

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
JANUARY 31, 2011

Call to Order

Chairman Rutta 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

Scheider led the Pledge.

Roll Call

Members present included Edward Rutta, James Potratz, Joan Scheider, Marj Bachhuber, and Ed Szachnit. Staff present included Jeff Schuler, Tracy Pelky, Christopher Mrdutt, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Rutta 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. BOA will take testimony, deliberate, and make their decision on a case-by-case basis. The petitioner will be sent notification of the decision during the week following the public hearing.

PUBLIC HEARINGS

Central Wisconsin Electric Co-Op, Owner / Jason Pedersen, Agent (P11-01)

The Central Wisconsin Electric Co-Op, owner, Jason Pedersen, agent, special exception request from the Portage County Wireless Telecommunication Facility Ordinance to construct a 190 foot communication tower in the C4, Highway Commercial Zoning District, Town of Alban, was opened by Rutta, who read the public hearing notice.

Pelky stated the petitioner wants to construct a communication tower for the Central Wisconsin Electric Co-Op so they are able to communicate within their business. The C4, Highway Commercial Zoning District requires this as a special exception, and this falls under the Wireless Telecommunication Facility Ordinance. This parcel was rezoned in 2010 and BOA approved a special exception request to operate the Electric Co-Op.

Rutta read the following into the record:

- A letter from the Town of Alban dated January 10, 2011, stating the Town Board approved the request to allow a 190 foot communication tower.
- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the request complies with the basic requirement of the Wireless Telecommunication Facility and Zoning Ordinances, and requested the Board discuss attaching conditions, if approved.

Rutta swore in Jason Pedersen, and asked him to explain the request. Pedersen has been working with the Central Wisconsin Electric Co-op for several years developing their radio and data system. They have four locations and the new building needs to be joined in with the network. This data connection provides all the data, communications, and phone systems into the overall network.

Rutta asked about co-locators and stated BOA would require the capability for three additional co-locators. There was discussion regarding what is needed, how the system works, and the type of frequency. Pedersen looked for other towers to utilize, but at the elevation and tree line, they would still need a minimum 180 foot tower, and would have to add additional hardware and antennas to other towers. Rutta asked if this will be done with a single antenna, and Pedersen responded yes. Rutta asked if they will install any other antennas for their own use on that hill, and Pedersen stated the fire department had expressed interest in installing an antenna, as well as putting up another of their own antennas. The additional antenna would be a stick antenna with a two-way radio repeater and would be

used only for company purposes. Rutta asked if the tower is designed to break away, and Pedersen replied no.

Rutta asked about strobe lighting. Pedersen stated he contacted JR Reabe Spraying Services, to inquire if they fly in the area of the proposed tower. Pedersen stated Reabe said if they felt a strobe light was needed, he would request it at the meeting. Pedersen stated he has not received anything from Reabe requesting a strobe light. Pedersen stated he does not believe Reabe sprays in the area near the proposed tower. Pedersen added they are not legally obligated to have a strobe on the tower, as the tower is not 200 feet in height. However, because the Town of Alban is requiring strobe lights, they will address this issue and put strobe lights up, if required by BOA.

Bachhuber asked permanent staff if there are any private airfields in the Town of Alban. Pelky stated if there were, they would show up on the Federal Communication Commission search for private registered airports. Pedersen stated there is a FCC search map included in the packet that shows a ten mile radius search for other towers and sites.

Rutta asked if there are records for crop dusting in the area. Pelky replied he does not have knowledge of when or if they do that. Pelky stated this issue will be addressed, if it comes up, and noted an aerial applicator is present at this meeting. Rutta added if in the past there were aerial applicators working in the area, BOA required a top strobe to be installed and lit during growing season.

Bachhuber asked Pedersen if he spoke with Amherst Telephone Company about the co-locator, and Pedersen replied yes. Bachhuber stated it was unclear what the intentions were regarding co-locators. Pedersen stated the information originally provided in the BOA packet is outdated. He has since met with the Town of Alban Board, and they explained the ordinance and requirements to have the capability for three co-locators. There was discussion amongst BOA and Pedersen regarding the co-locator issue. Rutta explained the co-locators must be compatible with the use of the tower operator.

Bachhuber asked if the base for the tower will be concrete, and Pedersen answered yes. Bachhuber read from the soil report and asked Pedersen to explain the construction recommendations outlined in the report. Pedersen asked Bachhuber if she meant how the base will hold the tower, and Bachhuber replied yes. Pedersen explained the tower construction company has to use the calculations of the soil type to determine what size/type of base will be needed. Pedersen explained this is more on the side of the engineering of the tower. Bachhuber expressed concern about the soil and a cave in. Pedersen stated many factors are taken into consideration by the engineering company and he would have to defer to the tower engineers for more specific information. Pedersen stated the tower must be built to standards and must be inspected according to FCC regulations. Rutta stated these towers have been built for many years and engineers know what to do. Rutta felt BOA does not need to get into the engineering standards of the tower construction itself. Bachhuber asked if this is the best location for the tower, and Pedersen answered yes. Soil samples from other areas are similar to those of the area chosen. Szachnit stated what we need to be concerned with is what is at the bottom and whether it is capable of supporting the concrete block plus the tower. Scheider asked about the size of the blocks to be used for the base. Pedersen is unsure of the exact size, but the basic tower footprint is approximately 20' x 20' x 20'.

Scheider asked about other sites. Pedersen looked at other sites around the building, and this location was chosen for safety purposes. Scheider asked if Pedersen looked outside the fenced area for locations, and Pedersen replied yes. Pedersen explained going further away or up the hill would have been too far to run data cables.

Bachhuber questioned the dates of construction. Pedersen was hoping to finish construction by March 1, 2011. Rutta explained the 30 day appeal process and stated if someone were to appeal the construction of this tower within the next 30 days, there is the possibility construction would have to stop, and this could be costly.

There being no further questions from BOA, Rutta excused Pedersen. Rutta asked if any members of the public wanted to address this petition. Roy Reabe, Reabe Spraying Service, was sworn in. Reabe communicated with Baycom about this issue, and believes there has been miscommunication. Reabe does not have a problem with the tower going up. Reabe works in the area, but there are no fields within a mile of the proposed tower location. In this area, a helicopter is used because of the distance from the

airstrip and related costs. Reabe's concern is having an airplane wander into the tower, if there is not a strobe light on top. Reabe stated the County has required daylight strobes during summer months on towers in the past, and this is greatly appreciated. Reabe asked BOA to consider requiring medium-intensity, daylight strobe lights during summer months. There being no further questions from BOA, Reabe was excused.

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

#### Deliberation and Decision

Rutta read ordinance requirements pertaining to the tower and summarized with the following:

- Site and design standards must be appropriate.
- We must try to minimize visual impacts of the structure.
- Structural standards are important.
- Can any alternative structures be used?
- Bird fly-way zones are a concern.

The petitioner has stated this is a point-to-point microwave that will go from the Tigerton area to this location. Rutta believes the design is acceptable, and this is the second best choice for bird fly-way zones. The land area is large enough so if the tower fell, there would be no damage to other structures. The tower will be located within the fenced-in area.

Bachhuber asked about zoning on surrounding properties, and Mrdutt answered the surrounding properties are zoned A4, General Agricultural. Bachhuber asked about residences in the area, and Mrdutt explained where nearby residences are located. Mrdutt added all property owners within 300 feet of the property were notified of the tower and this hearing.

Bachhuber asked if there is any need to consider screening or something to make the location appear natural. Rutta stated he does not believe this is necessary; this is undoubtedly an industrial site.

There was discussion about start and completion dates. Pedersen prefers a two week start date, as there is base and preparation work to be done.

Scheider feels strongly about strobe lighting and believes safety should come first.

Szachnit asked if the height of towers would vary with proximity to different airports, and Pedersen answered yes.

Rutta questioned Reabe about being notified of the tower. Reabe stated he was given information from Pelky about the tower and also communicated with Baycom. Reabe stated there was originally miscommunication between him and Pederson; however, he has the answers he needs. Rutta asked what months Reabe would be working in the area. Reabe said they normally work July into September; however, they can start as early as June 1<sup>st</sup>. Bachhuber asked if Reabe is the only aerial applicator, and Reabe replied there are two other aerial applicators. There was discussion as to who has responsibility of notifying aerial applicators when new towers go up. Pelky stated the Department is not notified who are local aerial applicators. Reabe stated aerial applicators are licensed through the Wisconsin Department of Agriculture, Trade, and Consumer Protection. There being no more questions, Rutta closed the deliberation portion of the meeting.

Rutta finds all requirements of the ordinance have been met. This is a legitimate use of the property. There are conditions that should be imposed; one being the ability to accept three other carriers, if they are compatible with the current user's business. Another condition is the use of strobe lights. Rutta believes they should be on May through September.

There was discussion about co-locators. Pedersen stated he contacted Amherst Telephone Company; however, they did not express interest. Rutta explained that it is not the petitioner's job to find co-locators; it is only a requirement that the tower be constructed in such a way it will accept co-locators.

Motion by Rutta to approve the petition for a special exception with the following conditions:

1. The tower must be constructed to facilitate three co-locators, providing their emission and frequency pattern is compatible to the use of the tower operator.
2. The tower must be completed by July 31, 2011.
3. A medium-intensity strobe light must be installed on top of the tower, and shall operate from May 1 through September 30.

Motion to approve, seconded by Potratz.

Bachhuber asked if Rutta wants to include a condition about notifying aerial applicators, and Rutta responded no. Scheider asked about FCC/Federal Aviation Administration requirements. Rutta replied the only reason the FCC is notified is for frequency and emission patterns of the radio system. Rutta stated the FAA has their requirements, so BOA does not need to be concerned with those.

Bachhuber is concerned with the responsibility of notifying aerial applicators. Rutta stated BOA does not have the authority to do this. BOA needs to deal with this particular tower installation. Reabe stated Planning and Zoning Department staff has notified three of the aerial applicators as a courtesy in the past. Rutta explained there was testimony if the tower is less than 200 feet, the FAA does not need to be notified. Scheider is pleased the County is informing aerial applicators about towers. She would like to see a current list utilized. Scheider also feels the municipality has a role in this.

Motion passed unanimously by roll call vote.

There was discussion amongst BOA, Pedersen, and Reabe regarding FCC/FAA regulations.

#### Approval of Minutes

Bachhuber moved to approve the December 20, 2010 minutes as submitted, Scheider seconded. Motion passed unanimously by voice vote.

#### Correspondence/Updates

Next meeting is scheduled for February 21, 2011, with on-sites February 18, 2011.

The March meeting is scheduled for March 14, 2011, with on-sites March 11, 2011.

There is a Board of Adjustment/Appeals Workshop scheduled for Saturday, February 19, 2011. All members are encouraged to attend. The County pays for the workshop, and carpooling is encouraged.

#### Adjournment

There being no further business to come before BOA, Scheider moved to adjourn, Potratz seconded, motion passed unanimously. Meeting adjourned at 5:18 pm.

Respectfully submitted,

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Gayle Stewart, Recording Sec.

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Joan Scheider, BOA Secretary

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Date of Approval

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
FEBRUARY 21, 2011

Call to Order

Chairman Rutta 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

Potratz led the Pledge.

Roll Call

Members present included Edward Rutta, James Potratz, Marj Bachhuber, and Ed Szachnit. Member excused was Joan Scheider. Staff present included Jeff Schuler, Tracy Pelky, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Rutta 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. BOA will take testimony, deliberate, and make their decision on a case-by-case basis. The petitioner will be sent notification of the decision during the week following the public hearing.

PUBLIC HEARINGS

Sterling W. & Rhonda R. Kienbaum, owners (P11-02)

The Sterling W. and Rhonda R. Kienbaum special exception request from the Portage County Zoning Ordinance to expand an automobile salvage, scrap, and metal processing facility, and a solid waste disposal site, in the A4 General Agricultural Zoning District, Town of Plover, was opened by Rutta, who read the public hearing notice.

Pelky stated the existing property has an established automobile wrecking yard and solid waste disposal site, which was approved by BOA in 2004. The special exception request is to expand the operation on adjacent land to the east.

Rutta read the following into the record:

- A letter from the Town of Plover dated January 7, 2011, stating the Town Board approved the request to combine the parcels.
- A letter from the Town of Plover dated February 16, 2011, with an excerpt from the minutes of the January 5, 2011 meeting of the Town of Plover Board, stating again the Town of Plover Board unanimously approved this request.
- An e-mail from Brad Johnson, Department of Natural Resources (DNR), stating the project will possibly require a stormwater permit and they must update their stormwater pollution prevention plan.
- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the request complies with basic requirements of the Zoning Ordinance, and requested the BOA discuss attaching conditions, if approved.

Pelky distributed the 2004 BOA Decision. Bachhuber asked if they have been in compliance all along, and Pelky answered yes. Bachhuber asked if wells have been tested since approval in 2004, and Pelky stated he is unsure, but Ray Schmidt, Portage County Water Quality Specialist, would have data. Bachhuber asked about the C.C.P. Program. Peter Donner stated this is the Spill Prevention Control and Counter-Measure Program, and they participate in the program as required by the DNR. Potratz asked Pelky if the 150% containment area was in effect with the original approval. Pelky answered this is covered under condition number 6 on the original decision. Szachnit asked about storage piles being higher than the fence, because according to the original decision, this could be considered a violation. Pelky stated BOA can address this issue during this hearing.

Rutta swore in Peter Donner and asked him to explain the request. Donner explained the business has been in operation for over six years. They want to combine two properties. There is basically one operation with two businesses: One for automobile parts salvage and one for recycling scrap metal. They need more room so they can separate the two operations. Donner wants a new building west of the scale, which would be for the scrap metal portion of the business. Once that building is done, he would like another building on the east side of the scale. This is where the other property comes into play; they want to be able to separate the two operations.

Rutta asked if the area east of the scale is where the new building will go, and Donner answered that is where a second building would go. The first building will be located to the west of the scale. Szachnit asked Donner if the old building will be removed. Donner answered yes, and the new building will be larger.

Bachhuber asked about driveway access for the house. Donner replied the property owners use the house and there is separate driveway access for the house. Bachhuber asked about fencing, and Donner replied there will be a fence around the portion of property being used for the business. Donner utilized the chalkboard to draw a rough sketch showing approximately where the fence would be located.

Rutta asked if there is any intention of using the area north and east of the house for storage of vehicles at this time, and Donner answered no; however, they may in the future, if business goes well.

Bachhuber asked how wide the buffer strip is of trees and/or vegetation along the south and east property lines, and Donner answered he is unsure. Bachhuber asked about improvements to be added to the property relating to the buffer area. Rutta stated according to the aerial photo, it appears to be 20' minimum on the south property line and 10' minimum on the east property line. Bachhuber asked Donner if the buffer will remain, and Donner answered yes. Szachnit asked if there will be storage to the north of the house, and Donner replied yes.

Potratz asked if there has been, or will there be, any soil testing for ground contamination prior to combining parcels. Rutta stated it is not specified in the application. Pelky reiterated it is not specified and asked Donner if that was a DNR requirement. Donner replied they have followed all regulations and the DNR has not required any testing.

Rutta asked what the process is when a wrecked car comes in, particularly when it comes to fluids and how they are handled. Donner stated the DNR has very strict regulations for salvage yards to follow. When fluids are removed from any type of vehicle, it must be done on an impervious surface, and that is exactly how they do it. All fluids are drained from vehicles stored on the property, with the exception of transmission fluids. If a transmission is sold, the vehicle is brought up to the cement slab where the fluids are then removed.

Bachhuber asked about the salvage operation, and Donner provided an example of how materials are sold. Donner also stressed no cars are sold; only parts, and no shredding is done on the premises. This service is provided by another vendor. Bachhuber asked if there have been any violations from the DNR, DOT, or any other agency, and Donner answered no. They have never had any complaints.

Rutta discussed the house located on the property, and stated if the house is separated from the business in the future, there must be at least two acres dedicated to the parcel for the house. Pelky stated a Certified Survey Map would be recommended in the future, if the property was to be separated. BOA could make this a condition of approval.

Rutta asked if there is a security fence around the property at this time. Donner answered he would like to put a security fence around the property, which would be a cyclone type fence with slats to obstruct the view.

Rutta asked if they accept refrigerators and air conditioners, and Donner answered yes. Donner added they charge for these because they have certified technicians who remove the refrigerants. They are required to keep a record of every item that comes to the facility where they remove the Freon. Donner stated Freon is stored in a propane tank. Donner stated when it comes to storage of fluids, there are strict standards and rules that must be followed. Donner suggested BOA make a condition that storage or use of petroleum liquids or fluids on the property would need DNR approved containers. Rutta asked

what features Donner has on his storage tanks. Donner stated they are required to have a double-wall tank on a cement slab with barriers around it. Donner added they have spill kits. These are standard requirements of the DNR.

Pelky asked if there will be a new fence installed around the entire property or just a fence around the area of expansion, and Donner answered they will use the existing fence where possible. Elsewhere, they will install a security fence around the perimeter of the operation area. Pelky questioned the height of the fence and junk piles, and asked Donner if he plans on reducing the height of the junk piles and raising the fence. Donner stated the way the property is set up, you do not see the scrap piles from the road as you are traveling by. Donner stated car bodies would be stored in the new area, not scrap metal. Bachhuber asked how high the fence would be, and Donner answered 10 feet. Pelky stated if the piles are higher than the fence, this could be a violation BOA may have to address.

Pelky questioned future buildings and asked if Donner had an approximate size. Donner distributed plans for one of the buildings and stated they would be approximately 80' x 100' or 80' x 120'. Pelky stated BOA could address future buildings in this decision to avoid Donner having to come back for another hearing.

Bachhuber asked if there is still a 4' x 8' sign, and Donner answered yes; however, he would like to possibly put up a new sign.

Bachhuber asked about well testing, and Donner is unsure if the one well has been tested. Pelky added Ray Schmidt, Portage County Water Quality Specialist, would have this information.

There being no further questions from BOA, Rutta excused Donner. Rutta asked if any members of the public wanted to address this petition. There being no members of the public wanting to testify, Rutta closed the testimony portion of the hearing.

#### Deliberation and Decision

Rutta stated there are many vehicles on the roads today, and as much as people do not like to see salvage yards, this is an extremely important service. If there was not this type of service, the countryside would be littered as it was years ago. Rutta reviewed the standards that must be met in a case such as this.

Bachhuber asked if they could begin by going through conditions set in Decision A04-54 from the Board of Adjustment hearing held December 6, 2004. From this, they would decide which conditions to keep and which new conditions to add. Bachhuber stated they will need to look at storage of fluids and see if there is the possibility of contamination, flooding, and contaminants being carried away from the site. Bachhuber stated if they can reach consensus on conditions to take care of those issues, and if all DNR standards are met, it would appear this would not substantially harm public health. Rutta stated this is a permitted use in the A4, General Agricultural Zoning District. Bachhuber added there have been no violations or complaints, and this business has been in this area for such a long time, this is a consistent use.

Schuler stated the best place to start is with Decision A04-54, and decide which conditions to maintain and eliminate. There was lengthy discussion between BOA members regarding conditions set in Decision A04-54, and conditions to be removed and added. The end result of the discussion is conditions set in the motion. Highlights of the discussion (not covered in the decision) are listed below:

- The presence of the residence on the parcel has no bearing on the number of junked vehicles allowed on the property. This request is to combine parcels, which includes a house.
- There is no way to know who or what will be located behind the property in the future. There is a need to keep fencing in place, and scrap piles manageable and at a certain height. Donner feels there is a burden restricting the height of piles, and asked if there was any consideration in the way a condition can be worded to allow obstruction from public view.
- Pelky suggested buffers and keeping the area wooded.
- Hours of operation are 7:30 am to 6:00 pm, weekdays, 8:00 am to 6:00 pm, weekends.
- The number of employees will not be specified.
- There will be a contract to have garbage picked up. This does not need to be established by BOA.

