
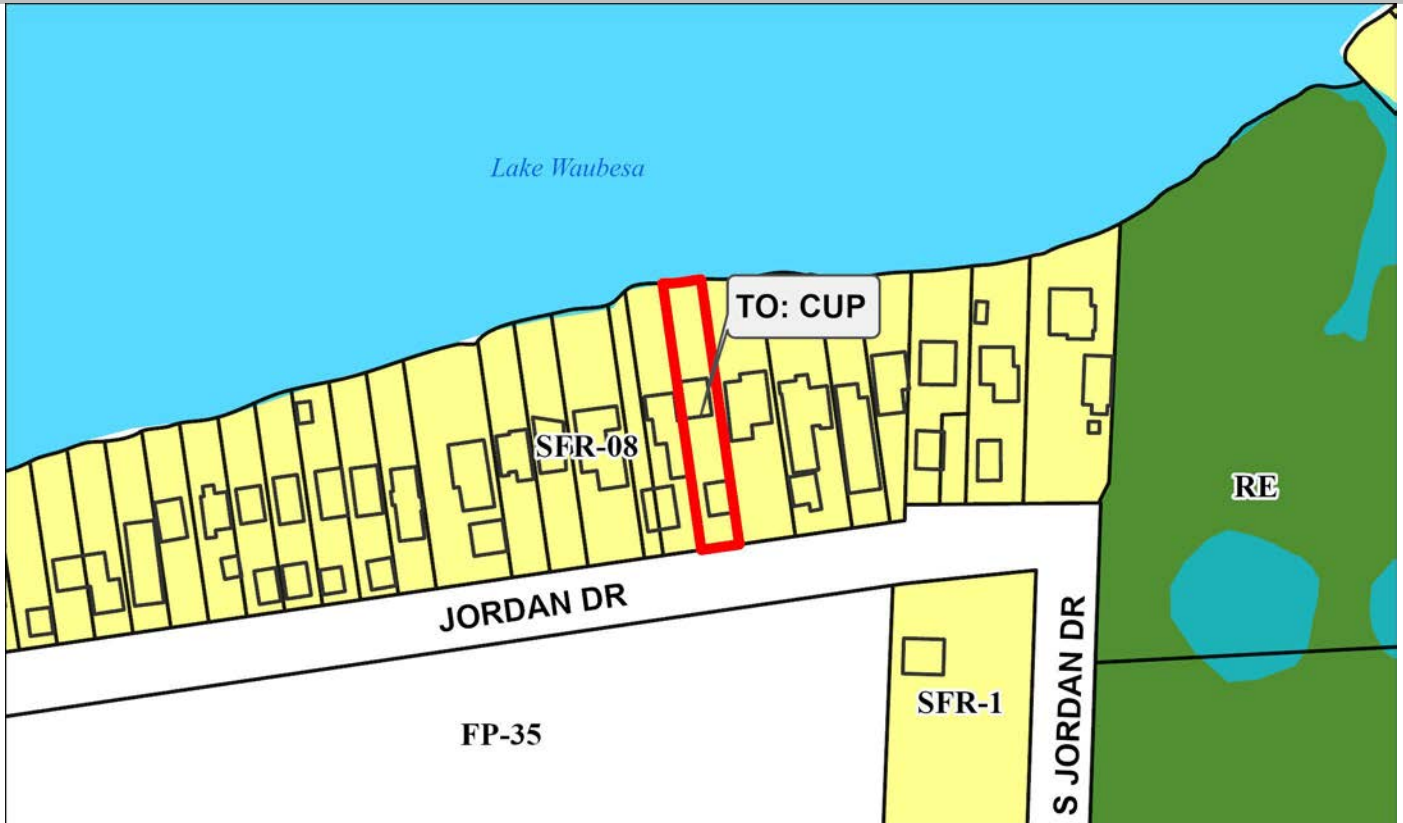


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> December 17, 2024		Conditional Use 02647
	<u>Zoning Amendment Requested:</u> TO CUP: Accessory building over 12 feet in average height (16 feet proposed)		<u>Town, Section:</u> DUNN, Section 8
	<u>Size:</u> 0.26 Acres	<u>Survey Required:</u>	<u>Applicant:</u> ANDREW M DAVEY
	<u>Reason for the request:</u> Accessory building over 12 feet in average height (16 feet proposed)		<u>Address:</u> 4276 JORDAN DRIVE



