

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
ADMINISTRATION CENTER, ROOM AC 255/259  
THURSDAY, APRIL 20, 2023 - 1:00 P.M.**

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**CALL TO ORDER**

Mr. Siepmann, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:     James Siepmann             Richard Morris  
                              William Groskopf           William Mitchell

Commission

Members Absent:     Robert Peregrine

Staff

Members Present:     Jason Fruth, Planning Manager  
                              Ben Greenberg, Senior Planner  
                              Kathy Brady, Support Staff Supervisor

**CORRESPONDENCE:**     None

**MINUTES:**             Approval of the March 16, 2023, Minutes.

*After discussion, Mr. Morris moved, seconded by Mr. Groskopf and carried unanimously for approval, of the March 16, 2023, Minutes, as presented.*

**PUBLIC COMMENT:**     None.

• **RZ117 (Bruce J. Kessler Living Trust Scott Kessler) Town of Delafield, Section 31**

Mr. Fruth pointed out the location of the property in Section 31 of the Town of Delafield on the aerial photograph. He indicated the request is to rezone the property from the A-1 Agricultural District to the A-3 Suburban Home District.

Mr. Fruth indicated the property is located on the east side of Cushing Park Road containing approximately 2.8 acres. The property was part of a larger farm and was divided off to create the parcel. At the time of the land division, the property was zoned A-1 Agricultural District allowing minimum lot sizes of 3 acres with 95% open space. The Town has since changed the minimum lot size to 40 acres in the A-1 Agricultural District. The request is to rezone the property to the A-3 Suburban Home District (2 acre minimum lot size and 15% impervious surface or 85% open space) and would allow the property to be in conformance with the Town's code. He mentioned, in the future, that the rest of the parcels along Cushing Park Road would most likely transition to the A-2 or A-3 district.

Mr. Mitchell wondered why the Town would not rezone all of the lots along Cushing Park Road together as one request, rather than separately. Mr. Morris asked why the property would not be rezoned to the A-2 district rather than the A-3 district? Mr. Fruth responded there is a slight lot size difference between the districts, and this lot is smaller. He mentioned that the parcel located immediately adjacent is also zoned in the A-3 district. Mr. Groskopf asked what the minimum lot size was for the A-1 district, to which Mr. Fruth replied, 40 acres. Mr. Fruth indicated the County's A-1 district is a 3 acre minimum lot size.

*After discussion, Mr. Mitchell moved, seconded by Mr. Groskopf and carried unanimously, for approval, in accordance with the "Staff Report and Recommendation". The approval of this request will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

• **CU85 (Mike and Dianne Johnson) Town of Oconomowoc, Section 36**

Mr. Fruth pointed out the location of the property at N53 W23576 Road Q in the Town of Oconomowoc on the aerial photograph. He indicated the request is for Conditional Use approval for land altering activities associated with the construction of an attached garage and breezeway, driveway and retaining walls.

Mr. Fruth indicated the property is located on Road Q with frontage on Okauchee Lake. He pointed out on the aerial photograph the steep topography on the property from the road to the home site, approximately 13 ft. The petitioner would like to remove the one car garage and shed located near the road and construct an enclosed breezeway attached to a new 2 story garage connected to the residence and add a driveway and retaining wall which would require a considerable amount of fill, approximately 10 ft. He presented photographs of the property showing the terrain with trees located near the right-of-way of the road. The Land Resources Division staff viewed the property and because of the well-drained soil conditions in the area and how the adjacent residences are oriented, they were not concerned with adverse drainage. They felt the proposed rain garden would be an effective mitigating condition. The existing driveway would remain along with the proposed new driveway. The Planning and Zoning Division staff spoke with the Town regarding allowing 2 driveway openings, which they found acceptable. Mr. Fruth mentioned some conditions of note:

- A Stormwater Permit be obtained, inclusive of the proposed rain garden.
- A Landscaping Plan be prepared with native type vegetation (west of the garage and on the remaining slope on the east side).
- The driveway be no more than 32 ft. wide at the road.
- The Town Engineer shall review the grading and retaining wall to ensure there would be no adverse impacts.

