

Enrolled 157-88  
PROPOSED ORDINANCE 157-90-

1  
2  
3 AMEND THE TEXT OF THE TOWN OF DELAFIELD ZONING CODE CREATING  
4 PROVISIONS FOR "RUSTIC STRUCTURES," SECTION 17.06 TO BE RENAMED  
5 "ACCESSORY USES, ACCESSORY BUILDINGS AND OTHER STRUCTURES,"  
6 AND SECTION 17.06 3. TO BE REPEALED AND RECREATED TO READ  
7 "ACCESSORY BUILDINGS OR STRUCTURES"  
8 (ZT-1445)  
9

10  
11 WHEREAS the subject matter of this Ordinance having been approved by the Delafield Town  
12 Board on March 12, 2002, after Public Hearing and the giving of requisite notice of said hearing,  
13 and duly referred and considered by the Waukesha County Park and Planning Commission and a  
14 recommendation thereon reported to the Land Use, Parks and Environment Committee and the  
15 Waukesha County Board of Supervisors as required by Section 60.61 of the Wisconsin Statutes.  
16

17 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES  
18 ORDAIN that the Ordinance amending the text of the Town of Delafield Zoning Ordinance,  
19 approved by the Delafield Town Board on July 20, 1998, creating provisions for "Rustic  
20 Structures", Section 17.06 to be renamed "Accessory Uses, Accessory Buildings and Other  
21 Structures", and Section 17.06 3. to be repealed and recreated to read "Accessory Buildings or  
22 Structures", and more specifically described in the "Staff Report and Recommendation" on file  
23 in the office of the Waukesha County Department of Parks and Land Use and made a part of this  
24 Ordinance by reference (ZT-1445), is hereby approved.  
25

26 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of  
27 this Ordinance with the Town Clerk of Delafield.  
28

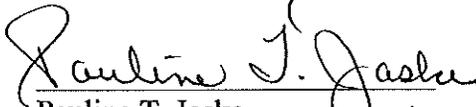
29 BE IT FURTHER ORDAINED that the Ordinance shall be in full force and effect upon passage,  
30 approval and publication.  
31

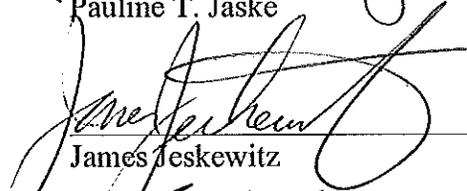
32 BE IT FURTHER ORDAINED that all Ordinances inconsistent with or with contravention of  
33 provisions of this Ordinance are hereby repealed.

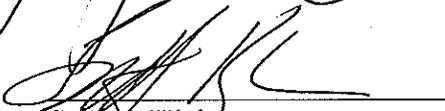
AMEND THE TEXT OF THE TOWN OF DELAFIELD ZONING CODE CREATING PROVISIONS FOR "RUSTIC STRUCTURES," SECTION 17.06 TO BE RENAMED "ACCESSORY USES, ACCESSORY BUILDINGS AND OTHER STRUCTURES," AND SECTION 17.06 3. TO BE REPEALED AND RECREATED TO READ "ACCESSORY BUILDINGS OR STRUCTURES" (ZT-1445)

Presented by:  
Land Use, Parks, and Environment Committee

  
Walter L. Kolb, Chair

  
Pauline T. Jaske

  
James Teskewitz

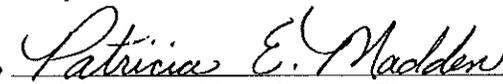
  
Scott J. Klein

  
Daniel Pavelko

  
Vera Stroud

  
Matt Thomas

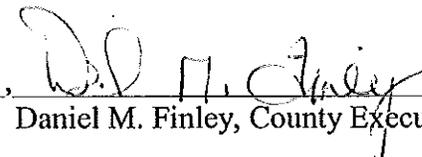
The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: December 17, 2002,   
Patricia E. Madden, County Clerk

