

Town of Merton
Plan Commission Meeting
Minutes of May 7th, 2025

- Meeting Called to Order by Acting Chairman Siepmann at 5:48 p.m.
- Pledge of Allegiance led by Acting Chairman Siepmann.
- Minutes of March 5th, 2025, Plan Commission Meeting. A motion to approve the minutes as written was made by Commissioners Good/Queoff. Motion carried.

Present: Acting Chairman Siepmann, Commissioners Griffin, Queoff, Good, and Olson, Attorney Van Kleunen, Planner Haroldson, Waukesha County Representative Ken Smith, and Deputy Clerk Claas

Absent: Chairman Klink

Also Present: Pat Seegers, Mike Merkel, David Byczek, Cameron & Dawn Knuth, Brett & Jenelle Heath, Kevin Clark, Joe Bartelt, and Karen Templeton

Acting Chairman Siepmann stated he would like to observe a moment of silence in honor of Dick Morris.

Old Business: None

New Business:

Request for a Conditional Use Permit for the Construction of an In-Law Unit Addition to the Principal Structure & for Land Altering Activity to Expose the Addition's Basement for the Attached Garage at W303N5965 Settlers Lane – Requested by Mike Merkel, Ascent LLC on Behalf of Cameron and Dawn Knuth – Tax Key MRTT0396-996 – Acting Chairman Siepmann asked the Commissioners, the Attorney and the Planner if they wanted to add or subtract anything from County's conditions. Planner Haroldson said she is okay with it, other than the Commissioners need to clarify that they are approving the 1,000 sq. ft. Attorney Van Kleunen stated that needs to be included in the motion.

Acting Chairman Siepmann clarified that this does not come back to the Town. Waukesha County Representative said that was correct. The Plan Commissioners are voting on a recommendation that would go to the County Park and Plan Commission and they will have the final say.

A motion to approve the request for the construction of a 1,000 square foot in-law unit addition to the principal structure and for the land altering activity to expose the addition's basement for the attached garage as requested by Cameron and Dawn Knuth, W303N5965 Settlers Lane Hartland, WI 53029 with all conditions stated by Waukesha County was made by Commissioners Queoff/Good. Motion carried.

Request for a Conditional Use Permit for the Construction of an In-Law Unit Addition to their Principal Structure at N68W31050 Club Circle E – Requested by JJB Home Improvements on Behalf of Sheway Chen and Dan Guiser – Tax Key MRTT0374-007 – Planner Haroldson said the Plan Commissioners should conditionally approve this and then finally approve it when the Attorney brings back the conditional use permit. Planner Haroldson said everything is written out in her Planner's Report, and the plans will be an exhibit. Attorney Van Kleunen said we're looking for a motion to probably approve this with all the Planner's condition identified in a written document to come back to the Plan Commission before approval by the Town.

A motion to conditionally approve the application for an in-law suite on Club Circle East in Hartland for Chen and Guiser based on the Planner's recommendations was made by Commissioner Good/Queoff. Motion carried.

Building Inspector's Referral for the Height and the Use of the Proposed Barn – Requested by Brett Hutchinson, National Management on Behalf of West Shore Holdings D LLC at W330N8569 West Shore Drive – Tax Key MRTT0313-024 – Byczek stated it's a barn to house his cows and his goats. It's a post and beam barn that was pre-fab from Nebraska. Inadvertently when he was reading all the ordinances and everything for accessory buildings, he was thinking 35'. That would be normal for the main structure, and he didn't realize the height was 25'. They have taken off the cupola and done everything they can to get it down to 31'. The existing barn on the property that is now incorporated into their new home addition is 40', and the silo that is incorporated into that is 38'. The three barns that surround them that are both behind the Becker subdivision and on both sides of it are 40'. It sits kind of in the middle of their pasture. The barn will match the home they're building; the additions to it. They are over by 6' of what the ordinance is. Byczek said he will have five hooved animals – 2 Nigerian pygmy goats, 2 miniature highland cows, and a miniature donkey. Planner Haroldson asked if he could have them in a 25' height building. Byczek said no, because he already has the building. It's sitting on site. Byczek said when he applied for the building permit, the height restriction came up. Planner Haroldson stated the Building Inspector referred this to the Plan Commission and said the Plan Commission cannot approve anything beyond 25', and there are also some questions about what he would use the extra space for. Byczek said he would be under the 5,000 sq. ft. requirement. He has a log cabin that is around 410 sq. ft. The loft is for hay and straw. The rest of the building is for two tractors and all of their implements and there are five stalls. They would like to put in a powder room, but not a shower. There are no living quarters, and it will not be insulated for living quarters. Byczek said he doesn't mind a deed restriction that this is a barn and that's all it can ever be. Commissioner Griffin questioned what the height was with the cupola. Byczek said the cupola is off, but it was just under the 35'. The cupola is out of the plans. Commissioner Griffin stated the footings are already in. Byczek said yes.

