

ENROLLED ORDINANCE 170-51

AMEND THE TEXT OF THE TOWN OF EAGLE ZONING CODE TO MODIFY
SUBSECTION 3.03 (6)(a)(4) OF THE TOWN OF EAGLE ZONING CODE TO
ALLOW ACCESSORY BUILDINGS TO BE LOCATED IN FRONT OF
THE PRINCIPAL BUILDING WITH TOWN APPROVAL (ZT-1816)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Eagle Town Board on July 6, 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 Eagle Zoning Code, adopted by the Town of Eagle on November 10, 2009, is hereby amended to modify subsection 3.03 (6)(a)(4) of the Town of Eagle Zoning Code to allow accessory buildings to be located in front of the principal building with town approval, 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-1816, is hereby approved.

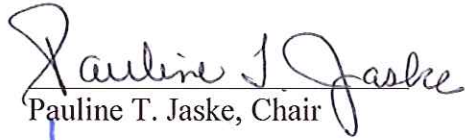
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Eagle.

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

AMEND THE TEXT OF THE TOWN OF EAGLE ZONING CODE TO MODIFY
SUBSECTION 3.03 (6)(a)(4) OF THE TOWN OF EAGLE ZONING CODE TO
ALLOW ACCESSORY BUILDINGS TO BE LOCATED IN FRONT OF
THE PRINCIPAL BUILDING WITH TOWN APPROVAL (ZT-1816)

Presented by:
Land Use, Parks, and Environment Committee

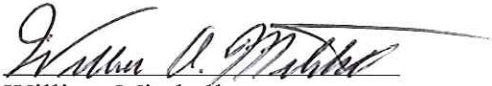

Pauline T. Jaske, Chair


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: 9/22/15, 
Kathleen Novack, County Clerk

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

Approved: X

Vetoed: _____

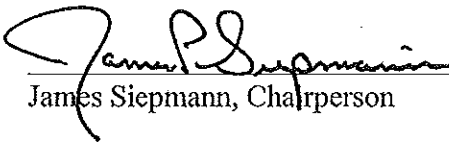
Date: 9/23/15, 
Paul Farrow, County Executive

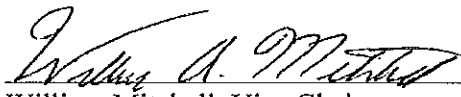
COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Eagle Zoning Ordinance hereby recommends **approval** of ZT-1816 (Text Amendment) in accordance with the attached "Staff Report and Recommendation".

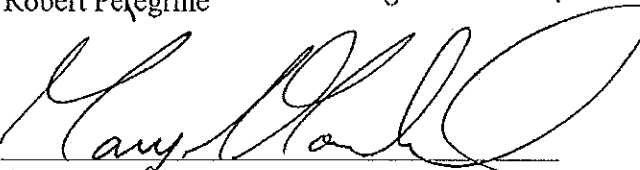
PARK AND PLANNING COMMISSION

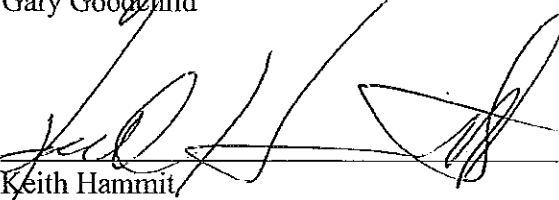
August 20, 2015

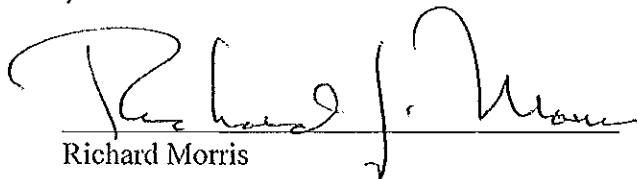

James Siepmann, Chairperson


William Mitchell, Vice Chairperson


Robert Peregrine


Gary Goodchild


Keith Hammit


Richard Morris

Absent
William Maslowski

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

FILE NO.: ZT-1816

DATE: August 20, 2015

PETITIONER: Todd and Arlene Pickett
W342 S9635 C.T.H. "E"
Eagle, WI 53119

NATURE OF REQUEST:

Amend Subsection 3.03 (6)(a)(4) of the Town of Eagle Zoning Code (Town Ordinance 2015-06) to allow accessory buildings to be located in front of the principal building with Town approval.

PUBLIC HEARING DATE:

May 4, 2015 and June 1, 2015.

PUBLIC REACTION:

A few individuals spoke in opposition to the amendment, noting that they felt the proposed change would enable all property owners to seek outbuildings in front of residences and expressed concern for such buildings being authorized outside of a variance process.

TOWN PLAN COMMISSION:

On July 6, 2015, the Town of Eagle Plan Commission unanimously recommended adoption of the proposed ordinance, with the inclusion of language referring to practical difficulty of building placement.

TOWN BOARD ACTION:

On July 6, 2015, the Town of Eagle Board unanimously approved the Zoning Ordinance Amendment as recommended by the Town Plan Commission.

OTHER CONSIDERATIONS:

The Town of Eagle recently received a request from a property owner to amend its zoning code to allow for accessory buildings to be located in front of the principal building. The petitioners own a large property (approximately 8 acres) and the home on the property sits more than 400' from the road. They wish to be able to expand an accessory building that also sits hundreds of feet from the road but is located slightly closer to the road than the home.

