



ZONING BOARD OF APPEALS AGENDA

Thursday, April 14, 2016

5:30 p.m.

Town Hall - 1900 W. Grand Chute Blvd

1. Call to Order and Roll Call.
2. Approval of Minutes – March 10, 2016 meeting.
3. **Public Hearing #1** – V-04-16 requested by Joseph E. and Karla J. Berken, dba J&B Home Improvement, 3225 E. First Avenue, for the appeal of a decision by the Town Board of Supervisors of the Town of Grand Chute, Outagamie County, Wisconsin, to deny a request for a special exception to allow contractor storage use of a building on property zoned AGD General Agricultural District. Said appeal pursuant to Chapter 535-95 of the Town of Grand Chute Municipal Code. **Action:** Hear testimony/close public hearing.
4. **Action on Appeal V-04-16** – Request by Joseph E. and Karla J. Berken, dba J&B Home Improvement, 3225 E. First Avenue, for the appeal of a decision by the Town Board of Supervisors of the Town of Grand Chute, Outagamie County, Wisconsin, to deny a request for a special exception to allow contractor storage use of a building on property zoned AGD General Agricultural District. Said appeal pursuant to Chapter 535-95 of the Town of Grand Chute Municipal Code. **Action:** Affirm or reverse Town Board decision.
5. Adjournment.

A quorum of the Town Board, Park Commission, Police and Fire Commission, Board of Appeals, and Licensing Committee may be present at this meeting. No official action of these bodies will be taken. **Accommodation Notice**-Any person requiring special accommodation who wishes to attend this meeting should contact **(Administration at 832-1573)** at least 48 hours in advance.

TOWN OF GRAND CHUTE
ZONING BOARD OF APPEALS MINUTES
March 10, 2016

Members Present: Karen Petersen, Aaron Janssen, Cheryl Ulrich, Kiersten Gustafson, Dan Schultz

Members Absent: none

Also Present: Robert Buckingham, Community Development Director

1. **CALL MEETING TO ORDER AND ROLL CALL**

Chair Petersen opened the meeting at 5:30 p.m. and roll call was taken.

2. **APPROVAL OF MINUTES** – REGULAR MEETING OF FEBRUARY 25, 2016.

Motion (Janssen/Ulrich) to approve the minutes. Motion carried, all voting aye.

3. **PUBLIC HEARING #1:** VARIANCE (V-03-16) REQUESTED BY BLANCO DEVELOPMENT LLC ON BEHALF OF NATURAL HEALTHY CONCEPTS, 310 N. WESTHILL BOULEVARD, FOR A VARIANCE FROM CH. 535-107 (D)(1) OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW MODIFICATION OF A PYLON SIGN THAT EXCEEDS 25 FEET IN HEIGHT AND 144 SQUARE FEET IN SIZE.

The Chair opened Public Hearing #1 at 5:32 p.m.

Rod Fredrickson, Appleton Sign Company, spoke on behalf of the applicant and provided history on the sign at this location. He stated that the limited amount of land area between the parking lot and the front property line restricts placing a sign anywhere other than the location of the existing pylon. The current sign was installed before the applicant purchased the property. The applicant wishes to upgrade the sign and add an electronic message center. In keeping with Town policy regarding nonconforming signs, the applicant presents a plan for a modified sign at a reduced height and smaller size than what exists now. The modified sign will also eliminate any encroachment beyond the right-of-way of Westhill Blvd.

Lisha Vanevenhoven, Natural Healthy Concepts, noted that the new cabinets will use LED lighting.

Motion (Gustafson/Janssen) to close Public Hearing #1 at 5:35 p.m. Motion carried, all voting aye.

4. **VARIANCE (V-03-16)** - REQUEST BY BLANCO DEVELOPMENT LLC ON BEHALF OF NATURAL HEALTHY CONCEPTS, 310 N. WESTHILL BOULEVARD, FOR A VARIANCE FROM CH. 535-107 (D)(1) OF THE TOWN OF GRAND CHUTE MUNICIPAL CODE, TO ALLOW MODIFICATION OF A PYLON SIGN THAT EXCEEDS 25 FEET IN HEIGHT AND 144 SQUARE FEET IN SIZE.

Director Buckingham provided the findings of fact in support of granting a variance as requested. He noted that the current sign structure was built under permit from a past Sign Code. The effect of granting a variance now will be to characterize the sign as nonconforming to the current Sign Code.

Motion (Ulrich/Schultz) to approve the Variance (V-03-16) requested by Blanco Development LLC, on behalf of Natural Healthy Concepts, 310 N. Westhill Blvd., to modify an existing sign to be at a height of 30'-0" and a size of 171 sq. ft. Motion carried, all voting aye.

5. **ADJOURNMENT**

Prior to adjourning, Director Buckingham noted that at its April 14, 2016 meeting, the Board would hear an appeal of a decision by the Town Board regarding denial of a special exception.

Motion (Janssen/Ulrich) to adjourn the meeting at 5:39 p.m. Motion carried, all voting aye.

Respectively submitted,
Tracy Olejniczak,
Community Development Secretary

Town of Grand Chute
Appeal of a Town Board decision
Joseph E. & Karla J. Berken, dba J & B Home Improvement

TO: Zoning Board of Appeals

FROM: Robert Buckingham, Community Development Director

DATE: April 8, 2016

ADDRESS: 3225 E. First Avenue

App. #: V-04-16

REQUEST

Applicant previously requested approval of a Special Exception Permit to allow contractor storage use of a building on property zoned AGD General Agricultural District. The request was denied by the Grand Chute Town Board on January 5, 2016. The Board's decision was based on the same reasoning and findings of fact supporting denial that were recommended by the Grand Chute Plan Commission on December 15, 2015. The applicant has filed an appeal of the Town Board's decision to deny the Special Exception Permit. The appeal is presented to the Zoning Board of Appeals pursuant to Chapter 535-95 of the Grand Chute Zoning Code.

ANALYSIS

Applicant (Mr. Berken) owns the subject property and some adjacent vacant farmland. There are also 4 existing residential dwellings in the immediate vicinity (See map attached as Exhibit 1). Beginning in 2012, Town staff had numerous discussions with the applicant on his potential plans to develop the farmland (highlighted in orange on Exhibit 1) with commercial service type uses, including a building for his window/home improvement business, known as J & B Home Improvement Co. Over the course of these discussions, a number of critical approvals and development steps were identified that would need to be completed for this conversion from farmland to commercial development. In July 2014, Mr. Berken informed Town staff that he would no longer be pursuing development of the farmland for commercial purposes. Shortly thereafter, Mr. Berken inquired about building a commercial storage building on the property he owns at 3225 E. First Avenue (highlighted in yellow on Exhibit 1). He was advised by Town staff that this use could only be authorized if the property were rezoned to Commercial classification, or if he was granted a Special Exception Permit to allow the use under the prevailing AGD General Agricultural District standards. No such rezoning request was made and no Special Exception Permit was applied for. In October 2014, Mr. Berken applied for a building permit to build an agricultural storage building for farm equipment used on his adjoining farmland. It was made clear by the Chief Building Inspector that this building could only be used for agriculture purposes. Mr. Berken told both the Chief Building Inspector and me that he would store farm equipment in this building and he specifically mentioned a tractor would be stored. The building permit was issued based upon representations from Mr. Berken that its use would be for Ag purposes only. The permit was issued for an "Agricultural Unoccupied Storage Building" (See building permit attached as Exhibit 2). Construction of the building was completed in March 2015 (See Chief Building Inspector Nate's project timeline and building photos attached as Exhibit 3). Shortly thereafter, the Town was notified by letter from an attorney representing Mr. and Mrs. Ebben, who live at 3217 E. First Avenue. The letter alleged that Mr. Berken was using the building for his contractor business. Included was a yellow pages phone listing for Mr. Berken's business (See phone listing attached as Exhibit 4) and photos supporting that a business was being conducted at the building (See photo attached as Exhibit 5). The matter was referred to the Town Attorney, who notified Mr. Berken of the reported violation of zoning codes for that location (See letter attached as Exhibit 6). The Chief Building Inspector re-inspected on June 1, 2015 and it was discovered that there were windows, doors, building materials and

accessories being received at and shipped from this agricultural unoccupied storage building (See inspection report and photos attached as Exhibit 7).

In October 2015, Mr. Berken applied for a Special Exception Permit to allow contractor storage use of a building that was authorized for construction and use as agricultural unoccupied storage only. The Plan Commission public hearing was conducted over 2 meetings. After hearing testimony and deliberating on the request, the Plan Commission recommended denial of the Special Exception based on findings of fact supporting denial (See 12/15/15 PC minutes attached as Exhibit 8). The Plan Commission's vote was unanimous.

