

ORDINANCE NO. 212

AN ORDINANCE TO CREATE
SECTION 17.385 ENTITLED
R-4 LOW DENSITY RESIDENTIAL DISTRICT,
AND RELATED ZONING CODE AMENDMENTS
IN THE VILLAGE OF OCONOMOWOC LAKE ZONING CODE

WHEREAS, the Village of Oconomowoc Lake has annexed lands and attached lands that were subject to the Waukesha County Shoreland and Floodland Protection Ordinance; and

WHEREAS, pursuant to Wisconsin Statutes Section 59.692(7)(a), the requirements of the Waukesha County Shoreland and Floodland Protection Ordinance continue to apply to these lands until the Village of Oconomowoc Lake adopts Village ordinances that are at least as restrictive as the Waukesha County ordinance; and

WHEREAS, the Village Board of the Village of Oconomowoc Lake intends to impose local zoning ordinance requirements that are at least as restrictive as the Waukesha County Shoreland and Floodland Protection Ordinance upon the annexed lands,

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 17.385 entitled "R-4 Low Density Residential District" is hereby created as follows:

17.385 R-4 LOW DENSITY RESIDENTIAL DISTRICT

- (1) PRINCIPAL USE. Single-Family dwelling
- (2) CONDITIONAL USES. Those uses permitted in ss. 17.53, 17.54, and 17.56, subject to the procedures and standards as outlined in ss. 17.50, 17.51, and 17.52.
- (3) BUILDING, MAIN.

- (a) Height. Not to exceed any of the following height limitations:
1. 35 feet when measured as the vertical distance from the average established street grade in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gambrel of a gambrel, hip or pitch roof.
 2. 21 feet when measured from the lowest point of the exposed structure to the highest floor line.
 3. 30 feet when measured from the lowest point of the exposed structure to any eave line.
 4. 40 feet when measured from the lowest point of the exposed structure to the highest point of any roof.
 5. It is the intent of this section that no more than three (3) stories of habitable space shall exist. Where these calculations differ, the lowest maximum height derived from these calculations applies.
- (b) Area. Minimum First Floor 1,000 sq. ft.; Minimum total 1,500 sq. ft. The calculation of area does not include any portion of a basement floor ("basement floor" being very broadly defined for purposes of this provision to include the entire floor area of any floor that has a lower elevation at any point than the lowest grade abutting the building, even if the floor includes exposed or walk-out features. This is intended to be more restrictive than the term "building area" as defined in Section 17.10.)
- (c) Street Setback. Minimum 50 ft.; subject to Section 17.385(5) below.
- (d) Offset. Minimum 20 ft.; Aggregate 40 ft.; subject to Section 17.385(5) below.
- (e) Waterfront Setback. Minimum 75 ft.; subject to Section 17.385(5) below.
- (f) Wetland Setback. Minimum 75 ft.; subject to Section 17.385(5) below.
- (g) Maximum F.A.R.: Fifteen percent (15%). The term "floor area ratio" or F.A.R. shall be used to indicate the total floor area of buildings allowed on a given lot, expressed as a percentage ratio to the total area of the lot;

i.e., an F.A.R. of one hundred percent (100%) allows a floor area equal to the total area of the lot, an F.A.R. of fifty percent (50%) allows a floor area of one-half the total area of the lot, etc.

(4) STRUCTURE, ACCESSORY.

- (a) Height. Maximum 15 ft.
- (b) Setback. Minimum 50 ft.; subject to Section 17.385(5) below.
- (c) Offset. Minimum 20 ft.; subject to Section 17.385(5) below.
- (d) Distance to residence on adjoining lot. Minimum 50 ft.; subject to Section 17.385(5) below.
- (e) Waterfront Setback. Minimum 75 ft.; subject to Section 17.385(5) below.
- (f) Wetland Setback. Minimum 75 ft.; subject to Section 17.385(5) below.
- (g) Accessory Structure Location. No accessory structure shall be located between the main building and the high water mark, in the offset areas of the main building, or on an outlot ("outlot" being defined for purposes of this provision as land that is legally bound to a lot, that is not physically contiguous to the part of the lot that is improved with a main building, due to separation by water, by public right of way, or by any other physical separation).
- (h) Accessory Building Floor Area. The total floor area of accessory buildings shall not exceed 3% of the area of the lot. An attached garage shall not be included in the 3% limitation. Notwithstanding this 3% limitation, larger floor areas are permitted on lots that are subject to a conditional use permit, if specifically granted by conditional use permit, and subject to compliance with the requirements of the conditional use permit.
- (i) Accessory Building Architecture. All accessory buildings shall be constructed in a way that the exterior

appearance is compatible with the design, style, architecture and appearance of the main building on the lot. This determination shall be made by the Architectural Control Board as described in Section 17.60 of this ordinance.