Attorney Van Kleunen asked if he currently has the hooved animals on the property. Byczek replied that the 2 goats are, and the rest are waiting for the barn. Commissioner Queoff asked the purpose of the animals; if he was doing a petting zoo. Byczek said no to the petting zoo. When they bought the property, they put in an over 50' setback for their pasture fences from the property line. They planted three rows of trees in most places, in a few there are two, all the way around to screen their entire property. They put 6' to 7' pine trees in, so it should be completely screened in 10 years. No one will really see much except for the main driveway.

Haroldson asked if he considered himself farming because he has five hooved animals that are pets. Byczek said yes, they are also doing flower beds and they're putting an orchard in.

Attorney Van Kleunen said just so the Plan Commission is aware, some of the questions, especially from the Planner and himself, are about the use and the activity on the property. In the A-1 district, if you have an accessory structure that is used for a farm or an agricultural purpose, it can go up to 60', but if it's not being utilized for a farm or agricultural purpose then the maximum is 25'. That is what the Commissioners are ultimately going to be contemplating. Is the information being provided satisfying what the code says for farm or agricultural use and whether the structure can be 6' above the 25'.

Commissioner Griffin questioned if he already had an existing barn. Byczek said it's there, but it's living quarters now. It's all attached, and the barn will eventually be living space. They've taken the existing house, added an addition, added that to the barn, and built another addition off the side of the barn. It's all one continuous building now. Attorney Van Kleunen clarified that it's single-family residential use. Byczek responded yes, for his wife, himself, and his 8-year-old. Planner Haroldson questioned if the existing barn is a garage now. Byczek said it will be living quarters. It's all under construction now. The garage is attached to it, which is a 3,000 sq. ft. garage to the south of the existing barn. Acting Chairman Siepmann clarified this abuts Mason Creek, and said he is 200' from the West Shore road and almost 172' from the south property lines and way in the middle of the property, which would satisfy for the height. Haroldson questioned if this was

hobby or actual farming? Acting Chairman Siepmann said he doesn't know how we can say otherwise if he has farm animals. Acting Chairman Siepmann said it's a hobby farm; what else would you call it? Byczek said he would store two tractors and a John Deere gator in the barn. There's no boat storage, nothing, it is a working barn.

Attorney Van Kleunen stated he's not saying the Plan Commission is heading in any kind of direction but verified that Byczek would be in agreement to a deed restriction that would limit the use of the structure to truly an agricultural use that he described. Byczek stated, 100%. Attorney Van Kleunen asked what would happen if the agricultural use of the structure just stopped at some point in time. It's pre-fab so it can come down all in one piece. Siepmann indicated it's a pile of parts. Byczek said it's a permanent structure, and it would never become boat storage. Byczek further stated it's vacant or it has animals in it; they're not ever going to do anything else with it. This is a legacy property for his family. Attorney Van Kleunen stated the concern is right now it's for farm animals, but then five years down the road it's a man cave or for parties. Byczek said the house they're building is fairly substantial and there's more than enough room for entertaining there. It's animals or nothing. Acting Chairman Siepmann questioned how many acres this parcel is and stated it still meets the A-1 zoning at 12 acres and questioned how high the building can go. Attorney Van Kleunen responded 60' if it's for farm use. Planner Haroldson said he attached all the farm buildings, so he only has the log cabin and this building and stated the reason this issue is here is because there were some covenants and restrictions that there is a difference of opinion about. Byczek said that's all cleared up and he has no restrictions because he didn't tear down the existing buildings. If he takes down any of the original buildings, he would have to comply with all the sections of the HOA. Commissioner Griffin asked if the deed restriction would go in before the building permit was issued. Attorney Van Kleunen asked if he was going to update the building plans to reflect the removed cupola. Byczek said no, it's just an accent piece, so it's just not going to be there. He will stipulate no cupola. Planner Haroldson said she thinks the Town needs to have the height to the peak on the plans. That should be submitted to the Building Inspector.

