

ENROLLED ORDINANCE 163-59

AMEND THE TEXT OF THE TOWN OF DELAFIELD ZONING CODE BY REPEALING AND RECREATING VARIOUS SECTIONS OF CHAPTER 17, REGARDING DEFINITIONS FOR HOT TUBS, OPEN CELL PAVERS, OPEN SPACE, SERVICE PEDESTAL AND UTILITY STRUCTURES AND AMENDMENTS TO THE PROVISIONS FOR SETBACKS, OFFSETS, WALKWAYS AND DRIVEWAYS SERVING A SINGLE LOT WITH RESPECT TO WIDTH AND THE FENCING OF SWIMMING POOLS AND HOT TUBS (ZT-1683)

WHEREAS the subject matter of this Ordinance having been approved by the Delafield Town Board on September 10, 2008, after Public Hearing and the giving of requisite notice of said hearing, and duly referred and considered by the Waukesha County Park and Planning Commission and a recommendation thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors as required by Section 60.61 of the Wisconsin Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Ordinance amending the text of the Town of Delafield Zoning Code, adopted by the Delafield Town Board on July 20, 1998, by repealing and recreating various sections of Chapter 17 regarding definitions for hot tubs, open cell pavers, open space, service pedestal and utility structures and amendments to the provisions for setbacks, offsets, walkways and driveways serving a single lot with respect to width and the fencing of swimming pools and hot tubs, and 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-1683), is hereby approved.

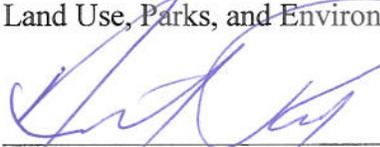
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Delafield.

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

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FURTHER ORDAINED that all Ordinances inconsistent with or with contravention of provisions of this Ordinance are hereby repealed.

AMEND THE TEXT OF THE TOWN OF DELAFIELD ZONING CODE BY REPEALING AND RECREATING VARIOUS SECTIONS OF CHAPTER 17, REGARDING DEFINITIONS FOR HOT TUBS, OPEN CELL PAVERS, OPEN SPACE, SERVICE PEDESTAL AND UTILITY STRUCTURES AND AMENDMENTS TO THE PROVISIONS FOR SETBACKS, OFFSETS, WALKWAYS AND DRIVEWAYS SERVING A SINGLE LOT WITH RESPECT TO WIDTH AND THE FENCING OF SWIMMING POOLS AND HOT TUBS (ZT-1683)

Presented by:
Land Use, Parks, and Environment Committee



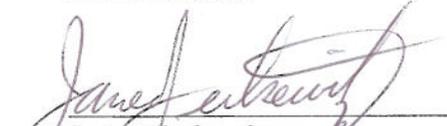
Fritz Ruf, Chair



Janel Brandtjen



Robert Hutton



James Jeskewitz



Walter L. Kolb

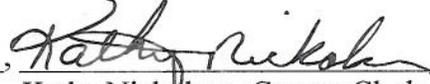


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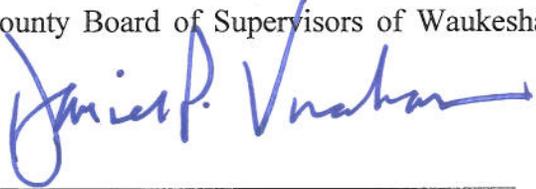
Gilbert W. Yerke

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

Date: 11/14/08, 

Kathy Nickolaus, County Clerk

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

Approved: x
Vetoed: _____
Date: 11-17-08, 

Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-11/12/08

(ORD) NUMBER-1630061

1 D. FALSTAD.....AYE
3 R. HUTTON.....AYE
5 J. JESKEWITZ.....AYE
7 P. HAUKOHL.....AYE
9 J. HEINRICH.....AYE
11 F. RUF.....AYE
13 J. BEHREND.....AYE
15 P. MEYERS.....AYE
17 J. TORTOMASI.....AYE
19 S. WIMMER.....AYE
21 W. ZABOROWSKI.....AYE
23 J. PLEDL.....AYE
25 G. YERKE.....AYE

