

ENROLLED ORDINANCE 166-51

AMEND THE TEXT OF THE TOWN OF BROOKFIELD ZONING CODE TO CREATE SECTION 17.02(14)(b)2.I. TO ALLOW CHURCHES AND RELIGIOUS INSTITUTIONS WITHIN THE B-3 OFFICE AND PROFESSIONAL BUSINESS DISTRICT AS CONDITIONAL USES (ZT-1723)

WHEREAS the subject matter of this Ordinance having been approved by the Brookfield Town Board on July 5, 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 Brookfield Zoning Code, adopted by the Town of Brookfield on December 27, 1988, is hereby amended to create Section 17.02(14)(b)2.I. to allow churches and religious institutions within the B-3 Office and Professional Business District as Conditional Uses, 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-1723, is hereby approved.

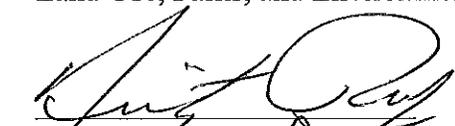
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Brookfield.

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

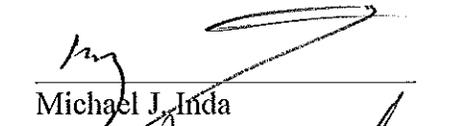
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

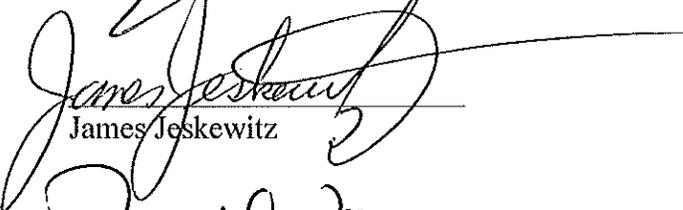
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Presented by:
Land Use, Parks, and Environment Committee

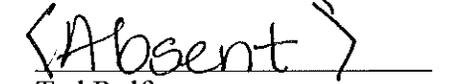

Fritz Ruf, Chair


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: 9-30-2011

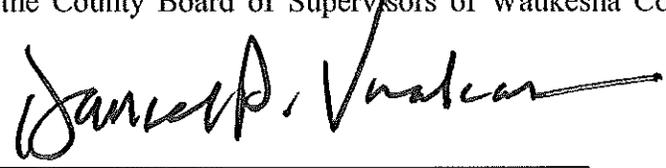

Kathy Nickolaus, County Clerk

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

Approved:

Vetoed:

Date: 10-3-11


Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-09/27/11

(ORD) NUMBER-1660050

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.....
17 J. TORTOMASI.....
19 S. WIMMER.....AYE
21 W. ZABOROWSKI.....AYE
23 D. DRAEGER.....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 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-22

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-22

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Brookfield Zoning Code hereby recommends approval of (ZT-1723 Town of Brookfield Board) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

September 1, 2011



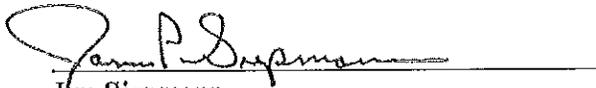
Gary Goodchild, Chairperson



Bob Peregrine, Vice Chairperson



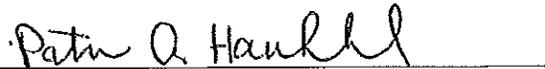
William Mitchell



Jim Siepmann



Walter Kolb



Pat Haukohl



Fritz Ruf

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

FILE NO.: ZT-1723

DATE: September 1, 2011

PETITIONER: Town of Brookfield Board
Town of Brookfield Hall
645 N. Janacek Road
Brookfield, WI 53045-6052

NATURE OF REQUEST:

Create Section 17.02(14)(b)2.I. of the Town of Brookfield Zoning Code to allow churches and religious institutions within the B-3 Office & Professional Business District as Conditional Uses.

PUBLIC HEARING DATE:

June 28, 2011.

PUBLIC REACTION:

A property owner of a commercial property spoke in support of the amendment. A church representative explained his church's interest in occupying a property that is zoned B-3.

TOWN PLAN COMMISSION:

On June 28, 2011, the Town of Brookfield Plan Commission voted unanimously in favor of amending the Zoning Ordinance to allow churches and religious institutions within the B-3 district as a Conditional Use, subject to the submittal of a Plan of Operation detailing occupancy quantities, parking, traffic, exterior accessory uses and hours of operation; lease length; 100 foot minimum offset from residential lot lines; 2 acre minimum lot size.

