

BEFORE THE DANE COUNTY BOARD OF ADJUSTMENT

Appeal of Karl Dettmann, 4200 County Highway P, Town of Cross Plains, Dane County, Wisconsin

Appeal No. 3688

BRIEF OF DANE COUNTY ZONING ADMINISTRATOR

Karl Dettmann is appealing the decision of the revocation of Dane County Zoning Permit DCPZP-2017-00273 for the construction of a residential building addition at 4200 County Highway P in the Town of Cross Plains. The zoning permit was denied due to failure to submit additional materials requested in order to obtain a zoning permit. Given the past attempts of constructing an assembly hall on the property, Staff had requested reassurances that the addition was to be used as proposed.

Argument of the appeal

Under Dane County Code of Ordinances Section 10.25, certain duties are assigned to the Zoning Administrator. One such duty is the issuance of zoning permits. Zoning permit applications are examined for compliance with the Dane County Zoning Ordinances. In order to ensure compliance, the Zoning Administrator may request additional information to ensure compliance with the ordinances.

On May 11, 2017 a zoning permit application was received by the Zoning Division for the construction of a residential addition on the property at 4200 County Highway P. **See Exhibit A.** The information was examined and the permit was placed on “Hold” due to concerns found with the proposal. The residential addition appeared to resemble a recent commercial building which was proposed for the property which had since been denied. The Zoning Division requested additional information for the proposal in order to determine compliance with the Dane County Zoning Ordinances.

The proposal consisted of a 21,000 squared foot 2-story structure which was connected to the existing residence by a 100-foot long corridor. Approximately 10,000 square feet was identified as storage space while the remaining space was noted as a gym and an exercise area. The addition was approximately 4 times the size of the existing house and appeared out of character. The corridor which physically connected the addition to the residence did not show any access to the interior of the existing residence. **See Exhibit B.** The proposal showed banks of doors on the addition which provide ingress/egress similar to the door arrangements found on assembly halls or banquet halls. **See Exhibit C.**

The application included a narrative explaining the landowner’s intent for the property. **See Exhibit D.** The narrative explained that the property “is a private estate and not open to the public”. The proposed building “would not be used for commercial purposes”. The building “would not be rented for events”. The building will be used for “farm, hobbies, and interests in a private manor”.

This has not been the first time that the Zoning Division had seen the proposed structure. Over the last two years, the landowner has had zoning permits revoked and denied base on material misrepresentation of various proposals for this property. **See Exhibit E.** Given the history of the property and the proposed discrepancies found on the submitted materials, the Zoning Division placed the permit on “Hold” until additional information was presented as noted in a letter dated May 18, 2017 to Mr. Dettmann. **See Exhibit F.**

There were two major concerns that the Zoning Division expressed in the May 18th letter. The first concern was with the actual building plans itself and the second one was with the intended use.

Regarding the first concern, the plans did not show how the addition was integrated with the existing residence. There were no doorways that connected the existing house to the addition (Exhibit B). The zoning division has requested information on how the addition was to be accessed from the existing residence. The basement plan for the addition showed a door exiting the north foundation which did not match up with the basement access as noted on the site plan. **See Exhibit G.** The Zoning Division requested that the plans match.

The second concern raised questions on the use. The Zoning Division required documentation that would ensure that the building was a legitimate residential addition and that the information noted in the narrative was truthful. To address part of the concern, the Zoning Division required that a certified building inspector would need to review the proposal to ensure that the structure would meet the Uniform Dwelling Code. This would show that it was a legitimate residential addition. The Zoning Division required that a deed restriction be place on the property to reinforce the statements that were made in the narrative contained within the zoning permit application. **See Exhibit H.**

The Zoning Division did not feel that the required information was overly burdensome to the applicant. The local building official would have needed to approve the building plans at some point in time and the deed restriction was drafted in accordance with the narrative statements as part of the zoning permit.

After six weeks, Mr. Dettmann did not provide the corrected plans, verification that the structure was residential, or willingness to reinforce the intended purpose and use of the structure in the form of a legal document (deed restriction). Mr. Dettmann informed me via email on June 23, 2017 that he would not be submitting the required information and he had requested a denial letter be sent to him. **See Exhibit I.**

On July 3, 2017, the Zoning Division denied Zoning Permit DCPZP-2017-00273 based on the fact that the additional information required was not submitted in order to ensure compliance with Zoning Ordinances. **See Exhibit J.**

Excerpts from the Dane County Zoning Ordinance

10.25 ADMINISTRATION, ENFORCEMENT AND PENALTIES.

(1) Zoning administrator.

(b) It shall be the duty of the zoning administrator to receive applications for zoning permits and such other permits and licenses provided in this ordinance, and to issue such permits after applications have been examined and approved; to inspect buildings under construction for compliance with the regulations of this ordinance; to make periodic inspections; to take such action as may be necessary for the enforcement of the regulations provided herein; to attend all meetings of the zoning committee and the board of adjustment; and to perform such other duties as the zoning committee and the board of adjustment may direct.

(2) Zoning permits.

(a) No new building shall hereafter be erected, and no existing building shall be added to, structurally altered, moved or changed in use, nor shall any nonconforming building be repaired or restored, in any district, until a zoning permit has been issued, except as otherwise provided by law or ordinance. (c) An applicant for a zoning permit shall file a development plan as defined in s. 10.01(19n). If from the development plan submitted by the applicant or based upon information gathered by a zoning inspector, the zoning administrator cannot determine compliance with the provisions of county ordinances, the zoning administrator may require the filing of a development plan prepared by a licensed surveyor. The zoning administrator may also require evidence of compliance with the Dane County Sanitary Code, the Dane County Land Division and Subdivision Ordinance, Dane County Trunk Highway Access Control Regulations or any other state or township access or culvert permit requirements as a condition precedent to the issuance of a zoning permit. The zoning administrator shall not be responsible for determining the location of lot lines.

(d) Application for a permit must contain the following: name and address of the owner of the property, legal description, size and location of the building to be erected or moved on or onto the property, proposed use of the building or premises, type of construction, estimated cost and any other information as the zoning administrator may require.

10.01 DEFINITIONS.

(19n) Development plan means a scale drawing of the premises which accurately depicts the shape and dimensions of the lot or parcel, the location and dimensions of all existing and proposed buildings and other structures; the location and dimensions of all parking areas, loading areas, circulation areas, and access drives; the distance in feet between all structures, and between all structures and parking areas, abutting streets and highway rights-of-way or easements and side and rear lot lines; together with such other information as the zoning administrator deems necessary.

