1. Call to Order, Pledge of Allegiance, Moment of Silence and Roll Call

2. Public Hearings. – None.

3. Citizen Comments – This is an opportunity for citizens to share their opinions with Board Members on any topic they choose. However, due to Wisconsin Open Meeting laws, the Board is not able to answer questions or respond to your comments. All comments should be directed to the Board. Comments are limited to 3 minutes per speaker. Speakers are asked to use the podium and state their name and address.

4. Approval of the Minutes:
   a. Regular Plan Commission Meeting – August 8, 2019.

5. Old Business
   a. Remove from Table, Review, Discussion and Possible Action on the Conditional Use Grant request to raze/replace an existing, legal nonconforming, single-family dwelling with a new single-family dwelling that will have a setback from the Park Avenue right-of-way that is equal to the existing dwelling setback but not compliant with the Code requirement (ref Section 40.209(a)) of 35 feet. The property address is 494 Park Avenue. The property owner/applicant is Chuck Beyer. The property is Zoned R-5 Single-Family Residential District.
   b. Request for Reconsideration of Prior Vote on recommendation to the Village Board regarding adoption of a new and complete Historic Preservation Ordinance as Article XIV of the Village’s Land Development (i.e. zoning) Code in place of the existing, and rather limited, Section 40.436(d) pertaining to “Properties of historical significance”.

6. New Business
   a. Review, discussion and possible action on the Business Site Plan/Plan of Operations Amendment request to construct an additional detached accessory storage structure in the yard area of the Century Fence business property located at 1300 Hickory Street. The applicant is A W Bryant, d/b/a Century Fence, in c/o John Connell. The property is zoned B-5 Light Industrial District.
   b. Review, discussion and possible recommendation to Village Board regarding Zoning Code language changes to Sections Sec. 40.210.3., 40.163., 40.173., 40.183., 40.193., and 40.203., regarding the construction of a new home with an attached garage or alteration of an existing home to add an attached garage when there is an existing, detached garage structure already located on the same lot.

7. Citizen Comments – This is an opportunity for citizens to share their opinions with Board Members on any topic they choose. However, due to Wisconsin Open Meeting laws, the Board is not able to answer questions or respond to your comments. All comments should be directed to the Board. Comments are limited to 3 minutes per speaker. Speakers are asked to use the podium and state their name and address.

8. Adjournment
Note: It is possible that members and/or possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; action will not be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in the notice. Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. To request such assistance, contact the Village Clerk at 262-691-5660.

Dated: September 5, 2019
VILLAGE OF PEEWEEKEE
PLAN COMMISSION MINUTES
August 8, 2019

1. Call to Order, Pledge of Allegiance, Moment of Silence and Roll Call
President Knutson called the meeting to order at approximately 7:01 p.m. The Pledge of Allegiance was recited and a moment of silence followed.

Roll Call was taken with the following Plan Commission members present: Trustee Craig Roberts, Comm. Cheryl Mantz, Comm. Joe Zompa, Comm. Jim Grabowski, Comm. Eric Rogers, Comm. Ryan Lange and President Jeff Knutson.

Also Present: Mary Censky, Village Planner; Tim Barbeau, Village Engineer; Tom Schmitzer, Village Attorney; Scott Gosse, Village Administrator; Jackie Schuh, Deputy Clerk-Treasurer.

2. PUBLIC HEARING –
   a. On the Conditional Use Grant request to raze/replace an existing, legal nonconforming, single-family dwelling with a new single-family dwelling that will have a setback from the Park Avenue right-of-way that is equal to the existing dwelling setback but not compliant with the Code requirement (ref Section 40.209(a)) of 35 feet. The property address is 494 Park Avenue. The property owner/applicant is Chuck Beyer. The property is Zoned R-5 Single-Family Residential District.

   None.

   b. On the Conditional Use Grant to conduct a temporary, outdoor event on Monday–Thursday, October 7–10, 2019 from approximately 6am-10pm daily in the parking lot area of the property at 111 Prospect Avenue. Applicant/property owner is Wisconsin Shirdi Sai in c/o Satya Karri. The property is Zoned IPS Institutional and Public Service District.

   None.

3. Citizen Comments
   Lily Levenhagen @ 760 Glacier Rd – Ms. Levenhagen made a presentation on chickens and why they should be allowed in the Village of Pewaukee.
   Tom Calder @ 504 High St – Mr. Calder wants the Commission to say no to Capri re-zoning, yes to owner-occupied single-family homes, protect the cemetery and to listen to the citizens.
   Kathy Matrise @ 1150 E Wisconsin Ave – Ms. Matrise believes the Capri development is too dense for the proposed property, will bring property values down, increase traffic, raise drainage and sewage issues and alienate members of Queen of Apostles. She believes that granting of a demolition permit before building plans are approved is premature. Document regarding her statements submitted by Matrise and on file at the Village Hall.
   Kathy Losiniecki @ 227 Main St – Ms. Losiniecki gave the history of the St. Mary’s/Queen of Apostles’ property and what she believed were the intentions of the man who deeded it to St. Mary’s.
   Paul Evert @ 327 Lookout Dr – Mr. Evert stated that the citizens are telling the Commission what they want and thinks the St. Mary issue is carrying on too long. He also stated that a boater from the community dragged weeds from the lake and left them in the street for DPW to clean up.
   Theresa Hoff @ 1276 Timber Ridge – Ms. Hoff believes that Pewaukee citizens have spoken with signatures on the petition and that a retro-active Historical Ordinance is needed to preserve the St. Mary’s property.
Sandy Moncada @ W276N2177 Spring Creek Dr – City of Pewaukee – Ms. Moncada cited that 43% of the housing stock is apartments and condos in the Village, which is more than other areas, and she believes St. Mary’s is the only place left with serenity and peace. She urged the Commission to visit the property and spend time there.

Frank Bunek @ 207 Westfield Way – Mr. Bunek is not worried about the church but the large development. He feels the monthly rent is much more than most people can afford.

Laurie Harrigan @ 508 Lookout Dr – Ms. Harrigan spoke in favor of allowing chickens in the village.

Kathleen King @ 725 Glacier Rd – Ms. King believes the Capri development is unnecessary and she is there to protest its demolition. She would like the Village of Pewaukee to honor those who built the church.