When granting a Special Exception Permit, the Town Board, using the reasoning and recommendation from the Plan Commission, is required to determine that four findings of fact are met. Those four findings of fact and the determination for each in the Berken case are:

- a. **The establishment, maintenance or operation of the proposed Special Exception use or structure at the proposed location will not be detrimental or injurious to the use and enjoyment of existing uses on adjacent properties or properties in the vicinity.** The standard has not been met. Testimony and supplemental information have been provided by all four owners of residential property that are adjacent to or in the vicinity of the applicant's property. All have expressed concern for the negative impacts of this commercial use, negative effect from commercial traffic that is generated on a residential road (First Avenue), the harm to the investments in their properties, and concerns over the long range prospect of having commercial uses operate near them.
- b. **The establishment, maintenance or operation of the proposed Special Exception use or structure, alone or in combination with other existing Special Exception uses and structures in the vicinity will not cause traffic hazards.** The standard has not been met. The unauthorized operation of this business without proper permitting has provided evidence of the negative traffic impact to the neighborhood. The design of the structure requires commercial vehicles to back into the property directly from First Avenue. This causes deterioration of a rural section residential road that was not built to accommodate commercial vehicle traffic. Photographic evidence of semi vehicles making deliveries to the property enhances the traffic hazards associated with the business.
- c. **Adequate provision is made for surface water drainage, ingress and egress to the property, and off-street parking.** The standard has not been met. The building at the subject property was approved by the Town as an unoccupied agricultural storage building. Due to the underlying AGD General Agricultural District zoning classification, the building did not require Site Plan approval, Drainage and Erosion Control Plan approval, on-site stormwater management facilities, or review for ingress-egress and off-street parking accommodation. All of these plans are required for a commercial use building, which is what Mr. Berken has used the property for without authorization.
- d. **Adequate public facilities and services are available for the proposed Special Exception use of structure.** The standard has not been met. First Avenue is a rural section residential road. It is not built to withstand the commercial truck traffic and vehicle turning that Mr. Berken's window business requires. Commercial vehicle access to First Avenue is via French Road, which is also a rural section road in poor condition. In its current configuration and level of traffic, adding any amount of commercial traffic will further deteriorate this road surface.

Based on the Plan Commission's reasoning and findings of fact supporting denial, the Town Board denied the Special Exception Permit request at its January 5, 2016. The Board's decision was unanimous.

Technically, under the general agricultural district standards for special exception uses, Mr. Berken's request cannot even be granted because the building he wants to operate his business at doesn't meet the requirements of Section 535-24 (D)(7) and 535-24 (D)(1) (See code attached as Exhibit 9). The code states that this special exception cannot be granted if the use or structure is within 500 feet of an existing residential dwelling other than the owner's, or if it's within 500 feet of the exterior boundary of a recorded subdivision plat. Berken's structure is within 300 feet or less of 4 residential dwellings, and his building plus 3 of the dwellings are on lots located in the recorded plat of "Clem Romenesko Plat."

Nevertheless, the Town chose to give Mr. Berken every opportunity to present his case for a Special Exception Permit. His request was recommended for denial on a unanimous vote by the Plan Commission. His request was unanimously denied by the Town Board. His request for an appeal to the Board of Appeals is the final stage in the process, unless it is further appealed to Circuit Court.

RECOMMENDATION

Staff recommends that the Grand Chute Zoning Board of Appeals affirm the Grand Chute Town Board's decision to deny the request by Joseph E. and Karla J. Berken, dba J & B Home Improvement, 3225 E. First Avenue, for a special exception permit to allow contractor storage use of a building on property zoned AGD General Agricultural District.

Grand Chute GIS Map



This map was compiled using data believed to be accurate; however, a degree of error is inherent in all maps. This map was distributed "AS-IS" without warranties of any kind, either expressed or implied, including but not limited to warranties of suitability to a particular purpose or use. No attempt has been made in either the design or production of the maps to define the limits or jurisdiction of any federal, state, or local government. Detailed on-the-ground surveys



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EXHIBIT



Cary Nate - General Timeline for Joe Berken on 3225 W.First Avenue.

From: Cary Nate
To: Robert Buckingham; Eric Thiel; Jeff Kopecky
Date: 5/13/2015 2:47 PM
Subject: General Timeline for Joe Berken on 3225 W.First Avenue.

Here is the timeline for Joe Berken on 3225 W.First Avenue.

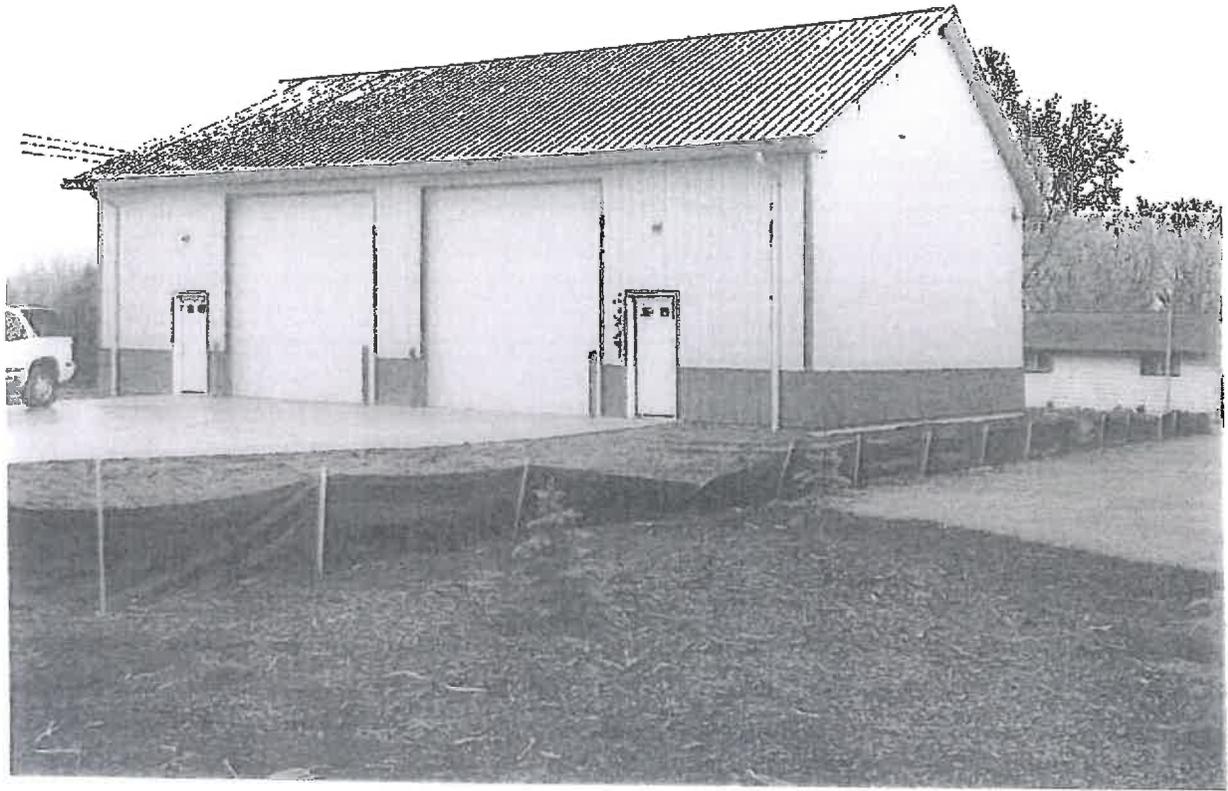
- 10/6/14 - Joe Berken applied for a building permit.
- 10/7/14 - The Town approved the driveway access permit.
- 10/10/14 - Permit issued for "New Agricultural Unoccupied Storage Building."
- 10/10/14 - Inspected the site for the foundation floor.
- 1/26/15 - Issued heating permit. A heating plan was not required as this was being considered an agricultural building and is not required to follow the commercial building code.
- 1/29/15 - Issued an electrical permit for wiring.
- 1/29/15 - Inspected electrical service.
- 2/9/15 - Conducted rough framing and electrical inspection.
- 3/16/15 - Joe applied for and was issued a permit to install a mezzanine in a portion of the building.
- 3/20/15 - Conducted a framing inspection on the mezzanine.
- 3/26/15 - Conducted final inspection for "Unoccupied Agricultural Storage Building." The structure was complete, therefore the file was closed.

There were initial discussions with Joe Berken that a Commercial Building (Contractor Storage) would require a Special Exception permit to be issued by the Town Board. That would also require Commercial Building plans to be approved, a Site Plan to be approved by the Plan Commission along with required compliance with the Stormwater regulations of the Town of Grand Chute.

Town Municipal Code also allows an agricultural storage garage to be built on land zoned Agricultural. The Building code exempts Agricultural buildings from being required to comply with the Commercial Building Code. Joe stated that he would use the building for storing his tractor and other equipment for maintaining the adjoining agricultural land he owned. That is why the permits were issued as they were, and the final inspection stated this was an "Unoccupied Agricultural Storage Building."

