

MINUTES
PORTAGE COUNTY BOARD OF ADJUSTMENT
JANUARY 16, 2012

(VERBATIM)

SZACHNIT: Call this hearing to order at this time. Ah, today is ah, Monday, January 16, 2012. The time is now 4:01. Ah, Mr. Kessig, would you please lead us to the

BACHHUBER: KLESSIG.

SZACHNIT: KLESSIG, I'm, I'm sorry. Yes, please lead us in the Pledge of Allegiance.

KLESSIG: (Leads the Pledge)

SZACHNIT: Okay, I like it to be stated that all normal members are present except for Scott Soik, ah, due to a situation. Ah, he is being represented now by Bill, ah.

BERNHAGEN: Bernhagen.

SZACHNIT: Bernhagen. Yea. Get that name right.

BERNHAGEN: Oh yea, that's alright.

SZACHNIT: Okay. Okay, just to state that this meeting, ah, has been noticed properly by a class two notice, ah, of our meeting agenda. The, any members of the ah, group here wishing to ah, address the Board, please do so by signing in with your name. The ah, sign in register is located on that table by the entrance way. And, we like also to make the announcement if anybody has ah, any ah, mobile phones on, please if you could turn off the ringers so they're not disturbed during the hearings. Thank you. Okay, today we have two hearings on the agenda. First one is for Chris and Amy Sobczak. They are the owners. This is for petition 12-01. And the second one is Mark and Miranda Hemmrich, owners, and the petition is 12-02. Alright, I would like to open up for the first petition.

UNKNOWN (in audience): Sir.

SZACHNIT: Yes.

UNKNOWN (from audience): Could we skip it, to the next one? We still, there's still someone that's coming yet. Can, can we wait?

SZACHNIT: Is that okay with the

PELKY: Sure.

BACHHUBER: (Inaudible)

MRDUTT: That's ah, your call.

SZACHNIT: Sure, yea, okay. Alright. Yea. Okay, as long as there's no objections up here, then it's okay with me. Okay. We'll do the first one then is Mark and Miranda Hemmrich. It's a variance and special exception from the Portage County Zoning Ordinance, are requested to construct a storage shed within the 25 foot property line setback, that exceeds, and also that it exceeds the 2,800 square foot of total accessory building space, in the R1 Rural and Urban Fringe Residence Zoning District. Town of Eau Pleine, parcel number is 016-61-05, alright.

BACHHUBER: (Inaudible)

SZACHNIT: Okay, you, Tracy or Chris, I'm sorry.

BACHHUBER: Well we have (Inaudible)

SZACHNIT: Yea, alright. (Inaudible)

PELKY: Yea, this request is coming to the Board of Adjustment. It's a two-fold request. One is the applicant is looking at constructing a new house, but the special exception request will be to exceed 2,800 square feet. That will include the detached garage, or garages. They're proposing a 36x60 detached garage, 6x8 shed, and then the attached garage on the house. The combination together is exceeding 2,800 square feet, which exceeds our ordinance limit. That will be one part of the request. The second part of the request, the R1 Residence Zoning District has a 25 foot side yard setback. Applicant is proposing a 15 foot setback. So there is a variance we're looking at to go as close as 15 instead of 25. And the Board, in your packet, should have letters from the township. One thing I wanted to point out, we do have a letter from the Army Corps of Engineers identifying the wetlands on the property. We do have a map here, that, if you pass it on, I think the applicant could use that to explain himself or what they're doing. So, if you want to use that as your main

SZACHNIT: Sure.

PELKY: Visual.

BACHHUBER: (Inaudible)

PELKY: The 15 foot setback is what they're asking, so. And then again the town letters.

(Inaudible – speaking over one another)

PELKY: Um, those are in your packets, which I believe you have already read, as well as staff memo.

BACHHUBER: But we haven't got the um.

SZACHNIT: No, but we will get to that in um, ah, okay. Board members want to take time at this point, we have the specifics on this that weren't included in the packets we got ahead of time. So if you want to review this for a few minutes there, and then we'll proceed.

BACHHUBER: Okay.

MRDUTT: Okay, and this, this page would be page two of the packet (Inaudible)

BACHHUBER: Mmm-hmm.

MRDUTT: Besides the fact sheet, page two of the packet. (Inaudible)

UNKNOWN: Invite the petitioners.

SZACHNIT: Is everybody satisfied with what they have?

BACHHUBER: Mmm-hmm.

SZACHNIT: Okay. Lowell, are you satisfied with the?

KLESSIG: Do I understand it?

SZACHNIT: Well, not totally.

BACHHUBER: Just that you read it. You read it.

KLESSIG: I read it, that's the extent.

(Inaudible – speaking over one another)

SZACHNIT: Yea, you read it. Yea, as long as you're satisfied with what you have and we'll work on it as we go. Okay, ah, who is representing this petitioner?

HEMMRICH: I am, Mark Hemmrich.

SZACHNIT: Just step forward. Please step forward please. Okay, Mark ah, Hemmrich, right?

HEMMRICH: Yes sir.

SZACHNIT: Okay. If you could raise your right hand please. Do you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

HEMMRICH: Yes.

SZACHNIT: Have a seat please.

PELKY: Here you go Mark. That'll be a copy of the packet.

SZACHNIT: Okay, if you want to explain to the Board, ah, exactly what you're planning again.

HEMMRICH: Um, as indicated, it's two fold. We would like to be allowed with ah, combined square footage of our out buildings, to exceed the square footage, which I've estimated to be approximately 210 square feet. Um, and at the same time, build the shed with an additional 10 foot setback closer to the lot line. And the reasoning and our, and our purpose for the setback is, and I can show you that with an aerial photograph.

SZACHNIT: I think we have a, we've all got

(Inaudible – speaking over one another)

HEMMRICH: Wonderful.

SZACHNIT: Or you can use this here if you want to point out the.

HEMMRICH: Well

SZACHNIT: It's not an aerial, but it's the

HEMMRICH: Sure. What's significant, we tried to show this on, on our drawing, is there's trees, along the whole area. We're trying to build the shed in such a way that it will be tucked back into the trees. So that it's covered here, here, and in front. Um, with what we've estimated, we can completely hide these three sides by tucking it back in so that it's not really visible from the road. And I think we'll all agree that a large shed is not really aesthetically pleasing to look at. Um, the other thing we looked to accomplish is by moving it this way, we will be able to plant trees on this side, and effectively block it from our neighbors as well, and to some extent from us. Um, we're kind of restricted by the wetlands as to where we can put things. Um, the wetlands also appear in this area right here. And this part of the drawing is not exactly accurate because we're actually changing the driveway to go this way.

BACHHUBER: Oh.

HEMMRICH: And around. Um, and bringing the wetlands, you, bringing it closer to here, we're kind of tightening the gap. Um, I'm gonna make sure and look at that. I'm sorry. I, I'm misreading this upside down. The wetlands are situated here.

BACHHUBER: Mmm-hmm.

HEMMRICH: And we're kind of restricted by where we can put our driveway.

BACHHUBER: Mmm-hmm.

HEMMRICH: The wetlands extend all the way to the lot line. So we couldn't put our driveway this way.

BACHHUBER: So where are you gonna put this driveway?

HEMMRICH: The driveway is properly represented. I made a mistake looking at it upside down.

(Inaudible – speaking over one another)

BACHHUBER: Alright.

HEMMRICH: So, this could, little bit of a tight squeeze to get it in there. So setting it back a little bit farther allows us to keep the driveway closer to this way and so then we're not plowing snow into that area.

BACHHUBER: Okay.

SZACHNIT: Okay. Do you have anything else to add at this point or?

HEMMRICH: The only other thing that I would point out, you know, the, the request for additional space. My wife, ah, owns a dairy farm. It's no longer in operation, but we did keep some of the large equipment. Ah, we have a medium size farm tractor, and ah, you know, with a combination of that and tools and equipment that I have, and ah, recreational vehicles. The requirement for the space is, is, would be very very useful for us. Um, I'm also intending on, you know, we're building our retirement home. And I hope to have a shop to be able to do some metal and wood working. And that too would help with the space requirement.

SZACHNIT: And what's the purpose of that extra ah, I noticed in, in the paperwork here it says it's a 6x8, but someone said it was a 4x8 I believe?

HEMMRICH: Ah, I believe it's a 6x8.

SZACHNIT: It is a 6x8.

HEMMRICH: Yea.

SZACHNIT: Alright. And what's the purpose of that building?

HEMMRICH: To be able to keep a small lawn mower tractor.

SZACHNIT: Okay, just ah, you know.

HEMMRICH: And garden.

SZACHNIT: Your main ah, storage area.

BACHHUBER: Okay. So you've, you've got, well, hold on (Inaudible)

SZACHNIT: Sure, yea.

MRDUTT: Mr. Chairman.

SZACHNIT: Yea?

MRDUTT: Like, um, to suggest working on the variance part of it first.

SZACHNIT: Yes.

MRDUTT: And then, to, I guess to explain to you two, we're going to split up kind of the, this ah, petition. So we'll look at the variance first and then exceeding the 2,800 square feet. I think a good place too would be on page 2, I know, ah, in the packet ah, you could try um, kind of lead the Board ah, in the variance.

SZACHNIT: Yea.

MRDUTT: And if you would take time to explain some of those to the Board.

BACHHUBER: The variance criteria.

HEMMRICH: Okay, um, as I indicated, you know, the first being the place where the shed is, is that what you're referring to?

MRDUTT: Yep. Kind of the the three points that you made on that sheet are.

HEMMRICH: Okay. Um, the first being is the setback to try and hide the property, hide the shed, by being able to completely surround it with trees. We anticipate it won't be visible to our neighbors. It won't be visible from the road, as such, and you know, perhaps the less important, it won't be visible to us, or plainly visible when we look out our, the windows of our new home. Um, and, and as I mentioned previously, the, the ability to shift the driveway so they're not quite as close to the wetland. I mean, we are, we've done everything we've been told we should do in terms of building the driveway to 18 feet wide. We're trying to allow some space on either side for snow plowing, um, and not be able to have to plow the snow directly into the shed. So, that's our, our primary reason for the request for the setback, is to hide it and make it less visible, and give us a little bit more access.

BACHHUBER: Mmm-hmm.

KLESSIG: I'm curious and, you could have ah, avoided most of this by ah, by like taking two feet off of the width of that building. And it should be giving you 2,761 feet.

HEMMRICH: Understood sir.

KLESSIG: Um, and I've got lots of out buildings, and I understand the difference between spaces. Um, and then you would also have two feet less um, into the, if we're talking about the variance part, it would be two feet less

BACHHUBER: Mmm-hmm.

KLESSIG: Into the setback.

BACHHUBER: Mmm-hmm.

HEMMRICH: Understood. Um, you know, as we said, to be honest with you sir, if I built a 36x80 shed, I could fill it.

KLESSIG: My wife could fill it.

HEMMRICH: Ah, so, really, you know we're, well we hope we're asking for something that is reasonable, as opposed to unreasonable. And we think for that reason you'll grant it. Ah, we could, and I have looked at building a smaller shed, um, though when we take into account the property that we have, um, as I said, we can fill it very easily. And I would like to maintain some shop space for personal use.

SZACHNIT: Okay. Any other comments from the Board or anything? We're finished there, right?

BACHHUBER: About the variance.

(Inaudible – speaking over one another)

JAZDZEWSKI: I'd like, pass that sketch down here. I want to (Inaudible)

BERNHAGEN: We've got letters from both side neighbors. Bancroft Bank and the other one is Kinninger, and they both have no objections to those setbacks or anything there.

SZACHNIT: But that's

BERNHAGEN: And the, on the side of the Bancroft Bank is a bunch of pine trees. Which beyond them is, and they don't have any objection.

SZACHNIT: But again that's the current owners.

BERNHAGEN: They own the property on both sides.

HEMMRICH: Correct.

SZACHNIT: Right, but

HEMMRICH: Yea, both sides.

SZACHNIT: I guess look at the future also.

HEMMRICH: One thing I, I may point out in response to that sir, is the way the wetlands is situated um, it's narrower on our property than it is for the adjoining property owned by Bancroft State Bank.

SZACHNIT: Mmm-hmm.

HEMMRICH: And they wouldn't be able to build quite as close to the river as we can. In order for them to put something, they would have to go closer to the road. So, you know, a shed being located where it is and knowing that there are trees, both on our lot line and on theirs.

BACHHUBER: Mmm-hmm.

HEMMRICH: We hope and expect that it's going to be covered on their side too.

SZACHNIT: So you're saying you, your setback on the shed is approximately how far from the road or, do you know?

BACHHUBER: What you want. The setback from, he's meeting the setback from the road.

JAZDZEWSKI: 893 feet from River Road.

SZACHNIT: Yea. He's meeting it

BACHHUBER: He's meeting the setback from the road.

SZACHNIT: But in, but in response to his reply of the adjacent property, they would have to build closer to the road.

HEMMRICH: Yes sir.

SZACHNIT: You were saying.

HEMMRICH: Yes sir.

SZACHNIT: But what you're saying, your shed would be behind where they would most likely build, right?

HEMMRICH: Exactly.

SZACHNIT: You know, so.

BACHHUBER: Okay. Let me ask you about the trees. Describe the trees. And then, how thick is this, how old are these trees, what kind of trees do you have there for landscaping and are they gonna last for a while or what?

HEMMRICH: Ah, they are primarily Bass, Oak, um, trees. They are quite tall.

BACHHUBER: Mmm-hmm.

HEMMRICH: Um, I can't tell you how old they are, but they are not young trees. I would venture the height varies between 30 and 60 feet high.

BACHHUBER: Mmm-hmm.

HEMMRICH: Um, and you know, if you take a look in here, you'll see that it's actually quite dense. And we actually had to create a hollow to even be prepared to build on that spot. That was probably the densest end of trees on the entire property.

JAZDZEWSKI: Did you say you were changing the route of the driveway?

HEMMRICH: No sir. I, I erred. I was trying to read that upside down and

JAZDZEWSKI: Oh, okay.

HEMMRICH: And this is the wetland. But this is the correct.

JAZDZEWSKI: Okay. So really as far as the distance from the shed, is only on the first third or so of the shed. And what is the, the negative aspect of plowing snow into a wetland? That would naturally drain that way anyway?

MRDUTT: Well, over time, the sediment on the gravel and stuff tends to fill the wetland. Because when you plow, you're not just plowing snow.

JAZDZEWSKI: (Inaudible)

HEMMRICH: We anticipate it's probably going to be gravel for a considerable time. It's a long driveway.

SZACHNIT: Yea. Anybody have any other questions ah, from the Board?

PELKY: One question. What is the size of the attached garage, the square footage that we're looking at there?

HEMMRICH: 912 or 13. 913.

KLESSIG: (Inaudible)

PELKY: 913?

HEMMRICH: Three car garage.

SZACHNIT: See, that's the one thing where the math's not adding up here. Ah.

PELKY: Square footage, I know you're asking for an additional 210. But

BACHHUBER: Talking about the variance.

PELKY: You know, the numbers are adding up with the 36x68, the 48 and

HEMMRICH: It was recommended that we ah, use the internal square footage.

PELKY: That's how you figured it out? Okay.

HEMMRICH: Yes sir.

PELKY: Inside. Alright. Just wanted to make sure. So those are calculated.

JAZDZEWSKI: Square footage is calculated for the outside, isn't it?

PELKY: Typically we look at the outside.

SZACHNIT: Yea.

HEMMRICH: That would be

PELKY: One thing I was working on, the applicants or the owners that, being you're only over by that much, which would shorten it up maybe a couple feet, or sometimes we'll take the inside dimensions. We just couldn't make that work. So, the applicant decided to go through, but we have in the past, potentially looked at the inside dimensions. Something for when the Board is reviewing this, that, you know, the specific on the square footage is if it's inside or outside.

JAZDZEWSKI: Still, it's usable square footage.

PELKY: Yea.

HEMMRICH: Yes.

PELKY: Yea, we have used usable square footage in the past.

JAZDZEWSKI: And in all ah, honesty and fairness, a lot of the shed contractors have set sizes, by the length and by width. Not that they can't be changed, but they become cost prohibitive.

HEMMRICH: Well, and that's exactly right. If we would try to go to ah, truss length or width just to get inside those numbers, um, we either have to lose a substantial amount of square feet or um

JAZDZEWSKI: That's a substantial amount.

HEMMRICH: Or pay a, pay a substantial amount of money is correct. Thank you.

SZACHNIT: Right. I'm still questioning though the total square footage. Your shop is 36x60.

HEMMRICH: Yes sir.

SZACHNIT: As shown in ah, ah, the request here, ya know. And then we have a building that's ah 6x8. So that's another 48 square feet and 2,160.

BACHHUBER: Can you give those numbers again?

SZACHNIT: Ah, okay. The ah, shed, the large building is 36x60, which is 2,160 square feet. And we have ah, again, like I said, it's a 12x8, but I think the rest of the documentation says 6x8 garden shed, which is 48 square feet. And if you were to take that and subtract it from the total requested of ah, 3,010 square feet, it leaves like 802 square feet for the attached garage.

JAZDZEWSKI: Well, what they're using, is they're using the inside, the inside of the shop.

SZACHNIT: Yea.

JAZDZEWSKI: So you're taking probably six inches, you're taking a foot off the interior.

SZACHNIT: You're taking a foot off each dimension.

JAZDZEWSKI: Yea.

HEMMRICH: Yes sir.

SZACHNIT: Yea, so you know.

PELKY: How did you calculate it out? Do you have those figures?

BACHHUBER: Yea, do you have your figures? That would be interesting to get your figures.

SZACHNIT: I always thought we went with outside dimensions, you know, the footprint.

KLESSIG: I never heard of using the inside.

SZACHNIT: Is that normal ah, Tracy, or something that we use inside dimension, rather than a footprint?

MRDUTT: It depends on if the individual is close to. It's like John said, if you're looking at the usable space for the accessory, from. For instance, there's sometimes you'll have an attached garage where you have a staircase going up to a second level or down to a basement, which isn't part of the garage. If you take the 24x24 stamp.

SZACHNIT: Mmm-hmm.

MRDUTT: That 8x10 staircase opening, or what not, could take out substantial more room. It, it depends

SZACHNIT: Okay, that I could see, but I'm saying where we talk about a building, the walls are always there. You always have

MRDUTT: Correct.

SZACHNIT: Thickness of five inches or

JAZDZEWSKI: If it's a free standing building, yes.

MRDUTT: Yes. Generally, we measure outside. If we're able to measure inside and get below 2,800 square feet.

SZACHNIT: Mmm-hmm.

MRDUTT: You know, the ordinance said when you look at the definition of accessory space, we can do that.

SZACHNIT: Oh you can, alright.

MRDUTT: In the circumstance, playing with the couple feet either way, doesn't make a difference in front of the Board tonight. So um, if they want to look at the um, outside square footage and a few other dimensions for your garage, the attached garage. Is it 24 by?

HEMMRICH: It's 36x60.

MRDUTT: So if

HEMMRICH: No, that's the detached.

PELKY: Detached garage, your,

MRDUTT: The attached one to the house.

BACHHUBER: The three car attached to the house.

HEMMRICH: We actually have our blueprints.

(Inaudible – speaking over one another)

HEMMRICH: I believe um, one thing about the garage, it has a shared wall.

SZACHNIT: 16 feet.

JAZDZEWSKI: Getting for the sake of apples to apples, down the road, to be consistent with the measurements on the building. So if, if it goes to using the outside, then, then it would be a matter of increasing that square footage into where it is.

MRDUTT: The petition tonight is to exceed 2,800 square feet.

BACHHUBER: Right.

JAZDZEWSKI: Well, not by much.

MRDUTT: I guess, I'm, there's not a specific amount that is noticed, so, if the Board is comfortable with stating the buildings that he has proposed on the plan.

JAZDZEWSKI: Okay.

MRDUTT: Staff is comfortable with the measurements, if we're using inside at a later date or outside.

JAZDZEWSKI: Okay, just, we can't leave it open, cause you might end up with 60x180.

MRDUTT: Correct.

BACHHUBER: That's about it.

MRDUTT: And then you're looking at the information that they have provided. That's what we use. So down the road, you couldn't build a

HEMMRICH: Understood.

MRDUTT: Throw a curve ball at us. So, I don't think the Board has to be concerned with inside or outside.

BACHHUBER: So we have some idea here of the square footage, ah, of the buildings, the, that, that's to be kept in mind as we discuss the variance, because we're going to discuss the variance first. So just the information for the special exception is just for information and purposes only at this point. Um, and so we're looking at the variance to say how much can the lot line

(Inaudible – speaking over one another)

SZACHNIT: Your outbuilding should be that 6x8 I guess in there.

HEMMRICH: Yes sir.

SZACHNIT: Lowell?

KLESSIG: I'm not sure we can discuss them separately.

BACHHUBER: That's what I was wondering.

KLESSIG: I don't think we can.

HEMMRICH: But I do have the ah

JAZDZEWSKI: Yea you can.

HEMMRICH: I mean, I do know the size of those two out buildings. I can, I can determine the inside of the garage.

JAZDZEWSKI: That's really neither here nor there. It's a matter of few, few feet.

MRDUTT: I think if I could make a suggestion to the Board. If they have questions for the petitioner that are relevant to the variance?

BACHHUBER: Mmm-hmm.

MRDUTT: You know, the, the um, three criteria for a variance. You know, if you look at the fact sheet, there's five parts of the fact sheet that discuss how you weigh a variance.

BACHHUBER: Right.

MRDUTT: Like with the

HEMMRICH: And I do have the specific dimensions for that.

BACHHUBER: Alright. Why don't we (Inaudible)? If we have any more questions of him in regard to any of this, then he can be dismissed.

SZACHNIT: Well, we can't dismiss him yet.

BACHHUBER: No.

SZACHNIT: Do you want to go through, ah, at this point I can ask if there is anybody else in our audience here who wants to testify on this case? Alright. We can proceed, you know. Do you want to go through? Okay, as far as the variance goes, granting this variance would not be contrary to the public interest, state law, or administrative code. The spirit of the ordinance would be observed and substantial justice done. Any comments on this one? Lowell? John? Bill? Marj?

BACHHUBER: It's not contrary to public interest.

SZACHNIT: No it isn't.

BACHHUBER: The spirit of the ordinance would be observed. Um, I'm not sure yet about substantial justice done as we haven't discussed all the um, all the negative.

SZACHNIT: Again, we're just looking at the setback.

BACHHUBER: Yes.

SZACHNIT: At this point.

BACHHUBER: Right.

SZACHNIT: We're not looking at anything.

BACHHUBER: Right. Mmm-hmm. Well, we haven't, in, in order to get a variance, he has to show that you have unique property characteristics that have to be addressed.

HEMMRICH: And I, I have addressed the (Inaudible)

BACHHUBER: And, and you have addressed it. But we haven't looked at it completely, and that's the point I'm making. We haven't looked at, at that yet. Um, so, that's how I feel about number one.

SZACHNIT: Okay, any other comments on number one? Alright. Number two, it says the use is permitted, the use is permitted in this district.

BACHHUBER: Yea.

SZACHNIT: You know, and I, I'm sure (Inaudible). Number three, exceptional circumstances apply to the use that does not generally apply to other landowners. I think we can agree that there are circumstances here, right?

BACHHUBER: And which we have to discuss.

SZACHNIT: Well, you know. Granting the variance would not be detrimental to surrounding land owners. I know we have some comments from your neighbor to the north and the bank. Supposedly they talked to this guy, ah, or some bank representative.

HEMMRICH: Both the north and south.

SZACHNIT: Both the north and south. But that's again an existing owners. We have to look at it for the future too, in case, you know, your land changes hands or the bank sells off that land, you know? So that's something we have to look at in this case.

KLESSIG: I have concerns about that. Um

SZACHNIT: Okay.

KLESSIG: That's a huge building. That's bigger than my barn, my dairy, dairy barn. Ah, and ah, well, with the trees there, it's going to only minimally change the, the, the view of that barn. That, this other property's land owner is going to have substantially different use of that property, given the, this property, the, this building being that close to the, to the side yard.

HEMMRICH: If I may comment sir. Um, we have the option of removing the trees. I mean, we have to allow some kind of side yard so the trees aren't going directly up to the yard. And I appreciate that. But by the same token, given the size of the building, I don't know that it would substantially change the view to a neighbor if it's ten feet closer or farther away.

KLESSIG: It would be a major view.

HEMMRICH: I grant you, it's, it's a view no matter how you look at it.

(Inaudible)

SZACHNIT: Does it state what's the height on this building?

BACHHUBER: Are there, there are no height restrictions.

SZACHNIT: There are no height restrictions.

PELKY: 20 feet, which he's at 18.

(Inaudible – speaking over one another)

HEMMRICH: 10 high wall, 8 foot high on the truss. And to be honest with you sir, I also spoke with the bank.

SZACHNIT: Mmm-hmm.

HEMMRICH: Um, they and I are both well aware that the property is for sale. And when I spoke with Jill who is the Bancroft State Bank President, um, it was remarked when I brought up to her that I understood that she is looking at a potential buyer who may look at our building and our property making that decision.

BACHHUBER: Mmm-hmm.

HEMMRICH: Um, so she, I believe she made that decision conscientiously, consciously, knowing that the property is for sale and how it appears to us could ah, affect the outcome of the sale.

KLESSIG: Would a new buyer know that?

HEMMRICH: When they view the property, absolutely.

KLESSIG: I mean, before you build it, would they know it?

BACHHUBER: Mmm.

HEMMRICH: Not unless Jill tells them. But I would anticipate that she would, since we brought it up to her.

BACHHUBER: When do you expect to build this?

HEMMRICH: Ah, we hope to break ground April.

BACHHUBER: For all sheds or just your house?

HEMMRICH: Ah, we'll be building the shed first. Immediately followed a month later by the, by the house.

BACHHUBER: So this shed goes first?

HEMMRICH: Yes.

SZACHNIT: Okay, and ah, step ah, item number five says the hardship is not cause by any person having interest in the property, alright? I don't think it is caused by anybody of interest, you know. Because the hardship is there already.

BACHHUBER: Right.

SZACHNIT: The wetlands, the, you know.

HEMMRICH: And we, before we purchased the property, we invited the, both the DNR and the Army Corps of Engineers to identify all the wetlands so that we could make our plans before we purchased it.

BACHHUBER: Good job.

HEMMRICH: And if the marks that we've put on the map, um, those are, those dimensions were created by Eric Norton from the Army Corp in defining the wetlands.

BACHHUBER: Good.

SZACHNIT: Okay. Any ah, comments from the Board or the public here?

JAZDZEWSKI: I've got

BACHHUBER: Are we in discussion phase?

(Inaudible – speaking over one another)

JAZDZEWSKI: The only question I had is the information you brought, while the sketch is very detailed, and ah, well, the photos provided for, as provided by staff are very detailed, none of them correspond to each other as to the exact location. You know, it would have really been nice if we'd of had a photo like this or an aerial photo with boxes of where tho, just for discussion purposes and for. When we went out there, the road wasn't plowed, and you know, we didn't drive back.

BACHHUBER: And nothing was staked either.

JAZDZEWSKI: Nothing was staked. And ah, I

HEMMRICH: Actually, if I ah, I'm sorry. We do have stakes for the shed.

UNKNOWN: They're just way back there.

HEMMRICH: Ah, well, they were actually where the shed is located. I'm sorry.

JAZDZEWSKI: Okay. I mean, we couldn't see from the road.

SZACHNIT: Approximately how far back is that then?

HEMMRICH: 800

JAZDZEWSKI: 800 and (Inaudible)

SZACHNIT: Oh, that's, that's why we didn't see it from the road.

HEMMRICH: Yea, right.

JAZDZEWSKI: And then, realistically, from River Road, if you're in a car on River Road, can you actually see the river in the summer on your property or is it covered by trees?

HEMMRICH: You can, you can just barely see it.

JAZDZEWSKI: You can see the river thru the trees, okay.

HEMMRICH: You can just, when you turn into the driveway, you will immediately see it. Where

JAZDZEWSKI: So, aesthetically, your building won't be blocking the view for people driving down River Road of the river then?

HEMMRICH: No.

JAZDZEWSKI: Okay.

HEMMRICH: They'll be fortunate to see the roof of our house if anything, because of the elevation. Um, and that was, that was also a determining factor in where we placed the shed. Ah, I might have been able to avoid some of this by bringing the shed closer to the road, and then moving it over so that it wasn't. But if you do that, the elevation changes significantly. And you would end up seeing only the shed.

BACHHUBER: Mmm-hmm.

HEMMRICH: Um, it would block um, approximately a third of the house. And instead of the shed being tucked in those trees that you see, it would be completely in what is, what used to be pasture.

BACHHUBER: Could I have your sketch please? Okay, just a general question. Why did you decide to put the shed there, as opposed to putting the larger shed back where you have building number two?

HEMMRICH: Ah, are you referring to this as being building number two?

BACHHUBER: No. Why did you decide to put the larger shed here, instead of putting the larger shed back here.

HEMMRICH: Oh

BACHHUBER: Where you have a

HEMMRICH: There's a wetland that runs through this entire area. We're building the house um, as reasonably close to the river as we can. But running through here is those wetlands.

MRDUTT: Staff would object to that location too because it's closer to the river.

BACHHUBER: Okay. Okay.

(Inaudible – speaking over one another)

BACHHUBER: Did you bring it to everybody's attention?

SZACHNIT: The smaller shed is not affected by the wetlands?

MRDUTT: Because of the wetlands.

BACHHUBER: Okay. Alright.

HEMMRICH: The map clearly shows that.

BACHHUBER: Because we have an obligation

JAZDZEWSKI: Well, well the proximity of, of your home versus the shed is in about the same band? Or are you closer to the river?

HEMMRICH: The houses would be closer to the river.

JAZDZEWSKI: Okay, so the house that's there, which you could kind of see from the road, in other words, your shed would almost be directly across from the house, south of the house?

HEMMRICH: Yes.

JAZDZEWSKI: Okay.

HEMMRICH: Yes. And our house is closer ah, because we have a little better elevation for putting a little bit closer to the river. They're at 400 feet. Um, the back of our house would be at 310 I believe.

BACHHUBER: And you're, and you're saying to us that the ah, house owned by the bank, I mean not the property, the property line

(Inaudible – speaking over one another)

BACHHUBER: The property owned by the bank. Ah, if anyone built on that, they would have to build closer to the road.

HEMMRICH: Yes. Because of the way the wetland goes through here.

BACHHUBER: Yes.

HEMMRICH: Um, and I guess the swale.

BACHHUBER: Alright.

HEMMRICH: And there's also another swale running which allows not, disallows bringing the shed closer. There's one running right through here. Goes right here and stops. Then it picks up. There's a triangle which (Inaudible) and carries into their land.

BACHHUBER: If you'd like to go and, and show those people at that end that.

JAZDZEWSKI: Yea. Here the sketch shows 20 foot plus a sidewall. Eight foot here.

HEMMRICH: Okay, it should be located, this, this is basically the neighbor's house. This is the wetland. It stops here, but there's another piece here, that we've marked on our property. It goes into to the current vacant lot. Which would force them to build farther back.

