

# Contentious Rezoning

Lessons Learned in Adams County

Dustin Grant, CFM

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# Grand Marsh Elementary School

- ▶ Due to decreased enrollment, the school closed its doors in April 2021.
- ▶ The property was not listed for sale.



# Grand Marsh

- ▶ Unincorporated village within the Town of New Chester. New Chester's population is 2,194 people; the 2<sup>nd</sup> largest Town in Adams County.
- ▶ Approximately 150 people live within the village limits.

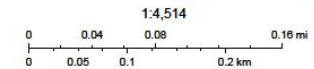
ArcGIS Web Map



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Roads

- Local Road
- - - County Highway
- ▭ PLS Section
- · - · Municipal Boundary

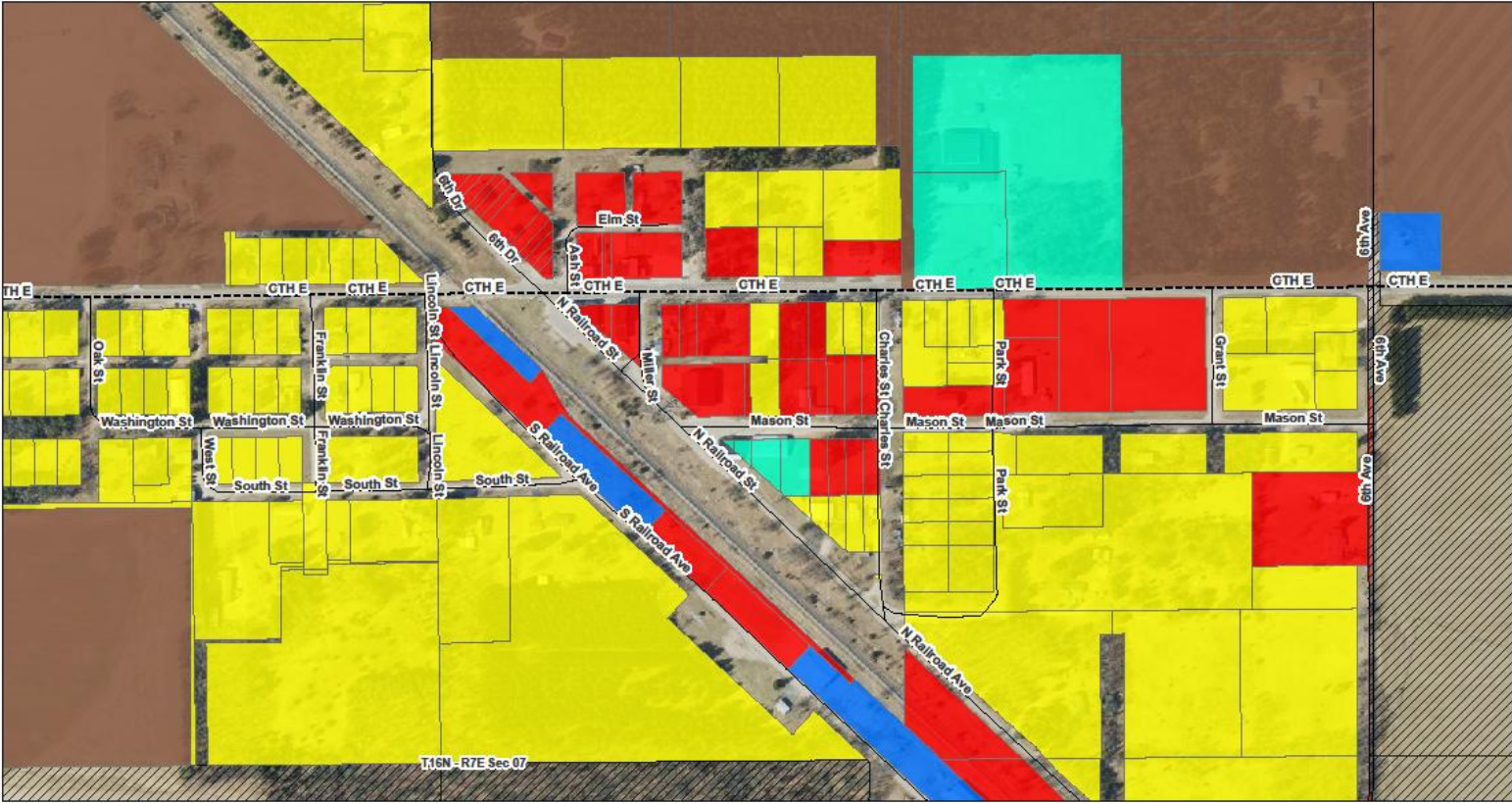


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# Grand Marsh

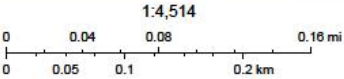
ArcGIS Web Map



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- Roads**
- Local Road
  - - - County Highway
- Comprehensive Zoning**
- ▨ A-1 (35): Exclusive Agricultural

- A-1 (15): Exclusive Agricultural
- A-3: Secondary Agricultural
- B-1: Rural Business
- I-1: Industrial
- PSP-1: Public & Semi-Public
- R-1: Single Family Residential
- PLSS Section
- Municipal Boundary



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# The Beginning

- ▶ Adams County Planning & Zoning was approached by the Business Manager for Alsum Foods about purchasing and utilizing the grade school as H2A housing for 80 of their seasonal workers.
- ▶ They were informed that they would need to apply to rezone the property from PSP to Ag-3 (Secondary Agricultural) and then apply for a Conditional Use Permit for “Temporary housing of seasonal employees.”
