

The Town of Taycheedah Board of Appeals met on Wednesday, February 5th, 2003, at 7:00 p.m., at the Taycheedah Town Hall for the purpose of reviewing a written complaint submitted by Jill Steffes regarding an alleged violation of the Conditional Use Permit to quarry issued to Bertram/Eckert. The written complaint, dated January 14th, 2003, was filed with the Town Board. The complaint alleges that the operator has failed to control dust. The complaint also refers to property damage. 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 meeting to order. The Secretary read the hearing notice.

A letter the Secretary received from J&E Construction, via over-night mail, was dispersed to the Board of Appeals members. Mr. Eckert acknowledges reimbursing Mrs. Steffes for the cost of duct cleaning. Mr. Eckert claims all issues were addressed and resolved. Mr. Eckert also has plans to address the dust issue during the upcoming season.

Jill Steffes was sworn in. Her testimony was as follows:

- John Ahlgrimm visited her on Jan. 21st, 2003. He explained to her the detail contained in the blasting logs. Mrs. Steffes has a copy of the logs from the fall until the end of the year. The logs do not contain data to prove the blasting caused the crack in her wall. Mr. Ahlgrimm has offered to fix the crack.
- A pre-blast survey was done. Mrs. Steffes never received a copy of it. Mrs. Steffes requests a new survey be done due to the remodeling that has been done to the home. Mrs. Steffes requests that Vibratex Engineers do the study. Mr. Ahlgrimm recommended the firm to her. The firm claims that videotapes or digital photos have no bearing in the event of litigation. Standard photos are the best form of evidence. Mrs. Steffes' home is the closest to the quarry that is not owned by a member of the Bertram family. Mrs. Steffes would also like to have a seismograph placed at her home for every blast.
- The dust control issue is not yet resolved. Mrs. Steffes' son has been diagnosed with asthma. Mrs. Steffes has paid \$459.38 for duct cleaning. She has a quote for \$774.00 to clean her house. She gave the receipt for the duct cleaning and the estimate for housecleaning to Mr. Eckert on Sept. 11, 2002. He apparently lost them. Mr. Eckert also testified on 9-11-02 that the driveway would be relocated and resurfaced shortly. The driveway has finally been relocated but has yet to be resurfaced. In the past, she spoke to Dan Bertram about the dust blowing from the piles. In July, she spoke to the crusher operator. The operator stated that if the Bertram's would let them use their water, he would use it with the crusher as it was made to be. Mrs. Steffes spoke to Matt Hostak, DNR, about the dust. Mr. Hostak informed her about Ch. NR 415, Control of Particulate Emissions. NR 415 contains provisions that apply to quarries. She is unsure of the applicability because it is based upon the amount of material removed.

Member Charlie Mathison asked Mrs. Steffes if she agrees with Mr. Eckert's letter stating that all issues have been resolved? Mrs. Steffes stated that part of her complaint has been resolved. She wants her house professionally cleaned, in order to get rid of the embedded dust. She wants the quarry to use water for dust control and she wants the quarry driveway surfaced.

Mr. Mathison commented that Condition No. 3 in the permit states that water for crushing activity must be brought on the site yet the permit does not require the use of water. Chairman Rosenthal added that the DNR stipulates that water be used if the quarry processes a specific amount of material. Member Tom Friess clarified that if the state requires water, the permit dictates that it be brought in, not when or where to use it. Chairman Rosenthal has made contact with the DNR in reference to this issue. He is currently researching it. Mrs. Steffes question if the quarry is exempt for NR 415, therefore, there would be no state control. She questioned if the Town would consider adopting an ordinance regulating fugitive dust? Only the Town Board has the authority to adopt an ordinance. Chairman Rosenthal questioned the applicability an ordinance would have over farmland. Mrs. Steffes researched the issue on the internet. Fine dust is the number one cause of asthma in children. They have installed central air. Their children cannot play outside. The dust flies in their eyes. Their deck needs to be swept; it looks like a beach. They can see the dust flying off the stockpiles. The last two years have been the worse. The blasting logs record the weather conditions at the time of the blasts. A number of the blasts occurred on gusty days. The piles should be watered and

the trucks should be watered as they leave. If J&E is not willing to water; maybe another operator should come in. Chairman Rosenthal commented that the operation is on a hill and the prevailing winds are out of the west.

Mrs. Steffes stated that the issue has become a medical issue for her family.

Chairman Rosenthal commented that the duct cleaning has been done and Mrs. Steffes has been reimbursed for the expense. The \$774.00 quote from Service Master is dated 8/21/02. It would need to be re-bid. Chairman Rosenthal would like to see J&E pay for the cleaning. Ahlgrimm agreed to repair the crack. Mrs. Steffes commented that she feels the crack repair should wait until the quarry is done. Chairman Rosenthal stated that would be an unknown amount of time. Mrs. Steffes also wants dust monitored to keep at a minimum.

Member Tom Friess commented that the blasting regulations and ordinance are based upon a distance of 1000 feet. Mr. Friess questioned how close the Steffes property is to the quarry? Mrs. Steffes answered 1450 feet from the blast site. Her home is the closest home not owned by a member of the Bertram family.

Member John Buechel asked if their vehicles get covered with dust? Mrs. Steffes responded, yes, constantly. They keep their vehicles in the garage with the door closed. She stated she even has to pick the dust when she is going to cut lawn. If it is too windy, the dust flies into her eyes.

Mrs. Steffes has been in contact with Matt Hostak, DNR. Mr. Hostak works in the administration of quarries for our area. He regulates airborne particles. Mrs. Steffes wants to continue working with Mr. Hostak. Chairman Rosenthal has also made contact with Mr. Hostak. Mr. Buechel questioned how the DNR monitors the dust? Chairman Rosenthal responded that data is collected from the blasting logs; calculations are made on the cubic yards of material sold and the cubic yards of material on the stockpiles. The tonnage will determine whether or not a quarry is exempt from watering during crushing operations as regulated in NR 415. The size of the piles, the hill and the winds add to the dust issue. Chairman Rosenthal plans to continue to pursue Mr. Hostak.

Member Tom Friess questioned the electrical service mentioned in the J&E letter. The Conditional Use Permit would need to be revised.

Member Charlie Mathison commented that it is almost as if the complaint needs to be re-written.

Chairman Rosenthal stated that the Board needs to look at and eliminate issues that have been resolved. The dust control and house cleaning appear to be the issues remaining. Mr. Ahlgrimm can be asked to provide more detail.

Member Bob Holzman discussed the use of photographs vs. video in pre-blast surveys.

John Ahlgrimm, Ahlgrimm Explosives, was sworn in. Mr. Ahlgrimm's testimony, in response to the issues discussed, was as follows:

- Mr. Ahlgrimm did the pre-blast surveys four years ago. He used photographs and videotape. The originals are on file with the Town Clerk. The Victor Freund, Mike Zimmerman and Dan Steffes properties were done. The homeowners did not get a copy. Mr. Ahlgrimm stated that he can provide a copy to the homeowner when the study is done, but he normally doesn't do it automatically. He is willing to re-do the Steffes' survey. He would use videotape and photos, with the originals to be given to the Town. Chairman Rosenthal commented that the Board needs to determine the best means in which to do a survey.
- The state requires one seismograph at every shot. Vic Freund requested a seismograph at the tower site. His company has eight seismographs. If another crew doesn't need one on a specific day; a second one could be used at the Steffes' property. The Freund's and the Steffes' have been the only ones to request a seismograph. The ordinance has a formula to be used in order to determine distance. Using the formula, the Steffes' are beyond the distance. J&E does the drilling. Mr. Ahlgrimm's crew does the blasting. They blast up to 35 individual charges per shot. Sometimes less than 35 but never over 35.
- Chairman Rosenthal asked how the blaster coordinates the 24 hr. waiting period stated in the permit? Mr. Ahlgrimm responded that they keep in contact with Northeast and work with Northeast Asphalt.

- Chairman Rosenthal asked what his company does as far as pre-blast notification? Mr. Ahlgrimm responded that they make a phone call at least 24 hrs. in advance and state a specific length of time. They try to call Dan & Vic Freund for every blast. When using the formula, the Freund's are outside of the distance zone. The Steffes' have recently requested notification. Chairman Rosenthal asked how he determines who is responsible enough to take a message? Mr. Ahlgrimm answered that they leave a message or speak to whoever answers the phone. Chairman Rosenthal asked if he could send a letter? Mr. Ahlgrimm stated that he could; however, a letter would state a specific period of time, such as, the next three weeks. A letter cannot be as specific. Chairman Rosenthal asked Mrs. Steffes and Dan Freund if they had a preference? Both said it didn't matter and that it was up to the company. Dan Freund commented that Northeast used to send the letters certified and stated that that wasn't necessary.
- Chairman Rosenthal asked about the maximum depth of the holes? Mr. Ahlgrimm answered that currently the holes are 30 feet deep. They have had to go up to 35 feet in some locations due to the contour of the rock. The top of the rock is not level. This year the holes might be between 25 to 35 feet. The goal is to keep the quarry floor level. The blast is more effective at 35 feet. Otherwise, they would need to drill on a 5-foot shelf next to a 30-foot wall.
- Chairman Rosenthal asked Mr. Ahlgrimm if he knew if the amount of material exceeds the exemption amount? Mr. Ahlgrimm responded that it could be figured based upon the amount blasted, not including what is stockpiled. Chairman Rosenthal asked what is the average number of times his company has blasted in the Bertram pit? Mr. Ahlgrimm answer 20 times a year. Last year could easily be doubled. His company has been blasting in the quarry since it started. His company has been in the blasting business since 1963.
- Chairman Rosenthal asked if it would be possible the have an additional seismograph placed at the Steffes property? Mr. Ahlgrimm answered that the units cost \$4000. He would have to buy another one. Mr. Ahlgrimm further stated that starting this year, a seismograph will be placed at both locations; the Steffes and the tower site.
- Chairman Rosenthal asked about dust containment? Mr. Ahlgrimm said he spoke to Jim Eckert before Mr. Eckert left on his vacation. Mr. Eckert talked about drilling a sump hole to create a pond in the corner of the pit. The sump hole would be approximately 40 feet by 40 feet and 15 feet deep. The water would come from the quarry floor. As the water would be removed, it would drain back to the hole. Mr. Ahlgrimm believes the hole would be at the water table. A well or sump hole would be an option.
- Chairman Rosenthal asked Mr. Ahlgrimm to estimate the amount of water needed for the quarry operation? Mr. Ahlgrimm estimated 4000 gallon a day, based upon water use he has seen at other quarries. It is purely an estimate. Other quarries use hoses to transport the water. The pit would need barriers. It would be hard to water the stockpiles. They talked about increasing the height of the berms. The higher the berm; the more effective it is. The berms do decrease the noise and dust. It is unknown if the Town's ordinances or state law limit the height of berms. Further research will need to be done.
- Mr. Ahlgrimm evaluated the blasting logs with Mrs. Steffes He also has a list of 100 reasons a house wall can crack. They concentrated on the blasting. Mr. Ahlgrimm is 99.99% confident the blasting did not cause the crack. He told Mrs. Steffes that he will repair the crack. However, he is willing to pay for the repair purely as a public relations measure, not as an admission of guilt. All blasts will be monitored at the Steffes' property this year.
- Chairman Rosenthal questioned the housecleaning issue. Mr. Ahlgrimm stated he spoke to Mr. Eckert about it. He claimed Mr. Eckert will pay for the housecleaning. Mrs. Steffes will get an updated quote and fax it to Mr. Eckert. Service Master is the only company in the area that can do restoration cleaning. She is satisfied with them.