KLESSIG: What if they build it here?

HEMMRICH: Yes sir.

KLESSIG: That doesn't make this any less of a problem for them.

SZACHNIT: Well, how much further up is that? Because then you said that's about 800 feet back from the ah, road or something?

HEMMRICH: I, this is eight ah

SZACHNIT: Yea, well, how far would you, you know, your estimate or guess, where would they be building their, their house?

HEMMRICH: I think they would be building it more on a line with the neighbor's property, which would put it in this area.

SZACHNIT: Which is what, about 600 feet (Inaudible)

HEMMRICH: Ah, I've got to say more between six and seven.

SZACHNIT: Six and seven? Alright.

BACHHUBER: I think if you look at, at the maps that are in our, our packet, these, and to say approximately where those things would be on here, as opposed to river and the River Road, um, get a better idea.

HEMMRICH: And the, the other thing, it's very clear on this aerial map, um, this being our property. You can see how the wetland goes.

SZACHNIT: Mmm-hmm. Yea.

HEMMRICH: And gets much bigger.

SZACHNIT: Yea.

HEMMRICH: This is, you know, on our property it's seasonably wet. On their property, it's standing water year round.

BACHHUBER: Mmm.

HEMMRICH: And this low area goes much farther back than it does on our property. We're actually sitting on a ridge here, and there's a depression. And after this wetland, there's another ridge. Cause if we had tried to build out in here, the shed would be so high.

SZACHNIT: Mmm-hmm.

HEMMRICH: Everything would be obscured by it.

BACHHUBER: Mmm-hmm. Mmm-hmm.

MRDUTT: Are there any other questions for the?

SZACHNIT: No other questions, ah, Tracy or Chris, do you have any correspondence?

PELKY: Quick one comment would be any stormwater requirements. They would need to be approved by staff.

HEMMRICH: Yes. And we have

PELKY: Double check that with Dan O'Connell. I talked to him today. Um, just supply that. That would be one of the requirements before permits are issued.

HEMMRICH: Understood.

BACHHUBER: Oh, one other question. Um, the, the maps show a different ownership. Miranda?

SZACHNIT: Is that

HEMMRICH: Miranda V. Roth ah, is my wife.

BACHHUBER: Okay.

HEMMRICH: We bought the property in September while she was still Roth. We were married in February. Her name has been amended to mine to be Hemmrich, but we have not changed the property name over yet.

BACHHUBER: Is she the sole owner of this lot or are you?

HEMMRICH: She is. And she's sitting right back there.

BACHHUBER: Okay.

SZACHNIT: Okay. Do we have any correspondence to read in at this point?

MRDUTT: Yea, two letters and staff memo.

SZACHNIT: Mmm-hmm. Oh, they in the, the packet.

PELKY: They're in the packet.

MRDUTT: They're in the packet.

(Inaudible – speaking over one another)

MRDUTT: As long as you guys have looked at them.

SZACHNIT: Oh, okay.

MRDUTT: Then we're good to proceed.

SZACHNIT: Do you want me to read them into the record though now or?

MRDUTT: It's up to you.

SZACHNIT: Yea. Okay. So the ones with the letters, right? Yea. We have, we have staff memo here. Okay, we'll read this into the record.

*** 4 letters read into record - 39:00 - 43:46 in the recording ***

SZACHNIT: So those were the attached documentation that we would like to read in. Ah, any other comments at this point? Ah

HEMMRICH: I have one additional, addresses ah, Mr. Klessig's concerns. Um, the building that we're building, we intend to put a residential style roof on it, shingle or shingle look, and will be siding it. We don't intend to make it look like a pole shed or aluminum sides. Um, it'll be as attractive as we can make it, windows and all.

SZACHNIT: (Inaudible) Probably means a lot to the neighbors too.

HEMMRICH: And us as well. Yes sir.

SZACHNIT: Comments from the Board?

KLESSIG: Are we going on to discussion then?

BACHHUBER: Yea. Are we in discussion?

SZACHNIT: No, we're not in discussion. We're just asking for comments or questions for Mark here, yea.

BACHHUBER: Okay.

SZACHNIT: And, any comments from the public? Alright. At this point then, we'd like to conclude this. I'm, I'm excusing you at this point. Thank you.

HEMMRICH: My wife and I would like to thank you for your consideration. We appreciate it.

SZACHNIT: Alright. We're gonna close the testimony of this petition at this point and go into deliberation. Alright? Anybody would like to start the discussion on anything, or?

JAZDZEWSKI: Well, I'll start.

SZACHNIT: Alright John.

JAZDZEWSKI: I mean I'm all for saving the trees.

SZACHNIT: Mmm-hmm.

JAZDZEWSKI: And ah, you know, it's, although those are more mature trees and their intention would be to ah, to re-screen with, with new ah, new plantings. Ah, I guess one of the major concerns when it comes to deciding and stuff, is that you've got a residence and, and, and the whole ball of wax. But ah, access is very important. Fire trucks are very big. Um, if, if the, using the 25 foot setback encroaches that building on a wetland, realizing that that building is built, it needs a special exception in the first place for size. But ah, in the sake of safety, ah, I guess I'd have to say a few trees would have to go and the placement be encroached on the property line. Ah, like I say, ah, just the sake of getting, whether it's an ambulance or fire truck, to get them in and out safely, ah, 18 foot for a road is, is minimal. I know our township is wider. I don't know if there's a state standard or something. But ah, in 18 feet, two of them can't pass, especially with the corners. So I guess based on that, you know, I, I would see a reason for, for moving that ah, building closer to the property line. I also would want to see it noted that in order to establish that number that was used for square footage, that it, it be noted in the minutes that usable square footage interior space was used, and not the usual exterior measurements. Just for the sake of precedent. That's all I've got.

SZACHNIT: You have comments?

BACHHUBER: Can we set a precedent like that?

JAZDZEWSKI: Well

SZACHNIT: Well is that precedent or is does the County allow it?

(Inaudible – speaking over one another)

BACHHUBER: Well, he used the word precedent and that, and that concerns me.

MRDUTT: It's based on the definition of accessory sport, or floor space, in our ordinance. So, um, I guess we're not concerned ah, either way. What we would be is, if you guys choose to approve this petition, when it gets to exceeding, what they proposed is what they would be allowed to do.

BACHHUBER: Right.

MRDUTT: So, if the

JAZDZEWSKI: Well, my purpose in citing precedent was to know that if we need to go back and look at our minutes, that we all acknowledged that, for whatever reason, we did, we did use the inside measurements.

BACHHUBER: Okay.

JAZDZEWSKI: Not, incase there'd be a question down the road of, of determining specifics.

BACHHUBER: I, I

SZACHNIT: Just to reiterate, I guess the County allows it, right?

PELKY: Correct.

BACHHUBER: Yes.

SZACHNIT: You can, you can use it.

KLESSIG: But we don't need to.

BACHHUBER: No.

KLESSIG: I mean, if we're gonna approve ah, we can approve it at every, at any number of square feet over 2,800.

BACHHUBER: Yes.

KLESSIG: It doesn't matter how, why would we want to do the inside?

SZACHNIT: We want to leave it open, right?

BACHHUBER: Okay. I'm gonna make another point here. Ah, while we're talking about variance, when we get to talking about exceeding the ah, square footage for the special exception, we're gonna talk about how, by how much are we gonna allow them to exceed this, the allowable square footage.

SZACHNIT: And that's on the next part.

BACHHUBER: And they're gonna decide whether they want to do that. So if they want to cut off a foot off of this building and add a foot onto the other building or, or whatever. They're gonna be allowed to do that, and they'll take that up at the time that they get their building permit.

SZACHNIT: Mmm-hmm.

BACHHUBER: So, that's kind of how we, how we measure, whether we're measuring inside or we're measuring outside is kind of a moot point.

SZACHNIT: But that's next step of our process, right.

BACHHUBER: I, I, yes, but he wanted, I just wanted to say that. Um, now as far as the variance is concerned, I, I just have to agree with what John says. Um, I do think that when you're, you're looking at the variance criteria and, and you're saying um, exceptional circumstances apply to the use that does not generally apply to other land owners, and I think that that's what crucial about this property, is that you've got a problem with wetlands.

SZACHNIT: Mmm-hmm.

BACHHUBER: Ah, and um, and, and you have a mound, ah, where there's going to be a mound system, and so on and so forth. And, and ah, asking ah, whether this building could be relocated somewhere else on the property. And apparently can't because it's, the property has limitations in itself. And so I think that that, there are ex, exceptional circumstances to this. Ah, as long as there is a landscaping, what do you want to call it, ah.

MRDUTT: Screening?

BACHHUBER: Screening of some sort, ah, between that building and, and the road. I, I, I like the idea that they're gonna tuck this into the trees. That I did ask about the trees and, and, and you know, the, if this is an aging forest. Because you know if things are just gonna fall down and, and, and be cut down. Um, you know, we, we may have to say something about screening.

JAZDZEWSKI: Yea.

BACHHUBER: Um, which joins that other property.

SZACHNIT: On the other hand, it is noticed that there are Oak trees mainly.

BACHHUBER: Well

SZACHNIT: Right. And which lasts

BACHHUBER: Yea, but.

SZACHNIT: (Inaudible)

JAZDZEWSKI: (Inaudible)

BACHHUBER: Well, and I just bring that up, you know, that um, um

SZACHNIT: Trees that won't be there forever.

BACHHUBER: And it's just certainly no hardship caused um, by the property owners in, in this case. So I think that substantial justice would be done.

SZACHNIT: Okay. Lowell?

KLESSIG: Um, I have a problem. Ah, I, I don't see the size of a out building as being an unnecessary hardship. A building for which there is no living space, for which there is no business, um, doesn't meet my sense of what hardship means. And this is a very optional decision. Um, it has no direct influence on, on ah, livelihood or living space. Um, so I don't, I, I don't see this as a hardship situation. The other, there's number four on the criteria, number four, I believe that this shed, with all the good intentions of the landowners to screen it, ah, to put nice siding on it and a roof on it. This is gonna be a major issue for another homeowner who is going to be, and any, anybody who looks at this is gonna be close and they're gonna try to get as close to the river as they can probably. Ah, and they're going to be ah, quite close to

that shed. Even, even with the wetlands curving around. So um, I think we have an obligation to look at the long-term value of that, that property to another landowner. And the side yard is the setback, the whole purpose of that is to protect the other property owner. Ah, in various ways, one is, is the, is the value of the property. But it is also of course just the quality of life. If you have lights or noise and so forth. Um, so I have difficulty with both the hardship issue, which I don't see there, um, and the value to that, to the other property. Um, ah, I, I used to be a broker actually. Ah, that broker that sells that property is not gonna be real anxious to tell that new potential owner that there is gonna be a huge garage there, if that garage has not been built ahead of time.

BACHHUBER: Question to staff. When it comes to exceeding the 2,800 square foot.

MRDUTT: Yep.

BACHHUBER: Are we in any way, approving or disapproving of any particular building plan? Or if there indeed will be a shed there?

MRDUTT: Generally we are looking at the square footage. So a design aspect, stuff like that, um, becomes kind of a moot point. I know generally, other scenarios in the past, the Board has looked at screening measure and stuff like that.

BACHHUBER: Mmm-hmm.

MRDUTT: I don't know if that addresses what you just asked me? And I can't answer if, if the Board doesn't approve the special exception portion of this, where the petitioner would lie with the variance part of this.

BACHHUBER: Well, I, I'm just

MRDUTT: And that's why we're handling the variance portion first.

BACHHUBER: Yea, this is what I'm saying. If, if you, if you were to deny the variance. That does not mean there could not be a shed there.

MRDUTT: It would have to meet setbacks.

BACHHUBER: It would have to meet setbacks. But there could still be a shed there?

MRDUTT: And then it's up to the petitioner to design.

BACHHUBER: To design, and the square footage, beyond what we would, might allow.

MRDUTT: And it would be up to the petitioner if they still want to go through with exceeding the 2,800 at that point.

BACHHUBER: Okay.

MRDUTT: I, I won't speak for them.

BACHHUBER: Okay.

SZACHNIT: And also if they redesigned the shed, don't they have the, what is it a two to one aspect between length and width or something or?

PELKY: Correct.

SZACHNIT: You don't want a

MRDUTT: We would, we would look at that.

SZACHNIT: You don't want a ten foot shed that's 300 feet long or something like that, you know.

MRDUTT: Correct.

SZACHNIT: Yea.

BACHHUBER: Mmm-hmm. Mmm-hmm.

SZACHNIT: Alright.

BERNHAGEN: I have no more comments.

SZACHNIT: No more comments, alright. Ah, I don't know. I mean, at this point, I guess ah, we're looking at the variance only at this point, for setback. Anybody want to make a motion for or against this variance?

MRDUTT: I know as staff, we just ask that either way, um, that the Board um, in the decision, denotes, you know, the criteria for or against. Make sure it's part of the motion.

SZACHNIT: Oh, okay.

JAZDZEWSKI: Criteria for the variance.

(Inaudible – speaking over one another)

MRDUTT: The five (Inaudible)

SZACHNIT: Well, didn't we review that though, or no? Alright.

MRDUTT: Correct, but that has to be in the decision.

SZACHNIT: Oh, okay. Okay, in the decision.

JAZDZEWSKI: Doesn't have to be in the motion. It has to be included in the decision.

MRDUTT: That you guys, you know, discussed these.

JAZDZEWSKI: Well, it's still

BACHHUBER: I, I have one written out, shall I make it?

JAZDZEWSKI: Okay.

BACHHUBER: I'll make it for the purpose of discussing.

SZACHNIT: Alright.

BACHHUBER: Move to approve request number P12-02 by Mark and Miranda Hemmrich, for parcel number 016-61-05, lot five, Ridge, River Ridge Estates, for a variance of 15 feet for a setback on the south lot line, for a shed accessory building.

JAZDZEWSKI: I'll second that.

BACHHUBER: Well no, I'm not done. You have to obtain, a stormwater plan approved by the Portage County Land Conservation Division, ah, to be obtained with a, a zoning permit. And they would have to obtain a zoning permit for a shed. in addition, there would have to be permanent landscaping to separate that shed, between the, the, um, how can I say this. Between the shed and the

JAZDZEWSKI: Reduced setback area.

PELKY: The property line.

BACHHUBER: And, and the reduced separate, property lines and the shed. And um, and also on the, what side would that be from the road?

JAZDZEWSKI: South is the property line and the west is the road.

BACHHUBER: Okay, and the west um,

SZACHNIT: No, it's east of the road, right?

MRDUTT: West. East is the river.

BACHHUBER: Well, how am I gonna say it?

SZACHNIT: Within, within the shed? Isn't the shed east of the road?

BACHHUBER: I want them to have landscaping between the

SZACHNIT: Is that what she's saying?

JAZDZEWSKI: The shed is east of the road. But she's saying between the shed and the road.

SZACHNIT: Oh, okay.

BACHHUBER: I want landscaping, permanent landscaping to be ah,

MRDUTT: Then say all cardinal directions.

BACHHUBER: Hmm?

JAZDZEWSKI: I'll still second it.

STEWART: Okay, what was that again? I

BACHHUBER: Okay.

STEWART: I did not get that. There were so many

BACHHUBER: Alright. Where are, which part do you?

STEWART: You want the permanent landscaping to separate the shed

BACHHUBER: From the south property line, reduced south property line, and ah, between the shed and the road.

STEWART: Thank you.

(Inaudible)

BACHHUBER: Yes, I understand that.

SZACHNIT: And in saying that it's permanent, it's saying that we want to maintain that.

BACHHUBER: That's right.

SZACHNIT: That landscaping, right. So if the trees are dying off, we need to plant something in there like now to get them growing.

BACHHUBER: And you can't just come and cut them down.

SZACHNIT: Right. Right.

BACHHUBER: For some reason.

SZACHNIT: Yea. Okay.

JAZDZEWSKI: I'll still second that.

BACHHUBER: Okay.

SZACHNIT: Okay, so now at this point, you know, we're saying we have a motion that's been seconded. Before we vote on it, we're looking at it saying that the granting, pardon me? The granting of the variance would not be contrary to the public interest, state law, administrative code. The spirit of the ordinance would be observed and substantial justice done. I feel we are meeting that criteria. Anybody ah, disagree, you know? Second, the use is permitted in the district and it is, we're allowed to build, right? Exceptional circumstances apply to the use that does not generally apply to other land owners. We have discussed this and said there are these conditions that do apply to this landowner, you know. Ah, exceptional circumstances apply. Alright? Four, granting the variance would not be detrimental to surrounding land owners. Lowell, you want to comment again on that?

KLESSIG: Yes. I think it's ah, for me, it's kind of a generic situation.

SZACHNIT: Yea.

KLESSIG: You put a big building next to a lot line. The, the property next door is devalued. Um, anyway you can look at that.

SZACHNIT: Yea. But um, also looking at it whether it's 15 feet or 25 feet, that's only ten feet difference. I don't know if the vegetation in the area is gonna shield it that much of a difference. Ah, ah

KLESSIG: It's gonna be a marginal difference.

SZACHNIT: It will be a marginal difference, but the, is, is the difference is marginal, I think you're, you're still gonna recognize the fact that there's a building in that area.

BACHHUBER: Yea.

SZACHNIT: Five, the hardship is not caused by any person having interest in the property. And I think that's evident. These wetlands and the property was there long before the applicants have requested, ah, I mean, or even purchased the property. Alright. Alright, at this point, I would like to (inaudible) the members ah, as to whether or not you agree with the amendment by ah, either ayes or nay.

BACHHUBER: The motion.

SZACHNIT: The motion was made, right? And seconded, right. Alright? Ah, Lowell?

KLESSIG: No.

SZACHNIT: Okay.

BERNHAGEN: Aye.

SZACHNIT: Bill? Aye.

BERNHAGEN: Aye.

SZACHNIT: John?

JAZDZEWSKI: Aye.

SZACHNIT: Marj?

BACHHUBER: Aye.

SZACHNIT: The chair votes aye, so it's ah, four to one, that we ah. Now, at this point, I guess any other

BACHHUBER: (Inaudible)

SZACHNIT: Comments or amendments to the motion or not?

JAZDZEWSKI: Too late now.

SZACHNIT: Too Late? Okay, alright.

BACHHUBER: We can comment on the

SZACHNIT: Hmm?

MRDUTT: Well, you guys can look at the

SZACHNIT: Okay. The motion carried. We can look at the other end, right, as far as we're exceeding the 2,800 square feet. Ah, we want to put a limit on this as to he can, if we approve it, he can build up to 3,010 square feet. That's what we're looking at at this point. It's ah

JAZDZEWSKI: 3,010 or 3,100.

SZACHNIT: 3,000 plus 10.

JAZDZEWSKI: 10.

SZACHNIT: Yea. I think they want to go ah, 210 feet over the 2,800.

BACHHUBER: Mmm-hmm.

SZACHNIT: Alright. Any discussion from the Board on this?

BERNHAGEN: I see no problem with it.

SZACHNIT: Alright.

KLESSIG: I've, there's an integrity issue here. I think there's an integrity issue the last time. There is a purpose of setbacks, as well as integrity issues. What is the, what is the purpose of total square feet? Um, and if that, if, if they change that, we go beyond that or differ from that, the purpose, we have to have a reason. I don't see that this is anything unusual or give us a reason to not stay with the standard that's been set.

MRDUTT: Well, if I can point to that. Now we're dealing with the special exception.

BACHHUBER: Yes.

MRDUTT: Not a variance. Um, and the, the standards and criteria for special exceptions are vastly different than variance criteria. Um, and um, you know, the Board has to recognize that part of this. Um,

BACHHUBER: Well, I

SZACHNIT: At this point, should we read-in

JAZDZEWSKI: You got a question out there.

SZACHNIT: Yes. Jeff?

SCHULER: Or just a, one thing I wanted to add Mr. Chairman is that ah, as with variances, these are case by case, unique situations that you review accordingly. And part of the context of the decision is the size of the parcel, the layout of the parcel, the orientation of, of the lot. You know, what ah, makes sense in once circumstance, say a building of this size, wouldn't make sense on a smaller lot. If we keep, take the context of the entire size into consideration when you think about these things. So, that's why it is a

special exception and not necessarily. You, you have the right to exceed that static number, but you have to have, I think, ah, reasons for approaching it. The applicant has walked through their, their reasons for the type of equipment they have, the type of ah, physical features on the site, as a way of explaining why that makes sense for their property. I guess that's the way um, that you would look at a special exception like this. It wouldn't be just, you know, what about that main number. It's really what makes sense for the property and what they've explained what they want to do. I'm not advocating one way or another, but that's really how that gets approached. So you, you know, each time someone wants to go above 28, okay, what are you doing and why are you doing it.

BACHHUBER: Yes.

SZACHNIT: and does it make sense
(inaudible – speaking over one another)

KLESSIG: That, that's the question I'm asking. What

BACHHUBER: Yes.

KLESSIG: Why it's unique and, and if, if 2,800 doesn't have some kind of status in the ordinance, um, then we have, you know, pretty much an open field to go out there.

JAZDZEWSKI: Question, question of the staff. What is the minimum lot size in R1?

PELKY: Two acres.

BACHHUBER: Two acres.

(Inaudible – speaking over one another)

UNKNOWN: This is 6.4.

JAZDZEWSKI: Two acres.

MRDUTT: Two, two acres. Some, there are some five acre subdivisions.

JAZDZEWSKI: So

MRDUTT: The majority of the time it's two acres.

JAZDZEWSKI: So in the case at hand, the lot size is considerably larger and it is still only one parcel. But it is considerably larger, and the surrounding parcels are comparable. So it's like, it's not like saying well, that guys got a lot of land so he can build a castle. But here's me with my two acres so I can just build a hut. Ah, that's not the case. I mean, but they're all, respectably sized ah, based on features. They're probably within a half acre of each other I hope. Zoning (inaudible) or ah, the divided aerial there.

BACHHUBER: Yes. But you are saying, John, that if this were a two acre lot, then proportionately, ah, it would be allowed 2,800 square feet.

JAZDZEWSKI: Well, yea, 2,800, but that's what that

BACHHUBER: And, and so it's, it's a lot three times that size.

JAZDZEWSKI: And while I'm not saying that that's the ratio that we should be using

BACHHUBER: No.

JAZDZEWSKI: I'm saying that the standards are based on the average size of a lot in that zoning district, which is two acres. So, so in most cases, 2,800 is just fine on two acres. Ah, some consideration might be given based on a larger lot size. Not to mention, like, people get a lot of stuff. Ah, and keeping stuff inside is nice. Not to mention, look at the benefit to the township on tax base. Um, but that's irrelevant. But ah, you know, my reasoning was, was what Mr. Schuler had pointed out, that one of this, one of the considerations was the lot size. Ah, so that's enough said from me on this one.

SZACHNIT: And we don't want stuff stored out in the open either. No. Just for aesthetic values.

BACHHUBER: I, I would say this. If this were a two acre lot, then I would, I would absolutely stay with the 2,800. Um, though we have in the past, ah, exceeded that. Um

SZACHNIT: Again, depending on the situation here.

BACHHUBER: Yes. Depending on the situation. We have exceeded that, ah, for two acre lots. So

JAZDZEWSKI: You want to put that in the form of a motion?

BACHHUBER: Me?

JAZDZEWSKI: Yea. You're so good at it.

SZACHNIT: You can make a motion at this point and I can read in the conditions, and, you know.

BACHHUBER: Um, move to approve the ah, request by Mark and Miranda Hemmrich for a special exception um, P12-02, ah, to exceed ah, 2,800 square feet for accessory, for total, total ah,

JAZDZEWSKI: Requested

BACHHUBER: No, what am I saying, total storage area.

JAZDZEWSKI: Yep.

BACHHUBER: Um

MRDUTT: Did you use the word accessory building space?

BACHHUBER: Well, because I, I'm, when I, I, I hesitate to use the word accessory building space, because the three car garage is con, is part of this total.

JAZDZEWSKI: But it's still considered it.

SZACHNIT: It's considered accessory.

MRDUTT: Accessory.

BACHHUBER: Accessory use, not an accessory building.

MRDUTT: Accessory building space is accessory use. It's not part of the principal.

BACHHUBER: To exceed the accessory ah, space, by

SZACHNIT: 210 square feet.

BACHHUBER: 210 square feet?

SZACHNIT: Right. So for the total (inaudible)

BACHHUBER: Well, yea, well, if you want to add the totals you can. And for a total of

SZACHNIT: 3,000

BACHHUBER: 3,000

SZACHNIT: 10, square feet.

BACHHUBER: 3,010 square feet.

JAZDZEWSKI: There again, I'll second that motion.

SZACHNIT: Alright. Alright. It's been seconded. And before we take a vote on this, conditions that we are looking at here is the use would not substantially harm the public health, safety, and general welfare and would not be contrary to state law or administrative code. I see where were meeting this. Anybody see, feel different about this one. Alright? Two, the use will be consistent with surrounding uses and the neighborhood will not be injured thereby.

KLESSIG: I have the same general concern I had before, but I don't need to repeat it.

BACHHUBER: Yea.

SZACHNIT: Yea. I, hear where you're coming from, alright, yea. But I think overall the ah, neighborhood, you know, I don't think would be seriously injured in any way. The use is consistent with this ordinance and any county or municipal plan, which is based on historic, geographic, or socioeconomic facts. I don't see where it's contrary to this. If the structure is in a floodway district, any external modifications will not increase the flood damage potential of the structure. Ah, I believe the position of the structure is accounting for this. Increase its degree of obstruction the flood flows. I don't think it is in this one.

MRDUTT: No.

SZACHNIT: And result in a lower degree of flood protection than a point two feet above the regional flood.

MRDUTT: Yea, the floodway stuff doesn't even apply.

BACHHUBER: No. I

SZACHNIT: Doesn't apply here. Okay.

BACHHUBER: Um, I, I would just repeat this.

SZACHNIT: Yea.

BACHHUBER: That we are not approving of a particular building.

SZACHNIT: Right. Yea. But as far as limitations go

BACHHUBER: We are approving of an addition and some additional square footage.

SZACHNIT: Yes, but we also have to look at the location of this building, that it's not

MRDUTT: It's not in the

SZACHNIT: In the flood plain or

MRDUTT: Staff will

SZACHNIT: Or blocking, you know, yea.

BACHHUBER: But staff would do that anyway.

SZACHNIT: Right. Right. Yea. Okay, number five. If the dwelling high flood damage potential structure or structure requiring public facilities is in the flood fringe district, any external modifications will include protection of the entire structure to the flood protection elevation by flood proofing measures and will not result in a lower degree of flood protection than a point ah, two feet above regional flood.

MRDUTT: Yea, not relevant.

SZACHNIT: Okay. Alright. Would anybody like to comment on the motion here or amend it?

JAZDZEWSKI: Just once again to make a note that our determination was based on interior usable space in this instance.

SZACHNIT: Okay.

JAZDZEWSKI: Just, just

SZACHNIT: Well, that becomes an amendment, right?

JAZDZEWSKI: Well, just want it in the minutes.

SZACHNIT: Well, the motion wasn't made with that in there.

MRDUTT: Right.

JAZDZEWSKI: I just want it in the minutes in case somebody comes and says I went and measured their shed, and it's over.

SZACHNIT: Yea. Alright. So did you want to amend the motion with that?

JAZDZEWSKI: No. I just want it in the minutes, for the record.

SZACHNIT: Oh.

KLESSIG: Well I want to make a comment on, on all of them. The comments made by my colleagues on the size of this lot. Um, I've had occasion in my career to work a lot with lakes. And there were sizes of lots that range from 30,000 square feet to ten acres. And they were basically the same because of the focus of the lot is out there. A lot of developers, to get by on zoning issues, would do dog legs. They'd put a little piece out to the, to the water and they'd spread out the dog leg out there somewhere so they could get the minimum amount of acreage.

BACHHUBER: Yea.

KLESSIG: Um, the, the focus of these lots are, are down there. This is, this is a lot. The rest of this piece of land doesn't really matter. So we're talking about what's happening here, and what's gonna happen here, and what happens here. The size of these lots are the, the focal area. You can, the, the, the rest of that property is not very valuable. The activity is gonna happen down here. So in my view, we ought to be thinking about what happens as these properties interact with each other, and, and that's going to be something less than two acres. I would bet, guess, I'm not sure if, maybe you can tell me what you see, how much area is what we see? Less than two acres, I would assume.
(inaudible – speaking over one another)

SZACHNIT: If it's within scale. I don't know if it is. I think it's, that's not within scale, is it, I mean?

KLESSIG: Of your prop, of your total property, can you tell me?

HEMMRICH: (inaudible) the property, here's in scale. There's actually probably

KLESSIG: Is it 300 feet?

HEMMRICH: (inaudible) have three acres in front of or to the west of, which you're looking at.

KLESSIG: Is it 800 feet out here?

HEMMRICH: The total of 800 feet from the corner of the garage, to the road.

SZACHNIT: Around that way I think.

PELKY: The lot is like 218 feet wide.

KLESSIG: So it's 800 feet out here.

HEMMRICH: Yep.

KLESSIG: 800 feet out here.

HEMMRICH: Well, if I may further address your comment, sir. Um, we're choosing to push the shed back into the woods so that it's not viewed by the general public. If we had not chosen to go with these requests, we could have put the shed up near the road. Which makes it fully visible to everybody. There are no trees. There would be no requirement for trees. And I think ultimately less justice would be done by placing it there and would more devalue our property and the surrounding properties. There's a choice to be made to try and hide it.

JAZDZEWSKI: Yet, based on, on Lowell's entire discussion right now, has to do with the special exception for increased footage, not for, not for the setbacks though.

BACHHUBER: Mmm-hmm.

JAZDZEWSKI: So really that's moot on that point.

BACHHUBER: Yes. And actually they could choose to um, increase the size of the three car garage by that square footage, if they cared to.

KLESSIG: Well, a, a shed this size, if it was reduced to 30 feet, then making that 1,800 would get you to 2,761, right below the 2,800. Um, I think complying with the general standard ah, is worth that somewhat smaller shed.

BACHHUBER: (inaudible)

SZACHNIT: But it's not gonna satisfy

BACHHUBER: We are not really discussing the size of the shed.

MRDUTT: There is a motion on the table to vote on right now.

BACHHUBER: That's the, that's the point. We aren't discussing a building.

SZACHNIT: And if we're not amending that motion, I think at this point, we could take a vote.

BACHHUBER: We are, we are merely discussing

SZACHNIT: Right.

BACHHUBER: That these people should be allowed to have X number of extra square footage. Which they could add to the three car garage if they wished. Or they could add some to the other little shed, and less to this one.

SZACHNIT: Okay.

BACHHUBER: Or, or whatever.

SZACHNIT: Okay.

BACHHUBER: But it's

SZACHNIT: I hear what you're saying. I think we should, we have the motion. I think we should vote on at this point. John, ah, how do you vote on this motion?

JAZDZEWSKI: I vote in favor.

SZACHNIT: Alright. Lowell?

KLESSIG: No.

SZACHNIT: Okay. Bill?

