

ENROLLED ORDINANCE 163-99

AMEND THE TEXT OF THE TOWN OF EAGLE ZONING CODE TO  
REPEAL AND RECREATE SECTION 3.02(1) RELATING TO ONLY ONE  
PRINCIPAL RESIDENTIAL BUILDING ON A LOT (ZT-1685)

WHEREAS the subject matter of this Ordinance having been approved by the Eagle Town Board on January 29, 2009 after Public Hearing, and the giving of requisite notice of said hearings, and duly referred to and considered by the Waukesha County Park and Planning Commission, and a recommendation for approval, thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.61 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Text of the Town of Eagle Zoning Code, adopted by the Town of Eagle on December 1, 1990, is hereby amended to repeal and recreate Section 3.02(1) relating to only one principal residential building on a lot, 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 (ZT-1685), is hereby approved.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Eagle.

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

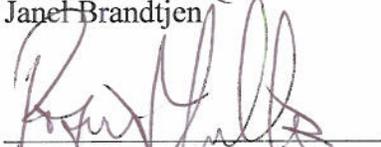
BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of provisions of this Ordinance are hereby repealed.

AMEND THE TEXT OF THE TOWN OF EAGLE ZONING CODE TO  
REPEAL AND RECREATE SECTION 3.02(1) RELATING TO ONLY ONE  
PRINCIPAL RESIDENTIAL BUILDING ON A LOT (ZT-1685)

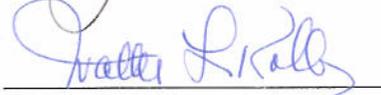
Presented by:  
Land Use, Parks, and Environment Committee

  
Fritz Ruf, Chair

N/A (Absent)  
Janet Brandtjen

  
Robert Hutton

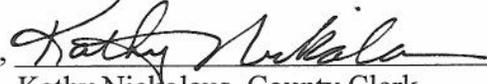
  
James Jeskewitz

  
Walter L. Kolb

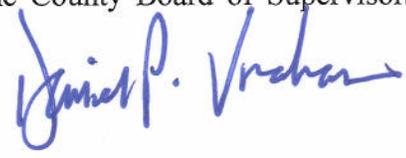
N/A (Absent)  
Ted Rolfs

(Absent)  
Gilbert W. Yerke

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 3/27/09,   
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: x  
Vetoed: \_\_\_\_\_  
Date: 3-27-09,   
Daniel P. Vrakas, County Executive

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

**FILE NO.:** ZT-1685

**TAX KEY NO.:** N/A

**DATE:** February 19, 2009

**PETITIONER:** Eagle Town Board of Supervisors  
Eagle Town Hall  
P.O. Box 327  
Eagle, WI 53119

**NATURE OF REQUEST:**

Repeal and recreate Section 3.02(1) of the Town of Eagle Zoning Code relating to only one principal residential building on a lot.

**PUBLIC HEARING DATE:**

January 28, 2009.

**PUBLIC REACTION:**

None.

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

At the same meeting on January 29, 2009, the Town of Eagle Plan Commission and Town Board both unanimously approved the proposed amendment.

**OTHER CONSIDERATIONS:**

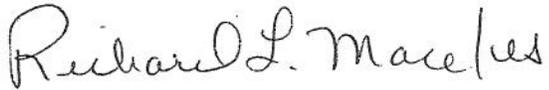
This proposed amendment has come about as a resident of the Town is seeking to build a new house on a lot that has an existing house in place and is desirous of commencing construction while the existing house remains for him to live in until completion of the new house. He has agreed to remove the old house upon completion of the new and has indicated he is willing to enter into appropriate agreements with the Town on such removal and to provide financial assurance of the building's removal. There was some discussion back and forth with the Plan Commission and the Town Board with regard to whether or not they should allow this, which is contradictory to the Town's present Zoning Code, and which had been advised against by the new Town Attorney. Accordingly, in an effort to address this issue, the Town has decided to make an amendment to the provision of the Ordinance, Section 3.02(1). This will provide for the Planning and Zoning Commission and the Town Board of Eagle to approve the issuance of a new single family residential home building permit, while an existing residence continues to be occupied for a period of time, not to exceed two years during the construction process, subject to any conditions and specifications that may be required by the Planning and Zoning Commission and the Town Board. In the interest of health, safety and welfare of the Town, a Letter of Credit or cash, for 115% of the building removal and site restoration costs is required to be submitted. Also required is a signed agreement assuring removal of the building 60 days from the issuance of an Occupancy Permit of the new building and a signed agreement that would allow access by the Town to the property to remove the existing structure if the applicant fails to do so within the 60 day allotted time mentioned above.

