

**VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI**

MEETING: BOARD OF ZONING APPEALS

DATE AND TIME: WEDNESDAY, June 8, 2022 5:30 p.m.

**LOCATION: Germantown Village Hall Board Room
N112 W17001 Mequon Road**

NOTICE: Pursuant to the recommendations of the Centers for Disease Control and Prevention concerning the prevention of COVID-19 infections, any member of the body and/or citizen may also attend the meeting virtually through the WebEx platform, Meeting #:2559 326 4502 Password: GJiUyKg6e79 which can be accessed by phone at 408-418-9388 or by logging on at

<https://villageofgermantown.my.webex.com/villageofgermantown.my/j.php?MTID=ma8e856dc38c3dd94cc84376a84fa36fe>

Citizens not wishing to attend the meeting personally or virtually may submit any public comments by sending an email to comments@germantownwi.gov by 4 p.m. on the day of the meeting so that it can be provided to the members of the body for their consideration.

- 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.
- II. **ROLL CALL:**
- III. **APPROVAL OF MINUTES:** April 13, 2022
- IV. **PUBLIC HEARING, DELIBERATION AND ACTION:**
 - A. THE PURPOSE of said hearing will be to hear any and all parties, their attorneys or agents, for or against a **VARIANCE APPEAL** filed by Patrick Kuehmichel, property owner, N104W20355 Willow Creek Road, Colgate, who is requesting a variance from 17.41 (1)(b) of the Village's Zoning Code to exceed the maximum number of detached accessory buildings permitted in the Rs-4 Single-family Residential District.
 - B. THE PURPOSE of said hearing will be to hear any and all parties, their attorneys or agents, for or against a **VARIANCE APPEAL** filed by Jon Weske, property owner, N104W20255 Willow Creek Road, Colgate, who is requesting a variance from 17.41 (1)(b) of the Village's Zoning Code to (a) exceed the maximum area allowed for detached accessory buildings in the Rs-4 Single-family Residential District by 337 square feet; (b) exceed the maximum number of detached accessory buildings allowed in the Rs-4 Single-family Residential District; and (c) exceed the maximum number of attached garages in the Rs-4: Single-family Residential District.
- V. **NEXT MEETING DATE AND TIME IF NEEDED:**
Second Wednesday's of the month at 5:30 p.m.
- VI. **ADJOURNMENT**

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service please contact the Village Clerk at (262)250-4740 at least 2 days prior to the meeting.

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 GERMATNOWN
BOARD OF ZONING APPEALS
MEETING MINUTES
APRIL 13, 2022

CALL TO ORDER: The meeting was called to order at 5:30 pm by Chairman White

ROLL CALL: Chairman White, Members Edwards, Huber, Hansen, Schodron, Assistant Planner Zandt, and Deputy Clerk/Deputy Treasurer Rozek

APPROVAL OF MINUTES: August 11, 2021

Motion (Huber/Schodron) to approve the August 11, 2021 as presented

Motion carried unanimously with Edwards and Hansen abstaining from vote for not being at the August 11, 2021 meeting.

PUBLIC HEARING:

Chairman White read the public hearing notice. **THE PURPOSE** of said hearing will be to hear any and all parties their attorneys or agents, for or against a **VARIANCE APPEAL** filed by Fred and Laura Wells, property owners, who are requesting a variance from Section 17.41(1)(b) of the Village's Zoning Code to exceed the permitted square footage of accessory structures in the Rs-1 Single-Family Residential District by 65 square feet in order to construct an 170 square-foot addition to the existing detached accessory building for the property located at W220N10800 Amy Belle Road, Colgate.

Chairman White described the meeting order and that normally the Village's information is given first, then the review of the Variance is given and then the applicant may give sworn information.

Chairman White swore in Associate Planner/ Zoning Adminstator Zandt.

Associate Planner Zandt gave background information about the application. The property is located on the east side of Amy Belle Rd, approximately ½ mile north of Willow Creek Rd. The parcel is setback approxiamtly 500 ft from Amy Belle Rd. In February 2022 the property owner was advised they would need to obtain a variance from the Board of Zoning Appeals (BOZA) in order to construct a proposed 170 sqft addition to te existing detached garage (accessory building) that would be 65 sqft larger than the maximum allowance of 864 sqft for this property. Section 17.41(1)(b) of the Zoning Code regulates the number and size of detached accessory buildings. Wells property is in a Rs-1 Planned Development District (PDD). This PDD is consistent with the Rs-1: Single-family Residential District as it allows up to two (2) detached buildings totaling not more than 2% of the total area of the property, or 864 sqft (whichever is larger) if there is no attached garage, which is the case with this property. Parcel 1 (Wells property) is 22,553 sqft, 2% of the parcel area is 451 total sqft. Since there is no attached garage, a maximum of 864 sqft applies to this property. Today current Village Code requires newly created lots in the Rs-1 District to be a minimum of 5 acres in size. With 5 acres, a property owner would be permitted up to two (2) accessory structures totaling no more than 4356 sqft. (i.e. 2% of the lot size). This lot was created as part of one of the first PDD's approved in the Village. Property location maps were reviewed. The proposed addition map was reviewed. The owner is seeking a variance from Section 17.41(1)(b) in an amount of 65 sqft in order to construct an addition to a detached garage (accessory building) for a total area of 929 sqft.

Discussion was had between the Board and Associate Planner Zandt over the creation of the PDD and the rules related to it.

Chairman White sworn in property owner Fred and Laura Wells W200N10800 Amy Belle Road. Laura Wells spoke that they are not sitting in a subdivision. The original middle buyer of lot 2 backed out of the purchase so the land was split between the remaining 2 lots and the rest of the land is shared by the two property owners. There are 3 tax keys and they receive 3 tax bills: 1 for their lot, 1 for half of parcel 2 and 1 for half of parcel 4.

Chairman White asked if the two owners ever came up with an agreement in selling parcel 2. Laura replied that there are covenants that cover parcel 4 and neither owner has interest in having parcel 2 developed.

Associate Planner Zandt added there would be a need to amend the PDD covenant to do that. Laura and Fred Wells proceeded to describe the topography of the properties as you proceed down the shared driveway.

Fred Wells then explained what they would like to do. They have a current older green house with glass panes that leak and would like to get rid of. Due to their kids being driving age they would like to use the space where the green house is and extend the garage to have the extra stall and extra storage. The current roof line is low, so the gable roof line would be extended for this. The footprint would not extend further into the yard than to the rock wall. The addition would face south hundreds of yards off road, and the neighbors wouldn't see it.

Chairman White asked for clarification that it would then be a 4 car garage.

Fred replied yes. It again would give them the extra stall, storage and removal of the green house. The Wells then provided pictures of what the neighbor sees from the driveway, they also talked with the neighbor who feel what they want to do isn't a problem. The Wells know about running into issues with the size of their lot, and talked about expanding and making it an acre, but they along with their neighbor have not interest in doing new surveys and feel this is the better way to go.

Chairman White asked how long the Wells have lived on this property and if they built it. They responded 5 years and the previous owner was there for 40 years.

Member Hansen asked why the lots were not set up as 5 acres when the PDD was set up.

Laura replied she felt it was to pay the least amount in taxes. The 18 acres was under a different tax rate than the lots.

Associate Planner Zandt added this was an early rendition of what we see now as a conservation subdivision where lots are small and used as a tool to preserve more open space, in this case there is an agreement that the 18 acres is to remain open for recreational use only and not buildable.

Chairman White read a letter from Scott/Laura Segrin dated March 1, 2022 that they are aware of the proposed addition of 10ft of current garage and are in agreement with it.

Chairman White asked if anyone wanted to speak or be heard in favor or opposition. No one came forward.

Chairman White asked the Wells if they had any further comments. They had none.

Public Hearing closed at 5:57 pm with no additional comments or questions.

Chairman White explained the Board will now deliberate the findings in order to grant the variance.

The Findings, Conclusions, Decision and Order were deliberated.

Hanson feels it is not in contrary to public interest. Zoning, while unusual, is clear enough and they are getting a certain allowance for the accessory garage. What is more debatable is if it is in accordance to the spirit of zoning code.

White commented that it is very much in the spirit of the zoning code. The maximum coverage is designed to not overbuild your lot. They are sitting on 17.9 other acres that will never be built on and you are not able to tell lot lines.

Huber agrees the public interest in the spirit of the zoning code is to protect people from seeing large unsightly outbuildings in an area and that is not the case here.

The variance is an exceptional, extraordinary, or unusual condition or circumstance 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.

Schodron commented there are with how the property lines are laid out it is extraordinary circumstances. White agreed, adding in the shared 18.9 acre common area that can never be built upon and no really knows where the lot lines are. Hansen and Huber agree as well.

The variance would be necessary for the preservation and enjoyment of substantial property rights. Hanson said it is as Rs1 has much larger allowance for accessory garage and they are not doing anything different than other Rs1 properties would do.

White commented before tonight's meeting he read the appeal and felt this would be the sticking point and the hardest one for the Wells to overcome, but as Associate Planner Zandt pointed out that Rs1 now requires 5 acres, I come down to no one can truly tell if parcel 1 is 5 acres or not. They effectively have in excess of 5 acres and they would get 4300 sq ft in the addition that it is a tiny portion of that. I am not satisfied with that.