DESCRIPTION: Applicant Andrew Davey requests a conditional use permit (CUP) for an accessory building over 12 feet in height. He would like to build a replacement garage in the same location as the current garage, but slightly larger and taller with an height of 16 feet (measured as average height of the roof peak and eaves). In the SFR-08 zoning district, this is allowed but only with an approved CUP.

The new garage would have a 27'x32' footprint and be slightly taller than the existing garage. The application indicates that the garage would have the same average height as the existing garage; however, upon closer inspection the builder verified that the average height of the existing garage is actually 11.5 feet.

OBSERVATIONS / FACTUAL INFORMATION: The property is in residential use and is a quarter-acre in size. The neighboring land uses are residential to the east and west, and agricultural to the south. The lot is part of Britson Park subdivision which was platted in 1918.

RESOURCE PROTECTION: The property is subject to shoreland zoning regulations; a shoreland zoning permit will be required prior to construction. The property has an established Floodplain elevation of 847 feet (Zone AE); the ground elevation of the garage is significantly above that at roughly 865 feet.

COMPREHENSIVE PLAN: The property is located in the town's "Limited Service Area" planning area. The town's comprehensive plan lists the conditional uses available in each zoning district, "...that, based upon their nature and well-known or anticipated impacts, the Town believes could be reasonably consistent with..." the town's comprehensive plan.

The town plan includes policies designed to protect a number of important viewsheds in areas of the town, so the plan does not include accessory buildings over 12' in height as one of the uses deemed potentially consistent with the comprehensive plan. The subject property and surrounding area along Jordan Drive does not appear to be located in one of the viewshed protection areas.

The proposed conditional use appears reasonably consistent with comprehensive plan policies. Pending any concerns raised at the ZLR public hearing, or by the Town of Dunn in the course of its review, staff recommends approval of the petition subject to the standard conditions that apply to all CUPs, along with any conditions the town may require.

For questions about the comprehensive plan, please contact Senior Planner Majid Allan at (608) 267-2536 or Allan.Majid@danecounty.gov.

CONDITIONAL USE PERMIT DECISION MAKING: "Conditional uses" are those land uses which, because of unusual nature and potential for impacts on neighboring lands, public facilities, the environment or general welfare, warrant special consideration and review.

Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and issue a determination whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a conditional use permit. Below is the list of the applicable standards from Section 10.101(7)(d) of the Zoning Code, and a summary of the relevant facts including the applicant's testimony with regards to meeting the standards.

1. *That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.*

The CUP application describes the proposed operations plan. The applicant states that the existing garage is a nonconforming garage that exceeds code height restrictions, and is a dilapidated danger that will be removed. As noted above, the applicant has confirmed that the existing garage is not actually nonconforming, but under the maximum 12-foot average height limit (see picture below). The new garage will be a slightly larger footprint (864 square feet versus the current 780 square feet) and taller height (16 feet average height versus 11.5 feet average height).



2. *That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.*

The applicant states that nothing site related will change or impede neighboring properties. Staff notes the new garage will replace and upgrade an existing structure, in roughly the same location.

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

The applicant states that nothing site related will change or impede neighboring properties. The proposed garage is 864 SF in size, and would be located 26 feet from the front lot line and 5 feet from east side lot line.

This standard pertains to whether the proposed conditional use would affect *how the surrounding properties could be developed and improved, considering what they are currently zoned for*. This property and most of the surrounding properties are already developed as residential lots with garages facing the street. The other garages vary in size and their distance from the road. The lot adjacent to the west has a garage 1410 SF in size; the lot adjacent to the east does not have a detached garage; two lots to the east there is a 950 SF garage.

