

Town of Berry Board Meeting
August 17, 2020, 7:00 p.m., at the Town Hall, 9046 State Road 19, Mazomanie, WI 53560
Agenda

1. Call to order
2. Approve minutes of July 6, 2020 and July 20, 2020
3. Public Comments: You may address the Board on any item not on the agenda. A discussion item may be placed on a future agenda. Public comment may be heard on any agenda item either now, or at the time the agenda item is to be discussed, or at the discretion of the Town Chair at any other time the agenda item is discussed. Comments are generally limited to three minutes.
4. Patrolman Report, if necessary
5. Discussion/action re:
 - A. (R-2020-3) Allayne Turk, Kahl Road, zoning change of 4.679 acres from A-2(4) to SFR, with a transfer of development right
 - B. (D-2020-1) William Weber & Katherine Engen, 9081 Spring Valley Road, final driveway approval
 - C. (D-2020-2) Stanley Theis, Theis Road, final driveway approval
 - D. (D-2019-4) Bill & Kathy Bladl, 6214 Matz Road, final driveway approval
 - E. (D-2018-3) Leonard & Brenda Ziegler, 5163 Enchanted Valley Road, final driveway approval
6. Discussion/action re: Amendments to the Town of Berry Zoning Ordinance
 - A. Amending the text of the Town Zoning Ordinance Related to Variances
 - B. Amending the text of the Town Zoning Ordinance Related to Kennel Setbacks
7. Discussion/action re: Ford Drive odor situation
8. Discussion/action re: Outside consultants or a check and balance system for equipment repairs
9. Discussion/action re: Reimbursement of invoices for repairing the damage to Hering and Scherbel Road
10. Discussion/action re: Designating All-Terrain Vehicle Routes and Regulating the Operation of All-Terrain Vehicles Ordinance
11. Discussion/action re: Revising Regulate Stopping, Standing or Parking of Vehicles Ordinance 300.15
12. Discussion/action re: Set date for Working Budget Meeting
13. Budgetary Matters
 - A. Discussion/action re: Payment of bills
14. Committee reports/Correspondence/Communications
 - A. Fire Districts
 - B. EMS Districts
 - C. Other
15. Discussion of future agenda items
16. Adjourn

Persons requiring additional services to participate in a public meeting should contact the Town Clerk at the Town Hall, 9046 Hwy 19, Mazomanie, WI 53560. 767-4152 twnberry@chorus.net

Posted: 8/10/20

Brenda Kahl, Clerk/Treasurer

TITLE: Town of Berry Special Board Meeting Minutes
DATE: July 6, 2020
TIME: 6:30 – 6:48 p.m.
PLACE: Town Hall, 9046 State Road 19, Mazomanie, WI 53560
POSTINGS: Town Hall and Town of Berry website

I. CALL TO ORDER – ROLL CALL: The meeting was called to order at 6:30 p.m. Board members present: Anthony Varda, Michael Statz, Christine Molling and Duane Haag. David Evert was absent. Also present Clerk, Brenda Kahl.

II. DISCUSSION/ACTION RE: TURKEY ROAD PROJECT BIDS AND FUNDING
Motion Varda/Statz to accept the bid from Northwestern Stone of \$934,087.65. Motion carried. Vote 4-0

Motion Varda/Haag to take the existing surplus funds to pay off the Scherbel Road note by August and proceed with securing funding of \$900,000 or a lesser number if there is more surplus funds available for the Turkey Road project. Motion carried. Motion 4-0

III. ADJOURN

Motion Haag/Varda to adjourn until the next regular meeting or the call of the chair. Motion carried. Vote 4-0.

Brenda Kahl, Clerk/Treasurer

Anthony Varda, Chair

TITLE: Town of Berry Board Meeting Minutes
DATE: July 20, 2020
TIME: 7:00 – 8:00 p.m.
PLACE: Town Hall, 9046 State Road 19, Mazomanie, WI 53560
POSTINGS: Town Hall and Town of Berry website

I. CALL TO ORDER – ROLL CALL: The meeting was called to order at 7:00 p.m. Board members present: Anthony Varda, Michael Statz, Christine Molling and Duane Haag. David Evert was absent. Also present Clerk, Brenda Kahl.

II. APPROVE MINUTES OF JUNE 15, 2020

Motion Haag/Molling to approve the minutes of June 15, 2020. Motion carried. Vote 4-0

III. PUBLIC COMMENTS: You may address the Board on any item not on the agenda. A discussion item may be placed on a future agenda. Public comment may be heard on any agenda item either now, or at the time the agenda item is to be discussed, or at the discretion of the Town Chair at any other time the agenda item is discussed.

* Chris Schwoerer commented that if the town moves forward with the Turkey Road project he is interested in an agreement to discontinue the town road that his home is on.

IV. PATROLMAN REPORT, IF NECESSARY

Patrolman was not present.

V. DISCUSSION/ACTION RE: SECURITY CAMERAS

Motion Varda/Molling to explore with the company we contract for present security for obtaining cameras to have a form of a record of activity which reports to the town computer for reviewing. Motion carried. Vote 4-0

VI. DISCUSSION/ACTION RE: TURKEY ROAD PROJECT LOAN

Motion Molling/Haag to borrow on the order of \$850,000 for seven years to finance the Turkey Road project. Motion carried. Vote 4-0

VII. DISCUSSION/ACTION RE: CROSS PLAINS DISTRICT VOLUNTEER FIREFIGHTER AND EMERGENCY MEDICAL TECHNICIAN FUNDS ORDINANCE

Motion Varda/Haag to decline the proposed ordinance language. Motion carried. Vote 4-0

VIII. DISCUSSION/ACTION RE: REQUEST FOR PROPOSALS FOR RESIDENTIAL GARBAGE/RECYCLING COLLECTION

Motion Varda/Haag to mail out the requests for proposals with the amendments of changing the proposals due date to September 4, 2020 and adding the question “Would you be prepared to provide multiple container sizes at the option of the homeowner?”. Motion carried. Vote 4-0

IX. BUDGETARY MATTERS

Motion Varda/Haag to reverse the budgetary matters by moving Insight FS LP contract before payment of bills. Motion carried. Vote 4-0

A. Discussion/action re: Insight FS LP contract

Motion Molling/Haag to approve the pre-pay program, purchasing 1,800 gallons for a total cost of \$2,158.20. Motion carried. Vote 4-0

B. Discussion/action re: Payment of bills

Motion Varda/Haag to approve the payment of bills. Motion carried. Vote 4-0
Check numbers 17507-17549

X. COMMITTEE REPORTS/CORRESPONDENCE/COMMUNICATIONS

* Cross Plains Fire District: Discussion of purchasing a rapid response vehicle in 2022 at an estimated cost of \$264,593

*District 1 EMS: Routine business only

XI. DISCUSSION OF FUTURE AGENDA ITEMS

*Ford Drive odor situation

*Report on property located at 8785 State Road 19

XII. ADJOURN

Motion Haag/Varda to adjourn until the next regular meeting or the call of the chair. Motion carried. Vote 4-0.

Brenda Kahl, Clerk/Treasurer

Anthony Varda, Chair

ZONING CHANGE APPLICATION

TOWN OF BERRY • 9046 STATE ROAD 19 • MAZOMANIE, WI 53560
 PHONE (608) 767-4152 • FAX (608) 767-3015 • www.townofberry.org

PERMIT #:	2020-3	
Permit Fee: \$	_____	Fee Paid: <input type="checkbox"/>
Approved By:	_____	
Approval Date:	/ /	

Items that must be submitted with your application:

- **Written Legal Description of the Proposed Zoning Boundaries**
 Legal description of the land that is proposed to be changed. The description may be a lot in a plat, Certified Survey map, or an exact metes and bounds description. A separate legal description is required for each zoning district proposed. The description shall include the area in acres or square feet.
- **Scaled Drawing of the Location of the Proposed Zoning Boundaries**
 The drawing shall include the existing and proposed zoning boundaries of the property. All existing buildings shall be shown on the drawing. The drawing shall include the area in acres or square feet.

