

ENROLLED ORDINANCE 170-38

AMEND THE TEXT OF THE TOWN OF WAUKESHA ZONING CODE TO REPEAL AND RECREATE SUBSECTION 13-2-5(a) ENTITLED BUILDING MUST BE ON A LOT, SUBSECTION 13-2-9(i)(16) ENTITLED MULTI-FAMILY UNIT AND SECTION 13-3-1 ENTITLED ESTABLISHMENT OF DISTRICTS (ZT-1812)

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 May 14, 2015, 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 60.62, 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 Subsection 13-2-5(a) Entitled Building Must Be On a Lot, Subsection 13-2-9(i)(16) Entitled Multi-Family Unit and Section 13-3-1 Entitled Establishment of Districts, 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-1812, is hereby approved.

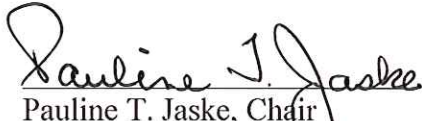
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Waukesha.


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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.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 SUBSECTION 13-2-5(a) ENTITLED BUILDING MUST BE ON A LOT, SUBSECTION 13-2-9(i)(16) ENTITLED MULTI-FAMILY UNIT AND SECTION 13-3-1 ENTITLED ESTABLISHMENT OF DISTRICTS (ZT-1812)

Presented by:
Land Use, Parks, and Environment Committee


Pauline T. Jaske, Chair

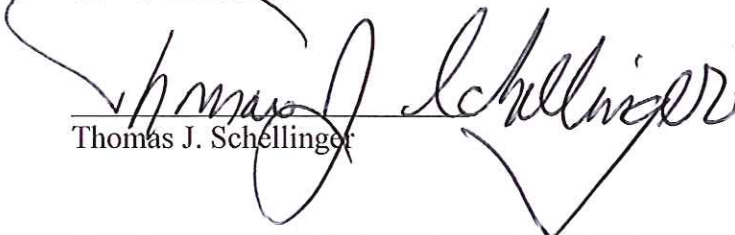

Jim Batzko


Jennifer Grant



Keith Hammitt


Eric Highum


William Mitchell


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: 2/28/2015, 
Kathleen Novack, County Clerk

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

Approved: X

Vetoed: _____

Date: 8/4/15, 
Paul Farrow, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-07/28/15

NUMBER-1700038

- | | |
|--------------------------|--------------------------|
| 1 R. KOLB.....AYE | 2 D. Zimmermann.....AYE |
| 3 R. MORRIS..... | 4 J. BATZKO.....AYE |
| 5 J. BRANDTJEN.....AYE | 6 J. WALZ.....AYE |
| 7 J. GRANT.....AYE | 8 E. HIGHUM.....AYE |
| 9 J. HEINRICH.....AYE | 10 D. SWAN.....AYE |
| 11 C. HOWARD.....AYE | 12 P. WOLFF.....AYE |
| 13 P. DECKER.....AYE | 14 C. PETTIS.....AYE |
| 15 B. MITCHELL.....AYE | 16 M. CROWLEY.....AYE |
| 17 D. PAULSON.....AYE | 18 L. NELSON.....AYE |
| 19 K. CUMMINGS.....AYE | 20 T. SCHELLINGER....AYE |
| 21 W. ZABOROWSKI.....AYE | 22 P. JASKE.....AYE |
| 23 K. HAMMITT..... | 24 S. WHITTOW.....AYE |
| 25 G. YERKE.....AYE | |

TOTAL AYES-23

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS




TOTAL VOTES-23

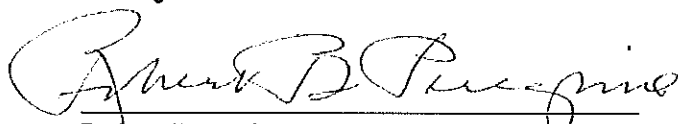
COMMISSION ACTION

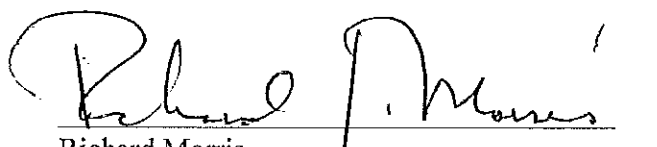
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Waukesha Zoning Code hereby recommends approval of ZT-1812 (FRED-Lathers LLC) in accordance with the attached "Staff Report and Recommendation".

