

2280393

2280393

DECLARATION OF RESTRICTIONS
FOR
DALE HILLS
MENOMONEE FALLS, WISCONSIN

Document Number

Document Title

REGISTER'S OFFICE
WAUKESHA COUNTY, WIS. } SS
RECORDED

98 JAN 15 AM 9:03
REEL 2579 IMAGE 0124

REGISTER OF DEEDS

"DALE HILLS", being a subdivision of a part of Parcel 2 and Parcel 3 of Certified Survey Map No. 3413, recorded in volume 26 on pages 16 through 19 of C.S.M., being a part of the Southeast 1/4 and the Northeast 1/4 of the Southwest 1/4 of Section 4, T 8 N, R 20 E, in the Village of Menomonee Falls, Waukesha County, Wisconsin, which is bounded and described as follows:

Commencing at the Southeast corner of said 1/4 Section; thence South 87 degrees 24'41" West along the South line of said 1/4 Section 664.59 feet to a point, said point being on the East line extend South of the Subdivision of Block 8 in SHEPHERD HILL ADDITION NO. 1, being a Subdivision of a part of the Southwest 1/4 of Section 4, Town 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, Wisconsin, thence North 00 degrees 16'41" East, 140.50 feet to the Southeast corner the Subdivision of Block 8 in SHEPHERD HILL ADDITION NO. 1 and the point of beginning of the lands to be described;

Thence continuing North 00 degrees 16'41" East (recorded as South 02 degrees 52'00" West) along the East line of the Subdivision of block 8 in SHEPHERD HILL ADDITION NO. 1, and SHEPHERD HILL ADDITION NO. 1, 1416.12 to a point, thence South 89 degrees 43'19" East, 330.17 feet to a point, said point being on the West line extended Northerly of JORDAN MCMICKEN MENOMONEE HILLS, being a Subdivision of a part of the Southwest 1/4 of Section 4, Town 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, Wisconsin; thence South 00 degrees 08'11" West (recorded as North 03 degrees 24'00" West) along the West line extended of JORDAN MCMICKEN MENOMONEE HILLS, 1200.74 feet to a point, said point being the Southwest corner of Block 3 in JORDAN MCMICKEN MENOMONEE HILLS; thence South 57 degrees 23'38" West along the Northerly line of the Waukesha County Park & Planning Recreation Trail right-of-way, 396.70 feet to the point of beginning.

Containing 9.97 acres of land, more or less.

Excepting therefrom those parts described for public street purposes.

WHEREAS, said DALE HILLS, L.L.C., intends to develop and improve the above described lands into building lots and is desirous of maintaining fair and adequate values in the above described lands, and of continuing said lands as a desirable resident area within the Village of Menomonee Falls, Waukesha County.

NOW, THEREFORE, in consideration of the foregoing said Dale Hills, L.L.C. does hereby impose and charge said lands with the following covenants and restrictions:

1. **STRUCTURES PERMITTED** - On lots zoned for residential purposes, no structure or structures (including satellite dishes greater than twenty (20) inches in diameter), sheds or accessory buildings, or detached dog houses shall be erected, altered, placed or permitted to remain upon any lot except a residential dwelling and a private garage.

- A. A dog house physically attached to the residence, or detached dog house will be considered by the architectural committee and approval, if given, will be based on the plans for the dog house being submitted showing placement, fencing and landscaping in a manner which compliments the residence and subdivision.
- B. Fences will be considered by the architectural committee and approval, if given, will be based on the plans for the fence, including fence material and any related landscaping, being submitted showing placement in a manner which compliments the residence and subdivision. No fence, wall, hedge or shrub will be permitted on any area embodied within corner triangles (formed by the intersection of two street property lines and the lines joining such lines at points twenty five (25) feet from such intersection) which obstruct sight lines at elevations between two (2) and six (6) feet above the roadways, except that trees may be planted and permitted to remain in such areas as long as the foliage line thereof is maintained at sufficient height to prevent obstructions of such sight lines.