OWNER	AGENT (Contractor, Coordinator, Other)
NAME Allayne C. Turk	CONTACT NAME Kendall Kahl
BUSINESS NAME or CO-OWNER'S NAME (if applicable) Trent C Turk / POA	BUSINESS NAME (if applicable) C21 Affiliated Reosler
MAILING ADDRESS 9594 Kahl Rd.	MAILING ADDRESS 2034 Main St.
CITY, STATE, ZIP Black Earth, WI 53515	CITY, STATE, ZIP Cross Plains, WI 53528
DAYTIME PHONE # 608-767-3416	DAYTIME PHONE # 608-798-3766 or 516-2409
EMAIL trentturk@tels.net	EMAIL kkahl@chorus.net

LAND INFORMATION	
Town: <u>Berry</u>	Parcel Numbers Affected: <u>004/0807-302-9820-5</u>
Section: <u>30</u>	Property Address or Location: <u>Kahl Rd</u>
Zoning District Change (To / From / # of acres) <u>4.6 acres SFR from A24</u>	
Soils classification of area (percentages) Class I Soils: _____ % Class II Soils: _____ % Other: _____ %	
Narrative: (reason for change, intended land use, size of farm, time schedule)	
<input type="checkbox"/> Separation of buildings from farmland	<input checked="" type="checkbox"/> Creation of a residential lot
<input type="checkbox"/> Compliance for existing structures and/or land uses	<input type="checkbox"/> Other
<u>using transfer of development rights</u>	
I authorize that I am the owner or have permission to act on behalf of the owner of the property.	
Signature: <u>Trent C Turk, POA</u>	Date: <u>6-30-20</u>



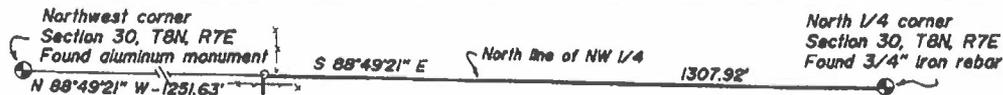
DANE COUNTY CERTIFIED SURVEY MAP NO. 9106

LOCATED IN THE NE 1/4-NW 1/4 AND THE SE 1/4-NW 1/4, SECTION 30, T8N, R7E, TOWN OF BERRY, DANE COUNTY, WISCONSIN.

3048576

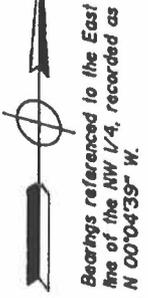
CURVE DATA TABLE

CURVE	RADIUS	ARC	CENTRAL ANGLE	CHORD BEARING	DISTANCE	TANGENT BEAR.	TANGENT BEAR.
1-2	1380.00'	211.39'	08°46'36"	S 65°12'42" W	211.18'	N 60°49'24" E	S 69°36'00" W
3-4	1347.00'	224.77'	09°33'40"	S 64°49'10" W	224.51'	N 60°02'20" E	S 69°36'00" W
5-7	166.25'	136.21'	46°36'34"	N 23°21'33" W	132.43'	S 00°06'44" W	N 46°49'50" W
5-6	166.25'	69.77'	24°02'42"	N 11°54'37" W	69.26'	S 00°06'44" W	N 23°55'58" W
6-7	166.25'	66.44'	22°53'52"	N 35°22'54" W	66.00'	S 23°55'58" E	N 46°49'50" W



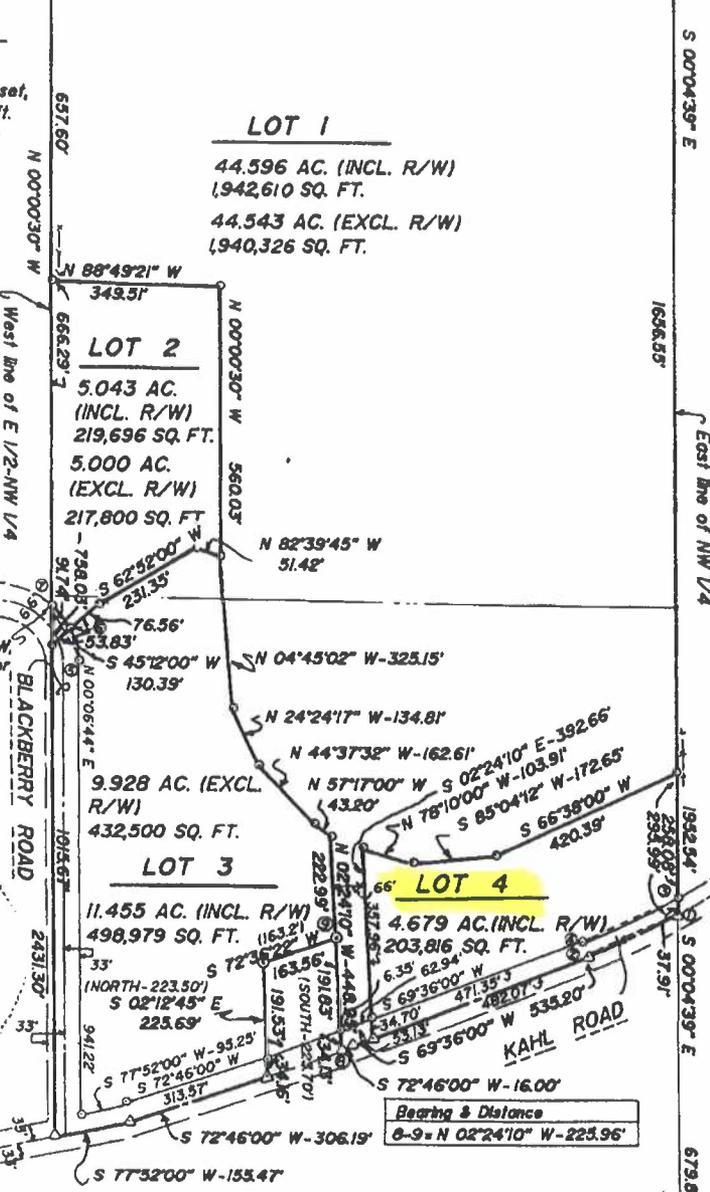
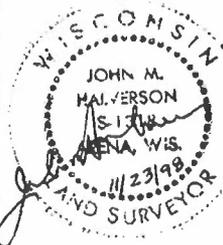
LEGEND & NOTES

- △ Railroad spike set
- 3/4"x24" iron rebar set, weighing 150 lbs. lin. ft.
- Found 1-1/4" iron pipe
- () Recorded as Existing fence



Refer to building site information contained in the Dane County Soil Survey rebar is 128" of corner

OWNER: Allayne & Danna Dee Turk 9594 Kahl Road Black Earth, WI 53515

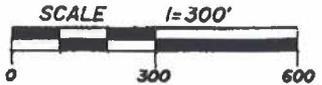


DANE COUNTY ZONING AND NATURAL RESOURCES COMMITTEE
 Approved for recording by the Dane County Zoning and Natural Resources Committee # 6574
 Authorized Representative
 Date November 23, 1998

LOT 4 AREA
 4.152 AC. (EXCL. R/W)
 180,888 SQ. FT.

Lot 1 C.S.M. No. 5299
 673.84'

Total area = 65.773 acres



2/10

General Engineering Company
P.O. Box 340
916 Silver Lake Drive
Portage, WI 53901



608-742-2169 (Office)
608-742-2592 (Fax)
grec@generalengineering.net
www.generalengineering.net

Engineers • Consultants • Inspectors

ZONING ADMINISTRATOR REVIEW REPORT

TO: Town of Berry Plan Commission, Town Board, Town Clerk/Treasurer
FROM: Kory D. Anderson, P.E., Town of Berry Zoning Administrator
DATE: (for) August 3, 2020 Plan Commission Meeting
SUBJECT: Zoning Change for Allayne Turk
Tax Parcel 0807-302-9820-5
GEC NO.: 2-0120-36F

Background Information

Owner / Applicant: Allayne Turk
9594 Kahl Road
Black Earth, WI 53515

Agent or Surveyor: Century 21 Affiliated Roessler
Kendall Kahl
2034 Main Street
Cross Plains, WI 53528

Location: Kahl Road
In part of the Southeast ¼ of the Northwest ¼ of Section 30, all in T8N, R7E,
Town of Berry, Dane County, WI.

