
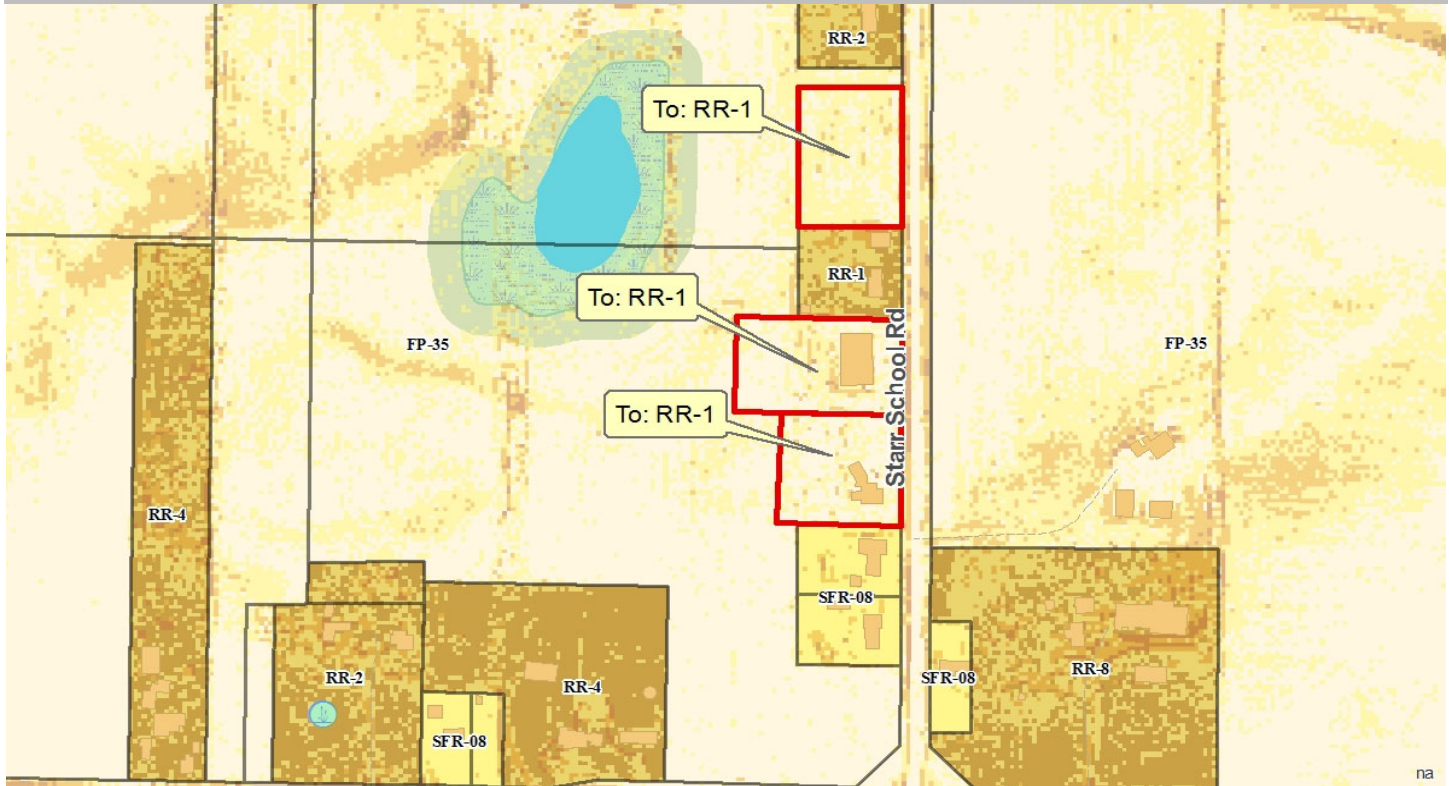


<p>Staff Report</p>  <p>Zoning and Land Regulation Committee</p>	<p>Public Hearing: December 13, 2022</p>	<p>Petition 11912</p>	
	<p><u>Zoning Amendment Requested:</u> FP-35 Farmland Preservation District TO RR-1 Rural Residential District and RR-2 Rural Residential District</p>	<p><u>Town/Section:</u> RUTLAND, Section 2</p>	
	<p><u>Size:</u> 5.7 Acres</p>	<p><u>Survey Required:</u> Yes</p>	<p><u>Applicant</u> DOROTHY M JOHNSON</p>
	<p><u>Reason for the request:</u> Separate existing farmstead from farm and create 3 additional residential lots</p>		<p><u>Address:</u> 1343 STARR SCHOOL RD, NORTH AND SOUTH OF 1383 STARR SCHOOL RD</p>



DESCRIPTION: Applicant Michael Rumpf, agent for the Dorothy Johnson Estate, proposes to separate the existing farmstead from the 154-acre Johnson farm, and create two additional residential lots as part of settling the estate. The new lots would be created via certified survey map (CSM) and rezoned to RR-1.

OBSERVATIONS (updated 2/6/23): Two 2-acre lots are needed to execute the provisions of the will. The original petition for 3 new lots was later revised to include a 4th lot, which is the applicants’ goal. However, to create the 4th lot would require the use of transfer of development rights (TDR) from a separate sending property (parcel 051015385004), and at the Town’s direction the applicants amended the petition back to a 3-lot proposal because the Town is currently reviewing its TDR policies with regard to substandard parcels. See Town Plan comments below.