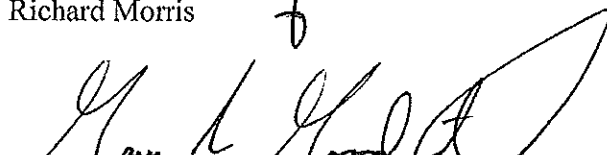
PARK AND PLANNING COMMISSION

June 18, 2015



James Siepmann, Chairperson

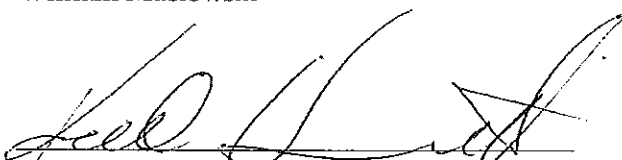

Robert Peregrine


Richard Morris


Gary Goodchild


William Mitchell


William Maslowski


Keith Hammitt

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

FILE NO: ZT-1812
TAX KEY NUMBER: N/A
DATE: June 18, 2015
NAME OF PETITIONER: FRED-Lathers, LLC.
789 N. Water Street, Ste. 200
Milwaukee, WI 53202-3530

NATURE OF REQUEST:

Text amendments to the Town of Waukesha Zoning Code relative to residential site regulations, multi-family unit Conditional Use requirements and amendments to clarify regulations relative to properties that are located partially within the Waukesha County Shoreland jurisdiction.

PUBLIC HEARING DATE:

April 9, 2015.

PUBLIC REACTION:

A resident spoke regarding drainage concerns relative to a specific development proposal. It should be noted that the hearing was not relative to said development but was instead to consider text amendments that would apply Town-wide.

TOWN PLAN COMMISSION ACTION:

On May 14, 2015, the Town of Waukesha Plan Commission voted to approve the text amendments to the Town Zoning Code.

TOWN BOARD ACTION:

On May 14, 2015, the Town of Waukesha Board approved the text amendments as recommended by the Town Plan Commission.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY:

The County Development Plan calls for the provision of a range of housing types and calls for barriers to affordable housing to be addressed by local communities. The proposed amendments better accommodate multi-family projects by allowing approvals for such developments to be sought in more parts of the Town. The Town has also expressed a willingness to continue examining its dwelling size parameters as part of the comprehensive plan update process. Both actions are consistent with the recommendations of both the Regional Housing Plan and the County Development Plan.

BACKGROUND AND SUMMARY OF CHANGES:

The petitioner proposed amendments to the Town Zoning Code relative to accommodation of multiple family development projects and Planned Unit Developments. The Town considered the request and expanded the extent of the proposed changes to more holistically propose updates to address the changes sought in the petition.

The first proposed change amends the "Site Regulations" section of the Town code to clarify that more than one building per lot can be authorized via Conditional Use, Residential Planned Unit Development or Senior Housing review procedures. Existing code language states that no more than one principal building is allowed per lot.

The proposed changes also amend the Conditional Use provisions for multi-family development to strike the existing language that calls for multi-family development to only be permitted in areas contiguous to the City of Waukesha. The revised multi-family Conditional Use standards specify that minimum provided open space shall be per the underlying district for duplexes and 40% open space will be required for larger projects. Town Planning Staff has indicated that the Town believes that substantial open space is important in order to ensure that more dense projects fit within the larger Town context. For large-scale projects, the proposed language allows for maximum floor area ratio to be two times the underlying district requirement.