Summary

The Dane County Zoning Division received a zoning permit application for an addition to a residential structure. The application was reviewed for compliance with the zoning ordinances. Given the peculiarity of the addition and past history of the project, the Zoning Division found concerns with the application materials and requested additional information in order to determine and ensure compliance with the zoning ordinances. The request was supplied to the applicant in a written format.

After six weeks, the landowner refused to provide the additional information requested from the Zoning Division. The Zoning Division denied the zoning permit application for lack of information to ensure compliance with the Dane County Code of Ordinances.

Finding of Fact

I respectfully request that the Dane County Board of Adjustment make the following Findings of Fact:

1. On May 11, 2017, Karl Dettmann submitted a zoning permit application for the construction of a residential building addition to the existing residence at 4200 County Highway P in the Town of Cross Plains.
2. After review of the zoning permit application for the residential addition, the Zoning Division identified concerns regarding compliance with the Dane County Code of Ordinances.
3. A letter sent a letter on May 18, 2017, to Karl Dettmann requesting additional information in order to address the concerns regarding the zoning permit application.
4. Six weeks after the request of information, the Zoning Division had not received any information to address the any of the concerns as identified in the May 18, 2017 letter.

5. The Zoning Division denied Zoning Permit Application DCPZP-2017-00273 base on failure to provide additional information to the Zoning Division as noted in the letter dated May 18, 2017.

Conclusion

With the aforementioned evidence, I respectfully request that the Dane County Board of Adjustment make the following conclusion:

1. The Dane County Zoning Division was within their rights to request additional information regarding the concerns raised during the zoning permit application review.
2. The requested information as identified on a letter from the Zoning Division to Karl Dettmann dated May 18, 2017 was reasonable to ensure compliance with Dane County Code of Ordinances.
3. The Zoning Division has an appropriate basis for the denial of Zoning Permit DCPZP-2017-00273 as identified in a letter from the Zoning Division to Karl Dettmann dated July 3, 2017.

ZONING PERMIT APPLICATION www.countyofdane.com

SUPPLEMENT to Web-App #

2017-00273

PROPERTY OWNER INFORMATION			
OWNER NAME Karl R. Dettmann			
OWNER ADDRESS (Number, Street, City, State, Zip) 4200 County Hwy P, Cross Plains, WI 53528			
HOME PHONE	CELL PHONE (608) 575-2692	E-MAIL ADDRESS kardettmann@gmail.com	
AGENT INFORMATION		CONTRACTOR INFORMATION	
AGENT NAME		CONTRACTOR NAME Aldo Partners, LLC	
AGENT ADDRESS		CONTRACTOR ADDRESS P.O. Box 45601	
(City, State, Zip)		(City, State, Zip) Madison, WI 53744	
PHONE		PHONE (608) 209-2183	
E-MAIL ADDRESS		E-MAIL ADDRESS andyf@aldopartners.com	
PROPERTY/LOCATION INFORMATION (http://accessdane.co.dane.wi.us/)			
<input type="checkbox"/> PARENT PARCEL NUMBER	PARCEL NUMBER: 070-152-9670 0707	CURRENT ZONING: A1-EX	ACREAGE: 81.00
TOWNSHIP: Cross Plains		SECTION: 15 ¼: NW ¼¼: SE	
ADDRESS: 4200 County Hwy P			
CSM: 13,885	LOT 4	SUBDIVISION	BLOCK/LOT
PROPOSED PROJECT INFORMATION			
PROJECT DESCRIPTION: Residential Addition			
<input checked="" type="checkbox"/> This project is a new building or structure.			
<input type="checkbox"/> This project is an addition/alteration to an existing building or structure.			
SANITARY SERVICE: <input type="checkbox"/> SEWER <input checked="" type="checkbox"/> SEPTIC		PERMIT NUMBER:	
HEIGHT IN FEET: 35.5		NUMBER OF STORIES: (Not including basement) 2.0	
AREA TO NEAREST SQUARE FOOT: (Outside dimensions including unfinished area, attached garages and above grade decks or porches)			
BASEMENT: 7,815.0	1ST FLOOR: 11,395.0	↓ TOTAL SQUARE FOOTAGE: ↓ 21,010.0	
2ND FLOOR: 1,800.0	3RD FLOOR:		
ESTIMATED CONSTRUCTION COST: (Please round to nearest dollar)		→ → → → → \$ 1,500,000.00	

CUSTOMER TO PROVIDE

- Zoning Status; CUP; Deed Restriction; CSM Variance (# _____)
- Site Plan drawn to scale and includes dimensions
- Site Plan including location of well/septic
- Setbacks
- Site Plan approval from applicable township.
- Floor plans to scale
- Elevation of property frontage drawn to scale.
- Driveway permits (state, county, town)
- Sanitary permits (public, private)

