

**Ordinance No. 04-03-06-10**  
**An Ordinance Repealing and Recreating Section 18-151 of the Municipal Code of  
the Village of Fontana on Geneva Lake Regarding Existing Nonconforming  
Buildings.**

The Village Board of the Village of Fontana on Geneva Lake, Walworth County, Wisconsin, do ordain as follows:

**SECTION 1.**

Section 18-151 of the Municipal Code of the Village of Fontana on Geneva Lake, is hereby repealed and recreated to read as follows:

Sec. 18-151. Existing nonconforming buildings.

- (a) Additions and enlargements to existing nonconforming structures. Existing nonconforming buildings outside the FWO and FFO Overlay Districts may be expanded, enlarged, or altered, provided that conformance with the established zoning requirements (setbacks, offsets, lot coverage, etc) of the zoning district the structure is located in can be met. The following shall also apply:
- 1) Said expansion, enlargement, or alteration shall not create a greater degree of nonconformity than existed prior to the time of such expansion, enlargement, or alteration.
  - 2) The total square footage of existing nonconformance of a structure (those portions of the existing structure currently and proposed to remain in the required setback areas, including all floor areas) shall be deducted from the conforming building envelope and remain undeveloped. For example, 300 sq. ft. of a first floor and 100 sq. ft. of a second floor existing and remaining in the required setback area shall require a total of 400 sq. ft. within the building envelope to remain undeveloped by any proposed addition or enlargement.
  - 3) Within the conforming building envelope, the height of the expansion, enlargement, or alteration may be measured to the maximum permitted height allowed within the zoning district the lot is located in.
  - 4) In no case may said expansion, enlargement, or alteration result in a greater height to the nonconforming areas of a structure, or to the nonconforming areas of the building envelope, than existed prior to the time of said expansion, enlargement, or alteration.
  - 5) An increase in height, addition or enlargement of any kind shall not be approved in those areas which do not meet zoning requirements, or are proposed to be located outside the conforming building envelope, within setback and offset areas.
- (b) Rebuilding an existing nonconforming building.
- 1) Existing nonconforming buildings outside the FWO and FFO-Overlay Districts which are damaged or destroyed by fire, explosion, flood or other calamity, or which have been razed as a result of property owner request or village order, may be reconstructed as to the following:

- i) The proposed building reconstruction shall conform with all zoning requirements of the zoning district the lot is located in, which shall include, but is not limited to, setbacks, offsets, height, lot coverage, and parking.
- ii) If it is not possible to meet all zoning requirements, the proposed building reconstruction shall be restricted as follows:
  - (1) Insofar as is practicable, a building reconstruction shall be resituated on the lot to encourage improving existing nonconformities, such as increasing setbacks, building separation, green space and parking.
  - (2) In no case shall the reconstructed building be located as to encroach property lines, easements, or road right-of-ways.
  - (3) In no case shall the reconstructed building create a greater degree of nonconformity than existed prior to the time of such reconstruction.
  - (4) In no case shall the nonconforming setbacks or offsets of the reconstructed structure be less than the nonconforming setbacks or offsets of the existing structure.
  - (5) The “building footprint” of the original structure may be manipulated; however, it shall not be enlarged or increased in overall size. The square footage of the building footprint of the reconstructed structure, as measured to the outside of the exterior walls shall be equal to or less than the square footage of building footprint of the existing structure. In no case shall the total reconstructed building footprint exceed the original building footprint. When determining the total size of “building footprint”, those areas considered habitable of all existing floors shall be computed separately from those areas considered non-habitable.
  - (6) The total existing habitable areas of an existing structure shall not be increased in the reconstructed structure. When computing the overall total of existing habitable space, non-habitable spaces such as carports, garages, roofed porches, and screened porches shall not be included in computations. For example, an existing structure consisting of 800 sq. ft. of habitable space on a first floor, 300 sq. ft. of habitable space on a second floor, 150 sq. ft. of a garage, and 80 sq. ft. of a screened porch, shall only be rebuilt to a maximum of 1,100 sq. ft. of habitable space.
  - (7) The total non-habitable areas of an existing structure shall not be increased in the reconstructed structure. For example, an existing structure consisting of 150 sq. ft. of a garage and 80 sq. ft. of a screened porch, shall only be rebuilt to a maximum 230 sq. ft. of non-habitable space.
  - (8) A building reconstruction shall not result in a greater building height than existed prior to the time of said reconstruction.
  - (9) The existing second and third floor areas shall not be increased in the reconstructed structure. For example, if the maximum second story floor area of the existing structure is 300 sq. ft., the reconstructed structure shall not exceed 300 sq. ft. of floor area on the second floor.
  - (10) A building reconstruction shall not include the result of habitable space being created from those existing non-habitable spaces (i.e. carports, garages, roofed porches, screened porches).




- (11) Carports and garages may be reconstructed only if the reconstructed carport and garage is located completely within property lines, and all parking requirements have been met.
- (12) A carport may be reconstructed and converted to an enclosed garage only when conforming to all required setbacks, offsets, lot coverage and parking requirements.
- (c) Submittal Requirements. In addition to complying with all sections of this code in reference to applying for building permits, submittal requirements and inspections, the following additional submittals may be required prior to building permit approval:
- 1) A detailed building elevation for each facade of the proposed reconstructed structure representing an aesthetic improvement over the existing structure as depicted in drawings, photographs, or as determined by the building inspector.
  - 2) A detailed landscaping plan provided for the subject property representing an aesthetic improvement over the existing landscaping as depicted in drawings, photographs, or as determined by the building inspector.
  - 3) An advisory memorandum in writing from the homeowners' association or neighborhood association about the proposed reconstructed structure.
  - 4) The building inspector may require, as a condition to be included in any building or zoning permit issued pursuant to this subsection, that the land owner submit a restrictive covenant restricting future use of the subject property.
  - 5) Other criteria as deemed appropriate by the building inspector as applicable to the subject property, abutting properties and the neighborhood.
- (d) Changes and substitutions. Once a non conforming structure has been changed to a conforming structure, or has been altered to comply with any of the zoning requirements of the zoning district the structure is located in, it shall not revert back to a nonconforming structure. Once the substitution of a more restrictive nonconforming structure has been permitted, it shall not revert back to the prior existing structure.

(Ord. of 2-7-2000, § 18.0702; Ord. 11-01-04-1, § I, 11-1-2004)

PASSED and ADOPTED by the village Board of the Village of Fontana on Geneva Lake, Walworth County, Wisconsin this 3<sup>rd</sup> day of April, 2006.

Village Board of the Village of Fontana on  
Geneva Lake

By:   
Thomas Whowell, President

Attest:   
Dennis L. Martin, Clerk