- Discussion on following all regulations of Wisconsin State agencies.
- The current sign exceeds limitations. BOA will have to approve a new sign.

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

1. Parcels #030-23-0732-12.01 and 030-23-0732-12.02 shall be combined and used as an auto salvage, scrap metal processing business, and a solid waste disposal site.
2. Approval is for a combined parcel of 35.82 acres. If in the future the house is separated, a Certified Survey Map must be completed to show the house is located on a parcel with a minimum of two acres.
3. Documentation/licensing of all companies being used for disposal of oils, gasoline, batteries, antifreeze, brake fluids, power steering fluids, refrigerants, etc., must be on file in the Portage County Planning and Zoning Department.
4. Groundwater quality down-gradient from the existing operation shall be evaluated to provide a baseline for likely groundwater contaminants. This may include installation of monitoring wells. Ray Schmidt, Water Quality Specialist from the Portage County Planning and Zoning Department, will make this determination prior to issuance of a Zoning Permit.
5. All fluids must be identified by name, including a diagram showing where they are stored on-site, and be contained according to standards as set by various Wisconsin State agencies.
6. All batteries and tires must be stored in containment areas and shown on a diagram where stored in case of an emergency.
7. Portage County Emergency Management, Planning and Zoning Department, and local fire departments must be made aware of what and where all hazardous materials are stored on the site.
8. A copy of the storm water drainage plan, approved by Dan O'Connell, Portage County Land Conservation Division, must be on file in the Portage County Planning and Zoning Department.
9. A detailed site plan must be on file prior to issuance of a Zoning Permit.
10. A 4' x 8' sign, with shielded lighting, is permitted to be erected outside the road right-of-way.
11. The site is to be used for the owner's business only, and no part of it is to be leased to anyone for any type of storage.
12. There is to be no after hours drop off of recyclable materials, and signage should be properly placed on the site informing the public of that restriction.
13. All Wisconsin Department of Natural Resources, Wisconsin Department of Commerce, United States Army Corps of Engineers, and any other governing bodies' requirements must be on file in the Portage County Planning and Zoning Department, prior to issuance of a Zoning Permit.
14. A 10' chain link fence with slats shall be erected, with a security gate, around the perimeter of the area of operation.
15. A 20' buffer strip consisting of trees and/or vegetation, along the south and east boundary lines, shall be created and/or maintained.
16. Two future buildings, to be located east and west of the existing scale, are made part of this approval.

Motion to approve, seconded by Potratz.

Subsidiary motion by Szachnit to remove the requirement for a vegetative buffer strip on the south boundary.

Subsidiary motion seconded by Rutta. Motion passed unanimously by voice vote.

Original motion to approve, with amendment, passed unanimously by roll call vote.

Motion by Bachhuber and second by Rutta to take a five minute recess. Motion passed by voice vote. Meeting recessed at 6:03 p.m.

Rutta called the meeting back to order at 6:08 p.m.

Indus Hospitality Group, owners, Bushman Electric Crane and Sign, agent (P11-03)

The Indus Hospitality Group, owners, Bushman Electric Crane and Sign, agent, special exception request from the Portage County Zoning Ordinance to construct a sign taller than 30 feet, in the C4 Highway Commercial Zoning District, Town of Plover, was opened by Rutta, who read the public hearing notice.

Pelky stated a hotel is opening and they are requesting a sign 50' in height, which exceeds the permissible height of 30'.

Rutta read the following into the record:

- A letter from the Town of Plover dated January 21, 2011, stating the Town Board referred this request to the Portage County Planning and Zoning Department for their administration of the related County Zoning Ordinance.
- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the request complies with basic requirements of the Zoning Ordinance, and requested BOA discuss attaching conditions, if approved.

Rutta swore in Bailey and Wayne Bushman, and asked them to explain the request. B. Bushman stated the new owner of the hotel, Indus Hospitality, wants to have a sign erected that will be visible from Highway 54, as well as I39. Surrounding signs that conform to the 30' maximum height are not clearly visible from I39. They want a 50' high highway pylon sign that measures 15' x 11'7".

Rutta is aware of numerous signs in the area. His main concern is the proximity to electric lines. B. Bushman stated she received correspondence from Wisconsin Public Service (WPS) indicating there needs to be 10' distance from the edge of the sign cabinet to their power lines. Bushman assured BOA the sign will be a minimum of 10' from power lines.

Potratz asked Pelky if he received a letter from Department of Transportation (DOT), and Pelky answered no. B. Bushman stated she forwarded Pelky, via email, correspondence from Anthony Culbert from the DOT.

Rutta read into the record an email from Anthony Culbert, DOT, outlining guidelines to be followed for on-premise signs.

Potratz expressed concern if the 50' sign were to fall over it would take the power lines down as it fell onto the paved portion of the highway. Rutta stated it does not appear DOT and WPS are concerned with this. W. Bushman stated they can provide documentation with data as to the type of substructure required for this specific situation.

Szachnit stated when WPS says the sign must be 10' from their lines, he does not believe it is a concern that the sign will fall over onto power lines, but it is more of a safety tolerance with the high voltage lines.

There being no further questions from BOA, Rutta excused B, and W. Bushman. Rutta asked if any members of the public wanted to address this petition. There being no members of the public wanting to testify, Rutta closed the testimony portion of the hearing.

Deliberation and Decision

Rutta stated this sign is not anymore intrusive than any other sign in the area.

Bachhuber stated this would not substantially harm the public health, safety, and general welfare; would not be contrary to State Law or Administrative Code; and the use is consistent with surrounding uses, as there are similar signs in the area.

Potratz asked about the setback in C4 Highway Commercial, and does it only cover the building? Pelky answered signs are regulated 5' from the road right-of-way. Potratz was concerned with the State having no objections, but stated they apparently have no concerns. Rutta stated BOA is concerned only with the height issue.

B. Bushman stated the old sign foundation will be removed and the new one will be put in a different location.

Motion by Rutta to approve the petition for a special exception with the following conditions:

1. Approval is for a sign greater than 30' high, but not greater than 50' high.
2. All requirements of the Department of Transportation and Wisconsin Public Service Corporation must be met.

Motion to approve, seconded by Szachnit. Motion passed unanimously by roll call vote.

Approval of Minutes

Bachhuber moved to approve the January 31, 2011 minutes as submitted, Potratz seconded. Motion passed unanimously by voice vote.

Correspondence/Updates

Next meeting is scheduled for March 14, 2011, with on-sites the same day, if there is only one hearing. On-sites will be March 11, 2011, if there is more than one hearing.

Rutta will not be in attendance at the March 14, 2011 meeting.

Adjournment

There being no further business to come before BOA, Szachnit moved to adjourn, Rutta seconded, and motion passed unanimously by voice vote. Meeting adjourned at 6:32 pm.

Respectfully submitted,

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Gayle Stewart, Recording Sec.

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Joan Scheider, BOA Secretary

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Date of Approval

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
MARCH 14, 2011

Call to Order

Vice-Chairman Potratz 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

Stewart led the Pledge.

Roll Call

Members present included James Potratz, Joan Scheider, Marj Bachhuber, Ed Szachnit, and Dennis Meis. Member excused was Edward Rutta. Staff present included Jeff Schuler, Tracy Pelky, Christopher Mrdutt and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Potratz 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. BOA will take testimony, deliberate, and make their decision on a case-by-case basis. The petitioner will be sent notification of the decision during the week following the public hearing.

PUBLIC HEARINGS

Hamerski Farms Inc., owner (P11-05)

The Hamerski Farms Inc. special exception request from the Portage County Zoning Ordinance to construct a fertilizer and chemical distribution and mixing plant, in the A1 Exclusive Agricultural Zoning District, Town of Plover, was opened by Potratz, who read the public hearing notice.

Potratz swore in Joe Kapral and Donald Hamerski.

Mrdutt stated this request is for a fertilizer and chemical mixing plant. The language for A1, Exclusive Agricultural, now includes chemical mixing. Previously, it was just fertilizer mixing and distribution plants. A lot of fertilizers and chemicals in agricultural applications are used hand-in-hand.

Potratz read the following into the record:

- A letter from the Town of Plover dated February 24, 2011, stating the Town of Plover Board authorized the chemical mixing plant project.
- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the request complies with basic requirements of the Zoning Ordinance, and requested the BOA discuss attaching conditions, if approved.

Potratz asked Kapral and Hamerski to explain the request. Hamerski stated this land was purchased one year ago. After that, Allen Supply Company approached him asking if they could put up a building, stating this was a favorable location for this type of business. Kapral stated the intent is to put up an approximately 8,000 square foot building. All containment in the building would comply with the Department of Agriculture, Trade, and Consumer Protection (DATCP), Chapter 33 rules governing bulk storage of any volume of pesticide or fertilizer contained in a unit 55 gallons or more. This business is primarily agricultural pesticide. They do very little in the fertilizer aspect. Everything they would be doing would be inside the building, under roof, and on full-containment concrete.

Potratz asked if there is a sketch or dimensions for the building, and Kapral stated they do not have a final sketch yet.

Mrdutt stated in A1 Exclusive Agricultural Zoning, there is no limitation on building size. They are concerned with the septic system and ensuring all setbacks are met.

Potratz asked if all existing buildings meet setbacks. Mrdutt answered there is one pre-existing building that appears, according to the aerial photo, to be close to the right-of-way. Mrdutt stated they will not be concerned with this as it is a pre-existing building. Hamerski stated the building was put up in the 1960's. Mrdutt again expressed they would only be concerned with additions to that structure meeting setbacks.

Bachhuber asked about the list of chemicals that must be on file with various agencies. Would this list contain the constant amount of each chemical on premises? Kapral answered the amount of chemicals would fluctuate, and the list would show the maximum volumes of the chemicals that could be stored on-site.

Bachhuber asked how the chemicals are delivered, and if they are in bulk. Kapral answered the chemicals are delivered via semi-tanks. Kapral explained the trucks deliver to the building and are unloaded by pump over the containment pad. All chemicals are stored in above-ground tanks. Kapral added they do not distribute bulk quantity of products. All products are repacked into mini bulk-type containers and are shipped out on truck. Ninety percent of product is delivered to customers.

Szachnit asked if trucks are inside or outside of the building when chemicals are loaded up for delivery, and Kapral answered there are never any hoses or anything outside. All transfers of any type of bulk chemical are done according to State rules, over full containment.

Meis asked about containment. Kapral explained the concrete is engineered for containment according to DATCP rules.

Scheider asked how security has been addressed in the design of the building. Kapral asked if Scheider meant burglar alarms, and stated this is not required by the State, but from a risk management standpoint, this is commonplace with companies. They would address security with an alarm system of some type. Scheider asked what force would be necessary to break into this building, and Kapral answered he believes substantial force would be necessary. Kapral added they do not put windows in areas where contents of the building can be seen. They try to eliminate what can be seen. Scheider asked how many locations Allen Company has, and Kapral added this would be the only location. Scheider asked how many customers they have, and Kapral answered less than 100, of which 10 come to their business on a regular basis. Most of the product they sell is delivered to the customer. Scheider asked what type of trucks are used for delivery. Kapral answered they have two pickups and a single axle straight truck. They make less than 10 deliveries per day during peak season.

Meis asked if there will be any signage, and Kapral answered minimal signage. Their type of business does not rely on walk-in business. They may have a sign on the building. Pelky stated signage would be addressed by Planning and Zoning staff.

Bachhuber asked what the greatest danger is to surrounding properties, and Kapral answered off-site movement of pesticides. Given this is a totally contained building without any outside structure, Kapral believes the greatest risk would be fire. Bachhuber asked about danger once chemicals are in bulk containers. Kapral replied the majority of the danger is typically in the transportation of the chemicals; specifically, from accidents and containers rupturing. There is minimal amount of danger on-site because there is little handling of the products. Hamerski stated steel containers are used on the trucks to transport chemicals. Kapral added the State regulates the types of materials used for the containers, as well as valves and plumbing on the containers.

Scheider asked if chemicals are transported in stainless steel or plastic containers, and Kapral stated they primarily transport in some type of poly container. These containers have to be of a certain type as regulated by the Department of Transportation. Scheider asked if they use a forklift to load and unload chemicals, and Kapral answered yes. Scheider asked if they anticipate an increase in the customer base, and Kapral responded he does not believe it will change dramatically one way or the other. The type of products they are dealing with have progressed over the years, are more efficient now, and are dealt with in much smaller volumes. Scheider stated the list of chemicals provided is misleading in the fact that it is not a complete list of chemicals they are dealing with. Kapral stated that is not necessarily true. They have very strict guidelines as far as what products are required to be reported. As part of the Emergency Management plan, they must supply information sheets for any product they might carry. Kapral stated these are typically submitted electronically. There may be only five chemicals they would deal with in a bulk situation. There are very few that are dealt with as far as transferring bulk product from

large tanks to smaller ones. Scheider asked if Kapral is receptive to having an open house once the operation is up and running, and Kapral answered yes.

Bachhuber asked if this issue is required to go before the Public Safety Committee, and Kapral answered no. Kapral has submitted plans with the Emergency Management Department on an annual basis.

Meis asked if there will be additional lighting, and Kapral stated the intent is to have lighting on the building itself.

Hamerski stated it is unknown what specific chemicals they will be dealing with because at this time, it is not known what type of bugs they will be dealing with.

Potratz stated he does not believe BOA needs to be concerned with the type of chemicals being stored and used. There is information in the packet which can change; however, the use of these chemicals is regulated by the State. Kapral stated DATCP has oversight on products requiring containment.

There being no further questions from BOA, Potratz excused Hamerski and Kapral. Potratz asked if any members of the public wanted to address this petition. Barry Jacowski, Portage County Board Supervisor, District 19, stated he is a farmer and believes staff has worked very hard with the petitioner to ensure all requirements are met. He thinks we need to do everything we can to keep every business and every job in Portage County.

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

#### Deliberation and Decision

Bachhuber approves of this request, and stated most of the issues are taken care of with State approvals. She would like a list of chemicals kept on file with various County agencies.

Szachnit stated he has no objections.

Meis stated this type of business is already in operation and it appears they are following the rules.

Scheider stated she has no concerns at this time.

Potratz stated they are pretty much regulated by State agencies and standards. BOA's only concern is the approval for the special exception. Potratz added pages 1 – 11 of the petition covers just about everything.

Motion by Scheider to approve the petition for a special exception with the following conditions:

1. A Portage County Zoning Permit must be obtained.
2. A copy of the liability insurance policy for the building/business, yet to be designed and built, is to be on file with the Portage County Planning and Zoning Department.
3. All State and/or Federal requirements will be followed.
4. State approved building plans are to be on file with the Portage County Planning and Zoning Department, as well as the Town of Plover Building Inspector, prior to construction.
5. Upon construction, a commercial building inspector is to inspect the property regarding all safety issues.
6. A list of all hazardous materials to be stored, mixed, and dispensed, with quantities, from this facility must be on file with the Portage County Sheriff's Department, Portage County Emergency Management, Village of Plover Fire Department, and the Portage County Planning and Zoning Department.
7. All hazardous materials to be stored, mixed, and dispensed from this property are to be stored in State approved storage facilities or tanks.
8. Ray Schmidt, Portage County Water Quality Specialist, is to review groundwater concerns. This may include the need for water tests or installation of monitoring wells.
9. Exterior lighting is to be directed inward and downward.
10. If signage is to be used, it is to be in accordance with the Portage County Zoning Ordinance.

11. Ingress and egress accesses to this property should direct traffic use to the established truck route of Isherwood Road and/or Birch Drive West.
12. The Town of Plover Board must authorize truck routes, if and when egress and ingress needs for Birch Drive East might emerge.
13. Failure to follow these attached conditions could lead to forfeiture and/or revocation of this approval.

Motion to approve, seconded by Bachhuber. Motion passed unanimously by roll call vote.

Hamerski asked about the condition set regarding Town roads. He believes this is the Town of Plover's job to address. Potratz stated these are directed at the Town of Plover Board. Hamerski stated these issues were not covered earlier. Scheider explained the Town of Plover Board must authorize truck route uses, if and when ingress and egress needs for Birch Drive East might emerge. Hamerski asked if this was for the chemical plant or for all traffic on that road. Scheider stated this deals with the special exception for the chemical plant. Scheider explained there is a mobile home park on Birch Drive East and there is the potential for about 75 cars when you get down to the end of Birch Drive. There are multiple children who actually play in the road, and this is the reason for her concern on Birch Drive. Hamerski is concerned he cannot go on Birch Drive to the east, if he picks up chemicals. Potratz does not believe it says this. Mrdutt stated this would be referring to the large truck or semi transporting bulk chemicals. This would not apply to the individual grower or farmer driving on the road.

Michael J. Barlow, owner, (P11-06)

The Michael J. Barlow, owner, special exception request from the Portage County Zoning Ordinance to operate a home occupation/contractor's storage yard, in the A4 General Agricultural Zoning District, Town of Hull, was opened by Potratz, who read the public hearing notice.

Pelky stated the request is for a home occupation and contractor's storage yard. The petitioner will be storing tents in a detached garage. Because the petitioner will have larger vans to transport tents, they are also requesting approval for a contractor's storage yard. Pelky added there are two properties, both owned by the petitioner.

Potratz swore in Michael Barlow.

Potratz read the following into the record:

- A letter from the Town of Hull dated March 3, 2011, stating the Town of Hull Board acted in favor of this request and recommends favorable support by BOA.
- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the request complies with basic requirements of the Zoning Ordinance, and requested the BOA discuss attaching one condition, if approved.

Mrdutt stated this is a special exception for two uses. Mrdutt explained he did not include conditions related to screening in this case because the properties are heavily screened naturally. Portage County Planning and Zoning staff is only requesting the petitioner obtain a zoning permit.

Barlow stated he wants to move the business from one location to another.

Potratz added this area is naturally vegetative, and if you didn't know the building was there, you would never see it.

Bachhuber stated this use does not substantially harm the public health, the use is consistent with surrounding uses in the neighborhood, and is not near a stream.

Szachnit asked if the entire business is being relocated, and Barlow answered yes.

Meis asked if there would be any weight issues on the roads, and Barlow answered no. He believes they are below posted weight limits.

Potratz asked if any members of the public wanted to address this petition. Dave Way, operator of the business for 20 years, said he never had complaints and the buildings are unnoticed.

There being no further questions from BOA, Potratz excused Barlow.

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

Deliberation and Decision

Potratz stated this is a usage issue. There is no need for plantings as screening is not an issue.

Scheider asked if the existing driveway is the driveway that will be utilized, and Mrdutt answered yes. This driveway accesses a few of the parcels in that area.

Motion by Bachhuber to approve the petition for a special exception with the following condition:

1. A Portage County Zoning Permit must be obtained.

Motion to approve, seconded by Scheider. Motion passed unanimously by roll call vote.

Correspondence/Updates

Next meeting is scheduled for April 18, 2011. On-sites will be April 15, 2011.

Adjournment

There being no further business to come before BOA, Scheider moved to adjourn, Szachnit seconded, and motion passed unanimously by voice vote. Meeting adjourned at 4:55 pm.

Respectfully submitted,

\_\_\_\_\_  
Gayle Stewart, Recording Sec.

\_\_\_\_\_  
Joan Scheider, BOA Secretary

\_\_\_\_\_  
Date of Approval

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
APRIL 18, 2011

Call to Order

Chairman Rutta 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

Scheider led the Pledge.

Roll Call

Members present included Edward Rutta, James Potratz, Joan Scheider, Marj Bachhuber, and Ed Szachnit. Staff present included Jeff Schuler, Tracy Pelky, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Rutta 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. BOA will take testimony, deliberate, and make their decision on a case-by-case basis. The petitioner will be sent notification of the decision during the week following the public hearing.

PUBLIC HEARINGS

Robert and Mary Berard, owners (P11-07)

The Robert and Mary Berard special exception request from the Portage County Zoning Ordinance to exceed 2,800 square feet total accessory storage space, two-to-one (2:1) building width ratio, and rescind condition #7 from the February 17, 2003 Board of Adjustment Decision, in the R2 Single Family Zoning District, Town of Hull, was opened by Rutta, who read the public hearing notice.

