

ORDINANCE NO. 295

AN ORDINANCE TO REPEAL AND RE-CREATE PORTIONS OF SECTION 17.32 OF THE VILLAGE OF OCONOMOWOC LAKE ZONING CODE CONCERNING NONCONFORMING STRUCTURES AND LOTS TO COMPLY WITH CURRENT STATE LAWS

WHEREAS, the Village Zoning Administrator has recommended that changes be made throughout the Zoning Ordinance based adoption of State Statutes modifying Section 62.23; and

WHEREAS, upon publication of a Class 2 Notice per Chapter 985 Wisconsin Statutes once each week for two consecutive weeks prior to the hearing, and upon at least 10 days prior written notice to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed Zoning Code territory as required by Wisconsin Statutes Section 62.23(7)(d), the Village Board held a public hearing regarding the tentative recommendation, on October 15, 2018; and

WHEREAS, the Village Plan Commission of the Village of Oconomowoc Lake has recommended the ordinance be adopted; and

WHEREAS, the Village Board finds that this change to the Village Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, the Village Board of the Village of Oconomowoc Lake has referred the matter to the Village Plan Commission for the Village of Oconomowoc Lake for consideration and recommendation; and

WHEREAS, pursuant to Section 17.62(4) of the Village Code, the Village Plan Commission has reviewed the proposed changes and has made its recommendations to the Village Board; and

WHEREAS, upon consideration of the tentative recommendations made by the Village of Oconomowoc Lake Plan Commission, and of all the information received at the public hearing, and being fully advised; and for the purpose of promoting the health, safety, morals and the general welfare of the community; and to provide for a safe and efficient system for pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, economic design and location of public and private utilities and community facilities, and to ensure adequate standards of construction and planning; and to zone the land in accordance with the Village of Oconomowoc Lake Comprehensive Plan; and to lessen congestion in the streets, to

secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to encourage the protection of groundwater resources, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, and to preserve burial sites; and upon reasonable consideration of, among other things, the character of the Districts hereby created and their particular suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Village of Oconomowoc Lake, the Village Board of the Village of Oconomowoc Lake, Waukesha County, Wisconsin hereby adopts the recommendations of the Village of Oconomowoc Lake Plan Commission;

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

SECTION 1: Chapter 17 of the Village of Oconomowoc Lake Village Code entitled, "Zoning Code," Section 17.32, entitled "Nonconforming Uses, Structures and Lots," Subsection (2) entitled, "Existing Nonconforming Structures," Subsection (a) is hereby repealed and recreated as follows:

- (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, or as allowed by Wisconsin Statutes §62.23(7)(hc) 2. 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.

SECTION 2: Chapter 17 of the Village of Oconomowoc Lake Village Code entitled, "Zoning Code," Section 17.32, entitled "Nonconforming Uses, Structures and Lots," Subsection (2) entitled, "Existing Nonconforming Structures," Subsection (c) is hereby repealed and recreated as follows:

- (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~~ in circumstances when expansion is permitted as set forth in (a) above.

SECTION 3: Chapter 17 of the Village of Oconomowoc Lake Village Code entitled, "Zoning Code," Section 17.32, entitled "Nonconforming Uses, Structures and Lots," Subsection (3) entitled, "Existing Nonconforming Lots," Subsection (a) is hereby repealed and recreated as follows

(a) ~~If a legal nonconforming lot is not in separate ownership from abutting lots, none of the lots shall be sold or used without all of the nonconforming lots being in full compliance with the provisions of this chapter unless all of the nonconforming lots have conforming or legal nonconforming single family residences upon them prior to the adoption or amendment of this chapter or unless each of the legal nonconforming lots were created by an approved certified survey map by the Village Board in compliance with this chapter and Chapter 18 entitled Subdivision and Platting as they existed at the time the now legal nonconforming lots were originally approved and recorded with the Register of Deeds Office the substandard lot may be conveyed, but shall not be used as a building site unless all of the following apply:~~

(1) The substandard lot has never been developed with one or more of its structures placed partly upon an adjacent lot; and

(1)(2) The substandard lot is developed to comply with all other ordinances of the Village.

This subsection is to be interpreted in compliance with Wisconsin Statute §66.10015.

SECTION 4: 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 ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 5: CONTINUATION OF EXISTING PROVISIONS

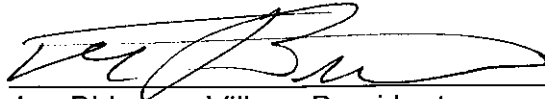
The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in effect, and the repeal of any such provisions is stayed pending the final resolution of such actions, including appeals.

SECTION 6: EFFECTIVE DATE

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

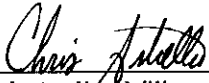
Dated this 1 day of November, 2018.

VILLAGE OF OCONOMOWOC LAKE



Joe Birbaum, Village President

ATTEST:



Chris Astrella, Village Clerk

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