

September 29, 1998

Board of Appeals Organizational Meeting

1.

The newly appointed/re-appointed Board of Appeals members conducted an organizational meeting on Tuesday, September 29th, at 6:15 p.m., at the Town Hall. Members present were: Bob Holzman, James Rosenthal II, John Buechel, Tom Friess and Charles Mathison.

Bob Holzman retained the position of Chairman and Jim Rosenthal retained the position of Secretary.

The Oath of Office was administered by the Town Clerk.

Meeting adjourned.

Dated: October 3, 1998

Attest. Brenda A. Schneider
Brenda A. Schneider
Town Clerk

June 8, 2000

Board of Appeals

1.

Ken Ogie, dba: Transamerica Recovery Service Conditional Use Permit

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Thursday, June 8th, 2000, at 7:00 p.m., at the Taycheedah Town Hall for the purpose of considering the Conditional Use Permit application submitted by Ken Ogie, to operate a junkyard. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. Also present was Attorney John St. Peter.

The Chairman called the public hearing to order.

The following exhibits were reviewed:

- 1) Preamble written by Ken Ogie, President of Transamerica Recovery Service,
- 2) Conditional Use Permit application,
- 3) Map submitted by Ken Ogie,
- 4) Notice of public hearing,
- 5) Dept. of Revenue notices pertaining to tax liability,

Attorney John St. Peter read aloud the public hearing notice.

Ken Ogie was sworn in. His testimony as follows:

- He has resided at the Ledge Road location since 1946
- President of Transamerica Recovery Service Inc.
- Has operated a license salvage yard since 1979
- Mr. Ogie requests to increase the salvage yard by approximately one acre. He proposes to extend to the south 135 feet
- 1980 was granted a Conditional Use Permit for expansion
- He has been licensed by the Town on a yearly bases through the 80's and 90's
- Fencing has been installed higher than required by law to be neighborhood friendly
- The salvage yard is a one-person operation
- Mr. Ogie's buys an average of one car a day
- Generally has only one customer a day

Board and attorney statements:

- With the adoption of the Code, salvage yards are now a Conditional Use for operation
- Operation appears to have been expanded to the Ledge Road site
- The site elevation is approximately 15 feet lower than Laurel Lane
- The Chairman questioned rainwater flow through the site toward a creek. The south end should be bermed inside the fence. Mr. Ogie stated if he is approved for the expansion, he might put in a pond or retention area. Mr. Ogie stated the site does not have standing water and has average soil drainage. He claims to have not seen evidence of skim in standing water. Mr. Ogie stated the water seeps into the cornfield. A drainage ditch within 100 feet of the property goes past the former Frank Reichling property and on to Lake Winnebago. Attorney John St. Peter asked Mr. Ogie if he is aware of the new DNR storm water regulations. Mr. Ogie avoided the question. His response pertained to no evidence of skim on standing water. He later stated he had heard about it but hasn't started working on it yet. He plans to work on it in the fall. He claims he must join an organization and that he hasn't heard from the state yet.
- Member asked Mr. Ogie if he drains freon, oil, wiper fluid, anti-freeze and how it is stored. Mr. Ogie stated the fluids are stored in non-leaky metal barrels. He claimed that none of the fluids ever goes on the ground. The member indicated a condition would be added to the permit that all fluid storage must comply with federal and state law. Mr. Ogie stated that if the Board wants, he could dispose of the fluids by loading it on a truck to Milwaukee.

Dean Malloy, homeowner east of the junkyard questioned:

- If business were slow, why would you want to expand? Mr. Ogie stated his son is disabled and needs a job. Mr. Ogie will retire some day and hopes to turn the business around.

Mr. Malloy was sworn in. His testimony was as follows:

- Mr. Malloy knows for a fact that chemicals are currently stored in uncovered metal containers outdoors in an area bordering his property.

- Mr. Malloy moved in during 1990-91. His well water quality is a concern. He has approximately 100 feet of clearance from the southeast corner of the property.
- Mr. Malloy is also concerned about who is regulating the operation.
- Items are supposed to be within the fence. There are tires outside of the fence. Not everything is contained within the fence.

Mr. Ogie's testimony:

- He leaves open the gasoline containers for evaporation.
- Mr. Ogie claimed there is no requirement on the southeast corner.
- Mr. Ogie stated that about 2000 tires have been removed and that the rest will be removed by the fall.

Mr. Malloy's testimony:

- The fence was put up in a hurry. Most of the places bordering his property aren't standing.

Mr. Ogie's testimony:

- Mr. Ogie agreed that areas of the fence need to be repaired. Mr. Ogie intends to add a gate approximately 20 feet down for access to the tire pile.

A member questioned Mr. Ogie about the open barrel containing fluids. Member is concerned about rain causing the fluid to run over the barrel. Mr. Ogie stated the opening is approximately 7 inches.

Mr. Malloy's testimony:

- Some agency should be taking care of all of these issues. The operation has never been inspected.
- Mr. Malloy stated that his well water has tested well in the past. However, they still don't drink it because of the junkyard.
- Mr. Malloy was asked if the DNR inspects the site and the Board of Appeals applies conditions that were met, would he feel comfortable with the expansion? Mr. Malloy would like to see his well tested approximately once a year at Mr. Ogie's expense, the fence repaired and the tires removed. Mr. Malloy believes his well was last tested in 1996 and does not believe it has been tested for chemicals. Mr. Malloy stated that he has no problem with the expansion. However, he has two kids and pets. The pets have disappeared in the past for days at a time. He is concerned about the kids or the pets getting into the site and getting into the chemicals. He is also concerned about people entering the site at night.

Jim Huck, Taycheedah Town Chairman, was sworn in. His testimony was as follows:

- We met with Mr. Ogie at Attorney John St. Peter's office. There are problems with the Ledge Road site. Mr. Ogie agreed if the expansion were approved, he would remove the items at the Ledge Road site within 120 days. Mr. Huck has no problem with the 285-foot expansion if the Ledge Road site is cleaned-up. The Conditional Use Permit must have teeth in it.

Mr. Ogie asked about the fencing requirement.

- Mr. Huck stated the fence must be a minimum of 7 feet. He repeated, if the expansion is granted, the Ledge Road site must be cleaned-up and Mr. Ogie should never be allowed to bring more into the site.
- Attorney John St. Peter clarified that the Ledge Road site is not zoned for business and should not be used for storage.

A member questioned Jim Huck about the meeting with John St. Peter and Mr. Ogie. Member asked if it was a formal meeting and why Dan Freund wasn't in attendance. Mr. Huck stated the meeting just suddenly happened.

A member believes there has been a violation no matter what the decision of the issues at hand should be. The member asked Mr. Ogie what is the purpose of the fence if equipment and tires are located outside of it. The complete operation should be within the fence.

A member asked Mr. Ogie about the number of cars and semis stored at the Ledge Road site.

- Mr. Ogie stated 10 or 11 at the farm.

A member asked Mr. Ogie if his expansion requested would provide enough room to relocate the vehicles.

- Mr. Ogie stated that with an additional 285 feet he would have enough room. He stated it would give him enough room to unstack the vehicles at the salvage yard. Currently, he does not have enough room to turn the truck on the south end of the site.

A member didn't understand why Mr. Ogie wants to expand if business is slow. Member also asked if the Board of Appeals has the authority to end the business and not allow the expansion. Attorney St. Peter explained that he had been ordered by the Town Board to file a lawsuit against Mr. Ogie. He corresponded with Mr. Ogie, giving him an opportunity to respond before filing the suit. Mr. Ogie requested the meeting with the Town Chairman. The meeting was set. He called Mr. Huck. Mike Colla just showed up with Jim Huck. He wasn't aware Mr. Colla would be coming to meeting. Mr. Colla should not have come to the meeting.

Dan Freund was sworn in. His testimony was as follows:

- Mr. Freund stated that he was unaware of the meeting and that he was not there representing the Town Board. Attorney St. Peter stated the meeting issue is meaningless for the Board of Appeals issue tonight. The Town Board has no jurisdiction over this issue.
- Mr. Freund questioned why the meeting took place and who was billed. Attorney St. Peter stated he would answer all of Mr. Freund's questions after the meeting. The answers are irrelevant to this issue.
- Mr. Freund asked Mr. Ogie why tires are piled outside of the fence instead of in. Mr. Ogie stated there isn't enough room inside.
- Mr. Freund stated that previous license fees were waived, in the past; Mr. Ogie was late with the license fee. The Conditional Use Permit must have teeth in it. He also recommended that the Board deal with current violations immediately. Attorney St. Peter responded that the Conditional Use Permit should deal with defaults as well as violations.

A member asked Mr. Ogie what is stored within the semis. Mr. Ogie stated records, a couple of corvettes, parts and a Porsche.

Harold Lefebvre testimony:

- It would be easier for Mr. Ogie to expand toward the west instead of the south. Exhibit No. 5 was reviewed. A letter received from the Department of Revenue, dated 06/05/00, pertaining to delinquent income tax. The issue does not fall under the jurisdiction of the Board of Appeals.

Kevin Hau was sworn in. His testimony was as follows:

- Mr. Hau bought his house in 1990. At that time, a survey was done. The survey indicated Mr. Ogie's fence is on his property.

Mrs. Kevin Hau's testimony was as follows:

- She wants the fence moved, no other questions will be asked.
- She does not want excessive traffic.
- She is in favor of the expansion.
- She has two kids who have been taught not to enter the site without an adult.
- Mr. Ogie has cleaned-up the site.
- They bought their property knowing full well the junkyard was there.
- They don't have any problem with unwanted critters.
- Their well water was test in 1990 and 1996. Both tests were OK.

Ann Simon's testimony as follows:

- She is not opposed to the expansion.
- Traffic in the area is limited.

Joan Simon's testimony was as follows:

- The Ledge Road site is near her home site.
- She feels the Town should clean up other issues that are far worse than the home site.
- She is in favor of the expansion.

Ken Ogie, dba: Transamerica Recovery Service Conditional Use Permit

A member questioned if Jim Huck and Ken Ogie's meeting with John St. Peter included any specifications as to the square footage in the negotiations. John St. Peter discussed the fact that a salvage yard in Lamartime has gone out of business. If Mr. Ogie would go out of business, the Town would inherit a problem. Quarries are bonded, but the salvage yards are not. Mr. Ogie stated that the cars have value. Sadoff & American would pay money for them. Attorney St. Peter stated the big problem is the barrels of chemicals. Mr. Ogie has made no effort to dispose of the chemicals. Mr. Ogie feels it would not be a problem. A member stated that any salvage money would probably go to heirs. Mr. Ogie admitted his credit is no good and that he is asset poor. He has approximately 450 cars. Mr. Ogie stated that he took over the responsibility from Krueger. 100 feet of the Krueger property is still within the yard. John St. Peter stated that if Mr. Ogie abandons the site, the DN would look to the Town to clean up the site. The Board needs to protect the Town.

A member stated the Board has several concerns. Member asked John St. Peter to prepare a draft Conditional Use Permit with conditions similar to the ones on the quarries as well as additional conditions discussed at this meeting based upon testimony. The Board discussed conducting a follow-up meeting, giving Attorney St. Peter time to draft and distribute a Conditional Use Permit. Attorney St. Peter stated that the Board of Appeals cannot shut down the operation and that they need to address the known problems.

The group discussed the acreage of the site and whether or not an additional 135 feet would give Mr. Ogie enough room. Mr. Ogie stated the original intent was to keep the entire operation within the fence. The group discussed the expansion area. A member thought it would be more feasible to expand to the west. Mr. Ogie feels it would be cheaper to expand to the south. A substantial area is vacant to the south.

The Board discussed the 1980 Conditional Use Permit for expansion. The file contains letters dated 4/16/92, 9/25/92 and 6/30/93, all discussing the installation of the fence. When Hau's survey was done, the fence was falling down. The Board would like to see uniformity in the fence, as well as berms and retention areas to contain water within the site. Attorney St. Peter was instructed to include the fence issue in the proposed Conditional Use Permit. Mr. Ogie stated that he owns equipment capable of constructing the berm and retention area.

The group discussed the size and number of containers used for the storage of chemicals. Mr. Ogie was asked if he would have a problem with the DNR or other outside agency inspecting the site. Mr. Ogie responded that it would not be a problem.

A member stated that the public in attendance have no adamant objection to the expansion. However, he would like Mr. Malloy's contingencies address. Those being well water testing and tire removal. Another member is concerned about the storage of chemicals from salvage operations. Attorney St. Peter asked how much inventory of chemicals is needed. Mr. Ogie responded 400 gallons of everything. A member requested a condition that the chemicals be stored in environmentally approved containers.

A member noted that Mr. Ogie's map indicates operations outside of the fence. Mr. Ogie stated that is the office. Member stated that a condition should state that nothing should be outside of the fence except for the office.

The Ledge site inventory shall be moved to the Laurel Lane site within 120 days.

The group discussed the bond issue. Clean up would involve unknown costs. A form a security or letter of credit was discussed. The Board questioned how to determine an amount. Attorney St. Peter stated that the permit would be issued to a company. The Town needs some type of personal guarantee. The property does have some value. Mr. Ogie agreed to give his personal guarantee. Terms were discussed.

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Board of Appeals
Ken Ogie, dba: Transamerica Recovery Service Conditional Use Permit

5.

A member suggested the Board decides on an amount of expansion. He recommends granting the full request so that cards could be unstacked and the Ledge Road site inventory completely moved. Mr. Ogie agreed to unstack the vehicles. Attorney St. Peter asked Mr. Ogie how much time he would need to accomplish the unstacking. Mr. Ogie responded at least one year from signing. Mr. Malloy requested that a time limit be placed on the operation activities so that unstacking only takes place during the daylight hours. If it is not completed within one year, an extension can be granted.

The Board of Appeals scheduled a date of June 20th, 2000, at 6:00 p.m., to reconvene the hearing.

The Chairman adjourned the meeting.

Attest. Brenda A. Schneider
Brenda A. Schneider
Board of Appeals Secretary

June 20, 2000

Board of Appeals

1.

Ken Ogie, dba: Transamerican Recovery Service Conditional Use Permit

The Town of Taycheedah Zoning Board of Appeals reconvened a public hearing on Tuesday, June 20th, 2000, at 6:15 p.m., at the Taycheedah Town Hall for the purpose of considering the Conditional Use Permit application submitted by Ken Ogie, to operate a junkyard. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. Also present was Attorney John St. Peter. This hearing is a continuation of the hearing started on June 8th, 2000.

The Chairman called the public hearing to order.

Mr. Ogie submitted a revised application for a Conditional Use Permit. He is withdrawing his request for expansion. The fence has been redefined. The 1980 Conditional Use Permit applies to an area 450'x450'. Exhibit No. 3, the map was reviewed.

The group reviewed the proposed Conditional Use Permit. Mr. Ogie requests a waiver of paragraph #7 in reference to vehicle unstacking or to limit it to no higher than one vehicle stacked.

A member asked Mr. Ogie about the establishment of a berm. Mr. Ogie stated that he would like to do one.

Other items that need revision included the correct address, add a definition, revise the right to stack and allow the office outside of the fence.

A member questioned if the Board should establish a required timeframe for repair or replacement of the fence. Attorney St. Peter noted that the draft states the fence must be maintained.

A member asked if the public is allowed on the site. Mr. Ogie responded that customers are allowed inside the fence. Mr. Ogie was asked if he carries liability insurance. Mr. Ogie responded no, it's expensive. Transamerican allows entry at your own risk.

Paragraph No. 7 was reviewed. Member requests keeping the first sentence and add Transamerican shall be allowed to stack one vehicle on top of another on.

John Buechel motioned to revise the Conditional Use Permit as mentioned above, seconded by Charlie Mathison. Roll call vote:

Charlie Mathison	aye	
John Buechel	aye	
Bob Holzman	aye	
Tom Friess	aye	
Jim Rosenthal	aye	Motion carried.

Ann Simon was sworn in. Her testimony was as follows:

- Why should Mr. Ogie be responsible for Dean Malloy's well water testing when the Malloy's don't drink their water?

The Board reviewed the changes to the draft Conditional Use Permit with Attorney John St. Peter. Charlie Mathison motioned to accept the changes, seconded by John Buechel. Roll call vote:

Charlie Mathison	aye	
John Buechel	aye	
Bob Holzman	aye	
Tom Friess	aye	
Jim Rosenthal	aye	Motion carried.

This public hearing was adjourned.

Attest. Brenda A. Schneider
Brenda A. Schneider
Board of Appeals Secretary

June 20, 2000

Board of Appeals
SBA Towers, Inc./Victor Freund property
Conditional Use Permit

1.

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Tuesday, June 20th, 2000, at 7:00 p.m., at the Taycheedah Town Hall for the purpose of considering the Conditional Use Permit application submitted by SBA Towers, Inc, to construct and operate a telecommunications tower. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. Also present was Attorney John St. Peter.

The Chairman called the public hearing to order and announced that the meeting will not be allowed to proceed beyond 10:30 p.m.

Dean Olson was sworn in. His testimony and responses to Board of Appeals members' questions were as follows:

- He works for Land Service Co.
- SBA plans to erect a 195 ft. self-supporting lattice tower.
- The tower will not have guide-wires.
- The tower will need a 100'x100' area adjacent to the road.
- The tower is designed to expand to 250 ft. when the need arises.
- Advantages provided by the tower:
 - Improved cell phone coverage,
 - Decreases the need for more towers,
 - The location covers two service areas.
- The tower will enhance digital mobile phone service.
- The land lease is for a term of 5-years, which is subject to 10 additional five-year extension periods. The total extendable term is 55 years.
- They erected a tower in Brothertown and intend to erect one in Empire.

John Thiel, Godfrey & Kahn, provided the following testimony:

- He reviewed the Town's application process; particularly the standards as outlined in Section 13-1-66(a). He addressed the standards as follows:
 - The area will be fenced.
 - There will be a minor impact to the farm.
 - No negative impact on development.
 - The access will have a gravel base.
 - The ingress and egress will not cause traffic congestions.
 - The proposal meets all requirements.
 - The proposal does not violate flood plain regulations.
 - The drainage is not an issue.
- At 195 ft., the FAA doesn't require the tower to have lights. However, if the Board wants it to have lights; that is their choice.
- They have looked at other sites in the Town of Taycheedah.
- SBA intends to lease to three additional providers.
- Competitive reasons could trigger a need to expand the tower.
- They will provide proof of insurance and a performance bond for possible removal of the tower.
- The site is within 2/10s of a mile from the center of a designated area of need.
- Law gives a very narrow reason to deny the permit. The Town can not discriminate against users.
- Multiple lower towers could be placed within the rights-of-way.
- SBA may have to erect a tower at each end of the Town in order to compensate for this proposal in the event it was denied. Or, Taycheedah may not have service.

Jim Moore, Operations Manager for Alamosa, and Chris Robinson, CHR Solutions, provided the following testimony:

- There are no known issues regarding impacts to migratory birds.
- DNR restrictions require them to avoid wetlands.

- They have no known knowledge of health hazards.
- The Telecommunications Act of 1996 bans the claim of health hazards as a basis for denial.
- Sprint paid \$2 billion to get the license for the US.
- The Federal government is allowing towers to be constructed within the right-of-ways.
- Standards for co-location include the revenue from the competition, the coverage area and the integrity of the tower.
- The tower is designed to self-collapse. An 1800 ft. TV tower did not go down during Hurricane Hugo.
- SBA will maintain the interior fence area. The area will have a gravel base and the weeds will be controlled.
- There is no difference in the support structure of the tower in the event it was extended to 250 feet.
- There is no other tower in the Town of Taycheedah capable of meeting their needs. The tower in the Park is not strong enough.
- Co-location depends upon height, structural soundness and the position of the tower.

Attorney Kristin Schelwat, Godfrey & Kahn, provided the following testimony:

- This tower is not a guide-wired tower.
- This tower will not be lit.
- It is a bird-friendly tower.
- Rotating red lights during dense fog and snow tend to impair bird visibility.
- FAA requires lights on towers over 200 feet. The FAA would determine if the lights would be white, red or strobe.

