

**VILLAGE OF WESTON, WISCONSIN
AGENDA ITEM COVER SHEET**

MTG/DATE: Plan Commission, June 12, 2017

FROM: Jennifer Higgins, Zoning Administrator

DESCRIPTION: Ordinance 17-018: to establish criteria for the expiration of a variance.

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|----------------|--|--|--|
| ACTION: | <input checked="" type="checkbox"/> Approve | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Proclamation |
| | <input type="checkbox"/> Deny | <input type="checkbox"/> Policy | <input type="checkbox"/> Report |
| | <input type="checkbox"/> Expenditure | <input type="checkbox"/> Procedure | <input type="checkbox"/> Resolution |

QUESTION:

Should the Plan Commission recommend the approval of Ordinance 17-018 to the Board of Trustees as written to establish criteria for the expiration of a variance.

BRIEF:

Under the current zoning code there is not any criteria establishing an expiration of a variance when the applicant does not act within a year of approval of the variance.

FISCAL IMPACT: NONE

RECOMMEND: Zoning Administrator recommends approval.

REQUEST: Approve Ordinance 17-018

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- Amendment to Zoning Regulation (Text Amendment) Determination
 - Draft Ordinance Number 17-018



AMENDMENT TO ZONING REGULATION (TEXT AMENDMENT) DETERMINATION
PLANNING AND DEVELOPMENT
PLAN COMMISSION / JOINT TOWN & VILLAGE EXTRATERRITORIAL ZONING COMMITTEE
BOARD OF TRUSTEES

Ordinance No.: **17-018** Hearing Date: **June 12, 2017**

Applicant: **Jennifer Higgins, Zoning Administrator, Village of Weston**

Title: **An amendment to Section 94.16.11: to establish criteria for the expiration of a variance.**

Purpose: **As the current code is written, there is not any criteria to establish an expiration if the applicant fails to act within the allotted amount of time.**

The Department of Planning and Development, Plan Commission and Board of Trustees of the Village of Weston, pursuant to the Village of Weston Zoning Code, Article 16 Processes, Section 94.16.02 Amendments to Zoning Regulations (Text Amendments), hereby makes the following findings and evaluation:

DETERMINATION:

1. Is the proposed text amendment consistent with the Comprehensive Plan, as is required by Wisconsin Statutes?

Yes, the proposed changes coincide with the objectives within the Comprehensive Plan

2. Does the proposed text amendment further the purposes and intent of this Chapter and section to which the amendment is proposed?

Yes, this section continues to promote the intent of this chapter by ensuring that when variances are granted, they are acted upon in a timely manner.

3. Does the amendment address any of the following deficiencies or omissions as compared to the current language of this Chapter?

1. A change has occurred in the land market, or other factors have arisen that require a new form of development, a new type of land use, or a new procedure to meet said change(s).

2. New methods of development or providing infrastructure make it necessary to alter this Chapter to meet these new factors.

3. Changing governmental finances require amending this Chapter in order to meet the needs of the government in terms of providing and affording public services.

4. There is an error or internal inconsistency in this Chapter.

4. Does the proposed amendment maintain the desired compatibility with allowable land uses, land use intensities, and impact on resources of the affected zoning district(s)?

Yes, there is not any impact on the allowable land uses, intensities or resources in any of the zoning districts.

BACKGROUND INFORMATION:

Staff found that there is not any mechanism in the code for the expiration of a variance if the applicant does not file the necessary building permits or if the associated building permit expires. This new section sets the criteria that if the applicant does not file for the required building permits to act upon the granted variance or if those building permits expire, then the variance will also expire.

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|---|----------------|
| Plan Commission Determination on 4/10/17: | Approve / Deny |
| ETZ Determination on 4/10/17: | Approve / Deny |
| Board of Trustees Determination on 4/17/17: | Approve / Deny |



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

ORDINANCE NO. 17-018

AN ORDINANCE TO AMEND SECTION 94.16.11 TO ESTABLISH CRITERIA FOR THE EXPIRATION OF A VARIANCE.

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, in administering this new Chapter 94, Village staff has found Sec. 94.16.11 does not adequately address the regulations needed to define the criteria for the expiration of a variance in the Village and Town; and

WHEREAS, Village Staff is proposing amendments to Chapter 94 Zoning to provide criteria outlining an expiration for a variance; 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 June 12, 2017, 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, does ordain as follows:

SECTION 1: Chapter 94 Zoning Ordinance is hereby amended to provide as follows:

Section 94.16.11: Variance Procedures

- (1) **Recording of Variance.** The Zoning Administrator shall record the variance against the property, assigning all costs thereof to the applicant, and shall make record of the variance on the Official Zoning Map. The document recording the variance shall indicate that the property owner has the

burden of proof to conclusively demonstrate that activities associated with the variance are being completed within the following applicable periods, or the variance shall become null and void:

- (a) A building permit associated with the approved variance shall be obtained within one calendar year of the approval.
- (b) Upon issuance of a building permit, the associated work must be completed in accordance with Section 94.16.04.
- (c) In the event the variance does not require a building permit; the associated work must be completed within two calendar years of the variance approval.

In the event that a variance is rendered null and void under this subsection, the Zoning Administrator may record an amendatory document against the property and shall remove or modify record of the variance on the Official Zoning Map.

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 19th day of June, 2017

WESTON VILLAGE BOARD

By: _____
Barbara Ermeling, its President

Attest:

Sherry Weinkauff, its Clerk

APPROVED: _____

PUBLISHED: _____