

A PERFECT ENVIRONMENT

Residential ♦ Recreational ♦ Responsible

Chair
Larry Krause
Supervisors
Pete Van Horn
Christopher Smith
Edward Kranick
Ron Troy
Clerk/Treasurer
Mary Elsner

TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING TUESDAY, APRIL 24, 2018 - 7:00 P.M. DELAFIELD TOWN HALL – W302 N1254 MAPLE AVENUE, DELAFIELD, WI

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Citizen Comments – During the Public Comment period of the agenda, the Town Board welcomes comment from any member of the public, other than an elected Town Board member, on any matter not on the agenda. Please be advised that pursuant to State law, the Board cannot engage in a discussion with you but may ask questions. The Board may decide to place the issue on a future agenda for discussion and possible action. Each person wishing to address the Board will have up to five (5) minutes to speak. Speakers are asked to submit to the Town Clerk, a card providing their name, address, and topic for discussion.

The Board will also take comment from the public on agenda items as called by the Chair, but not during the Public Comment. Please note that once the Board begins its discussion of an agenda item, no further comment will be allowed from the public on that issue.

4. Approval of April 10, 2018, Town Board Minutes
5. Action on vouchers submitted for payment:
 - A. Report on budget sub-accounts and action to amend 2018 budget
 - B. 1) Accounts payable; 2) Payroll
6. Communications (*for discussion and possible action*)
 - A. Luke Sebald, Neumann Development (4/11/18), Re: November 17, 2017, Punch List Letter Walkthrough – Woodridge Estates Subdivision
 - B. Eric J. Larson (4/13/18), Re: 2018 Board of Review – New Laws
7. Unfinished Business
 - A. FRED-Tumblebrook LTD Partnership, Mike Schiltz, agent, Re: Consideration and possible action on a request for an exception to Section 18.06 (1)(d)7. of the Town code to allow more than 14 lots on a cul-de-sac (Golf View Drive) as provided for in Section 18.10 of the Town Code (tabled 4/10/18)
 - B. Consideration and possible action on Operator's License for the period of 7/1/16 to 6/30/18:
Paul Snyder – Kim's Lakeside (tabled 4/10/18)

Town of Delafield Board of Supervisors Meeting Agenda

April 24, 2018

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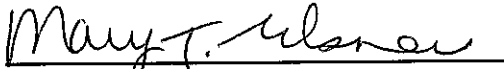
8. New Business

- A. Appointment of Plan Commissioner
- B. Softball Update
- C. Discussion and possible action – approval to hire an Administrative Assistant
- D. Town Board Liaisons

9. Announcements and Planning items

- A. Next WI Towns Waukesha County Meeting – Wednesday, April 25 – Town of Mukwonago
7:00 p.m.
- B. Next Plan Commission Meeting – May 1
- C. Next Town Board Meeting – May 8
- D. Next Park and Recreation Commission Meeting – May 14
- E. Board of Review – May 22 – Adjourn to Thursday, July 5 – 7:00 p.m.

10. Adjournment



Mary T. Elsner, CMC, WCMC
Town Clerk/Treasurer

Notification of this meeting has been posted in accordance with the Open Meeting Laws of the State of Wisconsin. The Town Board may take action on any item on the agenda. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the Town Board of Supervisors. Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact Mary Elsner, Town Clerk, at W302 N1254 Maple Avenue, Delafield, WI 53018-7000. This agenda is for informational purposes only. Posted – 4/19/2018

TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
April 10, 2018

DRAFT

Members Present: L. Krause, P. Van Horn, E. Kranick, R. Troy, B. Cooley
Others Present: 7 citizens

First order of business: Call to Order
Chairman Krause called the meeting to order at 7:00 p.m.

Second order of business: Pledge of Allegiance

Third order of business: Citizen Comments
There were no citizen comments.

Fourth order of business: Approval of March 27, Town Board Minutes
MOTION MADE BY MR. KRANICK, SECONDED BY MR. TROY TO APPROVE AS PREPARED BY THE CLERK. MOTION CARRIED.

Fifth order of business: Action on vouchers submitted for payment:
A. Report on budget sub-accounts and action to amend 2018 budget

B. 1) Accounts payable; 2) Payroll
Accounts Payable

MOVED TO APPROVE PAYMENT OF CHECKS #60102 – #60138 IN THE AMOUNT OF \$83,651.26

Payroll

MOVED TO APPROVE PAYMENT IN THE AMOUNT OF \$24,877.99

MR. TROY/MR. COOLEY

MOTION CARRIED.

Sixth order of business: Communications (*for discussion and possible action*)
A. ISO (3/26/18), Re: Delafield Ts Fpsa

Chairman Krause stated that the fire department's ISO public protection classification rating of 07/10 has remained the same since he has been on the Town Board. ISO is the leading supplier of data and analytics for the property/casualty insurance industry. Effective July 1, 2018, the public protection classification is 05/10.

Mr. Troy stated that this could be significant, as property owners may be eligible for reduced insurance rates.

Seventh order of business: Unfinished Business
A. None

Eighth order of business: New Business
A. Appointment of Plan Commissioner

Chairman Krause recommended the appointment of Tim Frank to serve on the Plan Commission. He has lived in the Town for 5 years. His parents were raised in the Town, his grandfather served as a commissioner on the Lake Pewaukee Sanitary District and was responsible for installation of sewer around the lake.

MOTION MADE BY CHAIRMAN KRAUSE, SECONDED BY MR. TROY TO APPOINT TIM FRANK TO SERVE ON THE PLAN COMMISSION FOR A 3-YEAR TERM. MOTION CARRIED.

- B. FRED-Tumblebrook LTD Partnership, Mike Schiltz, agent, Re: Consideration and possible action on a request for an exception to Section 18.06 (1)(d)7. of the Town code to allow more than 14 lots on a cul-de-sac (Golf View Drive) as provided for in Section 18.10 of the Town Code

Engineer Barbeau provided a summary of the subject issue. He stated that the Town Attorney determined that the law does allow an Outlot (Outlot 3) to be used in accordance with the underlying zoning. He also indicated that in accordance with the Declaration of Restrictions, the Town must approve the use of the land. The proposed use is single family in accordance with R-1 A zoning requirements. Engineer Barbeau stated that the most recent recommendation of the Plan Commission was to grant the waiver and consider the lot residential.