Cary J. Nate

Chief Building Inspector
 Town of Grand Chute
 1900 Grand Chute Blvd.
 Grand Chute, WI 54913
 Office: (920) 832-1599
 Fax: (920) 832-1625
 e-mail: Cary.Nate@grandchute.net
 Visit our web site at: www.grandchute.net





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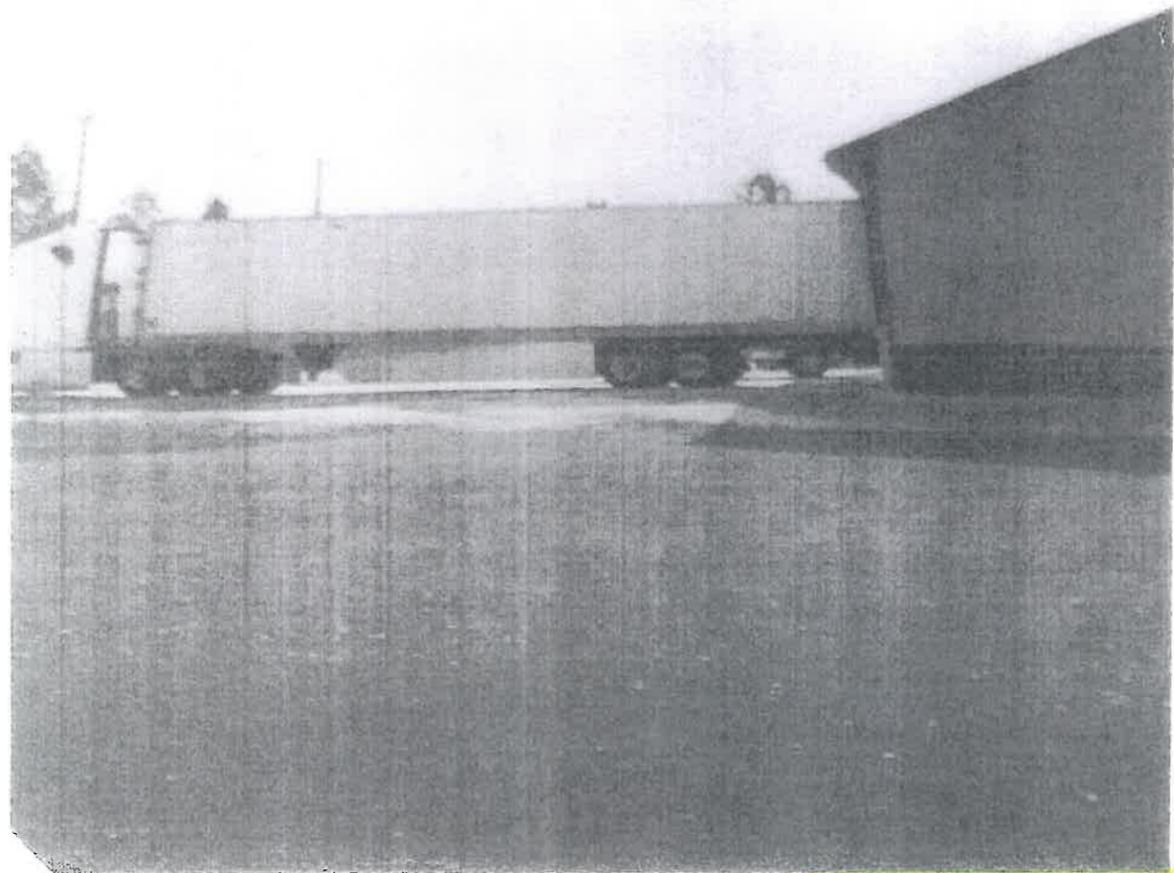


Photo From April or May 2015

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920.749.7366
Fax: 920.749.6452

Green Bay
920.468.7366

New London
920.982.9672

Oshkosh
920.385.0646

May 15, 2015

Mr. Joe Berken
73 Bellevue Place
Appleton, WI 54913

RE: Possible Zoning Violation
3225 E. First Avenue

Dear Mr. Berken:

Our firm represents the Town of Grand Chute and it has been reported to us that your building located at the address above is being used for purposes not authorized by the applicable zoning code for that location.

The permit for this property and the zoning allows usage for agricultural storage only. This zoning classification does not allow commercial use or storage of other commercial products. If you are using this property for unauthorized purposes, we have been requested by the Town to direct you to bring the structure and usage into compliance immediately.

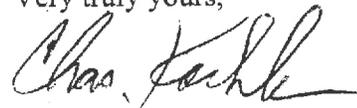
For details on what usage is allowed of this structure, please contact the Town Community Development Department at 832.1599.

The Town is in possession of photographs showing large box trucks loading or unloading what appear to be building materials. On behalf of the Town I am requesting that you make access available sometime in the next 7 business days to an official from the Town to inspect the content of this building.

Violations are subject to civil fines and forfeitures pursuant to municipal citations as well as injunctive relief through the Circuit Court for Outagamie County which may result in further costs and fees if such enforcement becomes necessary.

Thank you.

Very truly yours,



Charles D. Koehler
Direct Dial: 920-882-3227

CDK: kap
cc: Town of Grand Chute

WILLIAM W. WILSON
612.200.0000
JENNIFER L. HILL
612.200.0000
JAMES P. HANDEL
612.200.0000
MICHAEL J. HAWKSWORTH
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KAREN S. KELLY
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MICHAEL J. SUTHERS
612.200.0000
CHRISTOPHER ROEDER
612.200.0000
KYLE J. SANDERSON
612.200.0000

TOWN OF GRAND CHUTE

INSPECTION REPORT and notice of noncompliance



Report Date:	Date Requested:	Permit No.:	Inspection Date:
Inspection Type(s): <input type="checkbox"/> Laterals <input type="checkbox"/> Footing <input type="checkbox"/> Foundation <input type="checkbox"/> Erosion Control <input type="checkbox"/> Bsmt Drain Tile <input type="checkbox"/> Underslab Pibg <input type="checkbox"/> Construction <input type="checkbox"/> Rough Electrical <input type="checkbox"/> Rough HVAC <input type="checkbox"/> Rough Plumbing <input type="checkbox"/> Insulation <input type="checkbox"/> Final /Occupancy <input type="checkbox"/> Complaint <input type="checkbox"/> Electric Service <input type="checkbox"/> Above Ceiling <input type="checkbox"/> Basement Poly <input type="checkbox"/> Other			
Project Address: <i>325 W. WILCOX</i>		Subdivision:	Parcel No.:
Owner:		Contractor:	

Violations Explained To:	Compliance Date:	Certified Inspector's Name:
Phone No.: 920-832-1599	Fax No.: 920-832-6036	
Visit the Town Website: grandchute.net		Inspector's Address: 1900 Grand Chute Boulevard

An inspection of the above premises has disclosed the following non-compliant items: None Noted

Area Inspected, if Partial Inspection:	If Final Inspection, Occupancy May: <input type="checkbox"/> Take Place Now <input type="checkbox"/> Take Place Conditionally <input type="checkbox"/> Not Take Place Until The Items Below Are Corrected and Inspected <input type="checkbox"/> Other:
--	--

ORDER NO.	CODE SECTION	FINDINGS AND REQUIREMENTS
		<i>Storming Windows + Pat's Pounds Accessories + Tractor & Trailer will be stored here & other items use up north end of foot plot.</i>

[This inspection report and photos completed
 by Chief Building Inspector Cary Nate on
 June 1, 2015 in response to a neighbor
 complaint]

IMPORTANT: Please report when violations are corrected. **AVOID DELAY**

Notice of Noncompliance: All cited violations shall be corrected within 30 days after written notification unless an extension of time is granted. Each day that the violation continues after notice shall constitute a separate offense and is subject to remedies and penalties by the authority having jurisdiction.







GRAND CHUTE PLAN COMMISSION MINUTES

December 15, 2015



Members Present: Chairman Dave Schowalter, Commissioners Bruce Sherman, Robert Stadel, Joe Malenofski, Julie Hidde, Pam Crosby, Duane Boeckers

Members Absent: Vivian Huth

Also Present: James March, Town Administrator; Thomas Marquardt, Public Works Director; Bob Heimann, IT Director; Michael Patza, Town Planner; Robert Buckingham, Community Development Director; other interested parties (audience attendance = approx. 6)

1. **ROLL CALL**

Chairman Schowalter opened the meeting at 6:00 p.m.

2. **PLEDGE OF ALLEGIANCE.**

3. **APPROVAL OF AGENDA.**

Motion (Sherman/Boeckers) to approve the agenda. Motion carried, all voting aye.

4. **APPROVAL OF MINUTES** – DECEMBER 1, 2015 MEETING.

Motion (Hidde/Crosby) to approve the December 1, 2015 minutes. Motion carried, all voting aye.