Minimum multi-family dwelling unit sizes are proposed to be introduced in the multi-family Conditional Use standards, as well. For instance, the specified two bedroom minimum dwelling unit size is proposed at 1,000 square feet. The recently completed Regional Housing Plan recommends that sewerred communities with a jobs/housing imbalance conduct a more detailed analysis of local conditions as part of comprehensive plan updates. The plan shows that the Town of Waukesha is part of an area with a moderate cost jobs/housing imbalance. The plan also recommends that communities with a shortage of lower cost housing in relation to lower wage jobs provide for development density of 10 units per acre and modest apartment sizes of 800 square feet or less. While the proposed language allows for densities of 15 units per acre in areas contiguous to the City of Waukesha, the proposed code is slightly more restrictive relative to minimum multi-family dwelling unit size. County Planning & Zoning Staff recommended to the Town that they consider reducing dwelling unit sizes to more closely match the recommendations of the Regional Housing Plan and to better accommodate smaller dwelling unit sizes that are becoming more common in today's marketplace. The Town Planner has indicated that the Town will re-visit this issue as they consider amendments to the Town Plan.

Finally, the amendments introduce language into the code that clarify that for those properties partially within shoreland jurisdictional areas, required area and dimensional calculations for matters such as floor area ratio and lot size shall be based upon the entire area of the parcel. This proposed scheme matches the way in which Waukesha County has long administered shoreland zoning provisions.

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 proposed changes remove obstacles to the development of condominium and other multi-family projects by clarifying that multiple principal structures are permissible via certain specified approval processes. In addition, the provisions update the Town's multi-family Conditional Use requirements and provide clarity relative to the calculation of site requirements for parcels partially within shoreland jurisdictional areas.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachment: Town Ordinance 2015-02

STATE OF WISCONSIN

WAUKESHA COUNTY

TOWN OF WAUKESHA

ORDINANCE NO. 2015-02

AN ORDINANCE TO REPEAL AND RECREATE
TITLE 13 ENTITLED ZONING
CHAPTER 2 ENTITLED GENERAL PROVISIONS
SECTION 13-2-5 ENTITLED SITE REGULATIONS
SUBSECTION 13-2-5(a) ENTITLED BUILDING MUST BE ON A LOT
AND
SECTION 13-2-9 ENTITLED CONDITIONAL USES
SUBSECTION 13-2-9(i) ENTITLED CONDITIONAL USES PERMITTED
SUBSECTION 13-2-9(i)(16) ENTITLED MULTI-FAMILY UNIT
AND
SECTION 13-3-1 ENTITLED ESTABLISHMENT OF DISTRICTS
AMENDMENTS TO THE TOWN OF WAUKESHA MUNICIPAL CODE

WHEREAS, a petition has been filed by FRED-Lathers, on March 24, 2015 petitioning pursuant to Section 13-2-22(b) for text amendments to the Town of Waukesha Zoning Code, and

WHEREAS, upon receipt of the petition the Town Clerk scheduled a public hearing to be held jointly by the Town Plan Commission and the Town Board on April 9, 2015 pursuant to Section 13-2-22(d), and

WHEREAS, the Town Clerk for the Town of Waukesha has properly transmitted notice to the Town Plan Commission, Town Board, and to the Waukesha County Park and Planning Commission, pursuant to Section 13-2-22(d)(2) of the Town of Waukesha Zoning Code; and

WHEREAS, the Plan Commission considered the testimony taken at the public hearing, along with other pertinent technical information and made a recommendation to the town pursuant to Section 13-2-22(d)(3) of the Town of Waukesha Zoning Code; and

WHEREAS, the Town Board for the Town of Waukesha, after carefully reviewing the recommendation of the Plan Commission for the Town of Waukesha and having given the matter due consideration having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety, morals, comfort, prosperity and general welfare of the Town of Waukesha of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendments will serve the public health, safety morals, comfort, prosperity and general welfare of the Town of Waukesha, and that such amendments are intended to provide for adequate light, air, convenience of access, and safety from fire and other dangers; to promote the safety and efficiency of the public streets and highways; to aid in conserving and stabilizing the economic values of the community; to promote the orderly development of land; to preserve and promote the general attractiveness and character of the community environment; to guide the proper distribution and location of population and of the various land uses; and otherwise provide for the healthy and prosperous growth of the community, and that such amendments will enhance property values in the Town and will not be hazardous, harmful, noxious, offensive or a nuisance and will not unduly limit or restrict the use of property in the Town or for any

other reason cause a substantial adverse effect on the property values and general desirability of the Town.

