

ENROLLED ORDINANCE 163-22

AMEND THE TOWN OF GENESEE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF GENESEE BY REVISING THE PREVIOUSLY IMPOSED CONDITIONS OF APPROVAL UNDER ENROLLED ORDINANCE NO. 142-14 FOR LANDS LOCATED IN PART OF THE SW ¼ AND PART OF THE SE ¼ OF SECTION 12, T6N, R18E, TOWN OF GENESEE, WAUKESHA COUNTY, WISCONSIN (CZ-0819A)

WHEREAS the subject matter of this Ordinance having been duly referred to and considered by the Waukesha County Park and Planning Commission, after Public Hearing, and the giving of requisite notice of said hearing, and a recommendation for approval thereon reported to the Land Use, Parks and Environmental Committee, and the Waukesha County Board of Supervisors, Waukesha County, Wisconsin, as required by Section 59.69 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Town of Genesee District Zoning Map of the Waukesha County Zoning Code, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors, on February 26, 1959, is hereby amended to revise the previously imposed conditions of Enrolled Ordinance No. 142-14 to allow mini-warehouse/storage buildings in addition to the uses allowed under Enrolled Ordinance No. 142-14, on property located in part of the SW ¼ and part of the SE ¼ of Section 12, T6N, R18E, Town of Genesee, and more specifically described in the "Staff Report and Recommendation" on file in the office of the Waukesha County Department of Parks and Land Use, and made a part of this Ordinance by reference (CZ-0819A), as set forth herein:

1. The businesses permitted on the 9.1-acre parcel shall be limited to metal fabricating in conjunction with equipment repairs, welding, engine repairs, equipment painting, grain storage and drying. The above specified uses are those uses, which presently exist on the property. In addition, the petitioner shall be allowed to have mini-storage facilities on the property.
2. A Deed Restriction shall be recorded in the Waukesha County Register of Deeds within six (6) months of passage of this Ordinance by the County Board of Supervisors stating that the rights granted herein are only transferable to any subsequent owner of the property upon approval of the Town of Genesee Board. Proof of filing shall be submitted to the Town Clerk prior to this Ordinance becoming effective.
3. A determination of non-compliance with the above requirements will necessitate the reversion of this conditional zoning designation to A-B Agricultural Business District with an A-O Agricultural Overlay District following due notice and public hearing.
4. This amendment shall not be effective until such time as the Waukesha County Land Use Plan is amended from the Rural Residential Density designation to the Commercial designation as is proposed.
5. BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Genesee.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**ZONING MAP AMENDMENT**

**DATE:** June 26, 2008

**FILE NO:** CZ-0819A

**OWNER:** James Derrick  
21401 W. Orchard Dr.  
New Berlin, Wisconsin 53146

**TAX KEY NO:** Part of GNT 1487.999.005

Orig

**LOCATION:**

Part of Lot 3A, Certified Survey Map 8403, located in part of the SW ¼ and part of the SE ¼ of Section 12, T6N, R18E, Town of Genesee. More specifically, the property is located just north of the intersection of C.T.H. "DE" and the Wisconsin Railroad Company railroad right-of-way, containing approximately 9.1 acres.

**PRESENT ZONING:** B-3 General Business, with an A-O Agricultural Overlay.

**PRESENT LAND USE:**

Metal, equipment repair, welding, painting, grain storage, and drying. The existing buildings on site are rented out for the aforementioned uses.

**PROPOSED ZONING:**

Amend the conditions of the previous rezoning to allow mini-warehouse/storage and seasonal fireworks sales.

**PUBLIC HEARING DATE:** May 28, 2008.

**PUBLIC REACTION:** One neighbor voiced concerns about how the plans will effect his driveway and said that he would like to see trees installed for a buffer between the proposed mini-warehouse/storage buildings and the adjacent property to the east.

**TOWN PLAN COMMISSION AND TOWN BOARD ACTION:**

The Town of Genesee Plan Commission, at their meeting of May 28, 2008, voted to recommend approval of the proposed rezoning with several conditions. The Genesee Town Board, at their meeting of June 9, 2008, accepted the Plan Commission's recommendation and approved the zoning amendment with the recommended conditions, see attached Exhibit "A".

**CONFORMANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN:**

The property is designated as Rural Density Residential and Other Open Lands To Be Preserved on the Waukesha County Development Plan. It should be noted that the property is designated as Commercial on the proposed Land Use Plan, which has not yet been approved by any County committees but has been endorsed by the Town Board and Plan Commission.

**STAFF ANALYSIS:**

In 1987, the property was conditionally rezoned from A-B, Agricultural Business with an A-O Agricultural Overlay, to B-3 General Business with an A-O Overlay. The conditions of rezoning stated that the businesses permitted on the parcel shall be limited to metal fabricating in conjunction with equipment repairs, welding, engine repair, equipment painting, grain storage and drying, which only permitted those uses which existed on the

property at that time. The petitioner is proposing to amend and extend the conditions of the previous rezoning to add mini-warehouse/storage facilities on the east side of the property and to allow the seasonal sale of fireworks from a tent to the permitted uses on site as income producers for the new owner of the property.

The petitioner has indicated that the existing uses on the property would continue in the short term but that he is looking to do some more upscale uses in the future. The pine trees on the east side of the property were planted for Christmas trees and will be removed for the construction of the mini-warehouse/storage buildings.

**STAFF RECOMMENDATION:**

The Planning and Zoning Division Staff recommends **approval** of the amendment to the conditions of the previous rezoning, subject to the following conditions:

1. The businesses permitted on the 9.1-acre parcel shall be limited to metal fabricating in conjunction with equipment repairs, welding, engine repairs, equipment painting, grain storage and drying. The above specified uses are those uses which presently exist on the property. In addition, the petitioner shall be allowed to have mini-storage facilities on the property.
2. A Deed Restriction shall be recorded in the Waukesha County Register of Deeds within six (6) months of passage of this Ordinance by the County Board of Supervisors stating that the rights granted herein are only transferable to any subsequent owner of the property upon approval of the Town of Genesee Board. Proof of filing shall be submitted to the Town Clerk prior to this Ordinance becoming effective.
3. A determination of non-compliance with the above requirements will necessitate the reversion of this conditional zoning designation to A-B Agricultural Business District with an A-O Agricultural Overlay District following due notice and public hearing.
4. This rezoning shall not be effective until such time as the Waukesha County Land Use Plan is amended from the Rural Residential Density designation to the Commercial designation as is proposed.

The proposed rezoning, with the conditions recommended above, will be in conformance with the proposed Waukesha County Development Plan, and will allow the continued commercial use of the property. It should be noted that this amendment to the previous rezoning does not change the zoning map and will result in a +/- 155 ft. wide strip of land on the west side of the property being in the A-2 Rural Home Residential District. The staff does not feel that an intense retail use, such as a fireworks stand, would be consistent with the otherwise allowable businesses on this property and in the surrounding area.

Respectfully submitted,

*Peggy S. Tilley* 1/14/13

Peggy S. Tilley  
Senior Land Use Specialist

Attachment: Exhibit "A"

RECEIVED  
JUN 20 2008  
DEPT OF PARKS & LAND USE

**CERTIFICATION**

This is to certify that the  
attached is a true and accurate copy  
of Resolution 08-4R

Passed and adopted by the Town Board of the Town of Genesee,  
Waukesha County, Wisconsin on the  
9th<sup>th</sup> Day of June, 2008

Barbara A. Whitmore  
Barbara A. Whitmore, WCMC  
Clerk  
Town of Genesee

Subscribed and sworn to before me  
this 19<sup>th</sup> day of June, 2008.

