

**Village of Weston, Wisconsin
AGENDA ITEM COVERSHEET
Requested for Official Consideration and Review**

REQUEST FROM: JENNIFER HIGGINS; DIRECTOR OF PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ORDINANCE NO. 16-009 AN ORDINANCE AMENDING SECTION 94.16.11(4) AND (5) OF THE ZONING ORDINANCE RELATING TO VARIANCE PROCEDURES.

DATE/MTG: BOARD OF TRUSTEES; MONDAY, APRIL 18, 2016

POLICY QUESTION: Should the Board of Trustee approve the amendment to the zoning ordinance as proposed by the Plan Commission?

RECOMMENDATION TO: I make a motion to approve Ordinance No. 16-009.

LEGISLATIVE ACTION:

- | | | |
|---|---|---------------------------------------|
| <input checked="" type="checkbox"/> Acknowledge/Approve | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Proclamation |
| <input type="checkbox"/> Administrative Order | <input type="checkbox"/> Policy | <input type="checkbox"/> Reports |
| <input type="checkbox"/> Expenditure | <input type="checkbox"/> Procedure | <input type="checkbox"/> Resolution |

FISCAL IMPACT ANALYSIS:

- | | |
|--|-----|
| <input type="checkbox"/> Budget Line Item: | N/A |
| <input type="checkbox"/> Budget Line Item: | N/A |
| <input type="checkbox"/> Budgeted Expenditure: | N/A |
| <input type="checkbox"/> Budgeted Revenue: | N/A |

STATUTORY / RULEMAKING / POLICY REFERENCES:

- | | |
|---|------------|
| <input type="checkbox"/> WI Statute: | _____ |
| <input type="checkbox"/> WI Administrative Code: | _____ |
| <input type="checkbox"/> Case Law / Legal: | _____ |
| <input checked="" type="checkbox"/> Municipal Code: | Chapter 94 |
| <input type="checkbox"/> Municipal Rules: | _____ |

PRIOR REVIEW: All the proposed changes were suggested by Attorney VanderWaal, Town of Weston Attorney (previous Village Attorney) for the recent Town Zoning Ordinance Update PC and ETZ review at March 14, 2016 and April 11, 2016 Meetings

BACKGROUND:

Staff is requesting the following amendments to the zoning ordinance per the recommendation of Municipal Attorney VanderWaal. These same changes were recently incorporated into the Town of Weston's new zoning code. Mr. VanderWaal has been a municipal attorney for many years and used to assist the Village prior to Attorney Yde taking over a few years ago. Staff recommends the changes as presented in the draft ordinance. A joint public hearing was held on April 11th before the PC and ETZ. No one spoke in opposition of the proposed ordinance and both bodies recommended approval of the ordinance. The ordinance will apply in both the Village and ETZ area of the Town of Weston.

- Attachments – Ord. No. 16-009



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

ORDINANCE NO. 16-009

**AN ORDINANCE AMENDING SECTION 94.16.11(4) AND (5) OF THE ZONING
ORDINANCE RELATING TO VARIANCE PROCEDURES.**

WHEREAS, the Village of Weston is authorized to prepare, amend and adopt a zoning ordinance under Wis. Stats. §§ 62.23 and 61.35; and

WHEREAS, the Village adopted a new Chapter 94 in March 2015, to serve as the Village's general zoning ordinance and the Village's extraterritorial zoning ordinance for the portions of the Town of Weston defined as the extraterritorial zoning area; and

WHEREAS, Village Staff has requested an amendment to correct sections of the zoning code to be consistent with changes made to the ordinance when the Town of Weston adopted the zoning ordinance in December 2015 and Marathon County in January 2016; and

WHEREAS, the Plan Commission has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Village limits; and

WHEREAS, the Joint Town and Village Extraterritorial Zoning Committee has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Extraterritorial Zoning limits of the Town of Weston; and

WHEREAS, the Joint Village and Town of Weston Extraterritorial Zoning Committee and Village Plan Commission have held a joint public hearing on this ordinance on April 11, 2016, in compliance with Wis. Stat. § 62.23, and following such hearing the Board considered public comments and the recommendation of the Village Plan Commission and Joint Village and Town of Weston Extraterritorial Zoning Committee; and

WHEREAS, the Village Board finds the proposed amendment is reasonable, consistent with the Village Comprehensive Plan, and in the public interest;

NOW, THEREFORE, the Village Board of Weston, Marathon County, Wisconsin, do ordain as follows:

SECTION 1: Section 94.16.11(4) and (5) of the Zoning Ordinance Relating to Variance Procedures is hereby amended to provide as follows:

Section 94.16.11: Variance Procedures

- (4) **Application Requirements.** ~~All applications for requested variances shall be approved as complete by the Zoning Administrator a minimum of ten days prior to the initiation of this procedure. The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not~~

~~complete or does not fulfill the requirements of this Chapter, he or she shall return the application to the applicant. If the Zoning Administrator determines that the application is complete, he or she shall so notify applicant. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. Prior to the submittal of the official notice regarding the application to the newspaper by the Village, t~~The applicant shall provide the Zoning Administrator with the complete application certified as complete by the Zoning Administrator under subsection 5(a), including an easily reproducible electronic copy plus hard copies in a quantity directed by the Zoning Administrator. Said complete application shall be comprised of all of the following:

- (a) A completed application on a form provided by the Zoning Administrator.
- (b) A map of the subject property showing all lands for which the variance is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds. Said map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) that maintains that control. Said map and all its parts and attachments shall be submitted in a form that is clearly reproducible with a photocopier, and shall be at a scale that is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
- (c) A map, such as the Future Land Use Map from the Comprehensive Plan, of the generalized location of the subject property in relation to the Village as a whole.
- (d) A written description of the proposed variance describing the type of specific requirements of the variance proposed for the subject property.
- (e) A site plan of the subject property, including existing conditions and proposed changes. Said site plan shall conform to those requirements of Section 94.16.09 to the extent deemed necessary by the Zoning Administrator
- (f) Written justification for the requested variance consisting of the reasons why the applicant believes the proposed variance is appropriate, particularly as evidenced by compliance with the criteria set out in subsection (7) below.
- (g) Any fee as may be required under the fee schedule approved by the Village Board.