5. **PUBLIC INPUT**

None.

6. **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT** – NO REPORT TONIGHT.

7. **SPECIAL EXCEPTION (SE-27-15)** – (CONTINUED FROM PREVIOUS PLAN COMMISSION MEETINGS) REQUEST BY JOSEPH E. & KAREN J. BERKEN, DBA J&B HOME IMPROVEMENT, 3225 E. FIRST AVENUE, TO ALLOW CONTRACTOR STORAGE USE OF A BUILDING ON PROPERTY ZONED AGD GENERAL AGRICULTURAL DISTRICT.

Director Buckingham provided background on the request, testimony and discussion from previous meetings, and additional comments received by the Town. He presented the findings of fact in the case, none of which have been met. Staff supports a Plan Commission recommendation for denial of the Special Exception.

Motion (Sherman/Stadel) to recommend denial of the Special Exception Permit (SE-27-15) requested by Joseph E. & Karla J. Berken, dba J&B Home Improvement, 3225 E. First Avenue, to allow contractor storage use of a building on property zoned AGD General Agricultural District. In denying the Special Exception, the Plan Commission finds that: (1) The establishment, maintenance or operation of the proposed Special Exception use or structure at the proposed location will be detrimental or injurious to the use and enjoyment of existing uses on adjacent properties or properties in the vicinity; (2) The establishment, maintenance or operation of the proposed Special Exception use or structure, alone or in combination with other existing Special Exception uses and structures in the vicinity will cause traffic hazards; (3) Adequate provision is not made for surface water drainage, ingress and egress to the property, and off-street parking; and, (4) Adequate public facilities and services are not available for the proposed Special Exception use of structure. Motion carried, all voting aye.

(draft) PCM 12/15/2015

8. **SITE PLAN AMENDMENT (SPA1-02-15)** – REQUEST BY JAMES M. PETR, DBA WESTHILL RETAIL CENTER & MILWAUKEE PC, 330 N. WESTHILL BOULEVARD FOR CONSTRUCTION OF MULTI-TENANT PYLON SIGN.

Motion (Malenofski/Hidde) to approve the Site Plan Sign Amendment (SPA1-02-15) requested by James M. Petr, dba Westhill Retail Center & Milwaukee PC, 330 N. Westhill Blvd., for the installation of an 88 sq. ft. multi-tenant pylon sign. Motion carried, all voting aye.

9. PRESENTATION TO JOE MALENOFSKI, ON HIS FINAL MEETING AS A PLAN COMMISSIONER MEMBER.

10. ADJOURNMENT.

Motion (Sherman/Stadel) to adjourn at 6:06 p.m. Motion carried, all voting aye.

Respectfully Submitted,

Tracy Olejniczak
Community Development Secretary



- (2) Riding stables.
 - (3) Sawmills.
 - (4) Farm equipment and machinery sales and service.
 - (5) Establishments for the processing, centralized bulk collection, storage, or distribution of agricultural products.
 - (6) Governmental uses, including landfills, highway storage facilities and public buildings.
 - (7) Public and semipublic nonprofit institutional uses, including churches, schools, libraries, museums and the like.
 - (8) Veterinary offices.
- E. Dimensional requirements.
- (1) Principal agricultural uses and structures. Minimum lot area: 35 acres. There are no minimum lot width or yard requirements and no height limitations.
 - (2) Preexisting dwellings and accessory dwellings on a separate parcel. Minimum lot area: 20,000 square feet; minimum lot width: 100 feet. Yards shall be a minimum of 25 feet in depth if at the front or rear and 15 feet in width if at the side. There are no height limitations.
 - (3) Other permissible principal uses and structures. Minimum lot area: one acre; minimum lot width: 150 feet; minimum front and rear yard depth: 40 feet. Minimum lot area and yard requirements may be increased as a condition of a special exception permit.
- F. Permitted accessory signs. As stipulated in Article **XV**, Signs and Billboards.

§ 535-24. AGD General Agricultural District.

[Amended 3-18-1997; 4-3-1997; 2-22-2001; 3-5-2002]

- A. Purpose. The intent of this district is to maintain open land areas predominantly devoted to farming and agricultural-related uses. It is anticipated that while certain areas within this district will eventually be used for nonagricultural uses, the intensity of development will remain significantly limited due to a lack of urban facilities and services. It is also intended that this district provide for small-scale, family-oriented businesses on a case-by-case basis.
- B. Permitted principal uses and structures.
- (1) Permitted principal uses and structures in § **535-23B(1)** in the AED District.
 - (2) Parks and nature preserves.
 - (3) Single-family detached dwellings and mobile homes, unrelated to any farm operations, as a principal use and structure on individual lots which are not part of a recorded subdivision plat as defined in Chapter **475**, Subdivision of Land, of this Code. Mobile homes shall be further subject to § **382-10C** of this Code requiring a ten-acre parcel and a special permit.
- C. Permitted accessory uses and structures. Permitted accessory uses and structures in § **535-23C(1)** through **(4)** in the AED District.
- D. Special exception uses and structures.
- (1)

Special exception uses and structures in § 535-23D(1) through (6) in the AED District; provided, however, that no such use or structure shall be located within 500 feet of an existing residential dwelling other than the owner's or within 500 feet of the exterior boundary of a recorded subdivision plat.

- (2) Public and semipublic nonprofit institutional uses of similar nature.
- (3) Golf courses.
- (4) Two-family dwellings, provided that the dimensional requirements of § 535-27 are met.
- (5) Cemeteries.
- (6) Veterinary offices.
- (7) Warehouse, storage, and building supply establishments subject to the conditions in Subsection D(1) above.
- (8) Resource extraction uses, including quarrying and sand and gravel pits, subject to the requirements to § 535-58.
- (9) Outdoor commercial recreational uses, including recreational camps, campgrounds, golf, archery and rifle ranges, sledding and skiing facilities and uses of a similar nature.
- (10) Commercial exhibits of historical or natural significance.
- (11) Contractor's storage yard.
- (12) The following uses, provided that the owner or proprietor resides on the premises: automobile, farm equipment and small engine repair shops; offices and/or shops in connection with skilled tradesman, including plumbers, electricians, carpenters, welders and the like; and production and/or sales of crafts produced on the premises, provided that mechanical or chemical processes are incidental or nonexistent.
- (13) Taverns existing before the effective date of adoption of this chapter.
- (14) Sales of lawn and garden equipment in connection with a plant nursery.
- (15) Airports, public or private.
- (16) Dog kennels.
- (17) Antennas and towers in accordance with Article XVI of this chapter.^[1]

[1] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

E. Dimensional requirements.

- (1) Principal agricultural uses.
 - (a) Minimum lot area: four acres.
 - (b) Minimum lot width at setback line: 200 feet.
 - (c) Minimum front yard: 25 feet.
 - (d) Minimum side yard: zero feet.
 - (e) Minimum rear yard: zero feet.
- (2) Single-family detached dwellings and mobile homes on individual lots.

V-04-16

**Applicant's
Submittal
Packet**

SWEENEY LAW OFFICE S.C.

www.sweeneylawoffice.com

ROBERT D. SWEENEY
HANS R. THOMPSON

104 E. STATE HWY 54
P.O. BOX 206
SEYMOUR, WI 54165
Phone: (920) 833-6116
Facsimile: (920) 833-6114

103 W. NORTH WATER ST.
NEW LONDON, WI 54961
Phone: (920) 250-5504
Facsimile: (920) 250-5751

March 4, 2016

HAND DELIVERED

Zoning Administrator and Board of Appeals
Town of Grand Chute, Wisconsin

Re: Notice of Appeal of Grand Chute Town Board Decision of January 5, 2016

Dear Zoning Administrator and Board of Appeals,

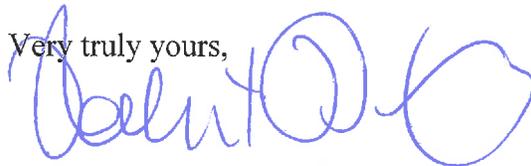
On January 5, 2016, the Grand Chute Town Board denied the request of Joseph and Karla Berken for a special exception under Article XI of Chapter 535 of the Town of Grand Chute Ordinances. Town of Grand Chute Ordinance § 535-89 allows any person aggrieved by a decision of the Town Board to appeal that decision pursuant to § 535-95. Ordinance § 535-95(B) states that any person aggrieved by the Town Board may file an appeal within 60 days of the order appealed from. The party must file a "notice of appeal" with the Zoning Administrator and with the Zoning Board of Appeals specifying the grounds of said appeal.

