

ORDINANCE NO. 2007-3

AN ORDINANCE ALLOWING SECOND SINGLE-FAMILY DWELLING UNITS IN AGRICULTURAL (A-1 & A-2), COUNTRYSIDE RESIDENTIAL (CR-A & CR-B) and ESTATE (E-1) ZONING DISTRICTS BY CONDITIONAL USE IN THE TOWN OF CEDARBURG

WHEREAS, The Town of Cedarburg is a municipal body corporate and politic within Ozaukee County;

WHEREAS, Town residents living on property zoned for single-family residential uses have expressed a need and desire for the construction and/or occupancy of second single-family dwelling units permitted by conditional use in the Town of Cedarburg;

WHEREAS, The Plan Commission has reviewed such an ordinance and has made no recommendation to the Town Board for its adoption;

WHEREAS, The Town Board held a public hearing regarding the possible adoption of this ordinance, a notice of which was published twice as a class 2 notice, one at least ten days prior to the date of the hearing; and

WHEREAS, The Town Board believes it is in the best interest of the health, safety and welfare of the Town and its residents to allow as a conditional use permit in certain zoning districts, as specified, second dwelling units as one single-family dwelling;

NOW, THEREFORE, the Town Board of the TOWN OF CEDARBURG, Ozaukee County, Wisconsin ordains as follows:

Section 320-58. I of the Town Code is created to read:

- I. Second Single-Family Dwelling Units.
 - (1) Purpose and Intent. The purpose and intent of permitting as a conditional use the construction and/or occupancy of a second dwelling unit is to allow, when all applicable standards have been met, a detached building designed for and occupied by the family of the owner-occupied primary dwelling unit to promote and preserve the family in single-family residential or quasi residential zoning

districts of A-1, A-2, CR-A, CR-B and E-1 in the Town of Cedarburg. The rental, lease, or separate sale of any such second dwelling unit is prohibited in order to protect the single-family residential nature and character of the district in which they are located.

- (2) Definitions. For purposes of this section, the term dwelling unit shall consist of and include both the primary dwelling unit occupied by the owner and the second dwelling unit occupied by the owner's family, and together are viewed as one single-family dwelling. A primary dwelling unit is defined as a detached building designed for and occupied by the owner as a single-family dwelling unit. A second dwelling unit is defined as a detached dwelling unit occupied by the owner's family located on the same lot of a primary dwelling unit that is occupied by the owner as a single-family dwelling unit. A second dwelling unit shall have sleeping areas and a bathroom, with or without kitchen facilities, as specified in the permit. A second dwelling unit may be permitted as a conditional use, if it is occupied by the family of the owner-occupied primary dwelling unit and all such persons are occupying the same as a single, nonprofit housekeeping unit, who are living together as a bona fide stable and committed living unit, being a traditional family or the functional equivalent thereof, exhibiting the generic character of a traditional family. A second dwelling unit may not be rented, leased or sold separately from the primary dwelling unit on the lot. The owner of a lot containing a primary dwelling unit and a second dwelling unit must live in either the primary dwelling or in the second dwelling unit in order for the conditional use permit to be valid.
- (3) Permits. A conditional use permit must be obtained before a building and/or occupancy permit may be issued for any second dwelling unit. When a conditional use permit has been issued for a second dwelling unit, the owner of the lot shall be responsible for payment of impact fees as required in Section 184-16.
- (4) Standards.
 - (a) An applicant for such a conditional use must comply with general ordinances for conditional use permits as required in Sections 320-45 through 320-55.
 - (b) Only one (1) second dwelling unit may be allowed per lot. Only one (1) driveway access for the primary dwelling and the second dwelling unit may be allowed from any public road.
 - (c) The lot proposed for a second dwelling unit shall contain an existing primary dwelling unit, and must meet the minimum lot size for the respective zoning district.
 - (d) The square footage of a second dwelling unit shall not exceed

thirty percent (30%) of the footprint of the home, excluding the garage, or nine hundred (900) square feet, whichever is smaller. The minimum size of the second dwelling unit shall be at least three hundred (300) square feet regardless of the thirty percent (30%) rule.