Kristen Gebhart, W280N1690 Golf View Dr., stated that she does not agree with the Town Attorney's interpretation of the law regarding Outlot 3. She referenced 236.13 (6) and claims that this situation is not in compliance with the restrictions imposed with respect to building sites. Ms. Gebhart is of the opinion that the sewer extension and easement that runs through the property makes this lot a restriction for public benefit (per Section 236.293) and it should not be buildable. She added that, if the lot is built on, it will reduce the value of her lot when she sells and trees will have to be taken down in order to build.

MOTION MADE BY MR. KRANICK, SECONDED BY MR. TROY TO TABLE UNTIL THE NEXT REGULARLY SCHEDULED MEETING TO ALLOW THE TOWN ATTORNEY TO REVIEW, FOR THE PUBLIC GOOD, TO MAKE SURE THAT THE TOWN IS NOT IN VIOLATION OF SECTION 236.293. MOTION CARRIED.

- C. Consideration and possible action on Plan Commission's recommendation to approve a CSM for lands located west of Cushing Park Road, between Abitz Road and USH 18

MOTION MADE BY MR. KRANICK, SECONDED BY MR. VAN HORN TO APPROVE THE CSM FOR LANDS LOCATED WEST OF CUSHING PARK ROAD, BETWEEN ABITZ ROAD AND USH 18, SUBJECT TO STAFF RECOMMENDATIONS INCLUDING ANY OUTSTANDING ITEMS. MOTION CARRIED.

- 1. STAFF AND GOVERNMENTAL APPROVAL. SUBJECT TO THE DEVELOPER SATISFYING ALL COMMENTS, CONDITIONS AND CONCERNS OF THE TOWN ENGINEER IN HIS MEMO DATED JANUARY 31, 2018 AND ALL REVIEWING, OBJECTING AND APPROVING BODIES, WHICH MAY INCLUDE BUT NOT BE LIMITED TO THE WISCONSIN DEPARTMENT OF TRANSPORTATION PER CHAP. TRANS. 233, WISCONSIN ADMINISTRATIVE CODE, WAUKESHA COUNTY PARKS AND LAND USE DEPARTMENT AND VILLAGE OF SUMMIT IN REGARD TO THE CSM.**
- 2. PROFESSIONAL FEES. PETITIONER SHALL, ON DEMAND, REIMBURSE THE TOWN FOR ALL COSTS AND EXPENSES OF ANY TYPE THAT THE TOWN INCURS IN CONNECTION WITH THIS DEVELOPMENT, INCLUDING THE COST OF PROFESSIONAL SERVICES INCURRED BY THE TOWN (INCLUDING ENGINEERING, LEGAL, PLANNING AND OTHER CONSULTING FEES) FOR THE REVIEW AND PREPARATION OF REQUIRED DOCUMENTS OR ATTENDANCE AT MEETINGS OR OTHER RELATED PROFESSIONAL SERVICES FOR THIS APPLICATION, AS WELL AS TO ENFORCE THE CONDITIONS IN THIS CONDITIONAL APPROVAL DUE TO A VIOLATION OF THESE CONDITIONS.**
- 3. PAYMENT OF CHARGES. ANY UNPAID BILLS OWED TO THE TOWN BY THE SUBJECT PROPERTY OWNER OR HIS OR HER TENANTS, OPERATORS OR OCCUPANTS, FOR REIMBURSEMENT OF PROFESSIONAL FEES (AS DESCRIBED ABOVE); OR FOR PERSONAL PROPERTY TAXES; OR FOR REAL PROPERTY TAXES; OR FOR LICENSES, PERMIT FEES OR ANY OTHER FEES OWED TO THE TOWN; SHALL BE PLACED UPON THE TAX ROLL FOR THE SUBJECT PROPERTY IF NOT PAID WITHIN THIRTY (30) DAYS OF BILLING BY THE TOWN, PURSUANT TO SECTION 66.0627, WISCONSIN STATUTES. SUCH UNPAID BILLS ALSO CONSTITUTE A BREACH OF THE REQUIREMENTS OF THIS CONDITIONAL APPROVAL THAT IS SUBJECT TO ALL REMEDIES AVAILABLE TO THE TOWN, INCLUDING POSSIBLE CAUSE FOR TERMINATION OF THE CONDITIONAL APPROVAL.**

D. Consideration and possible action on Plan Commission’s recommendation to approve a CSM to combine two lots of record located at W286 N3070 Lakeside Road

MOTION MADE BY MR. TROY, SECONDED BY MR. KRANICK TO APPROVE THE CSM TO COMBINE TWO LOTS OF RECORD LOCATED AT W286 N3070 LAKESIDE ROAD SUBJECT TO STAFF RECOMMENDATIONS. MOTION CARRIED.

