

Enrolled 158-124
PROPOSED ORDINANCE 158-129

1
2
3 AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING ORDINANCE
4 TO REPEAL AND RECREATE SECTION 3.12(2) OF THE TOWN OF
5 MUKWONAGO ZONING ORDINANCE FOR A SPECIAL EXCEPTION
6 PROCEDURE FOR LARGE ATTACHED GARAGES (ZT-1508)
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 3.12(2) for a special exception procedure for large attached garages, and more specifically
20 described in the "Staff Report and Recommendation" on file in the office of the Waukesha
21 County Department of Parks and Land Use and made a part of this Ordinance by reference (ZT-
22 1508), 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

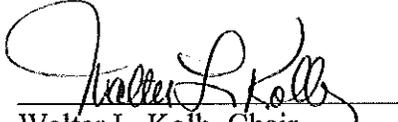
27 BE IT FURTHER ORDAINED that the Ordinance shall be in full force and effect upon passage,
28 approval and publication.
29

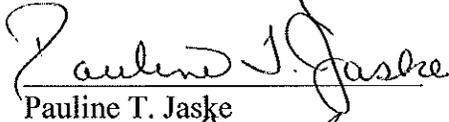
30 BE IT FURTHER ORDAINED that all Ordinances inconsistent with or with contravention of
31 provisions of this Ordinance are hereby repealed.

Send to
T. Muk.
3/9/04

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING ORDINANCE
TO REPEAL AND RECREATE SECTION 3.12(2) OF THE TOWN OF
MUKWONAGO ZONING ORDINANCE FOR A SPECIAL EXCEPTION
PROCEDURE FOR LARGE ATTACHED GARAGES (ZT-1508)

Presented by:
Land Use, Parks, and Environment Committee

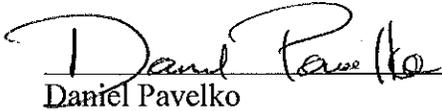

Walter L. Kolb, Chair

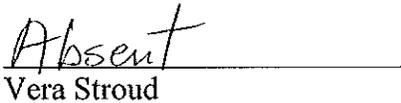

Pauline T. Jaske


James Jeskewitz


Scott J. Klein


William A. Mitchell


Daniel Pavelko


Vera Stroud

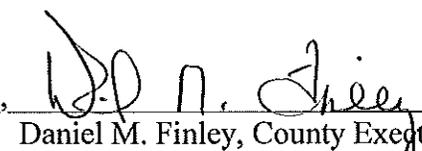
The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

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

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

Approved:

Vetoed:

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

COMMISSION ACTION

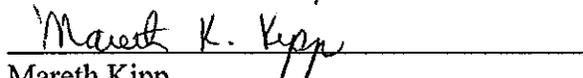
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Code hereby recommends approval of (ZT-1508 Text Amendment for the Town of Mukwonago) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

December 18, 2003


Betty Willert, Chairperson

Vy Janusonis


Mareth Kipp


Ellen Gennrich


Walter Kolb


Joseph LaPorte


Walter Baade

158-0-128

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

FILE NO.: ZT-1508

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 3.12(2) of the Town of Mukwonago Zoning Ordinance for a special exception procedure for large attached garages.

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 provisions, which require that every new residence have a garage at least 240 sq.ft. and limits the size of attached garages to no larger than 50 percent of the first floor of a ranch-style house and no more than 70 percent of the first floor of a two-story house. The provisions, which are proposed to be added and as amended, will allow the Town Plan Commission to grant a special exception to those percentages and outlines a procedure as to when a special exception can be granted. This is being done, as many new subdivisions do not allow detached accessory buildings, and the Town feels there is a need for larger attached garages in some subdivisions. This provision will allow an increase in the maximum size of the attached garage but prohibits the granting of a special exception in regards to location or use. The Ordinance allows only four (4) side by side doors facing the right-of-way of the road, requires that the architecture must be compatible with the residence, allows the Town Plan Commission to require screening or landscaping if appropriate, and requires that a Deed Restriction be filed indicating that the special exception was granted along with any conditions of approval.