Dan Freund was sworn in. His testimony and response to Board of Appeals members' questions were as follows:

- Representatives of SBA showed up and asked to do studies.
- They selected three sites on the Freund property that would serve their purpose. They agreed to the site under consideration.
- Cell phone coverage is poor in the area and the tower is badly needed.
- Victor Freund owns the property. He purchased it from Victor April 1, 1998. Victor is holding the mortgage. Dan controls the farm; now called Freund Dairy Farm, LLC.
- The Town signed a contract with East Central Regional Planning last week to assist in the researching the escarpment issue. The ordinance will take 9 months to one year to develop. The tower site is not even close to the Ledge; well beyond 250 feet. He estimated the Ledge to be 1/2 mile west of the tower site.
- There is a 20 foot easement for the site.
- The tower will be located within a fence. The farmland will not require screening around the fence. There is a pasture to the west.

David Bertram, W3502 Cty. Q, asked the following questions:

- The number of antenna that can be placed on a 195 foot tower and on a 250 foot tower. The response was 6 at 195 and 6 at 250. Further explanation was that SBA usually builds for 3 to 4 carriers. Carriers require 20 foot clearance between antennas. Each carrier needs 6 antennas.
- If not an ideal location, couldn't a provider rent an antenna. The response was that there are four different digital competitors at this time.
- It is doubted that the Long Range Plan addresses towers.

Mike Colla, N7626 Fineview Road, asked the following questions:

- The salability of the tower to other users. Response was it is very salable. It will provide good coverage. It is expandable. They have evaluated their competitors' coverage. The Hwy. 151 commuters have a need and will be a good market. The law requires co-locating of antennas.
- He suggested the conditional use permit contain a criteria that SBA work with the City of Fond du Lac on a co-locate agreement.

Ed Schneider made the following comments:

- Placing a tower close to the escarpment could be a valued argument that it is not aesthetically pleasing.
- Discussed the Board initiative to develop an escarpment ordinance.

Tom Pauly was sworn in. His testimony was as follows:

- This is a beautiful part of Wisconsin.
- The Ledge is a beautiful part of Taycheedah.
- He is concerned about additional towers in the Town.
- He questioned how this proposal would fit into the Town's Plan.
- He owns property north of the proposed site.
- He is concerned about the future of the Ledge and the Town's legacy.
- Technology is constantly changing.

Mike Colla was sworn in. His testimony was as follows:

- He has three concerns:
 - For some people, the view of the lake will be disturbed by the tower.
 - Section 13-1-130, Signal Receiving Antennas, applies. (Attorney St. Peter stated that the section does not appear relevant.)
 - Escarpment conservancy. A survey conducted in conjunction with the Growth Plan indicated that 80% of the respondents want an escarpment conservancy. The Board conducted a public hearing to enact a temporary measure to establish a 250 foot escarpment conservancy area for 6-9 months. A committee will be formed to develop an escarpment conservancy ordinance. The tower is not within 250 feet but the committee could decrease or increase the setback. The timeline is to adopt the ordinance in March. The committee will also address a tower siting ordinance. Secondary escarpment exists in the area. The vertical face is primary. Outcroppings are secondary escarpment and fits the criteria as escarpment. Outcroppings are located north and east of the site. The tower could end up in the conservancy area. He asked for an expiration in which the tower would have to be removed. The tower must be attractive in the future. Language needs to be inserted in the conditional use permit in the event of non-compliance, the tower must be removed.
- The location will promote maximum revenue for the owner but does it benefit the town. People must pay to benefit. The Town will generate about \$100.00 in tax revenue.

Ann Simon was sworn in. Her testimony was as follows:

- She requested they produce documentation of their evaluation of the use of current towers.
- She is concerned about interference with existing uses and very concerned about the medical fields use of current towers.

Ed Schneider was sworn in. His testimony was as follows:

- He reiterated the importance of seeing the tower study done by SBA.
- He thinks it would be possible to move the tower away from the Ledge and stay within their desired radius.

- He was concerned about the technological advances that will be made in the next 55 years. It could be obsolete within 10 years. He suggested a time limit be established.
- Hwy. 41 and the Hwy. 151 Bypass will be very accessible.
- There will probably be many more towers in the near future.

Rebuttal by the Applicant/Representatives:

- The site is beyond 250 feet from the Ledge.
- The land is zoned A-1. A tower is a legal use of the land.
- The frequency is licensed by the FCC. Studies have proven that there will be no interference with this frequency.
- A request for the study is just a delay in approval. The study will show what has been testified to.
- The study looked at alternate sites or antennas.
- Radio frequency engineers determine where it is needed and acquisitioners looked for high structures and existing towers. The information goes back to the radio frequency people.
- A computer program generates a scatter-graph indicating sites.
- The park tower won't work and other towers are beyond the needed area.

Ed Schneider questioned if they would consider moving the tower to a location where it would not be seen from the lake. Dan Freund commented that SBA had selected three locations; one being in the pasture and the other in the cow yard. The proposed location is in the center.

David Wollersheim was sworn in. His testimony was as follows:

- His house is about ¼ mile from the proposed site.
- He doesn't see a problem with the tower.
- He owns ¼ mile length of the escarpment.
- He has more of a problem with ultra-light aircraft and quarries.
- He does not feel the tower will de-value his land.

Board of Appeals member Charlie Mathison questioned to possibility of moving the site to east. Dan Freund responded that escarpment outcroppings would hinder utilities from getting to another site. The proposed site is a more convenient location. The proposed location will be blocked almost entirely by trees. Mr. Mathison asked if it were moved to the east; would it still be within the desired service area. The response was that they would have to check the elevation.

Board of Appeals member Bob Holzman expressed a desire to postpone action in order to allow time for further research.

Board and attorney statements:

- Extension beyond 195 ft. will take the approval of the Board of Appeals.
- Section 13-1-24(e)(2) states an exemption to setback requirements, Section 13-1-52(d)(a3)(a) requires a minimum setback of 50 feet. Attorney opined that the tower must be a minimum of 50 feet from all lot lines.
- Section 13-1-23(f) requires the topography be maintained.
- Attorney St. Peter advised that due to changes in technology, the conditional use permit needs to include a removal clause due to abandonment, etc. and therefore, requiring a bond for such removal.
- Attorney St. Peter read aloud the federal law pertaining to towers.
- Attorney St. Peter broached the possibility of delaying the proposal a few months in order to allow time for the town to develop an escarpment study.

June 20, 2000

Board of Appeals
SBA Towers, Inc./Victor Freund property
Conditional Use Permit

5.

Attorney St. Peter was asked if he could prepare a conditional use permit outlining the terms. After 12 months of non-use, the tower would be considered abandoned. The Town would use the bond to pay for the removal of the tower. It is unknown what will happen with the escarpment issue. Attorney St. Peter noted that the tower can not be removed either before or after the four year period unless a violation or other material factor occurs.

The Board of Appeals outlined the following conditions:

- 4-year term,
- Removal provision,
- \$40,000.00 performance bond,
- Co-location requirement,
- Building and safety code requirements,
- State and federal law requirements,
- Setbacks requirements,
- Proof of insurance,
- Prohibition of signs,
- Fencing- 6 feet high with 3 strand barbed wire,
- Weed control within and around the fence,
- Personal property tax provision,
- 12 month abandonment provision,
- Default provision,
- Town official inspections with 48 hours notice,
- Maximum height of 195 feet,
- Height extension requires additional approval by the Board of Appeals.

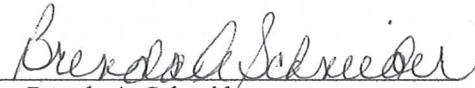
Tom Friess motioned to issue a temporary conditional use permit subject to the review of Attorney John St. Peter's proposed language in the conditional use permit as outlined, without the need for an additional meeting. All comments must be given directly to Attorney St. Peter by July 5th. The motion was seconded by Bob Holzman.

Roll call vote:

Charlie Mathison	yes-would have liked to see it moved to the east
John Buechel	yes
Bob Holzman	yes
Tom Friess	yes
Jim Rosenthal	yes

Motion carried (5-0).

The public hearing adjourned at 10:21 p.m.

Attest. 
Brenda A. Schneider
Board of Appeals Secretary

January 23rd, 2001

Board of Appeals
Rodney Hynek variance petition

1.

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Thursday, January 23rd, 2001, at 7:30 p.m., at the Taycheedah Town Hall for the purpose of considering a variance request submitted by Rodney Hynek & Vel Beauchamp. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Angie Prull. Two citizens were in attendance. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order.

Mr. Hynek requested a variance to 13-1-24(f)(3)(a), highway setback for a 12' x 20' addition to his home. If a variance were approved, the home would have a 33-foot highway setback. The home is located at N9216 Willow Lane Beach Road.

Mr. Hynek and his wife bought the home in 1994 for their retirement. They added a screen porch and a garage to the property. Mrs. Hynek passed away in 1998.

Mr. Hynek is engaged to Ms. Beauchamp. They plan on marrying on 8/11/01. Ms. Beauchamp owns a 2000 sq. ft. home in North Fond du Lac. She has two children in college. The children would like to stay with their mom for now. And Ms. Beauchamp's art is very important to her. Their desire is to sell the house in North Fond du Lac and increase the living space of the Hynek home in order to accommodate Ms. Beauchamp's children and an art studio. They love the lake house, the lake and the neighbors.

Fond du Lac County Code Enforcement Department has issued a permit to Mr. Hynek.

Mr. Hynek plans to elevate the porch to the second floor and add a bedroom and study on the first floor.

The Board reviewed the averaging possibility. Averaging would allow a setback of 35.5 feet. There was also discussion on whether or not to count the two-foot overhang.

Tom Friess motioned to approve the variance petition submitted by Rod Hynek as written, due to a proven hardship caused by the lot size, addition will not obstruct any views and will not obstruct the snowplows, seconded by John Buechel,

Bob Holzman	aye
Tom Friess	aye
John Buechel	aye
Jim Rosenthal	aye
Angie Prull	aye

Motion carried (5-0).

John Buechel motioned to adjourn the public hearing, seconded by Bob Holzman. Motion carried (5-0).

Attest Brenda A. Schneider
Brenda A. Schneider
Town Clerk
Appeals Board Secretary

June 13th, 2001

Board of Appeals
Tom & Jane Niedfeldt sideyard setback variance petition

1.

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Wednesday, June 13th, 7:30 p.m., at the Taycheedah Town Hall for the purpose of considering a variance request submitted by Tom & Jane Niedfeldt. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order.

The Niedfeldt's requested a variance to 13-1-43(d)(6)(a), sideyard setbacks for a deck. If a variance were approved, the deck would have a 6'1" sideyard setback. The newly constructed home located at N8338 Park Ridge Drive.

Troy Beauchamp, of Sasing Construction present testimony on the Niedfeldt's behalf. Mr. Beauchamp submitted photos of the constructed deck, a site plan and a floor plan of the house. The deck reduces the 10-foot sideyard requirement to 6'1". Two survey stakes were placed 13 feet apart. One stake to mark the curve in the road; the other to mark the lot line. The wrong stake was used to determine the lot line when the deck was constructed. Sasing Construction used an in-house architect to establish the boundaries of the lot. The original plan indicated a deck. During construction, the deck was enlarged from the original plan. Due to the error in platting the lot, Sasing Construction thought they could construct the larger deck and maintain a complying sideyard setback. The neighbor discovered the non-complying setback. In order to comply, the deck would have to be removed, the soutubes replaced and the deck reconstructed. The entire structure would still meet the 25-foot total sideyard requirement.

Board member, Tom Friess read aloud 13-1-151(a), Yard Modifications-Uncovered Stair Restrictions. The Board asked several questions in order to determine if the request would meet the restrictions.

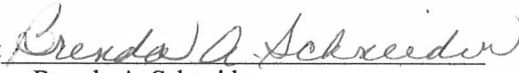
Dick Wehner testified on behalf of the remaining owners of the subdivision. An owner's meeting was held. The owner's voted to not object the sideyard reduction. All owners within 200 feet were notified by mail of the variance request.

Tom Friess motioned to approve the variance request based upon 13-1-151(a), with the restriction that the deck never be covered, seconded by John Buechel. Roll call vote:

Charlie Mathison	yes	John Buechel	yes
Bob Holzman	yes	Tom Friess	yes
Jim Rosenthal	yes	Motion carried (5-0).	

The public hearing was adjourned.

Attest



Brenda A. Schneider

Town Clerk

Appeals Board Secretary

July 19th, 2001

Board of Appeals
Ray Wagner Jr. variance petition

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, July 19th, 2001, at 7:00 p.m., at the Taycheedah Town Hall, for the purpose of considering a variance petition received from Ray Wagner, Jr. Members present were Chairman James Rosenthal, Charlie Mathison, John Buechel, Tom Friess and Bob Holzman.

The Chairman called the public hearing to order. Raymond S. Wagner, Jr. was sworn in. Mr. Wagner wishes to erect a 20 x 35 harvester silo to be used for no more than 8200 bushels of high-moisture corn. The best location for the silo in the area of his barn would be 60 feet from the centerline of Hwy. 149. Mr. Wagner's barn is currently located 51 feet from the centerline. Agri-Land currently dries Mr. Wagner's corn. He hauls 30-40 gravity boxes of corn to Malone. He then has to pay to have it hauled to Fond du Lac. They grind it in Fond du Lac and then haul it back to Malone for storage. The average cost is \$250.00 a month. Lakeside Harvester will install the silo. The foundation will support a 20 x 60 silo. Future plans are to install a TMR mixer in the barn. The barn has never been hit by a car. The state approved a second driveway due to the hazardous driveway by the barn. Hwy. 149 may shift to the north.

Board comments:

- ☐ Public safety would increase due to less tractor/gravity box travel.
- ☐ Precedence has been set with Lawrence Kraus' variance request.
- ☐ The Town would be held harmless for any future damage that could happen to the future improved Hwy. 149.
- ☐ Alan Schumacher's barn is only approximately 36 feet.
- ☐ The silo could be increased to 50 feet.

Charlie Mathison motioned to approve the variance request of Mr. Wagner due to the proximity of the barn, reduction of wagons travelling on the road and that the Town would not be responsible for additional improvement damages which might accrue when and if the highway is improved, seconded by John Buechel. Roll call vote:

Bob Holzman	yes
Tom Friess	yes
Jim Rosenthal	yes
John Buechel	yes
Charlie Mathison	yes

Motion carried (5-0).

Attest Brenda A. Schneider
Brenda A. Schneider
Board of Appeals Secretary

August 21st, 2001

Board of Appeals
Sandra Davis variance petition

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on August 21st, 2001, at 7:30 p.m., at the Taycheedah Town Hall, for the purpose of considering a variance petition received from Sandy Davis. Members present were Chairman James Rosenthal, Charlie Mathison, John Buechel, Tom Friess and Bob Holzman.

The Chairman called the public hearing to order, read the notice and laid the ground rules.

Sandra Davis was sworn in. Sandy explained that she owns 16.97 acres and that the only frontage is the driveway. Their driveway is 73x512. In order to build a house, they need a variance to the minimum frontage. It was noted that per the ordinance, Davis would be responsible for the maintenance and improvement of the driveway. Her father sold the lots to the north and south of the driveway.

Gerald Vanderaa was sworn in. He claimed Town Chairman Guelig stated that the driveway will become a town road. Gerald was ok with having the Davis' as a neighbor but he doesn't want to see a whole subdivision be built. Davis noted that she has not intentions of turning the driveway over to the town. Gerald added that he has been using the driveway to get to his house for 18 years.

It was noted that the DOT does not have a problem with the variance.

Charlie Mathison motioned to approve the variance request of Mrs. Davis due to the shape of the lot and no other access point, seconded by Bob Holzman. Roll call vote:

Bob Holzman	yes
Tom Friess	yes
Jim Rosenthal	yes
John Buechel	yes
Charlie Mathison	yes

Motion carried (5-0).

The meeting was declared adjourned at 8:00.

Attest Brenda A. Schneider
Brenda A. Schneider
Board of Appeals Secretary

Tim Krawczyk, dba: Tim's Alignment Conditional Use Permit

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Tuesday, January 22nd, 2002, at 7:00 p.m., at the Taycheedah Town Hall for the purpose of considering the Conditional Use Permit application submitted by Tim and Laurie Krawczyk, to operate an automotive repair shop and used car lot. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order. The Secretary read the hearing notice. The Chairman explained the format that the hearing will follow.

Tim Krawczyk, petitioner, and Robert J. Pock, representing Jim Pankow, Inc. were sworn in. Mr. Krawczyk and Mr. Poch testimony:

- Wisconsin Dept. of Transportation is forcing Mr. Krawczyk to relocate his business, Tim's Alignment, due to the reconstruction of the Hwy. 151 & Hwy. 149 intersection
- The business must be vacated by July 1, 2002
- Mr. Krawczyk attempted to purchase land along Hwy. 151 but was unable to do so.
- Contact was made by Jerry Gilgenbach with an offer to sell 4 acres along Hwy. 149. Mr. Krawczyk may purchase the entire industrial zoned area. The land is currently in the CRP program. He does not intend to build a home on the site.
- In December 2001, the Taycheedah Town Board approved the Certified Survey Map for the parcel and a town road.
- The business would consist of a 60' x 135' building with enough area for a future 60' x 60' expansion
- The woods-line is the approximate southern boundary of the 4-acre parcel, excluding the road.
- Charlie Gilbertson, DOT and Ernie Winters, Fond du Lac County Highway Commissioner, designated the location of the road.
- Hwy. 149 would have accelerate & decelerate lanes.
- The redesign of Hwy. 149 was taken into consideration when designating the road location.
- 20-25 feet due to the Hwy will reduce the length of the town road. 149-bike path.
- The building lot will be paved immediately.
- The road will be paved pending a Town Board approved Developer's Agreement that will be submitted to the Board at their next monthly meeting. Petitioner proposes to pave the road when Hwy. 149 is reconstructed.
- The parcel will require some cut and fill to level the site. Some fill will be needed for the construction of the road.
- The project will not alter current water drainage.
- Soil boring indicated sand below 3 feet. No ledge rock.
- Project may require the formation of a small detention pond. Water flow calculations have not yet been done.
- Oils and fuels will be stored indoors within concrete retention areas. State and federal law regulate the storage and disposal of waste materials. Inspections are done yearly. All documents are kept on file. Mr. Krawczyk has never been cited for violations during his 11 years in business.
- Used car sales will be in front.
- Repair work will be done in back, if necessary. Most repair work will be done indoors.
- Dumpster area will be enclosed.
- Plan to install a fenced area for the storage of waste tires. The DNR picks up tires twice a month.
- Oils and coolants are recycled by DNR approved Jacobson.
- DOT will need to address the water that crosses Hwy. 149, then runs south under the Frank Nett buildings on its way to the creek. Hwy. 149 will have curb and gutter from Peebles to St. Peter in 2003. Hwy. 149 will have a culvert.
- Drainage from the east side of Hwy. 149 will need to be addressed in Mr. Krawczyk's drainage plan.
- Sign will be mounted on the building and will be similar to one located on the current building.

Tim Krawczyk, dba: Tim's Alignment Conditional Use Permit

Board of Appeals discussion:

- ❖ Drainage plan should have been completed in preparation of the hearing. However, not required by ordinance.
- ❖ The Board discussed their regulatory jurisdiction.
- ❖ The Board discussed their ability to approve conditionally pending drainage calculations and the Hwy. 149 impact.
- ❖ The state is currently reviewing drainage laws. Member feels any new rules should apply to the petitioner.
- ❖ Fire departments may be able to use water from a retention pond for fire-fighting purposes.
- ❖ The Board could require a re-petition for the 60' x 60' addition.

Jerry Gilgenbach, current owner of the site, was sworn in. Testimony as follows:

- There is no problem with flooding in the Frank Nett buildings.
- The culvert under the buildings is 4.5-5 feet tall.
- The water comes from the wooded area and Stan Freund's property. It flows under the warehouse, driveway and shop.
- Water flows heavy through the culvert during heavy rainfalls and spring thaws.
- The culverted area was an open creek.
- Mr. Gilgenbach believes the DOT will not do anything about the culvert. They will probably stay within the right-of-way.