Request: Zoning Change Approval

Existing Zoning: Tax Parcel 0807-302-9820-5

<u>A-2(4) (Legacy)</u>	<u>4.69 Acres</u>
Total	4.69 Acres

Existing Land Use: The entire subject property contains agricultural fields and fronts on Kahl Road. There are no wetlands, floodplains, or streams associated with the property. However, there are some steeper slopes on the property.

Adjacent Land Uses: North: Residential
West: Agriculture and Residential
East: Agriculture and Residential
South: Agriculture and Residential

Proposal

Zoning Change: Tax Parcel 0807-302-9820-5

<u>SFR</u>	<u>4.69 Acres</u>
Total	4.69 Acres

Applicant submitted information for a zoning change of Tax Parcel 0807-302-9820-5 from zoning A-2(4) Agricultural District (Legacy) to SFR Single Family Residential District. The intention of this zoning

Portage • Black River Falls • La Crosse



Consulting Engineering • Structural Engineering • Building Design • Environmental Services • Building Inspection • GIS Services
Grants & Funding Services • Land Surveying • Zoning Administration • Mechanical, Electrical, & Plumbing Services



change is so the applicant can build a house or sell the parcel as a residential lot. Dane County previously deed restricted this parcel for no residential use. However, the applicant is purchasing a transfer of development right from Calvin Frisch in Sections 8 and 17 in the Town of Berry.

Submittals/Attachments

1. Zoning Change Application, received July 2, 2020.
2. Jurisdictional Review Form, received July 2, 2020.
3. Transfer of Development Rights Notice, received July 2, 2020.
4. CSM #9106, received July 2, 2020.
5. Recorded Dane County Deed Restriction, received July 2, 2020.

GEC reviewed the attachments and the information submitted by the applicant/agent and has the following comments outlined below:

Comprehensive Plan

The planned land use for this parcel is Agricultural & Rural Lands Preservation Area with no other overlay districts. I'll always defer to the Town on the history of a property meeting the density requirements and the Agricultural and Rural Lands Preservation Area policy in the Town's Comp Plan.

Town Ordinances

1. **General – Proposed Residential House**
The application does not provide the location of the proposed house on the lot along with the location of the proposed driveway. Prior to issuance of a land use permit, site plans will need to be provided to verify setback requirements from property lines, streams, etc. and to show it is not in the area of steep slopes.
2. **Well & Septic**
Prior to issuance of a land use permit for a new house, the applicant will need approval of a septic system from Dane County Public Health.
3. **Driveway Permit**
The new house would require a driveway permit from the Town prior to issuance of a land use permit.

Recommendation

GEC recommends that the Plan Commission conditionally approve the proposed Zoning Change of Parcel 0807-302-9820-5 from zoning A-2(4) (Legacy) Agricultural District to SFR Single Family Residential District, contingent on the following:

1. Town Board discuss any concerns with above comments.
2. Any comments or conditions from the Towns Attorney shall be addressed.
3. Town Board confirms that the non-residential deed restriction set by Dane County can be rescinded and the Town Board approves the Transfer of Development Rights Notice.



2020-1

www.townofberry.org

9046 State Road 19, Mazomanie, WI 53560, 608-767-4152, twnberry@chorus.net

DRIVEWAY CONSTRUCTION PERMIT APPLICATION

Applicant: Name: William Weber and Katherine Engen

Street Address: 9081 Spring Valley Rd

City, State, Zip: Black Earth WI 53515

Phone Number: 608-798-3020 Email: Willyweb50@gmail.com

Specific Site Location / Nearby Roads: 1/4 mi. west of Scherbel Rd

Parcel #: 0807-201-8600-5

My signature below indicates that:

I have received a copy of the Driveway, Field Road and Right-of-Way Ordinance 301.1 and the Applications Guide, and that

I have attached the information as requested for a driveway permit, and that

I agree to construct the driveway in accordance with the Driveway, Field Road and Right-of-Way Ordinance and to follow any additional requirements as approved by the Town Board, and that

I have paid the application fee of \$300.00 to the Town Clerk/Treasurer, and that pd

I hereby give permission to the Town Board and/or their representative which could be the Plan Commission or other inspector authorized by the Town Board to enter the property in order to evaluate the site of the proposed driveway and to verify compliance with and/or to enforce the Driveway, Field Road and Right-of-Way Ordinance.

Applicant Signature: William Weber Katherine Engen Date: 4 / 13 / 2020

Board decision: Approve Deny Date 5 / 18 / 20

Culvert required in right-of-way Yes No Size 18' x 30'

Engineering Plan required? Yes No

Additional Requirements? Yes if yes see attached requirements No

Driveway construction must begin by Date 5 / 18 / 21

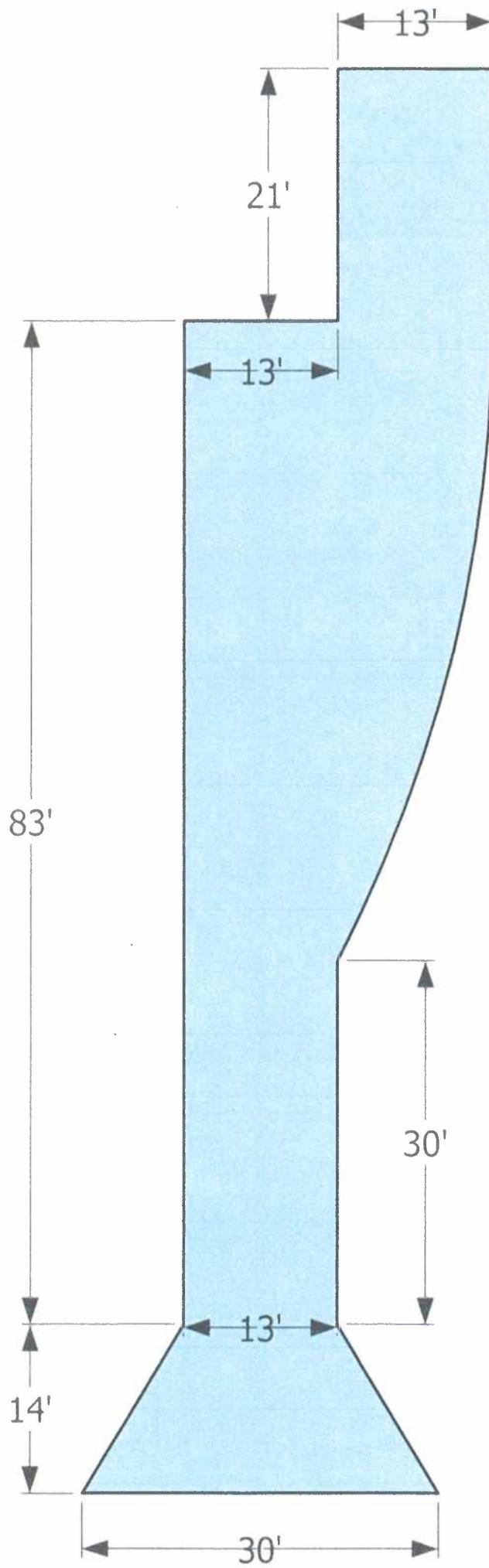
Driveway Permit expiration Date 5 / 18 / 22