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the

Recording Area

Name and Return Address

J.B.J. Construction, Inc.

P.O. Box 364

Menomonee Falls, WI 53052-0364

MNFV 0015 998 001 & 002

Parcel Identification Number (PIN)

the West line extended of JORDAN
MCMICKEN MENOMONEE HILLS, 1200.74 feet to a point, said point being the Southwest corner of Block 3 in JORDAN
MCMICKEN MENOMONEE HILLS; thence South 57 degrees 23'38" West along the Northerly line of the Waukesha County
Park & Planning Recreation Trail right-of-way, 396.70 feet to the point of beginning.

9606-4715 W42

18-

- C. One attractive accessory building designed and constructed to resemble the house in style, color and building materials shall be allowed for storage of recreational vehicles and usual home owner equipment only, said building to be approved by the Architectural Control Committee, and also by the Village if regulated by the Village. Maximum size of accessory building to be 10 feet x 10 feet.
- D. Exterior antennas, satellite dishes greater than twenty (20) inches in diameter and similar devices of all types will be considered by the architectural committee based on the location and placement in a manner which is concealed from street view and shall not be installed without the approval of the Architectural Control Committee and the Village if the Village regulates them.

2. **ARCHITECTURAL CONTROL** - No structure shall be erected, altered, or placed upon any lot unless and until the building plans, specifications and plot plans showing the location of such structure have been submitted and have been approved, in writing, as to the materials to be used in construction, the conformity and harmony of external design and color of the structure to be erected, with the existing or contemplated structures, and the location of the structure to be erected with respect to lot lines by an Architectural Committee composed of JEROME A. BENICE, JR., BRIAN J. BENICE, and SCOTT J. BENICE, either member of the committee can approve. A duplicate copy of the above plans and specifications as submitted and approved shall be provided for the permanent file of the Architectural Control Committee.

- A. The committee shall have the right to refuse or approve any such plan or specifications which, in the conclusive judgment of a majority of its members, are not in conformity with these restrictions or are not desirable aesthetically, or for any other reasons. In passing upon such plan and specifications, the committee may take into consideration the suitability of the proposed building or other structures, its design, elevation and the materials of which it is to be constructed on the proposed site; the harmony thereof with the surrounding buildings, and the view from the adjacent property. All decisions of the committee on said matter shall be final and binding. The committee shall have the right to waive minor infractions or deviations from these restrictions in case of hardship.
- B. In the event the Architectural Control Committee, or its designated representative, fails to act upon any plans, specification or other written requests for approval within 30 days after submission of all plans, specifications and other documents as may be requested by said committee, the requested approval shall thereby automatically be granted, such that no rights shall thereafter exist to enforce these declarations insofar as any such approval is required hereunder.
- C. Upon request, developer or its duly authorized representative, shall furnish a statement of the name and address of the person(s) to whom plans, specifications and other requests for approval are to be submitted for consideration by said committee, with submission to the person so designated constituting submission to the committee. If developer or its designated representative's shall fail to make the aforementioned designation, submission to developer shall constitute submission of the same to the committee.

In the event of the death or resignation of any members of said committee, the remaining member or members shall have full authority to appoint by majority vote a successor member or members to serve on said committee and, pending such appointment, to approve or disapprove any plans, specifications or plot plan as herein provided. None of the members of such committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this provision.

Upon sale by the Developer of eighty-five percent (85%) of the lots within the subdivision, the authority of the Architectural Committee shall automatically vest in the Lot Owners as they deem appropriate; except that authority for the approval of the building plans, specifications and plat plans as described in the first paragraph of #2 above will remain the authority of the original Architectural Committee. Upon sale of all lots within the subdivision by the Developer, the full authority of the Architectural Committee shall automatically vest in the lot owners.

3. **CONSTRUCTION** - All structures on any lot in said subdivision shall be enclosed and under roof with the finished exterior materials in place within one (1) year after the commencement of construction.

