

TOWN OF MUKWONAGO
JOINT PLAN COMMISSION AND TOWN BOARD
MINUTES (**As corrected**)
WEDNESDAY OCTOBER 5, 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, Usarek, Schuett, Supervisor Clabault and Chairman Topczewski were present. Commissioners Bratz, Kurowski and Bell were absent.

Town Board: Supervisors Boucher, Clabault, Wrasman, Yerke and Chairman Topczewski were present.

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

Meeting minutes of September 7, 2022

Plan Commission Action: Motion by Chairman Topczewski to approve the minutes of September 7, 2022 as presented, second by Commissioner Schuett, all ayes; motion passed.

Town Board Action: Motion by Chairman Topczewski to approve the minutes of September 7, 2022 as presented, second by Supervisor Boucher, all ayes; motion passed.

Report by Building Inspector regarding any alleged or outstanding violation(s)

The Building Inspector stated he had no new violations.

6. One-lot certified survey map to merge adjoining properties in same ownership located at S63W27915 Point Drive (MUKT2038998); Daniel and Hanna Nagl, applicant (application 2022-32)

Mr. Schwecke presented a summary of his staff report dated September 29, 2022. A joint discussion by the Plan Commission and Town Board followed. The Chairman read through all the General Conditions and Specific Conditions

Plan Commission action: Motion by Chairman Topczewski to recommend to the Town Board the approval of the one-lot certified survey map, subject to the conditions listed below.

General conditions:

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. (Review letter of September 19, 2022)
2. 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.
3. The line separating the road dedication and Lot 1 is a dashed line. To avoid any confusion, the line should be solid.
4. The property owner to the west of Lot 1 should be identified.
5. The tax key numbers on Sheet 1 appear to be incorrect. Please verify against Waukesha County's information and correct as necessary.
6. On each sheet, correct the spelling for "April" in the drafting date section.
7. The area of Lot 1 and the area being dedicated total 234,792 square feet. However, the area in the surveyor's certificate indicates that area is 234,479. Please confirm and revise accordingly including the acreage in both places.
8. There is a typo in the first line in the Surveyor's Certificate. Change "beng" to "being".
9. Remove the signature block for the Plan Commission on sheet 4. The Commission is advisory to the Town Board.
10. Remove the reference to the Plan Commission in the third line of the signature block for the Town Board.
11. There is a typo in the fourth line of the signature block for the Town Board. Change "eing" to "being".
12. Include the following notation on the face of the CSM substantially as follows: 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.
13. The subject property is within the extraterritorial plat review authority of the Village of Waukesha and the Village of Vernon. Signature blocks must be added for each, if they are exercising their review authority.

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

Town Board action: Motion by Supervisor Boucher to approve the certified survey map as recommended by the Plan Commission subject to the general and specific conditions listed above. Second by Supervisor Clabault, all in favor; motion passed.

7. Special exception to exceed standard floor area of a detached accessory building located at W309S9182 CTH I (MUKT1959987003); Lawrence E Litwin Trust, applicant (application 2022-31)

The Planner gave an overview of his staff report dated September 29, 2022; discussion followed. The Chairman read through all the General Conditions and Findings.

Plan Commission action: Motion by Chairman Topczewski to recommend to the Town Board the approval of the petitioner's request for additional floor area 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) The property owner must record a deed restriction as approved by the town indicating the use of the building is limited to non-commercial uses immediately following the recording of the survey.

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

Town Board action: Motion by Supervisor Boucher to accept the recommendation of the Plan Commission, second by Chairman Topczewski; all in favor; motion passed.

8. Final certified survey map (CSM) for three lots located at W309S9182 CTH I (MUKT1959987003) Lawrence E Litwin Trust, applicant (application 2022-37)

Joint discussion by the Plan Commission and Town Board began after a brief summary of the staff report dated September 29, 2022. The Chairman read through all the General Conditions and Specific Conditions

Plan Commission action: Motion by Supervisor Clabault to recommend to the Town Board the approval of the certified survey map September 29, 2022, subject to the conditions listed below. The Chairman read through all the General Conditions and Specific Conditions

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 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 apply for and receive approval for a special exception for the building area for Lot 1 consistent with Article 13 of Chapter 34 of the municipal code.
2. Include the following notation on the face of the CSM substantially as follows:
 - The Town Board on October 5, 2022 granted a special exception to allow the oversized detached building on Lot 1.
3. The petitioner must record a shared access agreement, as approved by the Town Attorney, for Lots 2 and 3, immediately after the CSM is recorded.
4. 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 Schuett, all in favor; motion passed.

Town Board action: Motion by Supervisor Wrasman to accept the recommendation of the Plan Commission, second by Supervisor Boucher; all in favor; motion passed.

