

Chairman Klappa called the Board of Building and Zoning Appeals to order on Thursday, February 23, 2006, at 7:30 p.m. Members present: BAKST, JONES, GRACZYK and KLAPPA. Excused: KELLY.

Moved by Jones, seconded by Bakst, to approve the minutes of the October 27, 2005 meeting as presented. Motion carried without a negative vote.

PUBLIC HEARING

Request for Conditional Use Permit – 857 S. Rochester St. – Outside Display and Outdoor Fenced Area – Tractor Supply Company – Tractor Supply Company is not ready to present the plans at this time. Commission would like to know about the burm, traffic impact and lighting. Moved by Jones, seconded by Graczyk, to postpone the public hearing until March 30, 2006. Motion carried without a negative vote.

Moved by Graczyk, seconded by Bakst and carried to adjourn at 7:35 pm.

Steven A. Braatz, Jr.
Deputy Clerk

Chairman Klappa called the Board of Building and Zoning Appeals to order on Thursday, March 30, 2006, at 7:30 p.m. Members present: GRACZYK, BAKST, KELLY, JONES and KLAPPA. Also present: Alternates Somers and Mades, Supervisor of Inspections/Zoning Administrator Hankovich and Planner Kaniewski.

Moved by Jones, seconded by Graczyk, to approve the minutes of the February 23, 2006 meeting as presented. Motion carried without a negative vote (Kelly abstained).

PUBLIC HEARINGS

Request for Conditional Use Permit – 1080 N. Rochester St. – Outside Sales and Display – Warden’s Ace Hardware – Ed Hamman, Praxair, presented plans to place a cage that stores industrial gas cylinders in front of the Wardens Ace Hardware Store located at 1080 N. Rochester St. The cage is made of steel and are flameproof. It will be placed near the entrance way, where there are pallets and skids there now, and about 175 feet off the road. The cage also has a Praxair sign on it and is meant to notify customers that Wardens carries the product. Hankovich was concerned about maintenance and safety and explosiveness issues in regards to cars backing into or driving into it. Hamman stated that the cages are well maintained and the safety measure of the tanks does not allow them explode. Hankovich stated that the if the sidewalk was seven inches above grade, then bumpers need to be installed. Bakst suggested placing the cage behind the fence on the south side of the building. Hamman did not want it there due to low visibility. Kelly stated that the kind of display does not fit well with the building. There were no objections from the public.

Moved by Kelly, seconded by Jones, to deny the request for a conditional use permit to install an outside sales display for the property located at 1080 N. Rochester St. Motion carried without a negative vote.

Request for Conditional Use Permit – West Side of CTH ES About 120 Feet South of Phantom Woods Rd. – Construction of an Auto Body Shop – Scott Marshall, Marshall Auto Body – Mike Nell and Gerald Marshall presented plans to construct an auto body repair facility located on CTH ES about 120 feet south of Phantom Woods Rd. on one of the lots of the Moseler Property. The building will be 15,500 square feet. 73 parking stalls are required, and with the 40% reduction, that would bring the amount down to 44 stalls. 31 stalls are being proposed with the lot having the ability to have all stalls. Nell stated that all work is done indoors, including finished products and vehicle that are there for estimates. The stalls will mainly be used for employees, a few customers or other people and for the occasional rental vehicle. The Plan Commission and Village Board agreed with the lower amount of stalls so there would be more green space. The stalls will also have a depression to contain leaks so fluids will be kept on site. Hankovich stated that there will be a retention pond to service all five lots. The Fire Chief reviewed and approved the plans. The building will be sprinkled. There were no objections from the public.

Moved by Kelly, seconded by Jones, to grant a conditional use permit, pursuant to Section 100-157 of the Municipal Code, for the construction of an auto body repair facility located on the west side of CTH ES about 120 feet south of Phantom Woods Rd. The reasons for granting the conditional use are: 1) The aesthetics of the building and lot fit in well and 2) the layout of the site plan is conducive. The conditions are: 1) Subject to plans prepared by Gerald Nell Inc. dated February 15, 2006, 2) A revised landscaping plan is to be submitted and reviewed by the Zoning Administrator, 3) The ingress / egress to the lot must be paved, 4) The appropriate building permits are obtained, 5) The storage of unfinished vehicles will be contained out of the view of CTH ES and 6) Hazardous material containment must be kept on site, shall not reach the retention pond and must follow NFPA codes. Motion carried without a negative vote.

Moved by Kelly, seconded by Jones, to grant a waiver to Marshall Auto Body and Gerald Nell, Inc. of the parking stall requirement, pursuant to Sections 100-403 (g) and (h) of the Municipal Code, to reduce to amount of paved parking stalls from 73 to 31 stalls. The reason for granting the waiver is this will allow for more green space on the property. The condition is if the property were to be sold, a reconsideration of the waiver must be held. Motion carried without a negative vote.

Request for Conditional Use Permit – 857 S. Rochester St. – Outside Display and Outdoor Fenced Area – Tractor Supply Company – Nanette Rhodes, Oxford Architecture, presented plans for Tractor Supply Company (TSC) to operate a store in the southern 1/3 portion of the former Wal-Mart building located at 857 S. Rochester St. TSC is a retail operation that caters small farmers and ranchers, and they typically operate stores that are 20,000 to 25,000 square feet in size. With the proposed fenced area, this store will be bigger. They would like to have a trailer display in front of the fenced area and/or store. The fenced area will be constructed past the area of the existing driveway on the side of the building. They will be taking out asphalt and replacing it with green space. Hankovich submitted pictures he took of the outside display at the store in Burlington and stated that the Village does not want the display to look like that one. Outside display will be limited just like the Home Depot and Wal-Mart Supercenter stores in the Village. TSC is requesting 24 items to display outside, which is less than what was granted to Home Depot. The fence will be 16 feet in height. Inside a portion of the fenced area will be another fence eight feet in height.

Darwin Greenwald, 632 Oakland Ave. – Owns property adjacent to the proposed TSC location. He was concerned with the appearance and obscurity of items contained in the fence area. He suggested a masonry wall on the lower section of the fence. Rhodes stated that it is a condition of the landscape plan to screen the south side of the fence and driveway with trees and shrubs.

Graczyk stepped down from the table and Mades stepped up.

Meeting adjourned at 9:36 pm. Meeting reconvened at 9:39 pm.

Moved by Bakst, seconded by Jones, to grant a conditional use permit, pursuant to Section 100-157 of the Municipal Code, for outdoor merchandise sales and display for the southern 1/3 portion of the building located at 857 S. Rochester St. Conditions are:

1. This approval shall be for the outdoor display of items for sale by Tractor Supply Company in six (6) specific locations as designated on Exhibit A. The five (5) specific locations are defined as follows:
 - a. Single Item Display – The two (2) sections shown on Exhibit A, designated by Letters A and B.
 - b. Display – The two (2) sections shown on Exhibit A, designated by Letters C and D.
 - c. Fenced Outdoor Inventory and Display – The 20,801 square foot area shown on Exhibit A, designated by Letter E.
2. Within the Single Item Display area, (Letters A and B) the outdoor display of items for the purpose of display of seasonal representative items that are also on display and available for sale within the confines of the Tractor Supply Company (hereafter, TSC) building and Fenced Outdoor Sales area. At no time shall the outdoor display of items include the entire inventory. The Single Item Display of items for sale shall be further limited to the following conditions:
 - a. The Single Item Display shall provide for a 5.0 feet clear sidewalk space at all times as shown on Exhibit A. The 5.0 feet clear sidewalk space shall be delineated by red decorative bollards, placed at a maximum separation of seven (7) feet, and installed as shown on Exhibit B.
 - b. The number of items allowed for display shall be limited to a maximum of 24 items at any given time, and shall be limited to the following product types:
 - Push lawn mowers

- Riding lawn mowers
- Garden carts
- Push snow blowers
- Riding snow blowers
- Mow-N-Vacs
- Wheelbarrows
- Chippers and shredders
- Log splitters
- Go Karts

Understanding the Board of Zoning and Building appeals recognizes that the product and style of products desired by customers may change from year to year; it is impossible to determine the exact design of the display from year to year. Therefore, per Village requirements, each seasonal display shall be subject to the approval of the Village of Mukwonago Zoning Administrator. The TSC store manager shall consult and provide three (3) sets of clear and legitimate drawings showing the plans of the display with the Zoning Administrator for each seasonal display prior to implementation of the seasonal display. These drawings are not required to be architectural/engineering drawings. If the Zoning Administrator and store manager are unable to reach an understanding about the design of the display, then final action and decision shall be with the Board of Zoning and Building Appeals. Upon approval, the Zoning Administrator shall stamp as "approved" and date each of the approved three (3) sets of drawings, and shall retain two (2) sets for the Zoning Administrator file, and forward one (1) set to the store manager.

- c. At no time shall any items be displayed on pallets.
 - d. All items shall be uncrated, meaning removed from the shipping crate and/or any other container or packing materials.
 - e. All items displayed shall be secured to prevent theft and a public nuisance.
 - f. The Single Item Display shall allow a free and safe flow of pedestrian movement on the sidewalk adjacent to the building, and provide safe access to display items.
 - g. The Single Item Display shall not be allowed in any lanes of vehicle traffic in the parking lot or on any grass area, or on any landscaped islands.
 - h. Signs indicating the name and price of the outside display item shall be located only within the product display area of the Single Item Display, and not affixed to the building or adjacent fence. The signs shall be limited to one (1) square feet per item and one (1) advertising/price item. Signs shall be kept neat and readable at all times. Factory and inventory tags are also permissible.
 - i. No other signs shall be allowed on the building exterior for advertising products.
 - j. No cash registers or transactions shall take place outside of the building or Fenced Outdoor Inventory and Display area.
 - k. All items displayed shall be placed in the ground level surface. No item shall be stacked.
3. Within the Display area (Letters C and D), the outdoor display of items for the purpose of display of seasonal representative items that are also on display and available for sale within the confines of the TSC building and Fenced Outdoor Inventory and Display area. At no time shall the Display area include items of the entire inventory. The Display area shall be enclosed by a 16 foot high decorative fence on three (3) sides, and separated by an eight (8) foot fence from the Fenced Outdoor Inventory and Display area (Letter E). The Display area shall be further limited to the following conditions:
- a. The items to be displayed may include:
 - Uncovered Utility Trailers, not any longer than sixteen (16) feet in length
 - All-Terrain Vehicles (ATV's), no longer than seven (7) feet in length
 - Utility Vehicles (UTV's), no longer than ten (10) feet in length
 - Chippers and Shredders
 - Log Splitters

