

**TOWN OF DELAFIELD
PLAN COMMISSION MEETING
TUESDAY, SEPTEMBER 6, 2022, 6:30 P.M.**

Video Link: <https://www.youtube.com/watch?v=t0EKBohUa7I&t=950s>

Prior to the start of the scheduled Plan Commission meeting there will be a public hearing in front of the Plan Commission and a representative of Waukesha County Department of Parks and Land Use to solicit public input on a request from David Davis, Jr. to legalize an existing summer cottage to allow for remodeling in excess of 50% of the equalized value located at W285 N3136 Lakeside Road. The regularly scheduled Plan Commission meeting will begin immediately following the conclusion of the public hearing.

Public Hearing:

Jacob Heermans, Senior Land Use Specialist, explained the property contains a two-story home and a one-story cottage from the 1920s. Nonconforming uses are limited to 50% improvement based on the assessed value of the home. The owner wants to modify the cottage, and the assessment is \$15,000. The ordinance dictates they are only allowed to do structural modifications. Any expansion of the building footprint would require a Board of Appeals variance. The ordinance allows for a non-conforming conditional use, but does not have explicit conditions. By legalizing the structure, the applicant would not be subject to the 50% rule. Typically, the Town only allows for one resident per lot. The applicant has applied for a Board of Appeals variance for a vertical expansion. The deed restriction restricts the applicant from year-round use and renting the property.

David Davis Jr., an owner of the property located at W285N3136 Lakeside Road, explained the family has owned the property for 55 years. The larger house was built in 1968 or 1969. The original cottage was built in 1920. The property is owned by a trust set up by his mother. The beneficiaries are him and his sister. They are the only two children. The original plan was to have two homes to be shared by family members. The cottage is 1200 square foot with a porch structure on the front. They want to remove that wall and use it as a great room. His parents did grant a restrictive covenant when the garage was approved, restricting full time use and renting the property. This will only be a summer cottage used a few weekends a summer. He lives in Brookfield and doesn't care to spend the entire summer on the lake. If that is an issue, he would be willing to grant more restrictions. He is seeking approval for heating and cooling to provide cooling for the summer. He would also like it heated in the winter for the structure's sake. He could not see any scenario where we would tear that building down. His neighbors, the O'Malley's sent a letter in support. They have granted the sanitary district an easement to utilize the lift station on their property, compromising some of their lake views.

Bruce Davidson, W285N3188 Lakeside Road, stated he lives 3 doors from this property. He expressed no feelings one way or the other regarding this particular property. His concern is the precedent it presents to the Town moving forward regarding other people with similar circumstances. He urged the Commission to take a look at the unintended consequences. No one knows what this property will be in the future.

David Davis Jr. stated he saw the engineer's recommendation. He thinks this cottage is part of the history of the Town and the lake. He did not know why the unique circumstances would be a negative precedent for other homes. He is willing to address any concerns the Town has about overburdening this property or causing problems in the future. He explained he is very flexible and has no hidden agenda.

Public hearing was closed

First order of business: Call to Order and Pledge of Allegiance

Chairman Fitzgerald called the meeting to order at 6:46 p.m. and led all in the Pledge of Allegiance.

Members present: Supervisor Kranick, Commissioner Dickenson, Commissioner Janusiak, Chairman Troy, and Plan Commission Chairman Fitzgerald.

Also present: Engineer Tim Barbeau and Administrator Dan Green.

Second order of business: Approval of the minutes of August 2, 2022.

Motion made by Commissioner Dickerson to approve the August 2, 2022, minutes. Seconded by Chairman Troy. Motion passed 5-0.

Third order of business: Communications (for discussion and possible action): None

Fourth order of business: Unfinished Business: None

Fifth order of business: New Business:

- A. David Davis, Jr., W285 N3136 Lakeside Road, Re: Consideration and possible recommendation to Waukesha County to legalize an existing summer cottage to allow for remodeling in excess of 50% of the equalized value under Waukesha County Shoreland and Floodland Zoning.

Engineer Barbeau stated Waukesha County has requested the Town's recommendation on their Conditional Use Permit. The applicant wants to turn this into a more permanent structure. This is not a situation of removing the second structure, as we typically see. The applicant wishes to make improvements to the structure. The Town Code states one dwelling unit is allowed per parcel. The state code discourages the improvement of these dilapidated cottages. He recommends denial as to not set a precedent that would perpetuate more. He stated he did not think this specific circumstance was unique, but if it moves forward, would recommend enforcing the restriction of no renters.

Chairman Fitzgerald questioned if the application was through a Waukesha County Conditional Use. Mr. Heermans explained that is, but the Town can provide conditions to be incorporated in their CUP. He also questioned if the Town approved the CUP, if it would no longer be a non-conforming structure. Mr. Barbeau explained that would be the case. Supervisor Kranick stated this may become problematic when it comes to enforcement.

Chairman Troy stated he would recuse himself from this item due to knowing the applicant personally.

