

MEETING:	REGULAR MEETING OF THE PLAN COMMISSION
DATE AND TIME:	Monday, March 11, 2024 6:30 PM
LOCATION:	Germantown Village Hall Board Room N112 W17001 Mequon Road

MINUTES

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

II. **ROLL CALL:**

III. **APPROVAL OF MINUTES:**

A. February 12, 2024

MOTION Baum second Shadid to Approve the Minutes from February 12, 2024.

MOTION carried unanimously.

IV. **NEW BUSINESS:**

A. Dawn DiNicola, Property Owner of W158 N9763 Sumac Road. Zoning Permit application to install a 4' fence in a utility & drainage easement. (ACTION)

Director Retzlaff summarized the proposal.

MOTION Baum second Shadid to Approve the zoning permit application to install a 4' high chain link fence within the 8' utility & drainage easement on the residential property located at W158 N9763 Sumac road subject to the following conditions:

1. It shall be the responsibility of the homeowner to always maintain a free flow of water within the drainage easement.
2. If the fence needs to be removed to make improvements and/or conduct maintenance within the drainage easement, the property owner shall be responsible for removing the fence to the extent necessary within three (3) days of being notified by the Village of Germantown. If not removed within three days, the Village may remove the fence at its discretion and charge back any/all costs of doing so to the property owner. The property owner shall be responsible for any/all costs associated with any damage, removal, or re-installation of said fence.
3. The property owner shall enter into an encroachment agreement with the Village for purposes of attaching the requirements of Condition #2 above to ensure that the property owner and any successors in interest are aware of these requirements.
4. A fence permit is required from Inspection Services prior to installation. Contact SAFEBuilt for more information.

Dawn DiNicola confirmed she was OK with Condition #2 and would let her neighbors

know she will be installing a fence.

MOTION carried 6-1 (Laszewski)

- B. Robert & Coral Kline, Property Owners of W156 N10876 Catskill Lane. Zoning Permit application to install a 6' fence in a storm sewer easement. (ACTION)

Director Retzlaff summarized the proposal.

MOTION Baum second Shadid to Approve the zoning permit application to install a 6' vinyl privacy fence within the storm sewer easement along the south line of the Kline property located at W156 N10876 Catskill Lane subject to the following conditions:

1. The fence shall be installed a minimum setback of 2 feet from the Pilgrim Road right-of-way/property line and the bottom of the boards a minimum of 2 inches above the finished grade.
2. It shall be the responsibility of the homeowner to maintain a free flow of water within the private drainage easement at all times.
3. A fence permit is required from the Building Inspection Department. Contact SafeBuilt for more information.
4. If the fence needs to be removed to make improvements and/or conduct maintenance within the drainage easement, the property owner shall be responsible for all costs associated with removing the fence to the extent necessary within seven (7) days of being notified by the Village (or another mutually agreeable deadline). The property owner shall be responsible for any and all costs associated with any damage, removal or re-installation of said fence.
5. The property owner shall enter into an encroachment agreement with the Village for purposes of attaching the requirements of Condition #4 above to ensure that the property owner and any successors in interest are aware of these requirements.
6. The property owner and/or fence installer shall be responsible for locating and visually marking the 12" storm sewer location within the easement at least three (3) business days prior to installation and contacting the Village Engineer once marked. The property owner and/or fence installer shall be liable for any and all damage to the storm sewer and all site restoration within the easement.

Mr. Kline confirmed he was aware of Condition #4.

MOTION carried unanimously.

- C. Mark Brooks, Agent for Das Barrel Room Tavern & Grill, and Doctors LLC, Property Owner of W201 N10466 Appleton Avenue. Application to Amend Conditional Use Permit No. #13-2019 to allow expansion of the existing off-site parking area pursuant to Section 17.28(3)(u) and Section 17.45(5) of the Village Zoning Code. (ACTION; TABLED from October 9, 2023)

Director Retzlaff summarized the proposal. He explained a motion on the CUP amendment proposal is needed if one of the two options are acceptable or if further changes are wanted they should be discussed.

