

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
ADMINISTRATION CENTER, ROOM AC 255/259  
THURSDAY, OCTOBER 20, 2022 - 1:00 P.M.**

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**CALL TO ORDER**

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

Commission

Members Present: James Siepman (via Microsoft Teams) Thomas Michalski  
Robert Peregrine Richard Morris

Commission

Members Absent: William Groskopf

Staff

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

**CORRESPONDENCE:** None.

**MINUTES:** Approval of the September 15, 2022, Minutes.

*After discussion, Mr. Peregrine moved, seconded by Mr. Morris and carried unanimously for approval, of the September 15, 2022, Minutes, as presented.*

**PUBLIC COMMENT:** None.

**SCHEDULED MATTER**

- **Schedule of 2023 Commission Meeting Dates**

*After discussion, Mr. Peregrine moved, seconded by Mr. Michalski and carried unanimously for approval, of the 2023 Commission Meeting dates.*

- **CU75 (Douglas Wonoski/Michael Doering d/b/a Bark River Tree Service), Town of Ottawa, Section 2**

Mr. Fruth pointed out the location of the property at W359 S2032 Highway 67 in the Town of Ottawa on the aerial photograph. He indicated the request is for Conditional Use approval for the construction of a pole barn utilized for storage associated with a tree service and property maintenance business and to update the use as necessary.

Mr. Fruth explained the property is located east of STH 67 and Parry Road in the Town of Ottawa. Two adjacent parcels are utilized for the Bark River Tree Service operation. The Doering property contains the office operation and an accessory building is used as a staging and storage area for the business. The Wonoski property is utilized to store vehicles and equipment used in the business along with the wood chips, mulch, logs, and other materials. In 2013, the petitioners received a Conditional Use Permit for the Bark River Tree Service operation. The petitioners are now requesting to construct a new 50 ft. x 72 ft. x 20 ft. pole barn for additional storage. The building would be located in an open area, south of the residence on the Wonoski property. Other changes include a reduction in the hours of operation to Monday – Friday 8:00 am to 4:00 pm (previously 5:00 pm) and Saturdays, 8:00 am to 12:00 pm and a larger sign for the business (5 ft. by 8 ft.). A Preliminary Site Evaluation is being required due to the construction of the new building and a fire/building inspection is being required prior to occupancy.

*After discussion, Mr. Michalski moved, seconded by Mr. Peregrine 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.*

- **SP178 (Douglas Wonoski/Michael Doering d/b/a Bark River Tree Service, Town of Ottawa, Section 2**

Mr. Fruth indicated the Site Plan/Plan of Operation request is related to the previous Conditional Use (CU75) listed above.

*After a brief discussion, Mr. Peregrine moved, seconded by Mr. Morris 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.*

- **CU76 (Jacob and Melissa Frederick) Town of Eagle, Section 36**

Mr. Fruth pointed out the location of the property in Section 36 of the Town of Eagle on the aerial photograph. He indicated the request is for land altering activities associated with the construction of a new, single family residence.

Mr. Greenberg, Senior Planner, referred to Conditional Use (CU) law which states that a petitioner must demonstrate, using substantial evidence that a proposed use meets all of the applicable standards and requirements before a Conditional Use can be issued. He referred to Section 4(g)(14) B, Land Altering Activities and mentioned some of the requirements associated with the request:

- Detailed grading plans are required to be submitted.
- No use shall create flooding, concentrated runoff, inadequate drainage, unfavorable topography, excessive erosion and sedimentation. The use shall be designed to minimize impairment of fish and wildlife habitat and natural scenic beauty.
- The use shall comply with any ordinances or regulations established by a Town and County regulation.
- The use shall conform to Sections 3(d) 4, 5 and 9 of the Ordinance regarding grading, preservation of topography and vegetation removal.

