

Enrolled 157-106
-PROPOSED ORDINANCE 157-108

1
2
3 AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING ORDINANCE
4 TO CREATE SECTION 2.02(68A) AND REPEAL AND RECREATE SECTION 3.12(1)(B)
5 OF THE TOWN OF MUKWONAGO ZONING ORDINANCE AS IT
6 RELATES TO "RURAL STRUCTURES" (ZT-1471)
7

8 WHEREAS the subject matter of this Ordinance having been approved by the Mukwonago
9 Town Board on December 11, 2002, after Public Hearing and the giving of requisite notice of
10 said hearing, and duly referred and considered by the Waukesha County Park and Planning
11 Commission and a recommendation thereon reported to the Land Use, Parks and Environment
12 Committee and the Waukesha County Board of Supervisors as required by Section 60.61 of the
13 Wisconsin Statutes.
14

15 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES
16 ORDAIN that the Ordinance amending the text of the Town of Mukwonago Zoning Ordinance,
17 approved by the Mukwonago Town Board on May 9, 1983, to create Section 2.02(68A) and
18 repeal and recreate Section 3.12(1)(B) of the Town of Mukwonago Zoning Ordinance as it
19 relates to "rural structures", and more specifically described in the "Staff Report and
20 Recommendation" on file in the office of the Waukesha County Department of Parks and Land
21 Use and made a part of this Ordinance by reference (ZT-1471), is hereby approved.
22

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

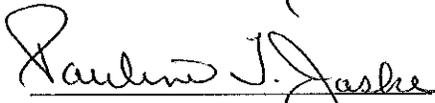
26 BE IT FURTHER ORDAINED that the Ordinance shall be in full force and effect upon passage,
27 approval and publication.
28

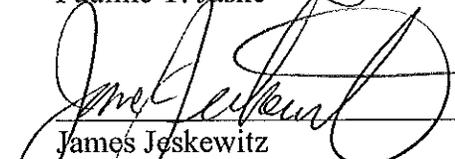
29 BE IT FURTHER ORDAINED that all Ordinances inconsistent with or with contravention of
30 provisions of this Ordinance are hereby repealed.

AMEND THE TEXT OF THE TOWN OF MUKWONAGO ZONING ORDINANCE
TO CREATE SECTION 2.02(68A) AND REPEAL AND RECREATE SECTION 3.12(1)(B)
OF THE TOWN OF MUKWONAGO ZONING ORDINANCE AS IT
RELATES TO "RURAL STRUCTURES" (ZT-1471)

Presented by:
Land Use, Parks, and Environment Committee


Walter L. Kolb, Chair


Pauline T. Jaske


James Jeskewitz

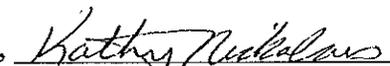

Scott J. Klein

Absent
Daniel Pavelko


Vera Stroud


Matt Thomas

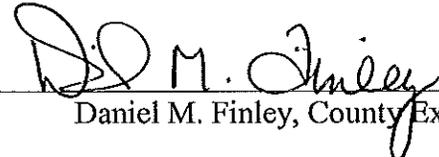
The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: February 28, 2003, 
Kathy Nickolaus, County Clerk

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

Approved: ✓

Vetoed: _____

Date: 2-28-03, 
Daniel M. Finley, County Executive

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

FILE NO.: ZT-1471

DATE: January 23, 2003

PETITIONER/OWNER: Mukwonago Town Board
Town of Mukwonago Town Hall
W320 S8315 Beulah Road
Mukwonago, WI 53149

NATURE OF REQUEST:

Text amendments to create Section 2.02(68a) and repeal and recreate Section 3.12(1)(B) of the Town of Mukwonago Zoning Ordinance as it relates to "rural structures".

PUBLIC HEARING DATE:

December 4, 2002.

PUBLIC REACTION:

One citizen who is in the process of trying to divide her property, which contains an old farmstead, supported the Town's proposal.

TOWN PLAN COMMISSION ACTION:

The Town of Mukwonago Plan Commission, at their meeting of December 4, 2002, voted to approve the text amendments in accordance with Exhibit "A".

TOWN BOARD ACTION:

The Town of Mukwonago Board, at their meeting of December 11, 2002, voted to approve the request in accordance with Exhibit "A".