Hansen stated if it really was a conservation subdivision it would be a different conversation. It is a unique situation with how the parcels are laid out. Schodron agreed.

The variance will create substantial detriment to adjacent property and will be contrary to the public interest.

Schodron commented no, you can see very little of it from the driveway and the neighbor is in agreement with it.

White added that there is no impediment or public safety issues.

Hansen asked if someone else would buy the neighbors house is anything needed to be attached to this property to allow the variance of violating or exceeding the zoning on the accessory garage.

White understands it as if variance is granted it would run with the land. If the garage is tore down they can not rebuild it without another variance.

A literal enforcement of the terms of the Zoning code would result in practical difficulty or unnecessary hardship to the appellant/applicant.

Huber commented there would be some hardship. They could pursue getting lot lines redrawn, but there would be considerable expense and the neighbor may not want to share the cost and it would be unnecessary legal work to get lot lines redrawn. White agreed.

Hansen commented the key word is unnecessary. It is not necessary to have a literal interpretation of the code due to the situation of the common area, how the parcel sits, can't see lot lines, and the neighbor sits far away.

White stated I am persuaded by that.

Motion (Shodron/Hanson) to approve variance as requested. Motion carried unanimously by roll call vote

No meeting schedule for May.

Motion (Hansen/White) to adjourn meeting at 6:07 pm

Respectfully Submitted,

Jennifer Rozek, Deputy Clerk/Deputy Treasurer

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, 2022 - 5:30 P.M.**

THE PURPOSE of said hearing will be to hear any and all parties, their attorneys or agents, for or against a **VARIANCE APPEAL** filed by Patrick Kuehmichel, property owner, N104W20355 Willow Creek Road, Colgate, who is requesting a variance from 17.41 (1)(b) of the Village's Zoning Code to exceed the maximum number of detached accessory buildings permitted in the Rs-4 Single-family Residential District.

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 and can be viewed on the Village website under Legal Notices at

<https://www.germantownwi.gov/>

Citizens wishing to submit any public comments may do so by sending them by email to: comments@germantownwi.gov no later than 4:00 pm on the meeting date listed above.

Dated this 10th day of May 2022.

Village Clerk

Published: May 18 and May 25



MEMORANDUM

TO: Board of Zoning Appeals (BOZA) Members

FROM: Emily Zandt, Associate Zoning Administrator

DATE: June 8, 2022

RE: Variance Appeal; W104N20355 Willow Creek Road
Patrick & Ann Kelley Kuehmichel

Background

In January 2022, Patrick and Ann Kuehmichel, property owners, were issued a code violation notice (#2022-01-02; see Attachment 1) by the Community Development Department for keeping poultry or fowl on less than 2 acres in the Rs-4: Single-family Residential district and for exceeding the number of accessory buildings permitted in the Rs-4: Single-family Residential district (1 permitted, 4 existing). Since that time, the poultry or fowl have been removed from the property and one of the accessory buildings has been removed. In April 2022, a letter (see Attachment 2) was sent to the Kuehmichels outlining the options for bringing their property into compliance with Section 17.41(b) of the Zoning Code. Section 17.41(b) limits the number and total building area allowed on a residential property.

The Kuehmichel property located at W104N20355 Willow Creek Road is zoned Rs-4 and is 1.97 acres in size. Section 17.41(b) of the Zoning Code allows for one (1) accessory building in the Rs-4 district with square footage of up to 1% of the lot size (in this case 858 square feet). There are currently three (3) detached accessory buildings on the property totaling 549 square feet.

Appeal/Request

The Kuehmichels are seeking a variance from Section 17.41(b) to exceed the number of permitted accessory buildings in the Rs-4: Single-family Residential district by two (2) buildings.

Staff Comments

There is no evidence or documentation in the Village property files that show permits were obtained for any of the accessory structures on the property. Therefore, regardless of the action taken, staff requests that the Board of Zoning Appeals require that the property owner apply for any/all necessary building permits.

ATTACHMENT 1

Code Violation Notice 2022-01-02



Village of



Germantown

Willkommen

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

Website: www.village.germantown.wi.us

FAX:

(262) 253-8255

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

January 17, 2022

Patrick & Ann Kelley Kuehmichel
N104 W20355 Willow Creek Road
Colgate, WI 53017

RE: Code Violation Notice #2022-01-02; Violation of the Village Code
W104N20355 Willow Creek Road; Parcel ID# GTNV 322-966

Mr. & Mrs. Kuehmichel:

While in the neighborhood recently, Village Staff observed the keeping of poultry or fowl on your property. The purpose for the attached notice and this letter is to inform you that you/your property appear to be in violation of the Village Municipal Code as stated in Code Violation Notice #2022-01-02 (copy enclosed) and summarized below:

1. Section 9.11(2) Poultry: Keeping of poultry or fowl on a property less than two (2) acres in size (see copy of Section 9.11 enclosed).
2. Section 17.17 Rs-4 Single-Family Residential District: Raising of poultry, fowl, animals or fish for meat or by-products for family consumption only is not included as a permitted or conditional use (see Section 17.17 enclosed).

Please be advised that, as stated in Code Violation Notice #2022-01-02, you are directed to contact the Planning & Zoning Department no later than February 4, 2022 to discuss what actions are necessary to bring the property into Zoning Code compliance.

Village staff also observed as many as five (5) accessory structures on your property. Our records do not indicate that permits were obtained for any of these buildings and the Rs-4 Zoning District within which your property is located only allows one (1) accessory building (see Section 17.41 or the Village Code enclosed). We would like to discuss this with you as well, so we understand why there are five (5) accessory structures on your property.

Please be advised that, in the event you do not contact the Planning & Zoning Department as set forth in the Code Violation Notice, the Village may proceed with the issuance of a municipal citation and/or take other enforcement action(s) provided within the Village Code that may be necessary to correct violation.

If you feel this notice has been issued in error, or, if you have any questions or concerns regarding this matter, please feel free to contact me at (262) 250-4735.

Respectfully,

Emily Zandt, AICP
Associate Planner/Zoning Administrator

Copies: Village Attorney

NOTICE OF VILLAGE CODE VIOLATION

GERMANTOWN VILLAGE HALL • N112 W17001 MEQUON ROAD, GERMANTOWN, WI 53022

PROPERTY / OWNER INFORMATION

VILLAGE ONLY

N104W20355 Willow Creek Rd
Property Address or Location
GTNV 322-966
Parcel ID#
Kudmichel, Patrick + Ann Kelley
Owner/Occupant/Tenant
N104 W20355 Willow Creek Rd
Mailing Address
Colgate, WI 53017
Mailing Address

REF#: 2022-01-02
ISSUE DATE: 1/17/2022

ORDINANCE / CODE VIOLATION DESCRIPTION

NOTICE IS HEREBY GIVEN THAT AN APPARENT VIOLATION OF ONE OR MORE OF THE FOLLOWING PROVISIONS OF THE VILLAGE OF GERMANTOWN CODE OF ORDINANCES WAS OBSERVED ON THE PROPERTY.

ORDINANCE VIOLATED / SECTION #

DESCRIPTION OF VIOLATION

See Back for Additional Information and Definitions

See Attached Diagram / Photos

- Sec. 10 Public Nuisance
- Sec. 10.065 Property Maintenance
- Sec. 10.03 Noxious Weeds
- Sec. 14.05 Building Permit
- Sec. 17.07 Zoning/Occupancy Permit
- Sec. 17.46 Temporary Signs/Size
- Sec. 9.11 Other
- Sec 17.17

Keeping of poultry or fowl on property zoned RS-4 single-family residential and on property less than two (2) acres in size

COMPLIANCE REQUIRED

YOU ARE REQUIRED TO TAKE THE FOLLOWING ACTION(S) TO CORRECT THE VIOLATION(S) AND COMPLY WITH THE SPECIFIC CODE PROVISION(S) ON OR BEFORE THE COMPLIANCE DATE NOTED BELOW. FAILURE TO CORRECT THE VIOLATION(S) BY THE COMPLIANCE DATE MAY RESULT IN THE ISSUANCE OF A MUNICIPAL CITATION, FORFEITURES, ABATEMENT ACTION, COST RECOVERY BY THE VILLAGE AND/OR COURT ORDER REQUIRING COMPLIANCE.

COMPLIANCE DATE

2/4/2022

Contact Planning & Zoning to discuss plan for code compliance.

Please contact the Village Official listed below to discuss the violation(s) and additional actions or requirements needed to correct the violation(s) and comply with the code provision(s) listed above.

VILLAGE OFFICIAL ISSUING NOTICE

Zoning Administrator (262) 250-4735

Building Inspector (262) 250-4760

SIGNATURE
Emily Zandt

DATE

DETAILS / DEFINITIONS

PUBLIC NUISANCES. Actions declared to be Public Nuisances in the Village of Germantown include (but not limited to): (1) Accumulation of decaying trash, rubbish, lumber, packing material, bedding, scrap metal, or other matter that which attracts and can create breeding areas for flies, mosquitoes, rats or other vermin; (2) Noisy animals and animals running at large; (3) Air, water, and highway pollution; (4) Noxious weeds; (5) Noxious odors; (6) Dilapidated buildings or structures that are so old or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use; (7) Abandoned appliances, equipment, junk, abandoned vehicles, etc.