Based upon multiple conversations with Town of Grand Chute employees, including Robert Buckingham, Community Development Director, the Town does not have a "Notice of Appeal" form that is required to be filed in order to initiate an appeal pursuant to § 535-89. The only form used by the Community Development Department vis a vis the Zoning Board of Appeals is a "Variance Application." However, an appeal of a Town Board decision under § 535-89 on a request for a special exception is not the same as a request for a variance under § 535-96. As such, the Berkens respectfully request that this letter, and the enclosed "Grounds for Appeal," be accepted as their Notice of Appeal in regards to the Town Board's January 5, 2016, decision to deny their request for a special exception.

Please also find enclosed the Berkens' application for a Variance under § 535-96.

Thank you for your attention to this matter. If you have any questions, please feel free to contact me.

Very truly yours,



Robert D. Sweeney

Enclosures

cc: Mr. Joseph Berken

GRAND CHUTE - VARIANCE APPLICATION

Community Development Department
 1900 W. Grand Chute Blvd.
 Grand Chute, WI 54913
 Phone: 920-832-1599
 E-mail: comdev@grandchute.net
 Website: GrandChute.net



COMMUNITY DEVELOPMENT

Office Use Only

File #: V - _____ - _____
 Date: _____ / _____ / _____
 Paid: \$ _____
 By: _____
 Rect#: _____

SUBMITTAL REQUIREMENTS

Fee: \$500
Plan Copies: 4 (Including statement of hardship, site plan, and other required documents)

VARIANCE REQUEST

Request for Variance from Ch. 535 - 24 Zoning Code. Please provide a description of the request for the variance below.

REQUEST FOR A VARIANCE TO USE A BUILDING CONSTRUCTED FOR THE PURPOSE OF WINDOW AND DOOR STORAGE FOR ITS INTENDED PURPOSE

PETITIONER

PETITIONER		PROPERTY OWNER (IF NOT PETITIONER)		
Name JOSEPH BERKEN		Name		
Street Address 73 BELLEVUE PLACE		Street Address		
City APPLETON	State WI	Zip Code 54913	City	State
Phone 120-585-6477		Phone		
E-mail		E-mail		

PROPERTY INFORMATION

Parcel No. / Tax Key No. **102 - 109600**

Site Address / Location **3225 E. FIRST AVENUE**

Current Zoning **AGD** Present Use (if any)

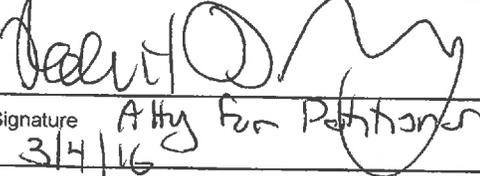
STATEMENT OF HARDSHIP (Attach a written statement)

Describe the special circumstances of your property that requires approval of a variance and the hardship that does not allow compliance with zoning regulations.

The Grand Chute Zoning Board of Appeals hears and decides all variance requests. Approval or denial of a variance is based on information provided by the petitioner, technical evaluation by Town staff, correspondence delivered to the Board, and testimony received at the public hearing. In rendering a decision, the Board may approve, approve with conditions, or deny a variance request.

Office Use Only

ACKNOWLEDGEMENT AND SIGNATURE



Signature **Atty for Petitioner**

Date **3/4/16**

**GROUNDS FOR APPEAL OF SPECIAL EXCEPTIO APPLICATION and STATEMENT
OF HARDSHIP IN SUPPORT OF VARIANCE APPLICATION**

Joseph & Carla Berken

March 4, 2016

Joseph Berken and his contractor, Timothy Lehrer had originally planned for a showroom and storage building to be built in the northwest corner of the Clem Romenesko plat. Grand Chute Community Development Director, Bob Buckingham, was part of the planning process and was aware that the building was intended to be used as storage and a showroom for windows and doors. Mr. Berken is the owner of J&B Home Improvement, a company that installs windows and doors. Due to an issue with an unvacated, unused public street, that plan fell through in July of 2014.

At some point between July and October, 2014, Mr. Berken and Mr. Lehrer met with Mr. Buckingham to discuss Mr. Berken's continued need for window and door storage. Mr. Buckingham recommended that a storage building could be built on the lot located at 3225 East First Avenue. The dimensions of a building were discussed, and Mr. Buckingham informed them of the maximum size that a building could be without the need for such additional requirements as a retention pond.

In September of 2014, Mr. Berken spoke with and received approval from the neighbors regarding his intention to build a storage building on the lot. A plan for a storage building was prepared and submitted, along with a building permit, in October, 2014. The permit was approved. Mr. Buckingham was well aware that the building would be used for the storage of windows and doors; he informed Mr. Berken and Mr. Lehrer that because the land was zoned "agricultural," the building could be used for storage only and there could be no office in the building.

In March, 2015, a permit application was submitted, and later approved, for a loft/mezzanine to be constructed in the building.

Later in 2015, a permit application was submitted for a heater to be installed in the storage building. Again, the permit was approved.

The dimensions of the lot are 144.3' by 94.' The lot is less than one third of an acre.

In May of 2015, one of the neighbors complained about the building, through a letter from an attorney. (The same neighbor had previously given written approval in September, 2014.)

Mr. Buckingham informed Mr. Berken that because of complaints from neighbors that his building was "commercial," and should not have been constructed, Mr. Berken would need to file a request for a special exception. In October, 2015, Mr. Berken filed his request for a special exception. The Planning Commission held hearings on November 3, 2015, and November 17,

2015. Testimony was taken on November 3rd and November 17th and was closed on November 17th. Prior to the decision of the Planning Commission, and after the close of testimony, Mr. Buckingham independently visited with the adjoining property owners and updated his report on December 10, 2015. That updated report was emailed to Mr. Berken's counsel on December 11, 2015. The updated report indicates "all the neighbors" that Mr. Buckingham spoke with were in opposition to the granting of a special exception. This is and was not accurate. In fact, a neighbor that Mr. Buckingham spoke to later wrote to the Town Board and voiced his non-opposition to the granting of a permit for the building's use as storage for windows.

The Planning Commission ultimately recommended a denial of the special exception on December 15, 2015. On January 5, 2016, the request was denied by the Town Board.

THEREFORE:

1. **Reliance.** Mr. Berken relied on the approval and advice that he received from Mr. Buckingham, as a representative of the Town of Grand Chute, in his decision to expend his resources in constructing this building. Had he been aware that he could use this building for agricultural products only, he never would have built it as he had no use for such a building. Furthermore, the permit applications that he submitted were all approved despite the apparent (or at least alleged) conflict between what is allowed in the zoning ordinance and the intended use of the building, and despite the dimensions of the lot. Finally, the Town allowed Mr. Berken to, unbeknownst to him, construct the building on a lot that was too small. Mr. Berken relied to his detriment and in good faith on the approval and advice of the Town of Grand Chute as to the location, size, and intended use of this building. The situation that he finds himself in is not of his own doing.
2. **Due Process.** Under Zoning Ordinance § 535-87 (Public Hearing), "rebuttal statements shall be permitted by the Chairperson." Mr. Berken was not allowed to offer a rebuttal statement to the testimony submitted by Mr. Buckingham in his update of December 10, 2015. Furthermore, Mr. Buckingham's update of December 10, 2015, was submitted to the Planning Commission after the close of testimony.
3. **Allowed Within Existing Zoning.** A special exception and/or variance is appropriate because the zoning district of the land, General Agricultural District, is intended to provide for "small-scale, family-oriented businesses on a case-by-case basis." Furthermore, § 535-24(D)(7) "warehouse, storage, and building supply establishments" as a special exception use and structure. Therefore, granting a special exception and/or variance would not be contrary to the permitted uses and structures allowed in the General Agricultural District.

To Whom it may concern:

Joe Berken came to me on September 14, 2014 and explained to me the future plans for his land.

He also explained to me that he wishes to build a storage building now.

I am ok with Joe Berken building 10 feet from the north side of my property.

Will require some sort of drainage to French Rd so run off does not run off onto our property.

Clint DeKuyse

9-14-14

To Whom It May Concern:

Joe Berken has been keeping me informed on his building. I also feel if we could set the building back as far as possible it would be better for maximum land use in the future.

Ron Eblun 9-14-14

WINKEL LAW OFFICE

411 SOUTH COMMERCIAL STREET
NEENAH, WISCONSIN 54956

ATTORNEY AND COUNSELOR

David J. Winkel

(920) 725-8887

FAX (920) 725-9077

E-MAIL dave@winkellaw.com

FEDERAL TAX I.D. NUMBER 39-1712221

May 29, 2015

Joe E. and Karla J. Berken
73 Bellevue Place
Appleton, WI 54913

Re: 3225 E. First Avenue, Grand Chute, WI

Dear Mr. Berken:

I have been retained by Tracy and Ronald Ebben who reside at 3217 E. First Avenue, Appleton, Wisconsin. The Ebbens are upset that you built a "new agricultural unoccupied storage building" on your property next to them.

Please be advised that the property you purchased pursuant to the enclosed Deed is subject to Restrictive Covenants which prohibits the building of anything but a residential structure on your property. Enclosed is a copy of your Deed and Restrictive Covenants.