9. Special exception to exceed standard floor area of detached accessory buildings located at S82W31710 Section Road (MUKT1934996002); Paul and Kelli Tourville, applicant (application 2022-34)

Chairman Topczewski summarized the Staff Report dated September 29, 2022

The Planner read through the General Conditions and Special Conditions

Joint discussion by the Plan Commission and Town Board

Plan Commission action: Motion by Chairman Topczewski to recommend to the Town Board the approval of the petitioner's request for additional floor area 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 a zoning permit within 6 months of this date.
- (2) 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.
- (3) Prior to issuance of a building permit, the property owner must record a deed restriction as approved by the town indicating the use of the building is limited to non-commercial uses.

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

Town Board action: Motion by Supervisor Wrasman to accept the recommendation of the Plan Commission. Second by Supervisor Boucher. All in favor; motion passed.

10. Special exception for oversized attached garage located at W331S9106 Heritage Hills Court (MUKT1948017); Dan Alexander and Patricia Butryn, applicant (application 2022-36)

Mr. Schwecke gave an overview of this staff report dated September 29, 2022.

Joint discussion by the Plan Commission and Town Board followed. The Chairman read through all the Findings and Conditions.

Plan Commission action: Motion by Chairman Topczewski to recommend to the Town Board the approval of the special exception for the additional garage area based on the findings and conditions of approval listed below.

Findings:

1. The architecture of the oversized garage is compatible with the dwelling unit;
2. The oversized garage will not be adverse to the public health, safety or welfare;
3. The oversized garage will not be in conflict with the spirit or intent of this chapter; and
4. The oversized garage will not otherwise be detrimental to the town or the immediate neighborhood where the structure would be located.

Conditions:

1. The property owner files a deed restriction with Waukesha County, as approved by the town planner, prior to obtaining a zoning permit from the Town indicating that the maximum floor area of a detached accessory building on the property is limited to 872 square feet; a reduction of 128 square feet (1,000 – 128 = 872) and that the attached garage may only be used for personal use and cannot be used for any type of commercial or industrial purpose unless otherwise permitted by this chapter.
2. The property owner obtains a building permit for the approved building within 9 months of this date and completes the authorized work within one year of obtaining the permit.

Second by Supervisor Clabault. All in favor; motion passed.

Town Board action: Motion by Supervisor Boucher to accept the Plan Commission's recommendation. Second by Supervisor Wrasman. All in favor; motion passed.

11. Concept review of three-lot certified survey map located at W317S6704 Schnitzler Road (MUKT1887999001); John and Mary Lammers, applicant (application 2022-35)

The Planner summarized his staff report dated September 29, 2022; discussion followed. A letter must be provided stating accessory building sizes also will the conservation easement permanent. The Chairman read through all the General Conditions.

Plan Commission action: Motion by Chairman Topczewski to approve the conceptual design of the three-lot CSM, with an addition condition #14, subject to the following terms and conditions:

1. The layout of the lots in the final CSM must substantially comply with the layout depicted in the conceptual CSM. (**OR** as revised at the meeting)
2. The final CSM must comply with the Town's land division regulations (ch. 34), and any requirements in ch. 236, Wis. Stats.
3. The dimensions for the barn and garage on Lot 2 must be provided. If the total of both buildings exceeds 1,450 square feet, the petitioner must make the lot larger or apply for a special exception to exceed the standard floor area for accessory buildings.
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. Include Waukesha County's shoreland jurisdiction boundary on the face of the CSM.
6. 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.
7. Correct the typo in the second note on sheet 6. Change "pulic" to "public".
8. Correct the typo in the third note on sheet 6. Change "fro" to "from".
9. Remove the signature block for the Town Plan Commission on sheet 8.

10. Remove the signature block for the North Prairie Plan Commission on sheet 8.
11. In the signature block for the North Prairie Village Board, remove "Common Council" and insert "Village Board".
12. 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.
13. The petitioner must obtain all necessary approvals as specified in s. 236.34(1), Wis. Stats.
14. Petitioner must provide proper documentation regarding registration of the cemetery plots has been done.

Second by Supervisor Clabault with notation that documentation will be provided as to how long the easements will be in place. All in favor; motion passed.

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

Chairman Topczewski opened the Joint Public hearing and adjourned to allow all the Planning Commission to hear the testimony at next meeting dated November 2, 2022.

13. Miscellaneous correspondences (none)

14. Recommendations for future agendas no

Miscellaneous updates (if any)

A. Phantom Lake Management District none

B. Fox River Commission none

Adjournment

Plan Commission action: Motion by Chairman Topczewski, second by Commissioner Clabault to adjourn at 7:35 p.m. All ayes, motion passed.

Town Board action: Motion by Chairman Topczewski, second by Supervisor Boucher to adjourn at 7:35 p.m. All ayes, motion passed.

Respectfully submitted,

Gail Obradovich Deputy/Clerk-Treasurer

APPROVED 1/4/23