

TOWN OF MUKWONAGO  
JOINT PLAN COMMISSION AND TOWN BOARD  
MINUTES (As corrected)  
WEDNESDAY NOVEMBER 2, 2022

Chairman Topczewski called the meeting to order at 6:30 p.m. and stated the meeting had been appropriately noticed.

**Roll Call**

**Plan Commission:** Commissioners, Bratz, Usarek, Kurowski, Bell, Schuett, Supervisor Clabault and Chairman Topczewski.

**Town Board:** Supervisors Clabault Boucher, Wrasman, Yerke and Chairman Topczewski were present. Supervisor Boucher was absent.

Also present: John Macy, Town Attorney; Gail Obradovich, Deputy Clerk-Treasurer; Tim Schwecke, Town Planner and Scott Johnson, Building Inspector.

Report by Building Inspector regarding any alleged or outstanding violation(s)  
Nothing outstanding

**One-lot certified survey map to merge adjoining parcels in same ownership for property located at S103W33898 CTH LO (MUKT1994998); John Dorau and Michael R Dorau, applicant (application 2022-39)**

The staff report dated October 27, 2022 was presented by the Town Planner. There were no questions.

**Planning Commission action:** Motion by Chairman Topczewski to recommend to the Town Board the approval of the proposed certified survey map, subject to the conditions listed below.

1. **Staff and Governmental Approval.** Prior to the Town signing the final plat/CSM, the commencement of any construction of any improvement, whether public or private, or any site development, the developer shall satisfy all comments, conditions and concerns of the Town Engineer, the Town Planner and all reviewing, objecting and approving bodies, including, but not limited to, the Wisconsin Department of Administration per ch. 236, Wisconsin Statutes and ch. Comm. 85, Wisconsin Administrative Code; Wisconsin Department of Administration per ch. 236, Wisconsin Statutes; and Waukesha County Parks and Land Use Department.
2. **Professional Fees.** Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this development, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
3. **Payment of Charges.** Any unpaid bills owed to the Town by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.
4. **Surveyor's responsibility.** Although the Town of Mukwonago has reviewed the subdivision plat/certified survey map, the surveyor is entirely responsible for the thoroughness and accuracy of the survey and related matters and compliance with all state and local codes, ordinances, and procedures. Modifications to the survey may be required should errors or changed conditions be found at a future date.

**Specific conditions:**

1. The petitioner must obtain the approval of the Town Engineer.

2. The survey indicates that the Village of Eagle has extraterritorial review authority. It does not because the subject property is more than 1.5 miles from the closet point. Therefore, remove the Village's signature block on sheet 9 and remove such reference in the owner's certificate on sheet 8.

3. Include the following note(s) on the face of the CSM substantially as follows:

- At their meeting on November 2, 2022, the Town of Mukwonago Town Board approved a waiver to not include the remnant parcel that is south of CTH LO on this certified survey map. **(If approval is granted.)**

- Various buildings and other improvements existed on the subject property on the date of the survey which may or may not comply with the Town's zoning regulations in effect on the date the Town Board approved this certified survey map. Approval of this certified survey map does not waive any zoning requirement. Therefore, all buildings, improvements, and uses are subject to applicable zoning regulations that are in effect.

4. The applicant must include the remnant parcel in the survey **OR** obtain a waiver to not include the remnant parcel in the survey.

5. The surveyor's seal, signature, and date must appear on all sheets of the final CSM. The same revision date must also be noted on each sheet.

Second by Commissioner Bratz, all in favor; motion passed.

**Town Board action:** Motion by Chairman Topczewski to approve the certified survey map as recommended by the Plan Commission.

Second by Supervisor Yerke, all in favor; motion passed.

**Waiver request to not include remnant parcel in survey for proposed certified survey map for property located at S103W33898 CTH LO (MUKT1994998) John Dorau and Michael R Dorau, applicant (application 2022-40)**

There was a joint discussion by the Plan Commission and Town Board

**Town Board action:** Motion by Supervisor Clabault to approve the petitioner's request to not include the remnant south of CTH LO in the certified survey map, second by Supervisor Wrasman; all in favor, motion passed.

**Request for a third accessory building under Section 3(j)4 of the County's Shoreland Ordinance for property located at S103W33898 CTH LO (MUKT1994998); John Dorau, applicant (application 2022-44)**

The staff report dated October 27 was summarized by the chairman. This review was requested by Waukesha County. Discussion followed.

**Plan Commission action:** Motion by Commissioner Bratz to approve the third accessory building provided the two adjoining lots (MUKT1991999 and MUKT1994998) are merged with a certified survey map. Second by Commissioner Kurowski, all in favor; motion passed.