Mr. Groskopf asked what the overall height of the new 2 story garage would be, to which Mr. Fruth replied, approximately 32 ft. on the low side. Mr. Groskopf mentioned that the east elevation on the Grading Plan shows 3 retaining walls but the Site Plan shows 1 retaining wall. Mr. Johnson, petitioner said initially it was on the plan but he confirmed there would only be 1 retaining wall. Mr. Fruth recommended a condition be included stating that the east elevation be modified to match the survey.

Mr. Johnson said he submitted a Landscape Plan and the County's comments included the removal of some existing large trees, however, he wanted to keep the trees. The Landscape Plan indicated grass at the top. He said that the trees where the new driveway is located would be removed, but he would like to retain the other trees. Mr. Fruth said the County would like to see the large trees kept, but it was his understanding that a complete tree inventory has not been completed. Mr. Johnson said he could work with the grading company as to how some of the older large well established trees could be maintained. Mr. Fruth suggested the petitioner go back to the Landscaping Plan preparer and ask about the new lawn area where there are currently trees. Mr. Groskopf indicated a lot of that area would contain fill. Chairperson Siepmann stated the only way to do it would be to have retaining walls on either side of the driveway. He added, the request could be approved as it is today, and if there would be a landscaping change the petitioner could work with the Planning and Zoning Division staff. Mr. Fruth said when the Landscaping Plan is drawn up, the location of the trees should be specified as to what could be saved and not saved. He added, then the petitioner could possibly come back to the Planning staff and consider adding retaining walls along the driveway, continue to reduce the driveway fill or give up the breezeway connection. Mr. Johnson said he is siding towards keeping the plan as it is.

*After discussion, Mr. Groskopf moved, seconded by Mr. Morris and carried unanimously, for approval, as conditioned, in accordance with the "Staff Report and Recommendation" with an added condition No. 15 listed below:*

***15. The east elevation grade shall be amended to match the submitted grading plan.***

*The approval of this request will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

• **CU86 (Joel Blenker) Town of Delafield, Section 24**

Mr. Fruth pointed out the location of the property at N19 W28233 Oakton Road in the Town of Delafield on the aerial photograph. He indicated the request is for Conditional Use approval for interior remodeling and structural repairs to a legal non-conforming duplex damaged by fire.

Mr. Fruth indicated in 2022, the duplex was damaged by a fire. The legal non-conforming use standards only allow for up to 50% of the value of a structure to be improved, which was going to be exceeded in this case. The Planning and Zoning Division (PZD) staff researched the property history and discovered the duplex was constructed prior to the 1970 adoption of the Waukesha County Shoreland and Floodland Protection Ordinance and is considered to be a legal non-conforming use. Conditional Use (CU) status may be granted to existing legal non-conforming uses. By obtaining CU status, there would no longer be a 50% lifetime limit on future repairs or improvements. At the public hearing, the abutting property owner was in support of the request. The PZD staff suggested screening along the property line with the adjacent neighbor, however, the neighbor preferred the area be kept open. The surrounding neighborhood is mixed use with Western Lakes Golf Course and a utility substation to the west, a smaller single-family residential subdivision to the east and mixed residential uses to the north and a church down the road to the east. Conditions of note include:

- Significant vertical or lateral expansions would require an amendment to the Conditional Use.
- Garages and sheds on the property would be available for the tenants and occupants only.

Mr. Groskopf asked if it was non-conforming because it is a duplex, to which Mr. Fruth replied, “Yes.” Mr. Morris asked if the duplex was owner occupied? Mr. Fruth responded that the petitioner was different than the owner and he was unsure if the owner occupied one of the two sides of the duplex but noted that the owners have owned the property for a long time. Mr. Fruth stated the outside of the structure was in decent shape, however, there is significant damage inside the duplex.

*After discussion, Mr. Morris moved, seconded by Mr. Mitchell and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

**ADJOURNMENT**

*With no further business to come before the Commission, Mr. Morris moved, seconded by Mr. Groskopf to adjourn the meeting at 1:25 p.m.*

Respectfully submitted,

*Richard Morris*

Richard Morris  
Secretary

RM:kb