Mr. Greenberg said that a public hearing was held in September 2022 and 3 neighbors expressed support for the project and there was no opposition for the request. The Town of Eagle Plan Commission and Board recommended support of the request with a condition which required that if the Conditional Use Permit was granted, the petitioners need to meet the equivalent standards required by a County permit issued under the Waukesha County Stormwater and Erosion Control Ordinance.

Mr. Greenberg presented an aerial photograph of the property which is approximately 3 acres in size and indicated it was zoned in the A-2 Rural Home District (3 acres is the minimum lot size of the district) and that no further division of property would be possible. The topography on the site is steep and variable with a 35 ft. ridge running on a diagonal across the property. There is a small knoll on the northeast corner of the property. Soils on the property are described as well drained soils. He explained the proposed residence would be a one story ranch with a fully exposed basement (facing west) containing approximately 4,000 sq. ft. on the first floor. He presented the grading plan showing areas where fill and cuts are being proposed and the amounts. In addition, he pointed out the retaining wall locations and wall heights. Access to the property is being proposed from the north via South Shore

Drive. To achieve a 10% slope, the petitioners are proposing to extend the fill out and contain the fill with a linear retaining wall running along the driveway with a balance of cuts and fills from 5 ft. to 3 ft. to create a 2,000 sq. ft. parking area. In order to extend the exposure across the western face of the elevation a significant cut is being proposed. He pointed out the 6 ft., 9 ft., 11 ft. and up to a 12 ft. cut being the most extreme. A 9 ft. high retaining wall is being proposed along the northwest exposure of the home. Additional land altering activities are being proposed around the southeast corner, where an additional cut is being proposed for a wing wall off of the home to allow a full first floor exposure and to accommodate a service door on the back side of the garage so vehicles can pass in and out.

Mr. Greenberg stated at the public hearing the petitioners presented their alternative analysis and site locations for the house design. He noted the plans submitted at the public hearing have been slightly revised by the petitioners, however, the report is based on plans submitted at the public hearing. The Waukesha County Land Resources and Planning and Zoning Division staff analyzed the different options.

Option No. 1 is the petitioners desired proposal – home being place on top of the slope.

Options No. 2 and 3 – proposals to seek the flat ground sitting between the 2 hills.

Option No. 4 – location on the side slope facing the lake more.

Mr. Greenberg said the petitioners expressed concerns with Option No. 3, with regards to side slope drainage and impacts with conveying it away from the house. The Planning and Zoning Division staff believes there could be a viable home site since the soils are well drained on the property. If there is a significant width between the slopes, 8 ft. to 12 ft. between the side slope and the home it would provide enough area for adequate drainage away from the home. Mr. Fruth asked which option was being described, to which Mr. Greenberg replied Option No. 3, and added that it is located on the flattest ground available on the site. The Planning and Zoning Staff is recommending denial of the request for the following reasons:

- The Waukesha County Comprehensive Development Plan recommends development should be directed away from areas with steep slopes (12% or greater).
- The Conditional Use standards for land altering activity in the Ordinance also aligns with the County Development Plan recommendations. The standards prevent changes to existing topography which would adversely affect surrounding lands and not limited to just drainage concerns but also aesthetics. He added that projects can be permitted with some disturbance of steep slopes, however, reasonable alternatives need to be investigated and is the home design considerate of the existing topography conditions or is the house being forced on the topography and not designed in harmony with the slopes.

Mr. Michalski asked if the recommendation for denial was for all of the options or just Option No. 1, to which Mr. Greenberg replied, “Only Option 1”. Mr. Greenberg stated that Staff believes that all of the site options have not been fully explored and there may be a viable alternative site location (Option No. 3) and/or alternative home designs which would require much less engineering and land altering activities if the petitioners wish to have a view of the lake or better views from higher elevations. Mr. Morris asked where the location of Option No. 1 was, to which Mr. Greenberg referred to Exhibit C of the Staff Report and noted it was on top of the ridge. Mr. Fruth added the significant cut being proposed on the lakeside could potentially be reduced with a southwest exposure and if the home were rotated to face southwest, it would work better with the lay of the land. The orientation for a view of the water is affecting how someone would propose an exposure on a slope. Mr. Morris asked how much of

a lakeview is there with Option No. 3? Mr. Greenberg replied that is the downside, the view is not as prominent. Mr. Fruth said there are many additional options which could be explored relative to different home designs or location variations.

