

May 13, 2013

Amendment of Zoning Ordinance 8.4(1) & 8.5

TOWN OF MILTON

AMENDMENT OF ZONING ORDINANCE

SECTION 8.4(1) & Section 8.5

AN ORDINANCE AMENDING THE ZONING ORDINANCE, RELATING TO APPEALS TO THE BOARD OF ADJUSTMENT FROM DECISIONS OF THE TOWN BOARD RELATING TO CONDITIONAL USE PERMITS.

RECITALS

- A. Section 8.4(1) and Section 8.5 of the Town of Milton Zoning Ordinance currently provide that the Board of Adjustment may hear and decide appeals from decisions of the Town Board;

- B. Section 59.694 of the Wisconsin Statutes, applicable to town boards of adjustment pursuant to Section 60.65 of the Wisconsin Statutes, permits appeals to a board of adjustment from decisions of “an administrative official,” but not from a decision of the town board.

- C. Section 62.23(7) (e) of the Wisconsin Statutes, applicable to towns that have adopted village powers pursuant to Sections 60.10 (2) (c) and 60.22 (3), permits appeals to a board of adjustment from decisions of the “administrative official”, but not from a town board.

- D. The Wisconsin Court of Appeals and the Wisconsin Supreme Court have ruled that a board of adjustment does not have authority to hear appeals from decisions of a town board on grants or denials of conditional use permits;

NOW, THEREFORE, the Town Board of the Town of Milton, County of Rock, State of Wisconsin, ordains as follows:

SECTION 1. Section 8.4(1) of the Town of Milton Zoning Ordinance is repealed and replaced by the following:

“Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this zoning ordinance, but not including power to hear an appeal from a decision of the Town Board in granting or denying a conditional use permit.”

SECTION 2. The first sentence of Section 8.5 of the Town of Milton Zoning Ordinance repealed and replaced by the following:

“Appeals from the decision of any administrative official under this Ordinance may be made to the Board of Adjustment by any person aggrieved or by any officer, department, committee, board or bureau of the town, provided that no appeal may be made to the Board of Adjustment from a decision of the Town Board in granting or denying a conditional use permit.”

SECTION 3. If any section, clause, provision or other portion of this Ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the Zoning Ordinance of the Town of Milton shall not be affected thereby.

SECTION 4. This ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

Adopted this 13th day of May, 2013

Bryan Meyer, Town Chairman

Attest:

Sandra Kunkel, Town Clerk