

Chairman Behling called the Board of Building and Zoning Appeals to order on Thursday, February 26, 2004 at 7:30 p.m. Members present: HAMILTON, BAKST, JONES, KELLY, and BEHLING. Also present: Supervisor of Inspections/Zoning Administrator Hankovich and Alternate Klappa.

Moved by Kelly, seconded by Hamilton, to approve the minutes of the October 30, 2003 meeting as presented. Motion carried without a negative vote.

***CONDITIONAL USE & VARIANCE TO THE ZONING ORDINANCE –
CONSTRUCTION OF A CONCESSION STAND – MUKWONAGO HIGH SCHOOL***

– 605 CTH NN – Tommy Thompson of the Mukwonago Booster Club presented plans for a concession stand near the baseball field at Mukwonago High School, 605 CTH NN. The building will be constructed on a concrete slab next to the baseball field. Currently they are using a garage to sell concessions. They will carefully monitor the speakers, which will only be heard by the fans on the field. Kelly asked if the stand will be parallel to the backstop and if the speakers will be facing the bleachers. The answers were both yes. Hankovich noted there will be issues regarding the electric. There will not be running water to the stand.

Moved by Kelly, seconded by Bakst, to grant the Mukwonago High School variances of 136 square feet and 1'1" for the construction of a concession stand near the baseball field at 605 CTH NN. Reasons for granting the variance are 1) a concession stand is more sanitary than the garage that is currently used, and it will give the announcers and administrators a better view of the field as well as provide a better sound system for the announcement of games for both the boys' and the girls' teams, 2) it will not be intrusive to the public and 3) there were no objections. Motion carried without a negative vote.

Moved by Kelly, seconded by Jones, to grant the Mukwonago High School a conditional use to construct a concession stand near the baseball field at 605 CTH NN. Reasons for granting the conditional use are 1) a concession stand is more sanitary than the garage that is currently used, and it will give the announcers and administrators a better view of the field as well as provide a better sound system for the announcement of games for both the boys' and the girls' teams and 2) there were no objections. Conditions are 1) the speakers will be maintained in a manner that is tolerable to neighbors and will be pointed in a western direction, 2) electric to the stand will be underground, 3) the building will follow the specifications of the plans presented, 4) any problems will be directed to the Supervisor of Inspections and 5) there will not be running water to the building. Motion carried without a negative vote.

***CONDITIONAL USE & UNSPECIFIED/UNCLASSIFIED USE – STOCKPILING
OF TOPSOIL – ROBERT'S NURSERY – 1616 HONEYWELL ROAD – W.H.***

MAJOR & SONS – Rhon Roberts presented plans for the stockpiling of topsoil by W.H. Major & Sons on his property located at 1616 Honeywell Rd. The area is surrounded by mature oak trees, which minimize visibility of the pile as well as any dust problems. No neighbors will be affected. The berm around the area will also minimize visibility of the pile. Hankovich explained that the berm is only used for erosion control, not to hide the

pile. Klappa asked how the pile will be, and the answer was 15 feet. Behling asked how long will Major be stockpiling. Roberts explained they have a five-year term set up. Hankovich noted that a time limit may be set with a review period. The driveway will be gravel. Jones expressed concern about dirt on the road and driveway. Hankovich noted that a time limit may be set with a review period.

Moved by Kelly, seconded by Jones, to grant Rhon Roberts and W.H. Major & Sons a conditional use for the purpose of storing mounds of dirt at the property located at 1616 Honeywell Rd. Reasons for granting the conditional use are 1) the pile will be at least 1,200 feet from the road, with the area sloping up to the north and surrounded by mature oak trees to hide the area and minimize dust and 2) there were no objections. The conditions are 1) the presented Plan of Operation will be followed and 2) the road will be kept clean. Motion carried without a negative vote.

Moved by Kelly, seconded by Jones, to grant Rhon Roberts and W.H. Major & Sons an unspecified/unclassified use for the purpose of storing mounds of dirt at the property located at 1616 Honeywell Rd. The conditions are 1) there will be an annual review not to exceed five years, 2) the presented Plan of Operation will be followed and 3) the driveway will be used for farming purposes afterwards. Motion carried without a negative vote.

***CONDITIONAL USE & VARIANCE TO THE ZONING ORDINANCE –
CONSTRUCTION OF A GARAGE, PAVILION, DUMPSTER ENCLOSURE AND
TWO SIGNS – ST. JOHN’S EVANGELICAL LUTHERAN CHURCH – 410 CTH NN***

– Joe Weinkauff and Dale Brugger presented plans for a garage/pavilion, a dumpster enclosure and two signs to be constructed on the St. John’s Evangelical Lutheran Church property located at 410 CTH NN. Behling stepped down from the Board, Klappa stepped up and Kelly took the chair. The garage/pavilion will be constructed for the purposes of storing lawn equipment and holding outside meetings. It will align with the west wall of the school. Site work needs to be done. There is a natural pond to the west. Water will go around the building. Electric will be a 200 amp service and will be underground coming from a sub-panel off of the school. The church will eventually be built to the south of the school. Kelly explained that he walked the site with the pastor and was shown the sites of the proposed garage/pavilion and dumpster. They will be well out of sight and will not be an eyesore. Hankovich stated that the Fire Chief and other department heads had no problems with the proposal. The roof pitch matched the classroom. The sides of the pavilion will be 15 feet, which is higher than the normal 8 feet. That will cut down on vandalism and give a different appearance. Hankovich also discussed the signs proposed. There is a very strict sign ordinance in affect. One sign is allowed, the other would be allowed if there was no indication of the kind of business/operation on it. The variance for the small sign was withdrawn.