- Mow-N-Vacs
 - Dog kennels
 - Doghouses
 - Go-Karts
 - Landscape materials
 - Garden Accessories
 - All bagged material
- b. The Display area may include bagged pine shavings, bagged feed, and bagged fertilizer, and other bagged landscape materials placed in organized displays.
 - c. The Display area shall allow a free and safe flow of pedestrian movement on the sidewalk adjacent to the building.
 - d. The Display area shall not be allowed in any lanes of vehicle traffic or in the parking lot.
 - e. Signs indicating the name and price of the Display area item shall be located only within the product display area, and not affixed to the building or adjacent fence. The signs shall be limited to 2.2 square feet per item and one (1) advertising/price item. Signs shall be kept neat and readable at all times. Factory and inventory tags are also permissible.
 - f. No other signs shall be allowed on the building exterior for advertising products.
 - g. No cash registers or transactions shall take place outside of the building or Display area.
 - h. All items shall be uncrated, meaning removed from the shipping crate and/or any other container or packing materials.
 - i. No items shall be stacked higher than the top edge of the fence.
 - j. Aisles shall be provided for fire protection and shopper and employee safety. If necessary for the public safety, TSC shall comply with aisle and stacking height requests of the Village of Mukwonago Zoning Administrator and/or Fire Chief.
4. The aisle located between Area C and the enclosed building and Area E and the enclosed building shall be delineated by red decorative bollards, placed a maximum separation of five (5) feet, and installed as shown on Exhibit B.
 5. A drive aisle located within the confines of the Display area and Fenced Outdoor Inventory and Display area; striped and approximately 20'-0" wide shall be allowed for customer loading and pick-up. Intended for staging of customer pick-ups external to the retail portion of the building, the area shall not be used for storage of inventory beyond a 24-hour period. No storage of items shall be allowed outside of the fenced area, except as identified in these conditions.
 6. Within the Fenced Outdoor Inventory and Display area (Letter E), there shall not be any limitation on the types and numbers of items to be displayed. The Fenced Outdoor Inventory and Display area shall be further limited to the following conditions:
 - a. No items shall be stacked higher than the top edge of the fence.
 - b. Aisles shall be provided for fire protection and shopper and employee safety. If necessary for the public safety, TSC shall comply with aisle and stacking height requests of the Village of Mukwonago Zoning Administrator and/or Fire Chief.
 - c. No signs advertising or pricing signs within this area shall face outward so that the signs can be read from outside of the fence.
 - d. Signs indicating the name and price of the Display area item shall be located only within the product display area, and not affixed to the building or adjacent fence. The signs shall be limited to 2.2 square feet per item and one (1) advertising/price item. Signs shall be kept neat and readable at all times. Factory and inventory tags are also permissible.
 - e. The area shall be enclosed by a 16 foot tall decorative fence on three (3) sides, and separated by an eight (8) foot chain link fence from the Display area (Letters C and D).
 - f. Aisles shall be provided for fire protection and shopper and employee safety. If necessary for the public safety, TSC shall comply with aisle and stacking height requests of the Village of Mukwonago Zoning Administrator and/or Fire Chief.

7. Two (2), 5 x 8 foot safety cages, shall be permitted within the Fenced Outdoor Inventory and Display Area, and may be allowed to house Acetylene, Oxygen, Argon/Co2 mix and Propane for sale, subject to approval of the Village Fire Chief.
8. No pennants, banners, or other attention devices shall be allowed on the site, other than the signage that is part of the Site Plan and Architectural Plan approval by the Plan Commission and Village Board. For exceptions see Zoning Administrator.
9. Other than the allowances listed in these conditions of approval, all other outside storage and display on all sides of the building shall be prohibited.
10. The entire exterior of the building, especially the defined three (3) outdoor display areas and parking lot, shall be policed daily and kept free of debris.
11. No other trucks, vehicles, trailers or any other containers not specifically listed within the conditions of this approval shall be parked overnight on the site.
12. All other equipment and forklifts shall be stored inside the building.
13. TSC shall notify the Village Clerk and Village Zoning Administrator of the names of the store manager and assistant store manager along with phone numbers of each, and shall notify the same within seven days of any change in management.
14. Nothing in this approval shall prevent the use of the enclosed front building vestibule from use for display of items for sale, except for maintaining a clear ingress/egress path with the periodic review by the Zoning Administrator and/or Fire Chief.
15. TSC shall provide a list of flammable liquids annually to the Fire Chief.
16. Nothing in this approval shall prevent the Zoning Administrator from enforcing the conditions listed herein, to the extent that municipal citations may be issued, and with just cause, the Zoning Administrator may request the Board of Zoning Appeals to revoke this approval for lack of compliance.
17. No signs other than those specified in this document shall be added to the site without Plan Commission approval. For exceptions, see Zoning Administrator.
18. No outside vending machines shall be allowed.
19. No display shall be permitted on grass areas and landscape islands throughout the site, or within parking and driveway areas.
20. No other storage or display other than permitted in this document shall be permitted anywhere on the site.
21. On Exhibit A, and as referenced in this document, a five (5) foot sidewalk is required at various locations. The five (5) foot sidewalk shall be a concrete sidewalk to clearly separate the traffic from the pedestrian area. TSC shall police any parking or driving of vehicles on the sidewalk.
22. On Exhibit A, sliding gates will be available to close the Display area and the Fenced Outdoor Inventory and Display area. The gates shall be the same design and style as the adjacent fence.
23. If necessary, additional landscaping would be required for the south side of the fence and driveway of up to 12 additional trees.

Motion carried without a negative vote.

CORRESPONDENCE

Proclamation for Joe Sperstad – Deputy Clerk Braatz presented the proclamation that will be made into a plaque for Joe Sperstad, a former member of the Board of Building and Zoning Appeals. The Board approved of it. The plaque will be presented at the April 18, 2006 Village Board meeting and all Board members are invited.

Moved by Kelly, seconded by Mades and carried to adjourn at 9:45 pm.

Steven A. Braatz, Jr.
Deputy Clerk

Chairman Klappa called the Board of Building and Zoning Appeals to order on Thursday, May 25, 2006, at 7:35 p.m. Members present: GRACZYK, BAKST, JONES and KLAPPA. Member Excused: KELLY. Also present: Supervisor of Inspections/Zoning Administrator Hankovich.

Moved by Jones, seconded by Bakst, to approve the minutes of the March 30, 2006 meeting as corrected (under Tractor Supply conditional use request, second line of motion – "...display for the southern 1/3 portion..."). Motion carried without a negative vote.