158-0-128

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff this request be **approved** as many new Subdivision Plats contain Deed Restrictions which do not allow detached accessory structures or outside storage and there is a need for larger garages. The Town has created a procedure for a special exception with Town Plan Commission approval and outlines guidelines for the granting of said procedures.

Respectfully submitted,

Kathy Moore Ika

Kathy Moore
Senior Planner

KM:smv

Attachments: Exhibit "A"

N:\PLU FILES\PLANNING & ZONING\REZONES (RZ)\STAFF REPORTS\1508 (TEXT).MKT.DOC

158-0-128

4.

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE NO. 2003-7

AN ORDINANCE TO REPEAL AND RECREATE SECTION 3.12(2)
GARAGES OF THE ZONING ORDINANCE
FOR THE TOWN OF MUKWONAGO

WHEREAS, the Town Building Inspector for the Town of Mukwonago has recommended the Town revise certain provisions of the Town of Mukwonago Zoning Ordinance related to the maximum size of attached garages; and

WHEREAS, the Planning Commission for the Town of Mukwonago has reviewed this report and found it be of legitimate concern; and

WHEREAS, the Town Board of the Town of Mukwonago has also reviewed the report and concurs with the findings of the Planning 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 and 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 Public Hearing and mailing of said notice of 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, 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 for 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 having given due consideration to 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

158-0-128

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 DOES ORDAIN AS FOLLOWS:

SECTION 1:

The Town of Mukwonago Zoning Ordinance in Section 3, entitled "General Provisions", Subsection 3.12, entitled "Accessory Buildings and Structures", Subsection 3.12(2) entitled "Garages" is repealed and recreated as follows:

(2) Garages.

- (A) Required: A private garage at least 240 sq. ft. in area shall be required for each dwelling unit hereinafter erected. Such structures shall be either attached or detached and conform to the offset and setback requirements of the District involved.
- (B) Attached Garage Maximum Size: Attached residential garages hereinafter erected shall be no larger than 50% of the first floor square footage of a ranch-style residence and no larger than 70% of the first floor square footage of a two-story style residence, unless a special exception is granted as described in subsection 3.12(2)(C), below.
- (C) Special Exception: Upon petition from a property owner, the Plan Commission may grant a special exception to the maximum attached garage size limitations of subsection 3.12(2)(B), as follows:
 - 1. The Petitioner shall submit a petition to the Town Clerk. The petition shall include building and site plans, which include elevations, along with such additional information as the Plan Commission may require. The building and site plans shall depict the proposed construction and the location of the proposed construction on the lot, including the location in relation to existing structures on the lot and on adjacent lots. The petition shall be accompanied by payment of such application fees as may be established from time to time by the Town Board by separate resolution.

2. Upon receipt of the complete petition, required plans, and application fees, the Town Clerk shall provide a copy of the petition and plans to the Building Inspector and the Plan Commission, and shall place the matter upon an upcoming Plan Commission agenda for consideration. The Town Clerk shall notify the petitioner of the date. Notification of neighbors is not required unless the Plan Commission so directs. If the Plan Commission so directs, notice shall be provided in such manner as the Plan Commission may require, and a public hearing must be held prior to a decision being made.
3. Prior to the Plan Commission meeting where the matter will be heard, the Building Inspector shall review the request, shall view the proposed location, and shall submit a written recommendation to the Plan Commission. Along with the recommendation, the Building Inspector shall advise the Plan Commission whether detached accessory structures are prohibited on the lot by applicable laws and deed restrictions.
4. The following limitations apply:
 - (a.) Special exceptions may be granted under this subsection only with regard to the maximum size limitation of subsection 3.12(2)(B), above.
 - (b.) Special exceptions are prohibited if the requested location, structure, or use thereof, would conflict with any applicable federal, State of Wisconsin, or County of Waukesha codes, statutes, rules, ordinances or lawful orders, or with any Town of Mukwonago ordinances other than the maximum size limitations of subsection 3.12(2)(B), above.
 - (c.) Special exceptions are prohibited from allowing garages that would have doors for more than four side-by-side vehicles facing the right of way from which the dwelling unit has street access.
 - (d.) The architecture of the attached garage shall be compatible with the residence. Special exceptions are prohibited if the Plan Commission finds that the architecture is not compatible.