David Huck, homeowner at Hwy. 149 and Cty. UU, was sworn in. His testimony as follows:

- Water rushed down Cty. UU.
- The County created steps in the ditches to slow the water.
- The culverts under Hwy. 149 cannot handle heavy water flows. Then it flows over Hwy. 149.
- The land to the east of his home, the top of the ledge, pockets the water until it reaches a certain point. At which time, the water rushes over the ledge and across his entire property. It then drains to the wooded area and into the culvert under the buildings. On occasion, the water will carry small boulders with it.
- Niagara Estates drains down the south side of Cty. UU, the area east of his house will drain on the north side of Cty. UU. 10-15 years ago, a heavy rain almost 'took out' Cty. UU.
- We haven't had a 'gully washer' in two years. A 4" rain can cause a 'gully washer'.
- Frozen land with heavy rain can cause high drainage due to lack of absorption.
- The house has not been flooded. He has lived there for 40 years.
- Mr. Huck doesn't believe the proposed project would influence the drainage due to the fact that the water drains through the wooded area.
- DOT told Mr. Huck that they will be taking 22' of his land on the east side of the highway for ditching purposes.
- Mr. Huck questioned the impact of glaring lights on residential property values.

Don Forster sworn in. Testimony as follows:

- With the economy as it is, there is no promise we will have a new highway. We have to deal with the highway that is there.
- He moved to the county. He wants to keep the country natural.
- When he moved here 14 years ago. Then there were hardly any lights at night. Now we have buildings, lights, a storage building turned power business.
- He doesn't want neon lights.
- How long before we have WalMart and Hardees?
- He has dealt with water in his basement. He doesn't know how much will come and when.
- He purchased an existing house.
- The DOT is good at confiscating land. Why doesn't the DOT find Mr. Krawczyk a new location? He will lose the Hwy. 151 flow with this location. There has to be a better location.

Mr. Krawczyk's rebuttal:

- The DOT is still dragging their feet. He doesn't even know how much they will be paying him for his current building and property.

Tim Krawczyk, dba: Tim's Alignment Conditional Use Permit

- Mr. Krawczyk tried to get assistance from the DOT. Ed Murphy and Jeff Volz, DOT, provided him landowner contact names. Not a one of them is willing to sell land until they are done dealing with the DOT on the purchase of the land required for the highway projects.
- Mr. Krawczyk likes the area and has built a customer base here.
- The land is zoned industrial. All his business needs for the relocation is a Conditional Use Permit.

Ann Lindburg was sworn in. Testimony as follows:

- Ms. Lindburg requested the petition be tabled due to the lack of notice given to the adjacent property owners. She received her letter on Friday. Because of the weekend and Monday being a federal holiday. She was unable to thoroughly research the petition.
- She was unaware the land was zoned industrial. She never received a letter informing her of the change. (The Town began sending letters in 1998. The zoning was changed before 1998.) The zoning is a Town Board issue not a Board of Appeals issue. Mr. Gilgenbach, owner, stated he did not ask for the zoning change. The Town Board did it.
- She asked for the date on the application. The Chairman explained that the date on the application is irrelevant to the date of hearing due to the process that takes place in scheduling the hearing. Once the date is set, notices have to be posted in four public spots and published in the newspaper, in addition to the letters.
- A Board member asked Ms. Lindburg how often she has attended meetings? Her explanation involved the illness and loss of her father and the sudden death of her husband, along with the issues she had to deal with due to their deaths.
- She spoke to Jeff Volz, DOT; no permit has been filed for the road.

Board of Appeals discussion:

- ❖ Board member information was postmarked 1/16. Property owner letters were postmarked 1/18. Board discussed tabling the petition.
- ❖ The Board represents the people not the public vote.
- ❖ The Board could hear more testimony and then postpone.
- ❖ The Board needs to balance the needs of the petitioner and the needs of the neighbors. The petitioner is on a deadline. If his CUP is not approved, he will need to find an alternate location. His business is an asset to the area. The Board also recognizes the Ms. Lindburg's concerns.
- ❖ The Board and petitioners agreed to postponed the hearing to Tuesday, February 5th, 7:00 p.m., at the Town Hall.
- ❖ The Board members are covered by strong constraints. They are not allowed to discuss the petition amongst each other outside of the hearing.
- ❖ All Conditional Use Permits are documented. All conditions will be in writing. If the permittee fails to comply with any conditions, the Board of Appeals can revoke the Conditional Use Permit.

Comments by Jerry Guelig, Town Chairman:

- ✓ The current Board has been stressing people should attend the meetings.
- ✓ People need to watch the notice boards for the meeting agendas.
- ✓ People should come to all the meetings.
- ✓ Everyone knows the Town Board meets on the second Tuesday of the month. If those present had come to the December meeting, they would have been aware of this project. (Dick Blamey stated he wouldn't stop at the local gas station just to find out the meeting agendas. The Town should get their web site up and running the way it should be.)
- ✓ The petitioner was asked to flag the town road location. The petitioner stated the flags would be located +/- 20 feet of the marks. The DOT will eventually indicate the precise location.

Further Board and public discussion:

- ❖ The area was zoned industrial years ago.
- ❖ The area is surrounded by the Nett feed mill, Mengel Oil, Fred's Fast Track, Power Inc., a former supper club. The area has a history as a business type setting.
- ❖ Board of Appeals has no jurisdiction over zoning.
- ❖ The Comprehensive Plan is a 20yr plan outlining zoning development.
- ❖ The Zoning Ordinance regulates land use.
- ❖ Residents have to respect the duties of the Board of Appeals.

January 22nd, 2002

Board of Appeals
Tim Krawczyk, dba: Tim's Alignment Conditional Use Permit

4.

The Board of Appeals Chairman postponed the hearing to February 5th, 2002.

Attest Brenda A. Schneider
Brenda A. Schneider
Town Clerk

Tim Krawczyk, dba: Tim's Alignment Conditional Use Permit

The Town of Taycheedah Zoning Board of Appeals reconvened for a public hearing on Tuesday, February 5th, 2002, at 7:00 p.m., at the Taycheedah Town Hall for the purpose of considering the Conditional Use Permit application submitted by Tim and Laurie Krawczyk, to operate an automotive repair shop and used car lot. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order and explained the format that the hearing will follow. The Secretary read the hearing notice.

Tim Krawczyk, petitioner, was sworn in.

Mr. Krawczyk's testimony:

- Wisconsin Dept. of Transportation is forcing Mr. Krawczyk to relocate his business, Tim's Alignment, due to the reconstruction of the Hwy. 151 & Hwy. 149 intersection
- The business must be vacated by July 1, 2002
- Mr. Krawczyk attempted to purchase land along Hwy. 151 but was unable to do so. Contact was made by Jerry Gilgenbach with an offer to sell 4 acres along Hwy. 149. Mr. Krawczyk may purchase the entire industrial zoned area. The land is currently in the CRP program. He does not intend to build a home on the site.
- Topographical surveys have been completed.
- The business will not have a billboard type sign. A sign will be mounted on the building.
- The business will not have parking lot lights. Lights will be mounted on the building, facing downward. The light should not extend beyond the front of the auto sales portion of the lot.
- The setback of the structure will be further than the state requires.
- A spring-fed creek is located on the north end of Lot 3 and another creek drains through Lot 1 in the woods. The proposed business would be on Lot 2. A map indicating their locations was presented to the Board members. Exhibit No. 1.
- Mr. Krawczyk also plans to purchase Lot 3. He does not want to land-lock Lot 3. Nor does he plan to extend a culvert in Lot 3, at this time.
- The structure plans have been modified to include culture stone and the addition of dormers. The structure will be off white with blue trim.
- Mr. Krawczyk plans to plant pine trees through the parking lot and by the road.
- A fence would be installed near the 60x60 future addition area for the storage of used tires.
- Tires and waste product storage is controlled by the state. Waste products are picked up once every two months and tires are picked up twice a month.
- The structure will have an interior retention area for oil. Oil will be stored in bulk steel tanks.
- Anti-freeze will be stored in tanks and jugs along the wall by the parts room.
- Tim's Alignment employs three full-time technicians and three secretaries. The technicians and the secretaries include Tim and his wife. A majority of the employees reside on the east side of the lake.
- Tim has been in business for 11 years.
- A majority of his clients reside on the east side of the lake. His customer base would be inhibited if he were forced to re-locate away from the area.
- Tim's Alignment is open weekdays from 8 a.m. to 5 p.m. He is not opened on weekends. Current schedule is a 1-2 week appointment time. There would be no extended hours for auto sales. Customers do drop-off and pick-up after hours.
- Tim's Alignment services between 15-20 cars a day, 75-100 a week.
- The parking lot area should be more than sufficient for parking. The Hwy. 149 side would be for used car display, the front of the building for customer parking and the west side for customer repair parking. Tim does not foresee ever having to park cars on the street.
- The grass and land would be maintained in residential-type appearance with the exception of the railroad bed area. That area would remain natural.
- The lot is currently in the CRP Program. Lot 3 would remain in the program for another 6 years.
- The lot contains enough room for snow removal and piling.

Tim Krawczyk, dba: Tim's Alignment Conditional Use Permit

- The project will not affect drainage through Lot 1.
- The project may include a retention area if the County deems it necessary. There will be no drainage impact of neighboring properties. The project will be approximately 25 feet from the property line of Lot 1.
- The closing date is tentative. Stan Freund is purchasing Lot 1 and Tim proposes to purchase Lots 2 & 3.
- Tim intends to plant grass and trees between the project and the highway.
- Tim doesn't know the results of any traffic count done on Hwy. 149.
- December 11th, the Town Board approved the town road. The highway will have accel/decel lanes. The construction of the town road will be additional cost to Tim but will be much safer than a driveway.
- The property has no other way to access it. Tim contacted County Executive Alan Buechel, who in turn contacted County Highway Commissioner Ernie Winters. Mr. Winters viewed the site and determined the town road location.
- Tim does not intend to expand the car dealership. He typically carried 15-26 cars at a time.
- Tim and his agent plan to submit a developer's agreement to the Town Board.

The history of the industrial zoning of the property was discussed. The Clerk, with the assistance of Sam Tobias, County Planner, was able to determine the zoning took effect in October 1983, when the Town adopted a new Zoning Ordinance and revised the zoning map. The Town did this in order enable farmland owners to benefit from the Farmland Preservation Program.

- Tim presented a letter from the Wisconsin Department of Transportation, dated January 11th, 2002, stating the DOT 'does not object to the subject final certified survey map as submitted'. Exhibit No. 2.

The Board discussed the number of existing businesses within a 1-mile radius of the site. It was agreed that the general area is mainly businesses and that the relocation of his business will have little impact on existing business traffic volume.

- At the last meeting, Tim invited anyone who wanted to see the plans, to stop at his business. Tim stated he did have some people stop in to look. Some people agreed with the plan after seeing it.
- The building would be 60x130, with 16-foot sidewalls and a peak height of 18 feet. The roof will have a 1:12 pitch.
- Tim stated that when, and if, he is ready to do the 60x60 expansion, he would reappear before the Board of Appeals.

The Board of Appeals members took a five-minute break in order to review the plans.

- Tim stated that the type of trees in the back, front and driveway area would be shrubbery-type.

A letter submitted by Jerry & Betty Hansman was disbursed to the Board members and read aloud by the Clerk. Exhibit No. 3.

A petition in support of the proposal was signed by 229 people was submitted by Tim Krawczyk.

Chairman Rosenthal announced that he would allow 10 minutes for public comment and that the time may be extended at his discretion.

Public comments and questions, not under oath, were as follows:

- Tim was asked if the DOT supplied him with alternate locations besides this 4-acre parcel. Tim stated that the DOT did supply alternates. However, the owners he contacted would not sell him any land until the state is done purchasing what they need. He also stated that he prefers to stay in the area. He has a local established customer base.
- Tim was asked if he checked into the Hwy. 23 area, with the bypass and the interchange, his business would get more exposure and the area would not be as impacted aesthetically. Tim stated he had looked into that area. An existing shop was available, however, Scott, a former employee of Peebles Auto got it. He also look at a farm that was for sale by broker that was zoned commercial, however, the seller would not sell unless all 78 acres was bought. Tim stated that was not a financially feasible option for him. Later, he was contacted, the seller was willing to split the farm, but he was in the process of purchasing the proposed site.

Tim Krawczyk, dba: Tim's Alignment Conditional Use Permit

- Tim was asked if he had a back-up plan. Tim stated that he know if the seller's last offer still stands.
- Tim was asked if he has secured necessary financing for the project. Tim stated the financing shouldn't be a problem. He stated the financing is in place for the building, parking lot and town road. His initial proposal was to leave the back lot unpaved initially, however, he has decided to do it all.
- Tim was asked if the bank understands that the Board of Appeals would have the ability to restrict the business. Tim stated that he fully intends to comply.
- Jerry Hansman, lived directly across the highway, stated that there is a conflict. A car lot needs exposure and shrubs, trees and landscaping would conflict with that. Tim was asked if he has a landscape plan. Tim responded not at this time. Another comment was that some communities required the plans. The Chairman responded that stipulations would be added.
- A comment was made about the enforcement needed to ensure the plan is followed. He is currently looking (from his home) at a photography shop with plans-no trees just junked cars. The Chairman stated that a conditional use permit does not regulate the photography shop and that the Board of Appeals has no authority.

Bob Poch, Jim Pankow, Inc. testimony in response to questions from Board of Appeals members:

- The structure will be on a floating slab.
- All state requirements will be met.
- The exterior will be stucco attached to chip sum board with a stone sill on top.
- Insulated glass windows and insulation throughout the building. The building will have to meet Department of Commerce insulation standards.
- The heating system will be LP gas. The tank will not be visible from the road.
- Sanitary District No. 1 will provide sanitary sewer service by boring under Hwy. 149 to an existing manhole. They have met with the District and agree to the route. The sewer will be a forced main. The Dept. of Commerce also specified how the sewer could be connected.
- The shop will have floor drains as required by the Dept. of Commerce. The drains will be tied into the sewer.
- The walls and roof of the structure will be metal and be similar to the Frank Nett building. Bob is unaware of what the glare factor would be.

Public comment and questions:

- Ken Rickert asked that the manhole be located on the map. He estimates the force main would be about 230 feet.
- Tom Koenigs asked if the Board regulates the lighting and roof material of every building? Chairman Rosenthal explained that additional consideration must be taken with conditional use permits. The Chairman read 13-1-68, Conditions and Guarantees and 13-1-70, Complaints Regarding Conditional Uses, from the Zoning Ordinance.
- Lisa Adams, asked Mr. Poch, about 13-1-56, Industrial District, the landscape regulations as well as roofing being a concern. She stated the ordinance states glare should be considered for those on highway above the site. She also commented on 13-1-56(d) the buffer strip is supposed to be 40-feet wide and 6-feet high. The sun in the east glares off of DO IT ALL and glares into her windows. She also stated the field has a water problem. She assumes a lot of fill will be needed for the project. She stated filling and dredging would need to have approval. Bob Poch stated that he has spoken to Kristy Rogers, WDNR. Bob will be meeting with Kristy in the very near future. He also feels that she may have been misinformed. The resident stated the problem is where the road will be. The US Army Corp. would have to approve the dredging. Bob Poch clarified that the DNR letter states a permit is needed if the project affects navigable waterways.
- Jerry Hansman voiced a concern that the public road would be directly opposite his driveway. He felt it would be a difficult area to access the highway. Bob Poch stated that road locations are determined by the best vision lines and are usually place across from driveways. Mr. Poch showed Mr. Hansman the road approval letter received from the DNR.

Board of Appeals questions and comments:

- ❖ Board member asked about the possibility of changing the roof material? Mr. Poch stated bids have been obtained, however, it can be changed. The Board felt darker would be better than white. Mr. Poch stated the darker the color, the greater the possibility it will fade. Dark colors also generate heat from the sun. The material is galvalum. It has been a standard in the steel building industry for 20+ years.

Additional public comment:

- Ken Rickert asked if we were getting ahead of ourselves. There are three springs of his property that feed into the property in question. He questioned the requirement of the DNR's permission to proceed before the Board can vote. Chairman Rosenthal reiterated that the Board could approve the conditional use permit conditional upon the DNR's review. Mr. Rickert admitted that he was the one who wrote the letter to the DNR.
- Alan Wall, owner of Frank Nett Co. stated that Mr. Poch was the construction engineer of his building. Mr. Wall feels that Poch did a good job in designing his building both functionally and aesthetically. Mr. Wall commended Tim for the job he has been doing operating his business on the current site.
- Dave Huck lives directly above the Frank Nett Co. and the tool business. He stated all he sees is white. He is concerned about additional glare from white roofs and walls.
- A comment was made pertaining to if the DNR has to clear wetland, it could take them 60-90 days to make their determination. If that happens, Tim won't have a building by July 1. Chairman Rosenthal stated that it would be Tim's decision to pursue purchasing the property.
- Dick Blamey discussed his experience with the differences in roof color and material and its impact on glare. He stated asphalt roofs diffuse glare. The Board asked Mr. Poch if black rubber roofs reduce glare. He stated yes, however, he didn't know if it would increase costs. Mr. Poch stated he prefers white over black, and metal over shingles for industrial buildings. A shingled roof would require a higher pitch. The higher pitch would require taller wood framed structure. The structure would be limited to future expansion. It would require water-sprinkling systems. The Dept. of Commerce has different restrictions. Insurance costs would probably increase.

Board of Appeals questions:

- ❖ A member asked what is the life expectancy of a metal vs. rubber roof? Mr. Poch responded, depending upon maintenance and weather conditions, a rubber roof would last 15-20 years. However, a metal roof would far outlast a rubber roof. Metal could last 20-30-50 years. Tim should not have to touch it for at least 20 years. A metal roof is warranted for 20 years against leaks.
- ❖ A member asked if there is a metal roof with a shingled appearance? Mr. Poch is not aware of such a product on the market.

Additional public comment:

- Ann Lindburg complained about the noise of hail and rain on existing metal roofs in the area. She also is concerned about the noise made by pneumatic tools used when the shop doors would be opened. She stated there is a need to control the noise. Tim stated that he can and would purchase mufflers for the pneumatic tools. She also stated the ordinance requires 6-foot trees abutting or adjacent to residential. She expects tree lines 40-feet with and 6-feet high. The Board told Ms. Lindburg that they have control over the type of trees and other conditions and that they can improve any part of the ordinance including the tree height requirement. The ordinance also states that a fence may be used in place of the trees.
- Attorney Dick Wehner, representing Tim's Alignment, states that that does not mean you have to create a fort around the property. Lot 2 doesn't even abut residential property. Chairman Rosenthal stated he is unsure of the application of the buffer requirement.
- Mike Nett stated concern about the negative comments. There is a lot of traffic on Hwy. 149. That same traffic also passes Tim's existing building. Tim has had to deal with the worse access possible. When Peebles Auto left, a whole was created. Mr. Nett commended Tim & Laurie for the pursuit of this project that can only benefit the area.