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

Approved: ✓

Vetoed: \_\_\_\_\_

Date: 12-17-02,   
Daniel M. Finley, County Executive

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

DATE: May 9, 2002

FILE NO.: ZT-1445

PETITIONER/OWNER: Delafield Town Board  
Town of Delafield Town Hall  
N14 W30782 Golf Road  
Delafield, Wisconsin 53018

NATURE OF REQUEST:

Text Amendments creating a provisions for "Rustic Structure"; Section 17.06 shall be renamed "Accessory Uses, Accessory Buildings and Other Structures"; and Section 17.06 3. shall be repealed and recreated to read "Accessory Buildings or Structures" of the Zoning Ordinance for the Town of Delafield.

PUBLIC HEARING DATE:

February 12, 2002.

PUBLIC REACTION:

None.

TOWN PLAN COMMISSION ACTION:

The Town of Delafield Plan Commission, at their meeting of January 3, 2002, recommended approval of the text amendments.

TOWN BOARD ACTION:

The Town of Delafield Board, on March 12, 2002, voted unanimously in favor of the text amendments.

OTHER CONSIDERATIONS:

The Town of Delafield is proposing amendments of their Zoning Code as they relate to the provision for a new category of accessory structures called "rustic structures". The intent of this provision is to define what a "rustic structure" is, which is any structure as being distinct due to construction techniques, materials, age, historic significance or indicative of past agricultural practices or the rural life of the community, regardless of whether they are presently being used or not. Those buildings will not be counted against the open space provisions. The Plan Commission, in case of any question, will have the authority to determine in case of question whether or not any structure will be considered a rustic building structure. All of the open space standards remain the same under the new provision except where a designated "rustic structure" is in existence, it will not be used in the calculation for the open space minimum requirements of the various zoning districts in which said building may exist.

STAFF RECOMMENDATION:

It is the opinion of the staff that this request be approved. We feel the provision will afford the Town of Delafield an opportunity to preserve its rural and agricultural heritage through the designation and protection of these significant rustic buildings and structures where they exist in the Town and will be exempt from the open space calculation, which we feel is appropriate due to their historic or rustic designation. In addition, the provision to allow the designation of the structure up to the Plan Commission

157-0-017

is valid, as it provides an opportunity for such structures to be reviewed where determinations are made by a Code Enforcement Officer and where there is any question as to the status of such a building.

Respectfully submitted,

*Richard L. Mace*  
Richard L. Mace  
Planning and Zoning Manager

RLM:smv/kab

N:\PLU NEW FILE SYSTEM (IN-PROGRESS)\PLANNING & ZONING\REZONES (RZ)\STAFF REPORTS\1447.DLT(DELAFIELD TEXT AMENDMENT).DOC



## MEMORANDUM

To: Waukesha County Land Use, Parks and Environment Committee

From: Richard L. Mace

Date: November 20, 2002

Re: ZT-1445 Rustic Structure Ordinance  
Town of Delafield

---

On November 18, 2002, the Town of Delafield Clerk sent to the Waukesha County Land Use, Parks and Environment Committee, a revised Town of Delafield Zoning Ordinance amendment approved by the Town of Delafield Board of Supervisors on September 11, 2002. The amendments provided in this "rustic structures" provision were made at the suggestion of the Land Use, Parks and Environment Committee at their meeting of June 4, 2002. At that time, three issues were discussed and those matters were referred back to the Town. They are as follows:

1. Whether any Deed Restrictions would be placed on properties containing such structures, whereby the applicant would have to maintain said structures to a specified standard, and whether the Deed Restriction would restrict the owner of the property from removing said structure, or whether there was any policy regarding residents in the area as they pertain to the removal or long-term maintenance of said structures.
2. Whether there were any provisions for the proposed use of the large accessory structures or barns, or would agricultural uses would be allowed adjacent to residential areas. They questioned whether these structures would become sites for illegal businesses or storage facilities for boats, trailers or other equipment.

