1.0

Village of Hales Corners

5635 S. New Berlin Road
Hales Corners, WI 53130
Phone: (414) 529-6161
Fax: (414) 529-6179
www.halescorners.org

James R. Ryan Municipal Building

PLAN COMMISSION
Meeting Agenda/Notice
October 19, 2020 (Monday) - 6:30 PM

Notice is hereby given that the Plan Commission of the Village of Hales Corners will meet at the above date and time, at the James R. Ryan Municipal Building (5635 S. New Berlin Rd).

Notice is given that a majority of the Village Board may attend this meeting to gather information about an agenda item over which they have decision making responsibility. This would constitute a meeting of the Village Board per State *ex rel. Badke v. Greendale Village Board* even though the Village Board will not take formal action at this meeting.

Discussion and possible action by Commission on agenda items.

1.0 Roll Call
2.0 Minutes – September 21, 2020
3.0 **Public Hearing- Conditional Use Permit & Site Plan Review- Brother Gyros & Pizza**- 5158 A 108th Street - New restaurant use with pick–up window in a B-1 Shopping Center District
4.0 **Site Plan Review-Amoco** -5511 S. 108th Street – Sign Plan Review in a B-3 Automobile-Oriented Business District
5.0 **Site Plan Review- Steve & Elaine Cannistra** -10505 W. Scharles Ave- accessory structure in a B-1 Shopping Center District
6.0 Adjournment

Lizbet Gutierrez
Lizbet Gutierrez, Admin. Services Specialist
October 12, 2020

Note: Upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through appropriate aids and services by contacting the Clerk's Office, 414-529-6161.

PLAN COMMISSION MEETING – Minutes
September 21, 2020

Village of Hales Corners
5635 S. New Berlin Road

The meeting was called to order at 6:30 p.m. by Chair D. Besson.

1.0 **Roll Call** – Present: Chair D. Besson; Commissioners T. Accetta, S. W. Banach, Bigler, A. Fritz, C. Stipe, K. Meleski, Village Planner B. Block (via teleconference), Administrative Services Specialist L. Gutierrez. Audience 2.

2.0 **Minutes of August 17, 2020** - Motion (Fritz, Seaver) to approve the minutes; unanimously approved.

3.0 **Site Plan Review- Alyson Dudek International Ice Center- 2020 Plan Commission for re-review and approval**

Donald G. Schwartz gives a brief summary of the *Alyson Dudek International Ice Center* project and explanations as to why the project has been on hold. In August 2013, the *Friends of Hales Corners Park and Pool* received $75,000 in funding from the *Holz Family Foundation,* due to the project not moving forward, the *Holz Family Foundation* requested for the money to be returned. At the moment, the *Friends of Hales Corners Park and Pool* currently have 50% of its funding and requesting for a one year approval of the submitted Site Plans.

Motion (Meleski, Stipe) Approval of the Site Plan Review as submitted for one year. Motion passes unanimously.

4.0 **Site Plan Review- Chick Fun Inc., 5301 S. 108th St. Sign Review**

Applicant X. Lin presented her project for new signage. Village Planner, B. Block addressed the Commission and read the staff report. He noted that Chick Fun is one of the four business located in a multi-tenant building that have two building signs. The proposed signage would be illuminated at night featuring internal white LEDs. D. Besson confirmed with B. Block that all multi-tenants have two existing signs- on the west and east sides of the building.

Motion (Stipe, Fritz) to approve the two signs as presented. Illumination should be approved by staff and meet existing signs in the strip mall. Motion passes unanimously.

5.0 **Adjournment**-Motion (Stipe, Meleski) to adjourn meeting at 6:55 p.m.; unanimously approved.

Lizbet Gutierrez, Administrative Services Specialist

DRAFT

Application/Petition # _____

Plan Commission Decision Form

I. Findings of Fact

Name, address and phone number of applicant: _____

_____

_____

The applicant requests:

- ❑ Preliminary / final plat approval
- ❑ Conditional use / special exception
- ❑ Zoning map / text amendment
- ❑ Comprehensive plan map / text amendment
- ❑ Other: _____

Brief description of property and surrounding conditions: _____

_____

_____

_____

_____

Brief description of proposal: _____

_____

_____

_____

_____

II. Conclusions of Law

Comprehensive Plan Consistency

Zoning, subdivision and official mapping ordinances adopted or amended after January 1, 2010 must be "consistent" with an adopted comprehensive plan. Consistent means "furthers or does not contradict the objectives, goals, and policies" of the comprehensive plan. Local ordinances may require that proposed subdivision plats, planned unit developments, conditional uses, and other land use ordinances or approvals be reviewed for consistency with the comprehensive plan.

❑ The proposed development is consistent with the future land use recommendations contained in the comprehensive plan and shown on the future land use map.

❑ The proposed development is generally consistent with the vision, goals, objectives and policies contained in the comprehensive plan. (List supporting/conflicting statements below).

Describe reasons why proposal does or does not meet each standard: _____

_____

_____

_____

_____

Zoning Amendment Criteria

The plan commission is responsible for reviewing and providing a recommendation on proposed zoning amendments before final action is taken by the governing body. [Modify the following set of decision standards to reflect local priorities]:

❑ The amendment corrects an error made in the original ordinance.

❑ The amendment is consistent with the comprehensive plan.

❑ The amendment will not be detrimental to property in the immediate vicinity or to the community as a whole.

❑ The amendment will not have a significant adverse impact on the natural environment (i.e. air, water, noise, stormwater management, soils, wildlife, vegetation, etc.), or the impact could be mitigated by improvements on the site or in the immediate vicinity.

❑ The amendment will not have a significant adverse impact on the ability to provide adequate public facilities or services (i.e. highways, streets, water, sewage, drainage, schools, emergency services, etc.).

❑ The amendment allows a more viable transition to planned land uses on adjacent properties than the current zoning designation.

❑ The amendment will not result in illegal "spot zoning" (i.e. use is inconsistent with surrounding properties and serves only a private, rather than public interests).

Describe reasons why proposal does or does not meet each standard: _____

_____

_____

_____

_____

Comprehensive Plan Amendment Criteria

The plan commission is responsible for reviewing and may recommend changes to the comprehensive plan by adopting a resolution by a majority vote of the entire commission. [Modify the following set of decision standards to reflect local priorities]:

❑ The amendment corrects an error made in the original plan.

❑ The amendment is generally consistent with the vision, goals, objectives and policies contained in the comprehensive plan, or there is a change in community actions or characteristics that would justify the change.

❑ The amendment will not be detrimental to property in the immediate vicinity or to the community as a whole.

❑ The amendment will not have a significant adverse impact on the natural environment (i.e. air, water, noise, stormwater management, soils, wildlife, vegetation, etc.), or the impact could be mitigated by improvements on the site or in the general vicinity.

3.0

Village of Hales Corners

5635 S. New Berlin Rd, Hales Corners, WI 53130
414-529-6161

Plan Commission Application

Unless otherwise noted all Plan Commission meetings will be held the 3rd Monday of each month at 6:30pm at Hales Corners Village Hall.
All applications need to be complete and are due with payment 45 days prior to the Plan Commission meeting.

APPLICANT

Name Steve Itsines
Company BROTHERS GYROS & PIZZA
Address 6080 Conservancy Dr.
City New Berlin State WI Zip 53151
Telephone 414-651-6178
Fax
Email steveitsines@aol.com
Project Name/New Company Name (if applicable)

APPLICANT IS REPRESENTED BY

Name Steve Itsines
Company
Address 6080 Conservancy Dr
City New Berlin State WI Zip 53151
Telephone 414-651-6178
Fax
Email steveitsines@aol.com

Note: Representative's address will be used for all official correspondence.

PROPERTY INFORMATION

Property Address 5158-A S. 108th St.
Tax Key Number 654-9984-006
Current Zoning B-1
Property Owner Ken Sidello
Property Owner's Address 4864 S. 10th St. Milwaukee, WI 53221
Existing Use of Property

(APPLICATION TYPE - CHECK ALL THAT APPLY)

- ☐ Site Plan Review-$200
- ☐ Temporary Use-$200
- ☒ Conditional Use Permit - $425
- ☐ Sign Plan Review (w/electronic message board) - $1.50/sf ($60min)
- ☐ Zoning Code or Map Change/Amendment -$425
- ☐ Planned Unit Development/Amendment -$425
- ☐ Special Meeting-$200
- ☐ Preliminary Subdivision Plat/CSM/Land Use -$425
- ☐ Filing Fee-$400/Final Subdivision Plat-$425
- ☐ Certified Survey Map -$425
- ☐ House or Building Moving Approval-$200
- ☐ Storm Water Management Application – TBD by DPW
- ☐ Bed & Breakfast Conditional Use Permit -$425

Please reference our Zoning Code-Chapter 8 of the Village Municipal Code for more details.

