

PLAN COMMISSION MINUTES

May 10, 2021

CALL TO ORDER: Chairman Wolter called the meeting to order at 6:30 pm.

ROLL CALL: Chairman Dean Wolter, Trustee Rep David Baum, Commissioners Tony Laszewski, Bill Shadid, Matt Kimmler, Bob Williams and Peter Nilles were in attendance. Also present were Community Development Director Jeff Retzlaff, Associate Planner Emily Zandt and Planning Assistant Lori Johnson.

PUBLIC INPUT:

None

APPROVAL OF MINUTES:

MOTION Baum second Shadid to Approve the Minutes from 4-12-21.

MOTION carried unanimously.

Jason Boehlke, Property Owner - N120 W13537 Freistadt Road. Proposed text amendment to Sections 17.15(2) and 17.15(4) of the Village of Germantown Municipal Code to add Construction Services, Contractor Shops, Garden Supplies and Horticultural Services as conditional uses that would be allowed in the Rs-2 Single Family Residential Zoning District. Director Retzlaff summarized the proposal.

Jason Boehlke's attorney spoke regarding the proposal. He stated Mr. Boehlke has been at this property and operated this business for 13 years. His options as proposed from the Village are to move his business somewhere else or propose an amendment that will allow his business to continue. The amendment would provide for the orderly use of this property as a business and avoid external conflicts and problems for other properties and avoid problems this may open doors to other properties that are similarly situated from becoming problematic. The property is surrounded by large tracks of agricultural land that allow for horticultural services. Mr. Boehlke's property is an island in between these properties and the impact to the community and neighbors would be minimal or the same if the property had ag zoning. He said the Village Board can impose restrictions to lessen the impact to the neighboring community.

Jason Boehlke said he purchased the property in 2008 and contacted the Plan Commission to ask if it was OK to run a business out of the property. He said he sent an email and talked to someone in the office and was told it's OK to run a business from this property. He's not trying to hide anything, he grew up in Germantown, helps coach, works for Germantown with roadway stuff, and the high school. He doesn't believe the text amendment will only help him. He employs local residents and works with the high school to give students employment. His shop is not like David J Frank, TLC or Wendland and he's never been directly told by neighbors that he's too loud.

Public Hearing opened at 7:00 pm.

The following residents spoke against the proposal:

- Bruce Bernarde, N120 W13645 Freistadt Road - asked to deny the request, the business has grown and is over capacity at this site, noise debris, traffic, storage, loading trucks, deliveries, 30-35 pieces of equipment on site.
- David Gierach, N124 W18518 Lovers Lane Road - asked to deny the request because Boehlke has outgrown his location and may need to look for a bigger facility.

- Tracy Bernarde, N120 W13645 Freistadt Road - asked to not approve the request because Boehlke's business has grown and is much more disruptive, he is not there to supervise workers.

Public Hearing closed at 7:21 pm.

MOTION Baum second Laszewski to Approve the proposed text amendment to Sections 17.15(2) and 17.15(4) of the Zoning Code to add Construction Services, Contractor Shops, Garden Supplies and Horticultural Services as conditional uses in the Rs-2 Single-Family Residential District.

Discussion followed. Trustee Baum said he had received numerous complaints about activities on this property. He stated this is a common problem. Mr. Boehlke has a successful business but he has outgrown the location and he needs to move on. He said the business is not appropriate today adding Boehlke's attorney spoke about avoiding conflicts with the adjacent uses. But there is a conflict with the adjacent neighbor that resulted in a court hearing. He doesn't see the Village allowing this type of use on a residential property and feels he has outgrown this property and implores him to do the right thing. Commissioner Williams said he drives by this property every day and sees supplies, equipment and materials that are out in the open and not in a storage facility. Commissioner Shadid said he is against the proposal because the citizens rely on us to uphold the zoning rules and he doesn't see any circumstance in the positive to approve the request. Discussion continued.