OTHER CONSIDERATIONS:

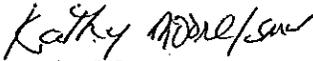
The Town of Mukwonago Ordinance currently has provisions that designate sizes and numbers of accessory structures based on particular zoning districts. Recently, it has come to the attention of the Town as in other communities in Waukesha County that because of these provisions, which previously limited no more than two accessory buildings on parcels less than 15 acres in size, and dictated the amount of accessory buildings square footage based on a zoning district classification, that the existing Ordinance does not promote the preservation of existing farmsteads that have been maintained when the properties are divided, which services to promote the rural character which was a priority in the recent Town survey. The Town is now proposing to create Section 2.02(68a) "Rural Structure", a definition of a rural structure and amended Section 3.12(1)(B) which will allow the Town Board to make a determination on parcels more than three acres in size to allow the retention of rural structures, as long as they meet the floor area ratio requirements of the zoning district in which they are located, and allows the Board to permit the retention of more than two accessory buildings on parcels more than three acres in size as long as they are considered rural structures. After recommendation from the Town Plan Commission, the Town Board must determine that the structures meet the criteria of rural structures and they are not a nuisance or

detriment to the surrounding neighborhood. This amendment will allow the Town to retain many of the old agricultural buildings, which have been maintained where the properties are being divided in conformance with their Land Use Plan and preserve the rural character. Previously, because of the way the Ordinances were written, there was no way that a party could apply for a Variance for more than two structures or have square footages that exceeded the square footage requirements in the Accessory Building Ordinance, as it was difficult for the applicant to prove there was no reasonable use of the property if the Variance was not granted.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved**. We feel the Town should be commended for making this Ordinance change. This provision will help the Town in preserving their rural character in compliance with the Town of Mukwonago's Master Plan and the Waukesha County Development Plan in the rural residential areas.

Respectfully submitted,



Kathy Moore
Senior Planner

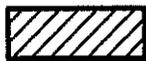
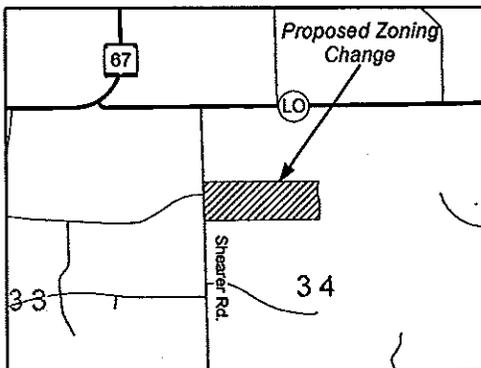
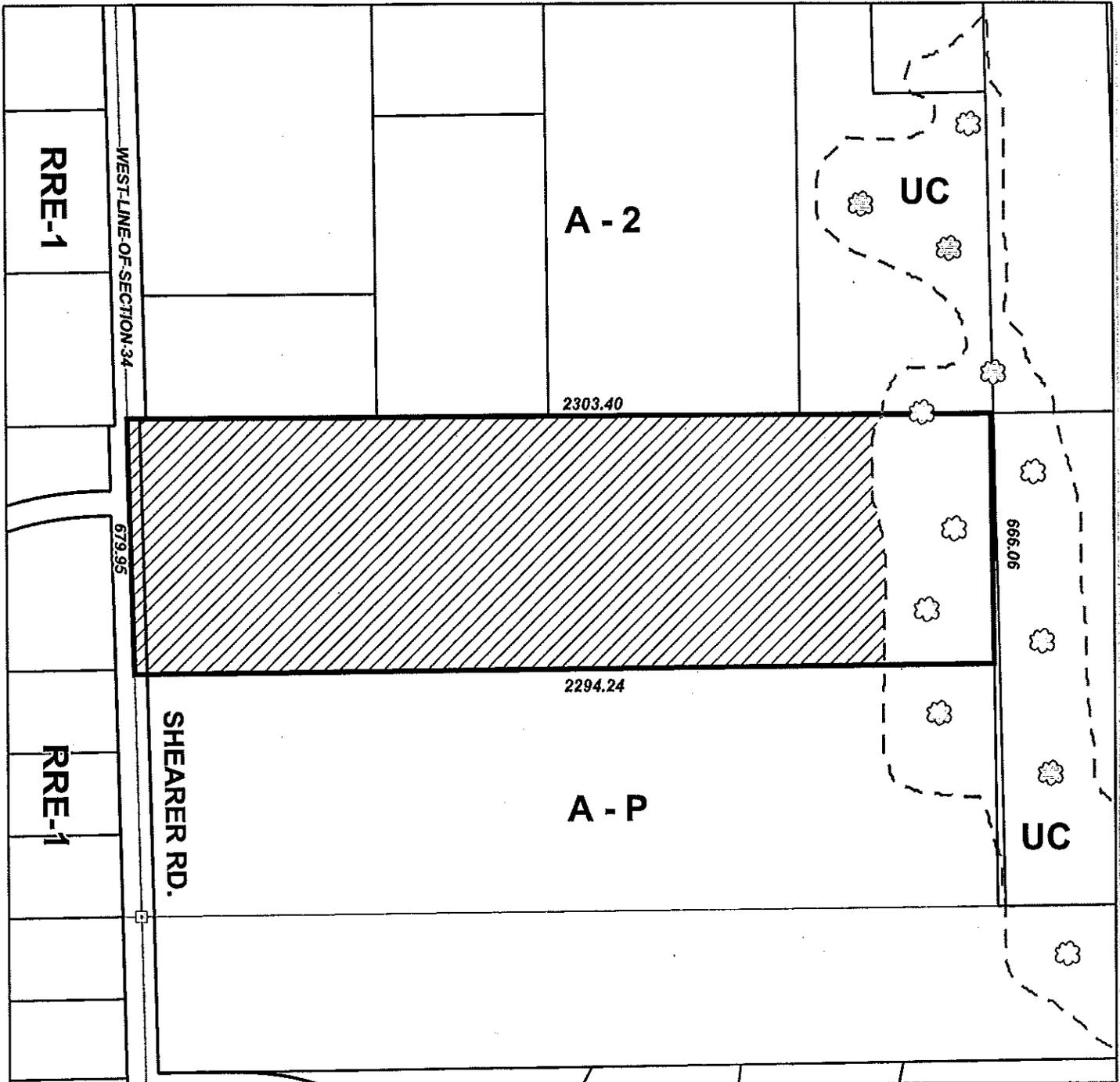
KM:smv