163-0-100

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that this amendment to the Town of Eagle Zoning Code be **approved**. We feel this is a very good solution and could possibly be considered as a future amendment to the County's Code in order to accommodate the construction of a new residence on a lot on which there already exists a house where the owner/occupant of the parcel lives, so that the individual would not have to move out of the house for the construction process to continue. We feel the cash guarantee and signed agreements will provide adequate protection of the Town to make sure that the old house being replaced is removed appropriately. The time period provided in the amendment also is appropriate as new homes often will take more time than one year to become fully ready for permanent occupancy.

Respectfully submitted,



Richard L. Mace  
Planning and Zoning Manager

Attachment: Town Ordinance

RLM:es

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## ORDINANCE NO. 09-01

AN ORDINANCE REPEALING AND RECREATING SECTION 3.02(1) OF THE  
TOWN OF EAGLE ZONING CODE RELATING TO ONLY ONE PRINCIPAL  
RESIDENTIAL BUILDING ON A LOT

SECTION 3.02(1): Section 3.02(1) is hereby repealed and recreated to read as follows:

SECTION 3.02(1). ONLY ONE PRINCIPAL RESIDENTIAL BUILDING ON  
A LOT

- A. Every building hereafter erected, structurally altered, or relocated shall be located on a lot. In no case, except in business districts, manufacturing districts, and planned unit developments, shall there be more than one principle building on a lot, except as provided below. The principal residential building, as herein described, shall be built first in all districts. In any district where a building other than a residence is considered principal, such construction shall be subject to Site Plan Review by the P&Z and Town Board.

The P&Z and Town Board may approve the issuance of a new single family residential home building permit and allow the occupancy of an existing residential structure on a parcel for a period of time not to exceed two years during the construction process, subject to specifications and additional conditions as required by the P&Z and Town Board in the interest of the health, safety, and welfare of the Town, and under the following conditions:

Prior to issuance of a Building Permit and subject to Town Board approval, the applicant shall submit:

- a. a letter of credit or cash in the amount of 115% of the building removal and site restoration cost, as determined by the Building Inspector and,
- b. a signed agreement, on a form acceptable to the Town Attorney and Town Board to remove the existing building 60 days from the issuance of the Occupancy-Permit.
- c. The signed agreement shall allow the Town to access the property and remove the existing structure and restore the site at the applicant's expense if the applicant fails to do so within 60 days of issuance of the Occupancy Permit for the new residence.

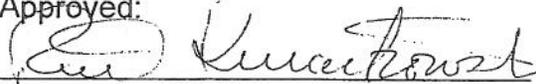
THIS ORDINANCE SHALL TAKE EFFECT UPON PASSAGE AND POSTING AS PROVIDED BY LAW.

Adopted on motion of Supervisor Rasmussen, seconded by Supervisor West on the 20<sup>th</sup> day of January, 2009.

Attest:

  
Lynn M. Pepper, Town Clerk

Approved:

  
Robert Kwiatkowski, Town Chairman

Ayes 5 Noes 0 Absent 0

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-03/24/09

(ORD) NUMBER-1630100

- 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 P. DECKER.....AYE
- 15 P. MEYERS.....AYE
- 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.....AYE
- 22 P. GUNDRUM.....AYE
- 24 W. KOLB.....AYE

TOTAL AYES-24

TOTAL NAYS-00

CARRIED\_\_\_\_\_

DEFEATED\_\_\_\_\_

UNANIMOUS   X  

TOTAL VOTES-24