Moved by Jones, seconded by Bakst, to grant St. John’s Evangelical Lutheran Church a variance of 1,380 square feet for the construction of a garage/pavilion on the property located at 410 CTH NN. Reasons for granting the variance are 1) there were no objections, 2) the Fire Chief had no objections, 3) the pavilion will be open construction

and 4) it is not objectionable from the view from the road. Motion carried without a negative vote.

Moved by Bakst, seconded by Hamilton to grant St. John's Evangelical Lutheran Church a conditional use for the construction of a garage/pavilion, dumpster enclosure and sign on the property located at 410 CTH NN. Motion carried without a negative vote.

Behling returned to the chair.

ITEMS FROM THE FLOOR – The sign ordinance will be on the next agenda.

Moved by Jones, seconded by Kelly and carried to adjourn at 8:57 pm.

Steve Braatz
Deputy Clerk

Chairman Behling called the Board of Building and Zoning Appeals to order on Thursday, April 29, 2004 at 7:30 p.m. Members present: HAMILTON, BAKST, JONES, and BEHLING. Member excused: KELLY. Also present: Supervisor of Inspections/Zoning Administrator Hankovich and Alternate Binder.

Moved by Jones, seconded by Bakst, to approve the minutes of the February 26, 2004 meeting as presented. Motion carried without a negative vote.

Binder was introduced as the new 2nd Alternate and stepped up to the Board to fill the vacancy.

CONDITIONAL USE & VARIANCES TO THE ZONING ORDINANCE – CONSTRUCTION OF TWO CONDOMINIUMS – WAHL AVE. & PARK PLACE – CHERYL HASKE – Cheryl Haske presented plans to construct 2 duplex condominiums on the vacant lot on Wahl Ave. and Park Place. Haske intends to provide landscaping on the rear of the property for privacy. She would live Hankovich explained that a piece of land to the east of the property was dedicated as a road right-of-way for the future continuation of Park Place. The Village vacated that right-of-way and gave it back to this property. In the process, to clean up the corner and make it the standard Village road width, the Village took a portion of the lot for the proper road right-of-way on the street side. The lot is big enough to split, but the frontage would not allow that to be possible. Two buildings on one lot would be considered creates a multi-family designation, which is the reason this issue must come to this Board.

Behling read the Plan Commission recommendation to grant the conditional use. Behling also read a letter from James Wink opposing the duplexes. Reason for opposition is the rest of the homes in the area are single-family. Residents speaking in opposition citing traffic and safety concerns are: Karen Gale, 123 Park Place; Ed Miller, 422 Wahl Ave.;

Dustin Mohlenpah, 415 Wahl Ave.; Al Wilson, 421 Wahl Ave., Shayne Petted, 404 Wahl Ave.; Hannah Schultz, 415 Wahl Ave.; Kathy Gale, 123 Park Place. Fred Ramge, 124 Park Place, had questions regarding the distance of the buildings from his lot line and about the driveway. Joe Petted, 404 Wahl Ave., stated that traffic and safety concerns are matter that should be directed to the Police Department and are not issues related to the variance.

Moved by Jones, seconded by Hamilton, to accept the Plan Commission, Engineer and Zoning Administrator recommendations to grant the conditional use for the construction of two duplex-condominiums on the vacant lot at the corner of Wahl Avenue and Park Place. Reasons for granting the conditional use: 1) A hardship was created by the Village when the Park Place extension right-of-way was vacated and 2) The shape of the lot creates a hardship. Conditions are: 1) The landscaping plan will be approved by the Zoning Administrator and will be followed, 2) The condominium documents shall be approved by the Village and 3) Prior to site development, the Village Engineer shall approve all site-engineering plans. Motion carried without a negative vote.

Moved by Jones, seconded by Hamilton, to grant Cheryl Haske variances of 8.7 feet and 5.5 feet to the rear yard setback for the buildings that will be constructed on the vacant lot at the corner of Wahl Avenue and Park Place. The reason for granting is the hardship created from the vacating of the right-of-way for Park Place continued and the taking of land for the proper road right-of-way at the corner of Wahl Avenue and Park Place. The condition is that the landscaping plan along the business side of the lot shall comply with the Zoning Administrator's requirement for more landscaping density. Motion carried without a negative vote.

CONDITIONAL USE – CONSTRUCTION OF NEW BUILDING – 1015 S. MAIN ST. – JOHN AMATO, AMATO FORD – Roger Dibble, Venture Development, represented Amato Ford. Dibble presented plans for a new building to be constructed at 1015 S. Main St. to replace the current dealership. Hamilton asked about the stream designation in the back of the lot. Dibble stated that he is waiting for a letter from the Wisconsin DNR for a determination of that the stream is non-navigable. Discussion took place regarding the razing of the current building and illumination of the new building. No one was present for or against.

Moved by Jones, seconded by Bakst, to accept the Plan Commission recommendation to grant a conditional use to Amato Ford under Section 100-157, Motor Vehicle Uses for the construction of a new building at 1015 S. Main St. Conditions are as follows: 1) If the rear drainage channel was determined to be navigable, then a new Site Plan approval is need to comply with shoreland/wetland regulations, 2) Approval of the Site Plan and Architectural Plan shall be subject to the submitted site development plan and with the last revised date of February 27, 2004, the floor plan and mezzanine and service pit plan with last revised date of February 26, 2004, and building elevations with a last revised date of February 26, 2004, 3) Prior to site development, the Village Engineer shall approval all site engineering plans, 4) Prior to site development, the Village Planner shall approve of the landscape plan, subject to issues raised in this report, 5) Prior to site

development, site lighting plan shall be revised for 250 watt Metal Halide light lamps in the parking lot lighting and 6) Prior to the issuance of a building permit, a copy of the letter from the Wisconsin Department of Natural Resources determining the stream as non-navigable must be submitted to the Village. Motion carried without a negative vote.