Chairman Rosenthal summarized the need to do further research on the water issue, dust control issue and the berm issue. The issues need to be addressed in order to determine how to best handle them. Mrs. Steffes is satisfied with the housecleaning and crack repair issues. We are getting closer to resolving the issues for the benefit of the town as a whole; not just Mrs. Steffes. The Board of Appeals needs to get

answers from the DNR. The Board also needs to have Mr. Eckert at the meeting. The Board will need an additional meeting. Mr. Ahlgrimm commented that Mr. Eckert discussed installing some type of watering system regardless of the outcome with the DNR. The Board wondered why Mr. Eckert hasn't used water in the past. The Board discussed the tonnage issue. Mr. Ahlgrimm does not know the ratio applied to the amount blasted in order to arrive at the amount of saleable material. There is some degree of loss due to dust and substandard rock quality.

Mr. Ahlgrimm questioned whether or not he should do the pre-blast survey on the Steffes' property? Chairman Rosenthal respond to wait until the Board can obtain verification as to what method would hold up in a court of law.

Kim Bertram was sworn in. Her testimony was as follows:

- Chairman Rosenthal asked Mrs. Bertram if J&E uses water? Mrs. Bertram didn't know. She did comment that she has never seen a water truck at the quarry.
- Mrs. Bertram was asked about dust problems in her house. She stated that they have dust from the driveway and the farm fields, as well as the quarry. She said she doesn't know how much of the dust is from the quarry, the farm, or their lane. She also commented that the new driveway for the quarry will hopefully reduce the dust. The farm vehicles will still use the original driveway. Mrs. Bertram wasn't sure if the new driveway had been surfaced with the recycled blacktop yet. If not, it will be done. Chairman Rosenthal added that the permit requires it be done.

THE BOARD SUMMARIZED THE ISSUES RESOLVED:

- The housecleaning; pending an updated bid acceptable to Mr. Eckert.
- The duct cleaning; Mrs. Steffes has been reimbursed.
- The seismograph location; at the Steffes property. Ahlgrimm must maintain the 48 hr. waiting period.

THE BOARD SUMMARIZED THE ISSUED TO BE TABLED FOR FURTHER RESEARCH:

- The best method to use for pre-blast surveys and who will conduct it.
- Altering the berms.
- The dust control issue. Whether or not the quarry would be exempt from NR 415 and the supplying water to the quarry; sump hole vs. truck.

The Board of Appeals needs additional information from Mr. Hostak, at the DNR. The Board also needs to know the tonnage of material that goes out of the quarry. The operation cannot exceed 25 ton @ month in a rolling monthly average in order to be exempt. Mr. Ahlgrimm stated that he will get the information from Mr. Eckert.

Member John Buechel commented that the recycled blacktop should be done. Chairman Rosenthal stated he will look into the issue further.

Member Tom Friess questioned if the housecleaning should be done in a specific time frame acceptable to Mrs. Steffes? Mrs. Steffes commented that it would be dependent upon Service Master's schedule. Mr. Ahlgrimm will contact Mrs. Steffes tomorrow about the cleaning issue.

Member Charlie Mathison asked Mrs. Steffes if she would still be opposed to the Town Board renewing the Blasting Permit application? Mrs. Steffes responded that she would no longer be opposed.

Charlie Mathison motioned that the following issues were resolved:

- The housecleaning.
- The duct cleaning.
- Seismograph placed at the Steffes residence

And to table the following issues for further information:

- Pre-blast survey.
- The berm issue.
- The water issue/dust control.

February 5th, 2003

Board of Appeals
Bertram Quarry-CUP violation complaint

5.

Bob Holzman seconded the motion. Dan Freund asked for clarification as to whether or not a second seismograph would be placed at the tower site. Chairman Rosenthal answered, yes, at both locations.

Roll call vote:

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

Motion carried (5-0).

The Board of Appeals scheduled a tentative meeting for March 3rd, at 7:00 p.m.

Mr. Ahlgrimm will get the tonnage information to the Secretary as soon as possible. He was instructed to get the tons crushed per month for a minimum of the last two years.

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

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

The Town of Taycheedah Board of Appeals conducted a public hearing on Tuesday, February 25th, 2003, on behalf of Allen Wall's request of a variance to Sect. 13-1-101(u) of the Town of Taycheedah's Code of Ordinances to allow for rooftop signs at Peebles Plaza. 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.

Allen Wall was sworn in.

Mr. Wall is constructing a retail plaza at Hwy 149 and Peebles Lane. Mr. Wall requests a blanket variance for 3 x 8 roof signs to be placed above the porch area with an option of being lit. The plaza has a potential of nine tenants. There is no way to identify the businesses without signage. The porch roof height is eight feet. The signs would be about 10 feet above the ground; above the entrance door to each unit. The signs would not stick out of the side nor would they protrude above the peak of the main roof.

Mr. Wall's responses to Board of Appeals member's questions:

- The signs would have a clearing area for rain and snow.
- The signs would be about 20 feet below the peak of the main roof. There will be no possible way the signs will be seen from behind the building.
- The signs will front the road.
- Mr. Wall intends to change the existing sign at the intersection to identify the plaza and the retail tenants.
- Each tenant would be allowed a 3 x 8 sign.
- Mr. Wall is requesting a blanket variance for all future tenants so that he doesn't have to petition for a variance every time a new tenant moves in. It would be costly and time consuming to re-apply for every tenant.
- The lease agreement currently being offered is for one year. He may consider a six-month lease.
- The sign will be the expense of the tenant.
- Mr. Wall does not intend to have any other signs on the building.
- The signs will be removable in a permanent fashion. Some type of stationary framework.

Tom Friess commented that Section 13-1-109 states the Town Board and the Permit Issuer are suppose to make a recommendation to the Board of Appeals. Mr. Wall stated that he spoke to Jerry Guelig. Mr. Guelig said he has to go to the Board of Appeals. Ann Simon stated that the recommendation is suppose to come from the entire Board.

Ann Simon also stated that Tim Krawczyk was not notified of the hearing. Chairman Rosenthal read the list of property owners notified. Mr. Krawczyk was not on the list. Brenda Schneider explained that the County didn't recognize Mr. Krawczyk's purchase of the A&G Co. property until after Jan. 1, 2003. The ordinance states that all property owners of record within 200 feet must receive notice. The County will not update the Town's records until sometime next summer. Therefore, the notice was sent to A&G. Ann Simon responded that regardless what the tax roll shows, Tim has a right to be notified. Ann Simon feels the meeting should be stopped. Mr. Wall suggested the Board of Appeals asks Mr. Krawczyk for his opinion. Chairman Rosenthal stated that Mr. Krawczyk is in attendance and he sees no problem continuing. The other Board members agreed. Chairman Rosenthal also commented that Mr. Wall spoke to Town Chairman Guelig; who told him he needed to petition the Board of Appeals for a variance. The issue did come up during public comment at a Town Board meeting. Mr. Van Pelt was told he will have to go to the Board of Appeals. Tom Friess stated he supported Chairman Rosenthal because they are following past procedure and Mr. Krawczyk is in attendance. Chairman Rosenthal stated the hearing will continue, if anyone objects, there is a procedure they can follow.

The continuation of Mr. Wall's responses to Board member's questions:

- The canopy height is approximately eight feet.
- Sign uniformity will look better. The colors will be up to the tenant.

Tom Friess questioned Town Chairman Jerry Guelig about the objection to roof signs. Chairman Guelig doesn't know. Guelig added that lights should be on timers and all signs should be uniform. Guelig stated that the City's ordinance is 2 x 32 maximum for businesses. They also have height restrictions.

Mark Van Pelt stated that he feels signs on the covered walkway would be acceptable; but not on the roof peak.

Tom Friess asked Jerry Guelig why the Town Board doesn't consider changing the ordinance. Jerry Guelig responded that it could be done. He suggested the Board of Appeals make such recommendation. Mr. Wall responded that he is not asking for an ordinance change; he is asking for a variance for his building. Mr. Van Pelt asked the Town Board to consider an ordinance change. The Board told him to apply for a variance. He is asking for a variance for his building.

Ann Simon stated that roof signs are not allowed. They stand out more than signs on a building. She claimed studies have proven that roof signs detract drivers. Ann also stated that there is sufficient room by each doorway; the canopy area will be lit at night. The nearby residents should be considered. She added that the vet clinic sign hangs from the canopy and can be seen from the road. Mr. Wall responded that signs and lights will not be visible by the neighbors. Mr. Zimmerman added that the vet clinic is considerably higher than the road. Ann Simon added that the corner sign will list all the tenants. Charlie Mathison clarified that the signs are proposed on the roof of the covered walkway; not the main roof. Jerry Guelig stated that is immaterial; make the signs uniform. Charlie Mathison preferred the covered walkway.

Chairman Rosenthal stated that anyone can request a variance. He feels the Board needs to distinguish the maximum sign size, lighting limitations and location depth. Mr. Wall added that granting a variance does not change an ordinance. Chairman Rosenthal agreed. However, the Board needs to establish specifics. This variance may set precedence.