By definition (see sec. 10.06(4)) "Worn out or discarded material of little or no value including, but not limited to, household appliances or parts thereof, machinery and equipment or parts thereof, tools, discarded building materials, or any other unsightly debris, the accumulation of which has an adverse effect upon neighborhood or village property values, health, safety or general welfare."

PROPERTY MAINTENANCE. Maintenance of exterior, including refuse, trash, etc.; Maintenance of trees and shrubs in good appearance; Litter (including paper, furniture, vehicle parts); Exterior appearance of structures (decay, paint, roofs, etc.); Storage of commercial and industrial material prohibited; General maintenance of fences and enclosures; Lawn appearance and maintenance (under 12").

NOXIOUS WEEDS. No owner or occupant of any lot or parcel shall allow such property to become overgrown with any weeds or grass so as to constitute a public nuisance, as defined in sec. 10.03(8) of this chapter. The Village President shall annually on or before May 15 publish a Class 2 notice, under Ch. 985, Wis. Stats., that every person is required by law to destroy all noxious weeds and other rank growth of vegetation as defined in sec. 10.03(8) of this chapter, on lands in the Village which he owns, occupies or controls. If a property owner fails to control the growth of such weeds or rank growth of vegetation on his property, the Village Weed Commissioner shall serve upon him notice as to this fact. If such owner fails to abate this nuisance within 7 days after service of the notice, the Weed Commission shall take action to abate such public nuisance. If the Village causes a nuisance to be removed as stated, the property owner shall be charged for the abatement of such nuisance, with the charge to be determined annually by the General Government and Finance Committee. If such charges are not paid by November 15 of the year in which they are billed, such charges, together with an additional administrative fee for collection equal to 10% of the total of such charges and fees, shall be extended on the next succeeding tax roll as a tax charged against the property affected and collected in the same manner as are other taxes, pursuant to §66.98, Wis. Stats.

TEMPORARY SIGNS/SIZE. All signs shall be approved by the Plan Commission. In considering a sign application, the Plan Commission shall consider the purpose of advertising; the appearance, location, lighting, height and size of the sign; safety of the operators of vehicles upon the adjoining streets and highways; the effect of the sign with respect to the scenic beauty of the vicinity in which the sign is proposed to be located.

No sign shall be located, erected, moved, reconstructed, extended, enlarged, converted, structurally altered, nor shall the face of a sign be changed without a sign permit, and all signs shall fully conform to the requirements of this section (17.46(2)). Applications for sign permits shall be filed with the Building Inspector who shall review them for completeness and accuracy and refer the application to the Plan Commission for their review and approval. A sign permit for a temporary or portable sign can only be issued after review and approval by the Building Inspector. Applications for sign permits shall be made on forms provided by the Building Inspector and shall contain the required information: (a) name, address and telephone number of applicant and location of the building, structure or lot to which or upon which the sign is to be attached or erected. (b) Name of person, firm, corporation or association erecting the sign. (c) Written consent of the owner or lessee of the building, structure or land to which or upon which the sign is to be affixed. (d) A scale drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment. (e) A scale drawing indicating the location and position of such sign in relation to property lines and to nearby buildings or structures.

ENFORCEMENT ACTION

Failure to correct a violation in a timely manner may result in the issuance of a municipal citation. Municipal citations involve payment of a civil penalty, i.e. cash fine, and correction of the violation. Paying the cash fine does **NOT** relieve you of your responsibility to correct the violation. In addition to the cash fine, anyone receiving a municipal citation is also responsible for paying all of the court costs associated with prosecuting the violation and processing the citation through the Mid-Moraine Municipal Court System. When combined, cash fines and court costs can result in a significant "out-of-pocket" expense to the property owner/violator in addition to having to correct a violation. **PLEASE NOTE:** each day a violation exists or continues can be considered a separate violation.

ATTACHMENT 2

Follow-Up Letter dated April 13, 2022



Village of

Germantown
Willkommen

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 Website: www.village.germantown.wi.us
FAX: (262) 253-8255 E-mail: jretzlaff@village.germantown.wi.us

April 13, 2022

Patrick & Ann Kelley Kuehmichel
N104 W20355 Willow Creek Road
Colgate, WI 53017

RE: Code Violation Notice #2022-01-02; Violation of the Village Code
W104N20355 Willow Creek Road; Parcel ID# GTNV 322-966

Mr. & Mrs. Kuehmichel:

Thank you for the removal of the poultry of fowl from your property as of January 24, 2022, following the notice of violation that was sent to you on January 17, 2022. We also appreciate your willingness to work with us to provide information regarding your accessory structures. As discussed previously, having more than one accessory structure in the Rs-4 Single-family Residential District violates Section 17.41(1)(b) of the Zoning Code. Based on the background information you provided we suggest the following options to bring your property into code compliance:

1. Mrs. Kuehmichel stopped by Village Hall on January 24, 2022 to share that the ducks had been removed from the property. We would like to do an inspection in the next couple weeks to verify.
2. You have the following accessory buildings on your property:
 - a. 12' by 16' (192 square feet) wood shed with Gable roof and garage door, which was on the property when you purchased it in 2005
 - b. 14' by 22' (308 square feet) wood lean-to shed used for wood storage which was on the property when you purchased it in 2005
 - c. 8' by 8' (64 square feet) shed that you indicated would be removed no later than April 1, 2022
 - d. 7' x 7' Rubbermaid shed, added in 2021, for pool related storage

Although a. and b. were constructed prior to your purchase of the property, there is no evidence that zoning or building permits were ever issued for these buildings and, as a result, there is no evidence that the buildings are legally non-conforming.

In order to achieve code compliance with Section 17.41(1)(b) of the Zoning Code (which in the case of your property limits the number and total amount of building area allowed on the property), you have the following options:

- a. Remove the structures which cause your total number of accessory buildings to exceed one (1) and the square footage to exceed 858 square feet and obtain a building permit for the remaining building; or
- b. Request (and obtain) a Variance from the Board of Zoning Appeals to exceed the maximum accessory structure square footage in the Rs-4 Single-family Residential District. (If you choose to pursue this option, please contact me to discuss the necessary application form and process).

Kuehmicel
N104 W20355 Willow Creek Road
Code Violation Notice #2022-01-02
April 13, 2022
page 2

Please provide the Village (Planning & Zoning Services) a written plan of action for the above code violation no later than May 9, 2022. If you choose to apply for a variance from the Board of Zoning Appeals, your application will need to be submitted no later than May 9th as evidence that you intend to remedy these code violations. We will defer any further enforcement action pending the outcome of your specific variance request(s).

Please be advised that, in the event you do not contact the Planning & Zoning Department as set forth in the Code Violation Notice, the Village may proceed with the issuance of a municipal citation and/or take other enforcement action(s) provided within the Village Code that may be necessary to correct violation.

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

Respectfully,

A handwritten signature in cursive script that reads "Emily Zandt".

Emily Zandt, AICP
Associate Planner/Zoning Administrator

Copies: Village Attorney

**VILLAGE OF GERMANTOWN
 BOARD OF ZONING APPEALS
 NOTICE OF APPEAL OR APPLICATION**

Case No.	
Filing Date	
Fee Paid	\$
Hearing Date	
Notice Mailed	
Notices Published	

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):

Appellant's or Applicant's Name: Patrick Dale Kuchmichal	
Address: N104 W20355 Willow Creek Rd. Colgate, WI 53017	
Phone Number: 414.350.7806	
Appellant's or applicants' interest in property:	
Owner <input checked="" type="checkbox"/>	Tenant <input type="checkbox"/>
Mortgagee <input type="checkbox"/>	Agent <input type="checkbox"/>
Property Owner's Name:	
Address:	
Phone Number:	
Address of Property:	
Lot: PT OF NW NW CSM 5486 L011D0C	Block:
Tax Parcel No. GTNV 322966	Zoning District: residential RS-4
Present use of the Property: residential	
Proposed use of the Property:	
Previous Appeal or Application (if any)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If YES, list date of hearing:	
Decision of Previous Hearing:	

Identify the **PURPOSE** for this appeal or application. Please mark the 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.

Date of Decision or Order:

Description of Decision or Order:

Decision or order is erroneous because:

B Request for Variance of Zoning/Building Code **17.41(1)(b)**

Describe the requested variance and dimension of variance: **1 shed (allowable) currently also on property 192 sq.ft.**

① Lean to wood shed - 308 sq.ft.

② 7x7 rubbermaid shed . 64 sq.ft. (Total of 3 sheds)

Explain how the variance, IF granted, is consistent with the spirit, purpose and intent of the Code: **locations of both sheds are in the rear yard. Unseen from adjacent dwellings. Sheds combined in square footage are less than allowed. Sheds are similar in architectural appearance and exterior material.**

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:
Structures can not be seen from Willow Creek Rd or any dwellings adjacent to property. The adjacent property is not buildable and therefore no future concern of dwellings being able to see sheds. Rear facing property is flood plain and currently a registered FAA Emergency landing strip (unbuildable).

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:
Rubbermaid pool shed is providing one place for all outdoor pool accessories that would otherwise be placed in numerous bins, adjacent properties will experience no detriment as a result of the sheds (see attached letters.) Additional sheds will not be contrary to public interest as they are set off from road not visible to public. Additional sheds will not endanger public safety and interest by the distance to ~~the~~ public, they are far from any street access.

appealing visibility.

