

ENROLLED ORDINANCE 177-31

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE BY AMENDING THE
PDD-05 CLYDESDALE WEST SPECIAL STANDARDS WITHIN APPENDIX D OF THE TOWN
OF MUKWONAGO ZONING CODE RELATIVE TO ACCESSORY STRUCTURES
WITHIN THE CLYDESDALE FARMS WEST SUBDIVISION (RZ102)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Mukwonago Town Board on April 14, 2022; and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.62, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Town of Mukwonago Zoning Code, adopted by the Town of Mukwonago on November 30, 2020, is hereby amended, more specifically, the PDD-05 Clydesdale West special standards within Appendix D of the Town of Mukwonago Zoning Code relative to accessory structures within the Clydesdale Farms West Subdivision, more specifically described in the "Staff Report and Recommendation" on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference RZ102, is hereby approved.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Mukwonago.

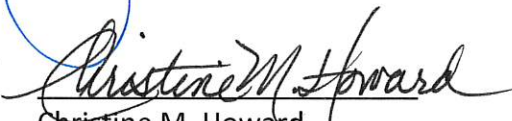
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

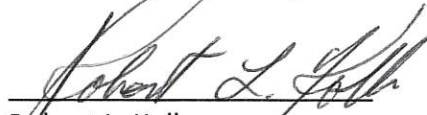
AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING CODE BY AMENDING THE
PDD-05 CLYDESDALE WEST SPECIAL STANDARDS WITHIN APPENDIX D OF THE TOWN
OF MUKWONAGO ZONING CODE RELATIVE TO ACCESSORY STRUCTURES
WITHIN THE CLYDESDALE FARMS WEST SUBDIVISION (RZ102)

Presented by:
Land Use, Parks, and Environment Committee


Thomas A. Michalski, Chair

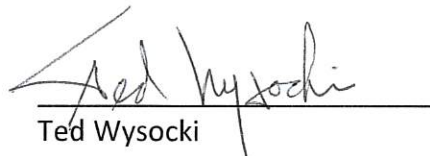

Jennifer Grant


Christine M. Howard

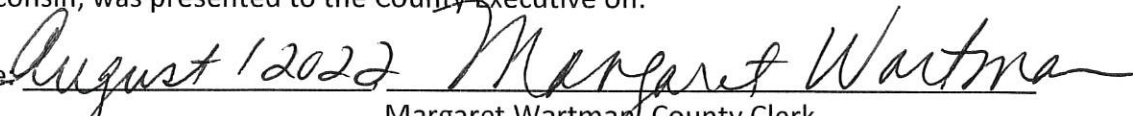

Robert L. Kolb


Brian Meier


Chris Mommaerts


Ted Wysocki

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: August 1, 2022 
Margaret Wartman, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: _____


Date: 8/1/2022 
Paul Farrow, County Executive

COMMISSION ACTION


The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Text of the Town of Mukwonago Zoning Code hereby recommends approval of **RZ102 (Clydesdale Farms West HOA)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

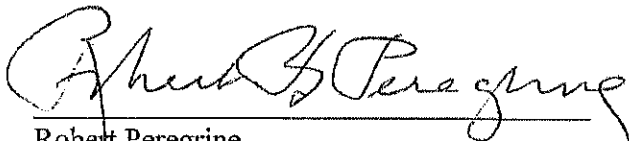
June 16, 2022



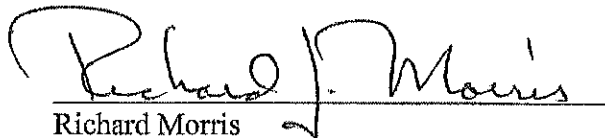
James Siepmann, Chairperson



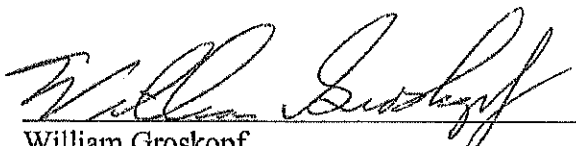
Thomas Michalski, Vice Chairperson



Robert Peregrine



Richard Morris



William Groskopf

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
TEXT AMENDMENT

FILE NO.: RZ102

DATE: June 16, 2022

PETITIONER: Kent Greenwald, Agent
President, Clydesdale Farms West HOA
W319 S9005 Excelsior Lane
Mukwonago, WI 53149

REQUEST:

Amend the PDD-05 Clydesdale West special standards within Appendix D of the Town of Mukwonago Zoning Code relative to accessory structures within the Clydesdale Farms West subdivision.