BERNHAGEN: I'm in favor.

SZACHNIT: Marj?

BACHHUBER: Aye.

SZACHNIT: Chair votes aye. Passed four to one again. You know, okay. Alright? And, and just to let you know, you know, like ah, if you start building within 30, there's, there's a 30 day period where somebody could dispute our findings. So if you start building prior to that, ah, it's on your own, you know, whether or not you.

BACHHUBER: You might have to take it down.

SZACHNIT: That's right. If you have to take it down, you know, if, if somebody went out there and, you know, but there is a 30 day kind of period here. You know, so, just so you know, you know.

MRDUTT: Taking a short recess?

SZACHNIT: So, other than that, you know.

BACHHUBER: The rest of it, staff will take care of.

SZACHNIT: Yea, okay.

HEMMRICH: Thank you very much.

SZACHNIT: Alright. Thanks for coming.

JAZDZEWSKI: Can we take a short recess?

BACHHUBER: Yes, could we?

SZACHNIT: Yea. You can have a short recess.

BACHHUBER: Thank you so much.

SZACHNIT: It was a long one, yea.

BERNHAGEN: Yea.

(Members speaking in background)

(5 minute recess 5:17 – 5:22)

(After conclusion of first hearing, Alternate William Bernhagen steps down, replaced by Member Scott Soik)

SZACHNIT: Okay, we can resume the ah, hearing at this point. And ah, we are going to look at, okay, well, it was actually the first ah, item on the agenda here for Chris and Amy Sobczak, owners of ah, they are the owners. This is petition 12-01. A special exception from Portage, Portage County Zoning Ordinance is requested to have more than one commercial vehicle in the A1 Exclusive Ag Zoning District, Town of Carson. Parcel number is 012-24-0730-02.03. Alright? Ah, Chris or Tracy, anyone wants to speak on this one, yea.

MRDUTT: Made it back in time.

SZACHNIT: Right.

MRDUTT: Alright.

SZACHNIT: Knew you would.

MRDUTT: Alright. Petitioner wants to ah, exceed the ability to have ah, more than one commercial vehicle out there. Back in 2004, the Board of Adjustment allowed him to create a lot split and the ability to build a large Ag building and store a, a septic pumping truck in there. Um, so wants the ability to increase that number on the property. Um, if you quickly look at ah, the, I just want to point out a couple of things, cause it will relate back to when, when we're reading the town letter especially. Um, if you look at that previous decision which is on page three of your packet, um, condition number five and ten, um, make mention of one ah, septic business vehicle. That's the one commercial vehicle. They're looking to expand on that. I know the town letter talks about striking conditions. That's not necessary in this petition. When you're looking to exceed one, what that does is the decision tonight, if granted, you're, you're, you know, you're allowing more than one.

(Inaudible – speaking over one another)

MRDUTT: So, yep.

BACHHUBER: (Inaudible)

MRDUTT: So I want to make sure the Board is aware of that.

SZACHNIT: Okay.

MRDUTT: So hopefully that doesn't mud up things in ah, a couple minutes when you're reading the town, town letter.

SZACHNIT: Okay.

MRDUTT: So, um, that's ah, that's it in a nutshell.

BACHHUBER: And

SZACHNIT: Okay.

BACHHUBER: And all, all these conditions from

JAZDZEWSKI: Those were all met.

BACHHUBER: That, that, those would continue?

MRDUTT: Correct.

BACHHUBER: Alright.

MRDUTT: Except the part where, exceeding.

BACHHUBER: Yes. Which, which it precedes. Otherwise

MRDUTT: Yep.

BACHHUBER: Everything else stays as is in that last decision.

SZACHNIT: Okay.

MRDUTT: Correct.

BACHHUBER: Fine.

SZACHNIT: Okay. Who will be representing the petitioner here?

SOBCZAK: Yes.

SZACHNIT: Step forward. Ah, you are Chris Sobczak?

SOBCZAK: Yes.

SZACHNIT: Is, am I pronouncing it right?

SOBCZAK: Yes.

SZACHNIT: Okay. Alright. If you could raise your right hand please. Do you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

SOBCZAK: Yes.

SZACHNIT: So help you God? Thank you. Take a seat. Okay, if you could just briefly explain. Ah, there's some papers for you, ah, explain to the Board what you're looking for in this case.

SOBCZAK: Um, as of right now, like Chris said, I can have up to one commercial vehicle.

SZACHNIT: Mmm-hmm.

SOBCZAK: On the property. My house property is south of there, half a mile. I do have a permit to have a commercial vehicle on that property also, which I never use. But we have that for that also.

SZACHNIT: Is it attached or just?

SOBCZAK: No.

SZACHNIT: Oh, no.

BACHHUBER: Separate property.

SOBCZAK: My, my office is out of my house. We have, we are permitted through the County for that also.

SZACHNIT: Mmm-hmm.

SOBCZAK: Ah, what I'm here for is to ah, I'd like to possibly, back in 04 to present, businesses grow. I'm here because I ain't getting no younger. If I have, if I want an option to ah, take some, some work off myself.

SZACHNIT: Mmm-hmm.

SOBCZAK: And purchase a truck, we could have a part-time driver. And I'd like to store that truck in this ah, building I have right now.

BACHHUBER: Mmm-hmm.

SZACHNIT: Okay. So that's two trucks, but you're looking for five at this point.

SOBCZAK: Where the five, the five comes in, ah, we, we do ah, for the City of Stevens Point, I got the contract last year to haul 1.5 million gallons of treated sludge, and land apply it to their designated field sites.

SZACHNIT: Mmm-hmm.

SOBCZAK: And I, I hire a company to help me out with the job, out of Pittsville, Wisconsin, which is probably 30 miles away from Point, 40. And instead of them guys running their trucks home every night, we would like to park, permission to park the vehicles on my property, overnight.

SZACHNIT: So that's the reason you come up with the five vehicles.

SOBCZAK: Yes.

SZACHNIT: You add in, you know.

SOBCZAK: But, you know, there, there would be two at all times.

SZACHNIT: Mmm-hmm.

SOBCZAK: In, in my building right now.

BACHHUBER: But there are, are there ah, commercial vehicles then, you're talking about or something private, ah, cars, we're talking?

JAZDZEWSKI: Just the commercial vehicles.

SOBCZAK: The commercial vehicles, yes.
(Inaudible – speaking over one another)

BACHHUBER: Just the commercial. Oh, okay.

SZACHNIT: There's not a restriction on cars, right?

BACHHUBER: No, but you were talking about so people didn't have to drive home.

SOBCZAK: Their, their big, their big trucks, the commercial trucks.

BACHHUBER: Alright. Yea.

SZACHNIT: Which get what, four miles a gallon?

SOBCZAK: Exactly.

SZACHNIT: (Inaudible)

SOBCZAK: So, if I keep

BACHHUBER: Okay. Okay.

SZACHNIT: Alright. Ah, that's all the comments you have? I, I mean, it sounds pretty straight forward.

SOBCZAK: Right.

BACHHUBER: Pretty straight forward.

SZACHNIT: Yea. Any comments from the Board at this point, or questions for or, you know?

SOIK: I got a question.

SZACHNIT: Okay.

SOIK: It says here, I believe in the correspondence from the township, um, more than three vehicles to be stored outside between June 1st and October 15th. What's, does anybody have

BACHHUBER: Yea.

SOIK: An explanation for those (Inaudible)

SZACHNIT: Those are the extra vehicles, right?

SOBCZAK: Yes.

SZACHNIT: To be stored outside, as opposed to his two vehicles that would be stored within the building on this. Right?

MRDUTT: I guess this

SOBCZAK: And the reason why we went with that date is because the jobs not gonna start before June 1st and it's not gonna exceed October 15th.

BACHHUBER: Then do you object if those, um, statements from the ah, Town of Carson, are incorporated into our decision?

SOIK: Well, where I was going with this Marj, is

BACHHUBER: Well, I'm, I'm, I'm asking him.

SOBCZAK: I would like them to be, I personally, if that's what I got to have to get it, I shouldn't say I'm fine with it, but in a way I, I would, you know, go that route if we had to. But in all, in all reality, I don't want to have a (Inaudible) up in my building and, this day I can do this. This day I can't. I don't, I don't want to have to deal with that.

SOIK: Well, and what happens when you get to the point, um, that you may want to own five trucks yourself? Does, now, at all does that mean that

SOBCZAK: (Inaudible – speaking over one another)

SOIK: If he owns, ah, if he owns five of his own trucks, does that mean we're not gonna let him park his trucks on his property between them, or outside of those dates?

BACHHUBER: Um

JAZDZEWSKI: Well, you got to remember that these are septic ah, pumping vehicles.

SZACHNIT: Commercial vehicles.

JAZDZEWSKI: (Inaudible) business is now, if he was to park those vehicles outside in weather like this, he probably couldn't use it tomorrow anyway.

SOBCZAK: Exactly.

SZACHNIT: Well, I, yea, I guess the big thing is you're, you're looking to park commercial vehicles on the property. Farm vehicles, or private vehicles, it doesn't matter in our consideration, right? You know.

MRDUTT: Yea, AG vehicles, private vehicles, or we're, we're here tonight to, to exceed one.

SZACHNIT: Okay, right.

MRDUTT: Um, another staff suggestion if, I know we're talking about inside outside, um, and staff will treat it as a property. Um, I guess, if there's five vehicles outside or two inside and three outside, I guess from staff's point, we're gonna look at the whole property.

BACHHUBER: Mmm-hmm.

MRDUTT: So inside outside mention isn't going to be a concern for us.

SZACHNIT: Okay.

MRDUTT: Total on the property.

SOBCZAK: And this, and this job that comes up, it might take us two weeks. We're done, depending on weather. If it, if we can work one day and it rains, one day we're gonna have a day off so the trucks would be there, until the, the land dries out.

SZACHNIT: Right, okay. Any other questions at this point? John?

JAZDZEWSKI: Um, no. I had the privilege of being at the Town Board meeting when ah, so I heard, I heard this ah, I wasn't involved in the discussion of it, but, so I know where everything is coming from.

And ah, Chris has been perfectly straight forward. Ah, I know we did have one other question about some stuff being stored inside or outside, having to do with your ah, porta-potties or something?

SOBCZAK: I do have, I think 13 portable toilets on the property. Um, currently they are off to the side lot. That would be on the east, southeast corner. Um, is, you know, is, what, can we see if that's okay if we do that?

JAZDZEWSKI: That's a question you have to address with staff because while they're not vehicles, they are commercial property and

MRDUTT: Prefer that's stored inside the structure.

SOBCZAK: Summertime, they go out to yearly sites and they don't usually, you know, there's still some there but.

SOIK: Well I'm sure they're out at our favorite festivities.

JAZDZEWSKI: And I, based on my experience

(Inaudible)

JAZDZEWSKI: Just always, the property is neat. We should all be that neat. His lawn is mowed. I mean, it's immaculate. And any of his commercial stuff is in back. And ah, that may need to be addressed ah, as far as screening. But ah, it's, it's a neat. The only time it's not neat is, is if somebody stops, their vehicle's with them, they don't park quite straight. But otherwise, everything is, is ah, top notch operation, based on what I see.

MRDUTT: Staff's, staff's opinion on something like that would prefer to be in a structure or in like a screened fence or screened by ah, trees that are planted for the, for the porta-potties. And usually inside, the previous decision in 04, um, or 05, doesn't make mention of that, so.

BACHHUBER: Not at all.

MRDUTT: Storage of that should be in the building or it should be screened possibly.

BACHHUBER: Is that something for us, ah, to be concerned with?

MRDUTT: You can attach that as a condition on this petition.

BACHHUBER: Alright.

MRDUTT: If it's, related to the

JAZDZEWSKI: Although it, it was not part of the petition, so it's, based on this, also just something to

MRDUTT: Correct.

JAZDZEWSKI: We might want to personally address.

SOBCZAK: Well, from 04 to present, things change.

SZACHNIT: Yea.

SOBCZAK: You know, I had no idea I'd be having some of those.

MRDUTT: And ah, part of the petition, the same aspect, if there was um, inoperable vehicles, a lot of other violations, we would suggest adding those as conditions. So we would treat that as the same (inaudible)

JAZDZEWSKI: Yea, anything he owns, I mean if he's got tractors that are considered agriculture.

MRDUTT: Agriculture related vehicles.

JAZDZEWSKI: Don't count in the vehicle count.

MRDUTT: Sure. And that's what is different between a septic, or ah, a, commercial (inaudible)

SZACHNIT: Commercial vehicles.

SOBCZAK: I, I do have a dump, tandem-axle dump truck, well, that truck has farm plates on it.

MRDUTT: That was that lime spreader or whatever, out there, right?

JAZDZEWSKI: It's just a dump truck.

SOBCZAK: It's just a dump truck.

KLESSIG: Would you prefer us to deal with the porta-potty issues, ah, for your future, so you have?

SOBCZAK: Well I, I don't, I

KLESSIG: Or would you prefer us not to deal with it?

SOBCZAK: I, back in 04, this, you know this is all costing me a lot of money again. Back in 04, I wanted to get it all taken care of at once, but Steve Brazzale, at the time, told me be, be happy with what you got. And, and, and live with it for now.

SOIK: And here you are (inaudible)

SOBCZAK: I don't want to be ten years from now with another 500 dollars for township and Portage County meetings.

KLESSIG: That's why I'm asking the questions.

SOBCZAK: Thank you. Yes?

SZACHNIT: So do you want us to consider it at this point?

SOBCZAK: I'd like to consider it, yes.

BACHHUBER: Yes. No problem. Thank you.

MRDUTT: Staff's, staff's position on the porta-potties are preferably inside the building, if not, screened behind either a fence or natural vegetation. And when I mean natural vegetation, you know, a planted two foot tall tree isn't gonna screen that.

SZACHNIT: Doesn't cut it.

JAZDZEWSKI: But that is not something he needs a special exception or variance for.

MRDUTT: Correct. It would be a condition for

JAZDZEWSKI: So it's not on the agenda, it's really not an issue that we

SZACHNIT: It's a condition we can impose.

PELKY: It's accessory to the

JAZDZEWSKI: It's something we, we can do. But it's something that we can also work though with staff without us being involved.

BACHHUBER: Mmm.

JAZDZEWSKI: Because it's not part of the

SZACHNIT: Yea.

JAZDZEWSKI: And he's looking, well, originally it was, it was for his contractor storage yard. But it, that doesn't exist in this zoning classification.

BACHHUBER: That's what I'm concerned about. What happens

JAZDZEWSKI: Well, that was an oversight. So it was re-worded as ah, more than one commercial vehicle.

BACHHUBER: Okay.

JAZDZEWSKI: And, and we put a limit on this.

BACHHUBER: What happens, what happens if he sells his, his existing building?

JAZDZEWSKI: Goes with it.

BACHHUBER: Existing business. If we do not say anything about the porta-potties at this point, then if he sells it as an existing business, it's as if the porta-potties are allowed to be.

MRDUTT: All I know is the town had a concern, obviously, cause it's in theirs.

BACHHUBER: Yes.

MRDUTT: If the Board chooses to address it

JAZDZEWSKI: Well we didn't, we didn't address the porta-potties.

SOBCZAK: I, I think I brought, I brought it up at the time and they said let's not even touch that matter right now.

(Inaudible – speaking over one another)

SZACHNIT: Mmm-hmm.

BACHHUBER: Okay.

SOBCZAK: I don't want it

SZACHNIT: So we can put it as ah, a condition, you know, and.

BACHHUBER: Well.

SZACHNIT: You're home free after that.

MRDUTT: You have the ability to store all those inside the building.

SOBCZAK: In my current building, no.

JAZDZEWSKI: Two, three, vehicles (inaudible – speaking in background)

SOBCZAK: Other equipment would have to go out.

SOIK: I think it's some, best left to lay. If you get, if you get to a couple hundred porta-potties and somebody has a problem with it, they're gonna let staff know.

JAZDZEWSKI: And if it's something that just would require screening, well, any permitting, then there, there's no (inaudible). It's just a matter of meeting the Zoning Ordinance.

KLESSIG: (Inaudible) it's

SOIK: I think we'll just leave it lay. That's, okay, back to the trucks.

SZACHNIT: Okay. Do you have any other comments on it?

BACHHUBER: Questions?

SZACHNIT: Okay, questions?

JAZDZEWSKI: No.

SZACHNIT: Nothing? Okay. Okay, do we ah, have anything else to read in to the record besides what's in?

MRDUTT: You have staff memo and town letter. You've already read the town.

SZACHNIT: I can read the staff memo in at this point. Okay, this letter is from the Planning and Zoning Department.

*** Staff memo read into record - 1:31:11 - 1:32:37 in the recording ***

SZACHNIT: Okay?

KLESSIG: One more question.

SZACHNIT: Go ahead, yea.

KLESSIG: How do you transport your porta-potties?

SOBCZAK: Um, I have a flatbed trailer.

KLESSIG: Um, I'm gonna suggest and I'll make the motion in a minute, but this request is for septic pumping. Um, might we better say this is waste management so that those vehicles that you're using for, for um, for the porta-potties ah.

SOBCZAK: Waste disposal?

KLESSIG: Waste disposal, yea. Otherwise if, technically, that, that flatbed would not be a, a covered vehicle.

JAZDZEWSKI: Well that a privately registered. That's not a commercial vehicle.

SOBCZAK: No, that's not commercial. That's ah

JAZDZEWSKI: And you do, you, when you transfer them, you always transfer them empty?

SOBCZAK: Yep. They're empty and it's transferred with my personal pickup.

KLESSIG: You need that one though, don't you?

SOBCZAK: Well that

KLESSIG: Don't you take them somewhere and have them dumped?

SOBCZAK: I have a, a, a tank on the trailer. A little vac tank on the trailer.

KLESSIG: Though it might still help you if you have a little broader than just septic.

SOBCZAK: That's what I'm here for tonight.

KLESSIG: You got another business there but you might change the vehicles that are used.

SOBCZAK: It's, it's not another business. That's, it's all one.

BACHHUBER: Yes. But I come back to the point of selling your business. You might have to. Life changes. Um, I take Lowell's point there, and to make it a little broader, so that um, somebody else who might buy your business um, realize they just don't have to just have a, that this is not just a septic only.

SZACHNIT: Let me ask the question. On this, the porta-potties, um, is that part of the septic business?

SOBCZAK: It's part of the, it's, it's part of the septic business.

SZACHNIT: I mean, as far as, of the (inaudible)

SOBCZAK: Yea. Well, I use the same trucks to transport that waste also.

SZACHNIT: So even if you had these porta-potties, they're still disposed of in the same way as you normally would.

SOBCZAK: Yes. Yep, the waste is the same as septic waste.

BACHHUBER: Mmm-hmm.

SZACHNIT: Alright. Any members of the public wish to testify or comment on this?

KERCHEFSKI: I do. I object, object.

SZACHNIT: I'm sorry?

KERCHEFSKI: I disagree. I'm Tom Kerchefski. I'm a neighbor.

SZACHNIT: Alright.

KERCHEFSKI: Um, my lot line runs right with his. And what I'm getting at is he wanted one truck first. I'm a good neighbor, went along with it, everything okay. Now he's asking for more trucks. Ah, all his trucks he gets there he brings them home and washes them, after he's done using them. And my fence line is right along his shed. All his waste water from them trucks when he washes them off runs onto my land. And it's wet. We're neighbors, this from ten feet, if not more, where he already goes around and (inaudible) and nothing grows there. Okay? And the fact with the porta-potties, he does the same thing. Everything he washes off goes right by my fence, all the waste water runs that way. The porta-potties, he washes them off, I see him right with a hose, rinse them out. And I'm saying he contaminating ground water by what he's doing. And if you add more trucks, that's more washing of those. And be more porta-

potties, he's just gonna keep growing his business. I think his business should be in a commercial site (inaudible) whatever. Not where it should be.

SOBCZAK: Can I comment on that?

SZACHNIT: Yes you may.

SOBCZAK: All the soaps being washed on that property, used, being used, is all brought from Beaver, Wisconsin. How it's all biodegradable soaps. Just the truck that's currently in my shop right now is a 2009. It was bought brand new. What's on that truck is pretty much what's on the, on your vehicles, on Tom's truck when he's driving down the road to come, and he washes his vehicle in his yard. Same thing. And as far as the, the water that he's saying is going to his property, ah, do you guys have a copy of this?

SZACHNIT: Yes we do.

SOBCZAK: The driveway, everything is all sloped right to the highway, and ah, as far as any wash water, I know for a fact is not getting to that property.

JAZDZEWSKI: Do you wash any affluent out of your truck?

SOBCZAK: No we do not. Every gallon of waste that we haul, every ton of waste that we haul, is all documented by the DNR. When I pick up, when I pick up a load of waste, um, that waste is documented from the minute I leave to where I go with it, to the minute I drop it. Ah, I am in touch with the DNR multiple times of the years, ah, throughout the year. Warden Barry Meister comes to my facility several times a year to talk to me on, on rules and regulations that he should be, he's got questions on for other pumpers out there.

BACHHUBER: Mmm-hmm.

SOBCZAK: Ah, I have nothing to hide.

SZACHNIT: Mmm-hmm.

SOBCZAK: It's very regulated, very regulated. I've, I've been, I've

SZACHNIT: Tracy, a comment on that or?

PELKY: The runoff issue, we can have our Land Conservation Division.

SZACHNIT: Yea, that's what I was gonna say.

PELKY: Take a look at that. If there's areas that water needs to be detained, that's there, we could use the expertise of our staff to accomplish (inaudible)

SZACHNIT: I don't think we can decide here.

PELKY: Issues that are, but that would be a condition the Board may want to set.

BACHHUBER: We can add this condition.

SZACHNIT: Right.

KERCHEFSKI: I have one more concern. On, well, he's got a pit out there where he dumps, I don't know what's in, but he dumps in there, car wash stuff, whatever I heard. When he dumps it in, he lets it sit in there for a week. I don't know how long he lets it sit in there. He's got a big backhoe, gets it off, dumps it. Right against my side of my fence line again. And that's what I'm talking about waste running off. The soap or the oil and grease, whatever. Um, and it rains, then I get washed onto my land also.

SOBCZAK: Um, I don't, I don't think I have put anything on that side of that pit for probably two years.

Ah, the reason why we had to do that process was because we, we landfill it. It had to be disposed of at the landfill as, as a dry, a dry cake state. Um, that waste would sit in there for a couple days, whether it was from potholing or wherever it came from. We suck the water off, ah, which the pit, which would be plugged. We would suck the water off and the water would go to the Stevens Point Wastewater Treatment Plant facility and the rest of it would go to the landfill. And I, I haven't done any of that piling up for the past two years.

SZACHNIT: Okay. That's still something that the ah, ah,

MRDUTT: Our Land Conservation Division

PELKY: Yea, could take a look at it.

(inaudible – speaking over one another)

SZACHNIT: So.

SOBCZAK: And ah, and the corner of this property here, um, the, the back southwest corner.

SZACHNIT: Yea.

SOBCZAK: Um, Tom, that's where Tom is saying that nothing grows there. Well, when I, when I got the property from my dad, there was a main ditch that comes across there which, when I bought my property, I re-routed it from my side of the property, through, between my dad's shed and to the highway. Well, where my fence line starts and Tom's starts, there is a, my ditch is good. Tom's water comes there and it sits there. And I've talked to Tom several occasions that he should re-ditch his property so it either hooks up into mine and drains properly or make his own ditch to Highway M. And that's why nothing grows there. Because in spring time, high, high water, the water sits there, nothing's gonna grow.

JAZDZEWSKI: And then they're hydric soils.

SOBCZAK: Yea, I have a, a map from before, pre 04 that shows that ditch how it runs.

SZACHNIT: Okay. Okay.

KERCHEFSKI: And he never talked to me on that.

SOBCZAK: Yes I did Tom.

KERCHEFSKI: Never did.

SOBCZAK: I, I did it on (inaudible) occasions.

SZACHNIT: You have another comment sir?

HAGA: Ah, Al Haga, Portage County resident. I ah, I believe that anytime you ever have a property whenever you come in to stormwater management or any kind of runoff, is, is ah, the responsibility of the owner to manage their runoff first of all. I think the, the issue with the porta-potties and some of these other things. We talked, sat here and talked about it for hour, hour-and-a-half about whether someone would want to live next to a vinyl sided shed if it was closer to the property. How would you like to live next to a bunch of porta-potties and ah, septic trucks with the, the, high pressure power washer running for an hour every day. Isn't that, you know, the additional noise. One of the reasons Tom is out in the country is because it was being quiet. I've got, I look at this as almost a commercial business. I've heard the word business used many times in your discussion up there as a group. At what point is a zoned ah, Agriculture, A1 Agriculture Exclusive just farm equipment versus a business that's in there.

SOIK: Well

SOBCZAK: Can I, can I comment on that?

SOIK: No. What is the difference if you got a pressure washer going for an hour or a combine going for six to eight hours? Would, you know

HAGA: Everyday, washing on the truck.

SOIK: Okay. Go ahead and make your comment.

SOBCZAK: You talk about a building being there, looking at it. Ah, I'm a property owner there. Tom may have things that I don't like. I know there's things that I hear every day when I come to my shop. I see ah, equipment, property sitting out there that I don't approve of. It's a wash.

HAGA: (Inaudible)

SOBCZAK: Would, would, would, would Tom have been happier if I would have put up a 300 ah, head free-stall barn right there?

HAGA: He'd been happier if it wasn't there at all.

SOBCZAK: Well sir, I don't, I don't know you. Ah, I never met you in my life and I don't know where you're getting your information.

UNKNOWN (from audience): How do you know what goes on there?

SOBCZAK: Exactly. Tom should (inaudible) for himself.

SOIK: Well I think we can, we can stop this now.

SZACHNIT: Yea.

SOIK: Um, back to the ah, on hand.

(Inaudible – speaking over one another)

JAZDZEWSKI: Ah, as far as those ah, other trucks that are seasonal, where do you park those? Is there, I mean?

SOBCZAK: Well, right here is the map.

(Drawing of map distributed to BOA)

SOBCZAK: Just making sure this is the map. Yep.

(Inaudible)

SOBCZAK: Ah, we need anymore?

PELKY: We got enough.

SOBCZAK: Can I also comment, or say something?

SZACHNIT: This is north apparently.

SOBCZAK: The pressure washer that he is hearing running, is in my shop running. So, it, it's not outside. It's a hot water pressure washer.

SOIK: Okay, let me ask ah, John?

JAZDZEWSKI: Yes?

SOIK: You sit on the Planning Commission for Carson?

JAZDZEWSKI: Yes.

SOIK: Have we had any complaints through Carson Planning Commission, Township, on the property?

JAZDZEWSKI: Not, nothing, nothing's been addressed to the Plan Commission.

SOIK: Okay.

JAZDZEWSKI: Can't speak for the Town Clerk, but she hasn't said anything.

SOIK: Anything into your office on the property listed, as far as complaints?

PELKY: Not until recently, no.

MRDUTT: Not to my knowledge.
BACHHUBER: Recent, recently?
PELKY: Maybe when this hearing was sent out.
BACHHUBER: Oh.
SOIK: Okay.
SZACHNIT: Okay.
BACHHUBER: Um, ah, question to staff.
UNKNOWN: (from audience): How come I wasn't notified by the township if I'm a neighbor?
SOBCZAK: It was in the paper.
UNKNOWN: (from audience): We don't get a paper.
UNKNOWN: It's customary they send letters out to all the (inaudible) property owners.
MRDUTT: Well, everyone within 300 feet.
STEWART: We sent letters out to the surrounding property owners. As far as what the township does
UNKNOWN: The township doesn't.
STEWART: You would have to deal with them.
JAZDZEWSKI: Township doesn't send letters out.
UNKNOWN: (from audience): I got mine.
BACHHUBER: Question.
MRDUTT: Yes.
BACHHUBER: This is an allowable use within the A1 Exclusive Ag District, is it not?
PELKY: One vehicle.
BACHHUBER: No, but the septic system, or the septic hauling?
MRDUTT: The commercial business?
BACHHUBER: His business is an allowable use.
MRDUTT: When you have, he can have one commercial vehicle out there right now.
JAZDZEWSKI: As of right now.
MRDUTT: Here we're asking to do more. He operates his business out of his house.
BACHHUBER: Mmm-hmm.
PELKY: Well, his business actually takes place where he pumps. It's not
MRDUTT: Yea. This is the storage of the commercial vehicles.
PELKY: Yea. The vehicles only.
SOBCZAK: So I come to work, I park my pickup truck, I walk in my shop. I back out my truck and I, I leave the premises and I go to work.
SOIK: Okay, now where are these extra three gonna be parked, according to your map here?
SOBCZAK: Ah, you got north south east west.
SOIK: Yep.
SOBCZAK: Say would be towards ah my
SZACHNIT: Southeast.
SOBCZAK: Yep, southeast corner.
SOIK: Okay.
SOBCZAK: And, and east side. I didn't want to put anything to the west side, ah, because I, because of Mr. Kerchefski. I'm keeping them to the east on my property.
KERCHEFSKI: Well, you don't have much room left to the west side. You only got 30 feet or 20 feet outside of your shed to my lot line.
SOBCZAK: Yep. Which is the proper setback for the property.
JAZDZEWSKI: So basically you're looking at, from a line commencing at the northern edge of your shed. East and to the south is where you'd be parking?
SOBCZAK: Yes. Yes.
SZACHNIT: And according to this, I guess, special exceptions would include ah, sewage disposal plants, right, according to the?
BACHHUBER: Answering Marj's question. Yes.
SZACHNIT: I've got the one district that says sewage disposal plant.
BACHHUBER: Well that's sewage disposal plants.
MRDUTT: Treatment plants.
(inaudible – speaking over one another)
PELKY: But that would not involve, well, a bit different than what he's at. We're looking at just exceeding more than one, or two or more commercial vehicles that would be parked on the property.
JAZDZEWSKI: Well the A, the A1 technically would allow 750 cows without a special permit, and all the equipment that goes with it. But you needed a special exception to have a commercial vehicle, which is

non-ag related. And now he's looking at increasing the number of commercial vehicles that are non-ag related.

BACHHUBER: Non-ag related.

JAZDZEWSKI: He could have 17 semis that haul cow crap.

SOBCZAK: Which we do some of that also.

JAZDZEWSKI: But he can't ah, if the commercial vehicles for non-ag use that is the issue. Sums it up for us.

SZACHNIT: Okay. And any other comments at this point, or not? If not, we can.

SOBCZAK: There, there, there is a well on the property that's, that's all been permitted. Ah, the center of the shop has a floor drain and there is a permitted sanitary 2000 gallon holding tank on the south side of the building. Everything's up to par and code on, on that end.

SZACHNIT: Mmm-hmm.

SOBCZAK: And as far as, I'll bring it, we'll bring this up later.

JAZDZEWSKI: Do you ah, wash your build, your buildings, your machines inside or outside?

SOBCZAK: Ah, we do some outside and we do some inside.

JAZDZEWSKI: Well, if you do it inside, I figure it would go into that holding tank.

SOBCZAK: Into the holding tank, yes.

