

CONDITIONAL USE PERMIT

10/9/23 Plan Commission Meeting

Mark Brooks / Das Barrel Room

Village Planner Report

Germantown, Wisconsin

Summary

Mark Brooks, operator of Das Barrel Room, and agent for Doctors LLC and Julie Kind, representative for the property owner, is seeking approval of an amendment to Conditional Use Permit (CUP) #13-2019 to expand the existing off-site parking area located on the vacant 2.1-acre parcel adjacent to W201 N10466 Appleton Avenue.

Property Location: W201 N10466 Appleton Avenue

Applicant/

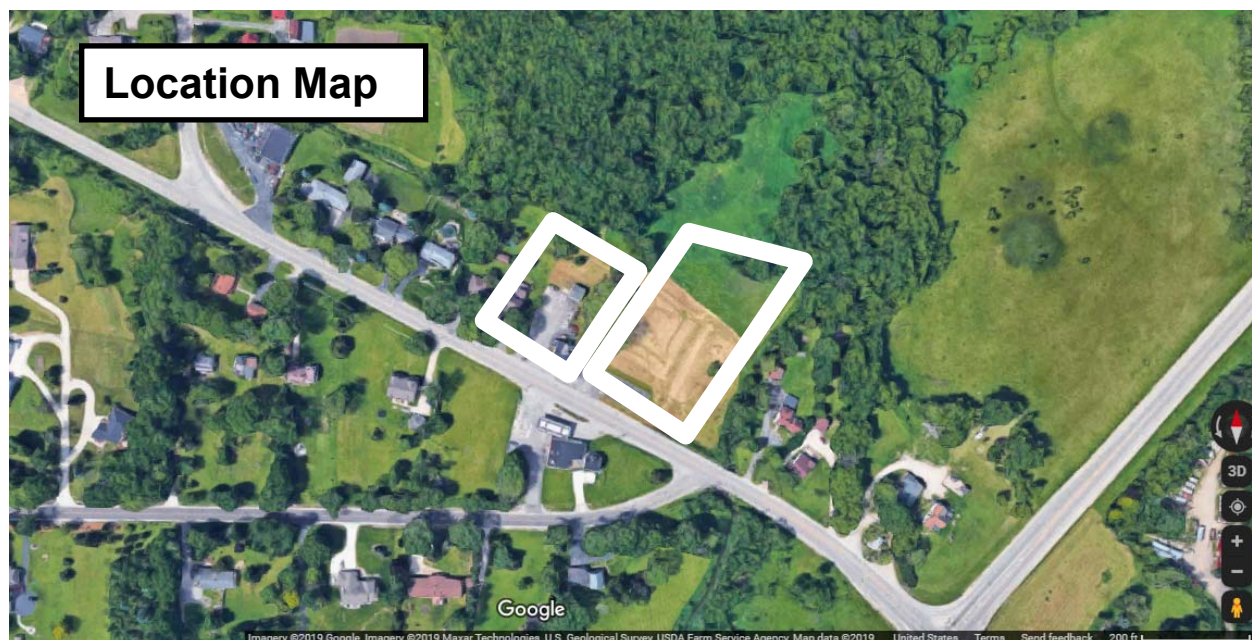
Property Owner:

Mark Brooks
Restaurant/Bar Operator
N52 W14018 Aberdeen Dr
Menomonee Falls, WI

Julie Kind
Doctors LLC
W206N10515 Appleton Ave
Germantown, WI 53022

Current Zoning: B-3: General Business & B-1: Neighborhood Business

Adjacent Land Uses		Zoning
North	Agricultural	A-2
South	Commercial	B-3
East	Residential	Rs-4
West	Residential	Rs-4/Rd-2



Background

Mark Brooks, operator of Das Barrel Room, and agent for Doctors LLC and Julie Kind, representative for the property owner, is seeking approval of an amendment to Conditional Use Permit (CUP) #13-2019 to expand the existing off-site parking area located on the vacant 2.1-acre parcel adjacent to W201 N10466 Appleton Avenue.

In May 2019, Mark Brooks was issued a Zoning Permit (copy attached) to re-open the former Doctors Pub (a.k.a. the Public House) on Appleton Avenue near the Willow Creek intersection. The existing building was remodeled for use as the “Das Barrel Room”... an upscale restaurant/bar. The owner/operator proposed use of the existing paved area (approximately 4,800 sqft) on the adjacent undeveloped parcel to the east for additional parking (also owned by Doctors LLC). Although the paved parking area and separate driveway are located almost entirely on the adjacent parcel, this paved area has been used historically for parking purposes for previous bar operations (and a violation of the Zoning Code since 2013).

In order to resolve this long-standing code compliance issue, a condition of Zoning Permit approval for the Das Barrel Room approval was to prohibit parking on the adjacent paved parking area unless the owner/operator remedied the situation by either combining the two parcels into one, thereby legally attaching the paved parking area to the restaurant/bar parcel, or, obtain a conditional use permit (CUP) for an “off-site parking” area that can be permitted under Section 17.45(5) of the Zoning Code.

While both the restaurant/bar parcel (.9 acres and zoned B-3) and the adjacent parcel (2.1 acres and zoned B-1) are/were under the same ownership (Doctors LLC), the property owner did not want to combine the two parcels. Consequently, the owner/operator applied for and was granted CUP #13-2019 (copy attached).

As stated under Condition #1 of CUP #13-2019, the owner/operator is allowed to use the existing 4,800 sqft paved area “as is” for parking. Condition #2 provides that only general maintenance of the parking area is allowed (e.g. sealcoating, crack-filling, stripping). Condition #3 provides that the parking area MAY be expanded subject to going through the CUP amendment process and re-construction of (or other modifications necessary to) the existing parking area to make the entire parking area (existing and any expansion) compliant with all setback, landscaping, and other code requirements in effect at the time of expansion.