PUBLIC HEARING DATE: April 6, 2022

PUBLIC REACTION:

One property owner said Clydesdale North tried to change this rule ten years ago and since not everyone agreed, they did not change anything. He is not sure why this request in Clydesdale West has moved forward without 100% of property owners in agreement. He is concerned about junk around buildings. Another person asked what happens to the people who purchased and thought the rules were the rules and do not want the change. Another person stated he wants the subdivision to continue looking nice. Another property owner stated he was concerned about blocking views with outbuildings. One resident submitted comments electronically. Those concerns were as follows: 1) Dilapidation of property values, 2) Obstruction of open space, 3) Environmental impact causing potential flooding resulting from reduced soil availability for absorption, and 4) Reduced capacity for a second leach field for a conventional septic system. Further, if one needs more garage space, then pull a permit for an attached addition. Eight other property owners were in favor of the change. One stated he could use more storage.

TOWN PLAN COMMISSION ACTION:

At their meeting of April 6, 2022, the Town of Mukwonago Plan Commission recommended 4-2 for approval of the proposed text amendment to the Town Board.

TOWN BOARD ACTION:

At their meeting of April 14, 2022, the Town of Mukwonago Board unanimously approved the proposed text amendment to Town of Mukwonago Zoning Code (Ordinance 2022-O-59 attached), subject to showing that 75% of the property owners in the subdivision are in agreement with the proposed change to the conditional use order to allow for accessory structures and that the Clydesdale Farm West subdivision homeowner's documents and the conditional use for Clydesdale Farm West are all consistent with the proposed change to the Town of Mukwonago Zoning Code to allow accessory structures in the Clydesdale Farm West subdivision.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (WCCDP) AND THE TOWN OF MUKWONAGO COMPREHENSIVE PLAN:

The text amendment provides for a change in how accessory buildings are allowed/regulated in the Clydesdale Farms West subdivision. With the supporting regulatory language added to the town's zoning code, the amendment complies with the Town and County CDPs.

STAFF ANALYSIS:

The proposed amendment was initiated as a result of a town zoning violation on a single property within the Clydesdale Farms West subdivision. A shed was constructed without permits or permission from the Clydesdale Farms West HOA. A change was sought to rectify the situation. The first step to amending the code was to have the subdivision HOA vote on an amendment to the Declaration of Restrictions. On Jan 22, 2022, 21 of the 26 (80.8%) owners were in favor of the amendment, and the HOA passed the amendment to the Declaration of Restrictions which also requires Architectural Control Committee approval of accessory buildings. A minimum of 75% of the HOA membership is required to pass any changes to the Declaration of Restrictions for the subdivision.

A public hearing was subsequently held to amend both the Conditional Use (PUD) and the text of the zoning code for the subdivision. Specifically, the following language in Section PDD-05 in Appendix D in the zoning code prohibiting accessory buildings was struck: *Accessory buildings are not allowed.* The following language was added: *Accessory building: One accessory building, not to exceed 600 square feet or 15 feet in height, is allowed on residential lots. Special exceptions for floor area and building height are not allowed. The design and exterior building materials for accessory buildings must match the principal building. Accessory buildings are not allowed in outlots.*

STAFF RECOMMENDATION:

The Planning and Zoning Division Staff recommends **approval** of the request in accordance with Town Ordinance No. 2022-O-59. The request allows property owners the flexibility to have one accessory building on their property, limited in both size and height, and which will be reviewed by the Architecture Control Committee. The ordinance amendment will not be hazardous, harmful, noxious, offensive, or a nuisance; will not unduly limit or restrict the use of property in the Town or for any other reason cause a substantial adverse effect on the property values, open space, or general desirability of the Town; and will serve the public health, safety, and general welfare of the Town of Mukwonago. Further, the amendment meets the purpose and intent of the Town and County Comprehensive Development Plans and complies with the Town of Mukwonago Zoning Code.

