CITY OF STOUGHTON
DEPARTMENT OF
PLANNING & DEVELOPMENT
381 East Main Street, Stoughton, WI. 53589

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RODNEY J. SCHEEL
DIRECTOR

Date: August 4, 2020

To: Plan Commissioners and Common Council

From: Rodney J. Scheel
Director of Planning & Development

Michael P. Stacey
Zoning Administrator/Assistant Planner

Subject: Agenda Item for the August 10, 2020 Plan Commission Meeting and Common Council Meetings of August 25 and September 8, 2020.

Consider approval of zoning ordinance amendments to sections 78-407 – Substandard Lot Regulations and 78-408 – Nonconforming Structure Regulations.
This proposed zoning code amendment is to provide clarity for how a substandard lot and non-conforming structures can be used in the City. Currently, we believe the code is unenforcible. Staff worked with City Attorney Matt Dregne to amend these sections of code. The ordinance is provided. A public hearing and recommendation to Council is necessary.

CITY OF STOUGHTON, 207 S. Forrest Street, Stoughton, WI 53589

ORDINANCE OF THE COMMON COUNCIL		
An ordinance amending Zoning Code Section 78-407 & 78-408 of the Stoughton Municipal Code of Ordinances		
Committee Action:	Plan Commission recommends approval - 0	
Fiscal Impact:	None	
File Number:	O - - 2020	**Date Introduced:**

The Common Council of the City of Stoughton do ordain as follows:

1. *Section 78-407 of the Municipal Code is amended as follows*:

Sec. 78-407. - Substandard lot regulations.

(1) Upon and after the effective date of this chapter, no lot shall be created which does not meet the minimum lot area requirements of each zoning district or which does not meet the lot dimension requirements of each zoning district.

(2) A lot of record existing upon the effective date of this chapter that ~~in a residential district (see section 78-102), which~~ does not meet the minimum lot area ~~(MLA) requirements each zoning district,~~ or ~~which does not meet the~~ lot dimension requirements of the~~each~~ zoning district in which it is located may be used in~~utilized for a detached single family dwelling unit, provided~~ the same manner that existed at ~~measurements of such area and dimensions are equal to or greater than 80 percent of~~ the effective date~~requirements~~ of this chapter, and may be used for any other lawful use that does not require a larger~~. Said~~ lot area or larger~~shall not be more intensively developed (with multi-family or nonresidential uses) unless combined with one or more abutting lots (or portions thereof) so as to create a~~ lot dimensions than ~~which meets~~ the use that existed at the effective date~~requirements~~ of this chapter.

2. *Section 78-408 of the Municipal Code is amended as follows*:

Sec. 78-408. - Nonconforming structure regulations.
(1) General Provisions:

~~As set forth in Wis. Stat. § 62.23(7)(hb), a "nonconforming structure" means a dwelling or other building that existed lawfully before the current zoning ordinance or development regulation was enacted or amended, but that does not conform with one or more of the zoning ordinances or development regulations adopted as part of the current ordinance or regulation. The current use of the structure conforms to this Chapter; however, the structure itself does not comply with current regulations (perhaps as a result of development regulations such as setbacks, for example) but the structure did conform with the regulations in effect when constructed. The~~

~~continued lawful use of a structure lawfully existing at the time of the adoption or amendment of a zoning ordinance may not be prohibited although the structure does not conform with the provisions of the newly adopted ordinance. As required by law, the City's interpretation and application of the nonconforming structure regulations set forth in this Section shall be governed by state statutes relating to nonconforming structures, and any subsequent amendments thereto. Applicable provisions of Wis. Stat.~~A "legal nonconforming structure" means a dwelling or other building that existed lawfully upon the effective date of this chapter or an amendment to this chapter, but does not conform to one or more bulk, area, height or other dimensional requirements of this chapter.

~~§ 62.23(7) relating to nonconforming structures, and subsequent amendments thereto, are hereby incorporated in this Section by reference. In the event of a conflict of law in this Chapter, Wis. Stat. § 62.23(7)(g) shall apply.~~

(2) Continuance of a Nonconforming Structure:

A legal nonconforming structure may be used in the same manner that existed at the effective date of this chapter, and may be used for any other lawful use that does not increase the nonconformity of the structure to the requirements of this chapter beyond the non-conformities associated with the existing use.

(3) Repair, rebuilding, and maintenance of certain legal nonconforming structures.

The provisions of Wis. ~~Any nonconforming structure may continue as allowed by law.~~

~~(3) Repair, Maintenance, Renovation or Remodeling of a Nonconforming Structure:~~

~~As prescribed by Wis. Stat. § 62.23(7)(hc), the City does not by this Section 78-408 prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.~~

~~(4) Structural Alterations and Repairs for Nonconforming Structures:~~

~~As prescribed by Wis. Stat. § 62.23(7)(hc), the City does not by this Section 78-408 prohibit the restoration of a nonconforming structure if the structure will be restored to the size, location, and use that it had immediately before the damage or destruction occurred, without any limits on the costs of the repair, reconstruction, or improvement if all of the following apply:~~

~~(a) The nonconforming structure was damaged or destroyed on or after March 2, 2006.~~

~~(b) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.~~

~~**Note** [Note: Notwithstanding the foregoing, where both (a) and (b) above apply, the size of a structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.]~~

Stat. § 62.23(7)(hb), and subsequent amendments thereto, are hereby incorporated in this Section by reference.

(4) Restoration or replacement of certain legal nonconforming structures.

The provisions of Wis. Stat. § 62.23(7)(hc), and subsequent amendments thereto, are hereby incorporated in this Section by reference.

See also Regulations for Nonconforming Uses set forth in this Chapter.

3. *This ordinance shall be in full force and effect from and after its date of publication.*

Dates

Council Adopted:_____

Mayor Approved: _____ _____
Tim Swadley, Mayor

Published:_____

Attest:_____ _____
Holly Licht, City Clerk

Sec. 78-407. - Substandard lot regulations.

(1) Upon and after the effective date of this chapter, no lot shall be created which does not meet the minimum lot area requirements of each zoning district or which does not meet the lot dimension requirements of each zoning district.

(2) A lot of record existing upon the effective date of this chapter that does not meet the minimum lot area or lot dimension requirements of the zoning district in which it is located may be used in the same manner that existed at the effective date of this chapter, and may be used for any other lawful use that does not require a larger lot area or larger lot dimensions than the use that existed at the effective date of this chapter.

1. *Section 78-408 of the Municipal Code is amended as follows*:

Sec. 78-408. - Nonconforming structure regulations.
(1) General Provisions:

A "legal nonconforming structure" means a dwelling or other building that existed lawfully upon the effective date of this chapter or an amendment to this chapter, but does not conform to one or more bulk, area, height or other dimensional requirements of this chapter.

(2) Continuance of a Nonconforming Structure:

A legal nonconforming structure may be used in the same manner that existed at the effective date of this chapter, and may be used for any other lawful use that does not increase the nonconformity of the structure to the requirements of this chapter beyond the non-conformities associated with the existing use.

(3) Repair, rebuilding, and maintenance of certain legal nonconforming structures.

The provisions of Wis. Stat. § 62.23(7)(hb), and subsequent amendments thereto, are hereby incorporated in this Section by reference.

(4) Restoration or replacement of certain legal nonconforming structures.

The provisions of Wis. Stat. § 62.23(7)(hc), and subsequent amendments thereto, are hereby incorporated in this Section by reference.

See also Regulations for Nonconforming Uses set forth in this Chapter.