Until this spring, the owner/operator has used the “off-site parking area” in compliance with the terms of CUP #13-2019. However, in late May, Staff issued Code Violation Notice #2023-05-01 to both the owner, Doctors LLC, and the operator, Mark Brooks, for violating the terms of CUP #13-2019 and two other Building & Electrical Code violations (both of which have since been resolved by obtaining the necessary building permits, paying the triple fee fines, and correcting the violations).

With respect to CUP #13-2019, Brooks hired a contractor to install a large amount of gravel on the adjacent parcel to expand the area available for patron parking without obtaining approval from the Village (Condition #2). The illegally expanded parking area is shown on the attached site plan and photos provided in the CUP amendment application by Brooks.

Since the Code Violation Notice was issued, Brooks has been working with Village Staff and the property owner to apply for an amendment to the CUP that could allow the expanded parking to remain if approved by the Village. Until the CUP amendment has been reviewed and acted on by the Village, Staff has deferred enforcement of the code violation. If the Village Board does not approve an amendment to the CUP that would allow the off-site parking area to be expanded as proposed, the code violation will be enforced and the owner/operator will have to remove the gravel and restore the adjacent property to the previous condition.

Proposal

As stated in his CUP amendment application, Brooks is requesting: (1) that the gravel area already installed be allowed to remain as an expansion to the previously approved off-site parking area; and (2) that the expansion area is NOT required to be paved (a standard requirement in the Zoning Code for parking areas serving commercial properties).

Staff Comment

Planning & Zoning

CUP #13-2019 was granted with the understanding and requirements that the pre-existing 4,800 sqft non-conforming paved parking area could be used “as is” (with an allowance for general maintenance) and that any expansion would trigger the need to re-construct the entire parking area to meet current code requirements. Why? Because the existing paved area encroaches into Appleton Avenue right-of-way. In fact, the front of the existing building is only 3-5 feet setback from the right-of-way. When WisDOT re-constructed Appleton Ave in this vicinity as part of the larger round-about construction at Lannon Road, the existing paved area was allowed to remain as a legal non-conforming use. The existing driveway apron was replaced in the same location and width. Consequently, there is not sufficient space between the existing pavement and property line within which any landscaping or other code required improvement could be made that would further separate the parking area from the travel lanes (i.e. 5' minimum parking lot setback and landscaped buffer). Allowing the pre-existing parking lot to be used “as is” unless and until it is expanded is both reasonable and typical for the ongoing use of non-conforming structures.

The primary paved parking area exists on the west side of the building on the restaurant/bar parcel. Historically, the number of parking stalls available in both areas combined has been sufficient to meet the demand for previous bar business. Clearly, Das Barrel Room has become a popular attraction with the need for additional parking either on site or off to keep patrons from parking on Appleton Avenue/STH175. Consequently, and with tacit “approval” from the operator, patrons began parking on the

adjacent parcel and beyond the limits of the Village-approved paved parking area on a regular basis as the business has grown in popularity. Doing so led the operator to install the gravel and expand the off-site parking area (albeit without the required Village approval).

This property and the gas station across the road are the last or furthest west parcels within the “Lannon-Mequon Road Corridor” around the Appleton Avenue @ Lannon road intersection under the 2050 Plan. Commercial uses such as this are deemed to be “desirable” uses for the corridor. However, given Appleton Avenue’s history as a major north-south arterial route that existed prior to the construction of US41, the area developed with a mix of highway-oriented commercial and small-lot residential uses that is slowly evolving into a more residential than commercial corridor. Unfortunately, the pre-1970’s pattern of land division and development in this vicinity does not include nor reflect much, if any, conscious attempt at separating incompatible uses or providing landscaping and other visual or sound attenuating buffers.

Also, for those that may not be aware, the growing popularity of Das Barrel Room and its current business model that includes regular extended weekend indoor (7:30 to 11:30pm) and outdoor (6:00 to 10:00pm) musical entertainment, has resulted in increased sound levels affecting the surrounding neighborhood. While CUP #13-2019 does not (and cannot) be used to effectively address anything other than “off-site parking”, it is reasonable to assume that the size and amount of parking available to patrons can/does have a relationship to sound levels associated with the Das Barrel Room operations ... either directly (with space for more patrons to come and sit outside and sing, clap, cheer, and generally have louder fun) or indirectly (by enabling and supporting more popular outdoor entertainment).

Notwithstanding the issue of sound levels that can/should be addressed through the Village’s noise regulations (if noise violations are occurring), Staff supports the concept of allowing the installation of additional parking for the business.

However, whether that additional parking is provided within the restaurant/bar property (there is space available on the north side of the bar property for additional parking) or as an expanded “off-site” parking area on the adjacent parcel, the additional and existing “off-site” parking areas should be required to meet all current Zoning Code and development requirements, including all setback requirements, pavement and storm water management requirements, and landscaping and buffering requirements. This is particularly important if the “off-site” parking area is expanded on the adjacent parcel since Willow Creek traverses a portion of the parcel along the east property line. Construction of any expanded parking area should be required to include all necessary storm water quality and quantity management measures to ensure ongoing protection of Willow Creek and any other environmentally sensitive features associated with it in this vicinity.

To that end, the operator/owner should remove and/or modify the illegally expanded “off site” gravel parking area as necessary to accommodate the construction of a code compliant parking area subject of detailed plans reviewed and approved by the Village (that may or may not reflect the exact location or amount of parking area shown in the site plan sketch provided in support of this CUP amendment application).

However, if the Plan Commission and Village Board are inclined to grant the operator’s request for the additional gravel (not paved) parking already installed and not require re-construction of the existing non-conforming paved parking area, the owner/operator should at least be required to prepare the necessary site, grading and storm water management plans for the existing gravel area and make whatever modifications or improvements are necessary for adequate and code compliant storm water management.

Village Engineering

If the CUP amendment proposal is approved, the following items are required to be submitted for Site Plan Review prior to permits being issued:

1. Existing site survey stamped by a registered land surveyor;
2. Site, grading and erosion control plans prepared by a registered engineer;
3. If over 5,000 square feet of impervious surface is added (gravel counts as impervious), a green infrastructure plan meeting the requirements of MMSD Chapter 13 is required. Over 10,000 square feet will require a storm water management plan meeting both Village and MMSD requirements.

VILLAGE STAFF RECOMMENDATION

APPROVE an amendment to Conditional Use Permit #13-2019 for Mark Brooks and Doctors LLC to allow expansion of the “off-site” parking area on the undeveloped 2.1-acre parcel located adjacent to the restaurant/bar parcel located at W201 N10466 Appleton Avenue subject to the following amendments to the adopted conditions:

1. This conditional use permit allows the continued use of the existing 4,800 sqft paved area for an off-site parking area as shown in the site plan July 11, 2019, subject to any further requirements and revisions set forth or required herein.
2. Improvements to the existing pavement shall be limited to general maintenance, including but not limited to sealcoating, crack-filling, stripping. ~~No expansion or additional off-site parking or other enhancements, e.g. additional lighting, signage, shall be made without obtaining Zoning Permit and/or Site Plan approval from the Village.~~
3. Expansion of the off-site parking area or the existing on-site parking area on the west side of the building may be allowed subject to approval of an amendment to this conditional use permit.
4. ~~, and,~~ Expansion of the “off-site” parking area east of the restaurant/bar will require;

-
- a. Plan Commission approval of site, grading & erosion control, and storm water management plans;
 - b. Compliance with applicable Zoning Code and development requirements, including all setback, pavement, storm water management, landscaping and buffering requirements of the Village and MMSD;
 - c. re-construction and/or other modifications necessary to make the “off-site” parking area compliant with all setback, landscaping, and other applicable Zoning Code requirements in effect at that time.
 5. The off-site parking area shall be used for parking by the patrons and employees of the restaurant/bar operation during normal business hours. The off-site parking area shall not be used for overnight storage (other than snow storage) of any materials or equipment and shall be kept clean and continuously maintained.
 6. In the event that the 2.1-acre undeveloped parcel is developed separately from the restaurant/bar operation, the existing 4,800 sqft “off-site” paved parking area may be required to be removed or modified to comply with all current Zoning Code requirements in effect at that time or as needed to accommodate the separate development. The continued or shared use of the off-site parking area with any development on the 2.1-acre parcel shall be addressed as an amendment to this conditional use permit.
 7. Any signage displayed on the off-site parking area shall be reviewed and approved by the Village subject to applicable sign regulations.
 8. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional uses and activities which cause special problems or harmful effects associated with the permitted uses and activities that were not revealed or anticipated at the time this CUP was granted, or, where conditions imposed by this CUP that were anticipated to mitigate or eliminate harmful effects associated with the uses and activities but are subsequently insufficient to do so, or, for similar cause based upon consideration for the public comfort, safety, and welfare, this conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.
 9. Unless otherwise provided herein, this conditional use permit shall run with the land and transfer to subsequent owners in interest of the business and/or property.



Village of



Germantown

...Willkommen

Fee must accompany application

730
\$1480 Paid 8 Date 8/4/23

CONDITIONAL USE PERMIT APPLICATION

Pursuant to Section 17.42 of the Municipal Code

Please read and complete this application carefully. All applications must be signed and dated.

1 APPLICANT OR AGENT

Mark Brooks

Phone (414) 507-8653

Fax ()

E-Mail dasbarrelroom@gmail.com

PROPERTY OWNER

Julie Kind

Phone (414) 303-9094

2 TO WHOM SHOULD THE PERMIT BE ISSUED?

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3 PROPERTY ADDRESS

TAX KEY NUMBER

W201N10466 Appleton Ave	
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4 DESCRIPTION OF EXISTING OPERATION

Briefly describe the use as it exists today, including use, size, number of employees, hours of operation, etc. If this permit involves new construction, describe the current status of the property, e.g. "vacant." Use additional pages as necessary.

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5 DESCRIPTION OF PROPOSED OPERATION

Write the name of the proposed conditional use exactly as it appears in the Municipal Code

Describe the proposed use, including size, number of employees, hours of operation and extent of any new construction/alterations. I am applying to amend the current CUP #13-19 to allow expansion of the existing off-site parking area. I am also asking that I not be required to pave the new area but to allow the use of gravel.
--

6 **METES AND BOUNDS LEGAL DESCRIPTION OF PROPERTY – REQUIRED**

Attach pages as necessary

7 **SUPPORTING DOCUMENTATION:**

- ☐ Site Plan and elevations for new construction (can be conceptual)
- ☐ Photos of existing use and/or proposed use operating elsewhere
- ☐ _____
- ☐ _____

8 **READ AND INITIAL THE FOLLOWING:**

MB I understand that the Village is under no obligation to issue a Conditional Use Permit and will do so only if the applicant successfully demonstrates that the proposed use is harmonious with the neighborhood and the long range goals of the Village.

MB I will notify the Village if any aspects of the conditional use changes. I understand that failure to do so may result in the revocation of the CUP.

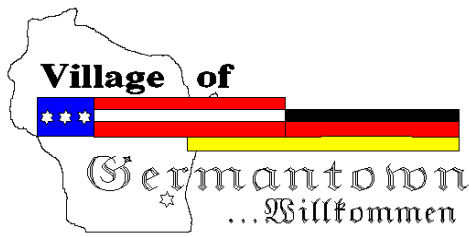
MB I understand that a Conditional Use Permit is valid only if the conditions and restrictions of the permit are met. I understand that failure to comply with any aspect of the permit may result in revocation.

MB I understand that Village Staff is required to post one or more signs along the street frontage of and/or on the property subject of this application that indicate to nearby property owners and the general public that a public hearing of my application will be held before the Village Plan Commission and/or Village Board prior to action being taken on this application; I hereby grant Village Staff permission to enter onto the property for the expressed purpose of installing said sign(s) provided Village Staff is responsible for installing, maintaining and removing said signs in a reasonable manner and timeframe.