3. They were concerned as to whether there were any minimum lot sizes on which the rustic structures would be allowed to be retained, as they seem to be exempt from the Open Space Provisions on lots more than 20,000 sq.ft. in area. For instance, they questioned if there was a 21,000 sq.ft. lot with a 60' x 120' barn (which is 33% of the total lot area) whether this was appropriate in a residential area. They questioned whether there would be any minimum lot sizes on which these rustic structures would be allowed to be retained.

The most recently passed amendment dated September 11, 2002, addresses all of these issues. A provision is included requiring a Maintenance Agreement, acceptable to the Town Board and recordable in the Waukesha County Register of Deeds office, suggesting that the structure was to be preserved and if the structure is ever removed, any new building would have to meet the minimum requirements of the zoning district in which it is located.

The second issue is what the uses of these structures could be put to. The provision now contains language indicating they cannot be used for, 1) any income producing business; 2) the storage of vehicles, which are not the personal vehicles of the owner of the property, or 3) the keeping of animals, beyond that which would be allowed in the underlying zoning district. In addition, these restrictions had to be incorporated into the above-cited Deed Restriction, prior to issuance of any Building Permits or approval of the Plan Commission or the Town Board.

The last issue was the minimum size requirements for parcels and open space on the parcels, which were to contain the "rustic structures". The provisions now indicate the footprint of any rustic structure cannot occupy more than 25% of the parcel area and they can be allowed without a principal building being in existence subject to Maintenance and Deed Restriction provisions that were referred to above.

Accordingly, it is the opinion of the Planning and Zoning Division Staff that the issues raised by the Waukesha County Land Use, Parks and Environment Committee at their June 4, 2002, agenda have been satisfied.

RLM:kab

cc: Town of Delafield Clerk  
Town of Delafield Plan Commission  
Town of Delafield Board of Supervisors  
File

ORDINANCE NO. 2002 - 09 - 002A

AN ORDINANCE CREATING PROVISIONS FOR RUSTIC STRUCTURES AND REPEALING AND RECREATING PROVISIONS AFFECTED THEREBY OF THE ZONING ORDINANCE IN THE TOWN OF DELAFIELD

WHEREAS, the Town Board of the Town of Delafield recognizes that there may be structures within the community which reflect the Town's past or are of such unique character due to their construction, use of materials or agricultural use that they should be allowed to remain in the face of development; and,

WHEREAS, although the Town Board desires to accommodate such structures, it recognizes a need to provide some guidance to the public so as to inform them of the standards under which such structures may remain or be incorporated into the community.

NOW THEREFORE, The Town Board of the Town of Delafield, Waukesha County, Wisconsin, DOES ORDAIN AS FOLLOWS:

SECTION 1: Section 17.02.2, Specific Words and Phrases, of the Zoning Code, is amended to add the following word and definition:

"Rustic structure. Any existing structure permanently located on property, which is set apart from other structures as being distinct due to its construction technique, materials, age, local historic significance or design, and characteristic of past agricultural practices or rural life, whether presently utilized or not for agricultural practice and which is structurally safe."

SECTION 2: Section 17.06 shall be renamed: Accessory Uses, Accessory Buildings, and Other Structures.

SECTION 3: Section 17.06 3. Shall be repealed and recreated to read as follows:

## 1. ACCESSORY BUILDINGS OR STRUCTURES.

Any accessory building or accessory structure over 200 square feet in area in any District may be submitted to the Plan Commission if deemed necessary by the Code Enforcement Officer for approval. The accessory building or accessory structure shall be constructed in such a way that its exterior appearance is compatible with the principal building or structure on the lot and on adjacent lots.

**A. Boathouses.** Boathouses, as defined by this chapter, are permitted in the R-L Residential Lake District, subject to the regulations of this chapter. Boathouses may be permitted in the W-F Wetland Floodplain District abutting an R-L Residential Lake District and any Business Districts abutting the lake as a conditional use.