4. **BUILDING LOCATIONS** - Setbacks, height restrictions and locations of all structures shall be as regulated by the zoning ordinances of the Village of Menomonee Falls (herein referred to as "Village").

5. **BUILDING TYPE AND SIZE** - The lots in the Subdivision are zoned RS-5. Lots 1 and 18 through 30 with respect to side and rear yard set back must conform to the RS-4 zoning. All lots are restricted to the erection of a one story, story and

one-half, two story or split level residence building with an attached garage or carport of at least 300 sq. ft. in area. All homes shall conform to the RS-5 zoning regarding home square footage requirements, or the requirements set forth in this document. The more restrictive shall apply.

- A. A one-story home shall be a minimum of 1,100 square feet.
- B. A story and one-half home shall be a minimum of 1,200 square feet with a minimum of 800 square feet on the first floor.
- C. A two-story home shall have a minimum of 1,200 square feet with a minimum of 800 square feet on the first floor.
- D. A split level home shall have a minimum of 1,200 square feet.
- E. The exterior walls of the residence and attached garage must be constructed of brick, stone, aluminum siding, vinyl siding or wood siding (which includes only solid wood or wood wafer board products of the type and quality of the Interseal lap siding product manufactured by Louisiana-Pacific Corporation on the date hereof).
- F. Any block exposed more than one (1) course above grade must be covered like the above finish to look uniform.
- G. All roofs shall have a minimum pitch of six feet in height for each twelve feet in length (6/12), except for rear dormers on a story and one-half residence and other special circumstances if approved in writing by the Architectural Committee.

6. SURFACE DRAINAGE AND ELEVATION GRADE - A master surface drainage and house grade plan has been prepared by the Developer designating the manner in which each lot shall drain in relation to all other lots in the Subdivision and designating the grade elevation of the dwelling to be constructed thereon. A copy of this plan is on file in the office of the Developer and in the office of the Village Engineer and Building Inspector. No deviation therefrom shall be permitted without the approval of the Village and the Developer. Within sixty (60) days after completion of a dwelling on any lot in the Subdivision the owner of said dwelling shall grade the lot to conform to said drainage plan and from that time forward nothing shall be done which will alter the plan or impede or obstruct the flow of surface drainage water in accordance with the plan. All grading must conform to the Master Grading Plan.

Although all lots in the subdivision have been reviewed and approved for development with single-family residential use in accordance with Section 236 Wisconsin Statutes, some lots contain soil conditions which may require additional soil engineering and foundation design with regard to basement construction. It is recommended that either a licensed professional engineer or other soils expert design a basement and foundation which will be suitable to withstand the various problems associated with saturated soil conditions on basement walls or floors or that special measures be taken. Soil conditions should be subject to each owners special investigation prior to construction and no specific representation is made herein.

7. GARAGES - All garages shall be built at the same time as the private dwelling and shall be a minimum of 300 square feet in area, but not more than three and one-half (3 ½) cars. Absolutely no boat, camper trailer, mobile home, vehicle licensed as a truck, extra cars, or trailers of any kind may be parked on any lot outside of the garage or within the Subdivision perimeter for more than seventy-two (72) hours except for trucks delivering materials or merchandise or used during construction or remodeling periods. Whereas the keeping of a motorcycle, snowmobile, minibike, or recreational vehicle is allowed, the use of them is PROHIBITED on any lot, driveway, parking area, or open space within the Subdivision. The intention herein is that they shall be expressly limited to only the road areas for the sole purpose of entering and/or leaving the Subdivision for necessary travel (as contrasted with recreational use).

8. NUISANCES - No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Trash, garbage or other waste shall not be kept except in sanitary containers which shall be properly screened from public view. No building may be occupied until it has been substantially completed in accordance with the plans and specifications submitted to and approved by Developer and an occupancy permit obtained from the Village.

