

1  
2  
3 AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING ORDINANCE  
4 TO REPEAL AND RECREATE SECTION 3.04(1) OF THE TOWN OF MUKWONAGO  
5 ZONING ORDINANCE TO ALLOW AN EXISTING RESIDENTIAL STRUCTURE ON  
6 A PARCEL WHILE A NEW STRUCTURE IS BEING CONSTRUCTED (ZT-1509)  
7  
8

9 WHEREAS the subject matter of this Ordinance having been approved by the Mukwonago  
10 Town Board on December 10, 2003, after Public Hearing and the giving of requisite notice of  
11 said hearing, and duly referred and considered by the Waukesha County Park and Planning  
12 Commission and a recommendation thereon reported to the Land Use, Parks and Environment  
13 Committee and the Waukesha County Board of Supervisors as required by Section 60.61 of the  
14 Wisconsin Statutes.  
15

16 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES  
17 ORDAIN that the Ordinance amending the text of the Town of Mukwonago Zoning Ordinance,  
18 approved by the Mukwonago Town Board On May 9, 1983, to repeal and recreate Section  
19 3.04(1) to allow an existing residential structure on a parcel while a new structure is being  
20 constructed and more specifically described in the "Staff Report and Recommendation" on file in  
21 the office of the Waukesha County Department of Parks and Land Use and made a part of this  
22 Ordinance by reference (ZT-1509), is hereby approved.  
23

24 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of  
25 this Ordinance with the Town of Mukwonago.  
26

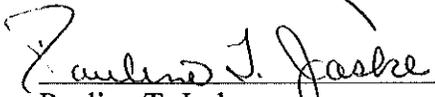
27 BE IT FURTHER ORDAINED that the Ordinance shall be in full force and effect upon passage,  
28 approval and publication.  
29

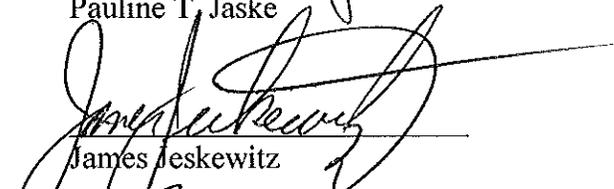
30 BE IT FURTHER ORDAINED that all Ordinances inconsistent with or with contravention of  
31 provisions of this Ordinance are hereby repealed.

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING ORDINANCE  
TO REPEAL AND RECREATE SECTION 3.04(1) OF THE TOWN OF MUKWONAGO  
ZONING ORDINANCE TO ALLOW AN EXISTING RESIDENTIAL STRUCTURE ON  
A PARCEL WHILE A NEW STRUCTURE IS BEING CONSTRUCTED (ZT-1509)

Presented by:  
Land Use, Parks, and Environment Committee

  
Walter L. Kolb, Chair

  
Pauline T. Jaske

  
James Jeskewitz

  
Scott J. Klein

  
William A. Mitchell

  
Daniel Pavelko

Absent  
Vera Stroud

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

Date: 2-13-2004, Kathy Nickolaus  
Kathy Nickolaus, County Clerk

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

Approved:

Vetoed:

Date: 2-13-04, D.M. Finley  
Daniel M. Finley, County Executive

COMMISSION ACTION

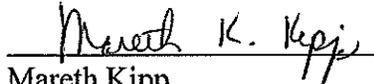
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Code hereby recommends approval of (ZT-1509 Text Amendment for the Town of Mukwonago) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

December 18, 2003

  
\_\_\_\_\_  
Betty Willert, Chairperson

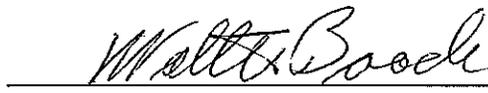
  
\_\_\_\_\_  
Vybanusonis

  
\_\_\_\_\_  
Mareth Kipp

  
\_\_\_\_\_  
Ellen Gennrich

  
\_\_\_\_\_  
Walter Kolb

\_\_\_\_\_  
Joseph LaPorte

  
\_\_\_\_\_  
Walter Baade

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

**FILE NO.:** ZT-1509

**DATE:** December 18, 2003

**PETITIONER:** Mukwonago Town Board  
Mukwonago Town Hall  
W320 S8315 Beulah Road  
Mukwonago, WI 53149

**NATURE OF REQUEST:**

Text amendments to repeal and recreate Section 3.04(1) of the Town of Mukwonago Zoning Ordinance which allows the use of an existing residential structure on a parcel, while a new structure is being constructed.

**PUBLIC HEARING DATE:**

December 3, 2003.

**PUBLIC REACTION:**

None.