Please see reverse side for detailed submittal requirements.

STATEMENT OF PROJECT INTENT AND DESCRIPTION OF PROPOSAL: *Details of proposal, anticipated impact on surrounding properties and neighbors, plan of operation, hours of operation, frequency of deliveries to site, number of employees, description of any interior/exterior modifications or additions to be made to property, any outside storage (dumpsters, trucks, materials for sale, etc.), number of employees per shift, number of parking stalls, and any other information that is available. PLEASE EXPLAIN IN DETAIL: (attach additional sheets if necessary or provide a detailed cover letter explaining the proposal)*

By signing this application I hereby acknowledge the application fees shall be paid at the time of submittal which are **NON-REFUNDABLE** and that any further fees, costs or charges incurred by the Village shall be the responsibility of the applicant. If such fees are not paid they will have the potential to be placed on the property taxes for that year. **If applicant is different from property owner, property owner signature is required.**

Applicant Signature: Steve Itsines Date: 8/2/20 Property Owner: Date: 8/3/2020

For Office Use Only:
Date Submitted:
Amount Paid:
Accepted By:
Revision Date 4/17/19

Plan Commission Date:
Public Hearing Date:
Plan Commission Action:
Publication Notice Date:

Village Board Action: __ Approve __ Deny __Other
Date:
Zoning Amendment Publication Date:

STATE OF WISCONSIN : MILWAUKEE COUNTY : VILLAGE OF HALES CORNERS

CONDITIONAL USE PERMIT PUBLIC HEARING
Steve Itsines D.B.A. Brothers Gyros & Pizza

NOTICE IS HEREBY GIVEN that there will be a public hearing at the regular meeting of the Plan Commission, Village of Hales Corners, to be held on **October 19, 2020 at 6:30 p.m.** The hearing will be held at the Village Hall, 5635 S. New Berlin Road, Hales Corners, Wisconsin. The hearing will be on the application of **Steve Itsines d.b.a. Brothers Gryos & Pizza** for a conditional use permit, as required under Sec. 8-3-9(c)(2) of the Village of Hales Corners Zoning Code, a drive-in use pickup window in a B-1 zoning district for the business located at **5158-A S. 108th Street, Hales Corners (Tax Key No. 654-9984-006)** more particularly described as follows:

TR DESC:COM IN E LI S 108TH ST 255 FT S AND 60.02 FE E OF NW COR SW 29-6-21 THE S ALG SD E LI 195 FT SWLY ALG SD LI 191.75 FT E 277.01 FT TO NWLY LI WEPCO ROW TH NELY ALG SD ROW 349.94 FT N 94.28 FT W 180 FT N 130 FT W 140 FT N 154.99 FT TO S L W EDGERTON AVE W 20 FT S 199.99 FT W 100 FT S 10FT TH W 39.98 FT TO POB INC EASEMENT, EXC PT FOR ROW

All persons will be given an opportunity to be heard at this meeting. Questions prior to the hearing may be directed to the Administrator/Clerk/Treasurer. A full set of plans is available in the Village of Hales Corners Clerk's office.

Dated this 11th of September, 2020.

Sandra M. Kulik
Village Administrator/Clerk

Publish: CNI - Now - 2X: September 23 & September 30, 2020

SIDELLO
Family of Companies

DEVELOPMENT • RENOVATION • REPAIR • RENTALS • MANAGEMENT

7/20/2020

To: Steven Itsines, Chrisanti Itsines, & George Itsines DBA Demetri 7, LLC

RE: Pick up window renovations
5158A S 108th Street
Hales Corners, WI 53130

Dear Steven Itsines,

This letter is to inform you that we have accepted your proposal to complete renovations for a pick up window at your restaurant located in Edgerton Plaza Shopping Center (5158A S. 108th Street Hales Corners, WI 53130). You are authorized to proceed with the renovations needed.

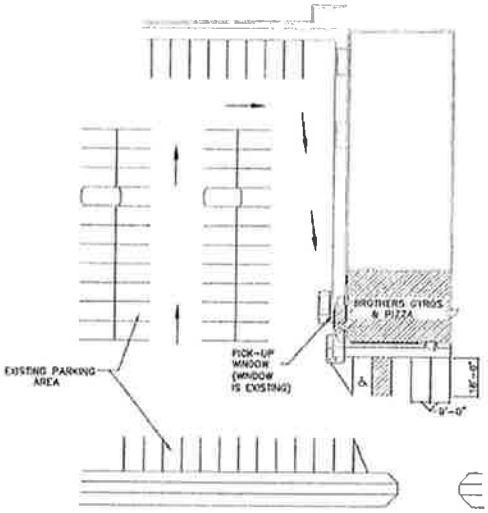
If you have any questions or concerns, please do not hesitate to contact us. Our email address is la@sidelloproperty.com and our leasing office number is (414) 482-7476 ext 23.

Sincerely,

Ken Sidello
Agent for Owner
Sidello Property
4864 S 10th Street
Milwaukee, WI 53221

HONEYDIP DONUTS
FRESH DONUTS & COFFEE

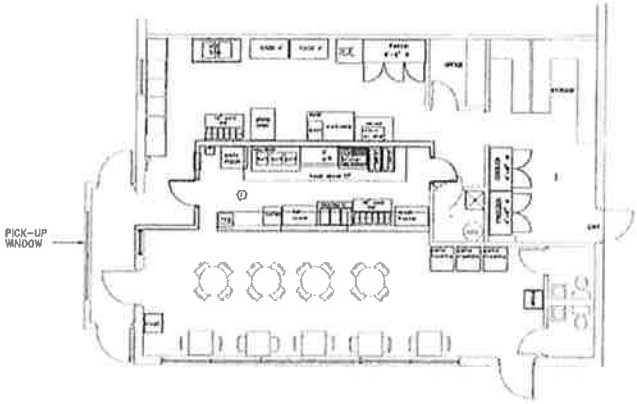
THE WINDOW SOURCE
HONEYDIP DONUT



HWY 100

SITE PLAN

1" = 40'-0"



LAYOUT FLOOR PLAN

1/8"=1'-0"

Business owner

Steve Itsines
6080 Conservancy Dr.
New Berlin, WI 53151
Phone: 414-651-6178

Architects & Engineers
5555 S. 25th Street
Milwaukee, Wisconsin 53221
Cell:(414) 897-4723
Tony Antonopoulos

Vision

SITE PLAN
LAYOUT FLOOR PLAN

BROTHERS GYROS & PIZZA
REMODELING
5108-A S. 108th Street,
Hales Corners, Wisconsin

DATE
6-01-20

ISSUED FOR

C101

275 West Wisconsin Avenue
Suite 300
Milwaukee, WI 53203
414 / 259 1500
414 / 259 0037 fax
www.graef-usa.com

GRāEF

collaborāte / formulāte / innovāte

MEMORANDUM

TO: Plan Commission
Village of Hales Corners

FROM: GRAEF
Ben Block

DATE: September 10, 2020

SUBJECT: Plan Commission Application for Site Plan and Conditional Use Review of Brothers Gyros & Pizza.

A. PURPOSE

1) Consider for approval the Site Plan Review and the Request for a Conditional Use for a new restaurant use with a pick-up window to be located at 5158-A S. 108th Street, Hales Corners, WI 53130.

B. BACKGROUND

Steve Itsines (Applicant) submitted a Plan Commission Application for Site Plan Review for a proposed restaurant at 5158-A S. 108th Street, the location of the former Honeydip Donuts. The new restaurant proposes to use an existing pick-up window for customers to receive orders from their vehicles, which would be staged in the parking lot. The application indicates that 4-7 employees would be on site for each shift. Based on the site plan, it appears that the restaurant could accommodate 26 customers at full capacity.

The property is zoned B-1 "Shopping Center District".

