

ENROLLED ORDINANCE 169-31

AMEND THE TEXT OF THE TOWN OF DELAFIELD ZONING CODE TO REPEAL AND RECREATE SECTION 17.04 5.N.5.d. TO AMEND OPEN SPACE REQUIREMENTS IN THE P-1 PARK AND RECREATION DISTRICT (ZT-1788)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Delafield Town Board on May 27, 2014, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section (60.61), Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Town of Delafield Zoning Code, adopted by the Town of Delafield on July, 20, 1988, is hereby amended to repeal and recreate Section 17.04 5.N.5.d. to amend open space requirements in the P-1 Park and Recreation District, more specifically described in the "Staff Report and Recommendation" on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference ZT-1788, is hereby approved.

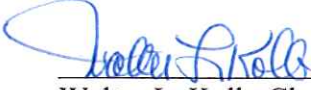
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Delafield.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

AMEND THE TEXT OF THE TOWN OF DELAFIELD ZONING CODE TO REPEAL AND RECREATE SECTION 17.04 5.N.5.d. TO AMEND OPEN SPACE REQUIREMENTS IN THE P-1 PARK AND RECREATION DISTRICT (ZT-1788)

Presented by:
Land Use, Parks, and Environment Committee



Walter L. Kolb, Chair



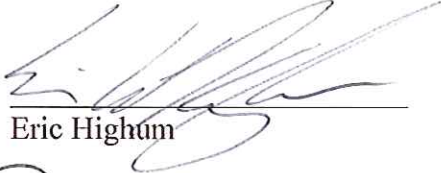
Jim Batzko



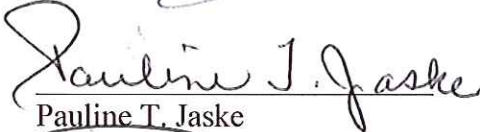
Jennifer Grant



Keith Hammitt



Eric Highum




Pauline T. Jaske




Thomas J. Schellinger

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

Date: 7/22/14, 

Kathleen Novack, County Clerk

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

Approved: _____
Vetoed: _____
Date: 7-24-14, 

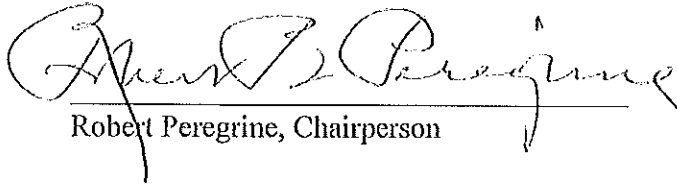
Daniel P. Vrakas, County Executive

COMMISSION ACTION

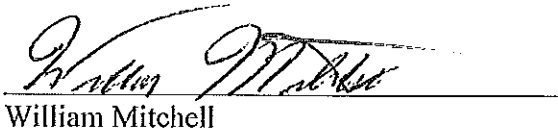
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Delafield Zoning Code hereby recommends approval of (ZT-1788 Town of Delafield Board) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

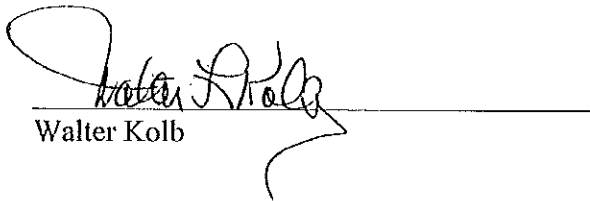
June 16, 2014

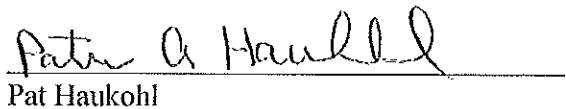

Robert Peregrine, Chairperson


Jim Siepmann, Vice Chairperson


William Mitchell

Absent
Gary Goodchild


Walter Kolb


Pat Haukohl

Absent
Fritz Ruf

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

FILE NO.: ZT-1788

DATE: June 16, 2014

PETITIONER: Town of Delafield Board
Town of Delafield Hall
N14 W30782 Golf Road
Delafield, WI. 53018

NATURE OF REQUEST:

Text amendment to repeal and recreate Section 17.04 5.N.5.d. of the Town of Delafield Zoning Code regarding open space requirements within the P-1 Park and Recreation District.

PUBLIC HEARING DATE:

May 27, 2014.

PUBLIC REACTION:

Two residents spoke in opposition to the text amendment. One expressed that he found it ironic that the residents of the Town must comply with the adopted open space standards, while the Town can change the open space requirements. Another resident stated that the Town became too restrictive with requirements and noted that she can't re-build her deck if it falls down.

TOWN PLAN COMMISSION:

On May 20, 2014, the Town of Delafield Plan Commission recommended in favor of the proposed amendment.

TOWN BOARD ACTION:

On May 27, 2014, the Town of Delafield Board voted to approve the proposed ordinance, as recommended by the Town Plan Commission.

