

ORDINANCE NO. 10-2018

AN ORDINANCE TO AMEND SECTIONS 17.42, 17.51 AND 17.53 OF THE
GERMANTOWN MUNICIPAL CODE RELATING TO PUBLIC HEARINGS
ON AND PROTESTS TO CONDITIONAL USE PERMITS AND
AMENDMENTS TO THE ZONING CODE

WHEREAS, the Village Board previously adopted Chapter 17 of the Municipal Code which adopts certain regulations related to the zoning and land use of lands within the Village; and

WHEREAS, Wis. Stat. § 62.23(7) provides for process relating to zoning of lands; and

WHEREAS, Wis. Stat. § 62.23(7) authorizes the Village Board to designate the plan commission as the body that holds public hearings on amendments to the zoning code; and

WHEREAS, following the consideration recent developments it is clear that the plan commission will benefit from being the body that holds the public hearing on changes and amendments to the zoning code; and

WHEREAS, 2017 Wis. Act 243, eliminates the protest provisions within § 62.23(7) effective January 1, 2019;

NOW, THEREFORE, the Village Board of the Village of Germantown, Wisconsin, do ordain as follows:

SECTION I

Section 17.42 of the Germantown Municipal Code is hereby amended to read as follows (NOTE: additions are underlined, deleted text is ~~struck-through~~):

17.42 - CONDITIONAL USES.

- (1) PERMITS. The Village Board may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and related structures are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community.
- (2) APPLICATION. Applications for conditional use permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator or designated employees and shall include the following:

- (a) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record within 300 feet.
 - (b) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located.
 - (c) Plat of survey prepared by a registered land surveyor showing all of the information required under section 17.07(5) of this chapter for a building permit as well as the following: mean and historic high water lines and floodlands on or within 40 feet of the subject premises and existing and proposed landscaping.
 - (d) Additional information as may be required by the Plan Commission, Village Engineer, Zoning Administrator or Building Inspector.
- (3) HEARINGS AND REVIEW. The Plan Commission shall hold a public hearing on a conditional use permit application and shall give notice as specified in section 17.53 of this chapter. The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or park requirements may be recommended by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter.
- (4) VILLAGE BOARD ACTION. ~~After holding a public hearing, as provided in section 17.53 of this chapter, and after~~ careful consideration of the recommendation of the Plan Commission, the Village Board may grant the conditional use permit as applied for, grant the conditional use permit with conditions deemed appropriate by the Board, or deny the permit. Compliance with all other provisions of this chapter such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses. Variances shall only be granted as provided in section 17.52 of this chapter.
- (5) RECORDATION. When a conditional use is approved, an appropriate record shall be made of the land use and building permits and such conditional use shall be applicable solely to the structures, use and property so described.
- (6) PERMIT LAPSES.
- (a) Except under the following conditions, if substantial construction or other activities necessary to implement a use authorized by a conditional use permit and/or the use has not commenced within 12 months from the date approval is granted by the Village Board, and, continue toward completion

in accordance with the proposed/approved timeframe, or, if said construction or use has commenced but subsequently is stopped or abandoned for a period of 12 consecutive or cumulative months, the conditional use permit shall be deemed to have lapsed and all other Village permits and/or approvals granted subsequent to such conditional use permit approval shall expire and be null and void.

1. An extension has been granted pursuant to section 17.42(8); or

2. Different project-specific commencement and/or completion deadlines and timeframes have been established as a condition of approval in the conditional use permit.

(b) If a conditional use permit has lapsed and the applicant/property owner submits an application to renew a conditional use permit for the same use, the Village Board may approve the permit as was originally approved, or, may require revisions to and/or additional conditions of approval as deemed necessary.

(7) **TERMINATION.** In the event that a permitted conditional use subsequently does not conform to the conditions of the original permit granted, the conditional use permit shall be terminated by action of the Village Board after a public hearing and may be considered by the Board as a violation of this chapter.

(8) **EXTENSION OF DEADLINE FOR COMMENCEMENT OR COMPLETION.** At its discretion, for good cause and following consideration of a written request by the applicant/property owner, the Village Board may grant one or more extensions of the deadline to commence, complete or continue the use for which a conditional use permit was granted. The duration of each extension shall be determined by the Village Board but shall not exceed 12 months.