(j) Accessory Building Use.

In no case shall an accessory building be used for purposes not allowed in the R-4 District or authorized by conditional use permit if applicable.

(k) Accessory Building Quantity.

In no case shall more than one accessory building be allowed on a lot.

(l) Accessory Building Nonconformity.

No legal non-conforming accessory building shall be rebuilt or replaced.

(5) SETBACK AND OFFSET MODIFICATIONS.

The setback and offset regulations described in Sections 17.385(3) and (4) shall not be modified except upon the approval of the Architectural Control Board upon consideration of the issues noted in Section 17.60(8), and the subsequent approval of the Plan Commission upon consideration of the issues noted in Section 17.02 and 17.03, and if such approvals are both granted then a special exception may be granted by the Board of Zoning Appeals but only as to the limited issues described in this Section 17.385(5). No public hearings shall be required for the Board of Zoning Appeals to consider the special exception, or for the Architectural Control Board to consider the matter, and compliance with Sections 17.61(6), 17.60(7), and other provisions of this Ordinance which otherwise might require a public hearing shall not apply with regard to special exceptions considered under this subsection. A public hearing shall be required by the Plan Commission to consider the matter. Said public hearing notice and procedural requirements shall be as set forth in Section 17.61(6). The Architectural Control Board, Plan Commission and/or Board of Zoning Appeals may each place conditions or restrictions on their approvals, including but not limited to conditions related to shoreland protection, when granting setback and offset modifications.

The following setback and offset modifications only apply if approved by the Architectural Control Board, Plan Commission and Board of Zoning Appeals as described above:

(a) Setbacks.

1. No building shall be hereafter erected, altered, horizontally added to, relocated or placed within the setback distance specified by the regulations described in Sections 17.385(3) and (4) except as specified here-in-after:
 - (a) If there is a building which is non-conforming with respect to street right-of-way setback, with a similar use as the proposed building, located on an adjacent parcel on one side of the proposed building or within two hundred (200) feet of the proposed building, the average of the street right-of-way setback of that building of similar usage and the required minimum street right-of-way setback may be allowed.
 - (b) If there are two (2) buildings which are non-conforming with respect to street right-of-way setback, with similar uses as the proposed building, located on adjacent parcels on each side of said building or within two hundred (200) feet of the proposed building, the average of the street right-of-way setback of those buildings of similar usage may be allowed.
 - (c) In the case of a proposed addition to an existing building which has less than the required street right-of-way setback, the street right-of-way setback of such existing building may be used to determine the required street right-of-way setback for the proposed addition, as set forth above.
2. Additions to and replacements of existing buildings may be made within the established street right-of-way provided the owner will file, with the Waukesha County Register of Deeds, an agreement in writing, in a form subject to the approval of the Village Board, to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this Ordinance at his expense, when said right-of-way is necessary for the improvement of the highway.
3. On corner lots of record, as of the date of adoption of this Ordinance, the effect of the setback regulations shall not reduce

the buildable width of such corner lot to less than thirty (30) feet. Where such reduction would result in an area narrower than thirty (30) feet after applying the offset reduction, the setback or offset provision may be modified to the extent necessary to minimize the encroachment on both the offset and setback standard while maintaining the thirty (30) feet area required herein.

4. Every building shall be setback seventy-five (75) feet from the ordinary high water mark of navigable waters, the one hundred-year flood or the conservancy/wetland district except as it relates to a principal building in an area where an existing pattern of development exists which is less than the seventy-five foot requirement in which case the average of the existing principal building shore setback on either side of the principal building may be used to compute the setback for the principal building only. The method of computation shall be similar to the setback averaging feature for street right-of-way setbacks contained in section 17.385(5)(a)(1) as it would apply to the principal building only. Notwithstanding the application of the setback averaging feature, no modification may be allowed for closer than twenty-five (25) feet from the ordinary high water mark, the floodplain or the conservancy/wetland district unless specifically excepted by another provision of this ordinance.
5. In the case of an extension or addition to a building which lies closer than the minimum required street right-of-way or shore setback requirements, and where such extension would not extend closer to the established setback line or shoreline than the existing building to which it is attached using the averaging formula, such extension or addition may be allowed as long as said extension or addition does not encroach closer to the required setback or shoreline than the existing structure to which it is attached.

