

ENROLLED ORDINANCE 168-95

AMEND THE TEXT OF THE TOWN OF WAUKESHA ZONING CODE TO REPEAL AND RECREATE SECTION 13-2-10(d) REGARDING ACCESSORY BUILDING PROVISIONS AND CREATE SECTION 13-3-9B REGARDING THE CREATION OF THE R-4 SINGLE FAMILY RESIDENCE DISTRICT (ZT-1767)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Waukesha Town Board on December 12, 2013, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.61, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Town of Waukesha Zoning Code, adopted by the Town of Waukesha on June 24, 1979, is hereby amended to repeal and recreate Section 13-2-10(d) regarding accessory building provisions and create Section 13-3-9B regarding the creation of the R-4 Single Family Residence District, 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-1767, 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 Waukesha.

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.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 WAUKESHA ZONING CODE TO REPEAL AND RECREATE SECTION 13-2-10(d) REGARDING ACCESSORY BUILDING PROVISIONS AND CREATE SECTION 13-3-9B REGARDING THE CREATION OF THE R-4 SINGLE FAMILY RESIDENCE DISTRICT (ZT-1767)

Presented by:
Land Use, Parks, and Environment Committee

(Absent)
James A. Heinrich, Chair

Jim Batzko
Jim Batzko

Walter Kolb
Walter Kolb

Pamela Meyer
Pamela Meyer

Fritz Ruf
Fritz Ruf

Thomas J. Schellinger
Thomas J. Schellinger

David D. Zimmermann
David D. Zimmermann

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

Date: 3/25/2014, Kathleen O. Novack
Kathleen Novack, County Clerk

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

Approved: X

Vetoed: _____

Date: 3/28/2014, Daniel P. Vrakas
Daniel P. Vrakas, County Executive

Digitally signed by Daniel P. Vrakas
DN: cn=Daniel P. Vrakas, o=Waukesha County Executive, ou=Waukesha County Executive,
email=dvrakas@co.waukesha.wi.us, c=US
Date: 2014.03.28 11:17:32 -0500

AMEND THE TEXT OF THE TOWN OF WAUKESHA ZONING CODE TO REPEAL AND RECREATE SECTION 13-2-10(d) REGARDING ACCESSORY BUILDING PROVISIONS AND CREATE SECTION 13-3-9B REGARDING THE CREATION OF THE R-4 SINGLE FAMILY RESIDENCE DISTRICT (ZT-1767)

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Approved: _____
Vetoed: _____
Date: _____,
Daniel P. Vrakas, County Executive


COMMISSION ACTION

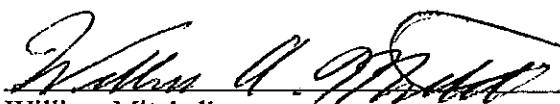
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Waukesha Zoning Code hereby recommends approval of (ZT-1767 - Town of Waukesha Board) in accordance with the attached "Staff Report and Recommendation".


PARK AND PLANNING COMMISSION

February 6, 2014

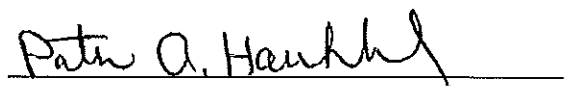

Robert Peregrine, Chairperson


James Siepmann, Vice Chairperson


William Mitchell


Gary Goodford


Walter Kolb


Pat Haukohl


Fritz Ruf

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

FILE NO: ZT-1767

TAX KEY NUMBER: N/A

DATE: February 6, 2014

NAME OF PETITIONER: Town Board of Waukesha
Town of Waukesha Town Hall
W250 S3567 Center Road
Waukesha, WI 53189

NATURE OF REQUEST:

Repeal and recreate Section 13-2-10(d), Accessory Buildings, and create Section 13-3-9B, R-4 Single Family Residence District, of the Town of Waukesha Zoning Code.

PUBLIC HEARING DATE:

December 12, 2013.