CONDITIONAL USE – CONSTRUCTION OF A CAR WASH – 122 ARROWHEAD DR. – TIM KNEPPERATH, MSI GENERAL CORP. – Tim Knepperath, MSI General Corp., represented BJ's BP, Inc. He presented plans for the construction of a car wash on the property located at 122 Arrowhead Dr. The car wash will be a separate building that will have a similar appearance in design and construction material as the existing main building. Hankovich noted that when Highway 83 will be finished, the ingress/egress will be closed and the median opening across from Arrowhead Dr. will be eliminated by the State Department of Transportation. Arrowhead will be right-turn only to enter and exit. Traffic on northbound 83 will have to enter at Wolf Run. No one was present for or against.

Moved by Bakst, seconded by Hamilton, to accept the Plan Commission recommendation to grant a conditional use to MSI General Corp. to construct a car wash for BJ's BP, Inc. on the property located at 122 Arrowhead. The median opening for Arrowhead Drive will be closed by the Wisconsin State Department of Transportation causing traffic flow to run through Wolf Run. Conditions are as follows: 1) Plan Commission approval is conditional upon receipt of a copy of the letter from the Department of Transportation regarding their approval of the car wash as it relates to I-43 right-of-way setbacks, 2) Prior to site development, the Village Engineer shall approve all site engineering plans and 3) Prior to site development, the Village Planner shall approve the final landscaping plan. Motion carried without a negative vote.

Moved by Bakst, seconded by Hamilton and carried to adjourn at 9:12 pm.

Steve Braatz
Deputy Clerk

Chairman Behling called the Special Board of Building and Zoning Appeals to order on Tuesday, June 8, 2004 at 7:37 pm. Members present: HAMILTON, BAKST, KELLY, JONES, and BEHLING. Also present: Supervisor of Inspections/Zoning Administrator Hankovich.

Moved by Jones, seconded by Bakst, to approve the minutes of the February 26, 2004 meeting as presented. Motion carried on a vote of 4 ayes and 1 abstention (Kelly abstaining).

CONDITIONAL USE – CONSTRUCTION OF WAL-MART SUPERCENTER – TID #3 – WAL-MART STORES, INC. – Susan Knause, Taylor Scott Architects, and Tracy Farrands, National Survey & Engineering, represented Wal-Mart and presented plans for

the construction of a Wal-Mart Supercenter in the Gateway District, next to Home Depot. Hankovich explained that the current Wal-Mart has a small garden center on the outside of the building and extends into the parking lot. The new garden center should be big enough, but conditions should be made to restrict any items from being displayed or stored outside the designated garden center. Hankovich also stated that there have been many changes to the architectural plans of the supercenter, and they hope to have it finalized by the next Village Board meeting on June 15. Behling asked why there were going to be 2 drive-thru lanes. Knause explained that it was operational standards – one will be for pick-up and one will be for delivery. Hankovich noted that the actual pharmacy will be located near the middle of the store, and the pharmaceutical items will transport via tubes to the drive-thru windows. The board was concerned with having 2 lanes. No one was present for or against. The board agreed that there should be similar conditions imposed as the ones placed on the Home Depot building regarding the garden center. The Board would like to have the Plan Commission's explanations or opinions on the following issues: 1) The conditions imposed by the Board of Building and Zoning Appeals should be placed in the manager's office at all times, 2) no unused pallets in sight, 3) where will oil be stored, contained and disposed of as well as batteries, tires, etc., 4) all storage items shall be put away and 5) allowance of overnite truck parking. Hankovich stated there they are coming back to this Board at the next regular meeting for the auto repair center. He also needs a Plan of Operation for that center. Item will be held for the next meeting.

Moved by Kelly, seconded by Jones and carried to adjourn at 8:19 pm.

Steve Braatz
Deputy Clerk

Deputy Clerk Braatz called the Board of Building and Zoning Appeals to order on Tuesday, June 24, 2004 at 7:34 pm. Members present: HAMILTON, BAKST, KELLY, JONES. Member excused: BEHLING. Also present: Supervisor of Inspections/Zoning Administrator Hankovich, Planner Kaniewski and Alternates Klappa and Binder.

Moved by Jones, seconded by Bakst, to appoint Kelly as acting chair. Motion carried without a negative vote. Klappa stepped up to the Board to fill the vacancy. Moved by Jones, seconded by Hamilton, to approve the minutes of the June 8, 2004 meeting as presented. Motion carried without a negative vote.

VARIANCE TO THE ZONING ORDINANCE – WETLAND SETBACK – PINEHURST VILLAGE DEVELOPMENT – CTH I – Jeff Herman, Welsh Hanson, presented plans for a 20' no-mow buffer along a stream that the DNR has deemed a navigable waterway. Kaniewski explained the regulations for the Waukesha County Shoreland and Floodplain Protection Ordinance. No structure may be located closer than 75' to any wetland or floodplain limits. Five lots are within 75' but no closer than 20' from the stream. Kaniewski also wanted to point out that several organizations, including

the DNR and SEWRPC, have looked at this plat before, and no one had discussed this issue. It was discovered during the final plat review. Hermann stated that this affects lots 56, 57, 67, 68 and 69. He met with the DNR and The Friends of the Mukwonago River and have come up with the proposed 20' no -mow buffer zone. Bakst asked if the buffer zone will be recorded in the deed restrictions. Hermann answered yes, and Hankovich suggested that they be recorded with the Home Owner's Association as well. Hankovich also explained that all lots affected will have plenty of area remaining to construct a house. No one was present for or against.