I direct you to paragraph 1 of the Restrictive Covenants which states:

~~"All of the lots included in the foregoing description shall be known and sold as residential lots and no structure shall be erected, altered, placed or permitted to remain upon any of the said property other than one and two family dwellings with a restriction of one such residential structure to each lot."~~

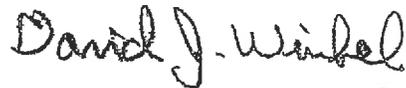
I informed the Ebbens that they could go to court and ask the court to have you remove your structure from your property for violating these Restrictive Covenants. ~~The Ebbens have offered to instead have you pay them the decrease in the fair market value of their property caused by your building of the agricultural storage building (vs. a single family home).~~ The Town Assessor has stated that their property has decreased by \$12,700 pursuant to the enclosed Reassessment Notice. As we know, Town Assessors are historically high in assessing. The Ebbens believe they lost \$30,000 in value due to your building, since the lot next to you is valued at \$14,700; and is basically unsellable except for a low dollar amount.

If you wish to accept the Ebbens' offer, you need to make a check payable to Ronald and Tracy Ebbens for \$30,000 and mail it to me within five days of the date hereof. Otherwise, the offer will be withdrawn and the Ebbens will pursue the matter in court.

Feel free to contact me with any questions.

Sincerely,

WINKEL LAW OFFICE

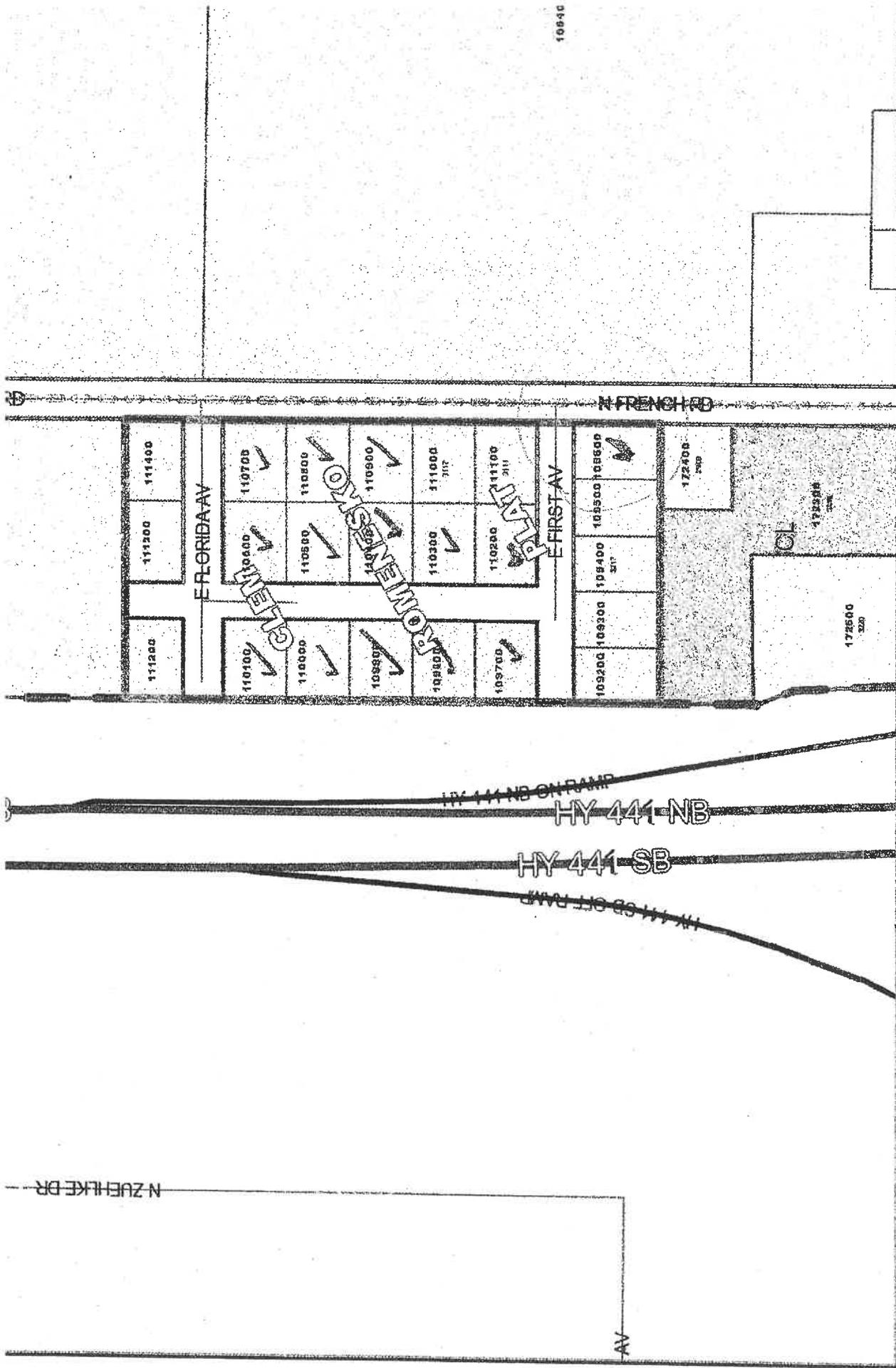
A handwritten signature in black ink that reads "David J. Winkel". The signature is written in a cursive style with a large initial "D".

David J. Winkel

DJW:vaw

Enc.

CC: Ronald & Tracy Ebben

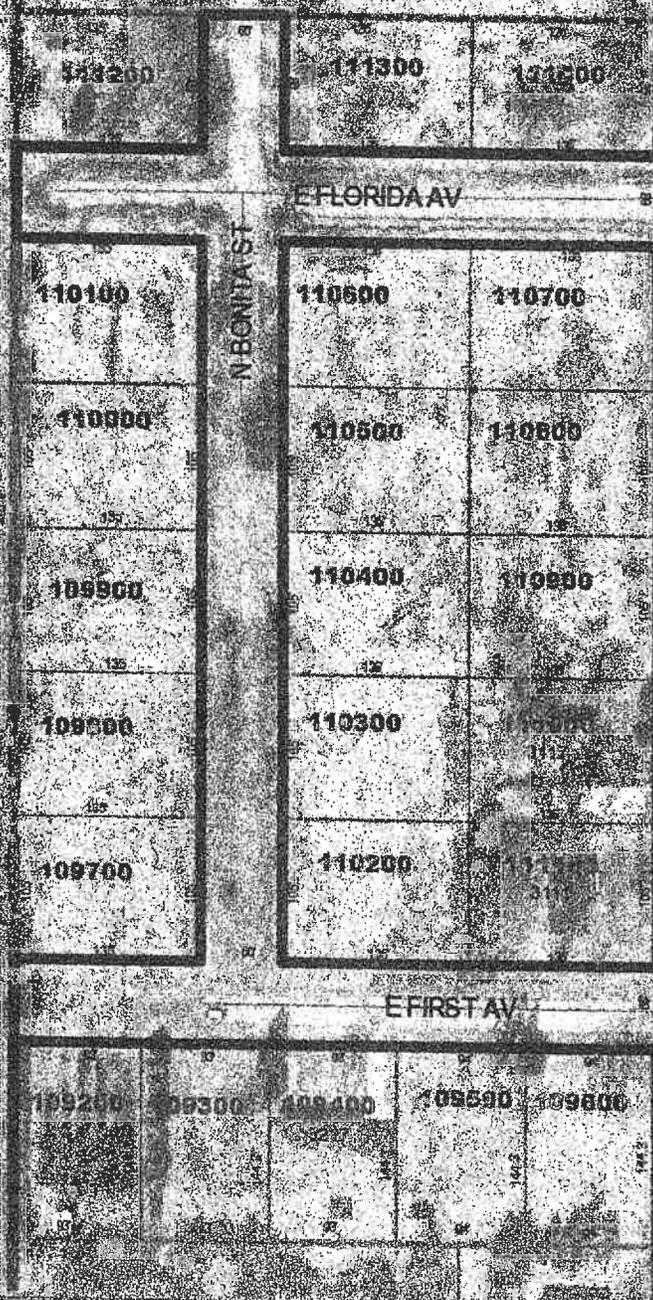


10840

This map was compiled using data believed to be accurate; however, a degree of error is inherent in all maps. This map was distributed "AS-IS" warranties of any kind, either expressed or implied, including but not limited to warranties of suitability to a particular purpose or use. No attempt made in either the design or production of the maps to define the limits or jurisdiction of any federal, state, or local government. Detailed on-the-

HY 441 SB

HY 441 NB



led using data believed to be accurate; however, a degree of error is inherent in all maps. This map was distributed " as is, either expressed or implied, including but not limited to warranties of suitability to a particular purpose or use. No liability is assumed for the design or production of the maps to define the limits or jurisdiction of any federal, state, or local government. Det

GRAND CHUTE - SPECIAL EXCEPTION APPLICATION

Community Development Dept.
 1900 Grand Chute Blvd.
 Grand Chute, WI 54913
 Phone: 920-832-1599
 Fax: 920-832-1625
 www.grandchute.net

PC 11/3
 TB 11/17

File #: SE - 27-15
 Date: 10, 9, 15
 Paid: \$ 400
 Rect#: 3.00/580

SUBMITTAL REQUIREMENTS

Fee: \$400 payable to the Town of Grand Chute **
 Provide: **4** ~~40~~ copies of background materials and a site plan (if requested).
 ** Fees for hearing notice publicaiton are billed to the property owner at cost plus 2% administrative fee.

