

**MEMORANDUM**

**TO:** Village Board of Kronenwetter  
C/O Attorney Shane J. VanderWaal  
VanderWaal Law SC

**FROM:** Attorney Mitchell Olson

**RE:** Milestone Materials - CUP  
Our File No. 32575.105950

**DATE:** February 6, 2026

**CC:** Tony Tomashek, VP – Mathy Companies

---

This memo is submitted with respect to Milestone Material’s Application for Conditional Use Permit for a non-metallic mine in the Village of Kronenwetter. Milestone Materials filed an appeal of the decision of the Village Plan Commission, which appeal was heard by the Village Board on January 27, 2026. The Village Board voted 3-2 in favor the appeal, reversed the decision of the Planning Commission, and granted the Conditional Use Permit with conditions as specified on the record.

It is our understanding that the Village Board, or members thereof, may now seek to undermine that decision. We present this memo to make clear that there is no legal or procedural basis to change the Village Board’s decision.

- I. The Village’s own ordinances do not permit further proceedings. Village Ordinance Section 520-121 governs conditional use permits. Under Section 520-121F.(3) states that on an appeal, the “Village Board shall, by resolution, make a final decision to grant, with or without conditions, or to deny each application for a conditional use permit....” This section also says “The Village Board’s determination shall be final and subject to appeal to the circuit court under any procedure authorized by statute.”

The Village Board made a final decision in a quasi-judicial appeal hearing. The decision was to issue the conditional use permit. The Village Board’s decision is final. The Village Board does not have the jurisdiction to reconsider because the ordinance clearly states only the circuit court may address the matter after the final decision of the Village Board.

To re-open this appeal would be akin to having a jury trial, the jury pronounces its verdict, and then the jury asks to come back a week later and resume deliberations. There are clear Constitutional due process rights that will be infringed by obstructing the final decision of the Village Board.



- II. The Village's attorney made a clear record that Village Sup. Ken Charneski has an ongoing conflict of interest which prevents acting as a fair adjudicator in these proceedings. That conflict has become more apparent by the events during and after the January 27<sup>th</sup> meeting. Any vote on a CUP appeal is a quasi-judicial vote, for which Milestone Materials has a constitutional right to due process. In adjudicative actions, which includes review of CUP applications where a legal criteria is applied to an application, due process requires that the application be reviewed by "impartial decision-makers." *Miller v. Zoning Bd. of Appeals of Village of Lyndon Station*, 2023 WI 46, ¶ 13, 407 Wis. 2d 678, 991 N.W.2d 380.

Sup. Charneski should not be participating in this matter. His ongoing efforts to challenge the subject CUP application are of great concern to principles of fundamental fairness.

- III. Milestone Materials has consistently sought to present an application for CUP which can meet the Village Zoning Code with appropriate conditions to protect the community and its residents. The Process and Decision of the Board on January 27<sup>th</sup>, apart from the conflict of interest issue noted above, was fair and reasonable and supported by the application and presentation of Milestone Materials, Village Staff submissions and comment, public comment, and the statements of Village Board members. Milestone Materials wishes to move forward to create a professional and well-run operation consistent with the terms of the CUP as granted.

Accordingly, the Village Board should proceed to follow its existing decision and issue the CUP in accordance therewith. Village Staff is obliged to write the CUP with conditions and that CUP should be approved within 30 days per Village Code Section 520-121H.

Thank you for your attention to this matter.

Sincerely,

**AXLEY LLP**

A handwritten signature in black ink, appearing to read "MRO" followed by a long horizontal flourish.

Mitchell R. Olson  
MRO:cae