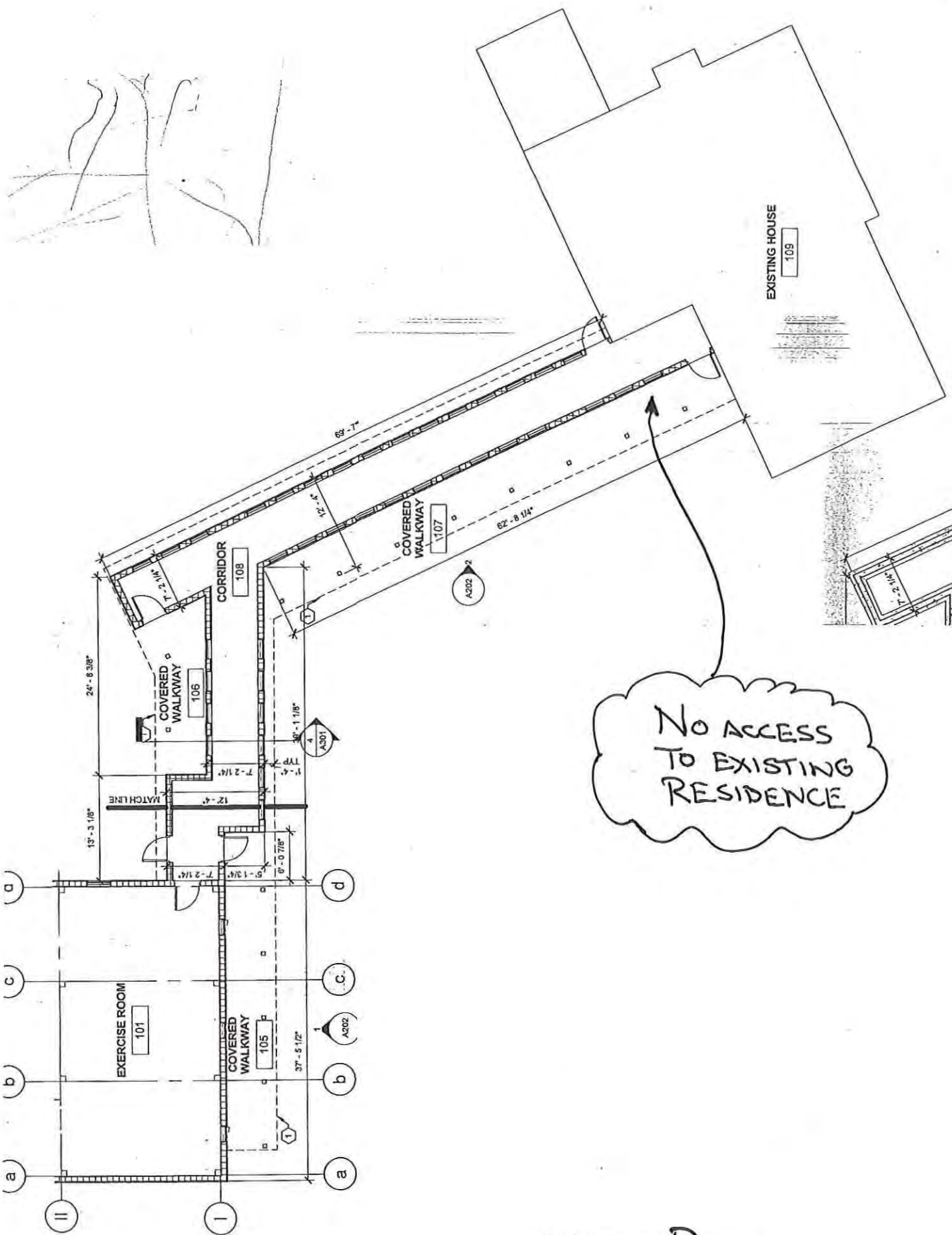
STAFF REVIEW

- Zoning District
- Permitted Use?
- Rural Address (new/existing)
- Wetland/Floodplain/Shoreland (attachment)
- Erosion Control permit (slopes, disturbance, filling/access)
- Review Location Survey and available options.

1. The property is within 300 feet of a stream or 1000 feet from a pond or lake?
2. Is there a wetland or floodplain on or near the property?
3. Have you talked with the township about your project and are they in agreement?
4. Has there been a zoning permit issued for this property in the past 5 years?
5. Is this project associated with a rezone/CUP/variance (petition/appeal # _____)
6. Is a location survey required? (see reverse)
7. Is this to correct a violation?

- Yes No Don't know
- Yes No Don't know
- Yes No
- Yes No
- (leave blank if none)
- Yes No Don't know
- Yes No

APPLICATION MUST BE SIGNED
(Continue on Back) → → →



No ACCESS TO EXISTING RESIDENCE

PLAN NORTH

2 A102

1/8" = 1'-0"

EXHIBIT B

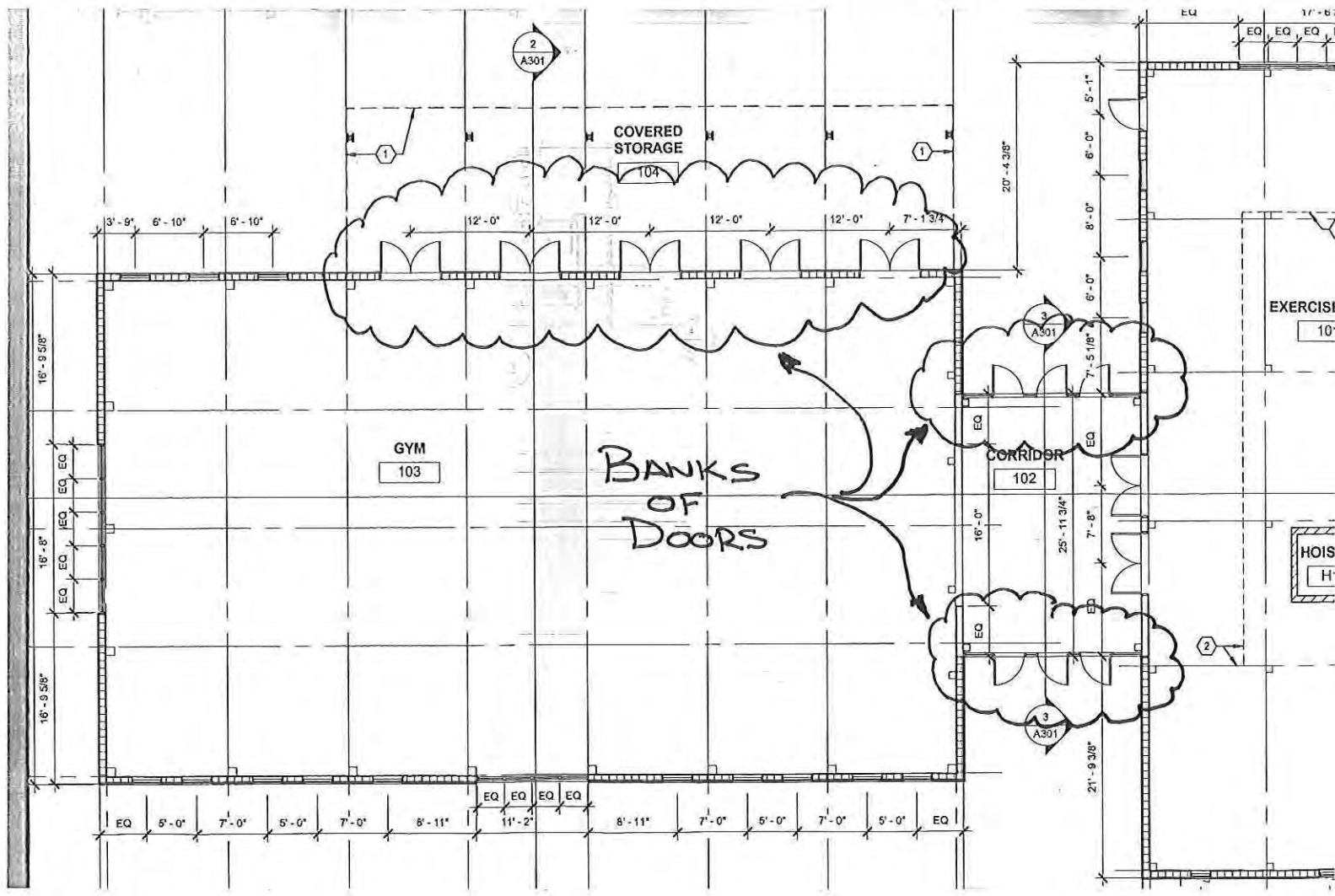


EXHIBIT C

To whom it may concern:

As this submission for a building permit is going to have quite a bit more scrutiny on it than a normal permit request. I want to provide the following reassurances.