NOW THEREFORE, the Town Board for the Town of Waukesha, Waukesha County does hereby ordain as follows:

SECTION 1: Title 13 entitled Zoning, Chapter 2 entitled General Provisions, Section 13-2-5 entitled Site Regulations, Subsection 13-2-5(a)(1) is hereby repealed and recreated to read as follows:

SEC. 13-2-5 SITE REGULATIONS.

- (a) Building Must Be on a Lot.
- (1) In all Residential Districts every building hereinafter erected, structurally altered or relocated shall be located on a lot, as defined herein, and in no case shall there be more than one principal building on a lot except as authorized through a Conditional Use Permit for Multi-Family Unit(s) per Sec. 13-2-9(i)(16), Residential Planned Unit Development(s) per Sec. 13-2-9(i)(22), and Senior Housing per Sec. 13-2-9(i)(25).
 - (2) In all other Districts where buildings are permitted, more than one principal building may be located on a lot, subject to the approval of the Town Plan Commission, and where such grant would not be contrary to the spirit or intent of this ordinance and provided that sufficient lot area is available for each principal building to be so located as to individually meet the setback, offsets, lot size, and open space requirements of the district in which they are located.
 - (3) No accessory building, except in the C-1 Conservancy District where all buildings or structures are accessory to a principal use, shall be constructed until the principal building is under construction or completed.
 - (4) In the A-1 Agricultural District, barns, storage sheds, pens, coops, and other agricultural buildings related to and necessary for the pursuit of agriculture on that parcel of land will be considered as accessory buildings and may be permitted without the requirement that a principal residential use be in existence on that parcel with Plan Commission and Town Board approval.
 - (5) In the A-1 Agricultural District where Planned Unit Developments are planned or exist, agricultural buildings related to or necessary for the pursuit of agriculture shall not be allowed without Plan Commission or Town Board approval.

SECTION 2: Title 13 entitled Zoning, Chapter 2 entitled General Provisions, Section 13-2-9 entitled Conditional Uses, Subsection 13-2-9(i)(16) is hereby repealed and recreated to read as follows:

SEC. 13-2-9 CONDITIONAL USES.

- (i) Conditional Uses Permitted. Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted in the districts specified, provided further that a joint public hearing shall be held by the Town Plan Commission and Town Board before approval for any such conditional use is granted:
- (16) Multi-Family Unit: Subject to the following conditions:
 - a. Location, building plans, site plan and plan of operation shall be submitted for approval per Section 13-2-4. Prior to the public hearing being scheduled, the petitioner shall review the proposal of the multi-family unit(s) with the Town Plan Commission and Board.
 - b. These units shall only be permitted on an arterial or collector street as defined in the Town Land Division Ordinance and not on an interior

subdivision street within the Town or be conversions of existing farm dwellings or other large structures where it is determined by the Plan Commission and Town Board that it is not reasonable to convert said structures from a single family residential use.

c. No more than one (1) two-unit structure on a lot may be considered when served by both a private onsite waste system and a private onsite well. All provisions of the underlying zoning district shall apply except for the following:

1. Each unit shall have a minimum floor area of nine hundred (900) square feet for a one-bedroom unit, one thousand (1,000) square feet for a two-bedroom unit, and one thousand one hundred (1,100) square feet for a three-bedroom unit.
2. The minimum open space area as required by the underlying zoning district shall apply to each unit.
3. The maximum floor area ratio shall be 1-1/2 times as required by the underlying zoning district.
4. The minimum lot area and the minimum average lot width shall be 1-1/2 times as required by the underlying zoning district.
5. Each two-unit structure shall provide a minimum of a two-car attached garage with a minimum size of 440 square feet.

d. More than one (1) two-unit structure or more than two units per structure on a lot may be considered when served by both a municipal sewer system and municipal water system. All provisions of the underlying zoning district shall apply except for the following:

1. Each unit shall have a minimum floor area of nine hundred (900) square feet for a one-bedroom unit, one thousand (1,000) square feet for a two-bedroom unit, and one thousand one hundred (1,100) square feet for a three-bedroom unit.
2. The density shall not exceed fifteen (15) dwelling units per acre if the parcel is contiguous to an incorporated municipality, and shall not exceed eight (8) dwelling units per acre if not contiguous to an incorporated municipality.
3. The minimum open space required shall be 40% and a maximum of 20% of any land zoned C-1 may be used in the calculation.
4. The maximum floor area ratio shall be 2 times as required by the underlying zoning district.5. Structures with more than two residential units shall provide a minimum of one (1) parking stall within an attached garage and a minimum of one (1) surface parking stall. The location and arrangement of the garages are subject to approval by the Town Board upon recommendation of the Town Plan Commission.

e. The method of waste disposal must be approved by the State of Wisconsin and/or Waukesha County.