- ▶ Applications were submitted for both of the items in July 2021 and were subsequently scheduled for a public hearing on September 1, 2021 in front of the Adams County Planning & Zoning Committee.
- ▶ All application info was sent to the Town.

# The Town Process

- ▶ Plan Commission convened.
- ▶ After a contentious meeting, the applications were passed onto the Town Board by a vote of 2-1.
- ▶ The Town Board met on this and the meeting was even more heated! The Town denied the request 1-2.
- ▶ Hiccup Number 1...
  - ▶ The Chair of the Plan Commission (Yes vote) is also the Chair of the County Planning & Zoning Committee
  - ▶ The only yes vote at the Town Board was the other Planning Commission yes vote.
- ▶ The Town sent the following document to Planning and Zoning.

# Town Participation Form

ADAMS COUNTY PLANNING & ZONING DEPARTMENT  
REQUEST FOR TOWNSHIP PARTICIPATION

**LAWS REGARDING COMPREHENSIVE PLANS:**

Wisconsin Statute 66.1001(3) ACTIONS, PROCEDURES THAT MUST BE CONSISTENT WITH COMPREHENSIVE PLANS. Beginning on January 1, 2010, land-use decisions made by local governmental units shall be consistent with that local governmental unit's Comprehensive Plan.

**COMPREHENSIVE PLAN SECTIONS TO REVIEW:**

- Section 1: Issues and Opportunities (H. Community Issues)
- Section 4: Transportation (Goals, Objectives & Policies)
- Section 6: Economic Development (Goals, Objectives & Policies)
- Section 7: Land Use (Map #11: Future Land Use)

**TOWN BOARD: PLEASE FILL OUT INFORMATION BELOW COMPLETELY.**

TO THE REQUEST FOR A-1-F Area Schools/Grand Marsh School TO BE GRANTED A:  
(NAME)

REQUEST TYPE:

BRIEF DESCRIPTION OF REQUEST:

- REZONE..... 2 parcels from RSP to A-1-F
- CONDITIONAL USE..... temporary housing for seasonal ag/farm labor workers
- VARIANCE.....
- SPECIAL EXCEPTION.....
- MODIFICATION.....

