

**VILLAGE OF GERMANTOWN
VILLAGE BOARD MEETING MINUTES
January 4, 2021**

CALL TO ORDER: The meeting was called to order at 7:00 p.m. by President Wolter.

ROLL CALL: Present: President Wolter, Trustees Baum, Hudson, Kaminski, Miller, Myers, Pieper, Wing, and Zabel. Also present: Administrator Kreklow, Clerk Braunschweig, Attorney Sajdak, Manager Tucker, Director Retzlaff, and Associate Planner Zandt. Clerk's Note: This was a partial Virtual Webex Meeting.

PLEDGE OF ALLEGIANCE:

PRESIDENT'S REPORT:

None.

ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST/DEPARTMENT AND COMMITTEE REPORTS:

The following individuals will be given the opportunity to make announcements of future municipal activities: Village President, Village Board Members, Village Administrator, Village Attorney, Village Clerk, And Department Heads, to include:

Liliabeth Yao submitted an email with comments of the Kinderburg Estates Development Plat. She commented the site features of Kinderburg Estates Development such as fences should be consistent to the Preserve and Windsong Subdivisions.

Jim and Deb Denton of Crabtree Lane submitted an email with comments on the Kinderburg Estates Development that the basic site features such as fences are consistent to surrounding subdivisions.

Mary Hudson Windsong Circle West submitted an email with comments to reconsider an item in the HOA of the Kinderburg Estates that white vinyl privacy fences are allowed. This is inconsistent with surrounding neighborhoods.

Terry Tschetter of Wilson Drive submitted an email with concern of invasive species removal for the Kinderburg Estates Development Agreement. The Eastern edge of the development is a concern. Current concern is that it only refers to the August 7 landscaping, He commended Veridian for the removal of the invasive species on the Eastern edge of the development. The development plan of November 6 includes the removal and replacement of the invasive species. He requested to include the revised plan in the approving conditions.

Jan Miller of Windsong Circle West submitted an email and came forward to comment on the Kinderburg final plat. She commented on the concern to elevate the new subdivision to mimic the subdivisions of the Preserve and Windsong. She commented on basic site features, such as fences, out buildings, and lease agreements. She commented on the HOA that there are no outbuildings allowed and no above ground pools, lamp posts, landscaping kept up.

She does not agree with allowing fences on the owner's lots. The fences are white vinyl and in the back yard. In the HOA there are placement restrictions for the fences. She spoke against the white

vinyl fences. She is not in favor of the vinyl siding. She commented on the lease agreements and of the parade of homes. She commented to close Blackbird Point and make provisions for transportation from a public or church parking lot.

She commented for the board to withhold or vote down until the proper landscape plan is in place. The landscape plan plantings are 2.5 feet or 6 feet which is not very big. Would like the shrubbery to be larger and throughout the perimeter.

Sam Kruschel of W177N12581 apple blossom lane submitted an email. The email spoke against the conditional use permit for Appleworks Winery. The comments included that the property use is not one of the permitted uses in zoning code. Spoke of concerns of the noise. In 2013 commitments were made by Mr. Behnke such as sealcoating. Mr. Kruschel commented he would like to see reduction of hours from 10 am – 9 pm and reduction of the days of operation to the weekends. Mr. Behnke should have to live on the property. They would like to see increased foliage.

Kurt Will, W177N12640 Apple Blossom Lane came to the podium. He spoke of the history of the property. Mr. Behnke split the original property to sell. He commented on the proposed building that is 356 feet from the last property. Commented against hard alcohol. Commented on increased traffic and noise and music. Concerned of trespassing.

CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing:

None.

CONSENT AGENDA:

- A. Approval of Minutes December 21, 2020 Regular Village Board Meeting and December 28, 2020 Special Village Board Meeting.
- B. Accounts payable/payroll
 - 1. December 25, 2020 Accounts Payable \$ 1,041,425.91
 - 2. December 30, 2020 Payroll (Salary) \$ 103,252.89
 - 3. December 30, 2020 Accounts Payable \$ 1,675.00
 - 4. January 5, 2021 Payroll (Hourly) \$ 237,160.34

Motion (Baum/Myers) to approve Consent agenda A-B. Roll call vote carried unanimously.

UNFINISHED BUSINESS:

- A. Conditional Use Permit Amendment for Kevin H. Behnke, Agent and Property Owner of the Apple Works Winery LLC - W179 N12536 Fond du Lac Avenue, to allow an expansion of the existing business to and use of the property as a venue for weddings and other events including: a 5,150 sqft building with seating capacity of 125 persons; an outdoor patio with 900-1080 sqft covered shelter and outdoor fireplace; and a 35-50 vehicle parking lot.

Assistant Planner Zandt came to the podium to present the amendment to the conditional use permit amendment. The site location and map were presented. The property zoning is A-2 Agricultural with surrounding properties as Rs-1 Residential and A-1 Agricultural to the West.

