

**ORDINANCE NO. 277**

**AN ORDINANCE TO REPEAL AND RECREATE SECTION 17.32(2)  
ENTITLED EXISTING NONCONFORMING STRUCTURES  
IN THE VILLAGE OF OCONOMOWOC LAKE ZONING CODE**

WHEREAS, the Village Administrator has recommended that the Village Zoning Code be amended to clarify what can occur below grade with a legal nonconforming structure on a parcel containing legal conforming uses; and

WHEREAS, upon receipt of the Village Administrator's recommendation, the Village Plan Commission initiated this amendment to the Village of Oconomowoc Lake Village Code; and

WHEREAS, upon receipt of the Village Plan Commission's recommendation, the Village Board of Trustees held a public hearing on June 16, 2014, after providing all notice, as required by §17.62(5)(a) of the Village of Oconomowoc Lake Village Code; and

WHEREAS, the Village Board for the Village of Oconomowoc Lake finds that the public necessity, convenience, general welfare and good zoning practice requires the Village Board to amend, change or supplement the regulations established by the Village of Oconomowoc Lake Zoning Code as described herein.

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

SECTION 1: Section 17.32 entitled Nonconforming Uses, Structures and Lots, subsection 17.32(2) entitled EXISTING NONCONFORMING STRUCTURES of the Village of Oconomowoc Lake Zoning Code is hereby repealed and recreated to read as follows:

**17.32 NONCONFORMING USES, STRUCTURES AND LOTS.**

**(2) EXISTING NONCONFORMING STRUCTURES**

A lawful structure on a parcel which existed at the time of the adoption or amendment of this chapter may be continued as a legal nonconforming structure although the structure's size or location does not conform to all the requirements of this chapter; however,

- (a) A legal nonconforming structure on a parcel containing a single conforming use on the parcel may be totally rebuilt if, and only if, such reconstruction is identical in all respects to the size, shape, height, location, footprint, style and use of the original structure above grade. Additional below grade space may be built even though it will increase the size of the legal nonconforming structure as long as the portion of the structure below grade does not in any way exceed the existing footprint of the legal nonconforming structure,

there is no change in any way to the exterior view of the legal nonconforming structure and there is no change to any exposed elevation of the legal nonconforming structure.

- (b) A legal nonconforming structure on a parcel containing a single conforming use on the parcel, subject to Architectural Control Board approval, may be reduced in size, may have its shape modified, may have its height lowered, and may have its style modified, as long as the proposed structure is identical in all respects to the location, footprint and use of the original structure.
- (c) A legal nonconforming structure on a parcel containing a single conforming use on the entire parcel subject to the grant of a variance from the Zoning Board of Appeals may be increased in size, may be increased in shape, may be increased in height, and the location and footprint may be modified. A variance is not required to increase the size of below grade space of a legal nonconforming structure as set forth in (a) above.
- (d) Regardless of the foregoing provisions in this subsection (2), the footprint of a legal nonconforming primary residence on a parcel containing a single conforming use on the entire parcel, subject to Architectural Control Board approval, may be expanded into areas of the lot where the expansion fully complies with all offset and setback requirements of the District in which it is located, provided that the expansion is otherwise in compliance with all applicable laws. In passing upon such matters, the Architectural Control Board shall consider all of the following factors: the size of the lot; the size and location of the existing legal nonconforming structure; the size and location of any other structures on the lot; the size and location of the proposed expansion; the impact, if any, that the expansion may have upon neighboring properties; whether the proposed expansion would violate the intent of the Zoning Ordinance; and such other matters as the Architectural Control Board finds to be relevant in the interests of the public health, safety, welfare, and protection of property values of the Village.

## SECTION 2: 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 3: EFFECTIVE DATE.

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

Dated this 16th day of June, 2014.

VILLAGE OF OCONOMOWOC LAKE



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Joseph L. Birbaum, Village President

ATTEST:



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Cindy J. Schieve, Village Clerk

Published and/or posted this 23rd day of June, 2014.