C. COMPLIANCE WITH HALES CORNERS ZONING CODE

Use:

The proposed use as a restaurant is a permitted use in the B-1 District. The pick-up window can be interpreted as a "drive-in use," which is considered a conditional use in the B-1 District.

Parking Provided:

Per the Village Code, restaurants require the following amount of parking:

- 1 stall for every 4 seats
- 1 stall for every employee

Based on the information submitted with this application, the new restaurant would require 14 stalls (7 stalls for employees; 6.5 stalls for seats).

The new restaurant shares a parking lot with many adjacent businesses. There are approximately 35 parking spaces within 100' of the new restaurant. A full parking analysis of all the uses on the property is not possible using the available materials. Considering that the prior use, Honeydip Donuts, was also

a restaurant subject to the above parking requirements, and that no changes are proposed to the parking provided, it is a reasonable conclusion that there is ample parking for the new restaurant.

Pick-Up Window & Conditional Use Requirements:

As noted above, the pick-up window is a conditional use in the B-1 District. The standards for evaluating conditional uses are defined by Sec. 8-6-7 of the Code and are listed below.

No application for a conditional use shall be approved by the Plan Commission unless such Commission shall find that the following conditions are present:

(a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.

(c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

(e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(f) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.

(g) That the proposed use does not violate floodplain regulations governing the site.

(h) That, when applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission and Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

(i) That, in addition to passing upon a Conditional Use Permit, the Plan Commission shall also evaluate the effect of the proposed use upon:

(1) The maintenance of safe and healthful conditions.

(2) The prevention and control of water pollution including sedimentation.

(3) Existing topography, drainage features and vegetative cover on the site.

(4) The location of the site with respect to floodplains and floodways of rivers and streams.

(5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.

(6) The location of the site with respect to existing or future access roads.

(7) The need of the proposed use for a shoreland location.

(8) Its compatibility with uses on adjacent land.

(9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

The site plan included with this application indicates that pick-up window is located on the north side of the building, and that the traffic flow for cars using this pick-up window would require them to stage in the drive aisle along the north side of the building. Based on this configuration, the following issues could potentially create an unsafe or disorderly environment:

- If there are multiple cars waiting for a pick-up order, they would potentially disrupt both pedestrian and visual access to the businesses adjacent to the new restaurant
- If there are any cars waiting for a pick-up order, they would potentially disrupt the standard traffic flow of this parking lot drive-aisle, forcing them to either wait or enter opposing traffic to pass them

As an alternative to the proposed pick-up window, the Plan Commission might consider allowing two or more parking stalls in the immediate vicinity of the new restaurant to be reserved for pick-up orders. Such an approach would avoid the issues cited above. The stalls located immediately to the west of the new restaurant are good candidates, as they would enable orders to be delivered without requiring pedestrians to enter the traffic flow of the parking lot.

D. ISSUES FOR CONSIDERATION

1) *Hours of Operation:* No information was provided regarding the proposed hours of operation for the restaurant.

2) *Parking Provided:* A complete parking analysis for the various uses on this property is not possible based on available information. The new restaurant would replace a former restaurant, and no changes to the existing parking are proposed.

3) *Pick-up Window:* The new restaurant proposes to use an existing pick-up window that will result in car staging that could potentially disrupt the operations of adjacent businesses. An alternative to this pick-up window could involve reserving a couple of parking stalls in the immediate vicinity of the restaurant for pick-up orders.

4.0

Village of Hales Corners

5635 S. New Berlin Rd, Hales Corners, WI 53130
414-529-6161

Plan Commission Application

Unless otherwise noted all Plan Commission meetings will be held the 3rd Monday of each month at 6:30pm at Hales Corners Village Hall.
All applications need to be complete and are due with payment 45 days prior to the Plan Commission meeting.

APPLICANT

Name Bob Kraus agent
Company Bauer Sign & Lighting Co. Inc
Address 2500 S 170th St
City New Berlin State WI Zip 53151
Telephone 262 784-0500
Fax 262 784-6675
Email bkraus@bauersignusa.com
Project Name/New Company Name (if applicable)
Existing Marathon Gas / converting to AMOCO

APPLICANT IS REPRESENTED BY

Name Bob Kraus agent
Company Bauer Sign & Lighting Co. Inc
Address 2500 S 170th St
City New Berlin State WI Zip 53151
Telephone 262 784-0500
Fax 262 784-6675
Email bkraus@bauersignusa.com

Note: Representativo's address will be used for all official correspondence.

PROPERTY INFORMATION

Property Address 5511 S 108th St
Tax Key Number 658-0001-001
Current Zoning B3
Property Owner ~~Shezad Ahmed~~ KHADIJA INAYAT
Property Owner's Address 5511 S 108th St
Hales Corners, WI 53130
Existing Use of Property Gas Station

(APPLICATION TYPE - CHECK ALL THAT APPLY)

- ☑ Site Plan Review-$200
- ☐ Temporary Use-$200
- ☐ Conditional Use Permit - $200
- ☐ Sign Plan Review (w/electronic message board) - $1.50/sf ($50min)
- ☐ Zoning Code or Map Change/Amendment -$300
- ☐ Planned Unit Development/Amendment -$200
- ☐ Special Meeting-$200
- ☐ Preliminary Subdivision Plat/CSM/Land Use -$125
- ☐ Filing Fee-$400/Final Subdivision Plat-$200
- ☐ Certified Survey Map -$125
- ☐ House or Building Moving Approval-$200
- ☐ Storm Water Management Application – TBD by DPW
- ☐ Bed & Breakfast Conditional Use Permit -$200

Please reference our Zoning Code-Chapter 8 of the Village Municipal Code for more details.

Please see reverse side for detailed submittal requirements.

STATEMENT OF PROJECT INTENT AND DESCRIPTION OF PROPOSAL: *Details of proposal, anticipated impact on surrounding properties and neighbors, plan of operation, hours of operation, frequency of deliveries to site, number of employees, description of any interior/exterior modifications or additions to be made to property, any outside storage (dumpsters, trucks, materials for sale, etc.), number of employees per shift, number of parking stalls, and any other information that is available. PLEASE EXPLAIN IN DETAIL: (attach additional sheets if necessary or provide a detailed cover letter explaining the proposal)* Remove existing "MARATHON" canopy decorative striping and copy

Install new "AMOCO" striping and install AMOCO "torch logos" on the north and south canopy elevations. Install "AMOCO" channel letters on east canopy elev.

By signing this application I hereby acknowledge the application fees shall be paid at the time of submittal which are **NON-REFUNDABLE** and that any further fees, costs or charges incurred by the Village shall be the responsibility of the applicant; if such fees are not paid they will go through the tax roll process and have the potential be placed on the property taxes for that year. **If applicant is different from property owner, property owner signature is required.**

Applicant Signature: [signature] Date: 8/17/22 Property Owner: [signature] Date: 08-14-22

For Office Use Only:
Date Submitted: _____
Amount Paid: _____
Accepted By: _____
Revision Date 2/24/17

Plan Commission Date: _____
Public Hearing Date: _____
Plan Commission Action: _____
Publication Notice Date: _____

Village Board Action: __ Approve __ Deny __ Other
Date: _____

Zoning Amendment Publication Date: _____

I, the undersigned, hereby acknowledge that I have read this agreement and I shall be responsible for the fees incurred by the Village and, in the event I fail to timely pay such charges, the Village can assess them against my property as a special charge together with any accrued interest.

Property Owner Signature *Required: _____

Printed Name: ~~Shazad Amad~~ KHADIJA INAYAT

Applicant's Signature (If not Property Owner): _____

Printed Name: Bauer Sign & Lighting Co., Inc. Bob Kraus agent

Date: 8/17/2020

Footnote: Wisconsin Statute 66.0628
Fees imposed by a political subdivision.

(1) In this section:

(a) "Political subdivision" means a city, village, town, or county.

(b) "Reasonable relationship" means that the cost charged by a political subdivision for a service provided to a person may not exceed the political subdivision's reasonable direct costs that are associated with any activity undertaken by the political subdivision that is related to the fee.

(2) Any fee that is imposed by a political subdivision shall bear a reasonable relationship to the service for which the fee is imposed.

