

MEETING: BOARD OF ZONING APPEALS

DATE AND TIME: WEDNESDAY, JUNE 8, 2016 5:30 p.m.

LOCATION: Germantown Village Hall Board Room
N112 W17001 Mequon Road

- Notice is given that a majority of the Village Board may attend this meeting to gather information about an agenda item over which they have decision making responsibility. This may constitute a meeting of the Village Board per State ex rel. Badke v. Greendale Village Board, even though the Village Board will not take formal action at this meeting.

**VILLAGE OF GERMANTOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
February 10, 2016**

CALL TO ORDER: The meeting was called to order at 5:55 p.m.

ROLL CALL: Chairperson White, Members Filla, Hansen, Fritsche and Schleif. Attorney William Dineen, Counsel for the Board, were all present. Community Development Director/Village Planner and Zoning Administrator Retzlaff, Clerk Goeckner and Deputy Clerk Dobratz were also present.

APPROVAL OF MINUTES:

Schleif stated the second variance request his motion was specifically was that they maintain the same foot print of the original deck as discussed. **MOTION (Schleif/Fritsche) to accept the minutes of the January 13, 2016 meeting as amended, carried.**

Chair White read the policy and procedures of the Board of Zoning Appeals.

PUBLIC HEARING:

Chair White read the public hearing notice. The hearing is to hear any and all parties, their attorneys or agents, for or against the APPEAL as filed by **ROGAHN KELLY**, on behalf of **JBH COMPANIES, INC., AGENT for HERITAGE PLACE JOINT VENTURE**, appealing the decisions of the Village of Germantown Plan Commission from December 14, 2015, regarding the site plan application for the proposed six-building, 172-apartment residential development known as Saxony Village, for the property located at: **Tax Parcel GTNV# 224-992 located at approximately N116 W16200 Main Street (south of Main Street @ Park Avenue) totaling approximately 22.73 acres.** (The hearing was transcribed by a court reporter)

Attorney Dineen spoke to Member Filla and it is his understanding that based upon her appearing at a prior meeting involving the appellant, she is going to recuse herself from participating in this hearing. Filla confirmed this is correct. Attorney Dineen stated Filla will not be participating but can sit in the audience. The Board does have a quorum and does not have an alternate to take Filla's place at this meeting.

Chair White opened the public hearing at 6:00 p.m.

Attorney Sajdak spoke on how to proceed tonight in order to give the board background. The Village Planner has a power point presentation similar to what was presented to the Plan Commission. Attorney Dineen clarified with Attorney Kelly that he is seeking a certiorari review of the Plan Commission's actions. Attorney Kelly is requesting the review provided by statute that says any review of a plan commission's decision on a site application is heard by the Board of Zoning Appeals. The ordinances do not specify whether that is a certiorari review or de novo. Attorney Kelly said the preference is the board review the record as it was created by the Plan Commission.

Attorney Dineen discussed the powers of the Board of Zoning Appeals at 17.5293(a) that specifies they can hear and decide appeals when it's alleged there is an error. It's his understanding that's what the appeal is about and the appellant is looking to the board to exercise its powers under that section and 3(e) in which the board may reverse affirm, wholly

PUBLIC HEARING Cont.:

or partially or modify the requirements. Language in the Germantown ordinance is a version of the powers that the Wisconsin statutes grant to the Board of Appeals. Attorney Dineen asked Attorney Sajdak if he thinks the ordinance provision limits the board's power under the statute or if they're intended to be the same. Attorney Sajdak agrees they appear to be similar or identical to what the statute authorizes.

Community Development Director/Village Planner and Zoning Administrator Jeff Retzlaff was sworn in by Chairperson White. CDD Retzlaff presented the Village's information. The Saxony Village is owned by Heritage Place Joint Venture. He explains location, zoning, site development building and site plans for a proposed 172 unit multi-family apartment community called Saxony Village on Main Street. Gave background information, it's classified as village mixed use which in part calls for a for higher density residential use to support the Main Street commercial area. Gave background of the entire project, sewer service, storm water, signage, traffic impact study, staff recommendation and Plan Commission five amendments. Same presentation, same slides that were given to the Plan Commission.

Attorney Kelly examination, questions CDD Retzlaff regarding his testimony. Attorney Sajdak examination, questions CDD Retzlaff regarding his testimony. Attorney Kelly questions CDD Retzlaff again. Attorney Sajdak questions CDD Retzlaff again. Member Hansen asks for a definition of the density per net acre, was it eight units per acre or six units per acre based on the net area or overall area. CDD Retzlaff explained the definition of net that was used in the calculation for this project did not exclude un-buildable land. There was no exclusion of portions of the land from the density calculation. Attorney Dineen asks CDD Retzlaff if his interpretation of the density for the plan is consistent in the way he has been doing it in the past and on other projects. CDD Retzlaff states yes, consistent with the way it's been done.

Attorney Kelly calls Scott Bence to testify, sworn in by Chairperson White. Scott Bence, W178 N9912 Rivercrest Drive, Germantown, WI. Attorney Kelly questions Bence about the developments of his company. Mr. Bence gave background on his company, himself and explained the Saxony Village project proposal. Attorney Sajdak questioned Bence about the environmental contamination on the properties. Bence responded they have put together a contingency plan that has been submitted to the DNR and there green team met with the DNR as well as four other agencies that will work with the contamination issues. Attorney Sajdak questions on ground water issues and sewer. Bence is working with the Village Public Works Department.

Member Schleif asks Bence about water lines and sprinkler protection. Bence shows where connection would be and buildings require sprinkler protection. Chair White clarifies with Bence the number of units and the conditional approval.

Attorney Kelly has no other witnesses. Attorney Sajdak would love to call the Plan Commission members who are present here in the room this evening or any number of other individuals in the room today, the fact of the matter is that this is a review of the record before you. The Village does record Plan Commission meetings and do have the full meeting recorded. It can be played if the Board would like to hear, it is over an hour not including the public comments that took place in the beginning. So with that, nothing further.

Took a break before public comment, back on the record at 8:08 p.m.

PUBLIC HEARING Cont.:

Chair White spoke regarding public comment, the proceeding tonight is an appeal of the decision of the Plan Commission, evidence of what happened. It is not appropriate to comment on whether you support or agree with the Plan Commission or if you like or don't like the project. If anyone has testimony they want to give on what happened at the Plan Commission that will be accepted. With that understanding, is there anyone who wishes to speak. Attorney Dineen agrees with Chair Whites statement. Attorney Kelly stated he probably won't have any cross examination.

Chair White invited anyone in favor of the appeal to speak. No one present wished to speak.

Chair White invited anyone opposed to the appeal to speak. Dick Kent, Hilbert Lane, Germantown was sworn in by Chair White. Mr. Kent spoke about the importance of a property's geography to the deliberations of zoning and how it would bear upon tonight's issue. Talked about ingress and egress of the property.

Daniel Wing, N116 W16044 Main Street, was sworn in by Chair white. Mr. Wing spoke about the comprehensive 20/20 plan and how it talks about maximizing density. A thick file on this property can be viewed. Attorney Dineen stated there was nothing in the Plan Commission minutes that relate to what is being discussed. Chair White clarified what testimony can be given and can only consider the evidence that was before the Plan Commission. Wing stated as to what he presented at the Plan Commission meetings and there is a videotape of this. Comp 20/20 plan, maximum density. Attorney Kelly objects to Mr. Wing's testimony. Chair White understands and the board understands that its role is to review the evidence that is in the record and not to accept new argument and opinion from people.

Art Zabel, N97 W15737 Burr Oak Road, was sworn in by Chair White. Mr. Zabel is a trustee with the Village of Germantown and sits on the Public Works Committee. Zabel spoke regarding the Village has agreed to put in the developer's agreement to accept some of the costs of the sanitary sewer and water main connection. Some financial cost the Village and Planning, Public Works Committee has agreed to be part of the developer's agreement with this. It was not necessarily the total cost of the developer.

Attorney Kelly gave closing argument. Three specific aspects of the Plan Commission's decision that are being challenged; reduction in the number of units from 172 to 142, limitations on the number of buildings and the placement of building six and the requirement that there be gable roofs as opposed to flat roofs. After the Plan Commission made its decision, they requested that they reduce the decision in writing as is required both by statute and by Germantown's Ordinances. In Section 17.43(7), it says, "Upon request, the Plan Commission will provide in writing the reasons for its decision." That was asked for to consider whether an appeal would be appropriate. A follow-up letter was sent and asked again, they opted not to provide it. The only record they have is the minutes from the meeting. Spoke of the minutes included personal preference, did not identify an ordinance or other lawful provision. Asked the Board of Zoning Appeals to reverse the Plan Commissions decision on the three limitations.

Chair White asks Kelly if he takes the position that this was a denial of the site plan. Attorney Kelly does not, it was an approval with the addition of certain limiting factors. The Board of Zoning Appeals has the authority to look at each of those limitations and reverse

PUBLIC HEARING Cont.:

them. Chair White understands the appeal really is two components. The first has to do with the reduction in units. The argument is that as matter of law, this property is zoned in a way so that it would have be permitted 172 units on the parcel and the Plan Commission is powerless to re-zone the property to reduce the density. An error of law that they are asking to correct? Attorney Kelly said correct. The second issue relates to the removal of building six and the replacement of the flat roofs with gable roofs? Attorney Kelly said yes, they must base their decision on the facts, and the decision must be a product of judgment, not will. Chair White confirmed the argument is that they should of in response to your request, given a written explanation in detail, as the ordinance states, for their action. Because they didn't do that, then they are limited to the minutes. Attorney Kelly stated, exactly.

Member Hansen asked about the comment on having the provision in the Architectural Review Board about roofs and limitations to be stated all of the aspects of the design that they could provide requirements on or do they have discretion to make requirements that aren't stated in the items? Attorney Kelly responds there's a sliding scale between being narrowing tailored versus something broad that the landowner no authority in designing their property. Hansen asks if they are looking for the board to request or require a written determination of the Plan Commission action. Attorney Kelly responded they are not, they are requesting the removal of the three limitations. Plan Commission had an opportunity to do that and they chose not to. Now the appellant is bound by law to a 30 day deadline to appeal. Reason for enforcing that a 30 day requirement is because that is meant to assure that the board's decision is final. The Plan Commissions decision is final.

Chair White calls on Attorney Sajdak to speak. Attorney Sajdak stated code provision within the Germantown code doesn't say anything about 30 days. Chapter 68 states that it must be done within 30 days but that's 30 days upon request. As it relates to that particular issue, Chapter 68 doesn't apply here. The Plan Commission has the power, upon receipt of the site plan, to review, to determine whether it is in the proper form and contains all the required information and show compliance with this and other ordinances and plans of the village. The minutes are a highlight of what took place.

Member Fritsche stated that their decision has to be based on whether or not they believe the Plan Commission acted legally in making their decisions. Asked Attorney Sajdak if he believes that the powers granted to the Plan Commission for the determination of density would indicate that they have the ability to approve up to that. Attorney Sajdak stated that this district would allow for development in this case eight units per acre. It is different in every zoning district. Just because it says we're willing to go that high, it doesn't mean that you give the ability to automatically do that. Density is an introductory paragraph that states the RM2 residential district is intended to provide for multi-family residential development at densities not exceeding eight dwelling units per net acre. Nothing within the permitted use that says you automatically get eight units per acre.

Chair White stated it would be helpful to him in making a decision as to what the Plan Commission considered would be to have the transcript of the meeting. His preference is to have the village prepare the transcript. Adjourn the hearing, allow the members to get the transcript in advance of the next meeting, bring the parties back and proceed to deliberation then. Member Fritsche said that he would like to see the video footage of the meeting.

Attorney Dineen states they could watch the video without being at a public meeting;

PUBLIC HEARING Cont.:

however, it can't be discussed amongst themselves. You can watch it by yourself, review it to prepare before coming to the next meeting but not discuss with anyone else.

Chair White closes the evidence. Neither Attorney Kelly nor Sajdak have an objection to closing the evidence tonight.

Art Zabel asks a question about the material that is being asked from the Plan Commission, does that include all the backup material that was handed to the Planning Commission members the night of the meeting as a means to make a decision or just what occurred during the Planning Commission meeting? Attorney Kelly objects to it as the evidence has been closed and the appeal is based on the record. Chair White stated it is not necessary, not their job to look through the documents.

Member Hansen asks if it's not appropriate to look at publicly posted information. Attorney Dineen stated each of the members are going to watch the video, come back to the next meeting having watched that video and made whatever notes. You cannot discuss it amongst yourselves or with anyone else. Members are to watch a video of the hearing that was before the Plan Commission. Do not go seeking other documents unless you come back here and have a meeting to discuss what those documents are going to be in front of the parties so everyone you will know what is being done.

Attorney Sajdak states that the continuation of the hearing will not require publication of a new notice. Attorney Dineen agreed this is a continued hearing and does not have to actually be published in the paper. It will be publicly posted and everyone who is here at this meeting will hear when this is going to be continued. Member Fritsche is not available at the next regularly-scheduled meeting on March 9, 2016. Attorney Dineen recommends to keep the same four members. Chair White stated the hearing will be continued on April 13, 2016 at 5:30 p.m., same place.

ADJOURNMENT:

MOTION (Fritsche/Schleif) to adjourn the meeting at 10:34 p.m., motion carried.

Jilline Dobratz
Deputy Clerk

**VILLAGE OF GERMANTOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
APRIL 13, 2016**

CALL TO ORDER: 5:30 p.m.

ROLL CALL: Chairman White, Members, Fritsche, Schleif and Hansen were all present. Community Development Director Retzlaff, Attorney Sajdak, Attorney Dineen and Secretary Johnson were also present. Member Filla previously recused herself.

Continuation of deliberation and action by the board from February 10, 2016, regarding the appeal of Rogahn Kelly, on behalf of JBJ Companies, INC., agent for Heritage Place Joint Venture, hearing held on 2-10-16: Appeal as filed by Rogahn Kelly, on behalf of JBJ Companies, Inc., agent for Heritage Place Joint Venture, appealing the decisions of the Village of Germantown Plan Commission from December 14, 2015, regarding the site plan application for the proposed six-building, 172 apartment residential development known as Saxony Village for the property located at: Tax Parcel GTNV#224-992 located at approximately N116 W16200 Main Street. (The continued hearing was transcribed by a court reporter.)

Attorney Dineen said there was a concern raised about the possibility that there had been ex parte communications or contacts with members of the Board of Zoning Appeals. Each member confirmed they had not received any ex parte communications or information and Attorney Dineen was satisfied that it had not occurred. Chairman White said the public hearing was closed on February 10, 2016 and he did not anticipate taking any additional evidence. Attorney Sajdak, Attorney Kelly and the Board of Zoning Appeals members all agreed they did not need to hear any additional evidence. Chairman White confirmed with Attorney Sajdak that he had not filed a brief. Attorney Sajdak said the arguments address all the issues appropriately. Chairman White asked Attorney Sajdak if there was any argument the Village is making with respect to the distinction between gross acreage and net acreage. Attorney Sajdak confirmed there was not an argument as it relates to that particular issue.

Attorney Kelly said there had been questions regarding the scope of the Plan Commission's authority and read from the Municipal Code Chapter 17.49 Architectural Control. He said the Plan Commission did not act on the confines of its authority and acted as if it was the owner of the property. Chairman White said Attorney Kelly only read from parts of the code and not the entire Chapter. Attorney Kelly detailed his position on the grant of authority of the Plan Commission citing specific cases, State Statutes and Supreme Court decisions. Chairman White confirmed that Attorney Kelly's argument is that the ordinance must be strictly construed and the Plan Commission must apply the ordinance. Attorney Kelly went on to state he feels the Plan Commission did not apply the ordinance by not referencing standards or statutes. Attorney Dineen said he believed there was not a violation of the code. Attorney Kelly continued with summarizing the actions of the Plan Commission, what they did and said and that their discussions did not equate to reasons, reference to standards or statutes. He said the Plan Commission stated their personal preferences and were exercising their will and not their judgment. He asked the Board of Zoning Appeals to reverse and reinstate the developments plan with respect to the number of units at 172, allow the building to be placed where they are on the plan and that they be allowed to exercise at their discretion to use flat roofs versus gabled roofs.

Attorney Sajdak stated his response. He agreed that in a text book scenario everything Attorney Kelly described is what should happen where Plan Commissioners point to very specific code provisions, but in reality Plan Commissions do not operate that way. He said they deal with all the circumstances and discussions that happen around them and have influenced them. He said the issue is whether or not the Plan Commission operated within the law that is provided. He continued to explain the actions of the Plan Commission do not need to point to a particular ordinance to deny. He stated the applicant doesn't list all the public comments and concerns brought up during public comment or the significant discussion on net versus gross that gave the Plan Commission valid reasons for their decisions.

Attorney Kelly said the Plan Commission needs to point to an ordinance or statute when they deny. He continued with his summary stating the Plan Commission does not have the authority to redesign a development. He said he doesn't believe the Plan Commission acted according to law and there is no evidence to justify their decision.

MOTION (White/Fritsche) to go into closed session per WIS. Stat. 19.85(1) (A) for the purpose of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before the Board and after the closed session it may reconvene in open session to announce its decision per WIS. Stat 19.85(2).

Chairman White stated the 4 members of the Board and Attorney Dineen will go into closed session and return into open session for a decision. Neither party had any objection to the Board going into closed session.

Roll Call vote and MOTION carried unanimously.

The Board convened to closed session at 7:07 p.m. into conference room A.
Meeting reconvened in open session at 9:21 p.m.

MOTION Fritsche second Hansen that the Board of Zoning Appeals finds Plan Commission exceeded its authority in reducing the units from 172 to 142 and grants the appeal.

Roll Call vote and MOTION carried unanimously.

MOTION Hansen second Schleif that the Board of Zoning Appeals finds that the Plan Commission exceeded its authority in reducing the number of apartment buildings from 6 to 5 along with the associated attached garage buildings and prohibiting any buildings from being located in the southeast corner of the site based on the record and the appeal on this item is granted.

Roll Call vote and MOTION carried 3 (Fritsche, Hansen and Schleif, Aye) to 1 (White, Nay).

MOTION Schleif second Fritsche that the Board of Zoning Appeals finds a gabled roof requirement the Plan Commission properly exercised its power.

Roll Call vote and MOTION carried unanimously.

Chairman White said the Board will issue a written decision and it will be filed with the secretary, and distributed.

NEXT MEETING DATE AND TIME: April 27, 2016 at 5:30 p.m.

ADJOURNMENT: *MOTION Schleif second Fritsche to adjourn the meeting at 9:26 p.m.*

Roll Call vote and MOTION carried unanimously.

Respectfully submitted,

Lori Johnson
Secretary

**VILLAGE OF GERMANTOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
April 27, 2016**

CALL TO ORDER: The meeting was called to order at 5:31 p.m.

ROLL CALL: Chairperson White, Members Hansen, Fritsche and Schleif. Village Attorney Sajdak, Community Development Director/Village Planner and Zoning Administrator Retzlaff and Deputy Clerk Hann. Absent and excused: Members Filla

Chair White read the policy and procedures of the Board of Zoning Appeals.

PUBLIC HEARING:

The hearing is to hear any and all parties, their attorneys or agents, for or against the APPEAL as filed by **James & Mary Stout**, property owner, seeking a building setback variance in order to construct an accessory roof over an existing feedlot that will encroach 18 feet into the minimum 60 feet front yard setback on the property located at **W204N12079 Golden Road, Richfield, WI 53076**

Chair White opened the Public Hearing at 5:30 p.m.

Community Development Director/Village Planner and Zoning Administrator Jeff Retzlaff was sworn in by Chair White. CDD Retzlaff presented the Village's information. A timeline of events with supporting documents were handed out to the committee. In 2014, the Village received a complaint from a neighbor about the odor and a large number of flies coming from the petitioner's property. After the investigation it was determined that the property owner was operating a typical farming operation. In February, 2016 the inspection Services Division of the Community Development denied issuing a building permit for a metal roof structure to be built over the cow yard. The owner is seeking a variance from the 60' street/front yard setback requirement for property located in the A-1; Agricultural Family Zoning District. Specifically, the owner seeks a rear yard building setback variance of 16 feet that would enable him to construct an open style roof structure to be attached to an existing barn and over a portion of the feedlot where the nearest point of the roof structure deck would be 44 feet from the street/front property which is also the right-of-way line for Goldendale Road (vs. the minimum 60' setback requirement). The board asked CDD Retzlaff what is considered a front yard and what is considered a main driveway. Village Attorney Sajdak cited the definition from Chapter 17.08 (65) for **SETBACK OR FRONT YARD** as a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have 2 such yards.

The appellant James Stout, W204N12079 Golden Road, Richfield, was sworn in by Chair White. Mr. Stout explained that the main purpose of the proposed roof structure is to prevent water pollution, covering and managing the animals under an open-air roof system while establishing and maintaining a vegetated grass cover on the remaining open ground within the current feedlot area. This will dramatically improve the aesthetics of the farming operation. After the complaint about flies from a neighbor, Mr. Stout started discussion with the county Land and Water Conservation Division (LWCD) and NR-151 to prevent the direct discharge from the feedlots to the waters of the state. Paul Sebo, County Conservationist,

from Washington County is also present to answer any questions. This roof project is the end result of planning efforts with the LWCD as a means to eliminate or greatly reduce the potential of animal waste runoff leaving the feedlot and reaching the stream directly south of the farm's feedlot. The close proximity of the existing lot and stream makes the roof the project the best alternative to fix the runoff concern. The board asked Mr. Stout about moving the roof project to meet the setback requirements. Mr. Stout stated he could move the structure however then the feed bunk (a conveyor surrounded by concrete) would not be centered under the building. This would leave no room to effectively feed and manage the movement of the cattle.

Paul Sebo from Washington County Land & Water Conservation Division, 432 East Washington St, West Bend was sworn in by Chair White. Mr. Sebo started communication with Mr. Stout about his current family operations and the location of the feed lot. This roof project is the end result of planning efforts with the LWCD as a means to eliminate or greatly reduce the potential of animal waste runoff leaving the feedlot and reaching the stream directly south of the farm's feedlot. The close proximity of the existing lot and stream makes the roof project as the best alternative to fix the runoff concern. This program qualifies for cost sharing with the State of Wisconsin. Chair White asked for clarification on design techniques and viability for other options available. Mr. Sebo talked about pumping and how this property would not be a viable option to pumping. This property is located in a high water table and doesn't have enough acreage to disperse the runoff. Chair White asked if Mr. Stout would have to move the existing chicken building to make the addition fit in the current setback, would the cost sharing program pay for those relocation costs? Mr. Sebo stated the State would not cover those additional expenses. Mr. Sebo stated that in his professional opinion building this structure centered over the existing feed bunk is the best solution for this farming operation and the best use of the cost sharing money.

The board asked final questions of Mr. Stout. Was Mr. Stout being required by the state to limit his runoff and whether other alternative were suggested? Mr. Stout stated he is not being required to address his run off. However, doing nothing is not an option if he wants to maintain the animals on the farm while still utilizing the infrastructure of the barn building, feeding system, and the lot. Mr. Stout clarified that if the feed bunk was not located down the center of the proposed building he would have additional costs in feeding some of the herd differently and additional costs of creating the pens differently. He stated that because the concrete feed bunk is located where it is, that is a unique characteristic of this property.

Chair White worked through the five findings of fact with the owner, Mr. James Stout, allowing him to speak to each for the Appeals Board to make their findings. Findings in application:

Chair White invited anyone in favor of the appeal to speak. No one present wished to speak.

Chair White invited anyone opposed to the appeal to speak. No one present wished to speak.

Chair White asked if anyone wished to speak. No one present wished to speak.

The Public Hearing was closed at 6:45 p.m.

DELIBERATION AND ACTION BY THE BOARD:

Discussion followed:

- Setback is 60' for A-1
- Unique circumstance
- Error and omission on part of the original surveyor
- Unique circumstance is potential miscalculation by surveyor which village had no part in

Conclusions of Law:

1. The variance will not be contrary to the public interest because it is and will be in accord with the spirit of the Zoning Code because this would be good farm management and the existing barn is in good repair and pre-dated the current set back requirements.
2. There are exceptional, extraordinary or unusual conditions or circumstances that apply specifically to this lot or parcel, use, structure or intended use that do not apply generally to other property or uses in the same district because the setback normally isn't meant for a barn and the concrete feedlot was in existence and creates a unique situation.
3. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district because doing nothing is not an option to prevent run off and this is an existing farming operation.
4. The variance will not create substantial detriment to adjacent property, will not be contrary to the public safety or interest because it will be a benefit to surrounding properties by controlling run off and helping the property owner in his farming operation.
5. A literal enforcement of the terms of the Zoning Code would result in a practical difficulty or unnecessary hardship to the applicant because it would be difficult to move the existing feed bunk and operating the farm in a different manner than what was intended

MOTION (Fritsch/Schleif) move that we approve the variance from the 60' street/front yard setback requirement for property located in the A-1; Agricultural Family Zoning District, Specifically that would enable applicant to construct an open-style roof structure to be attached to an existing barn and over a portion of the feedlot where the nearest point of the roof structure deck would be 44 feet from the street/front property line which is also the right-of-way line for Goldendale Road based upon findings discussed and would be limited to the submitted plan request for variance application. Roll call vote, 4 yes, 0 opposed, 1 absent, carried.

APPROVAL OF MINUTES: No minutes to approve at this time.

ADJOURNMENT:

MOTION (Schleif/Frische) to adjourn meeting at 7:02 p.m., motion carried.

Donna Hann
Deputy Clerk

DRAFT

NOTICE OF PUBLIC HEARING

VILLAGE OF GERMANTOWN

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the **Board of Zoning Appeals**, Village of Germantown, WI:

Germantown Village Hall Board Room

N112 W17001 Mequon Road
Germantown WI 53022

Date and Time: **WEDNESDAY, JUNE 8, 2016 - 5:30 P.M.**

THE PURPOSE of said hearing will be to hear any and all parties, their attorneys or agents, for or against the **APPEAL** as filed by **POBLOCKI SIGN COMPANY FOR AURORA HEALTH CARE**, owner of the following property, seeking a variance to allow two directional signs @5' x 2'9" wide (13.75 sq. ft. each), larger than allowed by the Village of Germantown Municipal Code, Section 17.46:

Aurora Advanced Healthcare
17975 Mequon Road / W180N11070 N River Lane, Germantown, WI 53022

A copy of the application and supporting documents are on file in the Clerk's office and available for public inspection during the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday.

Dated this 11th day of May, 2016
Barbara K. D. Goeckner, MMC WCPC
Village Clerk

Published: May 19th and 26th, 2016

Village of Germantown
Board of Zoning Appeals Application
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RECEIVED

APR 25 2016

OFFICE OF VILLAGE CLERK
VILLAGE OF GERMANTOWN

VILLAGE OF GERMANTOWN
OFFICE OF THE VILLAGE CLERK
N112 W17001 MEQUON ROAD/P. O. BOX 337
GERMANTOWN WI 53022-0337

BOARD OF ZONING APPEALS
NOTICE OF APPEAL OR APPLICATION

Case No. _____
Filing Date 4-25-16
Fee Paid \$ 560.00
Hearing Date: 6-8-16
Notice Mailed: _____
Notices Published: 5/19/16/26 to paper by 5/12/16 BKID

To: Board of Zoning Appeals
Village of Germantown, Wisconsin

NOTICE IS HEREBY GIVEN that the undersigned hereby (appeals for relief from a decision of an administrative official) (applies for the following described right or privilege) :

1. Appellant's or Applicant's Name: Poblocki Sign Company for Aurora Health Care
Address: 922 S. 70th St., West Allis, WI 53214
Phone No. : 414-453-4010
2. Appellant's or applicants' interest in property:
() Owner; () Tenant; () Mortgagee; (x) Agent. (Contractor)
3. Property Owner's Name: Aurora Health Care
Address: 8901 W. Lincoln Ave., West Allis, WI 53227
Phone No.: 414-649-77451(Karen McKenzie)
4. Address of property: 17975 Mequon Rd. / W180 N11070 N. River Lane
Lot _____, Block _____, Tax Parcel No. GTNV _____, Zoning District: _____
5. Present use of the property: Currently 'Aurora Advanced Healthcare'

6. Proposed use of the property: Same - medical

7. Previous Appeal or Application (if any)? Yes () No ()

If YES, list date of hearing: _____ and Decision of previous hearing: _____

8. Identify the **PURPOSE** for this appeal or application. Please circle appropriate item below and provide the requested information. Attach a separate sheet, if necessary.

(a) Appeal of decision or order of Administrative Official and Request for Interpretation of Zoning/Building Code.

1. Date of decision or order: _____

2. Description of decision or order: _____

3. Decision or order is erroneous because: _____

(b) Request for Variance of Zoning/Building Code.

1. Describe the requested variance and dimension of variance:
To be allowed two way finding signs larger than code allows. Code allows 'directional signs' to be 4' high and 6 sq' max. We are requesting two directional signs @5' x 2'9" wide = 13.75 sq' each. See drawings 69667 MON -01 E&F.

2. Explain how the Variance, IF granted, is consistent with the spirit, purpose and intent of the Code:

This request is to help drivers locate the correct parking lot/building as vehicles enter this large property. See site plan and copy of Google map.

3. Describe the exceptional, extraordinary or unusual conditions or circumstances that apply specifically to this lot/parcel, use, structure, or intended use that **DO NOT** apply generally to other properties or uses in the SAME district:

This facility has two separate buildings with five parking areas.

It is located at the end of a dead end street.

4. Describe what special conditions exist which cause practical difficulty or unnecessary hardship, IF variance is NOT granted:
Patients may go to the incorrect building only to be redirected to the
correct location. This could be a hardship for people in wheel chairs or
with conditions that make walking difficult
5. Explain why the variance **IS NECESSARY** for the preservation and enjoyment of substantial property rights possessed by other properties in the SAME district:
Most properties have one building and one parking area for drivers to
locate. This facility is more likely to have elderly or handicapped visitors
who need good wayfinding direction upon entering the property.
6. Explain how this variance, IF granted, **WILL NOT** create substantial detriment to adjacent property, **WILL NOT** be contrary to the public interest and **WILL NOT** endanger public safety and interest:
Granting this request would have no effect on the neighbors except to
streamline traffic and reduce confusion in locating the services that drivers
are looking for.

(c) Request for interpretation of regulations of the Zoning Code or the District boundaries of the Zoning Map.

1. List applicable section(s) of the Zoning Code: _____
2. Describe proposed use/activity/construction: _____

3. Explain reasons supporting requested action: _____

4. Has request been referred to Plan Commission? Yes () No ()
If YES, give recommendation of Plan Commission: _____

(d) Permission for Temporary Use Permit.

1. Describe use requested: _____
2. Proposed commencement date: _____
3. Proposed termination date: _____

(e) A determination that an unspecified or unclassified use is permitted in a Zoning District.

1. Describe use requested:

2. Attach copy of recommendation of Village Plan Commission.

(f) Permission to substitute a MORE restrictive non-conforming use for an existing non-conforming use.

1. Attach copy of recommendation of Village Plan Commission.
2. Attach copy of certification of Zoning Administrator to legality of present non-conforming use.
3. Date of commencement of present use:

4. Value of improvement on date use became non-conforming (attach documentation supporting value): \$

5. Present value of all existing improvements, additions and alterations since date use became non-conforming (attach documentation): \$

REQUIRED DOCUMENTATION

Each appeal or application must be accompanied by:

- A. Current plat or survey of the lot/parcel, with complete details of the site, dimensioned, elevation data, easements, existing and proposed physical features, yards and setbacks, etc.
- B. Attachments as outlined above.
- C. Filing fee(s)
- D. Copy of decision or order which is the basis of this appeal/application.
- E. Name and Address of counsel IF appellant/applicant elects to be represented by counsel.
- F. Any additional fee of \$

 to cover the administrative costs if a contested case is requested.

I hereby certify that the above application and/or appeal and all attachments hereto are true, correct and complete to the best of my knowledge and belief.

Dated: April 21, 20 16

Deb Burton
Signature of applicant or appellant

Poblocki Sign Company LLC
Deb Burton

Burton, Deb

From: Jeff Retzlaff <jretzlaff@village.germantown.wi.us>
Sent: Thursday, March 24, 2016 3:03 PM
To: Burton, Deb
Cc: Lori Johnson
Subject: Aurora Sign Permit Application; V. of Germantown
Attachments: Zoning Code Section 17.46-Signs-Spring 2015.pdf

 **COPY**

Deb:

I'm reviewing the application(s) for the Aurora project and have the following comments that need to be addressed:

1. The maximum height allowed for directional signs is 4 feet and the maximum sign area per side allowed is 6 sqft. The two directional signs are 5' high with 13+ sqft per side;
2. The maximum height allowed for a monument sign is 10'; the proposed replacement monument sign at the Mequon Rd@River Ln intersection (Sign CAB-01 Location "A") is shown with a dimension of 8'4" for the sign face, but no height is shown for the existing base. Please show & confirm the base height and that the 10' max. will not be exceeded for this sign.

Thanks.

Jeffrey W. Retzlaff, AICP

Community Development Director

Zoning Administrator

Village of Germantown

N112 W17001 Mequon Road

Germantown, WI 53022

262-250-4735

jretzlaff@village.germantown.wi.us

"Opening soon" signs may be displayed up to 30 consecutive days before the first day a business is open for business;

c. A permit is required but no permit fee shall apply.

12. Notwithstanding the above allowances and restrictions, the display of temporary signs on the day of all legal holidays and communitywide events, e.g., Maifest, Maxwell Street Days, etc., shall be allowed without a permit provided they are only displayed and removed that same day.

13. Temporary signs shall not include any internal artificial lighting. (Cr. Ord. #4-10)

14. Temporary signs shall not include changeable text or reader boards. (Cr. Ord. #4-10)

(f) **ON-SITE TRAFFIC CONTROL AND DIRECTIONAL SIGNS.** (Cr. Ord. #28-14) One or more directional signs such those used to identify parking lot entrances and exits, direct customers to drive-through windows, direct delivery vehicles to loading/drop-off areas, etc. may be installed on a property as needed and in locations on a property necessary to serve and in the number placed adjacent to driveways provided that:

1. No sign shall be placed in the street right-of-way, within a vision corner or otherwise designed or installed in a manner that obstructs vehicle sight lines or vision;

2. No sign shall exceed 4 feet in height;

3. No sign shall contain more than 6 square feet of sign area per side;

4. Signs shall be designed and constructed of materials that either match or are complimentary to the architecture and materials of the primary building(s) and other permanent signs already installed on or proposed for the site;

5. Signs may be attached to or installed on decorative pylons, posts or a masonry base provided they are comprised of materials and/or painted to match or be complimentary to the primary building;

6. Wall-mounted directional signs above 4 feet in height are prohibited;

7. Signs shall not include any graphics, marketing or advertising messages except that the sign may include the business name, logo and directional arrows as necessary to simplify the message and assist vehicles getting to, in and around a facility or property.