FOR THE PROPERTY DESCRIBED AS FOLLOWS:

DOES THE TOWN HAVE ANY REGULATIONS THAT APPLY TO THE REQUEST (circle one)? Y  N  
IF YES - PLEASE EXPLAIN:

THE REQUEST IS CONSISTENT WITH THE TOWN COMPREHENSIVE PLAN (circle one):  Y  N  
(THIS IS OF PARTICULAR IMPORTANCE FOR REZONE REQUESTS)

IF NOT CONSISTENT WITH THE TOWN COMPREHENSIVE PLAN, DOES THE TOWN WISH TO AMEND THE COMPREHENSIVE PLAN TO ALLOW THE REQUEST? (circle one) Y  N

THE TOWN BOARD OF THE TOWN OF NEW CHESTER

DOES NOT OBJECT to the request  OBJECTS to the request

REASON(S) FOR THE TOWN BOARD DECISION: majority of property owners were opposed

[Signature]  
TOWN CLERK  
[Signature]  
SUPERVISOR

[Signature]  
CHAIRPERSON  
[Signature]  
SUPERVISOR

DATE: 8/16/21

**APPLICANT:** To get this form completed, request from the Town to be placed on their Board Meeting Agenda. To ensure that the Planning & Zoning Committee or the Board of Adjustment makes a prompt decision on your request, be sure to return this completed form with your application.

# Hiccup #2

- ▶ At the Town and Plan Commission meetings, many citizens appeared.
- ▶ The meeting was racial charged and many bad things were said.
  - ▶ Opposite end of street from bar
  - ▶ Crime will skyrocket



# Town Denied Request

- ▶ The Town denied the request and sent in the previous document.
- ▶ Zoning Department removed the item from the Committee agenda
- ▶ Applicant requested that it be put back on.
- ▶ After discussion with Corp Counsel, the item was put back on the agenda and scheduled for a November 3, 2021 public hearing.
- ▶ Both the rezoning and Conditional Use requests were published in the paper and the neighboring property owners were notified.

# Public Hearing - Rezoning

- ▶ At the November Committee meeting, a public hearing was held for the 2 applications.
- ▶ Numerous people spoke in opposition and a petition with 50 signatures was submitted.
- ▶ 2 people spoke in favor
- ▶ The Committee approved the rezoning 6-1.
  - ▶ A big part of this decision was based on how on the Town arrived at their decision.
- ▶ Because the Town did not submit a “Certified Resolution of Disapproval,” the Committee was not bound by their decision.

# Public Hearing - Conditional Use

- ▶ Immediately following the rezoning, the Committee held a public hearing on the Conditional Use request.
- ▶ The Committee felt that the rezoning process could still face some issues and voted to table the request until the rezoning was official.

# Certified Resolution

- ▶ The Town convened a special meeting the following Wednesday to adopt a “Certified Resolution Disapproving of the Petition.”
- ▶ The Board passed the resolution 2-1.
- ▶ Hiccup #3
  - ▶ The Town Clerk refused to sign the resolution, certifying it.
  - ▶ She subsequently resigned from her position as well.
- ▶ 2 days later (9 days after public hearing), the Town held another special meeting.
  - ▶ An interim Town Clerk was appointed (the Town Treasurer).
  - ▶ The resolution was adopted again.

# Filing of the Resolution

- ▶ The new Town Clerk certified the Resolution and filed it with the County Clerk prior to the 10 day deadline. Sort of...
- ▶ The Applicant was made aware that the Town filed the Resolution.

# County Board

- ▶ On December 21, 2021, the full County Board approved the rezoning by a vote of 13-4, 2 Abstaining, 1 Excused.
  - ▶ Hiccup #4
  - ▶ The applicant is a County Board member and was one of the Abstaining votes.
- ▶ Members of the public were allowed to speak at County Board.

# Town Board Next Step

- ▶ During the week following the County Board meeting, the Town, at their regular monthly meeting, adopted a “Resolution Disapproving of the Ordinance.”
- ▶ Because the Zoning Amendment only affected one Town, the rezoning became null and void when the Town filed a Certified Copy of the Resolution Disapproving of the Ordinance.
- ▶ Or so one would think...

