

ORDINANCE NO. 211

AN ORDINANCE TO CREATE SECTION 17.31(3) AND
AMEND SECTION 17.52(3) OF THE
VILLAGE OF OCONOMOWOC LAKE ZONING CODE
REGARDING SPECIAL EXCEPTIONS FOR
ACCESSORY STRUCTURE LOCATION FOR HIGHWAY ORIENTED AND
LEGAL NON-CONFORMING CONDITIONAL USES

WHEREAS, the Village of Oconomowoc Lake Plan Commission has initiated a zoning amendment petition regarding special exceptions for accessory structures on properties in the Village of Oconomowoc Lake that are regulated by highway oriented or legal non-conforming conditional use permits; and

WHEREAS, said rezoning petition seeks to amend the Zoning Code for the Village of Oconomowoc Lake as described herein; and

WHEREAS, said zoning amendment petition has been submitted to the Village Plan Commission of the Village of Oconomowoc Lake for report and recommendation; and

WHEREAS, the Village Plan Commission of the Village of Oconomowoc Lake has recommended to the Village Board of the Village of Oconomowoc Lake that said amendments to the Zoning Code be made; and

WHEREAS, all required data has been received pursuant to the Village of Oconomowoc Lake Zoning Code, and a public hearing was conducted by the Village Board of the Village of Oconomowoc Lake on July 21, 2003; and

WHEREAS, the Village Board of the Village of Oconomowoc Lake having carefully reviewed the recommendation of the Plan Commission of the Village of Oconomowoc Lake, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety and welfare of the community, and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to noise, dust, smoke and odor, and others, hereby determine that the public necessity, convenience, general welfare and good zoning practice requires that the rezoning be granted, as the rezoning will not violate the spirit or intent of the Zoning Code for the Village of Oconomowoc Lake, will not be contrary to the public health, safety or general welfare of the Village of Oconomowoc Lake, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, 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 the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendations found in the Village of Oconomowoc Lake master plan.

NOW, THEREFORE, the Village Board of the Village of Oconomowoc Lake, Waukesha County, Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Chapter 17 of the Village of Oconomowoc Lake Municipal Code entitled "Zoning Code", Section 17.31 entitled "Modifications", subsection (3) entitled "Accessory Structure Location for Highway Oriented and Legal Non-Conforming Conditional Uses" is hereby created as follows:

17.31 ...

**(3) ACCESSORY STRUCTURE LOCATION FOR HIGHWAY ORIENTED AND LEGAL
NON-CONFORMING CONDITIONAL USES**

Upon petition from a property owner, the Village Plan Commission may grant special exception(s) to the location requirements of this Chapter for accessory structure(s), subject to all of the following conditions:

- (a) This subsection 17.31 (3) only applies to properties that have been granted a conditional use permit pursuant to Section 17.55 (Highway Oriented Uses) or Section 17.32(5) (Legal Non-conforming Conditional Use).
- (b) This subsection 17.31(3) only applies to properties that have a non-residential principal use.
- (c) Special exception may be granted under this subsection 17.31(3) only with regard to the setback, street setback, offset, distance to residence on adjoining lot, waterfront setback, wetland setback and/or accessory structure location requirements of this Chapter. Special exception is prohibited if the requested location, structure, or use thereof, would conflict with any applicable federal, State of

Wisconsin, or County of Waukesha codes, statutes, rules, ordinances or lawful orders, or with any Village of Oconomowoc Lake ordinances other than the matters noted in this subsection

- (d) Special exception under this subsection 17.31(3) is prohibited if the special exception would conflict with the express requirements of the conditional use permit affecting the property.
- (e) Special exception can be granted under this subsection 17.31(3) for only the following types of accessory structures: fences, signs, lights, bleachers, and storage sheds that are no larger than 16 feet by 16 feet and 256 total square feet in size.
- (f) The Plan Commission shall either grant or deny the special exception, or grant the special exception upon specified reasonable conditions. To grant or conditionally grant the special exception, the Plan Commission must find that the requested accessory structure will not be adverse to the public health, safety or welfare; will not be in conflict with the spirit or intent of this Chapter; and will not otherwise be detrimental to the Village of Oconomowoc Lake or the immediate neighborhood where the accessory structure would be located. The Plan Commission shall issue its decision in writing, including any conditions of approval, and shall provide a copy of the decision to the petitioner. The decision of the Plan Commission shall be final, and cannot be appealed to the Zoning Board of Appeals.

- (g) A special exception granted herein shall be effective once it is recorded against the property by the property owner, and shall run with the land in perpetuity unless stated otherwise in the Plan Commission's decision, and subject to subsection (h), below.
- (h) Should a structure approved by special exception be abandoned in any manner, or discontinued in use for twenty four (24) months, or continued other than in strict conformity with the conditions of the original approval, or should a change in the character of the surrounding area or of the accessory structure itself cause it to be no longer compatible with the surrounding areas, or for similar cause based upon considerations of public health, safety or welfare, the special exception may be terminated by action of the Village Board following referral to the Village of Oconomowoc Lake Plan Commission for recommendation and a public hearing thereon.

SECTION 2: Chapter 17 of the Village of Oconomowoc Lake Municipal Code entitled "Zoning Code", Section 17.52 entitled "Review and Approval", subsection (3) is hereby repealed and recreated as follows:

17.52 ...

- (3) Compliance with all other provisions of this chapter, such as lot width and area, setback and offsets and height, including such provisions as may be established in ss 17.56, shall be required of all conditional uses. Variances shall only be granted as provided

in § 17.61. Modifications and special exceptions shall be allowed, however, as provided in § 17.31.

SECTION 3: 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 4: EFFECTIVE DATE.

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

Dated this 30th day of July, 2003.

VILLAGE OF OCONOMOWOC LAKE


RAYMOND FOSTER, VILLAGE PRESIDENT

ATTEST:


Barbara Stern, Village Clerk

Published and/or posted this 30th day of July, 2003.

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

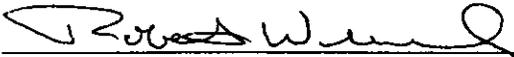
AFFIDAVIT OF POSTING

ORD# 211

The undersigned, being first duly sworn, on oath deposes and states that on July 30, 2003, at the direction of the Clerk of the Village of Oconomowoc Lake, he posted copies of the foregoing proceedings of the Village Board in the following public places in said Village:

to-wit:

- (1) Opposite the entrance to the Oconomowoc Lake Club on the northern side of the road in front of the Club;
- (2) At the entrance to the Village Hall on West Pabst Road;
- (3) At the Village Boat Launch located at 35622 E. Wisconsin Avenue.


Posting Officer

Subscribed and sworn to before me

This 30th day of July, 2003

Barbara Stern
Notary Public, Waukesha County, Wisconsin
My Commission expires: 4-15-07