1. Dettmann Vineyards is a private estate and will not be open to the public.
2. Dettmann Vineyards is and will continue to be my primary residence.
3. The proposed building will not be used for commercial activities. Only agricultural and residential activities.
4. The proposed building will not be rented for events
5. The proposed building will be used to support my farm, hobbies, and interests in a private manor
6. I will not be seeking out any conditional use permits
7. I want to be able to build my building, keep to myself, and be left alone.
8. I want to create a property that accentuates the beauty of the Cross Plains Agricultural area...a beautiful private vineyard does just that.

Sincerely,
Karl Dettmann



RECEIVED

MAY 11 REC'D

DANE COUNTY PLANNING & DEVELOPMENT

EXHIBIT D

Zoning permits for 4200 County Highway P

DCPZP-2015-00547 – Permit revoked due to material misrepresentation – Zoning permit was issued for an agricultural building. Website information revealed that the building was to be used for an assembly hall for public events.

DCPZP-2015-00731 – Permit denied due to the absence of agricultural activity. Zoning permit application was for the construction of a 14,669 square-foot agricultural structure with very little agricultural activity on the property.

DCPZP-2016-00590 – Permit revoked due to material misrepresentation – Zoning permit was issued for a structure without a basement foundation. Site inspection revealed that a basement foundation was being constructed.

DCPZP-2017-000273 – Permit denied due to lack of information to determine use of structure. Building plans were not corrected, verification of structural design was not submitted, and deed restriction reinforcing intent was not recorded.



Dane County Planning & Development

Division of Zoning

August 25, 2015

Karl Dettmann
435 Matterhorn Drive
Verona, WI 53593

Re: Zoning permit DCPZP-2015-00547

Dear Mr. Dettmann,

A zoning permit was issued by our department on July 20, 2015 that allowed for a 14,669 square foot "agricultural accessory building". This building was to be located at 4200 County Highway P, in the Town of Cross Plains.

A certified letter was mailed to you on July 30, 2015 by Zoning Administrator, Roger Lane, and received by Laura Dettmann on August 3, 2015 expressing concerns of the use of the structure. A copy of this letter is attached.

Subsequently the department became aware of a website advertising the site as Dettmann Vineyards noting a scheduled opening in the spring of 2016. The Vineyard appears to include a tasting room; weddings for up to 250 guests and private events. It has also been discovered that soil testing occurred in June of this year for a "proposed" wine tasting and wedding event building which is sited within the building envelope the Zoning Division permitted as an agricultural accessory building.

Dane County Code of Ordinance, Chapter 10.25(2)(h) states "any permit obtained through material misrepresentation shall be null and void".

As of today's date this zoning permit, DCPZP-2015-00547, **has been deemed null and void** due to the misrepresentation of the building being used for agricultural purposes.

Please feel free to contact me directly in efforts to determine which course of action might best suit your short and long term needs of the property.

Sincerely,

Shawn Widish
Dane County Zoning Inspector
Widish.shawn@countyofdane.com
608-266-9085

CC: Nancy Meinholz, Cross Plains Town Clerk
Greg Hyer, Town of Cross Plains Chair
Abigail Wuest – Dane County Supervisor, District 28
Andy Fieber, Aldo Partners, Inc.

EXHIBIT E2⁰⁸



Dane County Planning & Development

Division of Zoning

September 18, 2015

Karl Dettmann
435 Matterhorn Drive
Verona, WI 53593

Re: Denial of Zoning Permit Application DCPZP-2015-00731

Dear Mr. Dettmann,

On September 14, 2015, the Dane County Zoning Division received a zoning permit application by Aldo Partners, LLC for your property located at 4200 County Highway P in the Town of Cross Plains. The application describes a proposed project for a 14,669 square foot building on the property. This proposed project is surprisingly similar to a zoning permit that was recently rescinded on this very same property.

Zoning Permit DCPZP-2015-00547 was rescinded due to misrepresentation of the proposed use of the structure. The application for the project stated that the proposed use was for an agricultural accessory building. However, website information for "Dettmann Vineyards" stated that the building will be used for wedding events and wine tasting parties. Dane County Zoning Division also researched the Department of Health information for private on-site sanitary systems. The Division found that a septic system was being planned for this property to support a wine tasting/wedding banquet facility. Based on this information, the zoning permit was rendered null and void due to the misrepresentation of the proposed use.

This letter serves as notice that the application for Zoning Permit DCPZP-2015-00731 that was submitted on September 14, 2015 is denied. The permit is being denied due to the misrepresentation of the proposed use of the structure. Although the narrative attached to the zoning permit application indicates that there are minor agricultural uses proposed for the property, there is no clear association that the building will be used for agricultural use. The narrative does describe, under Phase 2, that the future plans for the property will be open to the public, provide wine tasting, holding wedding and non-profit events. It appears clear that this proposed building is for commercial uses and will not be used to support the proposed agricultural activity on the property.

The property located as 4200 County Highway P in the Town of Cross Plains holds the zoning district classification of A-1 Exclusive Agriculture. A wine tasting/wedding banquet facility is not listed as a permitted use or a conditional use in this zoning district. In order to construct this type of building, the zoning district classification must be changed to the C-1 Commercial Zoning District.

If you feel aggrieved by this decision, an appeal can be filed with the Dane County Board of Adjustment within 30 days of the date of this letter. Please contact, Assistant Zoning Administrator Hans Hilbert, with regards to the appeal process.

Respectfully,

Roger Lane
Dane County Zoning Administrator

CC: Nancy Meinholz, Cross Plains Town Clerk
Greg Hyer, Town of Cross Plains Chair
Abigail Wuest – Dane County Supervisor, District 28
Andy Fieber, Aldo Partners, Inc.