PUBLIC REACTION:

One resident spoke in support of the proposed R-4 zoning district. Two other individuals asked questions about the minimum home size for the district and where the district would be applicable. The Town Planner and Chairman clarified that the minimum home size would be 1,200 square feet and that the district would be available within Town islands (Town areas that are surrounded by City of Waukesha lands).

One resident spoke regarding the accessory building ordinance and expressed concern about the large permitted size of accessory buildings. Another resident suggested that language be added to allow smaller outbuildings to be closer to lot lines.

TOWN PLAN COMMISSION ACTION:

On December 12, 2013, the Town of Waukesha Plan Commission recommended approval of the proposed text amendments to the Town of Waukesha Board.

TOWN BOARD ACTION:

On December 12, 2013, the Town of Waukesha Board adopted the ordinances to amend the Town of Waukesha Zoning Code in accordance with the recommendation of the Town Plan Commission.

BACKGROUND AND SUMMARY OF CHANGES:

The Town of Waukesha is proposing two sets of text amendments to the Town Zoning Code. The first amendment pertains to the creation of a new zoning district, the R-4 Single Family Residence District. This district is being created to provide for an available option in the more urban parts of the Town that are entirely surrounded by the City of Waukesha. The district is available for existing lots of record that are between 12,000 and 20,000 square feet in area. At present, the Town's most dense zoning district provides

for a minimum lot size of 20,000 square feet and requires a minimum 50' road setback and 20' property line offset. The new district would allow for a minimum first floor area of 900 square feet and a total living area of 1,200 square feet per residence. The proposed road setback is specified as a minimum of 25' and required offset is 10'. The Town created this district to make improvement of smaller existing lots of record easier without the need for variances. The current applicable zoning district parameters can make improvement or expansion of improvements on such smaller lots of record impractical.

The new accessory building provisions generally allow for slightly larger accessory buildings than the existing code permits. The amendment ties maximum accessory building size to lot size, with an escalating scale (from a 900 square foot maximum for detached garage/accessory buildings for lots under ½ acre up to 1,500 square feet in accessory building area for parcels of three acres or greater). The proposed language would also require that any accessory building greater than 600 square feet in area be authorized by the Town Plan Commission and Board. The number of accessory buildings is being limited to three per lot in residential districts and planned unit developments, with the square footage total of the accessory buildings being limited as generally described above.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that the proposed text amendments to the Town of Waukesha Zoning Code be **approved**, as presented. The Town Planner provided the proposed R-4 District text in a draft form to the Planning and Zoning Division Staff in advance of the proposal going to public hearing and staff offered a number of recommendations to the Town, all of which were incorporated in the final version now being considered. Of particular note, the Town's initial draft of the R-4 District amendment specified a minimum home size of 1,400 square feet. The Planning and Zoning Division Staff suggested that the Town consider reducing that requirement to 1,200 square feet to be consistent with SEWRPC's Regional Housing Plan recommendations for home size relative to housing affordability. The Planning and Zoning Division Staff feels that the Town should be commended for advancing the subject ordinance that complies with this housing plan recommendation, which provides the option for smaller, more affordable housing units within the urbanized part of the Town. The proposed accessory building changes allow for slightly larger buildings, while at the same time calling for a level of cohesiveness between outbuildings and principal structures. The incorporation of a more formal review process for buildings that are more than 600 square feet should ensure that larger accessory structures are appropriate given their specific setting and context.