Prime soils are present on proposed Lot 1, much of Lot 2, and part of Lot 3. Soils are partially hydric on proposed Lot 1 and parts of the other lots. The proposed lots are roughly 1 mile from an existing quarry to the northwest, in the Town of Dunn. The property is subject to the City of Stoughton’s extraterritorial jurisdiction for land division reviews.

Proposed Lot 2 contains an 8,470 SF shed building which was previously in agricultural use. The son of Dorothy Johnson will inherit this lot and intends to construct a residence attached to the existing building within the next 3 years. See “staff recommendations” below for additional comments.

TOWN PLAN (updated 2/9/23): The property is located in the town’s agricultural preservation area, wherein development is limited to one density unit, or “split”, per 35 acres of land owned as of June 7, 1978. As indicated on the attached density study report, the *subject* property remains eligible for 2 density units. The applicant initially proposed to create a 3rd residential lot by transferring a density unit from a 20 acre parcel of land located in section 15 adjacent to Badfish Creek. That 20 acre property is considered a legal “substandard” parcel under the town plan for purposes of determining development potential. The applicable town plan policy for such parcels is as follows:

18. *Parcels 8 acres or more but less than 35 acres which existed prior to June 7, 1978 are considered substandard parcels and shall be governed by the following standards, provided they can meet all other Town and County development standards that may apply:*
 - a. *Substandard parcels which are vacant are allowed to rezone to an appropriate district to allow one single-family home.*
 - b. *Substandard parcels with one residence may be split one time. Resulting parcels should be appropriately rezoned.*

As noted on the density study report for the ~20 acre substandard lot, lack of direct access and presence of mapped floodplain and wetlands associated with Badfish Creek make development of the parcel impractical.

The town plan also includes the following policy regarding transfers of density units (“splits”):

24. *The Town Board may allow the transfer of splits to other parcels consistent with a formal policy as may be adopted. In the absence of such written policy, the Town Board may allow the transfer of splits on a case-by-case basis. The Town will require appropriate documentation to track the transfer of any split (e.g., deed restrictions or notice documents).*

The initial staff report indicated concerns with the proposed transfer, as there are no policies in the plan to support it. Staff communicated these concerns to the applicant and town, noting that the petition for 3 lots as presented would be inconsistent with current plan policies. Upon considering the concerns, the applicant revised the application to request just 2 new residential lots. Staff finds that the updated proposal is consistent with current town plan policies.

Because the proposal will exhaust the development potential available to the property, town plan policies require that a deed restriction prohibiting further nonfarm development be recorded on the balance of FP-35 zoned land (tax parcels 051002497300; 051002495500; 051002490003; 051002485000; 051002480020; 051002195903; 051002190006; 051002185003; and 051002180900). (For questions about the town plan, contact Senior Planner Majid Allan at (608) 267-2536 or allan@countyofdane.com)

RESOURCE PROTECTION: There are no resource protection corridors mapped on the subject property. There is corridor nearby which reflects wetland and shoreland, but the proposed lots are outside of this area.

TOWN ACTION: Pending as of December 13, 2022.

STAFF RECOMMENDATION (updated 2/6/23): There were some issues to resolve in December before staff could recommend approval of this petition. First, the existing shed building on proposed Lot 2 would not meet zoning requirements for RR-2 zoning due to the lack of a residence as the principal use. The applicants have indicated a desire to build a residence onto the shed building sometime within the next 3 years. This would address the issue of establishing a principal residential use, but should the plans fall through, it would be appropriate to have some means of ensuring future compliance with the residential zoning. Staff is concerned that the shed building could potentially be used for a different non-permitted use, such operating a commercial business. This is a concern whether a residence is built onto the shed or not, due to the building size. A deed restriction preventing commercial use of the building would be one means of resolving this.

STAFF UPDATE: On December 13, 2022, the ZLR Committee postponed action on the petition due to the lack of town action. This also allowed time for the applicants to resolve the concerns noted in the original staff report, by removing the 4th lot for the time being, and proposing RR-1 zoning which is consistent with the proposed net lot acreage after allowing for public road right-of-way dedication. The amended petition meets the requirements of the RR-1 district.

On February 8, 2023, the Town Board recommended approval of the rezoning with the following conditions:

1. Approved with a deed restriction prohibiting further residential development because after this petition all eligible splits have been exhausted on parcels 0510-024-9550-0 and 0510-024-8002-0.
2. No commercial development will be allowed on proposed Lot 2 of the proposed CSM.

Staff has confirmed the Town's intent with the Town Clerk. Staff recommends approval subject to the applicant recording a CSM for the new lots and recording a deed restriction for the property with the Register of Deeds with the following restrictions:

1. A deed restriction shall be recorded on parcels 051002497300, 051002495500, 051002490003, 051002485000, 051002480020, 051002195903, 051002190006, 051002185003, and 051002180900 stating the following:
 - a. Further nonfarm development on the remaining FP-35 zoned land is prohibited. The housing density rights for the "original" farm have been exhausted per the Town Comprehensive Plan density policies.
2. A deed restriction shall be recorded on proposed Lot 2 stating the following:
 - a. No commercial use shall be allowed on proposed Lot 2.

Any questions about this petition or staff report please contact Rachel Holloway at (608) 266-9084 or holloway.rachel@countyofdane.com