PUBLIC HEARINGS

Request for Variance – 721 Bryant St. – Construction of a Garage – John & Bonnie Nelson –

Bonnie Nelson presented plans for a garage located at 721 Bryant St. The garage will be in the rear yard. She would like it to look more historically correct. The roof pitch was changed to be similar to the house. There will be a second story. The use is for storing vehicles, lawn equipment and other miscellaneous household items. The siding will match the house.

Moved by Jones, seconded by Bakst, to approve a variance to construct a garage at 721 Bryant St. The reasons for granting the variance are: 1) The garage will aesthetically match the period of time the home was built, 2) The use of the garage will be for storage of vehicles and other household items and 3) There were no objections. The conditions are: 1) The construction of the garage will consist of 10' side walls and 24', 8/12 pitch, 2) The windows will be of the double hung variety to match the principle structure on the property, 3) The garage door will match the historical period of time the house was built and 4) The side door, roof, soffit brackets, fascia and color will be comparable to the house. Motion carried without a negative vote.

ITEMS FROM THE FLOOR

There was a discussion on the submittal of plans for Board of Building and Zoning Appeals reviews. Chairman Klappa was concerned the Board was not getting enough information. Most Board members rely on Hankovich to provide information.

Moved by Bakst, seconded by Graczyk and carried to adjourn at 8:35 pm.

Steven A. Braatz, Jr.
Deputy Clerk

Chairman Klappa called the Board of Building and Zoning Appeals to order on Thursday, June 29, 2006, at 7:30 p.m. Members present: GRACZYK, BAKST, KELLY, JONES and KLAPPA. Also present: Supervisor of Inspections/Zoning Administrator Hankovich and 1st Alternate Somers.

Moved by Jones and seconded by Bakst to approve the minutes of the May 25, 2006 meeting as presented. Motion carried without a negative vote (Kelly abstained).

PUBLIC HEARINGS

Request for Variance – 415 Andrews St. – Construction of a Fence – Barbara Bopp – Barbara and Alfred Bopp presented plans to construct a fence on the property located at 415 Andrews St. The fence will be six feet in height and looks the same on both sides. The purpose of the fence is to hide the junk in the neighbor's yard. Hankovich stated that there has been a change to the plan to include four sections instead of three so the fence will come out to the street further because the neighbors are piling more junk toward the street. Hankovich also stated that the lots on Andrews St. are unique because the houses are closer to the lake and garages are closer to the street. The uses of the lots are reversed from a normal lot. There are other similar fences in that area. Klappa read a letter from Rose Fix, 430 Andrews St., in favor of the fence.

Moved by Jones and seconded by Kelly to grant a variance to the height of the fence, which will be six feet in height. Reasons for granting the variance are: 1) The fence is similar to a neighbor down the road, 2) there were no objections in the audience, 3) there was a letter from Rose Fix, 430 Andrews St., in favor of the fence and 4) the nature of the use of the lots in the area are unique in that they are reversed because the houses are closer to the lake than accessory structures on the lot. The conditions are: 1) The fence will be located three feet from the lot line, 2) the first section of the fence will be 40 feet in length from the side of the house to south of the garage and 3) the second section of the fence will be 32 feet in length from the northeast corner of the garage to the street. Motion carried without a negative vote.

Request for Variance – 210 Pearl St. – Construction of a Garage – Bob and Kate Zimmer – Bob and Kate Zimmer and Jim Farrell presented plans for a garage to be constructed on the property located at 210 Pearl St. One side of the garage will be 22'6" in height. The other side will be lower so the 65 year old maple tree next to the proposed garage does not need to be cut down. Including the overhang, the garage will be one foot off of the lot line. The Zimmers would like to keep the same theme for the garage as others in the area. The house is near 30 feet in height, so it will block most of the garage from the view from the road. Hankovich had concerns about drainage from water from the roof. It may not drain onto the neighbors yard. The Zimmers submitted petitions from neighbors in favor of the garage. Bakst stated that the garage fits in with the older section of the Village. Historic Preservation and Plan Commissions both approved the garage.

Moved by Jones and seconded by Bakst to grant variances, pursuant to Section 100-453(5), of 7'6" to the height of the structure and 2 feet to the setback from the lot line. The reasons for the variances are: 1) The Historic Preservation Commission and the Plan Commission approved the garage, 2) there were no objections in the audience and 3) the residents in the neighborhood signed petitions to approve the garage. The conditions are: 1) The garage will have wood double-hung windows, the same as the windows put in the addition that was put on the residence in January 2005, 2) the siding on the garage will be 4" concrete board, the same as the house, 3) the shingles will be the same as what is currently on the house, 4) the garage shall not be totally visible from the street, 5) water from the roof shall not drain onto any neighboring lots and 6) the garage shall not be used as living quarters. Motion carried without a negative vote.

Request for Conditional Use Permit – Miniwaukan Park – Construction of a Shelter – Village of Mukwonago (Mukwonago Lions Club) – DPW Supervisor Tom Brandemuehl presented plans for the construction of a shelter in Miniwaukan Park. The shelter will be constructed by the Mukwonago Lions Club. It will be the same as the one constructed in Field Park, without electricity. It will be a wood roof over a concrete slab. Hankovich stated that the shelter will be further back into the park. Kendall Smith, 238 McKenzie Rd., spoke in favor of the shelter. It is needed to protect people from rain.

Moved by Kelly and seconded by Graczyk to grant a conditional use to the Mukwonago Lions Club to construct a shelter in Miniwaukan Park. The reasons for the conditional use request are: 1) The shelter will be similar to the one located in Field Park by the playground equipment as well as two others in various parks and 2) a resident from the abutting subdivision spoke in favor of the shelter and stated the park's need for one. The condition is there will be no electricity to the shelter. Motion carried without a negative vote

Moved by Kelly and seconded by Graczyk and carried to adjourn at 8:23 pm.

Steven A. Braatz, Jr.
Deputy Clerk

Chairman Klappa called the Board of Building and Zoning Appeals to order on Thursday, July 27, 2006, at 7:31 p.m. Members present: BAKST, KELLY, JONES and KLAPPA. Member excused: GRACZYK. Also present: Supervisor of Inspections/Zoning Administrator Hankovich and 1st Alternate Somers.

Alternate Somers stepped up to the Board to fill the vacancy. Moved by Kelly and seconded by Jones to approve the minutes of the June 29, 2006 meeting as presented. Motion carried without a negative vote.

PUBLIC HEARING

Request for Conditional Use – Black Bear Development, Hwy 83 – Waukesha State Bank – Mary Costa from Waukesha State Bank presented plans for the construction of a single story, ranch building that will be occupied by Waukesha State Bank and located in the Black Bear Development on Hwy 83, north of Culvers. The building will be stone and will include four drive-up lanes. There will be an ATM on the outermost lane that will be under the eave, not under the canopy. Hankovich explained that he and the Village Planner have met numerous times on the plans, and the Plan Commission unanimously approved the architectural plans and recommends approval by the Board of Building and Zoning Appeals. Hankovich also explained that the drive-up system is a loop drive system with enough space for stacking of cars.

Moved by Kelly and seconded by Bakst to grant a conditional use permit to Waukesha State Bank, pursuant to Section 100-157 (b), to construct a building with drive-up lanes in the Black Bear Development on Hwy 83. Reasons for granting the conditional use are: 1) The Plan Commission reviewed and approved the plans and recommends approval to the Board of Building and Zoning Appeals and 2) there were no objections. The conditions are: 1) The subject site shall be developed in accordance with the set of plans submitted by Stephen Perry Smith Architects, dated May 25, 2006, 2) building permits shall not be issued until the first course of asphalt is installed on Black Bear Boulevard and Marsh View Drive and 3) This approval shall be subject to Waukesha State Bank acquiring the property. Motion carried without a negative vote.

NEW BUSINESS

Request for Extension of Starting Date – Black Bear Development, Hwy 83 – Dr. Michael Connor and Dr. Thomas McKeever – The dentist office was approved by the Board of Building and Zoning Appeals in May of 2005 and was given a year to begin construction. Hankovich explained that due to the developer taking a great deal of time installing roads, the Connor/McKeever dentist office has not been able to start. The problem was not the fault of the applicant. Hankovich suggested granting an extension of six months, retroactive back to May.

Moved by Bakst and seconded by Kelly to grant an extension of time of the conditional use permit that was granted to Dr. Michael Connor and Dr. Thomas McKeever to construct a dentist office in the Black Bear Development on Hwy 83. The extension will be for six months, retroactive back to May 26, 2006. The conditional use will now expire on October 26, 2006. Motion carried without a negative vote.

Moved by Kelly and seconded by Somers and carried to adjourn at 7:48 pm.

Steven A. Braatz, Jr.
Deputy Clerk

Chairman Klappa called the Board of Building and Zoning Appeals to order on Thursday, September 28, 2006, at 7:30 p.m. Members present: GRACZYK, BAKST, KELLY, JONES and KLAPPA. Also present: Supervisor of Inspections/Zoning Administrator Hankovich and 1st Alternate Somers.

Moved by Bakst and seconded by Kelly to approve the minutes of the July 27, 2006 meeting as presented. Motion carried without a negative vote (Graczyk abstained).

PUBLIC HEARING

Request for Conditional Use – 828 Perkins Dr. – Annette Mayfield, Lucky Dog! Dog Day Care Inc.

– Annette Mayfield presented plans to move her dog day care business from 750 Swan Dr. to 828 Perkins Dr. Her business will be located right next to For Pets Sake. The unit is roughly 4,000 square feet in area. She will be dividing it into two play areas. The location is a block south of the current location. The fence on the outside will still be six feet in height. Hankovich stated that there have been no problems or complaints about the business at the current location. There needs to be two means of egress for the outdoor fenced area.

Barb Hogan, 424 Field St.: Spoke for the business location.

Moved by Kelly and seconded by Jones to grant a conditional use permit to Annette Mayfield to operate Lucky Dog! Day Care Inc. located at 828 Perkins Dr. Reasons for granting the conditional use permit are: 1) The operation has been in business for two years and there have been no complaints, 2) The area she is moving into is a larger area, 3) There will be people supervising the dogs, 4) There was one person in attendance that was in favor and there were 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, 4) The Plan of Operation dated August 23, 2004 will be followed and 5) Two gates shall be installed in the fenced area to provide two means of ingress and egress. Motion carried without a negative vote.

Request for Variance – 436 Atkinson St. – Troy and Stephanie Klinger – Jeff Krueger, Turnkey Homes, represented Troy and Stephanie Klinger. The Klingers would like to build an addition onto the back of their home located at 436 Atkinson St. The addition includes an attached garage. Hankovich had concerns with the side yard setback. The back yard is not an issue. He would like the concrete slab that is next to the garage taken out. There will be enough space to do a sidewalk along the side of the house. The proposed addition does not go back as far as the area where the pool was.

Kim Olson, 421 Wahl Ave.: Wanted to know the size of the addition. Stated that people use the private area in the rear of their houses to get to the backyards. Suggested installing a fence.

Moved by Kelly and seconded Bakst by to grant a variance of four feet to the side yard setback, pursuant to Sec. 100-102, for the construction of an addition on the property located at 436 Atkinson St. The condition is the concrete slab shown on the survey on the east side of the building shall be removed, and either grass or a sidewalk no wider than 4 feet shall be installed in its place. Motion carried without a negative vote.