Jill Kosanke @ 2575 Hillview Dr in New Berlin – She is representing her mother at 527 W Wisconsin Ave. She and her siblings attended St. Mary’s and has family buried in the cemetery. She is against the development and believes that the traffic will be an issue.

Tim Freitag @ W271N188 Paces Dr in the City of Pewaukee – Mr. Freitag is in favor of chickens. He was a boy scout leader for years and they considered St. Mary’s their home. They have put flags on the graves. He warns that projects never come in at budget and are usually 60% more than what is stated. He asked if it is worth destroying something so beautiful for money?

4. Approval of the Minutes:

   Trustee Roberts moved, seconded by Comm. Rogers to approve the July 11, 2019 minutes of the regular Plan Commission meeting.

   Motion carried 6-0-1. Comm. Grabowski abstained.

5. Old Business
   a. Review, discussion and possible recommendation to the Village Board of proposed draft Ordinance changes related to Wireless Facilities in the Village – such proposed changes being precipitated by the recent FCC 2018 Small Cell Order.

   Planner Censky spoke regarding 5G wireless, the draft ordinance and the revisions made on the recommendation of the Plan Commission from the July 11, 2019 meeting.

   Discussion among Plan Commission members followed regarding the application form and fees;

   Comm. Mantz moved, seconded by Comm. Lange to advance the information to the Village Board for consideration/action including the following modifications of Planner Censky:

   1. Notification requirements
   2. Preferred hierarchy – ruling out B-5 before moving to alternate and so on; burden on applicant to prove technically infeasible for them to be in the disputed district;
   3. Restoration of ROW once equipment is removed
      a) Immediately safe and accessible condition – no holes, etc.
      b) 30 days to permanently restore to prior condition, according to Village specifications
      c) Applicant will be billed for any work that must be performed by our DPW to restore, Village Administrator may give extension on the 30-day requirement, if deemed necessary, although there is a deadline for the applicant to make that request of extension

   4. Fees
      a) Application Fee
      b) Safe Harbor Fee - FCC established fee based on cost of reviewing application
c) 2% Escalator – part of unique, individual agreement with applicants to place their equipment on Village property, in addition to Safe Harbor Fee

d) Right to adjust fee based on FCC changes

5. Set-back limits will be equal to the height of the large towers in residentially zoned areas in the case of new or modified equipment

6. Aesthetic screening – disguising poles as trees or such

7. Village may charge for each antenna on a structure, not just the structure itself;

Motion carried 7-0.

6. New Business

f. (Item f was moved up on the agenda.) Review, discussion and possible recommendation to the Village Board regarding Zoning Code language changes proposed in order to permit, through conditional use, the keeping of chickens on single-family residentially zoned properties in the Village.

Planner Censky stated that information was collected and language presented on September 10, 2015 in regards to the keeping of chickens in the Village. While the Planning Commission had recommended it, the Village Board ultimately voted against adopting this ordinance in December of 2015. Discussion followed regarding why it was not adopted, the lot size requirements, homeowner associations and public notifications.

Comm. Zompa moved, seconded by Comm. Rogers to advance to the Ordinance to allow keeping of chickens to the Village Board with the recommendation of .25-acre lot restriction and staff review/consideration as to possibly adding some of the elements of the language from the Milwaukee County Ordinance (78-6.5 Keeping of Chickens in the City) into our Ordinance before it goes on to the Board.

Motion carried 7-0.

a. Review and Possible Action on the Conditional Use Grant request to raze/replace an existing, legal nonconforming, single-family dwelling with a new single-family dwelling that will have a setback from the Park Avenue right-of-way that is equal to the existing dwelling setback but not compliant with the Code requirement (ref Section 40.209(a)) of 35 feet. The property address is 494 Park Avenue. The property owner/applicant is Chuck Beyer. The property is Zoned R-5 Single-Family Residential District.

President Knutson inquired whether information regarding the conditional use grant was obtained as requested at the last meeting. Administrator Gosse stated that the previously approved detached garage offset/setback reduction CUG was not on the agenda and it could cannot be required to be nullified as a condition of this/tonight's request. President Knutson requested this item be tabled until further information he is seeking can be obtained.

Comm. Roberts moved, seconded by Comm. Mantz to table item 6a in relation to the CUG for 494 Park Avenue.

Roll call vote. Motion carried 6-1 with Comm. Grabowski voting no.

b. Review and Possible Action on the Conditional Use Grant request to conduct a temporary, outdoor event on Monday–Thursday, October 7–10, 2019 from approximately 6am-10pm daily in the parking lot area of the property at 111 Prospect Avenue. Applicant/property owner is Wisconsin Shirdi Sai in c/o Satya Karri. The property is Zoned IPS Institutional and Public Service District.
Based on feedback at the July 11, 2019 meeting regarding the special event to be held October 7-10, 2019 at 111 Prospect Avenue, Planner Censky presented the DRAFT Conditional Use Grant and related Land Covenant.

Comm. Mantz moved, seconded by Comm. Zompa to approve with the recommendations of Planner Censky.

Motion carried 7-0.

c. Review, discussion and possible action on the Building/Site/Operating Plan Amendment request of the City of Pewaukee Fire Department (in c/o David Raschka of Thrive Architects) to construct a 4,368 square foot detached accessory storage/parking garage structure at the site of Fire Station #2 located at 125 College Avenue. The applicant holds a lease with property owner WCTI. The property is zoned IPS Institutional and Public Service District.

Planner Censky explained that the proposed accessory building would be single-story, of similar brick, colors and look of existing building. New changes (after writing of the Staff Report) to the proposal include door color, windows on the doors, bollards, and siding color. Revised plans reflecting these changes have been provided. Although some existing parking will be removed to build the new building, the vehicles and equipment currently in those stalls will be housed inside the building. Village Engineer Barbeau described the drainage of the property and possible changes to the pond for water retention, as well as the back wall acting as a retaining wall for soil movement.

Comm. Grabowski moved, seconded by Comm. Zompa to approve with the following recommendations of Planner Censky and Engineer Barbeau:

1) Village Engineer review and approval of all grading, drainage, erosion control, utility, stormwater management and similar plans prior to issuance of any building, grading, electrical,... permits attendant to this project;
2) Applicant to secure all necessary building, grading, electrical,... permits prior to the start of any construction or building activity attendant to this project;
3) Landscape tree plantings shall be not less than 2” caliper at chest height at planting.
4) All final engineering shall be subject to submission and approval of a storm water management report and potential modifications to the pond and staff approval thereof.

