

**Staff Report**



**Zoning & Land Regulation Committee**

Public Hearing: **September 24, 2024**

**Conditional Use 02633**

Zoning Amendment Requested:

**TO CUP: Residential accessory building over 12 feet in average height (16 feet proposed)**

Town, Section:

**BURKE, Section 24**

Size: **0.86 Acres**

Survey Required:

Applicant:

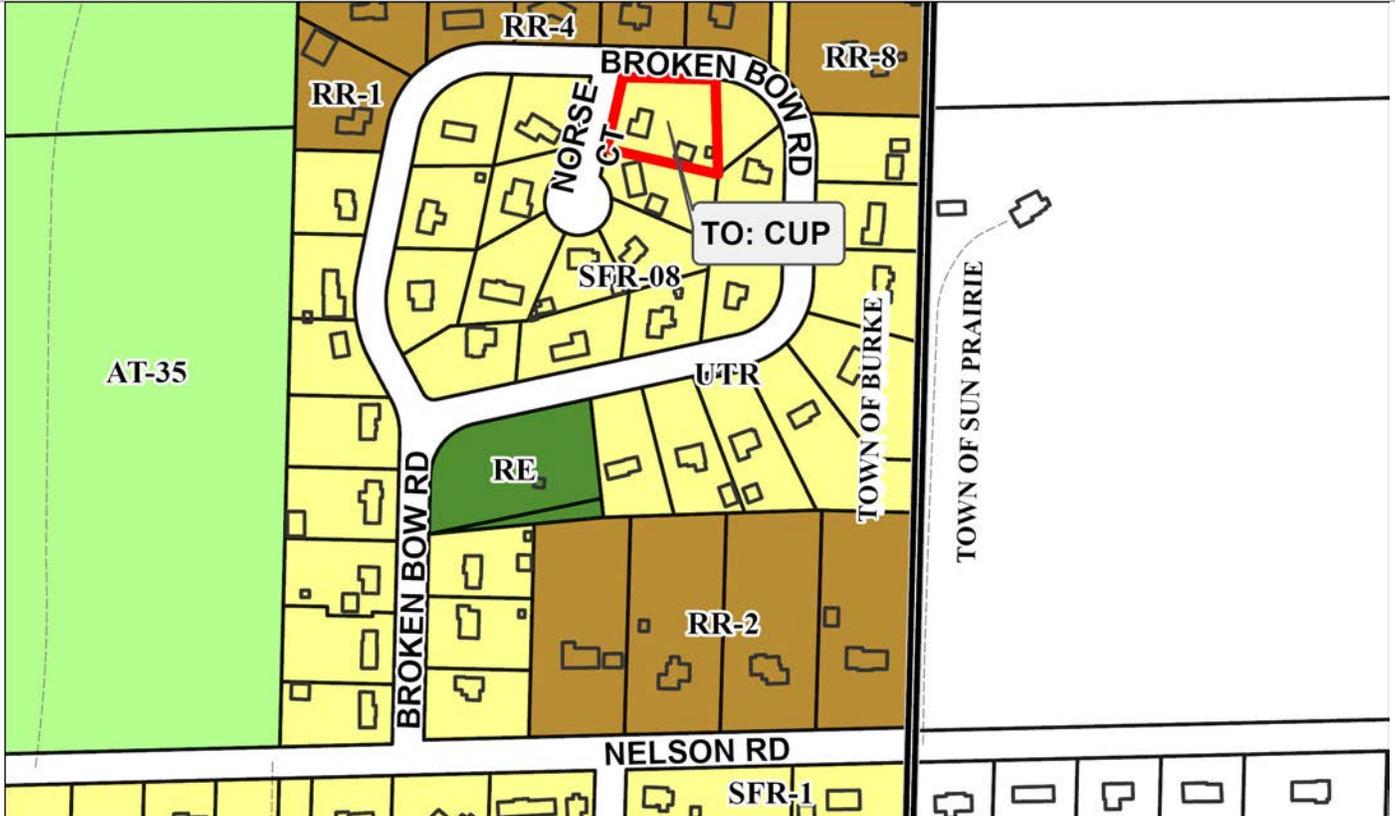
**WAYNE AND KATHY JO SCHMIEDLIN**

Reason for the request:

**Residential accessory building over 12 feet in average height (16 feet proposed)**

Address:

**5376 NORSE CT**



**DESCRIPTION:** Wayne Schmiedlin requests a conditional use permit (CUP) to build a residential accessory storage building over 12 feet in height, which is the maximum average height allowed in the SFR-08 zoning district without special review and permitting. The proposed building would be 30'x48' in size with an average height of 16' (17' 10" at peak and 14' 1" at eaves). It would be placed roughly 10' from the west and south side lot lines and replace an existing small shed (see proposed building plans). The garage would have a large overhead door so that the owner can store an RV trailer indoors.

**OBSERVATIONS:** The property is 0.86 acres in size and is located in the Oak Ridge Park subdivision which was established in 1975. The surrounding properties consist of single-family residential lots, most of which are similar in size and some to the north are larger lots 4+ acres in size.