BACKGROUND AND SUMMARY OF CHANGES

The Town of Delafield is proposing to amend the Town Zoning Ordinance to reduce the open space requirements for improvements authorized via a Public and Semi-public Conditional Use process within the P-1 Park and Recreation District. Specifically, the proposed provisions allow for a reduction in required open space for such improvements to an amount that is equal to 60% of a parcel's area. The P-1 District currently requires a minimum open space area of 90% of a given lot. The Town indicated that the new proposed fire station and Town Hall complex proposed to be located on Town lands that are currently zoned P-1 drove the timing of this text amendment. However, the Town did note that this change may also enable development of additional recreational facilities such as tennis courts or basketball courts within the P-1 District in the future.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that the proposed ordinance to amend the Town of Delafield Zoning Ordinance be **approved**. Staff feels that that P-1 District open space standards were originally written with conventional parks in mind and that consideration of hard surface needs for future governmental type buildings to co-locate within the district was not fully considered when the 90% open space standard was introduced. The Planning and Zoning Division Staff feels that these proposed amendments are minor and do not undermine the overall open space standards of the Town Ordinance.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachment: Town Ordinance

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STATE OF WISCONSIN

TOWN OF DELAFIELD

WAUKESHA COUNTY

ORDINANCE NO. 2014-03

**AN ORDINANCE TO REPEAL AND RECREATE
SECTION 17.04 5. N. 5. d., REGARDING
OPEN SPACE IN THE P-1 PARK AND RECREATION DISTRICT,
OF THE TOWN OF DELAFIELD ZONING ORDINANCE**

WHEREAS, the P-1 Park and Recreation District is currently mapped to include primarily, if not exclusively, land that is owned by the public, whether by the Town of Delafield, Waukesha County, or the State of Wisconsin, and this is likely to continue due to the very restrictive permitted uses in the district regulations; and

WHEREAS, allowing the State of Wisconsin, Waukesha County, and the Town of Delafield additional flexibility regarding the open space for lands that are zoned in the P-1 Park and Recreation District, will help to ensure that the public interest and general welfare of the Town of Delafield are preserved; and

WHEREAS, this flexibility is necessary to ensure that the public interest is preserved regarding public land, for the purpose of promoting health, safety, morals or the general welfare of the community, pursuant to Wisconsin Statutes Sections 60.62, 61.35 and 62.23(7)(am) and per the Town of Delafield Zoning Code, Section 17.01 4. C., and so that the ordinance does not unnecessarily prevent the public interests being served for the greater good of the Town of Delafield; and

WHEREAS, the Town Board of the Town of Delafield, has therefore initiated this zoning amendment pursuant to Section 17.10 5. B., to provide flexibility with regard to open space within the P-1 Park and Recreation District, and the Town Board has referred this matter to the Town Plan Commission for its consideration pursuant to Section 17.10 5. E. 1. of the Town of Delafield Zoning Code; and

WHEREAS, the Town of Delafield Plan Commission has conducted the necessary investigation and has reported its recommendation to the Town Board; and

WHEREAS, upon receipt of the Town Plan Commission's report, the Town Board has held a public hearing in the matter, pursuant to Section 17.10 5. F. on May 27, 2014, upon due notice as described in Section 17.10 6. of the Town of Delafield Zoning Code; and

WHEREAS, the Town Board of the Town of Delafield having carefully reviewed the recommendation of the Plan Commission of the Town of Delafield, 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 zoning amendment on the health, safety and welfare of the community, and the immediate areas where the zoning amendment will be effective, and having given due consideration to the municipal problems involved as well as the impact on surrounding properties as to noise, dust, smoke and odor, hereby determines that the zoning amendment will not violate the spirit or intent of the Zoning Code for the Town of Delafield, will not be contrary to the public health, safety or general welfare of the Town of Delafield, 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 affected neighborhood, and that the amendment is consistent with the recommendations found in the Town of Delafield Comprehensive Plan.

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

SECTION 1: Chapter 17 of the Town of Delafield Municipal Code entitled, "Zoning Ordinance," Section 17.04, entitled "Zoning Districts," subsection N., entitled "P-1 Park and Recreation District," subsection 5., entitled "Area Regulations," subsection d., entitled "Open Space," is hereby repealed and recreated as follows:

d. Open Space

~~With the exception of rustic structures which shall be permitted, Ninety Percent (90%) of each lot shall remain as open space except as follows: (1) The footprint of rustic structures shall not be counted as impervious area in the open space calculation. (2) The open space may be reduced pursuant to a conditional use for public and semi-public buildings and uses, granted pursuant to Section 17.05 5. AH., provided that the open space is not reduced below 60%.~~

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, following approval of Waukesha County per Section 17.10 5, I. of the Town of Delafield Zoning Code.

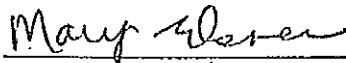
Dated this 27th day of May, 2014.

TOWN OF DELAFIELD



Paul L. Kanter, Town Chair

ATTEST:



Mary Elsner, Town Clerk

Published and/or posted this _____ day of _____, 2014.

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WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-07/22/14

NUMBER-1690032

- | | |
|--------------------------|--------------------------|
| 1 R. KOLB.....AYE | 2 D. Zimmermann.....AYE |
| 3 R. MORRIS.....AYE | 4 J. BATZKO.....AYE |
| 5 J. BRANDTJEN.....AYE | 6 J. WALZ.....AYE |
| 7 J. GRANT.....AYE | 8 E. HIGHUM.....AYE |
| 9 J. HEINRICH.....AYE | 10 D. SWAN.....AYE |
| 11 C. HOWARD.....AYE | 12 P. WOLFF.....AYE |
| 13 P. DECKER.....AYE | 14 C. PETTIS.....AYE |
| 15 W. KOLB.....AYE | 16 M. CROWLEY.....AYE |
| 17 D. PAULSON.....AYE | 18 L. NELSON.....AYE |
| 19 K. CUMMINGS.....AYE | 20 T. SCHELLINGER....AYE |
| 21 W. ZABOROWSKI.....AYE | 22 P. JASKE.....AYE |
| 23 K. HAMMITT..... | 24 S. WHITLOW.....AYE |
| 25 G. YERKE.....AYE | |

TOTAL AYES-24

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS

X

TOTAL VOTES-24