Mr. Zimmerman and Mr. Van Pelt agreed that a business owner spend a lot of money to get started and that it is important to identify the business and location. The signs must also be aesthetically pleasing.

Jim Rosenthal motioned to approve Mr. Wall's variance request with the following stipulations:

- Lighted signs must have a photo cell or manual switch,
- Lighted signs must be turned off when the business is closed,
- The signs can not exceed 24 sq. ft., 3 x 8, with a maximum backdrop of 8",
- Exterior illumination by florescent bulb style fixtures of low wattage sufficient to light the sign,
- The signs shall be positioned 2 feet from the lowest edge of the roof,
- The top of the signs can not exceed one-half of the pitch of the roof.

Motion was seconded by Tom Friess.

Jerry Guelig suggested further research be done by contacting a sign company. Mr. Wall stated that he will research the wattage issue. Further discussion was made regarding wattage.

Charlie Mathison amended the original motion by adding a condition that no roof signs be erected for temporary or transient businesses with less than a one-year lease, amended motion was seconded by John Buechel. The amended motioned carried unanimously.

Roll call vote of the original motion:

Bob Holzman	aye
Gale Burg	aye
John Buechel	aye
Charlie Mathison	aye
Jim Rosenthal	aye

Motion carried unanimously.

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

Attest. Brenda A. Schneider
Brenda A. Schneider
Secretary

TOWN OF TAYCHEEDAH

FOND DU LAC COUNTY, WISCONSIN

DECISION

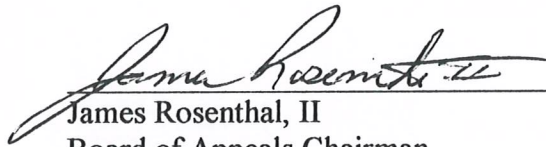
WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on February 25th, 2003, to consider the variance petition of Allen Wall, for property located at N7640 Hwy. 149. Mr. Wall requested a variance to Section 13-1-101(u), Signs, Canopies, Awnings and Billboards, of the Town of Taycheedah Code of Ordinances, in order to erect signs on the roof of the Peebles Plaza.


The Zoning Board of Appeals voted unanimously (5 yes, 0 no) to approve Mr. Wall's variance petition to erect signs on the roof of Peebles Plaza with the following conditions:

- Lighted signs must have a photo cell or manual switch,
- Lighted signs must be turned off when the business is closed,
- The signs can not exceed 24 sq.ft., 3 x 8, with a maximum backdrop of 8",
- Exterior illumination by florescent bulb style fixtures of low wattage sufficient to light the sign,
- The signs shall be positioned 2' from the lowest edge of the roof,
- The top of the signs can not exceed one-half of the pitch of the roof.,
- No roof signs are to be erected for temporary or transient businesses with less than a one-year lease.

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

Dated this 30th day of April, 2003.


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 Tuesday, February 25th, 2003, on behalf of Pat Mand. Mr. Mand requests a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a reduced front setback. 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 and the Chairman announced the neighboring property owners who were notified. Victor Fellers informed the Board that he is the current owner of the Nancy Prost property. Ms. Prost was his mother. She passed away a few years ago. County records still indicated Ms. Prost owns the property.

Pat Mand was sworn in.

- Mr. Mand wants to build a 32 foot addition to his existing shop. The addition would be 54 feet deep. The same depth as the current structure.
- The addition will have a concrete floor and be heated.
- The addition will be used to store his sewer jetter machine. It is a small hot water jetter used about fifteen times this year so far. It is currently stored at Dave Thome's. It is basically a power-washer.
- The existing shop does not have enough room inside to accommodate the construction of a separate room. He would have to store some of his equipment outside in order to make enough room.

Pat Mand's responses to Board of Appeals questions:

- The existing shop is 60 feet from the centerline.
- The last addition to the shop was done by variance approved in Jan. 1998, to add to the south.
- The first variance was approved in order to keep the new shop aligned with an existing barn. The second variance was for the addition to the south. This variance is for an addition to the north. The barn has been removed.
- The parcel elevation drops off to the back.
- Mr. Mand owns approximately .25 mile of frontage on Church Road.
- The property was always zoned ag. In May of 2002, the Town Board rezoned the property to business. Mr. Mand wanted to be in compliance, so he requested the change.
- The variance for the first addition states no more building to the south and north of the intersection of Church Road and McCabe Road. Chairman Rosenthal clarified to the north of the intersection or the south end of the building. The intent was to not obstruct view from the intersection.
- Mr. Mand preferred to not add to the north in 1998 due to the potential of selling off lots. He stated he now has no choice but to add on to the north.
- Adding on to the east would take a lot of fill. There is a 20 foot drop off there. Homes along Church Road could have walk-out basements due to the drop off.
- Mr. Mand didn't know if he had a hardship.
- Mr. Mand agreed that he owns the equipment needed in order to excavate and fill the area so that an addition could be made to the east. Mr. Mand added that the foundation would need to be deep. Chairman Rosenthal commented that the cement floor will require some fill in and around it. Mr. Mand responded no 20 feet worth. Mr. Mand also clarified that an addition to the east would not require a foundation but would require 20 feet of fill.
- Approval of the variance would follow the existing building line and would not hurt anyone. It wouldn't do anyone any good to be set back.

Tom Friess asked Chairman Guelig if he is aware of the any problems caused by the current building. Chairman Guelig is not aware of any problems. He further commented that the business is going though growing pains and that outdoor storage of equipment is not appealing. The Town needs to help out the business. He suggested adding a door to the north. John Buechel commented that he required to door on the south as a condition of the second variance.

Charlie Mathison asked Mr. Mand if the variance is approved, will he be coming back for another variance in 3-4 years. Mr. Mand responded that he couldn't predict.

Mr. Mand stated that if everything is stored indoors; the doors are usually shut.

Jerry Guelig suggested landscaping along the building up to a new door on the north end in order to enhance the appearance. Mr. Mand responded that he wouldn't do that because it wouldn't be practical. Mr. Mand feels it would look terrible. It would look too commercialized. He would also need a driveway to the north. John Buechel asked Mr. Mand if he feels the Board of Appeals should cater to him. Mr. Buechel does not see anything wrong with the suggestion. Mr. Buechel suggested Mr. Mand use his equipment to extend 20 feet for a driveway and add a door.

Mr. Mand's responses to further questioning:

- The existing building has three doors to the west and one on the south.
- The new addition would be used for a workshop, a washing bay and jetter storage.
- A door on the north would not work because the addition will be 32 feet wide. There would not be deep enough inside to turn the equipment around.

John Buechel commented that it would be possible to build a 32 x 54 addition that complies with the 100 foot setback if it were turned the other way. Mr. Mand responded that he wanted to stay with the existing building. Mr. Mand added that he would build on his lot on Hwy. 149 before he would build to addition to the existing building under compliance. He added that compliance would not be practical. He also added that if he extended the building 54 feet to the north instead of 32 feet; the building would be beyond the business zoned land and into the residential area. The Board of Appeals was concerned about more additions. Mr. Mand commented that he does not intend to add to the building in the future. He plans to leave the remainder of the land for residential purposes.

Mr. Mand stated that he is now doing sewer work. He is called on an emergency basis. He must respond quickly. He needs a heated storage area for the jetter. Mr. Mand feels that a reduced response time could be a hardship.

Mr. Mand's responses to additional questioning:

- The new addition would have one large door, one service door and windows for aesthetic reasons.

Victor Fellers commented that Mr. Mand's plans are fine with him. Clarence Kraus commented that Martin Birschbach called him and said that Mr. Mand's plans were OK with him.

Tom Friess motioned to grant the variance requested by Mr. Mand for a 32 X 54 addition to the existing building with a setback of 60 feet, an overhead door will face Church Road. The addition will have one service door and the probability of windows, seconded by Jim Rosenthal.

The north line of the business zoned property is 32 feet from the existing building. The entire building will be 185 feet long. Business growth will need more parking. The Board discussed the 15 foot sideyard requirement. The zoning change approved in 2002, for 2 acres from ag to business was explained. Mr. Mand stated that he is taxed as a business, he operates as a business and he currently has good neighbors. The Board discussed the boundary of the business zoned land. The business zoned area is not a separate parcel from the residential land to the north.

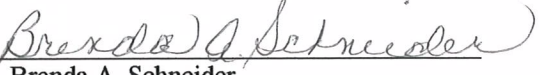
Roll call vote:

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

Motion carried unanimously.

John Buechel motioned to adjourn, seconded by Bob Holzman. Motion carried.

Attest.


Brenda A. Schneider
Secretary

TOWN OF TAYCHEEDAH

FOND DU LAC COUNTY, WISCONSIN

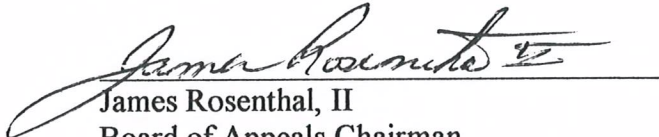
DECISION

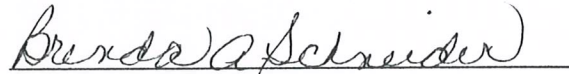
WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on February 25th, 2003, to consider the variance petition of Pat Mand, for property located at N7907 Church Road. Mr. Mand requested a variance to Section 13-1-24(f)(3)(a), Highway setbacks, of the Town of Taycheedah Code of Ordinances, in order to construct an addition to an existing building with a 60-foot setback.

The Zoning Board of Appeals voted unanimously (5 yes, 0 no) to approve the Mr. Mand's variance petition to construct an addition to an existing building with a minimum of 60-foot setback from Church Road. The addition will be no larger than 32 x 54 with an overhead door facing Church Road, one service door and windows.

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

Dated this 30th day of April, 2003.


James Rosenthal, II
Board of Appeals Chairman


Brenda A. Schneider
Board of Appeals Secretary

The Town of Taycheedah Board of Appeals met to reconvene a public hearing on Monday, March 3rd, 2003, on behalf of a complaint filed by Dan & Jill Steffes alleging violations of the Conditional Use Permit issued to Elmer Bertram and Eckert Construction. The public hearing is a continuation from February 4th, 2003. Members present were Chairman James Rosenthal, John Buechel, Gale Burg, and Charlie Mathison. Bob Holzman was absent. Also present was Matt Hostak of the DNR. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read the notice.