1. **STAFF AND GOVERNMENTAL APPROVAL. SUBJECT TO THE DEVELOPER SATISFYING ALL COMMENTS, CONDITIONS AND CONCERNS OF THE TOWN ENGINEER IN HIS MEMO DATED MARCH 27, 2018 AND ALL REVIEWING, OBJECTING AND APPROVING BODIES, WHICH MAY INCLUDE BUT NOT BE LIMITED TO WAUKESHA COUNTY PARKS AND LAND USE DEPARTMENT.**
2. **PROFESSIONAL FEES. PETITIONER SHALL, ON DEMAND, REIMBURSE THE TOWN FOR ALL COSTS AND EXPENSES OF ANY TYPE THAT THE TOWN INCURS IN CONNECTION WITH THIS DEVELOPMENT, INCLUDING THE COST OF PROFESSIONAL SERVICES INCURRED BY THE TOWN (INCLUDING ENGINEERING, LEGAL, PLANNING AND OTHER CONSULTING FEES) FOR THE REVIEW AND PREPARATION OF REQUIRED DOCUMENTS OR ATTENDANCE AT MEETINGS OR OTHER RELATED PROFESSIONAL SERVICES FOR THIS APPLICATION, AS WELL AS TO ENFORCE THE CONDITIONS IN THIS CONDITIONAL APPROVAL DUE TO A VIOLATION OF THESE CONDITIONS.**
3. **PAYMENT OF CHARGES. ANY UNPAID BILLS OWED TO THE TOWN BY THE SUBJECT PROPERTY OWNER OR HIS OR HER TENANTS, OPERATORS OR OCCUPANTS, FOR REIMBURSEMENT OF PROFESSIONAL FEES (AS DESCRIBED ABOVE); OR FOR PERSONAL PROPERTY TAXES; OR FOR REAL PROPERTY TAXES; OR FOR LICENSES, PERMIT FEES OR ANY OTHER FEES OWED TO THE TOWN; SHALL BE PLACED UPON THE TAX ROLL FOR THE SUBJECT PROPERTY IF NOT PAID WITHIN THIRTY (30) DAYS OF BILLING BY THE TOWN, PURSUANT TO SECTION 66.0627, WISCONSIN STATUTES. SUCH UNPAID BILLS ALSO CONSTITUTE A BREACH OF THE REQUIREMENTS OF THIS CONDITIONAL APPROVAL THAT IS SUBJECT TO ALL REMEDIES AVAILABLE TO THE TOWN, INCLUDING POSSIBLE CAUSE FOR TERMINATION OF THE CONDITIONAL APPROVAL.**

E. Consideration and possible action on Operator’s License for the period of 7/1/16 to 6/30/18:
Miranda Schuster – Pewaukee Yacht Club

MOTION MADE BY MR. KRANICK, SECONDED BY MR. TROY TO APPROVE THE OPERATOR’S LICENSE FOR THE PERIOD OF 7/1/16 TO 6/30/18 FOR MIRANDA SCHUSTER – PEWAUKEE YACHT CLUB. MOTION CARRIED.

Paul Snyder – Kim’s Lakeside

MOTION MADE BY MR. COOLEY TO DENY APPROVAL. MOTION FAILED FOR LACK OF SECOND.

MOTION MADE BY MR. KRANICK, SECONDED BY MR. TROY TO TABLE. MOTION CARRIED.

Ninth Order of Business: Announcements and Planning Items

- A. Annual Meeting – April 17
- B. Plan Commission Workshop – April 23 – 7:00 p.m.
- C. Next Town Board Meeting – April 24
- D. Next WI Towns Waukesha County Meeting – Wednesday, April 25 – Town of Mukwonago 7:00 p.m.
- E. Next Plan Commission Meeting – May 1

Tenth Order of business: Adjournment

**MOTION MADE BY MR. COOLEY, SECONDED BY MR. KRANICK TO ADJOURN AT 7:38 P.M.
MOTION CARRIED.**

Respectfully submitted,

Mary T. Elsner, CMC, WCMC
Town Clerk/Treasurer

Minutes approved on:



AGENDA ITEM

APR 24 2018

ITEM # 6A PAGE 1 of 3

April 11, 2018

Larry Krause
Town Chairman
Town of Delafield
W302N1254 Maple Ave.
Delafield, WI 53018

**Re: November 17, 2017 Punch List Letter Walkthrough
Woodridge Estates Subdivision, Town of Delafield**

Dear Mr. Krause,

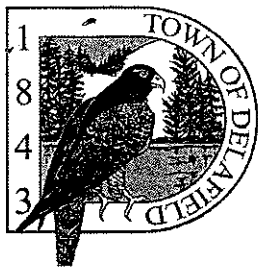
As a follow up to the Town Board's letter dated November 17, 2017, a walkthrough was conducted addressing all items of concern with Town representatives Don Roberts, Matt Burrill, and Tim Barbeau as well as Neumann Developments representatives Matt Neumann, Cory O'Donnell and Luke Sebald. This walkthrough resulted in the following agreed upon action items to be completed to resolve the issues brought forth by the Town Board.

1. All ditch work noted in points 1-4 on the 11/17/17 letter will be completed by the Town of Delafield Highway Department and costs will be reimbursed by the developer.
2. Ditch work noted in points 5-7 on the 11/17/17 letter have been resolved and require no further action.
3. The Town of Delafield Highway Department will mark pavement in Phase 2 of the development that needs replacement and repair. A paving contractor will replace and repair binder course in Phase 2 where indicated by the Highway Department no later than May 11, 2018 weather permitting.
4. A paving contractor will place the final lift of asphalt in Phase 2 between September 1, 2018 and September 15, 2018 weather permitting.
5. Waukesha County Land Resources Division is currently drafting a punch list letter of items that need to be completed for acceptance of the storm water ponds moving forward. These items will be addressed directly with the County once the punch list is received.

Completion of the points above should resolve all items indicated in the Town Board's November 17, 2017 letter moving forward. The developer plans to request final acceptance of all infrastructure in fall of 2018 after the final lift of asphalt is complete in Phase 2.

Sincerely,

Luke Sebald
Associate Project Manager
Neumann Developments



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Chair
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Supervisors
Pete Van Horn
Billy Cooley
Edward Kranick
Ron Troy
Clerk/Treasurer
Mary Elsner

November 17, 2017

Mr. Cory O'Donnell
Neumann Companies
N27 W24075 Paul Ct. Suite 200
Pewaukee, WI 53072

Re: Woodridge Estates subdivision
Town of Delafield

Dear Mr. O'Donnell,

Over this past summer the Town staff has expressed frustration regarding the improvements in Woodridge Estates subdivision. Work that has been identified in the past has not been completed. If work in the ditches or ponds were performed, it has not been complete to the satisfaction of the staff. The staff has prepared the following list that needs to be accomplished to their satisfaction before acceptance of the subdivision, final paving of Phase 2 of the development and release of the letter of credit:

1. Millridge Road, north ditch from Woodridge Circle east to Lot 7: there is a narrow eroded channel in the ditch that needs to be filled in and stabilized.
2. Millridge Road cross culvert: south end of cross culvert between lots 13 and 14 does not drain well. It is too flat. Some work was performed recently at this area, but it is unknown as to whether the water will flow away from the downstream end of the cross culvert to the storm water basin.
3. East end of Woodridge Court: water does not flow around cul-de-sac; The Town will reset the culvert on Lot 23 and then the ditch must be deepened and sloped to get the water to the pond. There is plenty of drop if the ditch is extended closer to the pond. Engineer Barbeau has provided you with grades.
4. Lot 1: small ponding area on southeast section of swale near the lot corner – solution requires ditch work on Outlot 3 and Lot 1.
5. Lot 5: grade from south end of culvert invert (elev.1017.84) to north end of culvert invert on Lot 6 (elev. 1015.47) with a straight line slope.
6. Lot 6: grade from south end of culvert invert (elev. 1015.11) to south lot line of Lot 6 extended into the ditch (elev.1014.08) with a straight line slope.
7. Lot 33: Flat areas in road side swale. Rework swale in front of Lot 33 to the culverts at Millridge Road.

Portions of the road pavement in Phase 2 are still settling or have dips. The Town does not want to have to make repairs immediately upon completion of final paving and accepting the roadways. We will wait until the settlement stops before allowing the final layer of asphalt to be placed. You can excavate to re-compact the subgrade and base course; however, we will want a year to make sure it won't settle again before we allow a final layer to be placed. In areas that have been previously patched, you must sawcut the full width at the limits, remove the binder, compact the base and replace the binder prior to the final lift of asphalt. We will not accept a final lift over the numerous joints that have been created by previous cutting and patching. There is a section of curb that is missing adjacent to a previously patched area on Woodridge Circle south of the southerly intersection of Imperial Drive and Woodridge Circle. There is a portion of the pavement on Woodridge Circle, south of Woodridge Court that has deteriorated to the point that it must be removed and replaced, full width.

The County has indicated that the storm water ponds are not functioning as proposed in the plans. The expectation is that the developer is required to provide a storm water management system that is functioning. The Town relies on Waukesha County to advise as to the status of the system. Please contact them to make sure required follow-up items have been addressed.

The expectation is that road repairs to the binder, and ditch related work be completed no later than May 11, 2018. Assuming that no additional settlement occurs on the roadways after binder repair, the final lift of asphalt can be placed on the roads no earlier than September 1, 2018 and no later than September 15, 2018, unless otherwise allowed by the Town staff (Engineer Barbeau and Highway Superintendent Roberts). If the work is not complete at that time, the Town Board will consider options of how to accomplish the work, including using funds in the Letter of Credit to hire a contractor and complete the work.

Sincerely,

Lawrence G. Krause
Town Chairman on behalf of the entire Town Board

APR 24 2018

ITEM # 6B PAGE 1 of 4**ARENZ, MOLTER, MACY, RIFFLE, LARSON & BITAR**

MUNICIPAL LAW & LITIGATION GROUP, S.C.

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P.O. BOX 1348WAUKESHA, WISCONSIN 53187-1348
Telephone (262)548-1340
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Email: elarson@ammr.netDALE W. ARENZ, RETIRED
DONALD S. MOLTER, JR., RETIRED
JOHN P. MACY
COURT COMMISSIONER
H. STANLEY RIFFLE
COURT COMMISSIONER
ERIC J. LARSON
REMZY D. BITARPAUL E. ALEXY
MATTEO REGINATO
R. VALJON ANDERSON
LUKE A. MARTELL
SAMANTHA R. SCHMID
STEPHEN J. CENTINARIO, JR.
TIMOTHY A. SUHA

April 13, 2018

Town Board
Town of Delafield
W302 N1254
Delafield, WI 53018**Re: 2018 Board of Review
New Laws**

Dear Ladies and Gentlemen:

As you prepare for Board of Review this year, please note that there are several new laws that will affect this year's proceedings. I am writing to provide an update regarding key changes in the law, as follows. I recommend that you provide this update to the members of your Board of Review.

1. **Board of Review Dates.** There are two important changes to the applicable Board of Review timeline:
 - a. The first meeting of the Board of Review now must occur at any time during the 45-day period beginning on the 4th Monday of April. Under prior law this meeting was required to be held during the 30-day period beginning on the 2nd Monday of May, so in effect the window of time has been extended, primarily to allow the first meeting to be held earlier in the year than under prior law.
 - b. The first meeting of the Board of Review must be no sooner than 7 days after open book. It will be important to coordinate with the Assessor to ensure that open book is complete at least 7 days before the first meeting of the Board of Review, therefore.
2. **Denial of Entry and Right of Appeal.** Whether a taxpayer is able to appeal their assessment if they deny the Assessor an opportunity to view the property was an issue last year, and continues to be an issue. I will describe some details below, but my general recommendation I will say up front: I recommend that you never deny a

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Town Board
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property owner the right to file an objection and appear before the Board of Review based solely on a property owner refusing to allow the Assessor to enter either the interior of their home or the exterior of their property. The law has changed in this regard as follows:

- a. *Interior View.* The Wisconsin Supreme Court issued a decision in July 2017, entitled, *Milewski v. Town of Dover* (377 Wis. 2d 36), which found State law to be unconstitutional. At the time State law prevented a taxpayer from appearing before the Board of Review if they refused a reasonable written request by certified mail of the Assessor to view the property. A property owner refused such a request, was denied the opportunity to be heard before the Board of Review accordingly and brought this action which reached the State Supreme Court. The Court held that the taxpayer had a constitutional due process right to be heard, and a constitutional freedom from unreasonable searches, and could not be required to forego the latter in order to exercise the former. In the Court's view, the property owner has the due process right to contest their tax assessment even if they refuse to let the Assessor into their property, so the statute could not be enforced. The State legislature has now revised this part of the State law that previously prohibited a taxpayer from getting a hearing under such circumstances. Therefore, even if the Assessor reasonably requests to view the interior of a property and the request is denied, that denial does not prevent the taxpayer from filing an objection and appearing before the Board of Review.
- b. *Exterior View.* In response to the Supreme Court decision, the State legislature modified the statute so that it only applies to exterior views of the property. That State law now reads:

"No person shall be allowed to appear before the Board of Review, to testify to the Board by telephone or to contest the amount of any assessment of real or personal property if the person has refused a reasonable written request by certified mail of the Assessor to enter onto property to conduct an exterior view of the real or personal property being assessed." (§70.47(7)(aa), Wis. Stats.)

