

ENROLLED ORDINANCE 178-104

APPROVE TOWN OF MUKWONAGO ORDINANCE 2023-O-65 THAT AMENDS
APPENDICES A, C AND D OF THE TOWN OF MUKWONAGO ZONING CODE
RELATIVE TO MISCELLANEOUS ZONING MATTERS
(RZ133)

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 December 6, 2023; and

WHEREAS, the Town of Mukwonago Ordinance No. 2023-O-65, revises Appendix A, C and D of the Town Zoning Code relative to accessory buildings and lot density, garage size limits for a single planned unit development, and removing zoning permit requirements for solar energy systems; 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 amendments to the Town of Mukwonago Zoning Code, approved by the Town Board of Mukwonago by Town of Mukwonago Ordinance No. 2023-O-65, which revises Appendix A, C and D, as 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, are hereby approved.

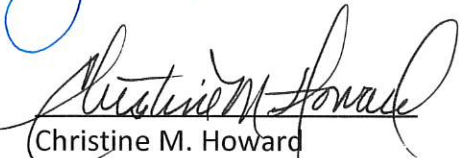
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Mukwonago.


APPROVE TOWN OF MUKWONAGO ORDINANCE 2023-O-65 THAT AMENDS APPENDICES A, C AND D OF THE TOWN OF MUKWONAGO ZONING CODE RELATIVE TO MISCELLANEOUS ZONING MATTERS (RZ133)

Presented by:
Land Use, Parks, and Environment Committee


Tyler J. Foti, Chair


Jennifer Grant


Christine M. Howard



Robert L. Kolb


Brian Meier


Chris Mommaerts


Gary J. Szpara

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

Date: 3/29/24, 
Margaret Wartman, County Clerk

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

Approved: X
Vetoed: _____

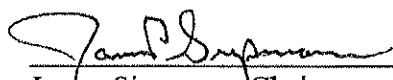
Date: 3/29/24, 
Paul Farrow, County Executive

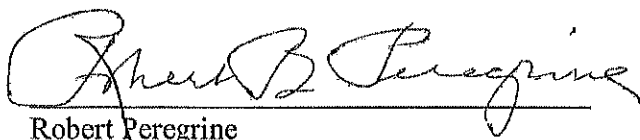
COMMISSION ACTION

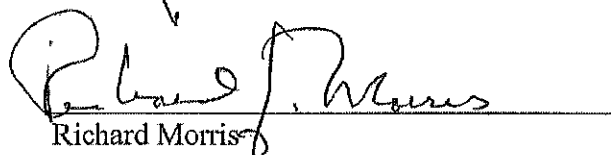
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Text of the Town of Mukwonago Zoning Code hereby recommends approval of **RZ133 (Town of Mukwonago Board)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

February 28, 2024

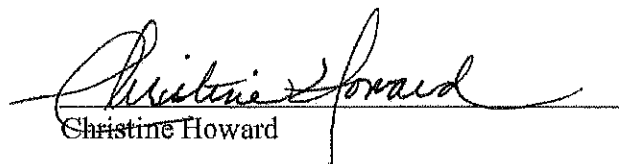

James Siepmann, Chairperson


Robert Peregrine


Richard Morris

Absent
William Groskopf


Gary Szpara


Christine Howard

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

FILE NO: RZ133
DATE: February 28, 2024
NAME OF PETITIONER: Town Board of Mukwonago
Town of Mukwonago Hall
W320 S8315 Beulah Road
Mukwonago, WI 53149

NATURE OF REQUEST:

Text amendments to the Town of Mukwonago Zoning Code to revise Appendix C related to accessory buildings and lot density, revise Appendix D regarding garage size limits for Clydesdale East (PDD-08) and revise Appendix A to remove the zoning permit requirement for solar energy systems.

PUBLIC HEARING DATE:

November 1, 2023 and December 6, 2023.

PUBLIC REACTION:

None.

TOWN PLAN COMMISSION ACTION:

At their meeting of December 6, 2023, the Town of Mukwonago Plan Commission recommended approval of the proposed text amendments to the Town Board.

TOWN BOARD ACTION:

At their meeting on December 6, 2023, the Town Board approved the proposed text amendments to Town of Mukwonago Zoning Code.

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

The amendments are limited to minor text and rule changes. The amendments are consistent with plan recommendations.

STAFF ANALYSIS:

The Town of Mukwonago is proposing minor changes to the text of the town code relative to three different topics:

- Appendix C of the code is proposed to be revised to eliminate the cap on the number of accessory buildings on properties zoned A-1 District that contain a minimum of 15 acres. The B-2 lot density standards of Appendix C are proposed to be amended to change the specified lot density to 20,000 square feet rather than 30,000 square feet.