PETITIONER	PROPERTY OWNER (IF NOT PETITIONER)
Name <u>Joseph E. Berken</u> →	Name
Address <u>73 Bellevue Place</u>	Address
Phone <u>(920) 731-3306</u>	Phone
E-mail <u>Jbwindowman@yahoo.com</u>	E-mail

J+B Home Improvement, Inc

PROPERTY INFORMATION

Parcel No. / Tax Key No. 102 109600 3225 Current Zoning Ag
 Site Address / Location 200 E. First Ave.
 Current Use Storage Proposed Use window storage business

DESCRIPTION OF THE PROPOSED USE FOR THIS PROPERTY **

See narrative

** See Ch. 535-85 for other submittal requirements.

Special Exception requests are reviewed by the Town of Grand Chute to determine conformance with the Comprehensive Plan, zoning requirements, development standards, and neighborhood impacts. After holding a public hearing, the Plan Commission makes a recommendation to the Town Board. The Town Board approves or denies the request.

Office Use only

DENIED
APPROVED
 CONDITIONS: YES NO

DATE: 1/5/16

BY: Town Bd / My

COMMUNITY DEVELOPMENT DEPARTMENT

ACKNOWLEDGEMENT AND SIGNATURE

Joseph E Berken
 Signature

10/9/15
 Date

J&B HOME IMPROVEMENT

Location of Storage Unit:

3325 E. First Ave
Appleton, WI

Plans for use:

Windows and Door Storage

Number or employees:

1 owner
2 employees

Hours of Operation:

7:00 a.m. – 5:00 p.m.
Includes 7:00 a.m. loading truck and approximately 5:00 p.m. finish day
Work truck is stored at this location.

Use of this building includes:

Storing of windows and doors. -
Storing plywood – insulation – nails – storm doors, that we pick up from local supply centers (Menards, Lowes, Home Depot).
Home Guard delivers steel insulated doors every 2 to 3 months.
Great Lakes Windows deliver twice a month.
ABC supply delivers trim coil on a skid twice a year
Alside Supply Center delivers sill-seal insulation once a year, and garage windows 3 to 4 times a year.
Joe Berken (Owner) checks on operations 2 to 3 times daily and to restock plywood-insulation, nails, caulk, storm doors, lumber, etc.

Additional Information:

There is no dumpster located on this site. We have an account with the Outagamie County Landfill.

NOTICE OF SPECIAL EXCEPTION PUBLIC HEARING

TOWN OF GRAND CHUTE PLAN COMMISSION

Tuesday, November 3, 2015

6:00 p.m.

Notice is hereby given that the Town of Grand Chute Plan Commission will hold a Public Hearing at 1900 W. Grand Chute Blvd., Grand Chute, Wisconsin at 6:00 p.m. or as soon thereafter as possible, on Tuesday, November 3, 2015 to consider granting a Special Exception Permit requested by Joseph E. and Karla J. Berken, dba J&B Home Improvement, 3225 E. First Avenue, for contractor storage use of a building on property zoned AGD General Agricultural District.

The property in question is further described as follows:

Lot 5, Block 1 of the recorded plat of "Clem Romenesko Plat", (Volume 17 of Plats, page 1, as recorded on November 9, 1956), being located in the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 18, T21-R17E, Town of Grand Chute, Outagamie County, Wisconsin. Tax Key Parcel #102-109600.

For particulars, reference is made to documents on file at the Community Development Department, 1900 W. Grand Chute Blvd., Grand Chute, Wisconsin. Telephone (920) 832-1599.

Any interested person may address the Plan Commission by letter or appear in person or by agent and be heard.

Dated this 23rd day of October, 2015.

Robert Buckingham
Community Development Director

File No. SE-27-15

Publish: October 23 and 26, 2015

Accommodation Notice

Any person requiring special accommodation who wishes to attend this meeting should contact (Administration at 832-1573) at least 48 hours in advance.



Grand Chute
experience better

COMMUNITY DEVELOPMENT DEPARTMENT
1900 W. Grand Chute Blvd, Grand Chute, WI 54913
PH. 920-832-1599 • FAX 920-832-6036
www.grandchute.net

**NOTICE OF:
PLAN COMMISSION DECISION**
Meeting date: 12/15/2015

File#: **SE-27-15**
At: **3225 E. First Avenue**
RE: **Contractor storage**
Parcel#: **102-109600**

Joseph &/or Karla Berken
73 Bellevue Pl
Appleton, WI. 54913

jbwindowman@yahoo.com

The Grand Chute Plan Commission recommended denial of the request by Joseph E. and Karla J. Berken, dba J&B Home Improvement, 3225 E. First Avenue, for contractor storage on property zoned AGD General Agricultural District.

Please keep this documentation for your records.

\s\ Robert Buckingham
Community Development Director

c: Property File



Grand Chute
experience better

TOWN CLERK
1900 W. Grand Chute Blvd, Grand Chute, WI 54913
PH. 920-832-5644 • FAX 920-993-7032
www.grandchute.net

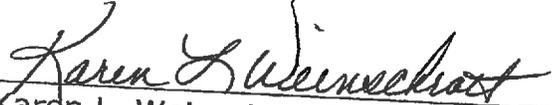
**TOWN OF GRAND CHUTE
SPECIAL EXCEPTION
APPLICATION DENIED**

FILE NUMBER – SE-27-15
DATE DENIED BY TOWN BOARD – 1/5/16

Applicant – Joseph E. and Karla J. Berken, dba J&B Home Improvement

Subject Address – 3225 E. First Avenue

**Proposed Use – Allow contractor storage use of a building on property zoned
AGD General Agricultural District.**



Karen L. Weinschrott, Town Clerk

Bob Sweeney

From: Bob Sweeney <bob@sweeneylawoffice.com>
Sent: Tuesday, December 15, 2015 7:26 AM
To: 'Chuck Koehler'
Cc: 'Robert Buckingham'; 'jbwindowman@yahoo.com'
Subject: FW: Berken Settlement Discussion per statute
Attachments: Berkin 12-14-15 letter of Clint Dekeyser.pdf

Good Morning Chuck:

On November 17, 2015, a public hearing of the town's Planning Commission was held and testimony was taken and closed. The decision was deferred to allow a discussion with the neighbors...which I did. The decision was continued on December 1, 2015, after I emailed you on that morning. I then received the report of Bob Buckingham on December 11, 2015, and among the other inaccuracies the report states or information it lacks are that: two of the neighbors "do not support the special exception"; pictures were taken of a semi making deliveries; and the report does not address the discussions that Mr. Berken's builder, Tim Lehrer, had or was present at with Bob Buckingham where the use for the building...PRE CONSTRUCTION...was detailed and Mr. Buckingham was informed of the use (for window storage) and a building permit was issued. It was only after the complaints came in that Mr. Berken was advised of the special exception process. Mr. Berken was advised that he did not need permitting if the building was used for storage without an office. The "Ag" component of the storage was only raised later. Mr. Berken relied on the indications of Mr. Buckingham when he went forward to build his building. The report makes "findings of fact" that have been presented to the Committee after testimony was closed. Mr. Berken does not have the opportunity to address those findings, and as such the report will factor into the decision process of the body, and in my opinion, would make the Committee's decision arbitrary and capricious and not based on the testimony actually taken, received, and/or permitted. First, the two neighbors that are reported to not support the special exception have communicated to me that they do not oppose the same. Attached is a letter from one of them, Mr. Dekeyser, which details his support for the special exception. We had to scramble to obtain this letter at the last minute because I could not understand how what the neighbors told me could be so contrary to the report and findings of Mr. Buckingham. Second, the semi that was photographed that day was not making deliveries. It was trying to find Mr. Berken's old address and the new one is where the driver went to. The delivery was actually to occur at a truck stop and the semi was never intended to go down First Street or even to that address. For what it is worth, semi's are instructed by Mr. Berken not come to the address of the structure and deliveries are to occur elsewhere. Third, and as stated above, Mr. Buckingham was informed by Mr. Berken and his builder of the use and purpose of the building, pre-construction, and there was no objection from Mr. Buckingham. In fact, Mr. Berken has correspondence from Mr. Buckingham which thanks him for keeping Mr. Buckingham informed of what Mr. Berken is doing and for his cooperation in this regard and "doing things the right way". For all of the above stated reasons I would respectfully ask that decision of the Committee is deferred and the matter placed on a future agenda for public hearing to allow further testimony addressing the above. Please advise.