Despite the ability described in this statute, the Department of Revenue, however, has recommended that you allow such a taxpayer the opportunity to be heard before the Board of Review. The Department of Revenue is concerned that the Wisconsin Supreme Court would find this statute to be unconstitutional for the same reasons that it found the prior statute to be unconstitutional. If the taxpayer has a due process right to be heard, the property owner should not be required surrender their freedom against unreasonable searches in order to exercise their right to appeal. Entry onto the property, even if it is only onto the exterior of the property, can constitute a search in many circumstances and the same analysis would apply. I recommend that you follow the Department of Revenue's advice in this regard.

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Town Board
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c. *Practical Consequences.* I want to take a moment to note the practical consequences of the foregoing and offer some recommendations. If a taxpayer denies entry to the Assessor and the property owner appears before the Board of Review for a hearing, the property owner still has the burden of proof, and the Assessor's valuation is still presumed to be correct absent adequate proof presented from the taxpayer. Also, the best evidence of value will still arise from what is known as the Markarian hierarchy, namely a sale of the subject is the best evidence, followed by sales of comparable properties, followed by other factors. For most hearings, therefore, the procedure and analysis will likely be the same as it would otherwise be. In the situation where a taxpayer testifies as to a condition of the property that the Assessor could not view because the taxpayer denied entry, the Department of Revenue has suggested that the Board of Review consider asking several questions, which I will summarize as follows.

- i. What impact does this evidence have to the overall value?
- ii. Is the taxpayer's evidence well documented? Are there photos? Does it show anything relevant?
- iii. Has the taxpayer presented evidence of a recent sale of the property?
- iv. Has the taxpayer presented evidence of recent sales of comparable properties?
- v. Has the taxpayer made reasonable adjustments to the comparable properties, in relation to the subject property?
- vi. Was an independent appraisal conducted, and what was the result?

The Department of Revenue suggests that the inability of the Assessor to view the property, when this is properly analyzed, is unlikely to affect outcomes before the Board of Review.

3. **Income Method Procedures.** The recent amendments to State law establish a time deadline for property owners to present income and expense information to the Assessor. For many years, State law has required taxpayers to provide income and expense information to the Assessor if the assessment is based on the income method. The new law states that this information must be provided to the Assessor no later than 7 days before the first meeting of the Board of Review.
4. **First Meeting Agenda.** I regularly recommend that the Board of Review's first meeting agenda include an agenda item concerning review of changes in the law, to ensure that the Board of Review knows its current responsibilities and has an opportunity to discuss those issues and be well advised before hearing any objections. This year, I recommend that you consider showing the Department of Revenue video that describes these new laws as part of that agenda item. The video can be reached at this link:

MUNICIPAL LAW & LITIGATION GROUP, S.C.

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<https://www.youtube.com/watch?v=OPG4Q6GwEWk&t=59s>

This is an easy way to ensure that the Board is well advised on these changes in the law.

If you should have any questions or concerns regarding these matters, please do not hesitate to contact me.

Yours very truly,
MUNICIPAL LAW & LITIGATION GROUP, S.C.

Eric J. Larson

Eric J. Larson

EJL/egm

cc: Mary Elsner, Town Clerk

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APR 24 2018

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ARENZ, MOLTER, MACY, RIFFLE, LARSON & BITAR

MUNICIPAL LAW & LITIGATION GROUP, S.C.

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SAMANTHA R. SCHMID
STEPHEN J. CENTINARIO, JR.
TIMOTHY A. SUHA

April 17, 2018

Tim G. Barbeau, P.E., R.L.S.
Delafield Town Eng/Zoning Adm
R.A. Smith National, Inc.
16745 W. Bluemound Road
Brookfield, WI 53005

**Re: Town of Delafield
Golf View Estates
Outlot 3
Legal Issue**

Dear Mr. Barbeau:

I received your email message dated April 11, 2018 regarding the above-noted matter. I understand that a resident appeared at the recent Town Board meeting claiming that the Outlot cannot be used as a building site under Wisconsin Statutes §236.13(6) because it is not in compliance with the restrictions by or under this section. You indicate that this resident referred to §236.293, Wis. Stats. concerning restrictions for public benefit, claiming that the sewer extension and easement that runs through the property makes this lot such that it should not be buildable. You indicate that the matter was tabled to give me an opportunity to respond to this concern.

I stand by the opinion I offered in my email message of April 3, 2018. I agree that there are restrictions on this lot that may prevent it from being used for residential purposes, but those restrictions can be removed as I described previously. The property owner references Wisconsin Statutes §236.293 which only underscores the Town's ability to waive the restrictions previously imposed, as this statute says: "The restriction may be released or waived in writing by the public body or public utility having the right of enforcement."

There is no reason to remove the sanitary sewer easement, however. Wisconsin Statutes §236.13(b) only prevents an Outlot from being used as a building site if restrictions imposed prevent such residential use. It says: "An outlot may not be used as a building site unless it is in compliance with restrictions imposed by or under this section with respect to building sites." The sanitary sewer easement does not impact whether Outlot 3 can be built upon. In this case, the sanitary sewer easement runs along the west side of the lot, it is only 20' in width and it does not extend into the building envelope on the lot. The existence of a public easement across a residential lot is quite common, and this can be for many reasons, not only sanitary sewer. Some residential lots are burdened with easements for storm sewer or any

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Tim Barbeau
April 17, 2018
Page 2

number of other utilities, and it certainly does not prevent the lot from being used for residential purposes.