(3) If a political subdivision enters into a contract to purchase engineering, legal, or other professional services from another person and the political subdivision passes along the cost for such professional services to another person under a separate contract between the political subdivision and that person, the rate charged that other person for the professional services may not exceed the rate customarily paid for similar services by the political subdivision.

BGB INTEGRATED CANOPY APPROVAL DRAWING - FASCIA 36" - HALES CORNER, WI

GEN 2

BUILDING

WEST ELEVATION

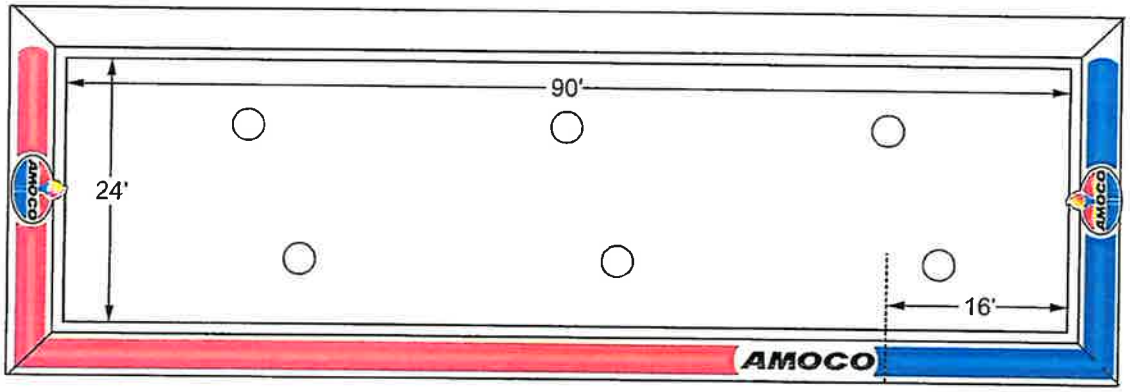
Flat panels without bullnose decal applied to face

W COBB AVE

SOUTH ELEVATION

TNO centered on side

Integrated Fascia on side



NORTH ELEVATION

TNO centered on side

Integrated Fascia on side

W GRANGE AVE

Integrated Fascia on side

Place letters 16' from corner

EAST ELEVATION

S 108TH ST

FEDERAL HEATH
VISUAL COMMUNICATIONS

Signoff indicates that the above product has been permitted with any municipalities involved. By signing this document, the product will be manufactured to these specifications.

Approved By _____

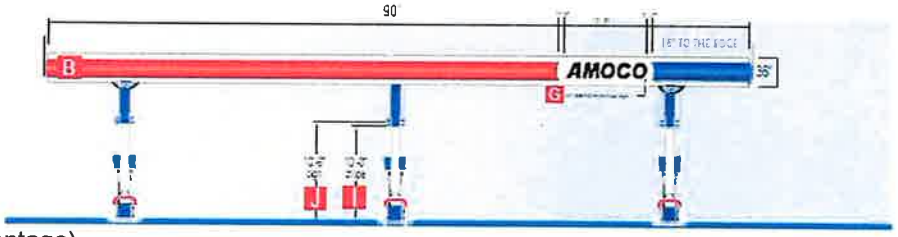
Date _____

SITE#	TEMP386
ADDRESS	5511 S 108TH ST
CITY, STATE	HALES CORNER, WI 53130
REVISION-1	07/29/2020 - CP

AMOCO

JOBBER: GARROW OIL CORP. | ADDRESS: 5511 S 108TH ST, HALES CORNERS, WI 53130-1946 | SVB: 1020800 | SITE LEVEL: B | DESIGNER: CONNOR DANIELS | DATE: 08.06.2020 | REVISION #: R2 | CANOPY 1 OF 1

Front Elevation

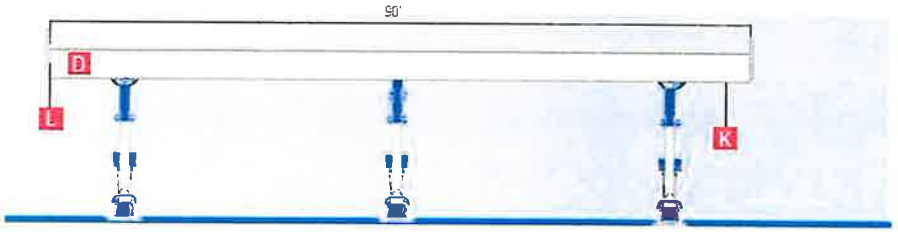


East elevation (108th Street frontage)

Left Elevation

South Elevation

Back Elevation



West Elevation

Right Elevation

North elevation

See Site Notes page for specific paint codes and contact info.

REMOVE ALL EXISTING SIGNAGE

- B ■ Install Dimensional Bullnose Fascia With Light Bar
- C ☐ Install Flat ACM With Decal Applied With No Lightbar
- D ■ Install New White ACM
  - ☐ Jobber Supplied ■ Federal Heath Supplied
- E ☐ Paint Existing Flat ACM White
  - ☐ Install Bullnose Decal ☐ Leave White
- F ■ Install Amoco T&O
  - ☐ 60" T&O ☐ 34" T&O (restricted PILZ only)
  - ■ 36" T&O ☐ 30" T&O (restricted PILZ only)
- G ■ Install Amoco Channel Letters
  - ■ 22" Channel Letters ☐ 15" Channel Letters (restricted PILZ only)
- H1 ■ Paint Canopy Columns Amoco White & Amoco Dark Blue (Per Standard: Shown on Note Page)
- H2 ☐ Paint As Shown In Guide
- I ■ Install Flag Signs 10'6" From The Ground
- J ■ Apply Amoco Light Blue Stripe 10'0" From The Ground
- K ■ Canopy Deck To Be Amoco White
- L ■ Canopy Corners: ■ Are 90° ☐ Are NOT 90°
- M ■ Canopy Detail (Full Canopy Detail Page After Elevation)

Notes

- Any Additional Fascia Should Be Removed. ACM Is Meant To Fit Over First Layer Of Fascia Only.
- If Fascia Height Is Less Than 30" It Will Need To Be Built Up To At Least 30" Inches.

MAP

Signoff indicates that the above product has been permitted with any municipalities involved. By signing this document, the product will be manufactured to these specifications.

Approved By: _____

Date: _____

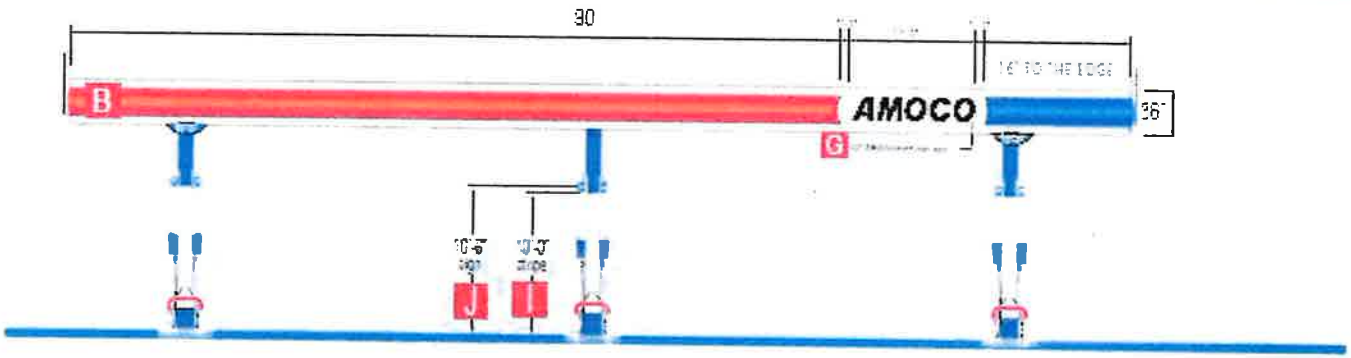
BIG RED ROOSTER FLOW

This is an original concept drawing created by Big Red Rooster Flow, LLC. It is submitted for use in connection with the project being planned for you by BRRFlow. All or any part of this design (except registered trademarks) remains the property of BRRFlow. This drawing is not to scale. For all questions regarding the scope of the project, please contact Jolene Clarke 847.549.2223 or The Brand Image Adviser, Ronda Campbell 630.251.3520.