# Normal Rezoning Process

- ▶ The sequence for Town objection is supposed to be as follows:
  - ▶ Application received
  - ▶ If Town files a “Certified Resolution Disapproving of the Petition” before the P&Z Public Hearing, the Committee can only deny or approve with changes.
  - ▶ If Town files a “Certified Resolution Disapproving of the Petition” within 10 days after the Public Hearing, the Committee already acted, and the resolution does not bind the County Board to a certain action.
  - ▶ Because Step a. or b. happens, the rezoning does not take effect for 40 days after adoption by the County Board. Otherwise, it becomes effective immediately.
  - ▶ During that 40 days, the Town can file a “certified copy of a resolution disapproving of the ordinance” which nullifies the County Board decision and the rezoning is void.



# Hiccup #5

- ▶ The applicant argued that the rezoning became official immediately upon passage by the County Board because...
- ▶ The original resolution that the Town filed said “The Town Board disapproves of the attached petition.”
- ▶ **They forgot to attach the petition to the filed Resolution.**

# County Position

- ▶ Corp Counsel reviewed it and felt it met the Standards in the State Statutes and directed Planning & Zoning to proceed as if the rezoning was denied.

# Tabled Conditional Use

- ▶ The Conditional Use application was still hanging out there from being tabled previously.
- ▶ Without the rezoning, the applicant could not apply for a Conditional Use Permit.
- ▶ I requested of Corp Counsel permission to not place it on the agenda and let it die.
- ▶ I was directed to put it on the agenda.
- ▶ The Sheriff's Department was notified and stated they would have a presence at the CUP public hearing.

# Email

- ▶ 3 hours prior to the Committee meeting on February 2, 2022, the following email was received by all Committee members, as well the Zoning Department and the County Manager:
- ▶ *The first thing I'd like to say to the planning and zoning board is, they should tell Barb Morgan to step down from this case because of conflict of interest. Now to the rest of the board, the people of New Chester do not want this migrant housing project in Grand Marsh. We have told you this many times. You have ignored what the people of New Chester want. You have finally gone too far. If there were ever a perfect case for vigilantly justice, this is it. So, remember when you vote on this matter and all the people you have already pissed off. Do you want to take a chance and become a victim? I hope take this matter seriously and stop this project from going forward.*

# Threat Response

- ▶ Immediately following the receipt of the email, the Sheriff's Department sent 6 squads to the sender's residence.
- ▶ It was noon and he answered the door drunk and carrying a gun. The officers had a bit of an issue with the encounter and subsequently arrested him.
- ▶ The County Manager directed the Committee to hold the meeting virtually only.

# CUP Public Hearing

- ▶ During the public hearing, the applicant's attorney argued that the CUP could be issued because the rezoning was official.
- ▶ Corp Counsel argued the opposite position.
- ▶ A motion was made to table the application until the 2 attorneys settled the rezoning issue. This passed 4-3.

# Ensuing Months

- ▶ The 2 attorneys did discuss the matter with no resolution.
- ▶ Ultimately, it was for a Court to decide. However, the applicant never filed a suit arguing such.

# Grand Finale

- ▶ After 6 months of no action, Planning and Zoning received notice from the applicant that they wish to withdraw all of the applications.



# Fallout

- ▶ The Chair of the Zoning Committee lost in the next election.
- ▶ The applicant resigned from the County Board.
- ▶ 2 of 3 members of the Town Board were voted out (including the Chair).
- ▶ The school is still vacant today.

# Lessons Learned

- ▶ The “Town Participation” form is not enough.
  - ▶ The difficult part is that a Town isn’t going to draft a resolution ahead of time or put it on their agenda that way.
- ▶ I now tell people that “the Committee usually gives the Town decision a lot of weight.”
- ▶ Even with a Town denial, the application must proceed onto the Committee level.
- ▶ Small communities present numerous challenges.
  - ▶ Small pool of involved individuals.
  - ▶ There’s always a connection of some sort.