Let me repeat the procedures that I described previously in order to emphasize that there are several steps to this process if the Town Board is inclined to allow this Outlot to be used as a residential parcel. Also keep in mind that the Town Board has no obligation to do so. If the Town Board is so inclined, the procedures are as follows:

1. The Town Board would need to grant a modification to the 2-access requirement, per Section 18.10 of the Town Code. There is good reason to believe, based on the materials you provided, that when this lot was created the Town Board considered Outlot 3 as being the second access point for this development. They imposed the plat approval condition and restriction to that effect on Outlot 3. Removing that condition, therefore, changes this development from having 2 access points to having one access point, which requires the grant of a waiver per the land division code.
2. The Town Board would need to approve an amendment to the deed restrictions to allow Outlot 3 to be used as a residential lot. The current deed restriction paragraph 15 must be modified or removed. This would also release the plat approval condition.
3. I recommend that the Town Board refer items 1 and 2, above, to the Plan Commission for report and recommendation, before they act, based upon the Plan Commission's general authority (61.35 and 62.23(5), Stats).
4. Any action that the Town may take to allow Outlot 3 to be used as a residential lot must be conditioned on the developer proving to our satisfaction that all necessary approvals have been granted to appropriately remove or revise condition number 15 of the deed restrictions. The Town cannot accomplish the amendment alone, because deed restriction number 15 is a private restriction. Depending upon the amendment procedure described in the deed restrictions document, it may require a certain percentage of the lot owners to agree. There may be other necessary changes to the deed restrictions, to ensure that Outlot 3 is subject to the same requirements and benefits as the other residential lots.

If you should have any questions or concerns regarding these matters, please do not hesitate to contact me.

Yours very truly,

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Eric J. Larson

Eric J. Larson

EJL/egm

cc: Larry Krause, Town Chair
Mary Elsner, Town Clerk/Treasurer

C:\MyFiles\Delafield\Golf View Estates\Barbeau ltr 4.16.18.docx

Plan Commission Report for April 5, 2018

FRED-Tumblebrook Outlot 3, Golf View Subdivision Agenda Item No. 4. C.

Applicant: Mike Schiltz, Fiduciary Real Estate
Development Company

Project: Outlot 3, Golf View Subdivision

Requested Action: Recommendation to the Town Board to allow
the use of Outlot 3 for residential purposes.

Zoning: R-1A PUD

Location: South end of Golf View Drive

Report

Outlot 3 is a vacant lot in the Golf View subdivision. It is vacant due to a condition that was put in place in 1990 as part of the approval of the development and the unknown nature of development to the south of the subdivision. The Town did not want that lot developed in case a roadway extension to the frontage road (Golf Road) or other development to the south would be desirable in the future. As part of the OAW development, Fiduciary Real Estate Development Co (FRED), the land owner, created lots that would be accessed by common driveways off of Golf Road. Furthermore, as part of the extension of public sanitary sewer to OAW, the developer installed a sewer lateral to Outlot 3 so that it could be used as a single family residential parcel. The Golf View Declaration of Restrictions specifically addressed the status of Outlot 3 and reads, *"The Developer shall maintain ownership of this Outlot and it shall remain in an undeveloped state until such time that the Town of Delafield approves the use on this land in conjunction with lands to the south thereof, which approval may include an extension of the cul-de-sac through Outlot 3."*

My initial discussions with the Town Attorney was to determine if an Outlot could indeed be used as a residential property. He performed the research and concluded that the law does allow an outlot to be used in accordance with the underlying zoning. He also indicated that in accordance with the Declaration of Restrictions, the Town must approve the use on the land. The proposed use is for a single family home in accordance with the R-1A zoning requirements

At the last Plan Commission meeting, the Plan Commission expressed concern as to whether another lot could be allowed since it would be in violation of Section 18.06 (1) 7. Which states *"all developments serving 15 or more units shall be connected to the existing street network by a minimum of 2 roadways."* The ordinance was approved October 25, 1988, which is prior to the presentation of Golf View Estates development. I researched the Town files and the minutes of the meetings associated with the approval of the subdivision and did not find any discussion related to the limitation of the number of lots due to access or mention of the above stated code section. The legal descriptions of all the lots in the subdivision indicate their lot number and "an undivided 1/27th interest in Outlot 1." Outlot 1 is the natural open space area west of the lots. Only 26 lots were platted as lots, with the 27th lot being Outlot 3.

Based on my research, I have not found a definitive answer to how the subdivision was allowed to have more than 14 lots without a secondary access. I continue to search for additional documentation regarding this matter. Without further documentation staff has discussed that (1) the Town Board would need to grant a modification to the 2 access requirement, per Section 18.10 of the Town Code, and a PC recommendation would be needed per the PC general authority (62.23(5), Stats); (2) the Town Board, upon recommendation of the PC, would need to approve an amendment to the deed restrictions to subject Outlot 3 to the same requirements that apply to lots.

Staff Recommendation:

My position is that the subdivision was designed and approved with full knowledge that there would be 26 buildable lots immediately available and one lot that was intended for residential, but was delayed until the Town determined whether they wanted the land for a road connection to future development to the south. Since the Plan Commission and Board were aware of the code related to access of more than 14 lots by 2 access points, but did not enforce the restriction, the developer received a right to use that lot for residential purposes, if the Town did not want the road to continue to the south. The road is not needed for development to the south, cannot be extended due to grade issues and will never connect to the frontage road due to safety considerations related to the connection location along the frontage road.

I anticipate that after additional file research, I will have direction from the Town Attorney on the direction that the Plan Commission may take on this matter. Of the Plan Commission would like to see this lot be used for residential purposes, then the Plan Commission can make that recommendation to the Town Board and the Town Board can proceed as noted above.

