From: Tim Ristow
Subject: Muskego HWM Setback
Date: September 18, 2026 at 1:39 AM
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50' on new structures

CITY OF MUSKEGO – WATER / STRUCTURE SETBACKS (summary of published rules)

1. Ordinary high-water mark (OHWM) setback – new structures

City of Muskego (Community Development / shoreline structures page):

"All structures in the City of Muskego require a permit from the Community Development Department. These structures must be setback a minimum of 50 feet from the Ordinary High Water Mark (OHWM) of any waterway, except boathouses as defined by Chapter 400 (Zoning Code). Boathouses are allowed to be located a minimum of 20 feet from the OHWM. These structures are limited in size to 525 square feet and to 15 feet in height above the lowest grade. Features such as decks, patios, walkways, retaining walls, fences, etc. also require a permit from the Community Development Department."

Source:
https://www.muskego.wi.gov/departments/lakes_forestry_conservation/lakes/beaches___boating/shoreline_structures.php

2. Zoning Code – lakeshore lots (Chapter 400)

Article VIII, Base Districts (lakeshore language in the code):

"No building shall be permitted closer than 50 feet to the shoreline of a lakeshore lot, except that no offset shall be required for piers or similar use areas and a boathouse as permitted above."

Boathouses in RL-1, RL-2, and RL-3 Existing Lakeshore Residence Districts:

"Location: minimum 20 feet from the ordinary high-water mark and subject to the side yard offset provisions of the district, effective with new construction or relocations after November 15, 2001." "Height: not greater than 15 feet above the lowest grade."

Source: City of Muskego Zoning Code, Chapter 400, Article VIII

(ecode360.com/29718748) and Article XV, Accessory Uses and Structures (ecode360.com/29722805)

3. Who regulates what

- Above the OHWM: City of Muskego Municipal Code / Community Development permit.
- At or below the OHWM (piers, riprap, fill in the water, etc.): Wisconsin DNR.
- Land disturbance (excavation, fill, grading, demolition, removal of ground cover): City Engineering – Land Disturbance Permit. Engineering: (262) 679-4145.

4. Nonconforming buildings (existing house closer than 50 feet)

Chapter 400, Article VI – Nonconformity (ecode360.com/29718682)

- A legal nonconforming structure may continue.
- No such structure shall be expanded or enlarged except in conformity with the district regulations, unless the expansion does not get any closer than the existing distance to any lot line and shall not exceed 50% of the assessed value.
- Restoration after disaster: Per Wis. Stat. § 62.23(7)(hc) and § 400-34E, a nonconforming structure damaged or destroyed on or after March 2, 2006 by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation may be restored to the same size, location, and use it had immediately before the damage.

A voluntary teardown and new house is generally treated as new construction and is expected to meet the current 50-foot OHWM setback unless the City grants reconstruction on the existing footprint or a variance from the Zoning Board of Appeals.

5. Street / yard setback averaging (not the water line)

Chapter 400, Article V, Building location (§ 400-23) allows averaging of street setbacks with neighboring principal buildings under stated distance rules. That section is written for the street "base setback line," not as a substitute for the 50-foot shoreline rule.

6. Practical line for a tear-down / rebuild

- Current published water setback for a house: 50 feet from the OHWM.
- Existing house at 40 feet: legal nonconforming if it was lawful when built.
- Keeping 40 feet on a new, larger modern house is not an automatic right. Confirm in writing with City of Muskego Community Development before demolition.

Not legal advice. Confirm the current text and your parcel's district with Community Development before you rely on this.