9. EXTERIOR DEVICES - All air conditioners, solar heating units, windpower and similar devices shall be concealed from street view and be located in a manner approved by the Architectural Control Committee.

10. SWIMMING POOLS/FENCES - Swimming pools are permitted if they meet Village ordinances and specifications,

and plans for said pools are approved by the Architectural Committee, which plans shall denote design, offsets, landscape treatment and fencing proposed.

11. ELECTRIC YARD LIGHTS - For purposes of safety, each lot owner is required to install a decorative electric yard light that complements the house electric fixtures on each platted residential lot. Each light shall be placed approximately fifteen (15) feet from the street lot line and approximately five (5) feet off the driveway. The light should be photocell activated and not restricted by an electric switch. The yard light should be installed prior to occupancy.

12. LANDSCAPING/DRIVEWAYS - Lots shall be landscaped and seeded or sodded within one (1) year after completion of a dwelling thereon. Landscaping shall include the area between the front lot line and the edge of the street pavement. Landscaping must include a drive which shall be hard surfaced material. No permanent gravel drive will be permitted. The hard surface of concrete, asphalt or similar material shall be installed within one (1) year from the date the premises are completed. Each Lot Owner within one (1) year after issuance of an Occupancy Permit, must plant one (1) tree with a minimum trunk diameter of one and one-half (1 ½) inches at a point four (4) feet above the root system in the front yard of the lot.

13. ENFORCEMENT - The restrictions and covenants contained herein may be enforced by any lot owner by proceedings at law or in equity against any person or persons violating or attempting to violate the same. The proceeding may seek to recover damages and/or demand compliance, provided however, that no actions shall be commenced after one (1) year from the date on which the violation first occurred.

14. TELEPHONE AND ELECTRIC SERVICE - All telephone and electric service to any building on any lot shall be underground from the underground utilities system. If Wisconsin Electric has overhead distribution facilities abutting any lots in this subdivision, either now or in the future, and a service is requested within 120 feet of the overhead facilities, there will be a charge to the lot owner for underground service.

15. TERM - These restrictions shall run with the land and shall be binding upon all parties and persons having any interest in the land affected hereby for a period of twenty-five (25) years from the date of this Declaration of Restrictions is recorded, unless an amendment extending or reducing the term hereof is recorded prior to the expiration of such period.

16. SEVERABILITY - Invalidity of any provision of this Declaration, regardless of how determined, shall in no way affect any of the other provisions, which shall remain in full force and effect.

17. AMENDMENTS TO DECLARATION - This declaration may be annulled, waived, changed, modified or amended at any time by written Declaration setting forth said change, executed by the owners of at least sixty (60) percent of the lots in the Subdivision; provided, however, that any such action must also be approved in writing by the Developer so long as the Developer owns any parcel or lot in the Subdivision. This Declaration and all amendments shall be executed as required by law so as to entitle it to be recorded, and shall become effective only upon due recording with the office of the Register of Deeds for Waukesha County, Wisconsin.

18. FUTURE SUBDIVISION LOTS - There shall be no future division of subdivision of lots on this plat without the approval of the Plan Commission of the Village.

19. CONFLICTS BETWEEN RESTRICTIONS AND ZONING OR BUILDING REGULATIONS - In the event of any conflict between these restrictions and the Village's zoning and building regulations, the stricter provisions shall apply.

20. OCCUPANCY - No residence shall be occupied prior to the completion of the exterior surfacing of said dwelling and the lot finished to rough grade. All grading must conform to the Master Grading Plan.

21. SIGNS - No sign of any kind shall be displayed to the public view on any lot, except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period, unless approved by the Architectural Control Committee.

22. ANIMALS - No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose, nor exceed three (3) in number.

23. WASTE DISPOSAL - No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers.

24. TEMPORARY STRUCTURES - No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out buildings shall be used on any lot at any time as a residence, either temporarily or permanently.