C <input type="checkbox"/>	Request for Interpretation of regulations of the Zoning Code or the District boundaries of the Zoning Map.
List applicable section(s) of the Zoning Code:	
Describe proposed use/activity/construction:	
Explain reasons supporting requested action:	
Has request been referred to Plan Commission? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, give recommendation of Plan Commission:	
D <input type="checkbox"/>	Permission for Temporary Use Permit
Describe use requested:	
Proposed commencement date:	
Proposed termination date:	

E	<input type="checkbox"/>	A determination that an unspecified or unclassified use is permitted in a Zoning District
Describe use requested:		
Attach copy of recommendation of Village Plan Commission		
F	<input type="checkbox"/>	Permission to substitute a MORE restrictive non-conforming use for an existing non-conforming use.
Attach copy of recommendation of Village Plan Commission.		
Attach copy of certification of Zoning Administrator to legality of present non-conforming use.		
Date of commencement of present use:		
Value of improvement on date use became non-conforming (attach documentation supporting value): \$		
Present value of all existing improvements, additions and alterations since date use became non-conforming (attach documentation): \$		

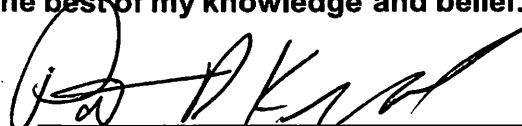
REQUIRED DOCUMENTATION

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: 5-4 2022



 Signature of applicant or appellant

17.52 - BOARD OF ZONING APPEALS.

- (1) **MEMBERSHIP.** See section 1.30(1) of this Code.
- (2) **ORGANIZATION.** The Board of Zoning Appeals shall organize and adopt rules and procedure for its own government in accordance with the provisions of this chapter.
 - (a) *Meetings.* Meetings shall be held at the call of the chairman and shall be open, to the public.
 - (b) *Minutes.* Minutes of the proceedings and a record of all actions shall be kept by the secretary showing the vote of each member upon each question, the reasons for the Board's determination and its findings of fact. These records shall be immediately filed in the office of the Board and shall be a public record.
 - (c) *Concurring Vote.* (Am. Ord. #12-09) The concurring vote of a majority of the quorum of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a utility, temporary, unclassified or substituted use.
- (3) **POWERS.** The Board of Zoning Appeals shall have the following powers:
 - (a) *Errors.* To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
 - (b) *Variances.* To hear and grant appeals for variances as will not be contrary to the public interest when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship so that the spirit and purpose of this chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (c) *Interpretations.* To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
 - (d) *Substitutions.* To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 - (e) *Permits.* The Board may reverse, affirm wholly or partly modify the requirements appealed from, and may issue or direct the issuance of a permit.
 - (f) *Assistance.* The Board may request assistance from other Village officers, departments, commissions and boards.
 - (g) *Oaths.* The Chairman may administer oaths and compel the attendance of witnesses.
- (4) **APPEALS.** (Rep. & Recr. Ord. #2-94; Am. Ord. #19-96) Appeals of any administrative determination of the Zoning Administrator, the Building Inspector or the Plan Commission concerning the literal enforcement of this chapter and chapters 14 and 18 of this Code may be made by any person aggrieved or by any officer, department or board of the Village. Such appeals shall be filed with the Secretary within 30 days after receiving actual or constructive notice of the administrative decision or order or the granting of a permit by the Zoning Administrator, Building Inspector or Plan Commission. Such appeals and applications shall include the following:
 - (a) Name and address of the applicant.
 - (b) What administrative determination is being appealed and the basis for the appeal.
- (5) **HEARINGS.** The Board shall fix a reasonable time and place for the required public hearing and shall give notice as specified in section 17.53 of this chapter. At the hearing, the appellant or applicant may appear in person or be represented by an agent or attorney.
- (6) **FINDINGS.** No variance to the provisions of this chapter shall be granted by the Board unless it finds, beyond a reasonable doubt, that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

- (a) *Preservation of Intent.* No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use or conditional use in that particular district.
 - (b) *Exceptional Circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that this chapter should be changed.
 - (c) *Hardships Not Grounds for Variance.* No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 - (d) *Preservation of Property Rights.* The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (e) *Absence of Detriment.* No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (7) **DECISION.** The Board shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, the Zoning Administrator and the Plan Commission.
- (a) *Conditions.* Conditions may be placed upon any zoning permit ordered or authorized by the Board.
 - (b) *Variations, Substitutions or Use Permits.* Variations, substitutions or use permits granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.
- (8) **REVIEW BY COURT OF RECORD.** Any person aggrieved by any decision of the Board may present to a court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board.

State law references—Zoning board of appeals, Wis. Stats. §§ 61.35, 62.23(7)(e).

Emily Zandt

From: Patrick Kuehmichel <patrickkuehmichel@gmail.com>
Sent: Wednesday, February 16, 2022 4:11 PM
To: Emily Zandt
Subject: Accessary Buildings

**CAUTION: This email originated from outside the organization.
Do not click links or open attachments unless you recognize the sender and know the content is safe.**

shed with garage door 12'x16' came with house 2005
lean-to wood shed 14'x22' came with house 2005
small shed 8'x8' being removed by april 1
ice shanty 8'x8' under construction (waiting on axle, back ordered, covid shipping delay)
rubbermaid 7'x7' pool shed, put up 2021 so as not to have multiple plastic totes stacked in yard.

Emily, if there's anything else you need feel free to call or email. Thank You, Patrick Kuehmichel 414-350-7806



Stock No. 26273

Return to
VILLAGE OF GERMANTOWN
N112 W17001 Mequon Rd.
P.O. Box 337
Germantown, WI 53022-0337

CERTIFIED SURVEY MAP

SHEET 1 OF 4

PART OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 74, PART OF LOT 1 OF CERTIFIED SURVEY MAP NO. 2445, AND PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 9 NORTH, RANGE 20 EAST, VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, STATE OF WISCONSIN.

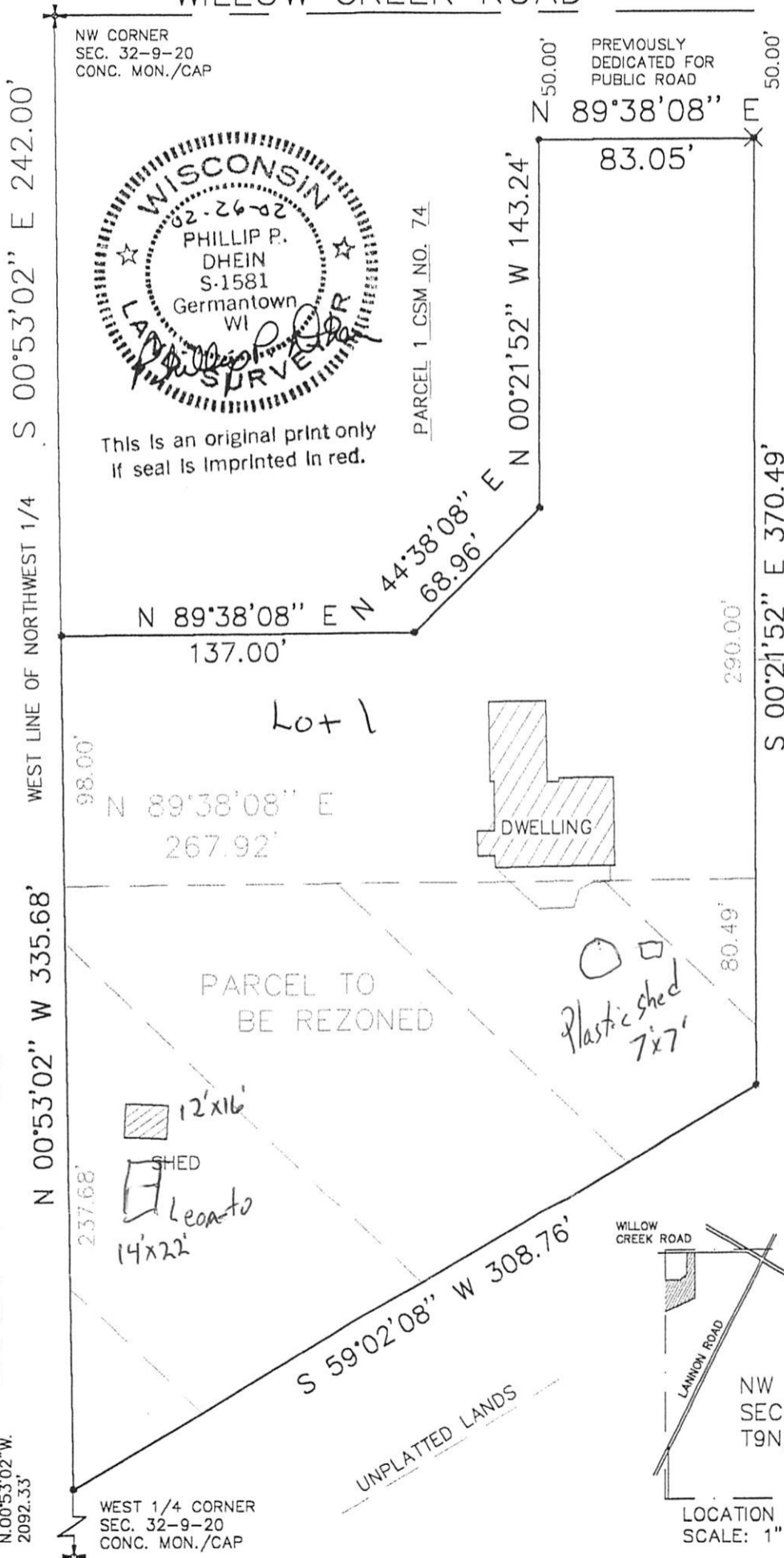
- LEGEND!
- * DENOTES SET 1"X24" IRON PIPE WEIGHT 1.13 LBS. PER LINEAL FOOT
 - X DENOTES FOUND 1" IRON PIPE BEARING BASIS WISCONSIN STATE PLANE COORDINATE SYSTEM (SOUTH ZONE)



UNPLATTED LANDS

Scale 1" = 60'

N.00°53'02"W.
2092.33'



NW CORNER
SEC. 32-9-20
CONC. MON./CAP

PREVIOUSLY
DEDICATED FOR
PUBLIC ROAD



This is an original print only
if seal is Imprinted in red.