Attorney Brejcha representing the petitioner introduced himself. He noted that the Town of Eagle approved the conditional use request. He stated the statute for Conditional Use Permits (CUP) states if an applicant for a Conditional Use meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city's zoning board the city shall grant the CUP. The CUP should be granted unless as part of the denial there is substantial evidence presented. He believes the applicant has met or will agree to any of the conditions.

Attorney Brejcha mentioned that there was an omission from the Staff Report and Recommendation under "Compliance with the Comprehensive Development Plan for Waukesha County and the Town of Eagle Land Use Plan". The second to last sentence states "The County Park and Planning Commission is charged with deciding as to whether the proposal complies with the above plan recommendation." In another Conditional Use Staff Report (Raposo, T/Oconomowoc) for land altering which came before the commission in May 2022, there was also language which stated "and significant grade changes can be considered as part of the Conditional Use requirement." He expressed that he did not feel that a myriad of other options for siting a home on the site exist as suggested by staff. He added that the unique characteristics of this property (not being a perfectly flat site) would be ideal for the walkout design. He noted that 2 neighbors spoke in support of the plan as proposed. In addition, Option No. 4 would require driveway access closer to the lake and near one of the neighbors who was in support of Option No. 1. That neighbor noted that she would be concerned if a driveway was located across from her house due to glare from headlights. Option No. 3 would require perfect conditions for the construction site, there would be concerns with directing rain or surface water and would require more tree removal. Option No. 2 would require a grove of hickory trees to be removed, approximately 8 trees. In closing, he did not think the site provides for other options and the petitioners have considered more than reasonably, substantial alternatives and noted the submitted proposal complies with the Conditional Use Permit ordinance and the petitioners would be willing to comply with the conditions.

Mr. Van Henkelum, engineer, introduced himself and referred to the wording in the Staff Report that calls for preservation of topography and that the development should be directed away from steep slopes. He stated he felt that referred to new land developments. He said they always start with the garage on the upside and walkouts on the low side. He presented photos taken in all 4 directions from Option No. 1 and Option No. 3. Option No. 1 provides a great view of the lake and DNR property to the south and is made for a walkout. He mentioned the 2 houses to the south are built on the ridge with walkouts. To the north and east, the houses are built on top of the moraine. Option No. 3 would have less grading and retaining walls but it would need to be raised up 4 to 5 ft. resulting in a basement without a walkout or a 2 story house and in the winter because of the kettle, snow could drift against the side of the house. He also expressed concerns with wildlife traveling through the kettle. In Option 1 there would be 500 cut and 500 fill and in Option 3, 1,400 of fill. Drainage would not affect neighboring properties.

Mr. Frederick said he purchased the property in 2018. He presented photographs from the property with views. Mr. Morris asked if you could see over the trees, to which Mr. Frederick replied yes. He said he wanted to minimize the land disturbance but it complicated the design. There was discussion from the Mr. Frederick regarding making changes to the plans.

Chairperson Siepmann advised that the Commission should not be involved in designing at a Commission meeting. He asked the Commission regarding the proposal, as of today, if they would want to deny, or table and have the petitioner come back with alternatives that would work with the Planning Staff. Mr. Morris said the staff's recommendation is to deny, he felt with a few modifications in the grading plan (where the high retaining wall is located) this could be an acceptable workable plan. Mr. Peregrine said he would favor tabling the matter and have the Planning Staff meet with the petitioners to see if something could be worked out at the site that they prefer. Mr. Michalski agreed with Mr. Peregrine.

