

Date: March 3, 2025

To: Town of Eagle Planning and Zoning Commission

From: Rebekah Leto, AICP, Town Planner

Subject: Special Exception for to construct an accessory building in front of the principal residence at W372 S9944 STH 67 (EGLT 1840.999.009); William Dingel (Owner), Attorney John Murphy (applicant)

Application: 2025-01; <https://s.zoninghub.com/BIXIF2JB0V>

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The 8.3-acre subject property is located on S.T.H. 67, in the southwest portion of the town. Across the street is the Kettle Moraine State Forest. To the north and east are rural residential parcels ranging from 3 to 7-acres in size. Directly south is an agricultural field. The subject property is zoned Rural Residential District. Access from S.T.H. 67 is via a shared access easement utilized by two property owners. There is a mature north/south treeline from shields all improvements from the highway. Existing improvements, which are all east of the treeline, include a principal residence with an attached garage and a garden shed north of the house. Along the east lot line is a converted trailer that serves as a chicken coop in the winter. There are multiple trailer beds, including one that stores wood for the house, a horse trailer, boats, tractors and other miscellaneous materials being stored in a fenced area. To the north of the residence are multiple pens for the animals with some lean-tos and a large, fenced garden. The owner has multiple livestock (pets) and chickens, with more livestock anticipated in the summer months for food purposes. West the treeline is a hayfield. There is a row of Black Hill Spruce along STH 67 that were planted 3-4 years ago. Black Hill Spruce are slow-grow (6-12"/year), compact evergreens that can grow up to 40 ft. tall and 20 ft. wide and are not easily damaged by wind or snow.

The site contains variable topography. West of the treeline has a gentle slope to the northwest and southwest portions of the property. The residence sits on the top of a ridge, where topography slopes down to the east and northeast. The ridge continues to rise in elevation to the north, which is approximately 7 ft. higher in elevation than the south side of the residence and approximately 15 ft. higher than the east side of the residence. The topography of the parcel is shown on Exhibit A.

The owner has applied for a Special Exception to construct a 60 ft. x 120 ft. (7,200 sq. ft.) accessory building in between the principal structure and S.T.H. 67. Section 500.565 states that a Special Exception is required if a detached accessory building is proposed to be located in front of the most recessed portion of the front face (i.e. face of the building closest to the street) of the principal building, unless it is used for agricultural purposes. The proposed use of this building is partially agricultural (storage of livestock, chicken coop, tractors and equipment to maintain property) and partially for personal storage (boats, trailers, wood storage, etc.). Therefore, the petitioner is seeking the Special Exception. A site plan showing the approximate location of the proposed accessory building is attached as Exhibit B. Building plans are proposed as Exhibit C. The petitioner has indicated that the garden shed, converted trailer (chicken coop) and all exterior storage of trailers, boats and tractors will be moved into the proposed accessory building. Around the proposed building will remain a hayfield.

It should be noted that the Town Planning and Zoning Commission and Town Board denied a similar request by the petitioner in 2020. The request at that time also include a Special Exception from the (residential) accessory building maximum height provisions. As a part of this request, it was originally thought that the maximum height special exception was no longer needed; however, after further review, the proposed building exceeds the permitted height by approximately 4.5 ft. Staff could not find record of the special exception for the additional height request being denied. However, the denial of either special exception does not prohibit the petitioner from submitting a new request for consideration.

Chapter 500 indicates that the Town Board, following a recommendation from the Planning and Zoning Commission, may approve a Special Exception from this provision provided the parcel is larger than three acres and provided the principal building was constructed prior to October 31, 1990. The property meets these requirements. The specific factors to consider in making a recommendation for a Special Exception from Section 500.565 include:

1. The size of the subject property
2. The character of the surrounding area
3. The size of the proposed accessory building
4. The extent to which the proposed accessory building is visible from the public and private streets and other properties in the area
5. Practical difficulty in placing the proposed accessory building in a permissible location

In addition to the factors noted above specific to this request, the following general factors must also be considered when determining if a special exception is warranted.