Tim Krawczyk, dba: Tim's Alignment Conditional Use Permit

- Ray Gelow voiced concern regarding the access road. The DOT approved the location, was the location determined in consideration of the proposed Hwy. 149 revisions? He stated that pretty soon there will be a third lane by Ledgeview Springs, then this road will need a third lane. It was then explained again that the road intersection would have an accel/decel lane. Mr. Gelow stated the need to contact DOT to make aware of this development. Mr. Poch stated the DOT will make it as safe as possible. The proposed design is the minimum standard. Mr. Gelow asked who is the DOT representative and project engineer. Mr. Poch responded Dennis Mautson and Charles Gilbertson. The DOT will make design changes after the Town requests a DOT permit. The Town Board approved the road and it will be deeded to the Town.
- Sam Tobias, County Planner, stated the he doesn't understand all the questions pertaining to the new access road. The Town, the County, the County Highway Department and DOT District 2 have approved the road. The DOT restricts it to what has been marked. Mark Klipstein is the Project Manager for the DOT on the Highway 149 project. All agree to the ideal location for the road.
- Ann Lindburg questioned why a road for access to a single property? The parcel has been surveyed into three properties. If one driveway were installed, Lot 3 would be landlocked. She then asked about immediate plans for Lot 3. None at this time. Chairman Rosenthal stated that with a driveway, the state would not install accel/decel lanes. The lanes would increase safety. Mr. Poch also added that the DOT has told him that there will ever be another access granted to the sites. The DOT has basically forced them to dedicate a road. The DOT is also forcing them to move a telephone pole due to that spot being the best location.
- Jerry Hansman stated his mailbox is located in the access area. Mr. Poch stated they would work with him in relocating it. Chairman Rosenthal commented that the decel lane area might be safer. The Postal Service may also require a specific location.
- Mr. Poch was asked if he has a scheduled date with the DNR to look at the property? He has an appointment on Thursday to look and see if there are wetland concerns.
- Sam Tobias commented that the wetlands have been mapped. Mr. Poch thought the north spring might be navigable.
- Lisa Adams commented on other types of soils. Mr. Poch stated Kristy Rogers requested soil boring. They have done four. The boring indicated good soil in the road area. Ms. Adams questioned to road area and the north area always being wet. She commented on the constant slope of the land to the east. Chairman Rosenthal clarified that the north area is not in the conditional use site. Mr. Poch commented on constant running water from the east side. Mr. Poch is confident that the DNR will not find any problems. The County would also have to abide by DNR laws. Sam Tobias wrote a letter to Kristy Rogers. A copy of the letter was disbursed to the Board members. Exhibit No. 4. Ms. Adams indicated the boggy area on the north end. Board member Charlie Mathison read aloud a portion of the complaint process, 13-1-70.
- Ann Lindburg claimed her property values will decrease if permit is approved. A member stated her property abuts industrial zoned land and that her values would be affected either way.
- Ann Lindburg submitted a petition signed by 99 Town of Taycheedah residents who object to the granting of the conditional use permit. Exhibit No. 5.
- Dick Blamey stated that many of those at the meeting have been here longer than Tim has been in business. Many home were built before the land was zoned for industrial development. Mr. Blamey stated that other areas would be better suited for industrial growth. Tim has a right to have a successful business. Mr. Blamey also feels they should be able to enjoy their land like it was when they built their homes. Mr. Blamey questioned what is the law? Is it the interest of many or the interest of one? Mr. Blamey did not receive a letter back in 1983. He feels he should not have to stop at the gas station to look at the meeting boards. The Town should get their web site up and running. The Board informed Mr. Blamey that it is his responsibility to check the postings and read the paper in order to keep informed. Chairman Rosenthal again reiterated that the site was rezoned in 1983. Some of the homes were there then and some were not. The Board's decision has to follow the conditional use permit section of the ordinance. The Chairman apologized for lack of

direct notice in 1983. (The requirement of direct notice began with the adoption of the Code of Ordinances on Feb. 24, 1998.)

Chairman Rosenthal asked if all effected property owners had the opportunity to comment.

Additional public comment:

- Ron Davis commented that Jerry Gilgenbach has owned the property for quite some time. He has been a good steward of the land. He has now been offered a chance to sell his property. Mr. Davis feels the owner should be able to do it. Tim's business is good for the community and the contractor is a good contractor.
- Ray Donahue, one of 99 who signed Ms. Lindburg's petition. He hopes the Board will consider the other 98. He stated he has expressed his view by signing.
- Betty Hansman stated she looks out her window and sees grass and trees. If this is approved, she will see a roof and cars. The project will affect her view. Tools, and traffic will also affect her. Her summer and winter enjoyment of the property will be lost. She also concerned about the DNR's opinion. Once the damage is done, it is done.
- Dan Vixmer discussed that prior to 1998; an almost unlimited degree of industrial type businesses could have built on that site without any special permission from the Board of Appeals. Since 1998, the only type of business that can be permitted is the manufacture of marine engines. The abutting property owners should feel relief in the fact that a local person with a small business has to have special approval and the Board has the opportunity to place conditions on the business. It could be much worse.
- Dave Adams stated he is glad Jerry Gilgenbach has decided to sell the property. He stated he and Gary Lindburg had a handshake agreement with Mr. Gilgenbach to purchase the property. Their intent was to keep the property natural. They are disappointed because they wanted the land for themselves.
- Lisa Adams stated the car lot idea scares them. The insurance company will require certain lighting for security reasons. They are concerned about the future of Lot 3. She stated she not personally against Tim. She bought her home one year ago. She woke up one morning and discovered they are losing the county atmosphere. There is much more impact than trees. Several people in this room would gladly chip in and buy the property and set it aside. Chairman Rosenthal again reiterated the Board could only look at the conditional use permit requested for Lot 2. Any other use for Lot 3 will have to come before the Board of Appeals. If Tim wishes to sell you Lot 3, that's his decision.

Board of Appeals questions:

- ❖ Member asked Tim if he could run his business without the car dealership. Tim stated no, it is needed for cash flow purposes.

More public comment:

- Mr. Poch was asked if there was going to be a retaining wall on the west end of the building in order to hold back the soil? Commenter stated there could be some erosion problems. Mr. Poch responded that there will be somewhat of a grassy, sloped drop of 1:4 or 1:5, however, he didn't think there would be a need for a retaining wall.
- Dave Huck asked if Tim and the engineer have walked the property and looked at the water flow? Did you notice where the large culvert goes under the road? Shouldn't there be a large berm along the road? Tim and Bob Poch have walked the land. Chairman Rosenthal stated the watershed issue would be addressed by the DOT. The group briefly discussed curb & gutter and the bike path.

Board of Appeals questions:

- ❖ Board member asked Tim if he would consider having the used car lot in the back? Tim stated that would need to be in the front for exposure. If the car lot were in the back, then customer cars and accident vehicles would have to be in the front. Member asked if there could be no parking in the front? Tim stated that there would not be enough room for parking. The building is designed for drive-thru bays. Tim stated this would not be feasible.

More public comment:

- Town Chairman Jerry Guelig stated that testimony is getting repetitive and that it's time the Board takes a vote.

The public was given time to view the plans.

Bob Holzman motioned to take a vote as to whether to approve or deny the conditional use permit, seconded by John Buechel. Motion carried.

Jim Rosenthal motioned to approve the conditional use permit with the following conditions:

13-1-68(a)(1), Landscaping-grass planted within 90 days, shrubbery to be discussed later, tree types and numbers to be discussed later, to be planted along Hwy. 149 must be planted within one year from start.

13-1-68(a)(2), Type of construction-steel structure, recommended they look into reducing, at reasonable cost, any glare, it is suggested they alter the roof color if it will reduce the glare.

13-1-68(a)(3), Construction commencement and completion dates-contractor plans to start construction within a couple of weeks, the building and the first coat of blacktop will be completed by July 31, 2002, the second coat of asphalt shall be completed one year later.

13-1-68(a)(4), Sureties-none stated.

13-1-68(a)(5), Lighting-lights will be on the building for security of the building and cars. The lights will shine downward. The lighting will be the minimum requirement by the state and the insurance company.

13-1-68(a)(6), Fencing-fencing will be installed in the back of the building for the storage of tires and to hide the LP tank.

13-1-68(a)(7), Operational Control-pneumatic noise factor will be considered. If Tim cannot eliminate the pneumatic noise, he is asked that the doors stay closed as much as possible in order to reduce the noise.

13-1-68(a)(8), Hours of Operation-hours of operation shall be 7:30 a.m. to 7:30 p.m., Monday thru Friday.

13-1-68(a)(9), Traffic Circulation-disabled vehicle storage shall be in the rear, customer pick-up and drop-off parking will be in the front and the side.

13-1-68(a)(10), Deed Restrictions-none stated.

13-1-68(a)(11), Access Restrictions-the DOT will regulate.

13-1-68(a)(12), Setbacks and yards-setbacks and yards are established as submitted.

13-1-68(a)(13), Type of Shore Cover-not applicable.

13-1-68(a)(14), Specified sewage disposal and water supply systems-structure will have floor drains and a forced main grinder pump into Taycheedah Sanitary District No.1. The structure will have a private well.

13-1-68(a)(15), Planting Screens-Plant a tree line with 6-foot trees. Tim has choice of tree species. Plant a 40-foot length to break the Lindburg's view without impeding traffic sightlines after the DOT establishes where Hwy. 149 and the bike path will lie. After discussion, Chairman Rosenthal stated that Tim, Mr. Poch and Ms. Lindburg shall develop a reasonable solution on the height and location of the tree line.

13-1-68(a)(16), Piers and Docks-not applicable.

13-1-68(a)(17), Increased Parking-additional parking shall be upon the Board of Appeals review and approval of an amendment to the conditional use permit.

Bob Holzman questioned whether or not there should be a disclaimer pertaining to extenuating circumstances. Mr. Rosenthal did not add such a disclaimer to his motion.

Charlie Mathison seconded the motion.

Roll call vote:

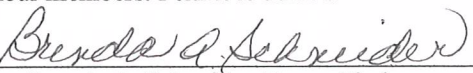
Charlie Mathison	no
John Buechel	no
Bob Holzman	yes
Tom Friess	yes
Jim Rosenthal	yes

Motion fails. Conditional Uses require a concurring vote of four members. Permit is denied.

The meeting was adjourned.

Dated this 10th day of February, 2002

Attest


Brenda A. Schneider, Town Clerk

TOWN OF TAYCHEEDAH

FOND DU LAC COUNTY, WISCONSIN

DECISION

WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on January 22nd and February 5th, 2002, to consider the Conditional Use Permit application submitted by Tim and Laurie Krawczyk to operate an automotive repair shop and used car dealership on a four-acre portion of a parcel in the SE 1/4 of the SW 1/4 of Section 29 in the Town of Taycheedah.

The Zoning Board of Appeals voted (3-2) in support of a motion to grant the Conditional Use Permit. However, a concurring vote of four members is required to approve the Conditional Use Permit. Therefore, the Zoning Board of Appeals denied the Conditional Use Permit.

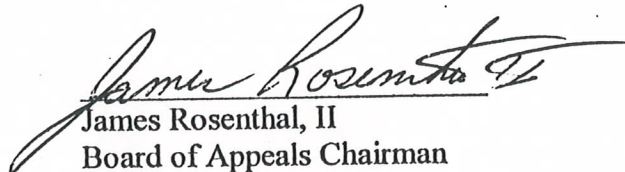
The petitioners failed to meet the following standards:


13-1-66(a)(1), That the establishment, maintenance and operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare. The Zoning Board of Appeals believes that public safety would be jeopardized by the addition of the proposed town road intersection with Hwy. 149.

13-1-66(a)(2), That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use in compatible with the use of adjacent land. The Zoning Board of Appeals believes the standard was not met due to possible decrease in property values as well as the general impact of the proposed use on the neighboring land.

The applicants may appeal the Board of Appeals decision by an action in certiorari in circuit court with 30 days of the Board's decision.

Dated this 10th day of February, 2002.


James Rosenthal, II
Board of Appeals Chairman


Brenda A. Schneider
Board of Appeals Secretary

The Town of Taycheedah Zoning Board of Appeals met for a public hearing on Tuesday, February 26th, 2002, at 7:00 p.m., at the Taycheedah Town Hall for the purpose of considering the Conditional Use Permit application submitted by Tim and Laurie Krawczyk, to operate an automotive repair shop and used car lot. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Secretary read the hearing notice. The Chairman called the public hearing to order and explained the format that the hearing will follow. Anyone wishing to speak will be given 2-2 1/2 minutes. The Chairman will keep time and warn the speaker when he running out of time. Disrespect will not be tolerated. Violators will be given one warning. If a second warning is needed, the violator will be asked to leave. The audience is to refrain from speaking amongst themselves. The hearing is for a Conditional Use Permit on the four-acre only.

Tim Krawczyk, petitioner, was sworn in.

Mr. Krawczyk's testimony:

- Wisconsin Dept. of Transportation is forcing Mr. Krawczyk to relocate his business from its current location at the intersection of Hwy. 149 and Hwy. 151.
- Contact was made by Jerry Gilgenbach with an offer to sell 4 acres along Hwy. 149.
- The proposed property has appropriate zoning.
- Mr. Krawczyk hired Jim Pankow, Inc.
- The current business site must be vacated by July 1, 2002.
- The building will have white doors and blue trim with lower stone face, a 12-bay shop, an office and a parts room.
- The parking area along Hwy. 149 will be for display of used cars.
- The front parking area for customers.
- The west parking area for customers and employees.
- The business will not have poles with floodlights. The lights will be wall-mounted on the building only.
- The business will not have a billboard or street signs. Signs will be mounted on the building only.
- Operational hours will be 7:30 a.m. to 6:00 p.m. Monday thru Friday, occasionally 8 a.m. to noon on Saturdays.

A Board member asked Mr. Krawczyk is his request is not approved, would it take away his livelihood?

Mr. Krawczyk answered yes.

- The face of the building has less overhead doors facing toward Hwy. 149 than the west side (5 service doors and 2 entrance doors-one for a fire exit, the other to the parts room).
- Mr. Krawczyk and his contractor surveyed all the roofs on existing buildings in the area. Most of the buildings have a standard galvanized roof. Mr. Krawczyk is willing to install a blue roof to match the doors and trim on his building.

A Board member asked about drainage and the possible need for retention ponds.

- The 1 1/2 to 2 acres behind the building will be the location of a pond, if needed.
- The area between Hwy. 149 and the building will have grass, trees and shrubs.
- The area in front of the building will have grass.

A Board member asked about the status of the town road.

- Mr. Krawczyk will install the town road.
- The DOT will require a type B2 intersection when Hwy. 149 is upgraded. It will have a turn lane on the west, a middle lane and an accel/decel lane. Mr. Krawczyk will be required to secure a bond for the intersection.

A Board member asked about the future use of mufflers on pneumatic tools.

- Mr. Krawczyk has done further research on the decibel level of pneumatic tools. The decibels at the property line will be minimal. The decibels at the point of impact are 84.5. A representative of Mac Tools told Mr. Krawczyk that the building would absorb 50% of the decibels.

A Board member asked if the shop doors would be closed or opened?

- Mr. Krawczyk stated that due to health and safety concerns, the doors would be opened until 6:00 p.m., weather permitting. The doors will be closed after 6:00 p.m., Monday thru Friday and after noon on Saturday, after customer hours are over. Sometimes they have to work late to catch-up.

A Board member asked about Tim's towing service.

- Mr. Krawczyk does not tow-for-hire. Towing service is for business purposes. Once in a great while, he will tow for the County if it's during working hours.

There was further discussion about the existing roofs in the area.

- Mr. Krawczyk stated he would comply with the other businesses.

Don Forester, N7706 Peebles Lane, was sworn in. His testimony was as follows:

- The lights would have to be on all night.
- 6-8-foot trees in the front would obstruct the view of the auto lot.
- Asphalt surfaces will cause additional water drainage.
- The structure should be built using earth-tone colors. Light tan with earth-tone colored stone.
- Pneumatic tools will create a high level of noise. The doors need to be kept shut.

Anthony Lawrence O'Malley, attorney representing Ann Lindburg was sworn in. His testimony was as follows:

- Attorney O'Malley asked if the proposed use has not changed. Mr. Krawczyk answered no.
- Attorney O'Malley asked if the dimensions of the building have not changed. Mr. Krawczyk answered no.
- Attorney O'Malley asked if the proposed access has not changed. Mr. Krawczyk answered no.
- Attorney O'Malley asked if the denial of this permit would shut down your livelihood. Mr. Krawczyk answered we're running out of time.
- Attorney O'Malley asked if the lighting has not changed. Mr. Krawczyk answered yes. The wattage has changed.
- Attorney O'Malley asked if the general lighting of the parking lot has not changed. Mr. Krawczyk answered no.
- Attorney O'Malley asked if he had a lighting plan. Mr. Krawczyk answered no; we intend to comply with the ordinance.
- Attorney O'Malley asked if he feels his proposal would create a hazard or a nuisance. Mr. Krawczyk answered no.
- Attorney O'Malley asked if he is in the process of condemnation by the state. Mr. Krawczyk answered yes, however, he still does not know how much the state will pay him for his property.
- Attorney O'Malley asked if he were aware the state would reimburse him for relocation expenses. Mr. Krawczyk answered yes.
- Attorney O'Malley asked if he has searched the Fond du Lac area for industrial zoned land. Mr. Krawczyk answered yes. Karah, representing Don Spenner of Ayres & Associates, assisted in the search. No alternative site is available.
- Attorney O'Malley asked why he didn't appeal the Board of Appeals decision to Circuit Court. Mr. Krawczyk answered the main concern was safety issues, not the building.

The Chairman reminded the public that the purchase area has decreased to 4-acres.

Ann Lindburg dispersed material to the Board of Appeals members in objection to the proposal. Exhibit 1.

Lisa Adams was sworn in. Her testimony was as follows:

- The other parcel would be left in the CRP program. Further development of Lot 3 would require a Board of Appeals hearing.
- Ms. Adams inquired how the road has changed. Mr. Krawczyk answered that it has and that he has meetings scheduled with the DOT to discuss the details further. Ms. Adams stated she is concerned about the water and ice on the road and the possibility of her children's school bus being rear-ended. She's concerned about the liability if that were to happen. The third lane won't be installed for another 1-2 years. Mr. Krawczyk reminded Ms. Adams that the highway was not the Board of Appeals safety concern. The DOT has re-inspected the highway. The DOT re-

affirmed their original decision concerning the access road location. Ms. Adams wants the third lane done before the building is done. Mr. Krawczyk stated that the DOT has no records of any accident on that stretch of the road.

Stan Freund was sworn in. His testimony was as follows:

- Mr. Freund owns Ledge Tooling, a business south of the proposed site.
- Mr. Freund is purchasing the 5-acres between Ledge Tooling and the proposed site.
- The 5-acres is a wooded lot.
- Mr. Freund stated that he is willing to remove the trees in order to increase the sight distance around the curve. He will remove the trees located in an area approximately 75-feet in at Lot 1 at an angle toward his building. He will replace the trees with some shrubs.

Gerald Gilgenbach was sworn in. His testimony was as follows:

- Mr. Gilgenbach asked Mr. Freund how much land will he lose to the DOT for the Hwy. 149 project? Mr. Freund stated the DOT is buying close to a 100-foot strip. Mr. Freund stated he would remove all the trees within the right-of-way as soon as possible.
- A Board member mentioned that the DOT would probably work with Mr. Freund. Mr. Freund stated that it didn't matter to him. He will remove the trees now.

Jerry Guelig, Taycheedah Town Chairman was sworn in. His testimony was as follows:

- Mr. Guelig met with Ernie Winters, Fond du Lac County Highway Commissioner, and John Townsend, 52nd Assembly District Representative, last week. Mr. Winters and Mr. Townsend spoke to the DOT about constructing the intersection to the site this year. It seems ridiculous to force Mr. Krawczyk to pay \$53,000+ for the third lane just to have it tore up in a year. Mr. Townsend called Mr. Guelig this morning. He stated the DOT promised to keep an opened mind regarding the installation of the third lane. The DOT stated the third lane would not have to be built until the highway is reconstructed. Mr. Krawczyk will have to post a bond. The DOT also stated that there are more dangerous driveways that what this road will be.
- A Board member asked Mr. Guelig if it would be possible to post child crossing signs or lights near the proposed intersection. Mr. Guelig responded that the town does not have jurisdiction to post signs on a state or county road. He also stated that school buses have been using that stretch of Hwy. 149 for over 38 years and he doesn't know of any bus being rear-ended.

Jerry Hansman, N7697 Hwy. 149, was sworn in. His testimony was as follows:

- Mr. Hansman asked for more information pertaining to the road.
- Mr. Krawczyk responded that it would be a B2 road. It will have a bypass left lane.
- Mr. Hansman stated he has also contacted the DOT. He was told that \$53,000 might be too low. The DOT is working on their estimate. Mr. Hansman asked Mr. Krawczyk if it is \$100,000, could he still secure a bond. Mr. Krawczyk answered that there will be no problem.
- Mr. Hansman asked Mr. Krawczyk if he intends to follow DOT requirements. Mr. Krawczyk answered yes.
- Mr. Hansman asked Mr. Krawczyk if he intends to build the town road and secure bank guarantees to the town. Mr. Krawczyk answered yes, we are paying to build the town road to town specifications.
- Mr. Hansman asked Mr. Krawczyk if he is approved for an irrevocable bank guarantee. Mr. Krawczyk answered not a problem. The bank is aware of the road expense and has approved it.

