petitioners residence as a permitted by right use and not a conditional use, a material fact of the ordinance itself and DCS have not stated anything to the contrary.

8. Both the planning board and Town of Cottage Grove board through a public hearing at the Town of Cottage Grove town Hall, have approved unconditionally the rezoning of petition 11788[7] Material fact supported by the record,

9. The City of Madison who has statutory extraterritorial jurisdiction, is not opposed to our rezoning[8], material fact supported by the record,

10. The reason Dane County Zoning staff has not presented one scintilla of evidence contradicting any of this substantial evidence, is because none exists as a matter of law. A material fact is supported by the record, DCS have not presented one legal ordinance, statute, law, policy, standard or anything else contradicting our substantial evidence we presented,

Now let's look at the Dane County staff report for substantial evidence,

1. DCS are essentially opposed to petition 11788 because they feel under current DCO there legal process of rezoning isn't like a city or village when it comes to plan review at the zoning stage, so therefore they can add a new arbitrary process for the board to consider denying this petition because DCS have a personal preference that is neither expressly sanctioned by 59.69(4) under the legislative powers statute, or any Dane County ordinance. We are telling this board as a matter of law, it is illegal under Wisconsin law, to make up new law, add words to existing adopted law, create an arbitrary process without any legislative standards, all because the DCS feel the law doesn't provide a process to address their concerns at a rezoning petition level.

2. Dane County staff oppose this petition because they believe the current zoning district supports the current activities on the property. This statement is nothing more than personal preference based upon speculation that has nothing to do with whether the rezone should be approved or denied. The property and petition fully comply with all the substantial requirements the FP-B zoning ordinance requires. This statement by DCS is not the kind of evidence, the legislature has said, this board can use to deny our petition, because a decision of denial would be based on personal preference and not material fact,

3. DCS want to suggest to the board that there is a lack of information presented to support the zoning change. There are volumes of legal information presented to this board in the record by us, that as a matter of law, we are entitled to this FP-B zoning. It is a material fact that under current RR-2 the property is zoned under, that neither "Agricultural use" or "Agricultural accessory use" are a permitted by right use or a conditional use. The State of Wisconsin under 59.69 prescribes the manor in which a person may change their zoning if their current zoning doesn't allow "agricultural or agricultural accessory use". Our petition before the board shows we have complied with the stringent legal process, our property qualifies as a matter of law for FP-B zoning, RR-2 doesn't accommodate neither agricultural or agricultural accessory zoning classification

[7] See record 8 and 2 the video links of the Town meetings, and see the Town action report
[8] See record 20 email City of Madison

by permitted or conditional use, there is no evidence presented from either staff or corporation counsel, that contradicts this material fact. Mr Lane and Mr. Violante concerns are noble, however as a matter of law, they are nothing more than personal preferences that the Wisconsin legislature says the board cannot use to deny this petition. Both Mr. Lane and Mr. Violante claimed during our public hearing before this board, that because FP-B ordinance is commercial in nature, that they cannot control lighting, noise pollution, and whatever speculation they claim might be an issue and that because the Willans zoning petition doesn't include conditional use request under FP-B zoning, therefore the board should use the speculation of noise, lighting, as a reason to deny our permit. Dane County has a sign ordinance, Dane County has a nuisance ordinance, Dane County has a lighting ordinance so those are not factors that can be considered. Quite frankly Wisconsin State law doesn't require us to submit a conditional use permit request to be rezoned FP-B or any other zoning district, and the board cannot deny the rezone based upon the DCS report personal preferences. DCS are making up reasons that don't exist in law or fact! DCS suggestion would create an absurd result of the legislative intent of Farm preservation laws and 59.69 and it violates the petitioners civil rights because DCS are treating this petition differently than the adopted process of the ordinance.