Moved by Jones, seconded by Hamilton, to grant Jeff Hermann of Welch, Hanson and Associates a variance to the Waukesha County Shoreland and Floodplain Protection Ordinance of 55' needed to create a 20' no -mow buffer zone between a navigable stream and Lots 56, 57, 67, 68 and 69 of the Pinehurst Village Development. Reasons for granting the variance are: 1) From the very start of the process, the DNR and SEWRPC never mentioned a 75' setback from this navigable stream creating hardship, 2) All the necessary permits from Waukesha County and the DNR were given for this development, 3) Even after the 20' setback, the smallest lot still exceeds 15,000 square feet in area, 4) the DNR has approved all plantings. Conditions are as follows: 1) The 20' no -mow restriction will be recorded with the Home Owners' Association and 2) All conditions of the letter dated April 9, 2004 from Pamela Schense, State of Wisconsin Department of Natural Resources, to Michael Schutte will be followed. Motion carried without a negative vote.

VARIANCE TO THE ZONING ORDINANCE – WETLAND SETBACK – MINOR'S HOMESTEAD II DEVELOPMENT – CTH LO – Jeff Herman, Welsh Hanson, presented plans for a 20' to 50' no -mow buffer along wetland areas in the Minor's Homestead II Development. This variance is very similar to the previous hearing. It affects all the lots in this development with the way the wetland sits. The proposed buffer zones will differ from 20' to 50', depending on each lot's depth. Hankovich stated that Lots 77 and 78 may be hard to build on with the sideyard and rear yard setbacks. Welch, Hanson and Assoc. may need to adjust the lots somehow to get an acceptable building area on those lots. After this variance, there should be no more given out to individual lots. No one was present for or against.

Moved by Jones, seconded by Bakst, to grant Jeff Hermann of Welch, Hanson and Associates a variance to the Waukesha County Shoreland and Floodplain Protection Ordinance of a maximum of 55' needed to create 20' to 50' no -mow buffer zones between a navigable stream and all lots located in the Minor's Homestead II Development. Reasons for granting the variance are: 1) From the very start of the process, the DNR and SEWRPC never mentioned a 75' setback from this navigable stream creating hardship, 2) All the necessary permits from Waukesha County and the DNR were given for this development and 3) the DNR has approved all plantings. Conditions are as follows: 1) The 20' no -mow restriction will be recorded with the Home Owners' Association and 2) Lots 77 and 78 must be situated with the Planner and Supervisor of Inspection/Zoning Administrator prior to the approval of the final plat, 3) A sign will be placed on a cedar post designating what the buffer posts mark, 4) This is a

planned residential development, and no variances shall be given to individual lots. All conditions of the letter dated May 13, 2004 from Pamela Schense, State of Wisconsin Department of Natural Resources, to Bill Wondrachek, Minor's Homestead, LLC, will be followed. Motion carried without a negative vote.

CONDITIONAL USE – CONSTRUCTION OF AN AUTO REPAIR CENTER – TID #3 – WAL-MART STORES, INC. – Tracy Farrands, National Survey and Engineering, and Steve Talbert and Sandy Fischer of Wal-Mart were present. The auto center will have six bays. Two of the bays will have a shared pit. 110 to 170 tires will be stored in an area behind the garden center. Oil and grease will be stored above grade. The fire suppression issue must go through the normal process with the approval of the Fire Chief. There are EPA requirements regarding spill containment and storage. Hankovich wants to know what the plans are going to be for that. No one was present for or against.

Moved by Bakst, seconded by Hamilton, to grant Wal-Mart Stores, Inc. a conditional use for an automotive center to be located at the Wal-Mart Supercenter in the Gateway District on East Wolf Run. Reasons for granting the conditional use are as follows:

- 1) The use of the property, in conjunction with the main use of the property for a Wal-Mart Supercenter, conforms to the purpose and intent of the underlying B-4 Commercial Business Design District
- 2) The subject request is not uncommon for similar uses within the Village
- 3) Pursuant to the conditions of approval as part of this approval, the limited outside use of the property will not be hazardous, harmful, offensive or adverse to the environment or value of the neighborhood and community
- 4) The subject property is located within a section of the Village planned for additional retail development, with proper infrastructure
- 5) The subject property is located within a section of the Village planned for additional retail development, and is adjacent to I-43 on the north and publicly dedicated open space on the south, so that the use of the property will not be injurious to any residential property
- 6) The Village Plan Commission has approved of the Site Plan and Architectural Plan for Wal-Mart, subject to approval of this Conditional Use
- 7) The Village Board has granted all necessary approvals and rezoned the property to B-4 Planned Unit Development Overlay District to allow for minor modifications to site development standards, subject to approval of this Conditional Use
- 8) The Plan Commission, as part of their approvals and as requested by the Board following the Public Hearing of June 8, 2004, reviewed and discussed this Conditional Use request and their suggestions are included in these conditions of approval and
- 9) Approval of the Conditional Use is subject to Village Board approval of the Developer's Agreement with the applicant, with conditions of this approval to become the terms and conditions of said agreement.

Conditions are as follows:

- 1) Hours of operation will be Monday through Sunday, 7:00 am to 8:00 pm, and if a change is required, the applicant must come back to the Board of Building and Zoning Appeals
- 2) The amount of used tires stored shall not exceed 170 tires
- 3) This approval is subject to the approval of all other department heads, including the Fire Chief regarding the fire suppression system
- 4) The operational information letter dated June 21, 2004 from David Carey, Wal-Mart Realty, to Tracy Farrands, National Survey and Engineering, will be followed
- 5) Light automotive, small trucks and recreational vehicle repair, shown on the northwest side of the proposed building on the Site Plan dated June 10, 2004. Light repair shall mean replacement of tires, batteries, belts, hoses, lights, etc., and oil, fluid and lubrication charge. Light repair shall not mean body repair, engine and transmission replacements
- 6) All automotive repair wastes (oil, fluids, tires) shall be discarded or recycled according to Federal and State Laws
- 7) All equipment and forklifts shall be stored inside the building
- 8) The Village Clerk and Zoning Administrator shall be notified of names and cell numbers of the store manager and assistant store manager and shall notify the same within seven days of any change in management
- 9) Paint on the building is to be maintained.
- 10) All store operation restrictions shall be permanently posted in the store manager's office.

Motion carried without a negative vote.

CONDITIONAL USE – CONSTRUCTION OF A GARDEN CENTER OF TWO DRIVE-THRU LANES – TID #3 – WAL-MART STORES, INC. – Hankovich asked about locking the gates of the garden at a certain time and it being a fire hazard.

Moved by Bakst, seconded by Hamilton, to grant Wal-Mart Stores, Inc. a conditional use for a garden center to be located at the Wal-Mart Supercenter in the Gateway District on East Wolf Run. Reasons for granting the conditional use are as follows:

- 1) The use of the property, in conjunction with the main use of the property for a Wal-Mart Supercenter, conforms to the purpose and intent of the underlying B-4 Commercial Business Design District
- 2) The subject request is not uncommon for similar uses within the Village
- 3) Pursuant to the conditions of approval as part of this approval, the limited outside use of the property will not be hazardous, harmful, offensive or adverse to the environment or value of the neighborhood and community
- 4) The subject property is located within a section of the Village planned for additional retail development, with proper infrastructure
- 5) The subject property is located within a section of the Village planned for additional retail development, and is adjacent to I-43 on the north and publicly dedicated open space on the south, so that the use of the property will not be injurious to any residential property
- 6) The Village Plan Commission has approved of the Site Plan and Architectural Plan for Wal-Mart, subject to approval of this Conditional Use

- 7) The Village Board has granted all necessary approvals and rezoned the property to B-4 Planned Unit Development Overlay District to allow for minor modifications to site development standards, subject to approval of this Conditional Use
- 8) The Plan Commission, as part of their approvals and as requested by the Board following the Public Hearing of June 8, 2004, reviewed and discussed this Conditional Use request and their suggestions are included in these conditions of approval and
- 9) Approval of the Conditional Use is subject to Village Board approval of the Developer' s Agreement with the applicant, with conditions of this approval to become the terms and conditions of said agreement.

Conditions are as follows:

- 1) Hours of operation will be Monday through Sunday, 9:00 am to 10:00 pm, and if a change is required, the applicant must come back to the Board of Building and Zoning Appeals
- 2) The operational information letter dated June 21, 2004 from David Carey, Wal-Mart Realty, to Tracy Farrands, National Survey and Engineering, will be followed
- 3) Seasonal Garden Center, shown on the southwest side of the proposed building on the Site Plan dated June 10, 2004. The Seasonal Garden Center shall be enclosed by walls and fences, as shown on the site plan, open to the sky
- 4) No outside storage shall be permitted, except in designated enclosures for the season garden center and enclosed bale and pallet storage area as so indicated on the site plan dated June 10, 2004
- 5) No semi-tractor trailer parking shall be allowed on the site at any time except trailers parked in the truck docks
- 6) No overnight truck parking of any kind shall be allowed, except those parking in the truck docks. Temporary occupied recreational vehicles may park overnight in the parking lot west of the seasonal site area
- 7) No cash registers shall be permitted outside.
- 8) P.A. System is not permitted outside of the building, including the Outdoor Garden Center.
- 9) All equipment and forklifts shall be stored inside the building
- 10) No outdoor sale and display of any material(s), including any vending services, shall be allowed, including the Outdoor Garden Center
- 11) The Village Clerk and Zoning Administrator shall be notified of names and cell numbers of the store manager and assistant store manager and shall notify the same within seven days of any change in management
- 12) All site amenities (landscaping, benches, lighting, directional and traffic safety signs, etc.) shall be properly maintained and replaced if damaged
- 13) The entire site shall be policed daily and kept free of debris
- 14) Paint on the building is to be maintained.
- 15) All store operation restrictions shall be permanently posted in the store manager' s office.

Motion carried without a negative vote.

Moved by Bakst, seconded by Hamilton, to grant Wal-Mart Stores, Inc. a conditional use for two pharmacy drive-thru lanes to be located at the Wal-Mart Supercenter in the Gateway District on East Wolf Run. Reasons for granting the conditional use are as follows:

- 1) The use of the property, in conjunction with the main use of the property for a Wal-Mart Supercenter, conforms to the purpose and intent of the underlying B-4 Commercial Business Design District
- 2) The subject request is not uncommon for similar uses within the Village
- 3) Pursuant to the conditions of approval as part of this approval, the limited outside use of the property will not be hazardous, harmful, offensive or adverse to the environment or value of the neighborhood and community
- 4) The subject property is located within a section of the Village planned for additional retail development, with proper infrastructure
- 5) The subject property is located within a section of the Village planned for additional retail development, and is adjacent to I-43 on the north and publicly dedicated open space on the south, so that the use of the property will not be injurious to any residential property
- 6) The Village Plan Commission has approved of the Site Plan and Architectural Plan for Wal-Mart, subject to approval of this Conditional Use
- 7) The Village Board has granted all necessary approvals and rezoned the property to B-4 Planned Unit Development Overlay District to allow for minor modifications to site development standards, subject to approval of this Conditional Use
- 8) The Plan Commission, as part of their approvals and as requested by the Board following the Public Hearing of June 8, 2004, reviewed and discussed this Conditional Use request and their suggestions are included in these conditions of approval and
- 9) Approval of the Conditional Use is subject to Village Board approval of the Developer' s Agreement with the applicant, with conditions of this approval to become the terms and conditions of said agreement.

Conditions are as follows:

- 1) If more drive-thru lanes are needed, the applicant must come back to the Board of Building and Zoning Appeals
- 2) The operational information letter dated June 21, 2004 from David Carey, Wal-Mart Realty, to Tracy Farrands, National Survey and Engineering, will be followed
- 3) Drive-thru Pharmacy, shown on the east side of the prepared building on the Site Plan dated June 10, 2004
- 4) The Village Clerk and Zoning Administrator shall be notified of names and cell numbers of the store manager and assistant store manager and shall notify the same within seven days of any change in management
- 5) The entire site shall be policed daily and kept free of debris
- 6) Paint on the building is to be maintained.
- 7) All store operation restrictions shall be permanently posted in the store manager' s office.