History of the property was reviewed. The 2002 conditional use permit for storage was discussed. The rezoning and CUP for the winery was discussed. The hours are 10 am – 9 pm, 7 days per week. Tasting room and outdoor patio.

The proposal for the second patio was shown and reported on. A sample image and location was shown. A rendering of the proposed addition was shown, includes overhead garages. Acoustical barriers were commented on. The gravel parking lot installation was shown with future paving of the parking area. The event venue operation proposal was shown. Hours of 6 am – 11 pm with cleanup up between 11 pm – 12 am. Food to be catered.

There is a current license for Wine and Beer. Hard Liquor to be applied for in the future. The plan commission recommended limiting alcohol to beer and wine and is included in the conditions of approval.

Proposal will change the character of the business as approved in 2013. Different type of patrons and potential negativity to surrounding property.

Planning and Zoning staff have notified Washington County requiring approval of the sanitary improvements.

Stormwater management plan required if over half an acre MMSD requirement will kick in.

The plan commission recommendation with conditions was shown. Discussion ensued of the nine conditions, including the other two conditional use permits. Liquor and hours of operation is not included.

Condition states that a temporary use permit is required as in the CUP from 2019 specific to the winery.

Staff does have concerns of the compatibility of the use with the surrounding residential areas. The proposal will change the business from 2013.

The conditional use permit does not say if outdoor music is allowed.

Motion (Baum/Myers) Conditional Use Permit Amendment for Kevin H. Behnke, Agent and Property Owner of the Apple Works Winery LLC - W179 N12536 Fond du Lac Avenue, to allow an expansion of the existing business to and use of the property as a venue for weddings and other events including: a 5,150 sqft building with seating capacity of 125 persons; an outdoor patio with 900-1080 sqft covered shelter and outdoor fireplace; and a 35-50 vehicle parking lot.

Amendment Motion (Wing/Zabel) to add a condition of no music outside on entire outside site. Mr. Behnke will add air conditioning and an employee to watch. Music is mostly 2-5 pm. Adds an acoustical guitar or violin.

Discussion ensued of the special use permit for music amplified or not. Once the bandshell opened up Mr. Behnke thought he could have music too.

Discussion ensued of the noise and two additional CUPs that are included with the proposed CUPs. Discussion of outside noise and that you can hear if there is nothing in between.

Discussion ensued that Mr. Behnke did not know he needed a permit inside for music.

Discussion ensued of the conditions just to the event proposals.

Mr. Kurt Will commented to update the mapping. There is a property 360 feet from the proposed wedding venue. Maps of the property showing the residences were shown.

Baum commented on a guitar or string quartet on the patio.

Gary Schwind of W177N12586 Apple Blossom Lane came to the podium. He is the furthest property. He commented on the noise. He commented on the extra traffic which is a private road due to the signs. He is spending a lot of money for the privacy.

Motion to amend failed.

Amendment Motion (Baum/Myers) to allow for non-amplified music such as acoustical guitars, acoustical violins, or string quartets to be allowed from 2 pm – 6 pm daily on the outdoor patio adjacent to the retail/tasting room added to include inside the tasting room.

Discussion ensued of the requirement for the permit. The discussion of the conditional use permit ensued. The amendment motion would replace 7 b of the conditional use permit.

Discussion ensued of special permission from neighbors for music.

Mr. Will commented that they are open to work with Mr. Behnke. Discussion of the music if only to 6 pm no problem. The winery music does not stop at 6 pm.

Discussion ensued of the hard liquor and that Mr. Behnke could apply for this license. There is not a license available.

Discussion ensued of the noise and amplified and outdoor music. Commented that Dheinsville does not have walls. They use curtains. 2-6 pm is acceptable.

The motion does not replace 7B, but it is added to 7B. If inside the winery would need to get a permit from the Community Development Department. Discussion ensued if this includes amplified vocals.

Discussion ensued of the sound / noise code and no decibel level reading. The Village Ordinance does not have include the decibel level reading.

Comments ensued of the bride and groom signing a noise compliance agreement.

Amendment Motion failed.

Motion (Zabel/Wing) No outside music is permitted at barn venue. The outdoor venue is for outside near the existing patio.

Discussion ensued of postponing the item to next meeting to address the issues that were raised.

Discussion ensued of other issues, such as traffic, the number of events and what is reasonable.

Discussion ensued of the addition of conditions for the entire property.

Discussion ensued of the additional traffic in that area and how many events are reasonable to the neighbors. Is this a good use of the property?

Motion (Wing/Baum) to table (postpone) the item to a future meeting. Motion carried unanimously.

Attorney Sajdak commented for Trustees to email him directly with specific concerns.

- B. Conditional use permit amendment for Ashbury Woods Condominium Association, Property Owners – W172N11000 Division Road & Ashbury Lane; Amending CUP #4-87 to allow for additional recreational amenities to the Ashbury woods Condominium common area.

Motion (Myers/Pieper) to approve the conditional use permit amendment for Ashbury Woods.