Respectfully submitted,

Jason Fruth/kb

Jason Fruth
Planning and Zoning Manager

Attachments: Town Ordinances 2013-9 and 2013-10

JAN 08 2014

AN ORDINANCE CREATING § 13-2-10(d)
ACCESSORY BUILDINGS

DEPT OF PARKS & LAND USE

THE TOWN BOARD OF THE TOWN OF WAUKESHA DO ORDAIN AS FOLLOWS:

SECTION 1: § 13-2-10(d) Accessory Buildings of the CODE OF ORDINANCES OF THE TOWN OF WAUKESHA is hereby amended by the repeal of Section 13-2-10(d) and the creation of the following text:

SEC. 13-2-10(d) ACCESSORY BUILDINGS**(1) Application and approval.**

- a. Accessory building application. An application for an accessory building shall be submitted to the Town Clerk, including building plans and specifications, rendered elevations, and a plat of survey (or certified survey map) illustrating the location of the accessory building with respect to property lines (i.e. setback and offsets), adjacent buildings, and the location of well and septic fields on the subject property.
- b. Review. Any residential or agricultural accessory building greater than six hundred (600) square feet in area shall be reviewed by the Town Plan Commission and Town Board in addition to the Building Inspector.
- c. Approval.
 1. Town Building Inspector. For approved accessory buildings six hundred (600) square feet or less in area, applicants will be issued a building permit.
 2. Town Plan Commission and Board. For approved accessory buildings six hundred (600) square feet or greater in area or exceeding the maximum height requirement per the zoning district, applicants will be issued a zoning permit by the Town Planner and a building permit by the Town Building Inspector.

(2) Location.

- a. No accessory building shall be erected, structurally altered or placed on a lot in any District so that any portion thereof is closer than 10 feet to the principal building or other accessory building or structure on said lot.
- b. Standard or Double-Frontage Lot. No accessory building or structure in any District other than in the C-1 Conservancy and A-1 Agricultural District shall project closer to the base setback line than the principal building. The primary street shall be determined by the location of the driveway to the principal building.
- c. Corner Lot. As used herein the term "corner lot" shall refer to any lot of record which abuts two or more public rights of way. Except as otherwise provided in this code, all buildings or structures on corner lots must meet the setback requirement as measured from the primary street and any secondary street or other public right of way abutting the corner lot. The primary street shall be determined by the location of the driveway to the principal building.

(3) Size.

The aggregate total floor area of any accessory building or buildings used for residential or agricultural purposes, may be constructed in accordance with the following table, and may not exceed the maximum F.A.R. of the applicable zoning district:

	COLUMN 1	COLUMN 2
LOT SIZE	ACCESSORY BUILDING MAXIMUM	DETACHED GARAGE*
Less 0.50 acres	600 sq. ft.	900 sq. ft.
0.50 to 0.99 acres	900 sq. ft.	1,000 sq. ft.
1.00 acre to 2.99 acres	1,200 sq. ft.	1,200 sq. ft.
3 acres or more	1.5% of the Lot Area	1,500 sq. ft.

- a. Any property improved with a single-family residence that does not have an attached garage, may construct a detached garage in accordance with Column 2 of the above table, and may also construct an accessory building in accordance with Column 1 of the above table, provided, however, that the detached garage shall be located within fifty (50) feet of the residential structure.
- b. Any outdoor area adjacent to the accessory building that is covered by an attached roof overhang or porch shall not exceed 30% of the total enclosed accessory building square footage. Outdoor areas covered by roof overhang or porch shall not be used for the purpose of outdoor storage or enclosed with exterior walls at any time unless approved by the Town Plan Commission and Town Board.

(4) Quantity. In residential districts or residential PUDs the maximum number of detached accessory buildings shall be limited to three (3) structures, providing the aggregate square footage does not exceed the maximum size allowed. In all other zoning districts, there shall be no limit for the number of accessory buildings, providing the aggregate square footage does not exceed the maximum size allowed.

(5) Use.

- a. Accessory buildings shall be permitted only for uses subordinate to and customarily incidental to the permitted principal use of the property or buildings. The Town Plan Commission and/or Town Board may require a deed restriction to be recorded with the property limiting the use of the structure to residential and/or agricultural purposes for buildings greater than six hundred (600) square feet unless the use is otherwise regulated through a conditional use permit.
- b. A structure attached to the principle building via a breezeway shall be considered an accessory building unless all of the following conditions are met:
 - 1. The breezeway is fully enclosed and no longer than ten (10) feet.
 - 2. The structure is fully enclosed with materials that match the principal building.
 - 3. The structure is built on a foundation or basement (post, pier, or grade beam foundations are prohibited).
- c. On properties where residential uses are permitted, an attached garage may be converted into residential living space, provided that the property owner simultaneously constructs an attached garage to the residential structure, which the attached garage shall meet the minimum requirements set forth in this chapter.