The Board of Appeals has the following unresolved issues remaining from the February 4th public hearing:

- Pre-blast survey.
- The berm issue.
- The water issue/dust control.

Jim Eckert was sworn in. Mr. Eckert's responses to the Board of Appeals questions were as follows:

- He said he paid the bill (to Jill Steffes).
- There was a lot of activity at the quarry after the stockpile was removed. There was a lot of dust.
- They used water in the crusher. The loader carried the water from a hole. After two days they ran out of water.
- They sold \$92,000.00 worth of stone at \$.50 per ton.
- He wants to dig a bigger hole in order to get the volume of water needed.
- Drilling a well would require a revision to the Conditional Use Permit.
- Last year, they would have needed a sprinkling system to keep the dust down because there was too much traffic.
- They are now using the new driveway. The old one was closed off.
- The new driveway has not been resurfaced yet. He plans to lay 2-3" of recycled blacktop and use oil to compact it.
- The height of the tallest pile was approximately 30 feet, which was about 10 feet from the top of the berm.
- The piles are made by a conveyor system. They had to stockpile for the highway project. It was too much in one area.
- The operation received complaints when the wind would pick up.
- They did use water from the Bertram well. The pit is frozen now.
- The stone was soft which causes a lot more dust. They might use the soft stone for breaker run. They will go around it if it won't work for breaker run.
- Water is running out of the rock into the pit. There is enough water to supply a new water hole. There is a natural bowl in the back that can hold 2 to 3 buckets of water, and then it dried up. Everything dried up. If it gets that bad in the future, we will shut down. Local traffic would be sent to Stockbridge.

Member Tom Friess pointed out that the permit does not allow water to be taken from any well. Water can only be trucked in.

Mr. Eckert supplied tonnage data from 2000, 2001 and 2002 (Exhibit 1).

Jill Steffes was sworn in. Her response to Board of Appeals questions were as follows:

- She has been reimbursed for the duct cleaning.
- A revised quote for the house cleaning was faxed to Mr. Eckert. The house cleaning has not yet been done.
- A seismograph is being placed at their home.
- Mrs. Steffes agrees that the berm issue, dust/water issue and pre-blast survey are unresolved.
- In July 2002, Mrs. Steffes and neighbor Greg Schwantes, talked to the crusher operator. The dust was bad that day. The operator told them that he did not have access to water.

Matt Hostak, WDN, responses to questions from the Board of Appeals:

- Mr. Hostak was contacted a couple of months ago by Jill Steffes.
- DNR regulates air pollutants. Some of the regulations apply to quarry operations depending upon the quarry capacity and actual production.
- Prior to being contacted by Mrs. Steffes, Mr. Hostak sent a letter to Virginia Bertram about the quarry operation. She called him and left a message. Mr. Hostak couldn't get a hold of Mrs. Bertram because he made an error when recording her phone number.
- Based upon the tonnage stated in Exhibit 1, some of the regulations may apply.
- The quarry operation is exempt due to the fact that it produces less than a 25,000 tons a month average.
- Regulations on crushing equipment are based upon the capable production on an hourly basis. The quarry crushing operation is exempt due to non-ability to exceed the 150 tons per hour capacity limits (Mr. Eckert claims 130 ton per hour capacity).
- The DNR issues permits for air pollution sources depending upon certain thresholds; which is 150 tons capacity.
- The federal level has the same threshold.
- Most of the regulations won't be tripped by the capacity and operation of the Bertram quarry.
- The general fugitive dust regulation applies to anyone who owns or operates anything causing fugitive dust. The owner or operator must take some action to minimize the fugitive dust. Mitigation is usually based upon the availability of water.
- Mr. Hostak has not been in the pit but has observed truck traffic. Mr. Hostak is willing to observe the pit operation when production begins for this season. Mr. Hostak is also willing to work as mediator between the quarry operator and Mrs. Steffes.
- There is another threshold pertaining to the number of days of operation if less than 365 days in the previous five years. He would need to review the exact wording.
- Most owners or operators are workable.
- If DNR determines there is a violation, they will take administrative enforcement. If that doesn't resolve the problem, forfeitures can be made up to \$25,000 per day, per violation.
- Most quarries have run-off water in the pit, which is frequently used as a source of water. He is not aware of any DNR regulations prohibiting the use of that water. Frequently, pits have to de-water in order to operate.
- Increased berm height may help mitigate the dust. The DNR regulations do not address berms or barriers.

The fugitive dust issue:

Mr. Hostak agreed to work with J&E Construction to develop a plan to control the fugitive dust. Jim Eckert agreed to work with Matt Hostak. Operations will begin around March 15th. Mr. Hostak said he was flexible when asked how long it would take him to develop a plan. He added that he is only a half hour away. He further added that there is no quantitative standard-what is a nuisance to one may not be to another. Mr. Hostak was asked by the Board of Appeals to develop reasonable suggestions or guidelines to minimize the dust coming out of the quarry by mid-May. Mr. Hostak stated that it would be very possible, especially with the operator willing to work with him. The issues to be addressed are berm height, driveway resurfacing and water use in the pit. The current water supply should last until May. Mr. Hostak agreed to contact Brenda Schneider by early May. The Board of Appeals Chairman instructed Mr. Hostak and Mr. Eckert to meet as soon as possible. Mr. Eckert will have to notify Mr. Hostak when operations have begun for the season. Mr. Hostak is to forward all correspondence to Brenda Schneider, who will disperse the materials to the Board of Appeals members. The issue cannot be resolved until after a plan is developed.

The pre-blast survey issue:

Chairman Rosenthal contacted Vibrateck. Vibrateck would do the survey for \$225 per house. The survey would include pictures and a detailed report done wall-wall, room-by-room. Ahlgrimm Explosives is willing to re-do the survey. Vibrateck was unable to advise what documenting method is better. Vibrateck did state to Chairman Rosenthal that as long as the surveys are held by someone other than the

March 3rd, 2003

Board of Appeals
Bertram Quarry-CUP violation complaint reconvened

3.

owner, operator or blaster, the courts would probably consider the surveys legitimate. Chairman Rosenthal stated that he would feel better if an independent company did the survey. Member Tom Friess commented that in researching past claims of damage occurring to property in the Town; it was hard to prove that blasting caused the damage. Chairman Rosenthal stated that the ordinance requires surveys. The question is does the Board want Ahlgrimm to do it or an independent? The surveys are required every six years, sooner if major improvements have been made. The current surveys were done four years ago (3/25/99). Dan Freund suggested re-doing all three surveys now then they would be done for another six years. Chairman Rosenthal stated to Mr. Eckert that the Steffes house has had substantial improvement since the last pre-blast survey was done. She has requested a revised survey. It was suggested an outside source be used. Mr. Eckert was asked if he preferred to pay for just a survey of the Steffes house or if he preferred to re-do all three surveys. Jon Ahlgrimm suggested he re-do the surveys using photos and present them to the Board. Mrs. Steffes commented that the report done by Mr. Ahlgrimm does not meet the requirements of the ordinance. Mr. Eckert agreed to re-do the Steffes survey using Vibrateck and wait another two years before re-doing the others. The Board of Appeals reviewed the photos contained in the 3/25/99 survey done of the Steffes property.

Jim Rosenthal motioned that an independent company be hired to do a pre-blast survey of the Jill Steffes home as soon as possible, Jon Ahlgrimm is to contact Brenda as soon as it is complete and Brenda will forward a copy of the survey to Jill Steffes, seconded by John Buechel. Roll call vote:

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

Motion carried (4-0-1 absent).

Issues unresolved:

- Fugitive dust
- Berm height
- Water use and source

Mr. Hostak and Jim Eckert will develop reasonable controls.

Jon Ahlgrimm informed the Board that the contour of the rock increases to 35 feet in some spots. There is less topsoil in some spots than there is in others. Mr. Ahlgrimm asked for some guidance. The CUP states a maximum drill depth of 25 feet with a quarry depth not to exceed 30 feet. The Board understands the need to maintain integrity of the quarry floor. However, it was advised that the CUP be amended. An amendment to the permit will be added to the meeting to be held in May. Mr. Ahlgrimm was instructed to be prepared to present some type of plan at the next meeting.

Tom Friess motioned to adjourn, seconded by Charlie Mathison. Motion carried (4-0).

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

April 3rd, 2003

Board of Appeals
Daniel Mueller setback variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, April 3rd, 2003, on behalf of Daniel & Rhonda Mueller. The Mueller's request a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a reduced front setback. Members present were Chairman James Rosenthal, John Buechel, Gale Burg, 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.

Daniel Mueller was sworn in.

Mr. Mueller wants to replace his garage at N7772 Sandy Beach Road. Mr. Mueller's current structure is 24 x 24, with a setback of 35 feet from the center of Sandy Beach Road. Mr. Mueller would like to replace the garage with a 24 x 36 garage with the same front setback of 35 feet. The reduced setback would allow for the appropriate distance from the house in order to allow a view from the road. The new garage would have a 10 foot sideyard setback in order to meet Shoreland Zoning and would be 12 feet deeper than the existing garage.

Mr. Mueller presented pictures showing several neighboring structures with setbacks of 35 feet. Susan Lange's property to the south has a 64 foot setback but her house is closer to the lake than the others. The houses staircase along the lake.

The new structure would be wood-framed with vinyl siding and 10 foot sidewalls. The roof would have an 8:12 pitch. Two garage doors would be installed at the side of the garage.

Shoreland Zoning has issued a permit.

Mr. Mueller's responses to Board of Appeals member's questions:

- Mr. Mueller plans to adjust the existing grade a little in order to eliminate a pocket near the garage from road run off. His excavator suggested 4-6".
- The property has a big swale on the north side and a shallow one on the south. Their existing garage is higher so no additional water will flow onto their lot.
- Spike did not require elevations for the sides. All he wanted to see was arrows. The lot slopes to the lake.
- Averaging a reduced setback would be about 49.5 feet.

No objections were made by any of the neighbors.

Gale Burg motioned to approve a 35 foot setback. Motion died for lack of a second.