JAZDZEWSKI: If you go outside, it goes to the ditch?

SOBCZAK: Or on, on, on the granite.

JAZDZEWSKI: Well, okay, which way does it drain?

SOBCZAK: Yea, whatever, whichever way it drains, yes.

BACHHUBER: What do you do in winter? In winter, you wash them outside?

SOBCZAK: Ah, we spray them off outside sometimes. And if it's too cold, I just do it inside.

SZACHNIT: You don't do much business though?

SOBCZAK: No. It's pretty slow.

SZACHNIT: Okay, if there's no other comments or questions at this point.

SOBCZAK: As far as the portable toilet washing in the front of my shop, all that stuff is all biodegradable stuff. Ah, when we go to a site, the toilets get washed on-site the same way as I would wash them in the front of my shop. So.

SZACHNIT: Okay. Okay. I guess there there's, there is no further questions, I'd like to excuse you at this time.

SOBCZAK: Okay.

SZACHNIT: Alright? Thank you. Okay, we're gonna ah, close this part of the testimony for the petition and go into deliberation. Alright.

KLESSIG: I'll start it off with a motion to get going.

SZACHNIT: Alright.

KLESSIG: You ready?

SZACHNIT: Yes. You may start.

KLESSIG: Um, move approval of petition P12-01, from Chris and Amy Sobczak, owners of parcel number 012-24-0730-02.03, the Town of Carson, to allow more than one commercial vehicle to be stored on-site for a liquid waste disposal business, with the following conditions. Obtain a Portage County Zoning Permit, one. Number two, no more than five, no more than five commercial vehicles to be stored. And three, retention of vehicle wash water on the property under a plan approved by the Portage County Land Conservation Department.

SZACHNIT: Any second to that motion?

JAZDZEWSKI: Um, I, I'll second the motion.

SZACHNIT: Alright.

JAZDZEWSKI: As it stands. And

SZACHNIT: Okay, and would you like to amend it at this point?

BACHHUBER: Yea, yes.

JAZDZEWSKI: Well, I have a question to the staff. I mean the Town's position was a two vehicle indoor, with three vehicles outdoor. They were pretty adamant about that. Does that necessarily be put in as a, as a line-item or?

MRDUTT: From staff's point, the five vehicles would be when I drive by, you know, I guess I'm not, staff isn't concerned inside outside. It's gonna be for the whole property.

JAZDZEWSKI: I would assume he would normally keep the vehicle inside, so, okay. Just a matter of streamlining the ah, I won't at this time amend that motion.

BACHHUBER: I have no questions or comments.

SOIK: I've got a question or comment. On your number three, retention of wash water on the property, ah, question being for staff and for Mr. Sobczak. Would that pit that he has in place be adequate?

MRDUTT: We won't know until
BACHHUBER: Land Conservation.
MRDUTT: Staff, Land Conservation section will, will address that.
SOBCZAK: That, that, that pit was also permitted back in 05 or 06 it was.
BACHHUBER: They'll look at that.
MRDUTT: They'll take a look at
SOIK: Okay.
MRDUTT: I mean if it requires, you know, shooting grades to find out where the water is going.
SOIK: Yep. Then you'll, you'll handle that?
BACHHUBER: Mmm-hmm.
MRDUTT: Yep.
BACHHUBER: Mmm-hmm.
SOIK: I have no further questions.
SZACHNIT: Okay. No amendments to this ah, motion? Alright. Take a vote at this time, you know. Lowell?
KLESSIG: Aye.
SOIK: Aye.
SZACHNIT: Scott? Marj?
BACHHUBER: Aye.
SZACHNIT: John?
JAZDZEWSKI: Aye.
SZACHNIT: The Chair votes aye. Passed unanimously five to nothing. With the condition, again, ah, you know, the Conservation (inaudible) looks at that.
BACHHUBER: Yes.
SZACHNIT: Okay. Okay.

(END OF VERBATIM)

Approval of Minutes

Jazdzewski moved to approve the November 14, 2011 minutes as submitted, Klessig seconded. Motion passed by voice vote.

Correspondence/Updates

Klessig informed Szachnit he will not be available for the next meeting if it is held on February 20th.

Next meeting tentatively scheduled for February 20, 2012.

Adjournment

There being no further business to come before BOA, Jazdzewski moved to adjourn, Soik seconded, and motion passed by voice vote. Meeting adjourned at 6:01 pm.

Respectfully submitted,

Gayle Stewart, Recording Sec.

Lowell Klessig, BOA Secretary

Date of Approval

MINUTES
PORTAGE COUNTY BOARD OF ADJUSTMENT
FEBRUARY 20, 2012

Call to Order

Chairman Szachnit called the Portage County Board of Adjustment (BOA) to order at 4:00 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Bernhagen led the Pledge.

Roll Call

Members present included Edward Szachnit, Marj Bachhuber, John Jazdzewski, Scott Soik, and William Bernhagen (Alternate). Staff present included Jeff Schuler, Christopher Mrdutt, Tracy Pelky, and Gayle Stewart, Planning and Zoning Department. Member Lowell Klessig was excused.

Board of Adjustment Procedures

Szachnit explained the meeting was properly advertised by a class 2 notice in the local newspaper. Testimony and questions should be addressed during the public hearing portion of the meeting. Anyone wanting to speak should sign in at this time.

PUBLIC HEARINGS

Stanley and Jane Biadasz, Owners / Ronald Zechel, Agent (P12-03)

The Stanley and Jane Biadasz, owners, Ronald Zechel, agent, special exception request from the Portage County Wireless Telecommunication Facility Ordinance to construct a self support communications tower and associated equipment shed, in the A1 Exclusive Agricultural Zoning District, Town of Buena Vista, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in Ronald Zechel and asked him to explain the request. Zechel stated he represents Verizon and CSG Wireless. Zechel stated the purpose of the tower is to expand in the region and add 4G wireless coverage, which will help cellular phones work at high speed. Zechel stated carriers look to co-locate on existing structures as much as possible. However, in certain areas where there are no towers, structural or carrier problems, or conflicts of interest, they must look at constructing a new tower. In this case, there is nothing within three miles of this tower location. Zechel stated the request is for a 250' self-support tower, which will allow for at least four carriers. The proposed leased area will be 250' x 250', with a fenced in area of 100' x 100'. Each carrier will be allowed their own specific type of equipment building/cabinet, which will be sized differently. The first carrier, Verizon, will have a 12' x 26' shelter. There will be a chain-link fence around the compound, and there will be additional landscape buffering. Zechel added this is an engineered tower, is structurally very strong, and believes there are no safety issues. Zechel stated this tower uses very little farmland, less than a quarter-acre. Allowing a tower on property helps the landowner supplement their income with a monthly rental fee, while allowing the farmer to keep farming the land. Zechel is asking for a reasonable amount of time to construct the tower. Pelky stated he received the updated lease agreement, and the Town of Buena Vista has approved this request.

Szachnit read the following into the record:

- A letter from the Town of Buena Vista Clerk dated February 20, 2012 stating the Town of Buena Vista Board unanimously approved the proposed placement of the cell tower on the Biadasz property.

Bachhuber asked Zechel what he meant by a reasonable amount of time, and does the time frame of February 1, 2013 give him enough time? Pelky stated the ordinance grants one year to get the permit, and then allows 90 days to get started, with a time period of two years for completion. Szachnit stated BOA can allow an extension on the time frame. Zechel stated he is fine with the time frame set in the ordinance.

Bachhuber asked about farming in A1 Zoning. Zechel stated he works with many farmers and encourages farming right around the tower locations. Zechel stated this will be a self support tower, and he is not aware of safety issues associated with self support towers. Zechel added he was aware of older guyed towers with safety issues, as foundations were not designed for heavy loading and the wind loads.

There being no further questions from BOA, Szachnit excused Zechel. Szachnit asked if any members of the public wanted to address this petition. JR Reabe, Reabe Spraying Service, was sworn in. Reabe stated he is an aerial applicator and does a fair amount of work in the general area of the proposed tower. Reabe stated there are no immediately adjacent fields, however, within a mile radius, there are five fields. Reabe stated this tower will be located on a high area and this could be an issue, if a plane was spraying in the area. The pilot may know the tower is there, however, he may get distracted by something. For this reason, Reabe is requesting a medium-intensity daylight strobe be located at the top of the tower, and that it be lit during the growing season of May to September. Reabe added he was told the high-intensity light is not practical, and the medium-intensity light has been working for him.

Szachnit asked what the difference is between a medium-intensity and high-intensity strobe light and why is medium better? Reabe stated the concern is the high-intensity would be too bright during the daytime. Reabe stated they do not require lighting at night because they are not working at night. Reabe stated a tower over 200' must have the required Federal Aviation Administration (FAA) lighting, which is red; to make sure a low flying airplane does not hit the tower at night.

Bachhuber asked where the lighting would be located, or does it not matter, and Reabe answered he would like it at or near the top of the tower. Reabe stated the idea of the lighting is to redirect the pilot's attention back to a hazard, if one exists.

Jazdzewski asked staff at what height does the Portage County Wireless Telecommunication Facility Ordinance require lighting? Mrdutt stated anything over 200' must meet FAA requirements. Mrdutt added there is no real threshold; however, in the past, if there was a concern by aerial applicators, the lighting issue was addressed. Jazdzewski asked if the County requires lighting on all towers, and Mrdutt stated the ordinance does not require the lighting; it is a FAA requirement.

Reabe was excused by Szachnit. Szachnit asked if any members of the public wanted to address this petition. A member of the audience asked if there was a map showing the exact location of the proposed tower, and Schuler used a map to show the audience member the location of the tower.

There being no other members of the public wanting to testify, Szachnit closed the testimony portion of this hearing.

Deliberation and Decision

Bernhagen stated the lighting is a good idea.

Motion by Jazdzewski to grant the petition for a special exception, to include conditions 1, 2, 3, 4, and 5 outlined in the staff memo and adding the following condition:

6. A medium-intensity strobe light for daytime lighting must be placed at the top of the tower.

Motion seconded by Bachhuber.

Mrdutt requested the conditions from the staff memo to be included in the decision be read aloud for clarification, because the memo was not read aloud during the hearing, and reference was made to the memo in the motion.

Schuler stated Reabe spoke of a May to September timeframe for lighting on the tower. Schuler suggested this time frame be included in the motion, instead of the full year timeframe.

Motion by Jazdzewski to amend condition 6 of the main motion to state:

1. A medium-intensity strobe light for daytime lighting must be placed at the top of the tower, to be lighted during the spraying season, May 1 to September 30.

Motion to amend the main motion seconded by Soik.

Bachhuber stated a tower was approved by BOA January 31, 2011, and in that case, it was required that a medium-intensity strobe light must be installed on top of the tower, and shall operate from May 1 through September 30.

Jazdzewski stated at the time of voting on the motion, he would like the conditions read into the record for informational purposes. Szachnit read conditions 1 through 5 of the motion into the record as follows:

1. Obtain a Portage County Zoning Permit.
2. Tower designed to accommodate 3 users.
3. Provide a lease agreement describing an area sufficient in size to accommodate the tower fall zone. Lease agreement must be on file with the Portage County Zoning Office prior to issuance of a Zoning Permit.
4. Submit an annual information report to the Planning and Zoning Office to satisfy section 7.3.9(D) of the Portage County Wireless Telecommunication Ordinance.
5. Contact aerial applicators about tower position and height prior to construction.

Motion to amend passed unanimously by roll call vote.

Main motion, as amended, passed unanimously by roll call vote.

Patrick Brilowski, Owner / Guy Stewart, Agent (P12-04)

The Patrick Brilowski, owner, Guy Stewart, agent, special exception request from the Portage County Wireless Telecommunication Facility Ordinance to construct a self support communication tower and associated equipment shed, in the A4 General Agricultural Zoning District, Town of Hull, was opened by Szachnit, who read the public hearing notice.

At this time, Szachnit read the special exception standards as they relate to this type of request.

Pelky stated this request is for a 138' monopole tower. The Town of Hull has submitted a letter approving the request, and an email has been received from Jason Draheim, Stevens Point Airport Manager, stating he does not have any issues with the tower placement.

Szachnit read the following into the record:

- An email dated February 20, 2012 from Stevens Point Municipal Airport Manager Jason Draheim, stating he does not object to the placement of the tower; however, the tower is subject to approval by the City of Stevens Point (due to HLZO) and the FAA.
- A letter from the Town of Hull Chairman dated February 15, 2012 stating the Town of Hull Board unanimously approved construction of the tower on the Brilowski property.

Szachnit swore in Guy Stewart and asked him to explain the request. Stewart stated the owner is SBA and will be leasing space to other carriers, with the initial carrier being Verizon. Stewart stated his basic process is looking for an existing communications tower that can be utilized. If one cannot be found, as in this instance, he then approaches landowners to host a communications tower on their property. Stewart feels this request complies with the Portage County Zoning Ordinance.

Pelky asked Stewart if he was able to contact the City of Stevens Point, and Stewart answered yes. He is not aware if he needs a permit from the City, but they do have extraterritorial oversight. Stewart distributed a map with a height overlay for the airport. Stewart added he will check again with the city to see if there are any approvals needed from them, and if so, he will take care of those. Mrdutt added it is ultimately up to the City of Stevens Point if they want to have a hearing this request. Szachnit asked if BOA needs to wait for an approval from the City of Stevens Point before acting on this request, and Mrdutt answered no. Mrdutt stated if the City decides to act on this request, he will wait to hear from them before issuing the permit.

Stewart stated the placement of the communications tower is below the elevation the City would be concerned with. Stewart added he has no objections to installing medium-intensity lighting on the top of the tower. Mrdutt asked if this tower would require a red light on it at night, and Stewart stated there is a possibility because of the proximity to the Stevens Point Airport. Stewart stated he is waiting for an answer from the FAA.

Jazdzewski asked if lighting is a major issue because of the sprayers working near the area of the tower, and Stewart replied safety is a big concern for everyone, and the lighting would not be an issue.

Bachhuber asked why Stewart would go with a monopole as opposed to a different type of tower. Stewart stated the tower is short enough, and a monopole gives it a cleaner look. In this instance, he could have gone either way, but the landowner preferred a monopole.

Bachhuber asked if the area will be fenced in, and Stewart replied yes. There will be a 100' fenced in area.

Bachhuber asked if there is only one carrier at this time, and Stewart answered yes. There will be one structure/shelter at this point. Stewart added the tower can hold up to three carriers, so there may potentially be three buildings on the property.

Bachhuber asked if the monopole breaks apart if need be, and Stewart explained the tower is designed for a collapse area within 50 percent of the height of the tower.

Szachnit asked what the maximum height would be for a monopole, and Stewart answered 300'.

There being no further questions from BOA, Szachnit excused Stewart. Szachnit asked if any members of the public wanted to address this petition. JR Reabe stated his concerns with lighting were already addressed in the previous petition. There being no other members of the public wanting to testify, Szachnit closed the testimony portion of this hearing.

Deliberation and Decision

Bachhuber asked if the strobe light located at the top of tower would cause an interference with the lightning rod located at the top of the tower. Mrdutt stated he would leave this up to the cell tower builder's judgment.

Motion by Jazdzewski to grant the petition for a special exception, to include conditions 1, 2, 3, 4, and 5 from the staff memo, and adding the following condition:

6. A medium-intensity strobe light must be placed at the top of the tower for daytime lighting, from May 1 to September 30th.

Motion seconded by Bernhagen.

Jazdzewski stated at the time of voting on the motion, he would like the conditions read into the record for informational purposes. Szachnit read conditions 1 through 5 of the motion into the record as follows:

1. Obtain a Portage County Zoning Permit.
2. Tower designed to accommodate 3 users.
3. Provide an engineer tower design indicating the tower will collapse within the leased area. Design has to be signed by an engineer licensed in the State of Wisconsin.
4. Submit an annual information report to the Planning and Zoning Office to satisfy section 7.3.9(D) of the Portage County Wireless Telecommunication Ordinance.
5. Contact aerial applicators about tower position and height prior to construction.

Motion passed unanimously by roll call vote.

Thomas Riley, Owner / Guy Stewart, Agent (P12-05)

The Thomas Riley, owner, Guy Stewart, agent, special exception request from the Portage County Wireless Telecommunication Facility Ordinance to construct a self support communication tower and associated equipment shed, in the A2 Agricultural Transition Zoning District, Town of Lanark, was opened by Szachnit, who read the public hearing notice.

Pelky stated this request is for a 195' foot monopole, with a lightning rod, for a total of 199'.

Szachnit read the following into the record:

- A letter from the Town of Lanark Clerk dated February 17, 2012 stating the Town of Lanark Board and Plan Commission both voted to approve the request.

Szachnit swore in Guy Stewart and asked him to explain the request. Stewart stated the owner is SBA, and this request is for a 190' monopole. Stewart stated the process is to look for any existing communications towers that can be used. If one cannot be found, he then approaches landowners to host a communications tower on their property. Stewart feels this request complies with the Portage County Zoning Ordinance.

Soik asked Stewart if he would be opposed to the medium-intensity strobe lighting, and Stewart answered no.

Jazdzewski asked Stewart if medium-intensity lighting for towers in agricultural areas is becoming a more popular request, and Stewart replied it is not a popular request, but it does come up. Anytime they interact with the agricultural business in the area, it makes sense this would be addressed.

Bachhuber asked about screening from State Highway 54, and stated the aerial photo shows a line of trees. Stewart stated the site plan does not show any landscape buffer, but if the Board feels it is necessary, they would certainly comply.

There being no further questions from BOA, Szachnit excused Stewart. Szachnit asked if any members of the public wanted to address this petition. JR Reabe requested criteria be put in for the lighting.

Szachnit asked if any other members of the public wanted to address this petition. Allen Jerman stated his daughter lives on the parcel immediately next to the tower location. Jerman stated he has concerns about health issues related to cell towers. Jerman stated the distance from the house to the tower is closer than suggested in research he has read. Jerman asked if the tower could be moved at least 400 meters away from his daughter's house. Soik asked where the house is located, and Jerman showed the house location on a map.

Szachnit swore in Allen Jerman. Jazdzewski asked if Jerman is requesting the tower be moved 400 feet or 400 meters, and Jerman answered 400 meters. Jazdzewski stated that could be a problem on a 40 acre parcel. Jerman stated moving it to the back of the 40 would satisfy him. Jerman added his granddaughter is 14 months of age and has a congenital heart disease. Pelky stated the tower would be located 586' from the house.

Jazdzewski asked Stewart if the rays on the tower are somewhat directional, and Stewart answered yes. Jazdzewski asked if they are aimed downward or outward, and Stewart answered outward. Stewart asked to have a document added to the record. The document is a study by Professor John Moulder, who is now the director of Oncology Radiation at the School of Medicine in Milwaukee. Stewart stated the report talks about the non-effect to humans of cell towers and the radiation. Stewart added the Telecommunications Act does not allow sighting of towers based on perceived health issues. Stewart stated the Ordinance requires towers to be at least 500' from an existing house. Szachnit stated it appears this tower location is well within guidelines. Mrdutt stated when this petition was reviewed, setbacks were verified from surrounding property owners, in addition to other potential co-location sites. This tower is not within one mile of another tower. These issues were addressed before coming before BOA, and this request meets the standards set forth in the Telecommunication Facility Ordinance.

Szachnit stated depending on how BOA rules on this, Jerman has 30 days to appeal the decision.

Jazdzewski stated the Jerman property is not in the strongest array direction, but is within the highest intensity signal. Szachnit added the signal is directed outward, not downward.

There being no other members of the public wanting to testify, Szachnit closed the testimony portion of this hearing.

Deliberation and Decision

Motion by Bachhuber to grant the petition for a special exception, to include conditions 1, 2, 3, 4, and 5 from the staff memo, and adding the following condition 6:

1. Obtain a Portage County Zoning Permit.
2. Tower designed to accommodate 3 users.
3. Provide an engineer tower design indicating the tower will collapse within the leased area. Design has to be signed by an engineer licensed in the State of Wisconsin.
4. Submit an annual information report to the Planning and Zoning Office to satisfy section 7.3.9(D) of the Portage County Wireless Telecommunication Ordinance.

5. Contact aerial applicators about tower position and height prior to construction.
6. A medium-intensity strobe light shall be placed near the top of the tower and shall operate from May 1 to September 30.

Motion seconded by Soik. Motion passed unanimously by roll call vote.

Monica Pawelski, Owner / Guy Stewart, Agent (P12-06)

The Monica Pawelski, owner, Guy Stewart, agent, special exception request from the Portage County Wireless Telecommunication Facility Ordinance to construct a self support communication tower and associated equipment shed, in the A4 General Agricultural Zoning District, Town of Dewey, was opened by Szachnit, who read the public hearing notice.

Pelky stated this request is similar to the previous requests; a self-support tower in A4 Zoning. There is a letter from the Town of Dewey in the file.

Szachnit read the following into the record:

- A letter from the Town of Dewey Chairman dated January 7, 2012 stating the Town of Dewey Board and Plan Commission both voted to support the proposal as presented.

Guy Stewart was sworn in and stated SBA is the tower owner and Verizon will be the tenant. Stewart added there are no other towers in the area, and the request complies with standards set in the Zoning Ordinance.

Jazdzewski stated in looking at one of the maps, there are a lot of towers on the map; however, there is a need for a tower in the middle of the others. It is more than a mile to the closest tower. The tower to the north is an Element Mobile tower, and Element Mobile is a roaming partner for Verizon on their 3G system. By moving the 4G tower closer to the more populous areas, that will make a better connection, which will pick up roaming in the area.

Szachnit stated more bandwidth is being used as people move to 4G, and asked if coverage in the area is reduced in any way because of 4G services. Stewart believes it does reduce coverage, and more towers are necessary because people are expecting faster service.

Bachhuber asked if they are going to this type of self-support tower instead of a monopole because of the height of the tower, and Stewart answered yes. They could have gone to a monopole, but because of the height, it becomes cost prohibitive. This will be a sturdier structure at 300'.

Bernhagen stated strobe-lighting is not included as a condition in this request. Stewart stated this is not a concern to Reabe because there is not a lot of aerial spraying that goes on in the area. In addition, because this tower is over 200', the FAA will require lighting, but they typically require red lighting at night, not the strobe lighting. Stewart will comply with all requirement of the FAA.

Jazdzewski asked if daytime lighting is required by the FAA, and Stewart answered yes, on occasion. Stewart added Central Wisconsin Airport is located to the north, so the FAA may require different lighting. He is unsure at this time.

There being no further questions from BOA, Szachnit excused Stewart. Szachnit asked if any members of the public wanted to address this petition. Ronald Zechel stated in the past, the goal was to reduce the power of the phones. The downside of that is the need for more towers. As a safety precaution, the power of the towers cannot be increased. Zechel added if a tower is over 200', the FAA usually requires a dual lighting system.

There being no other members of the public wanting to testify, Szachnit closed the testimony portion of this hearing.

Deliberation and Decision

Motion by Jazdzewski to grant the petition for a special exception, to include conditions 1, 2, 3, 4, 5, and 6 from the staff memo.

Motion seconded by Bernhagen. Szachnit read conditions 1 through 6 of the motion into the record as follows:

1. Obtain a Portage County Zoning Permit.

2. Tower designed to accommodate 3 users.
3. Provide an engineer tower design indicating the tower will collapse within the leased area. Design has to be signed by an engineer licensed in the State of Wisconsin.
4. Submit an annual information report to the Planning and Zoning Office to satisfy section 7.3.9(D) of the Portage County Wireless Telecommunication Ordinance.
5. Contact aerial applicators about tower position and height prior to construction.
6. Letter from FAA indicating the tower is equipped with proper lighting has to be on file with the Portage County Zoning Office before issuance of the Zoning Permit.

Motion passed unanimously by roll call vote.

Approval of Minutes

Jazdzewski moved to approve the January 16, 2012 minutes as presented. Bachhuber seconded. Motion passed unanimously by roll call.

Correspondence/Updates

Next meeting tentatively scheduled for March 12, 2012. Mrdutt stated there is possibly one hearing next month.

Jazdzewski asked if the Planning and Zoning Committee is the proper committee to add language to the ordinance regarding lighting on towers. Schuler stated this would lock us into a technology and it is unknown if this would be the same technology down the road. That could be a recommendation by staff when this issue comes up in future requests. This would be a part of the background and staff report. Schuler does not believe the ordinance needs to be changed because lighting is not normally discussed. Jazdzewski does not believe it is fair to the aerial sprayers because they are not required to be notified until prior to construction. Mrdutt added the sprayers are contacted on any cell tower, regardless of placement in Portage County.

Bachhuber asked if JR Reabe is the only sprayer in the area, and Gayle Stewart replied there are three sprayers contacted with each cell tower application. Mrdutt stated a lot of times sprayers converse with each other.

Adjournment

There being no further business to come before BOA, Bachhuber moved to adjourn, Bernhagen seconded, and motion passed by voice vote. Meeting adjourned at 5:30 pm.

Respectfully submitted,

Gayle Stewart, Recording Sec.

Lowell Klessig, BOA Secretary

Date of Approval

MINUTES
PORTAGE COUNTY BOARD OF ADJUSTMENT
MARCH 12, 2012

Call to Order

Chairman Szachnit called the Portage County Board of Adjustment (BOA) to order at 4:00 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Klessig led the Pledge.

Roll Call

Members present included Edward Szachnit, Marj Bachhuber, John Jazdzewski, Lowell Klessig, Scott Soik, and William Bernhagen (Alternate). Staff present included Jeff Schuler, Tracy Pelky, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Szachnit explained the meeting was properly advertised by a class 2 notice in the local newspaper. Testimony and questions should be addressed during the public hearing portion of the meeting. Anyone wanting to speak should sign in at this time.

PUBLIC HEARINGS

Plover River Farms Alliance, Inc., Owners / Wanta & Son, Inc. (Randy Wanta), Agent (P12-07)

The Plover River Farms Alliance, Inc., owners, Wanta & Son, Inc. (Randy Wanta), agent, special exception requests from the Portage County Zoning Ordinance and the Portage County Wellhead Protection Ordinance to construct an equipment shed in the Industrial Zoning District and Groundwater Protection Overlay District C, Town of Sharon, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in Randy Wanta and asked him to explain the request. Wanta stated this will be an addition onto an existing structure. The slab for the addition is also pre-existing; therefore, there will be no new disturbance of the ground. Wanta added there will be no plumbing or heating in the new structure, as it is for equipment storage only.

Jazdzewski asked if there will be any mixing or storage of pesticides, and Wanta answered no.

Bachhuber asked if there will be water to the structure, and Wanta answered no. Bachhuber asked what type of lighting there will be, and Wanta answered there will be indoor lighting. The exterior lighting is already there.

There being no further questions from BOA, Szachnit excused Wanta. Szachnit asked if any members of the public wanted to address this petition.

Pelky stated the Town of Sharon Plan Commission has acted on this request, and there is a letter in the file that can be read into the record.

Patrick Wanserski, Town of Sharon Chairman, was sworn in. Wanserski stated the Town of Sharon Plan Commission had no problem with this request at the time of their meeting, and added the Town of Sharon Board meets tomorrow to discuss this request. Wanserski stated the only concern he has is with traffic passing on County Road J. A similar issue came up with BOA a few years ago, and still has not been addressed. There was a request by a neighbor regarding increased traffic onto a side road off County Road J, and a passing zone heading south on County Road J, as you turn off State Highway 66. Wanserski is requesting BOA put in their decision that this issue get looked at by the Highway Department, although not tie the request directly into this petition. His concern is traffic turning onto the side road, and there being a passing zone with slow moving equipment. There will be the urge for people to pass in that zone, and possibly a higher risk for accidents at that time. He believes they should get rid of the passing zone, and this is the biggest request the Town of Sharon will come up with.

Bachhuber asked Wanserski to draw a diagram of the area on the chalk board. Wanserski explained traffic turning from State Highway 66 south on to County Road J will come upon a side road off County Road J. There

is a passing zone on County Road J, and people heading south from State Highway 66 will want to pass slower traffic. There is a possibility the slower traffic may be turning onto the side road, which could cause increased potential for accidents. Wanserski stated he addressed this issue with the Highway Department in the past, but nothing has been done. He is unable to remember who he spoke with. Wanserski added this is good for the tax base, and will be a good addition for the area.

Szachnit asked who would take care of addressing this issue, and Pelky stated BOA could emphasize that as part of the decision, a request should be forwarded to the Highway Department to examine this issue. Pelky added BOA cannot force the issue; however, the Highway Department can see if there is a safety issue, or if the no passing zone can be moved further south.

Pelky stated this special exception request is twofold; from the Portage County Wellhead Protection Ordinance (Zone C) and the Portage County Zoning Ordinance. Pelky stated this is a 25 year time of travel; groundwater to the Stevens Point wells. The Ordinance states any unsewered commercial development needs BOA approval, and the Zoning Ordinance states any new use in Industrial Zoning requires a Special Exception.

Szachnit read the following into the record:

- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the application complies with basic requirements of the County Zoning Ordinance, and requested BOA discuss attaching conditions, if approved.
- An excerpt from the Town of Sharon Plan Commission Minutes from March 6, 2012, stating the Town of Sharon Plan Commission approved the request as submitted. The minutes state no septic is necessary, as the building is for storage only. No oil changing, and no fuel, oil, or other solvents will be stored. The minutes also note the driveways onto Highway 66 are not intended to be used.

Bachhuber referenced the Plan Commission Minutes from the Town of Sharon where it is stated the driveways onto Highway 66 are not intended to be used, and asked if BOA handles driveway issues, and must it be part of the motion. Pelky stated this is a pre-existing driveway and nothing can be enforced from a zoning standpoint. BOA may put a condition or make contact with the owner to see if they are willing to give up the driveway. Wanta stated the owner would not want to give up use of the driveway. They would not use it very often. Because road limits are on, this is the only way for them to get in and out of the area. Bachhuber asked why he thought the Sharon Plan Commission put this in their minutes. Ron Hensler, Town of Sharon Plan Commission Chair, stated this was done to indicate the driveway is there, and they would only use it under special cases, such as road load limits. Bachhuber stated this may not be enforceable by BOA.

Wanserski stated he believes there had been discussion with the previous owner of this parcel, and there is a tradeoff for the two driveways located there to be used for seasonal harvest only. In addition, there may have been an agreement where the two driveways would be given up for one centrally located driveway. Wanserski added he is only stating what he thinks was discussed.

Szachnit asked if County Road J has a lighter load limit than State Highway 66, and how often would Wanta use these driveways? Bill Heindl, Plover River Farms, stated very seldom do they use the driveways, and it is safer to enter off County Road J.

William Filtz, adjoining property owner, asked if it is okay to come in off State Highway 66. Szachnit clarified normally the entrance off County Road J would be used, but State Highway 66 would be used if there was a load coming in that exceeds the road load limits of County Road J. Filtz asked if the entrance from State Highway 66 could be exempt from the road weight limits because it has been reconstructed, and Pelky stated this issue would have to be addressed with the Highway Department.

There being no other members of the public wanting to testify, Szachnit closed the testimony portion of this hearing.