(b) Offsets:

1. No principal building or its accessory building shall be erected or altered so that any roofed or enclosed portion thereof is closer to any lot line than the offset distance specified by the regulations described in Sections 17.385(3) and (4) except as specified here-in-after:

- (a) In the case of a lot record, which has a minimum average width of less than one hundred and twenty (120) feet, the offset for the principal building from a side lot line may be reduced proportionately to the ratio between the actual average width and one hundred and twenty (120) feet, but not less than ten (10) feet.
- (b) Offsets for detached accessory buildings exceeding two hundred (200) square feet in area on lots of one hundred and twenty (120) feet in width or less may be reduced to an amount equal to the proportionate amount between the actual width and one hundred and twenty (120) feet, but not less than five (5) feet. However, no detached accessory building shall be located closer than ten (10) feet to any building used for human habitation.
- (c) When a detached accessory building on an adjacent lot lies closer than five (5) feet of the common lot line, a new detached accessory building may be allowed to be located the same distance from the common boundary as the existing detached building on the adjacent lot. If they lie closer than ten (10) feet of each other, the new detached accessory building shall contain a fire wall sufficient to meet the one hour fire rating contained in the building code, however detached accessory building side walls may be no closer than three (3) feet. In order to accomplish proper maintenance, a deed restriction shall be recorded prior to issuance of the building permit prohibiting the construction of fences between said buildings and permitting maintenance of said buildings from adjacent properties where deemed necessary by the Plan Commission, Architectural Control Board or Board of Zoning Appeals.
- (d) One (1) detached accessory building which is less than two hundred (200) square feet in area may be allowed to be offset five (5) feet, unless otherwise excepted under any other provision.
- (e) In the case of an extension or addition to a building into the minimum offset distance, and where such extension would not extend closer to the side lot line than the existing building to which it is attached, such extension

or addition may be allowed as long as said extension or addition does not encroach closer to the side lot line than an existing structure to which it is attached.

(6) LOT.

(a) Width. Minimum 120 ft.

(b) Area. Minimum 30,000 sq. ft.

(7) OPEN SPACE.

Twenty-five thousand (25,000) square feet minimum per residence.

(8) WAUKESHA COUNTY SHORELAND ORDINANCE.

The provisions of the Waukesha County Shoreland and Floodland Protection Ordinance that were applicable on December 26, 2000 for any territory in the R-4 District immediately prior to that territory being annexed or attached to the Village that are more restrictive than this Zoning Code are incorporated herein by reference, and shall be enforced by the Village, to the extent necessary to comply with Section 59.692(7)(a), Wisconsin Statutes.

SECTION 2: Chapter 17 of the Village of Oconomowoc Lake Village Code entitled "Zoning Code," Section 17.61 entitled "Board of Zoning Appeals," Subsection 17.61(4) entitled "Powers," subsection 17.61(4)(h) entitled "Special exceptions" is hereby created as follows:

- (h) Special exceptions. The Board may grant a special exception on a case by case basis regarding setbacks and offsets for property located in the R-4 Low Density Residential District in the limited circumstances described in Section 17.385(5), upon the prior approval of the Plan Commission and Architectural Control Board as described therein.

SECTION 3: Chapter 17 of the Village of Oconomowoc Lake Village Code entitled "Zoning Code," Section 17.61 entitled "Board of Zoning Appeals," Subsection 17.61(3) entitled "Organization," subsection 17.61(3)(d) is hereby repealed and recreated as follows:

- (d) The concurring vote of four (4) members of the Board shall be necessary to correct an error; grant a variance; grant a special exception; make an interpretation; and permit a temporary use.

SECTION 4: Chapter 17 of the Village of Oconomowoc Lake Village Code entitled "Zoning Code," Section 17.61 entitled "Board of Zoning Appeals," Subsection 17.61(4) entitled "Powers," subsection 17.61(4)(b) entitled "Variance" is hereby repealed and recreated as follows:

- (b) Variance. To hear and grant appeals for variances that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted. Setback variances shall not be granted by the Board of Zoning Appeals without separate public hearing by the Board of Zoning Appeals and the Plan Commission, approval of the Plan Commission pursuant to Section 17.02 and Section 17.03, and approval of the Architectural Control Board pursuant to Section 17.60, herein; however, the Architectural Control Board is not required to conduct a public hearing, and therefore need not comply with Section 17.60(7) with regard to the matters considered under this subsection.

SECTION 5: SEVERABILITY.

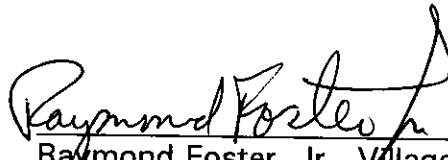
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, 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 6: EFFECTIVE DATE.

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

Dated this 17th day of November, 20 .

VILLAGE OF OCONOMOWOC LAKE


Raymond Foster, Jr., Village President

ATTEST:


Barbara Stern, Village Clerk

Published and posted this 19th day of November, 2003.

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STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

AFFIDAVIT OF POSTING

Ord # 212
R4 Residential District

The undersigned, being first duly sworn, on oath deposes and states that on Nov 19, 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.

Robert W. Wund
Posting Officer

Subscribed and sworn to before me

This 19th day of Nov, 2003

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