PARCEL 1 CSM NO. 74

PARCEL 2 CSM NO. 74

UNPLATTED LANDS

PREPARED BY:
PHILLIP P. DHEIN R.L.S. 1581
N.156 W.21104 BONNIEWELL RD.
RICHFIELD, WISCONSIN 53076
PHONE 262-628-2555
FAX 262-628-2714

PREPARED FOR:
JOSEPH & SUSAN POLLOW
N 104 W 20355 WILLOW CREEK RD.
COLGATE, WISCONSIN 53017
PHONE: 255-7981





Stock No. 26273

CERTIFIED SURVEY MAP

SHEET 2 OF 4

PART OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 74, PART OF LOT 1 OF CERTIFIED SURVEY MAP NO. 2445, AND THAT PART NORTHWEST 1/4 OF THE NORTHWEST 1/4 SECTION 32, TOWNSHIP 9 NORTH, RANGE 20 EAST, VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, STATE OF WISCONSIN.

SURVEYOR'S CERTIFICATE

I, Phillip P. Dhein, Registered Land Surveyor, do hereby certify:

That I have surveyed, mapped, and divided part of Certified Survey Map No. 74, part of Certified Survey Map No. 2445, and that part of the northwest 1/4 of the Northwest 1/4 of Section 32, Township 9 North, Range 20 East, in the Village of Germantown, Washington County, State of Wisconsin, bounded and described as follows:

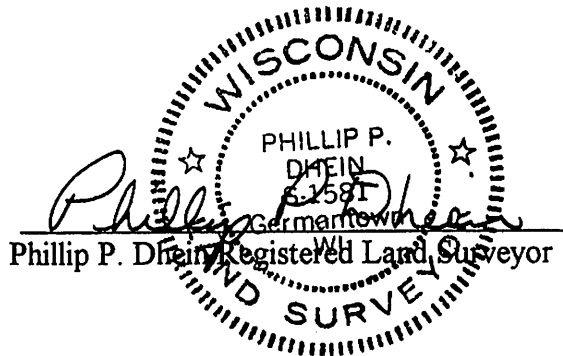
Commencing at the Northwest corner of Section 32, thence S. 00°53'02" E. along the west line of said Northwest 1/4, 242.00 feet to the point of beginning of lands to be described; thence N. 89°38'08" E. 137.00 feet; thence N. 44°38'08" E. 68.96 feet; thence N. 00°21'52" W. 143.24 feet to the southerly right-of-way line of said Willow Creek road; thence N. 89°38'08" E. along said right-of-way line 83.05 feet; thence S. 00°21'52" E. 370.49 feet; thence S. 59°02'08" W. 308.76 feet to the west line of said Northwest 1/4; thence N. 00°53'02" W. along said west line 335.68 feet to the point of beginning. Containing 1.9735 acres of land 85,966 Sq. Ft. of land.

THAT I have made such survey, land-division and map by the direction of SHELDON D. POLLOW, and CHARLINE POLLOW, husband and wife, and JOSEPH D. POLLOW and SUSAN M. POLLOW, husband and wife, owners' of said land.

THAT the map is a correct representation of all of the exterior boundaries of the land surveyed and the division of that land.

THAT I have complied with the provision of Chapter 236 of the Wisconsin Statutes, and the Subdivision Regulations of the Village of Germantown, in surveying, mapping, and dividing the same.

Dated this 28th day of February, 2002



This is an original print only
if seal is imprinted in red

Recorded
JUNE 21, 2002 AT 08:00AM
DOROTHY C. BONNERING
REGISTER OF DEEDS
WASHINGTON COUNTY, WI
Fee Amount: \$17.00

DOC#: 936863

MAP NO. 2488 VOL. 39 PAGE 131



Stock No. 26273

CERTIFIED SURVEY MAP

SHEET 3 OF 4

PART OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 74, PART OF LOT 1 OF CERTIFIED SURVEY MAP NO. 2445, AND THAT PART NORTHWEST 1/4 OF THE NORTHWEST 1/4 SECTION 32, TOWNSHIP 9 NORTH, RANGE 20 EAST, VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, STATE OF WISCONSIN.

OWNERS' CERTIFICATE

We, SHELDON D. POLLOW and CHARLINE POLLOW, husband and wife, and JOSEPH D. POLLOW and SUSAN M. POLLOW, husband and wife, as owners', we hereby certify that we caused the land described above to be surveyed, divided, and mapped as represented on the map.

WITNESS the hand and seal of said owners' this 12th day of April, 2002.

WITNESS
WITNESS
WITNESS
WITNESS

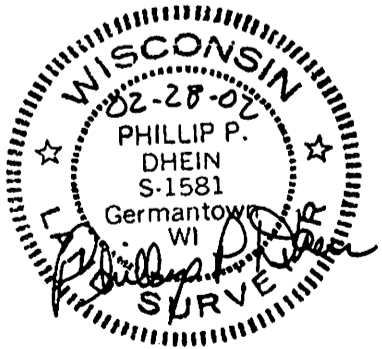
Sheldon D. Pollow
SHELDON D. POLLOW
Charline K Pollow
CHARLINE . POLLOW
Joseph D. Pollow
JOSEPH D. POLLOW
Susan M. Pollow
SUSAN M. POLLOW

MAP NO. 5486 VOL. 39 PAGE 158

STATE OF WISCONSIN)
:SS
WASHINGTON COUNTY)

PERSONALLY came before me this 12th day of April, 2002, the above named SHELDON D. POLLOW and CHARLINE POLLOW, husband and wife, and JOSEPH D. POLLOW and SUSAN M. POLLOW, husband and wife, owners', to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Althea J. Bluvstein Notary Public, State of Wisconsin.
My commission expires April 21, 2002
Althea J. Bluvstein



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If seal is imprinted in red



Stock No. 26273

CERTIFIED SURVEY MAP

SHEET 4 OF 4

PART OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 74, PART OF LOT 1 OF CERTIFIED SURVEY MAP NO. 2445, AND THAT PART NORTHWEST 1/4 OF THE NORTHWEST 1/4 SECTION 32, TOWNSHIP 9 NORTH, RANGE 20 EAST, VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, STATE OF WISCONSIN.

VILLAGE BOARD APPROVAL

Approved by the Village Board of Village of Germantown on this the 18th day of June, 2002.

Signature of Charles J. Hargan, Village President

Signature of Jane A. Wilms, Village Clerk

PLANNING COMMISSION APPROVAL

Approved by the Planning Commission of the Village of Germantown, on this the 13th day of May, 2002.

Signature of Charles J. Hargan, Planning Commission

Signature of Angela N. Sievert, Secretary Planning Commission

CONSENT OF MORTGAGEE

ASSOCIATED BANK, SUSSEX as mortgagee of the above described land, do hereby consent to the surveying, dividing and mapping of the land described in the foregoing affidavit of Dhein Land Surveying LLC, Phillip P. Dhein, Surveyor, and do hereby consent to the above certificate of SHELDON D. POLLOW and CHARLINE POLLOW, husband and wife, and JOSEPH D. POLLOW and SUSAN M. POLLOW, husband and wife, owners'.

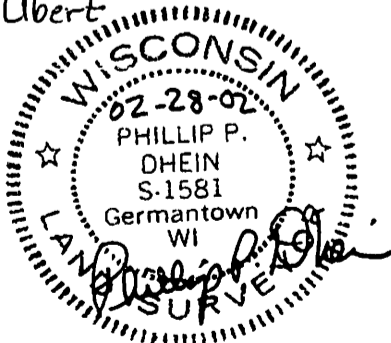
In the presence of:

Signature of Cathy Pollow-Daniels, Manager

STATE OF WISCONSIN)
:SS
WASHINGTON COUNTY)

PERSONALLY came before me this 11 day of June, 2002, the above named CATHY POLLOW-DANIELS, Manager, to me known to be the person: who executed the foregoing instrument and acknowledged the same.

Signature of Ann C. Ubert, Notary Public, State of Wisconsin. My commission expires 9/5/04. Ann C. Ubert



This is an original print only
If seal is Imprinted In red.