Elizabeth Stredlein  
Notary Public, State of Wisconsin  
My commission expires on: 1-11-09

**RESOLUTION 08-4R**  
**TOWN BOARD OF THE TOWN OF GENESEE**  
**A Municipal Corporation**

RECEIVED  
JUN 20 2008  
DEPT OF PARKS & LAND USE

WHEREAS, a Zoning Amendment request was filed by Jim Derrick (Roger Berg) to amend the Conditions of the B-3 General Business Zoning District (Enrolled Ordinance 142-14) on the Town of Genesee District Zoning Map of the Waukesha County Zoning Code, on the property described as follows:

Part of the South ½ of Section 12, T6N, R18E, Town of Genesee, Waukesha County, Wisconsin. More specifically, the parcel is located on the north side of County Trunk Highway "DE", approximately ½ mile east of the intersection of County Trunk Highway "DE" and Road "DT".

and,

WHEREAS, A Joint Public Hearing was held by the Town of Genesee Plan Commission and the Waukesha County Department of Parks and Land Use on May 28, 2008 at the Genesee Town Hall located at S43 W31391 Highway 83 Genesee Depot, Wisconsin to consider said request:

and

WHEREAS, the Town of Genesee Plan Commission held a public meeting to discuss said request. After discussion in regards to said request, by motion, properly made and seconded, the Genesee Town Plan Commission voted to recommend to the Town Board an approval of the request.

WHEREAS, the Genesee Town Board held a public meeting on Monday, June 9, 2008 to discuss said request. **BASED UPON THE SAME:**

**IT IS HEREBY RESOLVED BY THE TOWN BOARD OF THE TOWN OF GENESEE, it being the town affected by said proposed zoning amendment, THAT, the request for the petitioner be approved subject to the following conditions:**

**163-0-022**

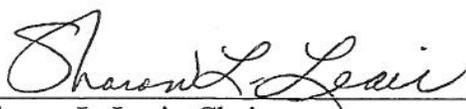
**6.**

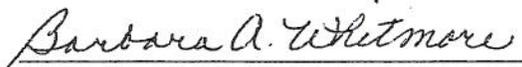
1. The businesses permitted on the 9.1 acre parcel shall be limited to metal fabricating in conjunction with equipment repairs, welding, engine repairs, equipment painting, grain storage and drying. The above specified uses are those uses which presently exist on the property. In addition the petitioner shall be allowed to have mini-storage facilities and a temporary fireworks stand provided the fireworks stand complies with all other applicable Town ordinances.
2. A Deed Restriction shall be recorded with the Waukesha County Register of Deeds within six (6) months of passage of this Ordinance by the County Board of Supervisors stating that the rights granted herein are only transferable to any subsequent owner of the property upon approval of the Town of Genesee Board. Proof of filing shall be submitted to the Town Clerk prior to this ordinance becoming effective.
3. A determination of noncompliance with the above requirements will necessitate the reversion of this conditional zoning designation to A-B Agricultural Business District with an A-O Agricultural Overlay District following due notice and public hearing.

AND FURTHER BE IT RESOLVED;

BY THE TOWN BOARD OF THE TOWN OF GENESEE, that the Town of Genesee does hereby give notice to the County that it approves the zoning amendment request of Jim Derrick & Roger Berg..

Dated this 9<sup>th</sup> day of June, 2008

  
Sharon L. Leair, Chairman

  
Barbara A. Whitmore, Town Clerk

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-07/22/08

(ORD) NUMBER-1630022

1 D. FALSTAD.....AYE  
 3 R. HUTTON.....AYE  
 5 J. JESKEWITZ.....AYE  
 7 P. HAUKOHL.....AYE  
 9 J. HEINRICH.....AYE  
 11 F. RUF.....AYE  
 13 J. BEHREND.....AYE  
 15 P. MEYERS.....NAY  
 17 J. TORTOMASI.....AYE  
 19 S. WIMMER.....AYE  
 21 W. ZABOROWSKI.....AYE  
 23 J. PLEDL.....AYE  
 25 G. YERKE.....AYE

2 T. ROLFS.....  
 4 J. DWYER.....AYE  
 6 J. BRANDTJEN.....AYE  
 8 T. SCHELLINGER....AYE  
 10 D. SWAN.....AYE  
 12 P. WOLFF.....AYE  
 14 B. MORRIS.....AYE  
 16 D. PAULSON.....AYE  
 18 K. CUMMINGS.....AYE  
 20 P. JASKE.....NAY  
 22 P. GUNDRUM.....AYE  
 24 W. KOLB.....AYE

TOTAL AYES-22

TOTAL NAYS-02

CARRIED X

DEFEATED \_\_\_\_\_

UNANIMOUS \_\_\_\_\_

TOTAL VOTES-24