Mr. Heermans explained that the Town could require a deed restriction, and any new property owner moving forward would have to be made aware of it. Mr. Davis explained there is currently a deed restriction on the property, that will carry over to a new owner.

Commissioner Dickenson asked if a deed restriction could require any new owner to remove the structure. She wanted to explore the possibility when the property is sold, the new owner would be required to remove a structure. Supervisor Kranick stated he would be in favor if the Town could tighten up the deed restriction, as it would provide a template for future use. He explained it would need to be strict and prohibit rentals. Chairman Fitzgerald explained that the Town would not simply want the conditional use to terminate on the event of a sale. They would want the home to be razed. Mr. Heermans agreed the deed restriction is an important part of the approval. Commissioner Janusiak agreed to the idea of a new deed restriction if it is legally a viable option.

Motion by Commissioner Dickenson to recommend to Waukesha County approval of a request for a Conditional Use Permit subject to a deed restriction on the property prohibiting rentals, and upon the sale of the property, one of the two structures be removed. Seconded by Supervisor Kranick. Motion passed 4-0, with Chairman Troy abstaining.

- B. Bill Halquist, Jr. N22 W28656 Louis Avenue, Re: Consideration and possible action on an approval of a Certified Survey Map for a lot combination at N22 W28656 Louis Avenue.

Engineer Barbeau explained this property is located on Louis Avenue. The owner has two parcels, one on the lake and the other across the street. The Certified Survey map creates two lots. There is a restriction that both lots must remain under the same ownership, and cannot be sold separately. The surveyor has addressed the engineer's comments, and he recommends approval subject to the satisfaction of any comments from Waukesha County and the City of Delafield. The CSM will tie the two lots together. The lot across the street is where the owner plans to construct a new garage.

Motion Supervisor Kranick to approve a CSM dated August 30, 2022, subject to the surveyor addressing any review comments from the City of Delafield and Waukesha County Department of Parks and Land Use prior to the Town executing the document. Seconded by Commissioner Dickenson. Motion passed 5-0.

- C. Robert Jeanne, W303 N2598 Maple Avenue, Consideration and possible action on an approval of a Certified Survey Map for a lot combination at W303 N2598 Maple Avenue.

Engineer Barbeau explained this is a combination CSM of two lots. There is a lot line that goes through the center of the applicant's house. They would like to clean up the property line in the middle. Their total lot size is not changing, but they dedicated land to the Town for a proper 33 feet right-of-way. He recommends approval of the CSM dated 8/31/2022, subject to the satisfaction of comments from Waukesha County and the City of Delafield.

Motion by Supervisor Kranick to approve a CSM dated August 31, 2022, subject to the surveyor addressing any review comments from the City of Delafield and Waukesha County Department of Parks and Land Use prior to the Town executing the document. Seconded by Chairman Troy. Motion passed 5-0.

- D. Cormac and Tanya Palmer, W334 S1010 Cushing Park Road, Re: Consideration and possible action on a request for a height increase for an accessory building.

Engineer Barbeau explained the property is off Cushing park Road. The structure will be in the southwest corner of the property. The applicant is proposing a 42'x64' accessory building. They are requesting a 26'4" total height to the ridge and 14'4" to the eave. The offset to the side requires a 30' minimum setback, and they have 90'. They meet the required open space percentages and the area for the building. Their house has a similar pitch as the proposed building, which they would like to match. The code allows for additional height of not more than 10-feet. The engineer has no objections to the height increase based on the location. He also recommends a CSM be submitted to remove a lot line that goes through the property, to meet the required setbacks. The cupola on the building is limited to the maximum height increase allowance of 10 feet.

Motion by Supervisor Kranick to approve the height increase for an accessory building up to 10-feet, subject to a CSM combining lots as described by the Town Engineer being executed before a building permit is issued. Seconded by Commissioner Janusiak. Motion passed 5-0.

- E. Town of Delafield Plan Commission, Re: Review of draft Lighting Ordinance.

Chairman Fitzgerald explained that after meeting with staff, they decided to explore with the Plan Commission the idea of placing residential lighting restrictions in the public nuisance ordinance. The nuisance code has a mechanism for enforcement. This would eliminate the building inspector having to regulate all residential lighting plans, and is simpler to enforce. Engineer Barbeau explained that in this section they would put in 10.03-11. The commercial lighting ordinance would still move forward with a public hearing in the Town's Zoning Code. Chapter 10 amendments would not require a public hearing. The Commission agreed to move forward with this approach.

Sixth Order of Business Discussion: None

Seventh Order of Business: Announcements and Planning Items: Next meeting: October 4, 2022.

Eighth Order of Business: Adjournment

Motion by Supervisor Kranick to adjourn the September 6, 2022, Plan Commission meeting at 7:52 p.m. Seconded by Commissioner Dickenson. Motion passed 5-0.

Respectfully submitted,

Dan Green, CMC, WCMC
Administrator-Clerk/Treasurer