

ENROLLED ORDINANCE 168-16

AMEND THE TEXT OF THE TOWN OF MERTON ZONING CODE TO CREATE SECTION 17.20(1)(k) AND SECTION 17.21(2)(e) RELATING TO ACCESSORY BUILDING HEIGHT AND FLOODPLAIN AND WETLAND SETBACKS (ZT-1751)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Merton Town Board on February 25, 2013, 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 it hereby approves amendments to the text of the Town of Merton Zoning Code, adopted by the Town of Merton on October 23, 2007, to create Section 17.20(1)(k) and Section 17.21(2)(e) of the Town of Merton Zoning Code relating to accessory building height and floodplain and wetland setbacks, and these newly created sections are 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-1751.


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


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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

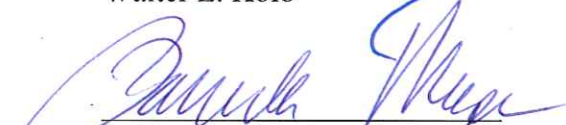
AMEND THE TEXT OF THE TOWN OF MERTON ZONING CODE TO CREATE SECTION 17.20(1)(k) AND SECTION 17.21(2)(e) RELATING TO ACCESSORY BUILDING HEIGHT AND FLOODPLAIN AND WETLAND SETBACKS (ZT-1751)

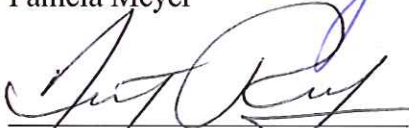
Presented by:
Land Use, Parks, and Environment Committee


James A. Heinrich, Chair

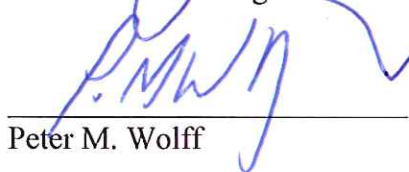

Jim Batzko


Walter L. Kolb

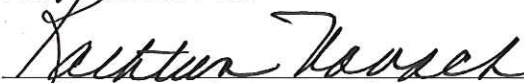

Pamela Meyer


Fritz Ruf



Thomas J. Schellinger


Peter M. Wolff

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

Date: 5/28/13, 
Kathleen Novack, County Clerk

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

Approved: X
Vetoed: _____
Date: 6-3-13, 
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-05/28/13

(ORD) NUMBER-1680016

1 C. SLATTERY.....AYE
3 R. MORRIS.....
5 J. BRANDTJEN.....AYE
7 J. GRANT.....AYE
9 J. HEINRICH.....AYE
11 F. RUF.....AYE
13 P. DECKER.....AYE
15 W. KOLB.....AYE
17 D. PAULSON.....AYE
19 C. CUMMINGS.....AYE
21 W. ZABOROWSKI.....AYE
23 K. HAMMITT.....AYE
25 G. YERKE.....AYE

2 D. FALSTAD.....AYE
4 J. BATZKO.....AYE
6 J. JESKEWITZ.....
8 P. HAUKOHL.....AYE
10 D. SWAN.....AYE
12 P. WOLFF.....AYE
14 P. MEYER.....AYE
16 M. CROWLEY.....AYE
18 L. NELSON.....AYE
20 T. SCHELLINGER....AYE
22 P. JASKE.....AYE
24 D. DRAEGER.....AYE

TOTAL AYES-23

TOTAL NAYS-00

CARRIED X

DEFEATED _____

UNANIMOUS X

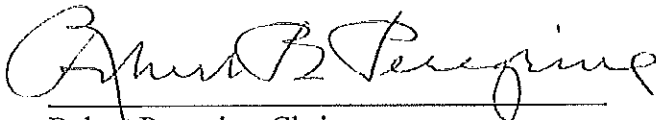
TOTAL VOTES-23

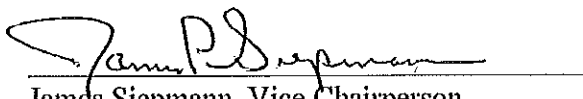
COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Merton Zoning Code hereby recommends approval of (ZT-1751 - Town of Merton Board) in accordance with the attached "Staff Report and Recommendation".

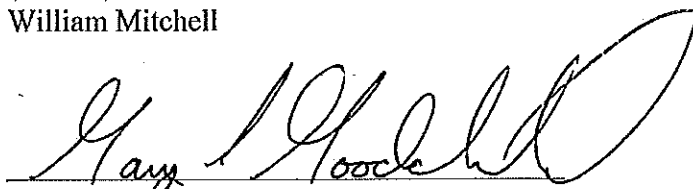
PARK AND PLANNING COMMISSION

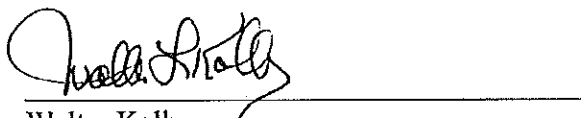
April 4, 2013


Robert Peregrine, Chairperson



James Siepmann, Vice Chairperson

(Absent)
William Mitchell


Gary Goodchild


Walter Kolb

(Absent)
Pat Haukohl


Fritz Ruf

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

FILE NO: ZT-1751

TAX KEY NUMBER: N/A

DATE: April 4, 2013

NAME OF PETITIONER: Town Board of Merton
Town of Merton Town Hall
P. O. Box 128
North Lake, WI 53064-0128

NATURE OF REQUEST:

Text amendments to create Section 17.20(1)(k) and Section 17.21(2)(e) of the Town of Merton Zoning Code relating to accessory building height and floodplain and wetland setbacks.