MOTION Baum second Tarantino to Approve Option #1 to amend Conditional Use Permit #13-2019 for Mark Brooks and Doctors LLC to allow expansion of the "off-site" parking area on the undeveloped 2.1-acre parcel located adjacent to the restaurant/bar parcel located at W201 N10466 Appleton Avenue subject to the following amendments to the adopted conditions:

1. This conditional use permit allows the continued use of the existing 4,800 sqft paved area for an off-site parking area as shown in the site plan July 11, 2019, subject

to any further requirements and revisions set forth or required herein.

2. Improvements to the existing pavement shall be limited to general maintenance, including but not limited to sealcoating, crack-filling, stripping. ~~No expansion or additional off-site parking or other enhancements, e.g. additional lighting, signage, shall be made without obtaining Zoning Permit and/or Site Plan approval from the Village.~~

3. Expansion of the off-site parking area or the existing on-site parking area on the east side of the building may be allowed subject to approval of an amendment to this conditional use permit.

4. , and, Expansion of the “off-site” parking area east of the restaurant/bar will require:

a. Plan Commission approval of site, grading & erosion control, and storm water management plans;

b. Compliance with applicable Zoning Code and development requirements, including all setback, pavement, storm water management, landscaping and buffering requirements of the Village and MMSD;

c. re-construction and/or other modifications necessary to make the “off-site” parking area compliant with all setback, landscaping, and other applicable Zoning Code requirements in effect at that time.

5. The off-site parking area shall be used for parking by the patrons and employees of the restaurant/bar operation during normal business hours. The off-site parking area shall not be used for overnight storage (other than snow storage) of any materials or equipment and shall be kept clean and continuously maintained.

6. In the event that the 2.1-acre undeveloped parcel is developed separately from the restaurant/bar operation, the existing 4,800 sqft “off-site” paved parking area may be required to be removed or modified to comply with all current Zoning Code requirements in effect at that time or as needed to accommodate the separate development. The continued or shared use of the off-site parking area with any development on the 2.1-acre parcel shall be addressed as an amendment to this conditional use permit.

7. Any signage displayed on the off-site parking area shall be reviewed and approved by the Village subject to applicable sign regulations.

8. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional uses and activities which cause special problems or harmful effects associated with the permitted uses and activities that were not revealed or anticipated at the time this CUP was granted, or, where conditions imposed by this CUP that were anticipated to mitigate or eliminate harmful effects associated with the uses and activities but are subsequently insufficient to do so, or, for similar cause based upon consideration for the public comfort, safety, and welfare, this conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.

9. Unless otherwise provided herein, this conditional use permit shall run with the land and transfer to subsequent owners in interest of the business and/or property.

10. Option 1 (Sheet 2 dated 2/20/2024) is approved provided that the 56'x72' parking area and 16' wide connecting driveway be paved with asphalt or concrete.

11. A minimum 10' wide permanent vegetated buffer designed to filter storm water run-off from the existing and new parking areas and connecting driveway be installed along the east and north edge as part of restoring the site.

Discussion followed. Trustee Baum asked what the total parking requirement is for the business. Director Retzlaff stated the existing parking both on the .9 acre site and west of the building and the 4,800 sqft of pre-existing non conforming parking area provides adequate parking for the interior capacity but it goes above that with the outdoor entertainment and there's no limitation on people coming to the site for that purpose. Clearly there is a need for additional parking due to the popularity of the business. The gravel wasn't put down to be used every night, its a overflow parking area for the business. Trustee Baum stated the existing parking plus the 5,000 sqft is not enough to adequately support the operation in summer. Director Retzlaff said Mr. Brooks is asking for an additional 2,500 sqft of gravel in addition to what was put down originally but now with stormwater management requirements, Option 1 is the limitation with 5,000 sqft. But Mr. Brooks may seek to expand that to add 5 or 6 more stalls if possible.

Brenna Bublitz, W201N10466 Appleton Avenue, the GM for Das Barrel Room spoke on Mr. Brooks behalf. She said Option1 is what they want as it provides extra stalls, however cost is an issue because they are only leasing. Discussion continued. Trustee Baum asked what the code requirement is for how much parking this facility is supposed to have. Director Retzlaff stated there is no guideline for outdoor area with no specific limit for quantity of seats or patrons for number of parking and you cannot calculate the lawn requirement. He said the popularity of the outdoor music has demanded the need for additional parking. Trustee Baum said he sees this as a temporary situation. Ms. Bublitz commented they have approval to park at the BP gas station across the street. Trustee Baum said that doesn't stop people from parking on the grass. Ms. Bublitz said they could add car stops in the grass and signs. Discussion continued.

