

**MINUTES OF THE REGULAR BOARD OF  
BUILDING AND ZONING APPEALS MEETING**  
**Thursday, March 27, 2014**

**Call to Order**

Deputy Clerk-Treasurer Judith Taubert called the meeting to order at 6:31 p.m.

**Roll Call**

Members Present: Sarah Szejn  
Dave Mades  
Jack Dexter  
Don Fischer, 2<sup>nd</sup> Alternate

Members Excused: Chris Tarr  
Ken Johnson  
Ken Werner, 1<sup>st</sup> Alternate

Also Present: Joseph Hankovich, Supervisor of Inspections/Zoning Administrator  
Judith Taubert, Deputy Clerk-Treasurer

**Selection of Acting Chairperson**

The floor was opened at 6:32 p.m. for nominations to select an acting chairperson. Nominations closed at 6:33 p.m. Motion by Szejn/Dexter to nominate Dave Mades as acting chairperson carried unanimously.

**Minutes**

Motion made by Szejn/Dexter to approve the December 19, 2013 meeting minutes. Motion to approve the minutes carried unanimously.

**200 S. Rochester St. Variance Amendment Request**

Public hearing to consider an amendment to a variance to the zoning ordinance requested by Mark Weiss, Half-Time Sports Grille, Inc. for the property located at 200 S. Rochester St. to allow the hours of operation to extend until 2:00 p.m. opened at 6:38 p.m.

Mark Weiss, S100W35655 Eagles Preserve Drive, Eagle – Owner of Half-Time Sports Grille. spoke explaining that it is a sports bar and many Basket Ball, Baseball and Football games are still being played at a late hour and he doesn't want to kick anybody out. His liquor license allows him to be upon until 2 p.m.

Allen Buchholz, 110 Jefferson Street – Resident and Owner of Hanks Transportation spoke that he is not opposed to the business closing at midnight and maybe at certain times and events that they could be open until 2 p.m. He also wanted to know if there was a problem, could they come back to the board and change the time.

Sergeant Dan Streit Mukwonago Police Dept. – Had no comments, however, he was there to answer any questions regarding a letter from Police Chief Kevin Schmidt recommending the Board of Appeals to not grant the additional variance for Half-Time Sports Grille to stay open until 2 p.m. being they are so close to a residential area.

Public hearing closed at 7:09 p.m.

Motion by Szejn to amend Condition #2 of the original variance granted October 19, 2013 that the hours of operation would be until 2 p.m.

Reasons for granting the amendment:

1. To amend the variance is that the applicant is in the B-2 Zoning District
2. Other similar businesses have the same hours of operation.
3. One neighbor was here and generally was supportive
4. Of the nine incidents 50% were red light and sirens since 2010.
5. The number of incidents are average to the number of incidents of other establishments of similar type.

Conditions for granting the amendment:

1. Approval is for 1 year from date of opening.
2. The Board of Appeals will review the operation at the end of 12 months (approximately) for problems, concerns and comments.
3. If there are multiple issues from the police, it can be brought back sooner to be reviewed.

Roll call vote carried unanimously.

**Adjournment**

Motion by Szejn/Dexter to adjourn the meeting at 7:19 p.m. carried unanimously.

Respectfully Submitted

Judith Taubert  
Deputy Clerk-Treasurer

**MINUTES OF THE REGULAR BOARD OF  
BUILDING AND ZONING APPEALS MEETING  
Thursday, May 29, 2014**

**Call to Order**

Village Clerk Steven Braatz, Jr. called the meeting to order at 6:31 p.m.

**Roll Call**

Members Present: Sarah Szejn  
Dave Mades  
Jack Dexter  
Chris Tarr

Members Excused: Ken Johnson  
Don Fischer, 2<sup>nd</sup> Alternate  
Ken Werner, 1<sup>st</sup> Alternate

Also Present: Joseph Hankovich, Supervisor of Inspections/Zoning Administrator  
Steven Braatz, Jr., Village Clerk-Treasurer

Motion by Dexter/Tarr to appoint Sarah Szejn as acting chairperson carried unanimously.

**Minutes**

Motion by Dexter/Tarr to approve the March 27, 2014 meeting minutes carried.

**Public Hearings**

Public hearing to consider a variance to Section 100-121 of the Municipal Code requested by Mukwonago Mustangs Baseball Club to construct a building for storage and concessions in Minor's Park on Eagle Lake Avenue opened at 6:35 p.m.

