

ENROLLED ORDINANCE 166-38

AMEND THE TEXT OF THE TOWN OF DELAFIELD ZONING CODE TO CREATE SECTION 17.03(6)(E) REGARDING MAXIMUM EAVE HEIGHT AND TO REPEAL AND RECREATE PORTIONS OF SECTION 17.04.5 REGARDING MAXIMUM GARAGE SIZE IN THE A-1, A-E (BY REFERENCE TO THE A-1 SECTION) AND A-2 ZONING DISTRICTS (ZT-1720)

WHEREAS the subject matter of this Ordinance having been approved by the Delafield Town Board on June 14, 2011, after Public Hearing, and the giving of requisite notice of said hearing, 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 ORDAINS that the text of the Town of Delafield Zoning Code, adopted by the Town of Delafield on July 20, 1998, is hereby amended to create Section 17.03 (6) (E) regarding maximum eave height and repeal and recreate portions of Section 17.04.5 regarding maximum garage size in the A-1, A-E (by reference to the A-1 Section) and A-2 Zoning Districts 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 ZT-1720, is hereby approved.

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

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

AMEND THE TEXT OF THE TOWN OF DELAFIELD ZONING CODE TO CREATE SECTION 17.03(6)(E) REGARDING MAXIMUM EAVE HEIGHT AND TO REPEAL AND RECREATE PORTIONS OF SECTION 17.04.5 REGARDING MAXIMUM GARAGE SIZE IN THE A-1, A-E (BY REFERENCE TO THE A-1 SECTION) AND A-2 ZONING DISTRICTS (ZT-1720)

Presented by:
Land Use, Parks, and Environment Committee



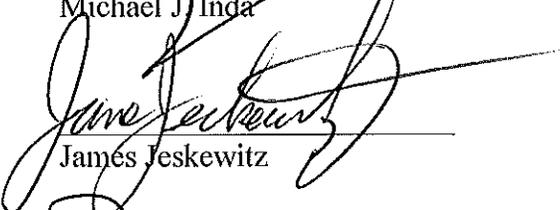
Fritz Ruf, Chair

{ Absent }

Robert Hutton



Michael J. Inda



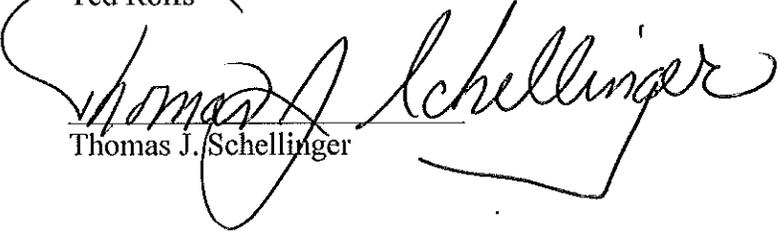
James Jeskewitz



Walter L. Kolb

{ Absent }

Ted Rolfs



Thomas J. Schellinger

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

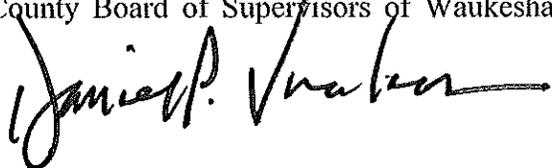
Date: 8-26-2011, 

Kathy Nickolaus, County Clerk

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

Approved:

Vetoed: _____

Date: 8-26-11, 

Daniel P. Vrakas, County Executive

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

FILE NO.: ZT-1720

DATE: July 21, 2011

PETITIONER: Town of Delafield Board
Town of Delafield Hall
N14 W30782 Golf Road
Delafield, WI. 53150

NATURE OF REQUEST:

Amend the Town of Delafield Zoning Ordinance, specifically, sections of Chapter 17 of the Town of Delafield Code of Ordinances related to building (eave) height and regulation of garage size within the A-1 and A-2 zoning districts.

PUBLIC HEARING DATE:

June 7, 2011.