SECTION 3: Title 13 entitled Zoning, Chapter 2 entitled General Provisions, Section 13-3-1 is hereby repealed and recreated to read as follows:

SEC. 13-3-1 ESTABLISHMENT OF DISTRICTS.

For the purpose of this ordinance, the Town is hereby divided into zoning districts that shall be designated as follows¹.

C-1 Conservancy
A-1 Agriculture
R-E Residence-Estate
R-SE Residence-Suburban Estate
R-1 Residence-Single Family
R-2 Residence-Single Family
R-3 Residence-Single Family
P-1 Park, Recreation and Public District
B-1 Restricted Business
B-2 Local Business
B-3 General Business
I-1 Limited Industrial
I-2 General Industrial

¹ Important Note: Within the Town of Waukesha, certain lands and water areas lie within the Waukesha County designated Floodland and Shoreland Districts, and are under the jurisdiction of Waukesha County. For use of these lands, see the Waukesha County Shoreland/Floodland Protection Ordinance, as well as this ordinance. Where lots are partially within the jurisdiction of the Waukesha County Shoreland/Floodplain Protection Ordinance and partially within the jurisdiction of the Town of Waukesha Zoning Code, the Town of Waukesha shall regulate as follows:

(1) *Structures.* For any structure that is located partially or fully within the Town of Waukesha's jurisdiction, the Town of Waukesha shall regulate the portion of the structure that is within the Town's jurisdiction, which must comply with all structure location regulations of this code, with the measurements to be made based upon the full dimensions of the lot. The height of structures shall be measured from within the Town's jurisdiction. Minimum square footage shall be measured based upon the entire square footage of the structure that is partially or fully within the Town of Waukesha's jurisdiction. Maximum square footage shall be measured based upon the entire square footage of the structure, and as applied to total square footage on the lot, shall include the square footage of all other structures on the lot.

(2) *Open Space and Floor Area Ratio.* Any structure or impervious surface constructed on any portion of a lot that is within the jurisdiction of the Town of Waukesha must comply with the open space and floor area ratio regulations of this code, with the calculation to be made based upon the full dimensions of the lot including consideration of any structures or impervious surfaces on any part of the lot.

(3) *Uses.* Any use that is conducted partially or fully within the Town of Waukesha's jurisdiction must comply the use regulations of this code.

(4) *Lots.* Any lot that is located partially or fully within the Town of Waukesha's jurisdiction must comply with the lot area regulations of this code, with the calculations to be made based upon the full dimensions of the lot.

(5) *Other.* In order to ensure that the intent of this code can be preserved within the Town's jurisdiction, in situations that are not specified above, the regulations of this code shall apply as follows. Where this code regulates issues based upon the entire dimensions of the lot, and the

owner seeks to make a change on a portion of the lot that is in the Town's jurisdiction, the Town shall regulate the matter arising within the Town's jurisdiction based upon the entire dimensions of the lot and the structures and uses thereon. Where this code regulates issues that are not based on the entire dimensions of the lot, the Town shall regulate solely the activities conducted within the Town's jurisdiction. Activities conducted solely outside of the Town's jurisdiction are not regulated by this code.

SECTION 4: SEVERABILITY. Several sections this ordinance are declared to be severable and if any section or portion thereof shall be declared by a decision of the 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 which shall remain. The remainder of the ordinance shall remain in full force and effect and 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 following approval by the Waukesha County Board of Supervisors.

Passed and approved this 14th day of May, 2015.

TOWN OF WAUKESHA, WI

By:



John Marek, Town Chairman

ATTEST


Kathy Nickolaus, Town Clerk-Treasurer