EXHIBIT E4 of 8



Dane County Planning & Development

Division of Zoning

December 19, 2016

Karl Dettmann
435 Matterhorn Drive
Verona, WI 53593

Re: Zoning permit DCPZP-2016-00590 rendered Null and Void

Dear Mr. Dettmann,

A zoning permit was issued by the Dane County Zoning Division on July 22, 2016 that allowed for a 7300 square foot farm accessory building. This building was to be located at 4200 County Highway P, in the Town of Cross Plains. The building design that was approved showed a slab on grade structure without a basement (see attached zoning permit). The plans did not show a wall foundation as part of the design.

A site inspection was conducted at 4200 County Highway P on December 16, 2016. It was observed that foundation walls were being installed as part of construction of the building. As such, the design of the building being constructed does not comply with the building plans that were approved under Dane County Zoning Permit DCPZP-2016-00590. As stated under Condition 1 of the zoning permit, "This approval by Dane County Zoning is only for the plan as presented. Any modification to the project requires the express written approval by Dane County Zoning. The permit shall be null and void if any modifications are made without the express written approval of Dane County Zoning".

Since no modification was approved by Dane County Zoning Division, Dane County Zoning Permit DCPZP-2016-00590 is hereby rendered Null and Void. A new zoning permit shall be obtained prior to any further construction of the building.

In reviewing the past zoning permit applications that were denied for the property, it is apparent that the building is being constructed to the plans that were previously denied under Dane County Zoning Permit DCPZP-2015-00547 and DCPZP-2015-00731. These permit applications were denied due to the fact that a commercial assembly hall was proposed under the disguise of a "farm accessory building". This is substantiated by the attached website material showing Dettmann Vineyards having an event space for meetings, weddings, and wine tasting (see attached). Further, a Soil Evaluation Report was submitted to the public health department for the design of an on-site sanitary system for a commercial banquet facility (see attached).

As you are aware, the property currently holds the zoning district classification of A-1Ex Exclusive Agriculture. As stated in numerous letters and discussions with you, a commercial banquet hall is not a permitted use in the A-1Ex Exclusive Agriculture Zoning District and is therefore prohibited. In order to construct a banquet hall/wine tasting/wedding event facility on the property, the property's zoning must be changed to Commercial Zoning. This has been explained to you in previous letters as well.

EXHIBIT E5 of 8

As an example of zoning district requirements, the Wollersheim Winery in the Town of Roxbury (Dane County) has portions of their property zoned C-1 Commercial in order to conduct wine tasting and events at their winery.

No further zoning permits for the construction of this structure will be issued until such time as commercial zoning is established for the property. You are further required to cease all construction on the property and fill in the excavation that has been completed in violation of the Zoning Permit. Failure to comply will result in legal action by Dane County seeking injunctive relief and forfeitures of \$200 per day.

Please be informed, you have a right to appeal this decision to the Dane County Board of Adjustment within 30 days of the date of this letter pursuant to Dane County Zoning Code of Ordinances Section 10.26(3).

Respectfully,

Roger Lane
Dane County Zoning Administrator

CC: Nancy Meinholz, Cross Plains Town Clerk
Greg Hyer, Town of Cross Plains Chair
Nikki Jones – Dane County Supervisor, District 28
Andy Fieber, Aldo Partners, Inc.

EXHIBIT EG08



Dane County Planning and Development Department

Room 116, City-County Building, Madison, Wisconsin 53703
Fax (608) 267-1540

July 3, 2017

Karl Dettmann
4200 County Highway P
Cross Plains, WI 53528

Aldo Partners, LLC
PO Box 45601
Madison, WI 53744

*Housing &
Economic Development*
(608)266-4270, Rm. 362

Planning
(608)266-4251, Rm. 116

Records & Support
(608)266-4251, Rm. 116

Zoning
(608)266-4266, Rm. 116

Re: Denial of Zoning Permit DCPZP-2017-00273

Dear Mr. Dettmann,

On May 18, 2017, a letter was written with regards to a zoning permit submittal for the construction of a residential addition to an existing residence located at 4200 County Highway P in the Town of Cross Plains. The letter stated that the application was placed on "Hold" in order to obtain additional information on the design and the intended use of the proposed structure (See attached).

County Staff expressed concerns that the proposed addition appeared to be designed for commercial use given the past history of other submitted proposals. Zoning permit DCPZP-2015-0547 was revoked on August 25, 2015, based on misrepresentation of the proposed use of the structure. The zoning permit was issued for an agricultural building, however, the Zoning Division found information that the intended use of the structure was for weddings and social events. The material submitted for this proposed residential addition appears almost exactly like the structure that was previously denied.

Dane County Zoning Division is in receipt of your email dated June 23, 2017, which expressed your refusal to provide additional information on the proposed project.

Without this additional information, the application for the zoning permit had been deemed incomplete in accordance with Dane County Code of Ordinances Section 10.25(2)(d). Zoning permit application DCPZP-2017-00273 is hereby DENIED.

The zoning permit is denied based on the failure to submit information to identify the design and the intended use of the structure. The reasons for denial are listed below:

1. Dane County Zoning Division requested that a new site plan or building plan be submitted to clarify the discrepancy in basement openings. No revised site plan or building plans were submitted to address the issue.

EXHIBIT E7088

2. Dane County Zoning Division identified that there was no true connection path between the separated addition and the existing residence. No revised building plans were submitted to address the issue.
3. Dane County Zoning Division requested information to ensure that the proposed addition is designed as a residential addition. A letter from the local building official was requested to confirm that the structure was designed to meet the Uniform Dwelling Code (residential building code). No information was submitted to ensure the structure has been designed to meet the residential building code.
4. Dane County Zoning Division requested that a deed restriction be placed on the property to ensure that the premise would not be used for commercial activity. The deed restriction was drafted in line with the narrative that was submitted as part of the zoning permit application, signed by Karl Dettmann (see attached). The narrative states, "Dettmann Vineyards is a private estate and will not be open to the public". The prepared deed restriction places assurances to match the submitted material for the project. This deed restriction was not recorded with the Register of Deeds.

Please be aware, under Dane County Code of Ordinance Section 10.26(3), persons aggrieved by this denial may appeal the denial to the Dane County Board of Adjustment within 30 days of the date of receipt of this letter.