Pelky stated in 1990, Berard came before BOA to exceed the accessory storage square footage allotment at that time. The request was approved. At the February 17, 2003 BOA hearing, Berard requested to construct a detached 38' x 28' garage. The request was approved with one of the conditions requiring a deed restriction be placed stating no further detached accessory buildings would be allowed. The deed restriction was recorded at the Register of Deeds on April 17, 2003. There is history of two BOA requests that were approved, and copies of those decisions are included in the packet. Pelky was contacted by the builder, Mark Sommers, requesting to construct a 14' x 35' attached garage addition off the east side of the home. The detached garages, attached garage, and addition would not exceed the threshold of 2,800 square feet. However, another issue came to light during the application process. A 14' x 42' shed appears to have been constructed without a permit. BOA would need to address the 14' x 42' shed on the property, as well as the proposed 14' x 35' attached garage addition. If all structures are permitted, the square footage will exceed 2,800 square feet. Pelky stated BOA needs to take into account the deed restriction. Another issue BOA needs to address that they have not dealt with before, is a 2:1 building width ratio. The ordinance states a building may not exceed a 2:1 width ratio, and 14' x 42' exceeds the 2:1 width ratio. As an option, the owner is proposing a lean-to in order to meet requirements to keep the 14' x 42' shed.

Rutta asked about the 1990 approval and reference made to a second story on the garage. Pelky stated at that time, the ordinance included square footage of the lower and upper levels. The ordinance no longer includes the upper level in the square footage calculation. Pelky explained new wording in the ordinance as relates to calculating square footage. Pelky noted the Town of Hull Board did not take action on this request.

Rutta swore in Mark Sommers and Bob Berard and asked them to explain the request. Sommers stated Berard wants to add on to his main garage to mainly store cars he collects.

Rutta asked if the primary reason for the request is to get the garage addition, and Berard answered yes. Berard stated he does not work on vehicles, change oil, or sell cars from this location. This is only for storage.

Scheider asked how the shed was built while there was a deed restriction, and was Berard aware of the deed restriction? Berard answered he was aware of the restriction in 2003. Berard said he was informed by Sommers he should have gotten a permit, and said it was his fault for not having one. Berard stated he thought the deed restriction applied to garages only, not the storage shed. Sommers added he didn't even think about the deed restriction because it was several years ago.

Scheider asked if Berard should have gotten a permit to put up the shed. Pelky responded yes; however, a permit would have been denied because of the deed restriction. They could not issue a permit unless BOA was to rescind or modify the deed restriction.

Potratz stated the second garage, or shed as Berard refers to it, became non-conforming when he added on to it; in addition to being illegal because there was no permit issued. Sommers stated he had no knowledge of the 2:1 width ratio. Rutta stated this is a fairly new requirement. Pelky stated they would have caught this at the time a permit was sought.

Potratz stated the primary reason BOA is here is for the garage addition, and the other issues are playing catch-up. Potratz asked if BOA has the authority to remove the deed restriction, and Rutta answered yes.

Berard stated when the deed restriction was put on, he only owned 20 acres; he now owns 80 acres. Berard believes the restriction was basically set up for a neighborhood. Potratz stated R2 Zoning is a residential neighborhood zoning. Berard asked if the zoning can be changed. Berard was informed BOA cannot do that, however, it is a possibility. Pelky stated there is a set procedure and town approval is required.

Szachnit's concern is with the existing buildings and the maximum square footage is exceeded by quite a bit; approximately 3,700 square feet total.

Bachhuber discussed the attached two-story garage and asked if there has been any remodeling or revisions since it was built in 1990, and Berard answered no.

Rutta explained the intent of the R2 Zoning District is to provide high density, unsewered, single family residential construction. Rutta read the restrictive covenant from April 17, 2003. Rutta stated Berard had to know the deed restriction was in place. Berard stated he thought it did not pertain to his shed and was for garages only.

Rutta asked when the pool was put in, and Berard answered 1991. Rutta asked if a permit would have been required for the pool, and Mrdutt stated the office policy was that permits were not required for in-ground pools at that time. Rutta asked when the ordinance was changed to allow 2,800 square feet for accessory building space, and Mrdutt answered August 2010.

Pelky stated he explained different scenarios to Berard and noted there is uniqueness with the large lot size. Pelky also explained if BOA keeps the deed restriction in place, there is no need to act on anything else.

Rutta stated all buildings must be clearly incidental to the residential use of the property, and added he noticed tractors in the shed. Berard explained these tractors are used for lawn mowing.

Scheider stated it appears Berard has several situations that are contrary to how BOA handled itself on previous occasions. She asked why Berard did not check zoning on this property, which would have alleviated some of the issues he is facing today. Scheider asked if Berard has ever talked to the township about changing zoning, and Berard answered no.

Mrdutt asked if the small gazebo-type structure, located quite a distance from the home, is Berard's, and Berard answered yes.

There being no further questions from BOA, Rutta excused Berard and Sommers. Rutta asked if any members of the public wanted to address this petition. There being no members of the public wanting to testify, Rutta closed the testimony portion of the hearing.

#### Deliberation and Decision

Rutta stated this particular property is substantially different than what they would expect to find in R2 Zoning, in that this is a much larger parcel. Rutta believes the owner has shown disregard in that construction of buildings has taken place prior to acquiring the proper permits or removal of condition #7 from the previous appeal in 2003.

Rutta stated this should be discussed in phases. Issues to be addressed are whether BOA should remove condition #7 from the 2003 decision, should BOA allow the continued existence of the 14' x 42' shed and require an 8' x 42' addition be completed to bring the building into conformity with the ordinance, and should BOA allow construction of a 14' x 35' addition to the attached garage.

Bachhuber questioned the decision from 2003 and asked why they allowed 3,266 square feet of accessory building space. Pelky explained at that time, they included the square footage of all levels of the garage. This is no longer the case.

Bachhuber referenced the memo to BOA from Jeff Schuler dated April 8, 2011, and reviewed the numbers presented. She believes there are contradictions with the square footage and what the ordinance allowed at the time.

Potratz stated if BOA does not remove the deed restriction, there is no need to go through everything else. All other arguments are moot. Rutta wants to deal with the deed restriction first.

Bachhuber stated when a deed restriction is imposed, it is the final word. The restriction runs with the land.

Szachnit stated when following the ordinance and deed restriction, this request is not permissible. However, with the amount of property Berard has, it is like a subdivision.

Potratz feels this property is not zoned properly, and should be rezoned. If it were, there would be no need for this hearing.

Scheider stated there is nothing in the deed restriction that makes reference to a specific zoning district. If the property were rezoned, would that negate the deed restriction? Rutta answered no; the deed restriction was placed on the property. Pelky stated this is a legal question. He is unsure whether the deed restriction would be valid, if the property was rezoned. Rutta reiterated BOA has nothing to do with rezoning property; however, BOA has the authority to remove the deed restriction.

Bachhuber stated you cannot do whatever you want because you have a larger parcel of property. Bachhuber added you cannot look at the amount of land Berard owns as one parcel. These are two separate parcels. Pelky stated BOA needs to focus on the acreage of this particular parcel only.

Berard stated he believes he should have his property rezoned, and added he does not believe BOA will grant his request.

Rutta asked for a motion to remove condition #7 from the BOA decision of February 17, 2003. Motion by Rutta to remove condition #7 from the BOA decision dated February 17, 2003. No second to the motion. Motion dies.

Rutta asked for a motion not to remove condition #7 from the BOA decision dated February 17, 2003. Motion by Potratz not to remove condition #7 from the BOA decision dated February 17, 2003. Motion seconded by Scheider. Motion passed unanimously by roll call vote.

Paragon Potato Farms Inc, Owner / William J. Filtz, Agent (P11-08)

The Paragon Potato Farms, Inc., Owner / William J. Filtz, Agent, special exception request from the Portage County Zoning Ordinance to operate a contractor storage yard as a trucking business, and to allow more than one commercial vehicle, in the Industrial Zoning District, Town of Sharon, was opened by Rutta, who read the public hearing notice.

Pelky stated this property is zoned Industrial, and any use requires BOA approval. Petitioner wants to purchase property to operate a trucking business and contractor storage yard.

Rutta read the following into the record:

- A letter from the Town of Sharon dated April 13, 2011, stating the Sharon Town Board passed a motion to allow this request.

Rutta swore in William Filtz and Randy Wanta and asked them to explain the request. Filtz stated he just sold the building that housed his storage yard. He currently has nine trucks, between semi-tractors, dump trucks, and trailers. Filtz wants to move to a more user friendly site that is zoned Industrial and larger in size as Filtz intends on growing his business.

Wanta stated the facility Filtz is putting together is a very well designed area for the use he wants. He believes the area is very well suited and appropriate, because there is already truck traffic and a private road.

Rutta asked if the trucks are owned by Paragon Farms, and Filtz answered no, he owns the trucks. He is only purchasing the property from Paragon Farms.

Scheider asked how long Filtz has been at his current location, and Filtz answered since 1992. His trucking business has grown to bigger trucks with trailers, so his turning radius and room accessible to the shop has outgrown itself. Filtz believes he will not outgrow the new space.

Szachnit asked if any existing buildings were purchased from Paragon Farms, and Filtz answered no. All existing buildings are owned by Paragon Farms. Filtz's property will be 5.5 acres located south of the private road. There is an agreement with Paragon Farms regarding road maintenance on the private road. If the property is sold, Filtz will still have rights to the road.

Rutta asked what Filtz trucks, and Filtz answered dirt, aggregates, and agricultural limestone. The business has changed and they now do more concrete tanker type work. They deliver to ready mix job sites and they also work with sandblasting materials. Filtz added he will not store materials on site.

Filtz read aloud each of the nine conditions outlined in Mrdutt's memo to BOA. Filtz was in agreement with each of the conditions, and added he runs a clean operation and contracts for garbage removal.

Rutta ask about steel and aluminum salvage. Filtz stated they may accumulate steel in the course of day-to-day operations while working on trucks. Rutta asked if Filtz has a level three or four salvage permit, and Filtz answered no.

Pelky asked if a 20 truck limitation is adequate, and Filtz answered yes. Pelky asked if there is any additional equipment, and Filtz answered two frontend loaders. Filtz described the trucks and equipment he will have and stated the trailers normally will not be on site. Bachhuber asked about storage of equipment, and Filtz stated the frontend loaders and snowplow will be stored indoors, particularly during the winter.

Wanta stated Filtz runs a top notch business. He takes good care of his vehicles and takes pride in his property.

Rutta asked if there is any security fencing at his current site, and Filtz answered no. He has never had an incident; however, he may consider some type of security camera or other measures at the new location.

Scheider asked what Planning and Zoning staff intended when they referenced storage on site of a maximum 20 trucks in designated storage areas. How would they define a designated storage area?

Mrdutt explained in the stormwater management plan, there are areas designated for storage, external from the building. Filtz stated it is inevitable there will be trailers stored outside.

Rutta asked about plans for a loading dock. He believes this implies there will be materials stored inside and trucks will be stored outside. Filtz stated this will be a heated area and floor space used for maintenance and storage of vehicles. The loading dock is being added for future development/salability. This also adds square footage inside the building.

There being no further questions from BOA, Rutta excused Filtz and Wanta. Rutta asked if any members of the public wanted to address this petition. Rose Boero was sworn in by Rutta. Boero stated she is the closest neighbor to the south of this property. Boero wants to know exactly where this parcel is located and which road they will be using. Boero was shown on a map where the property is located and where traffic would enter from. Boero asked if they would be using the field access road in any way, and Filtz answered no. Filtz stated this is the field access for someone renting the field. Boero asked if there will be traffic on Highway 66 and County Road J, and Rutta explained they will access the property off County Road J and the private road. The main entrance will be on County Road J. Boero asked if the Highway Department has concerns with this, and added she believes this is a dangerous intersection. Filtz stated it is approximately 300 yards off County Road J. Mrdutt added this road is 350 feet south of Highway 66. Boero stated they have a driveway just south of this location, and there is a high incidence of traffic passing. There is a high number of trucks, day and night, and a lot of people passing the trucks. She believes it is a high risk area to have a driveway. She is not saying they should not have it in that location; she wants BOA to be aware of the situation. Boero stated she is satisfied with the road they will use.

Scheider asked Filtz at what frequency his trucks return to this location as a home base. Filtz answered the trucks leave early in the morning and usually return later in the evening. Activity during the day is minimal.

Szachnit asked how many trucks may be there each day, and Filtz answered six to seven per day.

Rutta asked if any other members of the public wanted to address this petition. Patrick Wanserski, Town of Sharon Chairman, was sworn in by Rutta. Wanserski briefly discussed washing vehicles on site. He believes if vehicles are to be washed on site, Filtz must have the capability to store the water used for washing. Filtz stated there are currently three existing tanks that can be utilized, via a floor drain. Wanserski agreed this is a good use of the property. Wanserski was excused.

Rutta asked if this is a good place to consider buffer zones, and Mrdutt stated the drainage basin will be located in the southern part of the property, so in a sense, creates a buffer between structures and where vehicles are located.

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

#### Deliberation and Decision

Rutta stated the property is zoned Industrial. This type of activity is what this zoning was designed for. Rutta added he would like to delete condition four from Mrdutt's memo that pertains to the steel and aluminum salvage operation because it appears it is not going to be a major part of the business.

Scheider asked Mrdutt to explain why he found condition four to be of value. Schuler explained they like salvage identified to be in a certain area, so when they visit a site, they can say the salvage/scrap is supposed to be located in a particular area. Mrdutt explained when the business checklist was submitted with the packet, Filtz entered steel under number 17 on the list. When Mrdutt read that, he interpreted there would be a potential for steel/aluminum on site.

Scheider stated she is concerned with the amount of steel/aluminum that will be on site because Filtz deals with large trailers. She believes if he accumulates it, by the time he gets rid of it, there will be a flatbed full. Filtz stated that is not the case. The amount he would have would fit in the back of a pickup truck. Scheider asked how long it would take Filtz to accumulate enough to fill up the back of a pickup truck, and Filtz answered one year.

Bachhuber asked if this would be confused with solid waste. Mrdutt explained conditions will separate solid waste from steel and aluminum recycling. Rutta stated if this condition is left in, it should be worded to be a very minor component of the operation. Potratz stated all steel and aluminum that will be accumulated must be directly related to the trucking operation.

Scheider asked if BOA could make a recommendation about a no-passing zone. Rutta stated this is not the responsibility of BOA. Patrick Wanserski, Town of Sharon Chairman, could address this issue with the Portage County Highway Department.

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

1. Petitioner must obtain a Portage County Zoning Permit.
2. Hours of operation are 5:00 am to 10:00 pm, Monday through Friday; 6:00 am to 3:00 pm, Saturday and Sunday.
3. Storage on-site of a maximum of 20 trucks, in designated storage area.
4. Steel and aluminum recycling related to the trucking operation shall be restricted to a designated area.
5. Obtain Stormwater plan approval by Wisconsin Department of Natural Resources and Portage County Planning and Zoning Department.
6. Obtain Commercial building plan approval through Wisconsin Department of Commerce.
7. Outside storage of solid waste to comply with Portage County Zoning requirements (maximum 500 square feet, excluding trucks).
8. Proper management of hazardous materials per all applicable State requirements. This includes containment of fluids/materials and notification of materials on-site to applicable agencies (Portage County Planning and Zoning, Emergency Management Department, etc.).
9. Exterior lighting to be shielded (directed inward and downward).

Motion to approve seconded by Szachnit. Motion passed unanimously by roll call vote.

#### Approval of Minutes

Bachhuber moved to approve the February 21, 2011 minutes as submitted, Potratz seconded. Motion passed by voice vote.

Szachnit moved to approve the March 14, 2011 minutes as submitted, Potratz seconded. Motion passed by voice vote.

#### Correspondence/Updates

Tentative meeting scheduled for Monday, May 2, 2011. On-sites that same day, just prior to the meeting.

#### Adjournment

There being no further business to come before BOA, Potratz moved to adjourn, Scheider seconded, and motion passed by voice vote. Meeting adjourned at 5:40 pm.

Respectfully submitted,

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Gayle Stewart, Recording Sec.

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Joan Scheider, BOA Secretary

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Date of Approval

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
MAY 2, 2011

Call to Order

Chairman Rutta called the Portage County Board of Adjustment (BOA) to order at 4:00 pm in Conference Room 1, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Scheider led the Pledge.

Roll Call

Members present included Edward Rutta, James Potratz, Joan Scheider, Marj Bachhuber, and Ed Szachnit. Staff present included Jeff Schuler, Christopher Mrdutt, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Rutta 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. BOA will take testimony, deliberate, and make their decision on a case-by-case basis. The petitioner will be sent notification of the decision during the week following the public hearing.

PUBLIC HEARINGS

Carl and Linda Varney, Owners / Al Tessmann, Agent (P11-09)

The Carl and Linda Varney, Owners, Al Tessmann, Agent, variance request to construct a residential addition within the road right-of-way setbacks, in the R2 Single Family Residence Zoning District (3890 Bluebird Drive) Town of Plover, was opened by Rutta, who read the public hearing notice.

Mrdutt stated the petitioner wants to put an addition on their house. The required setback from the road right-of-way is 30 feet. The addition would encroach into the right-of-way up to two feet. When Mrdutt and Pelky were measuring, there was a hoop structure that impeded the measurement of the vision triangle and was non-conforming without a permit. At the time of the on-site, it was noted this structure was gone, so any issues regarding the building are taken care of. Mrdutt added the 12 foot proposed addition would not encroach into the vision triangle.

Rutta read the following into the record:

- A letter from the Town of Plover, with attachments, dated April 8, 2011, indicating approval of the variance request by the Town of Plover Board.

Rutta swore in Al Tessmann and asked him to explain the request. Tessmann stated he is the agent for Carl and Linda Varney and the goal of the petitioner is to create a master suite, which will add a second bathroom to the home. They are currently restricted to one bathroom. A 12 foot addition will give them the space and room they need. Tessmann referenced a drawing and explained what they want to do and detailed where things will be located.

Rutta stated the sketch provided appears to be incorrect. Tessmann stated it does not include the living room, dining room, kitchen, or laundry. This is the end of the home that pertains to the addition area. Tessmann explained to BOA where existing walls are and detailed the proposed changes.

Rutta asked if the house was built by the current owners, and Tessmann answered no. Rutta asked how long the Varneys have owned the house, and Linda Varney answered 19 years.

Scheider asked how the new closet would be entered and would it be through the master bedroom? Tessmann answered yes. Scheider asked if the new master bedroom would be 16 feet wide, and Tessman answered yes.

Szachnit asked if the bathroom in the new addition will be approximately the same size as the bedroom, and Tessmann answered it will be a little bit smaller, approximately 10' x 12'. Tessmann stated it depends on placement of the bathtub. The goal is to have a nice environment with ample room. Tessmann added this will be built on a crawl space.

Rutta discussed the size and shape of the proposed bathroom. Tessmann stated this would create a nice space with flexibility to locate furniture in any way they want.

Rutta asked if the owners considered the possibility of conforming to the ordinance and keeping the addition at ten feet, and Tessman answered yes. The owners' expectations are of having a nice master bedroom suite. In addition, they want a six foot tub, and accommodating that requires a larger space. Tessmann stated the owners plan to spend a long time in this home, and if they are going to add the space, they want to build it the way they want.

Rutta asked Tessman what will happen if the variance is denied, and Tessmann answered it is his understanding the petitioners would not proceed with the addition.

Bachhuber asked if the petitioners considered a different location on the property. Tessman responded there is a 2/3 season room, however, this location was eliminated because of the septic location. He believes the requested location is the best.