EAST ELEVATION - FACING HWY 100

JOBBER: GARROW OIL CORP. ADDRESS: 5511 S 108TH ST, HALES CORNERS, WI 53130-1946 SVB: 1020800 SITE LEVEL: B DES

Front Elevation



EAST ELEVATION

"AMOCO" channel letters

13' 3" WIDE X 22" HIGH = 24.29 SQ FT

SOUTH ELEVATION - FACING COBB AVE

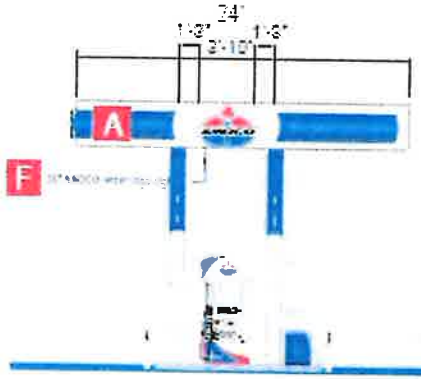
SOUTH ELEVATION

AMOCO "TORCH" LOGO

3' 10" WIDE X 36" HIGH = 11.5 SQ FT

NORTH ELEVATION - FACING GRANGE AVE

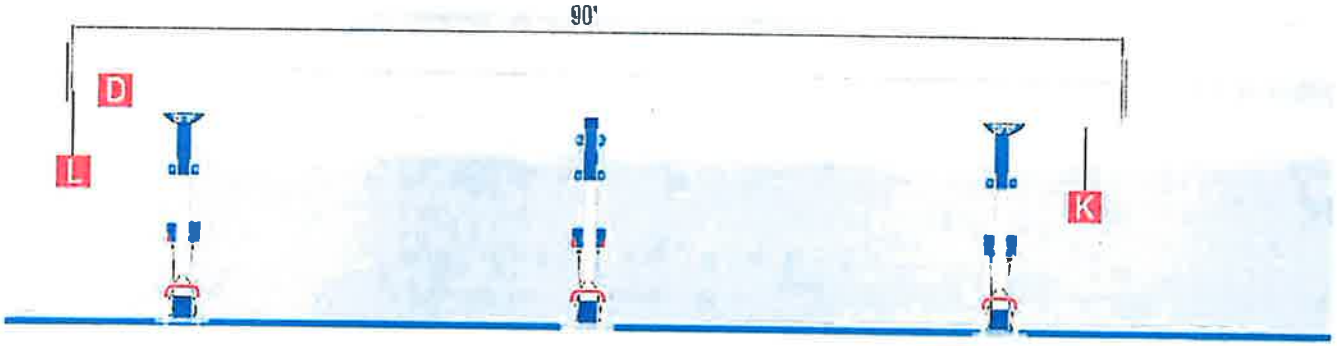
Right Elevation



NORTH ELEVATION

AMOCO "TORCH" LOGO

3' 10" WIDE X 36" HIGH = 11.5 SQ FT



WEST ELEVATION - FACING BUILDING

NO GRAPHICS - BLANK PANELS

WEST ELEVATION - FACING BUILDING

JOBBER: SARROW OIL CORP. ADDRESS: 5511 S 108TH ST, HALES CORNERS, WI 53130-1945 SVE: 102[illegible] SITE LEVEL: 3 DESIGNER: CONNOR DANIELS DATE: 08.06.2020 REVISION #: R2 BUILDING

See Site Notes page for specific paint codes and contact info.

"REMOVE ALL UNAPPROVED SIGNAGE FROM DISPENSERS"

YES, this location is receiving a Amoco "Togo" image (Qty. 1). Install:

- [x] 52" Illuminated Togo Sign
- [ ] 77" Illuminated Togo Sign
- [ ] 112" Illuminated Togo Sign

Note: ToGo sign to be centered over entry door and centered on the fascia above the gradient stripe.

YES, this location is receiving a Amoco "Service" image. (Qty. 0). Install:

- [ ] 5' Service Decal
- [ ] 5' Service on ACM
- [ ] 5' Illuminated Service Sign
- [ ] 8' Service Decal
- [ ] 8' Service on ACM
- [ ] 8' Illuminated Service Sign
- [ ] 12' Illuminated Service Sign

Exterior Building Walls

- [ ] to be painted BP Retail White (c.01)
- [x] to be kept natural

Building Fascia to be Amoco Retail White (C.01)

- [x] Paint Fascia
- [ ] Install new ACM
- [ ] Install Vinyl

Is this location is receiving a Red Stripe?

- [ ] Yes
- [x] No

The building roof **MUST** be red or neutral when the ToGo image is being used. You will need to repaint it before financial settlement can occur.

FASCIA DETAIL

FASCIA DETAIL

"TO GO" COPY 52" WIDE X 20 5/8" HIGH = 7.45 SQ FT

RE-FACE EXISTING CABINET

FACE SIZE 49" HIGH X 97.25" WIDE = 32.75 SQ FT

433920

Detailed Information:

Standard Windload
Frame Quantity: Double Sided
Frame Size: 48.625"H X 96.875"W
Existing Cab: 49"H X 97.25"W
Area: 32.7 SQ FT
Frame Color: Egg Shell-Satin White

Detail 1, Imprint
Upload Image, Flat Face
VO: 44.625"H X 45.4375"W

Detail 2, LD4 Digits
VO: 28.3125"H X 45.4375"W
LED Priceline 1 : Red 14"

Detail 3, Imprint
Upload Image, Flat Face
VO: 14.3125"H X 45.4375"W

Lumi 1: Intense Blue - 3630-127

---

1 - 20 Amp Circuit(s) Required
LEDs Total Draw: 1 Amps

Est. Crated Weight: 152 pounds
Crate HxLxW: 59x104x21"

Everbrite

DISCLAIMER: Renderings are for graphic purposes only and not intended for actual construction dimensions. For windload requirements, actual dimensions, and mounting detail, please refer to engineering specifications and install drawings. These drawings and designs are the exclusive property of Everbrite LLC. Use of, or duplication in any manner without express written permission of Everbrite LLC, is prohibited.

Customer: **AMOCO**		Description:	Customer Approval: Graphics and colors on file will be used unless otherwise specified by customer. Please review drawing carefully. By signing below, you agree to graphics as shown above, and to location of sign as shown. Please return signed copy back to Everbrite.
Project No: 433920	Scale:		
Date: 07/29/2020	Drawn By: J.Goldsmith		
Location & Site No.: # BRRAM1020800		Revised:	CUSTOMER SIGNATURE _____ DATE _____
		Revised:	LANDLORD SIGNATURE _____ DATE _____

MARATHON
REGULAR
1.99 9
PREMIUM
2.59 9
iFixFast
Repair & Accessories
BUY • SELL • TRADE

The Avenue
275 W Wisconsin Ave, Suite 300
Milwaukee, WI 53203
414 / 259 1500
414 / 259 0037 fax
www.graef-usa.com

GRāEF

collaborāte / formulāte / innovāte

MEMORANDUM

TO: Plan Commission
Village of Hales Corners

FROM: GRAEF
Ben Block

DATE: October 12, 2020

SUBJECT: Plan Commission Application for review of proposed signage updates to the gas station located at 5511 S 108th Street, Hales Corners, WI 53130.

A. BACKGROUND

Bob Kraus of Bauer Sign & Lighting Co. Inc (Applicant) submitted a Plan Commission Application for a Sign Plan Review of proposed alterations to the signage of the gas station located at 5511 S 108th Street. The gas station is being rebranded from "Marathon" to "Amoco." The updated signage will include updates to the existing canopy lettering and logos, a refacing of the existing monument sign, and a new wall sign on the building.

The property is zoned B-3 "Automobile Oriented Businesses."

C. COMPLIANCE WITH HALES CORNERS ZONING CODE

1) *Direct Illumination*
The materials provided with this Application indicate that three of the canopy facades will be illuminated with a white light bar. Section 8-9-6(C) of the Village Code indicates that directly illuminated signs are prohibited unless specifically approved by the Plan Commission.

2) *Signs – Canopy*
The materials provided with this Application indicate that the proposed gas canopy will feature two Amoco torch logos and one Amoco sign featuring channel lettering. The proposed logos would each be 11.5 square feet in area; the Amoco lettering would be 24.29 square feet in area. Section 8-9-9 of the Village Code indicates that gasoline stations are allowed two canopy signs not exceeding 5 square feet in area per sign. It should be noted that the existing canopy signage features three signs of channel letters, each of which appears to be larger than 5 square feet.