Respectfully,



Roger Lane
Dane County Zoning Administrator

Cc: Nancy Meinholz, Cross Plains Town Clerk
Greg Hyer, Town of Cross Plains Chair
Nikki Jones, Dane County Supervisor, District 28
Shawn Widish, Dane County Regional Zoning Inspector



Dane County Planning and Development Department

Room 116, City-County Building, Madison, Wisconsin 53703
Fax (608) 267-1540

COPY

May 18, 2017

Karl Dettmann
4200 County Highway P
Cross Plains, WI 53528

Aldo Partners, LLC
PO Box 45601
Madison, WI 53744

*Housing &
Economic Development*
(608)266-4270, Rm. 362

Planning
(608)266-4251, Rm. 116

Records & Support
(608)266-4251, Rm. 116

Zoning
(608)266-4266, Rm. 116

Re: Review of Residential Addition at 4200 County Highway P

Dear Mr. Dettmann,

Dane County Zoning Division is in receipt of the building plans for a residential addition on your property located at 4200 County Highway P in the Town of Cross Plains. The proposed project consists of a 21,000 square foot structure which is connected to the existing residence by the 45-foot long corridor. The plans show that the building will be used for a gymnasium, exercise room, and storage areas. It appears that the large addition will be used for residential purposes, however County Staff has concerns that the proposed addition is designed for commercial use given the past history of submitted proposals.

Pursuant to Dane County Code of Ordinances Section 10.25(2)(d), the zoning permit has been placed on "Hold" until additional information is submitted and the concerns listed below are addressed.

Building Plans

- 1) Site Plan – The site plan shows the installation of a retaining wall along the north side of the building. This appears to conflict with the basement plan openings as shown on A-101. The site plan or the basement plan may need to be revised to reflect the accurate opening (door) proposed.
- 2) Floor Plan – The plans show that the residential addition will be connected to the existing residence by the way of a corridor. However, the plans do not show that there is an interior door from the existing residence to the corridor. If the proposal is to be considered a residential addition, there must be an interior connection between the structures. Please show how the gym/exercise area is accessed from the existing residence.

Intent of Use


- 1) The building appears to be designed as an assembly hall or for commercial purposes given the large open space, the amount of egress doors, a hoist way, and over 10,000 square feet of storage space. In order to provide reassurances to the County and the

Town that the building will be used for residential and agricultural purposes, the following information is requested:

- a. The plans for the residential addition shall be reviewed by the local building inspector or Wisconsin Uniform Dwelling Code Staff to ensure that the structure complies with the Wisconsin Uniform Dwelling Code. A letter shall be submitted from the building official that states that the proposal has been reviewed to the Wisconsin Uniform Building Code and conforms to all structural, design, and energy code requirements for a residential addition.
- b. The narrative submitted as part of the application states that the residential addition will be used for residential and agricultural purposes. Given the past history of proposed commercial activity, County Staff would request that a deed restriction be placed on the property to clarify the intended use of the addition. The deed restriction shall prohibit the addition from being used for public assembly events or charitable events. A proposed deed restriction is attached.

As soon as the concerns are addressed, the zoning permit will be issued for the residential addition.