4. The DCS want to characterize because FP-B zoning district accommodates commercial and industrial activities compatible with agricultural areas that because they may be in conflict with surrounding properties. This is another personal preference based on imaginary speculation by conflating the issues. Their concern that due to the size and location of the property, potential traffic conflicts, parking issues, and noise may result by the zoning change. Pure speculation on DCS part, nothing in the record to support this. This is not a statement of fact; it is a personal preference based upon unidentified speculation by DCS to manipulate their narrative to the board that isn't based on the law nor the facts of this rezone. We have already established as a matter of law, that we own and operate Ironman Buildings, an agricultural accessory business that under FP-B definitions of permitted by right accessory use, the business can legally operate from the property without any conditional use permit, and we can use the agricultural barn. RR-2 requires a conditional use permit to run out of the barn. Based upon the numerous problems we have had with DCS stretching the truth, and like all citizens would do when confronted with the same set of two circumstances, we will take door A, the FP-B permitted by right zoning instead of door B where we have to get a conditional use permit requirements under RR-2 to run our business as a limited family business. The State of Wisconsin chapter 91 and the Dane County ordinance FP-B itself, is the definer of size and location, not DCS. Size does matter, and 20,000 square feet is the minimum standard created by the infinite wisdom of the Wisconsin legislature and Dane County's full board when the adopted AG-B in 2012 and FP-B in 2019. DCS were clearly involved in the comprehensive plan before it was adopted, and they clearly could have added addendums to the proposed ordinance to address their concerns before it was adopted. DCS staff in 2012-13[9] when they created AG-B and for 2 years while writing the comprehensive plan with the current version of FP-B clearly had no concerns prior, because FP-B reads the same as AG-B. Now because the petitioners have decided they want to pursue FP-B zoning, DCS are now concerned with size, location, noise, lighting, traffic because it pertains to 4407 Vilas Hope rd, and FP-B zoning.

[9] See R 9 2012 staff memo of farm preservation ordinance

DCS report and video commentary during the January 25, 2022 hearing are an attempted usurpation of legislative authority, to tell the board they can deny petition 11788 on personal preference and speculation, is illegal under current Wisconsin law. Any other determination of the board would be an, unreasonable classifications in zoning ordinances, whether comprehensive or not, and restrictions which are not reasonably germane to legitimate objectives or which prohibit a particular use of land ignoring its natural characteristics for such use or which are arbitrary have been held to be unconstitutional on the facts presented. Bessent, 27 Wis. 2d at 545.

Any denial of petition 11788 as suggested by DCS, would also violates the petitioner's equal rights protection clause, class of one theory. Denial of the petition under the facts and circumstances of this matter is clearly an illegal position under Wisconsin law, because it creates unreasonable restrictions for the petitioners, which are not germane to the legislative objectives, and it prohibits a particular use of land for the petitioners by ignoring the natural characteristics of 1940 something barn, all while treating this zoning petitioners differently than similarly situated individuals in the same community applying for rezoning.

Our property is a 2.1-acre agricultural property we purchased from our friend John Copenhaver. We are advocates and care takers for the Wisconsin, Dane County and the Town of Cottage Grove agricultural preservation laws. We can stipulate to everyone that the Wisconsin legislature has the power to make farm preservation laws under chapter 91, and to make zoning laws under 59.69. Dane County zoning does not have the legislative authority to change the laws that are in front of this board tonight because they disagree with the infamous wisdom of the legislature permitted by right uses under FP-B zoning. They want this board to apply an unreasonable and arbitrary standard to this rezone in support of denying what the law says petitioners are entitled to as a matter of law because they have no evidence before this board that can stop this rezone as a matter of law, other than an erroneous interpretation of the law as it pertains to their power to regulate under current 59.69 (4) and a narrative opinion without proof, that they are protecting the citizens from the alleged agricultural accessory boogie man.

1. Despite petition 11788 conforming to all the strict requirements of chapter 91, 59.69 Wisconsin stat, and DCO FP-B,
2. Despite Dane County's and the Town of Cottage Groves comprehensive land use plan, that support approval of petition 11788,
3. despite two Town board public hearings and approvals of petition 11788,
4. Despite the adopted City of Madison Yahara hills development plan showing the petitioners property in a permanent farm preservation area and city of Madison staff are not opposed to the rezoning of petition 11788,
5. Despite no public opposition at both Town public hearings of petition 11788,

The only people on the face of the earth opposed to petition 11788 is Dane County Planning and zoning. Their proposed reasons are not supported by any evidence in the record and are not supported by any legal facts as a reason under Wisconsin law, for this board to deny this petition.