Motion carried without a negative vote.

Moved by Klappa, seconded by Bakst and carried to adjourn at 10:11 pm.

Steve Braatz
Deputy Clerk

Chairman Behling called the Board of Building and Zoning Appeals to order on Thursday, July 29, 2004 at 7:32 p.m. Members present: BAKST, KELLY, JONES, and BEHLING. Member excused: HAMILTON. Also present: Supervisor of Inspections/Zoning Administrator Hankovich and Alternates Klappa and Binder.

Behling noted that there were two places in the June 24, 2004 minutes that said, "Home Depot," but it should have said, "Wal-Mart." Moved by Jones, seconded by Bakst, to approve the minutes of the June 24, 2004 meeting as corrected. Motion carried without a negative vote.

Behling stated that Michael Hamilton has resigned from the Board. 1st Alternate Klappa stepped up to the Board to fill the vacancy.

COTTAGE INDUSTRY PERMIT – 733 SMALL FARM RD. – THERON & LISA BORGMAN – Theron and Lisa Borgman presented their plan of operation for a photography studio in the lower level of the home. Lisa currently takes photos for weddings and other events and would like to dedicate a small portion of the lower level as a studio with backgrounds and lights. These photo sessions will occur for engagement photos, graduations, etc. There will be no developing of pictures in the home; it is done at another location. There will only be Theron and Lisa as employees. Customers will enter through the main home entrance. There will be roughly eight to ten sittings per day with each sitting lasting an hour to an hour and a half. Borgman does not anticipate any street parking, but there is room for it. The hours of operation will be 7 days a week, from 9 am to 9 pm, with the last sitting beginning at 8 pm. There was no one present for or against.

Moved by Jones, seconded by Kelly, to grant Theron and Lisa Borgman a cottage industry permit, per Section 100-21 (6), to operate a photography studio at their residence located at 733 Small Farm Rd. Reasons for granting the cottage industry permit are: 1) There were no objections, 2) The applicants will be using the lower level of the house, 3) There will be small groups of customers taking photos for graduations, engagements, and other special occasion types of portraits, 4) Customers will be using the main entrance of the residence and will be going directly to the lower level and 5) There will be little to no street parking, with appointments lasting one to one and a half hours. Conditions are: 1) There will be no developing of photographs in the residence, the applicants will be shooting pictures only, 2) The hours of operation will be Monday through Sunday, 9:00

am to 9:00 pm and 3) The applicant will follow the Plan of Operation that was submitted. Motion carried without a negative vote.

CONDITIONAL USE – BAY VIEW VETERINARY CLINIC, 890 MAIN ST. – PHILIP & KATHRYN SCHOENBORN – Phil Schoenborn presented plans for the expansion of Bay View Veterinary Clinic located at 890 Main St. Other than the expansion, everything else about the operation will remain the same. He will be increasing the number of customers serviced. Hankovich stated that the Plan Commission did approve the expansion, but they did have a concern with the brick on the lower portion of the exterior not matching the stone on the current building. The new sign will be ground-mounted and meets the zoning regulations. Kelly asked about animal waste disposal and controlled substances. The waste is put in the dumpster and taken once a week. Controlled items are stored in a locked cabinet. There is an alarm system for the building. Schoenborn requested an extension of the conditional use for May 1. There was no one present for or against.

Moved by Jones, seconded by Kelly, to grant Philip Schoenborn a conditional use, per Section 100-152 (c)(1) to construct an addition onto the Bay View Veterinary Clinic structure located at 890 Main St. Reasons for granting the conditional use permit are: 1) There were no objections and 2) The new sign meets the criteria of the sign ordinance for a pedestal/ground mounted sign. Conditions are: 1) The addition shall be constructed in accordance to the plans dated June 21, 2004, with revisions required by the conditions of approval, 2) Parking spaces 18 and 19 shall be striped in a north/south direction, 3) If requested by the Village, the lighting shall be adjusted to reduce glare and light spill over, 4) A dumpster enclosure and location shall be provided, with approval of the dumpster design by the Zoning Administrator, 5) At the request of the Village, the applicant shall install additional parking spaces if needed, 6) The applicant will follow the Plan of Operation, revised on June 23, 2004, as submitted with minor adjustments by the Zoning Administrator if requested and 7) There will be proper disposal of animal feces and controlled substances. Motion carried without a negative vote.

Moved by Jones, seconded by Kelly, to grant Philip Schoenborn an extension of the start date for the conditional use at 890 Main St. to May 1, 2005. Motion carried without a negative vote.

CONDITIONAL USE – DOGGY DAY CARE, 545 BAY VIEW RD. – ANNETTE MAYFIELD – Annette Mayfield presented plans for animal care business at 545 Bay View Rd. Mayfield will be renting out two units in the building with hours of operation of Monday through Friday, 6 am to 6 pm. There would be no overnight or weekend boarding of dogs. The dogs will be separated inside the building. She would like to construct a 6' chain link fence around a 6' by 4' asphalted area, attached to the building on the south side. This area would strictly be used as a bathroom for the dogs with a small area of the asphalt covered with pea gravel. The dogs will be inside the building 90 percent of the time. The fenced area will be cleaned by spraying off the asphalt at least once a day. Behling was concerned about the runoff of urine into the stream that feeds into the detention pond for Whispering Bay Condominiums. Kelly asked how far away

this business would be from the Whispering Bay Condominiums. It is about 300 feet. The board was concerned about the noise of the dogs barking. Speaking against the proposal were: Leon Fiegel, 603 Bay View Rd.; Richard Otto, 1015 Bay View Ct.; John Brockel, 605 Bay View Rd.; Ronald Veigh, 1022 Bay View Ct.; Tom Robertson, 613 Bay View Rd.; Phyllis Klaus, 923 Bay View Ci.; Ralph Rosenbecker, 1012 Bay View Ct.; Frank Hodel, 903 Bay View Ci.; Bill Schmitt, 619 Bay View Rd.; Harvey Salevski, 615 Bay View Rd.; John Hansen, 985 Bay View Ci. Klappa asked if the applicant had sought any other locations. Hankovich stated that this was really the only vacant spot in the Village that would be appropriate for this type of business.