April 29, 2022

Dear Zoning Board,

We are writing this letter regarding the property adjacent to ours. We have NO concerns or issues with the shed, pool rubbermaid shed, or any structure on their property. The structures in question are not visible nor do they bother us.

Please feel free to contact us with any questions or concerns.

Respectfully Submitted,

Brett & Mary Sehnorepetz
1104 W20295 Willow Creek Rd.
262-366-7178

I Sharon Beay #104W20387 Willow
Creek Rd. I have no
problem with the sheds. I
cannot see them from my
house. I have lived here
since 1989 and they have
been there all that time. -
they cause me no harm -
the pool shed is brand
new and keeps the pool
area neat.

Sharon Beay

sbeay@wi-rr.com

5-1-2022

262-255-4932

I do not have any problem with
Patrick's sheds on the East side of my
property. I would rather he keeps his
yard neat and things put away than
all over the place

Patrick is a very good neighbor. I don't
understand all this fuss.

Gloria New

N104W00659 Willow Creek Rd

Colgate Wis. 53017

Phone 1-262-628-1389

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, 2022 - 5:30 P.M.**

THE PURPOSE of said hearing will be to hear any and all parties, their attorneys or agents, for or against a **VARIANCE APPEAL** filed by Jon Weske, property owner, N104W20255 Willow Creek Road, Colgate, who is requesting a variance from 17.41 (1)(b) of the Village's Zoning Code to (a) exceed the maximum area allowed for detached accessory buildings in the Rs-4 Single-family Residential District by 337 square feet; (b) exceed the maximum number of detached accessory buildings allowed in the Rs-4 Single-family Residential District; and (c) exceed the maximum number of attached garages in the Rs-4: Single-family Residential District.

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 and can be viewed on the Village website under Legal Notices at

<https://www.germantownwi.gov/>

Citizens wishing to submit any public comments may do so by sending them by email to: comments@germantownwi.gov no later than 4:00 pm on the meeting date listed above.

Dated this 10th day of May 2022.

Village Clerk

Published: May 18 and May 25



MEMORANDUM

TO: Board of Zoning Appeals (BOZA) Members

FROM: Jeff Retzlaff, Zoning Administrator/Village Planner

DATE: June 8, 2022

RE: Variance Appeal; W104 N20255 Willow Creek Road
Jonathan & Laura Weske, Property Owner

Background

In January 2022, Weske was issued a code violation notice (#2022-01-01) regarding the following Building & Zoning Code violations:

1. Installation of and building setbacks for a solid fuel heating device (i.e. outdoor wood furnace & boiler) on property in an Rs-4: Single-Family Residential Zoning District (Building Code Section 14.105);
2. Exceeding the maximum number of accessory buildings allowed in the Rs-4 District (Zoning code Section 17.41);
3. Exceeding the maximum total area allowed for accessory buildings in an Rs-4 District (Zoning Code Section 17.41); and
4. Exceeding the number of attached garages allowed in an Rs-4 District (Zoning Code Section 17.41).

As an alternative to removing the outdoor furnace, accessory buildings and attached garage, Weske is requesting variances from the applicable sections in the Municipal Code in order to keep all of the "illegal" structures.

Variance Requests

Building Code (Section 14.105)

With regard to the outdoor furnace violation (#1 above), Weske is addressing the Building Code violations by applying to the Village Board for a separate set of variances from Section 14.105 as specifically provided therein. Therefore, the BOZA is only concerned with the Zoning Code violations summarized under #2, #3 and #4 above.

Zoning Code (Section 17.41)

The Weske property located at W104 N20255 Willow Creek Road is zoned Rs-4 and is .72 acres in area. Section 17.41(b) of the Zoning Code allows for only one (1) accessory building in the Rs-4 District with a maximum total area up to 1% of the lot size (in this case a maximum area of 313 square feet).

Currently, there are four (4) detached accessory buildings on the Weske property totaling 800 square feet (previously reported as 650 sqft based on estimated vs. actual dimensions):

1. 10' x 12' (120 sqft) wood garden shed with Gable roof (constructed sometime before 1970);
2. 10' x 20' (200 sqft) metal lean-to structure for wood (installed in 2009);
3. 20' x 24' (480 sqft) Quonset hut-style storage structure with vinyl cover (installed in 2007-08)
4. 4' x 8' (32 sqft) chicken coop (to be removed by the owner voluntarily)

In addition to the detached accessory building violations, Weske constructed a second attached garage onto the existing dwelling (for a total of two attached garages).

Consequently, Weske is seeking three (3) variances from Section 17.41(b) of the Zoning Code that would allow the owner:

1. to exceed the maximum number of accessory buildings allowed in an Rs-4 District by three (3) buildings;
2. to exceed the maximum total area allowed for accessory buildings in an Rs-4 by 487 sqft (800 sqft existing minus 313 sqft allowed = 487 sqft exceedance); and
3. to exceed the maximum number of attached garages allowed in an Rs-4 District by one (1) attached garage.

Staff Comments

There is no evidence or documentation in the Village files for this property that indicates building permits were obtained for any of the accessory structures or the attached garage. Therefore, regardless of the variance decisions, staff requests that the BOZA require that the property owner obtain any/all necessary building permits.

Variance Appeal
W104 N20255 Willow Creek Road
Jonathan & Laura Weske, Property Owners
Page 3 of 3

ATTACHMENT 1

Code Violation Notice 2022-01-01



Village of
Germantown
Willkommen

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

Website: www.village.germantown.wi.us

FAX:

(262) 253-8255

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

January 14, 2022

Jonathan & Laura Weske
W104 N20255 Willow Creek Road
Colgate, WI 53017

RE: Code Violation Notice #2022-01-01; Violation of the Building Code
W104N20255 Willow Creek Road; Parcel ID# GTNV 322-984

Mr. & Mrs. Weske:

While in the neighborhood recently, Village Staff observed a solid-fuel heating unit in operation on your property. The purpose for the attached notice and this letter is to inform you that you/your property appear to be in violation of the Village Municipal Code as stated in Code Violation Notice #2022-01-01 (copy enclosed) and summarized below:

1. Section 14.105 Solid Fuel-Fired Heating Devices on a residential property located in a Rs-4: Single-Family Zoning District. Solid Fuel-Fired Heating Devices are allowed only in the A-1, A-2, Rs-1 & Rs-2 Zoning Districts (see copy of Section 14.105 enclosed).

Please be advised that, as stated in Code Violation Notice #2022-01-01, you are directed to contact the Planning & Zoning Department no later than February 1, 2022 to discuss what actions are necessary to bring the property into Zoning Code compliance.

Village staff also observed as many as four (4) accessory structures and two (2) attached garages on your property. Our records do not indicate that permits were obtained for any of these buildings and the Rs-4 Zoning District within which your property is located only allows one (1) accessory building and one (1) attached garage (see Section 17.41 or the Village Code enclosed). We would like to discuss this with you as well, so we understand why there are four (4) accessory structure and two (2) attached garages on your property.

Please be advised that, in the event you do not contact the Planning & Zoning Department as set forth in the Code Violation Notice, the Village may proceed with the issuance of a municipal citation and/or take other enforcement action(s) provided within the Village Code that may be necessary to correct violation.

If you feel this notice has been issued in error, or, if you have any questions or concerns regarding this matter, please feel free to contact me at (262) 250-4735.

Respectfully,

Emily Zandt, AICP
Associate Planner/Zoning Administrator

Copies: Village Attorney

NOTICE OF VILLAGE CODE VIOLATION

GERMANTOWN VILLAGE HALL • N112 W17001 MEQUON ROAD, GERMANTOWN, WI 53022

PROPERTY / OWNER INFORMATION

VILLAGE ONLY

N104 W20255 Willow Creek Rd GTNV 322-984
 Property Address or Location Parcel ID#
 Weske, Jonathan + Laura
 Owner/Occupant/Tenant
 N104 W20255 Willow Creek Rd
 Mailing Address
 Colgate, WI 53017
 Mailing Address

REF#: 2022-01-01
 ISSUE DATE: 1/14/2022

ORDINANCE / CODE VIOLATION DESCRIPTION

NOTICE IS HEREBY GIVEN THAT AN APPARENT VIOLATION OF ONE OR MORE OF THE FOLLOWING PROVISIONS OF THE VILLAGE OF GERMANTOWN CODE OF ORDINANCES WAS OBSERVED ON THE PROPERTY.

ORDINANCE VIOLATED / SECTION

DESCRIPTION OF VIOLATION

See Back for Additional Information and Definitions

See Attached Diagram / Photos

- Sec. 10 Public Nuisance
- Sec. 10.065 Property Maintenance
- Sec. 10.03 Noxious Weeds
- Sec. 14.05 Building Permit
- Sec. 17.07 Zoning/Occupancy Permit
- Sec. 17.46 Temporary Signs/Size
- Sec. 14.105 Other

Solid Fuel-fired Heating
 Device within R_s-4
 Single-Family Zoning District

COMPLIANCE REQUIRED

YOU ARE REQUIRED TO TAKE THE FOLLOWING ACTION(S) TO CORRECT THE VIOLATION(S) AND COMPLY WITH THE SPECIFIC CODE PROVISION(S) ON OR BEFORE THE COMPLIANCE DATE NOTED BELOW. FAILURE TO CORRECT THE VIOLATION(S) BY THE COMPLIANCE DATE MAY RESULT IN THE ISSUANCE OF A MUNICIPAL CITATION, FORFEITURES, ABATEMENT ACTION, COST RECOVERY BY THE VILLAGE AND/OR COURT ORDER REQUIRING COMPLIANCE.

COMPLIANCE DATE

2/1/2022

Contact the Planning & Zoning
 Department to discuss plan
 for code compliance

Please contact the Village Official listed below to discuss the violation(s) and additional actions or requirements needed to correct the violation(s) and comply with the code provision(s) listed above.

VILLAGE OFFICIAL ISSUING NOTICE

Zoning Administrator (262) 250-4735 Building Inspector (262) 250-4760

Signature: Emily Zandt

DATE: 1/14/2022



Village of

Germantown
...Willkommen

Community Development Department

Jeffrey W. Retzlaff, AICP, Director

Village Planner & Zoning Administrator

N112 W17001 Mequon Road P.O. Box 337

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Website: www.village.germantown.wi.us

FAX: (262) 253-8255

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

April 6, 2022

Jonathan & Laura Weske
W104 N20255 Willow Creek Road
Colgate, WI 53017

RE: Follow-up to Code Violation Notice #2022-01-01; Violation of the Building Code
W104N20255 Willow Creek Road; Parcel ID# GTNV 322-984

Mr. & Mrs. Weske:

We appreciate your willingness to work with us to provide information regarding your Solid Fuel-Fired Heating Device, accessory structures, and second attached garage. As discussed previously, alone or in combination, these items violate various provisions in the **Village's Zoning and Building Code** summarized below. Based on the background information you provided we suggest the following options to bring your property into code compliance:

1. You purchased and installed your Solid Fuel-Fired Heating Device in 2005, prior to the approval of Ord. 30-05 on September 19, 2005. The Heating Device was originally installed **on your neighbor's property but was moved to its current location** in 2009. It is located **approximately 2' from your east property line**.

Since the solid fuel-fired heating device was installed prior to the adoption of Ord. 30-05 that created specific requirements and restrictions for solid-fuel heating devices under Section 14.105 of the Building Code, you have the following options to come into compliance with Village code:

- a. Apply for a building permit showing that the heating device meets the criteria of Section 14.105 including relocating the device to meet all setback requirements; or
 - b. Apply to the Village Board for a Variance to the requirements under Section 14.105 as provided therein. (If you choose to pursue this option, please contact me to discuss the necessary application form and process).
2. You have the following accessory buildings on your property:
 - a. **10' by 15' (150 square feet) wood garden shed** with Gable roof, which was constructed shortly after the dwelling, sometime before 1970.
 - b. **10' x 20' (200 square feet) metal lean-to** structure which covers the wood for your solid fuel-fired heating device, installed about 2009 **and located 7'6"** feet from your east property line
 - c. **15' x 20' (300 square feet) Quonset hut-style storage structure** with vinyl cover that was installed in 2007 or 2008
 - d. A chicken coop that you plan to remove from your property

Although a. and d. were constructed prior to current Code requirements, there is no evidence that zoning or building permits were ever issued for these buildings and, as a result, there is no evidence that the buildings are legally non-conforming.

Weske
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In order to achieve code compliance with Section 17.41(1)(b) of the Zoning Code (which in the case of your property limits the number and total amount of building area allowed on the property), you have the following options:

- a. Remove the structures which cause your total accessory building square footage to exceed 313.6 square feet and obtain a building permit for the remaining building(s);
or
 - b. Request (and obtain) a Variance from the Board of Zoning Appeals to exceed the maximum accessory structure square footage in the Rs-4 Single-family Residential District. (If you choose to pursue this option, please contact me to discuss the necessary application form and process).
3. You have a second attached garage that **you constructed without a permit. It is located 20' 6"** from the east (side) lot line. In order to achieve code compliance under Section 17.41(1)(b) of the Village Zoning Code (one attached garage permitted in the Rs-4 District), you have the following options:
- a. Obtain a Demolition Permit from Building Inspections and remove one of the attached garages on your property; or
 - b. Apply for a building permit and convert the garage to living quarters, removing the overhead garage door and meeting the current building code requirements; or
 - c. Request (and obtain) a variance from the Board of Zoning Appeals to have two (2) attached garages in the Rs-4 District. (If you choose to pursue this option, please contact me to discuss the necessary application form and process).

Please provide the Village (Planning & Zoning Services) a written plan of action for each of these three code violations no later than April 25, 2022. If you choose to apply for a variance from either the Village Board and/or the Board of Zoning Appeals, your application will need to be submitted no later than April 25 as evidence that you intend to remedy these code violations. We will defer any further enforcement action pending the outcome of your specific variance request(s).

Please be advised that, in the event you do not contact the Planning & Zoning Department as set forth in the Code Violation Notice, the Village may proceed with the issuance of a municipal citation and/or take other enforcement action(s) provided within the Village Code that may be necessary to correct violation.

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

Respectfully,



Emily Zandt, AICP
Associate Planner/Zoning Administrator

Copies: Village Attorney

VILLAGE OF GERMANTOWN
 BOARD OF ZONING APPEALS
 NOTICE OF APPEAL OR APPLICATION

Case No.	
Filing Date	
Fee Paid	\$ 570. ⁰⁰
Hearing Date	June 8, 2022
Notice Mailed	
Notices Published	

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):

Appellant's or Applicant's Name: Jon Weske	
Address: 1104 W20255 Willow Creek rd. Colgate 53017	
Phone Number: 414-218-0862	
Appellant's or applicants' interest in property:	
Owner <input checked="" type="checkbox"/>	Tenant <input type="checkbox"/> Mortgagee <input type="checkbox"/> Agent <input type="checkbox"/>
Property Owner's Name: Jon Weske	
Address: 1104 W20255 Willow Creek rd. Colgate 53017	
Phone Number: 414-218-0862	
Address of Property: 1104 W20255 Willow Creek rd Colgate 53017	
Lot: 3	Block:
Tax Parcel No. GTNV 322984	Zoning District: RS-4
Present use of the Property: Primary residence	
Proposed use of the Property: same	
Previous Appeal or Application (if any)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If YES, list date of hearing:	
Decision of Previous Hearing:	

weskeservices@gmail.com

Identify the PURPOSE for this appeal or application. Please mark the appropriate item below and provide the requested information. Attach a separate sheet if necessary.	
A <input type="checkbox"/>	Appeal of decision or order of Administrative Official and Request for Interpretation of Zoning/Building Code.
Date of Decision or Order:	
Description of Decision or Order:	
Decision or order is erroneous because:	
B <input checked="" type="checkbox"/>	Request for Variance of Zoning/Building Code
Describe the requested variance and dimension of variance: <i>See Attachment (seperate page)</i>	
Explain how the variance, IF granted, is consistent with the spirit, purpose and intent of the Code:	
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:	
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:	

Section B-1

Section 17.41(1)(b) - to exceed the permitted number of attached garages in the RS-4 Single Family Residential district by one attached garage. (2 requested, 1 permitted)

- If granted the variance will be consistent with the spirit, purpose, and intent of the code because the property is not in a subdivision. The garage does not encroach upon any other property or cause my property to appear as anything but a single family home. It blends with the front of the home to appear as living space.
- The exceptional circumstances that apply to this lot that do not apply generally to others is that it is in a rural setting with the east side of the house with the 2nd attached garage not encroaching on setback to the side yard. No house is to the East for 250 ft and none can be built. There are commercial businesses across the street that view this area which are not impacted. There are also other properties in the same area which possess 2 attached garages in this rural residential area.

- This variance will not create detriment to adjacent property or be contrary to public interest & will not endanger public safety and interest because it is proven to not. It has been in place for almost 2 decades without notice or any complaint. Adjacent properties have been built or sold & re-occupied without inquiry on the garage.

Section B-2

Section 17.41(1)(b) - to exceed the allowed square footage of accessory structures permitted in the R3-4 single family district by 337 square ft. (650 requested, 313 permitted)

- If this variance is granted consistency with spirit, purpose, & intent of the code will be maintained by the fact that there is no adverse effect to neighboring properties. Sheds are mostly concealed by trees & are distanced from areas not covered by the home or natural vegetation. There are neighboring buildings larger than those in question.
- Circumstances that apply to this property are again due to its rural setting. There is no effect due to the presence of the additional sheds and their square footage.

- If granted, this variance will not cause detriment to any neighboring property, the current use has existed for many years. Years prior to any occupancy of any property with any view of said sheds.

Section B-3

Section 17.41(1)(b) - to exceed the number of accessory structure permitted in the RS-4 Single-Family Residential District by 2 accessory structures. (3 requested, 1 permitted)

- If granted this variance is consistent with spirit, purpose, & intent of the code because there is no effect to others sharing lot lines in this zoning district. It will not create intent for others to do the same. Additional structures have co existed with surroundings for the better part of 2 decades. Conditions were as is way prior to the introduction of anyone with view of said sheds. Purpose of variance is not to introduce but only to sustain existing use.