2 T. ROLES.....AYE
4 J. DWYER.....AYE
6 J. BRANDTJEN.....AYE
8 T. SCHELLINGER.....AYE
10 D. SWAN.....AYE
12 P. WOLFF.....AYE
14 B. MORRIS.....AYE
16 D. PAULSON.....AYE
18 K. CUMMINGS.....AYE
20 P. JASKE.....AYE
22 P. GUNDRUM.....AYE
24 W. KOLB.....AYE

TOTAL AYES-25

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-25

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

FILE NO.: ZT-1683

DATE: October 16, 2008

PETITIONER: Town of Delafield Board
Town of Delafield Hall
N14 W30782 Golf Road
Delafield, WI. 53150

NATURE OF REQUEST:

Amendments to various sections of Chapter 17 of the Town of Delafield Code of Ordinances, which is the zoning provisions. The amendments include providing definitions for hot tubs, open cell pavers, open space, service pedestal and utility structures and amendments to the provisions for setbacks, offsets, walkways and driveways serving a single lot with respect to width and fencing of swimming pools and hot tubs.

PUBLIC HEARING DATE:

September 2, 2008.

PUBLIC REACTION:

No one spoke on the issue.

TOWN PLAN COMMISSION:

On September 2, 2008, the Town of Delafield Plan Commission voted unanimously in favor of amending the Zoning Code.

TOWN BOARD ACTION:

On September 10, 2008, the Town of Delafield Town Board moved to approve the amendments to the Zoning Code, as recommended by the Town Plan Commission.

OTHER CONSIDERATIONS:

The proposed amendments include the definition of various items, which were in some cases not recognized a number of years ago when the original ordinance was adopted. The Town is now attempting to regulate the placement of hot tubs as a structure and have identified paving type materials, which are impervious in contrast to hard surfaces with the use of open cell pavers, which are defined as pervious paving materials having at least 50% of their area open and pervious. Open space is being defined as natural or man-made landscaped area not occupied by structures, impervious surfaces, gravel drives or parking areas. Another two items of definition, service pedestal and utility structure, are both being identified for purposes of providing definition as to how those devices are regulated, not as structures, and they are limited in size to not more than 20 cu. ft. and less than 3 ft. in height. Anything exceeding those dimensions would be considered a structure, which is further defined in the setback and offset provisions. The Town is now identifying that certain types of structures will be allowed within setback and offset areas and are limited to walls, fences, mailboxes and signs. Certain temporary structures and outdoor lighting installations will be subject to approval of the Town Plan Commission. The open space provision is being amended to identify that public rights-of-way and private platted roads cannot be utilized in the calculation of open space for lot areas and cannot be used in the overall

163-0-061

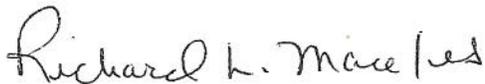
calculations of the land. However, as an easement it cannot be used as part of the open space calculation. Where lands lie in an easement for either public or private purposes, said land area can be utilized in the calculation of the parcel size and part of the open space requirement. It further goes on to describe that at least 50% of the open space requirement in a zoning district shall consist of vegetation. Walks and driveways, serving a single lot may also be allowed within the setback and offset areas, but not closer than three (3) ft. from an adjacent property.

The swimming pool provisions are being amended to apply to hot tubs as well, except the fencing requirement is modified for hot tubs to require that in lieu of fencing, a latched cover over the tub must be provided.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that these text amendments be **approved**. We feel they are appropriate in today's environment and the provisions are sensitive to some of the changing technologies occurring in our communities. Further, the definition provision for open space consisting only of natural or man-made landscape surfaces is also a further clarification of issues, which the County has previously discussed.

