
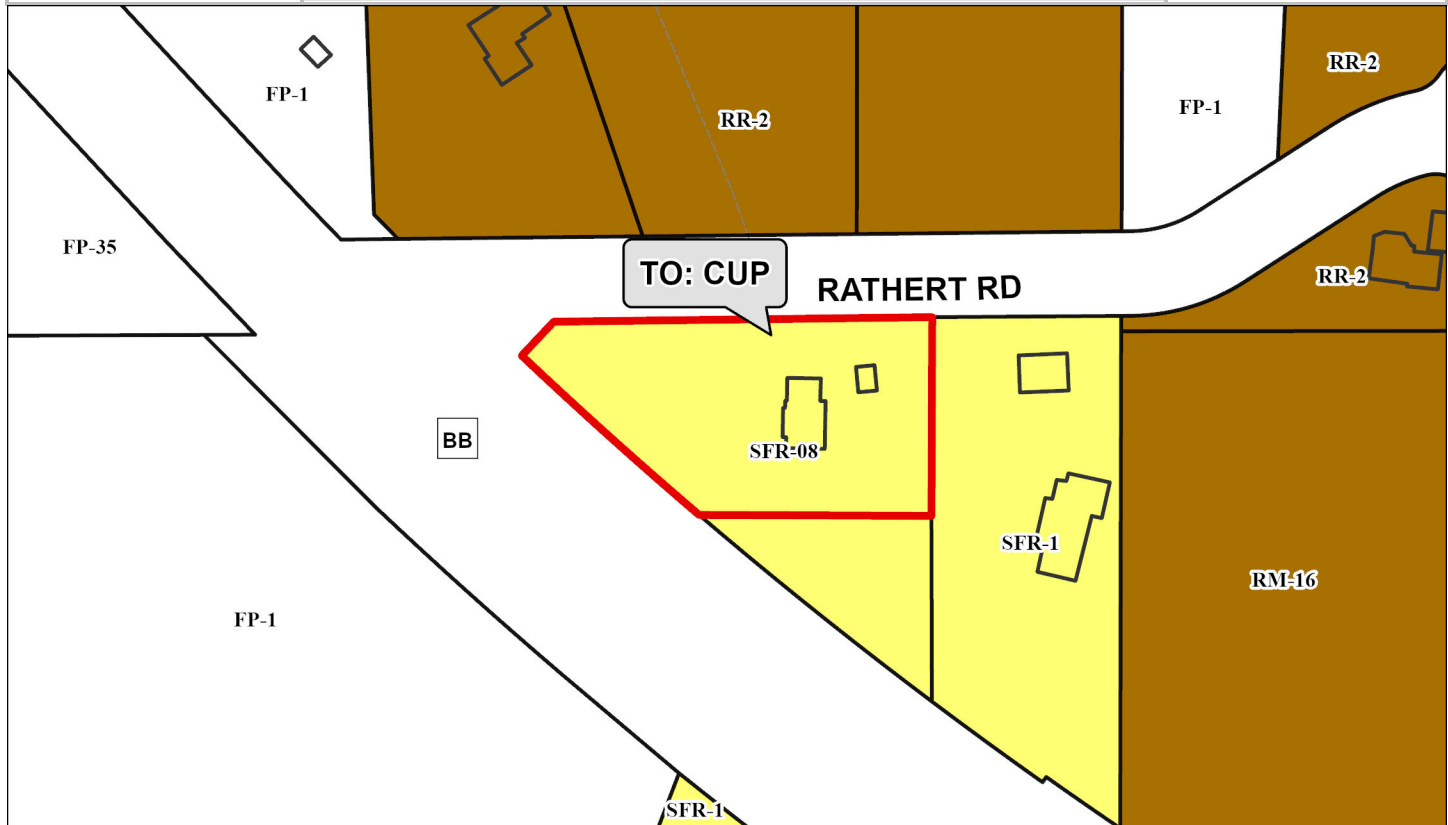


Staff Report  Zoning & Land Regulation Committee	<u>Public Hearing:</u> September 16, 2025		Conditional Use 02678
	<u>Zoning Amendment Requested:</u> TO CUP: Accessory building over 12 feet in average height		<u>Town, Section:</u> COTTAGE GROVE, Section 11
	<u>Size:</u> 0.9 Acres	<u>Survey Required:</u>	<u>Applicant:</u> KYLE R HERRITZ
	<u>Reason for the request:</u> Accessory building over 12 feet in average height		<u>Address:</u> 2001 RATHERT RD



DESCRIPTION: Applicant Kyle Herritz requests a conditional use permit (CUP) to build a garage 15.5 feet in average height. Current SFR-08 zoning limits the height of accessory buildings to 12 feet (measured as the average between the roof peak and eaves, in relation to the ground in front of the building). The garage would be 30'x40' or 1200 square feet.

OBSERVATIONS: The property is in residential use and is just under one acre in size. The neighboring lands contain residential lots to the north/east/west, with one rural mixed-use property to the east (zoned RM-16), and agricultural lands (zoned Farmland Preservation) to the west.

The proposed construction would meet the requirements of the SFR-08 zoning, if this CUP is approved. An accessory building up to 16 feet in average height is an allowable conditional use in the SFR-08 zoning district. The owners do not have the option to rezone the lot to SFR-1 (which would allow a taller accessory building), because it would need to be one acre or more in size.

RESOURCE PROTECTION: There are no sensitive environmental features on or within 300 feet of the property.

COMPREHENSIVE PLAN: The property is located in the town's agricultural preservation area. Although the applicant proposes to construct a 1,200 sq ft garage, no change in land use is being proposed. But for the additional 4' in height being requested, a detached garage of the size and location proposed would be permissible under the current SFR-08 zoning. The proposal appears reasonably consistent with comprehensive plan policies. 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 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 operations plan. The applicant states that the garage has been designed to integrate into the neighborhood and will not pose any risk to health, safety, comfort or welfare because the use aligns with the character and scale of the area and maintains compatibility with neighboring properties. He states that lighting and noise will not be affected, there will be no outdoor storage, and no change to traffic.

- 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 is thoughtfully planned to ensure it does not impair or diminish nearby properties. He says it is consistent with the character of the neighborhood, that most homes there have at least one accessory building, including a horse stable and indoor arena across the street.

- 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 many of the neighboring properties are agricultural and residential, and that the proposed use will not change or restrict those, nor would it create any barrier to future development. He states the use will be contained entirely within this property and will not require shared infrastructure or impose burdens such as traffic, utilities or noise that could limit how nearby parcels are used or improved over time.

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*. As noted above, this and most of the surrounding properties are already developed for residential or agricultural 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. The garage would use the existing driveway that has been in place for years.

- 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 garage would provide off-street parking in addition to the existing driveway. No impacts to ingress/egress.

- 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. The garage height of 15.5 feet is an allowable conditional use in the SFR-08 zoning district.

- 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 the requested conditional use permit most likely involve aesthetics. Based on the layout of the property and proposed location of the accessory building, the likelihood of such impacts is limited.

TOWN ACTION: The town recommended approval of the CUP with no conditions.

STAFF RECOMMENDATION: Staff believes that the applicant has provided sufficient evidence to address the CUP standards and mitigate the potential concerns.

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) approval with the conditions listed below. The conditions below reflect the general conditions from the Chapter 10 zoning code that apply to all CUPs.

CUP 2678 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 if you have questions about this petition or staff report.