Bachhuber stated there is a detached garage and asked if any thought was given to converting the attached garage into a master bedroom suite. Tessmann stated if the existing garage were turned into a master bedroom suite, there would be problems with the aesthetics of the home. In addition, this would cut off access to the kitchen from the driveway. This would cause problems in regards to carrying in groceries and parking in the driveway. He believes this would be a detriment to the property's value and is an unrealistic expectation. Bachhuber asked how big the attached garage is, and Tessmann answered he believes it is approximately 22' x 28'.

Szachnit asked if the sunroom was on the house when it was purchased, and Linda Varney answered yes. There was discussion about well and septic concerns.

Rutta said if the septic tank was moved closer to the existing drainfield, that would clear the entire area behind the home for an addition. Tessmann agreed, but added this idea is undesirable to the owners and is very expensive.

Rutta stated under the variance criteria, there are three requirements that must be met. One of these is to describe the unnecessary hardship. Rutta stated the hardship listed by the homeowner is the home has only one bathroom. Tessmann stated the septic system is set at a level where a bathroom cannot be added downstairs. There would be considerable expense for an addition of a pump and area to do that. Rutta said it is possible to put another bathroom in the house with a smaller addition. Tessmann agreed, but stated this does not meet expectations of the owners.

There was discussion amongst BOA, Tessmann, and Tim Karcheski, Town of Plover Chairman, regarding Cardinal Road and future development.

Tessmann stated the house is built on a corner lot and he believes this corner puts a little bit of a hardship on the homeowner. Measuring from the center line of the road, the setback is more than 30 feet. Bachhuber stated you must measure from the center line of the right-of-way, which affects the setback line. Tessman stated being on a corner lot allows adequate room for street improvements and is out of the vision triangle.

There being no further questions from BOA, Rutta excused Tessmann. Rutta asked if any members of the public wanted to address this petition. Tim Karcheski, Town of Plover Chairman, stated they have reviewed the plan and conducted an on-site with Carl Varney. There has been no opposition from neighbors. In fact, neighbors thought this was a great idea. Karcheski stated this would be a tax benefit to the Town. Karcheski believes remodeling the attached garage and using the detached garage to store vehicles would devalue the property.

Rutta asked if making the addition two feet narrower would have a detrimental effect in the taxation, and Karcheski stated everything adds up.

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

#### Deliberation and Decision

Rutta read the variance requirements and stated BOA must address all three.

Bachhuber asked if this is enough of a hardship, and added the hardship cannot be financial. The petitioner defined the hardship as having only one bathroom. Bachhuber stated there are no exceptional circumstances that apply to the use that do not apply to other landowners. Bachhuber stated having Cardinal Drive not on center might be a hardship not of their own making. Rutta and Mrdutt stated measurements from the road right-of-way would be exactly the same, no matter where the center of Cardinal Road is located.

Bachhuber asked if the existing well, septic drainfield or tank would need to be moved. Mrdutt stated the well is a legal non-conformity unless there is something wrong with it. New construction of a well would have to meet today's standards. There was discussion regarding the well situation.

Tessmann stated he is on the Village Board in Plover and he knows there is future expansion of the Village towards Bluebird Acres. He knows at some point landowners within Bluebird Acres could agree to go on City water and sewer.

Rutta asked Tim Karcheski if the Town of Plover has any plans of extending water and sewer out to the subdivision. Karcheski answered there are no plans at this time, and added this would be resident driven.

Szachnit stated even though it appears the road itself is off center, it appears to be off center in favor of the Varneys.

Potratz stated variance criteria needs to be met. He believes there is an alternative to granting the variance. There is a hardship with one bathroom; however, another bathroom can be added without the variance. This makes the hardship self imposed.

Scheider believes more time could be spent looking for an alternative with the space allowed without the variance.

Scheider asked Mrdutt how they locate the center of the right-of-way, and Mrdutt explained.

Rutta stated the hardship, as specified by the petitioner, is they have only one bathroom. Rutta understands that one bathroom in a house can be a hardship; however, he believes another bathroom could be added to the plan without difficulty by dropping the addition to ten feet. Rutta stated in looking at the plan layout, there are possibilities of enlarging the addition to the southwest. If the septic tank was moved, there would be plenty of room to expand without a variance. Rutta stated he does not see any unique property limitations; the homes on the street appear to be similar.

Scheider stated she expected another hardship to be identified; however, there were no arguments enhancing hardship issues.

Rutta stressed BOA needs to be concerned with the need for a two foot variance to solve the hardship issue.

Rutta asked for a motion to approve the petition for a variance. No motion to approve made.

Motion by Rutta to deny the request for a variance, for the following reasons:

1. The proposal encroaches on the Town road setback unnecessarily. There is enough space to build a structure that will satisfy requirements of the petitioners to alleviate the specified hardship in the area that is provided by the ordinance.
2. We do not find any unique property limitations to this site.
3. This proposal does not meet the unnecessary hardship test. Everything the petitioner needs to do can be done without a variance at the present time. A slightly smaller addition, without the variance, will accomplish the desired goal.

Motion to deny the request for a variance was seconded by Potratz. Motion passed unanimously by roll call vote.

Correspondence/Updates

Next meeting scheduled for May 16, 2011.

Adjournment

There being no further business to come before BOA, Bachhuber moved to adjourn, Scheider seconded, and motion passed by voice vote. Meeting adjourned at 5:00 pm.

Respectfully submitted,

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Gayle Stewart, Recording Sec.

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Joan Scheider, BOA Secretary

\_\_\_\_\_  
Date of Approval

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
MAY 16, 2011

Call to Order

Chairman Rutta called the Portage County Board of Adjustment (BOA) to order at 4:05 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Scheider led the Pledge.

Roll Call

Members present included Edward Rutta, Joan Scheider, Marj Bachhuber, Ed Szachnit, and Dennis Meis. Member excused was James Potratz. Staff present included Jeff Schuler, Tracy Pelky, Christopher Mrdutt, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Rutta 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. BOA will take testimony, deliberate, and make their decision on a case-by-case basis. The petitioner will be sent notification of the decision during the week following the public hearing.

PUBLIC HEARINGS

Benjamin J and A Dul, Owners / SAC Wireless, LLC, Agent (P11-10)

The Benjamin J and A Dul, Owners, SAC Wireless, Agent, special exception request to increase the height of a cell tower and add ground equipment, in the A4 General Agricultural Zoning District, Town of Dewey, was opened by Rutta, who read the public hearing notice.

Pelky stated this 180 foot tower was approved by BOA in 2000. The petitioner wants to add 15 feet to the height of the tower and approval is again needed by BOA. Pelky stated this request has been acted on by the Town of Dewey Plan Commission and Town Board.

Rutta read the following into the record:

- A letter from the Town of Dewey dated May 9, 2011, indicating approval of the request for the addition to the existing cell tower.

Rutta swore in Scott Steeno and asked him to explain the request. Steeno stated the application was filed by a colleague, Lew Caliento. They currently have Verizon at the 180 foot level on the tower. Below them is Sprint at 170 feet. The next level down is 160 feet and that would not give AT&T the coverage they desire. This is the reason for the request to extend the tower by 15 feet. Steeno added the tower will not have lighting.

Bachhuber asked if the tower is collapsible, and Steeno stated yes, adding self-support towers are designed to collapse at a point in the middle and fall onto itself. Bachhuber asked if this is the case even with the additional footage, and Steeno stated that will not change.

Rutta stated if the tower was to fall, it may cross the town road. Mrdutt stated they measured, and it would be two feet from falling onto the right-of-way, presuming it collapses halfway.

Pelky asked if SAC Wireless leases the property. Steeno stated they lease it from Verizon Wireless, who leases it from the landowners. Pelky stated the lease may need to be changed to reflect the height of the tower.

Bachhuber asked about lighting. Steeno stated because they are only going up to 195 feet, the FAA does not require lighting. Steeno added there will be no lighting at the site at all.

Szachnit asked how much more coverage would be gained by being at 195 feet instead of 160 feet? Steeno answered it would be substantial; maybe up to a mile of coverage.

Meis asked if the additional 15 feet would affect phone and TV service of people in the immediate area, and Steeno stated cell phone service would be much better, if they have AT&T, but it does not affect television reception whatsoever.

Scheider asked if there is aerial spraying done in the area. Mrdutt stated he spoke with JR Reabe from Reabe Spraying Service, who stated there are no fields serviced by his company in this area. All the aerial sprayers were notified of this petition. The structure is already there and all aerial sprayers are aware of it.

Bachhuber asked who will own the buildings with the equipment, and Steeno answered each provider owns the building with their equipment.

Rutta asked when construction would begin, and Steeno answered as soon as he gets the Zoning Permit. Steeno added construction should take no longer than two weeks. They are putting up a prefabricated building.

Steen asked how big the land lease area will have to be expanded to accommodate the tower. Pelky stated he would figure the area based on the height of the tower. If the tower is 195 feet, he would have to lease an area at least 195' x 195'.

Rutta stated a copy of the lease should be on file with the Planning and Zoning Department.

There being no further questions from BOA, Rutta excused Steeno.

Mrdutt discussed condition number two in the staff memo. Mrdutt stated this is to ensure the most accurate information regarding carriers and contact information is on file.

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

#### Deliberation and Decision

Rutta stated normal problems they would experience with this type of request are not applicable on this site. The importance of the proposed service is noted. Many people are moving from wire line services to wireless services. Having an additional carrier is a good idea. Rutta believes a list of carriers and the size of leased area should be identified.

Bachhuber reiterated the leased area and carriers should be identified, in addition to approval by the Planning and Zoning Department of any exterior lighting on the site.

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

1. A Portage County Zoning Permit must be obtained prior to start of construction.
2. There shall be an updated contract on file indicating the current lease area, a list of all carriers, their positions on the tower, and their contact information. This information shall be on file with the Portage County Planning and Zoning Department prior to issuance of the Zoning Permit.
3. Any exterior lighting must be approved by the Portage County Planning and Zoning Department.

Motion seconded by Szachnit. Motion approved unanimously by roll call vote.

Correspondence/Updates

Next meeting scheduled for June 20, 2011.

Bachhuber stated she has questions for legal counsel. Discussion followed regarding deed restrictions and how they must be handled on a case by case basis. It was determined there should be a discussion with Corporation Counsel.

Adjournment

There being no further business to come before BOA, Scheider moved to adjourn, Bachhuber seconded, and motion passed unanimously by voice vote. Meeting adjourned at 4:55 pm.

Respectfully submitted,

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Gayle Stewart, Recording Sec.

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Joan Scheider, BOA Secretary

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Date of Approval

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
JUNE 20, 2011

Call to Order

Chairman Rutta called the Portage County Board of Adjustment (BOA) to order at 4:13 pm in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Pledge Allegiance to the Flag

Scheider led the Pledge.

Roll Call

Members present included Edward Rutta, James Potratz, Joan Scheider, Marj Bachhuber, and Ed Szachnit. Staff present included Jeff Schuler, Tracy Pelky, Christopher Mrdutt, and Gayle Stewart, Planning and Zoning Department.

Board of Adjustment Procedures

Rutta 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. BOA will take testimony, deliberate, and make their decision on a case-by-case basis. The petitioner will be sent notification of the decision during the week following the public hearing.

PUBLIC HEARINGS

Robert and Deborah Dix, Owners (P11-11)

The Robert and Deborah Dix, owners, special exception request to operate a taxidermy business as a home occupation, in the A4 General Agricultural Zoning District, Town of Carson, was opened by Rutta, who read the public hearing notice.

Mrdutt stated the petitioner is requesting to operate a taxidermy business as a home occupation. The petitioner will redo his milk house for a taxidermist shop, and then convert part of a machine shed into a showroom. Mrdutt stated all waste generated must be properly disposed. Mrdutt stated Veolia had been contacted, and is comfortable with the amount of waste and how it will be stored and disposed.

Rutta read the following into the record:

- A letter from the Town of Carson Board dated June 18, 2011, recommending approval of this request, with conditions relating to drainage and waste.

Rutta swore in Robert Dix and asked him to explain the request. Dix stated he wants to convert the empty milk house into a workshop for his taxidermy business. In addition, behind the milk house will be a 6' x 6' walk-in freezer to keep byproducts and animals frozen while being worked on. Dix will put up a 16' x 16', 2' x 6' x 8' stud wall in the existing machine shed, and add an exterior door to keep the public from accessing areas other than the show room.

Bachhuber asked about drainage issues. Mrdutt stated they address stormwater when new buildings are being erected. Because this request involves interior work only, there is no concern with stormwater or drainage. Mrdutt added there is no wetland or surface water close to this area.

Bachhuber asked Dix how he intends to handle animal waste products. Dix explained animal waste products will be collected in five-gallon buckets that are triple-bagged with plastic bags. The waste will then be kept frozen until placed out for collection by Veolia. Dix stated there will be no animal parts outside contaminating the ground. Dix stated a floor drain in the milk house exits to a drainfield between the milk house and house.

Rutta asked how much water is used in this process, and Dix answered the most water he would use is approximately three to five gallons, with the use of biodegradable detergents.

Szachnit asked if Dix would be selling items out of his showroom, and Dix answered no. Dix stated the showroom is to display products made using his techniques, and added these are for display only.

Potratz asked if this would be Dix's private collection only, as well as something a customer is waiting to pick up, and Dix answered yes. This will be the storage area for products as well.

Scheider asked if items washed down the floor drain will go directly to a drainfield, and Dix answered yes. He is not aware of any septic system connected to the drain. Scheider asked what the Town of Carson's concern was regarding drainage, and Dix answered the Town of Carson just wanted to make sure Portage County had no concerns. Mrdutt stated his concern would be if chemicals used were harmful or not biodegradable. He has no concern with fragments of meat or fish going down the drain.

Rutta stated the only chemicals listed in the petition are lacquer thinner and lacquer paints in small quantities. Rutta asked what other chemicals Dix would be using, and Dix answered the preservative Borax, which is biodegradable. There are also paste preservatives that will be used in small quantities. Dix does not believe these are hazardous as he uses them with his bare hands. In addition, these chemicals will not be rinsed down the drain.

Rutta asked about contracted services with Veolia for removal of waste products. Dix stated as long as waste is properly bagged and in proper containers, Veolia has no problem picking up animal waste products. Rutta believes the worst that would happen is the drain would get plugged. Dix explained the meat is usually removed prior to any rinsing to remove blood or other things from the skin or fur.

Pelky stated in cases like this, Portage County On-Site Waste Specialist, Ralph Loeffler, could review and determine what concerns he may have. It is possible a holding tank could be utilized. Scheider asked the age of the building and septic, and Dix stated he could only guess.

John Jazdzewski, Town of Carson Plan Commission Chair, stated the only concern the Town of Carson had was to make sure the drainage issue was addressed. Jazdzewski believes the drainfield was probably put in 30 – 35 years ago when the milk house was upgraded. He believes, with the amount of cows they had, a minimum of 100 to 200 gallons of water per day was going down the drain, along with detergents. Jazdzewski suggested they find out the proximity of the well to the drainfield. Jazdzewski stated the previous homeowner was contacted, and they stated there were no problems with the drain's performance.

Rutta asked if Dix will have a sign on the property, and Dix answered he is considering a sign. Rutta asked Dix if he will have a parking area, and Dix replied he will not change anything regarding parking. He believes he will have three customers at most on the property at one time. Rutta asked when construction would begin, and Dix answered as soon as he is given approval. Dix believes he would be done by the end of the year.

There being no further questions from BOA, Rutta excused Dix. Rutta asked if any members of the public wanted to address this petition. There being no members of the public wanting to testify, Rutta closed the testimony portion of the hearing.

#### Deliberation and Decision

Scheider stated there is a lot of work for the petitioners to do. She wants to make sure the County gets involved in the drainage issue to give direction. The On-Site Waste Specialist should be involved.

Rutta read into the record the recommendations outlined in Mrdutt's memo to BOA. Rutta asked Dix if Mrdutt had discussed these conditions with him, and Dix answered yes. Dix has contacted Sam Solberg, Commercial Building Inspector who was not concerned due to the small building size; however, Solberg wants drawings of the property. Rutta added it appears Dix will not have chemicals of a hazardous

nature on site, other than Borax, so there is no justification to have a list of chemicals on file at the Portage County Planning and Zoning Department.

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

1. You must obtain a Portage County Zoning Permit prior to start of construction.
2. You must contact Sam Solberg, Commercial Building Inspector, and obtain any necessary permits.
3. You must contact Ralph Loeffler, Portage County On-Site Waste Specialist, to see if he has concerns regarding utilizing the drain from the milk house to the drainfield for taxidermy processing discharge.
4. All waste products generated from the business must be properly disposed of.
5. Signage must conform to the Portage County Zoning Ordinance.

Motion seconded by Potratz. Motion approved unanimously by roll call vote.

Tim and Cynthia Grezinski, Owners (P11-12)

The Tim and Cynthia Grezinski, owners, variance request to construct a home addition within the road setbacks, in the A4 General Agricultural Zoning District, Town of Carson, was opened by Rutta, who read the public hearing notice.

Mrdutt stated this is an old farmhouse located approximately 8.5 feet within the setbacks. The petitioners want a house addition and a new front porch. Mrdutt explained after the addition, the home would be 6 to 6.5 feet in the setbacks. Mrdutt added another unique characteristic of this property is they will be getting a new holding tank. This is a wet site with high bedrock, so a conventional or mound system would not be allowed. This is one of a few older houses that have a holding tank.

Rutta 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 to be complete, and requested the BOA discuss attaching conditions, if approved.
- A letter from the Town of Carson Board dated June 18, 2011, recommending approval of the request.

Rutta swore in Tim Grezinski and asked him to explain the request. Grezinski stated he wants to add a 14' x 32' home addition and deck. His goal is to have a bigger kitchen and living room, in addition to a bigger master bedroom and bath. He wants to move the porch from the front of the house to the back and make it a deck, and add a small porch in front of the house.

Potratz believes the addition could be added on to the house, absorbing the setbacks from the road. It would be different, but it is possible. Potratz stated the addition could be smaller and the front porch moved to meet setbacks.

Szachnit asked if the existing deck would be considered new when moved. Mrdutt replied yes, however, he is not concerned with how the deck is labeled.

Rutta stated the new front porch will be set back two feet, which would make it only 6.5 feet into the setback. Rutta asked if the patio doors could be moved back a little, and Grezinski answered he is unsure because of the design and layout of new cabinets in the kitchen. He is unsure how much room he has to play with because of a door. The door is being located in this spot because there is a window that will be removed and replaced with the door.

Grezinski explained where the holding tanks will be placed. They will be located off the existing back deck, in its new location, approximately 25 feet from the entrance. Rutta asked if the back deck could be moved, and Grezinski added there is underground cable in the area that would be difficult to move. Grezinski stated the living room is already small, so he does not want to make it smaller.

Szachnit asked when the existing house was built, and Grezinski answered approximately 1930. Szachnit commented this was built before zoning was established, and is grandfathered in.

Rutta asked how much traffic travels their road, and Grezinski stated a maximum of 20 vehicles per day.

There being no further questions from BOA, Rutta excused Grezinski. Rutta asked if any members of the public wanted to address this petition. There being no members of the public wanting to testify, Rutta closed the testimony portion of the hearing.

#### Deliberation and Decision

Rutta read the variance criteria.

Scheider stated this lot has difficulty because the road was built prior to the home. Scheider feels there should be some leeway with the setback as this is not a very populated area. Scheider believes more consideration should have been given to the placement of the holding tanks. She stated there is more usable space in the back area where the deck is being moved to. Scheider believes more thought should be given to expanding near the current tank.

Mrdutt stated when placing a holding tank, the goal is to locate it in the most suitable spot on the property. The best location is as far away from any wetland or hydric soils, in case there is leakage over time, which would release untreated sewage. In this situation, closer to the house is better, from a septic standpoint. Potratz stated a holding tank does not create overflow into a wetland and must be pumped. Mrdutt added they must consider potential risk.

Potratz stated he believes there are alternatives to infringing on the setback.

Bachhuber stated the home was built before the setbacks, thus creating a built-in hardship in this case. The unique situations have not been created by the property owners. Bachhuber added she believes criteria for the variance have been met.

Rutta summarized with the following:

- The road is lightly traveled and this should be considered.
- The proposal is not contrary to State Law or Administrative Code.
- This is a permitted use in this zoning district.
- There are alternatives to the variance request; however, it may not be practical going to the west while still being able to connect the old living space with the kitchen. The alternatives may be difficult to accomplish.
- This proposal is not detrimental to nearby property owners.
- The spirit of the ordinance can be maintained.
- Substantial justice would be done by granting this variance.
- This proposal is not contrary to public interest. The existing structure already encroaches into the road setback by 8.5 feet. This proposal is to increase the width of the encroachment only. There would be no further encroachment into the road setback. To meet setbacks, the layout would change dramatically and be cost prohibitive to the petitioner.
- There are unique property limitations. The house was built quite a while before establishment of the ordinance. This road may have originally been a driveway between the two houses. The unique property limitations are the property immediately to the west of the house is all fill that was hauled in, and is not a very good grade of fill. It is better to stay further away from this area. Rutta believes there is not a better location to build.
- The unnecessary hardship test is met. There is no other practical location on the site for an addition that would look like the house or be economically feasible.
- The proposal meets the minimum variance needed for reasonable use.
- The hardship is not self-imposed.
- Circumstances of the petitioner are not a factor.

- Economic loss or financial hardship is not a factor.
- Nearby violations are not a factor.

John Jazdzewski, Town of Carson Plan Commission Chair, stated he is a lifelong resident of the Town of Carson. Jazdzewski is impressed with the old house and how they incorporated the structural integrity of the existing house, rather than knocking it down and building a new one. He believes they could have gone bigger in square footage, but chose to take an efficient and common sense approach. Jazdzewski added Cynthia Grezinski's family owns a large amount of surrounding property. He does not believe there will be additional traffic. These are the reasons he believes this request makes sense.

Motion by Bachhuber to approve the request for a variance to add a 14' x 36' home addition and porch, with the following conditions:

1. You must obtain a Portage County Zoning Permit prior to start of construction.
2. You must update your septic as specified in your application packet.

Motion seconded by Scheider. Motion approved unanimously by roll call vote.

#### Approval of Minutes

Scheider moved to approve the April 18, 2011 minutes as submitted, Potratz seconded. Motion passed by voice vote.

Potratz moved to approve the May 2, 2011 minutes as submitted, Scheider seconded. Motion passed by voice vote.

Scheider moved to approve the May 16, 2011 minutes as submitted, Potratz seconded. Motion passed by voice vote.

#### Correspondence/Updates

Next meeting scheduled for July 25, 2011.

Rutta explained three BOA members will not be returning. He added he would be available to help conduct an orientation session for new BOA members.

Schuler thanked retiring BOA members for their years of dedicated service.

Rutta expressed his thanks to permanent staff and Corporation Counsel for their help and advice, and stated there were too many people to thank by name.

#### Adjournment

There being no further business to come before BOA, Szachnit moved to adjourn, Potratz seconded, and motion passed by voice vote. Meeting adjourned at 5:20 pm.

Respectfully submitted,

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Gayle Stewart, Recording Sec.

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BOA Secretary

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Date of Approval

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
ELECTIONS AND TRAINING  
JULY 22, 2011

Call to Order

Planning and Zoning Department Director, Jeff Schuler, called the Portage County Board of Adjustment (BOA) to order at 10:18 am in Conference Room 5, County Annex, Stevens Point, Wisconsin.

Roll Call

Members present included Marj Bachhuber, William Bernhagen (Alternate), John Jazdzewski, Lowell Klessig, Scott Soik, and Ed Szachnit. Staff present included Jeff Schuler, Tracy Pelky, Christopher Mrdutt, and Patty Benedict, Planning and Zoning Department. Others present included Lynn Markham.

Pledge Allegiance to the Flag

Szachnit led the Pledge.

Election of Officers

Schuler explained the election process, and called for nominations for Chair. Jazdzewski nominated Szachnit. Schuler called three times for other nominations. Hearing none, a unanimous roll call vote was cast for Szachnit, who took over as Chair.

Szachnit called for nominations for Vice Chair. Soik nominated Bachhuber. Szachnit called three times for other nominations. Hearing none, a unanimous roll call vote was cast for Bachhuber as Vice Chair.

Szachnit called for nominations for Secretary. Bachhuber asked for an explanation of the secretary's duties, which include approving minutes transcribed by the recording secretary and leading the Pledge of Allegiance. Bachhuber nominated Klessig. Szachnit called three times for other nominations. Hearing none, a unanimous roll call vote was cast for Klessig as Secretary.

Mrdutt mentioned Portage County's signature policy to Szachnit and Bachhuber and asked them to complete and sign the authorization forms required to allow Mrdutt and Pelky to sign decisions.

Training Session – Presented by Lynn Markham, UWSP Center for Land Use Education

Schuler welcomed members and asked them to review the materials in the binders provided. BOA members and staff were introduced. Schuler explained staff roles and the format for meetings. Markham began the training session at 10:35 a.m.

Adjournment

Motion by Soik, second by Klessig to adjourn. Motion carried by voice vote. The meeting adjourned at 12:00 noon.

Respectfully submitted,

\_\_\_\_\_  
Patty Benedict, Recording Sec.

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Lowell Klessig, BOA Secretary

\_\_\_\_\_  
Date of Approval

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
JULY 25, 2011

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, Christopher 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. BOA will take testimony, deliberate, and make their decision on a case-by-case basis. The petitioner will be sent notification of the decision during the week following the public hearing and action by the Board.

PUBLIC HEARINGS

David Glodowski, Owner (P11-13)

The David Glodowski, owner, special exception request from the Portage County Zoning Ordinance to exceed 2,800 square feet of total accessory building space, exceed the 20 foot roof peak maximum, exceed the 12 foot maximum side wall height, and exceed the 2:1 length to width ratio for accessory buildings, in the R1 Rural and Urban Fringe Residence Zoning District, Town of Stockton, was opened by Szachnit, who read the public hearing notice.

Mrdutt stated the petitioner is requesting to construct an addition to a shed which, when completed, will exceed the maximum allowed side wall height and length to width ratio. Mrdutt reminded BOA one of the previously existing structures has been demolished and the packet contains a document showing which building was removed.

Szachnit swore in David Glodowski and asked him to explain the request. Glodowski stated this is an old farmstead with outdated buildings. He has updated the siding and roofing on one, and wants to expand an existing structure to create additional private storage space. He wants to add a 12' x 60' lean-to on the north side of the shed, and a 34' x 34' new shed addition.

Soik asked what the total square footage of accessory building space would be, and Glodowski answered approximately 4,616 square feet. Soik asked the square footage of the building that was demolished, and Glodowski answered 756 square feet. Soik asked the square footage of the structure to be added to, and Glodowski answered 1,320 square feet.

Klessig asked the location of this building relative to the neighboring property line. Glodowski stated the neighbor to the north is his uncle, John Somers. At the far end of the addition, he would be approximately 6.4' from the property line. At the other end, it would be approximately 12' from the property line. Because the building is not parallel with the property line, when the building is completed, it will vary from 6.4' to 12'.

Bachhuber asked if there is a permanent easement through the property, and Glodowski answered no.

Jazdzewski stated the diagram shows a cabin on the property. Glodowski stated the structure used to be a workshop and has private storage only. Jazdzewski asked if Glodowski planned on paving the area between the buildings, and Glodowski stated he plans to have concrete. Jazdzewski asked if Glodowski

will have curbs and gutters, mainly across the back. Glodowski stated he intends to have rip-rap along the edge to prevent erosion. Glodowski added he has a Stormwater Plan already approved by Dan O'Connell, Portage County Land Conservation Division. Pelky confirmed Glodowski has an approved Stormwater Plan.

Bachhuber asked Glodowski to explain how he will prevent lighting from shining on neighboring property. Glodowski stated the existing shed has three windows. He is proposing steel siding with no windows on the building.

Soik asked how many buildings are allowed to exceed 2,800 square feet in R1 Zoning. Mrdutt explained 2,800 square feet is the total square footage allowed.

Bachhuber asked Glodowski if he will have a floor drain in the building, and Glodowski replied he will have one only if required. He intends to drain out the garage door to the south. Pelky stated a floor drain is usually optional, and added it is best for Glodowski to check on building codes with the building inspector, Mike Bembenek. Glodowski stated he was informed by Bembenek that because the building is detached, there is no need for permitting with him.

Klessig asked if there is a water supply to the building, and Glodowski answered no.

Jazdzewski asked if Glodowski needs the 12' x 14' door to accommodate his fifth-wheel, and Glodowski replied yes. The 14' door is needed for the height of the fifth-wheel.

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

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 request complies with basic requirements of the County Zoning Ordinance, and requested BOA discuss attaching conditions, if approved.
- A letter from the Town of Stockton Board dated July 18, 2011, indicating approval of the request by a 2-1 vote.

At this time, Glodowski wanted to clarify the Town of Stockton Board voted to approve his request 2-0, not 2-1, as stated by Szachnit.

Szachnit closed the testimony portion of the hearing.

#### Deliberation and Decision

Szachnit read special exception criteria and conditions from Mrdutt's memo.

Jazdzewski expressed concerns regarding the amount of pavement and increased roof size in proximity to the neighboring property line, and the amount of runoff that can be generated. Since there is an approved Stormwater Management Plan in place, this alleviates his concerns. Jazdzewski stated he understands the legitimacy of the door height, and asked about different placement or reduced height; however, this is not for him to decide.

Bachhuber stated BOA needs to address all conditions under Special Exceptions. Szachnit summarized with the following:

- The use is not contrary to the County Zoning Ordinance, State Law, or Administrative Code.
- Safe and healthful conditions can be maintained.
- There will be no effect on existing or future roads and development. There will be no additional traffic generated by this building.
- The surrounding neighborhood will not be adversely affected by this project.
- There are no alternative sites better suited for this project.
- There is not a more preferred use for this site.
- The proposed project is not located on a floodway or floodplain.
- Topographical and drainage issues are addressed with an approved Stormwater Management Plan.

- There will only be normal building waste generated from this project.
- On-site vegetation is not adversely affected by this project.
- This is a personal venture. There is no public or community interest in this project.
- The use is consistent with current town and land use plans.

Klessig stated it is difficult to deal with this project when construction is already underway. He believes this is not a good process to have. Klessig also questioned having so many special exceptions in one petition. He stated any one of these requests is not a problem for him, but to have so many in one hearing compounds the issue. Klessig addressed the light issue and asked how this would affect future owners. He believes having no vegetation between the buildings is an issue that should be addressed.

Bachhuber asked Glodowski to explain the lighting issue and adjacent property owners. Bachhuber stated Glodowski testified he would have no windows on the building. Klessig stated this is just his intention. A future property owner may have a problem with no vegetation between the two properties, and potentially add windows or light on the exterior of the building.

Soik stated Glodowski lives there now. If someone purchases the property in the future and has a problem, they know the situation and what they were buying. He does not see this as a concern BOA should be addressing.

Jazdzewski stated BOA could make a condition that there be no windows or exterior lighting on the side yard. Jazdzewski's main concern was water runoff, whether you use rip-rap or vegetation. He believes gutters and downspouts would be as economical as rip-rap.

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

1. You must obtain a Portage County Zoning Permit.
2. A Portage County Stormwater Permit must be approved and issued with the Zoning Permit.
3. Accessory building space cannot be used as a residence or for a commercial activity.
4. You must check with Mike Bembenek regarding codes relating to floor drains.
5. You must work with Dan O'Connell, Portage County Land Conservation Division, regarding drainage issues.
6. There is to be no external windows or lighting on the north side of the proposed shed addition.
7. The total square footage of storage space shall not exceed 4,620 square feet. If you wish to exceed this amount, you must make a request to the Board of Adjustment.

Motion seconded by Klessig.

Mrdutt requested the sidewall height and length to width ratio be addressed in the motion.

Motion by Jazdzewski to amend the main motion to include the following conditions:

1. You are permitted to exceed the 12 foot maximum side wall height and the 20 foot roof peak height, to specifications listed in the petition.
2. You are permitted to exceed the 2:1 length to width ratio for accessory buildings.

Motion to amend main motion seconded by Klessig.

Jazdzewski asked if the 2:1 width ratio is a guideline, and stated he has not seen a building that comes out exactly with a 2:1 ratio. Mrdutt stated this language applies to residential zoning districts only. Pelky added this is the maximum ratio.

Motion to amend approved unanimously by roll call vote.

Amended Motion approved unanimously by roll call vote.

Alan Walski, Owner (P11-14)

The Alan Walski, owner, special exception request from the Portage County Zoning Ordinance to construct a building to operate a home occupation machine shop, in the A4 General Agricultural Zoning District, Town of Sharon, was opened by Szachnit, who read the public hearing notice.

Pelky stated the petitioner wants to operate a machine shop as a home occupation, and would construct a detached building. When running a home occupation out of a detached building, special exception approval is required. Pelky added the petitioner received BOA approval for this same activity in 2002; however, the petitioner never followed through. Because the allotted time period passed without the petitioner acting on the approval, BOA approval is necessary again.

Szachnit swore in Alan Walski and asked him to explain his request. Walski stated he wants to do machining as a home occupation. He currently rents space in Stevens Point, and now he wants to work on his property. He was not able to act on the initial approval because he simply could not afford it. Walski feels the time is right, and he should be able to afford it within the next year.

Jazdzewski asked Walski about a stake he had seen in the backyard during the on-site visit that appeared to be out of place. Walski stated a stake located to the left was from a no trespassing sign that had fallen off. Walski explained where the stakes were placed to represent the corners. Walski stated these are preliminary stakes. Jazdzewski asked if septic and well codes are all met, and Pelky stated he has a preliminary plot plan. In addition, Pelky stated they are proposing two tanks; one for septic waste and the other would be a 1,000 gallon, non-domestic wastewater holding tank.

Jazdzewski asked if a proposed 6'x 6' sign to be mounted on the building was within zoning guidelines. Pelky stated 6 square feet is what is permitted in the ordinance. Walski stated he probably will not have a sign at this time.

Bachhuber asked how far the building will be from the right-of-way, and Walski answered it is 95' off the centerline to the stakes. Bachhuber asked if there will be outside storage or vehicles, and Walski answered no.

Szachnit asked if Walski will be the only one working in the shop, and Walski answered yes.

Bachhuber asked if there will be traffic coming and going. Walski stated he is leaning toward not putting a sign up, and there should be no extra traffic.

Walski stated any scrap and materials will be stored inside his building, and added any fluids will go down a floor drain, to a grease trap for non-domestic wastewater.

Klessig asked if Walski delivers his products or do customers come to him. Walski answered he delivers, or uses UPS. No customers ever come to him.

Bachhuber asked why Walski has business hours listed in his petition if he will not have customers, and Walski stated those are his usual hours of operation.

Bachhuber asked what kind of power there will be to the building, and Walski answered three-phase.

Klessig asked what type of fuel Walski will use, and how much will he store on-site. Walski answered he does not use any fuel. He uses cutting fluids only.

Jazdzewski stated Walski listed one 55 gallon drum normally on site. Walski stated this is for cutting fluid only.

Soik asked if Walski has, or will ever have, employees, and Walski answered no.

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

Szachnit read the following into the record:

- A letter from the Town of Sharon dated June 28, 2011, stating the Town of Sharon Board supports the petition for a special exception.
- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the request complies with basic requirements of the County Zoning Ordinance, and requested the BOA discuss attaching conditions, if approved.

Soik asked for follow up on the request for approval by a commercial building inspector before issuance of a zoning permit. Are they looking for approval of the plan or on-site? Pelky stated it is usually a recommendation and would only apply if he would ever have employees or anyone from the general public entering the building. This is to make the applicant aware of this potential, in case there is a need to do anything different when constructing the building. Pelky stated it sounds like the owner is going to be the only one in the building, and nobody from the public will pick items up. In this case, Pelky believes Walski can avoid any commercial standards. Soik asked if Planning and Zoning staff has already contacted the commercial building inspector in this case, and Pelky answered this is the applicant's responsibility. Pelky explained the number of family and non-family employees Walski would be permitted to have.

Klessig asked Planning and Zoning staff what would happen if this property was sold. If this request is approved, is it just for the use of the machine shop, or can it be used for any other purpose? Pelky stated this is specific to this type of operation and the decision goes along with the property. If another individual purchases the property, they could continue the operation as long as they followed all conditions. If they want to use the property for another purpose not allowed in this decision, they would have to submit a new request to BOA.

Jazdzewski asked if Walski is required to have a hazardous materials plan on file with Emergency Management because of cutting fluids he will use. Pelky stated in the past, BOA has made that a condition. Walski stated he believes the cutting fluid he uses is non-flammable. Walski stated he will have a plan on file, if this is required.

Klessig stated a building of this type can eventually be used for a lot of different activities and can accumulate distractions in a very nice rural area. He would like a condition set in terms of the material and waste, and that it be screened by the building or evergreen vegetation. Klessig stated Walski takes very good care of the property; however, this could become an eyesore on the rural road, if it were handled poorly by another owner. Klessig would suggest any material or waste associated with this home occupation be screened from Wilderness Road by the building or evergreen vegetation.

Jazdzewski stated the concern is if the property is sold. Walski testified all waste will be inside, yet there are still 500 square feet of solid waste allowed in Agricultural Zoning Districts. Any general Agricultural use could come in and utilize the building. Mrdutt clarified the ordinance allows up to 500 square feet of solid waste in Agricultural Zoning. Walski stated he is going to have everything contained within the building. Mrdutt reiterated Walski stated in his petition and testimony that he will have no outside storage. Mrdutt added if in the future someone else wants to run a business out of this site and have outside storage, they would have to appear before BOA for approval.

Szachnit closed the testimony portion of the hearing.

#### Deliberation and Decision

Szachnit read the special exception criteria.

Walski stated he does not want to get the commercial building inspector involved. It is not his intention to have the general public at his building.

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

1. You must obtain a Portage County Zoning Permit.
2. Solid waste stored outside must be confined to a designated area, less than 500 square feet. Amounts of waste materials and storage location must be supplied to the Portage County Planning and Zoning Department, prior to issuance of a Zoning Permit.

3. Exterior lighting is to be directed inward.
4. The building shall be 50' x 80', with a 16' sidewall, 6" concrete floor, vinyl siding, three phase power, and new well and septic.
5. If a future property owner decides to establish a commercial enterprise, they must obtain approval from a commercial building inspector, and will have to establish business hours and parking facilities with approval of Portage County Planning and Zoning staff.
6. You are to notify local fire departments and Portage County Emergency Management of any combustible or hazardous materials on-site.
7. You are permitted to employ two non-family members.

Motion seconded by Jazdzewski.

Soik wanted to clarify that at this time, Walski does not need to have involvement with the commercial building inspector; that is only if the building will be open to the public for pickup. Bachhuber stated that was her intent.

Klessig wanted to clarify the outdoor solid waste storage allowed. Klessig referred to the 2002 decision that allowed no outside storage. Mrdutt stated what Walski put in his petition, as far as what he is going to do, and he will be held to it. He stated no outside storage; they will hold him to that.

Motion approved unanimously by roll call vote.

Szachnit called for a five minute recess at 5:16 pm.

Meeting called back to order at 5:22 pm.

Lloyd Firkus, Owner (P11-15)

The Lloyd Firkus, owner, special exception request from the Portage County Zoning Ordinance to operate a contractor storage yard, and allow more than one commercial vehicle, in the A3 Low Density Agricultural Zoning District, Town of Stockton, was opened by Szachnit, who read the public hearing notice.

Pelky stated the request is for a trucking business, and to allow more than one commercial vehicle on agricultural property. Pelky stated this will be lumped together as a contractor storage yard so activity for housing of machinery and trucks will be covered.

