

February 25, 2025

Chair Al Long and Hans Hilbert  
Dane County Board of Adjustment  
City County Building, Room 116  
210 Martin Luther King Jr. Blvd.  
Madison, WI 53703

RE: Maier Farms Real Estate, LLC Appeal 3727

Dear Chair Long and Mr. Hilbert:

I write to inform the Board of Adjustment that the Town of Vienna supports Maier Farms' appeal of Dane County's issuance of a wetland zoning violation for their property, which is located in the Town. The Town asks the Board of Adjustment to either determine that the County lacks jurisdiction over the non-federal wetlands or that the Maiers engaged in agricultural activities permitted under the County's zoning ordinances. Either way, it would be unfortunate if the County continued to prevent the Maiers from maintaining productive agricultural land.

The Town first reviewed this situation when the Maiers applied to rezone their property out of the shoreland-wetland zoning district. After reviewing the materials the Maiers' submitted in support of their application, the Town Board stated as follows:

The Plan Commission and Town Board agreed that this was the best solution to this situation. The Maiers had obtained permission and permits to tile by the DNR, USDA and FSA State Organizations that have regulated this process for Farmers and landowners in the past. The members of Vienna boards stated Dane County involvement is not consistent with previous procedures in the past. The Maiers will move the pump to a new location upon approval by Dane County.

Unfortunately, the County Board disagreed with the Town's position. It still does not make sense to punish the Maiers for tiling their field, which was necessary to maintain it as productive agricultural land. The Maier's installation of drain tile is a permitted activity under the Dane County Ordinance § 11.07(2)(c). Also, the Maiers' tiling project is consistent with the fact that the their property is classified by the USDA as prior converted cropland and by the State as a nonfederal wetland.

Properties like the Maier's property are already subject to federal and state regulations that preserve and protect wetlands. By applying yet another set of regulations to farm properties, Dane County is making it hard to preserve productive agricultural land. Further, under Wisconsin Statutes Section 281.36(12m), Dane County does not have the authority to regulate nonfederal

wetlands, such as the wetland on Maier's property. Put simply, the County has exceeded its lawful authority by attempting to enforce an ordinance against the Maiers which the County is prohibited from enforcing by state statute.

As stated in our Comprehensive Plan, one of the Town's goals is to "continue to maintain the Town's rural character through the preservation of agricultural land." The Town believes that maintaining existing farmland in the Town and throughout Dane County is critically important to our economy and way of life. If the County's continues to use its zoning ordinance to regulate nonfederal wetlands, in violation of Wisconsin Statutes, the Town's goals as stated in our Comprehensive Plan will be undermined. To prevent this issue from coming up each time a farmer installs a drainage system to preserve cropland, the County must recognize that tiling issues are controlled by federal and state regulators.

Dane County is growing and developing rapidly. Also, there is more annual rainfall in this area because of a changing climate. These factors are making it harder and harder to preserve agricultural land in Dane County. The Maiers are trying to make sure that their farm remains active and productive for years to come. Dane County should not be suppressing efforts to preserve farmland. The Town supports them, and the federal and state authorities do not object to their activities. That should be enough.

The Town asks the Board of Adjustment to support the Maier's appeal.

Sincerely,

Town of Vienna Board

A handwritten signature in black ink, appearing to read "Gary O'Leary". The signature is written in a cursive style with a large initial "G" and "O".