Deliberation and Decision

Jazdzewski asked what the proper procedure is for anyone to go forward with the County Highway Department, as far as getting the no passing zone implemented. Szachnit asked if this were to be included in the decision, who approaches the Highway Department? Pelky replied if BOA makes this a condition, a copy would be forwarded to the Highway Department. In addition, staff from Planning and Zoning could make a request, along with the Town of Sharon.

Bachhuber read findings of fact and stated the following:

- The use would not substantially harm the public health, safety, and general welfare, and would not be contrary to State Law or Administrative Code.
 - Szachnit stated there is a safety issue regarding the passing lane and left turns.
- Regarding public health, this is a wellhead protection area. Bachhuber believes because it is going on an existing slab, and because there is no disturbance of new soil, this would not substantially harm the public health.
- The use would be consistent with surrounding uses and the neighborhood would not be injured.
- The use is consistent with the ordinance and any County or municipal plan which is based on historic, geographic, and social economic facts.
- The structure is not located in a floodway.
- This structure is located in a commercial industrial area.

Motion by Bachhuber to approve the request for a special exception, with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. You must obtain a Portage County Stormwater Permit prior to issuance of a Zoning Permit.
3. The Highway Department should be contacted to consider removing or reconstructing the passing zone on County Road J, off State Highway 66, to prevent possible accidents as slow moving trucks traveling south on County Road J will be making left hand turns onto the service road.

Motion seconded by Klessig. Klessig stated he does not know what approval means if there is a condition added involving a third party, and asked what it means if the no passing zone is not approved by the Highway Department. Does this mean the petitioner cannot build the building? He is uncomfortable with this condition.

Szachnit asked if the request for a no passing zone was a recommendation or a condition, and Bachhuber answered it is not a condition. Klessig stated this can be confusing if calling it a condition. Bachhuber stated her motion was the Highway Department should be contacted to consider having the passing zone removed.

Soik agreed with Klessig, adding it does not sound right to have the petitioner contact the Highway Department. Soik feels staff or the township should approach the Highway Department with the request.

Motion by Klessig to remove condition number 3 from the main motion. Motion to amend seconded by Soik. Motion to amend passed 4-1 by roll call vote, with Bachhuber voting nay.

Motion by Klessig to amend the main motion to include the following condition:

1. The facility is not to be used for storage or mixing of chemicals or petroleum products, or washing of chemical applicators.

Motion to amend seconded by Soik. Motion to amend passed unanimously by roll call vote.

Jazdzewski stated the safety concern needs to be addressed, and he believes it should not be the responsibility of the petitioner to do this because it is a public safety issue. Jazdzewski stated the Planning and Zoning Department should make sure this concern is forwarded to the Highway Department. Pelky stated staff could contact Highway Department regarding the no passing zone. Pelky stated this is not something that has to be done before a permit is issued; it is more of a statement than a requirement. Jazdzewski asked if this should be added to the motion as a qualification. Soik stated he does not believe it is BOA's responsibility to bring this to the Highway Department. It should be the Town of Sharon Plan Commission, Town of Sharon Board, the Planning and Zoning Department, or the Department of Transportation. Schuler acknowledged this is a concern recognized by BOA; however, he does not think this should be a condition of approval of this petition as it has no bearing on whether or not they are able to proceed. There is nothing written in the ordinance that this must be done. Schuler stated there is enough direction from BOA that he and Pelky will be contacting the Highway Department to discuss the situation.

Main motion, as amended, passed unanimously by roll call vote.

Lorn and Sandra Dykes, Owners / Derek McGrew, Agent (P12-08)

The Lorn and Sandra Dykes, owners, Derek McGrew, agent, special exception request from the Portage County Wireless Telecommunication Facility Ordinance to construct a self support communication tower and associated ground equipment, in the A1 Exclusive Agricultural Zoning District, Town of Plover, was opened by Szachnit, who read the public hearing notice.

Pelky stated this is a special exception request from the Portage County Wireless Telecommunication Facility Ordinance. The Agricultural Zoning District requires approval through BOA to site a cell tower. There is a letter in the file from the Town of Plover.

Szachnit swore in Derek McGrew and asked him to explain the request. McGrew stated there is no tower nearby this area, so he started the leasing and zoning permitting process for a new tower. The proposed tower site is 4,000 feet from the nearest residence. McGrew provided a fall-zone letter showing if the tower were to fall, it would fall within 50% of its height, which with the lighting and lighting rod is a total of 250 feet. A map has been provided showing there is no tower within 3.5 miles of this particular area. There is a letter from the Town of Plover, and their only request is a driveway permit. All setbacks are met. McGrew stated an engineering firm is performing environmental work, and has determined that although the proposed site is close to the wetland, it is not in the wetland. They have submitted for approval through the Federal Aviation Administration. McGrew stated all requirements will be met.

Klessig asked what the process is to aggregate carriers, and is there a system that prevents another request for a tower close to this one? McGrew stated this is what zoning is for. McGrew added carriers allow space on towers, but they don't communicate and ask if towers are needed. McGrew stated this tower is being built by a company that is in business to lease space to other carriers. Carriers don't like to build their own towers because of the cost, but they will if need be.

Bachhuber asked how migratory routes of birds are studied, and how does anyone know that this will not be a problem. Schuler stated as part of the application process, it is staff's job to investigate and see if there is a concern. If it is determined there is a question, they then talk to the applicant to ask how this will be addressed. McGrew added they cannot get a license from the Federal Communication Commission without doing this. There are environmental studies that must be done. These are not done until zoning is completed because of the unknowns with zoning, and because of the cost. Klessig stated as more towers are built, there may not be any safe migratory routes. McGrew added they often see bird nests in towers.

Pelky clarified for the record, the setback for a communication tower from a residence is 500'.

There being no other questions from BOA, Szachnit excused McGrew. Szachnit asked if any members of the public wanted to address this petition. JR Reabe, Reabe Spraying Service, was sworn in. Reabe stated in the past he has requested medium-intensity daytime strobe lighting. In discussion with his partners and some of his pilots, it was determined the strobe is good for calling attention to the tower's location, but under marginal visibility or hazy conditions, sometimes a galvanized steel structure is difficult to detect. You can see the light, but it is difficult to find the tower. Reabe is asking a new standard be set that consists of a strobe light, in addition to red and white paint. Reabe is requesting that in this case. The red and white paint makes it easier to pick out the tower. Szachnit asked Reabe if they dust crops in those conditions, and Reabe responded when there is work to do, they try to do it when they can. Some mornings there are hazy conditions and they may have a mile visibility, but if you're looking into the sun, the visibility is not really there. In hazy conditions, the galvanized material blends in with the haze. Bachhuber stated the ordinance states the opposite; a tower should blend in. Reabe stated this is the reason some water towers at larger airports are painted red and white checks; they are more visible.

Szachnit stated the ordinance currently states towers should not stand out, and asked Pelky if the ordinance should be changed or modified. Pelky stated this is a concern for the industry, and BOA can make it a condition. This is similar to requiring a strobe light; it is not in the ordinance. Pelky asked if you want something to blend in, or address a safety concern. Szachnit stated this is contradictory to the ordinance.

Reabe asked what the procedure is to have the ordinance changed.

Soik asked Reabe if he has any data on actual plane vs. tower accidents, and Reabe stated he does not have it with him; however, he looked at information today and believes the figure was 88% of all aircraft vs. tower accidents are fatal. In the agricultural aviation aspect, there is an average of one tower strike per year in the

nation. He believes 1% - 2% of the accidents are tower strikes. Szachnit stated Reabe has a valid point; however, we are not here to change the ordinance. He will have to take another approach. Schuler stated the best way to go about this is to have Reabe contact Chairman Jerry Piesik of the Portage County Planning and Zoning Committee. This is where the procedure to make changes to the ordinance begins. Reabe reiterated he would only ask for this on towers that will be located in irrigated agricultural areas.

Szachnit excused Reabe and asked if any other members of the public wanted to address this petition. Justin Isherwood was sworn in. Isherwood stated he is a farmer in proximity of the tower. He was offered a tower a year or so ago and passed on it. Isherwood is concerned about how many towers are needed in the County, and what is the signal strength saturation at which point they can have reasonable cell phone use, and at the same time not have one every 40 or 160 acres. Isherwood stated he can see 14 towers within sight of his silo. Isherwood stated at some point, judgments have to be made and the County should address this situation. Isherwood asked if there is an abandonment policy on towers. McGrew stated if a tower is no longer needed, it is taken down. Bachhuber asked about a time period for taking down a tower. McGrew asked if there is anything in the ordinance about a timeframe and Pelky answered there is nothing about a timeframe. McGrew stated typically an ordinance is 180 days. If a carrier no longer needs a tower, there is still a significant financial investment, so they would want to be able to market to more carriers. If it came to a point there was no longer a need or if they were losing money, they would certainly take the tower down. Schuler stated there is a clause in the ordinance referencing taking down a tower after a certain period of inactivity. As with any regulation like that, the tower owner would always have a chance to come in and appeal that.

Isherwood asked if there is a requirement as to how many carriers per tower, and Schuler answered the ordinance requires a minimum of three. Klessig stated a tower only has to have one carrier to be built, and there is no guarantee there will be more than one. Szachnit stated that is true, but if there are three carriers, it makes sense to use the same tower. Schuler stated the goal is to keep it to a minimum number of towers, and when the Telecommunications Act was passed in 1996 by the Federal Government, it said you could not prohibit towers, only regulate the location. Pelky explained the ordinance states a tower would have to be removed if there has been no use/activity within a 12 month period.

Szachnit excused Isherwood. McGrew addressed the painting issue, and stated the ordinance mentions the tower must blend in. McGrew stated the FAA only gives two possibilities for filing for aviation construction; paint with a red light at night or daytime lighting system with a red light at night. McGrew stated this does not mean you can't do it, but it is a little bit of overkill to paint the tower and light it during the day. McGrew added the planes should not be flying in hazy conditions, and the point of the white light and lighting during the day is to indicate tower location.

McGrew stated there is a tower map that is downloadable by pilots. Reabe stated the National Association is trying to accomplish that, but with no success; it is unavailable at this time. Reabe stated a large problem is liability. If a pilot were to hit a tower that is not on the map, there is a liability issue. Szachnit asked about a website with tower locations, but Reabe stated not every tower is indicated. McGrew stated the FCC website has all structures over 200'. Reabe stated they are not only concerned with structures over 200'.

Szachnit read the following into the record:

- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the application complies with basic requirements of the Portage County Wireless Telecommunication Facility Ordinance, and requested BOA discuss attaching conditions, if approved.
- A letter from the Town of Plover, indicating the Town of Plover approves the request for a driveway access from Isherwood Road, contingent upon approval of the Portage County Drainage District and the Portage County Planning and Zoning Department.

There being no other members of the public wanting to testify, Szachnit closed the testimony portion of this hearing.

Deliberation and Decision

Bachhuber expressed concern about the number of towers, and believes it is important to get as much information and expertise on towers. In addition, Bachhuber stated they must be mindful of safety issues as more towers are requested.

Klessig agreed with Bachhuber, and stated it is very difficult, given the criteria, to turn down a request such as this. Klessig added he does not like how he sees the future as it relates to the number of towers.

Szachnit stated BOA is not here to change the ordinance or laws; they are here to see they are followed.

Motion by Jazdzewski to approve the request for a special exception, to include conditions 1, 2, 3, 4, 5, and 6 from the staff memo.

1. You must obtain a Portage County Zoning Permit.
2. Tower designed to accommodate 3 users.
3. Submit an annual information report to the Planning and Zoning Department to satisfy Section 7.3.9(D) of the Portage County Wireless Telecommunication Facility Ordinance.
4. A medium-intensity strobe light must be installed on top of the tower, and shall operate during the daytime, from May 1 through September 30 each year.
5. Contact aerial applicators about tower position and height prior to construction.
6. A letter from the FAA indicating the tower is equipped with proper lighting must be on file with the Portage County Planning and Zoning Department before issuance of the Zoning Permit.

Motion seconded by Soik. Motion passed unanimously by roll call vote.

Approval of Minutes

Bachhuber moved to approve the February 20, 2012 minutes as presented. Jazdzewski seconded. Motion passed 4-0 by roll call vote. Klessig abstained.

Correspondence/Updates

Next meeting tentatively scheduled for April 16, 2012.

Bachhuber asked if a larger map of the cell towers in the County could be provided, with color coded stick pins to differentiate between tower types, and have it permanently mounted in the conference room.

Klessig asked if there is any basis on which a cell tower request can be turned down? Bachhuber stated they need to develop expertise because it is ultimately the responsibility of the Board to approve these requests. Soik stated as long as there is a demand from the public for this service, there will continue to be requests for towers. Bachhuber does not believe they must do something that is contrary to the public safety, just because there is some demand. Schuler explained the Telecommunication Tower Ordinance explains what must be done to have a successful application for a tower. Staff's job is to make sure they submit the required information. BOA can deny if there are reasons the request does not meet the ordinance.

Bachhuber stated BOA general rules state they are allowed to ask for expertise anytime they feel it is necessary. Bachhuber stated legal questions come up, and in the past Corporation Counsel has sat in on meetings. Bachhuber asked if there is a need for a legal opinion on what BOA can or cannot do with this ordinance, and Schuler answered no.

Szachnit stated if a petition is approved or denied, there is always the opportunity for the general public or petitioner to appeal a decision.

Adjournment

There being no further business to come before BOA, Jazdzewski moved to adjourn, Klessig seconded, and motion passed by voice vote. Meeting adjourned at 5:28 pm.

Respectfully submitted,

Gayle Stewart, Recording Sec.

Lowell Klessig, BOA Secretary

Date of Approval

MINUTES
PORTAGE COUNTY BOARD OF ADJUSTMENT
MAY 21, 2012

Call to Order

Chairman Szachnit called the Portage County Board of Adjustment (BOA) to order at 4:00 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Bernhagen led the Pledge.

Klessig arrives at 4:01 pm.

Roll Call

Members present included Edward Szachnit, Marj Bachhuber, John Jazdzewski, Lowell Klessig, Scott Soik, and William Bernhagen (Alternate). Staff present included Jeff Schuler, Tracy Pelky, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Szachnit explained the meeting was properly advertised by a class 2 notice in the local newspaper. Testimony and questions should be addressed during the public hearing portion of the meeting. Anyone wanting to speak should sign in at this time.

PUBLIC HEARINGS

Gary and Mary Williams, Owners (P12-09)

The Gary and Mary Williams, owners, variance request from the Portage County Zoning Ordinance to construct a house in a location narrower than the 200 foot minimum required building lot width, in the R1 Rural & Urban Fringe Residence Zoning District, Town of Eau Pleine, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in Gary Williams and asked him to explain the request. Williams stated if they were to place their home at the required 200' lot width line, which is closer to the lake, they would be a little below the crest of the hill. The more natural placement would be at the top of the hill so water does not flow towards the home. It also appears the proposed home location would line up better with the other two on either side of Williams' property. Williams is proposing putting the front of the house along the 200' line. According to the plans, the house is going to be 36' deep, with a 14' deck behind it. They understand the deck is part of the house. Williams stated Mrdutt viewed the property with regard to water damage, and added they are proposing to take advantage of the natural dip in the land. This will work well with water conservation and getting the water away from the house, towards the rear of the property. Once they are at the top of the hill, a lot of these things are possible. He realizes it pushes them back to a spot which is 187' wide, instead of 200'. This is the reasoning for the request.

Mrdutt stated the property is zoned R1, and the ordinance requires a 200' minimum building lot width. As stated earlier, the request is for 187' building lot width. Mrdutt stated placing the house on the top of the hill allows more options on treating runoff from impervious services on top of the hill to the rear of the lot, rather than having it flow down towards the road, and ultimately towards the lake. From a conservation standpoint, this is a benefit.

There being no questions from BOA, Szachnit excused Williams.

Szachnit read the following into the record:

- A letter from the Town of Eau Pleine Clerk dated May 16, 2012, stating at the Town of Eau Pleine Board Meeting held on May 9, 2012, a motion was made and seconded in favor of granting the variance request.
- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the request complies with basic requirements for a petition for a variance to the Portage County Board of Adjustment, and requested BOA discuss attaching conditions, if approved.

Szachnit asked if any members of the public wanted to address this petition. There being no members of the public wanting to testify, Szachnit closed the testimony portion of this hearing.

Deliberation and Decision

Bachhuber stated this request meets all requirements for a variance and added the following:

- There is no other location on the lot to put the house.
- This will serve the purpose to drain water behind the house rather than to Lake DuBay.
- This would have no negative effect on the neighborhood in any way.
- This would serve the public interest because there will not be runoff to Lake DuBay.

Motion by Bachhuber to approve the request for a variance, with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. You must obtain a Portage County Stormwater Permit prior to issuance of a Zoning Permit.

Motion seconded by Soik. Motion passed unanimously by roll call vote.

Szachnit asked if they should proceed with the next hearing, as neither the petitioner nor agent is present at the meeting. Mrdutt asked if BOA could move on to the business portion of the meeting.

Motion by Bachhuber to recess the hearing until such time as the petitioner appears, and to move on to the business meeting. Motion seconded by Soik. Motion passed unanimously by roll call vote.

Approval of Minutes

Bachhuber noted an error on page three, second paragraph, last sentence of condition three, which reads, "...turns onto to the..." This should read, "...turns onto the..."

Bachhuber questioned wording on page five, third full paragraph, third sentence, which states... "paint with a red light at night..." Stewart explained this meant red and white paint on the tower, with a red light at night. Jazdzewski clarified this is the proper way of describing the strobe lighting.

Soik moved to approve the March 12, 2012 minutes, with the change noted on page three. Jazdzewski seconded. Motion passed unanimously by roll call vote.

Correspondence/Updates

Pelky gave an update on the State Highway 66/County Road J safety issue brought up at a previous meeting (Plover River Farms). It was not a condition of BOA, but it was requested staff contact the Highway Department regarding heavy machinery turning south on County Road J and then making a quick left turn, and establishment of a no-passing zone. Pelky contacted the Highway Department, and due to the visibility being wide open, the Highway Department determined there is no reason to have a no-passing zone in that area.

Bachhuber stated she had concerns with the way her motion on the above-referenced request was amended. There was no request for clarification as to what she meant by her condition stating the Highway Department should be contacted, or by whom. Bachhuber stated in circumstances like this, it should be clarified as to what the original motion is and what the intent is of the motion, rather than go through an amendment process. Bachhuber stated BOA is charged with looking at the safety of situations, and it bothers her that a safety condition is removed on something like this. Bachhuber believes if there were an accident or something that happened as a result, it could be said that BOA removed that condition. Bachhuber stated BOA needs to be cognizant of safety in some of these situations.

Szachnit stated he believes it was clarified at the meeting that it was not part of BOA's function to contact the Highway Department. Bachhuber added that Pelky stated it should be included as part of the discussion. Szachnit stated it should not be imposed as a condition on the petitioner, however, they could ask Planning and Zoning Staff to approach the Highway Department with the concerns.

Bachhuber stated it comes down to if this is a condition, and if the Highway Department did not make the change, did the entire request fall apart. Pelky stated this is why the condition was rescinded. Klessig stated the way it stood, if BOA had approved as originally stated, the petitioner would not know whether they could go

ahead. Bachhuber agreed, but stated both these things seem contradictory. Bachhuber stated they were advised by staff to do this, but then it was rescinded.

Jazdzewski stated the fact is it was not in BOA's power to request the petitioner contact the Highway Department. This is a public safety concern that should be addressed either by the Township or County. This is the reason for rescinding the condition; the wrong answer from the Highway Department would have stopped the petition from moving forward. Jazdzewski stated the condition was rescinded, and staff was asked to address the concern, which was the proper thing to do.

Schuler stated there are legitimate safety concerns BOA must consider. In this case, there was a circumstance where a resident (Town Chair) brought up a situation he felt strongly could happen. Schuler stated there are two types of safety concerns: universally acknowledged, where you would check things out by speaking with the Highway Department or others; and other issues where items would be tabled for further investigation. Schuler does not believe blame could be assigned for an accident in this situation because it is an open road with road rules, and accidents happen all over in places that are properly or not properly posted. Schuler added in this situation, the Township raised a concern and it was addressed by Pelky speaking with the Highway Department.

Bachhuber stated this was the second concern brought up at the same intersection, and asked if this matter should have been given back to the Township to address and resolve with the Highway Department, before coming before BOA. Schuler stated BOA had to try to figure out how to handle this, and that this issue did not pertain to the application.

Klessig stated the problem is BOA is faced with a petition, and the petitioner has a right to judicial review. The other decisions are legislative or administrative, and are not a decision that is subject to BOA's review. BOA has no influence over the Township or County in matters like this.

Bachhuber stated she is making a procedural point. Should this matter have been tabled until such time the issue was addressed at the town level? BOA has sent items back to the Townships for action in the past. Schuler added BOA rightly determined that was not the case in this situation.

Mrdutt informed BOA he spoke with Brad Beadle, agent in P12-10, who stated he is unable to attend the meeting today due to a job situation. Mrdutt stated his recommendation is to hold this hearing at next month's meeting, as requested by Beadle.

There was a procedural discussion regarding this petition.

Motion by Soik, second by Klessig, to hold open petition P12-10 until the next regularly scheduled meeting. Motion carried by roll call vote.

Schuler distributed information relating to the Telecommunications Act.

There was a brief discussion regarding cell tower issues and wind generation towers.

Jazdzewski asked if the request that is moved to the next meeting is for a request for a home business that was already in operation, and Mrdutt answered yes. Mrdutt stated this was discovered when the request for a sign was submitted. These questions will be addressed at the proper time, which is the next meeting.

Adjournment

There being no further business to come before BOA, Jazdzewski moved to adjourn, Klessig seconded, and motion passed by voice vote. Meeting adjourned at 4:46 pm.

Respectfully submitted,

Gayle Stewart, Recording Sec.

Lowell Klessig, BOA Secretary

Date of Approval

MINUTES
PORTAGE COUNTY BOARD OF ADJUSTMENT
JUNE 18, 2012

Call to Order

Chairman Szachnit called the Portage County Board of Adjustment (BOA) to order at 4:00 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Bernhagen led the Pledge.

Roll Call

Members present included Edward Szachnit, Marj Bachhuber, John Jazdzewski, Lowell Klessig, Scott Soik, and William Bernhagen (Alternate). Staff present included Tracy Pelky, Chris Mrdutt, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Szachnit explained the meeting was properly advertised by a class 2 notice in the local newspaper. Testimony and questions should be addressed during the public hearing portion of the meeting. Anyone wanting to speak should sign in at this time.

PUBLIC HEARINGS

Arnold and Judy Karpinski, Owners (P12-11)

The Arnold and Judy Karpinski, owners, special exception request from the Portage County Zoning Ordinance to exceed more than one commercial vehicle on-site for a tree landscape service business, and the ability to operate a sawmill, in the A3 Low Density Agricultural Zoning District, Town of Stockton, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in Arnold Karpinski.

Mrdutt stated Karpinski received BOA approval in 2007 to operate a contractor storage yard. Since that time, the ordinance has changed the definition of contractor storage yard. It is more applicable today to say the ability to have more than one commercial vehicle on the property, and to operate a sawmill. In 2007, Karpinski was granted approval; however, he failed to obtain his zoning permit within one year. Once the year lapsed, the decision from 2007 was void. This is the reason Karpinski is before BOA today.

Karpinski apologized and stated in 2007, he thought after the meeting the process was complete, and was unaware of the deadline for the zoning permit.

Bachhuber stated there are two requests; therefore, these requests should be ruled upon separately.

Jazdzewski asked if this sawmill was operated as a private business with no commercial sawing, is a special exception still required. Mrdutt answered yes, if he is selling a product or using it to make a product. Mrdutt added BOA would have to determine if the sawmill is commercial. Jazdzewski asked if it is operated on an agricultural basis, is this considered a commercial operation? Pelky stated the ordinance does not differentiate between personal or commercial. The ordinance states a temporary sawmill (for a period of less than 12 months in a calendar year) would need a zoning permit. If a sawmill is operated on a permanent basis, a special exception is required.

Karpinski stated the sawmill is portable and is kept in a shed so as to not create a lot of noise. Karpinski added this has been a childhood passion, and his intent was to have his own sawmill. Karpinski stated he doubts he will do commercial sawing, but he would like the right to do so. He intends to use logs that are basically a waste product, and either sell them for income, or use them for woodworking projects. Karpinski added this is a small operation.

Soik asked if his intent is to upgrade someday, and Karpinski answered that is a possibility, but doubtful.

Bachhuber asked what specifically the service is, and Karpinski replied tree removal, landscaping, installation of sprinkler and irrigation systems, and anything relating to landscaping. Karpinski added if he removes trees from

someone's property, he takes them back to his property and saws them up. This is all part of his operation and a way to recycle.

Bachhuber asked if the hours of operation will be the same as stated in the 2007 decision. Karpinski stated yes, he will operate Monday through Thursday, 7am – 5:30pm, except if there is storm damage and people are in need of his service. Bachhuber asked if there are customers that are on-site, and Karpinski answered not at this point. Bachhuber asked if there will be a sign, and Karpinski answered no. Bachhuber asked if there are bins located on-site, and Karpinski replied no. Bachhuber asked Karpinski if he would be comfortable with BOA saying he needs to come before BOA for further approval, if he decided to upgrade his operation beyond what he is doing right now, or if customers were to come on-site. Karpinski answered yes, with the exception of customers coming on-site. He would have customers on-site, if they were looking at plans in his office. His office is in the building located between two bigger buildings.

Bachhuber asked what type of hazardous materials are located on-site and how the sawmill is powered. Karpinski answered the sawmill is PTO driven; powered with a 80 horsepower tractor. Karpinski stated all maintenance is done off-site, so the only hazardous materials on-site are oil and brake fluids. Klessig asked if herbicides are kept on-site, and Karpinski answered no.

Bachhuber asked Karpinski to address the complaint from his neighbor. Karpinski stated this has been a longstanding issue with the neighbor. The neighbor was not happy with the placement of Karpinski's house and when a service road was put in to his shop. The neighbor complained about the dust, so Karpinski planted trees and a lot of foliage, which has grown very well. In addition, Karpinski has been using calcium chloride to keep the dust down. Karpinski stated his employees know to drive slowly when entering and exiting the property. To date, Karpinski still has not had any positive response from the neighbor.

Klessig asked if that is a field to the north of the property, and Karpinski answered yes, there are fields all around the property, except to the east, which is wooded.

Bachhuber asked if Karpinski feels he creates a lot of noise with his sawmill, and Karpinski answered no. Bachhuber asked if anybody else has complained about noise, and Karpinski answered no. Karpinski added there have been no complaints about any aspect of their operation since the original approval in 2007. Soik asked Pelky and Mrdutt if there have been any complaints, and Mrdutt stated as highlighted in his memo, there has been no negative feedback.

There being no further questions from BOA, Szachnit excused Karpinski.

Szachnit read the following into the record:

- A letter from the Town of Stockton stating the Town of Stockton Board approved the request.
- Excerpts from the Town of Stockton Plan Commission minutes.
- Szachnit added there is a letter already in the record from Kenneth M. Wanta, surrounding property owner, expressing his concerns with this request.

Motion by Bachhuber to divide the question and have the request addressed in two parts. Motion seconded by Klessig. Motion passed unanimously by voice vote.

Bachhuber stated if the operation changes or expands, she would want a requirement that Karpinski appear before BOA for approval.

Motion by Jazdzewski, second by Soik, to approve the request for a special exception as it pertains to operation of a sawmill, with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. If any hazardous materials are stored on the property, a list of the materials must be on file with the Portage County Sheriff's Department, Plover Fire Department, and Portage County Planning and Zoning Department.
3. Conditions 7, 8, 9, 12, 13, & 14 of the June 18, 2007 Board of Adjustment decision (below) should be applied to this request.
7. Days of operation are Monday through Friday, 7:00 am to 5:30 pm, and some Saturdays.

8. Recycled tree and log materials may be stored on the site, no pallets or other foreign wood scrap materials are allowed.
9. Signage can be no larger than six square feet and meet setbacks.
12. Unannounced visit by Permanent Staff is allowed.
13. All information in application packet is considered part of the conditions of approval.
14. Storage bins are to be on cement slabs to house bark, wood chips, rocks, etc.

Soik asked Bachhuber if she is going to require Karpinski to come before BOA again if he expands his operation, will she require Karpinski to pay for that. Bachhuber stated she is unaware of the policy, but if he expands his operation, he should come back before BOA. Mrdutt stated if it is a condition set by BOA, it would be a new application and petition fee.

Jazdzewski stated his understanding of Bachhuber's recommendation is if Karpinski was to go to a commercial type of sawing operation, he would have to reappear before BOA. Jazdzewski asked if this is the same as if he purchases a bigger truck. If Karpinski wants to upgrade his sawmill, he would have the right to do that with a special exception. It is only if he were to change his type of operation into a commercial operation that he would have to come back to BOA. Bachhuber stated he already has a commercial operation. Soik stated his sawmill is not a commercial operation. Soik asked Bachhuber if she is proposing that if Karpinski wants to go commercial with the sawmill, would he have to appear before BOA again, and Bachhuber answered yes. Jazdzewski stated that could be included as an original condition. Mrdutt informed BOA that they do not define what is a commercial sawmill versus a private sawmill.

Pelky added BOA may want to have a condition establishing hours. Pelky is unsure if the hours were covered under the original decision from 2007. Jazdzewski stated condition #7 from the 2007 decision lists the days and hours of operation, and this would have to be the criteria for the sawmill. Pelky added these hours can be abided by whether Karpinski is sawing lumber for himself or somebody else. Mrdutt added the ordinance addresses the sawmill, not where the product is going.

Soik asked if it would be staff's recommendation to move forward without an amendment, and Mrdutt answered yes.

Motion passed unanimously by roll call vote.

Motion by Jazdzewski to allow a contractor storage yard and to allow for more than one commercial vehicle on-site, with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. If any hazardous materials are stored on the property, a list of the materials must be on file with the Portage County Sheriff's Department, Plover Fire Department, and Portage County Planning and Zoning Department.
3. Conditions 7, 8, 9, 12, 13, & 14 of the June 18, 2007 Board of Adjustment decision (below) should be applied to this request.
 7. Days of operation are Monday through Friday, 7:00 am to 5:30 pm, and some Saturdays.
 8. Recycled tree and log materials may be stored on the site, no pallets or other foreign wood scrap materials are allowed.
 9. Signage can be no larger than six square feet and meet setbacks.
 12. Unannounced visit by Permanent Staff is allowed.
 13. All information in application packet is considered part of the conditions of approval.
 14. Storage bins are to be on cement slabs to house bark, wood chips, rocks, etc.

Szachnit asked if there is a stipulation as to how many vehicles are allowed, and Jazdzewski stated he is not adding a stipulation.

Motion seconded by Soik.

Jazdzewski stated the location of Karpinski's property is east to northeast of Wanta's, and Wanta's property is also surrounded by agricultural land, which may or may not be bare grounds. Jazdzewski understands the dust issue, however, if Karpinski has been applying emulsifier to the surface, he is in good faith trying to prevent the dust, and is being accommodating as possible to surrounding neighbors.