(9) **EXPERIENCE-BASED MODIFICATIONS.** Where an approved conditional use falls out of conformity with the conditions of the original approval, or where there is a change in the nature, character, intensity or extent of the permitted conditional use which causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to ameliorate or eliminate harmful effects associated with the conditional use but are insufficient to do so, or for similar cause based upon consideration for the public comfort, safety and welfare, the conditional use permit may be modified by the Village Board by the amendment or additions of conditions after public hearing thereon.

SECTION II

Section 17.51 of the Germantown Municipal Code is hereby amended to read as follows (NOTE: additions are underlined, deleted text is ~~struck through~~):

17.51 - CHANGES AND AMENDMENTS.

- (1) **AUTHORITY.** Whenever the public necessity, convenience or general welfare or good zoning practice require, the Village Board may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall be submitted to the Plan Commission for review and recommendation.
- (2) **INITIATION.** A change or amendment may be initiated by the Village Board or the Plan Commission or by a petition of one or more of the owners of property within the area proposed to be changed.
- (3) **PETITIONS.** Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village Planner, describe the premises to be rezoned by a metes and bounds description or the regulations to be amended, list the reasons justifying the petition, specify the proposed use, and have attached the following:
 - (a) Plot plan drawn to a scale of one inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.
 - (b) Owners' names and addresses of all properties lying within 300 feet of the area proposed to be rezoned.
 - (c) Additional information required by the Plan Commission or the Village Board.
- (4) **HEARINGS AND RECOMMENDATIONS.** The Plan Commission shall hold a public hearing on the proposed changes and amendments and shall give notice as specified in section 17.53 of this chapter. The Plan Commission shall review all proposed changes and amendments within the corporate limits and shall provide the Village Board with a recommendation and report as to whether ~~recommend that the petition be granted as requested, modified or denied.~~ The recommendation and report shall be made in writing to the Village Board. ~~The Plan Commission shall make its recommendation within 30 days of the referral unless such time is extended by the Village Board. If the Village Board does not receive recommendations and a report from the Plan Commission within 60 days of submitting the proposed amendments, the Village Board may hold hearings without first receiving the recommendations and report.~~
- (5) ~~HEARINGS. The Village Board shall hold a public hearing upon each recommendation and shall give notice, as specified in section 17.53 of this chapter. [DELETED]~~
- (6) **VILLAGE BOARD ACTION.** Following such hearing and after careful consideration of the Plan Commission's recommendations, the Village Board shall vote on the passage of the proposed change or amendment.
- (7) **PROTEST.** In the event of a protest against such district change or amendment to the regulations of this chapter, duly signed and acknowledged either by the owners of 20% or more of the areas of the

land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent to the land included in the proposed change, or by the owners of 20% or more of land extending 100 feet from the street frontage of such opposite land, such a change or amendment shall not become effective except by the favorable vote of $\frac{3}{4}$ of the full Village Board.

SECTION III

Section 17.53 of the Germantown Municipal Code is hereby amended to read as follows (NOTE: additions are underlined, deleted text is ~~struck through~~):

17.53 - PUBLIC HEARINGS.

Notice of any public hearing which the Village Board, the Plan Commission or the Board of Zoning Appeals is required to hold under the terms of this chapter shall specify the date, time and place of said hearing and shall state the matter to be considered at said hearing. Notice shall be published in a newspaper of general circulation at least once each week for 2 consecutive weeks and the hearing shall not be held until at least 7 days following the last publication. The Village Clerk shall also give at least 10 days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed action. In the case of a proposed amendment to the zoning code which will have the effect of changing the allowable use of any property within the Village, the notice shall include either a map showing the property affected by the amendments or a description of the property affected by the amendments and a statement that a map may be obtained at Village Hall.

SECTION IV

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION V

All ordinances or parts of ordinances contravening the terms of this ordinance are hereby to that extent repealed.

SECTION VI

This ordinance shall take effect and be in full force on upon its passage and the day after publication except that Sections I, II and III shall first become effective on January 1, 2019.

Introduced by Trustee:

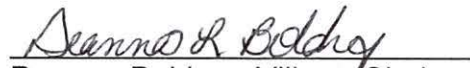
Trustee Baum

Adopted:


Vote: Ayes: 9
Nays: 0


Dean Wolter, Village President

ATTEST:


Deanna Boldrey, Village Clerk

APPROVED AS TO FORM:


Brian Sajdak, Attorney

Published: