

CONDITIONAL USE PERMIT

3/11/24 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 requesting 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/

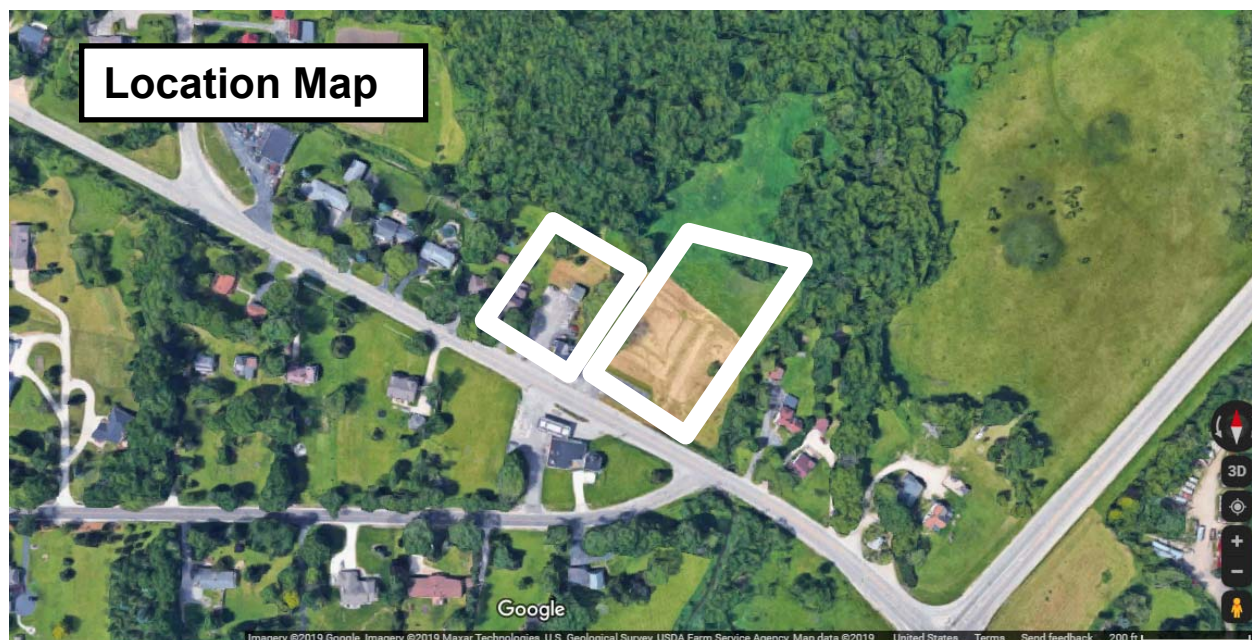
Property Owner:

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

At the October 9, 2023 meeting, the Plan Commission conducted (and closed) a public hearing of the proposed CUP amendment before discussing and eventually tabling action on the request.

Action was tabled and direction given to Mark Brooks to gather more information and submit it to the PC for further consideration; including the wetland boundary, existing and potential grading, other alternatives for driveway access to the proposed parking area, engineered drawings, etc. Since the October PC meeting, Brooks retained the services of a professional civil engineer, Dan Naze, and professional surveyor, Bob Beilfuss, to evaluate the site and prepare alternative site plans for the proposed parking area.

It's important to point out that the site plans for the two parking area options were prepared with the underlying goal of keeping the amount of new impervious area under 5,000 sqft to avoid the additional cost of preparing a storm water management plan and the possible construction of any "green infrastructure" or other storm water management facilities as part of the parking lot expansion on the site (e.g. swales, basins).

For tonight's meeting, Brooks has submitted the following three plan sheets and parking area options:

- Sheet 1 Base Map
- Sheet 2 Option 1 – Existing Gravel
- Sheet 3 Option 2 – Code Compliant w/ Pavement

Base Map

The wetland boundary and 75' navigable waterway setback is shown on the base map. Only a small part of the existing gravel encroaches into the 75' waterway setback. Although a separate wetland delineation was not conducted, existing data from the DNR & DOT was available that generally confirms the wetland boundary is not compromised by the existing gravel. As a result, the two parking area options were prepared with the intention of removing and restoring the small area of gravel encroachment and keeping all new parking area features outside the wetland and waterway setbacks.

Option 1 – Existing Gravel

Consistent with the original CUP amendment request, Option 1 utilizes the existing gravel for the new parking area combined with the existing non-conforming paved parking area along Appleton Avenue. Since the existing non-conforming parking area was installed before 1970, it is not included in the total amount of impervious area for the new 56' x 72' parking area and 16' wide connecting driveway. Option 1 includes removing some of the existing gravel and restoring those areas (see hatching on Sheet 1). Option 1 would add approximately 12-14 stalls to the existing 15 stalls east of the building (the non-conforming paved area).

Brooks has indicated that, while he and the owner would prefer that the new parking area be allowed to remain as gravel, they would pave the new parking area and connecting driveway if they are not required to bring the existing paved area into code compliance. Option 1 is estimated to cost \$25-\$35K for gravel only or \$35-\$60K for pavement (estimates provided by Brooks based on conversations with his construction contractor).

Option 2 – Code Compliant w/ Pavement

Option 2 is a new paved parking area that incorporates a portion of the existing non-conforming pavement into an overall parking area that meets code requirements for setbacks and pavement. Option 2 provides a total of 14 stalls (one fewer than the existing non-conforming paved area) utilizing the existing Appleton Ave driveway with a one-way counterclockwise circulation pattern.

Brooks has indicated that Option 2 is not a viable option given that it provides no additional parking (in fact one stall less) when compared to the existing 15 stalls east of the building (the non-conforming paved area). Option 2 is estimated to cost \$55-\$65K (estimates provided by Brooks based on conversations with his construction contractor).

***** THE FOLLOWING IS REPEATED FROM THE ORIGINAL OCTOBER 9, 2023
STAFF REPORT & RECOMMENDATION *****

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’s 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 reconstruction 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

ALTHOUGH ADDITIONAL INFORMATION HAS BEEN PROVIDED THAT INDICATES AN EXPANDED OFF-SITE PARKING AREA (EITHER OPTION 1 OR OPTION 2) CAN BE INSTALLED IN THE LOCATION SHOWN ON THE ALTERNATIVE SITE PLANS, STAFF'S RECOMMENDATION HAS NOT CHANGED.

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 east 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.

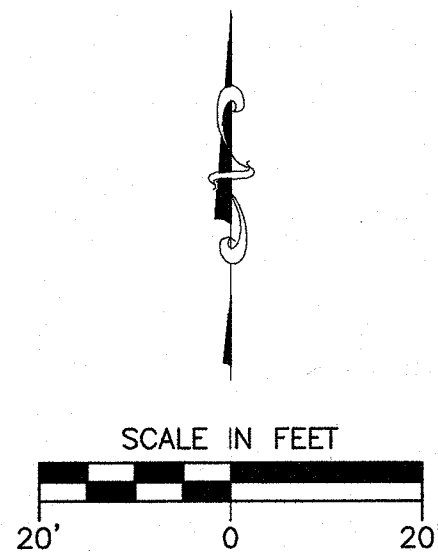
THE SELF-IMPOSED IMPERVIOUS AREA LIMIT OF 5,000 SQFT IS BASED ON SOLELY ON COST AND THE OWNER/OPERATOR'S DESIRE TO NOT INSTALL ADDITIONAL PARKING THAT WOULD COST OVER A PARTICULAR AMOUNT.

BUT FOR THE SELF-IMPOSED COST LIMITATION THAT IS KEEPING THE OWNER/OPERATOR FROM DESIGNING A PARKING AREA OVER 5,000 SQFT, IT'S CLEAR THAT A CODE-COMPLIANT PARKING AREA COULD BE INSTALLED WHILE ALSO BRING THE EXISTING NON-CONFORMING PAVED PARKING AREA INTO CODE COMPLIANCE, TOO.

WITH THAT SAID, IF THE PLAN COMMISSION (AND ULTIMATELY THE VILLAGE BOARD) WANT TO APPROVE THE CUP AMENDMENT PROPOSAL IN A MANNER THAT WOULD ENABLE THE OWNER/OPERATOR TO KEEP THE EXISTING NON-CONFORMING PAVED PARKING AREA "AS IS" (WITH 15 STALLS) AND ALLOW THE CONSTRUCTION OF AN ADDITIONAL PARKING AREA UNDER THE OWNER/OPERATOR'S PREFERRED OPTION 1 (WITH 12-14 ADDITIONAL STALLS), THEN A MOTION WOULD BE TO APPROVE STAFF'S RECOMMENDATION BUT DELETE CONDITIONS #4.b. AND 4.c.

IF THAT IS THE ACTION TAKEN, STAFF REQUESTS THAT, AT A MINIMUM, THE FOLLOWING NEW CONDITIONS BE INCLUDED:

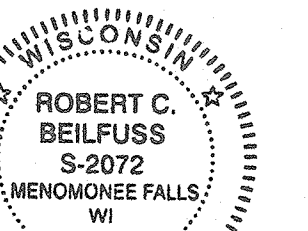
10. Option 1 (Sheet 2 dated 2/20/2024) is approved provided that the 56'x72' parking area and 16' wide connecting driveway be paved with asphalt or concrete.
11. A minimum 10' wide permanent vegetated buffer designed to filter storm water run-off from the existing and new parking areas and connecting driveway be installed along the east and north edge as part of restoring the site.



Point Land Surveying
& Mapping

W174 N9467 Joper Road
Menomonee Falls
Wisconsin 53051
262-250-8003 office
email
pointlandsurvey@wi.rr.com

Robert C. Beilfuss, P.L.S.
Professional Land Surveyor



Robert C. Beilfuss
This is an original survey if the seal is red,
and the signature is in blue.
Any other versions or variations and this map has
been copied and is unauthorized.

EXISTING BASE MAP
W201 N10466 Appleton Ave.
GERMANTOWN, WISCONSIN
Das Barrel Room
© POINT LAND SURVEYING AND MAPPING 2023

LEGEND

	BOUNDARY LINE
	SECTION LINE
	EASEMENT LINE
	DNR WETLAND VIEWER LINE
	75' SETBACK LINE
	STREAM
	SILT FENCE
	FORCE MAIN
	SANITARY SEWER
	STORM SEWER
	WATER
	ELECTRIC
	TELEPHONE
	GAS
	ATT
	BES

	1" X 24" IRON PIPE
	LIGHT
	MANHOLE
	CATCH BASIN SQUARE
	CATCH BASIN ROUND
	SIGN
	POWER POLE
	TRANSFORMER
	TRAFFIC LIGHT
	SIGNAL BOX
	TELEPHONE PEDESTAL
	CONCRETE POST
	GAS VALVE
	GUY WIRE
	ELECTRIC PEDESTAL
	WATER VALVE
	HYDRANT
	TELEPHONE POLE

* INDICATES TYPE
C - COMMUNICATIONS
E - ELECTRIC
G - GAS
M - METER
S - SANITARY
ST - STORM
T - TELEPHONE
U - UNKNOWN
W - WATER

NOTES

- BOUNDARY LINES SHOWN ARE BASED ON BOUNDARY SURVEY PREPARED BY WILLIAM R HENRICH, PROFESSIONAL LAND SURVEYOR, S-2419 ON NOVEMBER 3, 2006.
NO BOUNDARY RETRACEMENT OR ESTABLISHMENT WAS INCLUDED AS PART OF THIS PROJECT.
- WETLAND LINES BASED ON THE CURRENT DNR SURFACE WATER DATA VIEWER

"THE INFORMATION SHOWN ON THIS DRAWING CONCERNING TYPE AND LOCATION OF UNDERGROUND UTILITIES IS NOT GUARANTEED TO BE ACCURATE OR ALL INCLUSIVE. THE CONTRACTOR IS RESPONSIBLE FOR MAKING HIS OWN DETERMINATIONS AS TO THE TYPE AND LOCATION OF UNDERGROUND UTILITIES AS MAY BE NECESSARY TO AVOID DAMAGE THERETO."

PROJECT NUMBER	2023-06
MAPPING SCALE	1" = 20'
SURVEY BY	RCB
DRAWN BY	RCB
APPROVED BY	RCB
DATE OF SURVEY	12/21/2023
PLOT DATE	1/1/2024
FIELD BOOK	7
PAGE	59
CADD FILE	
REVISIONS	
SHEET NUMBER	1

LEGEND

BOUNDARY LINE	1" X 24" IRON PIPE
PROPOSED EDGE OF GRAVEL	LIGHT
RIGHT OF WAY LINE	MANHOLE
SECTION LINE	CATCH BASIN SQUARE
SETBACK LINE-DOT	CATCH BASIN ROUND
EASEMENT LINE	SIGN
SF-SF-SF	POWER POLE
FM-FM	TRANSFORMER
SS	TRAFFIC LIGHT
ST	SIGNAL BOX
W-W	TELEPHONE PEDESTAL
E-E	CONCRETE POST
T	GAS VALVE
G-G	GUY WIRE
ATT-ATT	ELECTRIC PEDESTAL
BES-BES	WATER VALVE
DNR WETLAND LINE	HYDRANT
	TELEPHONE POLE
	DECIDUOUS TREE
	CONIFEROUS TREE
	SHRUB
	CAUTION SIGN FOR COMBUSTIBLE UNDERGROUND GAS LINE

GENERAL NOTES:

DETAILS OF CONSTRUCTION NOT SHOWN ON THIS DRAWING SHALL CONFORM TO THE PERTINENT REQUIREMENTS OF THE STANDARD SPECIFICATIONS AND APPLICABLE SPECIAL PROVISIONS.

WHEN POSSIBLE THE SILT FENCE SHOULD BE CONSTRUCTED IN AN ARC OR HORSESHOE SHAPE, WITH THE ENDS POINTING UPSLOPE TO MAXIMIZE BOTH STRENGTH AND EFFECTIVENESS.

1. CROSS BRACE WITH 2" X 4" WOODEN FRAME OR EQUIVALENT AT TOP OF POSTS AS DIRECTED BY THE ENGINEER.

2. MINIMUM 14 GAGE WIRE REQUIRED, FOLD FABRIC 3" OVER THE WIRE AND STAPLE OR PLACE WIRE RINGS ON 12" C-C.

3. EXCAVATE A TRENCH A MINIMUM OF 4" WIDE AND 6" DEEP TO BURY AND ANCHOR THE GEOTEXTILE FABRIC, FOLD MATERIAL TO FIT TRENCH AND BACKFILL AND COMPACT TRENCH WITH EXCAVATED SOIL.

4. WIRE SUPPORT FENCE SHALL BE 14 GAGE MINIMUM WOVEN WIRE WITH A MAXIMUM MESH SPACING OF 6". SECURE TOP OF GEOTEXTILE FABRIC TO TOP OF FENCE WITH STAPLES OR WIRE RINGS AT 12" C-C.

5. GEOTEXTILE FABRIC SHALL BE REINFORCED WITH AN INDUSTRIAL POLY-PROPYLENE NETTING WITH A MAXIMUM MESH SPACING OF 3/4" OR EQUAL. A HEAVY DUTY NYLON TOP SUPPORT CORD OR EQUIVALENT IS REQUIRED.

6. STEEL POSTS SHALL BE SLOTTED "T" OR "U" TYPE WITH A MINIMUM WEIGHT OF 1.28 lbs./lin. ft. (WITHOUT ANCHOR). PIN ANCHORS SUFFICIENT TO RESIST POST MOVEMENT ARE REQUIRED. WOOD POSTS SHALL BE A MINIMUM SIZE OF 4" DIA. OR 1-1/2" X 3-1/2" EXCEPT WOOD POSTS FOR GEOTEXTILE FABRIC REINFORCED WITH NETTING SHALL BE A MINIMUM SIZE OF 1-1/8" X 1-1/8" OAK OR HICKORY.

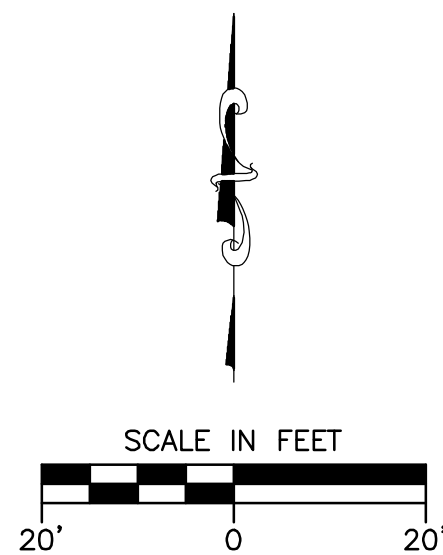
ALTERNATIVES A AND B ARE EQUAL AND EITHER MAY BE USED.

NOTES

1. BOUNDARY LINES SHOWN ARE BASED ON BOUNDARY SURVEY PREPARED BY WILLIAM R. HENRICHS, PROFESSIONAL LAND SURVEYOR, S-2419 ON NOVEMBER 3, 2006.

2. WETLAND LINES BASED ON THE CURRENT DNR SURFACE WATER DATA VIEWER.

PRELIMINARY-REVIEW ONLY

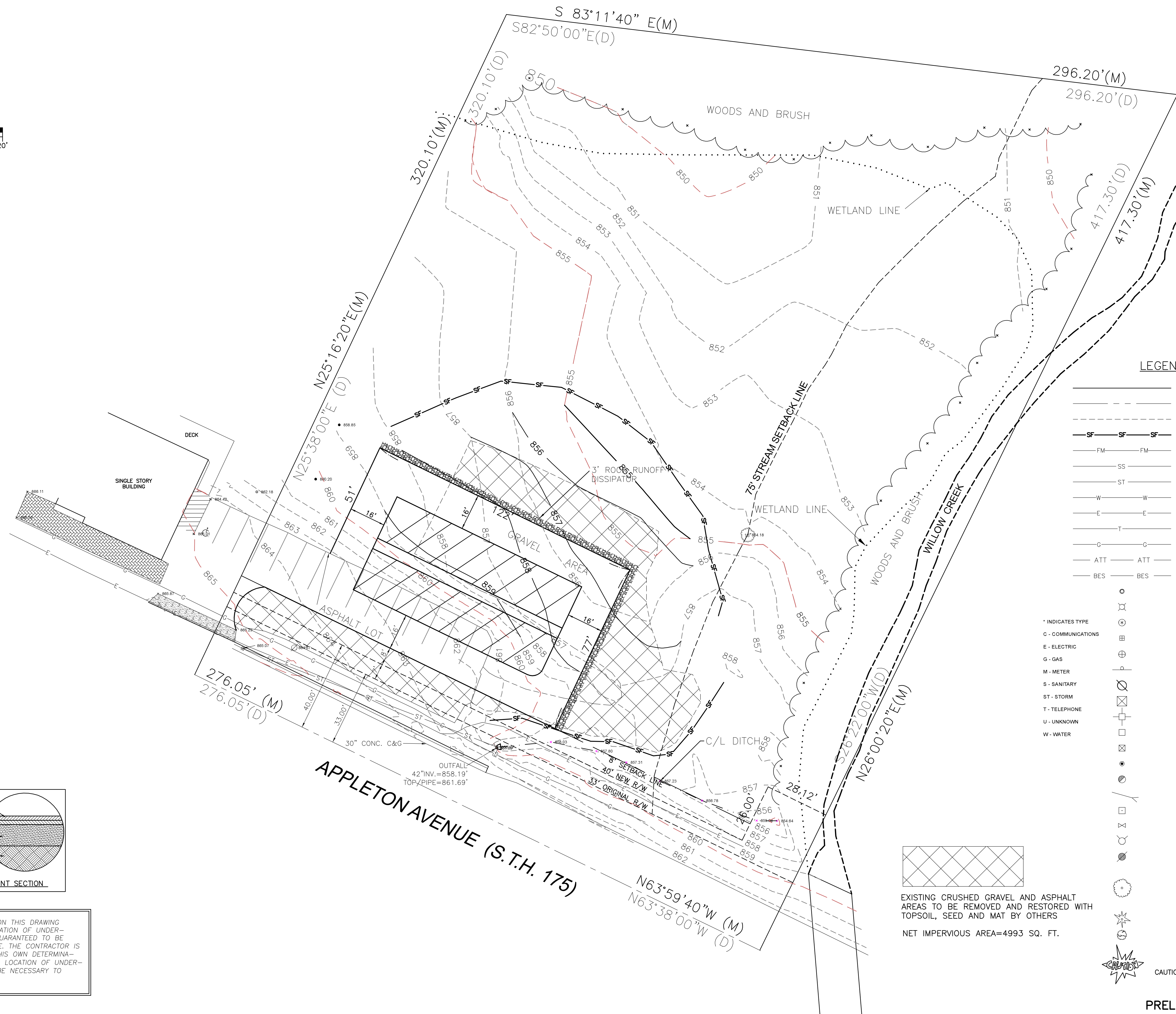


Point Land Surveying & Mapping
W174 N9467 Joper Road
Menomonee Falls
Wisconsin 53051
262-250-8003 office email
pointlandsurvey@wi.rr.com
Robert C. Beilfuss, P.L.S.
Professional Land Surveyor

Robert C. Beilfuss, P.L.S.
This is an original survey if the seal is red,
and the signature is in blue.
Any other versions or variations of this map has
been copied and is unauthorized.

OPTION 2-CODE COMPLIANT W/PAVEMENT
W201 N10466 APPLETON AVE.
GERMANTOWN, WISCONSIN
DAS BARREL ROOM
© POINT LAND SURVEYING AND MAPPING 2023

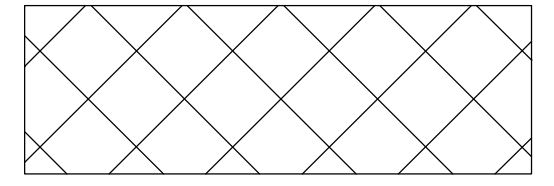
PROJECT NUMBER	2023-06
MAPPING SCALE	1" = 20'
SURVEY BY	RCB
DRAWN BY	RCB
APPROVED BY	DJN
DATE OF SURVEY	12/21/23
PLOT DATE	01/27/2024
FIELD BOOK	7
PAGE	59
CADD FILE	
REVISIONS	
SHEET NUMBER	3



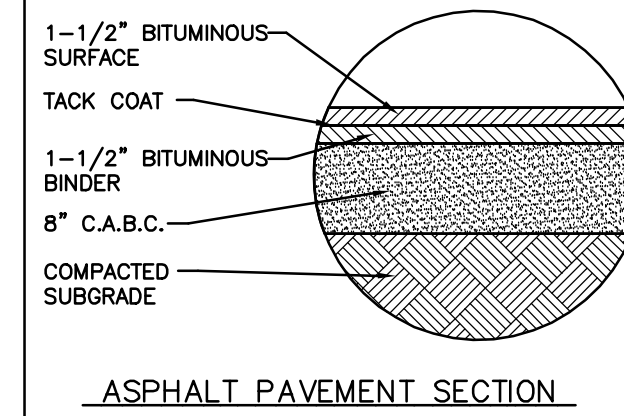
LEGEND

—	BOUNDARY LINE
- - -	SECTION LINE
- - - - -	EASEMENT LINE
- SF - SF - SF -	SILT FENCE
- FM - FM -	FORCE MAIN
- SS -	SANITARY SEWER
- ST -	STORM SEWER
- W - W -	WATER
- E - E -	ELECTRIC
- T -	TELEPHONE
- G - G -	GAS
- ATT - ATT -	AT&T
- BES - BES -	BURIED ELECTRIC SERVICE (BES)
○	1" X 24" IRON PIPE
⊗	LIGHT
⊕	MANHOLE
⊞	CATCH BASIN SQUARE
⊕	CATCH BASIN ROUND
⊞	SIGN
⊞	POWER POLE
⊞	TRANSFORMER
⊞	TRAFFIC LIGHT
⊞	SIGNAL BOX
⊞	TELEPHONE PEDESTAL
⊞	CONCRETE POST
⊞	GAS VALVE
⊞	GUY WIRE
⊞	ELECTRIC PEDESTAL
⊞	WATER VALVE
⊞	HYDRANT
⊞	TELEPHONE POLE
⊞	DECIDUOUS TREE
⊞	CONIFEROUS TREE
⊞	SHRUB

* INDICATES TYPE
C - COMMUNICATIONS
E - ELECTRIC
G - GAS
M - METER
S - SANITARY
ST - STORM
T - TELEPHONE
U - UNKNOWN
W - WATER



EXISTING CRUSHED GRAVEL AND ASPHALT
AREAS TO BE REMOVED AND RESTORED WITH
TOPSOIL, SEED AND MAT BY OTHERS
NET IMPERVIOUS AREA=4993 SQ. FT.



"THE INFORMATION SHOWN ON THIS DRAWING
CONCERNING TYPE AND LOCATION OF UNDER-
GROUND UTILITIES IS NOT GUARANTEED TO BE
ACCURATE OR ALL INCLUSIVE. THE CONTRACTOR IS
RESPONSIBLE FOR MAKING HIS OWN DETERMINA-
TIONS AS TO THE TYPE AND LOCATION OF UNDER-
GROUND UTILITIES AS MAY BE NECESSARY TO
AVOID DAMAGE THERETO."

PRELIMINARY-REVIEW ONLY

MEETING:	REGULAR MEETING OF THE PLAN COMMISSION
DATE AND TIME:	Monday, October 9, 2023 6:30 PM
LOCATION:	Germantown Village Hall Board Room N112 W17001 Mequon Road

MINUTES

- I. **CALL TO ORDER:** *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
The meeting was called to order at 6:30 pm.

- II. **ROLL CALL:**
Chairman Dean Wolter, Trustee Rep David Baum, Commissioners Tony Laszewski, Peter Nilles, Bob Williams, Bill Shadid and Josh Tarantino. Also in attendance were Community Development Director Jeff Retzlaff and Planning Assistant Lori Johnson.

- III. **CITIZEN INPUT:** *Please be advised per 19.84(2) that information and comment will be received from the public. It is the policy of this municipality that public input be limited to a three (3) minute period per person with a time extension granted at the discretion of the Chairperson. Be advised that there may be limited discussion of the information received but no action will be taken under public comments.*
Melanie Smythe, N140 W17938 Cedar Lane spoke.

Please visit the Village's YouTube website to watch/listen to the recorded meeting for additional details: https://www.youtube.com/channel/UCOYp0EgELzTCa9X_iCohyhQ

- IV. **APPROVAL OF MINUTES:**

A. September 11, 2023
MOTION Baum second Shadid to Approve the minutes from September 11, 2023.
MOTION carried unanimously.

- V. **NEW BUSINESS:**

A. Mark Brooks, Agent for Das Barrel Room Tavern & Grill, and Doctors LLC, Property Owner of W201 N10466 Appleton Avenue. Application to Amend Conditional Use Permit No. #13-2019 to allow expansion of the existing off-site parking area pursuant to Section 17.28(3)(u) and Section 17.45(5) of the Village Zoning Code. **(PUBLIC HEARING & ACTION)**

Director Retzlaff summarized the proposal.
Public Hearing opened at 6:46 pm

The following people spoke in support of the applicant:

- Brian McCullough, West Bend,
- Peter Dumann, N100 W16500 Revere Lane
- John Bublitz, W201 N10466 Appleton Avenue
- Jack Daniels, W213 N10252 Beech Drive
- John Weigert, N65 W13600 Lilly Creek Road
- Tamara, N100 W14394 Sunburst Trail
- Lori, N104 W21651 Willow Creek Road
- Trustee Jolene Pieper, N111 W16625 Esquire Court

The following people spoke against the applicant:

- Tom Steinbach, W204 N10609 Hilltop Drive
- Scott Hefle, W159 N10514 Old Farm Road
- Jason Giguere, W202 N10462 Appleton Avenue
- Trustee Jan Miller, W151 N10297 Windsong Circle West
- Dominic Giguere, W202 N10462 Appleton Avenue
- Jessisca Giguere, W202 N10462 Appleton Avenue

Mark Brooks, business owner of Das Barrel Room explained the gravel was put in to enhance the parking and was done for safety. He said he needs the additional parking and because he leases the property it will be a financial burden for him to pave the gravel area. He needs the gravel to maintain the business.

Public Hearing closed at 7:18 pm.

Please visit the Village's YouTube website to watch/listen to the recorded meeting for additional details: https://www.youtube.com/channel/UCOYp0EgELzTCa9X_iCohyhQ

MOTION Baum second Nilles to 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 east 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.

Discussion followed.

Director Retzlaff explained there was no wetland delineation to confirm where the wetlands are located. Commissioner Shadid asked if it would be appropriate for the Plan Commission to have that information to make a decision. Director Retzlaff explained if the staff recommendation is approved, Mr. Brooks would need to proceed with a wetland delineation, engineered plans, and full construction drawings. If the approval is for just the gravel as is, and there is a concern about possible wetlands, the Plan Commission could direct Mr. Brooks to conduct a wetland delineation. Commissioner Shadid stated he has a problem allowing one business to have a gravel parking lot and is not in favor it. Discussion continued.

Commissioner Laszewski asked if any parking would need to be eliminated because it is too close to Appleton Avenue. Director Retzlaff stated one of the conditions provides the parking lot come into compliance. Trustee Baum stated the biggest issue is not that Mr. Brooks wants to put a parking lot in. Its that he put one in that was done without a permit and now needs to come into compliance. Mark Brooks said the cost to

pave the gravel is around \$50,000 and doesn't include the site approvals or erosion. He said if he needs to put the parking to what is was, people will park on Willow Creek Road and Appleton Avenue which would be a bigger problem. Director Retzlaff stated Mr. Brooks or the Village would need to enforce no parking on that property which could also mean reconsidering the conditional use permit to allow the 14 stalls to be used. Discussion continued.

Trustee Baum said it appears the gravel driveway is right up to the wetlands and that may be a problem as well. Chairman Wolter questioned if the parking lot was developed with asphalt, there is a possibility it may need a retention pond of some kind. He was curious to know if a delineation is available from the State when Appleton Avenue was improved or when the round about was put in. Director Retzlaff said he would reach out to see if a delineation is available. Commissioner Tarantino asked if it would be more cost effective to change the location of the parking so it is away from the wetland area.

MOTION to Amend Baum second Laszewski to amend Condition #4 b to exclude the requirement for pavement only.

Discussion continued on relocating the driveway to the gravel parking in order to stay away from the wetlands. Trustee Baum explained a civil engineer will need to design something that meets our code but that is an expense to the operator.

MOTION to Amend Failed 2-5 (Wolter/Laszewski)

Discussion continued. Chairman Wolter asked if we could deal with the existing gravel and not add the extra 2,400 square feet and keep it within DNR regulations, setbacks, and runoff. Director Retzlaff stated it's hard to tell with regard to the wetlands. If we would have known in advance, we could have required a delineation and know where the boundaries are to give some guidance. Chairman Wolter explained the struggle of the Plan Commission is to uphold the ordinances within the CUP and work with what the boundaries are or described in. He said we are looking for a way to work with the business but still uphold the ordinances.

MOTION to Amend Baum second Tarantino to eliminate Condition 4b.

Discussion followed. Commissioner Williams asked if what is approved today runs with the land and if the property is purchased the new owner would be walking into the CUP and could leave it as is without making any changes and won't need to pave the lot. Director Retzlaff confirmed and said protection could be put in to address that. Commissioner Williams added he is not in support of not following the code and doesn't want to see this business go out of business. But he doesn't think there can be an unlimited amount of time that we can pass exceptions or let it pass to subsequent owners without coming into compliance. Discussion continued.

Chairman Wolter commented that this commission is bound to follow the ordinances but we are trying to create an opportunity for the business owner to maintain what he is trying to do there without violating the ordinances or stormwater management rules. He said he is curious to know if any delineation has been done within this property

within the last five years. He indicated it would be hard to come to a conclusion tonight without rewriting the code as we go and he doesn't want to do that because it would put both the Village and the owner in a precarious situation. He is not in favor of starting to pull the conditions away and would rather take a more measured approach to see what we have available for information and talk to the Village Attorney to look if part of the impervious parking can remain and see if some other type of access to the back gravel area is available. Director Retzlaff commented the operator is asking the Village to change its rules to accommodate the operator who is in a bind created by themselves and the owner who hasn't given anything. There should be some giving on all parts including the property owner and not just the Village when the owner isn't doing anything to keep the business.

MOTION to Amend Failed unanimously.

MOTION Baum second Shadid to **Table** until additional information can be brought forward on the wetlands, grading, the possibility of changing the driveway or how we can provide additional access to the back parking through an impervious method, options for it, drawings, ideas so Plan Commission can look to see if it's something that can be worked with within the code.

MOTION to Table carried unanimously.

B. John & Amanda Thompson, Property Owners of W172 N10981 Division Road. Conditional Use Permit application to allow "raising chickens for family consumption" on the property pursuant to Sections 9.11 and 17.15(2)(b) of the Village Zoning Code. **(PUBLIC HEARING & ACTION)**

Chairman Wolter called a 3 minute recess: 8:14 pm

Chairman Wolter called the meeting back to order at 8:20 pm

Director Retzlaff summarized the proposal.

Public Hearing was opened at 8:24 pm.

Public hearing closed at 8:25 pm.

MOTION Baum second Williams to Approve a Conditional Use Permit for John & Amanda Thompson to allow the "raising of poultry for family consumption only" on their property located at W172 N10981 Division Road subject to the following conditions:

1. The uses and activities allowed on the property shall be limited to those uses and activities and relative locations specified in the conditional use permit application (CUP) and supporting materials dated September 11, 2023. The physical facilities for which said uses and activities are permitted include the proposed 8'x8' enclosed coop and 900 sqft fenced, free-range chicken run.
2. The building used to house the animals, i.e. the 8' x 8' enclosed coop, shall be located not less than 50' from the nearest residential dwelling and a minimum of 100' from all property lines.
3. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein or other applicable Municipal Code provisions including Section 9.11, 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



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?

--

3 PROPERTY ADDRESS

TAX KEY NUMBER

W201N10466 Appleton Ave	
-------------------------	--

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.

--

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.