Tim Barbeau, Town Engineer
March 28, 2018

APR 24 2018

Town of Delafield
 Fermented Malt Beverages & Intoxicating Liquors License Application ITEM # 7B PAGE 1 of 8

To the Board of Supervisors of the Town of Delafield:

I hereby apply for a License of service, from date hereof to June 30, 2018, inclusive (unless sooner revoked), Fermented Malt Beverages and Intoxicating Liquors, subject to the limitations imposed by Section 125.32(2) and 125.68(2) of the Wisconsin Statutes and all acts amendatory thereof and supplementary thereto, and hereby agree to comply with all laws, resolutions, ordinances and regulations, Federal, State or Local, affecting the sale of such beverages and liquors if a license is granted to me.

New Renewal

Please Print

Driver's License Or W.I.D.#	Birth Date	Telephone Number	
First Name <u>Paul</u>	Middle Initial <u>F</u>	Last Name <u>Snyder</u>	
Street Address <u>3145 N 75TH St</u>	City <u>Milwaukee</u>	State <u>WI</u>	Zip Code <u>53216</u>
Social Security Number	United States Citizen <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Business Establishment For Which Applying <u>KIM'S LAKESIDE</u>	Street Address of Business <u>W 303 N 2582 Maple Ave</u>		

- If you checked **NEW** above -- have you completed the Bartenders Training Course in the State of Wisconsin or held a bartenders license in the State of Wisconsin within the last two years? Yes No
- Have you **EVER** been convicted of violating any:

Federal Laws ANYWHERE?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Wisconsin State Laws?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Laws of ANY other State?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Ordinances of any municipality?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
- If you answered **YES** to any question listed in #2 above complete the following for each conviction:

Date of Conviction <u>1998</u>	City & State where violation occurred <u>1001 Pewaukee</u>
Nature of offense <u>DWI</u>	

Date of Conviction <u>2003</u>	City & State where violation occurred <u>West Allis, WI</u>
Nature of offense <u>DUI</u>	

(List additional offenses on back of form)

~~Are there any charges listed in #2 above that are PRESENTLY PENDING against you?~~ Yes No
 If YES answer:

Date of Offense <u>2015</u>	City & State where violation occurred <u>Milwaukee</u>
Nature of offense <u>Speeding</u>	

(List additional offenses on back of form)



OAKCREEK
WISCONSIN

OPERATOR'S LICENSE

No. 17-064

WHEREAS, the local governing body of the City of Oak Creek, County of Milwaukee, State of Wisconsin, has upon application duly made, granted and authorized the issuance of an "Operator's" license to:

PAUL F. SNYDER

AND, WHEREAS, the said applicant has paid to the Treasurer the sum of \$100.00 as required by local ordinances and has complied with all requirements necessary for obtaining a license.

(OVER)

NOW, THEREFORE, an Operator's License pursuant to Sec. 125.32(2) and 125.68(2) of the Wisconsin Statutes, and local ordinances, is hereby issued to said applicant for the period ending June 30, 2019.



WI Dept. of Revenue
Excise Tax Bureau

Given under my hand and the corporate seal of the City of Oak Creek County of Milwaukee, State of Wisconsin, dated 4/19/17.

City Clerk



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

Request Date: 4/3/2018

Report Date: 4/3/2018

This criminal background check was performed by searching the following data submitted to the Crime Information Bureau

Name: SNYDER, PAUL

Date of Birth:

Alias Names:

IMPORTANT EXPLANATION ABOUT HOW TO UNDERSTAND THIS RESPONSE

This response reports the results of a criminal history search conducted with the name, date of birth, and any other identifying data you provided. The identifying data you provided is printed above. If you submitted fingerprints with your search request see the statement below.

Read this entire explanation, the How to Read the Following Criminal History Report section and the Notice to Employers section. Read these sections carefully to understand how this response relates to the identifying data you provided.

Printed below these explanations is a Wisconsin criminal history record that has been identified as a possible match to the identifying data you provided.

A criminal history search based only on a name, date of birth, and other identifying data that is not unique to a particular person (like sex or race) may result in:

1. Identification of criminal history records for multiple persons as potential matches for the identifying data submitted, or
2. Identification of a criminal history record belonging to a person whose identifying information is similar in some way to the identifying data that was submitted to be searched, but is not the same person whose identifying data was submitted for searching.

The Crime Information Bureau (CIB) therefore cannot guarantee that the criminal history record below pertains to the person in whom you are interested.

You must carefully read the entire Wisconsin criminal history record below in order to determine whether the record pertains to the person in whom you are interested.

Do not just assume that the criminal history record below pertains to the person in whom you are interested.

Additional information about finger-based search submissions: Fingerprint-based background checks generally provide a more reliable result and are prone to fewer false matches due to the specific identifying features of fingerprints.

HOW TO READ THE FOLLOWING CRIMINAL HISTORY REPORT

The criminal history reported below is linked by fingerprints to the name appearing directly after these explanatory sections, following the label IDENTIFICATION. That name is the name that was provided by the fingerprinted person the first time his or her fingerprints were submitted to CIB; it may or may not be the real name of the fingerprinted person. That name is called the Master Name in these explanatory sections.

It is not uncommon for criminal offenders to use alias or fraudulent names and false dates of birth, sometimes known as identity theft. Other names used by the person identified who is the Master Name are listed in the Alias Names/Fraudulent Data section of the criminal history report below.

If the name you submitted to be searched is DIFFERENT from the Master Name below, the Wisconsin criminal history record below may belong to someone other than the person whose name and other identifying data you submitted for searching. If an alias or fraudulent name used by the person who is the Master Name is similar to the name you submitted for searching, that does not mean that the person whose name you submitted for searching has a criminal history. It means that the person associated by fingerprints with the Wisconsin criminal history below has used a name similar to the name you submitted for searching.

If the name you submitted to be searched is THE SAME as the Master Name below, the Wisconsin criminal history record below may belong to someone other than the person whose name and other identifying data you submitted for searching. That is because the Master Name is the name attached to the initial fingerprint submission to CIB that is associated with the reported criminal history, may have been an alias name or a name similar to the name you submitted for searching.