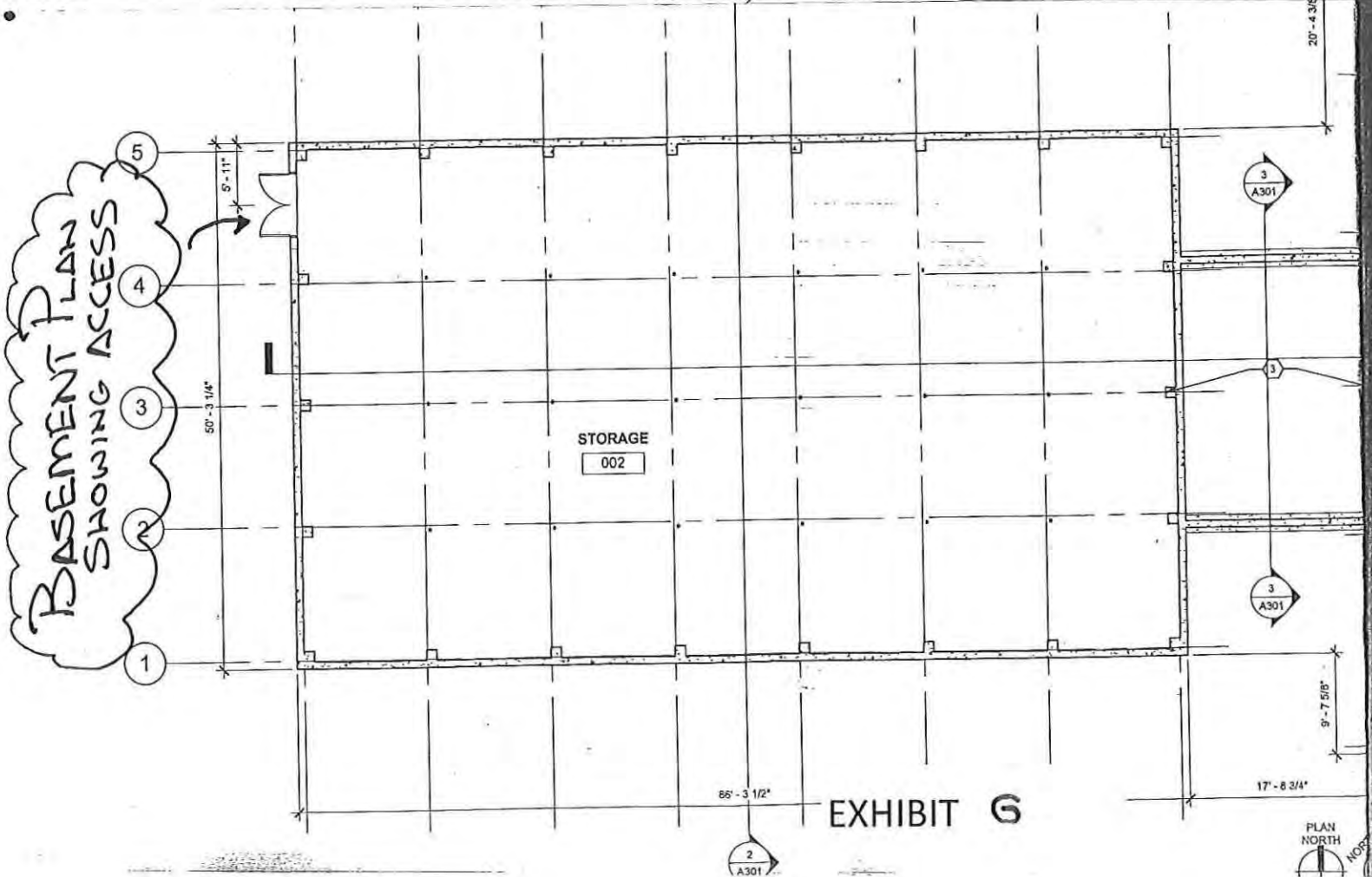
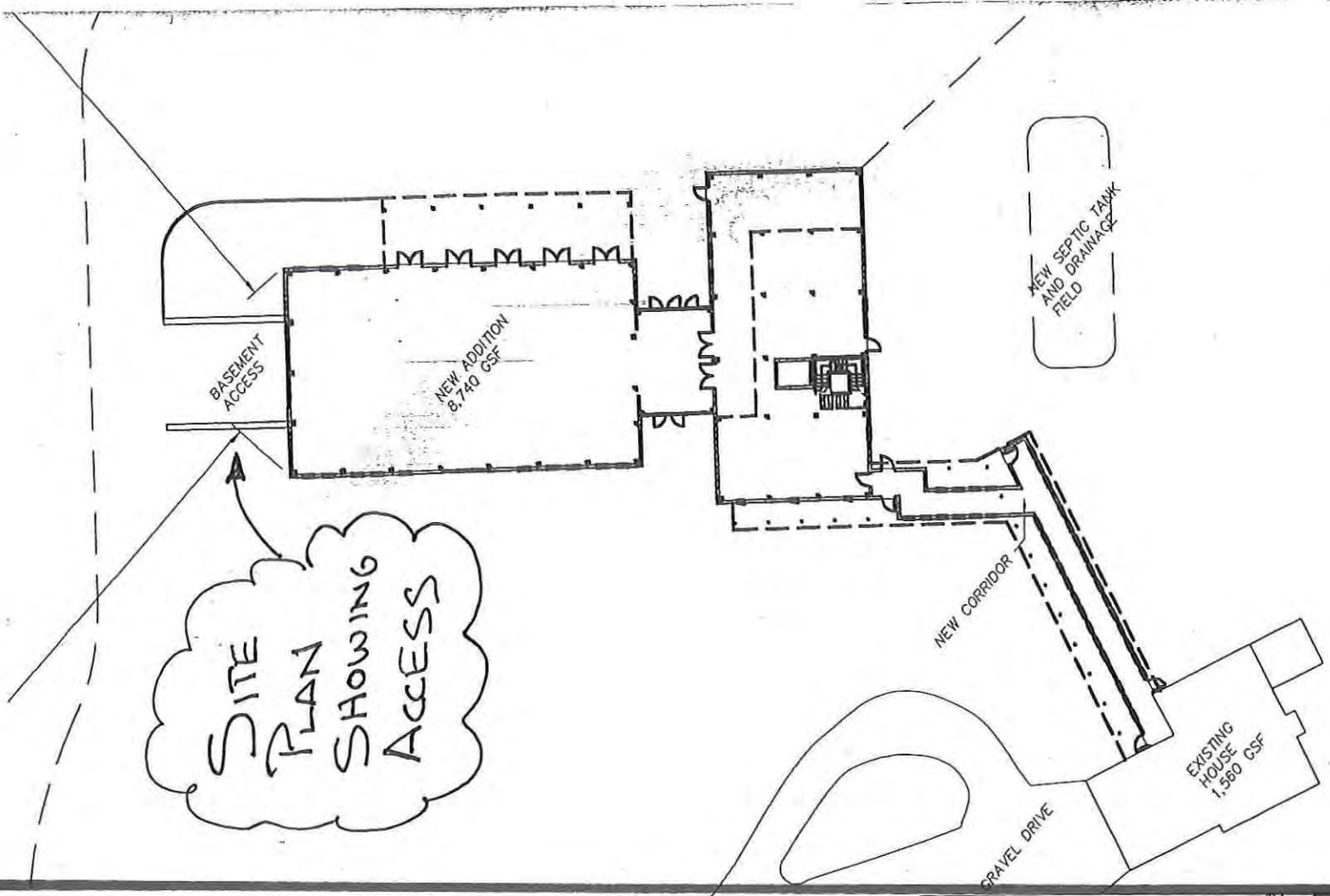
Respectfully,



Roger Lane
Dane County Zoning Administrator

COPY

Cc: Nancy Meinholz, Cross Plains Town Clerk
Greg Hyer, Town of Cross Plains Chair
Nikki Jones – Dane County Supervisor, District 28



DEED RESTRICTION

WHEREAS,

DETTMANN VINEYARDS LLC

is owner of the following described real estate in the Town of Cross Plains, Dane County, Wisconsin further described as follows:

Recording area

Name and return address:

LEGAL DESCRIPTION:

Parcel Number:

0707-152-9670-0

LOT 4 CSM 13885 CS92/137&144-1/13/2015 DESCR AS SEC 15-7-7 PRT NW1/4SE1/4, PRT SW1/4NE1/4, PRT SE1/4NW1/4 & PRT NE1/4NW1/4 (81.06 ACRES) TOG W/SHARED DRIVEWAY ESMT AGRMT IN DOC #5123079

WHEREAS, said owners desire to place certain restrictions and notice on the above-described real estate, to bind the owner(s) and those who may acquire title hereafter.

WHEREAS, the restrictions provided herein shall be enforceable at law or equity against any party who has or acquires any interest in the land subject to this restriction by the following who are named as Grantees and beneficiaries with enforcement rights:

- The County Government of Dane County, Wisconsin provided that the land is under the jurisdiction of said County at the time the enforcement action is commenced, and;
- The Town Government of the Town of Cross Plains, Dane County, provided that the land is within the jurisdiction of said Town at the time the enforcement is commenced, and;
- The owner(s) of record of any lands that are located within 300 feet of the subject property.

THEREFORE, the following restrictions are hereby imposed:

1. The use of the subject property is limited to residential and agricultural uses permitted in the A-1 Exclusive Agriculture District. The property shall not be used for commercial uses, including but not limited to, agricultural entertainment, amusement park, or a place of assembly as defined by the Wisconsin Commercial Building Code.

The restrictions set forth herein may be amended or terminated in the following manner:

1. The owner(s) of the subject property may submit a written petition calling for the amendment or termination of the restrictions. Such petition must be submitted to the Dane County Clerk who shall refer the petition to the Dane County Zoning and Land Regulation Committee (or successor committee), which shall then schedule and hold a public hearing on the petition.