**Special exception to exceed standard floor area for detached accessory buildings on Lot 2 of proposed certified survey map for property located off of Schnitzler Road (MUKT1887999001 and MUKT1887999002); John and Mary Lammers, applicant (application 2022-41)**

Mr. Schwecke gave an overview of the staff report dated October 27, 2022. A joint discussion by the Plan Commission and Town Board followed.

**Plan Commission action:** Motion by Chairman Topczewski to recommend to the Town Board the approval of the petitioner's request for additional floor area for Lot 2 of the proposed survey based on the specific findings and the terms and conditions listed below.

**Specific Findings:**

- (1) The architecture of the accessory building is compatible with the dwelling unit.
- (2) The accessory building will not be adverse to the public health, safety or welfare.
- (3) The accessory building will not be in conflict with the spirit or intent of this chapter.
- (4) The accessory building will not otherwise be detrimental to the Town or the immediate neighborhood where the structure would be located.

**Conditions:**

- (1) The property owner must obtain approval for the final certified survey map within 9 months of this date and file the approved survey within 12 months of this date.
  - (2) Immediately following the recording of the survey, the property owner must record a deed restriction against Lot 2 as approved by the town indicating the use of the detached buildings are limited to non-commercial uses.
- Second by Commissioner Bratz, all in favor; motion passed.

**Town Board action:** Motion by Commissioner Yerke to approve the certified survey map as recommended by the Plan Commission. Motion seconded by Chairman Topczewski, all in favor; motion passed.

**Final certified survey map (CSM) for three lots located off of Schnitzler Road (MUKT1887999001 and MUKT1887999002); John and Mary Lammers, applicant (application 2022-42)**

The Chairman reviewed the discussion from the previous meeting. The Planner gave an update of the cemetery lots that have been recorded by the Historical Society. Discussion followed.

**Plan Commission action:** Motion by Chairman Topczewski to recommend to the Town Board the approval of the certified survey map dated October 7, 2022, subject to the general and specific conditions listed below.

**General conditions:**

1. Staff and Governmental Approval. Prior to the Town signing the final CSM, the commencement of any construction of any improvement, whether public or private, or any site development, the developer shall satisfy all comments, conditions and concerns of the Town Engineer, the Town Planner and all reviewing, objecting and approving bodies, including, but not limited to, the Wisconsin Department of Administration per ch. 236, Wisconsin Statutes and ch. Comm. 85, Wisconsin Administrative Code; Wisconsin Department of Administration per ch. 236, Wisconsin Statutes; and Waukesha County Parks and Land Use Department.
2. Professional Fees. Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this development, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this approval due to a violation of these conditions.
3. Payment of Charges. Any unpaid bills owed to the Town by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Town, pursuant to

Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.

4. Surveyor's responsibility. Although the Town of Eagle has reviewed the subdivision plat/certified survey map, the surveyor is entirely responsible for the thoroughness and accuracy of the survey and related matters and compliance with all state and local codes, ordinances, and procedures. Modifications to the survey may be required should errors or changed conditions be found at a future date.

**Specific conditions:**

1. The Town Engineer must review the survey. Any comments must be satisfied to their satisfaction.
2. The petitioner must apply for and receive approval for a special exception for the building area for Lot 2 consistent with Article 13 of Chapter 34 of the municipal code.
3. Include the following notation on the face of the CSM substantially as follows:
  - The Town Board on November 2, 2022 granted a special exception to allow the oversized detached accessory buildings on Lot 2.
4. The petitioner must provide documentation from Waukesha County indicating that the septic systems on Lots 1 and 2 are functioning and located entirely on the respective lots.
5. Remove or modify the first note on sheet 6 to reflect that a portion of the subject property is also subject to the Town's zoning jurisdiction.
6. The surveyor's seal, signature, and date must appear on all sheets of the final CSM. The same revision date must also be noted on each sheet.

Second by Supervisor Clabault, all in favor; motion passed.

**Town Board action:** Motion by Chairman Topczewski to approve the certified survey map as recommended by the Plan Commission. Second by Supervisor Wrasman, all in favor; motion passed.

**Special exception for placement of detached accessory building in front of principal dwelling for property located at S84W28192 Hartwig Court (MUKT1924999); Leah and Weston Orloff, applicant (application 2022-38)**

The Chairman gave a summary of the history of this lot. The Planner gave an overview of his staff report dated October 27, 2022. A deed restriction will be required. Discussion followed.

**Plan Commission action:** Motion by Chairman Topczewski to recommend to the Town Board the approval of the petitioner's request, subject to the terms and conditions and factors listed below.