Motion carried 7-0.

d. Review, discussion and possible action on the request of property owner 690 Westfield Way LLC and William A. Patch (in c/o Saf Sarich of The Kenmore Group LLC as Property Manager) to amend the Master Sign Plan for the multi-tenant Lake Country Market development, 690 Westfield Way, to remove the unique size, quantity, design, and similar requirements in favor of applying the Village’s regular Sign Code standards to the development. The property is Zoned B-1 Community Business.

Planner Censky described the current ordinance regarding signage in the Village. She stated that the applicant’s tenants are requesting to include more colorful and unique logos on their signage to enhance individual branding, while still adhering to other aspects of the Code. Discussion followed regarding other signage in the Village.

Comm. Grabowski moved, seconded by Comm. Lange to approve removing the Master Sign Plan for Lake Country Market located at 690 Westfield Way in favor of subjecting them simply to the Village
Sign Code as written.
Motion carried 7-0.

e. Review, discussion and possible recommendation to the Village Board regarding adoption of a new and complete Historic Preservation Ordinance as Article XIV of the Village's Land Development (i.e. zoning) Code in place of the existing, and rather limited, Section 40.436(d) pertaining to "Properties of historical significance".
Administrator Gosse spoke regarding definitions, processes and requirements for a property to be considered for historical preservation and/or designation, establishing a commission, as well as appeal processes and notification of the public. Discussion followed regarding whether properties could be designated retroactively to which Attorney Schmitzer stated he would defer to Attorney Blum, but he believes it cannot be retroactive. Administrator Gosse spoke of the steps necessary for this ordinance to become part of the Village Code and he confirmed that the very earliest it would go to the Village Board would be the first meeting in September. Trustee Roberts had issues with the subjective nature of the ordinance, that there are no checks and balances and that the board is only involved if there is an appeal. Discussion followed regarding whether the newly established commission would have final designation powers or the Village Board. Administrator Gosse suggested language reflecting that the Historical Preservation Commission be the recommending body and the Village Board being the deciding body.
Comm. Grabowski moved, seconded by Comm. Mantz to send the ordinance back to the Village Board with the following recommendation:

1) That Historical Preservation designation come as a recommendation of the commission pending Village Board approval;
Motion carried 7-0.

7. Citizen Comments
Chuck Beyer @ 494 Park Ave – Mr. Beyer spoke regarding the process he followed to develop on the property. He made decisions to build based on discussions with Village Staff, but now the Commission is saying they cannot move forward with plans. He is surprised by this result as he loves the Village and wants to live here.
Kathryn Sobotke @ 329 Evergreen Ln – Ms. Sobotke is concerned that the neighbor’s approval is needed to have chickens but not the Capri development.
Tom Calder @ 504 High St - Mr. Calder spoke in favor of chickens in the Village. He also stated that the Plan Commission can say no to Capri. He wants the commission to stand up for the community and do the right thing.
Jean Beyer @ 494 Park Ave – Ms. Beyer wants a quick resolution to the issue with building their home. She wants to know when they will have an answer on this.
Amy Butterfield @ 817 Quinlan Dr – Ms. Butterfield recited the Village Mission Statement from the website. She spoke of the history contained in the St. Mary’s building and she is worried that a demolition could be delayed for historical preservation has a chance.
Kathy Losniecki @ 227 Main St – Ms. Losniecki spoke about having given information and phone numbers regarding the historical preservation long ago. She stated that a presentation is being given at the Village Board meeting.
Theresa Hoff @ 1276 Timber Ridge – Ms. Hoff wants the commission to stand up and protect the citizens, our environment and our community. She stated that their group will proceed with legal action, if necessary.
Pual Evert @ 327 Lookout Dr – Mr. Evert wants a meeting set up with Queen of Apostles and come up with an agreement and get this thing solved.
8. **Adjournment**
Motion carried 7-0.

Meeting adjourned at approximately 9:21 p.m.

Respectfully Submitted,

Jackie Schuh
Deputy Clerk-Treasurer
STAFF REPORT

To: Village of Pewaukee Plan Commission

By: Mary Censky
Date Prepared: September 12, 2019

General Information:

Agenda Item: 5.a.

Applicant: Charles Beyer

Status of Applicant: Property owner.

Requested Action: Remove from Table. Review, Discussion and possible action on Conditional Use Grant request to construct a replacement single family residential dwelling with a setback from the front/public street right-of-way line less than that required by Code.

Lot Area: Approximately .2006 acres/8,738 sq. ft.

Lot Width: 50 feet

Property Location: 494 Park Avenue

Discussion:
This lot is legal nonconforming as to both area and width (i.e. minimums required = 10,500 sq.ft and 70 feet respectively). Section 40.209(b) provides that the required setback (i.e. 35 feet in this case) can be reduced at the Planning Commissions discretion through Conditional Use on lots that are legal nonconforming as to minimum size and width.

The applicant proposes to remove the existing single family residence (which is currently legal nonconforming as to required minimum home size) on the site and replace it with a new home (including an attached garage as is required under Section 40.203(1)a.), which will exceed the minimum required home size of 1200 square feet.

In order to maintain an appreciable space for useable backyard, the applicant requests approval to situate the new home at the same setback as the existing home (i.e. 21.7 feet from the edge of right-of-way) vs the 35 foot setback as required by the Code for the R-5 District.

Recommendation:
The Planner recommends that if the Planning Commission is inclined toward an approval of this request, the following conditions be considered for attachment thereto:

1) Applicant to submit, for Village Engineer review and approval prior to issuance of a building permit, a plan confirming that stormwater runoff changes, if any, that would arise out of construction of this home will not adversely impact drainage conditions on neighboring properties as a result of the new construction;
2) Issuance of all required raze, building, electrical, and any other such/similar permits prior to the start of any work on the proposed new home;
3) Recording of the Conditional Use Grant and related Land Covenant prior to issuance of any permits in support of this project.
To: Jeff Knutson, President  
Plan Commission

From: Scott A. Gosse  
Village Administrator

Date: September 5, 2019

Re: Agenda Item 5b, Request for Reconsideration of Prior Vote on recommendation to the Village Board regarding adoption of a new and complete Historic Preservation Ordinance as Article XIV of the Village’s Land Development (i.e. zoning) Code in place of the existing, and rather limited, Section 40.436(d) pertaining to “Properties of historical significance”.

