

Memo

To: Village Board

Fr: Trevor Fuller, Planning and Zoning Administrator

Re: APPROVAL OF AMENDMENT TO CHAPTER 13 AND 424 OF THE VILLAGE ORDINANCE

Date: January 29, 2015

Attached is a proposed amendment to the razing section of the Village Building Code (Chapter 13) as well as an amendment to the Village Landmarks and Historic Preservation Ordinance (Chapter 424). Also attached are comments from the REALTORS Association of Northeast Wisconsin.

The proposed amendments include changes suggested during Historic Preservation Committee and Plan Commission meetings, additions suggested from the Wisconsin Historical Society website, and language taken from De Pere and Fond du Lac ordinances. All changes are meant to work with property owners and developers in preserving the character, history, and architectural integrity of buildings and structures located in Allouez.

The Historic Preservation Committee approved the amendments at their December 17th meeting. The Plan Commission approved the amendments at their January 26th meeting.

The primary change to note is making the review period for razing historically recognized properties 60 days for single family residential properties and 90 days for all other properties. As a Certified Local Government, the National Parks Service requires a 30 day review period for reviewing a proposed alteration, rehabilitation, reconstruction, or razing to an historically recognized property. Other changes are more grammatical and organizational in nature.

Village Board is asked to review the proposed amended sections to Chapters 13 and 424 and approve as is or with conditions.

13.09 RAZING OF BUILDINGS.

A. No person shall raze any building, structure, or part thereof in the Village of Allouez without first securing a permit from the Building Inspector.

1. No permit shall be granted unless a certificate of insurance, holding the Village harmless from liability for the specific job, shall be filed with the Village Clerk-Treasurer. The amount of insurance shall be set by the insurance counselor for the Village, and shall be determined by the amount of the Village's exposure on the particular job.
2. Except as provided below, a raze permit may be issued following the Building Inspector's receipt of a fully completed application.
 - a. No person in charge of a building or structure which is a historic landmark or contributing to a historic district, as recognized by either a local designation by the Village of Allouez or listed by the State or on the National Register shall be granted a permit to raze such property under any circumstances without first receiving a Certificate of Appropriateness from the Historic Preservation Committee in accordance with procedures defined in Chapter 424 of the Village Ordinances.
 - b. This subsection shall not prohibit an applicant from concurrently taking part in the review process referred to in Chapter 424 of the Village Ordinances, with any design or construction review process regulated by the Village of Allouez.
 - c. This subsection shall not apply to buildings or structures for which an order has been issued for razing or rehabilitation in accordance with Wis. Stats. § 66.0413 or 13.08 of this Code.

2. The person granted a permit shall comply with the following requirements within a time limit of three (3) months after the permit is granted.

B. Street, alley or private property shall be properly protected by erecting proper fencing and scaffolds. If scaffolds are to be built on streets or alleys, they shall be properly protected with a top cover of planks, guard rails, and toe-boards, to prevent falling of debris on sidewalk or street. The top of the scaffold shall be at least eight feet above sidewalk or alley.

C. It shall be unlawful to remove horizontal support and let exterior walls or partitions stand unsupported.

D. In buildings more than one story in height, the exterior walls, interior partitions and other supports to be removed shall be by floor-to-floor using the floor below as protection against falling debris, and to hold exterior walls and interior walls to prevent them from collapsing.

E. No walls, chimneys, or other construction shall be allowed to fall en masse on a floor, and bulky material such as beams and columns shall be lowered and not thrown.

F. Cranes may be used in wrecking or razing of buildings providing the methods stated in this section are complied with.

G. When a building is moved or razed, the building sewer shall be located at a point outside the foundation lines. The sewer shall be sealed off. The plug or seal shall not be covered until an approval has been given by the Plumbing Inspector.