TOWN BOARD ACTION:

On July 5, 2011, the Town of Brookfield Town Board voted unanimously to approve the Zoning Ordinance amendment as recommended by the Town Plan Commission.

OTHER CONSIDERATIONS:

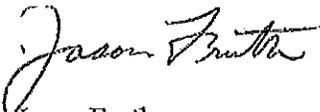
The Town of Brookfield recently received an inquiry regarding whether a church could locate in the B-3 Office & Professional Business District. Because the Town Zoning Code does not allow churches as either a permitted or Conditional Use within the B-3 District, a request was made to amend the code to allow for churches as a Conditional Use within said district. The Town's code allows for a range of other public and semi-public uses as Conditional Uses in various zoning districts. For instance, libraries and parks are permitted via a Conditional Use process in many different zoning districts, including the B-3. The Waukesha County zoning codes allow for churches as Conditional Uses in all zoning districts, with the exception of conservancy districts. The Town code currently limits churches to locating within the I-1 Institutional District as permitted uses.

Planning & Zoning Division Staff feel that a potential downside to allowance of churches within business districts is the potential loss of property tax revenue from properties that would otherwise typically accommodate commercial/office type uses. A counter argument could be made, however, that occupancy of a vacant building by a paying tenant might help to support the long term viability of a commercial building and allow it to remain available for commercial tenants when market conditions improve. It appears as though the Town is mindful of this concern, as the proposed ordinance contains language that suggests that lease length should be considered as part of the Conditional Use process. Given that the B-3 District generally accommodates office uses, a church use would not seem to be significantly different in intensity of use. In addition, the proposed ordinance stipulates review of various site plan/plan of operation elements that should ensure that such operations are harmonious with other surrounding uses (See attached Ordinance). The Town may wish to consider in the future whether accommodating churches as Conditional Uses in additional zoning districts is similarly appropriate.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be approved. Accommodation of churches via a Conditional Use process affords churches and religious institutions the opportunity to locate in more locations within a community. Lands are not typically pre-zoned for institutional use, and therefore, finding suitable church sites can be challenging. Such accommodations are consistent with the recommendations of the Town of Brookfield and Waukesha County Comprehensive Development Plans.

Respectfully submitted,



Jason Fruth
Planning and Zoning Manager

Attachment: Town Ordinance

ORDINANCE CREATING SECTION 17.02(14)(b)2.I.
OF THE TOWN CODE OF THE TOWN OF BROOKFIELD,
WAUKESHA COUNTY, WISCONSIN

THE TOWN BOARD OF THE TOWN OF BROOKFIELD, WAUKESHA COUNTY,
WISCONSIN, DOES ORDAIN AS FOLLOWS:

SECTION 1: Section 17.02(14)(b)2.I. of the Town Code of the Town of
Brookfield is hereby created to read as follows:

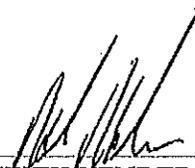
I. CHURCHES in B-3 office and professional business districts provided that the lot area is not less than two acres and that all church related uses are not less than 100 feet from any lot line zoned or used for residential purposes. Before granting a conditional use, the Plan Commission shall approve a plan of operation which shall include estimates of occupancy during normal or special uses, required parking and traffic control related issues, any and all exterior accessory uses incidental to the operation of the church, the hours of operation, the length and terms of any lease if the church is to be located on property leased, rather than owned, and such information as may be required in the discretion of the Plan Commission so as to ensure that the granting of the conditional use will be consistent with the spirit and intent of the zoning code.

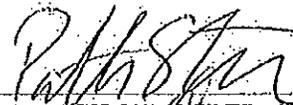
SECTION 2: All ordinances or parts of this ordinance conflicting or contravening the provisions of this ordinance are hereby repealed.

SECTION 3: This ordinance shall take effect upon passage and posting as provided by law.

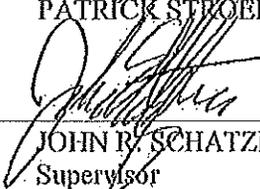
Dated this 5th day of July, 2011.

TOWN BOARD, TOWN OF BROOKFIELD,
WAUKESHA COUNTY, WISCONSIN

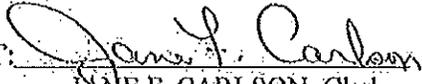
BY: 
KEITH HENDERSON, Chairman

BY: 
PATRICK STROEBEL, Supervisor

BY: Absent
DAN SHEA, Supervisor

BY: 
JOHN R. SCHATZMAN, SR.
Supervisor

BY: _____
MICHAEL MAXWELL, Supervisor

ATTEST: 
JANE F. CARLSON, Clerk