The petition shall then be referred to the Town Government of the Town in which the subject property is located. The Zoning and Land Regulation Committee shall issue a written report on the petition to the County Board of Supervisors. The County Board shall, by majority vote, approve or reject the petition. Amendment or termination of the restrictions shall also require the approval of the Town Board.

2. Upon approval of the petition calling for an amendment or termination of the restrictions, the owner(s) of the subject property shall draft the amendatory covenant instrument. The owner(s) shall then execute and record the amendatory covenant with the Dane County Register of Deeds.
3. A rezoning of the subject property to a different zoning district shall also act to terminate the restrictions set forth herein.

_____ Date

_____ Date

_____ Signature of Grantor (owner)

_____ Signature of Grantor (owner)

_____ *Name printed

_____ *Name printed

This document was drafted by:
(print or type name below)

STATE OF WISCONSIN, County of _____

Subscribed and sworn to before me on _____ by the above named person(s).

Dane County
Planning and Development Department

Signature of notary or other person
authorized to administer an oath _____
(as per s. 706.06, 706.07)

*Names of persons signing in any
capacity must be typed or printed
below their signature.
P&D form 2/20/2001

Print or type name: _____

Title _____ Date commission expires: _____

Lane, Roger

From: Karl Dettmann <karldettmann@gmail.com>
Sent: Friday, June 23, 2017 2:55 PM
To: Greg Hyer
Cc: Lane, Roger; Violante, Todd; Andy Fieber (andyf@aldopartners.com); Jones, Nikole
Subject: Re: Residential Addition Zoning Permit Review

Based on this response from the town, I believe we are at an impasse. As it sits today, I will not agree to a deed restriction on my entire property the way it is proposed (I will agree to restricting the building which has always been the concern). Unless you have a different solution to put out there as an option, please send a denial as soon as possible so I can file an appeal as soon as possible.

Regards,
Karl

Sent from my iPad

On Jun 23, 2017, at 12:41 PM, Greg Hyer <grhyer@tds.net> wrote:

Town of Cross Plains position is that the deed restriction should apply to entire parcel which is consistent with zoning, land use plan and his representations.

Town is ok with clarifying terms under which deed restriction would be amended/lifted — if existing County ag zoning on property was clearly modified in future to permit activities restricted by the deed restriction; if Town plan was amended to allow rezoning and the deed restricted restricted activities.

Town is not in favor of subdividing property to narrow the scope of the deed restriction to the building. Town understands that the County has to consider this a residential addition. Town doesn't believe that it is or that it should be permitted as a residential addition.

I have no interest in continuing emails explaining/clarifying our position. Happy to work on language. Happy to sign deed restriction. Happy to go to Board of Adjustment to support a denial of the application.

Greg Hyer, Chair.

On Jun 21, 2017, at 4:41 PM, Karl Dettmann <karldettmann@gmail.com> wrote:

Hi Roger, can you give me some clarity in what I am waiting for? I would either like to work on a modified deed restriction to the building, or please send me a denial asap so I can file an appeal.

Best regards,
Karl

Sent from my iPad



Dane County Planning and Development Department

Room 116, City-County Building, Madison, Wisconsin 53703

Fax (608) 267-1540

July 3, 2017

Karl Dettmann
4200 County Highway P
Cross Plains, WI 53528

Aldo Partners, LLC
PO Box 45601
Madison, WI 53744

*Housing &
Economic Development*
(608)266-4270, Rm. 362

Planning
(608)266-4251, Rm. 116

Records & Support
(608)266-4251, Rm. 116

Zoning
(608)266-4266, Rm. 116

Re: Denial of Zoning Permit DCPZP-2017-00273

Dear Mr. Dettmann,

On May 18, 2017, a letter was written with regards to a zoning permit submittal for the construction of a residential addition to an existing residence located at 4200 County Highway P in the Town of Cross Plains. The letter stated that the application was placed on "Hold" in order to obtain additional information on the design and the intended use of the proposed structure (See attached).

County Staff expressed concerns that the proposed addition appeared to be designed for commercial use given the past history of other submitted proposals. Zoning permit DCPZP-2015-0547 was revoked on August 25, 2015, based on misrepresentation of the proposed use of the structure. The zoning permit was issued for an agricultural building, however, the Zoning Division found information that the intended use of the structure was for weddings and social events. The material submitted for this proposed residential addition appears almost exactly like the structure that was previously denied.

Dane County Zoning Division is in receipt of your email dated June 23, 2017, which expressed your refusal to provide additional information on the proposed project.

Without this additional information, the application for the zoning permit had been deemed incomplete in accordance with Dane County Code of Ordinances Section 10.25(2)(d). Zoning permit application DCPZP-2017-00273 is hereby DENIED.

The zoning permit is denied based on the failure to submit information to identify the design and the intended use of the structure. The reasons for denial are listed below:

1. Dane County Zoning Division requested that a new site plan or building plan be submitted to clarify the discrepancy in basement openings. No revised site plan or building plans were submitted to address the issue.

EXHIBIT J 1 of 2

2. Dane County Zoning Division identified that there was no true connection path between the separated addition and the existing residence. No revised building plans were submitted to address the issue.
3. Dane County Zoning Division requested information to ensure that the proposed addition is designed as a residential addition. A letter from the local building official was requested to confirm that the structure was designed to meet the Uniform Dwelling Code (residential building code). No information was submitted to ensure the structure has been designed to meet the residential building code.
4. Dane County Zoning Division requested that a deed restriction be placed on the property to ensure that the premise would not be used for commercial activity. The deed restriction was drafted in line with the narrative that was submitted as part of the zoning permit application, signed by Karl Dettmann (see attached). The narrative states, "Dettmann Vineyards is a private estate and will not be open to the public". The prepared deed restriction places assurances to match the submitted material for the project. This deed restriction was not recorded with the Register of Deeds.

Please be aware, under Dane County Code of Ordinance Section 10.26(3), persons aggrieved by this denial may appeal the denial to the Dane County Board of Adjustment within 30 days of the date of receipt of this letter.

Respectfully,



Roger Lane
Dane County Zoning Administrator

Cc: Nancy Meinholz, Cross Plains Town Clerk
Greg Hyer, Town of Cross Plains Chair
Nikki Jones, Dane County Supervisor, District 28
Shawn Widish, Dane County Regional Zoning Inspector