**B. Garages.** A private garage at least 480 square feet in area shall be required for each dwelling unit hereafter erected. Such structures shall be either attached or detached and conform to the offset and setback requirements of the District involved. The maximum size of a detached garage shall not exceed the requirement for the District in which it is located. The maximum size of an attached garage shall not exceed 1440 square feet. In the event that the size of an attached garage exceeds 960 square feet, that amount of square footage in excess of 960 square feet shall be deducted from the maximum allowable size for any detached garages or other accessory building in the District in which the building is located and the maximum size for all such accessory buildings built upon the same property shall be reduced by the amount by which the attached garage exceeds 960 square feet. Garages may have no more than four (4) single bay doors or no more than three (3) double bay doors, which shall be of uniform height not to exceed nine feet. The total linear width of all bay doors may not exceed 48 feet. Any application for a permit to construct garage doors of non-uniform height or for a door or doors in excess of nine feet shall be subject to Plan Commission approval.

SECTION 4: Section 17.06 3. C. shall be created to read as follows:

**C. Rustic Buildings and Structures.** As defined at §17.02 2. of the Town Zoning Code, Rustic Buildings or Structures may be allowed in any district. Rustic Structures shall not be counted in determining whether a proposed use complies with the open space, or accessory building area requirements. If there is a question as to whether a structure meets the definition of rustic so as to exempt it from District requirements, the Code Enforcement Officer or the Property Owner may request an opinion from the Plan Commission. In those instances, the Plan Commission shall make the final determination as to any such issues.

Rustic structures shall be subject to the following:

1. A maintenance agreement acceptable to the Town Board shall be recorded in the Waukesha County Register of Deeds. The maintenance agreement shall set forth minimum standards agreeable to the owner and the Town that will preserve

the rustic structure in the form that it is at the time of approval. The owner may, at any time, permanently remove the structure; however, any subsequent building must meet the requirements of the zoning district in which it is located.

2. Any such structure shall be used in conformance with permitted uses of an accessory building and shall not be used for the following:
  - a. Any income producing business.
  - b. Storage of vehicles that are not personal vehicles of the lot owner or occupant.
  - c. The keeping of animals beyond that which is allowed in the underlying zoning district.

The owner shall include the restrictions above in a deed restriction on the property prior to issuance of a building permit or approval of the Plan Commission and/or Town Board.

3. The footprint of any rustic structure shall not occupy more than 25% of the parcel area.
4. Rustic structures may be permitted on lot or outlots, without a principal building, subject to the maintenance and deed restriction provisions herein.

#### SECTION 5:

Section 17.06 4. shall be amended and recodified as necessary to reflect the movement of sections D. Garages and E. Boathouses to §17.06 3.

SECTION 6: The following sections of the Town of Delafield Zoning Code shall be repealed and recreated as follows:

1. Sections 17.04 5. A. 5.d.  
17.04 5. B. 5.d.

"With the exception of rustic structures, which shall be permitted, 90% of each lot shall remain as open space."

2. Sections 17.04 5. C. 5.d.  
17.04 5. D. 5.d.

"With the exception of rustic structures, for lots 20,000 square feet or larger, a minimum of 85% of each lot shall remain as open space. For existing lots with an area less than 20,000 square feet, the following scale shall be used:"

There shall be no change to the scale.

3. Sections 17.04 5. E. 5. d.

"With the exception of rustic structures, for lots 20,000 square feet or larger, a minimum of 75% of each lot shall remain as open space. For existing lots with an area less than 20,000 square feet, the following scale shall be used:"

There shall be no change to the scale.

4. Section 17.04 5.F.5.d

"d. Open Space

With the exception of rustic structures which shall be permitted, 95% of each lot shall remain as open space.