(5) Review by the Zoning Administrator.

The requested variance shall be reviewed by the Zoning Administrator as follows:

- (a) The Zoning Administrator shall determine whether the application is complete and fulfills the requirements of this Chapter. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Chapter, he or she shall return the application to the applicant with explanation. If the Zoning Administrator determines that the application is complete, he or she shall certify the application as complete. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred.
- (b) Once the Zoning Administrator determines that the application is ~~When~~ complete, the Zoning Administrator or designee shall authorize the public hearing and prepare a review the application and written evaluate evaluation, including and comment on the written whether there is justification for the proposed variance based on the application and the criteria for variance approval.

(c) The Zoning Administrator shall forward the application and evaluation report to the Zoning Board of Appeals for that Board's review and action.

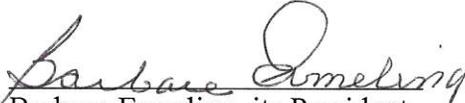
SECTION 2: The amendment effectuated by this Ordinance shall apply within the municipal limits of the Village and within its extraterritorial zoning jurisdiction in the Town of Weston.

SECTION 3: SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

Dated the 18th day of April, 2016

WESTON VILLAGE BOARD

By: 
Barbara Ermeling, its President

Attest:


Sherry Weinkauff, its Clerk

APPROVED: 4/19/16

PUBLISHED: 4/20/16

Notice of Newly Enacted Ordinances

Please take notice that the Village Board of Weston, Wisconsin enacted on April 18, 2016, the following Ordinances:

- Ordinance No. 16-003 An Ordinance Amending Section 94.3.02 of the Zoning Ordinance Entitled Treatment of Allowable Uses by Zoning District.
- Ordinance No. 16-004 An Ordinance Amending Section 94.4.02(4)7. of the Zoning Ordinance Entitled Residential Land Use Types – Manufactured Home Community – Performance Standards.
- Ordinance No. 16-005 An Ordinance Amending Section 94.6.03(4), Figure 6.03 of the Zoning Ordinance Entitled Conditional (C), Prohibited (R), And Permitted (P) Uses in WHP Overlay Districts.
- Ordinance No. 16-006 An Ordinance Amending Section 94.13.08 of the Zoning Ordinance Entitled One-Time Event Signs.
- Ordinance No. 16-007 An Ordinance Amending Section 94.16.02(4) of the Zoning Ordinance Entitled Zoning Administrator Review and Recommendation, Section 94.16.02(5) of the Zoning Ordinance Entitled Notice of Public Hearing, Section 94.16.03 (4) of the Zoning Ordinance Entitled Zoning Administrator Review and Recommendation, Section 94.16.03(5) of the Zoning Ordinance Entitled Notice of Public Hearing, and Section 94.16.03(7) of the Zoning Ordinance Entitled Review Criteria for Amendments to the Official Zoning Map.
- Ordinance No. 16-008 An Ordinance Amending Section 94.16.06(2), (3) and (4) of the Zoning Ordinance Relating to the Conditional Use Permit Approval Process.
- Ordinance No. 16-009 An Ordinance Amending Section 94.16.11(4) and (5) of the Zoning Ordinance Relating to Variance Procedures.
- Ordinance No. 16-010 An Ordinance Amending Section 94.16.13(4) of the Zoning Ordinance Relating to Concurring Vote and Decision of an Appeal of a Zoning Interpretation.
- Ordinance No. 16-011 An Ordinance Amending Section 94.16.15(2) of the Zoning Ordinance Relating to Zoning Administrator Duties.
- Ordinance No. 16-012 An Ordinance Amending Section 94.3.03(13) of the Zoning Ordinance Entitled Utility Connections to Principal Building for Human Habitation.
- Ordinance No. 16-013 An Ordinance Amending Section 94.16.19(1) of the Zoning Ordinance Entitled Violations, and Section 94.16.19(3) of the Zoning Ordinance Entitled Penalties.
- Ordinance No. 16-014 An Ordinance Amending Figure 5.01 (1) of the Village Zoning Ordinance Entitled Rural, Open Space and Residential District Lot Dimension and Intensity Standards.
- Ordinance No. 16-015 An Ordinance Amending Section 94.5.08(1)(b) and (d) of the Zoning Ordinance Relating to Calculating Maximum Permitted Density in the AR District.
- Ordinance No. 16-016 An Ordinance Amending Section 94.16.09(4) of the Zoning Ordinance Relating to Site Plan Procedures Application Contents.

- Ordinance No. 16-021 An Ordinance Creating Section 94.4.10(13) of the Zoning Ordinance Entitled Temporary Sales by Mobile Food Vendors and Adding This New Temporary Land Use to the Temporary Land Use Category Within the Charts Displayed in Figures 3.04 And 3.05 of the Village Zoning Ordinance and Amending Section 94.17.04 Definitions of the Zoning Code to Create Definitions Related to This New Use.

The full text of the above Ordinances may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at <http://www.westonwi.gov>.

Dated this 19th day of April, 2016
Sherry Weinkauf, Village Clerk

Published: 4/20/16