Director Retzlaff presented the Conditional Use Permit amendment. The Site Location was shown. 24 acres in size. The use was converted to condo ownership in 2010. The CUP does allow for common amenities. Renovate to include picnic pavilion and renew and replace pavement. New playground equipment.

The item was recommended by the Plan Commission with two conditions.

Discussion ensued that the property needs to be maintained. Attorney Sajdak commented that this is an enforcement issue. This is not a new requirement. Condo association is addressing this issue. The site plan approval included landscape buffering to screen the view.

Motion carried unanimously.

- C. Final Plat for a 16-Lot Residential Subdivision called Kinderberg Estates, for Veridian Homes, LLC, Agent for VHKE LLC, Property Owner - N104 W14942 Donges Bay Road.

Associate Planner Zandt came to the podium. The Site Location was shown for the 16-lot subdivision Kinderberg Estates for Veridian Homes LLC. The Preliminary Plat was shown. The development agreement was recorded in August of 2020. The Plan Commission recommended the final plat with seven conditions.

The Village Attorney advised that the review of covenants is that there is not something that does not match the zoning code or further obligate the Village. The Village does not get involved in types of materials. Our review is to make sure it meets the requirements of the code.

The language of the lease requirements are fairly new requirement primarily as a response to air bnb's. Typically, the Village does not regulate the rental of a house. Any rental is more of a long-term rental.

Because the Village Code allows fences, the Village cannot restrict fences or siding.

Motion (Baum/Kaminski) to approve the Final Plat for a 16-Lot Residential Subdivision called Kinderberg Estates, for Veridian Homes, LLC, Agent for VHKE LLC, Property Owner - N104 W14942 Donges Bay Road with the seven conditions.

Trustee Hudson commented and requested for the fencing to be restricted. Matt Cudney commented no.

Discussion ensued of the stormwater easement that is in place. Attorney Sajdak commented that there is a separate easement in place.

Amendment Motion (Wing/Zabel) to add the landscape plan revision reference November 6, 2020, of invasive species replacement plan. Motion carried unanimously.

Motion as amended carried. Hudson, Pieper, Zabel voted no.

D. Michelle Humphries Denial of Operators License.

Motion (Myers/Baum) to approve the Operator's License for Michelle Humphries. Motion carried unanimously.

E. St. Boniface Congregation, W204 N11968 Goldendale Road, Temporary Class B Fermented Malt Beverage License, February 19th, February 26th, and March 5th, 4 – 7 pm; Lent Fish Fry.

Motion (Kaminski/Baum) to approve St. Boniface Congregation, W204 N11968 Goldendale Road, Temporary Class B Fermented Malt Beverage License, February 19th, February 26th, and March 5th, 4 – 7 pm; Lent Fish Fry. Motion carried unanimously.

F. Second Hand Article Dealer and Second Hand Jewelry Dealer License Renewal, January 1, 2021 – December 31, 2021.
1. Kessler's Diamond Center, N96 W16920 County Line Road.

Motion (Baum/Zabel) to approve Second Hand Article Dealer and Second Hand Jewelry Dealer License Renewal, January 1, 2021 – December 31, 2021. Kessler's Diamond Center, N96 W16920 County Line Road. Motion carried unanimously.

G. Budget Manager Job Description.

Motion (Pieper/Myers) to approve the Budget Manager Job Description. The paygrade and range will be on the next General Government and Finance Agenda. Motion carried unanimously.

- H. James Orr Coating Inspection LLC, Contract for Coating Inspection of 500,00 Gallon Spheroid Tower #4, in an amount not to exceed \$50,600.

Motion (Baum/Kaminski) James Orr Coating Inspection LLC, Contract for Coating Inspection of 500,00 Gallon Spheroid Tower #4, in an amount not to exceed \$50,600. Roll call voted unanimously.

- I. Ordinance 01-2021, Creating Section 17.48 (3) (d) Relating to Decks on Certain Nonconforming Structures.

Director Retzlaff presented the zoning code amendment.

Motion (Myers/Baum) to approve Ordinance 01-2021, Creating Section 17.48 (3) (d) Relating to Decks on Certain Nonconforming Structures. Initiated by a property owner in Esquire Estates. This was a combination of lots. Multiple owners are affected by the ordinance and reconstruction of their non-conforming existing decks. The Village Attorney drafted the amendment. The Plan Commission recommended as presented.

Amendment Motion (Pieper/Myers) to remove D from #2, to allow property owners to go before board of zoning of appeals.

Amendment motion carried.

Motion as amended carried unanimously.

Tr. Zabel requested the Plan Commission to look at driveway zoning code for existing driveway replacements.

ADJOURNMENT.

ADJOURNMENT: There being no further business, the meeting adjourned at 9:55 p.m.

The next regular meeting of the Village Board will be on Monday, January 18, 2021 at 7:00 p.m.

Respectfully Submitted,

Deanna Braunschweig

Deanna B. Braunschweig, WCMC/CMC
Village Clerk