4. Adequate utilities, access roads, drainage and other necessary site improvements have been/are being made.

The applicant states that no new utilities, road, drainage or site improvements are needed. The utilities, access roads, drainage, and other improvements needed for the proposed use are already in place.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

Off street parking is provided for the property by the driveway that fits 2 cars, plus the proposed garage. The applicant states that no new traffic will be created by the CUP.

6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

The proposed use conforms to the applicable regulations of the SFR-08 zoning district, although some additional documentation is needed to ensure this. Under SFR-08 zoning, accessory buildings up to 16 feet in average height are allowed with an approved CUP. However, the building may not be used as residential living space based on s.10.101(2)(a) which prohibits use of accessory buildings for living space. The building plans submitted are preliminary and not detailed, but the applicant intends to include an attic truss with stair case to use an upper level for cold storage. The builder has stated the "second story" is part of the truss design and will not have an actual floor plan or deck system, and that the building will only be used as a garage. To help ensure future compliance, a deed restriction should be recorded on the property to document this restriction.

Accessory buildings must also be no larger than 100% of the house footprint; the proposed building complies with this, being 864 SF versus the house which is 1,120 SF.

The property qualifies for building setback exceptions in s. 10.102(9) and 10.102(10). The minimum front setback is 20 feet since Jordan Road was platted in 1918. And because this is a riparian (waterfront) lot that is 60 feet wide, a reduced side-yard setback of 2.5 feet is possible. The site plan proposes a 26' front setback and a 5' side setback which meets these requirements. Under s.10.102(10)(f) and (g), accessory buildings may be located in the front yards subject to the reduced side yard setbacks described in the district it is located in. Given the lot is 40 feet wide, the accessory building could potentially be 2.5 feet away from the lot line. Caution should be taken not to disturb the existing topography (no alteration of grade within 5 feet of the property line).

7. That the conditional use is consistent with the adopted town and county comprehensive plans.

As noted above, the proposal appears consistent with the Town and County Comprehensive Plans.

8. If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s. 10.220(1).

Not applicable.

POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE: The potential nuisances that pertain to large accessory buildings most likely involve visual impacts to neighboring properties. The applicant's CUP application and other facts address how these potential nuisances are handled, as noted above.

Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103, there are no other special requirements for this type of request.

TOWN ACTION: The Town Board has approved the CUP with six conditions (see conditions #14-19 below).

STAFF RECOMMENDATION: Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the information outlined above for the proposed building and the buildings on surrounding lots, and the town's approval and conditions listed below.

Pending any comments at the public hearing, Staff recommends that (1) the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards listed above, and (2) we recommend approval with the conditions listed below. If the Committee requires additional information on which to base a decision, they could request specific information of the applicant or staff at the public hearing.

CUP 2647 Potential Conditions of Approval:

Standard Conditions for all Conditional Use Permits from 10.101(7):

1. Any conditions required for specific uses listed under s. 10.103 (see below).
2. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.
3. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.
4. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.
5. Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.
6. Existing onsite wastewater sewage disposal systems, if any, serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought, at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46, Dane County Code.
7. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
8. Off-street parking must be provided, consistent with s. 10.102(8).
9. If the Dane County Highway, Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be borne by the landowner. Costs borne by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
10. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
11. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.
12. Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit.

Conditions specific to CUP # 2647:

13. The applicant shall record a deed restriction with the Dane County Register of Deeds that limits the accessory building to storage use and prohibits its use as residential dwelling space.
14. The accessory building may not be used for any commercial, business, or industrial activities.
15. The accessory building may not be used for human habitation.
16. Plumbing is not allowed in the accessory building.

17. Any external lighting shall be restricted to safety lights at the entrance and exists of the building. Lighting must be dark skies compliant and no light shall spill over the neighboring property line.
18. Stormwater resulting from the accessory building must be managed on site.
19. The accessory building may not be any taller than 21 feet at the peak of the roof and the average height, measured from the lowest eave to the peak of the roof, shall be no higher than 16 feet.

Please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@danecounty.gov if you have questions about this petition or staff report.