- Several Board members were concerned about the drainage. Mr. Mueller was asked to have his excavator present a letter attesting to proper drainage.
- Mr. Mueller commented that Manowske would benefit from the new building with a deeper sideyard due to current large puddle accumulations.
- The project meets the County's 25% impervious surface rule.

Gale Burg motioned to accept the garage be built, with a 35 foot front setback, according to the specs submitted by Mr. Mueller and some documentation from Tim Simon, the excavator, verifying the drainage will be appropriate, seconded by John Buechel.

Roll call vote:

Bob Holzman	aye-emphasizing a concern about drainage
Gale Burg	aye
John Buechel	aye
Charlie Mathison	aye
Jim Rosenthal	aye

Motion carried unanimously.

The hearing was adjourned.

Attest. Brenda A. Schneider
Brenda A. Schneider
Secretary

TOWN OF TAYCHEEDAH

FOND DU LAC COUNTY, WISCONSIN

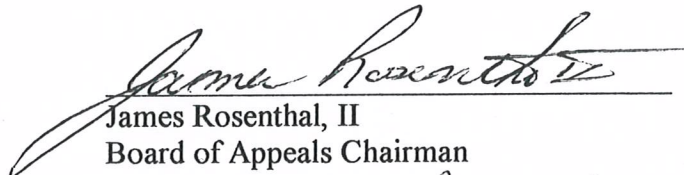
DECISION

WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on April 3rd, 2003, to consider the variance petition of Daniel & Rhonda Mueller, for property located at N7772 Sandy Beach Road. The Mueller's 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 35-foot setback.

The Zoning Board of Appeals voted unanimously (5 yes, 0 no) to approve the Mueller's variance petition to construct a detached garage with a minimum of 35-foot setback from Sandy Beach Road.

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

Dated this 30th day of April, 2003.


James Rosenthal, II
Board of Appeals Chairman


Brenda A. Schneider
Board of Appeals Secretary

April 3rd, 2003

Board of Appeals
Jeff Ratzburg setback variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, April 3rd, 2003, on behalf of Jeff & Barbe Ratzburg. The Ratzburg's request a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a reduced front setback. Members present were Chairman James Rosenthal, John Buechel, Gale Burg, 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.

Jeffrey Scott Ratzburg was sworn in.

Mr. Ratzburg wants to build a detached garage on his outlot across from N7762 Sandy Beach Road. Mr. Ratzburg plans to have a setback the same as his neighbor's garage so he still has a usable lot remaining. The lot is 145 feet deep and the east end of it is low. A ditch runs along it. Bill Fife owns the ditch. The ditch never overflows. It drains between two houses between Sandy Beach Road and Hopokoweka. The farmer stays 6-8 feet away from the ditch. The ditch stays wet. There are approximately 14 properties along the ditch. Charlie Mathison suggested he and his neighbors approach Mr. Fife about buying the ditch. Charlie explained drainage patterns from the Ledge to the lake. The DNR would probably need to get involved, especially if wetlands are impacted. The area does not use culverts. All water flows to the ditch.

Shoreland Zoning has issued a permit.

Mr. Ratzburg's responses to Board of Appeals member's questions:

- The pitch of the house is 6:12. The County told him he could use the same pitch on the garage.
- The garage will have gutters and downspouts and a cement driveway. Gale Burg suggested not exceeding 6:12.

No objections were made by any of the neighbors.

Several Board members were concerned about the drainage. Mr. Ratzburg was instructed to have his excavator submit a drainage plan done in 50 foot increments.

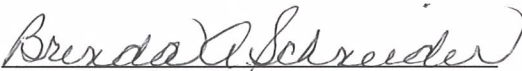
Gale Burg motioned to approve the garage as proposed with a 51.5 foot front setback with the condition that a drainage plan be prepared, considering pre and post construction, and be submitted to Brenda, a review be done on the condition of the swales on the north and south sides of the property, and that gutters and downspouts be pitched to the ditch. Charlie Mathison added that a swale on both sides be pitched to the back. Motion was seconded by Jim Rosenthal.

Roll call vote:

Bob Holzman	aye
Gale Burg	aye
John Buechel	aye
Charlie Mathison	aye
Jim Rosenthal	aye

Motion carried unanimously.

Charlie Mathison motioned to adjourn, seconded by Gale Burg. Motion carried.

Attest. 
Brenda A. Schneider
Secretary

TOWN OF TAYCHEEDAH
FOND DU LAC COUNTY, WISCONSIN

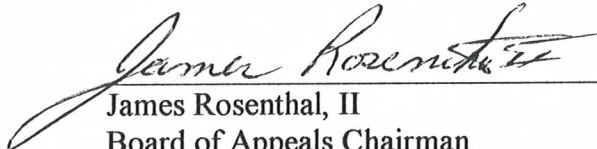
DECISION

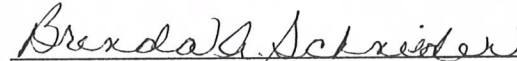
WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on April 3rd, 2003, to consider the variance petition of Jeff & Barbe Ratzburg, for property located across from N7762 Sandy Beach Road. The Ratzburg's requested a variance 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 51.5-foot setback.

The Zoning Board of Appeals voted unanimously (5 yes, 0 no) to approve the Ratzburg's variance petition to construct a detached garage with a minimum of 51.5-foot setback from Sandy Beach Road.

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

Dated this 30th day of April, 2003.


James Rosenthal, II
Board of Appeals Chairman


Brenda A. Schneider
Board of Appeals Secretary

June 2nd, 2003

Board of Appeals
Bill & Beth Schneider setback variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Monday, June 2nd, 2003, on behalf of Bill & Beth Schneider. The Schneider's request a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a reduced front setback. The property is located at N8706 Cty. Tr. W. 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.

William K. Schneider was sworn in. His testimony and responses to Board of Appeals questions were as follows:

- Mr. Schneider proposes to remove his current attached garage and replace it with a 46 x 28 attached garage.
- The proposed garage would be five feet closer to the road than the existing but would not be closer to the road than the existing house.
- The proposed garage would have a 65' 10" setback and the house has a 55' setback (with the front porch).
- The home's septic tank is behind the garage, thereby, limiting the possibility of complying with the 100' setback. Mr. Schneider plans to build as close to the tank as possible.
- The new north sideyard setback will be 78'. The Malone Post Office abuts to the north.
- The existing garage is a two car garage. The new garage will be a three car.
- There is an existing U-shaped driveway; therefore, the main driveway will not need to be expanded.
- The new garage will have 9 foot sidewalls and 8 foot overhead doors.

No objections were made by any of the neighbors.

Several Board members were concerned about whether or not the County Highway Commissioner needed to address the reduced setback. Mr. Schneider is to contact Ernie Winters, Highway Commissioner to verify the County's position regarding the front setback.

Charlie Mathison motioned to approve the variance petition as presented for an attached garage with a 65' 10" setback and to check with the County pertaining to any regulations affecting his front setback, seconded by John Buechel.

Roll call vote:

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

Motion carried unanimously.

The hearing was adjourned.

Attest. Brenda A. Schneider
Brenda A. Schneider
Secretary

TOWN OF TAYCHEEDAH

FOND DU LAC COUNTY, WISCONSIN

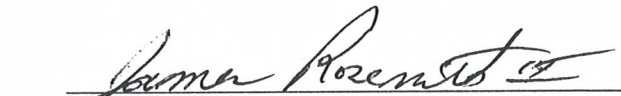
DECISION

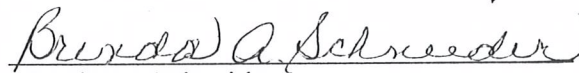
WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on June 2nd, 2003, to consider the variance petition of William & Beth Schneider, for property located at N8706 Cty. Tr. W. The Schneider's requested a variance to Section 13-1-24(f)(3)(a), Highway setbacks, of the Town of Taycheedah Code of Ordinances, in order to construct an attached garage with a 65'10" setback.

The Zoning Board of Appeals voted unanimously (5 yes, 0 no) to approve the Schneider's variance petition to construct an attached garage with a minimum of 65'10" setback from Cty. Tr. W.

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

Dated this 2nd day of July, 2003.


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 Monday, June 2nd, 2003, on behalf of Warren & Judy Post. The Post's request a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a reduced front setback and Sect. 13-1-142(e)(1) for a swimming pool on a vacant lot. 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.

Charlie Mathison requested each variance request be addressed separately.

Warren Post was sworn in. His testimony was as follows:

- When he and his wife married; they merged two households.
- He enjoys woodworking. His tools take up the entire garage. The basement would not be adequate for his tools.
- He bought the lot across the road with the intent to preserve nature. They have done landscaping on the lot. He and his neighbors garden on the lot. He does not intend to build a house on it. Nor does he plan to connect the sewer to it.
- He needs to gain more storage for lawn and garden equipment.
- He needs to gain indoor storage for cars.
- The garage addition would be a direct extension with a sun-porch on the front. The addition would be large enough to park 2-3 cars in it.
- The building on the vacant lot would be for storage of lawn and garden equipment and the storage of garden produce.
- A gazebo would be attached to the pool for recreation activity and to enjoy the view of the lake.
- The pool/building would face north and would be behind a bank of trees.
- He wants to build the pool/building closer to the road in order to have it on higher land and for the view.
- He was forced to sell 30 feet of the property to the state for the Hwy. 149 project.
- The pool/building will not intrude on power lines.
- The side of the pool/building would be in view of the house.
- The vacant lot is heavily used.
- The dictionary definition of contiguous is *nearby but not connected to*.
- Mr. Post is a pediatrician and is concerned about safety.
- The pool will have 52"-54" sides with a fence at least 6 feet in height. Access to the deck will be with a combination lock. He plans to install an alarm. It will be safer than most pools in the area.

Mr. Post's responses to the Board of Appeals questions were as follows:

- The addition to the garage would look the most natural. It would be a 20 foot addition with a gable to the west.
- The existing front setback is 68 feet. The addition would reduce the setback to 48 feet.
- The driveway is on a corner. The land to the east of the driveway is level. The west side is fairly level.
- The garage would block the view of a head-high hedge. The corner of the curve has two large pine trees and a couple of olive trees. The driver's view would not be worsened by the garage addition due to the existing vegetation. Mr. Post believes there would be no additional danger. The garage will not impair the view.
- The existing approach is long enough for two cars with a few extra feet left to the right-of-way. The Board was concerned about a future shift in the road and the possible future construction of sidewalks.
- The subdivision consists of approximately 18 house all using a circular road with one exit onto Hwy. 149.