- Appendix D relating to the dimensional standards of the Clydesdale East Subdivision is proposed to be amended to specify attached garages of a minimum of 600 square feet rather than a maximum of 600 square feet.
- Appendix A is proposed to be revised to remove “ZP” (zoning permit) as a secondary review for building mounted solar energy systems.

These changes recognize that multiple accessory buildings are fairly customary on larger acreage properties. The changes to the Clydesdale East Subdivision Planned Unit Development (PUD) standards eases the regulations for that subdivision and would allow for garages to be enlarged more consistent with what has become typical in the marketplace. The change to Appendix A eases administrative burden relative to roof mounted solar equipment.

STAFF RECOMMENDATION:

The Planning and Zoning Division Staff recommends **approval** of the Town of Mukwonago’s request. The amendments make minor administrative changes that are responsive to consumer demands and simplify permitting processes.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachments: Town Ordinance No. 2023-O-065

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STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE 2023-O-65

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, the Plan Commission at their meeting on October 4, 2023, recommended various revisions to the zoning code as set forth herein; and

WHEREAS, allowing for proper notice, the Plan Commission and Town Board conducted a joint public hearing on November 1, 2023 and December 6, 2023, to consider the amendment and to accept public comment; and

WHEREAS, the Plan Commission recommended approval at their meeting on December 6, 2023; and

WHEREAS, the Town Board considered the Plan Commission's recommendation at their meeting on December 6, 2023; and

WHEREAS, the Town Board finds that the recommended revisions to the Town's zoning regulations could potentially be interpreted to be a down zoning ordinance because it may decrease the development density of land or reduce the permitted uses of land, and therefore the super majority requirement in s. 66.10015, Wis. Stats, applies to this ordinance, requiring a vote in favor by two-thirds of the members-elect of the Town Board 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. Revise Appendix C as indicated in Exhibit A, attached hereto.

Section 2. Revise the standard for Clydesdale East (PDD-08) in Appendix D as indicated below.

Attached garage floor area, ~~maximum~~ minimum: 600 square feet

Section 3. Remove "ZP" as a secondary review for 13.24 (Solar energy system, building-mounted) in Appendix A.

Section 4. 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 5. 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.

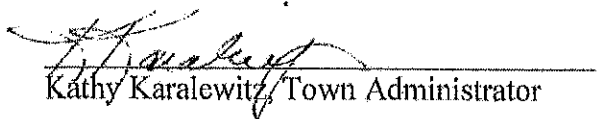
Section 6. This ordinance shall take effect immediately upon passage and posting or publication as provided by law following approval by the Waukesha County Board of Supervisors.

Adopted by a vote in favor by two-thirds of the members-elect of the Town Board, or more, this 6th day of December 2023

TOWN OF MUKWONAGO


Peter Topczewski, Town Chair

ATTEST:


Kathy Karalewitz, Town Administrator

Published and/or posted this 4 day of January, 2024

Exhibit A

Appendix C. Dimensional standards for lots

Zoning District	Minimum Lot Area [1-3]	Minimum Lot Width [1]	Minimum Residential Living Area [3]	Maximum Floor Area of Attached Garage [3]	Maximum Floor Area of Detached Accessory Building [3,4,5]	Maximum Building Coverage [1]	Maximum Height [12,13,14]	Minimum Setback [6]	Minimum Offsets [1,6,8,9,10]	Minimum Open Space [1]	Maximum Number of Detached Accessory Buildings [10]
Residential (R-1)	5 acres	200 feet	See note 15	See note 20	1,700 square feet [11]	10 percent	Principal: 60 feet Accessory: 60 feet	50 feet	50 feet	Not applicable	Not applicable
Residential (R-2)	5 acres	300 feet	See note 15	See note 20	2,600 square feet [11]	10 percent	Principal: 55 feet Accessory: 18 feet	50 feet or 10 feet when the setback and offset are equal or exceed the height of the structure	50 feet or 10 feet if the lot is set back by a front road	2 acres per family	2
Residential (R-3)	5 acres	300 feet	See note 15	See note 20	2,600 square feet [11]	10 percent	Principal: 55 feet Accessory: 18 feet	50 feet or 10 feet when the setback and offset are equal or exceed the height of the structure	50 feet or 10 feet if the lot is set back by a front road	2 acres per family	2
Local Business (B-2)	20,000 square feet	120 feet	See note 16	See note 20	5,000 square feet [11]	15 percent	Principal: 35 feet Accessory: 15 feet	50 feet	Commercial: 10 feet Residential: 20 feet	25,000 square feet per family	2
Public (P-1)	No restriction	No restriction	See note 17	See note 20	1,800 square feet [11]	30 percent	Principal: 35 feet Accessory: 15 feet	50 feet	Commercial: 10 feet Residential: 20 feet	Not applicable	No restriction