With the exception of rustic structures, the total space occupied by all accessory buildings shall not exceed 1% of the total lot space."

5. Section 17.04 5.G.5.d

"d. Open Space

With the exception of rustic structures which shall be permitted, 95% of each lot shall remain as open space.

With the exception of rustic structures, the total space occupied by all accessory buildings shall not exceed 1% of the total lot space."

6. Section 17.04 5.H.5.d

"d. Open Space

With the exception of rustic structures which shall be permitted, 92% of each lot shall remain as open space.

With the exception of rustic structures, the total space occupied by all accessory buildings shall not exceed 1% of the total lot space unless land is greater than 10 acres whereas the Open Space can be 2%."

7. Section 17.04 5. I. 5. d.

"d. Open Space

With the exception of rustic structures which shall be permitted, 90% of each lot shall remain as open space. "

8. Section 17.04 5. J. 5.d.

"d. Open Space

With the exception of rustic structures which shall be permitted, 50% of each lot shall remain as open space. "

9. Section 17.04 5. K. 5. e.

"e. Open Space

With the exception of rustic structures which shall be permitted, 50% of each lot shall remain as open space. "

10. Section 17.04 5. L. 5. d.

"d. Open Space

With the exception of rustic structures which shall be permitted, 80% of each lot shall remain as open space. "

11. Section 17.04 5. M. 5. d.

"d. Open Space

With the exception of rustic structures which shall be permitted, 65% of each lot shall remain as open space. "

12. Section 17.04 5. N. 5. d.

"d. Open Space

With the exception of rustic structures which shall be permitted, 90% of each lot shall remain as open space. "

SECTION 7: 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 8: EFFECTIVE DATE.

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

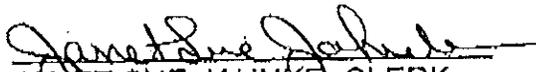
This ordinance passed this 11<sup>th</sup> day of September, 2002.



BY THE TOWN BOARD OF THE  
TOWN OF DELAFIELD:

  
\_\_\_\_\_  
PAUL L. KANTER, CHAIRMAN

ATTEST:

  
\_\_\_\_\_  
JANET SUE JAHNKE, CLERK

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-12/17/02

(ORD) NUMBER-1570017

1 K. HERRO.....AYE  
 3 D. STAMSTA.....AYE  
 5 J. MARCHESE.....  
 7 J. JESKEWITZ.....AYE  
 9 P. HAUKOHL.....AYE  
 11 K. HARENDA.....AYE  
 13 J. MORRIS.....AYE  
 15 D. SWAN.....AYE  
 17 J. BEHREND.....AYE  
 19 M. SONNENTAG.....AYE  
 21 W. KOLB.....AYE  
 23 P. PRONOLD.....  
 25 K. CUMMINGS.....AYE  
 27 D. PAULSON.....AYE  
 29 M. THOMAS.....AYE  
 31 V. STROUD.....AYE  
 33 D. PAVELKO.....  
 35 C. SEITZ.....

2 R. THELEN.....AYE  
 4 H. CARLSON.....AYE  
 6 D. BROESCH.....AYE  
 8 J. DWYER.....AYE  
 10 S. WOLFF.....AYE  
 12 J. GRIFFIN.....AYE  
 14 J. LA PORTE.....  
 16 R. MANKE.....AYE  
 18 D. FANFELLE.....AYE  
 20 M. KIPP.....NAY  
 22 G. BRUCE.....  
 24 A. SILVA.....AYE  
 26 S. KLEIN.....AYE  
 28 P. JASKE.....AYE  
 30 K. NILSON.....AYE  
 32 P. GUNDRUM.....AYE  
 34 R. SINGERT.....AYE

TOTAL AYES-28

TOTAL NAYS-01

CARRIED \_\_\_\_\_

DEFEATED \_\_\_\_\_

UNANIMOUS \_\_\_\_\_

TOTAL VOTES-29