Mr. Hansman dispersed materials including entries from the Town of Taycheedah Zoning Ordinance to the Board of Appeals members. Exhibit 2. Attorney Dick Wehner, representing Tim & Laurie Krawczyk, requested that the Board members not silently read the document. Attorney Wehner also requested a copy of the document and an opportunity to respond to the document in writing.

Ken Rickert, N7731 Hwy. 149, was sworn in. His testimony was as follows:

- The 02/05/02 Decision states that "13-1-66(a)(2), That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land. The Zoning Board of Appeals believes the standard was not met due to possible decrease in property values as

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well as the general impact of the proposed use on the neighboring land". Mr. Rickert believes his property values will be decreased. He bought his property for the view. He does not want to have to look at lights 24 hours a day. The insurance company will require lights. Mr. Rickert also stated that there is a lot of traffic on Hwy. 149, which traffic will only increase.

- Mr. Krawczyk asked Mr. Rickert why he believes his property value would decrease. Mr. Rickert stated that just the idea of a used car lot across the street would decrease his value. Mr. Rickert also stated that trees used in the landscaping would deter the view of the cars.
- Mr. Rickert asked Mr. Krawczyk if he did a study on any land available in the Hwy. 23 area. He stated further that the business would be better suited to that area. Mr. Rickert answered that was Mr. Krawczyk's personal opinion. Mr. Krawczyk disagreed. Mr. Krawczyk stated that Mr. Rickert can see DO IT ALL, the storage buildings, and the Frank Nett Co. Mr. Krawczyk stated further that his proposed building shouldn't take away Mr. Rickert's view and that his property values have been diminished by the existing businesses.

Ray Donahue, N7818 Ledgeview Springs Drive, was sworn in. His testimony was as follows:

- Mr. Donahue asked what has changed in the petition. The Chairman responded that the safety issues have been further addressed. Member John Buechel stated that his prior decision was a rough decision. He stated that he took into consideration of the value of property and the safety issue due to the woods obstructing the sight line. Member Charlie Mathison responded that the safety issue has been addressed and that there are multiple issues involved. The Chairman also added that the glare factor of the roof has been researched.

Tim Krawczyk returned to a seat in the audience.

Robert Poch, representing Jim Pankow Construction, was sworn in. His testimony was as follows:

- Mr. Krawczyk intends to build a 9000 square-foot building. The building will include a repair shop, administrative offices and a parts room.
- They intend to comply with all town ordinances, particularly those concerning the asphalt, drainage, lighting and a road built to town specs.
- The plans show a class 3 intersection. However, there will be a B2 intersection. Mr. Poch stated the road is a legitimate concern. They intend to comply with the DOT and the County. They have no choice. If they don't comply, they don't have an access. Details with exact construction of the intersection have to be completed.
- The building is a pre-engineered building. The front will have cultured stone. It will be off-white with blue trim.
- A fence would be installed for the storage of used tires. All materials stored outside will be fenced. They intend to comply with all regulations of the Department of Commerce.
- The asphalt binder coarse will be laid prior to occupancy. The final coarse will be laid in fall or spring.

A Board member asked about landscaping plans.

- Mr. Poch responded that the ordinance is not specific and that they will comply with any reasonable Board of Appeals condition pertaining to landscaping.

The Board members discussed possible deviation from the hours of operation in cases of emergency. The Chairman stated the issue could be discussed further under the conditions.

A Board member questioned Mr. Poch about the springs on the property.

- Mr. Poch stated that Kristy Rogers of the DNR has inspected the site. She determined that there are no issues with Lot 2. Lot 2 is not a wetland. Also, soil borings have been done in the road area and the building area. The borings were satisfactory.
- Sanitary sewer will be pumped to the pipe along Hwy 149.
- All hazardous fluids will be contained.
- They intend to comply with 13-1-68(a)(15), planting screens.
- July 1 is the deadline. They intend to have all green areas planted this year.

Attorney O'Malley requested to speak again. Chairman Rosenthal reminded him of the rules clearly stated at the beginning of the hearing. Attorney O'Malley responded that he didn't know that meant only one time for 2 1/2 minutes. Mr. Adams offered his 2 1/2 minutes to Attorney O'Malley. The Chairman stated he

couldn't allow the swapping of minutes. Lisa Adams became angry and stated that Attorney O'Malley represents them too. Chairman Rosenthal gave Ms. Adams her first warning due to showing disrespect. The Chairman stated that he would give Attorney O'Malley one additional minute and that it is up to him when he uses it, in whole or in part.

Further testimony by Attorney O'Malley was as follows:

- Attorney O'Malley asked Mr. Poch if he thinks the proposed use would cause a hazardous condition or a nuisance? Mr. Poch answered no.

Mr. Krawczyk made a clarification to Mr. Poch's earlier statement. The dumpsters will be located outdoors on the backside of the building, not within a fenced area.

A Board member asked Mr. Krawczyk about the possibility of moving the used cars to the west side of the parking lot. Mr. Krawczyk responded that he could but then he would have to use the east parking area for disabled vehicles and cars that have been in accidents.

Mr. Poch returned to a seat in the audience.

The group took an unplanned recess due to the tape recorder jamming and ultimately unusable. A replacement tape recorder was obtained.

Chairman Rosenthal's statements were as follows:

- Both Tim Krawczyk and Robert Pock, Jim Pankow Construction have testified.
- The audience and Board members have taken the opportunity to question both Tim and Bob.
- The Board members are required by the ordinance to vote on the Conditional Use Permit, not the audience.
- Literature has been submitted to the Board members both during and prior to the hearing from people representing both side of the issue. The Board will refrain from reading any of the materials. (Exhibits 1,2,3).
- Mr. Hansman submitted information contained in the Town's ordinance book. The Board did in the past and will continue to comply with the ordinance on this issue.

Attorney O'Malley's further testimony was as follows:

- He has read the ordinance and can't find any authorization of grant a reconsideration of the issue. There is an appeals procedure to a court of record. Attorney O'Malley questions how the ordinance applies to this hearing. He believes the testimony tonight has nothing to do with safety.
- Part of the approval requested for the Conditional Use Permit is the operation of a used car lot. Used car lots are not a conditional use in the industrial district.
- Attorney O'Malley believes the proposal would create a hazard and a nuisance. Attorney O'Malley questioned whether the Board of Appeals has the ability to make such a determination.

Attorney Richard Wehner, representing Tim & Laurie Krawczyk, testimony was as follows:

- Since the last hearing, they looked at the basis for the denial. The main reason being the safety issue. It is a legitimate concern. Mr. Krawczyk agrees to do whatever the DOT requires within a timely manner.
- The proposed lighting has changed.
- The hours of operation have changed.
- 13-1-56(a) the purpose of the industrial district is to provide an area for manufacturing, marketing, and industrial and agribusiness activities. It is also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas, or which would create or tend to create conditions of public or private nuisance, hazard or other undesirable conditions... this is the reason the town selected this area for industrial development. This is the reason a Conditional Use Permit is required.
- The used car lot is Tim's secondary business. He has testified to that effect at the last hearing.

Charlie Mathison motioned to set-up conditions in preparation for a vote, seconded by Bob Holzman. Motion carried (5-0).

Tim & Laurie Krawczyk submitted a statement indicating conformance to proposed Conditional Use. It is a statement of conditions they intend to uphold. Exhibit 4. The Chairman read aloud the statement of conditions. A member asked Mr. Krawczyk is he intends to landscape in an attractive appearance. Mr. Krawczyk answered yes. Member also asked if he would consider moving some of the used cars to the west

parking area. Mr. Krawczyk answered some could be moved, however, the area is intended for wrecked cars. The Board directed the Secretary to add that Stan Freund has volunteered to cut the trees within 75-100 feet from the road before occupancy. Another member suggested the drainage comply with recent legislation pertaining to drainage control methods and to add a reference pertaining to an exemption to the hours of operation for the purposes of emergency towing. Member also stated he doesn't recall hearing about loud, bothersome noises coming from Peebles Auto. The Board members compared the Mr. Krawczyk's statement of conditions to the conditions discussed at the February 5th hearing. The Board of Appeals conditions were as follows:

- **13-1-68(a)(1), Landscaping**-the grass shall be planted within 90 days of occupancy. The shrubbery landscaping shall be completed and trees planted within one year of occupancy.
- **13-1-68(a)(2), Type of construction**-The building will be a pre-engineered building. The front will have cultured stone. It will be off-white with blue trim. The roof shall be of a material which is standard roof material used of roofs in the area.
- **13-1-68(a)(3), Construction commencement and completion dates**-contractor plans to start construction within a couple of weeks, the building and the first coat of blacktop will be completed by July 31, 2002, the second coat of asphalt shall be completed by July 31, 2003. The completion dates have a 15-day +/- exception pending weather.
- **13-1-68(a)(4), Sureties**-none stated.
- **13-1-68(a)(5), Lighting**-lights shall be mounted on the building and shall shine downward. The lighting shall be the minimum requirement by the state and the insurance company.
- **13-1-68(a)(6), Fencing**-fencing will be installed in the back of the building for the storage of tires and to hide the LP tank.
- **13-1-68(a)(7), Operational Control**-overhead doors will be kept closed except during normal business hours.
- **13-1-68(a)(8), Hours of Operation**-hours of operation shall be 7:30 a.m. to 6:00 p.m., Monday thru Friday and 8:00 a.m. to 12:00 p.m. on select Saturdays. Not to exceed 26 Saturdays a year.
- **13-1-68(a)(9), Traffic Circulation**-demolished vehicles cannot be stored on the site for a period longer than one-month.
- **13-1-68(a)(10), Deed Restrictions**-none stated.
- **13-1-68(a)(11), Access Restrictions**-the construction of the access road shall be regulated by the DOT. Tim & Laurie Krawczyk shall secure a bond for its construction.
- **13-1-68(a)(12), Setbacks and yards**-setbacks and yards are established as submitted.
- **13-1-68(a)(13), Type of Shore Cover**-silt barrier fence shall be installed during the construction phase.
- **13-1-68(a)(14), Specified sewage disposal and water supply systems**-structure will have floor drains and a forced main grinder pump into Taycheedah Sanitary District No.1. The structure will have a private well.
- **13-1-68(a)(15), Planting Screens**-a landscaping plan shall be developed and submitted to the Board of Appeals for review and approval.
- **13-1-68(a)(16), Piers and Docks**-not applicable.
- **13-1-68(a)(17), Increased Parking**-additional parking shall be upon the Board of Appeals review and approval of an amendment to the conditional use permit.
- **Drainage**-The Krawczyk's will develop a drainage plan that will prevent erosion and water runoff to adjacent landowners.
- **Disposal of waste materials**-all waste materials shall be disposed of in a timely and proper manner.
- **Clearing of trees on the adjacent property**-Stan Freund has volunteered to cut all trees on his property laying within 75-100 feet from the road prior to Mr. Krawczyk taking occupancy of the building.
- **General conformance**-The Krawczyk's agree to comply with the standards set forth in Section 13-1-66 of the Town of Taycheedah Zoning Ordinance and the business is a referenced Conditional Use in Section 13-1-56(c)(8).

February 26th, 2002

Board of Appeals
Tim Krawczyk, dba: Tim's Alignment Conditional Use Permit

7.

Charlie Mathison motioned to vote, seconded by Bob Holzman.

Roll call vote:

Charlie Mathison	yes, with the conditions set forth and clearly understood
John Buechel	yes
Bob Holzman	yes
Tom Friess	yes
Jim Rosenthal	yes

Motion carried (5-0).

Charlie Mathison made the statement that we are all neighbors and that we should have civility amongst each other.

The meeting was adjourned.

Dated this 1st day of March, 2002

Attest Brenda A. Schneider
Brenda A. Schneider, Town Clerk

TOWN OF TAYCHEEDAH
FOND DU LAC COUNTY, WISCONSIN

DECISION

WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on February 26th, 2002, to consider the Conditional Use Permit application submitted by Tim and Laurie Krawczyk to operate an automotive repair shop and used car dealership on a four-acre portion of a parcel in the SE 1/4 of the SW 1/4 of Section 29 in the Town of Taycheedah.

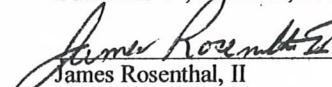
The Zoning Board of Appeals voted (5-0) in support of a motion to grant the Conditional Use Permit.


The conditions were established as follows:

- **13-1-68(a)(1), Landscaping**-the grass shall be planted within 90 days of occupancy. The shrubbery landscaping shall be completed and trees planted within one year of occupancy.
- **13-1-68(a)(2), Type of construction**-The building will be a pre-engineered building. The front will have cultured stone. It will be off-white with blue trim. The roof shall be of a material which is standard roof material used of roofs in the area.
- **13-1-68(a)(3), Construction commencement and completion dates**-contractor plans to start construction within a couple of weeks, the building and the first coat of blacktop will be completed by July 31, 2002, the second coat of asphalt shall be completed by July 31, 2003. The completion dates have a 15-day +/- exception pending weather.
- **13-1-68(a)(4), Sureties**-none stated.
- **13-1-68(a)(5), Lighting**-lights shall be mounted on the building and shall shine downward. The lighting shall be the minimum requirement by the state and the insurance company.
- **13-1-68(a)(6), Fencing**-fencing will be installed in the back of the building for the storage of tires and to hide the LP tank.
- **13-1-68(a)(7), Operational Control**-overhead doors will be kept closed except during normal business hours.
- **13-1-68(a)(8), Hours of Operation**-hours of operation shall be 7:30 a.m. to 6:00 p.m., Monday thru Friday and 8:00 a.m. to 12:00 p.m. on select Saturdays. Not to exceed 26 Saturdays a year.
- **13-1-68(a)(9), Traffic Circulation**-demolished vehicles cannot be stored on the site for a period longer than one-month.
- **13-1-68(a)(10), Deed Restrictions**-none stated.
- **13-1-68(a)(11), Access Restrictions**-the construction of the access road shall be regulated by the DOT. Tim & Laurie Krawczyk shall secure a bond for its construction.
- **13-1-68(a)(12), Setbacks and yards**-setbacks and yards are established as submitted.
- **13-1-68(a)(13), Type of Shore Cover**-silt barrier fence shall be installed during the construction phase.
- **13-1-68(a)(14), Specified sewage disposal and water supply systems**-structure will have floor drains and a forced main grinder pump into Taycheedah Sanitary District No.1. The structure will have a private well.
- **13-1-68(a)(15), Planting Screens**-a landscaping plan shall be developed and submitted to the Board of Appeals for review and approval.
- **13-1-68(a)(16), Piers and Docks**-not applicable.
- **13-1-68(a)(17), Increased Parking**-additional parking shall be upon the Board of Appeals review and approval of an amendment to the conditional use permit.
- **Drainage**-The Krawczyk's will develop a drainage plan that will prevent erosion and water runoff to adjacent landowners.
- **Disposal of waste materials**-all waste materials shall be disposed of in a timely and proper manner.
- **Clearing of trees on the adjacent property**-Stan Freund has volunteered to cut all trees on his property laying within 75-100 feet from the road prior to Mr. Krawczyk taking occupancy of the building.
- **General conformance**-The Krawczyk's agree to comply with the standards set forth in Section 13-1-66 of the Town of Taycheedah Zoning Ordinance and the business is a referenced Conditional Use in Section 13-1-56(c)(8).

The Board of Appeals decision may be appealed by an action in certiorari in circuit court with 30 days of the Board's decision.

Dated this 4th, of March, 2002.


James Rosenthal, II
Board of Appeals Chairman


Brenda A. Schneider
Board of Appeals Secretary

**TOWN OF TAYCHEEDAH
FOND DU LAC COUNTY, WISCONSIN**

CONDITIONAL USE PERMIT

KNOW ALL MEN BY THESE PRESENTS that on the 26th day of February, 2002 a conditional use permit was issued to Tim and Laurie Krawczyk (together referred to as "Krawczyk") pursuant to Section 13-1-56 of the Town of Taycheedah Code of Ordinances. The term of this conditional use permit shall be four years, beginning February 26th, 2002. This conditional use permit authorizes Krawczyk to conduct an automotive repair shop and used car dealership on a parcel of real estate consisting of 4 acres in the Town of Taycheedah on the following property:

West of Highway 149, more particularly described as located
within the Northeast 1/4 of the Northwest 1/4 of Section 32,
Township 16 North of Range 18 East in the Town of Taycheedah,
Fond du Lac County, Wisconsin.

This permit authorizes Krawczyk to use the above-described property for an automotive repair shop and used car dealership pursuant to the terms and conditions of the Town's Zoning Ordinance. This permit is subject to the following general and special conditions:

GENERAL CONDITIONS

- 1) **Default.** Any of the following occurrences shall constitute an event of default and may justify revocation under this permit (whatever the reason for such event of default, and whether it shall be voluntary or involuntary, or be caused by the operation of law or pursuant to any judgment, order or regulation):
 - a) If Krawczyk abandons the subject property; provided, however, that Krawczyk shall not be deemed to have abandoned the subject property if Krawczyk vacates all or substantially all of the subject property for a period not exceeding six months; or
 - b) If a petition is filed by Krawczyk under any bankruptcy, reorganization, arrangement, insolvency, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within 60 days after such filing; or
 - c) If Krawczyk fails to observe or perform any condition or provision hereof for a period of 30 days after receiving written notice of such failures from the Town; or
 - d) If Krawczyk fails to comply with any statute, regulation, rule or permit administered by any federal, state or county department, agency or commission within 30 days after receiving written notice of a violation by such federal, state or county department, agency or commission. Krawczyk shall notify the Town Clerk in writing of any alleged violation, order or enforcement proceeding within seven days of receipt. The failure to notify the Town Clerk of any alleged violation, order or enforcement proceeding is an event of default under this permit.

The items listed above shall constitute events of default under this permit. However, the permit will not be revoked by the Town without first providing Krawczyk with a notice of a hearing and a hearing at which Krawczyk shall be given an opportunity to respond to the alleged default.

- 2) **Non-Assignability.** The rights granted by this permit are not assignable or transferable to any other person, firm or corporation, whether by operation of law or otherwise, without the express prior written consent of the Town.
- 3) **Interpretation.** The provisions of this permit shall be considered minimum requirements. This permit is granted with the intent that its provisions be liberally construed in favor of the Town. Time is of the essence in the performance of the requirements of the permit.
- 4) **Modification.** No provision of this permit may be modified except upon the written application by Krawczyk and after public notice and hearing. The Board of Appeals has issued this permit pursuant to its powers defined by the Town's Zoning Ordinance. Krawczyk is required to obtain separate authorizations for the erection of any buildings or improvements, highway access permits, and any other permit, license or authorization required by the Town, or by any federal, state or county agency. The Town makes no representations regarding Krawczyk's right to obtain whatever additional authorizations or permits may be necessary for the operation of the automotive repair shop and used car dealership.
- 5) **Reservation of Rights.** The Town reserves the right to revoke entirely or to modify in part this permit in the event of a failure by Krawczyk to comply with any material term of this permit, the general conditions, special conditions or any other obligation lawfully imposed by the Town.
- 6) **Severability.** Each provision of this permit shall be interpreted in such manner as to be effective and valid under applicable law; but if any provision of this permit shall be prohibited or invalid under applicable law as determined by a court of competent jurisdiction, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of the permit.
- 7) **Waiver.** No waiver or inaction by the Town or its officials shall be deemed to be made unless the same shall be in writing and signed by a duly authorized Town official. Each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the Town in any other respect at any other time.
- 8) **Renewal.** The Town makes no representations to Krawczyk regarding the renewal of this permit under the Town's Zoning Ordinance. All rights available under law or in equity are reserved by the Town in determining whether or not this permit shall be renewed. Krawczyk is hereby informed that it has no property right in the expectation in the renewal of this permit.
- 9) **Reimbursement of Town Fees.** Krawczyk shall reimburse the Town's reasonable engineering, consulting and legal fees incurred to administer or enforce the terms of this permit.
- 10) **Jurisdiction.** The Town reserves the right to conduct inspections of the business, without prior notice, in order to administer and enforce the terms of this permit. By accepting this permit, Krawczyk hereby grants the Town and its agents permission to enter the business site to conduct inspections to assure compliance with this permit.