Permit issued by: Chair Signature [Signature] Date 5 / 18 / 2020

Permit issued by: Clerk Signature Brenda Kahl Date 5 / 18 / 2020

Permit is not valid unless signed by the Applicant, Town Chair and Town Clerk

Final inspection approval by: Chair Signature _____ Date ____ / ____ / ____





9046 State Road 19, Mazomanie, WI 53560, 608-767-4152, twnberry@chorus.net

DRIVEWAY CONSTRUCTION PERMIT APPLICATION

Applicant: Name: Bill & Kathy Bladt

Street Address: 8150 State Road 19

City, State, Zip: CROSSPLAINS Wis 53528

Phone Number: 208-798-0884 Email: bbladt@aol.com

Specific Site Location / Nearby Roads: MATZ Road

Parcel #: LOT 1 - NW 1/4 of the SW 1/4 of Section 1, T8N, R7E Town of Berry

My signature below indicates that:

I have received a copy of the Driveway, Field Road and Right-of-Way Ordinance 301.1 and the Applications Guide, and that

I have attached the information as requested for a driveway permit, and that

I agree to construct the driveway in accordance with the Driveway, Field Road and Right-of-Way Ordinance and to follow any additional requirements as approved by the Town Board, and that

I have paid the application fee of \$300.00 to the Town Clerk/Treasurer, and that ^{pd}

I hereby give permission to the Town Board and/or their representative which could be the Plan Commission or other inspector authorized by the Town Board to enter the property in order to evaluate the site of the proposed driveway and to verify compliance with and/or to enforce the Driveway, Field Road and Right-of-Way Ordinance.

Applicant Signature: William Bladt Kathleen Bladt Date: 6 / 24 / 19

Board decision: Approve Deny Date 7 / 15 / 19

Culvert required in right-of-way Yes No Size _____ *At Road & as necessary for drainage*

Engineering Plan required? Yes No *passing lane required*

Additional Requirements? Yes if yes see attached requirements No

Driveway construction must begin by Date 7 / 15 / 20

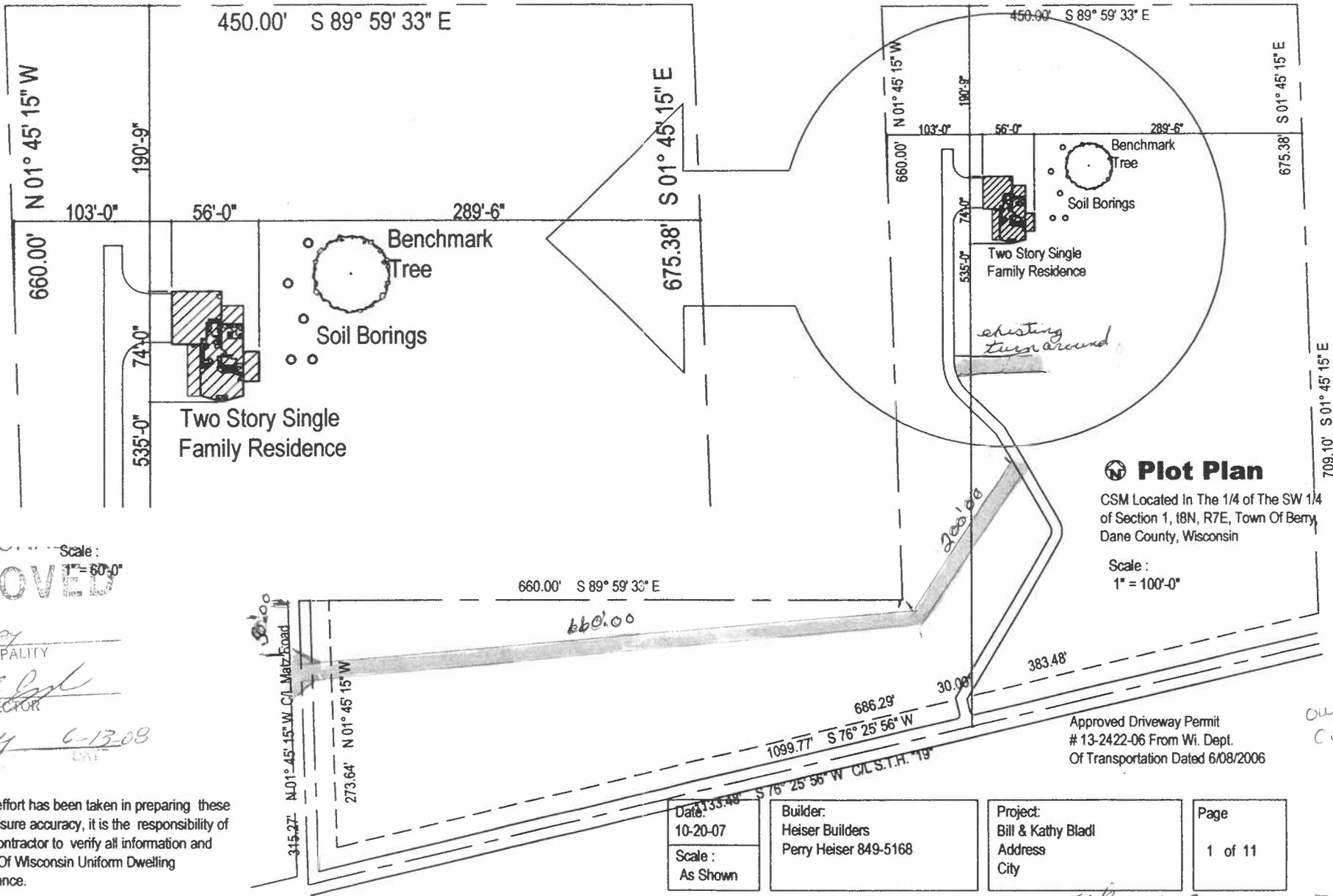
Driveway Permit expiration Date 7 / 15 / 21

Permit issued by: Chair Signature Anthony R. V. A. Date 7 / 15 / 19

Permit issued by: Clerk Signature Brenda Kahl Date 7 / 15 / 19

Permit is not valid unless signed by the Applicant, Town Chair and Town Clerk

Final inspection approval by: Chair Signature _____ Date ____ / ____ / ____



Plot Plan

CSM Located In The 1/4 of The SW 1/4 of Section 1, T8N, R7E, Town Of Berry, Dane County, Wisconsin

Scale: 1" = 100'-0"

Approved Driveway Permit # 13-2422-06 From Wi. Dept. Of Transportation Dated 6/08/2006

OWNER'S COPY

Date: 10-20-07	Builder: Heiser Builders Perry Heiser 849-5168	Project: Bill & Kathy Bladl Address City	Page 1 of 11
Scale: As Shown			

FOOTING SIZE 2 WALL SECTION

CONDITIONS APPROVED

Scale: 1" = 60'-0"

T. BARRY MUNICIPALITY
Dean F. Esch INSPECTOR

65804 6-13-08

Although every effort has been taken in preparing these documents to ensure accuracy, it is the responsibility of the owner and contractor to verify all information and follow the State Of Wisconsin Uniform Dwelling Code for compliance.



D-2018-3

www.townofberry.org

9046 State Road 19, Mazomanie, WI 53560, 608-767-4152, twnberry@chorus.net

DRIVEWAY CONSTRUCTION PERMIT APPLICATION

Applicant: Name: Lenny & Brenda Ziegler

Street Address: 4996 G. Rd. P

City, State, Zip: Cross Plains, WI 53528

Phone Number: (608) 798-3868 -H Email: bziegler@tds.net / lenziegler@tds.net
(608) 669-1217 -C

Specific Site Location / Nearby Roads: Enchanted Valley Rd.

Parcel #: 080726480506

My signature below indicates that:

I have received a copy of the Driveway, Field Road and Right-of-Way Ordinance 301.1 and the Applications Guide, and that

I have attached the information as requested for a driveway permit, and that

I agree to construct the driveway in accordance with the Driveway, Field Road and Right-of-Way Ordinance and to follow any additional requirements as approved by the Town Board, and that

I have paid the application fee of \$300.00 to the Town Clerk/Treasurer, and that

I hereby give permission to the Town Board and/or their representative which could be the Plan Commission or other inspector authorized by the Town Board to enter the property in order to evaluate the site of the proposed driveway and to verify compliance with and/or to enforce the Driveway, Field Road and Right-of-Way Ordinance.