The property actually consists of Lot 19 and part of Lot 20 of the Oak Ridge Park subdivision plat (see image below). In 1983 a part of Lot 20 was acquired by the current owners without a new certified survey map (CSM) being done to legally establish the new property boundary. As a result, the lot line from the recorded plat still exists (although it is not visible in Access Dane) and must be honored, unless a CSM is recorded to combine the lots and erase the existing lot line. The Zoning Division communicated this to the landowner in 1998 (see letter dated 1/13/98). The only way to alter a lot line in a CSM or a subdivision plat is through the CSM or subdivision process. The other existing accessory building currently does not comply with the zoning ordinance (see 1998 letter). The applicants intend to keep the other building in place.



**3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

This standard pertains to whether the proposed conditional use would affect *how the surrounding properties could be developed and improved, considering what they are currently zoned for*. This property and the surrounding properties are already developed for residential use. The applicant states that the request is only to make the building 4 feet taller and based on the location the building is much lower in elevation in relationship to anything else. Staff notes that the property slopes down from the SW corner to the NE corner and the east end is roughly 10 feet lower than the west end.

**4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.**

The applicant states that they have received approval from the town for a new driveway to the new building and nothing else is needed.

The site improvements needed for the proposed use are minimal; any utility connections or erosion control related to earthwork and any potential future driveway would be handled through the building permit process.

**5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.**

The applicant states that no additional traffic will occur. As noted above the town has approved another driveway access.

**6. That the conditional use shall conform to all applicable regulations of the district in which it is located.**

The proposed use conforms to the applicable regulations of the SFR-08 zoning district. Accessory buildings up to 16 feet in average height are allowable in this district with an approved CUP. Accessory buildings must also be no larger than 100% of the house footprint; the proposed building is 1,440 SF and the house is 1,900 SF.

**7. That the conditional use is consistent with the adopted town and county comprehensive plans.**

As noted above, the proposal appears consistent with the Town and County Comprehensive Plans.

**8. If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the findings described in s. 10.220(1).**

Not applicable.

**POTENTIAL NUISANCES ASSOCIATED WITH THE CONDITIONAL USE:** The potential nuisances that pertain to large accessory buildings most likely involve visual impacts to neighboring properties. Potential conditions of approval specific to this CUP can be developed after public input and deliberation by the Zoning and Land Regulation (ZLR) Committee. Under Dane County Zoning Ordinance section 10.103, there are no other special requirements for this type of request.

**STAFF RECOMMENDATION:** Staff believes that the applicant has provided sufficient evidence to address the CUP standards. It is understood that the applicant is working towards compliance to correct the existing land division violation.

Pending any comments at the public hearing, Staff recommends that the ZLR Committee makes a finding of fact as to whether the proposal meets the CUP standards listed above. If the Committee feels that there is sufficient evidence to support the standards, Staff recommends the following conditions be placed on the CUP to mitigate potential nuisances.

**CUP 2633 Potential Conditions of Approval:**

*Standard Conditions for all Conditional Use Permits from 10.101(7):*

1. The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operational plan and phasing plan.

2. New and existing buildings proposed to house a conditional use must be constructed and maintained to meet the current requirements of the applicable sections of the Wisconsin Commercial Building Code or Uniform Dwelling Code.
3. The applicant shall apply for, receive and maintain all other legally required and applicable local, county, state and federal permits. Copies of approved permits or other evidence of compliance will be provided to the zoning administrator upon request.
4. Any ongoing business operation must obtain and continue to meet all legally required and applicable local, county, state and federal licensing requirements. Copies of approved licenses or other evidence of compliance will be provided to the zoning administrator upon request.
5. Existing onsite wastewater sewage disposal systems, if any, serving the conditional use must be inspected by a licensed plumber to determine its suitability for the proposed or expanded use. Deficient systems must be brought, at the owner's expense, into full compliance with the current requirements for new development of the state plumbing code and Chapter 46, Dane County Code.
6. All vehicles and equipment must access the site only at approved locations identified in the site plan and operations plan.
7. Off-street parking must be provided, consistent with s. 10.102(8).
8. If the Dane County Highway, Transportation and Public Works Department or the town engineer determine that road intersection improvements are necessary to safely accommodate the conditional use, the cost of such improvements shall be borne by the landowner. Costs borne by the landowner shall be proportional to the incremental increase in traffic associated with the proposed conditional use.
9. The Zoning Administrator or designee may enter the premises of the operation in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Zoning staff conducting inspections or investigations will comply with any applicable workplace safety rules or standards for the site.
10. The owner or operator must keep a copy of the conditional use permit, including the list of all conditions, on the site, available for inspection to the public during business hours.
11. Failure to comply with any imposed conditions, or to pay reasonable county costs of investigation or enforcement of sustained violations, may be grounds for revocation of the conditional use permit.

*Conditions specific to CUP # 2633:*

12. This conditional use is strictly for Wayne Schmiedlin located at 5376 Norse Ct in the Town of Burke.
13. This conditional use is strictly for one detached accessory building on parcel 0810-241-7209-7.
14. The building may exceed the height of 12 feet but cannot exceed a height of 16 feet.
15. Driveway access must enter off Broken Bow Rd.
16. Driveway improvements must be permitted by the Town and must be with stormwater runoff in mind. Neighbor properties must not be negatively impacted.
17. All hazardous materials or liquids must be stored properly.
18. A location survey is required by Dane County Zoning to verify setbacks.
19. A Zoning Permit is required by Dane County Zoning.
20. A certified survey map shall be record in order to consolidate the existing lots into one lot for building purposes.

Please contact Rachel Holloway at (608) 266-9084 or [holloway.rachel@danecounty.gov](mailto:holloway.rachel@danecounty.gov) if you have questions about this petition or staff report.