(g) **OFF-PREMISES BUSINESS SIGNS.** (Cr. Ord. #28-14) Ground signs located on a particular property serving the business(es) located on that property may incorporate off-premise signage benefiting one or more other businesses not located on the same property upon which the ground sign is installed provided the following minimum requirements have been met as determined by the Plan Commission:

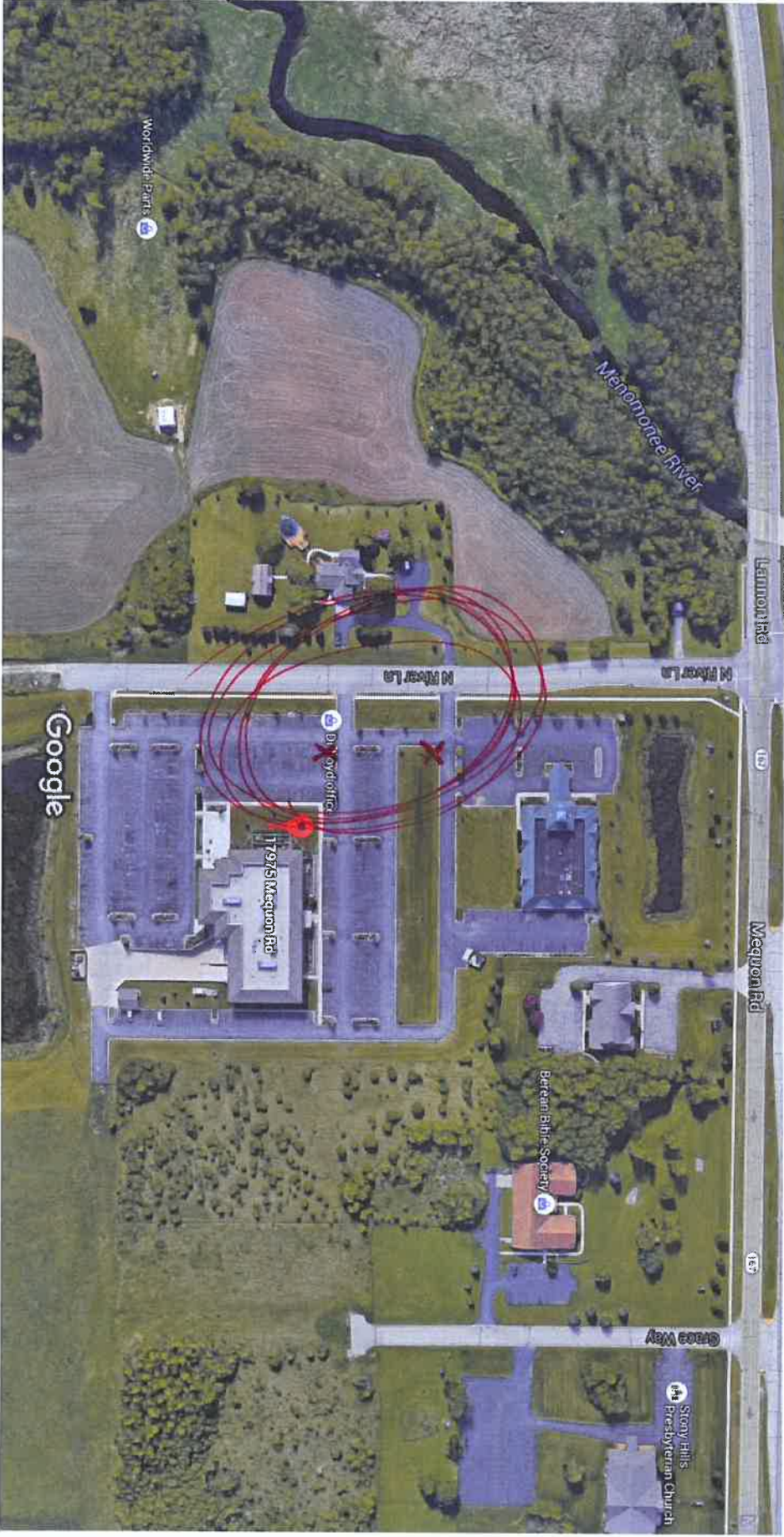
1. The sign meets all requirements for ground signs in section 17.46(7)(c) above;

2. The sign shall be located along a street frontage or near the intersecting street where vehicles would be required to turn in order to gain access to the property(ies) or business(es) benefiting from the off-premises sign;

3. The property(ies) or business(es) benefiting from the sign should be located with ¼ mile from the sign location, on a local side street, cul-de-sac or other location that is not easily visible and/or accessible from the street where the sign is located;

4. At the discretion of the Plan Commission, the incorporation of an off-premises sign into an existing or new ground sign may result in a reduction in the number and/or size of signage needed to be displayed on the property(ies) or business(es) benefiting from the off-premises

Google Maps 17975 Mequon Rd



17975 Mequon Rd
Germantown, WI 53022

Google Maps N River Ln



Image capture: Aug 2013 © 2016 Google

Germantown, Wisconsin

Street View - Aug 2013

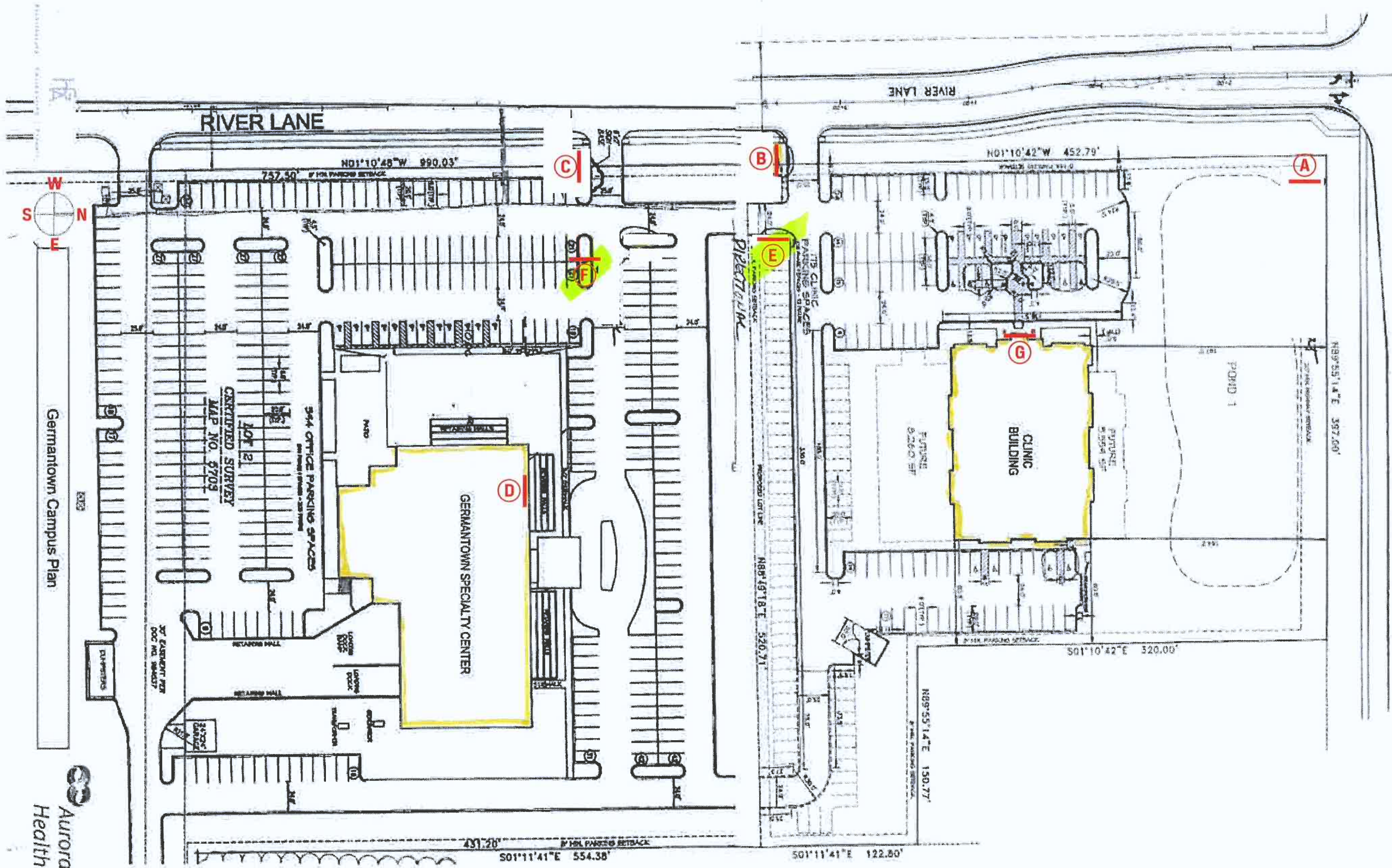
Google Maps N River Ln



Image capture: Aug 2013 © 2016 Google

Germantown, Wisconsin

Street View - Aug 2013



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Project

Aurora Health Center

Germantown, Wisconsin

Scale: NTS

Original Page Size: 11" x 17"

Notes

Revisions

REV	DESCRIPTION	BY	DATE
-----	-------------	----	------

Rep.: Matt Kaminski

Drawn By: Sarah Watson Orig. Date: 01/18/16

Sign Loc. No. .

00

Site Plan

Sign Type

69667

OPP - Project - Job No.

CO1

Design

SIGN SPECIFICATIONS

[A] - CABINET

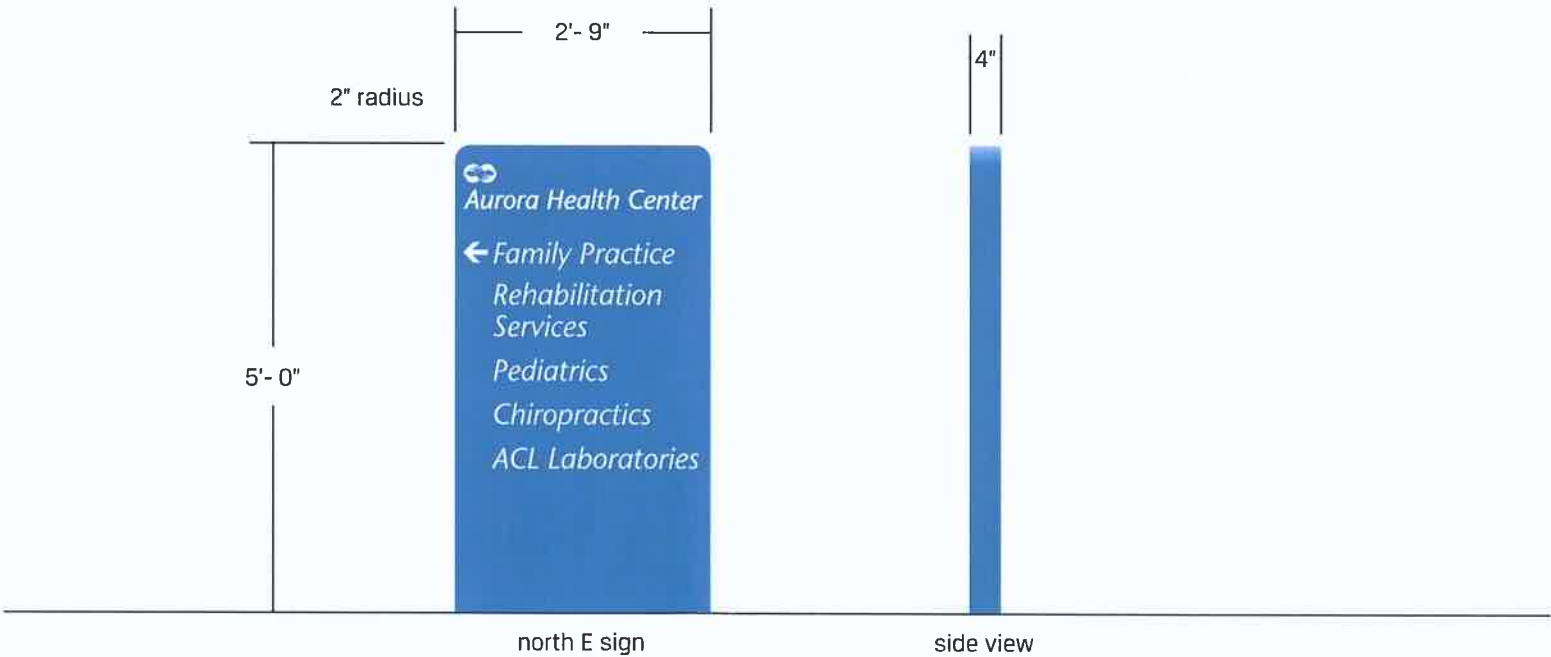
Lighting: Non-Lit
Material: Aluminum
Face Color: Paint Akzo Teal SIGN60784
Cabinet Color: Paint Akzo Teal SIGN60784
Installation: New Structure

[B] - GRAPHICS

Material: Vinyl
Color: White



Proposed - NTS



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Project

Aurora Health Center

Germantown, Wisconsin

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Notes

Line - 0005

Revisions

REV	DESCRIPTION	BY	DATE
01	reorder copy	sew	01.22.16
02	remove copy	sew	02.26.16
03	preprod/survey	RAK	3.10.16
04	Release	JJ	04/01/16

Rep. Matt Kaminski

Drawn By: Sarah Watson Orig. Date: 01/18/16

Sign Loc. No. E

MON-01

S/F Monument

Sign. Type

69667

OPP - Project - Job No.

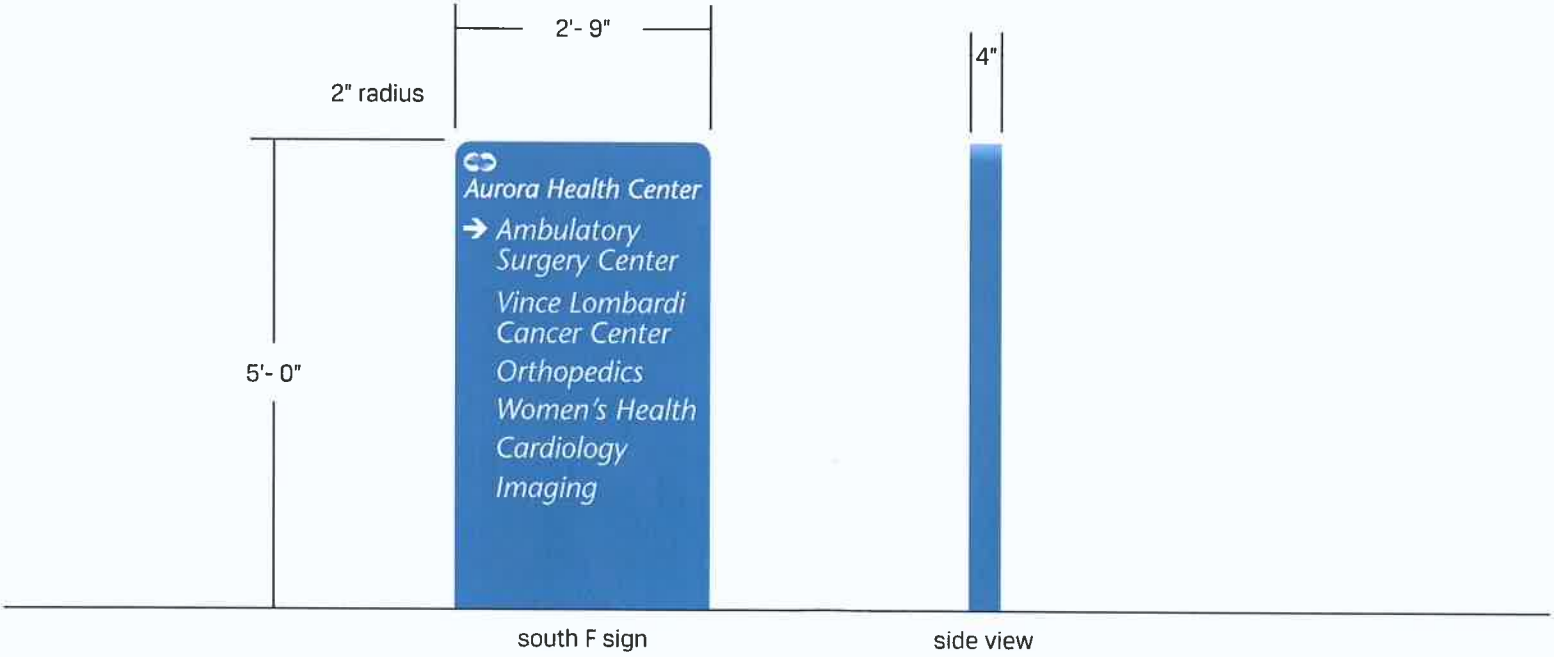
101

Design

SIGN SPECIFICATIONS

[A] - CABINET
Lighting: Non-Lit
Material: Aluminum
Face Color: Paint Akzo Teal SIGN60784
Cabinet Color: Paint Akzo Teal SIGN60784
Installation: New Structure

[B] - GRAPHICS
Material: Vinyl
Color: White



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Project
Aurora Health Center
Germantown, Wisconsin

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Original Page Size: 11" x 17"

Notes
Line - 0005

Revisions			
REV	DESCRIPTION	BY	DATE
01	reorder copy	sew	01.22.16
02	remove copy	sew	02.26.16
03	preprod/survey	RAK	3.10.16
04	Release	JJ	04/01/16

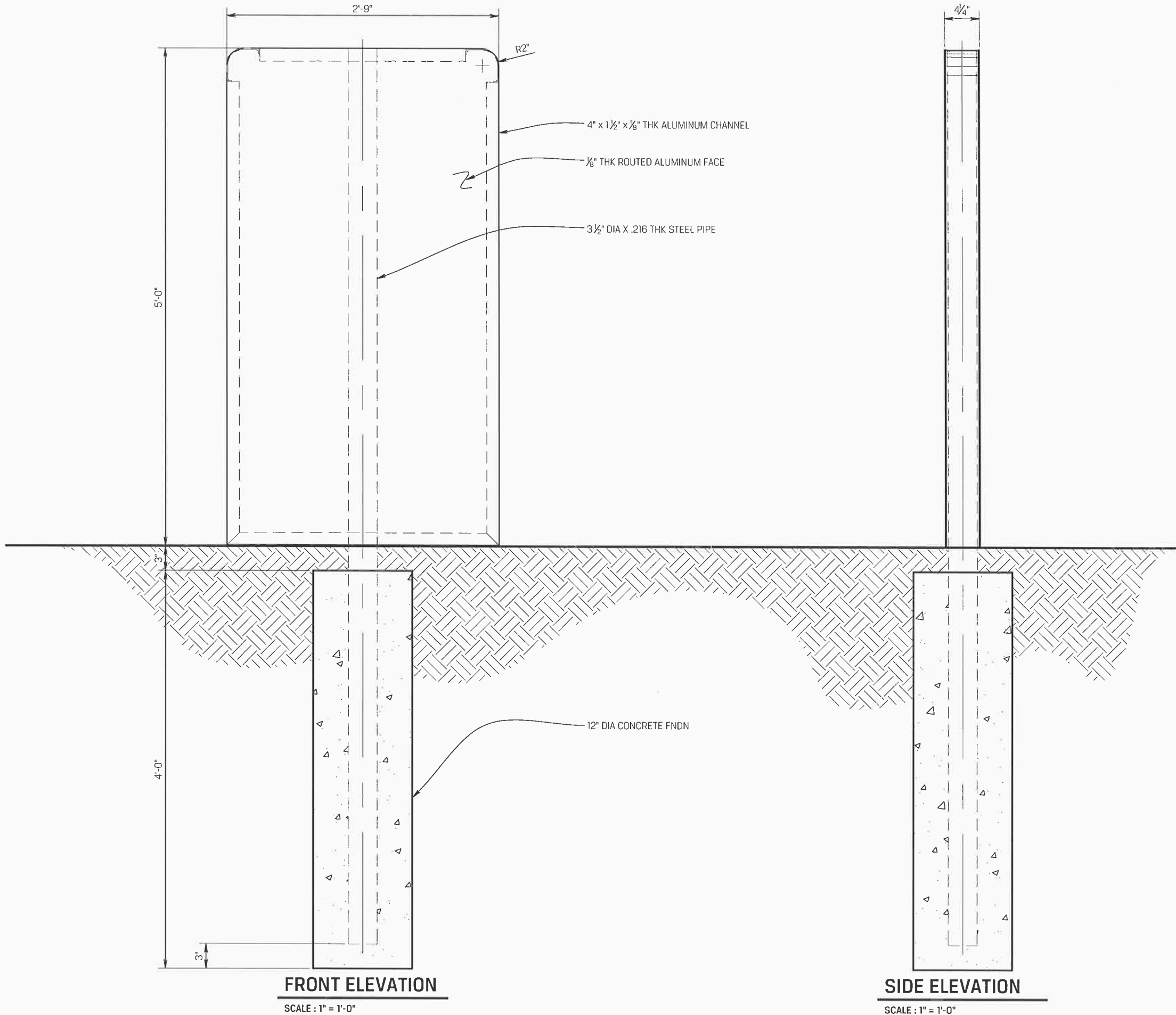
Rep.: Matt Kaminski
Drawn By: Sarah Watson Orig. Date: 01/18/16

Sign Loc. No. F

MON-01
S/F Monument
Sign. Type

69667 **JO1**
OPP - Project - Job No. Design

FILE: P:\Drawings\Aurora\Germantown\69667.MON-01.dwg SILET, S01 PLOTTED: Mar 29, 2016 8:05 AM BY: Karasch, Ryan



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Project

AURORA HEALTH CENTER

GERMANTOWN, WI

Scale: **AS NOTED**

Original Page Size: **11" X 17"**

Notes

LINE - 0005

Revisions

REV	DESCRIPTION	BY	DATE
01	RELEASE	RAK	3.29.16

Rep.: **MATT KAMINSKI** Orig. Date: **3.10.16**

Drawn By: **RYAN KARASCH**

Sign Loc. No. **E**

MON-01

MONUMENT

Sign Type

69667

OPP-Project-Job No.

S01

Sheet