PUBLIC HEARING DATE:

February 25, 2013.

PUBLIC REACTION:

One citizen who is a member of the Town Board of Adjustment spoke against the change, noting that he felt neighbor notification that comes with the current Board of Adjustment height increase process is a good thing.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On November 21, 2012, the Town Plan Commission recommended approval of the text changes to the Town Board. On February 25, 2013 the Town Board voted to adopt the proposed amendments in accordance with the attached Ordinance.

OTHER CONSIDERATIONS:

The Town of Merton is proposing two revisions to the Town Zoning Code. The first change would create a new secondary floodplain and wetland setback provision that would allow for a reduced floodplain and wetland setback of 50 ft. in certain situations, whereas 75 ft. is the current required setback. The reduced setback would only be available where the natural grade is at least three vertical feet above the floodplain or wetland elevation. This proposed provision would match the language of the Waukesha County Shoreland and Floodland Protection Ordinance. The reduced setback would be available in settings such as the steep shoreline surrounding Lake Keesus, where homesites are generally significantly higher than the lake and its associated floodplain.

The second proposed change would allow for accessory structures to be taller than the permitted maximum specified district height, provided that the offset or setback distance from the property lines is increased by one foot for each additional one foot of height being proposed, up to a maximum height of 25 ft. This proposed language would also mirror the height increase language that currently exists in the Waukesha County Shoreland and Floodland Protection Ordinance.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request to amend the text of the Town of Merton Zoning Code be **approved**. The proposed changes will provide added flexibility for the Town residents relative to accessory building height. In addition, the changes to the floodplain and wetland setback standards still provide protection for floodplains and wetlands, but recognize that floodplain fill is unlikely in situations where there is a significant difference in grade between a building site and a respective floodplain area and thus a reduced setback is appropriate.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachment: Town Ordinance

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ORDINANCE NO. _____

AN ORDINANCE TO CREATE §17.20(1)(k) AND §17.21(2)(e)
OF THE GENERAL CODE OF ORDINANCES OF THE TOWN OF
MERTON RELATING TO BUILDING LOCATION AND HEIGHT

The Town Board of Supervisors of the Town of Merton, Waukesha County,
Wisconsin, do ordain as follows:

SECTION 1. Section 17.20(1)(k) of the General Code of Ordinances is created to
read:

17.20 BUILDING LOCATION.

(1) SETBACKS.

(k) A principal building, an addition to a principal building, or a deck or patio immediately adjacent to a principal building may be located as close as 50 feet from a Conservancy District boundary if it is in conformity with the required shore setback from the ordinary high water mark and if the existing natural ground elevation adjacent to the lowest level of the principal building, including an exposed basement, is at least three feet above the regional flood elevation or the high water mark of the conservancy or wetland area.

SECTION 2. Section 17.21(2)(e) of the General Code of Ordinances is created to
read:

17.21 HEIGHT REGULATIONS.

(1) MAXIMUM HEIGHT RESTRICTED. In any district, no building or structure shall be hereafter erected or structurally altered to a height in excess of that hereinafter specified by the regulations for that district.

(2) EXCEPTIONS. The following shall be excepted from the height regulations of all districts:

(a) Chimneys and flues.

(b) Accessory farm buildings excluding silos, but not to exceed 60 feet in
height.

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DEPT OF PARKS & LAND USE

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(c) Electric power and telephone transmission lines.

(d) Subject to the approval of the Plan Commission: cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, wind energy towers, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts, aerals, and necessary mechanical appurtenances.

(e) Increase Permitted. All accessory buildings or structures not exempted by subsec. (a), (b), (c) and (d) of this section may be increased by not more than 10 feet; however, the maximum height shall not exceed 25 feet, subject to satisfying the following conditions:

1. All required offsets and setbacks are increased by one foot for each foot which such building or structure exceeds the height limit of the district in which it is located.
2. Subject to approval of the Plan Commission.
3. Subject to all other regulations of the town.

SECTION 3. EFFECTIVE DATE. This ordinance shall become effective upon passage, posting and publication as required by law.

DATED: February 26, 2013

TOWN OF MERTON
By: [Signature]
Richard Morris, Chairman

ATTEST:
[Signature]
Susan J. Oman, Clerk

Date Adopted: 2-25-13
Date Published: 3-5-13
Effective Date: 3-5-13

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