

**TOWN BOARD ACTION REPORT – CONDITIONAL USE PERMIT**

Regarding Petition # 02386 Dane County ZLR Committee Public Hearing Tuesday, September 26, 2017

Whereas, the Town Board of the Town of Burke having considered said conditional use permit application, be it therefore resolved that said conditional use permit is hereby (check one):  **APPROVED**

**DENIED (IF DENIED, PLEASE COMPLETE FINDINGS SECTION ON PAGE 2)**

**PLANNING COMMISSION VOTE:**      4 **In Favor**      0 **Opposed**

**TOWN BOARD VOTE:**      0 **In Favor**      5 **Opposed**

Whereas, in support of its decision, the Town Board has made appropriate **findings of fact** that the standards listed in section 10.255(2)(h), Dane County Code of Ordinances, and section 10.123(3)(a), if applicable, are found to be (check one):

**SATISFIED**

**NOT SATISFIED (PLEASE COMPLETE FINDINGS SECTION ON PAGE 2)**

**THE CONDITIONAL USE PERMIT IS SUBJECT TO THE FOLLOWING CONDITION(S):**

**PLEASE NOTE:** The following space, and additional pages as needed, are reserved for comment by the minority voter(s), **OR**, for the Town to explain its approval if the decision does not comply with the relevant provisions of the Town Plan.

I, Brenda Ayers, as Town Clerk of the Town of Burke, County of Dane, hereby certify that the above resolution was adopted in a lawful meeting of the Town Board on Wednesday, August 16, 2017

Brenda Ayers  
**Town Clerk**

Wednesday, September 20, 2017  
**Date**

# FINDINGS OF FACT FOR DENIED CONDITIONAL USE PERMITS

If the Conditional Use Permit application is denied, please complete the following section. For each of the standards, indicate if the standard was found to be satisfied or not satisfied. Please note the following from section 10.255(2)(b):

*“No permit shall be granted when the zoning committee or applicable town board determines that the standards are not met, nor shall a permit be denied when the zoning committee and applicable town board determine that the standards are met.”*

PLEASE INDICATE THE APPROPRIATE FINDING FOR EACH STANDARD (CHECK ONE / STANDARD)

- |   |   |
|---|---|
| 1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.   | 1. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 2. 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 establishment, maintenance or operation of the conditional use. | 2. <input type="checkbox"/> SATISFIED / <input checked="" type="checkbox"/> NOT SATISFIED |
| 3. 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.   | 3. <input type="checkbox"/> SATISFIED / <input checked="" type="checkbox"/> NOT SATISFIED |
| 4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.   | 4. <input type="checkbox"/> SATISFIED / <input checked="" type="checkbox"/> NOT SATISFIED |
| 5. 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.   | 5. <input checked="" type="checkbox"/> SATISFIED / <input type="checkbox"/> NOT SATISFIED |
| 6. That the conditional use shall conform to all applicable regulations of the district in which it is located.   | 6. <input type="checkbox"/> SATISFIED / <input checked="" type="checkbox"/> NOT SATISFIED |

## THIS SECTION IS RESERVED FOR FURTHER EXPLANATION OF THE FINDINGS:

“Standard 1: That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.” IS MET. Motion carried. Berg raised concern with trucks going in and out when driveway is 15 feet from property line and with young children next door. Nimmow inquired if there were neighbors present at the Plan Commission meeting. Berg indicated the Plan Commission had a copy of the petition but no neighbors were present. Ayers stated that at the Plan Commission meeting there is no place for public comment. Nimmow inquired as to where the equipment will be parked. Bursaw responded that he has removed the stalls from the shed and all of the equipment will be parked inside. Nimmow inquired if there is a driveway to the shed. Bursaw responded that there is a gravel driveway to the shed.

“Standard 2: 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 establishment, maintenance or operation of the conditional use.” IS NOT MET for the following reasons: would decrease property values of neighboring homes. Motion carried. Berg commented that another person commented that a similar business in the neighborhood has not affected property value negatively but a realtor is a more reliable witness than the other individual.

“Standard 3: 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.” IS NOT MET for the following reasons: limited amount of future interest in neighboring properties as referenced in realtor’s email. Motion carried.

“Standard 4: That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.” IS NOT MET for the following reasons: concerns about adequate access, drainage and weight of vehicles and equipment (Thorson Road has a 5T weight limit). Motion carried. Stieren – nay. Nimmow inquired as to when the road to the shed would be completed. Bursaw responded that there is a gravel road to the shed. Bursaw added that unless the Town would require it he has no intention to asphalt or cement the drive to the shed. Truitt indicated that the gravel pathway would not be adequate for a one-ton truck pulling a trailer with a bobcat. Viney inquired whether drainage would be an issue when pulling equipment and traffic on the gravel drive. Bursaw indicated they are currently working on drainage issues and when completed he does not foresee drainage to be an issue. If there are any drainage issues they will be corrected.

“Standard 5: That adequate measures have been or will be being taken to provide ingress and egress so designed to minimize traffic congestion in the public streets.” IS MET. Motion carried. Viney – nay. Stieren indicated that one cannot control increased traffic during congestion hours or when plowing snow. Viney felt the standard was not met because the ongoing traffic of the business would be at the same time everyone else is coming and going for work and it would increase traffic congestion.

“Standard 6: That the conditional use shall conform to all applicable regulations of the district in which it is located.” IS NOT MET for the following reasons: Berg noted that the proposed zoning and use is not compatible with the other properties in the area and felt that based on discussion the applicant is already violating the regulations of the current zoning. The applicant has more than one employee and the zoning and limited family business CUP he is applying for allows only one non-family full time employee. Based on that alone this condition is not met.