Commissioner Laszewski said he is looking for something that this makes sense, but feels the business is busting at the seams and not compatible for the area. Chairman Wolter asked where other Rs-2 zoned properties were located in the area. He commended Mr. Boehlke on the success of his business and his service to customers and he congratulated him for that. But when there is a mix of residential with commercial or residential with industrial, we start to see issues and complaints that come up. And it's usually the residential that loses that argument. As far as the recommendation to change the zoning he will not vote for it for that reason because long term it creates issues with the residents and doesn't work well in a residential neighborhood. So going forward as we move toward the 2050 Plan and as more landowners change over to one or two acre residential zoning in the area as we are recommending, the zoning amendment could impact more lots than just the two there today and cause long term issues to the residents in that area or go to that area for that reason. So for that reason and from the experience he's seen since being on this board, because of the mix of residential to commercial or industrial when we put them together, and there is an issue, he will vote against it for that reason.

MOTION failed unanimously.

Village Board will take final action on June 7th.

Scott Morgan, Property Owner of All Terrain Construction Company, N112 W14972 Mequon Road. Site Plan review for a 4,400 sqft Accessory Building and Site Improvements. Planner Retzlaff summarized the proposal.

MOTION Baum second Shadid to Approve the building plans for a 4,400 sqft detached accessory vehicle and equipment storage building and site development plans for parking lot

re-construction, retaining wall and storm water facility improvements to the existing 1.14-acre site located at N112 W14972 Mequon Road subject to the following (12) conditions:

- 1. This approval is subject to all the conditions and requirements set forth herein and adopted by the Plan Commission. Approval is granted for the following plans unless superseded by subsequent plan sheets approved by the Village Planner or Engineer pursuant to revisions required herein and/or by the Plan Commission:**
 - a. Architectural & building plan set dated October 14, 2020**
 - b. Engineering plan set dated February 7, 2021**
 - c. Landscaping plan set dated February 7, 2021**
 - d. Exterior Lighting plan set dated February 4, 2021**
- 2. All landscaping, grading, paving, storm water management, utility and other improvements shown on the approved site plans shall be installed as approved prior to issuance of an occupancy permit for the building addition unless a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that installation of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.**
- 3. All technical issues, corrections and plan requirements identified by the Public Works Director in the February 7, 2021 review memo shall be addressed and reflected in revised plans and/or supplemental information reviewed and approved by Village staff prior to issuance of a building permit or as may be mutually agreed to with the Public Works Director (excluding "early start" site clearing and footing/foundation work approved by the Village and/or WI DSPS).**
- 4. Right-of-way permits are required for any/all construction conducted in the Mequon Road right-of-way. Contact the Public Works Department/Village Engineer for details.**
- 5. The Village Public Works Department/Village Engineer shall be contacted for inspection purposes prior to construction of the private storm water lateral connection to the Village storm sewer system in Mequon Road.**
- 6. A revised landscaping plan indicating the species, size and location of plants to be removed shall be prepared and submitted to the Village Forester for review and approval prior to issuance of an occupancy permit.**
- 7. State agency (DSPS) approved plans and a \$20,000 occupancy bond are required by Inspection Services at the time of building permit application. The Village of Germantown is an authorized delegated agent of DSPS to provide all commercial plan review and inspection services through SAFEBuilt of WI and the Village of Germantown.**
- 8. The proposed exterior pole-mounted floodlight fixtures are required to be cut-off type fixtures that cannot be tilted or re-positioned in a manner that will produce glare affecting adjacent properties and/or Mequon Road.**
- 9. Additional landscaping for screening shall be installed along the west and south sides of the new parking lot and along the south and west sides of the proposed rain garden. Said landscaped screen or hedge shall be comprised of evergreen and/or deciduous shrubs to provide a visual buffer and separation of the private vs. public space north of the sidewalk.**
- 10. Pursuant to Condition #4 in CUP #06-20, the owner shall install a 5'-6' high visual screen comprised of evergreen trees, shrubs and/or a privacy fence along the east property line on top of or between the retaining wall and the curbed driveway. Said privacy screen should be installed from the southeast corner of the dwelling to the southeast corner of the new storage building (a length of approximately 165').**
- 11. A revised landscape plan should be prepared and submitted for review and approval by the Village Planner showing the additional landscaping and visual screen required**

under conditions #10 & #11 above.