9 **SIGNATURES – ALL APPLICATIONS MUST BE SIGNED BY OWNER!**

Mark A. Brooks 8/2/23
Applicant Date

[Signature] P.R. 8-3-23
Owner Date



Engineering Department Memorandum

To : Jeffrey W. Retzlaff, AICP, Planning Director/Zoning Administrator
From : Brad Seubert P.E. Harwood Engineering Consultants
Date : August 29, 2023
Re : Das Barrell Room

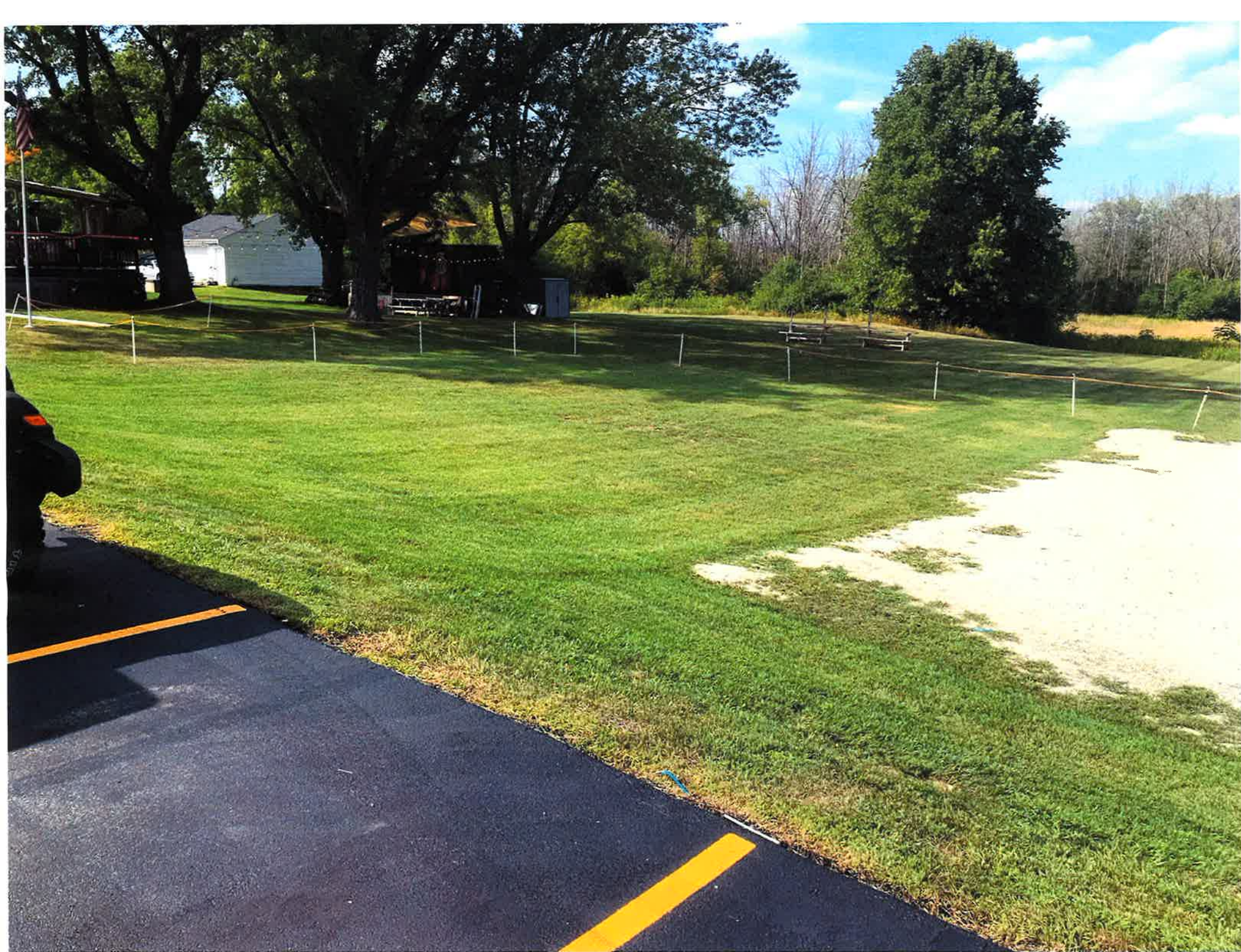
Items Reviewed:

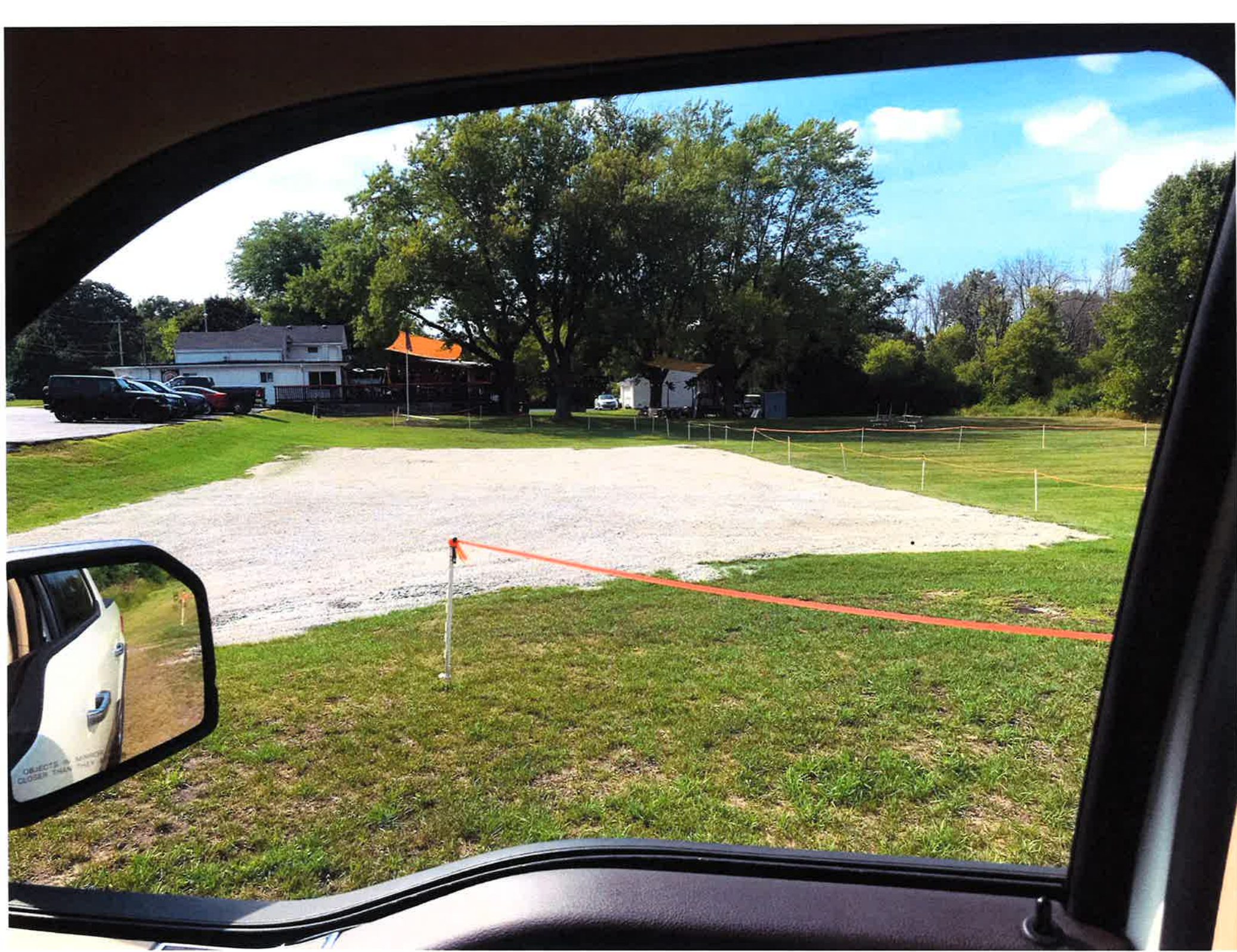
1. CUP Application Dated: 08-02-23

General Comments:

1. The CUP application has been reviewed. The following items are required to be submitted for Site Plan Review prior to permits being issued.
 - a. Existing site survey stamped by a registered land surveyor.
 - b. Site, Grading and erosion control plans prepared by a registered engineer.
 - c. If over 5,000 square feet of impervious surface (gravel counts as impervious) is added a green infrastructure plan meeting the requirements of MMSD chapter 13 is required.







PARCEL 2
293983

PARCEL 1
#293982

148.50'

288.75' N 25°38'00"E 320.10'

52'

109'

526°22'00W
417.30'

Asphalt
Parking

BLDG

Asphalt
Parking

sign

6.00' RAIL

148.50

276.05'

N 63°38'00W

ROADWAY

ROAD CENTER LINE

SO. LINE S.W. 1/4 S
S.T.H. 175

Endorsement stamp digitally applied
Please keep attached to original document

CUP #13 - 19

Document No.

CONDITIONAL USE PERMIT

Document Title

VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN
CONDITIONAL USE ZONING PERMIT

Whereas the Applicants:

**Mark Brooks, Das Barrel Room Operator and Agent for
Renee Martin and Doctors LLC, Property Owner**

agrees to comply with applicable Codes and Ordinances of the Village of Germantown, Wisconsin, and further agrees that all work done pursuant to the permission granted herewith will conform with the applications and drawings filed with and approvals granted by officials of the Village for the purpose of obtaining this permit.

Now, therefore, this permit is issued to the Property Owner for the use of an "off-site" parking area pursuant to Section 17.45(5) of the Village's Zoning Code.

Document # **1481369**
WASHINGTON COUNTY WISCONSIN
2019-10-03 12:36:00 PM

Sharon A. Martin
SHARON A MARTIN
WASHINGTON COUNTY
REGISTER OF DEEDS
Fee: **\$30.00**

Return via **MAIL (REGULAR)**
Pages: **5**

Name & Return Address:

**Village of Germantown
P.O. Box 337
Germantown, WI 53022**

Parcel Identification No:

GTNV 293-982 & 293-983

**On the following described property located in the Village of Germantown,
Washington County, Wisconsin:**

GTNV 293-982 (W201 N10466 Appleton Avenue)

That part of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section Twenty-nine (29), Township Nine (9) North of Range Twenty (20) East. Village of Germantown. Washington County, Wisconsin, described as follows:

Commencing at a point 7.82 chains Northwest of the intersection of the center line of said Fond du Lac Road with the South line of Section 29, said point being the Southwest corner of a parcel of land conveyed by Joshua Gifford and wife to Thomas Nelson and recorded in Volume D of Deeds on page 574; thence North 26 degrees East along the Westerly line of said Nelson tract 17.50 rods; thence North 64 degrees West, 9 rods; thence South 26 degrees West, 17.63 rods to center of Fond du Lac Road; thence South 54 degrees East, 9 rods to the place of beginning.

GTNV 293-983 (Undeveloped Parcel w/ Off-Site Park Area)

That part the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Twenty-nine (29). Township Nine (9) North of Range Twenty (20) East, Village of Germantown, Washington County, Wisconsin, described as follows, viz:

Commencing at Southwest corner of said Section 29; thence East, 1164.51 feet; hence North 63 degrees 38 minutes West along the centerline of State Trunk Highway No. 175, 195.30 feet to the place of beginning of this description; thence 63 degrees 38 minutes West along said centerline, 276.05 feet; thence North 25 degrees 38 minutes East, 320.10 feet; thence 82 degrees 50 minutes East, 296.20 feet thence South 26 degrees 22 minutes West, 417.30 feet to the place of beginning of this description.