3) *Signs – Building*
The materials provided with this Application indicate that there is a proposed "To-Go" sign for the building. The proposed sign would be 7.45 square feet. Section 8-9-9 of the Village Code indicates that gasoline stations are allowed two wall signs not exceed 40 square feet each.

4) *Signs – Monument Sign*
The materials provided with this Application indicate that the existing monument sign is proposed to be refaced with the Amoco logo. No dimensional changes to this sign are proposed. Section 8-9-9 of the Village Code indicates that gasoline stations are allowed one monument sign.

D. ISSUES FOR DISCUSSION

1) *Direct Illumination*: Does the Plan Commission want to allow for the direct illumination of the canopy with white light bars?

2) *Signs – Canopy*:
   a. Size: Does the Plan Commission want to allow for canopy signage that is larger than 5 square feet? (Size of logos: 11.5 square feet; size of lettering: 24.29 square feet)
   b. Quantity: Does the Plan Commission want to allow for two logos and one sign of channel letters? (Sec. 8-9-9 indicates two canopy signs may be allowed.)

3) *Variances or Exceptions*
Section 8-9-14 of the Village Code allows the Plan Commission to waive or modify the provisions of this chapter where it would further the public interest and uphold the purposes of this ordinance. Such waiver of modifications may be based on, among other things, site specific hardships such as topographic aberrations, visual encumbrances, and design complications.

5.0

Village of Hales Corners

5635 S. New Berlin Rd, Hales Corners, WI 53130
414-529-6161

Plan Commission Application

Unless otherwise noted all Plan Commission meetings will be held the 3rd Monday of each month at 6:30pm at Hales Corners Village Hall.
All applications need to be complete and are due with payment 45 days prior to the Plan Commission meeting.

APPLICANT

Name Steve & Elaine Cannistra

Company N/A

Address 10505 W. Scharles Avenue

City Hales Corners *State* WI *Zip* 53130

Telephone 414-425-6226

Fax --

Email elaine.cannistra@gmail.com

Project Name/New Company Name (if applicable)
N/A

APPLICANT IS REPRESENTED BY

Name Brian C. Randall, Esq.

Company Davis & Kuelthau, s.c.

Address 111 East Kilbourn Avenue, Suite 1400

City Milwaukee, WI *State* 53202 *Zip*

Telephone 414-225-1484

Fax 414-278-3684

Email brandall@dkattorneys.com

Note: Representative's address will be used for all official correspondence.

PROPERTY INFORMATION

Property Address 10505 W. Scharles Avenue

Tax Key Number 659-9952-000

Current Zoning B-1 Business Shopping District

Property Owner Steven M. & Elaine Cannistra Revocable Trust

Property Owner's Address 10505 W. Scharles Avenue
Hales Corners, WI 53130

Existing Use of Property Residential

(APPLICATION TYPE - CHECK ALL THAT APPLY)

- ❑ *Site Plan Review-$200*
- ❑ *Temporary Use-$200*
- ❑ *Conditional Use Permit - $425*
- ❑ *Sign Plan Review (w/electronic message board) - $1.50/sf ($60min)*
- ❑ *Zoning Code or Map Change/Amendment -$425*
- ❑ *Planned Unit Development/Amendment -$425*
- ❑ *Special Meeting-$200*
- ❑ *Preliminary Subdivision Plat/CSM/Land Use -$425*
- ❑ *Filing Fee-$400/Final Subdivision Plat-$425*
- ❑ *Certified Survey Map -$425*
- ❑ *House or Building Moving Approval-$200*
- ❑ *Storm Water Management Application – TBD by DPW*
- ❑ *Bed & Breakfast Conditional Use Permit -$425*

Please reference our Zoning Code-Chapter 8 of the Village Municipal Code for more details.

Please see reverse side for detailed submittal requirements.

STATEMENT OF PROJECT INTENT AND DESCRIPTION OF PROPOSAL: *Details of proposal, anticipated impact on surrounding properties and neighbors, plan of operation, hours of operation, frequency of deliveries to site, number of employees, description of any interior/exterior modifications or additions to be made to property, any outside storage (dumpsters, trucks, materials for sale, etc.), number of employees per shift, number of parking stalls, and any other information that is available. PLEASE EXPLAIN IN DETAIL: (attach additional sheets if necessary or provide a detailed cover letter explaining the proposal)* See attachment.

By signing this application I hereby acknowledge the application fees shall be paid at the time of submittal which are **NON-REFUNDABLE** and that any further fees, costs or charges incurred by the Village shall be the responsibility of the applicant. If such fees are not paid they will have the potential to be placed on the property taxes for that year. **If applicant is different from property owner, property owner signature is required.**

Applicant Signature: s/ Elaine Cannistra Date: 10/5/20 Property Owner: Elaine Cannistra as a trustee of Steven M. & Elaine Revocable Trust Date: 10/5/20

For Office Use Only:

Date Submitted:	Plan Commission Date:	Village Board Action: __ Approve __ Deny __Other
Amount Paid:	Public Hearing Date:	Date:
Accepted By:	Plan Commission Action:	
Revision Date 4/17/19	Publication Notice Date:	Zoning Amendment Publication Date:

Attachment to Plan Commission Application

To: The Village of Hales Corners

From: Steve & Elaine Cannistra, Owners
cc: Attorney Brian C. Randall (Davis & Kuelthau, s.c.)

Date: October 5, 2020

Subj: Cannistra Salt Bin Cover

This Attachment to Plan Commission Application is filed as a Statement of Project Intent & Description of Proposal in support of the requested salt bin cover approval for 10505 West Forest Home Avenue (the "***Property***").

1. **Salt Bin History**: Steve and Elaine Cannistra have resided at the Property since 1988. The Property is zoned B-1 Shopping Center District but it has always been used as the residence for the proprietor(s) of Clifford's Supper Club, the adjacent restaurant. The Cannistras have stored salt at the Property in a salt bin for over three decades and they have used the salt incidentally at the site and for other of the Cannistras' related business activities.

For proper and safe storage, it is imperative that salt be protected from the elements with a cover.

The salt bin is located in the south-west corner of the Property (the horizontal white roof behind the Cannistra home as shown in the photograph below). Because of the location being in the southern-most corner of the Property and the location of their garage adjacent to the salt bin, the Cannistras cannot utilize the space where the salt bin is located for alternative uses.

Numerous neighbors signed supportive statements presented to the Board of Appeals on September 9, 2020, asking that the Village approve the Cannistras' salt bin.

The salt bin cover was originally attached to the Cannistras' garage but following the Board of Appeals decision, the Cannistras are detaching the salt bin cover from the garage as required.

2. **Description of Current Salt Bin**: The salt bin is approximately fifteen (15) feet wide and twenty (20) feet in height. The floor is an asphalt surface, three of the exterior sides are composed of concrete blocks stacked on top of each other, and a metal cover sits on top of the blocks (as shown in the photograph below).

In fact, the salt bin cover is a cart corral that is commonly found throughout the Village and was purchased from Menard's. *See* Cart Corral Material List, attached.

3. **Approving Existing Salt Bin Cover:** The Cannistras request that the Village approve existing salt bin cover as it is (or lowered in height, if so required). The salt bin cover has been in place for many years, is a commonly-found cart corral cover found throughout the Village, and the salt bin is in an inconspicuous location on the Property. While the Board of Appeals could not approve the salt bin as it is today, the Cannistras have been directed to obtain approval from the Plan Commission if they wish to retain the cover on the salt bin.

4. **Alternative Salt Bin Cover:** Alternatively, the Cannistras are willing to replace the existing cart corral cover with a tarp covering with support hoops. *See* Spec Sheet, attached. This covering product can be made to custom specifications so the overall height will not exceed 15 feet and the width will be such that it will not touch the garage. The product will work with the existing sides and asphalt floor. Accordingly and as directed by the Village, the Cannistras seek approval from the Plan Commission for the alternative cover on the salt bin as a follow up to the the Board of Appeals ruling.

5. **Conclusion**: The salt bin is tucked away in the back corner of the Property, out of sight from most angles. It has been located on the Property for over three decades without causing any conflict in the Village. The Cannistras are seeking to comply with the Board of Appeals ruling and responding to the direction by the Village to obtain approval of the salt bin cover, and they are proceeding to detach it from the garage. It is respectfully requested that in its modified form, or in the proposed alternative form, the salt bin cover be approved by the Village.