The power to regulate the use of land through zoning must, of course, be exercised within the applicable statutory and constitutional limits. Procedurally, a county

zoning ordinance, or any amendment thereto, must be formed according to the procedures set out in subsections (2), (3), and (5) of Wis. Stat. § 59.69 within the framework of extent of powers at 59.69(4).

In addition, a county zoning ordinance "shall not be effective in any town until it has been approved by the town board." Wis. Stat. § 59.69(5)(c). The Town has approved our zoning request. Substantively, a county's zoning power is subject to the basic constitutional limitation that the classification of uses permitted in a given district must have a rational basis:

Unreasonable classifications in zoning ordinances, whether comprehensive or not, and restrictions which are not reasonably germane to legitimate objectives or which prohibit a particular use of land ignoring its natural characteristics for such use or which are arbitrary have been held to be unconstitutional on the facts presented. Bessent, 27 Wis. 2d at 545.

In applying this test, our supreme court has found particular zoning classifications to be unreasonable for not being germane to the legislative purpose and for failing to make substantial distinctions or provide a basis for differential treatment. See Caledonia v. Racine Limestone Co., 266 Wis. 475, 63 N.W.2d 697 (1954); Boerschinger v. Elkay Enterprises, Inc., 32 Wis. 2d 168, 145 N.W.2d 108 (1966).

We must start out with the legislative purpose of chapter 91. It was lawfully created to preserve farmland for the protection of the multi-billion-dollar Wisconsin agricultural industry. In doing so chapter 91 gave counties like Dane County an option to participate in the law by creating zoning districts that are conducive with farm preservation of land and agricultural support services. Dane County voluntarily chose to create FP-B and certify those zoning ordinances to the state as being conducive in support of the purpose of chapter 91. The language of FP-B is a legislative requirement, not a Dane County requirement. The state of Wisconsin legislature has defined every aspect of the ordinance including 20,000 square feet as being conducive with an agricultural accessory property under FP-B. "Agricultural accessory use

(1) "Accessory use" means any of the following land uses on a farm:
(a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
(b) An activity or business operation that is an integral part of, or incidental to, an agricultural use.
(c) A farm residence.
(d) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in par. (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
(e) Any other use that the DATCP department, by rule, identifies as an accessory use.

The board must conclude that the primary policy underlying the Farm preservation act is predictability — and is best advanced by applying the chapter 91 laws of

Wisconsin to all land specifically identified in a farm preservation district that the rezoning petition is a part of. The FP-B zoning district ensures that all parties, petitioners, DCS, ZLR members, DCB, and Mr. Parisi, know what land uses are permitted by right uses and what uses are conditional uses of land:
The problem isn't that the Dane County lacked the power for conditional zoning to regulate or prohibit permitted by right agricultural uses under FP-B in a farm preservation district by ordinance, but rather that because the material facts of the petitioners' circumstances of property rezoning, it would be unreasonable and arbitrary to deny rezoning to FP-B because the property use, configurations all qualifies to the strict standards set out under chapter 91 and DCO FP-B.

DCS and some ZLR members believe that because the current zoning district supports the current activities on the property that therefore the willans are not entitled to a rezone to use their property for the legal lawful permitted by right uses of FP-B, this makes no sense in law or fact since the purpose of a legislative right to rezone, is to allow a property owner the right to lawfully use the property if it meets the zoning requirements of FP-B zoning.

There claim that our petitions lack of information presented to support the zoning change, is unsubstantiated by the facts, we have stated our intended use is conducive with the permitted by right uses of the FP-B zoning as the Wisconsin legislature has prescribed. The FP-B zoning district accommodates commercial and industrial activities compatible with agricultural areas that may be in conflict with surrounding properties. Due to the size and location of the property, potential traffic conflicts, parking issues, and noise may result by the zoning change.

It's unreasonable and arbitrary now for this board because DCS has not submitted one scintilla of evidence under State law that doesn't allow petitioners the right to rezone their property for the permitted by right uses under FP-B in a dedicated farm preservation district because Dane County staff belief that the current zoning district supports the willans current use, while ignoring their potential use allowed by ordinance.
It is also unreasonable and arbitrary DCS the power to rewrite the zoning laws under 59.69 to fit their narrative of this rezone because they lack information when for 10 years the petitioners have presented information. The classification of making the property residential RR-2 without a hearing, was done with the aim of prohibiting a particular agricultural accessory use, while paying no attention to the suitability of specific areas within the town for that use.