Steve Larson, representative for Mukwonago Mustangs Baseball Club, presented plans to construct a building for storage and concessions in Minor's Park on Eagle Lake Avenue. The storage area would be 8' X 10' feet and be used to store baseball equipment. The concession area would also be 8' X 10' feet, making the total structure 16' x 10' feet. There will be no major cooking. The Mukwonago Women's Softball League expressed interest in using this structure. This request was presented and approved by the Board on June 27, 2013. Due to weather and other factors, the Club was unable to build the structure in 2013. Thus the variance expired in December 2013.

No one appeared for or against the request.

Public hearing closed at 6:37 p.m.

Motion by Tarr/Dexter to grant the Mukwonago Mustangs Baseball Club a variance to the Section 100-21 to construct a building for storage and concession in Minor's Park.

Reasons for granting the variance are as follows:

1. No one appeared to object.
2. Concerns of the property were addressed.
3. Village Board supports the building of the structure.
4. The Public Works Supervisor/Coordinator supports the construction.

Conditions are as follows:

1. If not maintained, the Mukwonago Mustangs will be required to take the building down at their expense.
2. The applicant shall clean up around the fields after the games by teams using the building.
3. There shall be no electrical wiring, plumbing or heating added.
4. The applicant shall add another blue garbage can.
5. If the fees are not waived by the Village Board, the applicant will be billed.

Motion carried unanimously upon roll call vote.

### **Adjournment**

Meeting adjourned at 6:41 p.m.

Respectfully Submitted

Steven Braatz, Jr.  
Village Clerk-Treasurer

**MINUTES OF THE REGULAR BOARD OF  
BUILDING AND ZONING APPEALS MEETING**  
**Thursday, June 26, 2014**

**Call to Order**

Village Deputy Clerk-Treasurer Judith Taubert called the meeting to order at 6:30 p.m.

**Roll Call**

Members Present: Sarah Szejn  
Dave Mades  
Chris Tarr  
Ken Werner, 1<sup>st</sup> Alternate  
Don Fischer, 2<sup>nd</sup> Alternate

Members Excused: Ken Johnson  
Jack Dexter

Also Present: Joseph Hankovich, Supervisor of Inspections/Zoning Administrator  
Judith Taubert, Deputy Clerk-Treasurer

Motion by Szejn/Mades to appoint Chris Tarr as acting chairperson carried unanimously.

**Minutes**

Motion by Szejn/Werner to approve the May 29, 2014 meeting minutes with the correction of Section 100-21 and 100-121 in the minutes to read Section 100-121(2) carried.

**Public Hearings**

Public hearing to consider a request for an unspecified use permit requested by Dennis Smith, Industrial Truck Repair, to allow for the sale of vehicles on the property located at 637 Perkins Drive opened at 6:36 p.m.

Dennis Smith, 1043 Sundown Court, owner of Industrial Truck Repair, explained that he was asking for an unspecified use permit to be able to get a retail motor vehicle dealers license so his business can sell vehicles on the property at 637 Perkins Drive.

Dan Smith, 806 N. Rochester Street spoke in favor of the unspecified use permit to allow the business to replace and buy more vehicles for the business.

Public hearing closed at 6:37 p.m.

Motion by Szejn/Werner to grant the Unspecified Use Permit to Industrial Truck Repair by Dennis Smith to allow for the sale of vehicles on the property located at 637 Perkins Drive.

Reasons for granting the Unspecified Use Permit are as follows:

1. No one appeared to object.
2. It is similar to other existing repair shops in the area.
3. Although this use is not listed, the M-4 Zoning has similar uses that are permitted (example-equipment rental facility)
4. There is also a wholesale facility that is listed as a Conditional Use.

Conditions are as follows:

1. No more than 1 vehicle for sale on the lot at one time.
2. No vehicle stored on site can be in disrepair.

Motion carried.

Public Hearing for request for a variance to Section 100-102(4)a.3. of the Village of Mukwonago Municipal Code requested by John Smart, Smart Builders LLC, to allow for the construction of a single-family dwelling on the property located at Lot 1 of CSM #11138 on Blood St. opened at 6:59 p.m.

No one appeared for or against the request.

Public Hearing closed at 7:00 p.m.