- Unusual conditions unique to this property are that it is surrounded by developed & undevelopable land which are not adversely effected by the presence of the quantity of sheds. There is no future circumstance possible to create new adverse situations effected by said sheds.
- This variance if granted will not create detriment to adjacent property or endanger public safety & interest because it has not done so for the many years that the sheds have been in place. Area is kept neat & orderly because of sheds. Sheds are not conspicuous from any public or private areas, and blend with multiple out building of neighboring property to the east.

17.52 - BOARD OF ZONING APPEALS.

- (1) **MEMBERSHIP.** See section 1.30(1) of this Code.
- (2) **ORGANIZATION.** The Board of Zoning Appeals shall organize and adopt rules and procedure for its own government in accordance with the provisions of this chapter.
 - (a) *Meetings.* Meetings shall be held at the call of the chairman and shall be open, to the public.
 - (b) *Minutes.* Minutes of the proceedings and a record of all actions shall be kept by the secretary showing the vote of each member upon each question, the reasons for the Board's determination and its findings of fact. These records shall be immediately filed in the office of the Board and shall be a public record.
 - (c) *Concurring Vote.* (Am. Ord. #12-09) The concurring vote of a majority of the quorum of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a utility, temporary, unclassified or substituted use.
- (3) **POWERS.** The Board of Zoning Appeals shall have the following powers:
 - (a) *Errors.* To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
 - (b) *Variances.* To hear and grant appeals for variances as will not be contrary to the public interest when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship so that the spirit and purpose of this chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (c) *Interpretations.* To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
 - (d) *Substitutions.* To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 - (e) *Permits.* The Board may reverse, affirm wholly or partly modify the requirements appealed from, and may issue or direct the issuance of a permit.
 - (f) *Assistance.* The Board may request assistance from other Village officers, departments, commissions and boards.
 - (g) *Oaths.* The Chairman may administer oaths and compel the attendance of witnesses.
- (4) **APPEALS.** (Rep. & Recr. Ord. #2-94; Am. Ord. #19-96) Appeals of any administrative determination of the Zoning Administrator, the Building Inspector or the Plan Commission concerning the literal enforcement of this chapter and chapters 14 and 18 of this Code may be made by any person aggrieved or by any officer, department or board of the Village. Such appeals shall be filed with the Secretary within 30 days after receiving actual or constructive notice of the administrative decision or order or the granting of a permit by the Zoning Administrator, Building Inspector or Plan Commission. Such appeals and applications shall include the following:
 - (a) Name and address of the applicant.
 - (b) What administrative determination is being appealed and the basis for the appeal.
- (5) **HEARINGS.** The Board shall fix a reasonable time and place for the required public hearing and shall give notice as specified in section 17.53 of this chapter. At the hearing, the appellant or applicant may appear in person or be represented by an agent or attorney.
- (6) **FINDINGS.** No variance to the provisions of this chapter shall be granted by the Board unless it finds, beyond a reasonable doubt, that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

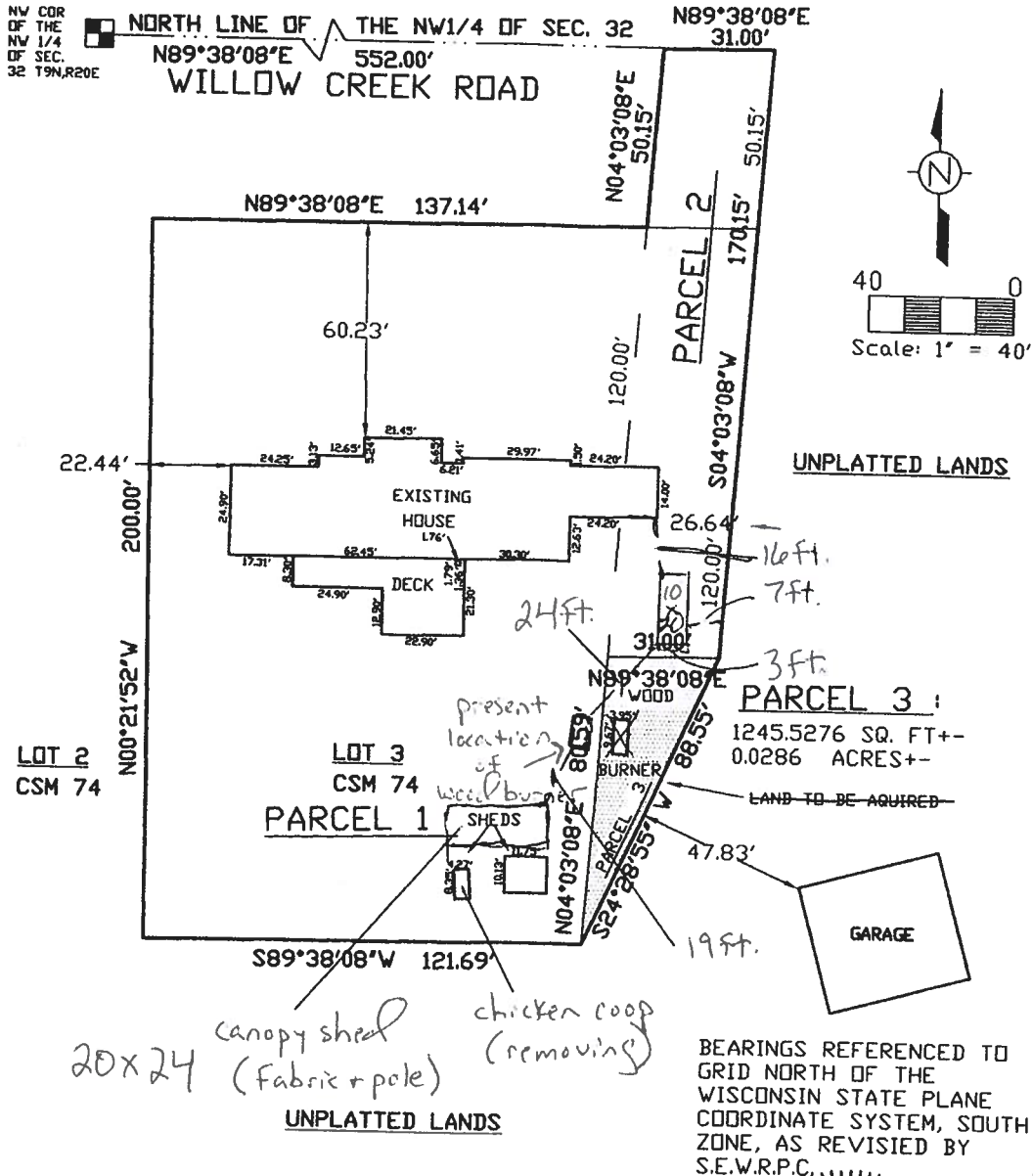
- (a) *Preservation of Intent.* No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use or conditional use in that particular district.
 - (b) *Exceptional Circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that this chapter should be changed.
 - (c) *Hardships Not Grounds for Variance.* No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 - (d) *Preservation of Property Rights.* The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (e) *Absence of Detriment.* No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (7) **DECISION.** The Board shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, the Zoning Administrator and the Plan Commission.
- (a) *Conditions.* Conditions may be placed upon any zoning permit ordered or authorized by the Board.
 - (b) *Variations, Substitutions or Use Permits.* Variations, substitutions or use permits granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.
- (8) **REVIEW BY COURT OF RECORD.** Any person aggrieved by any decision of the Board may present to a court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board.

State law references—Zoning board of appeals, Wis. Stats. §§ 61.35, 62.23(7)(e).

PLAT OF SURVEY

LOT (3) OF CERTIFIED SURVEY MAP NO. 74, RECORDED IN THE WASHINGTON COUNTY REGISTRY ON JULY 18, 1966 IN VOLUME 1 OF CERTIFIED SURVEY MAPS ON PAGES 117-118, AS DOCUMENT NO. 287612 AND BEING A PART OF THE NW1/4 OF THE NW1/4 OF SECTION 32, TOWN 9 NORTH, RANGE 20 EAST, VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN. PARCELS 2&3: THAT PART OF THE NW1/4 OF THE NW1/4 OF SEC. 32, TOWN 9 NORTH, RANGE 20 EAST, VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:

(cont. on sheet two of two sheet's)



Front right of way to solid fuel burner is 140 ft.

Distance to East side yard is 2ft
 Existing chimney height - 11'6"

WISCONSIN
 CARLA A. GAHLMAN
 S-2268
 KEWASKUM
 WIS.
 LAND SURVEYOR
Carl A. Gahlmán
 CARL A. GAHLMAN R.L.S.

OWNER: JONATHAN A. & LAURA A. WESKE
 N104 W2055 WILLOW CREEK ROAD
 COLGATE, WI. 53017

THIS IS AN ORIGINAL PRINT ONLY IF SEAL IS IMPRINTED IN RED.
 I have surveyed the above property, and the above map is a true representation thereof and shows the size and location of the property, its exterior boundaries, the location and dimensions of all structures thereon, fences, apparent easements, roadways, and visible encroachments.
 This survey is made for the exclusive use of the present owner of the property; also those who purchase, mortgage, or guarantee the title thereto, within one year from the date hereof.
 THIS INSTRUMENT WAS DRAFTED ON 12-28-2011 BY CARL A. GAHLMAN, R.L.S. 569 WASHINGTON CT., KEWASKUM, WISCONSIN, 53040 (CELL) (262) 894-3443

