A motion to approve subject to a deed restriction for only agricultural farm use put into it with a recommended height of 31' was made by Commissioners Griffin/Good. Motion carried.

Appeals (§14.02 (12)) – Request by Attorney Kevin Clark on Behalf of Karen Templeton – for the Plan Commission to Consider Minor Modifications to the Height, Setback, Location and Materials of the Fence Installed at W332N6467 County Road C – Tax Key MRTT0364-972-001 – Attorney Clark said they made an application to the Plan Commission as an appeal from the Building Inspector's order that was received in March for her to remove the fence located on her property. He said the reason why they are here is because the Plan Commission pursuant to the ordinances has the authority to make modifications to the fence ordinance with respect to height, setback, location, and material. Templeton purchased the property in 2010 with her husband, Joe. Ever since they purchased the property there's been a fence located there facing County Highway C. Last year Ms. Templeton replaced that fence and was a little surprised to receive a letter from the Building Inspector about a year later asking her to remove the fence. Attorney Clark would like the Plan Commission to consider a couple of things:

1. The fence was not a new constructed fence. She replaced an existing one.
2. It was on the same footprint, same height, same materials as the previous fence. He referred to the fence in 2010, 2012 and the updated fence in 2024.

Acting Chairman Siepmann clarified that this went from a stockade fence to an alternating board on board fence. Attorney said yes, with similar type materials. She replaced the fence because the previous fence was getting dilapidated; not understanding that the ordinances had changed. She replaced it thinking she was allowed to because it was similar materials, same size, same length, same height. Templeton said they had been replacing bits and pieces over the last 15 years, and there has been a fence there since 1992.

Planner Haroldson told the Commissioners they had the fence ordinance in front of them. She stated Attorney Clark had a conversation with the Building Inspector, and the Building Inspector cited a number of things, but Templeton did not get a building permit. Templeton said she was not aware she needed one. She just had a handy man put it up and she apologized for not getting a permit. Attorney Clark said Ms. Templeton is willing to pay the permit fee for that. Planner Haroldson said we have a situation where the Town does not allow privacy fences on the roadside. Templeton said except within a half mile and three-quarters of a mile of her, there are several fences, some exactly like hers, some stockade, and some just flat board on board.

Planner Haroldson indicated she believes the location is also in the road right-of-way. She stated the Building Inspector couldn't issue a permit because it violates so many things in the fencing ordinance. The Building Inspector did have a conversation with someone else who had a violation with a new fence, and they did come to some compromise. Attorney Clark stated he understands the Building Inspector doesn't have the authority, but the Plan Commission does have the authority to grant modifications to the ordinance. The solution was that they could cut it down to meet the ordinance requirement for a decorative fence, they could open it up so it's 50% more like a decorative fence and still have the safety issue. Templeton said her husband has Parkinson's disease and dementia and any change affects a person with dementia to a great extent, and it's a protective type of thing so he just won't walk out into the road.

Planner Haroldson reviewed the violations the Building Inspector identified. Commissioner Griffin clarified that if the fence went to 4' and was opened up it would be compliant even though it would still be in the front of the house. Planner Haroldson said yes, it would be a decorative fence. They wouldn't have to tear it down; they could just modify it. Templeton questioned if everyone else on that road was going to be doing that. Attorney Van Kleunen said there's ongoing enforcement. Commissioner Griffin stated what the problem is once one person does it along that road, in five or ten years every single house on that road is going to have a fence on that road. Templeton questioned the purpose of this ordinance.