Public comments regarding the garage addition were as follows:

- A concern about the existing vegetation impairing the vision triangle.
- A concern about the possibility of additional parking on the street.
- A concern that large vehicles parked in a short driveway would obstruct the view.

- Pedestrian traffic at night could be a hazard.
- Decrease in property values due to a possible obstruction of their view of the Lake.
- The south end of the subdivision has more traffic due to a higher density of homes.
- The subdivision's phase 1 is covered by a Restrictive Covenant that stipulates a Control Committee with architectural controls. The lot owners were not addressed about the project. The covenants stress a 75% vote by secret ballot is required for approval. Mr. Post felt he needed Town approval before going to the lot owners. It was noted that the Board of Appeals does not have the authority to enforce covenants.
- There is plenty of room to the east side of the house to accommodate the garage addition. However, the addition may require a wider driveway.
- The public was given the opportunity to review the garage addition plans. Mr. Post explained to layout of the existing garage and the plans of the addition.
- Steve Karpathian signed a petition supporting the pool project for Mr. Post. The petition did not contain the garage addition. Mr. Karpathian requested his signature in support be stricken.
- Mr. Post was asked to consider removing the pine trees or at least trimming the lower branches in order to improve visibility. Mr. Post stated he was willing to trim the lower branches.

Mr. Post's responses to the Board of Appeals questions were as follows:

- The approach would have a minimal pitch with no significant water drainage across the driveway.
- The existing garage could store two vehicles. It currently houses woodworking equipment and lawn and garden equipment. The garage addition is needed for vehicle storage.
- The basement is finished and the stairway would be difficult for taking tools and supplies up and down. It would be expensive and difficult to alter the stairs to a better manner.

Jim Rosenthal motioned to deny the variance for the garage addition due to the possibility of building a garage addition that would comply with the ordinance, seconded by Charlie Mathison.

Roll call vote:

Tom Friess	no	
Bob Holzman	no	
John Buechel	yes	
Charlie Mathison	yes	
Jim Rosenthal	yes	The motion was lost on a 3-2 vote. A vote of 4 is required.

After further discussion regarding driver visibility and the lack of hardship, Tom Friess motioned to grant the variance request for the garage addition with a reduced front setback, with the stipulation that the pine trees be trimmed to a height that allows visibility around the corner, seconded by Bob Holzman.

Roll call vote:

Charlie Mathison	no	
John Buechel	no	
Bob Holzman	no	
Tom Friess	no	
Jim Rosenthal	no.	Motion failed. The variance is denied.

After a brief break, the public hearing resumed at 9:15 p.m.

Mr. Post's responses to the Board of Appeals questions regarding the pool/storage building/deck were as follows:

- The setback would be approximately 55 feet from the center of the road.
- The pool would be 18' x 34' and be 4 to 6 feet deep.
- A deck will be built completely around the pool.
- The east side of the deck would have a 6 foot board fence. The fence will continue around the north side. A railing is planned on the west side in order to see the Lake. The deck will have a ramp access.
- Access to the deck will be secured.

- An alarm triggered by wave action will be installed. The alarm can be set for wind sensitivity.
- Lighting may be installed on the deck and stairs.
- The pool will be heated by a heat pump system housed in a 3 foot cube under part of the decking.
- The pool would be installed on a level portion of land. It will be cut approximately 18 inches into the hill.
- The deeper end of the pool will be on the end closer to the building at the southern end.
- Electrical service will be provided from 20 feet away via an underground cable.
- Mr. Post does not anticipate extending gas service or sewer/plumbing into the property.
- The decking would be 60 feet from Ledgeview Springs Drive and 200 feet from Hwy. 149. The Hwy. 149 right-of-way will not be changing with the highway project.
- The pool will be filled initially by commercial trucks and replenished with the hose. He does not anticipate installing a separate well.

The Board discussed to definition of contiguous.

Mr. Post's responses to Board of Appeals questions were as follows:

- Moving the project to the west would lose the view of the Lake from the pool. The deck would be 3-4 feet below the road.
- Most municipalities require a 48 inch fence around pools. His project exceeds the ordinance, plus it will have a deck and fence. The lowest point of access will be 5.5 feet.
- Mr. Post has two children, ages 19 and 14 and two step-children, ages 17 and 14.

Public comments regarding the pool/storage building/deck addition were as follows:

- A concern about parking on the street, public urination, loud parties and drinking.
- A concern about the future of the pool if the lot were sold. Mr. Post stated that he would take the pool down if the buyer didn't want it. The building would be permanent.
- Mr. Post responded to questions regarding the pool alarm. Mr. Post stated that the alarm would sound in the house. He also stated that the Schrage's have agreed to monitor the alarm when they are not home.
- A concern that the lot was purchased for conservancy reasons but now a permanent building is proposed on it.
- A neighbor stated he would not be opposed to the project if the pool and building were located to the west. Then it wouldn't be viewable by the neighbors and it would also meet setback requirements.
- The Posts' backyard is large enough for the pool.
- Restrictive covenants were again mentioned.
- The building would have a pitched and shingled roof and may have an enclosed gazebo.
- A concern about being able to see the pool from their house. Mr. Post mentioned to possibility of installing a close-circuit television system in addition to the splash alarm.

Jim Rosenthal motioned to approve the variance request with the following stipulations:

1. no parking will be allowed along the street by the pool lot,
2. a deed restriction on the pool lot stating that if the house property is sold without the pool lot, the pool must come down by the day of closing on the sale unless a home has been built on the pool lot,
3. fencing per Mr. Post's testimony,
4. alarm system per Mr. Post's testimony,
5. the structure location per Mr. Post's testimony, and
6. the structure design per Mr. Post's testimony.

Bob Holzman seconded by motion.

Dick Blamey commented that he has first right of refusal for 10 years on the outlot.

Roll call vote:

Tom Friess	no
Bob Holzman	no
Charlie Mathison	no

TOWN OF TAYCHEEDAH

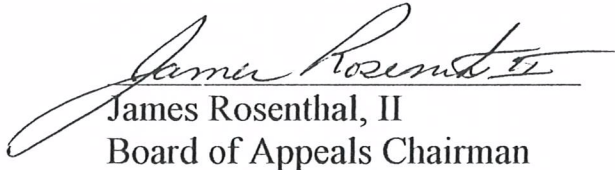
FOND DU LAC COUNTY, WISCONSIN


DECISION

WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on June 2nd, 2003, to consider the variance petition of Warren & Judy Post, N7772 Ledgeview Springs Drive. The Posts' requested a variance to Section 13-1-24(f)(3)(a), Highway setback, in order to construct an addition to their existing garage and Section 13-1-142(e)(1) for a swimming pool with reduced setbacks on a non-primary lot.

The Zoning Board of Appeals voted to deny Warren & Judy Post's variance to construct for a reduced front setback for the garage addition (5-0 vote) and to deny a swimming pool on a non-primary lot (4-1 vote).

Dated this 28nd day of August, 2003.


James Rosenthal, II
Board of Appeals Chairman


Brenda A. Schneider
Board of Appeals Secretary

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

**MINUTES OF MEETING OF TOWN BOARD OF APPEALS
June 16, 2003**

CALLED TO ORDER The meeting was called to order by Board of Appeals President, James Rosenthal. Present were Board members Rosenthal, Holzman, Buechel, Friess and Mathison. Also present were Town Attorney, John St. Peter, Town Clerk, Brenda Schneider, applicant, Timothy Simon, representatives of Northeast Asphalt, Inc., including their counsel, Mark Filmanowicz and various members of the public. The Town Clerk read the public notice of the meeting. The Board marked three exhibits, as follows:

Exhibit No. 1 - Simon/Northeast Application for Renewal
Exhibit No. 2 - 2001 Revised Special Use Permit
Exhibit No. 3 - Public Notice

PRESENTATION BY APPLICANT Mr. Simon and representatives of Northeast Asphalt reviewed their application for a 4-year renewal of the special use permit dated April, 1999 and revised in June of 2001. The applicants requested two changes to the current permit: (1) credit for the performance bond to be posted with Fond du Lac County pursuant to the County's NR135 Reclamation Ordinance, and (2) an extension of the hours of operation from 6:30 a.m. to 5:30 p.m. Monday through Friday and from 6:30 a.m. to 4:00 p.m. on Saturday.

PUBLIC COMMENTS Throughout the hearing, various public comments were received, including the following:

- Concern was expressed over the very limited interim reclamation occurring at the quarry. Northeast acknowledged limited reclamation and assured the Board and the public that reclamation would occur.

- One member of the public expressed concern over the removal of topsoil from the quarry. Mr. Simon assured the public that no native topsoil is being removed from the quarry. Rather, the topsoil being removed was imported from other sites. The importation and removal of topsoil is likely to continue.
- Various members of the public expressed concern over the extension of hours. Everyone acknowledge that the Town of Taycheedah is in the midst of an extraordinary building phase, which includes the sanitary district project, the reconstruction of Highway 149 and the construction of the 151 bypass. Nevertheless, there was extensive discussion concerning the pros and cons of extending the existing hours. Among the public testifying was Mr. Daniel Bertram, owner of the Bertram quarry, which is also located in the Town of Taycheedah. Mr. Bertram said that he had no opposition to the extension of hours as requested by Northeast. He also informed the Board that he has no present intent to seek extension of the hours for his quarry. (This comment was in response to a concern expressed by a Board member that the extension of hours for Northeast would require the extension of hours for other quarries in the Town.)

BOARD ACTION

The Board considered the three exhibits and the public testimony. After extensive discussion, particularly concerning the pros and cons of extending the hours, the following resolution was approved on a roll call vote 4 - 1 (Rosenthal dissenting).