Salt & Sand Storage

click here to download our salt storage brochure! (please see pricing below)

The photo above is our 30′ wide put on the ground beside the blocks. You can also mount it on the blocks. Our packages most often come with a tarp cover for both ends. The assembly instructions give pointers on how to frame in the back. The finishing touch is one of our very economical roll up doors which typically keep out 90% of the weather.

These units can easily be mounted onto a beam which is secured to the top of one or more layers of big concrete blocks. It is important to have a seal between the beam and the block so that rain water will run to the outside.

An important area of consideration when mounting a structure to more than two rows of blocks, is the way that the wind load increases exponentially as the height increases. (i.e. 50% increase in height doubles the wind load). This is why we often go with reduced hoop spacing.

TARP vs. PLASTIC

The big difference is that with TARP you get extremely high tear resistance with good annual cover cost, and with PLASTIC you get slightly less life span but even less annual cover cost.

AVAILABLE OPTIONS

- Custom widths, heights & hoop spacing
- Roof vents & forced ventilation packages
- Various types & sizes of doors with end framing priced separately
- 8mm poly-carbonate sheeting for roof and/or ends
- Roll up sides for natural ventilation & reduced condensation
- Cross ties for added rigidity, support or other storage

Village of Hales Corners

5635 S. New Berlin Road
Hales Corners, WI 53130
Phone: (414) 529-6161
Fax: (414) 529-6179
www.halescorners.org

James R. Ryan Municipal Building

October 2, 2020

VIA E-MAIL
Brian C. Randall
Davis Kuelthau, S.C.
111 E. Kilbourn Ave, Ste 1400
Milwaukee, WI 53202

Dear Attorney Randall:

My testimony at the BOA hearing was that the blocks by themselves would not constitute an "accessory" or "structure". The BOA determined that the structure in place which was the subject of the appeal was not minor due to its size.

Your client's most recent submission appears to be essentially a recreation of the impermissible structure while using different materials.

My testimony indicated that the blocks by themselves as well as the ice-melting materials contained inside them, would not be regulated by our code. The covering of the blocks with different materials and their assembly as your client is now requesting amount to another version of what the Board of Appeals disallowed and further disregards the following:

SEC. 8-12-1 ACCESSORY USES OR STRUCTURES.

(f) **Landscaping Units.** Accessory vegetation used for landscaping and decorating may be placed in any required yard area. Permitted vegetation include trees, shrubs and flowers and gardens. **Under no circumstances may a tent be used as a dwelling or an accessory structure**.

SEC. 8-16-1 DEFINITIONS.

(2) Accessory Use or Structure. A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.

(110) Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

(111) Temporary Structure. **A movable structure not designed for** human occupancy nor for **the protection of goods** or chattels and not forming an enclosure, such as billboards.

This section of the code has been applied consistently to similar "tent over pole" structures throughout the Village except in instances of backyard parties and only for a few days' duration.

The subunit of the Village with jurisdiction over the described structure is the Plan Commission. I will do what I can on my end to expedite consideration by the Plan Commission if your client disagrees with my comments above, but an application will be required as well as a charge back agreement for our

Copy

STATE OF WISCONSIN VILLAGE OF HALLES CORNERS MILWAUKEE COUNTY

BOARD OF APPEALS

IN THE MATTER OF THE APPEAL OF:

STEVEN M. AND ELAINE CANNISTRA, on behalf of the Steven M. and Elaine Cannistra revocable trust, as owners of property located at 10505 W. Scharles Ave, Hales Corners, WI, 53130.

Appellants.

The above matter came for hearing before the Hales Corners Board of Appeals at the Hales Corners Municipal Building, 5635 S. New Berlin Road, Hales Corners, Wisconsin on the 9th day of September, 2020, on the appeal of Steven M. and Elaine Cannistra, on behalf of the Steven M. and Elaine Cannistra revocable trust (the "appellants"), as the owners of property located at 10505 W. Scharles Ave. in the Village of Hales Corners, Wisconsin (the "property"). Members of the Board of Appeals participating were Acting Board Chairperson Steven Menden, and Board Members Michael Hug, Jeff Chesney, Zach Fowler, Fred Kramer (alternate), and Gerald Luecht (alternate). The appellants appeared in person and through attorney Brian C. Randall. The proceeding was operated under the "general hearing" guidelines found in Hales Corners Village Code § 8-15-3(g)(1).

The above referenced property is zoned B-1 Business Shopping District. However, its principle use is residential, and contains the home in which Steven and Elaine Cannistra reside. Situated on the property next to their personal residence is a storage unit in which de-icing materials were found to be stored (the "salt shack"). This salt shack is approximately 15 feet wide by approximately 20 feet high, and contains several hundred pounds of salt/de-icing material inside. The salt shack is physically connected to the existing garage for the private residence on the property.

On July 1, 2020 Hales Corners Zoning Administrator Sandra M. Kulik issued a correction order/letter to the appellants (a copy of which is part of the record), directing them to remove the "large structure containing de-icing materials," (i.e. the "salt shack") as well as the de-icing materials inside, from the aforementioned property.

The appeal alleges that the July 1, 2020 correction order/letter contains "errors" in the interpretation and enforcement of the Zoning Code. The Board of Appeals has jurisdiction to hear disputes concerning errors of interpretation pursuant to Hales Corner's Village Code §8-15-1(d)(1).

The written materials filed in support of the appeal argued that the salt shack was neither a "structure" nor an "accessory structure" as contemplated by the Village of Hales Corner's Zoning Code, and thus not regulated thereunder. Instead, the appellants argued that the salt shack constituted a "minor structure" as defined by Hales Corner's Municipal Code §8-15-1(a)(85). The appellants also argued that the timing of the construction of the salt shack may make it a permitted non-conforming use.

The appellant's presentation began with remarks from counsel, followed by testimony from Steven Cannistra, Elaine Cannistra and Kathryn Cannistra. The appellants argued that the salt shack was not a "structure" as defined by Hales Corners Municipal Code §8-16-1(a)(110). Counsel also argued that the salt shack was not an "accessory structure" as defined by Hales Corners Municipal Code §8-16-1(a)(2). Alternatively, counsel argued that the "salt shack" constituted a "minor structure" as defined by Hales Corners Municipal Code §8-16-1(a)(85) as follows:

> Minor structures. Any small movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four (4) feet in height.

Hales Corners Village Code, §8-16-1(a)(85).

Finally, counsel also argued that the salt shack should be grandfathered in as a permitted non-confirming use based upon the age of the structure.

Testimony offered by the appellants indicated that the salt shack had been constructed in 2015, and that it was approximately 15 feet in width and approximately 18 to 20 feet high. Steven Cannistra testified that the de-icing materials stored in the shack were used as part of his snow removal business during the winter season. Other testimony focused on aesthetics, lack of complaints from neighbors, and intrusions by new commercial tenants next to the property. Exhibits, which are part of the record herein, included photos of the property, google maps, letters from neighbors, and the correction order/letter.

Testimony was presented on behalf of the Village by Zoning Administrator Sandra M. Kulik, and argument was made by attorney Hector de la Mora. Ms. Kulik's testimony was augmented by a PowerPoint presentation, photos, and maps. These exhibits are part of the official record.

Ms. Kulik focused on the size of the structure, and noted that the salt stored therein weighed several thousand pounds. She also demonstrated through photos that the salt shack is physically connected to the garage that is part of the appellant's residential property. She testified that the salt shack is placed upon large concrete stacked blocks, approximately 2,400 pounds each, has no door, is taller than 15 feet, and has metal sides and roof. She also testified that the shack is placed too close to both the principle residential dwelling on the property, as well as the garage, in violation of the Code. Additionally, it was testified that the shack is too close to the rear and side yard setbacks. Ms. Kulik also testified that because the de-icing materials were used for Mr. Cannistra's "home occupation" as defined by the Hales Corners Municipal Code, the salt shack further constituted an impermissible "accessory building." The parties all agreed that no permit had ever been requested to construct the salt shack.

After presenting questions to the Village and the Appellants, and after hearing summation argument from both the appellant and the Village, the Board of Appeals moved to closed session at 10:14 pm. The motion was made by acting chairperson Steven Menden, and seconded by Michael Hug. The vote was unanimous.