**TOWN PLAN COMMISSION:**

The Town of Mukwonago Plan Commission, at their meeting of December 3, 2003, voted to approve the text amendments in accordance with Exhibit "A".

**TOWN BOARD ACTION:**

The Town of Mukwonago Board, at their meeting of December 10, 2003, voted to approve the request in accordance with Exhibit "A".

**OTHER CONSIDERATIONS:**

The Town of Mukwonago Zoning Ordinance currently has a provision that allows a procedure where an existing single-family home can be retained on a parcel for six (6) months, while a new residence is being constructed subject to a number of conditions:

1. The person occupying the single-family home is the party who will occupy the new residential structure.
2. Approval by the Waukesha County Environmental Health Division that the well and septic system meet the appropriate Codes.
3. A Letter of Credit or cash in the amount of 115 percent for the removal and restoration of the site being posted with the Town and any other conditions of the Town Board.

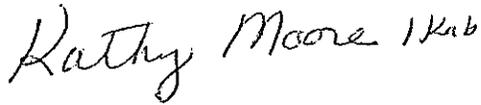
158-0-127

The Town, in working with this provision, has found that six (6) months is not enough time to complete construction of a new residence so it is proposing to change the timeline to allow an existing residence up to a two-year period, which is the same amount of time that a Building Permit is good for. Also, this provision requires that the existing residence be removed within 60 days of occupancy of the new residence.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff this request be approved. We feel that this is an appropriate amendment and it is impractical to try to complete a new residence from start to finish and obtain an Occupancy Permit within six months and that the two years of time is appropriate given the fact that the building must be removed within 60 days of occupancy of the new home.

Respectfully submitted,

Handwritten signature of Kathy Moore in cursive script.

Kathy Moore  
Senior Planner

KM:smv

Attachments: Exhibit "A"

N:\PLU FILES\PLANNING & ZONING\REZONES (RZ)\STAFF REPORTS\1509 (TEXT).MKT.DOC

158-0-127

4.

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE NO. 2003-8

AN ORDINANCE TO REPEAL AND RECREATE SECTION 3.04(1)  
IN THE ZONING ORDINANCE  
FOR THE TOWN OF MUKWONAGO

WHEREAS, the Town Planner for the Town of Mukwonago had previously recommended the Town create a provision allowing two residences on one lot during the construction of a new home and now recommends several minor changes to the same; and

WHEREAS, the Plan Commission for the Town of Mukwonago has reviewed these recommended changes and found it to be of legitimate concern; and

WHEREAS, the Town Board for the Town of Mukwonago had also reviewed these recommended changes and concurs with the finding of the Plan Commission; and

WHEREAS, subject to Section 22.01 of the Zoning Ordinance for the Town of Mukwonago and the provisions of Section 60.62 of the Wisconsin Statutes, the Town Board may from time to time after first submitting a proposal to the Plan Commission for a report and after notice of Public Hearing, amend, supplement, or change the regulations of the Zoning Ordinance for the Town of Mukwonago and

WHEREAS, upon referral of the Petition by the Town Clerk, the Plan Commission for the Town of Mukwonago scheduled a Public Hearing for the Town Board of the Town of Mukwonago and the Plan Commission of the Town of Mukwonago as soon as practical, and

WHEREAS, upon publication of the required notice of the Public Hearing and mailing of said notice for the Public Hearing to all parties-in-interest as required by Section 23.02 of the Zoning Code for the Town of Mukwonago, the Plan Commission for the Town of Mukwonago and the Town Board for the Town of Mukwonago held a Public Hearing on December 3, 2003, at 6:30 p.m., as required by Section 22 of the Zoning Ordinance for the Town of Mukwonago; and

WHEREAS, the Plan Commission for the Town of Mukwonago has recommended to the Town Board for the Town of Mukwonago that said Ordinance be approved; and

WHEREAS, the Town Board of the Town of Mukwonago, after carefully reviewing the recommendation of the Town Plan Commission for the Town of Mukwonago, having given the matter due consideration, and having based its determination on the effect of approving the petition on the health, general welfare, safety and economic prosperity of the Town, and has given due consideration into the municipal problems involved, hereby determines that

the use will not violate the spirit or intent of the Zoning Ordinance for the Town of Mukwonago, will not be contrary to the public health, safety or general welfare of the Town of Mukwonago, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factors and will not for any other reason cause a potential adverse affect on the property values and general desirability of the Town.