Szachnit swore in Lloyd Firkus and asked him to explain the request. Firkus stated he runs a dump truck company and does excavation work. He needs a facility to house his trucks, including a repair shop. Firkus stated his equipment includes: trucks, an excavator, a bulldozer, a pay-loader, and equipment for a black dirt screening operation, which will be conducted on-site.

Soik asked how many trucks Firkus has at this time, and Firkus answered six. Soik asked how many pieces of equipment Firkus hopes to have, and Firkus answered he would like 12-15. Soik asked if 15 would be enough, and Firkus stated he believes that would cover it.

Bachhuber asked if Firkus planned to expand in the future, and Firkus said maybe by a few pieces of equipment.

Klessig asked if there may be some rental of heavy equipment, and Firkus answered no. Firkus does work for people, but he would never rent his equipment.

Bachhuber said there are train cars used for storage on the site, and asked if all four will be replaced with a lean-to structure? Firkus answered yes, and stated he will remove the train cars when he is ready to build. Pelky stated BOA may want to specify in the decision that any expansion to the building will be considered accessory to this use. Firkus would need to get a permit, but there would be no special exception approval needed from BOA.

Jazdzewski stated most neighbors in close proximity are in the same type of business; however, neighbors near the southeast corner of his property have a residence. Jazdzewski asked if Firkus will continue the existing berm down to the residential property. Firkus stated at this time, the berm just butts

up to the north side of the neighbor's property. Firkus stated he will attempt to finish the berm by this fall. Firkus added there is a secondary berm just south of the shop.

Bachhuber asked if there will be hazardous materials on-site, and Firkus stated engine oil will be stored in a 55 gallon drum on top of a plastic catch container. Firkus added the oil drum will be stored inside the building. Bachhuber asked if there is a floor drain in the building, and Firkus answered yes; however, he does not know much about the drain.

Bachhuber asked if there is fuel stored on-site, and Firkus replied no. Bachhuber asked about antifreeze, and Firkus stated he only has ten-gallon jugs of antifreeze.

Bachhuber asked if a stormwater drainage plan is needed. Mrdutt stated stormwater is currently drained internally on the site, and no stormwater plan is required in this case.

Bachhuber asked if there will be salvage, and Firkus answered no.

Szachnit asked about fuel for other vehicles, and Firkus answered he has a transfer tank in the back of his pickup.

Soik asked if the hours of operation of 6:00 am to 8:30 pm are sufficient, and Firkus answered yes. Firkus added he agreed with the Town of Stockton Board in whatever the hours of operation are for surrounding similar businesses, he would agree to those hours. Firkus believes closing hours for other businesses are earlier than 8:30 pm. Firkus added his trucks leave and return at different times; some early, some late, some leave for days. The majority of the time when the trucks return, they are just parked.

Klessig asked if Firkus has any plans for vegetation of the new berm, and Firkus stated he would like to get them covered in black dirt and seeded.

Jazdzewski asked what hours the screening operation would run, and Firkus stated these would be similar to the trucking operation, but screening will not be done at night.

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

Szachnit asked if any members of the public wanted to address this petition. Allen Klish was sworn in. Klish stated he owns property that abuts Firkus' land. Klish stated he does not want a berm. He feels you might as well put a wall around him. He says if the berm is left the way it is now, it will be fine. There are trees, but he can still see something. If there is a berm, he will not be able to see anything. Klish stated his other concern is what will be done with the hole that is left behind, and asked if Firkus is going to do anything around the house area. Szachnit asked Firkus to address Klish's questions. Klish asked Firkus what his intentions are regarding the part of the pit behind his house, and Firkus stated he will not be doing anything at this time. If Wimpe is filling it in, they will start on the north end and work their way to the south, bringing it back up to level. Klish told Firkus he does not want a berm. Firkus stated he was doing that out of respect for Klish. Szachnit stated he is not aware a berm is required, and if all parties are satisfied without one, he sees no need for a berm. Mrdutt stated there is no requirement that forces or mandates a berm.

Klish asked where the entrance will be located, and Mrdutt stated the approved access for this site is the northeast corner of the property.

Szachnit asked if any other members of the public wanted to address this petition. James Leslie Sr., property owner directly to the south of Firkus' property, was sworn in. Leslie has concerns with traffic. Leslie stated trucks are now going in the right direction, which is north on Custer Road. Leslie stated some trucks go to Standing Rocks Park to take shortcuts. Leslie is trying to build up Standing Rocks Park for recreation. Leslie added trucks are supposed to go to County Road B, via County Road J; however, trucks take the agricultural road as a shortcut. Leslie stated farmers are getting run off the roads and Standing Rocks Park is being hurt as a recreational area. Leslie wants the truckers to obey the laws just like others. Firkus stated his normal operation would be to head north on Custer Road.

Leslie added he would like a lighted gate entrance. Leslie stated it can be dark when trucks are leaving and returning, and it can be hard for someone traveling on Custer Road to see the trucks. Leslie added the berm creates a blind spot, and felt this can be a liability. Firkus stated American Asphalt has lights on the intersection Leslie is referring to. Szachnit asked if the lights from American Asphalt cover the Firkus area also. Leslie stated he wants Firkus to supply his own light at the gate. Szachnit asked if this was a requirement, and Pelky answered if BOA feels it is necessary, they can impose a condition related to lighting.

Leslie said an additional concern is hours of operation. Leslie would like to see the hours of operation left the same as the other quarries. Leslie stated if you allow 8:30 pm, other quarries will start pushing their end times to 8:30 or 9:00 pm. Szachnit asked what time the other quarries operate until, and Leslie replied 7:00 pm, and added he believes they push it until 8:00 pm. If trucks have to come back late, that is fine; however, Leslie stated if you give them until 8:30 pm, everybody else will push it until 10:00 pm. Leslie added there is no way to know which company is breaking the law. Leslie continued to express he does not have much quiet time in his area, and he believes 7:00 pm should be quiet time. He wants to be able to enjoy his backyard.

Soik asked Leslie if the pits stop crushing operations and loading at 7:00 pm, and Leslie answered yes. Soik asked about trucks returning, and an audience member stated there may occasionally be one or two running a bit late. Soik stated it sounds like two different operations. Leslie compared the Firkus operation to American Asphalt. Soik explained sometimes these trucks are not returning early because they do not shut down early on the jobsites. Leslie added again he feels if BOA tweaks Firkus' hours, all the other operators will stretch their hours. Soik asked what the enforcement issue is with gravel pits as of now, and what the recourse is through the Planning and Zoning Department. Pelky believes these are different types of businesses. American Asphalt may be working with crushers and blacktop equipment, which make noise all the time. Firkus' operation is a trucking business, and will be leaving at 6:00 am and returning at various times. Pelky stated it would be different if Firkus was running his black dirt screening operation until 8:00 or 9:00 pm, as that can make noise. Pelky explained the other companies may have certain things they have to do, with unusual circumstances, and if they need a waiver for that, they would need to get the proper authorization. Pelky stated they would address enforcement issues, if any arise, even though it may be difficult.

Leslie stated a concern is equipment that needs to be loaded and unloaded, which creates noise. Jazdzewski stated he would consider a condition that on-site operations, mechanical generation, screening, and loading, be stopped at 7:00 pm. He would not want to say a late truck cannot get back in.

Szachnit asked Firkus what type of soil screening operation he has, and what does he haul in his trucks, besides soil? Firkus stated he hauls a variety of materials that come from other locations. Materials are picked up and brought back to his location.

Leslie asked how much dust is generated from the screening operation, and Firkus stated the top soil is always too wet, so it does not create dust.

Klessig asked staff if hours set for other operations under previous approvals have any underlying obligations. Pelky stated he does not have any of those decisions with him. Leslie read excerpts from the following:

- BOA decision dated 4/24/2001
- BOA decision dated 9/17/2001 (A01-38)
- BOA decision dated 3/19/2001 (A01-13)

Leslie reiterated he purchased his property to enjoy the area and Standing Rocks Park.

Szachnit asked Leslie if he had further concerns, and Leslie asked if Firkus planned on using the gravel pit as a recreational area. Leslie stated it is Firkus' property; however, he wanted BOA to know previously there were four wheel drive trucks driving around in the pit at 10:00 pm. Leslie is unsure if this was legal or illegal entry. Leslie wants Firkus to keep to the quiet hours. Szachnit stated the way the petition is worded, Firkus is only asking for a construction storage area; not use as a recreational area.

Leslie stated the decision for Wimme states all vehicles must be worked on in an enclosed area, and asked what Firkus intends to do before he can get the building constructed. Leslie was informed there is already a building in place.

Szachnit asked if any other members of the public wanted to address this petition. Katherine Leslie stated the quarry has been empty for so long, she thinks neighboring children believe it is a play area. Leslie added there are snowboarders, people shooting and sighting their guns, and off-road driving going on. Szachnit stated the gates will now be locked and any infringement on the property would become a trespassing issue.

There were no other members of the public wanting to testify.

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 request complies with basic requirements of the County Zoning Ordinance, and requested the BOA discuss attaching conditions, if approved.
- A letter from the Town of Stockton dated July 18, 2011, stating the Town of Stockton Board supports the petition for a special exception, with a condition this business keep the same hours as gravel pits in the area.

Klessig stated BOA is dealing with more than one property rights issue in this case. Klessig stated BOA should be generous in allowing the business, while respecting rights of neighbors to have quiet evening time. Klessig stated the evening hours should be restricted to 7:00 pm, instead of 8:30 pm. Jazdzewski asked if this referred to hours of processing, and Klessig answered hours of operation, including trucks returning.

Bachhuber stated historically, BOA has honored requests made by townships regarding hours of operation.

Soik does not believe there should be a restriction on the hours trucks can return. He believes this is restricting Firkus' livelihood. If trucks need to be back at 7:00 pm, he could miss out on 1.5 to 2 hours of work every night.

Klessig believes there needs to be balance. Bachhuber again added BOA has honored townships' requests for hours of operations in the past.

Pelky stated per the neighbor's testimony, they do give leeway. From an enforcement standpoint, this can be difficult. There is a need for balance and flexibility.

Mrdutt stated it is easier to enforce screening and work that is done on-site, as opposed to hours of operation.

Soik stated the neighbor's number one concern was the on-site operation being shutdown the same time as other pits. Leslie stated noise was the main concern, and he wants all pits to have the same hours of operation.

Szachnit closed the testimony portion of the hearing.

### Deliberation and Decision

Szachnit summarized with the following:

- The use would not substantially harm the public health, safety, and general welfare.
- The use is not contrary to the County Zoning Ordinance, State Law, or Administrative Code.
- The use would be consistent with surrounding uses and the neighborhood would not be injured thereby.
- The use is consistent with the County Zoning Ordinance and any County or municipal plan.
- The proposed project is not located on a floodway or floodplain.

Bachhuber stated the major issues are hours of operation and noise. Another issue to be addressed is the number of vehicles allowed. Bachhuber suggested allowing for growth and permitting up to 20 vehicles before Firkus must make another request to BOA. In addition, Bachhuber suggested the gate be lighted during hours of operation, and no salvage operation be allowed.

Jazdzewski believes there should be lighting at the gate during dark hours. Jazdzewski added the noise generating operations, such as screening, loading of trucks, banging on rims, etc, should be limited to standard operating hours. If a truck returns late, it should be under the assumption the truck is parked and shut off. Jazdzewski realizes it is unreasonable to ask for standard business hours, and feels the suggested hours are fair to all parties.

Klessig stated we are dealing with a standard, not a rule, and he hopes the result will be people not dramatically changing their behavior on any given instance. Klessig believes this standard allows for adequate quiet time.

Szachnit closed deliberation and stated he would entertain a motion.

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

1. You must obtain a Portage County Zoning Permit.
2. All haul routes must be approved by the Town of Stockton Board prior to issuance of a Zoning Permit.
3. All waste material has to be handled correctly. Amounts of waste materials and storage location must be supplied to the Portage County Planning and Zoning Department prior to issuance of a Zoning Permit.
4. You must submit a list of hazardous materials stored on-site to the Portage County Planning and Zoning Department, Portage County Emergency Management, and any local fire departments prior to issuance of a Zoning Permit.
5. Hours of operation, including the screening operation, shall be 6:00 am to 7:00 pm; the same hours as gravel pits in the area.
6. The gate shall be lighted during hours of operation.
7. You are permitted up to 20 commercial vehicles.
8. If you wish to remodel this structure, or build a new structure in the future, you must submit plans to the Portage County Planning and Zoning Department and obtain proper permits.
9. No salvage operation is permitted on this property.

Motion to approve seconded by Klessig.

Jazdzewski stated the motion states the gate is to be lighted during hours of operation. He believes it makes sense to have the gate lighted during dark hours of operation. Firkus stated the gate is set off the road, where a vehicle can pull off and lock the gate while not being on the road. There is no power at the gate, and he would have to run power from his building just for the gate. Jazdzewski stated the light issue is a common sense issue. Szachnit added it would be Firkus' liability if something were to happen without the light. Soik added this is the reason Firkus carries insurance and it would be costly for Firkus to add power from the building to the gate. Klessig stated he is not sure the light at the gate would actually be visible from the road.

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

1. The gate shall be lighted during hours of operation.

Motion to amend seconded by Jazdzewski, and passed unanimously by roll call vote.

Amended motion approved unanimously by roll call vote.

Hamerski Farms Inc, Owner (P11-16)

The Hamerski Farms Inc, owner, special exception request from the Portage County Zoning Ordinance to allow farm related buildings or uses on a parcel less than 35 acres, in the A1 Exclusive Agricultural Zoning District, Town of Plover, was opened by Szachnit, who read the public hearing notice.

Mrdutt stated earlier this year, the petitioner appeared before BOA and was approved for a chemical/fertilizer mixing plant. At this time, the petitioner would like to break off the location of the chemical/fertilizer mixing plant from the larger 6 acre parcel it was originally approved on, and create a separate lot around it. Mrdutt referred to a drawing illustrating the proposed land division. Lot 1, the new proposed lot, is irregularly shaped so the building meets setback requirements as specified in the ordinance. Mrdutt added the previous decision relating to the chemical/fertilizer mixing plant required a stormwater management plan for the entire 6 acre parcel, and he would request the stormwater plan for this new lot be consistent with the old parcel. Mrdutt added the 6 acre lot was originally split off with BOA approval in 1997.

Szachnit swore in Donald Hamerski and asked him to explain his request. Hamerski stated Allen Supply Company is working on putting in the chemical/fertilizer mixing plant. Hamerski stated the main reason for splitting the lot is for liability and insurance reasons. The chemical/fertilizer mixing plant will be on a 2 acre parcel, and other existing buildings will be on a separate parcel.

Klessig asked if ownership of the deed will be different from the rest of the farm, and Hamerski answered yes. This will probably go under Hamerski Farms, LLC. Bachhuber asked if Hamerski Farms, LLC is the current owner, and Hamerski answered yes. Bachhuber asked if the two lots will go to separate LLC's, and Hamerski replied no. One will stay Hamerski Farms, LLC. Mrdutt explained ownership of the property has no bearing on the petition.

Jazdzewski stated he does not believe a house could be placed on this new lot, while meeting required setbacks, and has no objection to the request. Jazdzewski added the purpose of the split is irrelevant; this is a legal maneuver.

Hamerski stated he already has trees planted along corners of the lot lines for screening.

Bachhuber asked if the lot split is desired strictly for liability purposes, and Hamerski indicated yes.

Soik asked staff if this is consistent through the Planning and Zoning Department, and Mrdutt answered yes. According to the drawing presented, they will meet setbacks, and they will be dealing with stormwater issues. This is a special exception to create a lot in A1, Exclusive Agricultural. This is the issue BOA needs to address.

Szachnit excused Hamerski.

Szachnit read the following into the record:

- A letter from the Town of Plover dated July 14, 2011, with excerpts from the July 13, 2011 Town of Plover Board Meeting. Excerpts indicate the Town of Plover approves the lot split request, contingent upon the Town of Plover receiving construction plans prior to any construction.
- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the request complies with the basic requirements of the County Zoning Ordinance, and requested the BOA discuss attaching a condition, if approved.

Szachnit asked if any members of the public wanted to address this petition. Joan Scheider, Town of Plover Clerk/Treasurer, was sworn in by Szachnit. Scheider asked Planning and Zoning staff if the Department of Agriculture, Trade, and Consumer Protection (DATCP) has been notified of this special exception since it is in the Exclusive Agricultural Zoning District. Mrdutt answered he is not aware if they were notified of this request. Scheider asked if notifying the Department of Agriculture is a routine process that is occurring on the part of the Planning and Zoning Department, and Mrdutt answered no.

Scheider asked if conditions established in the previous BOA decision will carry through to the two acre parcel. Mrdutt stated he listed in his memo a condition relating to stormwater, which will apply to the new lot. Scheider asked if all conditions will carry through. Schuler stated the previous approval stands in-tact as an action, and if there are proposed conditions for this case that will contradict the previous approval for the use, BOA should be made aware. Schuler stated he is not aware of any contradictions at this time. Mrdutt added stormwater is the only condition that will carry through from the previous decision to this new lot. Schuler stated the stormwater concern is being addressed in the creation of the lot and

development of the property. Schuler added nothing in the action tonight, if approved, would contradict or nullify any conditions to the previous approval.

Scheider stated the Town of Plover has yet to see a site plan of any sort, and asked if there is a CSM at this point. Pelky asked what the Town of Plover acted on, and Scheider answered nothing. Mrdutt stated the CSM will require Town signature.

Klessig stated, for verification, BOA is not dealing with the building in any way today, just the lot split.

Jazdzewski stated this is a special exception, and BOA's purpose tonight is to approve a lot split. This approval must take place before the lot split can legally occur. Mrdutt added this is a preliminary CSM, and a CSM cannot be done until the split is approved by BOA. Pelky stated the CSM will be sent to the Town of Plover for approval. Mrdutt added the petitioner will not create a CSM, if their request is not approved by BOA.

Scheider asked if access to lot 1 will come off Isherwood Road, and Mrdutt answered yes. Scheider asked if this is the same access already on Isherwood Road. Soik stated it appears there are two access roads for this property on Isherwood Road. Mrdutt stated the map shows two access roads that form a horseshoe. Soik asked if one of the existing driveways on Isherwood Road is going to be used for lot 1. Jazdzewski stated the aerial photo shows existing driveways, but they do not show up on the drawing. Hamerski added there is another driveway on the north end of the property that does not show up. Hamerski stated he thought the Town of Plover had a driveway ordinance, so this would have to go back in front of the Town Board for a driveway. Scheider stated there is a driveway ordinance, but there have been many hoops they have been skipping through. She was surprised there was a CSM, because it was her understanding that nothing was in existence to document this at the time the Plover Town Board considered it. Mrdutt reiterated this is a preliminary CSM.

Scheider wants BOA to be aware of the level of confusion that has gone on having to do with this property, and the fact she has yet to see a piece of documentation on this request at the town level. Scheider added her main reason for being here is the fact she lives a mile away from this intersection and she does not want to see traffic generated by the chemical company, heading east on Birch Drive, traveling past the mobile home park near Highway 54. Scheider feels this is a safety concern. Scheider stated at the BOA hearing on the original request for a chemical/fertilizer mixing plant, she asked about customer activity. Scheider stated she was told they would see one or two farmers a day coming to them for chemicals, and the highest amount of activity would be their delivery process. Scheider stated if the access is to the east on Birch Drive, the number of deliveries per day would create a true public health and safety issue. Scheider stated she routinely sees many instances of children in the road.

Bachhuber asked if this would be a consideration for the town, relating to driveways and routing, and Scheider answered maybe. Scheider stated there were truck routes posted in the late 1980's that established Isherwood Road as a truck route. Scheider added on a daily basis she sees semi's coming through. She realizes they cannot stop the farmers as they have a right to be there. Scheider stated she is challenging anything other than farm trucks and pickups that belong to the farmers and residents. Scheider stated the Town has recently posted no truck signs on this end of Birch Drive. Szachnit asked if this could be enforced, because the signs are there. Scheider is happy the access is on Isherwood Road, because she feels this is an encouragement to use Isherwood Road to get in and come back out. Soik asked when the truck route was established, and Scheider replied it had already been established prior to 1988.

Mrdutt again reiterated this petition is to create a new lot. Scheider asked to see where Lot 1 is located. Mrdutt stated the township will be able to address haul routes when they see the CSM.

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

#### Deliberation and Decision

Szachnit read the special exception criteria and summarized with the following:

- The use would not substantially harm the public health, safety, and general welfare.
- The use would not be contrary to State Law or Administrative Code.

- The use would be consistent with surrounding uses and the neighborhood would not be injured thereby.
- The use is consistent with the Zoning Ordinance and any County or Municipal plan.
- The proposed project is not located on a floodway or floodplain.

Bachhuber stated BOA approved a chemical/fertilizer mixing plant for this petitioner in March 2011, and this petition is for a lot split only. Bachhuber believes Scheider was asking if the conditions from the previous petition go along with this lot. Bachhuber added she inquired about stormwater because Mrdutt addressed it in his memo.

Motion by Klessig to approve the special exception request with the following condition:

1. A Portage County Stormwater Permit must be obtained for the new certified survey map that will be compatible with the Portage County Stormwater Permit required for the (P11-05) Chemical/Fertilizer Mixing Plant, approved on March 14, 2011.

Motion to approve seconded by Bachhuber.

Jazdzewski stated as a point of information, this request is to create a proposed 2 acre parcel.

Subsidiary motion by Soik to amend the main motion as follows:

- Approval will create two separate lots.

Subsidiary motion seconded by Jazdzewski. Subsidiary motion approved unanimously by roll call vote.

Amended motion approved unanimously by roll call vote.

#### Approval of Minutes

Bachhuber moved to approve the June 20, 2011 minutes as submitted, Jazdzewski seconded. Motion passed by voice vote.

#### Correspondence/Updates

Next meeting scheduled for August 15, 2011; however, there is nothing scheduled yet.

Bachhuber asked if the Modrzewski case has been resolved, and Pelky answered there is nothing further BOA has to do because the case has been litigated and BOA won.

#### Adjournment

There being no further business to come before BOA, Soik moved to adjourn, Klessig seconded, and motion passed by voice vote. Meeting adjourned at 7:03 pm.

Respectfully submitted,

\_\_\_\_\_  
Gayle Stewart, Recording Sec.

\_\_\_\_\_  
Lowell Klessig, BOA Secretary

\_\_\_\_\_  
Date of Approval

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
SEPTEMBER 19, 2011

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

Bachhuber led the Pledge.

Roll Call

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

Jay and Deborah Lenski, Owners / Attorney Brian Formella, Agent (P11-17)

The Jay and Deborah Lenski, Owners / Attorney Brian Formella, Agent, variance request from the Portage County Shoreland Ordinance and the Portage County Zoning Ordinance to allow a deck and a shed within the 100 foot setback from Rinehart Lake and/or the building set back from North Lake Road, in the R1 Rural & Urban Fringe Residence Zoning District, Town of New Hope, was opened by Szachnit, who read the public hearing notice.

Mrdutt stated a variance request for the deck came before BOA in 2009, and was denied. Petitioners are before BOA again to request a variance for the deck, in addition to a variance for a shed. Mrdutt added petitioners have worked with the Department to establish a plan for the property regarding stormwater and re-vegetation. BOA is dealing with the setback variance for the shed and deck. The 100 foot setback cannot be met in averaging, and cannot be used to meet the closeness of the deck and shed to the water.

Szachnit swore in Attorney Brian Formella, Jay Lenski, and Deborah Lenski, and asked them to explain the request. Formella reiterated the petitioners are here to request a variance for a deck and shed. Formella distributed eight photos to BOA (Exhibits A – H), and described them as follows:

- A. Depiction of cottage before Lenski's purchased the property. Photos dated approximately 2003; however, Lenskis purchased the property in 2006.
- B. Photo depicting location of storage shed. (Photo taken March/April 2011)
- C. Shows a slightly different view, with respect to the neighborhood. Formella stated this picture goes to the argument why a deck is reasonably suitable, and not inconsistent with the neighborhood. (Photo taken March/April 2011)
- D. Taken from the Lenski property, to the left, attempting to show the neighborhood. (Photo taken March/April 2011)
- E. Photo showing storage shed and cabin, with the partially constructed deck. Formella stated this shows the deck is not inconsistent with other decks in the neighborhood. (Photo taken March/April 2011)
- F. Taken by Mrdutt on an on-site inspection. Formella stated this shows land conservation efforts taken by the Lenskis. (Photo taken 9/16/11)
- G. Photo shows a depression constructed on the property to hold surface water coming off the roof. (Photo taken 9/16/11)
- H. Photo of two trees; showing good land conservation "stewardship." (Photo taken 9/16/11)

Formella distributed a packet of 8 pages, and described them as follows:

1. Page 1 is an aerial photo depicting the Lenski's parcel. Formella stated the dots are his longhand impression of the usable lot being discussed, and even though the tax bill shows the parcel to be approximately 2.3 acres, the actual usable/buildable portion of the lot is smaller. Formella pointed out a striped structure predominantly shown in the bottom of the photo. Formella added this photo diagrams a "diagonal finger" shape that actually runs down to the lot with the striped structure, which is no longer the Lenski's property, and is not considered feasible for building. Szachnit asked why this area is not carried all the way down since it is access. Formella answered this is not necessarily a legal representation of the access. Jazdzewski stated if this is an easement, and not actually ownership of the property, this is still a parcel description. Formella agreed, but added he is not sure if it was a quit-claim deed or easement that gave access.
2. Page 2 is a photo showing the Lenski property, in addition to the parcel with the striped structure. Formella added there is a large triangulated piece, which is the Bagemehl property. He is curious as to how that parcel got shoehorned in, and got the benefit of the location of the Lenski and Bagemehl property. Bachhuber asked what the date was of the deed to the Lenskis, and Formella answered approximately 2006. Jay Lenski stated he believes the date was August 11, 2006. Bachhuber asked if there are any deed restrictions relating to easements on the property and if there is a Certified Survey Map (CSM). Jay Lenski stated he has a CSM; however, he does not have a copy with him.
3. Page 3 is a copy of the most recent tax bill, which shows the estimated fair market value and taxes. Formella stated the Lenskis have already spent a good amount to improve the property from what exhibit A shows.
4. Page 4 is a letter from the Town of New Hope.
5. Page 5 is a memo from Dan O'Connell, Portage County Land Conservation Division. Formella stated the Lenskis have abided by all guidelines established by the Portage County Planning and Zoning Department.
6. Page 6 is a letter of support from Butch Pomeroy and Colleen Evans-Pomeroy.
7. Page 7 is a letter of support from William Walczak.
8. Page 8 is a letter of support from Pearl Bagemehl.

Formella referred to Mrdutt's staff memo dated September 12, 2011. Bachhuber stated Mrdutt's memo will be read in later. Formella stated he and the Lenskis support the memo, and they would abide by conditions in the memo.

Formella addressed the variance standards and read excerpts stating lack of granting a variance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome. Formella stated it would be unreasonably burdensome to not grant the variance with respect to the storage shed and modest deck being proposed. Formella stated there are three points BOA must consider:

1. The purpose of the zoning restriction in question. Formella has no qualms with the fact there is a shoreland setback ordinance, and they want to be cognizant and respectful of it. Formella believes they have done that by voluntarily going through the steps put forth by O'Connell. They believe the effect of the deck is mitigated significantly by what BOA saw with respect to the land conservation activity already undertaken by the Lenskis.
2. The effective restriction on the property. In their opinion, given the context and the lay of the land in the rest of the neighborhood, it would be inappropriate to restrict the usage of this parcel, to not allow the deck or the modest utility shed, when the neighborhood has become something dominated by what is depicted in picture C. Formella believes because of the strong statement being made on neighboring property, together with the investment made with land conservation activities, the effect on this property is consistent with what is going on in other portions of the lake.
3. The effects of a variance on the neighborhood and the larger public interest. Formella believes surface water will mitigate underneath the deck because the surface is porous. There is now a retention/depression holding area with respect to other groundwater issues. Surface water is being collected, instead of going to the lake. Formella believes this more than offsets any effect

on the neighborhood and the lake. Formella stated they care a great deal about the lake, and this is why the Lenskis basically jumped on the steps set forth by O'Connell. Formella believes the neighborhood would largely accept the deck. It is not an eyesore, and is not inconsistent with the neighborhood. The deck is composite boarding, and does not need to be stained. There will not be toxins associated with staining every year or two. Lastly, Formella stated the Lenskis have demonstrated the hardship is based upon conditions unique to the property and was not self created. There is nothing the Lenskis can do to comply with setbacks, due to the road location. The Lenskis stated Formella explained their point of view to their liking.

Pelky distributed a copy of the CSM, and stated the deed was recorded August 15, 2006. There was discussion on how the outlots are labeled and the easements involved.

Mrdutt stated BOA does not need to be concerned with the CSM and access to the property, and should focus on setbacks to the lake for the deck and shed. Bachhuber said yes, except that the entire parcel must be considered when applying the hardship test. Formella stated the rest of the parcel is lowland and not buildable. Lenski added it is all swamp. Mrdutt stated everything north of the access road coming in is wetlands.

Szachnit asked how much land is buildable, and Lenski answered approximately one-half to three-quarter acres. Using Photo A, Formella showed what he believes is buildable on the parcel.

Bachhuber asked if there is a photo showing the property from the porch, before and after mitigation, and Formella answered no. Bachhuber stated this is a crucial argument. The Lenskis have already done some mitigation and there is no photo.

Jazdzewski asked if the entire frontage area was mowed at one time. Bachhuber asked if Photo A is prior to or after the recent mitigation. Lenski stated the photo is from 2002, and he cannot answer that question because he did not own the property. Formella stated it appears to him the photo is before mitigation because from what testimony has shown, the Lenskis have not been maintaining this as a cut area anymore. Lenski stated he has left this area alone since O'Connell's recommendations.

Mrdutt stated page 8 in the packet indicates what was discussed between O'Connell, Mrdutt, and the Lenskis on the on-site in May. Mrdutt added he made notes at the on-site with BOA on Friday that the Lenskis have done everything expressed in page 8. Mrdutt explained changes that appear to have been made since Photo A was taken. Mrdutt stated the Lenskis have done what was requested of them, including the retention basin.

Jazdzewski stated Lenski wants to replace an old 10' x 10' deck with a 12' x 18' deck that is already partially under construction; however, in all the photos and diagrams, he only sees a landing and several steps. Lenski stated there was a 10' x 10' deck with two or three steps when he bought the property. Lenski added he cannot say what was there in 2002, because he did not own the property. Szachnit stated it appears the photo is out of date. Lenski stated he cannot give accurate measurements of what was there, because he didn't measure everything. He knows the 10' x 10' deck was there, because part of it is now in his front porch. Jazdzewski stated the photo is not totally accurate.

Bachhuber asked Lenski if he started construction on the deck in 2009 prior to getting a zoning permit, and Lenski answered yes. Bachhuber stated Lenski was told in 2009 he could not have the deck because it was not in compliance, and the point was made if he had merely replaced the boards on the 10' x 10' deck, that would have been okay. Bachhuber read the BOA decision from 2009, and asked if there has been a change to the Portage County Shoreland Ordinance in relation to setbacks. Mrdutt answered there have been no changes to setbacks. Bachhuber asked if there has been any change to the Portage County Shoreland Ordinance, and Mrdutt answered minor changes, but nothing that would influence this case.

Formella stated he feels standards were met at the time of the BOA decision in 2009, and added the Lenskis have demonstrated the legal standards are met, in terms of how they are complying with land conservation requirements put forth by O'Connell. Formella does not believe there was any photo showing what the neighborhood looked like prior to the Lenskis purchasing the property, with respect to the neighboring property with the striped structure. Formella added the decision from 2009 does not require BOA to make the same determination today.

Bachhuber asked what has changed, and Lenski answered he has done a lot of what was requested by the Portage County Planning and Zoning Department. Lenski added the first time he was before BOA, he was not prepared. He thought it would be an easy process. Since then, Lenski has hired Formella and worked with Mrdutt and O'Connell to make changes.

Bachhuber discussed NR115 and pointed out because the State has extended the timeframe for Portage County to come into compliance with NR115, BOA must operate under the law that existed prior to 2009. There have been no changes to the law and County Ordinance.

Bachhuber asked Formella if he is familiar with Snyder vs. The Waukesha County Zoning Board of Adjustment Supreme Court Decision from November 1, 1976, and Formella answered yes. Bachhuber stated it is very similar to this case. Bachhuber stated at that time, there was a porch or deck, and they said that could not stand. Bachhuber stated this is the case of record that the decision is based on.

Formella respectfully disagreed with Bachhuber, and stated the Ziervogel case from 2004 changes the lay of the land as to how BOA needs to look at variance applications. Formella stated Ziervogel discussed the old law and changed the unnecessary hardship standard. Formella stated prior to Ziervogel, the standard was one of no reasonable use, and added the Supreme Court said in 2004 that is unconstitutional. Formella explained to BOA his interpretation of the Ziervogel case and how it relates to this case.

Formella stated he is aware the Department of Natural Resources (DNR) provided a letter to BOA regarding this case. Formella added the DNR was wrong in the Ziervogel case, and he feels they are wrong in this case. Formella stated Mike Wenholz from the DNR states he would defer to Mrdutt's suggestions; and Formella and the Lenskis would abide by those as well.

Jazdzewski asked what the viable option was that was presented to, and rejected by, Lenski in 2009, and Lenski answered it was a 4' x 10' platform. Pelky stated the Shoreland Ordinance allowed a 40 square foot landing with steps to get up and down. Mrdutt stated this allows safe ingress and egress. Soik agreed this is a safety issue.

Bernhagen asked if Lenski intends to build a garage on the property, and Lenski answered no.

Soik asked if the Township had any weigh-in on the deck, and Mrdutt replied the township previously approved the deck.

Szachnit asked if there was a need to more than double the size of the existing deck, and Lenski explained how he moved a door to where a window used to be, and the way he sized the deck to accommodate this new door. In addition, he went out 12 feet, but moved the steps to the side of the deck. Szachnit asked what prompted Lenski to go out an extra 2 feet, and Lenski stated the materials he uses are customized and come in 6 foot sections.

There being no further questions from BOA, Szachnit excused Formella and the Lenskis. Szachnit asked if any members of the public wanted to address this petition. There were no members of the public wanting to testify.

Szachnit read the following into the record:

- A letter from Pearl Bagemehl, expressing no objection to the request.
- An email from Michael Wenholz, Department of Natural Resources.
- A memo from Christopher Mrdutt, Assistant Zoning Administrator, stating the Portage County Planning and Zoning Department finds the request complies with basic requirements of the County Zoning Ordinance, and requested BOA discuss attaching conditions, if approved. Mrdutt's memo also states any structure constructed on this property would not meet setbacks due to the nature of the lot dimensions and closeness of the road to the lake.

Mrdutt clarified, for the record, in the third paragraph of his memo, second sentence, where it reads "...the request complies with..." it should read, "...the application complies with..."

Soik asked if the Portage County Planning and Zoning Committee should review this matter because it applies to the Portage County Zoning Ordinance. Mrdutt stated this is appropriate to be in front of BOA, and added the Planning and Zoning Committee acts on language in the ordinance. Soik asked if the Land Conservation Division should be involved in this matter because other properties around the lake are mowed clean to the lake. Soik asked if anything has been done to bring other neighbors into compliance. Mrdutt explained with Shoreland Zoning, what sparks re-vegetation and mitigation of stormwater is when someone comes in for a permit, and an on-site is conducted. Soik asked if there is an ordinance that states we have to re-establish vegetation from this point forward. Mrdutt answered there are vegetation standards that all properties should abide by. Shoreland is unique in the statutes because there are limitations where after a certain amount of time, things may be grandfathered.

Szachnit closed the testimony portion of the hearing.

#### Deliberation and Decision

Szachnit read BOA procedures and three variance criteria, in addition to standards.

Bachhuber stated the Town of New Hope letter states approval of the shed, but made no mention of the deck. Town of New Hope Chairman, Daniel Zaborowski, who was in the audience, stated the deck was approved by the Town Board. Mrdutt added the deck was approved for the previous variance request. Soik asked if the position of the Town Board remains the same, and Zaborowski replied at the time they were out there, the deck was partially built already. However, they do not want him to go further out than the dimensions in this request.

Formella stated minutes from the Town of New Hope Board meeting of October 21, 2009, show a motion to approve the variance for Lenski's deck replacement; however, no dimensions are noted.

Jazdzewski asked Planning and Zoning Staff what the County's position is on permeable surfaces versus grass as to the occupied area of the proposed deck. Mrdutt asked if he meant patio pavers, as long as they're permeable. Mrdutt stated patio pavers are generally allowed without a permit, as long as they are at least 35 feet back or out of the primary buffer. Mrdutt stated impervious concrete is usually impervious for the first year, until it rains. Mrdutt stated patio pavers are allowed as long as no structures are being set on top of them, as they can shift and move. Jazdzewski asked if this situation would allow for an area the size of the 12' x 18' deck to be paved with a landing and steps down, and Mrdutt answered yes.

Bachhuber stated there was no discussion of the shed, and it appears the Town of New Hope has approved the shed. Bachhuber asked if the shed is on a foundation, and Mrdutt answered no. He believes it is on a bed of gravel. Bachhuber believes Lenski has made improvements for drainage as advised by O'Connell, and Mrdutt agreed. Mrdutt stated the shed cannot meet the 100 foot setback. Bachhuber asked if there is a difference on a structure encroaching whether it is on a foundation or skids that can be moved, and are they still considered structures that are encroaching. Mrdutt answered yes. Any structure 100 square feet or greater requires a permit. When a permit is issued for a structure, that is when they make sure setbacks are met. Mrdutt added setbacks cannot be met on this property.

Bachhuber stated Formella indicated the standard to be looked at in this case is that this is unnecessarily burdensome to the Lenskis. Bachhuber discussed the Snyder vs. Waukesha County Zoning Board Supreme Court Case, which asked if an after the fact variance should be granted for a porch because it was unnecessarily burdensome. Bachhuber noted the Supreme Court Decision stated no; because the hardship was self created and the porch was no more than a personal convenience.

Soik stated BOA needs to take a look at safety factors, and with no deck or porch in place, stepping out of the patio door could be dangerous.

Jazdzewski stated the shed is set back enough, and with vegetative cover allowed to grow up between the shed and the pines, the shed is somewhat screened. The deck is the setback area, and Jazdzewski states that is unfortunate. What is allowed is an entrance or egress of landing and steps. As stated, pavers with a landing and steps would be allowed.

Pelky stated BOA should deal with each request separately, and discuss the shed first.

Bachhuber asked staff if the shed is located in the best position on the property. Mrdutt replied yes, and added stormwater issues have been designed and put in place around it. Moving the shed would impact land conservation efforts already in place.

Bachhuber asked if the shed meets the ratio necessary in this district, and Mrdutt and Pelky both answered yes.

Motion by Jazdzewski to grant the petition for a variance from the Portage County Shoreland Ordinance and Portage County Zoning Ordinance to allow a shed to be constructed within the 100 foot setback of Rinehart Lake with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. The designed Stormwater runoff plan suggested by Portage County Planning and Zoning staff must be adhered to and maintained.
3. The Shoreland vegetation plan suggested by Portage County Planning and Zoning staff must be maintained.
4. The variance has been approved for the shed location, from said right-of-way, as documented in the petition.

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

Jazdzewski asked staff if the variance is granted other than requested, would there have to be a motion to approve the request, deny it, and then give options? Pelky stated BOA has to act on the request as presented. If the request is denied, it would be up to the petitioners to work with staff to come up with a workable option.