Applicant Signature: Lenny Ziegler Brenda Ziegler Date: 3 / 1 / 2018

Board decision: Approve Deny Date 5 / 21 / 18

Culvert required in right-of-way Yes No Size 18" x 30'

Engineering Plan required? Yes No

Additional Requirements? Yes if yes see attached requirements No

Driveway construction must begin by Date 5 / 21 / 19

Driveway Permit expiration Date 5 / 21 / 20

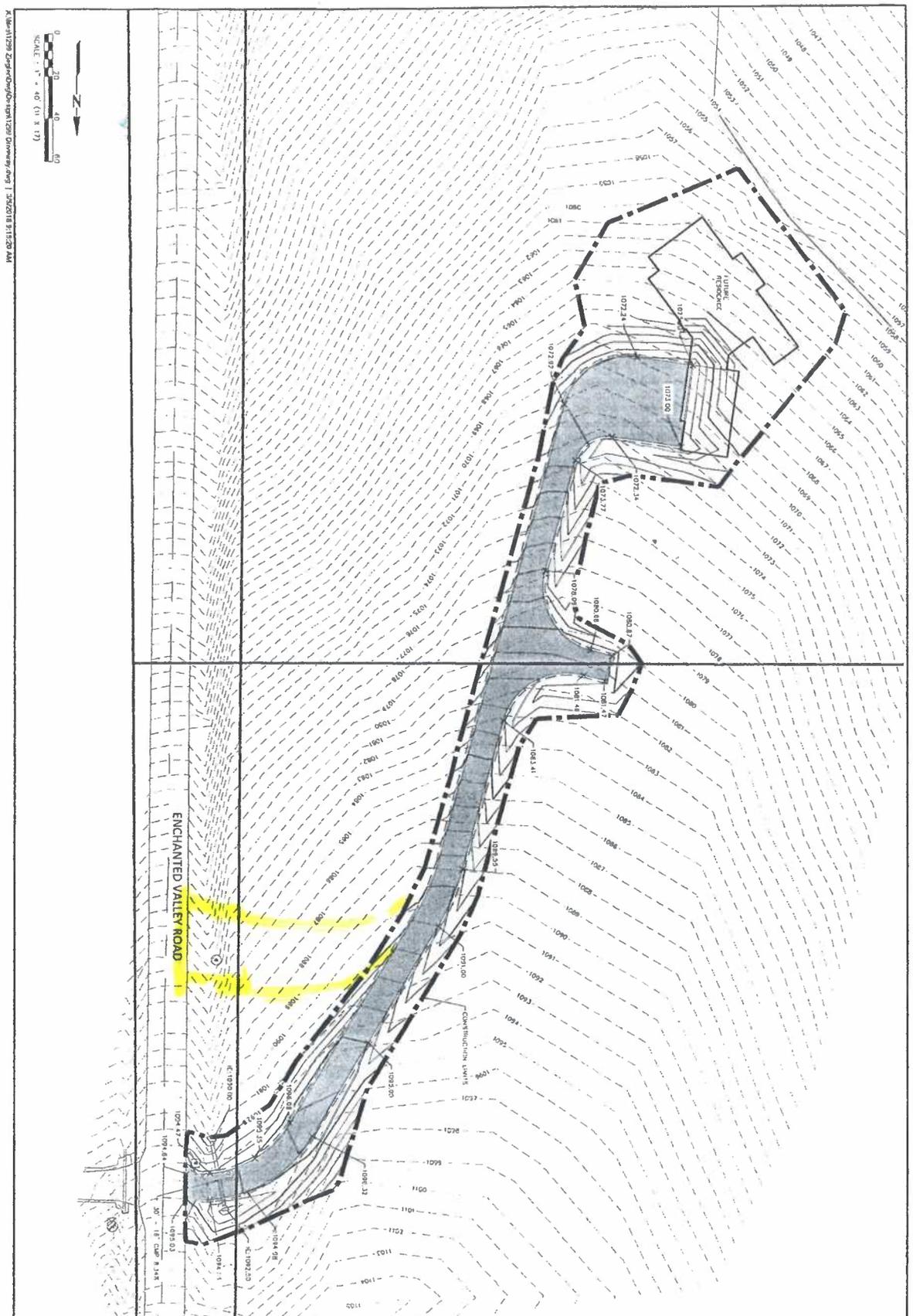
Permit issued by: Chair Signature Matthew P. ... Date 5 / 21 / 18

Permit issued by: Clerk Signature Brenda Kahl Date 5 / 21 / 18

Permit is not valid unless signed by the Applicant, Town Chair and Town Clerk

Final inspection approval by: Chair Signature _____ Date / /

Entrance Amended 11-19-18



C300	ZIEGLER DRIVEWAY GRADING PLAN	 PROFESSIONAL ENGINEERING LLC	818 N Meadowbrook Ln Wausau, WI 53357 Phone (503) 849-9378 www.pe-wi.com	DATE 03-05-18
	TOWN OF BERRY, WISCONSIN		SHEET/REVISION SIC PLAN APPROVAL	

X:\04\17299 ZieglerDriveway\17299 Driveway.dwg | 3/26/2018 9:17:20 AM

8-10-20

Agenda Item #6, Amendments to the Town of Berry Zoning Ordinance

A. Amending the text of the Town Zoning Ordinance Related to Variances

B. Amending the text of the Town Zoning Ordinance Related to Kennel Setbacks

TOWN OF BERRY

ORDINANCE AMENDMENT AMENDING
THE TEXT OF THE TOWN ZONING ORDINANCE
RELATED TO VARIANCES

The Town Board has reviewed a proposed amendment to sec. 1.098 Variances.

The Town Board is aware from experience with construction projects over time that there are occasional errors in locating structures. These may result from surveying errors or uncertainty, removal of location stakes or other mistakes. The Town does not intend to allow deliberate violations of setbacks. However, there are circumstances in which literal compliance with setbacks would require expensive reconstruction of a building with no economic gain.

For that reason, the Town Board has determined to amend the Town Zoning Ordinance's language on variances to authorize a variance of less than one foot where the error was unintentional or compliance would cause economic waste.

Therefore, the Town Board does hereby Ordain as follows:

(7) Hearing and Final Decision.

(e) Negligence or error of a contractor in locating a setback, side yard or building location shall not be considered a practical difficulty or a hardship, unless the Board finds that the variance necessary is 1 foot or less and either (1) the encroachment would not likely have been disclosed by a locational survey, or (2) compliance absent a variance would involve substantial economic waste. Prior to granting a variance under this subsection, the Board shall afford the adjoining property owner the opportunity to be heard.

The amendment shall take effect upon its publication on the Town's website.

Dated this 17th day of August, 2020.

TOWN BOARD OF THE TOWN OF BERRY

Anthony Varda, Chairperson

David Evert, Supervisor

Michael Statz, Supervisor

Christine Molling, Supervisor

Duane Haag, Supervisor

CERTIFICATION

I, the Town Clerk of the Town of Berry, do hereby certify that the above Ordinance Amendment was adopted by majority vote of the members of the Town Board of Supervisors at a duly-noticed meeting thereof.

Brenda Kahl, Clerk/Treasurer

Posted: _____

TOWN OF BERRY

ORDINANCE AMENDMENT AMENDING
THE TEXT OF THE TOWN ZONING ORDINANCE
RELATED TO KENNEL SETBACKS

The Town Board has reviewed a proposed amendment to sec. 1.0622, Kennel; secondary standards. The section currently states that a kennel must be set back “1,000 feet from any residential dwelling other than that of the owner, agent, or employee of such kennel.” The Town Board believes that the setback should have been written as 100 feet. The 1000 – foot setback currently contained in the ordinance is unreasonable.