25. MAILBOX - Permanent mail/newspaper units shall be included in the purchase price of each lot and shall be installed by Developer in designated locations as determined by the U.S. Postal Service. Lot Owners may be required to provide and install an individual temporary mailbox at a common location as may be directed by the U.S. Postal Service.

26. ELEVATED TANKS - No elevated tanks of any kind shall be erected, placed, or permitted on any part of such premises. Any tanks for use in connection with any residence constructed on such premises; including tank for the storage of fuels, must be buried in accordance with Village, Country, State and Federal regulations.

27. RESERVATION OF ASSESSMENT RIGHTS - Should the Village determine that deficiencies exist under paragraphs 6, 28 and 29 or any other areas and that the public interest requires compliance, the Village shall give notice of the deficiencies to the lot owner. The lot owner shall have the time specified in the notice to rectify deficiencies and if the deficiencies are not rectified within the time period, the Village shall have the right to enter upon such property using its own employees and equipment or contracting with others for such work to rectify the conditions. The cost of such work or services shall be billed to the lot owner. The Village shall have the right to enforce collection of such amounts by extending the same on the current or next succeeding tax roll as an unpaid special charge in accordance with Section 66.60(16) of the Wisconsin Statutes against the responsible lot owners. The undersigned Owners, for themselves, their successors and assigns, do hereby consent to the levying of such special charges and hereby waive any and all notices and hearings which might otherwise be required by state statutes for the levying of special charges.

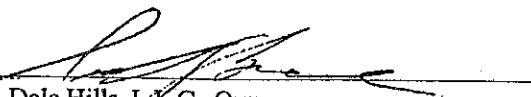
28. DRAINAGE EASEMENT PROTECTION - Lot owners are responsible to maintain all private and public drainage easements adjacent to their property at the approved grades and free of obstructions which may impede the flow of storm water. Adjacent lot owners may not alter the approved grade of or place any obstruction within a private/public storm water drainage easement. If not maintained by lot owners, cost to maintain could be levied in accordance with paragraph 27.

29. DETENTION BASIN - Lots 1, 2, 3, 4 and 5 contain a detention basin. These Lot owners are responsible to maintain the detention basin and keep it free of obstructions which may impede the flow of storm water. If not maintained by lot owners, cost to maintain could be levied in accordance with paragraph 27.

30. RESTRICTION VIOLATIONS - Any Owner violating the restrictions contained herein shall be personally liable for and shall reimburse Developer and the Architectural Control Committee for all costs and expenses, including attorney's fees, incurred by Developer or the Architectural Control Committee in enforcing the restrictions contained in this Declaration. The foregoing shall be in addition to any other rights or remedies which may be available to Developer.

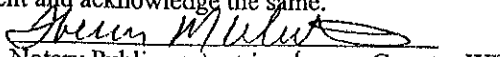
31. FUTURE STAGES OF DEVELOPMENT OF DALE HILLS - The Developer, its successors and assigns shall have the right to bring within this Declaration future stages of the development of Dale Hills, provided such future stages are or become adjacent to the real estate which is or becomes subject to this Declaration or any supplemental declaration. The future stages authorized under this Section shall be added by recording a Supplemental Declaration of Restrictions with respect to the future stages which shall extend the provisions of this Declaration to such future stages and indicate any provisions which differ from the provisions of this Declaration or any prior Supplemental Declaration. Except with respect to increasing the number of Lot Owners such Supplemental Declarations shall not revoke, modify or add to the covenants established by this Declaration or any prior Supplemental Declaration.

In witness whereof, the undersigned has executed this Declaration of Restrictions this 3 day of December 1997.


Dale Hills, L.L.C., Owner
By: Scott J. Bence, Member

State of Wisconsin)
) SS.
County of Washington)

Personally came before me this 3 day of December, 1997, the above named Scott J. Bence to me know to be the person who executed the foregoing instrument and acknowledge the same.


Notary Public, Washington County, WI
My commission expires 6-11-00

FILES\DALEHILL\DEEDREST

DRAFTED by: T.M. WEITERMAN