Schuler clarified where BOA is with this request. The applicant had a previously existing deck that was removed. The Lenskis wanted to replace and enlarge the deck. They were told this required a variance because the enlargement of the deck was not permitted per ordinance. Pelky offered the option of what is allowed by current regulations, 40 square feet, which the Lenskis chose not to pursue. The Lenskis chose to pursue a variance, which was ultimately denied. The Lenskis are again seeking a variance for the deck. Schuler stated if the variance for the deck is not allowed, there are other options the Lenskis can pursue that do not require a permit.

Jazdzewski asked if the Lenskis had originally asked to replace the 10' x10' deck at its original size, would the request have been approved, and Mrdutt replied they would only have been able to repair the structure. They would not have been able to tear it off and build a 10' x 10' deck.

Bachhuber stated the DNR letter specifically states variance criteria have not been met. Jazdzewski stated the DNR letter advised against granting the variance, but if BOA approves, the DNR supports the recommendations set by staff.

Motion by Jazdzewski to grant the petition for a variance from the Portage County Shoreland Ordinance and Portage County Zoning Ordinance to allow construction of a deck within the 100 foot setback of Rinehart Lake with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. The designed Stormwater runoff plan suggested by Portage County Planning and Zoning staff must be adhered to and maintained.
3. The Shoreland vegetation plan suggested by Portage County Planning and Zoning staff must be maintained.

Motion seconded by Bernhagen.

Soik asked for clarification on the size of the deck. Jazdzewski stated the motion is to approve the deck for the size stated in the application.

Motion approved 3-2 by roll call vote, with Jazdzewski and Bachhuber voting nay.

Arnott Lions Club, Owner / Ben Kizewski, Agent (P11-18)

The Board of Adjustment will review and act on an agreement between the Town of Stockton and Arnott Lions Club regarding use of the Lions Club property, located in the Town of Stockton, in fulfillment of a condition previously included in Board of Adjustment Appeal A00-53, December 19, 2000.

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 material and agreement complies with basic requirements of the County Zoning Ordinance. BOA will need to address proposed uses in the new agreement, and if deemed acceptable, BOA will have to include the agreement in the decision.

Pelky stated an ice hockey rink was approved at a hearing December 19, 2000. The ice rink is no longer being used, and the Petitioner wants to expand use of the facility, which requires a special exception hearing.

Mrdutt clarified this request is a special exception, not a variance as listed in the petition. Schuler stated the matter was noticed properly and will be considered as a special exception.

Szachnit read the following into the record:

- Correspondence from the Town of Stockton, recommending approval of the request, with conditions.

Szachnit swore in Ben Kizewski, President of the Lions Club, and Ronald Borski, Secretary of the Lions Club, and asked them to explain the request. Kizewski stated the Lions Club would like to use the facility for events listed in the letter from the Town of Stockton. Borski stated because of the way the property is zoned, they are not able to store vehicles in the facility. Because the facility is not being used for hockey, the Arnott Lions Club would like to store vehicles in the building and use any revenue generated to assist with building upkeep.

Szachnit asked if any members of the public wanted to address this petition. Mary Kay Helbach, surrounding property owner, asked if this is a rezoning for the property, and Szachnit answered this is not a rezoning.

Bachhuber asked if this is a new agreement between Arnott Lions Club and the Town of Stockton, and Borski replied they were supposed to have an agreement in 2000, but one was never done. Borski stated this is the required agreement, which became effective September 1, 2011. Bachhuber stated this is the agreement BOA needs to approve. Mrdutt stated the special exception has already been approved by BOA. At this time, BOA needs to deem acceptable the agreement between the Arnott Lions Club and the Town of Stockton.

Bachhuber asked about condition number 8 in the agreement, which relates to removal of the building, if the Arnott Lions Club ceases to exist; and asked how this condition would be enforced. Mrdutt responded this would be up to the Town of Stockton.

Szachnit excused Kizewski and Borski, and closed the testimony portion of the hearing.

Deliberation and Decision

Szachnit stated BOA only needs to approve the agreement between the Town of Stockton and the Arnott Lions Club.

Motion by Bachhuber to approve the special exception request with the following condition:

1. The packet and agreement between the Arnott Lions Club and the Town of Stockton are approved as submitted.

Bachhuber asked if any action is needed on conditions from the previous BOA decisions, and Mrdutt answered no; they are still in effect.

Motion seconded by Bernhagen.

Jazdzewski asked if the fact they can store cars in the facility needs a special exception, and stated this has nothing to do with any agreement between the Town of Stockton and the Arnott Lions Club. Mrdutt stated the facility was approved with the previous request, and the agreement was to include proposed uses of the facility, which included storage of vehicles.

Soik asked in special exceptions for R1 zoning, which one of the conditions would this request fall under, with a building of 2,800 square feet or larger? Pelky stated this building was approved December 19, 2000.

Motion passed unanimously by roll call vote.

#### Approval of Minutes

Jazdzewski moved to approve the July 22, 2011 minutes as submitted, Bachhuber seconded. Motion passed by voice vote.

Bachhuber moved to approve the July 25, 2011 minutes as submitted, Jazdzewski seconded.

Jazdzewski asked for discussion on the minutes. Jazdzewski believes he stated in discussion on the Firkus matter, that BOA allowed trucks to return after hours, only noise generating activities have to cease. Jazdzewski stated his intention was to include trucks can return after hours, but this is not reflected in the minutes. Bachhuber stated this is not reflected in the motion. Stewart stated these minutes are not verbatim, they are a summary of the main points covered in the meeting.

Soik added he has the same concern with the decision stating all operations have to cease at 7:00 pm. He believes someone may argue that all operations must cease, when he asked for clarification that it was on-site operations must cease. Stewart stated that may be the discussion from the meeting; however, if this was not stated in the motion, it cannot be included in the decision. Soik stated the petitioner is now responsible for bringing his vehicles back prior to 7:00 pm, and his ability to make a living may or may not be impacted because of that. He is looking for a way to get that changed. Bachhuber stated her motion was very definite, and as these motions are made, it is up to BOA members to listen and make amendments at that time, if needed. Bachhuber stated the only way this can be changed is by a motion of reconsideration by a member that voted in the majority. It was noted this matter cannot be addressed at this time as it was not noticed on the agenda.

Mrdutt stated BOA could act on a reconsideration to bring it up at the next meeting. This would be a reconsideration if BOA feels clarification is needed. Jazdzewski stated Firkus did not complain when he received his decision. Jazdzewski would like it read into the record that he had assumed that the condition that vehicles could return after hours was included in the motion.

Soik added he feels there was an injustice done on his part for not making the proper motion to amend the motion. He feels an injustice has been done to Firkus. He believes BOA members left with what they thought they heard, but it was not made clear.

Schuler suggested Firkus will operate as he is going to operate, and if it becomes a problem with an enforcement issue, they will gladly bring him back to BOA to amend his special exception. Schuler added this would only be a problem, if Firkus runs into problems with how he is operating.

Bachhuber stated the petitioner has a responsibility to check that what he asked for and what he thought he was granted are reflected in the decision. Soik added BOA has the responsibility to make sure they are doing their job properly. Soik does not believe Firkus should be punished in the future for Soik not doing his job properly.

Bachhuber pointed out a spelling error on page 10, paragraph 2; *ours* should be *hours*.

Motion to approve passed unanimously by roll call vote.

#### Correspondence/Updates

As of today, nothing set for October.

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 6:00 pm.

Respectfully submitted,

\_\_\_\_\_  
Gayle Stewart, Recording Sec.

\_\_\_\_\_  
Lowell Klessig, BOA Secretary

\_\_\_\_\_  
Date of Approval

MINUTES  
PORTAGE COUNTY BOARD OF ADJUSTMENT  
NOVEMBER 14, 2011

Call to Order

Chairman Szachnit called the Portage County Board of Adjustment (BOA) to order at 4:07 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, Christopher 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

Bryant and Carrie Esch, Owners (P11-19)

The Bryant and Carrie Esch, owners, variance request from the Portage County Zoning Ordinance to rebuild a shed within property line and road setbacks, in the A3 Low Density Agricultural Zoning District, Town of Belmont, was opened by Szachnit, who read the public hearing notice.

Szachnit swore in Bryant Esch and asked him to explain the request. Esch stated he currently has a building on his property located within the 25 foot setback to a neighboring property line. The building is nearing the end of its life and he would like to replace it. Esch looked at other locations and could not identify any alternatives. Esch also stated he spoke with the neighboring landowner about the possibility of purchasing a piece of land that would be enough to satisfy that setback; however, that was not an option on their part. Esch wants a building suitable for typical residential storage, approximately the same size as the current building. Esch has determined a lot of standard buildings available are not the exact dimensions of his current building. Esch added he is not sure what the exact orientation of the building will be, and he will adhere to setbacks approved by BOA.

Klessig asked if Esch plans to use the current slab or footprint of the slab, or will he move the location of the new building. Esch answered he prefers not to move the building; however, the location may shift one way or another. Esch is unsure at this time.

Mrdutt stated the way this petition was legally noticed in the paper, and how BOA needs to look at it, is not the size of the shed. The size of the current building is not considered standard on the market. The notice was published for a setback less than 25 feet from a property line and from the road setback.

Klessig asked Esch if he intends to build closer to the road or neighbor's property, and Esch replied no. Szachnit stated the main issue is the setback, not the size of the building. Soik said Esch stated he would follow guidelines put forth by BOA. Esch stated he is asking to build within the 25 foot setback, but no closer than 6 feet to the property line.

Klessig stated he is concerned with lighting on the building. If the new building is located where the current building is, putting a light on either end of the building will potentially make it more visible than normal to the neighbors to the south and in the line of sight of the road. Klessig asked Esch if he had any problem with not being able to put an outdoor light on either of the ends, and Esch answered he has no intention of putting outdoor lighting on the new building. Szachnit asked if there is power to the building, and Esch answered yes. Esch reiterated he is not interested in putting lights on the new building.

Bachhuber read excerpts of a letter from the Town of Belmont Board stating they believe the building existed before the land split years ago, and before Belmont entered into County Zoning. In addition, the letter stated it is best served by allowing the building to be rebuilt on the existing footprint. Bachhuber asked how Esch intends to stay within the footprint, and if he is going to rebuild the foundation. Esch stated if he doesn't have to stay within the same footprint, he would prefer not to. Bachhuber asked about steps on the foundation that look like they are crumbling, and what Esch intends to do about that if he stays on that foundation. Esch replied he was given two opinions; one stated the entire thing should go, and the other said to take that end off and re-fabricate it. Esch stated it depends on what the orientation would be. Esch added his request to the Town never asked to put the new building in exactly the same footprint. Bachhuber stated the Town of Belmont letter stated it would be best served by putting it on the existing footprint, which means it should be the same size. Esch stated he believes it was unfortunate wording that did not perfectly reflect what the request was.

Jazdzewski asked if the design characteristics of the new building are patterned after the type of building currently there, and is he considering going taller. Esch answered he is not looking to go taller because he does not have RV's or anything like that. Esch added he is considering a wood building, and he may go up a couple of feet taller, if that. Bachhuber asked what the limits are, and Mrdutt answered since this property is zoned Agricultural, there are no restrictions on the size of the building. Mrdutt stated BOA needs to address the setback. Jazdzewski added the setback, and if the character of the property is complimented.

Esch stated the only design issue is if he has a similar building, he wants to have an overhang on one side. Jazdzewski asked if this would face the west. Esch stated the overhang would be facing east, parallel with the road. Szachnit asked if the overhang would be over the existing slab or would it extend beyond, and added the agreement would be for Esch to rebuild on the existing footprint. Szachnit stated building the overhang off of the current slab would make the overhang encroach on the road right-of-way. Esch stated the building is currently 5 or 6 feet from the road-right-of way setback, so the overhang would not encroach.

Bachhuber asked Esch if he was going to keep the other shed, and Esch answered no. Esch assumed it will have to be razed.

Klessig asked if the new building would be placed in the space where the smaller shed is, and Esch answered no. This would locate the building in the road right-of-way. Szachnit asked if the smaller building will be razed with no replacement, and Esch answered yes.

Mrdutt clarified BOA does not need to get wrapped up in footprints or sizes. BOA needs to deal with the issue of the setback.

Szachnit asked if any members of the public wanted to address this petition. Colleen Andrews was sworn in. Andrews is the property owner to the south and owned the property before it was split. Andrews stated she has no concern with the footprint and recommends BOA give as much leeway as possible so Esch can get the building he needs. Andrews' issue is the south boundary.

There being no further questions from BOA, Szachnit excused Andrews. Szachnit asked Town of Belmont Chair Neil Eastman if he had any comments. Eastman stated the letter was composed after discussion with the Town Clerk after the meeting. The word "footprint" was used in the letter because they found this area to be the most practical for a building, not to specifically limit the size of the building. There was concern with a building being located up on a hill.

Szachnit read the following into the record:

- A letter from the Town of Belmont dated October 12, 2011, urging BOA to grant the variance and allow the new building on this site.
- 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.

Esch asked if a County Stormwater Permit is required for property or a project less than one acre. Mrdutt explained stormwater is reviewed if warranted or if there is a soil disturbance over 1,000 square feet.

Mrdutt stated they look at standards that can include proximity to surface water or neighboring property lines. Mrdutt explained these issues are addressed during the permit process, and a stormwater permit may not be needed.

Esch stated if this request is granted, the building may shift one way or rotate on its axis; however, it will be somewhere in the general area. Esch added he will adhere to setbacks established by BOA. Mrdutt asked Esch what the maximum building size would be, and Esch answered he has no intention of going more than 30% larger than the current building. Mrdutt stated BOA will need an estimate of the building size.

Soik stated the only way to go with a bigger building is if they went straight to the east. Mrdutt stated it depends on how Esch wants to orient the building.

Bachhuber asked if the smaller shed is removed could Esch build in that area, and Mrdutt answered yes, as long as the 30' setback to the road right-of-way is maintained. Mrdutt added we do not enforce easements.

Esch stated he is not intending to build a much larger building, and added he is not familiar with standard sizes of buildings.

There being no further questions from BOA, Szachnit excused Esch. Esch stated he wants to make sure the language is clear enough so there are no surprises in the future.

Jazdzewski asked Esch if his intent is to basically replace the building square footage-wise, give or take, in addition to an overhang, and Esch answered he will go equal to or a little bigger in the size of the building.

Szachnit closed the testimony portion of the hearing.

#### Deliberation and Decision

Klessig asked Mrdutt why the distance from the road is not listed as a potential condition in his staff memo, and Mrdutt explained when the Department is talking about variances from either a property line or road right-of-way, the Department prefers encroachment on a property line over a road right-of-way. The distance was not listed because it is up to BOA to set.

Szachnit asked Mrdutt if BOA agrees the building is no closer to the road right-of-way and south property line than it is now, can BOA use these as parameters for what Esch wants to do, and Mrdutt answered yes. Szachnit stated if Esch rotated the building, he would have to remove the existing slab. Esch stated there is no slab; it is a concrete ring. Mrdutt stated if BOA wants to say Esch cannot encroach closer than the 6' setback to the property line, and maintain the 30' setback from the road right-of-way, that in itself gives the petitioner allowable area to build.

Schuler stated the building currently does not encroach upon the road right-of-way, and if BOA maintains the 6' setback, Esch can build anywhere he wants. Esch stated the only way the building would get closer to the road right-of-way is if the building was moved 25' from the property line.

Jazdzewski asked if there are any restrictions on the size of the building, and Mrdutt stated since the property is zoned Agricultural, there is no limitation. Jazdzewski stated BOA does not have to determine the size of the building, and Mrdutt agreed. Szachnit stated if Esch decides to rotate the building, as long as all setbacks are met, there is no problem.

Motion by Bachhuber to grant the petition for a variance from the Portage County Zoning Ordinance to rebuild a shed within building setbacks, with the following conditions:

1. You must obtain a Portage County Zoning Permit.
2. A stormwater management plan must be approved by the Portage County Land Conservation Division. This must be obtained with the Zoning Permit.
3. The reconstructed shed cannot encroach any closer to the southern property line, or to the road setback.

4. A copy of the building plan must be on file with the Portage County Planning and Zoning Department.
5. The building may be any size, as long as other applicable setbacks are met.

Motion seconded by Jazdzewski.

Jazdzewski stated because of the proximity to the corner, he feels any lighting involved with the shed should be directed away from or shielded from the roadway, and added sometimes with windows, interior lights, and spots, it is a safety issue.

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

1. Any lighting must be directed away or shielded from the roadway.

Esch asked if this meant exterior lighting, and Jazdzewski stated mainly exterior, but including intense interior lighting. He wants to make sure lighting is not shining out the window.

Schuler stated when the original motion was made, part of the motion was the building should not encroach any closer to the road, when really the intent of the discussion was that he can go as far up, including to, the right-of-way setback. He can go as close to that as he wants, but maintain the proper road setback. Schuler stated the actual motion itself said don't go closer to the southern property line and to the road.

Motion to amend the main motion seconded by Klessig. Motion to amend passed unanimously by roll call vote.

Motion by Soik to amend condition number 3 of the main motion, striking reference to the setback from the road, and accepting what is put forth from Planning and Zoning Department staff, including the amendment made by Jazdzewski referencing lighting.

Bachhuber asked what Soik was striking, and Soik stated reference to the road right-of-way. Bachhuber stated it sounded like Soik only wanted to go with conditions 1, 2, and 3 as stated by the Planning and Zoning Department, and not having a condition regarding building plans being on file. Soik does not believe it is needed. If it was, he believes Planning and Zoning would require it. Soik stated encroachment to the road is what he wants to have removed from the condition. Szachnit added there is no problem with the easement from the road.

Schuler stated the general tone of BOA is it appears the building can be reconstructed no closer than 6' to the southern property line, and must not encroach upon the road setback. Bachhuber stated this is what she said in her motion.

Soik stated his motion could also include removing condition 4 which references having a building plan on file. Soik stated if this was needed, it would have been put forth in front of BOA. Stewart asked if Soik wanted to remove condition 3 entirely, and Soik stated no; just the reference to encroaching closer to the road. Soik stated he will leave in condition 4, but his motion is to remove encroachment to the road right-of-way.

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

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

#### Approval of Minutes

Bachhuber asked for discussion on the minutes. On page 2, line 6, Bachhuber noted where it reads "... the shape actually runs down to the lot..." she believes it actually means the shape runs down to the lake. Stewart referenced the photo and showed where the shape runs to the lot with the striped building, not near the lake. Bachhuber was satisfied with this.

Bachhuber read from page 3, second full paragraph, and stated she disagrees with the phrase "Bachhuber added," and says she actually disagreed with what Mrdutt said. Stewart showed Bachhuber verbatim text from the minutes where it says... "Yes, except that it says..." Bachhuber stated she would

like the minutes changed to reflect that she agreed, but with an exception. Bachhuber wanted to make it clear to BOA that they do have to look at the entire property, not just one part. Stewart asked Bachhuber if she just wants this noted in the minutes for this meeting, and Bachhuber stated she would like the minutes changed from the last meeting.

Motion by Bachhuber to strike the word "added" and replace with "said yes, except that." Motion seconded by Soik. Motion passed by roll call vote 4-0. Klessig abstained.

Jazdzewski discussed page 3, 3<sup>rd</sup> paragraph from the bottom, last line, where it reads "Jazdzewski stated the photo is not totally accurate." Jazdzewski does not believe this is what he said, because a photo is what a photo is. What he believes he said is that the photo doesn't accurately represent the situation. He just wanted this noted; he is not requesting the minutes be changed.

Jazdzewski moved to approve the September 19, 2011 minutes as corrected, Bachhuber seconded. Motion passed by roll call vote 4-0. Klessig abstained.

Correspondence/Updates

Next meeting tentatively scheduled for December 19, 2011. On-sites will be Friday, December 16<sup>th</sup> if there are two or more hearings.

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 5:00 pm.

Respectfully submitted,

\_\_\_\_\_  
Gayle Stewart, Recording Sec.

\_\_\_\_\_  
Lowell Klessig, BOA Secretary

\_\_\_\_\_  
Date of Approval