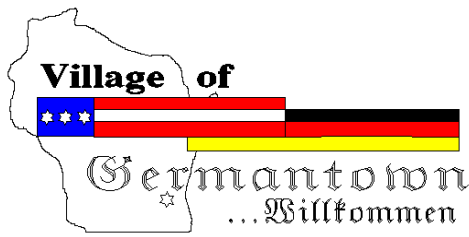
MB I understand that a Conditional Use Permit is valid only if the conditions and restrictions of the permit are met. I understand that failure to comply with any aspect of the permit may result in revocation.

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

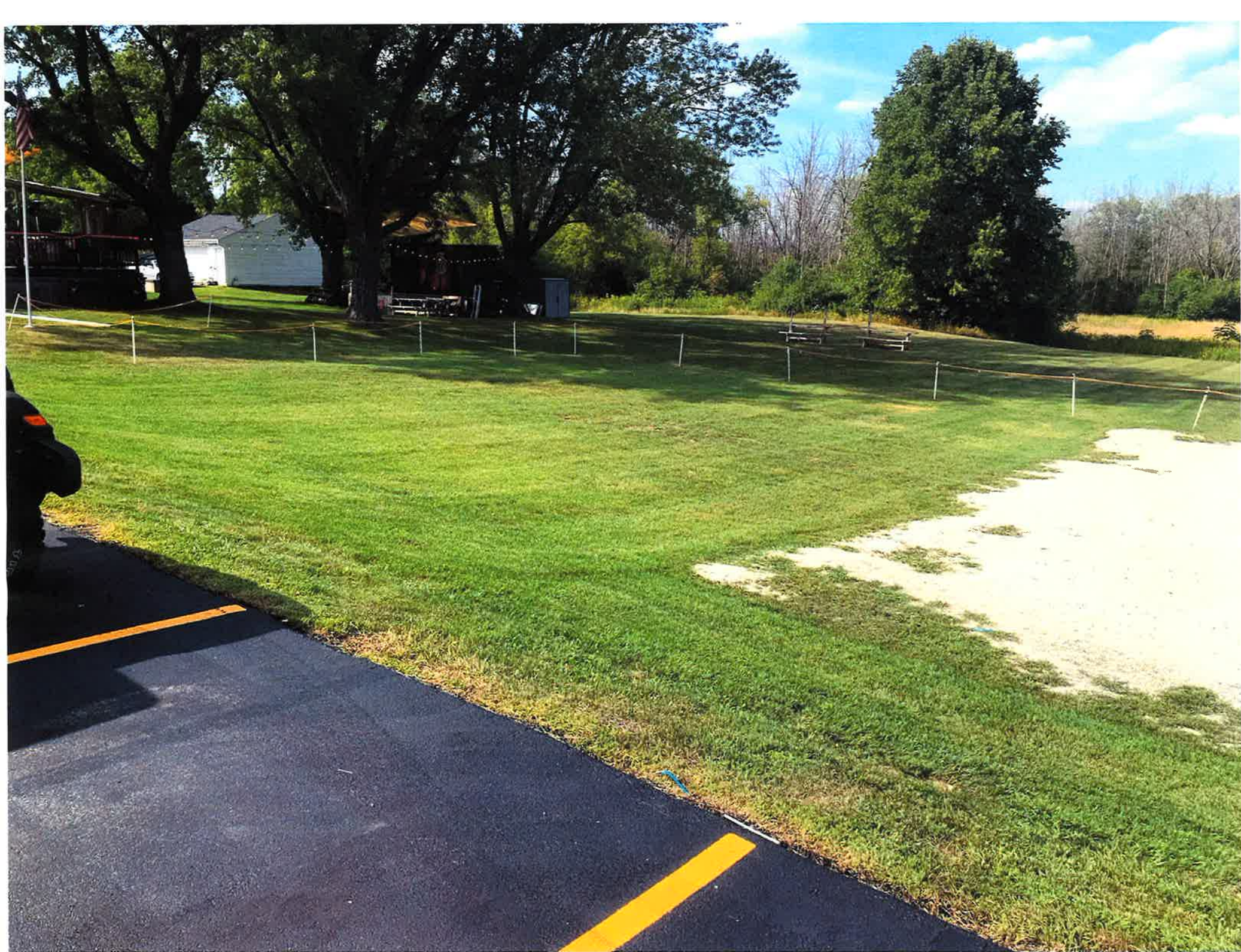
Items Reviewed:

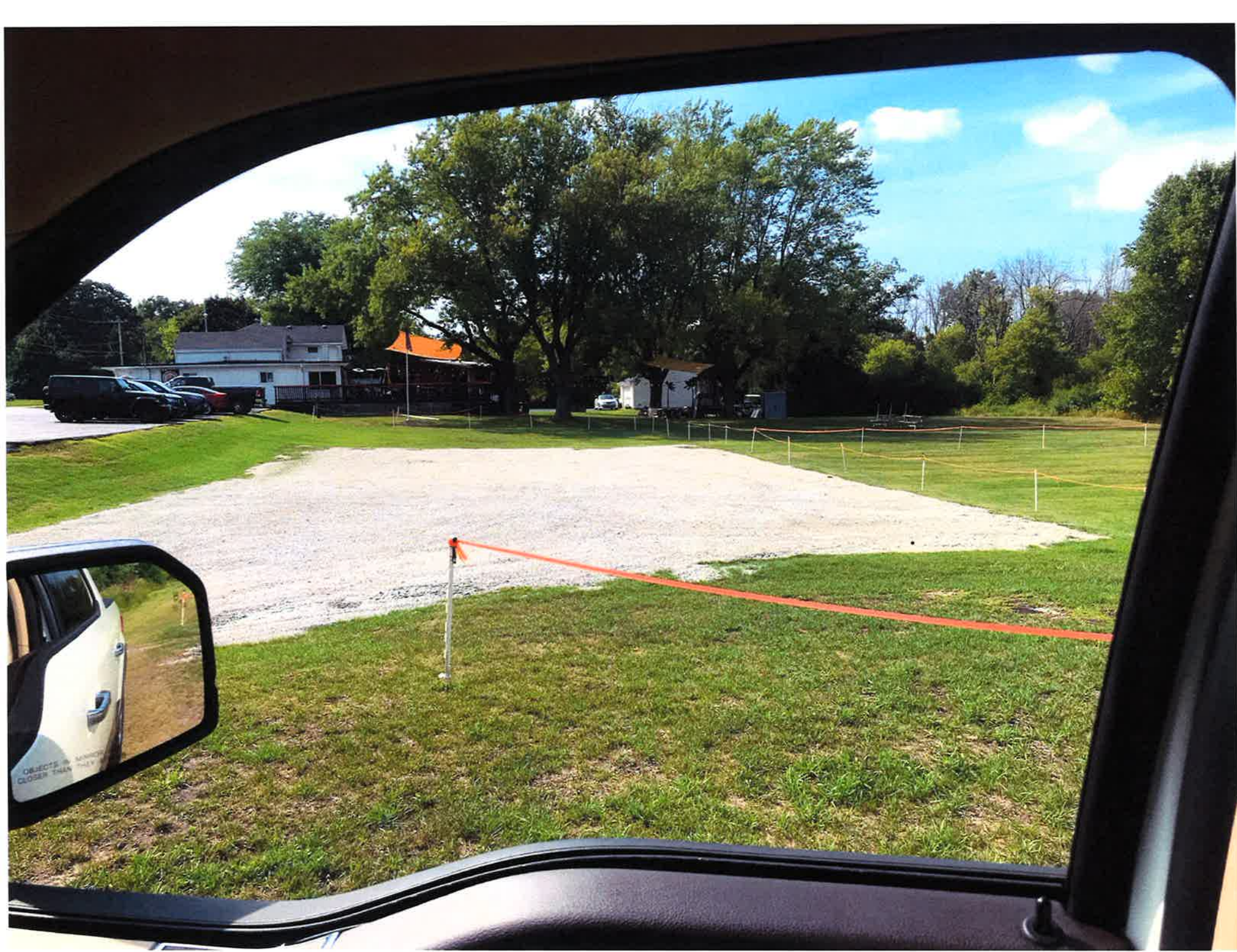
1. CUP Application Dated: 08-02-23

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.

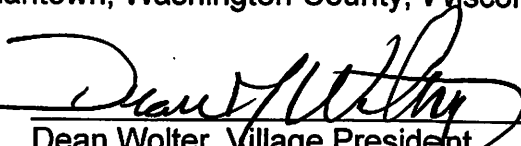
Pursuant to the following condition(s):

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:

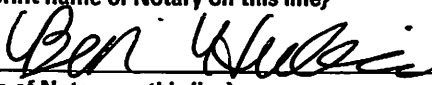


Deanna B. Braunschweig, WCMC/CMC, Village Clerk

STATE OF WISCONSIN) SS
WASHINGTON COUNTY)

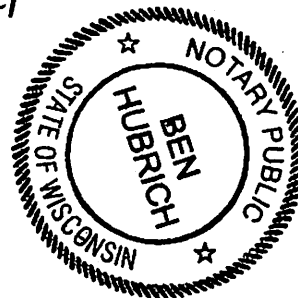
Personally came before me this 16th day of September, 2019, the above
named Dean Wolter, Village President, and Deanna B. Braunschweig, Village Clerk, to me
known to be the persons who executed the foregoing instrument and acknowledged the same.

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

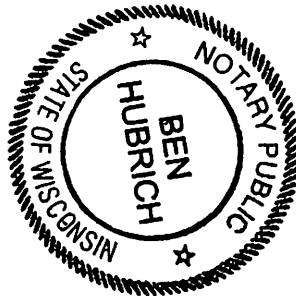
Mark A. Brooks
Mark Brooks, Operator and Agent for Property Owner

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

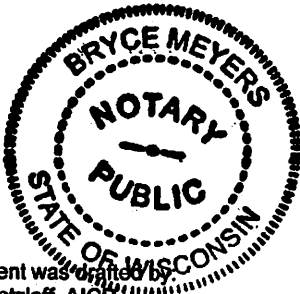
As property owner, I hereby accept the terms and conditions set forth herein and realize that non-adherence to the terms and conditions as stated herein may result in the revocation of this Permit by the Village of Germantown.

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: RENEE MARTIN - ~~RENEE~~ Member Doctors LLC
Address: 1206 N 10515 Appleton Ave
Phone: Germantown, WI 53022
Fax: 262-253-8133
E-Mail: Rmartin48@a.wi.rr.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]
Zoning Administrator

6-14-19
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

N112 W17001 Mequon Road P.O. Box 337

Germantown, WI 53022-0337

Telephone: (262) 250-4735

FAX: (262) 253-8255

Website: www.village.germantown.wi.us

E-mail: jretzlaff@village.germantown.wi.us

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
The Public House; Building Permit (Deck Addition)
Page 3

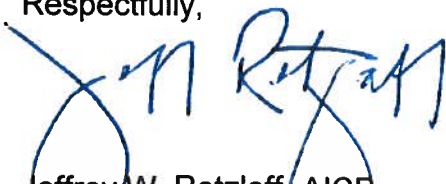
involved. Alternative #2 simply pushes Alternative #4 to a date in the future, when the CSM would be required to redivide the properties.

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 loop at the end.

Jeffrey W. Retzlaff, AICP
Village Planner & Zoning Administrator

Copies: Village Attorney
Village President
Village Administrator



Community Development Department

Jeffrey W. Retzlaff, AICP, Director

Village Planner & Zoning Administrator

N112 W17001 Mequon Road P.O. Box 337

Germantown, WI 53022-0337

Telephone: (262) 250-4735

FAX: (262) 253-8255

Website: www.village.germantown.wi.us

E-mail: jretzlaff@village.germantown.wi.us

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
June 14, 2019
page 2

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