5. After reviewing the petition, the plans submitted, the Building Inspector's recommendation, and all additional information received in the matter, the Plan Commission shall either grant or deny the special exception, or grant the special exception upon specified reasonable conditions including screening and landscaping if appropriate. To grant or conditionally grant the special exception, the Plan Commission must find that the requested attached garage will not be adverse to the public health, safety or welfare; will not be in conflict with the spirit or intent of this zoning ordinance; and will not otherwise be detrimental to the Town of Mukwonago or the immediate neighborhood where the attached garage would be located. The Plan Commission shall issue its decision in writing, including any conditions of approval, and shall provide a copy of the decision to the petitioner. The decision of the Plan Commission shall be final, and cannot be appealed to the Zoning Board of Adjustment.
6. If the request is granted, the grant shall be subject to an equivalent reduction being made in the square footage of accessory structures that are allowed on the lot.
7. Upon approval, a deed restriction, in a form approved by the Town Attorney, shall be filed in the Waukesha County Register of Deeds office prior to issuance of the building permit indicating that the special exception has been granted, and recording any conditions of approval, including the reduction in the permitted square footage of accessory structures and including a statement that the attached garage may only be used for personal use and cannot be used for any type of commercial purpose unless otherwise permitted by the Zoning Code.

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 10th day of December, 2003.

TOWN OF MUKWONAGO

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

ATTEST:

Katherine W. Wilson
Katherine W. Wilson, Town Clerk

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

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ORDINANCE NO. 2003-7AN ORDINANCE TO REPEAL AND RECREATE SECTION 3.12(2)
GARAGES OF THE ZONING ORDINANCE
FOR THE TOWN OF MUKWONAGO

WHEREAS, the Town Building Inspector for the Town of Mukwonago has recommended the Town revise certain provisions of the Town of Mukwonago Zoning Ordinance related to the maximum size of attached garages; and

WHEREAS, the Planning Commission for the Town of Mukwonago has reviewed this report and found it be of legitimate concern; and

WHEREAS, the Town Board of the Town of Mukwonago has also reviewed the report and concurs with the findings of the Planning 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 and 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 Public Hearing and mailing of said notice of 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, 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 for 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 having given due consideration to 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 DOES ORDAIN AS FOLLOWS:

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- (B) Attached Garage Maximum Size: Attached residential garages hereinafter erected shall be no larger than 50% of the first floor square footage of a ranch-style residence and no larger than 70% of the first floor square footage of a two-story style residence, unless a special exception is granted as described in subsection 3.12(2)(C), below.
- (C) Special Exception: Upon petition from a property owner, the Plan Commission may grant a special exception to the maximum attached garage size limitations of subsection 3.12(2)(B), as follows:
 - 1. The Petitioner shall submit a petition to the Town Clerk. The petition shall include building and site plans, which include elevations, along with such additional information as the Plan Commission may require. The building and site plans shall depict the proposed construction and the location of the proposed construction on the lot, including the location in relation to existing structures on the lot and on adjacent lots. The petition shall be accompanied by payment of such application fees as may be established from time to time by the Town Board by separate resolution.

2. Upon receipt of the complete petition, required plans, and application fees, the Town Clerk shall provide a copy of the petition and plans to the Building Inspector and the Plan Commission, and shall place the matter upon an upcoming Plan Commission agenda for consideration. The Town Clerk shall notify the petitioner of the date. Notification of neighbors is not required unless the Plan Commission so directs. If the Plan Commission so directs, notice shall be provided in such manner as the Plan Commission may require, and a public hearing must be held prior to a decision being made.
3. Prior to the Plan Commission meeting where the matter will be heard, the Building Inspector shall review the request, shall view the proposed location, and shall submit a written recommendation to the Plan Commission. Along with the recommendation, the Building Inspector shall advise the Plan Commission whether detached accessory structures are prohibited on the lot by applicable laws and deed restrictions.
4. The following limitations apply:
 - (a.) Special exceptions may be granted under this subsection only with regard to the maximum size limitation of subsection 3.12(2)(B), above.
 - (b.) Special exceptions are prohibited if the requested location, structure, or use thereof, would conflict with any applicable federal, State of Wisconsin, or County of Waukesha codes, statutes, rules, ordinances or lawful orders, or with any Town of Mukwonago ordinances other than the maximum size limitations of subsection 3.12(2)(B), above.
 - (c.) Special exceptions are prohibited from allowing garages that would have doors for more than four side-by-side vehicles facing the right of way from which the dwelling unit has street access.
 - (d.) The architecture of the attached garage shall be compatible with the residence. Special exceptions are prohibited if the Plan Commission finds that the architecture is not compatible.