Motion by Szejn/Werner to approve the request for a 182 sq.ft. variance to Section 100-102(4)a.3. of the Village of Mukwonago Municipal Code requested by John Smart, Smart Builders LLC, to allow for the construction of a single-family dwelling on the property located at Lot 1 of CSM #11138 on Blood St. because special circumstances apply to property carried unanimously upon roll call vote.

Reasons for granting the variance to Section 100-102(4)a.3 of the Mukwonago Municipal Code to construct a single-family dwelling on the property located at Lot 1 of CSM #11138 on Blood Street are as follows:

1. Strict application will deprive the property owners of privileges enjoyed by other property owners of same classification in same Zoning District.
2. The Village Board approved a lot of that size in September 2013.
3. Variance will not alter the characteristics of neighborhood and grant the property owner an advantage.
4. Variance is of a minimum that will afford release.
5. No one was here to object.

The condition is:

1. The proposed structure shall be the only structure built – no other accessory buildings.

Motion carried.

### **Adjournment**

Meeting adjourned at 7:27 p.m.

Respectfully Submitted

Judith Taubert  
Deputy Clerk-Treasurer

**MINUTES OF THE REGULAR BOARD OF  
BUILDING AND ZONING APPEALS MEETING**  
**Thursday, September 25, 2014**

**Call to Order**

Chairman Ken Johnson called the meeting to order at 6:30 p.m. located in the Board Room of the Mukwonago Municipal Building, 440 River Crest Ct.

**Roll Call**

Members Present: Sarah Szejn  
Dave Makes  
Ken Johnson  
Jack Dexter  
Chris Tarr

Also Present: Robert Harley, Building Codes Official  
Ken Werner, 1<sup>st</sup> Alternate  
Don Fischer, 2<sup>nd</sup> Alternate  
Judith Taubert, Deputy Clerk-Treasurer

**Minutes**

Motion by Szejn/Makes to approve the June 26, 2014 meeting minutes carried.

**Public Hearings**

Public hearing to consider a request for a variance to Section 100-101(5) of the Village of Mukwonago Municipal Code requested by Dennis O'Bryan to allow for the construction of an addition to the attached garage on the property located at 169 Baron Road opened at 6:32 p.m.

Dennis O'Bryan, 169 Baron Road explained his reason for asking for a variance for an additional 77 square feet needed to construct the addition to his garage.

Public hearing closed at 6:37 p.m.

Motion by Szejn/Tarr to approve the request and grant the variance of 77 square feet to Dennis O'Bryan to allow for the construction of an addition to the attached garage on the property located at 169 Baron Road.

Reasons for granting the Variance are as follows:

1. No one appeared to object.
2. It is similar to the variance requested in 2008.
3. The proposed garage is within the symmetry of the house
4. It won't affect the character of the neighborhood.
5. The 77 sq.ft is the minimal amount requested.
6. It meets the required setbacks and no other variances requested.
7. It was approved by the Board in 2008
8. The footings are already in

Conditions are as follows:

1. Fire wall is to be extended as request by the original variance.
2. No other outside structures can be added

Motion carried.

### **Adjournment**

Meeting adjourned at 6:52 p.m.

Respectfully Submitted

Judith Taubert  
Deputy Clerk-Treasurer



**MINUTES OF THE REGULAR BOARD OF  
BUILDING AND ZONING APPEALS MEETING  
Thursday, November 25, 2014**

**Call to Order**

Chairman Ken Johnson called the meeting to order at 6:38 p.m. located in the Board Room of the Mukwonago Municipal Building, 440 River Crest Ct.

**Roll Call**

Members Present: Sarah Szejn  
Dave Mades  
Ken Johnson  
Chris Tarr

Member Excused: Jack Dexter

Also Present: Joe Hankovich, Supervisor of Inspections/Zoning Administrator  
Ken Werner, 1<sup>st</sup> Alternate  
Steven Braatz, Jr., Clerk-Treasurer

1<sup>st</sup> Alternate Werner took the vacancy due to an absence.

**Minutes**

Motion by Szejn/Tarr to approve the September 25, 2014 meeting minutes as presented carried.

Motion by Mades/Werner to suspend the rules and amend the agenda to take up the DC Properties Appeal of Kwik Trip, Inc. Conditional Use Application first carried.