- (e) The number of persons occupying a second dwelling unit shall be limited to four (4) family members or less, depending on the square footage of the dwelling, and/or the number and type of rooms.
- (f) All second dwelling units shall be limited to one (1) story, and a maximum height of nineteen (19) feet, but in no event may it exceed the height of the primary dwelling unit.
- (g) All second dwelling units shall have a minimum building wall separation from the primary dwelling unit of twenty (20) feet.
- (h) All second dwelling units shall comply with applicable setback requirements for principal dwelling structures in the respective zoning district. However, second dwelling units shall not be allowed in the front yard of a lot.
- (i) All second dwelling units shall be served by the same electrical, water and gas meters, as applicable, that serve the primary dwelling unit. No separate meters shall be allowed. The sanitary sewerage systems of second dwelling units shall comply with the standards in Chapters Comm 82 & 83 of the Wisconsin Administrative Code as regulated by Ozaukee County.
- (j) Adequate off-street parking shall be available for the second dwelling unit.
- (k) Construction of all second dwelling units shall comply with applicable building codes.
- (l) All second dwelling units shall be designed and built consistent with the building type, architectural style, and color of the primary dwelling unit, and the appearance of the second dwelling unit or shall be that of a site-built, single-family dwelling unit.
- (m) In the event these standards or the applicable terms of a conditional use permit are violated, including but not limited to, if one of the dwellings is not owner-occupied for any period longer than thirty (30) days, then the owner shall be required to have the Town Building Inspector verify within ten (10) days of any such violation date that one of the two dwellings has had its water supply line and sewer lateral disconnected, and that it is no longer occupied as a dwelling unit. Such conditions of the property shall remain until such time the Town Building Inspector has verified in writing that the violation has been cured and a new occupancy

and/or building permit has been issued for such dwelling unit.

- (5) Covenants and Restrictions. Prior to the issuance of any building, occupancy, or conditional use permit for a second dwelling unit, the lot owner shall record against the deed to the subject property, restrictive covenants that shall run with the land, in a form approved by the Town Attorney, in favor of and for the benefit of the Town of Cedarburg, which shall indicate that the occupancy and/or use of the second dwelling unit is subject to and regulated by the Town of Cedarburg Code of Ordinances. A copy of the signed conditional use permit for a second dwelling unit shall be recorded, and attached thereto and incorporated by reference, with the covenants. The covenants shall prohibit, including but not limited to, the rental or lease of the second dwelling, and also prohibit any sale or form of ownership transfer separate from the primary dwelling on the same lot. Nothing herein is intended to modify, amend or alter the legal effect of any conditions, covenants and restrictions, or other independent or private deed restrictions that may be applicable to a lot for which a second dwelling unit is permitted under this section.
- (6) Enforcement. This Ordinance shall be part of the Town of Cedarburg Zoning Code and shall be enforced accordingly.

Section 320-25. A-1 Agricultural District., C. Conditional Uses. subsection (5) is amended to read as follows:

- (5) See §§ 320-57, 320-58, 320-60 and 320-61.

Section 320-25. A-2 Prime Agricultural District., C. Conditional Uses. subsection (3) is amended to read as follows:

- (3) See §§ 320-57, 320-58, 320-60, 320-61 and 320-107.

Section 320-30. CR-A Countryside Residential A District., D. Conditional Uses. subsection (11) is created to read as follows:

- (11) Second Single-Family Dwelling Unit pursuant to §320-58.

Section 320-31. CR-B Countryside Residential B District., D. Conditional Uses. subsection (12) is created to read as follows:

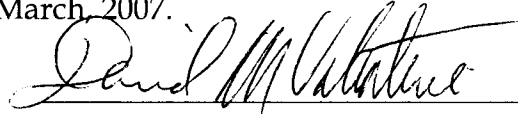
- (12) Second Single-Family Dwelling Unit pursuant to §320-58.

Section 320-29. E-1 Estate District., F. Conditional Uses., is created to read as follows:

- F. Conditional Uses. Second Single-Family Dwelling Unit pursuant to §320-58.

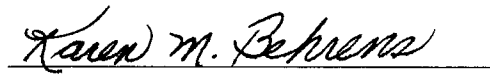
This ordinance shall be in full force and effect upon its passage and posting as provided by law.

Passed and adopted by the TOWN BOARD of the TOWN OF CEDARBURG, Ozaukee County, Wisconsin this 7TH day of March, 2007.



David Valentine
Town Chairman

ATTEST:



Karen M. Behrens, CMC
Town Clerk