Respectfully submitted,



Richard L. Mace
Planning and Zoning Manager

RLM:kab

Attachment: Town Ordinance 2008-4

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163-0-061

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Ordinance No. 2008-004

An Ordinance amending various sections of Chapter 17 of the Town of Delafield Code of Ordinances regarding definition changes, utility structures, open space clarification

The Town Board of Delafield, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

Part 1: Section 17.02 is hereby amended to modify the following definitions:

Hot Tub. A structure, being a large tub or small pool of water, used for soaking, relaxation, massage or hydrotherapy, in most cases with jets for massage purposes.

Open Cell Pavers. Pervious paving materials of at least 50% open area, used to reduce the imperviousness of firm surfaces such as patios, walkways, driveways, fire lanes, and parking areas, for the purpose of reducing surface runoff and increasing infiltration. Open Cell Pavers may include pervious interlocking concrete blocks, concrete grid pavers, turf blocks and perforated brick pavers.

Open space. A natural area or manmade landscaped area not occupied by any structures, impervious surfaces, gravel drives, or gravel parking areas.

Service Pedestal A cabinet, box or enclosure that houses transformers, distribution equipment or metering equipment servicing residential, industrial or commercial properties that is less than 20 cubic feet in size and is less than 3 feet in height. Service pedestals shall not be considered structures.

Utility Structure. A structure, greater than 20 cubic feet in size or greater than 3 feet in height, used for the primary purpose of housing telecommunications, electrical, cable television and similar equipment including, utility cabinets, buildings and underground vaults.

Part 2: Section 17.03 4. C. **Setbacks**, 5. is hereby amended as follows:

- 5. The only structures permitted within such setback area, upon receipt of all required governmental approvals, shall be necessary highway and traffic signs, underground structures as regulated by this chapter, walls, fences, mail boxes, and signs as permitted under the individual District regulations, and, with the approval of the Plan Commission, temporary structures, outdoor lighting installations and necessary public utility lines, poles and structures.

Part 3: Section 17.03 4. D. **Offsets** 7. is hereby created as follows:

- 7. The only structures permitted within such offset area, upon receipt of all governmental approvals, shall be underground structures as regulated by this chapter, walls, fences, mailboxes and signs as permitted under the individual District regulations, and, with the approval of the Plan Commission, temporary structures, outdoor lighting installations and necessary public utility lines, poles and structures.

Part 4: Section 17.03 5. C. **Open Space** is hereby amended to include the following:

4. No portion of a public right-of-way or private platted road shall be used in the calculation of open space. For public roads that pass through properties (i.e. former mill tax roads or lake roads), the right-of-way designated for that roadway on the official highway width map for the Town, shall not be used in the calculation of the overall area of the parcel or used in the determination of open space. Lands on which there is an easement for private or public purposes shall be included in the calculation of the overall parcel area and evaluated as part of the open space requirement.
5. At least 50% of the open space requirement shall consist of vegetation.

Part 5: Section 17.06 4. D. is hereby repealed and recreated to read as follows:

D. **Walks and Driveways Serving a Single Lot.** Walks 3 feet or less in width and driveways shall be permitted in setback and offset areas, but not closer than 3 feet offset from an adjacent property.

Part 6: Section 17.06 4. F. **Swimming Pools** is hereby amended as follows:

3. The provisions of 17.06 4. F. 1. a. through c. shall apply to hot tubs, except that a fence is not required if there is a latched cover on the hot tub.

Part 7: Severability

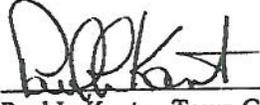
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision,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

Part 8: Effective Date

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

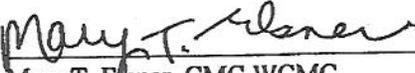
This ordinance passed this 10th day of September, 2008.

BY THE TOWN BOARD OF THE
TOWN OF DELAFIELD:



Paul L. Kanter, Town Chairman

ATTEST:



Mary T. Eisner, CMC, WCMC
Town Clerk