- (6) Appearance and Compatibility. Accessory buildings shall be compatible with the principle structure. The Town Plan Commission and/or Town Board may require specific elements of the accessory structure be compatible with the principal structure, which may include:
- a. Building materials.
 - b. Material colors.
 - c. Roof pitch.
 - d. Windows.
 - e. Building massing and scale.
- (7) Request for waiver or modification. A petitioner may request that the Town Board of Appeals, waive enforcement or allow modification of one or more provisions of this chapter dealing with size, quantity and location limitations stated in this section as follows:
- a. Written request. In addition to the accessory building application, the petitioner shall submit a written request for a waiver or modification to the Town Clerk which shall include: a statement specifying the specific provision that the petitioner requests the Town to waive or modify and what, if any, substantial reasons exist for the request for waiver or modification; what, if any, effect the proposed accessory building will have on the subject property and adjacent property; and whether or not the proposed accessory building is consistent with the general neighborhood.
 - b. Procedure. Upon receipt of such request for a waiver or modification, the Town Clerk shall place the matter on a Town Board of Appeals agenda within a reasonable time and shall give written notice of the request for waiver or modification to all property owners within 300 feet of the property being discussed.
 - c. Considerations. The Town Board of Appeals shall make a determination which shall include consideration, but not necessarily an affirmative finding, of the following factors:
 1. Whether the request is inconsistent or contradictory to the purpose, spirit or intent of the zoning ordinance.
 2. Whether the request violates the spirit or general intent of this chapter.
 3. Whether the request is contrary to the public health, safety, or welfare.
 4. Whether the request is hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, traffic congestion, odor or other similar factors.
 5. Whether, for any other reason, the request will cause substantial adverse effect on the property values and general desirability of the neighborhood.
 6. Whether the request is incompatible to the surrounding land uses.
 - d. Grant or denial of request for waiver or modification. After considering the above-listed factors and any other factors that may be relevant to the matter, the Town Board of Appeals shall then determine whether it is objectively reasonable to grant the request for a waiver or modification. A request for a waiver or modification may be granted without making an affirmative finding concerning any one or more of the above-listed factors if, on the whole, it is objectively reasonable to do so.
 - e. Past noncompliance not waived. A waiver or modification that is granted pursuant to a written request as described in this Section shall not waive or modify any fines, forfeitures or other penalties that may have accrued due to violations of this chapter that took place prior to the date of the request for waiver or modification being granted, unless specifically stated otherwise in the decision of the Town Board of Appeals.

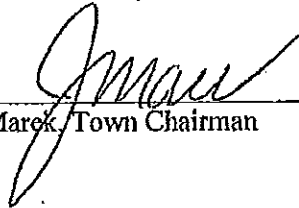
SECTION 2: All ordinances or parts of ordinances conflicting with or contravening the provisions of this ordinance are hereby repealed.

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

Passed and approved this 12th day of December, 2013.


TOWN OF WAUKESHA, WI.