1. The size of the property in comparison to other properties in the area.
2. The extent to which the issuance of the special exception permit would be in keeping with the overall intent of this chapter.
3. Whether there are any unique circumstances and the nature of those circumstances that warrant the issuance of the special exception permit.
4. The nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception permit was granted.
5. The nature and extent of anticipated positive and negative effects on properties in the area.
6. Actions the applicant will undertake to mitigate the negative effects, if any, of the proposed special exception.
7. A factor specifically listed under a section of this chapter authorizing the issuance of a special exception permit.
8. Any other factor that relates to the purposes of this chapter as set forth in s. 500.05 or as allowed by state law.

#### **Staff Recommendation**

It is recommended that the Planning and Zoning Commission recommend to the Town Board **conditional approval** of an accessory building located in front of the most recessed portion of the principal building, subject to the conditions below. The person making this motion should refer to the criteria listed above as discussed by the Plan Commission. The analysis as noted in the staff report may also be used as the justification, in which the Plan Commission may, or may not, expand upon based on the discussion.

#### **Recommended Conditions**

1. The color of the accessory building shall be limited to colors predominantly found in the natural environment (brown, dark green, etc.).
2. The accessory building be located as close as practicable to the existing treeline near the residence.
3. A treeline of arborvitae or similar evergreen tree that has a faster growth rate shall be planted either on/near the north lot line, or between the north lot line and the building, for a section of at least 150 ft. in a location that will shield the proposed building from the adjacent residential home (to the north). Species to consider include American Arborvitae, Norway Spruce and Eastern White Pine. The proposed treeline shall be marked on an updated Plat of Survey with appropriate spacing to allow for full growth of the trees. The trees shall be a minimum of 5 ft. in height at the time of planting. The trees shall be planted

within six months of a Zoning Permit being issued, or within 60 days of Occupancy, whichever occurs first. The trees shall be replaced if they die.

4. An updated Plat of Survey shall be required that shows all existing and proposed improvements on the subject property, prior to the issuance of a Zoning Permit.
5. A Zoning Permit shall be obtained for the approved building within six months of the date of approval of the Town Board.
6. The owner must obtain a Special Exception from the Town Board, after recommendation from the Plan Commission, from the maximum accessory height provisions of the Ordinance or the proposed building must be modified to meet the height requirements (maximum 18 ft. mean height), prior to a Zoning Permit being issued.

### **Analysis**

The subject property is over eight acres, which is one of the larger parcels in the surrounding area. Many of these properties have detached accessory buildings, lean-tos and sheds, although the largest one in the immediate vicinity is likely no more than 1,500 sq. ft. A property to the south on C.T.H. LO has a similar sized pole building, that can be seen from the subject property. However, comparing of building sizes should be done carefully as the Town no longer has accessory building maximums to help limit the overall size of a single accessory building. While the building would be visible from the state highway, the existing row of evergreens would eventually shield it from the view of passing cars. No development will ever occur across the highway as it is state-owned lands. Any development that might occur on the property to the south will have the knowledge of a pole barn being present when buying a lot and/or designing a residence. As conditioned, the neighbor to the north will be screened from view of the accessory building. Requiring the building to be of a more natural color also helps maintain its rural character and helps it to better blend in with the natural environment. Architectural modifications could also be considered, such as the addition of cupolas or doors to break up the façade, to help it fit in more with the surrounding area. Therefore, the proposed location of the building should not negatively impact surrounding properties.

In addition, the proposed location of the building will not impact the natural environment. The topography of the parcel creates challenges in constructing the building in a permitted location. As discussed above, the topography of the lot slopes up as you go north and slopes down to the east. This would require significant earth moving, retaining walls and mature tree removal, including a large, healthy oak tree. It may also require re-locating the animal pens west of the home.

Attachments: Exhibit A – Topography Map  
Exhibit B – Approximate Site Plan  
Exhibit C – Building Plan