PUBLIC REACTION:

Three members of the public spoke. Two individuals raised questions regarding driveway slope requirements that were being contemplated at the same public hearing. The Town elected not to take formal action on the proposed driveway regulations. One person inquired as to whether the Town Plan Commission would make recommendations regarding sprinkler systems relative to the proposed exception process proposed as part of the building height code changes. The Plan Commission confirmed that was in fact the case.

TOWN PLAN COMMISSION:

On June 7, 2011, the Town of Delafield Plan Commission voted unanimously in favor of amending the Zoning Ordinance, relative to the above described request, subject to conditions which have been incorporated into the approved ordinance.

TOWN BOARD ACTION:

On June 14, 2011, the Town of Delafield Board unanimously approved the proposed amendments to the Zoning Code, as recommended and amended by the Town Plan Commission.

OTHER CONSIDERATIONS:

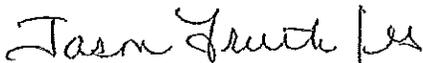
The Town Zoning Ordinance currently limits private, detached garages within the A-1 Agricultural District and the A-2 Rural Home District to a maximum of 960 square feet in area. Because the current ordinance also imposes a maximum cap of 1% accessory building floor area ratio, the Town wished to simplify the ordinance and remove the somewhat duplicative garage square footage regulation. Such an approach ties permissible accessory building area to the size of the affected parcel. This is similar to the regulations of the Waukesha County zoning codes, which allow for a maximum of 3% of parcel area in permissible accessory building floor area ratio. At 1%, the Town's Code is more restrictive than the County zoning codes. Such provisions are intended to control aesthetics and size and scale of outbuildings.

The proposed code changes relative to building height would modify building height regulations to allow a process whereby the Town Plan Commission could consider authorizing exceptions to the general 30 ft. maximum eave height requirement to a maximum of 35 ft., with consideration of a number of specified factors pertaining to fire safety. The new code language requires review and comment of such height exception requests by the fire department. The current code allows no such relief mechanism for structures that are proposed to exceed 30 ft. in height to the eave. The Waukesha County zoning codes allow for a standard maximum eave height within residential zoning districts of 36 ft. and an overall typical height of 46 ft., which is almost identical to the Town's proposed regulations of 35 ft. and 45 ft. respectively. The Town is proposing a set of standards that must be considered by the Town Plan Commission in instances where a special exception is sought. The exception process would allow for a modest maximum eave height increase of 5 ft. to a maximum height of 35 ft. above grade. The above grade detailed standards being proposed (see attached Ordinance) are intended to protect public safety and property and ensure that fire department apparatus can reach needed elevations around homes.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that the proposed ordinance to amend the Town of Delafield Zoning Ordinance relative to building height and accessory building size be approved, as presented. Staff feels that the changes to accessory building regulations are minor in nature and are intended to eliminate duplicative regulations and streamline the ordinance. The modifications to the building height provisions will provide for an exception process that does not currently exist, while at the same time considering key safety and property protection issues relative to fire safety and emergency response and thus is consistent with the applicable land use plans and zoning regulations.

Respectfully submitted,



Jason Fruth
Planning and Zoning Manager

Attachment: Town Ordinance 2011-004

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Ordinance No. 2011-004

An Ordinance to create and repeal and recreate certain portions of Section 17.03 6. and 17.04 5. of the Town of Delafield Code of Ordinances regarding eave height, and garage size in A-1, A-E (by reference to the A-1 section) and A-2 zoning districts.

WHEREAS, from time to time, the Town Plan Commission reviews the Zoning Code (Chapter 17) of the Town of Delafield Municipal Code, and

WHEREAS, this amendment to the zoning regulations of the Town of Delafield was initiated by the Plan Commission pursuant to Section 17.10 (5) of the Town of Delafield Zoning Code, and

WHEREAS, the Town of Delafield Plan Commission has determined that certain sections should be modified to clarify, add or delete language to better meet the purpose of the Chapter, and

WHEREAS, the Plan Commission has conducted the necessary investigation and has reported its recommendation to the Town Board pursuant to 17.10 (5)(D) of the Town of Delafield Zoning Code, and