Clearly, then, any county zoning ordinance purporting to prohibit the permitted agricultural accessory uses on private property would have to give due weight to the possible suitability of such agricultural accessory uses in particular areas and could not impose a blanket prohibition without regard to the actual characteristics of the regulated properties and their surroundings.

The rational basis test is not the only limitation on the zoning power. County zoning ordinances also "may not prohibit the continuance of the lawful use of any building or premises for any trade or industry for which such building or premises is used at the time that the ordinances take effect." Wis. Stat. § 59.69(10)(a).

The "piecemealing" advanced by DCS and ZLR board would require extensive litigation over legislatively defined permitted by right uses specifically identified in the petition for rezone, which neutralizes one of the primary reasons we adhere to the Chapter 91: avoiding lengthy, fact-intensive litigation. Further, for any business that requires rezoning land in addition to structures for its operations, a building permit is nearly worthless if the rights vested by virtue of obtaining a conforming building permit do not extend to the land necessary to put the structures to their proper use.

The ZLR board has asked several questions raising some concerns about the uses and amount of restrictions Ironman Buildings was willing to concede in order to approve rezoning to use the property for agricultural accessory uses. These concerns, for purposes of the FP-B zoning district and the zoning petition before this board, are irrelevant to any analysis and provide a showcase as to one way the purpose of avoiding fact-intensive litigation is served by farm preservation zoning and this bright-line building permit rule. As personally "curious" or "concerned" members of ZLR are regarding permitted by right uses under FP-B or conditional uses under RR-2, and for what purpose the utilization is to be had, there simply is no legal relevance to their inquiry.

Therefore, the purpose of the Farm preservation zoning and bright-line building permit rule is served when DCS and ZLR board members focus their inquiry on that which is legally relevant and avoid that which is not. In the petition at bar, the ZLR board concerns are particularly unfounded because Ironman buildings is an agricultural accessory company, they have vested rights in the land being used to operate their agricultural accessory business, there property under FP-B zoning qualifies as a matter of law with all strict requirements, therefore conditions sought are not relevant to the board's decision. Thus, if the Petitioners agricultural accessory use to operate the agricultural accessory business ceases under FP-B zoning and that district no longer support agricultural accessory use, the legislature has granted Dane County and the Town the legal right to a hearing to change the zoning at that time and should the Town, DCB or the Wisconsin legislature pass new laws, any future use would simply have to conform with Dane County's zoning ordinances.

Under this provision, if any of the properties that a citizen of Dane County would like to operate their legal lawful agricultural accessory under FP-B zoning which is currently being allowed for a citizen to lawfully use their property to operate an agricultural accessory business, as part of a "trade or industry," then the Dane County staff or board may not use its zoning power to prohibit the continuation of such use.

Their reasons are nothing more than varied opinions, unsupported with one scintilla of evidence in the record that support their position of opposition. Dane County zoning has cited no ordinance, no statute, no written policy, no supporting caselaw of authorities or any other legal reason, that support their reasons for opposing it.

The substantial evidence in the record before this board clearly and unambiguously supports the granting of petition 11788. There are no traffic studies, no legal opinions from Dane County corporation counsel supporting their legal position, which means,

"However, unreasonable classifications in zoning ordinances, whether comprehensive or not, and restrictions which are not reasonably germane to legitimate objectives or which prohibit a particular use of land ignoring its natural characteristics for such use or which are arbitrary have been held to be unconstitutional on the facts presented. [Citations omitted.] . . ."

Our position is we have provided everything the law requires for our desires to operate our agricultural accessory business Ironman Buildings from the property, RR-2 does not support agricultural or agricultural accessory use, so we have paid our fee, filed all the supporting paperwork and substantial evidence to be rezoned and because DCS doesn't like the terms of power that FP-B zoning lawfully exhibits, they want this board to deny it so we have to file a lawsuit at tax payer expense to define words and powers already defined by the Wisconsin legislature. We ask this board to approve our rezone unconditionally!

Sincerely,

Julia and Tom Willan