Attachments: Exhibit "A"

N:\PLU NEW FILE SYSTEM (IN-PROGRESS)\PLANNING & ZONING\REZONES (RZ)\STAFF REPORTS\1471.MKT(TEXT AMENDMENT-RURAL STRUCTURE).DOC

ZONING MAP AMENDMENT

PART OF THE NORTHWEST 1/4 OF SECTION 34
TOWN OF EAGLE



TOWN ZONING CHANGE FROM A-P (AG. PRESERVATION) TO RH (RESIDENTIAL HOLDING DISTRICT)

FILE.....ZT-1470

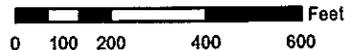
DATE.....1-23-02

AREA OF CHANGE.....30.9 ACRES

TAX KEY NUMBER.....EGLT 1862.997



1 inch equals 400 feet



Prepared by the Waukesha County Department of Parks and Land Use

157-0-116

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE NO. _____

1421

AN ORDINANCE TO CREATE SECTION 2.02(68a) AND REPEAL AND RECREATE SECTION 3.12(1)(B) OF THE ZONING ORDINANCE FOR THE TOWN OF MUKWONAGO

WHEREAS, the Town Planner for the Town of Mukwonago has been working with the Town to create language to permit the retention of rural structures; and

WHEREAS, the Plan Commission for the Town of Mukwonago has reviewed this report and found it to 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 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 4, 2002, at approximately 7:30 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 of 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, DOES ORDAIN AS FOLLOWS:

SECTION 1:

The Town of Mukwonago Zoning Ordinance in Section 2, entitled "Definitions", Subsection 2.02, entitled "Specific Words and Phrases", Subsection 2.02(68a), entitled "Rural Structure", is hereby created to read as follows:

2.02(68a) Rural Structure: An existing structure, which is: (1) set apart from other structures as being distinct, due to its construction technique, construction materials, age, local historic significance, or design as determined by the Town Board; and (2) is characteristic of past agricultural practices or rural life, whether presently utilized or not for agricultural practice, as determined by the Town Board; and (3) which is sufficiently structurally sound to meet minimum safety requirements for the proposed use, as determined by the Town Building Inspector, provided that such determination shall not relieve the property owner of any responsibility or liability as to the structure and shall not form a basis of liability against the Building Inspector or the Town.

SECTION 2:

The Town of Mukwonago Zoning Ordinance in Section 3, entitled "General Provisions", Subsection 3.12, entitled "Accessory Buildings and Structures", Subsection (1) entitled "Size and Location", Subsection (B) is hereby repealed and recreated to read as follows:

The aggregate total floor area of any accessory buildings in all Districts may not exceed the square footage as outlined in the following table, nor exceed the floor area ratio requirements of the appropriate District. Temporary structures must be included within the allowable square footages.