Request for Conditional Use and Variance – 507 Main St. – Michael Clark, Overtime Sports

Tavern – Mike Clark presented plans to operate a sports tavern in the existing portion of the building located at 507 Main St., which is currently known as Little Babe's Café. He plans on operating a sports tavern in that location, but would like to be considered more of a restaurant with a bar. He would only be changing the inside and the hours of operation from what it is now. There will be enough seating for about 70 people and does not expect to have more than 70 or 80 people in there at any given time. He

anticipates only about 40 people in there after eating hours. Clark stated he is willing to do anything to make sure the parking situation is not an issue. He spoke with the owner of the BP gas station across the street and the owner of Beyond Bella Salon, and both owners agreed to allow parking for Clark's business during the evening hours. He also offered a suggestion of "No Parking" signs to be installed on both or one side of Blood St. Hankovich had concerns with the parking and with the residents in the area. The site is pre-existing and more parking cannot be installed. He recommends having stop signs on both exits from the parking lot. He stated the lighting will be on longer and will not know the effect until it is there. They currently turn off earlier in the evening because both businesses in that building close before 7:00 pm. Clark stated he will have valet parking. Bakst had concerns about parking in the BP station and people crossing CTH. Clark stated there will only be parking in the BP lot after the BP has closed. Jones also had concerns about the parking and asked if Clark checked any other locations in the Village. Clark stated that he looked at one other location but could not work out an agreement with the landlord. He also stated that he will have security staff every night. Hankovich stated that that he spoke to the Police and Fire Chiefs and neither had negative feedback. Board had concerns about noise and rowdy people as well as drunk drivers.

Marge Canfield, S66 W27890 River Rd., MHS coach/teacher: Spoke in favor. Would like a place to sit, watch games and converse. There is a sense of community. Spoke to other coaches and teaches and all were in favor.

Dave Dolensek, 506 Main St.: Was for until he found out about the other bar. Spoke against. Concerned with parking. Likes the idea, not the location.

Jennifer Poysel, 605 Main St.: Spoke in favor. Bar would be a great idea. There will be more jobs. Great for the community. Residents can walk rather than drive.

Connie Brinkman, 615 Crestview Ln.: Spoke in favor. There is only residential going up. It would be nice to have a place for young people to go. Goes to Genesee to enjoy a place like this.

Randall Meillier, 514 Main St.: Spoke against. Parking concerns.

Diane Steinke, W322 S9035 Beulah Rd.: Spoke in favor. It is the responsibility of the operator to make sure people do not drink too much.

Lynette Berger, owner of 505-07 Main St.: Spoke in favor. There is a condition of the lease for no noise or rowdiness.

Steve Bartle, owner of Bartle Jewelers at 525 S. Rochester St.: Parking concerns. There is no plan for parking if BP or Beyond Bella were sold and the new owner would not allow parking. If there is no parking on Blood St., that could affect his business. Likes the idea, not the location.

Dave Dunning, 408 Lois St.: Spoke against. Has a direct view from his back deck to Bella's. Had concerns with valet parking, which means more movement than now.

Elizabeth Langenbach, 511 S. Rochester St.: Spoke against. Parking concerns.

Brady Rolfson, 606 Main St.: Spoke in favor.

Kay Heine, 121 Oakland Ave., owner of Kay's Dance Academy: Spoke against. Owns dance academy in the other unit of the building where there are many students under 18 years old and had safety concerns. There is not enough parking now, and she has customers, too.

JR Kusch, 400 Shore Dr.: Spoke in favor. Has known Clark for a long time. Clark is a responsible bartender. It is a restaurant with a bar.

Perry Woolley, 1138 Rainbow Ct., owner of Print, Pack & Shipping, 211 N. Rochester St.: Spoke in favor. He is a local business man and would like to see the money stay in the Village.

Thayne Odier, 954 Park View Ln.: Spoke against. It is a sports bar, not a restaurant. Parking and noise concerns.

Kurt Wegner, W2078 Beulah Heights Rd.: Every bar in the Town (of East Troy) is in a residential area.

Sharon Dunning, 408 Lois St.: Spoke against. Parking concerns.

Rick Adler, 208 Oakland Ave.: Spoke against. Parking concerns.

Jerry Gasser, 216 Oakland Ave.: Spoke against. Concerned with safety of students at Kay's Dance Academy. Vehicular traffic concerns.

Leonard Kressin, S83 W29731 Saxony Ct.: Asked what the total occupancy is. Questioned the difference between a bar the serves food versus a restaurant that has a bar.

Mary Carpenter, W303 S10245 Lakeview Dr.: Spoke in favor. Confirmed that Clark has looked at other leases.

Clarence Fox, 437 Blood St.: Spoke against. Parking concerns.

Klappa read a letter from Angela Brook, owner of Beyond Bella Salon, 501 Main St., in favor of the proposal and which stated that the Clark has permission to use the Beyond Bella parking lot. Klappa also read a letter from Marion Torhorst, 311 Blood St., which stated concerns about parking on Blood St.

Jones stated that the residents that live in the area should take priority, had safety concerns with the children and did not feel this is the best location. Bakst felt the business would be a good addition to the Village, just not at this location. Graczyk agreed with Bakst and Jones and was concerned with the increased traffic flow. Clark stated that during Kay's hours of operation, his businesses will be the same as Little Babe's. After 10:00 pm, it will change some. Valet parking attendants will have people's keys, so they will not be able to drive if they are too intoxicated. Hankovich stated that the amount of parking spaces with Kay's and Little Babe's is not an issue right now. Kay's Dance Studio is not considered a school. He compared the overflow parking to Citizens Bank. Kelly felt the vote should be tonight and believed that it is a favorable operation. Bakst questioned the definition of a bar the serves food versus a restaurant that has a bar and stated that we need more input from the Village Attorney as well as the Police Chief. Klappa tabled the issue for more information from the Plan Commission, Attorney and Police Chief and any other department heads.