Moved by Kelly, seconded by Klappa, to deny the conditional use permit for Annette Mayfield at 545 Bay View Rd. Reasons for denying the conditional use permit are: 1) The possible contamination of waste runoff into the stream that leads into the detention pond for the Whispering Bay Condominiums, 2) The noise level inside and outside of the building, 3) The close proximity to an elderly community where many residents are home during the day and 4) Eleven residents spoke against the proposal. Motion carried on a vote of four ayes and one abstention (Behling abstaining).

Moved by Kelly, seconded by Bakst and carried to adjourn at 8:49 pm.

Steve A. Braatz, Jr.
Deputy Clerk

Deputy Clerk Steve Braatz called the Board of Building and Zoning Appeals to order on Thursday, September 30, 2004 at 7:30 p.m. Members present: BAKST, KLAPPA, JONES. Members excused: KELLY and BEHLING. Also present: Alternate Binder.

Binder stepped up to the Board to take one of the vacant seats. Moved by Jones, seconded by Bakst, to appoint Klappa as acting chair. Motion carried without a negative vote. Moved by Jones, seconded by Bakst, to approve the minutes of the July 29, 2004 meeting as presented. Motion carried without a negative vote.

CONDITIONAL USE – DOGGY DAY CARE, 750 SWAN DR. – ANNETTE MAYFIELD – Annette Mayfield presented plans for a proposed day care facility for dogs located at 750 Swan Dr., located in the industrial park, which is zoned M-4 (Medium/Heavy Industrial District). Mayfield stated there would not be any boarding of dogs; the business hours will be 6:00 am to 6:00 pm, Monday through Friday only. This business will be in two units on one end of the seven-unit. There is a cardboard distributor in the two units on the other end, and the middle three units are vacant. The next closest building is an apparel company two football fields or more away. Outside her units, she will construct a fenced area, roughly 15 feet by 55 feet, 6 feet in height, separated into two areas, and the sides will have slats on the north, south and east sides with the west side open. There will be three gates to get into the fenced area, which will strictly be used for the dogs to go to the bathroom. The area will be grass that will be

washed down and sanitized daily. The feces will be bagged and placed in the dumpster, which both John's Disposal and Onyx will both take. The dogs will be double-leashed to walk from the building to the fenced area. For noise reduction inside the building, Mayfield will try to keep the dogs as calm and distracted as possible, which will keep the dogs from barking. There is also a citronella collar that can be used to deter barking. The walls and ceiling are insulated. Jones asked if there will be anything other than grass in the fenced area to absorb urine. Mayfield stated that in the future, she would like to section off areas in the fenced area and put something down such as pea gravel. There were six people in the audience supporting the proposal and no objections. Klappa read the letter from Kevin Sinnott, Economic Development Committee Chairperson, with concerns regarding refuse and refuse odor, noise and lack of outdoor green area.

Moved by Jones, seconded by Bakst, to grant a conditional use permit to Annette Mayfield to operate Lucky Dog! Day Care Inc. located in units 774 and 776 of 750 Swan Dr. Reasons for granting the conditional use permit are: 1) It is in a remote area, the nearest tenant is three units down, 2) There will be people supervising the dogs, 3) The fenced area in front of the building will have slats on the three of the sides, 4) older and younger dogs will be separated, 5) The noise issue was addressed with keeping the dogs calm and citronella collars, and if that does not work, the issue will be discussed with the owners, 6) The urine and feces will be handled either by Johns Disposal or Onyx and 7) There were six people in attendance that were in favor and no objections. Conditions are: 1) The amount of dogs will be 25 to 36 dogs, depending on the building size, 2) the hours of operation will be 6:00 am to 6:00 pm, Monday through Friday, no weekends, 3) There will be areas sectioned off in the fenced area for excrement and the Plan of Operation dated August 23, 2004 will be followed. Motion carried without a negative vote.

Moved by Jones, seconded by Bakst and carried to adjourn at 8:07 pm.

Steve A. Braatz, Jr.
Deputy Clerk

Chairman Behling called the Board of Building and Zoning Appeals to order on Thursday, October 28, 2004 at 7:32 p.m. Members present: BAKST, KELLY, JONES & BEHLING. Members excused: KLAPPA. Also present: Supv of Inspections/Zoning Administrator Hankovich and Alternates Binder and Graczyk.

Binder stepped up to the Board to take the vacant seat. The Board observed a moment of silence to honor the passing of former Board of Building and Zoning Appeals member Bud Hendrickson. Behling introduced new 2nd Alternate Kate Graczyk to the Board.

Moved by Jones, seconded by Bakst, to approve the minutes of the September 30, 2004 meeting as presented. Motion carried on a vote of 4 ayes and one abstention (Kelly abstaining).

PUBLIC HEARING

CONDITIONAL USE – SPENCER-SMITH CHIROPRACTIC CLINIC – BERG

CONSTRUCTION – Wade Balson, Berg Construction, presented plans for the construction of a chiropractic clinic on the vacant lot at 433 River Crest Ct. The building will be occupied by Spencer-Smith Chiropractic. The building is already under construction because of time constraints with the approaching winter. The project was approved by the Plan Commission and the Planner. There were no objections.

