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March 18, 2016

BY EMAIL AND U.S. MAIL

Dane County Zoning & Land Regulation Committee
Planning and Development, Zoning Division
City-County Building, Room 116
210 Martin Luther King Jr. Blvd.
Madison, WI 53703-3342

Re: Rezoning Petition No. 10931

Dear Committee Members:

On behalf of the property owner, Mr. Stephen Champagne, I am writing to oppose the proposed condition for the rezoning petition suggested by the Staff Report, which would require removal of the second floor of a building located on the property.

The Dane County Zoning Administrator has alleged that the property in question has three residences in violation of the housing density policies of the Town of Pleasant Springs and in violation of Dane County Zoning Ordinance 10.04(1) which allows only one principal building on a lot. Rezoning this property and dividing it into two lots as requested in the rezoning petition will resolve this issue with respect to two of the buildings. The Zoning Administrator has concluded that what he alleges to be a third "residence" should be removed.

As noted on the Staff Report, the Town of Pleasant Springs Board met on March 15, 2016 regarding the building in question. The Town Board concluded that the second floor of the building should be removed.

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We ask that the Zoning & Land Regulation Committee (“ZLR Committee”) reject both of these proposals because, as it stands today, the building in question is a legitimate accessory building, in compliance with all zoning ordinances.

Nothing in the zoning ordinances prohibits a building from being two stories tall. Dane County Zoning Ordinance 10.126(4)(b), regarding the height of accessory structures in areas zoned A-2 Agriculture (the zoning requested in the rezoning petition being considered), provides that accessory buildings shall not exceed 35 feet in height. This building meets that requirement.

Nothing in the zoning ordinances prohibits drywall or stairs in an accessory building.

Nothing in the zoning ordinances prohibits partitioning an accessory building with separate rooms.

The building in question meets all setback and lot coverage requirements of the zoning ordinances.

The Zoning Administrator has asserted that the building was constructed as a residence. However, consistent with an Affidavit signed by Mr. Champagne in 2006, no one has ever lived in the building. Water pipes that had been installed were never connected to a water source but have nevertheless been filled with expandable foam fill. A sewer stack that was present during the Zoning Administrator’s inspection in January has been cut off and filled with an expandable plug and concrete – witnessed and documented by Richard Herro, Dane County Sanitarian. In the spring, Mr. Champagne is removing the connection between the building and the septic system located on what will become part of lot 2.

Consistent with Dane County Zoning Ordinance 10.04(1)(b)2, there are presently no sanitary fixtures in this accessory building. With the removal of all water and sewer connections, Mr. Champagne has completely eliminated the possibility that this building could be used as a residence.

My understanding of the process that Mr. Champagne has been a part of – the rezoning petition, the request for lot division, and now the inspection and review of the buildings on his property – are intended to be an effort to bring his property into compliance with the zoning ordinances. Instead, this process has been about punishing past offenses and making an example of this homeowner. No one in this process – not the Zoning Administrator, not the Town Plan Commission, not the Town Board, and likely not this

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ZLR Committee – can point to a zoning ordinance that is being violated by the building in question.

We respectfully request that the ZLR Committee approve the rezoning petition, number 10931, as submitted with only two conditions:

1. A deed restriction shall be recorded on parcels 0611-112-9000-2 and 0611-112-8500-9 to prohibit further residential development on the remaining A-1 Exclusive Agriculture zoned land. The housing density rights for the original farm have been exhausted.
2. A joint driveway agreement shall be recorded on the properties for the benefit of Lots 1 & 2 and the Certified Survey Map shall reflect the joint driveway access.

Because the building in question is a legitimate accessory building, not in violation of any zoning ordinance, there should be no condition on the grant of this rezoning petition, number 10931, related to said building.

Very truly yours,

STAFFORD ROSENBAUM LLP



Michelle Affatati

MA:ms/nmg

cc: Mr. Stephen Champagne
Mr. Roger Lane