Therefore, the Town Board does hereby Ordain as follows:

Section 1.0622 (2) of the Town Zoning Ordinance is amended to read:

(2) Kennel Setbacks. All kennels, outdoor runs, and exercise areas shall be no closer than 100 ~~1,000~~ feet from any residential dwelling other than that of the owner, agent, or employee of such kennel.

The amendment shall take effect upon its publication on the Town’s website.

Dated this 17th day of August, 2020.

TOWN BOARD OF THE TOWN OF BERRY

Anthony Varda, Chairperson

David Evert, Supervisor

Michael Statz, Supervisor

Christine Molling, Supervisor

Duane Haag, Supervisor

CERTIFICATION

I, the Town Clerk of the Town of Berry, do hereby certify that the above Ordinance Amendment was adopted by majority vote of the members of the Town Board of Supervisors at a duly-noticed meeting thereof.

Brenda Kahl, Clerk/Treasurer

Posted: _____

8-10-20

Agenda Item #8, Outside consultants or a check and balance system for equipment repairs

This item was requested to be on the agenda for discussion

Attached is the Town's policy on equipment repairs and maintenance

303.1 Repair, Service and Maintenance of Highway Equipment Policy

- A. The 2004 International Truck & 2017 Freightliner Truck will be serviced for repairs and maintenance at:

Burke Truck & Equipment, Madison
O'Donnell's Truck & Body, Prairie Du Sac
Pomp's Tire Service, DeForest
Steel Surgeon, Waunakee
V & H Inc, Madison
Lakeside International, Madison
McFarlane, Sauk City
Truck Country, DeForest
Cross Plains Motors, Cross Plains
Marxville Welding, Mazomanie

All warranty covered work shall be performed at the manufactures authorized warranty service location.

- B. The 2012 Dodge truck will be serviced for repairs and maintenance at:

Kayser Chrysler, Sauk City
Burke Truck & Equipment, Madison
Steel Surgeon, Waunakee
McFarlane, Sauk City
Pomp's Tire Service, DeForest
Marxville Welding, Mazomanie
Cross Plains Motors, Cross Plains

All warranty covered work shall be performed at the manufactures authorized warranty service location.

- C. The 1999 John Deere Tractor will be serviced for repairs and maintenance at:

Mid State Equipment, Prairie Du Sac
Marxville Welding, Mazomanie
Pomp's Tire Service, DeForest
Steel Surgeon, Waunakee
McFarlane, Sauk City
Sloan Implement, Mt Horeb

- D. The Stihl chain saws will be serviced for repairs and maintenance at:

Niendorf Enterprises, Mazomanie
McFarlane, Sauk City

- E. The patrolman will keep a log at the shop on all services, repairs and maintenance to the above equipment. The Operator's Manual shall be followed for maintenance unless alternative is approved by the Town Board.

- F. Equipment in need of repair is not to be left over night without notification of the Town Chair or Highway Commissioner's approval.
- G. All repairs are to be approved by the Town Chair or Highway Commissioner. The Town Clerk shall be notified of all repairs for budgetary reasons. In non-emergency situations where substantial repairs are needed bids will be obtained, if possible.
- H. Fuel is to be purchased at:
 - Consumers Cooperative, Sauk City
 - Premier Coop, Black Earth
 - Insight FS, Mazomanie

Adopted this 16th day of July, 2018

Posted: July 20, 2018

Brenda Kahl, Clerk/Treasurer
Jeff Davis, Supervisor
Joe Kruchten, Supervisor

Anthony Varda, Chair
Michael Statz, Supervisor
Duane Haag, Supervisor

8-10-20

Agenda Item #9, Reimbursement of invoices for repairing the damage to Hering and Scherbel Road

The damage to the road was first brought to the boards attention in January:

VII. DISCUSSION/ACTION RE: AUSTIN/BOWAR ROAD DAMAGE Motion Varda/Haag to get an estimate for the potential repair in the spring of the worst of the damage and make a request for payment from Austin for that damage. Motion carried. Vote 4-1. In favor: Haag, Statz, Varda and Kruchten Opposed: Evert

The estimated cost for Scherbel Road was \$5,800 and for Hering Road \$7,500

The actual repair invoices are attached.

Boehnen, Inc.

1705 Bourbon Rd.
Cross Plains, WI 53528

Invoice

Date	Invoice #
6/30/2020	29258

Bill To
Town Of Berry Brenda Kahl 9046 State Road 19 Mazomanie WI 53560

Ship To
Scherbel Rd

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
	Net 30	CRL	6/15/2020			
Quantity	Item Code	Description			Price Each	Amount
42	2	Crushed Rock Truck #3 Quadaxle on 6-15 Endres			11.00	462.00
147	3	Crushed Rock Truck #4 Quadaxle on 6-15 Endres			11.00	1,617.00
0.75	44	Trucking Truck #4 Quadaxle on 6-15 hauled 1 load fill out			95.00	71.25
63	4	Crushed Rock Truck #5 Quadaxle on 6-15 Endres			11.00	693.00
1.25	45	Trucking Truck #5 Quadaxle on 6-15 hauled 3 loads Blacktop out			95.00	118.75
3.75	45	Trucking Truck #5 Quadaxle on 6-15 hauled 8 loads fill out			95.00	356.25
42	5	Crushed Rock Own/Hired Trucks on 6-15 Trk TBS#14 Endres			11.00	462.00
20	5	Crushed Rock Own/Hired Trucks on 6-15 Town of Berry			7.00	140.00
2.5	79	210X2 Backhoe on 6-15 road repair			140.00	350.00

Subtotal
WI Sales Tax (5.5%)
Total

Boehnen, Inc.

1705 Bourbon Rd.
Cross Plains, WI 53528

Invoice

Date	Invoice #
6/30/2020	29258

Bill To
Town Of Berry Brenda Kahl 9046 State Road 19 Mazomanie WI 53560

Ship To
Scherbel Rd

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
	Net 30	CRL	6/15/2020			
Quantity	Item Code	Description			Price Each	Amount
5	86	T650 Trackloader Bobcat on 6-15 road repair			110.00	550.00
2	66	Grader on 6-15			115.00	230.00
90.24	29	Recycled Blacktop Truck #5 Quadaxle on 6-17			13.50	1,218.24
30	5	Crushed Rock Own/Hired Trucks on 6-17 F.O.B. Endres			7.00	210.00
3	66	Grader on 6-17			115.00	345.00
1	91	Volvo Smooth Drum Roller on 6-18 undercut			115.00	115.00

All invoices are due in full in 30 days. Any overdue balance on account will accrue a 1.5% delinquency charge each month, until paid in full. Customer further agrees to pay Boehnen Inc.'s actual costs of collection or any dispute relating to this transaction, including actual attorney's fees and disbursements.

Subtotal	\$6,938.49
WI Sales Tax (5.5%)	\$0.00
Total	\$6,938.49

Boehnen, Inc.

1705 Bourbon Rd.
Cross Plains, WI 53528

Invoice

Date	Invoice #
6/30/2020	29241

Bill To
Town Of Berry Brenda Kahl 9046 State Road 19 Mazomanie WI 53560

Ship To
Herring Driveway Repair

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
	Net 30	CRL	6/11/2020			
Quantity	Item Code	Description			Price Each	Amount
1.5	43	Trucking Truck #3 Quadaxle on 6-11 hauled 2 loads Blacktop out			95.00	142.50
105	2	Crushed Rock Truck #3 on 6-11 Endres			11.00	1,155.00
126	3	Crushed Rock Truck #4 Quadaxle on 6-11 Endres			11.00	1,386.00
42	5	Crushed Rock Own/Hired Trucks on 6-11 Endres TBS #12			11.00	462.00
20	5	Crushed Rock Own/Hired Trucks on 6-11 F.O.B.			7.00	140.00
4	79	210X2 Backhoe on 6-11 undercut road			140.00	560.00
4	86	T650 Trackloader Bobcat on 6-11 road repair			110.00	440.00
1	91	Volvo Smooth Drum Roller on 6-11 road repair			115.00	115.00
21	3	Crushed Rock Truck #4 Quadaxle on 6-12			11.00	231.00

Subtotal
WI Sales Tax (5.5%)
Total

Boehnen, Inc.