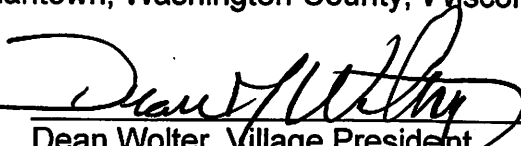
Pursuant to the following condition(s):

1. This conditional use permit allows the continued use of the existing 4,800 sqft paved area for an off-site parking area as shown in the site plan July 11, 2019, subject to any further requirements and revisions set forth or required herein.
2. Improvements to the existing pavement shall be limited to general maintenance, including but not limited to sealcoating, crack-filling, striping. No expansion or additional off-site parking or other enhancements, e.g. additional lighting, signage, shall be made without obtaining Zoning Permit and/or Site Plan approval from the Village.
3. Expansion of the off-site parking area may be allowed subject to an amendment to this conditional use permit, and, will require re-construction and/or other modifications necessary to make the off-site parking area compliant with all setback, landscaping, and other applicable Zoning Code requirements in effect at that time.
4. The off-site parking area shall be used for parking by the patrons and employees of the restaurant/bar operation during normal business hours. The off-site parking area shall not be used for over-night storage (other than snow storage) of any materials or equipment and shall be kept clean and continuously maintained.
5. In the event that the 2.1-acre undeveloped parcel is developed, the existing paved parking area may be required to be removed or modified to comply with all current Zoning Code requirements in effect at that time. The continued or shared use of the off-site parking area with any development on the 2.1-acre parcel shall be addressed as an amendment to this conditional use permit.
6. Any signage displayed on the off-site parking area shall be reviewed and approved by the Village subject to applicable sign regulations.
7. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional uses and activities which cause special problems or harmful effects associated with the permitted uses and activities that were not revealed or anticipated at the time this CUP was granted, or, where conditions imposed by this CUP that were anticipated to mitigate or eliminate harmful effects associated with the uses and activities but are subsequently insufficient to do so, or, for similar cause based upon consideration for the public comfort, safety, and welfare, this conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.
8. Unless otherwise provided herein, this conditional use permit shall run with the land and transfer to subsequent owners in interest of the business and/or property.

CUP # 13-19


Mark Brooks, Das Barrel Room Operator, Renee Martin & Doctors LLC, Property Owner
Village of Germantown, Washington County, Wisconsin
Page 3 of 5

Granted by the Village Board of the Village of Germantown, Washington County, Wisconsin
on the 16 day of September, 2019.



Dean Wolter, Village President

ATTEST:

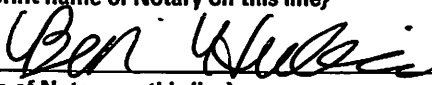


Deanna B. Braunschweig, WCMC/CMC, Village Clerk

STATE OF WISCONSIN) SS
WASHINGTON COUNTY)

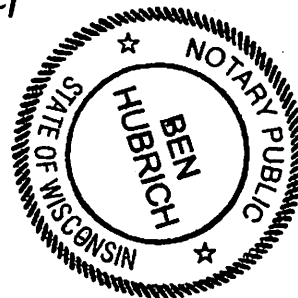
Personally came before me this 16th day of September, 2019, the above
named Dean Wolter, Village President, and Deanna B. Braunschweig, Village Clerk, to me
known to be the persons who executed the foregoing instrument and acknowledged the same.

Ben Hubrich

{type or print name of Notary on this line}


{signature of Notary on this line}

Notary Public, State of Wisconsin
My Commission Expires: 5/25/2021



CUP # 13-19

Mark Brooks, Das Barrel Room Operator, Renee Martin & Doctors LLC, Property Owner
Village of Germantown, Washington County, Wisconsin
Page 4 of 5

ACCEPTANCE OF TERMS AND CONDITIONS BY OPERATOR

As business operator and agent for the property owner I hereby accept the terms and conditions set forth herein and realize that non-adherence to the terms and conditions as stated herein may result in the revocation of this Permit by the Village of Germantown.

Dated this 24 day of September, 2019

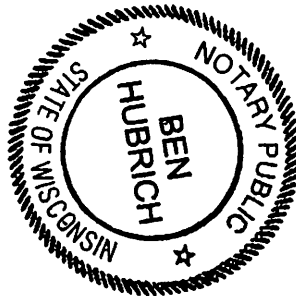
Mark A. Brooks
Mark Brooks, Operator and Agent for Property Owner

STATE OF WISCONSIN) SS

Washington COUNTY)

Personally came before me this 24 day of September, 2019, being the above named Mark Brooks, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Ben Hubrich
{type or print name of Notary on this line}
Ben Hubrich
{signature of Notary on this line}
Notary Public, State of Wisconsin
My Commission Expires: 5/25/2021



CUP # 13-19

Mark Brooks, Das Barrel Room Operator, Renee Martin & Doctors LLC, Property Owner
Village of Germantown, Washington County, Wisconsin
Page 5 of 5

ACCEPTANCE OF TERMS AND CONDITIONS BY PROPERTY OWNER

As property owner, I hereby accept the terms and conditions set forth herein and realize that non-adherence to the terms and conditions as stated herein may result in the revocation of this Permit by the Village of Germantown.

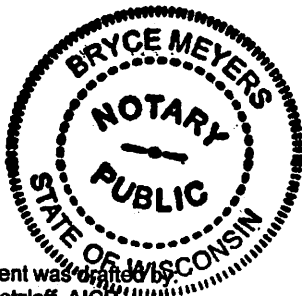
Dated this 30 day of September, 2019

Renee Martin SOLE MEMBER
Doctors LLC
Renee Martin, Doctors LLC, Property Owner

STATE OF WISCONSIN) SS

Washington COUNTY)

Personally came before me this 30 day of September, 2019, being the above named Renee Martin, to me known to be the person who executed the foregoing instrument and acknowledged the same.



Bryce Meyers
(type or print name of Notary on this line)
[Signature]
(signature of Notary on this line)
Notary Public, State of Wisconsin
My Commission Expires: 1/14/23

This instrument was drafted by:
Jeffrey W. Retzlaff, AICP
Community Development Director/Village Planner/Zoning Administrator
Village of Germantown, Wisconsin



Village of
Germantown
Willkommen

ZONING COMPLIANCE/
OCCUPANCY PERMIT

Date of Application: 5-31-19

\$175 Application Fee Received By: [Signature]

Please read and print legibly. List name of actual contact person (NOT just business name).