**DC Properties Appeal of Kwik Trip, Inc. Conditional Use Application**

The Board was asked to review an action on appeal from a decision of the Plan Commission recommending the approval of a Conditional Use Permit for Kwik Trip, Inc. at the northeast corner of STH 83 and Black Bear Drive being a re-division of all of the north parcel of Certified Survey Map No. 1372 and the reminder of Lot 3 of Certified Survey Map No. 10127, which appeal is being brought by DC Properties, LLP alleging, in part, that:

- The Village has failed to enforce Section 100-20(e) of the Municipal Code of the Village of Mukwonago;
- That a public hearing did not occur on the new site plan, which was recommended for approval by the Plan Commission; and
- The Commission's decision that the Kwik Trip Application was not adverse to the value of the neighborhood is erroneous.

Petitioner seeks review of the Plan Commission decision and recommendation pursuant to Section 100-805 of the Municipal Code of the Village of Mukwonago and Wisconsin Statute Sec. 62.23(7)(e)7.

A stipulation was entered into and agreed by the parties to the above matter, by their respective counsel, on November 25, 2014, withdrawing the appeal.

Motion by Szejn/Tarr to accept the stipulation pertaining to DC Properties Appeal of Kwik Trip, Inc. Conditional Use Application, agreed to by Dale L. Thorpe, Attorney for DC Properties, Mark G. Blum, Attorney for the Village of Mukwonago, and Mark Sewell, Attorney for Kwik Trip Inc., signed and dated on November 25, 2014, and stipulating and agreeing to the following:

1. This appeal before the Village Board of Zoning Appeals is withdrawn and without fees or costs to the parties.
2. The parties further stipulate that the Village Board has not yet acted on the Village Plan Commission's recommendation for approval of the conditional use permit at issue.
3. By this stipulation, the parties further agree that DC Properties properly exhausts its remedies by allowing the Plan Commission's recommendation to be forwarded to the Village Board for review (as authorized by Code Sec. 100-353), by allowing the Village Board to reach a decision whether to authorize the zoning administrator to issue a conditional use permit (as authorized by Code Sec. 100-351) and, depending on the decision of the Village Board, by pursuing the remedy of certiorari review in Circuit Court.

Motion carried.

### **Public Hearing**

Public hearing to consider a request for a variance to Section 100-101 (4) of the Municipal Code of the Village of Mukwonago requested by The Orchards of Mukwonago LLC to allow for the reduction of the street yard setback requirement for ten (10) lots of the proposed Orchards of Mukwonago Addition #2 plat redesign opened at 6:47 p.m. Due to a conflict of interest, Szejn re-cused herself from the Board.

Bob Stelter, Point Real Estate, presented the preliminary plat for the Orchards of Mukwonago Addition #2. The original preliminary plat was approved in 2004. Phase 3 (Addn #2) was put on hold due to the downturn in the economy. New investors came aboard and the development started back up. During the process of wetland delineation, some wetlands encroached into some of the lots from the original layout, causing the creation of a new preliminary plat. There are 26 lots, same as the original plat. Since the original plat was approved, the Village changed its zoning code which affected lot widths on cul de sacs, changing it to 100' for plowing.

Brian O'Neill, 1313 Mukwonago Dr. – The new street onto Honeywell Rd. goes right into his backyard, and is concerned about runoff and flooding. (Hankovich explained that with storm water regulations, all runoff is to not leave the property any more that prior to construction.)

Public hearing closed at 7:02 p.m.

Motion by Tarr/Werner to approve the request and grant the variance to Section 100-101 (4) of the Municipal Code of the Village of Mukwonago requested by The Orchards of Mukwonago LLC to allow for the reduction of the street yard setback requirement for lots 98 (5 feet), 99 (38 feet), 100 (39 feet), 101 (29 feet), 102 (7 feet), and 103 (7 feet) of the proposed Orchards of Mukwonago Addition #2 plat redesign.

Reasons for granting the Variance are as follows:

1. The Department of Public Works has reviewed the proposed plat and had no issues with the variance.
2. The Fire Department has reviewed the proposed plat and had no issues with the variance.
3. The design of the lots is consistent with the other phases of the subdivision.
4. The original plat was approved under the old Village code.
5. One person spoke about storm water concerns, and those concerns have been answered.

Conditions are as follows:

1. The redemption clause of six months shall be waived.

Motion carried.

### **Adjournment**

Meeting adjourned at 7:18 p.m.

Respectfully Submitted

Steven Braatz, Jr.  
Clerk-Treasurer