Motion passed unanimously by roll call vote.

James and Kathleen Tessmer, Owners (P12-12)

The James and Kathleen Tessmer, owners, variance request from the Portage County Shoreland Zoning Ordinance to construct a raised deck within the setbacks from Lake DuBay, in the R2 Single Family Residence Zoning District, Town of Eau Pleine, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in James and Kathleen Tessmer.

Mrdutt stated this property is zoned R2 Single Family Residence, and is located on Lake DuBay. The request is to increase the deck size, and for a variance from the Shoreland setback of 100'. Mrdutt added the current setback is 8.5'.

James Tessmer stated this is a unique piece of property and they have been there 32 years. They would like to add on to the existing deck to accommodate more people and to try to prevent anyone from falling or getting hurt on rocks. Tessmer added the deck would be on the upper level, the same as the main level of the house. Tessmer stated they do a lot of cooking outside and this would give easier access to the house. Tessmer stated the existing deck is small, and this would add more room. Kathleen Tessmer stated both of her knees and one hip have been replaced and it is not easy going up and down stairs while carrying things. Kathleen Tessmer added it is difficult to cook upstairs while having anyone around. James Tessmer stated there is no place else on the property to put a deck. Tessmer distributed pictures to BOA members and added the deck would not be seen from the lake side, unless you were square in front of it with a boat.

Jazdzewski stated the lake comes around the corner of concrete where there is a dock. This would make the setback 8.5'.

There being no further questions from BOA, Szachnit excused James and Kathleen Tessmer.

Szachnit read the following into the record:

- A letter from the Town of Eau Pleine stating the Town of Eau Pleine Board approved the request.
- An email from Mike Wenzholz, Regional Shoreland Specialist, Department of Natural Resources, providing comments stating he does not believe the requirements have been met for a variance.

Soik asked for clarifications on the legal non-conforming structure and on Portage County not adopting NR115. Mrdutt stated Portage County was in the process of updating the Shoreland Ordinance when there were changes made by the State Legislature that affected it. In the essence of the new ordinance, they are looking more at impervious surface and mitigation. Soik asked if this would be in compliance with the new ordinance, and Mrdutt answered no; it would still require a variance.

Motion made by Klessig to deny the petition for a variance for the following reasons:

1. Based on a lack of showing of hardship by the applicant or observed by the Committee on-site.
2. The construction would be an expansion of a non-conforming use to less than 10' from the lake.
3. No mitigation was proposed.

Motion seconded by Jazdzewski.

Bachhuber stated BOA can only deal with the law as is. BOA cannot change the law or look at a proposed law. Bachhuber stated as the law is, and because NR115 has not been adopted by Portage County, a vertical expansion cannot be considered. Bachhuber stated unnecessary hardship to the petitioner has not been demonstrated as the property has been used for a long time. Szachnit stated any hardship must be imposed by the property, not the property owner. Bachhuber stated she understands Tessmer wanting more room and that it can be difficult to go up and down stairs; however, the property characteristics are not unique enough, and have not changed in the past few years to warrant granting a variance.

Motion to deny the variance passed 4-1 by roll call vote, with Soik voting nay.

Sterling & Rhonda Kienbaum, Badger Properties of Wisconsin Rapids Inc., Owners/Peter Donner, Agent (P12-14)

The Sterling and Rhonda Kienbaum, Badger Properties of Wisconsin Rapids Inc., owners, Peter Donner, agent, special exception request from the Portage County Zoning Ordinance to erect a sign that is greater than six square feet, in the A4 General Agricultural Zoning District, Town of Plover, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in Peter Donner.

Mrdutt stated the property is zoned A4 General Agricultural. There have been several approvals for the property and a newly expanded portion of the operation is for an automobile and recycling yard. Petitioner is asking to put up a larger sign advertising the business. Mrdutt added even though this property is zoned A4, the property is commercial in nature, and stressed the operation has the proper approval.

Donner stated over the past few years, the owners have continued to improve the property. Donner stated the building is pretty much obsolete, and it is difficult to grow the business out of the older building. They have applied for all necessary permits and are working with environmentalists at the DNR to make sure they have everything in line for what they hope to do. They hope to expand and get to a point where they are able to hire more employees and make the business function more efficiently. Donner stated he feels a sign is a great form of advertising, and can draw attention to the fact they have invested a lot of money into the property and operating the business to see it grow.

Bachhuber asked if the digital sign will have moving messages. Donner stated he spoke with Tony Culbert from the Department of Transportation (DOT) and he is aware there are restrictions and limitations to signs. Donner stated this sign would conform to all of those restrictions and limitations. He does not know if they allow a moving sign, but they allow digital signs. Bachhuber asked what Donner's interpretation is for a digital sign. Donner replied in his opinion this means digital lighting, letters, and words that are allowed to be up for a certain amount of time; they can change but not scroll. Mrdutt stated his understanding is they cannot scroll or move faster than three seconds. Donner agreed, stating the words could not be a continuous scroll.

Jazdzewski asked who would be responsible for maintaining the character of the sign as far as what type of message display can be used. The sign owner is responsible, but who would enforce any complaints? Mrdutt stated if BOA approves the request, they would issue a permit, which would hold them to a location, setbacks, and size. The aspects of how a sign flashes would be enforced by DOT.

Bachhuber asked Donner why he wants the sign, and why does it have to be a big sign. Donner stated he has this type of sign at another business that works well for them; it draws attention to the business. People are there to make money from recycling metal parts, cars, aluminum cans, etc. Donner is finding this sign has worked well for him. Bachhuber asked if he has a lot of customers coming off the street, and Donner answered yes. Donner asked Bachhuber what she means by a lot of customers, and Bachhuber asked how many customers per day he has. Donner stated he could have 10 or 100. Bachhuber asked if that is his intent, to draw more customers, and Donner answered yes, and to advertise. Bachhuber asked why he wants a digital sign, and Donner answered because they have more than one thing to say to the public about what they do. Bachhuber asked such as what, and Donner answered such as they recycle aluminum cans and the price being paid for that day, or tomorrow they may be paying a different price per pound, or that they're buying car batteries, or will buy their old junker. This is a more efficient means to advertise to the public than just a static sign.

Klessig asked if Donner is trying to get nighttime customers with a lighted sign, and Donner replied no. Klessig believes lighting is an issue that should be discussed. Klessig stated signs on Highway 54 appear to have more height relative to size, and he feels if the sign was lower, it would look better. Klessig believes because the land is so flat, the sign is visible to people. Donner stated he cannot speak to any of the other signs, but for their sign, they want to make sure they are not going to impede or block vision for anyone entering or exiting the property. He does not know if most of the signs are at arbitrary heights.

Bachhuber asked if Donner designed the sign or did a sign company approach him, and Donner answered with his other location in Oshkosh, he approached the sign company and explained what they wanted. Donner said they wanted a nice sign, and it is the sign company's design. He didn't design it. Bachhuber stated it is their design, and Donner added with his approval. Bachhuber asked if this is the same sign they have in Oshkosh, and Donner answered yes. Donner added they have neighbors near their location in Oshkosh, and they had the Town of Algoma come with a light meter to insure the sign is not too bright and not bothering anybody.

Szachnit asked if the light intensity changes with daylight; is it brighter during the day so it is more visible and does the intensity decrease at night? Donner stated he believes it is just one level. Donner compared it to headlights on a car. You see how bright they are during the day, and at nighttime the headlights intensity hasn't changed, but they appear to be brighter.

Soik asked if Donner anticipates if this sign was run 24/7, that he could pick up customers from the drivers that see the sign at night, and Donner stated he hopes to advertise to be able to get customers.

There being no further questions from BOA, Szachnit excused Donner. Szachnit asked if there were any members of the public wanting to testify. Tim Karcheski, Town of Plover Chairman, stated they have reviewed the sign Donner is requesting. Karcheski stated there is a sign at the Super Shell 39 and during the daytime, they can read very clearly what is being advertised. The type of advertising can be changed, and he believes the digital sign is the way to go. Karcheski stated the Town of Plover Board is in favor of this type of sign.

Pelky stated the ordinance reads no flashing or blinking signs, and BOA may want to reiterate based on the ordinance. The sign can change, but cannot be blinking or flashing.

Szachnit read the following into the record:

- A letter from the Town of Plover stating the Town of Plover Board approved the request contingent upon action by BOA.

Bachhuber asked Mrdutt to reiterate why he has nothing in writing from Tony Culbert, DOT. Mrdutt stated he had a phone conversation with Culbert who said he met with a representative from Donner's company at the site and agreed where the best spot was for the sign. Mrdutt added Culbert stated he had no issues with this sign. Bachhuber asked Mrdutt if Culbert saw the design and the height of the sign, and if he knows it is a digital sign, and Mrdutt answered yes to all, adding Culbert received the entire packet.

Bachhuber informed BOA that once a sign is approved, you cannot legislate what goes up on the sign.

Szachnit closed the testimony portion of the hearing and read the special exception standards.

Motion by Jazdzewski to approve the special exception request with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. The sign must be setback at least 5 feet from the right-of-way/property line along State Highway 54.
3. The sign shall follow all DOT regulations.

Motion seconded by Bachhuber.

Motion by Klessig to amend main motion to allow a changeable digital message, but not a revolving/scrolling message.

Bachhuber asked if scrolling is already prohibited. Mrdutt stated his understanding of DOT regulations is that the sign cannot flash faster than three seconds. He does not know if that is the same with a scrolling message.

Motion to amend seconded by Bachhuber.

Klessig explained his reason for amending the motion, stating a flashing message could be a distraction and possibly a public safety issue.

Bachhuber reiterated again that once permission is given for this sign, you cannot control the sign anymore.

Jazdzewski stated one of his conditions was that all criteria established by DOT must be followed. If DOT is okay with the sign, he would be okay with it.

Klessig stated DOT does not have very strict regulations on digital signs, and he feels there is a huge amount of controversy in communities where there are digital signs. Klessig feels if BOA thinks they need more strict standards added, they should be sure to do it. Soik asked if Klessig would depend on the people in that area, and Klessig stated they are making a judgment with conditions, and he feels this condition is reasonable. Soik stated Klessig mentioned it would be distracting to people that are in and from that area, and would he value their opinion.

Soik added people in that neighborhood had the opportunity to show up at this meeting, in addition to the Town meeting, and that the Town Chair is in attendance at this meeting. He does not feel this is a big issue. Klessig stated his biggest concern in this case is traffic safety.

Motion to amend passed 3-2 with Jazdzewski and Soik voting nay.

Main motion, as amended, passed unanimously by roll call vote.

Douglas and Rosemary Bruder, Owners / Brad Beadle, Agent (P12-10)

The Douglas and Rosemary Bruder, owners, Brad Beadle, agent, special exception request from the Portage County Zoning Ordinance to operate a home occupation, and construct a sign greater than 6 square feet, in the A4 General Agricultural Zoning District, Town of Plover, was opened by Szachnit, who read the public hearing request.

Szachnit swore in Brad Beadle.

Mrdutt stated Beadle wants the ability to operate a home occupation and have a sign exceeding six square feet. Mrdutt added the home occupation is permitted inside the house as long as no more than 50% of a floor area is being used for business purposes. Mrdutt stated Beadle is requesting the sign, and he wanted to make sure BOA hears the request for the home occupation as well to make sure that is operating according to ordinance requirements.

Beadle stated he wants to put up a sign to promote and make the public aware of the Roto-Rooter business. Szachnit asked if there is a lot of traffic on the road, and Beadle answered yes, adding a lot of people use that road to go back and forth to Menards. This is a traffic route to and from Plover. Klessig asked if people come into the yard to get service, and Beadle answered no. He very seldom has customers at the property. Beadle stated occasionally a customer may come over and pick up a riser for a septic system, and once in a while someone may stop by to make a payment. Beadle stated this sign is more for advertising, as opposed to helping someone locate the business. Beadle feels a smaller sign is not what he needs. He is hoping to have nice landscaping around the sign. Klessig asked the size of the requested sign, and Szachnit replied the application states 6' x 3', and the top of the sign shows to be 8' off the ground. Mrdutt stated the petition has the proposed sign size, and it is up to BOA to approve that. The petitioner will be held to what is included in the packet. Beadle described the landscaping that will be put in around the sign will be more groundcover. He stated his original landscaping plan changed due to recent storm damage. Szachnit asked Beadle if he would exceed the original estimate of square footage for the sign, and Beadle answered no.

Bachhuber asked Beadle when he expects to start and finish his project, and Beadle responded he hopes to start as soon as possible and be done by the end of summer. Bachhuber asked if Beadle will do his own landscaping, and Beadle answered yes.

Jazdzewski asked if there will be lighting, and if the County has specific guidelines. Beadle stated there will be reflective lettering, and he would like to have landscape lighting that goes on at night and turns off during the day. Mrdutt stated you can self-illuminate a sign or you can shine onto a sign, which will not be allowed in this case. You may not shine out onto a road. Beadle stated it will be far enough away from the road, and any kind of lighting he uses will be more like landscaping lights.

Jazdzewski stated this request also includes the home occupation, and there is a requirement as to the number of family members that can be employed. Beadle stated he was aware of this. Bachhuber stated Beadle has already been running a home occupation for a while, and Beadle agreed. Beadle stated the most employees he had were two, non-related employees, and at this time he has one. Soik asked Beadle if he foresees needing or wanting more employees, and Beadle answered no. Beadle stated he would like to buy a pumping business in the future, but at this time the opportunity has not presented itself.

There being no further questions from BOA, Szachnit excused Beadle.

Szachnit read the following into the record:

- A letter from the Town of Plover Clerk stating at the Town of Plover Board voted to approve this request, contingent upon action by BOA.

Bachhuber stated BOA is required to consider the following:

- The maintenance of safe and healthful conditions,

- The compatibility of the proposed use with existing development and development anticipated in the foreseeable future,
- The importance of the services provided by the proposed facility to the community,
- The availability of alternative locations,
- Such other factors as are relevant to the purposes of this Ordinance,
- The use would not substantially harm the public health, safety, and general welfare, or would not be contrary to State Law or Administrative Code,
- It would be consistent with surrounding uses and the neighborhood would not be injured, and
- The use is consistent with this Ordinance and any County or Municipal plan, which is based on historic, geographic, and socio-economic facts.

Bachhuber stated she does not believe this creates a safety hazard.

Motion by Jazdzewski to approve the special exception request for a home occupation and a sign greater than six square feet, with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. If any hazardous materials are stored on the property, a list of the materials must be on file with the Portage County Sheriff’s Department, Plover Fire Department, and Portage County Planning and Zoning Department.
3. If the business is conducted within the residence, no more than 50 percent of a floor area can be used for business purposes. There can be no external alterations that would effect a substantial change in the residential character of the house.
4. Cannot employ more than two non-family members.
5. Lighting of the proposed sign must follow standards set by the Portage County Planning and Zoning Department.

Motion seconded by Klessig. Motion passed unanimously by roll call vote.

Correspondence/Updates

There was brief discussion on reading items into the record during a motion, and when is it necessary.

Klessig asked what the criteria are for a special meeting. Mrdutt stated a special meeting can be set if an applicant wants a meeting before a regular monthly meeting and if they pay a double fee. A special meeting can be held based on availability of the Board so a quorum can be met, and as long as all publication deadlines can be met.

There was discussion on special meetings, why they’re necessary, and in what situations.

Bachhuber asked why a hearing was held on a previous request in a shoreland area, knowing that shoreland zoning would not allow a specific request, but the law did not speak to the issue. Why did it come before BOA? Shouldn’t staff address this with the property owner? Mrdutt stated that it is a standard procedure for Zoning staff to discuss the previous precedent with Board action. In this case, the property owner was fine with the decision and probably knew what the decision was going to be. Mrdutt cannot tell someone it is a waste of money, because it is their right to request the hearing.

Adjournment

There being no further business to come before BOA, Jazdzewski moved to adjourn, Bachhuber seconded, and motion passed by voice vote. Meeting adjourned at 5:42 pm.

Respectfully submitted,

Gayle Stewart, Recording Sec.

Lowell Klessig, BOA Secretary

Date of Approval

MINUTES
PORTAGE COUNTY BOARD OF ADJUSTMENT
JULY 16, 2012

Call to Order

Chairman Szachnit called the Portage County Board of Adjustment (BOA) to order at 4:00 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Klessig led the Pledge.

Roll Call

Members present included Edward Szachnit, Marj Bachhuber, John Jazdzewski, Lowell Klessig, and William Bernhagen (Alternate). Member Scott Soik was excused. Staff present included Jeff Schuler, Tracy Pelky, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Szachnit explained the meeting was properly advertised by a class 2 notice in the local newspaper. Testimony and questions should be addressed during the public hearing portion of the meeting. Anyone wanting to speak should sign in at this time.

PUBLIC HEARINGS

Leonard and Ruth Ann Pliska, Owners/Guy Stewart, Agent (P12-13)

The Leonard and Ruth Ann Pliska, owners, Guy Stewart, agent, special exception request from the Portage County Wireless Telecommunication Facility Ordinance to erect a 310' self-support communication tower and associated ground equipment, in the A3 Low Density Agricultural Zoning District, Town of Stockton, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in Guy Stewart and asked him to explain the request. Stewart stated he is representing SBA which is a tower company. Stewart was unable to find a tower that would work for Verizon within this area. There is a tower to the west that is too short and is not structurally able to handle what Verizon wants to put on a tower. Stewart stated the Pliskas agreed to host a tower, and the tower will be placed quite a bit back on the property. Stewart added Verizon is entering into this market with their 4G overlay, and this is new for them in this area.

Pelky stated this request is for a 310' tower and associated equipment. There is a letter in the file from the Town of Stockton.

Klessig stated this tower seems significantly taller than the more recently requested towers, and asked Stewart to explain the reasoning for this. Stewart stated Verizon is going on this tower at approximately 200' or 210', and as the ordinance states, they must make sure the tower is capable of handling three or more tenants. If the tower is too short, in certain instances, the next tenant will be 15' shorter, and so on, so the other tenants may be too low and may end up looking for another tower in a new location. The request is for a 300' tower to accommodate more carriers above the 200' level. Klessig stated this would take it to 230'. Stewart stated when he mentioned 15' he meant that is the closest you can possibly get. In terms of RF signals, everyone looks at their signals differently and how close towers are.

Szachnit asked what the propagation distance on a tower is with 4G? Stewart distributed a larger map and signal degradation was discussed. Stewart added there are capacity issues and hills, vegetation, and terrain can affect tower height. Szachnit stated this tower is quite a bit taller than recent towers, and Stewart replied there was another one recently approved in the Town of Dewey which was 300'.

Bachhuber stated the tower is 300', yet Stewart is requesting 310'. Stewart explained the actual tower is 300', but the lightning rod is 10', and this is the reasoning for the request for 310'.

Jazdzewski asked Stewart if consideration will be given for extra grounding because of the sand and gravel in the area, and due to the dry ground conditions. Jazdzewski added this could be a concern to the landowner and the effect on his animals. Stewart stated grounding and lightning strikes are huge issues for the equipment, and

there is an extensive grounding system in place. In addition, the towers are designed based on the type of soils. Jazdzewski asked if this is for structural integrity only, and Stewart answered primarily for structural integrity, but consideration is given to grounding.

Bachhuber stated she has concerns about security and the possibility of vandalism or worse. Stewart stated there is a lock system on the chain link fence, and the shelters have a coded pad that only cell technicians have access to. In addition, the building is alarmed and monitored 24/7.

Bachhuber asked how often somebody makes a physical inspection of the property, and Stewart answered three or four times a month at the most.

Bernhagen asked when an alarm goes off, where does it go to, and Stewart answered Appleton. In addition, each site has a cell technician assigned.

There being no questions from BOA, Szachnit excused Stewart. Szachnit asked if any members of the public wanted to address this petition. There being no members of the public wanting to testify, Szachnit closed the testimony portion of this hearing.

Mrdutt noted his memo states there are no residences within one mile of the proposed tower location; however, there is one residence closer than one mile. In addition, there is a letter from the Town of Stockton that will be read into the record.

Szachnit read the following into the record:

- A letter from the Town of Stockton stating at the Town of Stockton Board meeting held on June 11, 2012, the Town Board approved the request.
- Excerpts from the minutes of the Town of Stockton Plan Commission meeting held June 6, 2012, stating the Plan Commission voted to approve the request.

The above referenced minutes included a statement in which Midwest Renewable Energy asked to possibly subcontract for a commercial wind tower in the future. Szachnit asked if that request is associated with this request in any way. Stewart stated that request has nothing to do with this request, and his understanding is Midwest Renewable Energy is looking for a favorable opinion towards this communication tower, which would hopefully give them a favorable decision if they requested a wind tower in the future.

Szachnit read the special exception standards.

Klessig stated he has the same concern as prior requests, but not specific to this case. Klessig stated he has an issue with the one-mile distance as stated in the ordinance. He feels this leaves the potential for too many cell tower sites. He says there is no way to translate this into a negative decision for this particular site. Klessig believes we are chipping away in each case when a tower is approved, and we are making bad public policy by not having stronger control of the situation.

Jazdzewski stated he believes the application is in order and he is prepared to make a motion.

Bachhuber stated she feels there are some areas of the ordinance that are somewhat confusing and she feels this needs to be addressed in the business meeting. Bachhuber stated regarding the statement by Midwest Renewable Energy, BOA cannot decide or give any consideration to any other request in the future until an application is made.

Bernhagen stated this is an ideal location for a tower. This is an old gravel pit, and what else would you do with the property.

Motion by Jazdzewski to approve the request for a special exception, with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. Tower designed to accommodate 3 users.
3. You must submit an annual information report to the Planning and Zoning Office to satisfy section 7.3.9(D) of the Portage County Wireless Telecommunication Facility Ordinance.

4. A medium-intensity strobe light must be installed at, or near the top of the tower, and shall operate during the daytime, from May 1 through September 30 each year.
5. Contact aerial applicators about tower position and height prior to construction.
6. A letter from the FAA indicating the tower is equipped with proper lighting shall be on file with the Portage County Planning and Zoning Office before issuance of the Zoning Permit.

Motion seconded by Bachhuber.

Bachhuber stated condition 5 reads, "Contact aerial applicators..." and asked if this means just have a talk with them and tell them what's going to happen. Mrdutt explained JR Reabe, one of the aerial sprayers, contacted Mrdutt and explained he has no concern with the tower location, height, or any aspect of the petition. Szachnit stated Reabe has appeared a few times to testify about having the tower recognizable during the day with a flashing light. Mrdutt stated Reabe had no concerns for this tower, whatsoever. Mrdutt does not believe Reabe or any other sprayer works in this area, but it is a courtesy to make the petitioners contact the aerial sprayers. Klessig believes the word inform would be better to use.

Jazdzewski stated condition 4 addresses requiring the medium intensity strobe, even though currently it is not a concern of the aerial applicators. In the future if conditions change, the strobe would already be installed.

Schuler stated all aerial applicators are made aware of applications and given the opportunity to come to testify. Condition 5 follows through and says they've been noticed, and now construction will begin.

Szachnit stated he believes BOA is meeting the conditions presented in earlier meetings. If the aerial sprayers are not here, they must have no concerns.

Motion to approve passed unanimously by roll call vote.

Roland Rieflin, Owner (P12-15)

The Roland Rieflin, owner, special exception request from provisions of the Portage County Zoning Ordinance to operate an archery retail and repair shop as a home occupation, in the A4 General Agricultural Zoning District, Town of Dewey, was opened by Szachnit, who read the public hearing notice.

Mrdutt stated this property is zoned A4 General Agricultural and any home occupation outside of the residence in an associated or accessory building requires approval by BOA.

Szachnit swore in Roland Rieflin and asked him to explain the request. Rieflin stated the following:

- He would like to start an archery stop in an existing building located on the property.
- He owned and operated a shop in the past, so he is familiar with the process.
- The building is separate from the home and has its own private entrance.
- There is ample parking in the area.
- He feels this is a good location, as there is currently only one other business like this in the Stevens Point area. There is a need for an additional archery type business.
- He used to shoot professional archery for PSE, so he is very well rehearsed on tuning bows, making bows, and shooting. His service aspect is his selling point.
- He will not have an outdoor range, for liability reasons.
- He will do custom tuning, which will be done indoors, after hours.
- There will be sales of new archery equipment.

Szachnit asked if this is Rieflin's secondary occupation, and Rieflin answered yes. Rieflin stated he has spoken with Sam Solberg, Commercial Building Inspector, who had no issues with this request.

Jazdzewski stated Rieflin testified he would have a small indoor range to demo, and asked if that would strictly be indoors. Rieflin answered yes. He originally planned to have an outdoor range, but decided against it because of liability issues. The indoor range would be used strictly by Rieflin. Customers would have to do their own shooting elsewhere. Jazdzewski clarified the letter from the Town of Dewey stated if Rieflin wanted an outdoor range, he would have to make a separate request through the Township.

Bachhuber asked if the home occupation approval runs with the land and if the property is sold, can the new owner put in any type of business they wish. Mrdutt replied if it is a different type of business, they must come

through BOA. Another owner could use the space for an archery retail business. Another type of business would not be permitted without the proper approval; the approval is use specific.

Bernhagen asked if the only help would be from family members, and Rieflin answered yes.

Bachhuber asked if business hours would change if the business was very successful, and Rieflin replied if business was really good, he would be interested in possibly making it a fulltime business. Rieflin stated archery is seasonal. Bachhuber asked if Rieflin's business expanded in the future, would he have ample parking space, and Rieflin replied his expansion would likely be into town into a retail space.

Szachnit stated at the on-site, they noticed there was an extra garage building, and noted Rieflin had stated if the business grew, he could move into this additional building. If the business grew to fulltime, he would more than likely want an indoor range. This is why he would consider leasing property in town.

Bachhuber asked if this petition deals only with the building Rieflin will be using at this time, and Mrdutt stated the approval is for the property. He could move into another building on the property unless BOA specifically puts conditions prohibiting it.

There being no questions from BOA, Szachnit excused Rieflin. Szachnit asked if any members of the public wanted to address this petition. There being no members of the public wanting to testify, Szachnit closed the testimony portion of this hearing.

Szachnit read the following into the record:

- A letter from the Town of Dewey stating the Town of Dewey Board and Plan Commission have both approved the request, noting if there was expansion to include outdoor activities, there would have to be an additional review and approval prior to any expansion.

Szachnit closed the testimony portion of the hearing.

Bernhagen asked about the term home occupation. Does this indicate the business is operated out of his house? Szachnit clarified it just ties it to the property. Pelky clarified the home occupation under a special exception allows it in outbuildings. The home occupation refers to the fact there is a home on the site. Pelky added there are provisions allowing the home occupation to be operated out of Rieflin's home, if less than 50% of one floor of the home is utilized for the business. If the home occupation is operated out of accessory buildings or a garage, then special exception approval is required through BOA.

Jazdzewski addressed the Town of Dewey's concern about not approving outdoor activity, and feels a condition should be attached during the motion that clearly states BOA does not approve outdoor activities related to the range. This would prevent customers from setting up targets outdoors, and protects Rieflin from legal liability.

Bachhuber stated signage should be addressed in the motion.

Motion by Klessig to approve the special exception request with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. You must contact Sam Solberg (Commercial Building Inspector) and obtain any required permits from him prior to obtaining a Portage County Zoning Permit.
3. You cannot employ more than two non-family members.
4. No outdoor range or shooting by customers is permitted.
5. Signage on the property must conform to the six square foot standard.

Motion seconded by Jazdzewski.

Bachhuber expressed concern with the wording of the condition regarding signage. She does not want Rieflin to think he is limited to just one sign. Mrdutt suggested leaving it up to the Planning and Zoning staff to issue permits and enforce the ordinance.

Klessig explained the wording of one of his conditions referencing signage on property; however, he stated he would have no problem with a friendly amendment changing his motion.

Bachhuber asked Klessig about his wording on the condition regarding outdoor activities by customers. Klessig explained that to him an outdoor range has a formal connotation that there are targets set up and people are lined up a certain distance to shoot. He feels there is also the more casual activity by customers where they may be using the equipment. His understanding is the township is trying to control both of these, and agrees that is a good public policy. His intent is to constrain both a formal range as well as casual shooting by customers.

Motion by Bachhuber to amend condition 5 regarding signage to state:

5. Any signage request must be according to the Portage County Zoning Ordinance and applicant must contact the Planning and Zoning Department.

Friendly amendment accepted by Klessig.

Motion to approve, as amended, passed unanimously by roll call vote.

Archer Daniels Midland Company, Owners, Tyler Zoeller, Agent (P12-16)

The Archer Daniels Midland Company, owners, Tyler Zoeller, agent, special exception request from provisions of the Portage County Zoning Ordinance to construct a railroad spur, in the Industrial Zoning District, Town of Stockton, was opened by Szachnit, who read the public hearing notice.

Mrduitt stated these properties are zoned Industrial, and petitioners want to expand a railroad spur on the site, to create a circular loop. Petitioners have been doing a lot of expansions to the property, and they are before BOA specifically for a special exception for a railroad spur.

Szachnit swore in Tyler Zoeller and asked him to explain the request. Zoeller explained the way the track is currently, there is enough track space to load 25 cars at a time. The goal with the expansion is to be able to load 100 cars at a time. This would make loading more efficient by cutting down on the frequency of loading, as opposed to loading fewer cars more often. Zoeller stated the railroad spur would be used for the same processes that are being used right now.

Szachnit asked about a circle on the diagram, and asked if it is for something other than railroad track. Zoeller explained one of the circles referenced on the diagram is an electrical sensor line for the center pivot for the irrigation.

A large diagram of the proposed railroad spur was displayed for members of the public to view.

Klessig stated he has stock in this company so he will abstain from the discussion and decision in this case.

Bernhagen asked if the track is located inside of a berm located on the property, and Zoeller answered yes. Zoeller added they may have to move a little bit of dirt near the south end, but the track would be located mainly to the east of the berm. Bernhagen asked if the home was purchased along with the property, and Zoeller answered yes.

Bachhuber asked Zoeller if just the one property was purchased, and Zoeller answered yes. Bachhuber stated Zoeller told them during the on-site that he was not sure if the berm would stay, and Zoeller responded correct. Bachhuber asked why the berm is there, and Zoeller stated the berm was initially built as a form of screening. There were already trees on the berm, and there was going to be more added to it for additional screening. Zoeller stated ADM currently owns the property, so they do not feel there is a need to continue with adding to the berm. Bachhuber asked if the berm extends beyond the property purchased by ADM, and Zoeller answered no; adding there are trees approximately 30' to 40' where the berm ends. This tree line would shield all properties located along Stockton Road, on the east side of Stockton Road.

Szachnit asked if there are any other residences in the area, and Zoeller answered there are three more to the north. Szachnit asked if Zoeller anticipates any problem with those neighbors, and Zoeller answered no concerns have been voiced to him directly.