RESOLVED that the special use permit issued to Daniel and Timothy Simon and Northeast Asphalt, Inc. shall be extended for an additional term of 4 years beginning June 16, 2003 and expiring June 15, 2007;

FURTHER RESOLVED, that Section 5 (Reclamation Plan) and Section 11 (Performance Bond) be revised to reflect that Simon/Northeast Asphalt, Inc. shall receive a credit on the \$150,000 performance bond equal to the amount of the bond provided to Fond du Lac County under the County's NR135 Reclamation Ordinance;

FURTHER RESOLVED, that Section 1 of the Special Conditions (Scope of Operations) is revised to reflect the following new hours: Monday - Friday 7:00 a.m. to 6:00 p.m. and Saturday 7:00 a.m. to 2:00 p.m. Only load-out and trucking is permitted after 5:00 p.m. Monday - Friday and after noon on Saturday. The above extended hours are subject to the ongoing review of the Board of Appeals, which reserves its total discretion to revert to the pre-existing hours if public complaints are received.

ADJOURNMENT

No other business coming before the Board, the meeting was adjourned.

Respectfully submitted,

By: Brenda A. Schneider
Brenda Schneider, Town Clerk

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

REVISED SPECIAL USE PERMIT

KNOW ALL MEN BY THESE PRESENTS that on the 16th day of June, 2003, the Town of Taycheedah approved the issuance of a special use permit to Daniel and Timothy Simon and Northeast Asphalt, Inc. (together referred to as "Simon") pursuant to Section 13-1-73 of the Town of Taycheedah Code. The term of this special use permit shall be four years, beginning June 16, 2003. This special use permit authorizes Simon to conduct mineral extraction operations on a parcel of real estate consisting of 40 acres in the Town of Taycheedah on the following property:

East of Lakeview Road and South of County Trunk Q, more particularly described as the Southwest 1/4 of the Northeast 1/4 of Section 16, Township 16 North of Range 18 East in the Town of Taycheedah, Fond du Lac County, Wisconsin.

This permit authorizes Simon to use the above-described property for mineral extraction operations 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 Simon abandons the subject property; provided, however, that Simon shall not be deemed to have abandoned the subject property if Simon vacates all or substantially all of the subject property for a period not exceeding six months; or

b. If a petition is filed by Simon 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 Simon fails to observe or perform any condition or provision hereof for a period of 30 days after receiving written notice of such failure from the Town; or

d. If Simon 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. Simon 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 Simon with a notice of a hearing and a hearing at which Simon shall be given an opportunity to respond to the alleged default.

2. **Non-Assignability.** The rights granted by this permit are not assignable or transferrable 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 this permit.

4. **Modification.** No provision of this permit may be modified except upon the written application by Simon 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. Simon 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 Simon's right to obtain whatever additional authorizations or permits may be necessary for the operation of the non-metallic mining operation.

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 Simon to comply with any material term of this permit, the plan of operation, the plan of restoration, the drilling/blasting procedures, the groundwater protection plan, 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 is 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. **Performance Standards.** Simon has submitted a plan of operation, a plan of restoration, drilling/blasting procedures, and a groundwater protection plan. These plans and documents are incorporated by reference and their terms and conditions shall be deemed performance standards under this permit. Simon shall also comply with Fond du Lac County's Reclamation Ordinance. The reclamation standards required by the County are incorporated into this permit as performance standards.

9. **Renewal.** The Town makes no representations to Simon 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. Simon is hereby informed that it has no property right in the expectation in the renewal of this permit.

10. **Reimbursement of Town Fees.** Simon shall reimburse the Town's reasonable engineering, consulting and legal fees incurred to administer or enforce the terms of this permit including, without limitation, costs related to seismographs.

11. **Jurisdiction.** The Town reserves the right to conduct inspections of the quarry site, without prior notice, in order to administer and enforce the terms of this permit. By accepting this permit, Simon hereby grants the Town and its agents permission to enter the quarry site to conduct inspections to assure compliance with this permit.

12. **Indemnification.** Simon 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 quarry authorized by this permit. Simon 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. **Scope of Operations.** Operations shall be conducted in accordance with the plan of operation submitted by Simon. As quarrying operations proceed, the existing berm that runs east-west on the north side of the property shall be relocated further north on the Simon property. The berm shall also be extended from the east edge of the Simon property to the berm on the west end of the Simon property, which runs north-south. At that time, Simon shall maintain the natural drainage of the land to the south and the southwest. The depth of the quarry shall not exceed elevation 960 feet. Hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday and 7:00 a.m. to 2:00 p.m. on Saturday; provided, however, only load-out and trucking is permitted after 5:00 p.m. Monday through Friday and after noon on Saturday. No operations are permitted on Sundays or legal holidays. For purposes of the preceding restrictions, "operations" include the operation of any equipment used in conjunction with the quarry. Ingress and egress to the quarry is limited to County Trunk Q as shown on the operation plan map. Simon shall reimburse the Town for damage done to any Town roads by Northeast Asphalt, Inc.-owned or operated equipment or vehicles traveling to and from the quarry. The use of fertilizers or the presence of cattle are prohibited within the bermed quarry areas. A hot blacktop mix plant is prohibited.

2. **Washing/Wash Ponds.** No washing of quarried materials is authorized on the Simon property. However, the Town acknowledges that screenings will be sold. The screenings may be removed from the Simon quarry for washing at the Northeast Asphalt/Richard Bertram quarry, which is contiguous to the Simon quarry. No new wells may be installed on the Simon property for quarrying purposes without the prior written consent of the Town.

3. **Blasting Activity.** All blasting shall be conducted in conformance with the Town's Blasting Ordinance and applicable state and federal laws and regulations. All blasting shall also be conducted pursuant to the Drilling/Blasting procedures submitted by Simon to the Town during the April 26, 1999 hearing. All blasts shall be monitored with a seismograph, which shall be placed at the closest non-Simon owned structure. The seismograph shall be calibrated annually. The Town reserves the right to retain an independent expert to review the blasting data and procedures. Simon shall reimburse the Town for all reasonable costs incurred to retain and consult with an independent expert to review the blasting data and procedures. The Town reserves the right to require, at a later date, an independent seismograph in order to monitor the blasting activity. Simon shall reimburse the Town for the reasonable costs of the independent seismographs.

4. **Groundwater Monitoring.** Simon submitted a Groundwater Protection Plan dated April 26, 1999 together with the report of McMahon Associates, Inc. dated April 13, 1999. The information contained in the Groundwater Protection Plan and the report are hereby incorporated by reference. Simon shall comply with the terms and conditions of the Groundwater Protection Plan. The Town reserves the right to require monitoring for groundwater quality. Simon shall reimburse the Town for the reasonable costs of monitoring for groundwater quality. All quarry operations shall continue to be above the groundwater. There shall be no groundwater dewatering. All stormwater runoff from outside the quarry shall be diverted around the quarry.

5. **Reclamation Plan.** The reclamation plan submitted to the Board at the April 26, 1999 hearing (Exhibit 8) is hereby incorporated by reference as if fully set forth in this permit. Reclamation shall begin immediately upon the expiration of the four year term of this permit. If this permit is renewed, Simon shall begin interim reclamation, where feasible. The performance bond required by this permit shall be available to secure the performance of the reclamation obligation. Final surface water drainage patterns shall follow the topography in existence prior to quarrying activity. Simon shall also comply with Fond du Lac County's Reclamation Ordinance.

6. **Surface Water Protection.** The quarry shall be operated so that surface water from areas outside the quarry will be diverted from entering the quarry. All water from quarry operations shall be pumped and retained on the premises. All surface water runoff from rainfall or snow melt shall be allowed to drain in volumes not exceeding pre-mining rates. Silt screens or filter fabric shall be maintained, where necessary, in order to control erosion.

7. **Topsoil.** All topsoil shall be retained on the site. Topsoil may be used for berming on the site. Subsoil shall also be retained for berming and grading. The Town's express written consent is required for the removal of any topsoil or subsoil from the site.

8. **Area Wells.** Simon shall repair or replace any wells located within the pre-blast survey area caused by blasting or quarry operations provided that pre-blasting benchmark inspections have been authorized by the relevant homeowners within the designated warning area.

9. **Orville Freund.** Orville Freund is a contiguous property owner to Simon. Orville Freund has alleged that blasting activity by Simon, or its agents, has caused damage to his home. Without admitting liability, Simon has agreed to compensate Orville Freund for the alleged damage in an amount not to exceed \$1,000. The agreement by Simon is incorporated by reference and shall constitute a condition of this permit.


10. **Insurance.** Simon shall submit a certificate of insurance identifying the Town and its elected officials, employees and agents as additional insureds with the following minimum coverage limits:

- a. Comprehensive General Liability Insurance, including blanket contractual liability insurance, insuring the Town, its officials, officers, agents and employees against liability for personal injury, including death of persons resulting from injuries occurring on or in any way related to the use or occupancy of the permitted premises in a minimum amount of \$1 Million per occurrence and against liability for damage to property occurring on or in or relating in any way to the permitted premises, with the combined aggregate of \$2 Million.
- b. Comprehensive General Public Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the permitted premises or arising out of the operation of the permitted premises. Such insurance shall afford protection to the public of not less than \$1 Million with respect to bodily injury or death to any one person with the combined aggregate of \$2 Million with respect to any one incident, and not less than \$100,000 with respect to property damage, without deductibles.

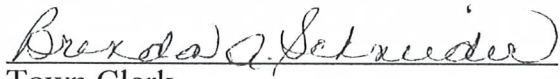
11. **Performance Bond.** To secure the various obligations required by this permit, including reclamation, Simon shall submit to the Town a performance bond in an amount not less than \$150,000. The bond shall provide that if the reclamation has not been completed as required by this permit, the amount of the bond shall be paid to the Town and the Town shall have the authority to complete the necessary obligations. The bond shall be filed in the office of the Town Clerk. The bond shall be in a form satisfactory to the Town's legal counsel. Notwithstanding the above, Simon shall receive credit, dollar-for-dollar, for the amount of the performance bond it is required to submit to Fond du Lac County under the County's Reclamation Ordinance.

Dated this 16th day of June, 2003.