Director Retzlaff stated there is a need for more parking than what they are willing to pay for. Commissioner Laszewski said Option 1 removes some cars from the road but doesn't cure the whole problem of cars on the road and traffic. Director Retzlaff asked how do we require them to provide enough parking for an event when theres a need for 50 additional stalls without requiring them to pay for the parking. He said there is an unwillingness to make more parking than what is needed without them paying for it. Chairman Wolter said the zoning regulations are based on internal dimensions and nothing to do with external or outside stations. Director Retzlaff agreed and that there are no outside Village provisions that deal with port a potties. Discussion continued. Trustee Baum stated he thinks this needs to go to the Village Board to make the determination of the zoning we need to apply to this. He's looking for the rule they need to follow for the amount of parking they really need to provide for a Saturday evening when there are 500 people standing outside. Director Retzlaff feels more parking is needed, it should be installed properly and paved, address any storm water management requirements and sized more appropriately to the need for the business. But that conflicts with what the operation can or is willing to do. Chairman Wolter understands there is a need because of the success of this business so we are willing to look at what those options are. But we need to protect what's to the south of there with Willow Creek and some of the wetland areas that come through that area. The way its proposed today is really its best second option. We need to look past the lot that is already there. If we make it conform they are not gaining any parking, only 15 lots. Trustee Baum said Option 1 as presented brings the parking up to a level of

parking adequate for the existing building and patio. There are no other ordinances for people standing in the grass. He thinks at Village Board level we will discuss what we want to do for these types of situations going forward, where there is no building, what do we do for toilets and parking. Director Retzlaff said that would require some further code changes to address. He said we need to look down the road and assuming 2024 is as popular they are going to fill up Option 1 paved parking and unless there is a restriction, they will either park on the grass or in some other area. Trustee Baum asked should we add a condition that some type of barrier be put up to restrict parking in that area. Ms. Bubnitz said they will rope it off and tell people they can't park in the grass. Trustee Baum asked what are the provisions that allow a stage in the backyard. What mechanism allows that. Director Retzlaff stated outdoor entertainment is a liquor license premise extension issue and not a Plan Commission issue. Trustee Baum said Village Board needs to debate that issue. He added the applicant can ask why Dheinsville or the church can park on the grass. Director Retzlaff said its a frequency issue. Is it for a special event or 3 season every weekend issue. Some businesses ask for special consideration that isn't given or asked by others. He doesn't fault Mr. Brooks for it because the property owner should be sharing in the expense.

MOTION to Amend Baum second Shadid to add Condition #12 that the applicant put some type of barrier around the asphalt paving to tell people not to park on the grass and eliminate Condition 4b and 4c.

MOTION to Amend carried unanimously.

Chairman Wolter asked if the other gravel will be cleaned up as a result of the motion. Director Retzlaff said the cleanup is part of the plan, but the site plan will need to be cleaned up and that will come back to the Plan Commission. The Village Board will review the amendment to the CUP which is exclusively for the off site parking. He said the premise extension is handled through the liquor licensing process. Chairman Wolter explained the Village Board will review the Conditional Use Permit and the provisions within the Conditional Use Permit and not with the outside premise extension for the liquor license.

MOTION to Approve as Amended carried 6-1 carried Williams.

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

Comments were received from:

Tom & Lynn Steinbach, W204 N10609 Hilltop Drive

Melanie Smythe, W140 N17938 Cedar Lane

Trustee Jan Miller, W151 N10297 Windsong Circle

Jason Giguere, W202 N10462 Appleton Avenue

- VI. **ANNOUNCEMENTS:**

Chairman Wolter stated there would be a Candidate Forum for the school and Village Trustees at 5:30 tomorrow at the Village Hall Board Room.

VII. ADJOURNMENT:

The meeting was adjourned at 7:49pm.