BACKGROUND
At the August Plan Commission meeting, the Plan Commission voted unanimously to recommend to the Village Board approval of the attached draft Historic Preservation Ordinance with the amendment noted in the attached minutes that the proposed Historic Preservation Commission be a recommending body with the Village Board the body making the final decision. Village President Knutson has submitted a request to reconsider the vote on this matter.

ACTION REQUESTED
The action requested of the Plan Commission is to consider the request to reconsider the prior vote on this matter.

ANALYSIS
President Knutson has submitted this request as he would like to Plan Commission to reconsider the recommended amendment that the Village Board have the final decision on designating a structure or area as historic with the preference to follow the original draft language whereby the Historic Preservation Commission make decisions to designate historic properties with the Village Board being the appeal body if a property owner or interested party disagree with the determination of the Historic Preservation Commission.

The public hearing on the attached proposed ordinance is scheduled for Tuesday, September 17th before the Village Board so the Plan Commission has the ability to amend its recommendation, should it desire, prior to the Village Board taking up the draft ordinance.

Attachments
Review, discussion and possible recommendation to the Village Board regarding adoption of a new and complete Historic Preservation Ordinance as Article XIV of the Village’s Land Development (i.e. zoning) Code in place of the existing, and rather limited, Section 40.436(d) pertaining to “Properties of historical significance”.

Administrator Gosse spoke regarding definitions, processes and requirements for a property to be considered for historical preservation and/or designation, establishing a commission, as well as appeal processes and notification of the public. Discussion followed regarding whether it can be enacted retroactively to which Attorney Schmitzer stated he would defer to Attorney Blum, but he believes it cannot be retroactive. Administrator Gosse spoke of the steps necessary for this ordinance to become part of the Village Code and he confirmed that the very earliest it would go to the Village Board would be the first meeting in September. Trustee Roberts had issues with the subjective nature of the ordinance, that there are no checks and balances and that the board is only involved if there is an appeal. Discussion followed regarding whether the newly established commission would have designation powers or the Village Board. Administrator Gösse suggested language reflecting that the Historical Preservation Commission be the recommending body and the Village Board being the deciding body.

Comm. Grabowski moved, seconded by Comm. Mantz to send the ordinance back to the Village Board with the following recommendation:

1) That Historical Preservation designation come as a recommendation of the commission pending Village Board approval;

Motion carried 7-0.

7. Citizen Comments

Chuck Beyer @ 494 Park Ave – Mr. Beyer spoke regarding the process he followed to develop on the property. He made decisions to build based on discussions with Village Board and Plan Commission, but now the same groups are saying they cannot move forward with plans. He is surprised by the result as he loves the city and wants to live here.

Kathryn Sobotke @ 329 Evergreen Ln – Ms. Sobotke is concerned that the neighbor’s approval is needed to have chickens but not the Capri development.

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Kathy Losiniecki @ 227 Main St – Ms. Losiniecki spoke about having given information and phone numbers regarding the historical preservation long ago. She stated that a presentation is being given at the Village Board meeting.

Theresa Hoff @ 1276 Timber Ridge – Ms. Hoff wants the commission to stand up and protect the citizens, our environment and our community. She stated that their group will proceed with legal
ORDINANCE NO. 2019-13

ORDINANCE TO CREATE A NEW ARTICLE UNDER CHAPTER 40 OF THE MUNICIPAL CODE OF THE VILLAGE OF PEWAUKEE REGARDING HISTORIC PRESERVATION

The Village Board of the Village of Pewaukee, Waukesha County, Wisconsin do ordain as follows:

SECTION I

Article XIV of Chapter 40 of the Municipal Code of the Village of Pewaukee is hereby created as follows:

ARTICLE XIV. — HISTORIC PRESERVATION

Sec. 40.480 — Purpose and Intent

(a) It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of Improvements or sites of special character or special historic, archaeological, or aesthetic interest or other significant value is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the people. The purpose of this article is to:

(1) Effect and accomplish the protection, enhancement, and perpetuation of such Improvements and of districts which represent or reflect elements of the Village’s cultural, social, economic, political, and architectural history.

(2) Safeguard the Village’s historic and cultural heritage, as embodied and reflected in such Landmarks, Landmark Sites, and historic districts.

(3) Foster civic pride in the notable accomplishments of the past.

(4) Stabilize and improve property values.

(5) Protect and enhance the Village’s attraction to residents, tourists, and visitors and service as a support and stimulus to business and industry.

(6) Improve and enhance the visual and aesthetic character of the Village.

(7) Educate the public regarding the need and desirability of a Village historic preservation program and its enhancement of the quality of life.

Sec. 40.481 — Definitions. The following words, terms and phrases, when used in this
article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate of Appropriateness means the certificate issued by the Commission approving alteration, rehabilitation, construction, or reconstruction of a Landmark, Landmark Site, or any Improvement in a Historic District.

Commission means the Historic Preservation Commission created under this article.

Historic District means an area designated by the Commission which contains two or more Landmarks or Landmark Sites, as well as those abutting parcels which the Commission determines shall fall under the provisions of this section to assure that their appearance and development is harmonious with such historic structures or historic sites.

Improvement means any building, structure, place, work of art, or other object constituting a physical betterment of real property or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs, and the like.

Improvement Parcel is the unit of property which includes a physical betterment constituting an Improvement and the land embracing the site thereof and is treated as a single entity for the purpose of levying real estate taxes. Provided, however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

Landmark means any Improvement that is

(1) Individually listed in the National Register of Historic Places;

(2) Individually listed on the Wisconsin State Register of Historic Places; or

(3) Designated by the Commission as a Landmark under this article.

Landmark Site means any parcel of land of historic interest or value in tracing the history of aboriginal man or upon which an historic event has occurred and which has been designated a Landmark under this article, or an Improvement Parcel or part thereof on which is situated a Landmark and any abutting Improvement Parcel or part thereof used as an constituting part of the premises on which the Landmark is situated.

Sec. 40.482 – Historic Preservation Commission

(a) Composition. A historic preservation commission is hereby created, consisting of five members. Of the initial members so appointed, one shall serve a term of one year, two shall serve a term of two years, and two shall serve a term of three years. Thereafter, the term for each member shall be three years. The village president shall
appoint the commissioners subject to confirmation of the village board.