Request for Conditional Use and Variance – 215 Bay View Rd., Suite C – Jim Jones, Bones Sports Bar and Restaurant – Jim Jones presented plans to operate a sports tavern at 215 Bay View Rd., Suite C. Jones stated that this type of business is a huge need and will be a business that will do well. He considered it a family sports bar. There will be more tables. It will be smoke free. The proposed hours of operation will be 11:00 am to 11:00 pm on weekdays and will stay open until bar time on weekends. Bakst stated that this is not a residential area. There is parking in the back and the front. Hankovich

stated that once this business goes in, there can no longer be a day care there.

Elizabeth Langenbach, 511 S. Rochester St.: Asked how that will affect other businesses without a liquor license.

Thayne Odier, 954 Park View Ln.: Stated that there are not the same issues regarding parking and being in a residential neighborhood here as there were with the other appeal.

Kelly asked the Board if they should table the issue to ask the same questions as with the other appeal.

DN Greenwald, 632 Oakland Ave.: Spoke in favor. Asked not to table it. Weather is a factor.

Matt Reitman, owner of Mario's Pizza: There will be plenty of parking and will not need extra parking.

Bakst stated that the main issue with the other appeal was parking.

Moved by Kelly and seconded by Jones to table the issue for more information from the Plan Commission, Attorney and Police Chief and any other department heads. Motion carried on a vote of 4 ayes and 1 nay (Bakst voted no).

Moved by Kelly and seconded by Bakst and carried to adjourn at 10:46 pm.

Steven A. Braatz, Jr.
Deputy Clerk

Chairman Klappa called the Board of Building and Zoning Appeals to order on Thursday, October 26, 2006, at 7:30 p.m. Members present: GRACZYK, BAKST, KELLY, JONES and KLAPPA. Also present: Supervisor of Inspections/Zoning Administrator Hankovich.

Jones noted some amendments to the September 28, 2006 minutes: 1) Comments from a gentleman from East Troy, right after Thayne Odier, were missing, 2) Larry Fox should be Clarence Fox and 3) the letters from Beyond Bella Salon and from Marion Torhorst were not included. Moved by Jones and seconded by Bakst to approve the minutes of the September 28, 2006 meeting as amended. Motion carried without a negative vote.

OLD BUSINESS

Request for Conditional Use and Variance – 215 Bay View Rd., Suite C – Jim Jones, Bones Sports Bar and Restaurant – Jim Jones stated that nothing was being planned for outdoor activities at this time. A Plan of Operation was dispersed to the Board members in their packets. There is no definite closing time: bar time on weekends and around 11pm on week nights, with exceptions for sports games and other events. Tom Jones stated that he is of no relation to the applicant. Hankovich stated that if more parking is needed, the owner will have to install the spaces. If the applicant stays with the proposal, parking will be fine. If the gap between the two buildings is filled in to accommodate more space for the bar, more parking will be needed. Police Chief Winchowky sent a letter in favor of the location for a sports bar. Plan Commission reviewed and sent a favorable recommendation.

Moved by Bakst and seconded by Graczyk to grant a conditional use permit to Jim Jones to operate a tavern, pursuant to Sec. 100-157, located at 215 Bay View Rd., Suite C. Reasons for granting the conditional use are: 1) The Police Department sees no problems with the business and the location, 2) The Plan Commission approved the operation and 3) Three people spoke in favor. The conditions are: 1) The applicant will operate based on the Plan of Operation submitted for this meeting and 2) If any outdoor activities were to be planned, the applicant must receive approval from the Judicial Committee and the Village Board. Motion carried without a negative vote.

Moved by Bakst and seconded by Jones to grant a variance to the parking ordinance, pursuant to Section 100-403, to DN Greenwald for the property located at 215-225 Bay View Rd. The condition is if more businesses are put in or the building changes, the building owner must install more parking to comply to comply with the Village Ordinance. Motion carried without a negative vote.

Request for Conditional Use and Variance – 507 Main St. – Michael Clark, Overtime Sports Tavern – The applicant is no longer proceeding with the proposed operation.

NEW BUSINESS

Request for Conditional Use Permit – 710 Main St. – Outside Sales and Display – Village Plaza – Tim Lobdell presented plans to have outside displays at the Village Plaza building located at 710 Main St. Lobdell distributed a layout of where things will be displayed. The Fire Chief approved the propane. The storage sheds will be placed to the east of the building, out of sight. Many things have already been there since the remodel in 1984. Hankovich stated that this will be an expansion of the current conditional use. He also stated that the 2003 zoning changes made all outside sales and displays a conditional use and all existing displays must be gone by 2008. Jones stated that he wants the Plan Commission to review. How is it decided who displays what?

KC Meracle, owner Blooms in Bloom, 717 Main St.: She is the owner of the new flower shop in the Village Plaza building. She would like to have decorations outside, but they will not be displays.

Moved by Bakst and seconded by Graczyk to table the issue and to send it to the Plan Commission for

guidance on the direction the Village is going in regarding outside displays and their input on displays on the south and west sides of the Village Plaza building. Motion carried without a negative vote.

ITEMS FROM THE FLOOR

The next meeting will be November 30, 2006.

Moved by Kelly and seconded by Bakst and carried to adjourn the meeting at 8:21 pm.

Steven A. Braatz, Jr.

Deputy Clerk

Deputy Clerk Braatz called the Board of Building and Zoning Appeals meeting to order on Thursday, November 30, 2006, at 7:30 p.m. Members present: GRACZYK, BAKST, KELLY and JONES. Member excused: KLAPPA. Also present: Supervisor of Inspections/Zoning Administrator Hankovich and Atty Reilly.