1705 Bourbon Rd.
Cross Plains, WI 53528

Invoice

Date	Invoice #
6/30/2020	29241

Bill To
Town Of Berry Brenda Kahl 9046 State Road 19 Mazomanie WI 53560

Ship To
Herring Driveway Repair

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
	Net 30	CRL	6/11/2020			
Quantity	Item Code	Description			Price Each	Amount
42	5	Crushed Rock Own/Hired Trucks on 6-12 TBS #12			11.00	462.00
12.27	30	Recycled Concrete Own/Hired Trucks on 6-12 F.O.B.			7.00	85.89
22.09	30	Recycled Blacktop Own/Hired Trucks on 6-12 TBS # 12			13.50	298.22
2	86	T650 Trackloader Bobcat on 6-12 spread rock			110.00	220.00
130.69	29	Recycled Blacktop Truck #5 Quadaxle on 6-17			13.50	1,764.32
2	66	Grader on 6-17 road repair			115.00	230.00
1	91	Volvo Smooth Drum Roller on 6-17 road repair			115.00	115.00

All invoices are due in full in 30 days. Any overdue balance on account will accrue a 1.5% delinquency charge each month, until paid in full. Customer further agrees to pay Boehnen Inc.'s actual costs of collection or any dispute relating to this transaction, including actual attorney's fees and disbursements.

Subtotal	\$7,806.93
WI Sales Tax (5.5%)	\$0.00
Total	\$7,806.93

8-10-20

Agenda Item #10, Designating All-Terrain Vehicle Routes and Regulating the
Operation of All-Terrain Vehicles Ordinance

See attached letter from Attorney Gerlach in reference to the current draft ordinance.

LAROWE GERLACH TAGGART LLP

ATTORNEYS AT LAW

1730 Community Drive
P.O. Box 10
Sauk City, WI 53583

Telephone: (608) 643-3391
Facsimile: 1-866-342-8060

August 11, 2020

Town of Berry
9046 State Rd. 19
Mazomanie, WI 53560

Sent Via Email
twnberry@chorus.net

Re: All-Terrain Vehicle (ATV) Ordinance

Dear Town Board:

I had a brief telephone conversation with Chairperson Anthony Varda relative to my concerns with the proposed ATV ordinance. He requested that I provide the Town Board with a memo that summarizes our discussion.

Wis. Stat. § 23.33(1)(am)1. authorizes a municipality to enact an ordinance regulating ATV routes and operation of ATVs provided the ordinance is in "strict conformity" with Wis. Stat. § 23.33. This "strict conformity" language creates drafting problems and raises concerns that any proposed ordinance not in strict conformity with the state statute may create liability issues unfavorable to the municipality.

I have the following initial comments to the proposed ordinance:

Routes. Wis. Stat. § 23.33(11)(am)4 allows a municipality to establish an ATV route on highways "that has a speed limit of 35 miles per hour or less." It is my understanding most of the proposed ATV ordinance's "route" is on roads/highways in excess of 35 mph. Chairperson Varda thought the only proposed ATV roadway that had a speed limit of 35 mph or less was Enchanted Valley. Therefore, the route is not in "strict conformity" with the state statute and the ordinance possibly fails for that reason alone. Further, I find

nothing in Wis. Stat. § 23.33 that allows for one speed limit for regular vehicular travel and a second speed limit for ATVs on the same roadway.

Age. The proposed ordinance at Sec. IV, J – provides that no person under the age of 16 years old may operate an ATV on the ATV route. That does not appear to conform to the statute because persons 12 to under 16 years old may operate an ATV provided he/she is accompanied by his/her parent or person designated by the parent/guardian and who is at least 18 years old. The Board should be aware that the Town may have ATV drivers between the ages of 12 to 16 years old. See Wis. Stat. §23.33(5) and those statutory sections referred to therein.

Insurance. The proposed ordinance at Sec. IV, L – requires that the ATV operator “have applicable liability insurance and proof of insurance with them...” I find nothing in the statute that an ATV driver is required to have mandatory liability insurance like is statutorily required for auto drivers.

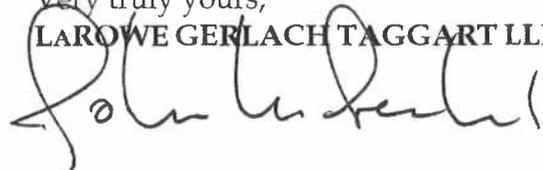
Driver’s license. The proposed ordinance at Sec. IV, K – requires that the ATV operator possess/hold a valid driver’s license. I find nothing in the statute wherein this is required for ATV operation.

Quite frankly, most of the proposed ordinance is not in strict conformity with the state statute and I raised several of those other/additional concerns with Mr. Varda. Further, there is so much that was not included in the ordinance like helmets that should also be addressed. I am not going to repeat them all at this time. The ordinance would require major redrafting. Mr. Varda and I discussed my possible drafting a new ordinance in “strict conformity” with the state statute which would be a major endeavor. We decided I should hold off on that expense until the Town Board addresses the speed limit issue and whether an appropriate ATV route can even be established in the Town. This is a fairly new statute and I am certainly willing to consider other professional interpretations as to its requirements.

It is my understanding that the Board intends on putting this on its August 17 meeting agenda. That is my anniversary but I will do whatever it takes to make that date work. I know this has been pending for some time.

Very truly yours,

LAROWE GERLACH TAGGART LLP



John M. Gerlach

JMGerlach@lgtlawfirm.com

JMG/krj

Encl.

This is in draft form, not the final document.

201.2 Designating All-Terrain Vehicle Routes and Regulating the Operation of All-Terrain Vehicles

- I Intent
- II Statutory Authority
- III Routes
- IV Conditions
- V Enforcement
- VI Penalties
- VII Severability
- VIII Effective Date

SECTION I – INTENT

The Town of Berry, Dane County, adopts the following all-terrain route for the operation of all-terrain vehicles listed in Section III. Following due consideration of the recreational value to connect opportunities and weighted against possible dangers, public health, liability aspects, terrain involved, traffic density and history of automobile traffic, this route has been created.

SECTION II – STATUTORY AUTHORITY

The Town Board of the Town of Berry, Dane County, Wisconsin has the specific authority to adopt this ATV/UTV Route Ordinance under Wisconsin Statute 23.33(8)(b) and 23.33(11).

SECTION III – ROUTES

The following roads are designated as routes:

- A. North Hill Point Road and West Hill Point Road.
- B. Enchanted Valley Road from County Road P to County Road K.
- C. Martinsville Road from County Road K to intersection of Whippoorwill Road.
- D. Whippoorwill Road from intersection of Martinsville Road to State Road 19.
- E. Said routes are further described and identified by attached map.

SECTION IV – CONDITIONS

As a condition for use of this route, the following conditions shall apply to all operators and passengers.

- A. No person shall operate an ATV or UTV on a town road unless the town road has been designated as an ATV/UTV route by the Town of Berry Town Board, except for operation that is allowed under state statute or administrative code.
- B. No person shall operate an ATV or UTV on a town road designed as an ATV/UTV route if the town road is closed for any reason.
- C. Operators of ATV or UTV vehicles shall abide by all traffic laws, include the rules and operation and equipment requirements contained in Wisconsin Statute 23.33 and Wisconsin Administrative Code Chapter 64, unless further restricted by this ordinance.
- D. ATV and UTV vehicles may only operate on an approved ATV/UTV route between the hours of 8:00 a.m. and 10:00 p.m.