- 11) **Indemnification.** Krawczyk shall indemnify, defend and hold harmless the Town and its elected officials, employees and agents from and against any claims, liabilities, losses or expenses, including reasonable attorneys' fees, that may arise as a result of the existence or operation of the automotive repair shop and used car dealership authorized by this permit. Krawczyk acknowledges that the Town's approval of this permit shall not be deemed a waiver of the Town's right to enforce existing Town ordinances.

SPECIAL CONDITIONS

- 1) **General conformance.** Krawczyk agrees to comply with the standards set forth in Section 13-1-66 of the Town of Taycheedah Zoning Ordinance and the business is a referenced Conditional Use in Section 13-1-56(c)(8).
- 2) **Clearing of trees on the adjacent property.** Stan Freund will voluntarily cut and remove all trees on his property(ies) lying within 75-100 feet from Highway 149 prior to Krawczyk taking occupancy of the building.
- 3) **Access Restrictions.** The construction of the access road shall be regulated by the Wisconsin Department of Transportation. Krawczyk shall secure a bond, as determined by the Wisconsin Department of Transportation for the construction of the intersection with Highway 149. Krawczyk will also secure a bond for the construction of the town road.
- 4) **Drainage.** Krawczyk shall develop a drainage plan that meets the requirements, reviewed and approved by an independent expert, as to prevent erosion and water runoff to adjacent landowners.
- 5) **Construction commencement and completion dates.** Krawczyk may start construction as soon as reasonably possible. The building and the first coat of blacktop shall be completed by July 31, 2002. The second coat of asphalt shall be completed by July 31, 2003. The completion dates have a 15-day plus or minus exception pending weather.
- 6) **Type of construction.** The building shall be a pre-engineered, 9000 square-foot building. The front shall have cultured stone. The building shall be off-white with blue trim. The roof shall be of a material which is standard roof material used on the roofs of the existing businesses in the area.
- 7) **Setbacks and yards.** The setbacks and yards shall be established as submitted on the Jim Pankow, Inc. site plan.
- 8) **Type of Shore Cover.** Silt barrier fence(s) shall be installed during the construction phase.
- 9) **Specified sewage disposal and water supply systems.** The structure shall have floor drains and a forced main grinder pump into Taycheedah Sanitary District No.1. The structure shall have a private well.
- 10) **Planting Screens.** A landscaping plan shall be developed and submitted to the Board of Appeals for review and approval.
- 11) **Landscaping.** The grass shall be planted within 90 days of occupancy. The shrubbery landscaping shall be completed and trees planted within one year of occupancy.

- 12) **Fencing.** The fencing shall be installed behind the building for the storage of tires and to hide the LP tank.
- 13) **Lighting.** The lights shall be mounted on the building and shall shine downward. The lighting shall be the minimum requirement by the state and the Krawczyk's insurance company.
- 14) **Hours of Operation.** The hours of operation shall be 7:30 a.m. to 6:00 p.m., Monday thru Friday and 8:00 a.m. to 12:00 p.m. on select Saturdays. Not to exceed 26 Saturdays a year.
- 15) **Operational Control.** The overhead doors may be kept closed except during normal business hours.
- 16) **Traffic Circulation.** Any and all demolished vehicles may not be stored on the site for a period not to exceed one-month.
- 17) **Increased Parking.** Additional parking area shall be upon the Board of Appeals review and approval of an amendment to the conditional use permit.
- 18) **Disposal of waste materials.** All waste materials shall be disposed of in a timely and proper manner.

Dated this 5 day of MARCH, 2002.

TOWN OF TAYCHEEDAH
BOARD OF APPEALS


James Rosenthal, II, Chairman

Attest:


Brenda A. Schneider, Secretary

May 28th, 2002

Board of Appeals
George & Mary Walker variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Tuesday, May 28th, 2002, on behalf of George & Mary Walker. The Walker's request a variance to Sect. 13-1-24(f)(3) of the Town of Taycheedah's Code of Ordinances to allow for a reduced front setback from the road. The Walker's wish to re-located and convert their boathouse into a garage. The existing structure is located at N8490 Linden Beach Road. Members present were Chairman James Rosenthal, Charlie Mathison, Tom Friess, Bob Holzman and John Buechel. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read to legal notice.

George Walker was sworn in. Mr. Walker is requesting the variance due to the setback restriction from the road. Linden Beach was platted in 1972. The Walker's own two lots; a farm remnant plus one lot. One parcel has a cottage-type home and the other had a former boxcar with several additions. The boxcar structure was demolished in 2000. The Walker's plan to build a permanent one-story ranch home on the site. The Walker's were required to compile a Certified Survey Map by Shoreland Zoning which formally created two separate lots. A copy of the CSM was provided for the Board members. In order to keep the boathouse, the centerline between the lots would have had to have been moved. The Walker's prefer to relocate the boathouse for garage-use with a 38-foot setback from the east lot line. The property is located on a dead end of a private road. Mr. Walker surveyed the area. Several structures are located closer than the 38-feet he is requesting. Mr. Walker submitted a list of non-conforming garages to the Board members. The boathouse was built in 1977. The boathouse must be moved before the Walker's begin construction of the new home because they won't be able to move it around the pump house later. All the beach lot owners have a driveway easement and a well easement. The driveway easement states the road is 12-feet wide but the plat indicates 10-feet. Mr. Walker doubts that Linden and Minawa will ever merge. The Walker's do not own any land across the street. The cottage is 30 x 26 and is being actively used. The Walker's plan to relocate the boathouse two feet away from the sewer clean out. The Walker's do not intend to replace the boathouse. They have a shore-station for docking the boat. The Walker's obtain a Shoreland Zoning permit for the project on February 26th, 2002.

Adjacent property owner Don Weiland, N8512 Linden Beach, does not object to the Walker's request. He stated there are other garages in the area located very close to the road. Mr. Weiland believes that moving the boathouse would be an improvement. He stated he would have a better view of the lake.

The garage located on the second parcel is 25-feet from the property line. Mr. Walker has enough room to park his car between the garage and the road.

Charlie Mathison motioned to approve George & Mary Walker's variance request with a 38-foot setback from the east lot line, seconded by John Buechel.

Roll call vote:

Tom Friess	aye
Charlie Mathison	aye
John Buechel	aye
Tom Friess	aye
Bob Holzman	aye
Jim Rosenthal	aye

Motion carried unanimously. Variance request is approved.

Charlie Mathison motioned to adjourn, seconded by John Buechel. Motion carried.

Attest. Brenda A. Schneider
Brenda A. Schneider
Secretary

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Monday, August 5th, 2002, at 7:08 p.m., at the Taycheedah Town Hall for the purpose of considering action against Bertram/Eckert for an alleged violation of hours of operation contained in the Conditional Use Permit to quarry issued to Bertram/Eckert. Victor Freund filed a written complaint, dated June 29th, 2002, with the Town Clerk. The complaint alleges that three blasts occurred after 4:00 on June 26th. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order. The Chairman specified that the hearing is only to discuss that day of the alleged violation and what happened. The Secretary read the hearing notice.

Terry Barthel, the blaster, was sworn in. The Chairman acknowledged that he should have requested Victor Freund to testify first.

The Chairman asked Mr. Barthel for a summary of blasting procedure. Mr. Barthel responded that J & E Construction contracts with him for blasting. Typically, 24-hours before, he calls Victor Freund and Dan Freund to inform them of upcoming blasting. When he arrives at the quarry, usually around 8:00 a.m., he starts loading holes. When all shots are loaded, he notifies the neighbors and makes sure everyone is out of the area.

The Chairman asked how much advance notice do the Bertram's get? Mr. Barthel's response was no advanced notice. The Bertram's know when the driller arrives, there will be blasting.

The Chairman asked how long does it take to set-up a shot? Mr. Barthel's response was that it depends upon the holes. Sometime they have water in them. Other times there may be a bad hole that needs to be re-drilled. Typically he is ready between 2:00 and 3:30. He's never been close to 4:00 before. It also depends upon the number of shots. He has to ensure that everyone is in a safe place. The Bertram have several farm employees. One of them doesn't speak English well. He wasn't sure where that employee when he was ready to shoot. He was found bringing the cows to the milking parlor. He waited until the employee was in the parlor with all the cows. He must ensure safety before he blasts.

The Chairman asked Victor Freund to step forward. Victor asked if Dan could represent him because it affects him more. Dan Freund was sworn in. The Chairman asked Dan to silently read his dad's letter of complaint. Mr. Freund stated that his dad sent the letter and that he owns the farm. He also stated that he called Jerry Guelig after the blasts and spoke to Sandy Guelig. He stated that Sandy can verify the day and time of his complaint.

The Chairman asked if on average, has the blaster contacted you 24 hours prior to blasting? Dan stated that he hasn't always received 24-hour notice in the past but has always had advanced notice. He added that this year, he has received 24-hour notice before all blasting.

The Chairman asked if previous blasting usually occurred earlier than 2:00? Dan responded that one blast last year occurred at 5:00, however the call came in stating it would occur around 1:30. Brenda Schneider does not have blasting logs from 2001. But usually blast occur between the 2:00-3:00-3:30 range. The Chairman stated that as a whole, blasting has been earlier in the day and has not exceeded hours. Mr. Freund agreed and stated that Terry gives advanced notice. He doesn't give a time, just states today or tomorrow.

The Chairman asked if there are differences in how the other quarries notify? Dan stated that Northeast sends a certified letter 3-7 days before that states when the blasting will start and for how many days it will occur. Blasting is done in a similar pattern; between 2:00-3:00.

John Buechel read aloud Section 7-5-3(b)(4), hours of operation of blasting activity. The ordinance states, "blasting shall only be conducted between 9:00 a.m. and 4:00 p.m. on Monday through Friday, provided, however, that in the event an emergency has delayed a blast beyond 4:00 p.m., a loaded hole may be blown within a reasonable time thereafter." Dan commented that the Conditional Use Permit does not state it and that the permit is above the ordinance. Also, the permit states 8:00 a.m. to 4:00 p.m. Mr. Buechel commented that at a previous hearing, the Bertram's stated that they will follow the ordinance. Mr. Buechel asked Mr. Barthel if he called Mr. Freund to inform him that blasting would be late? Mr. Barthel answered no.

Jerry Guelig, Town Chairman, asked why the permit does not follow the ordinance? No one knew why. Several attorneys and others didn't catch the discrepancy. Mr. Guelig commented that the permit should state what's printed in our ordinance. A blast can be delayed due to a safety issue, the permit should

state it. Jim Rosenthal commented that the Board of Appeals must go by the Conditional Use Permit. However, the ordinance predates the permit. The Chairman further commented that it is an assumption that the additional wording should be in the permit. The permit is up for renewal soon. The standard could be adjusted at that time. The quarry has been operating for four years under the stated standards.

Bob Holzman asked Mr. Freund on how many occasions have mistakes been made in blasting activity? Mr. Freund answered twice, other than the one not reported. Mr. Holzman stated that was a good record. Mr. Freund added that when the Conditional Use Permit was set up, hours of operation was a big issue because people work with cattle. The blasting report states that Bertram had to round up the cattle. Mr. Barthel stated that the employee was in the barn. There is a possibility that a rock could go through the barn. He further stated that he has to know where everyone is before he blasts. Mr. Freund stated that he was also working with cattle. By 4:30 he is putting the cattle in the barn. When the blast occurred, the cattle stormed out of the barn at him. 4:00 is stated for a reason; farmers are working with their cattle. If the blasted knew it was going to be after 4:00, why didn't he call to notify me? Why didn't he finish the next day? No one else is being considered. The safety of others should be considered. When some of the cattle get riled-up; the whole herd gets riled-up. When the herd is riled, production goes down. He has one cow he hasn't been able to break. If he doesn't break her by Wednesday, he will have to get rid of her. His safety should be considered as well as the safety of the other residents. The blasts occurred at 4:17, 4:19 and 4:22. It shouldn't take 25 minutes to find the employees.

Dan and Dave Bertram were sworn in. They said that it takes time to get the cows in the parlor. They move about 88 cows at a time. The barn is a 200 feet long free-style barn. It has canvas curtains for sides and a tin roof. The parlor has a cement roof covered with bales of straw. The parlor is the safest place for the employees. Blasting is never done if anyone is in the barn. As the quarry expands away from the barn, they may be able to blast when people are in the barn. Dan Bertram commented that he was on the committee that compiled to blasting ordinance. It took about one year and a lot of meetings. There has to be a reason why the emergency wording is in the ordinance. The wording should be in the Conditional Use Permit. The blaster is working closer to the road. The Bertram's have a safety concern with their cows. Their cows are only 150 feet away from the blasting. Dave commented that there has been a lot said under oath. Property owners have rights too. They have to tip-toe around just to appease the neighbors. The nit-picking is getting ridiculous. The ordinance is specific.

The Chairman commented that the Conditional Use Permit is now in Virginia's name. Dan and Dave stated that they work the farm. The Chairman asked Dan why he served on the Committee? Dan responded because they were concerned about vibrations. The Chairman asked if they ever felt vibrations before their quarry operation started? Neither answered. The Chairman asked Dan if he volunteered his time to serve on the committee? Dan answered yes. The Chairman asked how often their cows are milked? Dan answered three times a day; every seven hours. The Chairman commented that 4:00 may have been the customary milking time. Dan agreed.

Dave Bertram asked Brenda Schneider if the blaster has ever been given a copy of the blasting ordinance. Brenda answered yes, another copy was mailed to Ahlgrimm earlier this year. When the yearly Blasting Permit was approved for the quarry, Victor requested that a letter be sent to the Bertram's and the blaster reminding them that they must follow the ordinance. Brenda included a copy of the ordinance with the letters. The Chairman commented that the wording in the permit could be clarified upon renewal. Dave Bertram added that the people who wrote the ordinance had the emergency wording in it for a reason. He understands that holes cannot be left loaded overnight. Tom Friess asked if they thought the late blasts could have been prevented? Dave answered that the blaster always gets the people together in a safe place. The employees were just doing their jobs.

Bob Holzman asked what the distance is from the rock to the barn? The Bertram's estimated 100 yards. The cows can see and hear the blasts. Bob asked if they have had problems with their cows? They answered no. They have had no decrease in production due to the quarry. Bob asked Dan Freund what the distance is to his barn. Mr. Freund stated 650 feet based on the blasting report. He further commented about 2000 feet as the crow flies. Dan and Dave commented that it is about a half mile. Mr. Freund added that the Bertram cows were in the barn; he was trying to get his into the barn. The Bertram's cows are in a confined area. It's a major difference.

Dan Freund asked Dave Bertram where he was when the blasts occurred? Dave answered that he was at the crossroads going west. He added that he didn't see Dan's cows running. He stated he saw a person sitting there but didn't see the cows running through the pasture. Dan Freund asked how he thought he could see the pasture through the corn? Mr. Freund added that he has two witnesses that he can't get the cows back in the barn. Northeast never has had a blast after 4:00. They did a lot more blasting over a lot more years. Dan Bertram stated that five years ago, Dan Freund said Northeast did a terrible job. He accused them of damaging his property and now he is defending them. Dan Freund added that the blasting was extreme. Ten to twelve people volunteered to be on the ordinance committee.

Victor Freund stated that on Nov. 9, 2001, the seismograph by the tower was not sandbagged. Victor further commented that they need to follow the rules and regulations and that is not nit-picking. The Chairman reminded Victor that the hearing is about the blasting that occurred after 4:00 on June 26th only. Other issues will have to wait until another hearing.

John Buechel commented that during the past four years there has been one other violation to the Conditional Use Permit. The Bertram's agreed they had made a mistake. They paid a fine. John further commented that we need to understand who is at fault. The issue deals with two standards. The first being what is stated in the ordinance and the second being what is stated in the permit. John believes the permit needs to be revised in order to mirror the ordinance. John asked Dan Bertram if he feels they were in violation? Dan's response was that the blaster has a copy of the ordinance not the Conditional Use Permit. The blaster was doing his job to protect everyone. Mr. Barthel verified that he does have a copy of the ordinance.

Charlie Mathison asked Mr. Barthel the sequence of events for that day. Mr. Barthel stated that he was ready to blast by 3:30. He then had to notify all the people on the farm. He stated he knew he needed to blast by 4:00. He also knew by 3:40 that he was going to be late. He didn't know how late he was until he took the readings. A notice of late blasts could be addressed in the future.

Jim Rosenthal asked about the milking schedule. Dan Bertram responded that they milk at 6:00, 2:00 & 10:00. Each shift has three groups of cows. Each group contains 88-90 cows. Jim asked if the cows are affected by the closeness of the pit. Dan responded no. Dan further commented that a cow is replaceable and that the blaster won't blast until all the people are safe.

Tom Friess asked Mr. Barthel what the consequences are of holding off on a blast. Mr. Barthel responded that state and federal regulations state that he cannot blast after dark or before daylight. Shots have to be guarded if left in the hole overnight. Thunderstorms could detonate the shot. Water in the stone can cause partial detonation. On June 26th, all the shots were connected and ready by 3:30. The one employee is usually in the parlor. But that day he was getting the cows. After everyone was in a safe location, the traffic had to be stopped. Mr. Barthel further commented that he won't chance a rushed shot because it's 4:00. The blast itself takes a only a few milliseconds.

Esther Freund asked Mr. Barthel why he set all three shots? Mr. Barthel answered that he didn't expect to be late. He expected to be ready by 3:00. He started setting up between 9-10:00. He won't start something that he knows he won't get done in time. He can't predict how the day will go. Esther asked why the Bertram's don't see to it that the workers are safe? Mr. Barthel responded that that is his responsibility. His company would be liable.

Drew Lambrecht commented that the other quarry uses an air horn before they blast. Mr. Barthel responded that he blows the air horn on the truck three times before he initiates the shots. Tom Friess asked Dan Freund if he hears the horn. Dan Freund responded that he hears Northeast's horn but can't say that he hears Bertram's horn.

Jim Rosenthal stated that Mr. Barthel took all necessary precautions and that the Bertram's were the most endangered by the blast. Dan Freund stated that he could have been hurt by his cattle.

Jim Rosenthal motioned that for any blast that will occur beyond 3:30, Dan Freund's farm and helpers will be notified personally by the blaster, his assistants or the Bertram's. Workers at both farms have to be safe. The Bertram's are responsible to inform their employees of an upcoming blast. Dan Freund commented that he is fully aware there may be blasting up until 4:00. Jim Rosenthal commented that he wants to see a safety net and does not want anyone to get hurt. Bob Holzman seconded the motion.

August 5th, 2002

Board of Appeals
Bertram Quarry-CUP violation complaint

4.

Roll call vote:

Charlie Mathison yes

John Buechel yes

Bob Holzman yes

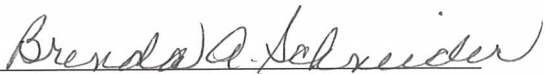
Tom Friess yes

Jim Rosenthal yes Motion carried (5-0).

Mr. Barthel questioned what if no one is home? The Freund's responded that someone should be around.

John Buechel motioned to adjourn, seconded by Charlie Mathison. Motion carried (5-0).

Attest:



Brenda A. Schneider

Board of Appeals Secretary

August 5th, 2002

Board of Appeals
Tim's Alignment-CUP amendment

1.

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Monday, August 5th, 2002, at 6:30 p.m., at the Taycheedah Town Hall for the purpose of considering an amendment to the Conditional Use Permit issued to Tim and Laurie Krawczyk, to operate an automotive repair shop and used car lot. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order. The Secretary read the hearing notice.

Tim Krawczyk was sworn in. Mr. Krawczyk requests an amendment to Special Condition #5, Construction Commencement and Completion Dates.