- Notes:**
- The town board may modify the lot size, lot width, building coverage, offset, and open space requirements pursuant to s. 36-72; if the lot is served by a municipal or municipally-approved communal wastewater system or water system.
 - Some land uses may only occur on lots that are larger than the minimum lot sizes listed in this table. Such land uses are listed in Appendix B.
 - The town commission may allow some floor area pursuant to s. 36-718.
 - Pursuant to article 5, the town board may designate an existing building as a rural accessory building, which is not included in the usual. In order to qualify as a rural accessory building, the subject property must be 3 acres or larger.
 - Temporary buildings, if allowed, are counted as a building for the purpose of this restriction, unless specifically exempted.
 - In addition, there are standards for an equestrian within 50 feet of the EC, equestrian district and 75 feet of the conservancy (C-1) district. See s. 36-726 and 36-727, respectively.
 - Retained.
 - In the case of any lot of record which has a minimum average width of less than 120 feet, the side lot offset may be reduced proportionately to the ratio between the actual minimum average width and 120 feet, provided that no offset shall be less than 10 feet. Exceptions to these offsets may be permitted for detached accessory buildings on lots of 100 feet in width or less which may be reduced to 5 feet, provided that no detached accessory building shall be located closer than 10 feet to any structure used for residential purposes. Further reduction in offsets of detached accessory buildings to less than 5 feet must be approved by the plan commission, but in no case shall the offset be reduced to less than 3 feet. Attention upon decks and patios shall be permitted to within 40 percent of the lot area established in this subsection.
 - The offset may be reduced on lots 1.5 acres or less for one detached accessory building, which is less than 200 square feet to a minimum of 5 feet from the lot line, unless otherwise regulated under any other provisions of this chapter.
 - Some land uses may have more restrictive offset requirements. Examples include hobby kennels and horsehold in stock. Such land uses are listed in Appendix B.
 - The maximum floor area is increased by 90 square feet for every one-half acre of land that the subject property exceeds the district minimum lot size.
 - The following are exempt from the height regulations of all districts, but are subject to all other applicable regulations: (1) chimneys and flues; (2) accessory farm buildings, not to exceed 60 feet in height, on lots of 3 acres or more in area; (3) external transmission and distribution facilities; and (4) non-soundproof television and radio receiving antennas not exceeding 10 feet in height from the roof and non-soundproof amateur radio operator antennas not exceeding 10 feet in height from the roof, aerial and necessary mechanical apparatuses.
 - Pursuant to the procedures and requirements for special exceptions in article 5 of this chapter, the plan commission may exempt the following from the height regulations of all districts: cooling towers, air conditioning units, heat exchangers, fan towers, monuments, parhouses, stacks, security, lifts, tanks, water towers, ornamental towers, spires, masts, fee standing towers, non-soundproof amateur radio operator antennas 10 feet or more in height from the roof, aerial and necessary mechanical apparatuses.
 - Pursuant to the procedures and requirements in article 5 of this chapter, the plan commission may grant a special exception to exceed the stated maximum height for an accessory building provided the setback is increased one foot for each additional foot in height up to a maximum of 10 additional feet. The plan commission may require screening to break up the view of the building from adjacent properties or from a public road.
 - Minimum of 900 square feet on first floor and total floor area based on number of bedrooms as follows: one bedroom: 1,200 square feet; two bedrooms: 1,300 square feet; three bedrooms: 1,400 square feet; four or more bedrooms: 1,500 square feet. The minimum total is increased by 200 square feet for any building not having a basement of at least 300 square feet in area.

16. Minimum of 2000 square feet on first floor and total floor area based on number of bedrooms as follows: one bedroom: 1,000 square feet, two bedrooms: 1,200 square feet, three bedrooms: 1,400 square feet, four or more bedrooms: 1,600 square feet. The minimum total is increased by 200 square feet for any building not having a basement or at least 500 square feet in area.
17. Minimum of 800 square feet on first floor and total floor area based on number of bedrooms as follows: one bedroom: 900 square feet, two bedrooms: 1,100 square feet, three bedrooms: 1,300 square feet, four or more bedrooms: 1,400 square feet. The minimum total is increased by 200 square feet for any building not having a basement or at least 300 square feet in area.
18. Reserved.
19. Pursuant to article 5, the town board may designate an existing building, which is not included in the town, in order to qualify as a rural accessory building, the subject property must be 3 acres or larger.
20. One-story residence: 30 percent of floor area on first floor; bi-level residence: 60 percent of floor area of the first floor entirely above grade; two-story residence: 70 percent of floor area on first floor.

VOTE RESULTS >

Ordinance 178-O-106

Ordinance 178-O-106: Approve Town Of Mukwonago Ordinance 2023-O-65 That Amends Appendices A, C A
Relative To Miscellaneous Zoning Matters (RZ133)

22 YES 0 NO 0 ABSTAIN 3 ABSENT

 **Passed By Majority Vote**

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

13th Meeting, 178th Year of the County Board of Supervisors - March 26 2024 07:40:05
March 26, 2024