Planner Haroldson said even if it was a non-conforming structure, she would need to work within the 50% value. Acting Chairman Siepmann indicated for a non-conforming structure you're allowed to modify it up to 50% of the value. Acting Chairman Siepmann said this puts the Town in a very challenging position because it's a precedent this will just run all the way down that road. Attorney Clark said this wasn't a newly constructed fence, this was replacing an old one, so he doesn't think the Plan Commission's setting a terrible precedent here. There's also a human element of Ms. Templeton's husband has dementia. That's part of why they made this request. Acting Chairman Siepmann said please understand that all of these comments are done with all due respect to your husband and yourself, but this is a town-wide thing that they have to consider, not just yours.

Attorney Van Kleunen asked if the actual location of the fence is currently within the 50'? Planner Haroldson responded she did think it was in the road right-of-way. Commissioner Griffin said it would be the County's right-of-way, not the Town's. Attorney Van Kleunen said assuming it's in the right-of-way to some extent, it appears that it was reconstructed back to its current location and questioned if the location itself in the County road right-of-way a problem. Attorney Van Kleunen said it sounds like it was there before, but in dealing with the neighbor, to his understanding, is that the Town said cut it down to the height that it needs to be at and make it 50% transparent. Planner Haroldson said that was correct. Attorney Van Kleunen said he was going down the list of the items that are technically in violation and if the Plan Commission would consider any modifications at all, he recommended they start with the location before the height and the transparency. Planner Haroldson said it looks like the fence is in the right-of-way. Acting Chairman Siepmann said it doesn't show that as the right-of-way line and it looks like the property goes to the center of the road, so there really is no true right-of-way. Planner Haroldson said Waukesha County won't make Templeton do a certified survey to give it to them, but they do have some rights. Haroldson stated she thinks the location is the least of the issues, because Waukesha County would have to say she can go ahead and leave it where it is.

Attorney Van Kleunen asked if the Plan Commission shared the Planner's viewpoint. Planner Haroldson was asked if County has weighed in on this. Planner Haroldson said they have not.

Planner Haroldson stated the Building Inspector met with the other fence owner and came to a modification that could be lived with and met the ordinance. Acting Chairman Siepmann asked Templeton if she would be willing to lower the fence and make it transparent to comply with the Town ordinance. Templeton responded that she is 83 years old, and it would be a lot of work. Planner Haroldson asked how they get down to the lake. Templeton said they have stairs. Commissioner Griffin asked if this would be a recommendation to the Building Inspector. Planner Haroldson said Attorney Clark requested the appeal to the Plan Commission for their input on modifications, and she believes it would go back to the Building Inspector. Attorney Clark said he doesn't think the Building Inspector has the authority to make the modifications. Planner Haroldson said the Plan Commission would refer them back to the Building Inspector.

A motion to recommend that the Plan Commission refers this back to the Building Inspector subject to it meeting the Town's current ordinance, meaning lowering the fence and opening it up, leaving it in the current location and to obtain a fence permit was made by Commissioners Griffin/Queoff. Motion carried.

Attorney Van Kleunen said the appeal itself would be granted for purposes of where its current location is, which is in the County right-of-way, and the Town can't tell County what to do or not to do and they can show up one day and say they want the whole thing down. The Town has no involvement in that. Attorney Van Kleunen said he's just letting her know that this Commission and the Town of Merton does not have any authority with regard to the County highway. If it's located in the County right-of-way, that's her risk. What the Plan Commission is saying is the appeal for purposes of its current location would be granted, but the appeal would be denied in regard to the height and the transparency and the motion was to comply with those provisions and to obtain a fence permit as well.

Planner Report – Marilyn Haroldson – distributed the registration form for the recreational chickens and the handout for additional information on chickens.

DPW Report – Paul Griffin – stated that the DPW introduced brine to their salting operation in 2024 and reviewed the last couple of years salt reduction and the improvement of using brine.

A motion to adjourn was made by Commissioners Good/Griffin. Motion carried.
Meeting adjourned at 6:49 p.m.

Respectfully submitted,

Holly R Claas,
Deputy Clerk