5. After reviewing the petition, the plans submitted, the Building Inspector's recommendation, and all additional information received in the matter, the Plan Commission shall either grant or deny the special exception, or grant the special exception upon specified reasonable conditions including screening and landscaping if appropriate. To grant or conditionally grant the special exception, the Plan Commission must find that the requested attached garage will not be adverse to the public health, safety or welfare; will not be in conflict with the spirit or intent of this zoning ordinance; and will not otherwise be detrimental to the Town of Mukwonago or the immediate neighborhood where the attached garage would be located. The Plan Commission shall issue its decision in writing, including any conditions of approval, and shall provide a copy of the decision to the petitioner. The decision of the Plan Commission shall be final, and cannot be appealed to the Zoning Board of Adjustment.
6. If the request is granted, the grant shall be subject to an equivalent reduction being made in the square footage of accessory structures that are allowed on the lot.
7. Upon approval, a deed restriction, in a form approved by the Town Attorney, shall be filed in the Waukesha County Register of Deeds office prior to issuance of the building permit indicating that the special exception has been granted, and recording any conditions of approval, including the reduction in the permitted square footage of accessory structures and including a statement that the attached garage may only be used for personal use and cannot be used for any type of commercial purpose unless otherwise permitted by the Zoning Code.

SECTION 2: SEVERABILITY.

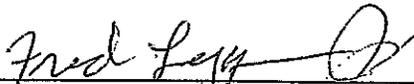
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, 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.

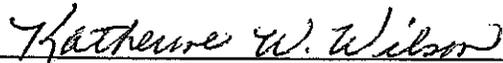
Dated this 10th day of December, 2003.

TOWN OF MUKWONAGO



~~David Dubey, Town Chair~~
Fred Leppin, Jr.
Acting Chairman

ATTEST:



Katherine W. Wilson, Town Clerk

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

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-02/10/04

(ORD) NUMBER-1580128

- 1 K. HERRO.....
- 3 D. STAMSTA.....AYE
- 5 J. MARCHESE.....
- 7 J. JESKEWITZ.....AYE
- 9 P. HAUKOHL.....AYE
- 11 K. HARENDA.....AYE
- 13 J. MORRIS.....AYE
- 15 D. SWAN.....
- 17 J. BEHREND.....AYE
- 19 W. MITCHELL.....AYE
- 21 W. KOLB.....AYE
- 23 P. PRONOLD.....
- 25 K. CUMMINGS.....AYE
- 27 D. PAULSON.....AYE
- 29 M. THOMAS.....AYE
- 31 V. STROUD.....AYE
- 33 D. PAVELKO.....AYE
- 35 C. SEITZ.....AYE

- 2 R. THELEN.....AYE
- 4 H. CARLSON.....AYE
- 6 D. BROESCH.....AYE
- 8 J. DWYER.....AYE
- 10 S. WOLFF.....AYE
- 12 J. GRIFFIN.....
- 14 J. LA PORTE.....AYE
- 16 R. MANKE.....AYE
- 18 B. MORRIS.....AYE
- 20 M. KIPP.....
- 22 G. BRUCE.....AYE
- 24 A. SILVA.....AYE
- 26 S. KLEIN.....AYE
- 28 P. JASKE.....AYE
- 30 K. NILSON.....AYE
- 32 P. GUNDRUM.....AYE
- 34 R. SINGERT.....AYE

TOTAL AYES-29

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS X

TOTAL VOTES-29