The Board discussed the evidence offered and the application of the Code in closed session. At 11:17 p.m. Board member Zach Fowler moved to go back into open session. This was seconded by Board member Jeff Chesney, and carried on a 5-0 vote.

In open session, Board Member Fred Kramer moved to affirm the zoning administrator's decision of the July 1, 2020 letter to the extent that the frame metal structure only shall be removed, the building is deemed to be an accessory building due to the dimension and size of the structure which are not considered minor, and as the building is attached to the garage it is a structure. This motion was seconded by Board member Michael Hug. Discussion was then had among the board members.

It was noted that the salt shack was approximately 15 feet across and at least 18 to 20 feet high, and held several thousand pounds of salt. The shack was also built upon large concrete stacked blocks weighing in excess of 2,400 pounds each. The shack was also physically connected to the garage that served the residence on the property, and had steel sides and a steel roof.

The Board discussed how the physical characteristics of the salt shack compared to the definition of "minor structure" contained in the Hales Corner's Code. That definition describes a "small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four (4) feet in height." It was discussed that the sheer size of the salt shack seemed to be inconsistent with the definition of "minor structure" in the Code, and contrary to the examples given therein. It was also not "movable" or portable as contemplated by the definition. The Board discussed

how the salt shack more appropriately fit the definition of "structure" given in Hales Corners Municipal Code §8-16-1(a)(110):

> Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

Hales Corners Village Code, §8-16-1(a)(110).

It was noted that the salt shack was physically connected to the garage for the residence, which had a "permanent location on the ground."

The Board discussion noted that testimony had been given that the salt contained in the shed was used for Mr. Cannistra's snow removal business. As such, the salt shack also constituted an "accessory structure" that would also be prohibited by the Hales Corners Village Code.

The Board also discussed appellant's argument that the salt shack should be grandfathered in as a permitted non-conforming structure based upon date of construction. Based upon testimony that the salt shack was constructed in 2015, this argument was found not to be applicable.

The Board discussed that because the salt shack was a "structure" as defined by the Village Code, it was in violation of the Zoning Code for the reasons stated in the Zoning Administrator's July 1, 2020 order/letter.

Following discussion, a vote was taken on the Motion, which passed on a vote of 5-0.

Pursuant to Wisconsin Statutes, an appeal of the September 9, 2020 decision is authorized by commencing an action for certiorari in the Milwaukee County Circuit Court within thirty days.

Dated at Hales Corners, Wisconsin this _____ day of September, 2020.

HALES CORNERS OF APPEALS

BY: _____

STEVE MENDEN, Acting Chairperson

BY: _____

Village Clerk

275 West Wisconsin Avenue
Suite 300
Milwaukee, WI 53203
414 / 259 1500
414 / 259 0037 fax
www.graef-usa.com

GRāEF

collaborāte / formulāte / innovāte

MEMORANDUM

TO: Plan Commission
Village of Hales Corners

FROM: GRAEF
Ben Block

DATE: October 12, 2020

SUBJECT: Plan Commission Application for Site Plan Review of a proposed accessory structure for the storage of salt.

A. PURPOSE

1) Consider for approval the Application for Site Plan Review for the property located at 10505 W Scharles Avenue, Hales Corners, 53130.

B. BACKGROUND

Steve and Elaine Cannistra (Applicants) submitted a Plan Commission Application for Site Plan Review for proposed alterations to an existing accessory structure used for the storage of salt. It is our understanding that the Cannistras operate a business that includes the removal of snow for a number of off-site locations from this property, and that this salt is accessory to that business use. The property is zoned B-1, Shopping Center District.

On July 1, 2020, the Applicants received correction orders for the removal of the existing accessory structure. The Applicants argued in front of the Board of Appeals on September 9, 2020 that the correction order contained errors in the interpretation and enforcement of the Zoning Code, namely:

- That the salt shack was a "minor structure" and not a "structure" nor an "accessory structure"
- That the salt shack should be permitted as a non-conforming use

After hearing arguments from both the Applicants and the Village Zoning Administrator, the Board of Appeals decided that the salt shack was an "accessory structure" for three main reasons:

- The salt shack is not small, nor is it movable, therefore it is not a "minor structure"
- The salt shack is used for the snow removal business, and is thus an "accessory structure"
- The salt shack is attached to the garage and has a permanent location on the ground, fitting the definition for "accessory structure"

The Board of Appeals also decided that since the salt shack was constructed in 2015 it could not be permitted as a non-conforming structure.

The proposed alterations to the salt shack that are contained in this Application include the following:

- Detaching the salt shed from the garage
- Using metal to cover the salt pile OR using a tarp with hoops to cover the salt pile

C. COMPLIANCE WITH HALES CORNERS ZONING CODE

The Proposed Salt Shack is an Accessory Structure

As outlined above, the Board of Appeals ruled that the salt shack is an accessory structure for three reasons, only one of which was that the salt shack was attached to the garage. Thus, despite the proposed detachment of the salt shack from the garage, the salt shack still constitutes an accessory structure.

There is no Principal Business Use Recorded

Sec. 8-12-1(b) of the Zoning Code requires that all accessory structures be associated with a principal use.

> *Sec. 8-12-1(b) Principal Use to be Present: An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.*

According to Village records, the existing snow removal business has never sought or received Village approval. Thus, there is no permitted principal use on this property.

In theory, the Applicants could apply for Village approval of a business which includes snow removal; however, a snow removal business entails having a yard with associated storage of materials and likely removal equipment and is thus a prohibited use in the B-1 District.

> *Sec. 8-3-9(b)(1) Permitted Uses. Permitted uses in this district include...contractors' offices (no yards).*
>
> *Sec.8-3-9(b)(3) Any other business enterprise, which is similar in character to those listed in Subsection (b)(1) above, but the following types of uses shall not be permitted:*
>
> ...
>
> *(k) Contractor's plant or storage yard.*

The Non-Conforming Residential Use Cannot be Expanded

The Applicants might argue that the business involving snow removal is a "home occupation" that was established while the property was zoned residential, and that this "home occupation" is the principal use to which the salt shack is accessory. Under such analysis, the "home occupation" would be a non-conforming use. Per Sec. 8-7-2(d) of the Zoning Code, but non-conforming uses cannot be expanded or enlarged.

> *Sec. 8-7-2(d) Non-Conforming Use of Land. No such use shall be expanded or enlarged.*

Thus, the potential argument that the salt shack is an accessory structure to the principal use of a non-conforming home occupation is not compliant with the Zoning Code.

Setbacks and Bulk requirements

The salt shack- or protection assembly is located approximately 3.5 feet from the property to the west. This fails to meet the setback requirements for nonconforming structures in business districts, as outlined below:

> *Sec. 8-12-1(e) Placement Restrictions – Nonresidential Districts: Accessory buildings in the B-1, B-2, B-3, B-4, M-1 or P-1 Districts shall have a side yard setback and rear yard setback of not less than ten (10) feet.*

Building Materials

The proposed alterations to the salt protection assembly entail using a metal cover or a tarp with hoops to cover the stored materials. Neither of these approaches would comply with the Zoning Code, as outlined below:

> *Sec. 8-2-3(n)(2): Prohibited Exterior Building Materials:*
>
> ...
>
> *c. Metal siding*
>
> *d. Corrugated metal building skins.*

Per the Section cited above, the proposed metal covering consists of a prohibited exterior building material.

> *Sec. 8-12-1(f) Landscaping Units. Accessory vegetation used for landscaping and decorating may be placed in any required yard area. Permitted vegetation include trees, shrubs and flowers and gardens. Under no circumstances may a tent be used as a dwelling or an accessory structure.*

Per the Section above, the proposed tarp with hoops (essentially a tent) is not permitted as an accessory structure.

D. REASONS FOR DENIAL

Based on the above, it is recommended that the Plan Commission ***DENY*** the proposed alterations to the salt protection assembly for the following reasons:

1. There is no principal use to which the salt shack is accessory, as required by Sec. 8-12-1(b).
2. The setbacks of the salt protection assembly are not compliant with the requirements of Sec. 8-12-1(e)
3. The salt protection assembly incorporates prohibited materials, as outlined in Sec. 8-2-3(n)(2) and Sec. 8-12-1(f).