H. No person shall leave litter, building debris, excavations or ground piles on property on which a building is being razed or has been moved off. Where work is being done in an unsatisfactory manner, or where work is not progressing, and causes a hazard and/or nuisance to the public safety, the Building Inspector shall give written notice to the owner specifying a definite time limit to clean up the property and level off the ground to the adjoining level. If notice is not complied with, the Building Inspector shall cause work to be undertaken by the Village or a firm hired by the Village and the cost thereof to be charged back to the property or property owner.

I. Except as otherwise provided, any person, firm, corporation or organization found to be in violation of any provisions of this section or any rule or order promulgated herein shall be subject to a penalty as provided in § 1.05 of the Village Ordinances. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the Building Inspector.

CHAPTER 424

LANDMARKS AND HISTORIC PRESERVATION

424-1 Purpose and Intent.

This ordinance is designed to promote the general welfare of the community and of the state by regulating any place, structure or object with a special character, historic interest, aesthetic interest or other significant value for the purpose of preserving the place, structure or object and its significant characteristics. The intent of this ordinance is to create the Village of Allouez Historic Preservation Committee to designate historic landmarks and establish historic districts and to regulate all historic landmarks and all property within each historic district to preserve the historic landmarks and property within the district and the character of the district. The purpose of this section is to:

- A. Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of the Village of Allouez's cultural, social, economic, political and architectural history.
- B. Safeguard the Village of Allouez's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts.
- C. Stabilize and improve property values, and enhance the visual and aesthetic character of the Village of Allouez.
- D. Foster civic pride in the beauty and accomplishments of the past.
- E. Enhance the Village's attraction to residents, tourists and visitors and serve as a support and stimulus to local business.
- F. Strengthen the economy of the Village.
- G. Promote the use of historic structures, sites and districts for the education, pleasure and welfare of the residents of Allouez.

424-2 Definitions

Unless otherwise indicated, the below words, terms or phrases used herein shall have the following meanings:

ALTERATION – Any act or process which changes one or more of the exterior features of a structure, including but not limited to the erection, construction, reconstruction or moving of any improvement.

CERTIFICATE OF APPROPRIATENESS – A statement verifying that the committee has reviewed an application to allow the alteration, rehabilitation, reconstruction or ~~demolition~~ ~~razing~~ of any improvement upon an historic site or within an historic district; that the committee has found the requested action to be appropriate to the general character of the historic site or historic district; and that the requested action may be taken subject to applicable building and zoning codes.

Comment [TF1]: Wording changed throughout to have consistent language

COMMITTEE– The Historic Preservation Committee created under this section.

~~**DEMOLITIONRAZING** – Any act or process which destroys in part or in whole an improvement.~~

HISTORIC DISTRICT – A place or area designated as an historic district by the Village Board on recommendation of the committee ~~or listed on by the State or on the National Register as such~~. In order to be designated, the following requirements shall be met: The historic district ~~is listed on by the State or on the National Register as such or~~ may contain, within definable geographic boundaries, one or more historic structures along with such other buildings, places or areas which, while not of such historic significance to be designated as historic structures, nevertheless

contribute to the overall visual characters of the historic structure or structures located within the District.

HISTORIC STRUCTURE – Any improvement which has a special character or special historic interest or value as part of the development, heritage, or cultural characteristics of the Village and which has been designated as an historic structure pursuant to the provisions of this chapter or listed by the State or on the National Register.

IMPROVEMENT – Any building, structure, place, work of art or other object constituting a physical betterment of real property or any part of such betterment.

LANDMARK – Any improvement which has a special character of special historic interest or value as part of the development, heritage or cultural characteristics of the Village which has been designated as a landmark pursuant to the provisions herein.

LANDMARK SITE – Any parcel of land of historic significance due to a substantial value in tracing the history of aboriginal man or upon which an historic event has occurred and which has been designated as a landmark site.

NATIONAL REGISTER – National Register of Historic Places as administered by the National Park Service under the National Historic Preservation Act of 1966.

RAZING – Any act or process which demolishes or destroys in part or in whole an improvement.

STATE REGISTER – State Register of Historic Places as maintained by the Wisconsin Historical Society as the State of Wisconsin Historic Preservation Office according to the National Historic Preservation Act of 1966.

424-3 Historic Preservation Committee

A Historic Preservation Committee is hereby created, consisting of seven (7) members. Of the membership, if available in the community, one shall be a registered architect; one shall be a licensed real estate broker, and five shall be citizen members. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The Village President shall appoint the committee, subject to confirmation by the Village Board.

424-4 Historic Structure, Historic Site and Historic District Designation Criteria

- A. For purposes of this ordinance, an historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to the Village such as historic structures, sites, or districts which:
1. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
 2. Are identified with historic personages or with important events in national, state or local history; or
 3. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
 4. Are representative of the notable work of a master builder, designer or architect who influenced his age; or
 5. Have yielded, or may likely to yield, information important to prehistory or history

- B. The committee shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this ordinance.

424-5 Powers and Duties

- A. The committee shall have the power, subject to Section 424-6, to designate historic structures and historic sites and to recommend designation of historic districts within the Village limits. Such designation shall be made based on Section 424-4. Historic districts shall be approved by the Village Board. Once designated, such historic structures, sites and districts shall be subject to all the provisions of this ordinance.

- B. If any property, site, physical object, building, or structure is an historic landmark or is contributing to an historic district, as recognized by local designation by the Village of Allouez or listing on State or National Registers, the committee shall have the authority to review an application to alter, repair, rehabilitate, reconstruct, or raze any improvement upon such structure and may issue a Certificate of Appropriateness, as required under Section 424-6.

B. Regulation of Construction, Reconstruction, Alteration and Demolition

1. No owner or person in charge of a historic structure, historic site, or structure within an historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Committee. Also, unless such certificate has been granted by the committee, the building inspector shall not issue a permit for any such work.

2. Upon filing of any application for a Certificate of Appropriateness with the committee, the committee shall approve the application unless:

- i. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done;

- ii. In the case of the construction of a new improvement upon an historic site, or within an historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;

- iii. In the case of any property located in an historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district;

- iv. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the village and state;

In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is

self-created or is the result of any failure to maintain the property in good repair.

3. If the committee determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The committee shall make this decision within thirty (30) days of the filing of the application.

4. The Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the village. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.

5. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of an historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

C. Appeals

Should the committee fail to issue a Certificate of Appropriateness due to failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the village board within thirty (30) days. In addition, if the committee fails to issue a Certificate of Appropriateness the committee shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance.

Comment [TF2]: Section moved to below procedures

DC. Recognition of Historic Structures, Sites, and Districts.

At such time as an historic structure, site or district has been properly designated, the committee, in cooperation with the property owner, may cause to be prepared and erected on such property at village expense, a suitable plaque declaring that such property is an historic structure, site or district.

Comment [TF3]: Paragraph removed and added in procedures

424-6 Procedures

A. Designation of Historic Structures and Historic Sites

1. After receipt of recommendation from the committee, the Village Board may, after notice and public hearing, designate historic structures, sites and districts. At least ten (10) days prior to such hearing, the Village Clerk shall notify the owners of record, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected.

2. The Village Board shall then conduct such public hearing. Within thirty (30) days after the close of the public hearing, the Village Board may designate the property as either an historic structure, or an historic site. If the properties are designated as an historic structure or an historic site, notification shall be made of this decision to the property owner or owners by certified mail, return receipt. The designation shall be recorded, at village expense, at the County Register of Deed's office.

3. At such time as a historic structure or site has been properly designated, the committee, in cooperation with the property owner, may prepare and erect on such

property and at village expense, a suitable plaque declaring that such property is a historic structure or site.

B. Creation of Historic District

1. For preservation purposes, committee shall select geographically defined areas within the Village to be designated as historic districts and shall prepare an historic preservation plan for each area. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the Village, after application of the criteria in Section 424-4 above. Each historic preservation plan prepared for or by the committee shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

2. Review and adoption procedure.

- i. The Historic Preservation Committee shall hold a public hearing when considering the plan for an historic district. Notice of the time, place and purpose of the public hearing shall be sent by the ~~secretary of the Historic Preservation Committee~~ Village Clerk to the owners of the property within the proposed district or who are situated in whole or in part within two hundred feet of the boundaries of the proposed district. Said notice shall be sent at least ten (10) days prior to the date of the hearing. Following the public hearing, the committee shall vote to recommend, reject or withhold action on the plan.

Comment [TF4]: Does the committee have a secretary? Maybe Village Clerk?

- ii. The Village Board, upon receipt of the recommendations from the committee shall hold a public hearing, notice to be given by the Village Clerk as noted in section A.1 above, and shall, following the public hearing, either designate or reject the historic district. Designation of the historic district shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.

3. At such time as a historic district has been properly designated, the committee, in cooperation with the property owner, may prepare and erect on such property and at village expense, a suitable plaque declaring that such property is a historic district.

C. Regulation of Construction, Reconstruction, Alteration and DemolitionRazing

1. No owner or person in charge of a historic structure, historic site, or structure within an historic district shall reconstruct, alter or ~~demolish~~ raze all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or ~~demolish~~ raze such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Committee. Also, unless such certificate has been granted by the committee, the building inspector shall not issue a permit for any such work.
2. Upon filing of any application for a Certificate of Appropriateness with the committee, the committee shall approve the application unless except:
 - i. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done;

- ii. In the case of the construction of a new improvement upon an historic site, or within an historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;
- iii. In the case a building or structure, although not itself a designated historic structure, contributes to the distinctive architectural or historic character of the historic district as a whole;
- ii-iv. In the case of any property located in an historic district, the proposed construction, reconstruction, exterior alteration or ~~demolition~~razing does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district;
- v. In the case the building or structure is of such old, unusual, or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense;
- iii-vi. In the case the building or structure is of such architectural or historical significance that its ~~demolition~~razing would be detrimental to the public interest and contrary to the general welfare of the people of the Village ~~and state~~;
- iv-vii. In the case of a request for the ~~demolition~~ razing of a deteriorated building or structure, where any preservation or restoration efforts would not be structurally or economically feasible, provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a Certificate of Appropriateness, economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.

3. At such time as a property owner or person in charge of a property applies for a Certificate of Appropriateness to alter, rehabilitate, reconstruct, or add an addition to an improvement, such application shall be filed with the Historic Preservation Committee. If the committee determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The committee shall make this decision within thirty (30) days of the filing of the application to alter, rehabilitate, reconstruct, or add an addition to an improvement.
4. At such time as a property owner or person in charge of a property applies for a Certificate of Appropriateness to raze an improvement, such application shall be filed with the Historic Preservation Committee. Upon such application, the committee may refuse to grant such written approval for a period of up to sixty (60) days from the time of such application for single-family homes and up to ninety (90) days for other types of structures, during which time the committee and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save such property. During such period, the applicant and the committee shall cooperate in attempting to avoid razing of the property. At the end of the required time period, if no mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is underway, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the subject property is pending, the Building Inspector may issue the permit

Comment [TF5]: Does the committee want to have a tiered timeline for non-residential buildings?

to raze the subject property without the approval of the committee. If such mutually agreeable method for saving the subject property is not successful or no such funds to preserve the subject property have been obtained and made available for disbursement within a period of thirty (30) days following the end of the required time period, the Building Inspector may issue the permit to raze the subject property without the approval of the committee.

- ~~3. If the committee determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The committee shall make this decision within thirty (30) days of the filing of the application.~~
5. The Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the Village.
- ~~4.6. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.~~
- ~~5.7. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of an historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.~~

DC. Appeals

An appeal from the decision of the Historic Preservation Committee to grant or deny a Certificate of Appropriateness may be taken to the Village Board by the applicant. Such appeal shall be initiated by filing a petition to appeal, specifying the grounds thereof, with the Village Clerk within ten (10) days of the date the final decision of the committee is made. After reviewing the application for appeal, the Village Board may, by a favorable majority vote of its members, reverse or modify the decision of the Historic Preservation Committee if, after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for his or her own purposes, the Village Board finds that, owing to special conditions pertaining to the specific parcel of property, razing will preclude any and all reasonable use of the property causing serious hardship for the owner, provided that any self-created hardship shall not be a basis for reversal or modification of the committee's decision.