- EFO - 500 sq. ft.
- AE - 500 sq. ft.
- AT - 500 sq. ft.
- RH - 2,000 sq. ft.
- EC - 500 sq. ft.
- A-1 - 1,300 sq. ft.
- SE - 1,300 sq. ft.
- R-1 - 720 sq. ft.
- R-2 - 500 sq. ft.
- R-3 - 500 sq. ft.
- B-1 - 1,000 sq. ft.
- B-2 - 1,000 sq. ft.

For every ½-acre of land over the minimum lot size requirement of the appropriate Zoning District, an additional 50 sq. ft. of aggregate accessory building shall be permitted, except in the "EC" Environmental Corridor District. On parcels of three (3) acres or more in size, the accessory building areas may be greater than those outlined in the above table, when the Town Board, upon consideration of a recommendation from the Town Plan Commission, makes all of the following findings: (1) that there is one or more rural structure(s), as defined herein, on the property; and (2) that such rural structure(s) is(are) not a nuisance or detriment to the existing neighborhood; and (3) that

the property is in compliance with the floor area ratio requirements of the District in which it is located; and (4) that the total floor area of all accessory buildings, excluding the floor area of such rural structure(s), is in compliance with the above table. In no case shall more than two (2) accessory buildings be permitted unless approved by the Board of Adjustment with the following exceptions:

- A. On parcels of 15-acres or more, in area, the building areas may be greater than those outlined in the above table, when used solely for the pursuit of agriculture and when consistent with the floor area ratio requirements of the Zoning Ordinance.
- B. In B-3 and all Industrial Districts, when approved by the Planning Commission and the buildings are used solely as an accessory to the principal use of the lot and not for other industrial or business uses.
- C. On parcels which specifically address such accessory structures or buildings through the issuance of a Conditional Use permit.
- D. On parcels of three (3) acres or more in size, more than two (2) accessory buildings may be permitted when the Town Board, upon consideration of a recommendation from the Town Plan Commission, makes all of the following findings: (1) that there is one or more rural structure(s), as defined herein, on the property; and (2) that such rural structure(s) is(are) not a nuisance or detriment to the existing neighborhood; and (3) that the total number of accessory buildings, excluding the rural structure(s), shall not be more than two (2).

SECTION 3: SEVERABILITY.

The several sections, subsections, and paragraphs of this Ordinance are hereby declared to be severable. If any section, subsection, paragraph, or subparagraph of this Ordinance shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of the Ordinance, or of the section of which the invalid portion or paragraph may be a part.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall be in full force and effect upon passage and publication by the Town Board and upon approval of the County Board of Supervisors, said publication to consist of posting of three (3) copies thereof in three (3) public places in said town.

Dated this _____ day of _____, 2003.

TOWN OF MUKWONAGO

Thomas Stuart, Town Chairman

ATTEST:

Katherine W. Wilson, Town Clerk

Published and posted this _____ day of _____, 2003.

KM:rmb

*N:\PLU New File System (In-Progress)\Planning & Zoning\Community Assistance (CA)\T-MUKWONAGO\ORDINANCE\Create Section 2.02(68a) & Section 3.12(1)(B)4(Final Copy)
(1-9-03).doc*

Time: Planner: _____ Typist: 25 min

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-02/25/03

(ORD) NUMBER-1570116

- 1 K. HERRO.....
- 3 D. STAMSTA.....
- 5 J. MARCHESE.....AYE
- 7 J. JESKEWITZ.....AYE
- 9 P. HAUKOHL.....AYE
- 11 K. HARENDA.....AYE
- 13 J. MORRIS.....
- 15 D. SWAN.....AYE
- 17 J. BEHREND.....AYE
- 19 M. SONNENTAG.....
- 21 W. KOLB.....AYE
- 23 P. PRONOLD.....NAY
- 25 K. CUMMINGS.....AYE
- 27 D. PAULSON.....
- 29 M. THOMAS.....AYE
- 31 V. STROUD.....AYE
- 33 D. PAVELKO.....
- 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.....AYE
- 14 J. LA PORTE.....AYE
- 16 R. MANKE.....AYE
- 18 D. FANFELLE.....AYE
- 20 M. KIPP.....AYE
- 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-28

TOTAL NAYS-01

CARRIED X

DEFEATED _____

UNANIMOUS _____

TOTAL VOTES-29