Thanks you,

Bob Sweeney

Sweeney Law Office SC
104 E State Hwy 54
PO Box 206
Seymour, WI., 54165

joe berken storage

12/14/2015

TO: Grande Chute Board
From: Clint DeKeyser

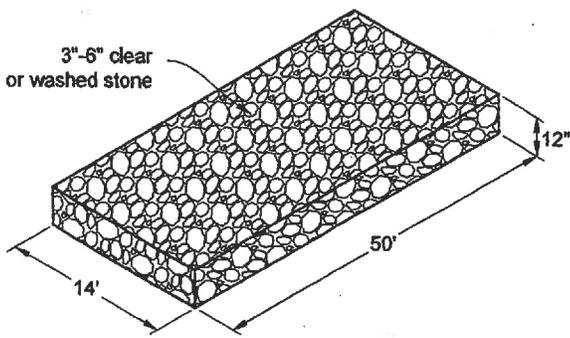
It is my understanding, there is still some misunderstanding as to my stance on the storage unit built for Joe Berken at the corner of French road and First ST. I knew in advance it was a storage unit and was to hold windows and doors.

In my conversation with Mr Buckingham, I thought we were on the same page. My concern is with the developement of the rest of the property along Hwy. 141. I support my neighbors in wanting more information before projects are started.

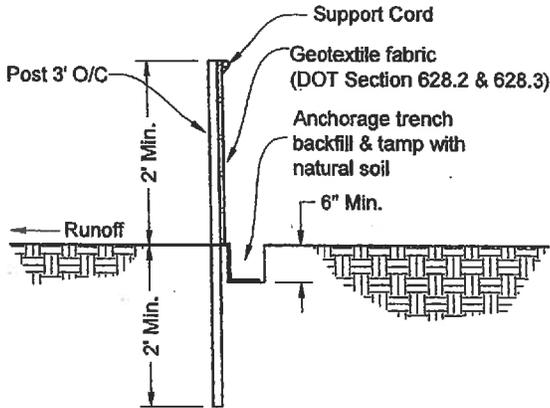
Once again, please do not use the phrase "all the neighbors" when refering to the storage unit. It is my understanding, there will be no office in the building and no semi traffic onto first st. with that said, I support its use to store home improvement materials, nor do I have a concern with granting a permit for that use.

Thank You,
Clint DeKeyser
2909 N French rd.
920-843-2340

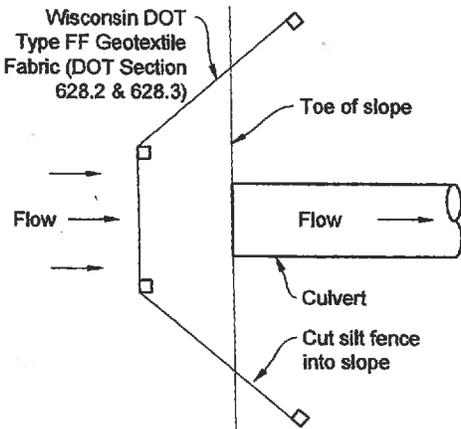




TRACKING PAD DETAIL



SILT FENCE INSTALLATION



INLET PROTECTION

NOTES:

- Existing utilities shown are indicated in accordance with available records and field measurements. The contractor shall be responsible for obtaining exact locations & elevations of all utilities, including sewer and water from the owners of the respective utilities. All utility owners shall be notified by the contractor 72 hours prior to excavation. Contact Digger's Hotline (1-800-242-8511) for exact utility locations.
- Sediment barrier shall be installed at the toe of all newly constructed fill slopes and shall be maintained until slope vegetation is established. Sediment barrier shall be installed prior to site grading.
- Sediment barrier inlet protection shall be installed around the upstream end of new culvert pipes.
- Sediment barrier shall consist of silt fencing, hay bales, sediment eels, or sediment logs as shown in the detail. Sediment barrier can be eliminated if a 25' wide buffer of existing dense vegetation exists on the lot between the disturbed ground and property line.
- A stone tracking pad shall be provided to the home under construction.
- Tracking of mud on existing streets is not allowed. If it does occur, it shall be cleaned up immediately.
- Vegetation beyond slopes shall remain.
- The contractor shall inspect all erosion control devices weekly and after each rainfall event and repair or maintain as necessary.
- Disturbed areas shall be seeded as soon as final grade is established. If final grade cannot be established, temporary seeding is required for any disturbed land area left in active for more than 7 days. Contractor shall replace topsoil and then seed, fertilize and mulch all lawn areas within 1 week of topsoil placement.
- Contractor shall remove all excess materials from the site.
- Earthwork contractors shall verify topsoil depth.
- All sediment and erosion control devices and methods shall be in accordance with the Wisconsin DNR Technical Standards.
- All downspouts and sump pump shall discharge to lawn areas.
- No offsite runoff is directed to this property.
- All onsite waste and construction materials shall be handled and disposed of properly. Concrete wash-out into the proposed pavement gravel base may occur for initial pours. Washout from final pours must be contained and carried offsite for proper disposal. No concrete, runoff from concrete washout, or other waste material is allowed to enter the storm sewer system or receiving waters.
- All temporary soil piles shall be stabilized if they are to remain longer than 1 week.
- All Erosion control BMPs must be in place prior to land disturbing activities.

SITE SUMMARY:

Total Lot Area:	13,564 SF
Building Footprint:	2,380 SF
Driveway:	1,541 SF
Sidewalk & Patio:	0 SF
Total Impervious:	3,901 SF
% Impervious:	29 %
Disturbed Area:	12,000 SF

SETBACKS:

Front :	25'
Sides :	6' each
Rear :	50'

SEQUENCE OF CONSTRUCTION:

- Contact Zoning 3 days prior to disturbance.
- Install silt fence, October 2014.
- Strip and stockpile topsoil from construction zone, October 2014.
- Construct tracking pad, October 2014.
- Excavate for foundation, October 2014.
- Construct foundation, October 2014.
- Backfill foundation, October 2014.
- Construct building, October 2014-December 2014.
- Grade lawn, October 2014.
- Seed and mulch disturbed areas, No Later than October 15th, 2014.
- Remove silt fence after vegetation is established, November 2014/Spring 2015 pending vegetative cover.

CONTRACTOR:

Building Creations
 Tim Lehrer
 W3326 Schroeder Road
 Appleton, WI 54913

DRAINAGE PLAN CERTIFICATION:

I, Timothy N. Wittmann, Professional Engineer, hereby certify that this Drainage Plan will meet or exceed the requirements of the Outagamie County Subdivision Ordinance and the requirements of the Town of Grand Chute.

Timothy N. Wittmann, P.E. E-40111

Date

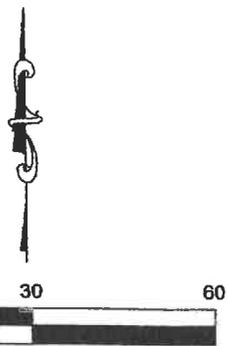
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DAVEL ENGINEERING & ENVIRONMENTAL, INC.
 CIVIL ENGINEERING CONSULTANTS
 1811 Ruess Street Menasha, WI 54952
 Ph: 920-941-1088 Fax: 920-950-9585
 www.daveleng.com

Drainage, Grading, & Erosion Control Plan

Lot 5 Block 1 Clem Romenesko Plat
 Town of Grand Chute, Outagamie County, WI
 For: Building Creations LLC

Date:	09/29/2014
Filename:	4208enr.dwg
Author:	JRD
Last Saved by:	katie
Page	1



RECEIVED
APR 6 2016
ADMINISTRATION

3111 N French Rd.
Appleton, WI 54911
April 4, 2016

Town of Grand Chute
1900 Grand Chute Blvd.
Grand Chute, WI 54913

Members of Grand Chute Board

This letter is pertaining to the property owned by Joe Berken, dba J&B Home Improvement, 3225 E. First Avenue, Grand Chute, WI.

On January 5, 2016 the Town Board denied a special permit request by Mr. Berken to use the building as a storage shed for the commercial business he runs at that address.

We live across the street from Mr. Berkens building and on the morning of April 4, 2016 at 7:00 am I watched Mr. Berken and his employees load windows in his commercial truck. His employees do park their vehicles in the driveway during the day and transfer their lunch coolers from their vehicles into the commercial truck.

My question is, if he was denied a special permit to use that building as commercial use, why is there business activity still being permitted there? I really think that someone needs to look into this.

Respectfully,
Jerry & Melba Dorn



Cc: Robert Buckingham
Community Development Director