Moved by Bakst and seconded by Jones to appoint Kelly as acting chairperson. Motion carried without a negative vote. Moved by Bakst and seconded by Jones to approve the minutes of the October 26, 2006 meeting as presented. Motion carried without a negative vote.

PUBLIC HEARINGS

Request for Conditional Use Permits and Variance – TID #3 – Construction of Gas Station – Darwin Greenwald, DC Properties LLP – Darwin Greenwald, DC Properties LLC, presented plans for a proposed gas station/convenience store/restaurant to be located on East Wolf Run in one of the outlots in front of Home Depot in the Tax Incremental District #3 (TID #3). DN Greenwald was also present. The restaurant would most likely be Arby's. Darwin believes this is a good spot for an Arby's and a gas station. The entrance will be from the Home Depot parking lot. It will be a nice looking building and will bring more attention to the area. Bakst stated that the property abuts the driveway between Home Depot and Wal-Mart. This proposal would create lots of congestion. He asked if there are any other lots the TID. Darwin stated that the design of that lot was to develop a satellite lot. Whatever goes in there will generate traffic. DN stated that there are no other outlots available in the TID. This lot is the furthest away from STH 83 that is available. Jones stated that there are no gas stations in business developments in other municipalities, such as Delavan, Delafield and New Berlin. He also stated that there is land further into the TID. He has a problem with putting a gas station in the business area. DN stated that Wal-Mart put a restriction on in Delavan because they wanted to put in a gas station. They wanted to do that here, but DN would not allow that. He stated that this will be the best looking gas station in Mukwonago. Bakst stated that once the TID is developed, one business feeds off another. No matter where it is in the TID, it will be successful. Hankovich explained that the distance between gas stations was changed from 1,000 feet apart to 1,500 feet in January of 2006. He also explained that the distance measurement is defined as lot line to lot line. He stated that the distance between the tanks would be 1,550 feet, but the distance between lot lines is 1,324 feet. He acknowledged that the real reason for instituting the 1,500 feet rule was the fear of having numerous gas stations around STH 83 and I-43. There was discussion by the Plan Commission over whether or not the distance should be measured from tank to tank rather than lot line to lot line. There is an internal ingress/egress and no public access to East Wolf Run. DN stated that they began the application for review prior to the ordinance change and feels that the Village pulled the rug out from under them. Reilly stated that there is no vested interest until a permit has been taken out. Hankovich stated that the Plan Commission has the final say on design, landscaping, etc. Reilly explained that all Architectural/Site Plan Reviews for TID property are handled at the Plan Commission. The Board of Building and Zoning Appeals does not have to grant a conditional use permit. If the variance were to be granted tonight, it should be contingent upon the entire project being approved. Graczyk stated that the tank distance is not a concern. Kelly agrees with the lot line to lot line measurement to define the distance as stated in Section 100-21 (5)(a) since every other distance measurement is done that way. He is not in favor of granting a variance. He does not think this lot is appropriate for a gas station and would vote against it. DN stated that he believes the proposal is favorable to the community and the TID and cannot see any reason to deny it. He also stated that he has not been approached by anyone to purchase property or develop on the remaining TID land that he owns. He has listed his property with a number of realtors. Darwin stated that this development will help other developments in the TID. He passed out one letter from Carish, Inc. (Arby's) in favor and another from Matt Weinstock, John Amato Ford, also in favor because of the use of flex fuel products that this gas station would carry. Bakst asked Darwin if he ever considered any other business or use for that lot. Darwin stated that he has no knowledge in any other kind of business. Gas stations are what he knows. He would rent out the portion for the restaurant to

Arby's so someone else can run it. There were no comments from the public.

Moved by Graczyk and seconded by Jones to deny Darwin Greenwald, DC Properties LLC, a variance to Section 100-21 (5)(a) of 176 feet for the proposed construction of a gas station/convenience store/restaurant located on Lot 3 of CSM 9639 in the TID #3. Reasons for denying are: 1) Based on the discussion of the Board of Building and Zoning Appeals on November 30, 2006, 2) There are other lots in the area that could be utilized for this proposal without getting a variance and 3) a fueling station does not fit into this area of the TID #3. Motion carried without a negative vote.

Request for Variance – Lot 25 of The Orchards of Mukwonago – Cheri Neibauer, William Ryan Homes – The Wisconsin Department of Natural Resources was not notified. Section 100-807 states that all applications for a variance to conservancy regulations in a shoreland or to floodland regulations shall be transmitted to the DNR. Kelly tabled the public hearing until the meeting on January 25, 2007.

OLD BUSINESS

Request for Conditional Use Permit – 710 Main St. – Outside Sales and Display – Village Plaza – Moved by Bakst and seconded by Jones to grant a conditional use permit for outside displays with locations as shown on Exhibit A. The allowed displays are 1) An outside chicken roaster in the terrace area east of the door to the Hidden Café, 2) An outside seating area for seating for 12 people in the same area as the chicken roaster, 3) Accent decorations only near the door to the florist and 4) A new shed to replace the existing shed near where the L-Cove starts. Idioms not allowed are: 1) The canopy for the outside seating area, 2) The two display and sales area along the west wall for the sporting goods shop and the t-shirt shop and 3) salt bags on the gas island or in front of the store. Conditions are: 1) There shall be improvement of the appearance of pre-existing outside display and storage areas, such as a fresh coat of paint on the storage sheds and 2) There shall be a painted walkway from the west parking lot to the north door to the gas station, with no obstructions in the walkway. Motion carried without a negative vote.

Moved by Bakst and seconded by Graczyk and carried to adjourn the meeting at 9:19 pm.

Steven A. Braatz, Jr.
Deputy Clerk