Mr. Krawczyk's testimony, including his responses to Board member questions, was as follows:

- The DOT would not issue the access permit until June 21st.
- November 4th is the anticipated date of completion.
- The project is currently underway.
- The sub-grade is almost complete. Adequate fill is now at the site.
- The turn lane has been redesigned.
- Stan Freund did not plan to remove more trees.
- The County is not requiring a holding pond.
- Curb and gutter will be installed along both sides of the highway.
- The Hwy. 149 improvement project will replace everything the DOT is requiring then to install.
- The east side of the highway passing lane will be constructed under state rules and regulations.
- Landscaping should be completed within 90 days of occupancy.

The Board and Mr. Krawczyk discussed Special Condition # 15, Hours of Operation. A Bob Holzman was concerned the hours may be too strict. Emergency situations may require Tim's services beyond the stated hours of operation. Mr. Krawczyk's understanding from the previous hearings was that the stated hours are hours opened to the public and that he could continue to conduct work in the shop or office, with the doors closed, after the stated hours. People will also be picking-up and dropping-off vehicles beyond the stated hours. Mrs. Krawczyk questioned whether or not a cleaning service would be allowed to work inside the building after the stated hours. Minutes and notes of previous hearings do not detail the issue. Tom Friess' understanding was that hours of operation would be only the hours open to the public. Stan Freund stated the reason the doors would be closed after hours was due to noise. The Secretary will listen to the tapes of the previous hearings and report to the Board of Appeals. The Board of Appeals will then decide if an additional hearing will be required in order to clarify the issue.

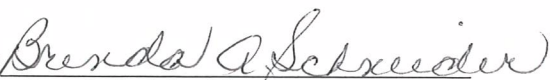
John Buechel motion to extend the Construction Completion dates to November 4th, 2002 for the building and first coat of blacktop and November 4th, 2003, for the second coat of blacktop, with a 15-day plus or minus exception pending weather, seconded by Bob Holzman.

Roll call vote:

Charlie Mathison	yes	Tom Friess	yes
John Buechel	yes	Jim Rosenthal	yes
Bob Holzman	yes	Motion carried (5-0).	

Ken Rickert questioned the tree removal issue. Mr. Rickert is concerned about safety. He feels some trees should be removed to the north of the property in order to open a larger line of sight down Hwy. 149. The Board has addressed the line of sight issue with the Krawczyk property and the property to the south. The Chairman agreed with Mr. Rickert and thanked him for his opinion. However, the Board does not have the ability to address the trees to the north. Mr. Krawczyk added that the DNR and DOT are aware of the situation and will be removing a great deal of the trees in that area. The Krawczyk's will try to get a copy of the detail from the DOT and have it at their shop for public information.

Charlie Mathison motioned to close the first hearing, seconded by John Buechel. Motion carried (5-0).

Attest: 
Brenda A. Schneider
Board of Appeals Secretary

TOWN OF TAYCHEEDAH
FOND DU LAC COUNTY, WISCONSIN

DECISION

WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on August 5th, 2002, to consider an amendment to the Conditional Use Permit issued to Tim and Laurie Krawczyk to operate an automotive repair shop and used car dealership on a four-acre portion of a parcel in the SE 1/4 of the SW 1/4 of Section 29 in the Town of Taycheedah.

The Zoning Board of Appeals voted (5-0) in support of an amendment to the Conditional Use Permit.

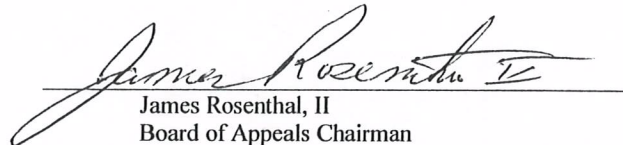
The amendment was established as follows:

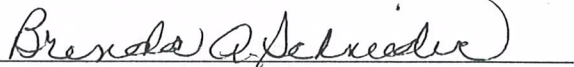
Special Condition #5, Construction commencement and completion dates.

Krawczyk may start construction as soon as reasonably possible. The building and the first coat of blacktop shall be completed by November 4th, 2002. The second coat of asphalt shall be completed by November 4, 2003. The completion dates have a 15-day plus or minus exception pending weather.

The Board of Appeals decision may be appealed by an action in certiorari in circuit court with 30 days of the Board's decision.

Dated this 10th day of August, 2002.


James Rosenthal, II
Board of Appeals Chairman

Attest: 
Brenda A. Schneider
Board of Appeals Secretary

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Monday, August 12th, 2002, at 6:30 p.m., at the Taycheedah Town Hall for the purpose of considering the Conditional Use Permit application submitted by James Peterson Sons, Inc., to remove soil borrow material for construction of the Hwy. 151 bypass. Members present were Acting Chairman John Buechel, Bob Holzman, Tom Friess, Charlie Mathison and alternate Gale Burg. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order. The Secretary read the hearing notice.

Jeff Peterson, James Peterson Sons, Inc., was sworn in. Peterson Sons was awarded the contract for the Hwy. 151 bypass. They need to purchase and relocate between 100,000-150,000 yards of material. The relocation of materials will create a pond approximately five acres in size.

John Buechel asked if the pond would be stocked with fish. Jeff responded that it would be up to the property owners. The pond project is approved by the DNR. The DNR has yet to issue the permit. They must follow DNR guidelines. The pond will be made pleasing in appearance. The property is currently zoned agricultural. The property owners have not indicated their future intentions for the property.

Gale Burg questioned discharge from the pond. Jeff responded that any overflow will go to a stream to the north of the pond. There will be cross drainpipes. The current flow of the area is not heavy. It is all run off water. There are no springs in the area. Test holes were dug. There is little water in the area. The bypass will have a 300-foot right-of-way.

Charlie Mathison questioned how the pond will enhance the property? Jeff responded that if the landowner wanted, he could build a home at the site. He could also stock the pond with fish. The property owners were not present at the hearing. However, they did submit a written statement giving Peterson permission to obtain the Conditional Use Permit. The statement does not make reference to the property owner's future intentions. Copies of the statement were dispersed to the Board members.

Charlie Mathison asked if the project is subjected to the Fond du Lac County Erosion Control and Stormwater Management Ordinance. The project is exempt because it is a DOT project. Charlie is concerned that once the owner accepts the pond, Peterson walks away. He is also very concerned about the owner's future intentions. Jeff added that the bypass design will not allow water to run from the highway to private land and vice versa. The pond will be permanent with a 25-30 foot depth.

Sam Tobias, Fond du Lac County Planner, submitted a memo of support. Copies were dispersed to the Board members.

Gale Burg questioned inspections of the erosion control methods. Jeff responded that the DNR will inspect at least weekly. They intend to have the pond completed by fall, pending the weather.

Jeff was informed that any change to the use of the agricultural land would require approval from the Town Board, Plan Commission or possibly the Board of Appeals depending on the owner's intentions.

The project can't start until the Conditional Use Permit is approved and the DNR approves their permit. The DNR will dictate any revisions necessary. The DNR will inspect weekly. If the DNR determines additional erosion control methods are needed, Peterson will have 72 hours to get them in place.

Tom Friess asked if the DNR permit regulates insect or pest control of the pond? Jeff didn't know. Tom added that the Board may want to consider infestation control of mosquitoes. There is an organic farm in the area. There may be a need for chemical control. Dave Runde, Peterson Sons, added that he didn't think the DNR would allow spraying of chemicals. Jeff added that he has a 3.5-acre pond. He does not have a problem with mosquitoes.

Bob Holzman questioned the need to clean out weeds and grasses growing along the pond. Jeff responded that the grasses and weeds assist with erosion control. The site is all clay.

Dave Runde added that the pond will have a 1-foot deep, 10-foot wide safety shelf around the pond. The pond will be constructed the way the DNR wants it. The DOT works with the DNR on all highway projects.

Gale Burg questioned liability. Jeff stated that the landowner would be liable. The property owner is aware of his liability.

Charlie Mathison requested that as a matter of record, property owners must be present at future hearings requested by contractors.

The Board and Peterson, with the assistance of Attorney John St. Peter, discussed the sample Conditional Use Permit for a similar project that occurred in another town. Jeff stated that there will be no

August 12th, 2002

Board of Appeals
James Peterson Sons, Inc. Conditional Use Permit

2.

wear and tear of the roads because there is no need to use the roads. They intend to work at nights. Charlie Mathison questioned whether or not the issue should be table for one week. Peterson has a timing issue. They have a meeting scheduled with the DNR on August 20th. Acting Chairman John Buechel granted a five minutes recess in order to allow Peterson time to review the sample Conditional Use Permit.

Acting Chairman John Buechel called the hearing back to order.

Jeff Peterson commented that the permit is designed more for gravel operations. The wording would need to be changed to reflect the borrow operation, the date would need to be changed, and the anticipated completion date would be November of 2003. The pond will be 5-7 acres. Peterson stated the general conditions were acceptable. The group discussed the hours of operation. Peterson will be working in the bypass right-of-way. They intend to work at night, moving fill only. If they don't work at night, they won't be able to complete the project in a timely manner. Jeff estimated 60-70 workdays to do the pond. They will not work on Sundays. They do work on Saturdays as a make-up day in case of weather. They work two 10-hour shifts. Tom Friess suggested unlimited hours of operation Monday-Friday, 6a.m. to 5 p.m. on Saturday, no operations on Sundays or legal holidays.

The DNR demands that roads be swept. The setback of the pond is currently 35 feet from the bypass right-of-way.

Charlie Mathison asked Jeff if he is willing to speak to any neighbors having complaints? Jeff stated he is willing to speak to anyone.

Jeff added that a DOT engineer will be at the job site on a full-time basis.

Jeff questioned groundwater monitoring as stated in the sample permit. John St. Peter responded that it is stated as to not be a requirement but covers the Town. Jeff added that the DNR will monitor groundwater. The reclamation plan stated in the sample permit will be changed to erosion control plan. The topsoil will be used for berming. The subsoil will be used for fill. Remove the second sentence of no. 6. Leave no. 7 as is. Certificate of Insurance and Performance Bond sections are to stay as is. John St. Peter reviewed all the proposed revisions to the sample permit.

Gale Burg motioned to approve a Conditional Use Permit for the pond based upon the revisions summarized by John St. Peter and with DNR permit approval, seconded by Charlie Mathison.

Roll call vote:

Charlie Mathison	yes	
Gale Burg	yes	
Bob Holzman	yes	
Tom Friess	yes	
John Buechel	yes	Motion carried (5-0).

The public hearing was adjourned.

Attest: Brenda A. Schneider
Brenda A. Schneider
Board of Appeals Secretary

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Wednesday, September 11th, 2002, at 7:00 p.m., at the Taycheedah Town Hall for the purpose of considering an amendment to the Conditional Use Permit issued to Elmer Bertram and J&E Construction, Inc. for non-metallic mineral extraction operations. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order. The Secretary read the hearing notice.

The Bertram's and Eckert are requesting the Scope of Operations contained in the Conditional Use Permit be amended to allow the driveway to be relocated.

Dan Bertram was sworn in. Mr. Bertram stated that they are requesting to relocate the driveway due to the conflict between truck traffic leaving the pit and farm equipment leaving the farm. It is also very hard to control the dust all the traffic creates. The County Highway Department has inspected the site and has recommended a location at the far west area of the parcel. The scale will be relocated to the new driveway. The driveway will move approximately 900 feet west. The County Highway Department has issued the driveway permit. The culvert is in and some gravel has been laid. The County Code Enforcement Department has regulation over the stripping of land under the Non-metallic Mining Reclamation Ordinance. The new driveway will be gated. The current entrance into the pit from the farm driveway will be abandoned. The farm driveway will continued to be used for farm traffic.

Jim Eckert was sworn in. The scale will be moved to what will be the main ingress and egress to the quarry. The current opening off of the farm driveway will be closed by a berm wall after the scale is moved. The scale will be moved in about 10 days, after the concrete is poured and cured. The State has approved the scale re-location and will have to re-certify the scale after it is moved.

Mr. Eckert estimated 40-50 loads of stone leave the pit a day. Another company will take 150 tons out for the new highway project. Damage to any roads is covered in the contract. The other contractor must repair any damage. The State will take pictures of the condition of the roads before the contractor starts hauling. The State Engineer reports to the County. County Trunk Q to Hwy. 151 will be the main route for the new highway project.

The new driveway will be blacktopped after the new base settles. Mr. Eckert intends to lay recycled asphalt on the driveway. Sometimes the recycled asphalt driveway only needs a sealcoat. The recycled asphalt will be added right away in order to control dust.

Mr. Eckert estimated that 2-3 acres of stone has been quarried. The highway project will take another estimated 2-3 acres of stone.

Victor Freund questioned if it is permitted to install the driveway before the Conditional Use Permit is amended? Chairman Rosenthal stated that as long as it wasn't used for quarry activity.

Victor Freund asked Chairman Rosenthal why he removed himself from the Bertram's hearing four years ago and not now? Rosenthal responded that four years ago, the Bertram's took over Ervin Wollersheim's farm and he felt he needed to remove himself. Mr. Wollersheim passed away during the last four years and his wife is now in a home. Rosenthal believes he no longer has a conflict. Rosenthal informed Mr. Freund that there is a method in which he can appeal if he doesn't agree with his decisions.

Victor Freund stated that SBA tower company was fined for starting without a permit and the both businesses should be treated the same.

Chairman Rosenthal asked Mr. Eckert if the new driveway has been used for truck traffic. Mr. Eckert responded that it hasn't and that it isn't even connected on the other end.

Jill Steffes stated that she supports the relocation of the quarry driveway.

Charlie Mathison asked Dan Bertram if he anticipates moving the driveway again. Dan answered no.

John Buechel asked if signs will be added. Dan responded that the County talked about putting up truck entrance signs. Charlie Mathison commented on reducing the speed limit after doing a study. The road is under the County's jurisdiction.

Brenda Schneider informed the Board of the format used by Attorney John St. Peter for the permit renewal. The changes were not incorporated in the original format but noted on two separate pieces of

September 11th, 2002

Board of Appeals
Conditional Use Permit Amendment
Bertram/Eckert Quarry

2.

paper. Mike Freund, as a point of order, stated that he didn't think it was appropriate to discuss without a public notice.

Dan Bertram commented that the culvert was not installed until after the County issued the driveway permit. The Board reviewed the driveway permit. The County did not fill in the date the permit was issued. The check, no. 32226, was delivered on 8/8/02. Mr. Eckert stated that the engineer visited the site 2-3 days after he paid the fee. Chairman Rosenthal estimated the permit was issued around the 16th. Mr. Eckert added that the permit had to be issued before the culvert size was determined.

The Board discussed whether or not the installation of the driveway before the hearing was a violation of the Conditional Use Permit. The Board asked the Freund's for more information regarding the SBA fine issue. It was determined that the SBA situation was a land use issue not a Conditional Use Permit issue. Victor stated that he is not opposed to relocating the driveway but feels all should follow the rules. A majority of the Board feels that a violation did not take place due to the fact that the new driveway has not been used for truck traffic. Brenda was instructed to verify the Board's opinion with Attorney John St. Peter. Brenda informed the Board that the Town has not received a written violation complaint and that the notice for this hearing does not state consideration of a violation. Mr. Freund was asked if he would rescind his complaint. Victor Freund stated just drop the issue.

Charlie Mathison motioned to accept the County's approval of the driveway relocation for ingress and egress to the quarry, seconded by John Buechel.

Roll call vote:

Charlie Mathison	yes
Tom Friess	yes
John Buechel	yes
Bob Holzman	yes
Jim Rosenthal	yes

Motion carried (5-0).

Chairman Rosenthal asked Mr. Eckert to not use the new driveway until the Conditional Use Permit Amendment is signed.

Charlie Mathison motioned to adjourn, seconded by Tom Friess. Motion carried (5-0).

Attest



Brenda A. Schneider
Board of Appeals Secretary

TOWN OF TAYCHEEDAH
FOND DU LAC COUNTY, WISCONSIN

CONDITIONAL USE PERMIT

AMENDMENT #1

SEPTEMBER 11TH, 2002

KNOW ALL MEN BY THESE PRESENTS that on the 11th day of September, 2002, the Special Use Permit, now known as the Conditional Use Permit, issued to Elmer J. Bertram and J&E Construction Co., Inc. (together referred to as "Bertram") on September 1, 1998, was renewed on August 12th, 2002, for an additional 4 years, beginning September 1, 2002 and ending August 31, 2006.

The terms and conditions of the Conditional Use Permit, which is attached and incorporated by reference, shall remain in full force and effect during the term of this renewal permit, except as specifically amended, as follows:

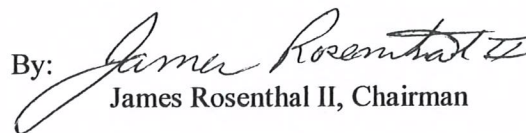
SPECIAL CONDITIONS

1. **Scope of Operations.** Ingress and egress to the quarry is limited to County Trunk Q as shown on Exhibit #1, dated 9/11/02.

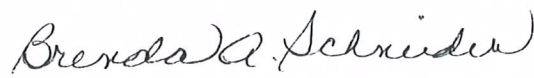
Unless specifically modified above, the terms and conditions of the Conditional Use Permit issued on September 1, 1998, including the remainder of Special Conditions No. 1, Scope of Operations, as set forth in Exhibit A, remain in full force and effect as if set forth in the renewal permit.

Dated this 11th day of September, 2002.

TOWN OF TAYCHEEDH BOARD OF APPEALS

By: 
James Rosenthal II, Chairman

Attest:


Brenda A. Schneider, Town Clerk

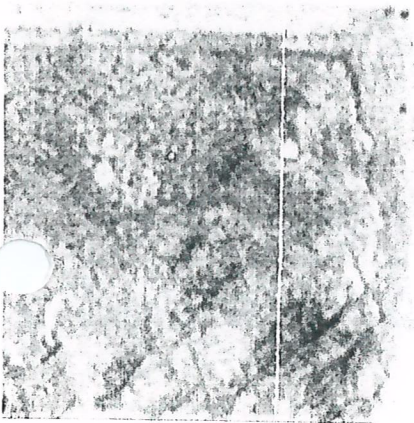
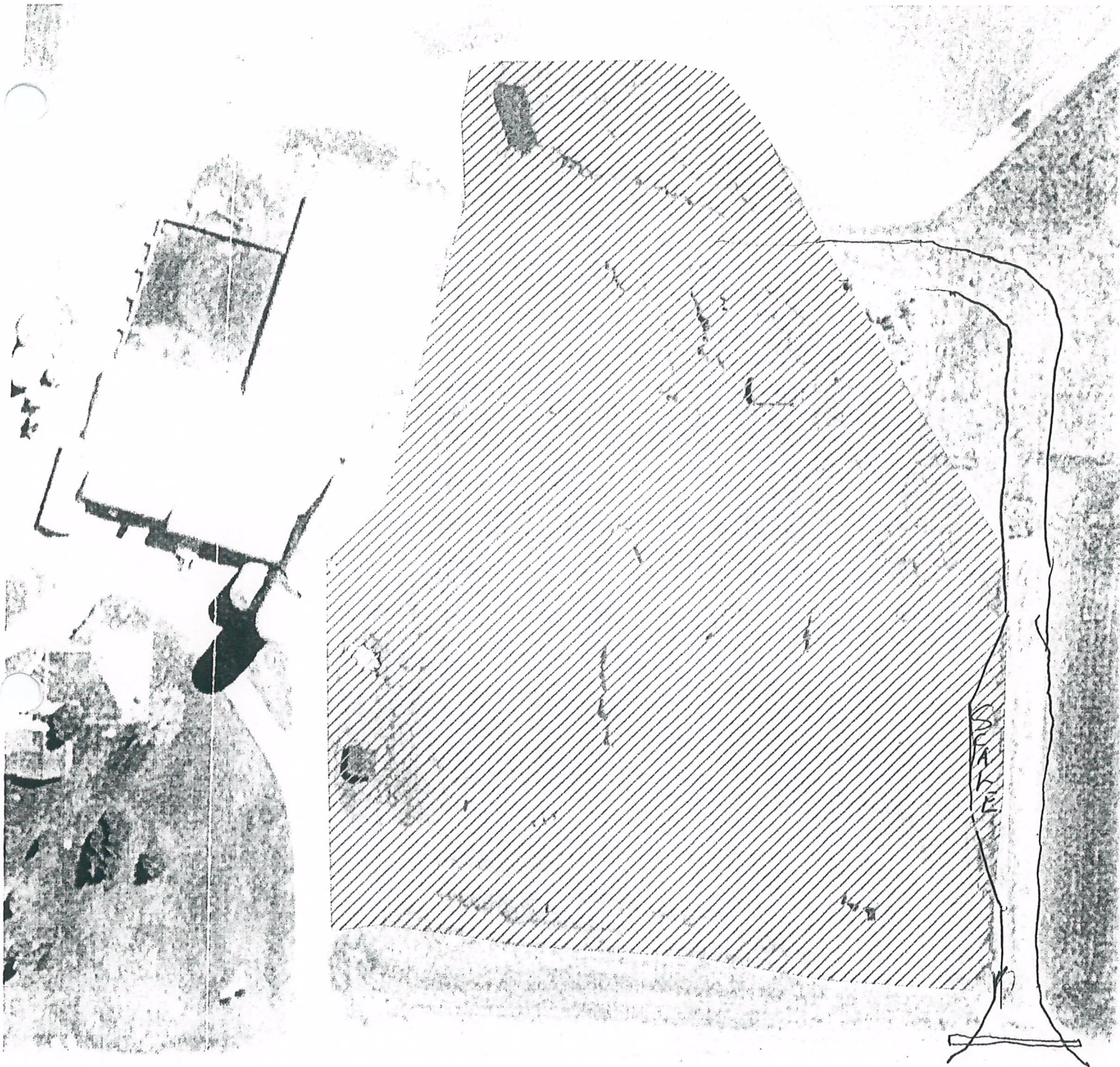


EXHIBIT
#1
9/11/02

Blumberg No. 5118

September 18th, 2002

Board of Appeals
James Peterson Sons, Inc. Conditional Use Permit

1.