- 12. The owner shall work cooperatively with the property owner to the east to ensure installation of the retaining wall, visual screen, driveway and other site improvements along the common property line do not negatively impact the property to the east.***

Discussion followed on the trees that are close to the property lines and what would happen if the roots were cut or if a tree topples over. Planner Retzlaff explained there are some nicer trees in the back that are likely to be impacted by construction on the site. He added that the Village does not have any specific code requirements to address this sort of thing and he hopes the 2 property owners can work together cooperatively to avoid future property disputes.

Scott Morgan said he is willing to put a wall around one tree that grows on the property line to save it. But the other trees are dead or are invasive species trees. Trustee Baum commented that he was willing to accept the proposal based on an image that shows trees completely surrounding the property and hide the building. But the landscape plan shows that there are barely any trees on the property and that you will be relying on the neighbor's trees to screen the building. Mr. Morgan said he does not have a problem working with his neighbors or putting up a privacy screen either a fence or his preference would be planting arborvitae. He explained the retaining wall and driveway will create a 4-foot area to allow plantings inside. The west property line has a power line that runs along it and is not suitable for planting anything.

Commissioner Kimmmer said it may be possible to plant emerald green arborvitae in the 4-foot area, but you would be limited to not putting anything too big in there. Planner Retzlaff said the privacy fence may be a better solution.

MOTION carried unanimously.

Gtown Properties - N112 W15800 Mequon Road Site development and building plans for an exterior remodel on the existing commercial building. Associate Planner Zandt summarized the proposal.

MOTION Baum second Shadid to Approve the site development & building plans for an exterior remodel on the existing commercial building located on the 9.78-acre parcel at N112W15800 Mequon Road. subject to the following conditions:

- 1. This approval is subject to all the conditions and requirements set forth herein and adopted by the Plan Commission. Approval is granted for the following plans unless superseded by subsequent plan sheets approved by the Village Planner or Engineer pursuant to revisions required herein and/or by the Plan Commission:***
 - a. Architectural plan set dated March 1, 2021***
 - b. Civil Engineering plan dated March 24, 2021***
 - c. Landscaping plan dated March 24, 2021***
- 2. The Landscape Plan shall be revised to reflect the information requested by the Village Forester. These plans shall be submitted to the Planning Department for review and approval prior to the issuance of a building permit.***
- 3. All landscaping, grading, paving, storm water management, utility and other improvements shown on the approved site plans shall be installed as approved prior to issuance of an occupancy permit for the building addition unless a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that installation***

of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.

- 4. State agency (DPS) approved plans and a \$20,000 occupancy bond are required by Inspection Services at the time of building permit application. The Village of Germantown is an authorized delegated agent of DPS to provide all commercial plan review and inspection services through SAFEBuilt of WI and the Village of Germantown.***

Trustee Baum said he appreciates the efforts the developer has made to upgrade the building. Chairman Wolter also appreciates the upgrades to the building and additional investment to this area to draw more people and business in.

MOTION carried unanimously.

Heritage Place Joint Venture LLC - N115 W16165 Saxony Village Blvd. - Request for approval of a 2-lot Certified Survey Map to reconfigure the existing 3 parcels into 2 lots. Associate Planner Zandt summarized the proposal.