(b) Landmark, Landmark Site, and Historic District designation criteria. For purposes of this article, a Landmark or Landmark Site designation may be placed on any site, natural or improved, including any building, Improvement, or structure located thereon, or any area of particular historic, architectural, or cultural significant to the village, such as structures or sites which:

(1) Exemplify or reflect the broad cultural, political, economic, or social history of the nation, state, or community; or

(2) Are identified with historic personages or with important events in national, state, or local history; or

(3) Embody the distinguishing characteristics of an architectural type of specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or

(4) Are representative of the notable work of a master builder, designer, or architect who influenced his or her age; or

(5) Have yielded, or may be likely to yield, information important to prehistory or history.

(c) Additional operating guidelines. The Commission may adopt specific operating guidelines for Landmarks, Landmark Sites, and Historic District designation, provided such operating guidelines are in conformance with the provisions of this article.

(d) Powers and Duties of the Commission

(1) Designation. The Commission shall have the power, subject to Sec. 40.482(b) and 40.482(e), to designate historic Landmarks, Landmark Sites, and Historic Districts within the Village limits. Such designation shall be made based upon the criteria established under Sec. 40.482(b). Once designated by the Commission, such Landmark, Landmark Site, and historical district shall be subject to the provisions of this article.

(2) Regulation of construction, reconstruction, and alteration

a. Any application for a permit from the building inspector involving a designated Landmark, Landmark Site, or Improvement in an Historic District shall contemporaneously be filed with an application to the Commission for a Certificate of Appropriateness.

b. No owner or person in charge of a Landmark, Landmark Site, or Improvement in an Historic District shall alter or reconstruct all or
any part of the exterior of such property, construct any Improvement upon such designated property or cause or permit any such work to be granted upon such property, unless a Certificate of Appropriateness has been granted by the Commission. Unless such approval has been granted by the Commission or the village board, the building inspector shall not issue any permit for any such work.

c. Upon the filing of an application with the Commission, the Commission shall determine:

1. Whether, in the case of a Landmark or Landmark Site, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the Improvement or site upon which such work is to be done.

2. Whether, in the case of the construction of a new Improvement upon a Landmark Site or within a Historic District, the exterior of such Improvement would adversely affect or not harmonize with the external appearance of the other neighboring Improvements on such site or within the district.

3. Whether, in the case of any property located in a Historic District, the proposed construction, reconstruction, or exterior alteration does not conform to the purpose and intent of this article.

4. Whether the denial of a Certificate of Appropriateness will deprive the owner of all reasonable use of, or economic return on, the property.

d. If, based on the determinations outlined in Sec. 40.482(d)(2) c., the Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. Upon the issuance of such Certificate, the building permit shall then be issued by the building inspector. The Commission shall make this decision within 90 days after the filing of a complete application with the Commission. If, at the end of the ninety-day period, the Commission has not made its decision, the application shall be deemed approved by the Commission. Nothing contained herein shall be deemed to prevent the appeal of any denial hereunder to the village board after the Commission has denied an application.

e. Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the
guidelines in this article, the applicant may appeal such decision to the village board within 45 days of the Commission's final decision. In addition, if the Commission so fails to issue a Certificate of Appropriateness, the Commission shall work with the applicant for a period of 45 days following the date of denial in an attempt to obtain a Certificate of Appropriateness within the guidelines of this article. Nothing contained in this subsection shall be deemed to prevent the appeal of an earlier denial by the Commission, whether such appeal might occur during or after the forty-five-day period where the parties are required to cooperate as described immediately above.

f. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness, provided that the work involves repairs to existing features of a Landmark, Landmark Site, or Improvement within an Historic District, does not change the exterior of the Landmark, Landmark Site, or Improvement within an Historic District and does not require the issuance of a building permit.

g. Agencies of the village and all public utility and transportation companies, undertaking projects affecting Landmarks, Landmark Sites, or Historic Districts, shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the village.

(3) Regulation of demolition.

a. No person in charge of a Landmark, Landmark Site, or Improvement within a Historic District shall be granted a permit to demolish such property without the written approval of the village board.

b. Any application to the building inspector for a permit to demolish a Landmark, Improvement on a Landmark Site, or Improvement within a Historic District shall contemporaneously be filed with the Commission. The Commission shall review the application and shall, within 90 days of the filing of a complete application, make a recommendation to the village board with respect to that demolition.

c. Upon receipt of the recommendation of the Commission or, if no recommendation is made, 90 days after the filing of the original application, the request for demolition shall be submitted for review and consideration by the village board. The board shall make its decision respecting demolition within 120 days of the board's receipt
of the recommendation from the board’s receipt of the recommendation from the Commission or the expiration of the time period allowed for the Commission’s review.

d. In evaluating the petition for demolition, the village board shall consider the following:

1. The age and physical condition of the Landmark, Improvement on a Landmark Site, or Improvement within a Historic District.

2. The cost of repairs of the Landmark, Improvement on Landmark Site, or Improvement within a Historic District as compared to the fair market value of that Improvement.

3. Whether the denial of a demolition permit would result in the loss of all reasonable and beneficial use of or return from the property.

4. Whether any hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.

5. The historic significance of the Landmark, Improvement on a Landmark Site, or Improvement within a Historic District.

f. Upon approval of the petition for demolition by the village board, the building inspector shall issue the permit to demolish the property provided all other codes and village ordinances are complied with.

f. Should the Commission fail to recommend issuing a demolition permit due to the failure of the proposal to conform to the guidelines in this article, the applicant may appeal such decision to the village board within 45 days of the Commission’s final decision. In addition, if the Commission fails to recommend issuing a demolition permit, the Commission shall work with the applicant for a period of 45 days following the date of denial in an attempt to obtain a Certificate of Appropriateness within the guidelines of this article. Nothing contained in this subsection shall be deemed to prevent the appeal of an earlier denial by the Commission, whether such appeal might occur during or after the forty-five-day period where the parties are required to cooperate as described immediately above.

(4) Other permits required. The issuance of a Certificate of Appropriateness or demolition permit under this article shall not relieve the applicant from obtaining the other permits and approvals required by
law. Building permits or other municipal permits shall be invalid if they are obtained without the presentation of the Certificate of Appropriateness required for the proposed work. Insofar as they are applicable to a Landmark, Landmark Site, or Improvement in a Historic District designated under this article, any provision of the plumbing code, electrical code, or building or housing code of the village shall apply, unless waived by the appropriate state or village appeals body.

(5) **Time to commence work.** Any work authorized under a Certificate of Appropriateness or demolition permit issued under this article shall be commenced within 12 months after the issuance of the Certificate or permit. The village may inspect the work during and after construction or demolition in order to ensure compliance with this article. Failure to comply with a Certificate of Appropriateness or demolition permit or failure to obtain a Certificate of Appropriateness or demolition permit shall be a violation of this article. In addition to the other penalties and remedies, the village shall issue a stop work order, and all work shall cease at the designated property. No additional work shall be undertaken as long as such stop work order shall continue in effect.

(6) **Recognition of landmarks, landmark sites, and historic districts.** At such time as a Landmark, Landmark Site, or Historic District has been properly designated, the Commission may cause to be prepared and erected on such property at village expense a suitable plaque declaring that such property is a Landmark, Landmark Site, or Historic District. Such plaque shall be so placed as to be easily visible to passing pedestrians. The plaque shall state the accepted name of the property, the date of its construction of significant, and other information deemed proper by the Commission.

(7) **Other duties.** In addition to those duties already specified in this article, the Commission shall:

a. Work closely with the State of Wisconsin historic preservation officer and the state historic preservation review board in attempting to include such properties hereunder designated as Landmarks or landmark sites or Historic Districts in the National Register of Historic Places and the State Register of Historic Places.

b. Work for the continuing education of the citizens of the village about the historic heritage of this village and the Landmarks and Landmark Sites designated under the provisions of this article.

Sec. 40.483 — Designation Procedures

(a) **Designation of Landmarks, Landmark sites, and Historic Districts**

(1) **Notice.** The Commission may, after notice and public hearing, designate
Landmarks, Landmark Sites, and Historic Districts, or rescind such designation, after application of the criteria in Sec. 40.482(b) above. At least ten (10) days prior to such public hearing, the Commission shall notify, by 1st class mail, the owners of record, as listed in the office of the village assessor, who are owners of the property in whole or in part as well as the owner of all lands located within 200 feet of the boundaries of the property affected. Such notice shall include the time and place of the public hearing as well as the place, structure, or object to be designated a Landmark or Landmark Site or the defined geographical area to be designated an Historic District. Notice of the hearing shall be published as a Class I legal notice pursuant to Chapter 985 of the Wisconsin Statutes. The Commission shall also notify the following: the village administrator, the department of public works, the department of parks and recreation, building inspector, village planner, fire and police departments, and plan commission. Each such department shall respond to the Historic Preservation Commission by filing its own comments on the proposed designation.

(2) Public hearing. The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within ten (10) days after the close of the public hearing, the Commission may designate the property as either a Landmark or Landmark Site or the geographically defined area as an Historic District, or rescind such designation. After the designation or rescission has been made, notification shall be sent to the property owners as well as the owner of all lands located within 200 feet of the boundaries of property affected. Notification shall also be given to the village clerk, building inspector, plan commission, and the village assessor. The Commission shall cause the designation or rescission to be recorded, at village expense, in the county register of deeds office.

(b) Appeal. Any owner of property that is affected by the designation of a Landmark, Landmark Site, or Historic District may appeal said decision to the village board. The village board may overturn a decision of the Historic Preservation Commission by a simple majority vote of the village board.

(c) Amendment. Any owner of property that is affected by the designation of a Landmark, Landmark Site, or historic district or the village may seek an amendment of the designation of a property as a Landmark, Landmark Site, or its inclusion in an historic district. Consideration of an amendment shall be commenced by written request filed with the Commission stating the specific amendment sought, the basis for the amendment and specifically, whether the amendment meets the criteria for the designation of a Landmark, Landmark Site, or Improvement within a historical district. The notice and public hearing requirements for the establishment of a Landmark, Landmark Site, or historic district shall be followed with respect to
consideration of the amendment. Following any public hearing, the Commission shall make a determination on the application for amendment. If any person is aggrieved by decision of the Commission with respect to the amendment, they may appeal that decision to the village board.

Sec. 40.484 – Conformance with regulations

(a) Every person in charge of a Landmark, Landmark Site, or Improvement in a historic district shall maintain the same or cause or permit it to be maintained in a condition consistent with the provisions of this article. The village board may appoint the building inspector to enforce this article. Notwithstanding the foregoing, limited and sensitive upgrading of mechanical, electrical and plumbing systems, and other work required by applicable building codes to make the property functional is permitted. Nothing in this subsection relieves an owner from having to obtain any other building permits or municipal permits as required by village ordinance. Insofar as they are applicable to a Landmark, Landmark Site, or Improvement in a historic district designated under this article, any provision of the plumbing code, electrical code, or building or housing code of the village shall apply, unless waived by the appropriate state of village appeals body.

(b) In accordance with Wisconsin Statute Section 62.23(7)(em) 2m., any owner of property designated under this article as a Landmark, Landmark Site, or Improvement within a historic district may, when undertaking repairs or replacement of such property, use materials that are similar in design, color, scale, architectural appearance, and other visual qualities to the original materials.

Sec. 40.485 – Maintenance of Landmarks, Landmark Sites, and historic districts.

(a) Maintenance. Every person in charge of a Landmark, Improvement on a Landmark Site, or an Improvement in an historic district shall keep in good repair all of the exterior portions of such Improvement and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such Improvements to deteriorate, decay, or become damaged or otherwise fall into a state of disrepair. This provision shall be in addition to all other provisions of law requiring such Improvement to be kept in good repair.

(b) Conditions dangerous to life, health or property. Nothing contained in this article shall prohibit the making of necessary construction, reconstruction, alteration, or demolition of any Landmark, Improvement on a Landmark Site, or Improvement within a historic district pursuant to an order of any government agency or pursuant to any court judgment for the purpose of remedying conditions determined to be dangerous to life, health, or property. In such case, no approval from the Commission shall be required.

Sec. 40.486 – Restoring Landmarks

Any damaged structure which has been designated as a Landmark pursuant hereto
may be restored in its present location upon recommendation by the Commission and approval of the village board.

Sec. 40.487 – Penalties for violations

Except as otherwise provided, any person who shall violate any provisions of this article, or any rule, regulation, or order made hereunder, upon conviction of the same, shall be subject to a penalty as provided in Sec. 1.102 of this Municipal Code.

SECTION II

Section 40.436(d) of the Municipal Code of the Village of Pewaukee is hereby repealed.

SECTION III

All Ordinances or parts of Ordinances contravening the terms and conditions of this ordinance are hereby to that extent repealed.

SECTION IV

The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the ordinance.

SECTION V

This Ordinance shall take effect upon passage and publication as approved by law, and the Village Clerk shall so amend the Code of Ordinances of the Village of Pewaukee, and shall indicate the date and number of this amending Ordinance therein.

PASSED AND ADOPTED by the Village Board of the Village of Pewaukee, this __________ day of __________ 2019.

APPROVED:

________________________
Jeff Knutson, Village President

Countersigned:

________________________
Cassie Smith, Village Clerk
STAFF REPORT

To: Village of Pewaukee Plan Commission

By: Mary Censky
Date Prepared: September 12, 2019

General Information:

Agenda Item: 6.a.

 Applicant: A W Bryant, d/b/a Century Fence, in c/o John Connell

Status of Applicant: Property owner

Requested Action: Site Plan/Plan of Operations Amendment to add an open air accessory storage structure.

Current Zoning: B-5 Light Industrial District

Current Master Plan Classification: Industrial-Business Park and Environmental

Surrounding Zoning/Land Use: North: Railroad tracks
South: City of Pewaukee
East: City of Pewaukee
West: B-5 Light Industrial

Lot Size: 11.43 acres

Location: 1300 Hickory Street

Background:
The applicant received Planning Commission approval of a very similar accessory structure, and in this very same location, back in June, 2019. That approval was given subject to a return visit with the Planning Commission to present materials and color samples for final approval before issuance of a building permit.

Update:
Since that approval, the applicant has determined that a steel frame construction design would be preferred for their purposes. Further, the revised plans clarify their intention to have full/enclosed end walls as a part of the design. The new plan depicts a flatter roof (i.e. 1/1 vs 5/12&12/12) per the previous plan. The roof and side walls are proposed to be an all-metal (ribbed steel) design. The color scheme calls for a blue roof and white end walls. Color and material samples will be available at the Planning Commission meeting.

The applicant seeks this site plan amendment approval in order to better protect some of the materials currently being stored outdoors from the weather.

The concrete foundation beneath would be 170’ x 45’. Overall height of the structure is Code compliant (max 50’ req/ <20’prop).
The proposed building does comply with the required 10 foot offsets from the east and south lot lines.

**Recommendation:**
As a condition of any approval that the Commission may be inclined to grant in this matter, the Planner recommends the following condition(s) be considered for attachment thereto:

1. Village Engineer review and approval of all utility, grading, drainage, stormwater management and erosion control plans attendant to this project prior to issuance of any construction, building, electrical,... permits being issued in support of the project;
2. Planning Commission review and approval of the specific building materials and color specifications proposed;
3. This approval, if granted, will void the previous (i.e. June 13, 2019) conditional approval for a similar accessory structure proposed to have been constructed in the very same location.
Village of Pewaukee Plan Commission
Engineer’s Report for June 13, 2019

Century Fence
1300 Hickory Street

Report

This proposal is for the addition of an open air covered storage unit. My report will only focus on drainage associated with the proposed improvement.

The existing “yard” for Century Fence slopes from east to west to an on-site stormwater facility. The yard has a stone surface, which is considered impervious by Pewaukee code. The addition of a covered structure will not add any additional flow to the stormwater facility. The water runoff is by sheet flow and not by concentrated flow in a channel, so limited grading is necessary to maintain the current flow pattern in the yard. Water will drain off the roof and according to the topographic information available on the Waukesha County Geographic Information System, it shows all flow to the northwest and not towards the properties to the south.

Recommendation

Subject to comments and concerns from Planner Censky, I recommend approval of the proposed facility as it relates to drainage.

Tim Barbeau, Village Consulting Engineer
June 5, 2019
STAFF REPORT

To: Village of Pewaukee Plan Commission

By: Mary Censky
Date Prepared: September 12, 2019

General Information:
Agenda Item: 6.b

Applicant: N/A

Status of Applicant: Village initiated item

Requested Action:
Review, discussion and possible recommendation to the Village Board regarding proposed language changes to Sections Sec. 40.210.3., 40.163., 40.173., 40.183., 40.193., and 40.203., regarding the construction of a new home with an attached garage or alteration of an existing home to add an attached garage when there is an existing, detached garage structure already located on the same lot.

Background/Discussion:
Staff will guide a discussion of the prospective language changes (ref above and see attachment) drafted at the President/Chairman’s request in order to minimize the extent of detached garages present in the Village.
Sec. 40.210.3. - Accessory uses.
Any accessory use as permitted in accordance with the underlying base district.

(1) Private garages, carports and paved parking areas shall be allowed provided that no such garage or carport shall be erected prior to the erection of the principal building to which it is accessory. Garages and/or storage structures shall conform to the following:

a. All new residential home construction shall include at least one, but not more than one, an attached garage structure unless the property upon which the new home is proposed to be constructed already has a (i.e. legal, legal-nonconforming, or illegal) detached garage. If there is already a detached garage on the property, then the new home construction may not include an attached garage unless the existing detached garage shall first be removed from the premises. Detached garages shall be allowed for replacements of legal existing detached garages or to serve homes constructed prior to the effective date of the ordinance from which this chapter is derived (i.e. May 4, 1999), which homes do not presently have a garage. In either case, the garage structure shall not exceed 900 square feet in size.

On properties with an existing detached garage structure for which new home construction or remodeling is proposed which will result in an attached garage being included with the principal structure, the building permit for such proposed construction or remodeling shall not be issued until the existing detached garage structure has first been removed from the premises.

Properties with an existing residence and existing attached garage and a lot area greater than 2.5 acres, are permitted a detached garage structure not to exceed 900 square feet. If a garage greater than 900 square feet shall be sought for a property with an existing residence and existing garage and a lot area greater than 2.5 acres, approval by the planning commission as conditional use shall be required.

b. An accessory storage structure shall be permitted in addition to any permitted garage structure(s). The accessory storage structure shall not exceed 192 square feet in size and shall be offset a minimum of ten feet from a side or rear lot line. Non-storage related accessory structures may be permitted provided they are offset no less than five feet from a side or rear lot line.