APPLICANT OR AGENT:

Name: Mark Brooks
Address: 152 W 14018 Aberdeen Dr. Men Falls
Phone: 414-507-8653
Fax: _____
E-Mail: markb@burtonmayer.com

PROPERTY or Business OWNER:

Name: Renée Martin - ~~Member~~ Doctors LLC
Address: W 206 N 10515 Appleton Ave
Phone: Germantown, WI 53022
Fax: 262-253-8133
E-Mail: Rmartin48@aol.com

PROPERTY ADDRESS OR Tax Parcel ID#:

W201 N 10466 Appleton Ave, Germantown, WI

DESCRIPTION OF PROPOSED USE (Describe improvements, structures, uses and activities conducted, services provided, products made or sold, # of employees, hours of operation, etc. that will enable Zoning Administrator to determine if the proposed use or operation complies with the applicable zoning district and/or other use restrictions that may apply to the subject property. Use back side or additional sheets as needed):

Restaurant/Bar serving upscale food & beverages in a newly remodeled & decorated space. outdoor deck & greenspace to provide an area for outdoor dining & yard games such as Baggies, Horseshoes, Bocce Ball etc. Approx 11 employees & hours of 11:00 am - close & future breakfast hours. (over)

READ AND INITIAL THE FOLLOWING:

- ☒ I understand that Village Staff may request additional information to properly evaluate this request and failure to provide such information may in itself be sufficient cause to deny the petition.
- ☒ I understand that Village Staff can impose conditions or other requirements necessary in order to meet and/or remain in compliance with the Village's Zoning Codes and/or other Village requirements that may apply to the subject property.

INCLUDE THE FOLLOWING WITH YOUR APPLICATION:

- ☐ A scaled site plan showing location of proposed use on the property (not required if within building).
- ☐ \$175 Application Fee
- ☐ Other Information required by Zoning Administrator

SIGNATURES: ALL APPLICATIONS MUST BE SIGNED

Mark A. Brooks 5-30-19
Applicant Date
[Signature] Doctors LLC 5-30-19
Property Owner Date

APPROVED
VILLAGE USE ONLY

<input checked="" type="checkbox"/> Building/Arch Plan	<input type="checkbox"/> Site Plan
<input checked="" type="checkbox"/> Landscaping Plan	<input type="checkbox"/> Sign Plan
<input checked="" type="checkbox"/> Lighting Plan	<input checked="" type="checkbox"/> Zoning Permit

[Signature] 6-14-19
Zoning Administrator Date Approved

Approval Conditions apply as noted below:
SPE LETTER DATED
6-14-19 FOR CONDITIONS
OF APPROVAL

VILLAGE OF GERMANTOWN

*** CUSTOMER RECEIPT ***

DATE: 05/31/19 TIME: 09:31:28

DESCRIPTION PAY CD AMOUNT

ZONING FEES 2 175.00

DAS BARREL ROOM LLC 1001

TOTAL AMOUNT DUE 175.00

AMOUNT TENDERED 175.00

CHANGE DUE .00

TRANS #: 1 CASHIER CODE: 006

BATCH #: C190531 REGISTER ID: 004



Community Development Department

Jeffrey W. Retzlaff, AICP, Director

Village Planner & Zoning Administrator

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May 29, 2013

Craig Braidigan
W201N10466 Appleton Ave
Germantown, WI 53022

COPY

RE: The Public House (formerly "Doctor's Pub"); Building Permit (Deck Addition)

Dear Mr. Braidigan:

Notwithstanding the provisions of Section 17.43(9) and the affect on your ability to obtain a building permit with or without site plan approval from the Village, my primary concern with the property and hesitancy to issue a building permit for the deck addition without said site plan approval is the continued use of the existing and non-compliant parking lot located at the front of the building that straddles the two parcels. This same issue was of sufficient concern to the Plan Commission back in 2008 that they approved a similar deck addition proposal with a series of conditions; including one that required the property owner to "fix" the non-compliant parking lot issue by combining the two parcels.

However, based on input and advice from the Village Attorney, in an effort to avoid further delay to your proposal to construct the deck addition, and, to also address the non-compliant parking lot issue, I am prepared to approve the building permit for your deck addition (for zoning code compliance) with a condition that the non-compliant parking lot issue be resolved within the next three (3) months. This would enable you to proceed with construction of your deck, subject to meeting the necessary building code and fire safety requirements, while you and/or the property owner decide how best to resolve the parking lot issue and pursue that course of action.

The reason why the parking lot issue needs to be resolved is that, despite its existence for some time, the existing parking lot located at the front of the building straddles the common property line with the 2.85-acre parcel to the east and, as a result, does not meet the minimum 8' parking lot setback required under Section 17.45(1)(c). Moreover, the existence of this parking lot does not "qualify" as a legal nonconforming use of the property because one cannot obtain legal nonconforming status for an accessory use such as parking (see City of Lake Geneva v. Smuda, 75 Wis. 2d 532, 537, 249 N.W.2d 783, 786-87, 1977).

Therefore, because there is no legal nonconforming status associated with the parking lot, any alterations to the building require compliance with the current parking setback/buffer regulations. Fortunately, you have a number of alternatives available to you (or the property owner) to fix the non-compliant parking lot issue, including:

1. To address the setbacks requirement, you could remove the existing parking stall(s) that encroach over the common property line and create a minimum 8' setback

"buffer" from the property line to the nearest paved parking stall. This alternative should include a greenbelt between the parking lot and the property line. As this property was subject to a prior plan commission approval, this change could be approved by me as the Zoning Administrator provided that the proposed changes do not constitute a major improvement.

