TOWN OF ANGELICA

Shawano County, Wisconsin ORDINANCE 10-13-20

LOT SIZE AND ROAD FRONTAGE

The Town of Angelica Board of Supervisors, Shawano County, Wisconsin, ordains as follows:

1. PURPOSE. This ordinance sets the standards for subdivision plat and Certified Survey Map approval and sets zoning guidance for the Town of Angelica Planning Commission (herein referred to as planning commission) and Town of Angelica Board of Supervisors (herein referred to as town board) relating to establishment of new lots upon which a building may be placed, now or in the future. The town acts with due regard and consideration to existing land use if the town, with knowledge of increasing development pressure as the metropolitan Green Bay area expands, in consideration of environmental protection, the town board being aware that change to well water quality will require town provision of potable water to the affected owner. Sufficient room is necessary to assure adequate sanitation system success in treating pollutants. In the event of ordinance interpretation, these purposes should be kept in mind.

2. AUTHORITY. This ordinance is enacted pursuant to Wisconsin Statute §236.45 on land divisions, following review by the planning commission and town board, and also sections related to zoning, including §59.69(5).

3. APPLICATION. This ordinance applies to all land in the Town of Angelica that is zoned OAR-Open Lands, Agriculture and Residential District Zone, as defined in Shawano County Zoning Ordinance No. 7-14.

4. MINIMUM LOT SIZE AND MINIMUM ROAD FRONTAGE. No building or structure shall be erected or moved onto any parcel of land in the OAR-Open Lands, Agriculture and Residential District Zone, as defined in Shawano County Zoning Ordinance No. 7-14, that contains less than two acres in size, less than 290 feet of road frontage, less than 290 feet of width at any point of the lot, nor shall any new lot be created under that dimension. No parcel of land may be reduced, by conveyance or otherwise, so as to create a parcel of land below the minimums required herein. The planning commission will make recommendation to the town board and Shawano County Planning and Zoning office accordingly unless a variance has been approved as resulting in undue hardship beyond the applicant's control. Where a rezoning is connected with any proposal not in line with this ordinance, the planning commission will promptly communicate this to the town clerk for inclusion into the next board meeting, to determine whether town opposition prior to county approval should be expressed, and also whether the town board should use its veto power on a previously approved county rezoning. Where a county conditional use situation occurs, the town planning commission shall use this ordinance and others as a guide for determining when to oppose a proposal at the county level, and communicate with the town board accordingly.

5. VARIANCE PROCEDURE. A person with interest in the land, whether present or anticipated ownership, may request the town planning commission to grant a variance that would allow creation of a new substandard lot.

The commission may develop an application form, or the requester may provide information by letter. The request shall set forth the ownership or interest in the land by the applicant, the applicant's name and address, legal description of the land if presently existing, a rough or professional drawing showing the quarter-quarter (40 acre parcel) or Government Lot and the proposed new lot location, the nearest road address, why creation of a substandard lot would not be against the public safety and welfare, why a literal enforcement of this ordinance would result in unnecessary hardship including factors beyond the person's control such as terrain and pre-existing boundary lines or limitation. Owners of land within 300 feet of the boundaries of the proposed lot shall be listed by name and address. The applicant shall disclose on the application form a summary showing why there would be no other reasonable use of the land if a variance is not granted.

The fee for requesting a variance shall be set by the town board and submitted at time of application by cashier's check, money order, or acceptable personal check, to the Town of Angelica. If variance is requested after the noncomplying division has occurred, the fee shall be double the amount of the specified fee.

Before granting a variance, owners within 300 feet of the boundaries shall be given written notice of the commission meeting and offered an opportunity to appear in person or by letter, unless they have already consented to the variance application in writing. A commission designee will post or publish the meeting notice in accordance with the state open meeting law and practice used by the town board.

At the hearing, the applicant has the burden of proof to show necessity for variance meeting legal standards, including the lack of reasonable use of land without the required division. No hardship claims shall be created by the applicant. Ability to produce a better economic result will not establish a valid reason for variance.

After a hearing, the commission will determine whether the proposal would harm the spirit and purpose of this ordinance, and whether variance would harm the public safety and welfare. Alternatives shall be considered in deciding whether a variance will be granted. In every case where a variance is granted the commission minutes shall affirmatively show in what particular and specific respect an unnecessary hardship would be created by literal enforcement of this ordinance, why no reasonable alternative use of the land would occur, and factors beyond the applicant's control and unique to the parcel considered that were significant in deciding to grant such variance request.

A written summary of the commission decision will be issued and delivered or mailed to the applicant, which may be a copy of the meeting minutes.

In the event the applicant wishes, an appeal to the town board may be taken, by written request to the clerk, received within 30 days after notice of the commission decision is delivered or mailed, accompanied by the required fee. The town board shall then evaluate using the standards set forth herein and issue a decision within 75 days of appeal, or the appeal shall be deemed denied. The standard for variance granting is as set forth herein.

6. ENFORCEMENT. Failure to comply with this ordinance will result in no building permit being issued for the lot by the town. The decision shall be communicated to the county zoning office so any land use permit will be issued or denied in accordance with the town's position. The town may seek an injunction asking a court to order compliance or halt noncompliance, or direct any action in keeping with the ordinance. The town will oppose any zoning approval to the extent possible for any person not in compliance with this ordinance. The Circuit Court of Shawano County shall have jurisdiction over and be the proper venue for the Town to obtain an order for injunctive relief. If the Court enters an injunction in favor of the Town, a penalty of $500.00 per violation shall be imposed against the violating party and an assessment shall be made in favor of the Town against said party for reasonable attorney fees, court costs, and any additional expenses incurred by the Town to facilitate enforcement. Payment shall be made on such terms as the Court may direct.

7. SEPARABILITY. In the event any portion of this ordinance is found invalid by any court for any reason, the remaining portions shall remain in full force and effect.

8. EFFECTIVE DATE. This ordinance shall take effect from and after its passage and publication as provided by law.

Adopted this 13th day of October, 2020