Sec. 40.163. - Permitted accessory uses.
Permitted accessory uses in the R-1 district shall be:

(1) Private garages, carports and paved parking areas shall be allowed provided that no such garage or carport shall be erected prior to the erection of the principal building to which it is accessory. Garages and/or storage structures shall conform to the following:

a. All new residential home construction shall include at least one, but not more than one, attached garage structure - except as may be more restrictively provided for in Section 40.210.3 (1a., below). Detached garages shall be allowed for replacements of legal existing detached garages or to serve homes constructed prior to the effective date of the ordinance from which this chapter is derived (i.e. May 4, 1999), which homes do not presently have a garage. In either case, the garage structure shall not exceed 900 square feet in size.

Properties with an existing residence and existing attached garage and a lot area greater than 2.5 acres, are permitted a detached garage structure not to exceed 900 square feet. If a garage greater
than 900 square feet shall be sought for a property with an existing residence and
existing garage and a lot area greater than 2.5 acres, approval by the planning commission as
conditional use shall be required.

b. An accessory storage structure shall be permitted in addition to any permitted garage structure(s). The accessory storage structure shall not exceed 192 square feet in size and shall be offset a minimum of ten feet from a side or rear lot line. Non-storage related accessory structures may be permitted provided they are offset no less than five feet from a side or rear lot line.

Sec. 40.173. - Permitted accessory uses.
Permitted accessory uses in the R-2 district shall be:

(1) Private garages, carports and paved parking areas shall be allowed provided that no such garage or carport shall be erected prior to the erection of the principal building to which it is accessory. Garages and/or storage structures shall conform to the following:

a. All new residential home construction shall include at least one, but not more than one, attached garage structure except as may be more restrictively provided for in Section 40.210.3 (1a. below). Detached garages shall be allowed for replacements of legal existing detached garages or to serve homes constructed prior to the effective date of the ordinance from which this chapter is derived (i.e. May 4, 1999), which homes do not presently have a garage. In either case, the garage structure shall not exceed 900 square feet in size.

Properties with an existing residence and existing attached garage and a lot area greater than 2.5 acres, are permitted a detached garage structure not to exceed 900 square feet. If a garage greater than 900 square feet shall be sought for a property with an existing residence and existing garage and a lot area greater than 2.5 acres, approval by the planning commission as conditional use shall be required.

b. An accessory storage structure shall be permitted in addition to any permitted garage structure(s). The accessory storage structure shall not exceed 192 square feet in size and shall be offset a minimum of ten feet from a side or rear lot line. Non-storage related accessory structures may be permitted provided they are offset no less than five feet from a side or rear lot line.

Sec. 40.183. - Permitted accessory uses.
Permitted accessory uses in the R-3 district shall be:

(1) Private garages, carports and paved parking areas shall be allowed provided that no such garage or carport shall be erected prior to the erection of the principal building to which it is accessory. Garages and/or storage structures shall conform to the following:

a. All new residential home construction shall include at least one, but not more than one, attached garage structure except as may be more restrictively provided for in Section 40.210.3 (1a. below). Detached garages shall be allowed for replacements of legal existing detached garages or to serve homes constructed prior to the effective date of the ordinance from which this chapter is derived (i.e. May 4, 1999), which homes do not presently have a garage. In either case, the garage structure shall not exceed 900 square feet in size.
Properties with an existing residence and existing attached garage and a lot area greater than 2.5 acres, are permitted a detached garage structure not to exceed 900 square feet. If a garage greater than 900 square feet shall be sought for a property with an existing residence and existing garage and a lot area greater than 2.5 acres, approval by the planning commission as conditional use shall be required.

b. An accessory storage structure shall be permitted in addition to any permitted garage structure(s). The accessory storage structure shall not exceed 192 square feet in size and shall be offset a minimum of ten feet from a side or rear lot line. Non-storage related accessory structures may be permitted provided they are offset no less than five feet from a side or rear lot line.

Sec. 40.193. - Permitted accessory uses.
Permitted accessory uses in the R-4 district shall be:

1. Private garages, carports and paved parking areas shall be allowed provided that no such garage or carport shall be erected prior to the erection of the principal building to which it is accessory. Garages and/or storage structures shall conform to the following:

   a. All new residential home construction shall include at least one, but not more than one, attached garage structure except as may be more restrictively provided for in Section 40.210.3 (1a) below. Detached garages shall be allowed for replacements of legal existing detached garages or to serve homes constructed prior to the effective date of the ordinance from which this chapter is derived (i.e. May 4, 1999), which homes do not presently have a garage. In either case, the garage structure shall not exceed 900 square feet in size.

   Properties with an existing residence and existing attached garage and a lot area greater than 2.5 acres, are permitted a detached garage structure not to exceed 900 square feet. If a garage greater than 900 square feet shall be sought for a property with an existing residence and existing garage and a lot area greater than 2.5 acres, approval by the planning commission as conditional use shall be required.

   b. An accessory storage structure shall be permitted in addition to any permitted garage structure(s). The accessory storage structure shall not exceed 192 square feet in size and shall be offset a minimum of ten feet from a side or rear lot line. Non-storage related accessory structures may be permitted provided they are offset no less than five feet from a side or rear lot line.

Sec. 40.203. - Permitted accessory uses.
Permitted accessory uses in the R-5 district shall be:

1. Private garages, carports and paved parking areas shall be allowed provided that no such garage or carport shall be erected prior to the erection of the principal building to which it is accessory. Garages and/or storage structures shall conform to the following:

   a. All new residential home construction shall include at least one, but not more than one, attached garage structure except as may be more restrictively provided for in Section 40.210.3 (1a) below. Detached garages shall be allowed for replacements of legal existing detached garages or to serve homes constructed prior to the effective date of the ordinance from
which this chapter is derived (i.e. May 4, 1999), which homes do not presently have a garage. In either case, the garage structure shall not exceed 900 square feet in size.

Properties with an existing residence and existing attached garage and a lot area greater than 2.5 acres, are permitted a detached garage structure not to exceed 900 square feet. If a garage greater than 900 square feet shall be sought for a property with an existing residence and existing garage and a lot area greater than 2.5 acres, approval by the planning commission as conditional use shall be required.

b. An accessory storage structure shall be permitted in addition to any permitted garage structure(s). The accessory storage structure shall not exceed 192 square feet in size and shall be offset a minimum of ten feet from a side or rear lot line. Non-storage related accessory structures may be permitted provided they are offset no less than five feet from a side or rear lot line.