By:



John Marek, Town Chairman

ATTEST:



Jamie Salentine, Town Clerk-Treasurer

ORDINANCE NO. 2013-10

AN ORDINANCE CREATING § 13-3-9B
R-4 SINGLE FAMILY RESIDENCE DISTRICT

THE TOWN BOARD OF THE TOWN OF WAUKESHA DO ORDAIN AS FOLLOWS:

SECTION 1: § 13-3-9B R-4 Single Family Residence District of the CODE OF ORDINANCES OF THE TOWN OF WAUKESHA is hereby amended by the creation of the following text:

SEC. 13-3-9B R-4 SINGLE FAMILY RESIDENCE DISTRICT

The purpose of this district is to allow for smaller sized, single family residences, consistent with the surrounding land uses that have been platted within the corporate limits of the City of Waukesha. This district applies to areas within the town that meet the following criteria:

- A legal lot of record that existed prior to October 1, 2013 (rezoning a legal lot of record to this district and subdividing for increased density is prohibited);
- A lot that is located in a "town island" defined as a single lot or contiguous lots where the entire perimeter (excluding rights-of-way) is bordered by the corporate limits of a city; and
- A lot that has a maximum lot size of 20,000 square feet.
- A lot that has an approved Preliminary Site Evaluation (i.e. functioning private septic and well) from Waukesha County Department of Parks & Land Use, Environmental Health Division.

(a) Use Regulations.**(1) Permitted Uses.**

a. Any use permitted in the R-3 Residence District.

(2) Conditional Uses. In-Law Unit, Legal Nonconforming Uses, Multi Family Unit, or situations not specifically provided for.

(b) Building Location.**(1) Setback.** 25 feet minimum.

a. If residences on adjacent lots are setback a distance greater than 25 feet, the minimum setback for the legal lot of record shall be calculated based on the average setback of the two adjacent residences.

(2) Offset. 10 feet minimum.

(c) Height Regulations.

(1) Principal buildings. 35 feet maximum.

(2) Accessory buildings. 15 feet maximum.

(3) See Section 13-2-11 Height Regulations for exceptions and permitted increases.

(d) **Area Regulations.**

(1) **Floor Area.**

a. **Minimum required - principal residence.**

1. **First Floor.** 900 square feet (living space).
2. **Total.** 1200 square feet (living space). All residences shall have attached two-car garages (minimum of an area at least 400 square feet and maximum of an area not to exceed 1,200 square feet) or 60% of the first floor of the principal structure whichever is greater.

b. **Maximum F.A.R. permitted.** 20 percent.

(2) **Lot Size.**

a. **Minimum area.** 12,000 square feet.

b. **Minimum average width.** 80 feet.

(3) **Open Space**

a. **Minimum** 60%.

SECTION 2: The existing Section 13-3-9 R-3 Single Family Residence District is renumbered as Section 13-3-9A.

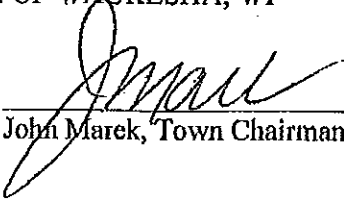
SECTION 3: All ordinances or parts of ordinances conflicting with or contravening the provisions of this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect upon passage and posting as provided by law.

Passed and approved this 12th day of December, 2013.

TOWN OF WAUKESHA, WI

By:



John Marek, Town Chairman

ATTEST:



Jamie Salentine, Town Clerk-Treasurer

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-03/25/14

(ORD) NUMBER-1680095

1

3 R. MORRIS.....AYE

5 J. BRANDTJEN.....AYE

7 J. GRANT.....AYE

9 J. HEINRICH.....AYE

11 F. RUF.....AYE

13 P. DECKER.....AYE

15 W. KOLB.....AYE

17 D. PAULSON.....AYE

19 C. CUMMINGS.....AYE

21 W. ZABOROWSKI.....AYE

23 K. HAMMITT.....AYE

25 G. YERKE.....AYE

2 D. Zimmermann.....AYE

4 J. BATZKO.....AYE

6

8 P. HAUKOHL.....AYE

10 D. SWAN.....AYE

12 P. WOLFF.....AYE

14 P. MEYER.....AYE

16 M. CROWLEY.....AYE

18 L. NELSON.....AYE

20 T. SCHELLINGER....AYE

22 P. JASKE.....AYE

24 D. DRAEGER.....AYE

TOTAL AYES-23

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS ~~_____~~

TOTAL VOTES-23