Jazdzewski stated at this time the proposed track extension is not a continuous loop, and asked if the engines would normally be a push/pull on one end? What are the proposed expansions and would that need to be addressed again? Mrduitt stated the proposed design includes the entire loop, as a spur, so they do not have to

come back before BOA. Jazdzewski asked if the proposal includes future track siting as well as proposed current construction. Zoeller explained the proposed design would be the entire loop. Jazdzewski stated the engines could be located next to the residences versus next to the field end of the track, and a lot of noise could be generated.

Bachhuber asked if loading could be done 24 hours per day, and Zoeller stated it is a possibility. He believes at this time 90% of the loading is done between 7:00 am and 6:00 pm. Zoeller does not anticipate these hours would change, as they are the normal operating hours. Bachhuber asked if the hours of operation will need to be increased because of the increase in the number of cars, and Zoeller answered no. With expansion tracks in different locations and different places to load, this can be done more efficiently. The corn will be loaded in the car faster than it can be done now. Zoeller added the goal with the loop track is the cars stay together. Once they start loading, you just keep moving the cars ahead. There is no down time to shuffle cars around.

Szachnit asked if they are intending on closing the loop right away, and Zoeller answered yes. They want to build the entire loop at once. Szachnit asked if this would deter from the efficiency of loading 100 cars at a time, and Zoeller stated no.

Jazdzewski stated because they will now be more efficient, does Zoeller foresee a greater expansion to what would normally happen in two months, now becoming a five or six month process, or possibly having the train going all the time? Zoeller stated no one time of the year will be more concentrated than the others for loading. It could almost be continuous, but could also be dependent on the markets, and supply and demand.

Jazdzewski discussed current hours of operation, and asked if it is possible trains could be loading at nighttime. Zoeller stated the railroad delivers and picks up cars on their own schedule, they have no control. The majority of the time, cars are delivered in the evening/nighttime hours. When 100 cars would be delivered, they would come in with the engines on the front, pull them around the loop, park them, and break the engines off and go back to their main track. That activity could happen during nighttime hours. Jazdzewski asked Zoeller if he sees the loading done primarily during daytime hours, and Zoeller answered yes. Jazdzewski stated it may be more noise with the starting and stopping of the cars, than just bringing in 100 cars at one time. Jazdzewski understands they do not have control over certain things, but his concern is for the neighbors and the noise generated.

Zoeller stated if they need more than one year to begin the project, he would request BOA approve Planning and Zoning staff being able to issue a permit at a later date, beyond the one year deadline. Mrdutt stated if it takes longer than one year to obtain a zoning permit, BOA has, in the past, given Planning and Zoning staff the ability to extend the year requirement. Schuler added this has been done; however, it has been done prior to the original timeframe expiring. Bachhuber asked Zoeller if he believes they will have construction done within the allowed time period, and Zoeller answered once started, construction would be completed within two years. He is unsure if they would be able to start construction within one year.

There being no questions from BOA, Szachnit excused Zoeller. Szachnit asked if any members of the public wanted to address this petition. Robert Reidinger, surrounding property owner, was sworn in by Szachnit. Reidinger stated he lives across the street. Reidinger stated one of his concerns is the noise factor. He agrees they are doing more than the previous owners regarding screening. He is concerned with trains arriving in the early morning hours. Reidinger stated they come and go all night already. He understands they cannot control the railroad; however, if they can do most of the loading during the day like they say, that would be a benefit.

Another concern is the spur will go over the top of Zone C, Wellhead #3, to Stevens Point. Reidinger stated his water comes from across the street. He would like to make sure that whatever is hauled and stored in the cars would be corn, soybeans, wheat, and not liquid fertilizer. He is concerned about what is stored in the cars that are sitting, as that is the recharge area for Zone C.

Reidinger was excused by Szachnit. Szachnit asked if Zoeller was planning on storing anything in the railcars besides grain, and Zoeller responded not at this time.

Szachnit swore in Daron Heckmann, General Manager at ADM for this region, who stated at this time they have no plans for fertilizer, chemicals, or liquid to be transported on that track. He cannot say the future would not present the opportunity. Szachnit stated if there is a motion to approve this request, this issue should be addressed.

Jazdzewski asked if the Wellhead Protection Ordinance speaks to what can happen in different zones, relating to railroad tracks and railcars, and what can be hauled? Are there limitations based on the ordinance? Mrdutt stated the train tracks themselves cannot be controlled as far as where, how, or what zone they go through. There are different zoning classifications, and there are different restrictions based on the classifications. Jazdzewski stated there may be railcars going to another destination that are comingled with railcars being loaded at this facility. There is no way to control that.

Pelky added the original approval for Olsen's Mill covered fertilizer/chemical mixing plant, which is out there now. This was a special exception in Zone C. Jazdzewski stated this pertained mostly to the storage facility, which must have a containment structure and impervious pads. In this case, they are storing things in a railcar. Jazdzewski added you cannot take one car out of the line. Pelky stated there should be a hazardous waste management plan on file. He believes one was approved in the 1990's.

Bachhuber wanted to clarify if the approval given to Olsen's Mill was for fertilizer mixing. Pelky stated there was some of that activity; however, it was not strictly for that purpose. It was a grain operation facility. Bachhuber asked if whatever was granted to that company remains in effect for this company, and Pelky answered yes. Bachhuber stated they were not given that information and Pelky stated that is because they are only dealing with the railroad spur. Jazdzewski added that other decision pertains to the facility, and for what is already in place.

Mrdutt stated if BOA deems it necessary, an appropriate condition could be if ADM is going to include fertilizer in the future, they must notify Planning and Zoning staff that this product is being introduced on the spur. Szachnit agreed this could be included as a condition.

Szachnit asked if any other members of the public wanted to address this petition. Richard Filtz was sworn in. Filtz wanted to comment on the chemical issue, and stated he is upset because he believes a sprayer has sprayed chemicals on his property many times this year, without his permission.

Filtz stated the following:

- His main concern is water issues for future generations.
- This is a recharge area for Stevens Point, Plover, and Whiting.
- Test wells were put in, but they are only tested for Nitrates; not the chemicals he feels should be tested.
- He believes the original approval did not permit mixing of chemicals on-site. All mixing was to be done on the fields.
- Five years ago, his water was tested for nitrates and chemicals and he was advised not to drink his water due to high Atrazine levels. He was given a grant and installed a new well at 176.5'.
- He is still not satisfied with the levels, even after installation of a new well.
- His water was recently tested for nitrates, and the level is almost 20 ppm.
- He believes a few neighbors located across from Archer Daniels Midland Company have high levels of the chemical in their water.
- He wanted a different location for this business.
- He stated going deeper for your water does not solve the problem; it merely dilutes any chemicals.
- He believes in the past there were a few chemical spills at the railroad spur, and cement containments were installed.
- He wants to know what type of containment will be utilized with the new spur.
- Another concern is loading during nighttime hours. This will cause trucks to be entering and leaving at all hours. He can hear buzzing which echoes in his house continuously. He believes this is the reason for his hearing problems.
- He states this new track will be on ground level, and believes the sound for him will be unbearable.
- Again, his main concern is for future generations and water quality.

Szachnit asked if the concerns regarding groundwater and nitrates should be handled by the DNR. Pelky stated issues could be addressed with the DNR as well as consulting with Ray Schmidt, Portage County Water Quality Specialist. Filtz stated he spoke with Schmidt, who stated he was not included on this project. Filtz stated they do house chemicals and they have containment containers. He feels they are not taking proper measures to prevent chemicals from spilling or getting into the water. Szachnit again asked how something like this is handled.

Bachhuber stated a lot of the problems Filtz is speaking of already exist. Filtz stated the chemicals are presently there. Bachhuber stated the noise levels he is referring to is a current situation. Filtz stated the corn and dryers are gone at this time, so he does not hear the dryers all night long. Bachhuber stated her point is he is describing the current situation, with the current spur. Bachhuber stated Filtz is saying he fears this situation will become worse than what he is experiencing now. Filtz stated it will, if they don't make sure they are more safety conscious with the spur and the chemicals they house. Filtz stated the test well does not test for the chemicals housed on-site. His understanding was they had 60 or 70 different chemicals, but they were in boxes which were supposed to be taken off site for mixing on the fields. Filtz admitted he has no idea if they are mixing chemicals on-site. Filtz added he was informed years ago that there is not enough manpower to be able to check up on this.

Jazdzewski stated Filtz lives in the corner of his parcel, and the rest looks like agricultural fields. Jazdzewski asked the possibility of contamination of the groundwater coming from field applied chemicals on his field or surrounding fields. Filtz stated he believes it would pretty unlikely from his field, but it could come from surrounding fields.

Jazdzewski stated that to his understanding, the facility is pretty much a grain handling facility, and asked if ADM grows grain through custom applications, or do they just market grain. Zoeller stated they also sell, deliver, and spread bulk fertilizer.

There being no further questions for Filtz, he was excused. Szachnit asked if any other members of the public wanted to address this petition. There were none.

Szachnit read the following into the record:

- A letter from the Town of Stockton stating the Town of Stockton Board approved the request, as long as proper screening and a performance bond are in place. In addition, they requested Planning and Zoning Department request a copy of the dust level reports from the Wisconsin DNR prior to issuing a Zoning Permit.

Bachhuber stated there is no mention in the letter of a public hearing, and asked if one was held. Jeanne Dodge, Supervisor, Town of Stockton, replied they did have a public hearing.

Szachnit closed the testimony portion of the hearing.

Jazdzewski suggested conditions be in order, so if a motion is made, one way or the other, no amendments are necessary.

Bachhuber stated she thinks BOA is lacking information. According to testimony given today, ADM does not intend to start construction right away, and considering what adjoining property owners have said, she would like to postpone the decision so Ray Schmidt, Portage County Water Quality Specialist, and personnel from the DNR can give an explanation on this matter. Bachhuber again stated there is insufficient information at this meeting. In addition, if postponed, she would like William Bernhagen to sit in as a member, because he has heard all the testimony. She believes she is unable to vote on this matter because she has insufficient information.

Motion by Bachhuber to postpone the decision on this application, until such time as BOA is able to have Ray Schmidt, Portage County Water Quality Specialist, and personnel from the DNR give additional information on this matter. If information is available, this matter could be heard again next month. Motion seconded by Bernhagen.

Schuler stated he understands Bachhuber's concern, and the groundwater issue has strong importance to the County and residents of the County. Portage County has bodies in place that take up, discuss, and make recommendations on groundwater issues. Schuler stated the Groundwater Citizens Advisory Committee has a meeting this week and they are in the process of updating the Groundwater Management Plan. These are very strong issues; however, he fails to see the direct connection between the operation of the railroad spur, which is technically an extension of an already approved project for this property, and the groundwater issues raised. They are very good issues, but outside of maintaining information in the Planning and Zoning Department about the type of materials being transported as part of the spur, there is nothing operationally that is going to change that would relate directly to the groundwater discussion. He would urge BOA to think about this, because he does not know of any information that Ray Schmidt or the DNR could bring to the application discussing the

construction of a railroad spur on an improved industrial site that would warrant that. He does not know what conclusions could be drawn from any testimony they could give that would shed any light on the operational aspects of construction of this spur. Schuler acknowledged the concerns; however, he does not think they apply directly to the consideration of this item.

Szachnit stated they were supposed to consider expansion of the railroad spur into a complete circle, for the movement of additional cars. It appears there are concerns regarding the spur affecting the containment or application of chemicals and the effect on groundwater.

Mrdutt stated the facility has approval to handle grain, as well as chemicals and fertilizer. This approval existed previous to the current owners. Current owners are asking for a spur to move product, albeit fertilizer or other things. Primarily the focus for this company is grain. Mrdutt feels it is very appropriate that if they are going to be hauling fertilizer or chemicals, to let the Planning and Zoning Department know, so they are aware and familiar with what is being hauled. But they have no control over what goes up and down the railroad tracks. There are tracks that run through wetlands that there is no control over.

Bachhuber stated she continues to be concerned that Ray Schmidt was not brought into this meeting and not made aware of this. Schuler stated Schmidt was aware of this and Planning and Zoning staff felt they had received any germane information from Schmidt. As a staff, they have discussed this spur issue. Whether or not there are repercussions from anything affecting the groundwater, is that a site-specific discussion or is it a larger conversation? Schmidt was certainly aware of this project. Schuler stated he does not know, other than getting into a more general expanded groundwater discussion, what could be accomplished by bringing the resources requested by Bachhuber into this discussion. It does not apply directly to this.

Szachnit stated BOA is here to decide if they can approve the expansion of the facility to include the new railroad spur. This is the only thing BOA needs to approve at this point. There is nothing regarding water retention or absorption of chemicals into the ground, unless there is testimony given stating by expanding this spur, it will somehow contain a chemical solution.

Jazdzewski stated at this time, the only thing approving the track spur would allow for is having four to five times as many cars on the yard. It does not change what they can now bring in on 20 or 25 cars, or on trucks. BOA needs to address the expansion of the spur, not what type of chemicals are applied on fields or what is in the cars. Jazdzewski would ask that Planning and Zoning be informed if those types of materials are brought in on cars and stored for any length of time. He does not believe it is the intention to get 100 railcars and have them sit loaded. They would be loaded and then leave. Jazdzewski stated based on that opinion, the motion to postpone now on the floor should be addressed. Jazdzewski does not feel postponement is warranted, based on his experience with these issues and information presented pertaining to that spur.

Bachhuber stated there has been sworn testimony that should not be overlooked. In addition, there was testimony to the noise, and extending the spur may increase the noise. Bachhuber asked Jazdzewski if he is ready to put concise conditions on this, and added that screening, noise abatement, and dust abatement have not been discussed. Bachhuber added the Town of Stockton Board requested in their letter that Portage County Planning and Zoning Department request a copy of the dust level reports from the Wisconsin DNR prior to issuing ADM a Zoning Permit. This has not been discussed. Mrdutt stated tonight is the time those issues should be discussed. Mrdutt added he was at the Town of Stockton Board meeting and dust concerns had been brought up. It was discussed how to determine where the dust is coming from, what is a proper dust amount, when do you determine when there is too much dust, etc. There are standards in the ordinance relating to dust, and staff works with the DNR when it comes to gravel pits and mining operations. Regarding a facility like this, Mrdutt stated he does not know if the same measurements are used by the DNR.

Bachhuber asked what meeting Mrdutt is referring to, and Mrdutt stated the Town of Stockton Board meeting where they acted on both the rezoning and the request before BOA today. Mrdutt stated dust was a concern, but he informed the Town of Stockton Board at the meeting that there is no way for staff to draw a line determining what is too much. Bachhuber asked what agency would do this, and Mrdutt stated the DNR has standards relating to mining. Mrdutt and Pelky stated these questions could be directed to the ADM representatives. Do they test for dust? What do they do if a railcar leaks? What is their hazardous management? Do they have a plan? These are questions that could be asked, and appropriate conditions could be established.

Tyler Zoeller and Daron Heckmann were called back to testify, and were reminded they are still under oath.

Bachhuber stated it appears there are issues BOA was not aware of involving the previous owners' operation, which extends to the current owner's operation, relating to noise and dust, and hazardous materials. Heckmann stated they have no intention of bringing railcars on this spur that contain fertilizer or chemicals. Those would be on the existing track. Szachnit asked what would prevent them from moving those railcars to the new spur, and Heckmann stated BOA has the ability to put a condition prohibiting that on the new spur. Bachhuber asked what plans they have if there is a hazardous spill, and Heckmann stated they would only have grain on the new spur, so it would not be considered a hazardous spill. Bachhuber asked what if there was a spill from a car carrying hazardous material. Szachnit asked what if the railroad dropped off a railcar, and it subsequently had a leak, what is their plan. Heckmann stated if it is not their car, it would be the railroad's responsibility at that point. Heckmann added they would have no business having a railcar with hazardous materials on their track. It would be no different than if they had a railcar with hazardous materials going across their main line. Heckmann stated they are not a storage track for the railroad; it is their private track, and they would only drop off railcars they request. On the existing track, they have liquid fertilizer and dry fertilizer. Heckmann stated when liquid fertilizer is unloaded, they have a portable containment underneath the railcar. If there are any drips or leaks, it would be contained. The same goes for the dry fertilizer. When done loading, everything is swept up, cleaned up, and moved into the building in containers.

Jazdzewski asked if they have an emergency management plan, and Heckmann answered yes, they do have an emergency action plan. He is unsure if it had anything to do with the plan Olsen's Mill had, but it is current. Jazdzewski stated the dust generation is basically from corn handling, and Heckmann agreed. Jazdzewski stated a spur that would increase the number of cars would have no affect on the amount of dust; just the amount of material being loaded. Jazdzewski added the given amount of dust generated per car is not going to change, and Heckmann agreed. Heckmann stated as the new project progresses, they would have a dust collection system, which is in essence a large vacuum cleaner. Any dust emissions would be greatly reduced. Szachnit asked how the dust is contained, and Heckmann stated it is sucked in and deposited right back into the grain stream. Szachnit asked how the dust from the grain is contained before it is blown away, and Heckmann stated there would be a hood over the top of the railcar, and it would be pretty much enclosed. Heckmann added this is not the current system. As they move forward, this is how they plan to proceed. Szachnit asked if most of the dust will be eliminated with the new system, and Heckmann answered yes. Jazdzewski asked if the noise referenced by Filtz is predominately the dryer noise during harvesting the grain, and Heckmann stated he is referring to aeration fans. These are required to keep the grain in condition and to hold the temporary tarp on the pile. Heckmann stated these run 24/7. When they first started, they did not have silencers on the fans. They have since set up blocks and made a silencing barricade, which he believes has improved the situation. He agrees they can make more improvements as far as silencing the noise. Heckmann questioned how some of the complaints brought up are pertinent to the track.

Szachnit stated they should address the motion on the floor. Bachhuber stated she would like to know what conditions, if approved, would be placed.

Filtz addressed the committee again and stated the dust issue is flakes off the corn, and if it is windy, it goes everywhere. He stated last year every automobile in his yard was covered with the dust. He believes it is a terrible issue. Filtz added he has recently seen five or six semis lined up in the early morning hours, well before 7:00 am. They may be waiting until they open up, but the trucks are there.

Jazdzewski asked Filtz if increasing the size of the railroad spur, or loop, would attribute to greater dust generation. Filtz stated because they are loading more, he feels it would contribute. Szachnit asked Filtz if the installation of additional equipment to collect the dust would help, and Filtz replied he was upset with the issue of the noise and safety of the groundwater. Filtz stated he believes Zoeller lied, under oath, when he stated they do not use chemicals, and now Heckmann stated they use chemicals. Mrdutt stated he believes what Heckmann was making reference to is the hauling of chemicals and fertilizer on the existing spur. Mrdutt does not believe they made a comment about not using sprayers and chemical applicators. Schuler stated Heckmann's comment was this is contained to the existing spur, the way it has always been done, and the new spur would not be used for hauling and storing of those types of materials. Filtz stated they currently unload chemicals at the spur, and he believes Olsen's Mill did also. Schuler stated they just clarified that this is done on the existing spur, and will not be done on the new spur. Filtz stated the new spur will be connected to the existing spur, so the railcars will be on the new spur. Heckmann stated the existing spur will connect to the new spur; that is the only way they can get the railcars onto the new spur. Heckmann stated he did not lie. He stated they will not have the chemical railcars on the new spur. Filtz stated the new spur will connect to the old spur, so those railcars will be on the new spur.

Szachnit closed the testimony portion of the hearing.

Jazdzewski wanted to clarify for Bachhuber what his conditions would be for a motion. Schuler asked what these conditions would be for, and Jazdzewski stated they would be for a motion for approval. Schuler suggested not making conditions for a motion that does not exist. BOA should deal with the motion on the table first, then proceed from there. Bachhuber stated she asked because she felt if the conditions that would be considered were adequate, perhaps BOA would have enough information.

Szachnit stated they need to take a vote on the existing motion to postpone. If the motion is denied, they could make a motion to approve.

Motion to postpone failed 4-0 by roll call vote, with Klessig abstaining.

Motion by Jazdzewski to approve the special exception request, with the following conditions:

1. Obtain a Portage County Zoning Permit.
2. Submit a screening plan to be approved by the Land Conservation Division of the Planning and Zoning Department prior to obtaining a Zoning Permit.
3. The new railroad spur is to be for the handling of grain cars.
4. Anytime materials that would be restricted in the Wellhead Protection Ordinance are to be located on that track, you must inform the proper County office.
5. An Emergency Management Plan must be maintained at all times (copy on file in Planning and Zoning Department).
6. Planning and Zoning staff may grant an extension of the time period to apply for a zoning permit, provided the request is made within the one year time period.

Motion to approve seconded by Bernhagen. Bernhagen added he does not believe BOA should be involved in the groundwater contamination issues, as this is not part of the petition.

Jazdzewski stated the purpose of involving the groundwater management plan is to make sure any issues caused by the spur are acted on properly and dealt with. This is also the reasoning for contacting the appropriate County agency regarding chemicals located on the track. Jazdzewski stated he does not believe the spur will contribute to an increase in the dust issue, as there is a set quantity of corn to be handled and that generates only so much dust. Hopefully, improvements to the facility will minimize or reduce that. The only change with the increased activity will be more railcars can be loaded at one time. It does not increase the amount of dust per unit; it will increase efficiency.

Motion to approve the special exception request passed 4-0 by roll call vote, with Klessig abstaining.

Approval of Minutes

Klessig moved to approve the May 21, 2012 minutes, Jazdzewski seconded. Motion passed unanimously by roll call vote.

Correspondence/Updates

Next meeting tentatively scheduled for August 20, 2012.

Adjournment

There being no further business to come before BOA, Jazdzewski moved to adjourn, Klessig seconded, and motion passed by voice vote. Meeting adjourned at 6:05 pm.

Respectfully submitted,

Gayle Stewart, Recording Sec.

Lowell Klessig, BOA Secretary

Date of Approval

MINUTES
PORTAGE COUNTY BOARD OF ADJUSTMENT
AUGUST 20, 2012

Call to Order

Chairman Szachnit called the Portage County Board of Adjustment (BOA) to order at 4:00 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Klessig led the Pledge.

Roll Call

Members present included Edward Szachnit, Marj Bachhuber, John Jazdzewski, Lowell Klessig, Scott Soik, and William Bernhagen (Alternate). Staff present included Jeff Schuler, Tracy Pelky, Chris Mrdutt, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Szachnit explained the meeting was properly advertised by a class 2 notice in the local newspaper. Testimony and questions should be addressed during the public hearing portion of the meeting. Anyone wanting to speak should sign in at this time.

PUBLIC HEARINGS

John Britz Estate, Owners/TLC Sign, Agent (P12-17)

The John Britz Estate, owners, TLC Sign, agent, special exception request from the Portage County Zoning Ordinance to erect a directional sign exceeding 8 square feet in size, and variance request from the Portage County Zoning Ordinance to allow a sign exceeding 8 feet in height, in the A3 Low Density Agricultural Zoning District, Town of Stockton, was opened by Szachnit, who read the public hearing notice. Szachnit added the special exception and variance will be heard at the same time, and if the special exception is approved, they will move on to the variance.

Mrdutt stated the property is zoned A3, and the petitioner wants to erect a sign to help direct traffic to their businesses.

Tom Cullen, representing TLC Sign, was sworn in and Szachnit asked him to explain the request. Cullen stated the owners of ADM Grain and Valley Truck Leasing would like a sign directing traffic to their businesses. Cullen added because of the height of the roadways, they are proposing a sign 20 feet high and larger in size for better visibility for trucks coming down the hill. This would help increase their stopping distance.

Klessig recused himself because of his financial involvement with ADM. Bachhuber stated Klessig could participate in discussion, but he must recuse himself from voting, due to ethics. Mrdutt and Pelky added this is why we have alternates. Klessig recused himself from this hearing, and Bernhagen joined the hearing.

Szachnit stated Cullen had mentioned during the on-site they need better visibility for truckers to recognize the turn off. Szachnit noticed coming from the north and south, it appears the elevation is high, and drivers would be looking down at that point. Szachnit asked why there is a need for a higher sign, and Cullen answered the elevation where the sign would be located is 9 feet below road grade. At that point, a 20 foot high sign would get them 4 feet above road grade. This would make it easier to view. Soik asked if this is tall enough, and Cullen answered yes. Cullen used a ladder and had markers at 20 feet and 8 feet down from there, which would be the bottom of the sign. He drove by multiple times, in both directions, to make sure the sign would be visible. Szachnit asked Cullen if he anticipated a situation where there would be trucks backed up that far, and Cullen replied he believes the sign is far enough back. One semi truck would not cause the sign to be blocked; however, there is nothing they could do if there were multiple semis. Cullen added they are located approximately 90 feet from County Road J.

Bernhagen asked if snow banks would present any problems, and Cullen answered no. Being located a couple extra feet above the roadway should take care of this.

Bachhuber stated if the sign had an arrow at the bottom, drivers would see the arrow immediately and know to slow down. Bachhuber noticed a sign down the road from this location had an arrow. Bachhuber stated if it is a directional sign and they want drivers to slow down, they may want to consider an arrow. Cullen stated if it is the direction of the Board, they could incorporate an arrow into the sign. Szachnit stated it is not a necessity, but it could help.

There being no questions from BOA, Szachnit excused Cullen. Szachnit asked if any members of the public wanted to address this petition. There were no members of the public wanting to testify.

Pelky stated he did not receive a letter from the Town of Stockton; however, he did speak with the Town Chairman who stated the Town approved the request on August 13, 2012.

Szachnit closed the testimony portion of this hearing and read the special exception and variance standards.

Bachhuber read excerpts from the special exception standards and stated the Board may attach deed restrictions in order to further the purposes of this ordinance. Bachhuber stated the sign runs with the land, and once BOA agrees a sign may be put in that location, and agrees it can be greater than permitted in the ordinance, if the owner decides to sell the property, any other owner of the property may also erect a sign with those dimensions. Mrdutt stated they could not erect an additional sign. Bachhuber agreed, and stated they would not control what is on that sign, or the message on that sign. Bachhuber suggested a deed restriction be placed stating if the property is sold, the sign must be removed.

Jazdzewski stated he would not be concerned if the property is sold, but would be concerned if the businesses were to quit using the sign. The intent is that of a directional sign for the business. Szachnit stated that could be put in the motion, and Bachhuber added a deed restriction could be placed.

Mrdutt stated BOA needs to consider that the packet includes drawings of the sign. When the permit is issued, it is issued for the sign as detailed in the packet. If the sign is changed, that would be contrary to what is approved in the packet.

Jazdzewski stated BOA is acting on the size and height limitation. The message is a design issue, and is serving two businesses. Jazdzewski added unless they specifically put a condition that that is what has to be on the sign, it is open ended. Mrdutt stated BOA can make a condition that the drawing page of the packet is what the design should be. Szachnit added this way if the sign is changed or if businesses change, it would withdraw the special exception. Bachhuber stated this should be put on both the special exception and variance requests.

Bachhuber read excerpts from the special exception standards and stated BOA must evaluate the effect of the proposed use of the following:

- The maintenance of safe and healthful conditions. She believes this has been addressed.
- The compatibility of the proposed use with the existing development and development anticipated in the foreseeable future. She believes this has been done.
- The importance of services provided by the proposed facility to the community. She stated this has been done and it is in keeping with the Township's desires.
- There are no other alternate locations.

Motion by Bachhuber to approve the special exception portion of this request, with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. If the land is sold and/or if the businesses (ADM/Valley Truck Leasing) change, or names change, they must come back to the Board of Adjustment for another hearing.
3. The directional sign must meet a setback of 5 feet from all applicable road rights-of-way.

Motion seconded by Jazdzewski.

Motion by Szachnit to amend condition 2 to add the following:

- If one or both of the businesses terminate, the sign must be removed or changed to reflect the remaining business.

Szachnit clarified that if one of the businesses terminates, they must remove the sign or have it modified to reflect the change.

Motion to amend seconded by Bernhagen. Motion to amend failed to pass 3-2 with Soik, Jazdzewski, and Bachhuber voting nay.

Original motion to approve passed unanimously by roll call vote.

Szachnit stated they must now have a motion relating to the variance request.

Motion by Jazdzewski to approve the variance portion of this request, with the following condition:

1. Approval is for a variance to allow a sign height of 20 feet.

Motion seconded by Bernhagen.

Bachhuber stated the following:

- This would not be contrary to the public interest, State Law, or Administrative code.
- The spirit of the ordinance would be observed and substantial justice done.
- The use is permitted in the district.
- Exceptional circumstances apply that do not generally apply other landowners.
- Granting the variance would not be detrimental to surrounding landowners.
- Hardship is not caused by any person having interest in the property.

Szachnit stated he believes the conditions have been met.

Jazdzewski stated this does not conflict with the Town of Stockton's Comprehensive Plan. Their future land use designates this as an industrial zoned area, in which case none of this would be necessary, as far as signage.

Bachhuber asked if Jazdzewski addressed coming back if the business changes, and Jazdzewski answered no. He stated this issue is covered with the special exception. The variance is for the height only.

Motion to approve passed unanimously by roll call vote.

(Bernhagen leaves the hearing, Klessig rejoins the meeting)

Jacob and Megan Fredrickson, Owners/Dave Strebig, Agent (P12-18)

The Jacob and Megan Fredrickson, owners, Dave Strebig, agent, special exception request from the Portage County Zoning Ordinance to erect a directional sign greater than 8 square feet, in the A4 General Agricultural Zoning District, Town of Eau Pleine, was opened by Szachnit, who read the public hearing notice

Mrdutt stated this property is zoned Agricultural. The agent has a bar and grill located on County Road E, Dock on Dubai, and would like a directional sign to the property

Szachnit swore in Dave Strebig and asked him to explain his request. Strebig stated he is requesting to erect a sign at State Highway 34 and County Road E to help direct traffic to the business.

Szachnit asked how this sign differs from the one they saw during the on-site visit, and Strebig stated it is exactly the same. Strebig added the sign will be on a snowmobile trailer so it can be easily moved for the farming purposes. Szachnit asked if it will be in the general location of where they visited during the on-site, and Strebig answered yes.

Klessig asked Strebig when he was made aware he needed to appear before BOA, and Strebig answered during his conversation with Mrdutt, he realized he had the sign made too large. At that point, he was informed he had to come before BOA for approval.

Soik asked how far down the road the business is located, and Strebig stated 1.2 miles.

Jazdzewski asked if the only conflict with the sign being legal is the size of the sign, and Mrdutt answered correct, adding the location and setbacks are met.

Soik asked if the sign were the size allowed by ordinance, would they only need a regular zoning permit, and Mrdutt answered correct.

Klessig asked the size of the sign, and Strebis answered 16 square feet; 4 feet by 4 feet.

There being no questions from BOA, Szachnit excused Strebis. Szachnit asked if any members of the public wanted to address this petition. There were no members of the public wanting to testify.

Pelky stated there is a letter from the Town of Eau Claire that needs to be read into the record.

Szachnit read the following into the record:

- A letter from the Town of Eau Claire Clerk stating the Town Board approved the request.

Szachnit closed the testimony portion of this hearing.

Klessig stated he does not believe this request should be left open ended. He has no problem with the sign; however, he believes it should be limited to 16 square feet.