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Wednesday, September 18th, 2002, at 6:30 p.m., at the Taycheedah Town Hall for the purpose of considering the Conditional Use Permit application submitted by James Peterson Sons, Inc., to remove soil borrow material for construction of the Hwy. 151 bypass. Members present were Chairman Jim Rosenthal, John Buechel, Bob Holzman, Tom Friess and Charlie Mathison. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order.

Jeff Peterson, James Peterson Sons, Inc., was sworn in. Peterson Sons was awarded the contract for the Hwy. 151 bypass. They need to purchase and relocate borrow material. The relocation of materials will create three ponds. Two of the ponds will be on the Schwartz property. The depth of the proposed ponds is 20 feet. If more material is needed, the ponds will be deeper. One pond will be five acres located to the south of Cty. K. And the other pond will be ten acres located to the west of the proposed bypass. Erosion control plans are required and monitored by the DOT. The new highway will have multiple box and pipe culverts to handle the sheet flow from the Ledge. The drainage plan is reviewed and approved by the DNR. The DOT's engineer will monitor erosion control measures during the construction phase. The ponds will be 50 feet from the right-of-way of Hwy. 151 or approximately 200 feet from the centerline. The ponds will have partial berming. The ponds will be similar to the ones at the new high school. They will be privately owned. The ponds will have a safety shelf. The small pond will start in the next two weeks. The large pond will start next spring. The project must be completed by Nov. 30, 2003.

Jerome Schwartz, property owner, was sworn in. The pond will be for private use. The closest neighbor would have to cross the highway in order to get to the pond. All the drainage runs through his land. The ponds will help with retention. Hopefully, the ponds will alleviate the flooding on Cty. K. He has made a few waterways through his land in the past. The new subdivisions and new roads have increased the runoff. The large pond will drain into Mr. Schwartz's waterway. The small pond will drain into the road ditch. The ponds will always have moving water. The water should not become stagnant. Mr. Schwartz selected the pond locations.

The Board discussed the sample conditional use permit.

John Buechel motioned that each pond will have a separate conditional use permit, in the same format as the permit for the LeFluer pond, seconded by Tom Friess.

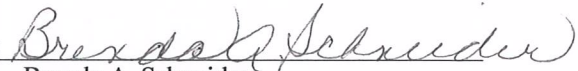
Roll call vote:

Charlie Mathison	yes
Bob Holzman	yes
Tom Friess	yes
John Buechel	yes
Jim Rosenthal	yes

Motion carried (5-0).

Chairman Rosenthal asked that Peterson not start until the Conditional Use Permit is in hand.

Charlie Mathison motioned to adjourn, seconded by John Buechel. Motion carried (5-0).

Attest: 
Brenda A. Schneider
Board of Appeals Secretary

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Thursday, September 26th, 2002, at 7:00 p.m., at the Taycheedah Town Hall for the purpose of considering a Conditional Use Permit application submitted by Steven Hamilton for the operation of an antique and classic automotive restoration business. Members present were Acting Chairman John Buechel, Bob Holzman, Tom Friess, and Gale Burg. Charlie Mathison was absent. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Acting Chairman called the public hearing to order and read the hearing notice.

Steve Hamilton was sworn in. His testimony was as follows:

- He is in the process of being re-located by the State of Wisconsin due to road construction. His current building will be demolished to make room for the construction of an overpass over Hwy. 26.
- He has an accepted offer to purchase the Lillian Schneider property. Closing is scheduled for Monday, September 30th. The offer is contingent upon obtaining proper zoning and the Conditional Use Permit.
- He thought he could use the existing building for his business. However, it is not large enough to meet State Codes. He will need to construct a new building.
- He proposes to erect a new building on the east side of the property.
- He intends to use the existing building for storage.
- His business is a low-traffic business. It takes several months to a year to complete one car.
- The restoration business is his full-time job.
- He does not have employees.
- The property won't look like a business.
- He will not have a sign by the road. He may put a small one on the building.
- His customer-base is by word-of-mouth.
- Mr. Hamilton presented current plans for the new building. He is working with Jim Pankow on the new building. The proposed building is 60x60. He needs enough space to accommodate his large equipment. The building may be reduced in size due to a desire to reduce the cost. He plans to preserve as many trees as possible. He may have to remove a couple of trees in order to reduce the amount of fill needed. The building will not have an exposed foundation. The building will look similar to the one Tim's Alignment is currently building. Silt fencing will be installed during construction.
- The property does not have culverts or ditches. Water drains to the north.
- There are no other outbuildings on the property other than the house and one detached building.
- The property was recently rezoned to B-2 because the sewer is not there yet. The house and the new building will have to be connected to the sewer when it is constructed. A temporary holding tank may have to be installed depending upon the timing of the sewer. A toilet will have to be installed in the new building in order to comply with State Codes.
- He will have to install make-up air units. One unit for the paint booth and another for the remainder of the shop.
- He intends to store all vehicles indoors using the existing building. However, there may be the need to store a vehicle or two outdoors on a short-term basis.
- The new building will need an additional driveway. The Town has indicated that because Ledge Road is a town road, there shouldn't be any problem.
- Mr. Hamilton presented pictures of his existing operation in Theresa. He is not going to operate a salvage yard. He keeps the property neat in appearance.
- He has to be out of his current building by April 1st, 2003. The State intends to begin construction in the spring.
- The house has an attached garage.
- The property was zoned business in the past. Schneider operated an electrical shop.

The group discussed the amount of industrial and business zoned property within the area.

September 26th, 2002

Board of Appeals
Conditional Use Permit
Steven Hamilton

2.

Gale Burg motioned to approve the Conditional Use Permit with the exception that vehicles not be stored outside. Motion died for lack of second.

- He does tend to work in the evenings. But common sense tells him not to do noisy work at night. He won't bend sheet metal during the evenings.
- He may blacktop the driveway if money permits.
- He intends to live in the home.
- He estimates the number of customers between none and six in a week's time.
- State law will require him to have lights mounted at every entrance to the new building. There is currently a vapor light on the old building and floodlights on the house operated by manual switches. He may add a light or two along the driveway.
- He plans to be ready to start construction in November. And anticipates completion in February. He needs to get the concrete footings laid before frost in order to complete by February.

Gale Burg motioned to approve the Conditional Use Permit with the following Special Conditions:

- 1) **General conformance.** Hamilton agrees to comply with the standards set forth in Section 13-1-66 of the Town of Taycheedah Zoning Ordinance and the business is a referenced Conditional Use in Section 13-1-56(c)(8).
- 2) **Construction commencement and completion dates.** Hamilton may start construction as soon as reasonably possible and shall complete in a timely manner.
- 3) **Type of construction.** The building shall be a pre-engineered building not to exceed 3630 square-feet.
- 4) **Access Restrictions.** A gravel driveway for ingress and egress to the business building is acceptable.
- 5) **Setbacks and yards.** The setbacks and yards shall comply with the Town of Taycheedah Zoning Ordinance.
- 6) **Type of Shore Cover.** Silt barrier fence(s) shall be installed during the construction phase.
- 7) **Fencing.** Outdoor storage of vehicles and waste materials shall be screened from public view by a natural or man-made fence.
- 8) **Disposal of waste materials.** All waste materials shall be disposed of in a timely and proper manner.

Tom Friess seconded the motion.

Further discussion of the group:

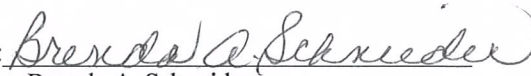
- The number of parking stalls is dictated by State Code.
- The storage of waste materials will be inside the shop. He must provide a containment area for liquid spills. The disposal of waste is dictated by State Code.

Roll Call Vote:

Gale Burg	yes
John Buechel	yes
Tom Friess	yes
Bob Holzman	yes

Motion carried (4-0).

The meeting was adjourned by Acting Chairman John Buechel at 7:58 p.m.

Attest: 
Brenda A. Schneider
Board of Appeals Secretary

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, October 24th, 2002, on behalf of James Voight. Mr. Voight requests a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a front setback of 42.5 feet from the center of Deadwood Point Road. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Charlie Mathison.. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read the notice.

James Voight was sworn in. Mr. Voight is buying the parcel from the Mengel's. The parcel is 60x124 to 128. Mr. Voight wishes to build a 24x36 garage on the parcel. The proposed front setback would be 42.5 feet. Fond du Lac County Shoreland Zoning has issued a permit for the garage. The County permit also allows for some filling to be done. The garage would be in the southeast corner of the lot. The garage would not cause any visibility problems at the intersection. Dave Mand will be the builder. A culvert already exists along the north lot line. The lot drains to the east. A majority of the natural flow goes along the road. Swales exist along both side of the lot. The garage door will face to the west.

A neighbor to the property voiced concern about the building becoming trashy looking.

The Board asked for additional details pertaining to the drainage of the lot. Mr. Voight presented and explained a detail drainage plan. An additional drain runs form the corner of the lot to the lake.

The Board asked about the setbacks of other properties in the immediate neighborhood. Two people in attendance stated their homes have a setback of 63.5 feet.

The Board questioned landscaping. Mr. Voight stated his intention was to plant lawn. However, he will put in shrubbery, if it's an issue.

Dave Mand was sworn in. Mr. Mand stated that the building will be of 2x4 construction with vinyl siding, -foot overhangs, aluminum soffits and gutters. It will have the appearance of a typical garage. It will probably be sided in earth-tone color(s). The lawn will probably be seeded next spring. Mr. Mand estimated three months to complete the project pending weather. Mr. Mand does not expect any heavy road traffic other than a cement truck. Materials will be contained on site.

Pat Guy, N8303 Deadwood Point Road, questioned the variance application. Mr. Voight stated that he has purchased the property since submitting the variance application. Mr. Guy is also concerned about aesthetics.

Jerry Guelig, Town Chairman, question why the structure has a 10-foot sideyard setback instead of the 5-feet per the Town ordinance. Shoreland Zoning requires 10-feet. Mr. Guelig stated that people seem to need additional garages in order to store all their equipment.

The Board re-addressed the drainage of the lot. Charlie Mathison is concerned about the neighbor to the south. Mr. Voight stated that any accumulation of water will occur to the front of the lot. The lot, with the exception of the filled area, is lower than the lot to the south. Mr. Mathison asked is the neighbor to the south gets excess water, will you take care of it? Mr. Voight responded yes, with Dave Mand's help.

Chairman Rosenthal asked Mr. Voight to submit a landscape plan to Brenda Schneider. Mr. Voight said he is sure his wife will come up with creative ideas.

Tom Friess motioned to grant the variance request to Mr. Voight for the garage on a substandard lot per the submitted drawing with the landscape request from the Board, seconded by John Buechel.

Roll call vote:

Charlie Mathison	aye
John Buechel	aye
Tom Friess	aye
Bob Holzman	aye
Jim Rosenthal	aye

Motion carried unanimously. The Chairman stated that the Board would like to see the landscape completed by June.

Charlie Mathison motioned to adjourn, seconded by Jim Rosenthal. Motion carried.

Attest. Brenda A. Schneider
Brenda A. Schneider
Secretary

TOWN OF TAYCHEEDAH

FOND DU LAC COUNTY, WISCONSIN

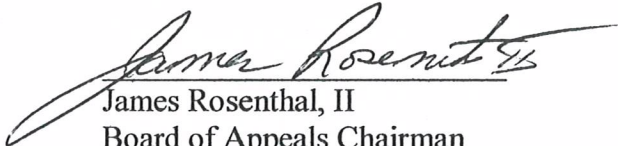
DECISION

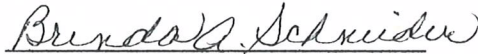
WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on October 24th, 2002, to consider the variance petition of James Voight, for property located on Deadwood Point Road, part of Gov't Lot 3, in Section 19. The property is located at the corner of Deadwood Point Road and Doloral Drive. Mr. Voight requested a variance to Section 13-1-24(f)(3)(a), Highway setbacks, of the Town of Taycheedah Code of Ordinances, in order to construct a detached garage with a 42.5-foot setback.

The Zoning Board of Appeals voted unanimously (5 yes, 0 no) to grant James Voight's variance petition to construct a detached garage with a minimum of 42.5-foot setback from Deadwood Point Road. Any drainage problems will need to be addressed by Mr. Voight. Mr. Voight is also required to landscape the property in an aesthetically pleasing manner.

The Board of Appeals decision may be appealed by an action in certiorari in circuit court with 30 days.

Dated this 11th December, 2002.


James Rosenthal, II
Board of Appeals Chairman


Brenda A. Schneider
Board of Appeals Secretary

The Town of Taycheedah Board of Appeals conducted a public hearing on Wednesday, December 11th, 2002, on behalf of Steve Hamilton. Mr. Hamilton requests a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a front setback of 75 feet from the center of Ledge Road. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Charlie Mathison. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read the notice.

Steve Hamilton was sworn in. Mr. Hamilton was granted a Conditional Use Permit for his antique and classic car restoration business. His initial plan was to construct a new building to the east of the house. However, the new building is not cost-effective. Mr. Hamilton wishes to build a 40x60 building to the west of the house. The existing building is of the wrong dimensions for what he needs. The doors are also in the wrong location. The new building's doors would face the house on the 40' side. The new building would be rotated in position as the current building. The front corner is currently 100' from the centerline. The new building is proposed to be 75' from the centerline. The setback of the house is also 75'. The new building would have a full foundation and frost wall footings. The existing concrete foundation materials would be buried to the north of the site. The building will have one floor drain and a catch-basis and a uni-sex bathroom that is handicap accessible. The building will be for working space only. The office will be located in the house.

He has a small number of clients. It is a full-time profession that involves total disassemble and rebuilding.

The building will have a paint booth made of manufactured steel with steel sealing doors. The booth will be connected to an air-exchange system. The system removes contaminants and exhausts them into the outside. Computer runs the air-exchange system. Fumes will not enter the shop unless the door is opened. The State requires certain measures be taken outside of the paint booth in order to prevent any possibility of flash fire.

Mr. Hamilton plans to use the east drive as the entrance to the garage. He intends to keep the U-shaped driveway.

The group discussed the existing slopes of the site.

Mr. Hamilton does not want to move the northwest corner back further than it is now in order to not obstruct the view of the lake from the house. His location request, with a 75' setback would require the least amount of fill and landscape. The angle of the new building would better match the angle of the house. The existing building was built before the house. The electric service is buried from the building to the house. The service run could be used with the new building at the proposed location.

Member Charlie Mathison explained the standards the Board of Appeals is required to apply to all variance requests. Mr. Mathison asked if the request was due to a hardship or a convenience? Mr. Hamilton stated that he has no other financial alternative. If he is not allowed to build the building, he will be put out of business. He was forced to re-locate by the State. He probably would not have moved if it weren't for the State. Mr. Mathison asked if the building could be placed 80-85' from the centerline. Mr. Hamilton responded that the electrical service would have to be changed, more fill would be needed and more excavating would be required. The driveway would be inconvenient.

Member John Buechel ask for details about the change in building plans from an earlier hearing. Mr. Hamilton responded the other site would have a greater distance for the sewer and electric service, required more fill, costs required a reduction in the size of the building, visibility and access are better at the new location and it would have been an additional building to pay taxes on. Mr. Buechel asked about the bathroom facilities. Mr. Hamilton stated that the hook-up is not functional and the water has been turned off for a number of years.

Member Bob Holzman asked about the height of the building. Mr. Hamilton responded that the current building has a sidewall height of approximately 10-feet and the new building will be about 14-feet with a 12:2 roof pitch. It will be about 19-feet at the peak. The structure will be similar to Tim's Alignment.

Member Tom Friess did not have any questions but did make several observations. The existing home is 75-feet from the centerline. The new building is proposed to be 75-feet. The new location is well suited to the present driveway. There would be no additional drainage surfaces. If the structure were built 100-feet from the centerline, there would be additional hard-surfaces and additional fill for an unknown impact of the drainage.

Mr. Hamilton stated that the current building has a slight view of the lake. Keeping the view is personal in nature.

Chairman Jim Rosenthal asked about the possibility of maintaining an 85-foot setback. The electrical service would have to be changed. He plans to bring in three-phase for the paint booth and metal shapers he uses. Mr. Rosenthal suggested swinging the northwest corner forward 10-feet which would cause the southwest corner to shift back 10-feet. Mr. Hamilton stated that it could be a possible compromise. It is unknown how much fill would be needed.

Member Charlie Mathison asked for an explanation on the forced re-location by the State. Mr. Hamilton stated that his former home/business was located on Hwy. 28 between Hwy. 175 and 41. The State decided to build a railroad overpass to the east of his property. Several homes have to be re-located. He owned .88 acres. After the State took what they needed, there was not enough left to rebuild the buildings. The overpass will cause his driveway to be 15-feet below road grade. The property line now runs through the home. Less than .4 of an acre was left. It was impossible to re-locate the driveway. So the State purchased the entire property.

Chairman Rosenthal stated the Board appeared to have three options: 1) vote on a 75' setback, 2) vote on no closer than 85' or 3) table for further review.

Member Tom Friess stated observations. The Board must consider if their decision affects public interest. There is no one in attendance objecting. The house has a setback of 75'. The Town's ordinance is more restrictive than the County's. The Board has been looking at the ordinance's restrictiveness. Mr. Friess also stated that it is his opinion that the loss of view could be considered a hardship, more so than additional excavating costs.

Member Bob Holzman questioned the impact to wildlife habitat if the building were built with a 100' setback. The proposed location would have the least impact on habitat.

Chairman Rosenthal asked about the possibility of rotating the building in order to obtain further distance. Mr. Hamilton stated that he hadn't considered it prior to the meeting. He stated that 75-feet was an arbitrary number. There will be additional costs. The costs are unknown.

Jim Rosenthal motioned to set the nearest point of the new building, not to exceed 3630 sq. ft., no closer than 85-feet from the centerline of Ledge Road, seconded by John Buechel.

Roll call vote:

Tom Friess	aye
Bob Holzman	aye
John Buechel	aye
Charlie Mathison	aye, due to the forced re-location by the State
Jim Rosenthal	aye

Motion carried unanimously. The Chairman stated that if the 85-foot setback causes a hardship, he may re-petition.

Jim Rosenthal motioned to adjourn, seconded by Charlie Mathison. Motion carried (5-0).

Attest. Brenda A. Schneider
Brenda A. Schneider
Secretary