WHEREAS, upon due notice as required by Section 17.10(5)(F) and Section 17.10 (6) of the Town of Delafield Zoning code, the Town Board conducted a public hearing regarding the proposed amendments on June 7, 2011, and

WHEREAS, the Town Board of the Town of Delafield, having carefully reviewed the recommendation of the Plan Commission, having determined that all procedural requirements and notice requirements have been satisfied, and having given the matter due consideration, and having based its determination on the effect of the zoning amendment on the health, safety and welfare of the community , and having given due consideration to the municipal problems involved as well as the impact on surrounding properties as to noise, duct, smoke and odor, hereby determines that the zoning amendment will not violate the spirit or intent of the Zoning Code for the Town of Delafield, will not be contrary to the public health, safety or general welfare of the Town of Delafield, will not be hazardous, harmful, noxious, offense or a nuisance by reason of noise, duct, smoke, odor or other similar factors and will not for any other reason cause a substantial adverse effect on the property values and general desirability of properties affected by these zoning amendments, and further finds that these amendments will be consistent with the town of Delafield Comprehensive Plan,

NOW, THEREFORE, the Town of Delafield Board of Supervisors DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning Ordinance," Section 17.03 entitled "General Regulations", subsection 6. entitled "Height Regulations," subsection E entitled "Additional Requirements (repealed in its entirety 2010-005)" is hereby created as follows:

E. Additional Requirements

- 1. No building and zoning permit shall be issued for any principal building or structure greater than 30 feet measured to the highest eave immediately above the lowest grade along the perimeter of the building or structure unless the Plan Commission has granted approval of the height increase to no more than 35 feet based upon consideration of the following factors:
 - (a). review and comments by the fire department
 - (b). consideration of obstacles that would prevent access to all sides of the building.
 - (c). location of the building or structure in relationship with other buildings or structures on site.

- (d). location of upper decks and balconies
- (e). length and/or percent of the building where the height to the eave is greater than 30 feet.
- (f). installation of a fire sprinkler system

Section 2: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning Ordinance," Section 17.04 entitled "Zoning Districts", subsection 5. entitled "Specific District," subsection F. entitled "A-1 Agricultural District" subsection 2. entitled "Use Regulations", subsection b. entitled "Permitted Accessory Uses," subsection (1) is hereby repealed and recreated as follows:

- (1) Private, detached garages not involving the conduct of business and not including any sanitary facilities.

Section 3: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning Ordinance," Section 17.04 entitled "Zoning Districts", subsection 5. entitled "Specific District," subsection H. entitled "A-2 Rural Home District" subsection 2. entitled "Use Regulations", subsection b. entitled "Permitted Accessory Uses," subsection (1) is hereby repealed and recreated as follows:

- (1) Private, detached garages not involving the conduct of business and not including any sanitary facilities.

Section 4: Severability

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

Section 5: Effective Date

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

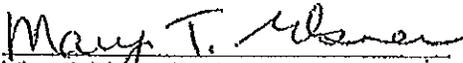
This ordinance passed this 14th day of June, 2011.

BY THE TOWN BOARD OF THE
TOWN OF DELAFIELD:



Paul L. Kanter, Town Chairman

ATTEST:



Mary T. Elsner, CMC, WCMC
Town Clerk

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COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Delafield Zoning Code hereby recommends approval of (ZT-1720 Text Amendments for the Town of Delafield) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

July 21, 2011



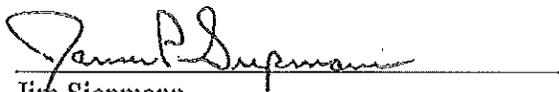
Gary Goodchild, Chairperson



Bob Peregrine, Vice Chairperson



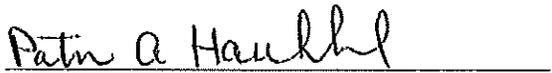
William Mitchell



Jim Siepmann



Walter Kolb



Pat Haukohl



Fritz Rief

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-08/23/11

(ORD) NUMBER-1660038

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 D. DRAEGER.....AYE
25 G. YERKE.....AYE

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

TOTAL AYES-25

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS

~~X~~

TOTAL VOTES-25