Soik asked Strebis if it is a problem to restrict the size of the sign to 16 square feet, and Strebis answered no, 16 square feet is large enough for his needs.

Motion by Soik to approve the special exception request, with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. The directional sign must meet a setback of 5 feet from all applicable road rights-of-way.

Motion seconded by Jazdzewski.

Motion by Jazdzewski to amend the motion to include the following condition:

1. The sign is limited to 16 square feet.

Motion to amend seconded by Klessig. Motion to amend passed unanimously by roll call vote.

Motion to approve, as amended, passed unanimously by roll call vote.

Paul Roberts, Owner/Todd Grunwaldt, Agent, (P12-19)

The Paul Roberts, owner, Todd Grunwaldt, agent, variance request from the Portage County Shoreland Ordinance to construct a home addition within the setbacks of the Wisconsin River, in the R2 Single Family Residence Zoning District, Town of Hull, was opened by Szachnit, who read the public hearing notice.

Mrdutt stated this property is zoned residential, and the petitioner would like to add on to the river side of the structure. Mrdutt stated that the use of setback averaging has resulted in a required setback of 70 feet at this location; a portion of this addition meets setbacks, a portion does not. A portion of the addition is designed to be located on an existing impervious surface. Szachnit asked if the concrete slab was going to be replaced and expanded, and Mrdutt stated a portion of the proposed addition is on an existing impervious surface.

Bachhuber stated the Portage County Ordinance states 100 feet for a setback, and Mrdutt clarified there are also averaging provisions. Bachhuber stated the State setback is 75 feet. Mrdutt stated this is correct, unless you are using averaging. Bachhuber asked if the house is currently considered a non-conforming structure, and Mrdutt clarified it is a legal non-conforming structure. Bachhuber asked if the petitioners asked to change 50% of the house, without an addition, could they. Mrdutt stated there is no longer a 50% rule; this was eliminated in February or March, 2012. Mrdutt added if the house was destroyed by an act of God, they could rebuild the house, regardless of the previous 50% rule. Bachhuber asked how the elimination of the 50% rule affects what can be done to a legal non-conforming structure, and can they change more than 50% of the dwelling. Mrdutt answered yes. Bachhuber asked, according to the law as currently in place, how much could they do to the existing house, without relation to a variance, and Mrdutt answered all of the interior could be remodeled fully.

The ordinance currently does not allow for a total demolishing and building in the existing footprint. Mrdutt stated this is a very tricky question because it is linked to the 50% rule, which is no longer a law. Schuler added this is not what BOA is here for. Bachhuber states to her it does apply, because of the extensive remodeling the petitioners intend to do, and she believes it is tied to hardship. Mrdutt stated to remodel the interior of the building, they could not increase square footage.

Szachnit swore in Todd Grunwaldt, agent for the petitioners, and asked him to explain the request. Grunwaldt stated the current floor plan of the house is very restrictive as far as maneuvering from one portion of the building to the other. The owner desires to push and enlarge the living room to give more usable space to the central portion of the home. For this reason, they are asking to build out 12 feet to where the existing building projects. Grunwaldt stated the impervious portion of the area is approximately 500 square feet. He does not know if they would put an addition over the entire area. It may be an addition and a deck or patio area. Grunwaldt referenced the letter from the Department of Natural Resources (DNR) where it was indicated there is another location on the property for the addition; however, Grunwaldt believes the DNR does not know the layout of the home. If they were to remodel and push out in the direction away from the water, they would have to push the kitchen, furnace room, bathroom, and bedrooms away from the water, in addition to going slightly upgrade. In addition, this would impede traffic into the existing detached garage. Grunwaldt used a larger diagram to explain the difficulty they would have in pushing the other rooms back, and explained this would create an unorganized floor plan.

Szachnit asked about working in the area in the "L" opposite the water side. Grunwaldt stated this would be difficult for roofing, and accomplishing what they want and need.

Soik asked where the septic is located, and it was stated on the north side of the property.

Grunwaldt stated moving upgrade would involve more work, and a small expansion towards the water would accomplish everything they need to do, and improve the aesthetics of the building. Grunwaldt added they would comply with all suggestions made by the DNR.

Jazdzewski stated they have been vague with the proposed addition, and asked how much would be house addition and how much would be a deck. Grunwaldt stated approximately 60-75% of the addition would be a building addition. Jazdzewski stated this to him seems vague. Because this is a variance, you must be specific. Mrdutt stated when it comes to what goes in the addition, staff tells petitioners to define the envelope, and not be too specific on what is being constructed. The variance is for the setback; what is being built in the structure is not as much of a concern. They would not ask for a detailed footprint, but look more at the building envelope. The petitioners could say what is going to be in that area, such as an open concept, but he does not want BOA to get too focused on how much would be deck, how much would be addition. Jazdzewski understands this, but he stated how many times have they gone past a place where 3 or 15 years ago a variance or special exception was granted, and they do not recognize what was granted, and perception changes. Jazdzewski asked if they could do anything they wanted inside of the stakes, and Mrdutt answered yes, as long as it is a home addition, and meets ordinance requirements.

Schuler clarified this is not an architectural critique of what is going to be designed, but the main line of questioning that would be good for this case is regarding how does it make sense that the addition needs to be in the requested location, as opposed to other places. Schuler stated Grunwaldt has explained in order to have the flow and design as intended, they would have to redo more things and have more work. Bachhuber stated to Schuler he should not be advocating for the petitioner, and Schuler stated he is not advocating. He stated the nature of the line of questioning does not get into rooflines, etc. It gets into what does it take to understand why the decisions were made in the design. This is the point he wanted to emphasize.

Bachhuber stated a variance should be a very difficult thing to get. The burden of proof is on the petitioner's shoulders to prove that there is indeed a definite hardship. Bachhuber asked what is the hardship, and Grunwaldt answered it is financial. The home is non-functional and traffic flow is affected. Bachhuber stated she is not asking why he feels the house should be remodeled. She wants to know what the exact hardship is and why they have to encroach on the setback. Bachhuber explained if everyone that wanted to remodel came to BOA and said they want to remodel and encroach on setbacks, there would be no point for Shoreland Zoning. It would not be in the public interest. Bachhuber told Grunwaldt the hardship cannot be financial, because they already have a functioning home.

Klessig stated the hardship has to be physical, due to the land. Bachhuber asked what it is about the property that creates a hardship, and Grunwaldt stated other than what he responded in the variance criteria, he doesn't think he can answer that question. He believes the property owner could speak on that.

Szachnit excused Grunwaldt and asked if any other members of the public wanted to address this petition. Szachnit swore in Paul and Dawn Roberts and asked them to explain how this is a hardship. Dawn Roberts stated she was diagnosed with Parkinson's disease. She could live to be 80 or 90, and she was told within ten years there is a 30% chance she could be in a wheelchair. She does not know what the odds are. Dawn Roberts stated the hallways and bathroom in the home are not wheelchair accessible. They need some remodeling to make the home wheelchair accessible. They want to widen the hallway, expand the bathroom, and make the area more livable in case she gets to a point where she needs it.

Paul Roberts stated the reason they are not more specific in their plans, is because they cannot be. He assumes they would use the entire area in one way or another; however, they do not have a plan. Their plan is based on whether or not they receive the variance. If approved, they would then make a plan based on what room they are allowed to work with. Jazdzewski stated it is his understanding if they are not given the variance, they will work with the square footage they have and go to their plan B. Paul Roberts stated it was their understanding when making an application for a variance, they were not required to have a completed plan, just have the footprint. This is the reason they did not come with a specific plan. Jazdzewski stated they need to know all the factors in order to make a decision. Dawn Roberts stated they can work within the existing framework of the home, if they can move towards the water. The bedroom needs to be a little wider, the bathroom needs to be widened, and the hallways need to be widened. If they have to move further out, they will have to rip everything apart and the house will no longer resemble what it is today. They wish to maintain the character of the house as it is.

Bachhuber understands Dawn Roberts has an illness, and she is sorry for that, but what Roberts does inside her home to make it accessible for her in the future is Robert's concern, and not that of BOA's. Roberts would have to work with her architect to remove what she has. Bachhuber stated the hardship has to be with the property. It cannot be a personal hardship. Roberts stated she understands there is a concern with BOA that they don't want major changes. Bachhuber stated it was addressed that they can change the entire interior of their home, but what BOA has to deal with now is if they allow them to encroach further in a non-conforming structure on a river, stream, or lake. BOA must be careful that they find it is an extreme urgency, or there are unique property characteristics. Bachhuber stated there is nothing there. One of the things BOA must look at is there other room on the property where they could conceivably do something, and if there is, they should be looking at the area in the "L" shape. Roberts asked about the concrete already there; they are just building on top of an already impervious surface. Bachhuber stated Roberts is asking BOA to allow them to build closer to the river, and there would be a roof over that which is another impervious surface. There would be draining and water running off the roofline. Bachhuber stated they would be increasing the area of impervious surfaces on the property with the change in the rooflines. Paul Roberts stated that would only be very slightly because most of it is impervious. Dawn Roberts stated they hope to change the roofline to actually improve the drainage situation.

Szachnit excused Paul and Dawn Roberts and asked if there are any other members of the public wanting to address this petition. It was noted there were no other members of the public wanting to testify.

Mrdutt stated public safety and public input were brought up in the staff memo. Mrdutt wants to make sure BOA understands the mitigation, shoreland restoration, and stormwater aspect. Mrdutt stated the Land Conservation Division is a proponent for these plans; which are the same points addressed by the DNR.

Soik asked if there is anything from the Town of Hull, and Mrdutt replied the Town of Hull does not act on Board of Adjustment requests.

Jazdzewski asked when the original addition was put on and if a permit was issued. Mrdutt stated he is unsure, but it was more than 10 years ago, and added this is a legal non-conforming structure.

Bachhuber read excerpts from the memo provided to BOA from the DNR, and stated to be granted a variance, the petitioners must meet all requirements. Bachhuber agrees with the DNR in that the petitioners have not met the hardship requirement for a variance. Bachhuber read from the variance standards and stated by granting the variance BOA would be saying:

- They are maintaining safe and healthful conditions by granting the variance. They are possibly doing this.

- The prevention and control of water pollution, including sedimentation, the erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover. She understands they could have rain gardens and thinks it is an appropriate place.
- The compatibility of the proposed use with existing development and development anticipated in the foreseeable future. This is unknown, and does not seem to be applicable.
- The availability of alternate locations. There is another location on the property that does not create a physical hardship, which can be expanded if absolutely necessary for the purposes petitioners addressed. There is another direction to go.
- BOA must show all conditions in order to grant a variance. (Variance standards read)
- Bachhuber stated the key statement is "...Exceptional circumstances apply to the use that does not generally apply to other landowners."
- Bachhuber stated the only hardship presented is that Dawn Roberts may have to be in a wheelchair in the future. This is not any hardship that is caused by the property.

John Dombrowski, neighbor, wanted to comment and was sworn in by Szachnit. Dombrowski stated the property has a lot of problems, including water runoff, and asked if the Roberts could change the house without limitations with zoning. If he lived in that house, he would have concerns with lead, mold, and other things. Dombrowski asked if they could tear their entire house down and rebuild a new one, without coming to BOA or dealing with setbacks, or are they limited. His concern is there are a lot of problems that would have to be addressed once they started opening it up. Mrdutt stated there are certain aspects to what can be done in the ordinance. The Roberts could do interior remodeling, and are no longer held to a 50% standard. Dombrowski stated he knows the property has a lot of problems, one of them being bedrock.

Klessig stated this is not germane testimony. Soik asked Mrdutt if he has a bedrock elevation map of that side of town, and Mrdutt stated that would be linked with groundwater well reports. Szachnit agreed this is not germane testimony. This has more to do with the house and what may or may not be done with the house. BOA is here to decide whether or not they can add on that close to the river.

Jazdzewski asked if Roberts would be allowed to expand the size of the house, away from the river, in an area that would not be encroaching on the setback, and Mrdutt answered if they can meet setbacks. Jazdzewski stated they are not limited to the footprint of the house, as long as any increase in square footage would be in a legal direction. Mrdutt stated this is correct, and after issuance of a permit.

Bachhuber stated BOA must always look at Supreme Court decisions, and read excerpts from the decision of Snyder vs. Waukesha County Zoning Board, Wisconsin Supreme Court, 1976.

Klessig stated he has worked most of his life in lake management working with property owners, and he understands there are many people like the Roberts living with restrictions. He understands and would want to be closer to the water also. However, he has a difficult time voting to expand a non-conforming use. He stated all criteria must be met for a variance, two of which he believes are not met. Klessig believes there is an alternative, and the hardship is not a physical, land formed hardship.

Motion by Bachhuber to deny the request for a variance based on the following:

1. Based on a lack of proving hardship or alternate location criteria.

Motion seconded by Klessig. Motion passed by 4-1 by roll call vote, with Soik voting nay.

Approval of Minutes

Klessig moved to approve the minutes of June 18, 2012, Jazdzewski seconded. Motion passed unanimously by roll call vote.

Bachhuber stated she would like to discuss the minutes from July 16, 2012, referencing a friendly amendment. Bachhuber stated she asked Klessig about his wording on a condition. She then made a motion to amend a condition and the motion was voted on, without having a second to the motion. Bachhuber feels because there was no second to her motion, the original motion should stand. Bachhuber explained the difference in certain motions and when a second to a motion is required, according to Robert's Rules of Order.

Szachnit stated he believes there was a misunderstanding on how to handle the friendly amendment. Bachhuber stated she has two problems; what was meant by a friendly amendment, and there was no second to her motion to amend.

Jazdzewski stated to modify a motion is in effect a motion in its own, and that has to be acted on. In addition, he stated the person seconding the motion is basing their second on what is stated in the motion.

Klessig stated it is really rephrasing that it is accepted by the motion maker and the person who seconds the motion. Both would have to accept it; it is not an amendment. It is a rephrasing of the motion. Klessig stated it can be awkward because sometimes people are thinking and talking at the same time.

Bachhuber stated it was a modification of a motion. Bachhuber stated this can be addressed in the future and the Chair can decide if he wants to allow a modification of a motion or if he wants an amendment. Bachhuber is more concerned with what is done with the motion that never got a second.

Soik stated if a motion never gets a second, it is dead. Bachhuber stated this is correct. Bachhuber stated because there was never a second, they should go back to the original motion.

Schuler stated when it came up in the meeting, not having a second on the motion to amend was questioned. At that point, there was a conversation on the friendly amendment. It was anticipated at that point that when Bachhuber had the idea to modify that motion, that it was accepted by everyone. Schuler discussed the information in the memo he distributed to BOA members, which described how they generally proceed with those types of amendments. Schuler stated it meets the intent of the second type of handling friendly amendments, and if a motion is made and seconded and a member wants to amend that motion, they will move to amend, second to amend, and vote. The second way to deal with this situation is if there is a friendly amendment, the Chair will ask if anybody has an objection. If one person objects, there must be discussion and a vote. Schuler stated in the context of the conversation and how it played out at the meeting, what is taken here meets the spirit of how to handle a friendly amendment. Schuler added he feels there is no problem with the minutes or the motion as amended having been passed.

Szachnit stated the safest way to handle these in the future would be with a motion and then an amendment to the motion.

Bachhuber stated this still does not answer her question. Szachnit stated Schuler answered her question when he stated the way the friendly amendment was handled implied that the entire Board was in agreement. Stewart stated she asked for a second to the amendment and was told a second was not necessary because it was a friendly amendment being accepted. Schuler stated the motion is fine the way it was worded.

Bachhuber asked if there is a motion to accept that part of the minutes, and the fact the amendment was seconded by consensus, rather than by a separate person, because she did make an amendment.

Jazdzewski stated in order to amend the minutes, they would need a motion to accept or disprove the minutes. Then a motion can be made to amend the minutes. In addition, this only plays to the importance of making a motion succinctly. Discussion can be as wordy as needed, but the motion should be concise and clear.

Jazdzewski moved to approve the minutes of July 16, 2012, Klessig seconded.

Motion by Bachhuber to amend the approval to indicate on page 5, the motion made by Bachhuber to amend condition 5 regarding signage to state, was seconded by consensus. Motion to amend seconded by Jazdzewski.

Schuler stated there was no indication on the tape or otherwise that there was a second by consensus. Bachhuber stated she took that from Schuler's remarks made just now, that everybody seemed to agree that there was agreement. Schuler stated his point was how BOA moves forward, and that the intent of that was met by no one objecting. He does not think it would be correct to imply that there was an acknowledged consensus. The point is moot and he believes a simple motion to approve the minutes says that what happened was fine and does not need any explanation. In the minutes for tonight's meeting, Bachhuber can express as a part of her approving the minutes that she believes that was the case, and the rationale for their not being a second. It was a friendly amendment as understood at the time, but you cannot go backwards. Motion to amend failed, 3-1, with Klessig, Jazdzewski, and Szachnit voting nay. Soik abstained.

Original motion to approve passed 3-1, with Bachhuber voting nay. Soik abstained.

Soik wished to comment on the minutes and a condition put on an approval for a special exception for a communications tower. The condition stated a letter must be on file from the FAA stating the tower is equipped with proper lighting shall be on file with Portage County Planning and Zoning Office before issuance of a Zoning Permit. He feels the way this is worded is putting the cart before the horse. He feels this says the tower should be put up before a permit is issued. Jazdzewski stated he meant that a letter indicating that the proper lighting needed to be on file in the application, not on the tower.

Correspondence/Updates

Mrdutt stated the next meeting is tentatively scheduled for September 17, 2012.

Szachnit asked Schuler why the meeting is not made public on public access television. Stewart stated anyone can get a copy of the digital recording of the meeting. Schuler stated the only County meetings televised are County Board meetings.

Bachhuber asked that a line item be placed on the agenda, after approval of minutes, for general discussion by BOA members regarding status of projects, interpretation of statutes, ordinances, etc.

Discussion by Bachhuber regarding petition P12-16, Archer Daniels Midland, which was heard July 16, 2012, in which she feels information has been brought forward that should have been considered. Schuler stated the information Bachhuber referred to had no bearing whatsoever on the request before BOA.

Brief discussion amongst Board members regarding the role of BOA, procedures, and public perception of BOA took place.

Adjournment

Motion by Soik, second by Klessig to adjourn. Meeting adjourned by Szachnit at 6:03 pm.

Respectfully submitted,

09/17/12

Gayle Stewart, Recording Sec.

Lowell Klessig, BOA Secretary

Date of Approval

MINUTES
PORTAGE COUNTY BOARD OF ADJUSTMENT
SEPTEMBER 17, 2012

Call to Order

Chairman Szachnit called the Portage County Board of Adjustment (BOA) to order at 4:00 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Klessig led the Pledge.

Roll Call

Members present included Edward Szachnit, Marj Bachhuber, John Jazdzewski, Lowell Klessig, Scott Soik, and William Bernhagen (Alternate). Staff present included Jeff Schuler, Tracy Pelky, Chris Mrdutt, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Szachnit explained the meeting was properly advertised by a class 2 notice in the local newspaper. Testimony and questions should be addressed during the public hearing portion of the meeting. Anyone wanting to speak should sign in at this time.

PUBLIC HEARINGS

Randy and Laureen Rusin, Owners (P12-20)

The Randy and Laureen Rusin, owners, special exception request from the Portage County Zoning Ordinance to exceed 2,800 square feet of accessory building space, exceed 12 feet side wall height, and exceed 20 feet total building height, in the R2 Single Family Residence Zoning District, Town of Plover, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in Randy Rusin.

Pelky stated the request is to exceed the square footage, sidewall height, and maximum building height.

Rusin stated he wants to build a storage shed to store equipment. The reason he needs the extra height is to get his travel trailer into the building. His builder believes he can get by with 13 feet, but Rusin is requesting 14 feet just to make sure. Rusin added he will go with the shorter height, if he is able to. Rusin stated the location is pretty well hidden and is not visible by the neighbors or from the roads. Rusin stated he spoke with his neighbors and none of them object to the request.

Bachhuber asked if there will be electric service in the building, and Rusin stated not at this time; however, he may in the future so he can plug in his travel trailer.

Szachnit asked if there will be lighting, and Rusin stated there will be minimal lighting.

Bachhuber asked if there will be a drain or if he will change oil in the building, and Rusin answered no. Rusin explained the type of flooring he will use for now is road mat flooring (gravel). He will eventually put concrete flooring in.

Szachnit asked Pelky and Mrdutt if it is necessary for Rusin to come back to Planning and Zoning if he wants to install electric service at a later date, and they answered no.

There being no further questions from BOA, Szachnit excused Rusin. Szachnit asked if any members of the public wanted to speak on this request. There were no members of the public wanting to testify.

Szachnit read the following into the record:

- A letter from the Town of Plover Clerk stating the Town Board approved the request.

Szachnit closed the testimony portion of the hearing.

Bachhuber stated she thought conditions regarding siding/color of accessory buildings matching the residence were changed because sometimes it was impossible for homeowners to follow this condition. She thought it was changed to state the siding/color must be complementary. Pelky stated this is correct, but they've always addressed this issue when someone is building a garage in residential zoning. He believes the word complement could be used. Schuler stated the basic intent is the same; siding should be compatible with the residence.

Motion by Klessig to approve the special exception request, with the following conditions:

1. Maximum sidewall height shall not exceed 14 feet.
2. Maximum square footage shall not exceed 5,000 square feet.
3. You must obtain a Portage County Zoning Permit.
4. You must obtain a Portage County Stormwater Permit.
5. Siding/color of the accessory building should complement the residential characteristics of the house and natural vegetation.

Motion seconded by Bachhuber.

Motion by Soik to amend the motion to include the following condition:

6. Maximum height shall not exceed 22 feet.

Motion to amend seconded by Jazdzewski. Motion to amend passed unanimously by roll call vote.

Motion to approve, as amended, passed unanimously by roll call vote.

Kurt Burroughs, Owner (P12-21)

The Kurt Burroughs, owner, special exception request from the Portage County Zoning Ordinance to exceed 2,800 square feet of accessory building space and exceed a maximum height of 20 feet for accessory buildings, in the R1 Rural and Urban Fringe Residence Zoning District, Town of Hull, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in Kurt Burroughs.

Pelky stated this request is to exceed square footage and maximum building height.

Burroughs is requesting to put up a 40x60 detached garage, which will be stick built on a concrete slab. Burroughs stated the exterior finish will match that of the house. He is building this to address future needs. Burroughs stated so he would not exceed the 12' wall height, he is increasing the pitch of the roof and going with a vaulted truss. He would still be able to accommodate a 12' overhead door in case he gets a Class A motor home in the future. Burroughs stated he will have electricity to the garage.

There being no further questions from BOA, Szachnit excused Burroughs.

Szachnit read the following into the record:

- A letter from Bennie and Rita Bean, surrounding property owners, stating the request is acceptable to them.

Szachnit asked if any members of the public wanted to speak on this request. There were no members of the public wanting to testify.

Szachnit closed the testimony portion of the hearing.

Szachnit read the special exception standards. Bachhuber added this request meets the requirements for a special exception.

Motion by Klessig to approve the special exception request, with the following conditions:

1. Maximum height shall not exceed 22 feet.
2. Maximum square footage shall not exceed 3,200 square feet.
3. You must obtain a Portage County Zoning Permit.

4. You must obtain a Portage County Stormwater Permit.
5. Siding/color of the accessory building should complement the residential characteristics of the house and natural vegetation.

Motion seconded by Soik. Motion to approve passed unanimously by roll call vote.

Approval of Minutes

Jazdzewski moved to approve the minutes of August 20, 2012, Klessig seconded. Motion passed unanimously by roll call vote.

Correspondence/Updates

Mrdutt stated the next meeting is tentatively scheduled for October 15, 2012.

Discussion among Board members regarding the function and procedures of BOA took place. A meeting with BOA members, Planning and Zoning Department staff, and Corporation Counsel will be set for a future date for clarification of the issues discussed.

Adjournment

Motion by Klessig, second by Bachhuber to adjourn. Meeting adjourned by Szachnit at 5:48 pm.

Respectfully submitted,

Gayle Stewart, Recording Sec.

Lowell Klessig, BOA Secretary

Date of Approval

MINUTES
PORTAGE COUNTY BOARD OF ADJUSTMENT
DECEMBER 17, 2012

Call to Order

Chairman Szachnit called the Portage County Board of Adjustment (BOA) to order at 4:00 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Klessig led the Pledge.

Roll Call

Members present included Edward Szachnit, Marj Bachhuber, John Jazdzewski, Lowell Klessig, and William Bernhagen (Alternate). Member Scott Soik was excused. Staff present included Jeff Schuler, Tracy Pelky, Chris Mrdutt, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Szachnit explained the meeting was properly advertised by a class 2 notice in the local newspaper. Testimony and questions should be addressed during the public hearing portion of the meeting. Anyone wanting to speak should sign in at this time.

PUBLIC HEARINGS

Gregory & Sharon Krutza, Owners / Guy Stewart, Agent (P12-22)

The Gregory and Sharon Krutza, owners, Guy Stewart, agent, special exception request from the Portage County Wireless Telecommunication Facility Ordinance to erect a communication tower and associated ground equipment, in the A4 General Agricultural Zoning District, Town of Carson, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in Guy Stewart and asked him to explain the request. Stewart stated he represents SBA Tower Company, which is proposing to put up a tower on the Krutza property. Stewart explained he was approached by Verizon Wireless to find co-location possibilities in the area. Once he established possibilities in the area, he looked at gaps in Verizon coverage. He then approached landowners to see if they would host a communications tower, and reviewed the County ordinance to make sure they are complying with existing ordinances.

Klessig asked if other carriers have the same type of gaps regarding locations, and Stewart answered possibly yes. The frequencies are different so it is not an exact comparison. Klessig asked if SBA would then rent to the other carriers, and Stewart answered yes. SBA is a tower owner, and the concept is for them to lease to other carriers, thus making more money.

Jazdzewski asked Stewart if he was made aware of ordinances regarding length and width of driveways, as relates to emergency vehicle access, and Stewart responded he was not aware of that. Stewart stated this property does have a turnaround at the end of the driveway. If this is something the County or Township feels is lacking, he would certainly design something into the plan.

Pelky stated there is a proposed subdivision for this area on the layout provided, and asked if that is still in the works. Stewart stated the layout was done this way because the landowner had some thoughts of possibly splitting or developing the property in the future, and if this was the case, they would blend into what he would potentially do down the road. There was discussion amongst the Board, Pelky, and Stewart regarding the road, the road classification, and how it affects driveway separation and the ability to subdivide. Pelky stated although the road changed from US Highway 10 to County Road HH, the classification is still an arterial; it is not a collector. Once the status of the road changes to collector, the driveway separation standard would go down from 1,000 feet to 300 feet.

Pelky discussed tower setbacks from a house. Pelky stated this is not a consideration now as there are no homes in the area. Pelky also discussed the 1,000 foot setback from a County plat. Pelky stated the tower owner needs to consider if the tower is erected and a County plat goes up, and the tower is destroyed and needs to be rebuilt, there would then be a tower within 1,000 feet of a County plat. Pelky asked if this was

considered by the company or landowner, or would this be a problem down the road. If the tower needs to be reconstructed, or the height of the tower increased, this would be looked at, and in a sense, would make the tower non-conforming should phase 2 of the subdivision be developed at that point.

Stewart stated it is his understanding when the concept was laid out that it was based on ordinances at the time, and ordinances can change. If at some point down the road he approached the County, he would obviously have to meet standards at that point.

Szachnit asked since the tower is going in first, would this influence the way the lots would be divided? Pelky answered not necessarily because the subdivision ordinance does not have setbacks to wireless telecommunication facilities. If the telecommunication tower is built first, a person could potentially build closer to the tower.

Bachhuber asked Stewart how often he or someone else visits the facility once the ground equipment is installed. Stewart stated he believes three to four times a month. He stated it is pretty rare because the equipment is dependable. Once it is up and running, it is visited rarely. The site is remotely alarmed and the equipment itself is constantly monitored. Anytime the building is opened, there is an alarm that goes off in Appleton. There is an individual out of Plover who is responsible for security, maintenance, and upkeep of area sites.

There being no further questions from BOA, Szachnit excused Stewart. Szachnit asked if any members of the public wanted to speak on this request. It was noted there were no members of the public present, except the landowner, and he did not wish to testify.

Szachnit read the following into the record:

- A letter from the Town of Carson Clerk stating the Town Board voted to approve the request.

Szachnit closed the testimony portion of the hearing.

Jazdzewski stated he has a concern, and the member making the motion should consider attaching a condition requiring the petitioner to conform to Town and County ordinances pertaining to driveways.

Szachnit asked Pelky when the status of the road changed from US Highway 10 to County Road HH, and if the road's functional classification automatically changed, and Pelky replied no, it is not automatic. It is up to the Department of Transportation to change the classification.

Bachhuber stated the requested 260' telecommunication tower, with associated ground equipment, does not, in her opinion, based upon materials provided to the Board by the Planning and Zoning staff, and the owners and agent, create unsafe or unhealthful conditions. The use is apparently compatible with the Town of Carson Comprehensive Plan. Services provided by the proposed tower will be valuable to the public the company seeks to serve, and other co-locators have been considered and were deemed unacceptable. Granting this exception is not contrary to State Law or Administrative Code and is consistent with the Portage County Zoning Ordinance.

Motion by Bachhuber to approve the special exception request as submitted, with conditions 1 through 6 as designated in the letter to the Board of Adjustment from Chris Mrdutt, Assistant Zoning Administrator, dated December 3, 2012, and made a part of this motion (listed below), in addition to condition 7.

1. Obtain a Portage County Zoning Permit.
2. Tower designed to accommodate 3 users.
3. Submit an annual information report to the Planning and Zoning Office to satisfy section 7.3.9(D) of the Portage County Wireless Telecommunication Facility Ordinance.
4. A medium-intensity strobe light must be installed at, or near the top of the tower, and shall operate during the daytime, from May 1 through September 30 each year.
5. Contact aerial applicators about tower position and height prior to construction.
6. A letter from the FAA indicating the tower will be equipped with proper lighting shall be on file with the Portage County Planning and Zoning Office before issuance of the Zoning Permit.
7. The owners and agent must conform to Town and County ordinances regarding driveways.

Motion seconded by Jazdzewski.

Klessig stated he believes the application is complete.

Motion to approve passed unanimously by roll call vote.

Szachnit stated on page 5 of the packet there is a reference to Brilowski Road, and asked if this needed to be changed. Pelky stated he spoke with Stewart about this and it was an oversight on Stewart's part; corrected copies were not received by this office in time to distribute to members.

Approval of Minutes

Jazdzewski moved to approve the minutes of September 17, 2012, Bernhagen seconded. Motion passed unanimously by roll call vote.

Correspondence/Updates

Next meeting tentatively set for January 21, 2013.

Adjournment

Motion by Klessig, second by Bernhagen to adjourn. Meeting adjourned by Szachnit at 4:30 pm.

Respectfully submitted,

Gayle Stewart, Recording Sec.

Lowell Klessig, BOA Secretary

Date of Approval