


<b>Staff Report</b>    <b>Zoning and Land Regulation Committee</b>	<i>Public Hearing:</i> <b>February 23, 2021</b>	<b>Petition 11651</b>	
	<i>Zoning Amendment Requested:</i> <b>RR-2 Rural Residential District TO SFR-08 Single Family Residential District</b>		
	<i>Size:</i> <b>2.01 Acres</b>	<i>Survey Required:</i> <b>No</b>	<i>Town/Section:</i> <b>YORK, Section 18</b>
	<i>Reason for the request:</i> <b>ZONING CHANGE TO ALLOW FOR REDUCED REAR YARD SETBACK FOR A RESIDENCE THAT WAS CONSTRUCTED W/O A ZONING PERMIT</b>		<i>Applicant:</i> <b>CHRISTOPHER A SAWYER</b>  <i>Address:</i> <b>7233 COOPER ROAD</b>



**DESCRIPTION:** Applicant requests SFR-08 zoning for the existing ~2 acre residential parcel to resolve a zoning violation – home built without a zoning permit and within the RR-2 zoning 50’ rear yard setback area. The SFR-08 district has a less restrictive rear yard setback (25’) that will make the newly built residence compliant with the zoning ordinance. The previous residence remains on the property, but has had the sanitary fixtures removed, and is to be completely removed from the property by June 30, 2021.

**OBSERVATIONS:** The existing use of the property is residential. Neighboring land uses are agriculture / open space and scattered rural residences. No sensitive environmental features observed.

**TOWN PLAN:** The property is located in the town’s agricultural preservation area.

**RESOURCE PROTECTION:** No resource protection corridors located on or near the property.

**STAFF:** As noted above the new residence on the property was built without first obtaining the required zoning permit, and in violation of the minimum rear yard setback (50’). In addition, the new home was built with an additional “mother in law suite” separate living space above the garage, and contains a total of 6 bedrooms despite the private septic system being only sized/approved for 5 bedrooms. Staff has recommended conditions to address these issues, below.

The proposed rezoning to SFR-08 would resolve the zoning and setback violations. Note that traditional rural / farmette type uses are not permitted in the SFR-08 district – e.g., large outbuildings, small scale farming activities.

As noted above, the new residence on the property was constructed without first obtaining a zoning permit. Unlike most townships, the town of York does not contract with a local building inspector to issue building permits for one and two family construction. Locally contracted town building inspectors have a cooperative agreement with the Dane County zoning division to not issue a building permit until the owner provides a copy the county zoning permit. In this instance, the state issued a building permit and the issuing agency did not first check to see if a county zoning permit had been obtained. This appears to be an isolated incident where the owner believed they had all required permits.

Staff is recommending approval of this petition with the following conditions designed to address the issues/concerns with the secondary living area, the septic system being approved for only 5 bedrooms, and to ensure compliance with the town density policy.

1. The owner shall record with the Register of Deeds a Private Onsite Wastewater Treatment System (POWTS) covenant, on a form specified and required by Dane County Environmental Health Division, stating that no more than 10 individuals will be living in the 5 bedroom home that the septic system was sized for.
2. The owner shall record a deed restriction with the Register of Deeds that states the following:
  - a. Division of the property is prohibited.
  - b. The use of the residence on the property is limited to single family residential as defined by Dane County Code of Ordinances [10.004\(138\)](#). The living space above the garage is to be used by existing family members only, and is not to be rented out.
  - c. The previous residential structure shall be removed from the property no later than June 30, 2021.

The above required documents shall reference the property's legal description, which is:

- Lot 1, Certified Survey Map No. 13883, Located in the Northeast 1/4 of the Southwest 1/4 of Section 18, T9N, R 12E, Town of York, Dane County Wisconsin. Containing 87,648 square feet or 2.01 acres.

Failure to record the covenant and restrictions within 90 days of rezone approval will cause the petition to become null and void.

**TOWN:** Approved with no conditions.

*Questions about this staff report? Contact Majid Allan – [allan@countyofdane.com](mailto:allan@countyofdane.com) / 608-267-2536.*