Moved by Bakst, seconded Kelly, to grant a conditional use permit, pursuant to Sec. 100-157, to construct a building at 433 River Crest Court for the purpose of a chiropractic clinic. Reasons for granting the conditional use are: 1) The plans meet the criteria and is similar to the neighboring business with the design and the use, 2) The project was approved by the Plan Commission and the Village Planner and 3) There were no objections. The conditions are: 1) The building will be constructed to the plans presented with minor adjustments as determined by the Supervisor of Inspections and 2) X-Ray materials will be properly disposed of. Motion carried without a negative vote.

ITEMS FROM THE FLOOR

Due to the normal meeting date falling on Thanksgiving, the next meeting will be held on Thursday, December 2, 2004, if needed.

Moved by Kelly, seconded by Bakst and carried to adjourn at 8:01 pm.

Steve A. Braatz, Jr.
Deputy Clerk

UNAPPROVED MINUTES

Chairman Behling called the Board of Building and Zoning Appeals to order on Thursday, December 2, 2004 at 7:30 p.m. Members present: KLAPPA, BAKST, KELLY & BEHLING. Members excused: JONES. Also present: Supv of Inspections/Zoning Administrator Hankovich and Alternates Binder and Graczyk.

Binder stepped up to the Board to take the vacant seat. Moved by Kelly, seconded by Bakst, to approve the minutes of the October 28, 2004 meeting as presented. Motion carried without a negative vote.

PUBLIC HEARING

VARIANCE – 240 MAPLE AVENUE – PRO HEALTH CARE, INC. – Matt Wade, Pro Health Care, Inc., and Dennis Smith, Kieffer Signs, presented plans for new signage on the DN Greenwald Center property located at 240 Maple Ave. Section 100-515 Sign Zone 2: Gateway – South of I-43 (Freestanding) allows one sign per property. Three signs were being proposed: a truck entrance sign, a main entrance sign and an east

entrance sign. All signs have the Pro Health Care logo along with wording. Behling stated that earlier this year, St. John's Lutheran Church came to the Board for two signs that had the church logo on both. At that time, the Board was told that the ordinance did not allow multiple signs with the logo on it. The Board could not act on a second sign at that time. The Plan Commission approved all three Pro Health Care signs stating that "this health facility is a special circumstance necessitating additional signage plus the extreme frontage of the property also demands additional freestanding signs." Hankovich stated that the Commission looked at this differently and both the Plan Commission and Village Board favored the signage for Pro Health Care. Behling feels that there is a double standard concerning the signage ordinance. The ordinance needs to be looked at further and possibly changed. The main entrance sign was determined to be a retaining wall with lettering. Pro Health Care can construct that. The variance request will then be for one of the other two signs. Pro Health Care can construct one of the two signs, but the other will need to come back to the Board. No one was present for or against the issue. Item was tabled for further review of the sign ordinance.

CONDITIONAL USE & VARIANCE – 130 CTH NN – RANDALL WALENCZYK, MUKWONAGO WATER UTILITY – Randall Walenczyk, Village of Mukwonago Water Department Supervisor, presented plans to construct a fence around Well #5, located at 130 CTH NN. The well is behind Pick'n'Save. The chain-link fence will be eight feet in height with barbed wire on top, extending outward at a 45° angle. It will be constructed around the well building, 30 feet from the building on the north and west sides, 18 feet on the east side and 50 feet 4 inches at the furthest point from the south side. There will be a roll back gate at the driveway. Because of the somewhat hidden location and the amount of unknown traffic on CTH NN, Well #5 is the most vulnerable and requires additional security. Lowell Christianson, 360 CTH NN East Unit 6, wanted to see where the fence will be constructed. He was shown the plans and had no concerns. Walenczyk stated that money was budgeted last year, and the Water Department also received a grant of over \$8,900.

Moved by Kelly, seconded by Klappa, to grant a variance to the Village of Mukwonago Water Department for the construction of a fence with barbed wire on the top at the property located at Well #5, 130 CTH NN. Reasons for granting the variance are: 1) The location of the well is well obscured from the street and is surrounded by woods, making it vulnerable and in need of additional security, 2) The well and fencing will be out of site and 3) There were no objections. Motion carried without a negative vote.

Moved by Kelly, seconded by Klappa, to grant a conditional use permit to the Village of Mukwonago Water Department for the construction of a fence at the property located at Well #5, 130 CTH NN. Reasons for granting the conditional use permit are: 1) The site needs protection and 2) The location of the well is well obscured from the street and is surrounded by woods, making it vulnerable and in need of additional security. Motion carried without a negative vote.

OLD BUSINESS

ANNUAL REVIEW – CONDITIONAL USE & UNSPECIFIED/UNCLASSIFIED USE – STOCKPILING OF TOPSOIL – ROBERT’S NURSERY – 1616 HONEYWELL ROAD – W.H. MAJOR & SONS – Hankovich stated that he has not received any complaints regarding the topsoil-stockpiling business located at Robert’s Nursery, 1616 Honeywell Rd. He has been there when trucks were moving in and out and has seen no problems.

Moved by Kelly, seconded by Klappa, to grant a continuance of the conditional use & unspecified/unclassified use that was granted in February 2004 for the stockpiling of topsoil at 1616 Honeywell Rd. The reason for granting the continuance is there have been no complaints or problems. The condition is because of the fine operation in the past, the next review will be in October/November of 2006. Motion carried without a negative vote.

ITEMS FROM THE FLOOR

Behling handed out to the Board a copy of his letter of resignation and stated that this was his last meeting because he moving. The Board thanked Behling for chairing and wished him well.

Moved by Kelly, seconded by Bakst and carried to adjourn at 8:15 pm.

Steve A. Braatz, Jr.
Deputy Clerk