- (1) The proposed building must comply with all applicable requirements of the Town's zoning regulations.
- (2) The property owner must obtain a zoning permit within 6 months of this date.
- (3) The property owner must obtain a building permit for the approved building within 9 months of this date and complete the authorized work within one year of obtaining the permit.
- (4) Prior to issuance of a building permit, the petitioner must file a deed restriction in the office of the county register of deeds, as approved by the zoning administrator, the sets forth the nature of the approval and any conditions that may be imposed.

**General factors** (per s. 36-424 of the zoning code)

- (1) The size of the subject property in comparison to other properties in the area;
- (2) The extent to which the issuance of the special exception permit would be in keeping with the overall intent of this chapter;
- (3) Whether there are any unique circumstances and the nature of those circumstances that warrant the issuance of the special exception permit;
- (4) The nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception permit was granted;
- (5) The nature and extent of anticipated positive and negative effects on properties in the area;

(6) Actions the applicant will undertake to mitigate the negative effects, if any, of the proposed special exception;  
(7) A factor specifically listed under a section of this chapter authorizing the issuance of a special exception permit; and

(8) Any other factor that relates to the purposes of this chapter as set forth in s. 36-5 or as allowed by state law.

**Specific factors** (per s. 36-733 of the zoning code)

(1) the size of the subject property,

(2) the character of the area,

(3) the size of the proposed accessory building,

(4) the extent to which the proposed accessory building is visible from public and private streets and other properties in the area,

(5) the practical difficulty in placing the proposed accessory building in the location described in this subsection, and

(6) other factors related to relevant circumstances.

Second by Commissioner Schuett, all in favor; motion passed.

**Town Board action:** Motion by Chairman Topczewski to approve the recommendation by the Plan Commission and adopting the conditions and factors reference in above motion. Second by Supervisor Clabault, all in favor; motion passed.

**Designation of a building envelope in the Environmental Corridor (EC) district pursuant to s. 36- 853(b)(2) of the zoning code to accommodate a detached accessory building located at S84W28192 Hartwig Court (MUKT1924999); Leah and Weston Orloff, applicant (application 2022-43)**

Mr. Schwewe gave an overview of his staff report dated October 27, 2022. Joint discussion followed.

**Town Board action:** Motion by Commissioner Clabault to approve the building envelope consistent with the petitioner's application subject to the following terms and conditions:

1. The location of the building envelope shall be established in a deed restriction (with a legal description) as approved by the Town of Mukwonago.

2. The size of the building envelope shall not exceed 25,900 square feet and must be located in the area generally depicted in the petitioner's application materials.

3. The deed restriction must include an explanatory note substantially as follows:

This building envelope/area of disturbance was established pursuant to Section 36-853(b)(2) of the Town of Mukwonago zoning code for the purpose of defining where future development may occur within the Environmental Corridor (EC) overlay district.

4. This approval is null and void if the approved deed restriction is not filed with the Waukesha County register of deeds within 9 months of this decision.

Second by Chairman Topczewski, all in favor; motion passed.

*Amendment of zoning code with regard to barrier (fencing) requirements for swimming pools (Appendix B 13.26); Leslie Rather, applicant (application 2022-33)*

The Chairman reviewed the previous discussion for last month.

The Chairman opened the Public Hearing

Leslie Rather was present and handed out addition information. She gave a summary of how the automated pool cover works and the safety.

Discussion followed. Chairman Topczewski polled the Commission and Board for their board/comm thoughts. The majority felt it should not be allowed without a fence. The Petitioners spoke once again in favor of the cover.

Chairman Topczewski closed the Public Hearing

**Plan Commission action:** Motion by Chairman Topczewski to recommend to the Town Board the denial of the proposed change. Second by Supervisor Clabault, all in favor; motion passed.

**Town Board action:** Motion by Chairman Topczewski to deny the petitioners request, second by Supervisor Clabault, all in favor; motion passed.

Miscellaneous correspondences

Decision letter from Waukesha County Board of Adjustment to John R. Scott regarding variance request for property located at S73W31330 Spring Lake Drive

Miscellaneous updates (if any) - none  
Phantom Lake Management District  
Fox River Commission

### **Adjournment**

**Plan Commission action:** Motion by Chairman Topczewski, second by Supervisor Clabault to adjourn at 8:05 p.m. All ayes, motion passed.

**Town Board action:** Motion by Chairman Topczewski second by Supervisor Clabault to adjourn at 8:05 p.m. All ayes, motion passed.

Respectfully submitted,

Gail Obradovich Deputy/Clerk-Treasurer  
APPROVED 1/4/23