2. Combine the two adjoining parcels into one using a procedure used by the Washington County Real Property Lister (and typically allowed by the Village of Germantown) that requires Village staff approval and only the recording of a Quit Claim Deed (contact Brian Braithwaite, Washington County Real Property Lister, 432 E. Washington Street, West Bend, for the necessary form and procedures). This combination would result in a sufficient setback such that the parking lot regulations would be met unless changes to the parking lot are made. A subsequent rezoning application would be required given the different zoning districts on the two parcels.
3. Obtain a Conditional Use Permit from the Village pursuant to Section 17.45(5) of the Zoning Code for an "off-site parking area". As we have already discussed, this provision was adopted in order to address situations just like yours where parking for a particular business is occurring on an adjacent (or non-adjacent) property that is non-compliant with the Zoning Code, and, to allow the business the ability to expand without having to actually combine the separate parcels as in the case of the two alternatives discussed above (this alternative was not available to the owner back in 2008 having only been added to the Zoning Code in 2010). This alternative requires Plan Commission and Village Board approval of a CUP Application.
4. Submit an application for a two-lot Certified Survey Map to redivide the two parcels so that the parking area is combined with the current "bar" parcel, leaving the remainder to the adjoining parcel. This alternative is/was one of the conditions of approval required by the Plan Commission as part of approving the previous deck addition in 2008. This alternative requires Plan Commission and Village Board approval of a CSM Application.
5. File an appeal with the Board of Zoning Appeals regarding the applicable sections of the Zoning Code and my application of those code sections to your particular situation and proposal. The Board of Zoning Appeals is the body of Village government that has the authority to hear allegations and make decisions regarding potential errors made by the Zoning Administrator in the application of and determinations under the Zoning Code.

Alternatives #1 and #3 give you the most flexibility in terms of being able to continue using the existing parking area located nearest to the front entrance of the bar while also offering the property owner the most flexibility in terms of being able to use or sell for future development purposes (the reason given to us back in 2008 as to why the previous deck addition wasn't completed and the parcels combined). Alternative #1 may result in continued code compliance issues (and possible municipal citations) for the owner of the 2.85-acre parcel if that area continues to be used for parking by patrons of the bar. Alternative #4 offers the best fix for the situation now in that it addresses the concerns of all of the parties

Craig Braidigan
W201N10466 Appleton Ave
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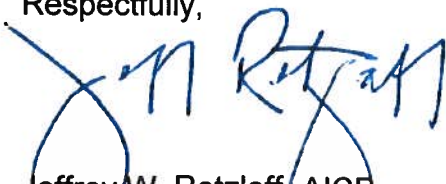
involved. Alternative #2 simply pushes Alternative #4 to a date in the future, when the CSM would be required to redivide the properties.

Please contact me to discuss what alternative course of action you and/or the property owner want to pursue and we can discuss the necessary procedures, forms, fees, etc. In the event that you want to pursue Alternative #5, i.e. filing an appeal to the Board of Zoning Appeals, please contact the Village Clerk's Office to obtain the necessary forms and discuss those procedures.

Please proceed with filing the necessary plans and supporting information along with your building permit application. I will attach a letter of approval containing the conditional approval outlined above to that permit.

In the meantime, if you have any questions or concerns regarding this matter, feel free to contact me at (262) 250-4735.

Respectfully,

A handwritten signature in blue ink, appearing to read "Jeffrey W. Retzlaff". The signature is stylized with a large, looping initial "J" and "R".

Jeffrey W. Retzlaff, AICP
Village Planner & Zoning Administrator

Copies: Village Attorney
 Village President
 Village Administrator



Community Development Department

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June 14, 2019

Mark Brooks
N52 W14018 Aberdeen Drive
Menomonee Falls, WI 53051

RE: W210 N10466 Appleton Ave; Zoning Permit for Bar/Restaurant

The zoning permit application for a new bar operation at the above cited property (formerly the Public House & Doctors Pub) has been approved subject to the conditions listed below. Subject to compliance with the conditions below, the proposed use would comply with the zoning district regulations applicable to the subject property.

CONDITIONS OF APPROVAL:

1. Village building permits are required for ALL interior and exterior improvements and renovations (construction, electrical and/or plumbing). Contact Mike Guttman, Building Inspector, to discuss any proposed improvements, permit & inspection requirements, and state-approved plan requirements (if required). Contact Holly in Inspection Services for information about permit applications. Both can be reached at 262-250-4760.
2. Prior to occupancy or commencement of use, an occupancy inspection shall be conducted in coordination with the Village Fire Department and Inspection Services. Please contact the Fire Department and Inspection Services to arrange an inspection at 262-502-4701.
3. If required by the Fire Department or Inspection Services as part of the initial or future occupancy inspections, the owner/operator shall install and/or update necessary fire safety measures, emergency management and/or other improvements to ensure fire and building code compliance for the type of occupancy/use proposed.
4. All exterior signs, temporary and permanent, requires a sign permit. Contact Lori Johnson regarding proposed signs, and the Village's sign regulations and permit requirements at 262-250-4735.
5. The Village's Utility Code requires all commercial and industrial users discharging wastes into the sewer system to construct and maintain sampling and metering manholes in suitable and accessible positions on public property or easement to facilitate the observation, measurement and sampling of all wastes or wastewater. These manholes are required to be located, constructed and maintained in a manner approved by the Village Engineer/Wastewater Utility Superintendent. Therefore, the property owner is required to contact Tim Zimmerman, Superintendent of Wastewater Utility 262-253-7765 to coordinate an inspection of the sampling manhole, and, make any/all necessary corrections or repairs to the sampling manhole and appurtenances thereto to ensure ongoing compliance with the Village's Utility Code.

Mark Brooks
W210 N10466 Appleton Ave; Zoning Permit for Bar/Restaurant
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6. No parking is allowed on the adjacent property south of the building at W210 N10466 Appleton Ave (Parcel #293-983; see attached aerial photo). As discussed in a May 29, 2013 letter to the former operator (copy attached), use of the paved area southeast of the building for parking is not allowed under the Village's Zoning Code unless and until the property owner completes one of the alternatives discussed therein (e.g. combine the two parcels, obtain a conditional use permit for off-site parking, etc).

If you have any questions or concerns regarding this matter, feel free to contact me at (262) 250-4735 or Inspection Services at (262) 250-4760.

Respectfully,
Jeffrey W. Retzlaff, AICP
Zoning Administrator



Copy: Inspection Services
Renee Martin, Property Owner