NOW, THEREFORE, the Town Board of the Town of Mukwonago, Waukesha County, Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1:

The Town of Mukwonago Zoning Ordinance in Section 3, entitled General Provisions, Subsection 3.04, entitled Site Regulations, Subsection 3.04(1), entitled Building Must be on a Lot, is hereby repealed and recreated to read as follows:

**SITE REGULATIONS**

1. Building Must Be On A Lot: Every building hereafter erected, structurally altered, or relocated shall be located on a lot and in no case, except in General Business, Limited Industrial, General Industrial, and Agricultural Districts, and Planned Unit Developments, shall there be more than one principle building on a lot, except as provided below. The principal building, as herein described, shall be built first in all districts. In any district where a building other than a residence is considered principal, such construction shall be subject to the prior approval of the Town Board. The Town Board may allow the issuance of a new residential Home Building Permit and the occupancy of an existing residential structure on a parcel for one continuous two year period, subject to specific Town Board approval and the following conditions:
  - a. Subject to the occupancy of the existing single-family residential structure.

being made by the same person(s) who will occupy the new single-family residential structure for which the new residential home building permit is issued.

- b. Subject to the applicant submitting to and receiving approval from the Town Board written proof that the waste disposal system for the property upon which the current residence exists conforms to the applicable sanitary ordinances of the Waukesha County Environmental Health Division or is otherwise allowed to be used by the Waukesha Environmental Health Division.
- c. Subject to the applicant submitting to the Town Board and receiving approval as to form from the Town Attorney and as to amount from the Town Engineer, a Letter of Credit or cash in the amount of 115% of the removal and restoration costs as determined by the Town Engineer; and also submitting to and receiving approval from the Town Attorney and the Town Engineer, an agreement which would allow the Town to access the property and remove the existing structure at the applicant's expense if the new applicant fails to do so within sixty days of issuance of an occupancy permit for the new residence; upon either of the following occurrences:
- prior to the issuance of a new residential home building permit for any lot on which an existing residential home is occupied or
  - prior to occupancy of any existing residential home on any lot for which a new residential home building permit has been issued.
- d. Subject to such additional conditions as the Town Board may required in the

interest of the health, safety and welfare of the Town of Mukwonago.

SECTION 2: SEVERABILITY.

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: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 10<sup>th</sup> day of December, 2003.

TOWN OF MUKWONAGO

Fred Leppin, Jr.

~~David Dubey, Town Chair~~

Fred Leppin, Jr.  
Acting Chairman

ATTEST:

Katherine W. Wilson

Katherine Wilson, Town Clerk

Published and/or posted this 12<sup>th</sup> day of December, 2003.

C:\MyFiles\Ordinance\two buildings on one lot.MUK.clean.wpd

ORDINANCE NO. 2003-8

AN ORDINANCE TO REPEAL AND RECREATE SECTION 3.04(1)  
IN THE ZONING ORDINANCE  
FOR THE TOWN OF MUKWONAGO

WHEREAS, the Town Planner for the Town of Mukwonago had previously recommended the Town create a provision allowing two residences on one lot during the construction of a new home and now recommends several minor changes to the same; and

WHEREAS, the Plan Commission for the Town of Mukwonago has reviewed these recommended changes and found it to be of legitimate concern; and

WHEREAS, the Town Board for the Town of Mukwonago had also reviewed these recommended changes and concurs with the finding of the Plan Commission; and

WHEREAS, subject to Section 22.01 of the Zoning Ordinance for the Town of Mukwonago and the provisions of Section 60.62 of the Wisconsin Statutes, the Town Board may from time to time after first submitting a proposal to the Plan Commission for a report and after notice of Public Hearing, amend, supplement, or change the regulations of the Zoning Ordinance for the Town of Mukwonago and

WHEREAS, upon referral of the Petition by the Town Clerk, the Plan Commission for the Town of Mukwonago scheduled a Public Hearing for the Town Board of the Town of Mukwonago and the Plan Commission of the Town of Mukwonago as soon as practical, and

WHEREAS, upon publication of the required notice of the Public Hearing and mailing of said notice for the Public Hearing to all parties-in-interest as required by Section 23.02 of the Zoning Code for the Town of Mukwonago, the Plan Commission for the Town of Mukwonago and the Town Board for the Town of Mukwonago held a Public Hearing on December 3, 2003, at 6:30 p.m. , as required by Section 22 of the Zoning Ordinance for the Town of Mukwonago; and

WHEREAS, the Plan Commission for the Town of Mukwonago has recommended to the Town Board for the Town of Mukwonago that said Ordinance be approved; and

WHEREAS, the Town Board of the Town of Mukwonago, after carefully reviewing the recommendation of the Town Plan Commission for the Town of Mukwonago, having given the matter due consideration, and having based its determination on the effect of approving the petition on the health, general welfare, safety and economic prosperity of the Town, and has given due consideration into the municipal problems involved, hereby determines that

the use will not violate the spirit or intent of the Zoning Ordinance for the Town of Mukwonago, will not be contrary to the public health, safety or general welfare of the Town of Mukwonago, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factors and will not for any other reason cause a potential adverse affect on the property values and general desirability of the Town.