Chairperson Siepmann said he had visited the site today and noted that there are options other than placing the home on the ridge. He concurred with the Planning Staff and stated it is a very difficult spot to put a house and it does not meet the County Development Plan requirements from the standpoint of disturbing topography. He said the petitioners are trying to build a large home (a ranch type which sprawls out) on the top of the ridge. He suggested that Option No. 3 would be a better location to place the house and added there is no way to construct the house, as proposed, without doing more impacts to the grading around it and the 2,000 sq. ft. parking lot area in front of the garage seemed excessive. The goal is to minimize impervious surfaces and limit grade changes. He said he agreed with tabling the matter and having the Planning Staff work with the petitioners and see if an acceptable solution could be reached.

Mr. Greenberg said if the Commission agrees to table the matter, he asked that they be clear on what reductions in walls and cuts would be acceptable and some direction to the petitioner as to what mark they need to be at. Mr. Fruth said Chairperson Siepmann noted that he did not want the Commission to be deciding on the fine details, but it would be helpful to the Planning Staff if there is a particular area to look into or make a change to, such as an exposure, etc. Chairperson Siepmann replied he would like to see the right elevation exposed more to a full exposure on the right side to minimize the retaining walls on the right side elevation, which are currently 4 to 9 ft. high and an extensive grading plan submitted to understand the maximum limits of grading. He asked Mr. Greenberg if the petitioner believed this option would balance from a cut and fill standpoint? Mr. Greenberg replied that the option that the petitioner prefers is balanced and Option 3, depending on whether they achieve a basement or not would be possibly more fill and some offsetting cuts depending upon groundwater depth and basement viability. Mr. Peregrine said there needs to be some work, not only on the site, but on the design of the house which would require tweaking to accommodate the owners' desires. Mr. Van Henkelum said if one option was chosen, he could work with the Planning Staff regarding a more detailed plan. Mr. Peregrine reiterated that it is not just a site problem it includes the design of the building.

***After discussion, Mr. Morris moved, seconded by Mr. Peregrine and carried unanimously, to table the matter for the Planning and Zoning Division staff, owner and builder/engineer to discuss and consider modifications to the grading plan, minimize retaining walls and modify the house design to better accommodate the placement of the new residence on the site.***

• **CU79 (Bruce Moncrieff/JFK Design Build) Town of Merton, Section 20**

Mr. Fruth pointed out the location of the property at W329 N6597 Forest Drive in the Town of Merton on the aerial photograph. He indicated the request is for land altering activities associated with the construction of a new, single family residence with attached garage. He referenced the standards for Conditional Use earth altering requests.

Mr. Fruth indicated the property has frontage on Moose Lake and steep slopes. The existing residence on the property was razed and an existing driveway which contains a retaining wall, a boathouse and patio/wharf structure were retained. The petitioner is proposing to construct a new residence, utilizing the existing driveway. The Town approved access to the property via the existing driveway. He said the submitted house plans work with the lay of the land, however, a cut is proposed to achieve a lower approach to the garage.

Mr. Fruth explained that the Waukesha County Comprehensive Development Plan calls for development to be directed away from steep slopes and added that on this parcel there is no placement that entirely avoids impacts to slopes. The Planning and Zoning Division Staff also recommends avoiding unfavorable topography, preserving natural scenic beauty, etc. He explained the grade at the road is 890' and at the top of the driveway it is 915', then the property flattens out, then drops off steeply (approximately 35') towards the shore of Moose Lake. Mr. Fruth referred to the grading plan included in the Staff Report and Recommendation. He said the area of considerable grading is north of the garage. The garage is situated in a higher area. This would result in the driveway being less steep, around 12% versus currently 20% or more. The residence would be situated on top of the hill and the garage would be located below. Another area of impact is the siting of the septic system located immediately east of the garage area. There would be up to a 7 ft. cut because the soils in that area are good, but only at a certain depth, and the septic can be no more than 8 ft. below grade.

Mr. Fruth presented photographs of the property and noted the following conditions:

- A Stormwater Permit is required from the Land Resources Division for any earth altering Conditional Use request.
- The driveway retaining wall and stone pillar improvements within the right-of-way of Forest Drive are allowed but the Town of Merton may require them to be removed/modified for just cause at the owners expense.
- Mitigation is to be provided relative to the grading for a proposed patio on the slope, by way of downsizing the existing 56 ft. patio at the shore by 50% and the area restored with vegetation.
- The project is to be completed by September 1, 2024.

Mr. Kohlmann, landscape architect and Mr. Berg from JFK Design Build introduced themselves. Mr. Kohlmann commented on the Planning Staff's condition to remove 50% of the lakeside patio. He explained it is very old concrete and he would be hesitant to remove any portion of it. He proposed another option could be to use permeable pavers or some other mitigation option closer to the residence. Mr. Fruth asked what challenge the age of the concrete presents? Mr. Kohlmann replied it is difficult to tell how it was built, how thick it is, and the possible disturbance involved in removing the concrete. He added that it is currently holding up the existing steep bank. Mr. Fruth asked if a raised bed could be placed on top of the concrete surface so as not to create the disruption? Mr. Kohlmann and Mr. Berg responded it would be acceptable and they could also add some greenery and natural landscape to the area. Mr. Peregrine said it didn't seem like it would make a difference whether it stays where it is. Mr. Fruth said it is an unnatural to put concrete or asphalt immediately at the shore for a long run. His alternative suggestion is to add some greenery to it to soften the impact. Mr. Michalski asked if the sole purpose of the suggestion was to make it look more natural? Mr. Fruth replied, yes, but also to naturalize the shoreline for aesthetic purposes and to mitigate the other changes in grades which are occurring in the topography. Mr. Morris said there are quite a few concrete wharfs/patios on Moose Lake which are significantly larger than this one. Mr. Kohlmann suggested some green could be added where the boathouse was removed. Mr. Fruth said he would favor vegetation on top of the hard surface wharf/patio over a green roof or additional permeable pavers on the driveway or another location on the property. Chairperson Siepmann said compared to the prior Conditional Use request (CU76), this is a

great example of an architect and engineer that understand topography and design. They are stepping the garage down to make the grades work and integrating the building into the topography and minimizing retaining walls. He agreed that trying to remove any of the concrete on the lake shore might be very difficult rather than leaving it there. He agreed with Mr. Fruth's suggestion in trying to minimize, visually, the impact of the concrete. Potted plants could be added during the summer so it doesn't look so much like a wharf. He suggested the matter could be approved today conditioned upon the petitioner and architect working with the Planning Staff for solutions. Mr. Fruth suggested that Condition No. 8 be revised to include that the vegetation area shall extend across at least one-half of the patio's shore frontage and shall soften the view of the patio from the shore and provide water absorption and that vegetation can be set on the surface of the patio in planters, boxes or pots. The Commission agreed.

*After discussion, Mr. Morris moved, seconded by Mr. Peregrine and carried unanimously, for approval, as conditioned, in accordance with the "Staff Report and Recommendation" with a revision to Condition No. 8, which will now read:*

- 8. To mitigate the proposed grading project's impacts on the natural environment, a minimum of 50% of the existing patio surface at the shoreline shall be covered with vegetation. The vegetation can be set on the surface of the patio in planters, boxes or pots. The vegetation area shall extend across at least one-half of the patio's shore frontage and shall soften the view of the patio from the shore and provide water absorption. A detailed plan for vegetating the patio shall be submitted to and reviewed and approved by the Waukesha County Planning and Zoning Division.*

*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. Peregrine moved, seconded by Mr. Morris to adjourn the meeting at 2:18 p.m.*

Respectfully submitted,

*Richard Morris*

Richard Morris

RM:kb