Comment [TF6]: Changed from 30 days to 10 days.

~~Should the committee fail to issue a Certificate of Appropriateness due to failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the village board within thirty (30) days. In addition, if the committee fails to issue a Certificate of Appropriateness the committee shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance.~~

424-7 Interim Control

Nothing contained in this chapter shall prohibit the making of necessary construction, reconstruction, alteration, or razing of part or all of an historically identified improvement, site, or of such contributing to an historic district, pursuant to order of court or authorized governmental official for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. In such cases, documenting the action to the Historic Preservation Committee

~~only shall be required. No building permit shall be issued by the Building Inspector for alteration, construction, demolition, razing, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the committee at which a nomination form is first presented until the final disposition of the nomination by the committee, of the Village Board, unless such alteration, removal or demolition/razing is authorized by formal resolution of the Village Board as necessary for public health, welfare, or safety. In no event shall the delay be for more than ninety (90) one hundred twenty (120) days.~~

Comment [TF7]: Subject to change based on the timeline above.

424-8 Penalties for Violations

~~Except as otherwise provided, any person, firm, corporation or organization found to be in violation of any provisions of this chapter or any rule or order promulgated herein shall be subject to a penalty as provided in § 1.05 of the Village Ordinances. Any person or persons violating any provision of this section shall be fined according to Section 1.05 of the Village Code of Ordinances (1-10,000 dollars) for each separate violation.~~ Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the Building Inspector.

424-9 Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

MEMORANDUM

TO: Allouez Plan Commission
FROM: REALTORS Association of Northeast Wisconsin
DATE: January 26, 2015
RE: Waiting Period for Raze Permits

The REALTORS® Association of Northeast Wisconsin (RANW) appreciates the opportunity to further input regarding our concerns with the proposed changes to the Village's building code which would require a waiting period for raze permits on certain residential and commercial structures.

SCOPE OF ORDINANCE

Our first concern with the proposed ordinance relates to the type and number of buildings that would fall under this proposal. Although there are a very limited number of commercial buildings in the city that could potentially be affected, the number of residential structures impacted has not been identified. Also, according to the draft ordinance, these buildings do not necessarily hold a significant historic designation as landmarks.

AUTHORITY OF PRESERVATION COMMISSION

Additionally, we feel that this ordinance creates a questionable broadening of the authority and jurisdiction of the commission. Under the proposed ordinance, the Commission would have the authority to delay the approval of permits on structures without voluntary participation by the property owner.

WAITING PERIOD

Finally, our Association questions the timing of notice to the historic preservation commission. In similar situations in other communities, we have discovered that such ordinances do little to educate owners, find alternative options or funding. Rather, the result is narrow public or neighborhood opposition that does little to affect the outcome, and only creates additional and unnecessary costs to the property owner.

RECOMMENDATIONS

We greatly appreciate the amendment already made by the Historic Preservation Committee to address delays of commercial projects by having the review of the raze permit run concurrently when a project must go through a site development review process.

However, we also ask the Plan Commission to consider adding a check-box at the end of each raze permit inquiring if the property owner would consider assistance from the Village/Historic Preservation Commission to either:

- Relocate the structure
- Find a potential buyer for the property
- Secure funding to renovate the property.

If the landowner is not amenable to any of these alternatives, then our Association does not believe that the Village should cause additional delays to the owner. However, if the owner is open to these options, it would initiate a voluntary and positive working relationship with the Preservation Commission.

Universally, most people do not like to see the demolition of buildings, especially those that hold some historical context in a community. However, historic preservation programs cannot be successful without the trust and support of historic property owners. Ordinances that are viewed as heavy-handed or create unnecessary hindrances can be more hurtful to preservation efforts than helpful.

Thank you for your consideration.