NOW, THEREFORE, the Town Board of the Town of Mukwonago, Waukesha County, Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1:

The Town of Mukwonago Zoning Ordinance in Section 3, entitled General Provisions, Subsection 3.04, entitled Site Regulations, Subsection 3.04(1), entitled Building Must be on a Lot, is hereby repealed and recreated to read as follows:

SITE REGULATIONS

1. Building Must Be On A Lot: Every building hereafter erected, structurally altered, or relocated shall be located on a lot and in no case, except in General Business, Limited Industrial, General Industrial, and Agricultural Districts, and Planned Unit Developments, shall there be more than one principle building on a lot, except as provided below. The principal building, as herein described, shall be built first in all districts. In any district where a building other than a residence is considered principal, such construction shall be subject to the prior approval of the Town Board. The Town Board may allow the issuance of a new residential Home Building Permit and the occupancy of an existing residential structure on a parcel for one continuous two year period, subject to specific Town Board approval and the following conditions:
  - a. Subject to the occupancy of the existing single-family residential structure

being made by the same person(s) who will occupy the new single-family residential structure for which the new residential home building permit is issued.

- b. Subject to the applicant submitting to and receiving approval from the Town Board written proof that the waste disposal system for the property upon which the current residence exists conforms to the applicable sanitary ordinances of the Waukesha County Environmental Health Division or is otherwise allowed to be used by the Waukesha Environmental Health Division.
- c. Subject to the applicant submitting to the Town Board and receiving approval as to form from the Town Attorney and as to amount from the Town Engineer, a Letter of Credit or cash in the amount of 115% of the removal and restoration costs as determined by the Town Engineer; and also submitting to and receiving approval from the Town Attorney and the Town Engineer, an agreement which would allow the Town to access the property and remove the existing structure at the applicant's expense if the new applicant fails to do so within sixty days of issuance of an occupancy permit for the new residence; upon either of the following occurrences:
  - prior to the issuance of a new residential home building permit for any lot on which an existing residential home is occupied or
  - prior to occupancy of any existing residential home on any lot for which a new residential home building permit has been issued.
- d. Subject to such additional conditions as the Town Board may required in the

interest of the health, safety and welfare of the Town of Mukwonago.

SECTION 2: SEVERABILITY.

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: EFFECTIVE DATE:

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 10<sup>th</sup> day of December, 2003.

TOWN OF MUKWONAGO

Fred Leppin, Jr.  
David Bubey, Town Chair  
Fred Leppin, Jr.  
Acting Chairman

ATTEST:

Katherine W. Wilson  
Katherine Wilson, Town Clerk

Published and/or posted this 12<sup>th</sup> day of December, 2003.

C:\MyFiles\Ordinance\two buildings on one lot.MUK.clean.wpd

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-02/10/04

(ORD) NUMBER-1580127

1	K. HERRO.....	2	R. THELEN.....AYE
3	D. STAMSTA.....AYE	4	H. CARLSON.....AYE
5	J. MARCHESE.....	6	D. BROESCH.....AYE
7	J. JESKEWITZ.....AYE	8	J. DWYER.....AYE
9	P. HAUKOHL.....AYE	10	S. WOLFF.....AYE
11	K. HARENDA.....AYE	12	J. GRIFFIN.....
13	J. MORRIS.....AYE	14	J. LA PORTE.....AYE
15	D. SWAN.....	16	R. MANKE.....AYE
17	J. BEHREND.....AYE	18	B. MORRIS.....AYE
19	W. MITCHELL.....AYE	20	M. KIPP.....
21	W. KOLB.....AYE	22	G. BRUCE.....AYE
23	P. PRONOLD.....	24	A. SILVA.....AYE
25	K. CUMMINGS.....AYE	26	S. KLEIN.....AYE
27	D. PAULSON.....AYE	28	P. JASKE.....AYE
29	M. THOMAS.....AYE	30	K. NILSON.....AYE
31	V. STROUD.....AYE	32	P. GUNDRUM.....AYE
33	D. PAVELKO.....AYE	34	R. SINGERT.....AYE
35	C. SEITZ.....AYE		

TOTAL AYES-29

TOTAL NAYS-00

CARRIED\_\_\_\_\_

DEFEATED\_\_\_\_\_

UNANIMOUS X

TOTAL VOTES-29