To determine whether the Wisconsin criminal history below actually belongs to the person whose name and other identifying information you submitted for searching, compare the information reported below to the other information you have obtained about that person. Inconsistencies may indicate that the criminal history reported below does not belong to the person whose name and other identifying information you submitted for searching. You may need to ask for clarification from the person whose name and other identifying information you submitted for searching.

Before you make a final decision adverse to a person based on the following criminal history record, in addition to any other opportunity you offer the applicant to explain the following criminal history record, please notify the applicant of:

1. His or her right to challenge the accuracy and completeness of any information contained in a criminal history record, and
2. The process for submitting a challenge.

The person should submit his or her challenge to CIB on Form DJ-LE-247. Form DJ-LE-247 is available free of charge on the Department of Justice website at <http://www.doj.state.wi.us/dles/cib/background-check-criminal-history-information> or by calling (608)

266-7314. A challenge may include a request for comparison of the fingerprints of the person submitting the challenge to the fingerprints on file that are associated with the Wisconsin criminal history record below.

The Wisconsin criminal history report below may not show all arrests for the person whose fingerprints are associated with the reported criminal history. However, the criminal history report contains all information that has been provided to the state criminal history database that may be released in response to your request.

The results of this search are effective and current for the date of this search only. A new search request should be submitted at a later time if an updated response is needed.

NOTICE TO EMPLOYERS

It may be a violation of state law to discriminate against a job applicant because of an arrest or conviction record. Generally speaking, an employer may refuse to hire an applicant on the basis of a conviction record only if the circumstances of the offense for which the applicant was convicted substantially relate to the circumstances of the particular job. For more information, see Wisconsin Statute 111.335 and the Department of Workforce Development's publication, Arrest and Conviction Records Under the Law.

Before you make a final decision adverse to an applicant based on the following criminal history record, in addition to any other opportunity you offer the applicant to explain the following criminal history record, please notify the applicant of:

1. His or her right to challenge the accuracy and completeness of any information contained in a criminal history record, and
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RECORD LAST UPDATED: 06/06/2007

IDENTIFICATION

PAUL FREDRICK SNYDER

Male/White

Born in WISCONSIN; Citizen of USA

10/20/1970 ,

Height: 5'09" Weight: 153lbs;

Eye Color: Green; Hair Color: Brown

2109 W GREENFIELD AVE MILWAUKEE, WI

STATE ID: WI549832

OFFENDER NOTICE:

PHOTO INFORMATION:

01/04/1992 WI0410800 GREENFIELD POLICE DEPARTMENT

CRIMINAL HISTORY

CYCLE 01

EARLIEST EVENT DATE: 01/04/1992

DATE OF OFFENSE: 01/04/1992

ARREST TRACKING NUMBER:

ARREST DATA

SUBJECT NAME: PAUL FREDRICK SNYDER

TYPE: ADULT ONLY

DATE: 01/04/1992

ARREST AGENCY: WI0410800 GREENFIELD POLICE
DEPARTMENT

CHARGE

SEQUENCE NUMBER: 01

LITERAL: TELEPHONE VIOLATION

NCIC CODE: 5599

COUNTS: 1

CLASSIFICATION:

CHARGE SEVERITY: OTHER

COURT

SUBJECT NAME: PAUL FREDRICK SNYDER
DATE: 01/29/1992
COURT: WI000000M - MUNICIPAL COURT
COMMENTS:

CHARGE

SEQUENCE NUMBER: 01
LITERAL: TELEPHONE VIOLATION
NCIC CODE: 5599
COUNTS: 1
CLASSIFICATION:
CHARGE SEVERITY: OTHER

DISPOSITION

LITERAL: CONVICTED
DISPOSITION DATE: 01/29/1992
DISPOSITION: CONVICTED

SENTENCING

DATE: 01/29/1992
CASE NUMBER: D92-00841
COURT: WI000000M - MUNICIPAL COURT
CONVICTED OFFENSE:
CHARGE SEQUENCE NUMBER: 01
SENTENCE: FINE
BEGIN DATE: JANUARY 29, 1992
COMMENTS:

CONTRIBUTING AGENCIES

WI0410800-GREENFIELD POLICE DEPARTMENT
WI000000M-MUNICIPAL COURT

End of Rapsheet

Lori R. Schmeling
360 Switch Grass Court, Hartland, WI 53029
(262) 853-3963

AGENDA ITEM

APR 24 2018

ITEM #8C PAGE 1 of 1

SKILLS

- Proficient in: Microsoft Office (Word, Excel, Publisher), QuickBooks
- Strong Customer Service
- Staff Management/Training
- Data Analysis

EXPERIENCE

- 2011-Present** **Divine Redeemer Lutheran Church**, Hartland, WI
Church Attendance (Volunteer)
- Weekly Data Entry
- Day Care Billing (occasional work)*
- Customer Billing for Day Care Services using QuickBooks
- Publication Assistant (Volunteer)*
- Created monthly member booklet using Microsoft Publisher
- 1992-1995** **Spiegel Catalog**, Downers Grove, IL
Inventory Control Specialist
- Responsible for purchase and shipment of goods into company warehouse to ensure optimum levels of inventory for customer purchase
 - Proper inventory levels reached using Sales and Forecast Models
 - Supervised and trained three employees while servicing my own accounts
- 1989-1992** **Coach Store**, Newton, MA
Assistant Store Manager
- Responsible for \$1.5 million yearly business
 - Responsible for hiring, training, and motivating staff to achieve sales goals and high levels of customer service
 - Maintained proper Inventory levels needed to maximize sales
 - Assured store operated within budget by monitoring all revenues and expenses
- 1988-1989** **State Street Bank and Trust Company**, Quincy, MA
Portfolio Accountant
- Performed daily short term cash management for client, Harvard University
 - Controlled and administered client's assets, liabilities, and income for daily financial investment
 - Met strict deadlines associated with the critical time environment of securities trading

EDUCATION

1984-1988 **Valparaiso University**, Valparaiso, IN
Bachelor of Science in Business Administration
Major: Marketing Minor: Psychology

Hobbies: Golf, Gardening, Traveling, Walks with my English bulldog, Annabelle