The existing Town Code calls for accessory buildings to be located to the rear of the principle structure. The Town Planner advised the petitioner that demonstrating a hardship would be difficult, if they were to contemplate seeking variances. He advised that a text amendment could, alternatively, be pursued. The County zoning codes do not contain such a provision and instead call for outbuildings and principle buildings to comply with a specified road setback. The proposed text amendment would allow the Town Plan Commission to grant authorization for an accessory building in front of a principal building and sets forth several considerations that the Plan Commission must take into account in making its determination. Such factors would include the size of the property, the visibility of the accessory building from the road and other properties and the practical difficulty in locating a building in a conforming location. The proposed special exception process would also provide notice of such a request to property owners within 300' of such a proposed structure.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that the proposed text amendments be **approved.** The proposed amendments give owners the ability to seek special approval for outbuildings closer to roadways than homes and sets forth clear criteria that the Town must consider in granting such waivers. Planning & Zoning Staff feels that the original drafter of the Town Code likely did not consider particularly large or unique properties in drafting the code provisions for this subject and feel that some added flexibility is very appropriate.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachment: Town Ordinance 2015-06

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ORDINANCE 2015-06

AN ORDINANCE TO AMEND SUBSECTION 3.03(6)(A)(4) OF THE TOWN OF EAGLE'S ZONING REGULATIONS TO ALLOW ACCESSORY BUILDINGS TO BE LOCATED IN FRONT OF THE PRINCIPAL BUILDING WITH TOWN APPROVAL

WHEREAS, the Town Board for the Town of Eagle adopted a zoning code for the Town of Eagle in 1990 and has amended it from time to time since then; and

WHEREAS, Todd and Arlene Pickett have submitted a petition pursuant to Section 3.03(6)(A)(4) of the zoning code to amend the text of the zoning code to allow accessory buildings to be located in front of the principal building with town approval; and

WHEREAS, the Town Clerk for the Town of Eagle has pursuant to Section 6.02(2)E) of the zoning code (1) referred the matter to the Plan Commission, (2) notified the Waukesha County Park and Planning Commission of the proposed amendment, and (3) published a class 2 public notice ; and

WHEREAS, the Plan Commission has conducted the necessary investigation, and scheduled a public hearing for the Plan Commission and the Town Board; and

WHEREAS, upon due notice the Town Board and the Plan Commission conducted a joint public hearing on May 4, 2015, which was reconvened on June 1, 2015; and

WHEREAS, within a reasonable time after the hearing, the Plan Commission has reported its recommendation to the Town Board; and

WHEREAS, the Town Board concurs with the Plan Commission's recommendation; and

WHEREAS, the Town Board for the Town of Eagle, after carefully reviewing the recommendation of the Plan Commission 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 and welfare 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 amendment will serve the public health, safety and general welfare of the Town of Eagle, 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 Eagle, Waukesha County, does hereby ordain as follows:

SECTION 1. Subsection 3.03(6)(A)(4) of the Town's zoning code is repealed and recreated as follows:

- (4) All accessory buildings shall be located behind the most recessed portion of the front of the principal building, except as provided in this subsection. The front of

the building is the face of the building closest to the street. In the case of a corner lot, the accessory structure shall meet the minimum setback requirements from all streets. Only accessory buildings for agricultural uses are permitted in front of the principal building.

Upon written petition, the town board, upon plan commission recommendation, may allow a detached accessory building to be located in front of the principal building on a parcel larger than 3 acres provided the principal building was constructed prior to October 31, 1990, which is the effective date of the Town's initial zoning ordinance. In making such decision, the plan commission and town board shall consider (1) the size of the subject property, (2) the character of the area, (3) the size of the proposed accessory building, (4) the extent to which the proposed accessory building is visible from public and private streets and other properties in the area, (5) the practical difficulty in placing the proposed accessory building in the location described in this subsection, and (6) other factors related to relevant circumstances.

SECTION 2. Section 6.06 of the Town's zoning code is created to read as follows:

6.06 SPECIAL EXCEPTIONS

Upon receiving an application for a special exception, the town clerk shall send a written notice by regular mail to all owners of land within 300 feet of the subject property at least 10 days prior to the date the special exception is to be reviewed. The failure of such notice to reach any property owner, provided such failure is not intentional, shall not invalidate any action taken by the plan commission or town board.

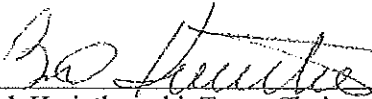
SECTION 3. SUBMITTAL TO WAUKESHA COUNTY. The Town of Eagle Town Clerk is directed to send three signed copies of this ordinance to the Waukesha County Clerk for approval of the Waukesha County Board of Supervisors.

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.

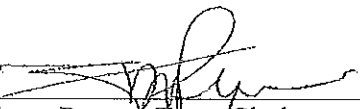
Adopted this 6th day of July 2015

TOWN OF EAGLE



Bob Kwiatkowski, Town Chairman

ATTEST:



Lynn Pepper, Town Clerk

Published and posted this 7th day of July 2015

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-09/22/15

(ORD) NUMBER-1700052

- | | |
|--------------------------|--------------------------|
| 1 R. KOLB.....AYE | 2 D. Zimmermann.....AYE |
| 3 R. MORRIS.....AYE | 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..... |
| 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.....AYE | 24 S. WHITTOW.....AYE |
| 25 G. YERKE..... | |

TOTAL AYES-23

TOTAL NAYS-00

CARRIED X

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-23