- E. ATV and UTV vehicles shall operate at a safe speed not to exceed 35 miles per hour unless a reduced speed is otherwise by this ordinance, by law or roadway conditions.
- F. All ATV/UTV operators shall slow to a safe and prudent speed when there are pedestrians, cyclists or animals on or near the roadway.
- G. All ATV/UTV vehicles must operate with fully functional headlights, taillights and brake lights.
- H. All ATV or UTV operators shall ride in single file on the extreme right-hand side of the paved portion of the road. Operation on the gravel shoulders, grassy in-slope, ditches or other road right-of-way is prohibited. Left turns may be made from any part of the road when it is safe given prevailing conditions.
- I. Crossing should be made only at a place where no obstruction prevents a quick and safe crossing. Obstruction includes, but is not limited to, impairment of view and potentially hazardous roadway conditions.
- J. No person under the age of 16 may operate an ATV or UTV on any segment of a town road that is designated ATV/UTV route.
- K. Every person who operates an ATV or UTV on any segment of a town road which is designated as an ATV/UTV route shall have in his or her immediate possession a valid motor vehicle operator's license, and shall display the license document upon demand from any enforcement officer, state patrol officer, inspector under State Statute 110.07(1), conservation warden or municipal peace officer.
- L. All ATV and UTV equipment is required to have applicable liability insurance and proof of insurance with them when on a town road designed as a route.
- M. Routes must be signed in accordance with NR 64.12 and NR 64.12(7)c. All required designed route signs and posts and their installation shall be paid for by an ATV/UTV Club, with approval, installation and maintenance of the signs by the Town of Berry. Repair of any damaged or vandalized signs will be paid for by the ATV/UTV Club. No ATV/UTV designated route will be open for use until properly signed.
- N. The Town of Berry Chairperson shall have the authority to temporarily close or terminate any ATV/UTV route enacted by the ordinance for a period of 30 days or less due to an emergency situation or condition, as designated by the Chairperson. Closures for duration of greater than 30 days shall be reviewed by the Town Board.

SECTION V – ENFORCEMENT

This ordinance shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin. Pursuant to Wisconsin Statute 23.33(1)(b), if a town adopts an ordinance regulating all-terrain vehicles, utility terrain vehicles, or both, its clerk shall immediately send a copy of the ordinance to the DNR, the State Patrol and to the office of any law enforcement agency having jurisdiction over any of the roads or highways to which the ordinance applies

SECTION VI – PENALTIES

Wisconsin State All-Terrain Vehicle penalties as found in Wisconsin Statute 23.33(13)(a) are adopted by reference.

SECTION VII – SEVERABILITY

The provision of this ordinance shall be deemed severable and it is expressly declared that the Town of Berry would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons circumstances shall not be deemed affected.

SECTION VIII – EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

Dated this 17th day of August, 2020

Attest: _____
Brenda Kahl, Clerk/Treasurer

Anthony Varda, Chairperson

Posted: _____

David Evert, Supervisor

Published: _____

Michael Statz, Supervisor

Christine Molling, Supervisor

Duane Haag, Supervisor

8-10-20

Agenda Item #11, Revising Regulate Stopping, Standing or Parking of Vehicles
Ordinance 300.15

Cars are parking along Scheele Road and Cowling Drive while using the Ice Age Trail, which is narrowing the road. The Town has received a complaint from a resident on the road.

300.15 Regulate Stopping, Standing or Parking of Vehicles Ordinance

- I Authority
- II Adoption
- III Penalties
- IV Effective Date

SECTION I - AUTHORITY

The Town Board of the Town of Berry, Dane County, Wisconsin, has the specific authority under Wisconsin Statute 349.13 to adopt this ordinance.

SECTION II - ADOPTION

This ordinance, adopted by a majority of the Town Board with a quorum present and voting and proper notice having been given, provides for the regulation of the stopping, standing or parking of vehicles on town highway in the town as follows:

- A. The stopping, standing or parking of vehicles on the following town highways in the Town of Berry is subject to the following restrictions and limitations:
 - 1. Scherbel Road, both sides adjacent to Festge Park except the parking lot
 - 2. Carya Road, turnaround area for the months of November, December January, February and March
 - 3. Knickmeier Road, turnaround area for the months of November, December, January, February and March
 - 4. Scheele Road
 - 5. Cowling Drive
- B. The Town Chairperson or the Town Highway Superintendent may temporarily designate and post limits on any portion of a town road when necessary to prevent an unsafe special or temporary condition, which are likely to impede traffic or cause an unsafe condition on town roads, in the absence of such special limitations. Such designation and posting shall expire upon the next Town Board meeting, unless extended or made permanent by the Town Board.
- C. The Town Chairperson or the Town Highway Superintendent, shall direct the Town Roadman to place appropriate traffic signs on the above described highways on or before the effective date of this ordinance, or at any location subject to temporary restrictions. Sign placement is governed by the Manual on Uniform Traffic Control Devices and authorized under Wisconsin Statute 84.02(4)(e).

SECTION III – PENALTIES

- A. No person may operate or leave any vehicle on the above-noted highways, or any portion of a highway then subject to a temporary restriction and posting, in violation of the posted restriction on stopping, standing, or parking.
- B. The forfeiture for a first violation of any provision of this ordinance shall be \$25.00.
- C. Pursuant to Wisconsin Statute 345.47, the Town, shall recover as costs of the action under Wisconsin Statutes 814.01 and 814.036, its actual reasonable expert witness and attorneys' fees.

SECTION IV – EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

Dated this 17th day of August, 2020

Attest: _____
Brenda Kahl, Clerk/Treasurer

Anthony Varda, Chairperson

Posted: _____
David Evert, Supervisor

Published: _____
Michael Statz, Supervisor

Christine Molling, Supervisor

Duane Haag, Supervisor

8-10-20

Agenda Item #12, Set date for Working Budget Meeting

I am proposing the following:

October 6 or October 8 at 6:00 pm

8/10/2020

List of bills to be approved at the August 17, 2020 board meeting

Date	Check #	Payee	Amount
7/21/2020	17550	Brenda Kahl	1157.65
7/21/2020	17551	Orlin Danz	1177.04
7/21/2020	17552	Tyler Danz - part-time employee	66.48
8/4/2020	17553	Brenda Kahl	1157.65
8/4/2020	17554	Orlin Danz	1177.04
8/4/2020	17555	Tyler Danz - part-time employee	290.92
8/17/2020	17556	Alliant Energy	140.86
8/17/2020	17557	Black Earth Fire District - 2% fire dues	3272.37
8/17/2020	17558	Boehnen Inc - ditching, culvert replacements, etc	19592.20
8/17/2020	17559	Brenda Kahl - mileage	50.60
8/17/2020	17560	Capital Area Planning Commission - Papanthien zoning map	30.25
8/17/2020	17561	Construction Fabrics - seed, straw, staples	780.00
8/17/2020	17562	Crystal Cleaners - town hall anti-virus cleaning	110.00
8/17/2020	17563	Dane County Clerk - county directories	4.00
8/17/2020	17564	Dane County Treasurer - Jan-June DaneCom costs	2232.00
8/17/2020	17565	Dresen Lawn Service - town hall, garage, Sunning Hill Cemetery	420.00
8/17/2020	17566	GFC Leasing - copier lease	190.31
8/17/2020	17567	Gordon Flesch - fee for copies per month	31.59
8/17/2020	17568	Group Health Coop - medical and dental insurance	4638.00
8/17/2020	17569	Integrated Restorations - spray prairie	950.00
8/17/2020	17570	John Deere Financial - service call and fuses	175.70
8/17/2020	17571	Kasieta Legal Group - legal fees	277.08
8/17/2020	17572	Lakside International - 2004 International repairs	649.92
8/17/2020	17573	Larowe Gerlach Taggart - fees for ATV ordinance review	375.00
8/17/2020	17574	News Publishing - election, ordinances, zoning notices	98.52
8/17/2020	17575	State Bank of Cross Plains - postage and supplies	238.17
8/17/2020	17576	TDS Telecom	193.40
8/17/2020	17577	Town & Country Sanitation - garbage & recycling	5904.40
8/17/2020	17578	US Cellular - patrolman's cell phone	55.04
8/17/2020	17579	Dane County Treasurer - settle dog license fees	460.75

Additional bills will be handed out at the meeting