
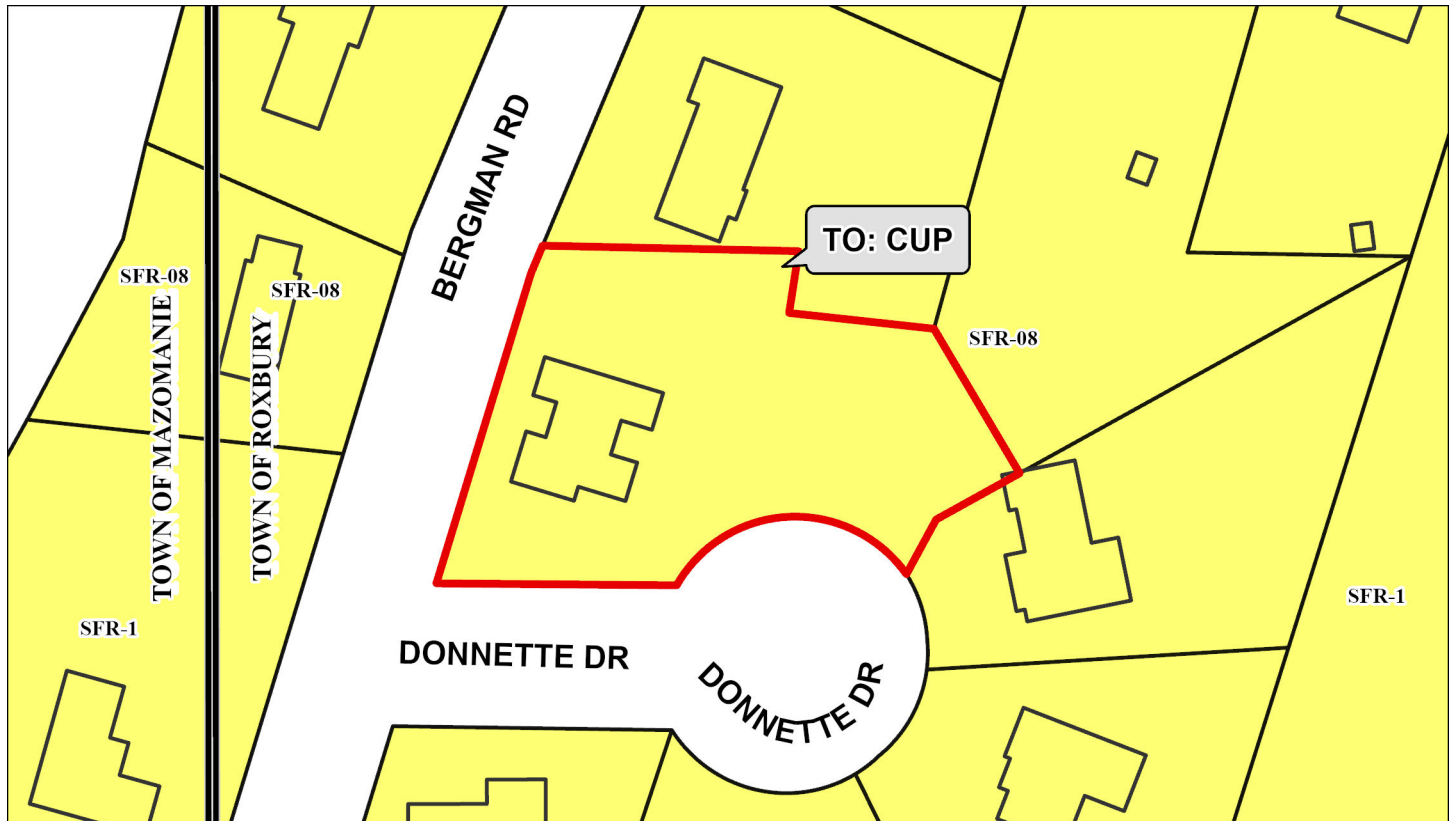


<b>Staff Report</b>    <b>Zoning &amp; Land Regulation Committee</b>	<u>Public Hearing:</u> <b>June 24, 2025</b>		<b>Conditional Use 02666</b>
	<u>Zoning Amendment Requested:</u> <b>TO CUP: CUP FOR ACCESSORY BUILDING OVER 12 FT IN AVERAGE HEIGHT (12.9 FT PROPOSED)</b>		<u>Town, Section:</u> <b>ROXBURY, Section 18</b>
	<u>Size:</u> <b>0.82 Acres</b>	<u>Survey Required:</u>	<u>Applicant:</u> <b>JOEL DAVID LUDOWITZ</b>
	<u>Reason for the request:</u> <b>CUP FOR ACCESSORY BUILDING OVER 12 FT IN AVERAGE HEIGHT (12.9 FT PROPOSED)</b>		<u>Address:</u> <b>9494 DONNETTE DR</b>



**DESCRIPTION:** Applicant Joel Ludowitz requests a conditional use permit (CUP) to construct a new detached garage / residential accessory building that is taller than 12 feet in average height. A 30'x30' garage with average 12.9-foot height is proposed, to fit the personal property that cannot fit into a shorter garage (including a boat with a ski tower).

**OBSERVATIONS:** The property is a residential lot 0.82 acres in size. The neighboring properties are similar residential lots of similar size similar residential zoning. The property is zoned SFR-08 Single Family Residential. This zoning district allows for accessory buildings up to 12 feet in height, and allows up to 16 feet with approval of a CUP. In the zoning ordinance, building height is defined as the average height between the building peak and eave, in relation to the finished ground level.

**RESOURCE PROTECTION:** There are no sensitive environmental features on or in proximity to the property.

**COMPREHENSIVE PLAN:** The proposal is in the rural development area, designed for residential use. The Town plan is silent on accessory building height. Pending any concerns/issues expressed at the ZLR public hearing, or by the town in the course of its review, staff finds the proposal to be reasonably consistent with the comprehensive plan. For questions about the town plan, contact Senior Planner Curt Kodl at (608) 266-4183 or [Kodl.Curt@danecounty.gov](mailto:Kodl.Curt@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 determine whether the proposed conditional use, with any recommended conditions, meets all of the standards required to obtain a CUP. 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 building plan. The applicant states that the building will not effect any public health or safety.

- 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 the building will be placed in the back yard where there is an open space (prior volleyball court). The building will have limited view from the roadway or neighboring properties, as there are several mature trees on the property. The building will be used primarily for personal storage and no business or commercial activity will take place.

- 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.***

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*. The applicant states that the building and its placement on the lot will not impact neighboring properties. This property and most of the surrounding properties are already developed and zoned for residential use.

- 4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.***

The utilities, access roads, drainage, and other improvements needed for the proposed use are already in place. No sanitary fixtures are proposed.

- 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.***

The proposed building would have access to Donnette Drive via a new driveway, subject to town approval.

- 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. A garage of this height is presumed to be compatible with other uses in the district, as long as CUP standards are satisfied.

- 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 are most likely to occur with a taller accessory building are visual impacts to neighboring properties. The proposed garage in this case is less than one foot taller than the standard height allowance. The applicant’s CUP application addresses how these potential nuisances are handled, as noted above. Under Dane County Zoning Ordinance section 10.103, there are no other special requirements for this land use. The ZLR Committee could place conditions of approval on this CUP after public input and deliberation, if concerns arise with the proposal.

**TOWN ACTION:** On May 19<sup>th</sup>, the Town Board recommended approval of the CUP with no special conditions.

**STAFF RECOMMENDATION:** Staff believes the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns. This includes the information outlined above, the proposed building plans, and is also reflected in the town's approval with no conditions. If the Committee requires additional information on which to base a decision, they could request information from the applicant or staff at the public hearing.

Pending any comments at the public hearing, Staff recommends that (1) the ZLR Committee makes findings of fact as to whether the proposal meets the CUP standards above, and (2) we recommend approval with the conditions below, which are the 12 standard conditions in the zoning ordinance that apply to all CUPs.

***CUP 2666 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 (none).
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.

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