MOTION Baum second Laszewski to Approve the proposed 2-lot Certified Survey Map (CSM) to reconfigure the existing three parcels of Saxony Village (N115W16165 Saxony Village Blvd) into two lots with the following conditions:

- 1. An access restriction prohibiting all vehicle access to Main Street from Parcel (Lot) 1 shall be added to the CSM and approved by Planning Staff prior to recording.***
- 2. An access easement reservation on Parcel (Lot) 2, running the along entire length of Parcel (Lot) 1 abutting Saxony Village Blvd, for the benefit of allowing Parcel (Lot) 1 access to the private driveway in an agreed upon location and with a maintenance agreement to be mutually agreed upon by the two property owners and approved by the Village of Germantown at such time Parcel (Lot) 1 is approved for development, shall be added to the CSM and approved by Planning Staff prior to recording.***
- 3. All technical issues and plan corrections identified by the Engineering Department (see May 4, 2021 memo) shall be addressed and reflected in a revised CSM submitted and approved by the Engineering Department prior to recording the CSM.***

Trustee Baum said he thought that the units per acre was maximized requiring every inch of land was required for this development. And he remembers all the arguments. Planner Retzlaff explained no - Parcel 1 is now a green space and could be used as something different, maybe for parking purposes down the road. He said the parcel that was used for the calculation of Saxony Village was based on the Rm-2 zoned property and not the Parcel 1 property zoned B-3. He further stated that when a PDD was first presented to the Village it included other amenities that the Village lost out on but this area was not part of the density calculation. Discussion followed.

Scott Bence, JBJ Properties, explained the Saxony Village parcel originally did not connect to Main Street and they had to acquire the Jacobus and railroad property which were not part of the Saxony Village calculation. The proposed CSM makes the Saxony Village parcel a few feet larger and the other parcel will remain business zoning. Trustee Baum questioned what can be done with a 1/2-acre lot. Planner Retzlaff said it could be a parking lot, a drive thru coffee shop or small building. He added that the property was taken from an eyesore and turned it into something desirable. The CSM is a cleanup and creates an opportunity for a future use to benefit the public.

MOTION carried 6-1 (Baum).

Harvest Hills Subdivision, Lot 31 & Jeffrey & Sarah Holtebeck, N118 W13147 Taylor Trail, Lot 30. Two lot Certified Survey Map to modify property lines. Associate Planner Zandt summarized the proposal.

MOTION Baum second Laszewski to Approve the proposed 2-lot Certified Survey Map (CSM) to modify the boundary between Lots 30 and 31 of the Harvest Hills Subdivision located at N118W13147 Taylor Trail with the following conditions:

- 1. All technical issues and plan corrections identified by the Village Surveyor (see April 5, 2021 memo) shall be addressed and reflected in a revised CSM submitted and approved by the Engineering Department prior to recording the CSM.***

MOTION carried unanimously.

Village of Germantown - N112 W17001 Mequon Road. Request for approval of a new ground sign. Planner Retzlaff summarized the proposal.

MOTION Baum second Shadid to Approve the proposed monument sign for the Village of Germantown property option #1 that matches the existing masonry at the Village Hall and Library.

- 1. An electrical permit shall be obtained from Inspection Services prior to installation of any/all electrical components.***

MOTION carried unanimously.

Mahuta Tool Corporation - N118 W19137 Bunsen Drive. The request is for approval of a wall sign for the existing facility.

MOTION Baum second Shadid to Approve the proposed monument and wall signs for Mahuta Tool Corporation located at N118 W19137 Bunsen Drive subject to the following conditions:

- 1. An electrical permit shall be obtained from Inspection Services prior to installation of any/all electrical components.***

MOTION carried unanimously.

MGS Manufacturing - N117 W19125 Fulton Drive. The request is for approval of 2 wall signs for the recently completed building expansion.

MOTION Baum second Laszewski to Approve the proposed wall signs for MGS Manufacturing located at N117 W19125 Fulton Drive subject to the following conditions:

- 1. An electrical permit shall be obtained from Inspection Services prior to installation of any/all electrical components***

MOTION carried unanimously.

ANNOUNCEMENTS: Chairman Wolter said this Saturday is the Mai Fest celebration in a box. Pickup is between 1 and 4 pm if you placed an order.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:38 pm.

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Respectfully submitted,

Lori Johnson, Planning Assistant