Respectfully submitted,

Sandra L. Scherer

Sandra Scherer
Senior Planner

Attachment: Town Ordinance No. 2022-O-59

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE 2022-O-59

AN ORDINANCE TO AMEND CHAPTER 36 OF THE MUNICIPAL CODE

WHEREAS, the Town Board for the Town of Mukwonago adopted a zoning code for the Town of Mukwonago in 1953 and has amended it from time to time since then; and

WHEREAS, that zoning code is codified as Chapter 36 of the Town of Mukwonago Municipal Code, titled "Town Zoning;" and

WHEREAS, Charles Gordon owns a parcel in the Clydesdale Farms West subdivision and submitted a petition to amend the development standards in Appendix D of the zoning code for that subdivision referred to as PDD-05; and

WHEREAS, allowing for proper notice, the Plan Commission and Town Board conducted a joint public hearing on April 6, 2022, to consider the amendment and to accept public comment; and

WHEREAS, the Plan Commission recommended approval at their meeting on April 6, 2022; and

WHEREAS, the Town Board considered the Plan Commission's recommendation at their meeting on April 6 and April 14, 2022; and

WHEREAS, the Town Board finds that the proposed revisions to the Town's zoning regulations do not constitute a down zoning ordinance as set forth in s. 66.10015, Wis. Stats., and that a vote in favor by two-thirds of the members-elect of the Town Board is not required for passage and adoption; and

WHEREAS, the Town Board for the Town of Mukwonago, after carefully reviewing the recommendation of the Plan Commission for the Town of Mukwonago and having given the matter due consideration having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety and welfare of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendment will serve the public health, safety and general welfare of the Town of Mukwonago, will enhance property values in the Town and will not be hazardous, harmful, noxious, offensive or a nuisance, and will not unduly limit or restrict the use of property in the Town or for any other reason cause a substantial adverse effect on the property values and general desirability of the Town.

NOW, THEREFORE, the Town Board for the Town of Mukwonago, Waukesha County, does hereby ordain as follows:

Section 1. Repeal and recreate the part in Appendix D for PDD-05 to read as follows:

Clydesdale West (PDD-05)

Lot size, minimum: 1.5 acres

Lot width, minimum: 200 feet

Offset, minimum: 30 feet (but 50' per covenants)

Setback, minimum: 50 feet (but 75' per covenants)

Setback from conservancy, wetlands, and floodland, minimum: 75 feet

House floor area, minimum: 1,800 square feet

Floor area ratio (FAR), maximum: 10 percent

~~Accessory buildings are not allowed.~~

Accessory building: One accessory building, not to exceed 600 square feet or 15 feet in height, is allowed on residential lots. Special exceptions for floor area and building height are not allowed. The design and exterior building materials for accessory buildings must match the principal building. Accessory buildings are not allowed in outlots.

Open space per lot, minimum: 60,000 square feet

Unspecified standards: per SE zoning district

Section 2. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

Section 3. The Town of Mukwonago Town Clerk is directed to send three signed copies of this ordinance to the Waukesha County Clerk for approval of the Waukesha County Board of Supervisors.

Section 4. This ordinance shall take effect immediately upon passage and posting or publication as provided by law following approval by the Waukesha County Board of Supervisors.

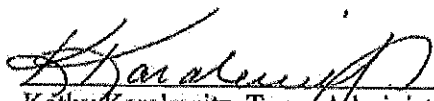
Adopted this 14th day of April 2022

TOWN OF MUKWONAGO



Peter Topczewski, Town Chair

ATTEST:



Kathy Karalewitz, Town Administrator

Published and/or posted this 5 day of May, 2022

VOTING RESULTS

AYE 24


NAY 0

ABSTAIN

ABSENT 1

Ordinance 177-O-032

Ordinance 177-O-032: Amend The Text Of The Town...

 **Passed By Majority Vote**

D1 - Foti	AYE	D14 - Mommaerts	AYE
D2 - Weil	AYE	D15 - Kolb	AYE
D3 - Morris	AYE	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Meier	AYE
D5 - Grant	ABSENT	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Enriquez	AYE
D7 - LaFontain	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Thieme	AYE	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Bangs	AYE
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

July 26 2022 - July 26 2022 07:12:14 PM