TOWN OF TAYCHEEDAH BOARD OF APPEALS

By: 
President of Board of Appeals

Attest:


Town Clerk

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

**MINUTES OF MEETING OF TOWN BOARD OF APPEALS
June 16, 2003**

CALLED TO ORDER The meeting was called to order by Board of Appeals President, James Rosenthal. Present were Board members Rosenthal, Holzman, Buechel, Friess and Mathison. Also present were Town Attorney, John St. Peter, Town Clerk, Brenda Schneider, applicant, Timothy Simon, representatives of Northeast Asphalt, Inc., including their counsel, Mark Filmanowicz and various members of the public. The Town Clerk read the public notice of the meeting. The Board marked three exhibits, as follows:

Exhibit No. 1 - Simon/Northeast Application for Renewal
Exhibit No. 2 - 2001 Revised Special Use Permit
Exhibit No. 3 - Public Notice

PRESENTATION BY APPLICANT Mr. Simon and representatives of Northeast Asphalt reviewed their application for a 4-year renewal of the special use permit dated April, 1999 and revised in June of 2001. The applicants requested two changes to the current permit: (1) credit for the performance bond to be posted with Fond du Lac County pursuant to the County's NR135 Reclamation Ordinance, and (2) an extension of the hours of operation from 6:30 a.m. to 5:30 p.m. Monday through Friday and from 6:30 a.m. to 4:00 p.m. on Saturday.

PUBLIC COMMENTS Throughout the hearing, various public comments were received, including the following:

- Concern was expressed over the very limited interim reclamation occurring at the quarry. Northeast acknowledged limited reclamation and assured the Board and the public that reclamation would occur.

- One member of the public expressed concern over the removal of topsoil from the quarry. Mr. Simon assured the public that no native topsoil is being removed from the quarry. Rather, the topsoil being removed was imported from other sites. The importation and removal of topsoil is likely to continue.
- Various members of the public expressed concern over the extension of hours. Everyone acknowledge that the Town of Taycheedah is in the midst of an extraordinary building phase, which includes the sanitary district project, the reconstruction of Highway 149 and the construction of the 151 bypass. Nevertheless, there was extensive discussion concerning the pros and cons of extending the existing hours. Among the public testifying was Mr. Daniel Bertram, owner of the Bertram quarry, which is also located in the Town of Taycheedah. Mr. Bertram said that he had no opposition to the extension of hours as requested by Northeast. He also informed the Board that he has no present intent to seek extension of the hours for his quarry. (This comment was in response to a concern expressed by a Board member that the extension of hours for Northeast would require the extension of hours for other quarries in the Town.)

BOARD ACTION

The Board considered the three exhibits and the public testimony. After extensive discussion, particularly concerning the pros and cons of extending the hours, the following resolution was approved on a roll call vote 4 - 1 (Rosenthal dissenting).

RESOLVED that the special use permit issued to Daniel and Timothy Simon and Northeast Asphalt, Inc. shall be extended for an additional term of 4 years beginning June 16, 2003 and expiring June 15, 2007;

FURTHER RESOLVED, that Section 5 (Reclamation Plan) and Section 11 (Performance Bond) be revised to reflect that Simon/Northeast Asphalt, Inc. shall receive a credit on the \$150,000 performance bond equal to the amount of the bond provided to Fond du Lac County under the County's NR135 Reclamation Ordinance;

FURTHER RESOLVED, that Section 1 of the Special Conditions (Scope of Operations) is revised to reflect the following new hours: Monday - Friday 7:00 a.m. to 6:00 p.m. and Saturday 7:00 a.m. to 2:00 p.m. Only load-out and trucking is permitted after 5:00 p.m. Monday - Friday and after noon on Saturday. The above extended hours are subject to the ongoing review of the Board of Appeals, which reserves its total discretion to revert to the pre-existing hours if public complaints are received.

ADJOURNMENT

No other business coming before the Board, the meeting was adjourned.

Respectfully submitted,

By: Brenda A. Schneider
Brenda Schneider, Town Clerk

August 21st, 2003

Board of Appeals
H. Robert Marcoe setback variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, August 21st, 2003, on behalf of H. Robert Marcoe. Mr. Marcoe requests a variance to Sect. 13-1-48(d)(8) of the Town of Taycheedah's Code of Ordinances to allow for a reduced lakeshore setback. Members present were Chairman James Rosenthal, John Buechel, Angie Prull, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read the notice.

Barb Bertram took the Oath of Office.

H. Robert Marcoe was sworn in.

Mr. Marcoe wants to build a ramp and 10 x 30 deck for rear door access into his house. Mr. Marcoe has been in a wheelchair for 16 years. He can no longer get in and out without assistance.

Fond du Lac County Shoreland Zoning Board of Appeals denied Mr. Marcoe's variance but did approve a conditional use permit. The conditional use required a restriction be recorded with the Register of Deeds stating that the deck and ramp shall be removed once the handicapped access is no longer required. The County has issued a permit which will expire on 10/27/03.

Mr. Marcoe's responses to Board of Appeals member's questions:

- Smith Construction will build the deck and ramp using pressure treated wood with footings.
- The deck will have the same setback as the existing sidewalk; an estimated 35-40 feet from the high water mark.
- The house is within the 75 foot setback. It was built in 1900. He bought it in 1960.
- The recorded restriction refers to a 'physically disabled landowner' which would not apply to disabled relatives/visitors.
- The length of the ramp is dictated by the pitch; which needs to be 1:1 in order to get up it with a wheelchair.
- An 8 x 8 deck would be too small to move around on.
- He plans to have railings installed.
- He has no ability to leave the ramp once he is gone.

No objections were made by any of the neighbors.

John Buechel motioned to approve the request and support the County's recorded restriction, seconded by Barb Bertram.

Board of Appeals members votes:

Angie Prull	aye
Tom Friess	aye
John Buechel	aye
Barb Bertram	aye
Jim Rosenthal	aye

Motion carried unanimously.

John Buechel motioned to adjourn at 7:50 p.m., seconded by Jim Rosenthal. Motion carried.

Attest. Brenda A. Schneider
Brenda A. Schneider
Secretary

TOWN OF TAYCHEEDAH

FOND DU LAC COUNTY, WISCONSIN

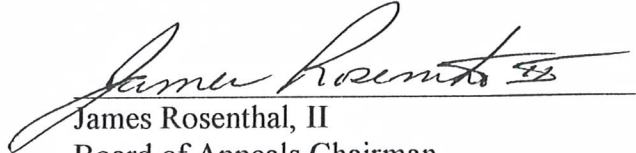
DECISION

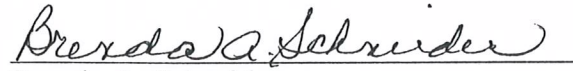
WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on August 21st, 2003, to consider the variance petition of H. Robert Marcoe, for property located across from N7392 Winnebago Drive. Mr. Marcoe requested a variance to Section 13-1-48(d)(8), Lakeshore Setbacks, of the Town of Taycheedah Code of Ordinances, in order to construct a 10 x 30 deck and ramp with a 34-foot setback.

The Zoning Board of Appeals voted unanimously (5 yes, 0 no) to approve the H. Robert Marcoe's variance petition to construct a handicap-accessible ramp and 10 x 30 deck with a minimum of 34-foot setback from the high water mark of Lake Winnebago. The Zoning Board of Appeals also supports the recorded restriction required by the Fond du Lac County Shoreland Board of Appeals that states "*The 10'x30' deck and ramp shall be removed once the handicapped access is no longer required*".

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

Dated this 22nd day of August, 2003.


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 Thursday, October 9th, 2003, on behalf of Northeast Asphalt, Inc., to consider renewing their Conditional Use Permit to quarry. Members present were Acting Chairman John Buechel, Bob Holzman, Gale Burg, Angie Prull and Barb Bertram. Also present were Steve Higgins, Russ Freimark, representative of Northeast Asphalt, including their counsel, Mark Filmanowicz and various members of the public. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Acting Chairman called the hearing to order. The Secretary read the notice.

Steve Higgins, Northeast Asphalt was sworn in. His testimony and responses to Board of Appeals questions were as follows:

- Northeast requests a four year renewal.
- Northeast requests a reduction of the performance bond due to the County reclamation bonding requirements. The current bond is \$28,000.00.
- Northeast requests a revision to the hours of operation for hauling material out of the quarry. The current hours are Monday-Friday, 7:00 a.m.-5:00 p.m. and Saturday, 7:00 a.m.-noon. Northeast requests an additional hour on Monday thru Friday and two additional hours on Saturday for trucking and load-out purposes only. The revised hours would be Monday-Friday, 7:00 a.m.-6:00 p.m. and Saturday, 7:00 a.m.-2:00 p.m.
- Northeast takes fugitive dust control very seriously. Water is used as needed.
- Northeast's blaster has routinely been in correspondence with the Bertram's blaster. Some miscommunication may have taken place earlier this year.
- In 2000, approximately 25 private wells in the area were tested for coliform, nitrates and nitrites by Sam's Rotary Well Drilling. The results were evaluated by McMahon & Associates and by Foth & Van Dyke. The private wells are tested every four years. Surface water must be contained within the area. The Groundwater Protection Plan was reviewed by Foth & Van Dyke. There are no manure pits nearby.
- Northeast has continued to carry the floor of the pit as established many years ago. A benchmark in set in the corner by a tree.
- The notice of blasting letters sent by each quarry usually states that blasting will occur during a two to three week timeframe. Northeast is not opposed to more communication with the Bertram quarry. They could be added to each others mailing lists. They could also stretch out smaller blasts over a longer period of time. Northeast prefers to keep out the 48 hour notice requirement contained in the Bertram permit.

Chuck Maxwell, Northeast's blaster, was sworn in. His testimony and responses to Board of Appeals questions were as follows:

- The Town is notified of a two to three week timeframe. The notice can not be too specific due to unexpected mechanical problems, weather conditions and safety concerns.
- In previous years, Chuck worked with Dan Bertram. He wasn't aware Ahlgrimm was going to blast. Northeast's seismograph recorded the blast at the Bertram quarry. He will add to his plan to work closely with Dan Bertram. If he was aware of Bertram's intent to blast that day; he would not have blasted.
- A seismograph must be placed at the closest home not owned by someone affiliated with the quarry; which is the Orville Freund property. A second one has been set by Dan Freund's home since 1994. They try to keep it at the same distance as the house from the blast location. They want consistency with the location from reading to reading. It is set-up right off of the road in the morning and picked-up at the end of the day.

October 9th, 2003

Board of Appeals
Northeast Asphalt Conditional Use Permit Renewal

2.

Gale Burg motioned to revise the Conditional Use Permit as follows:

- ❖ Hours of operation stated in Section 1 of the Special Conditions (Scope of Operations) is revised to reflect the following new hours: Monday – Friday 7:00 a.m. to 6:00 p.m. and Saturday 7:00 a.m. to 2:00 p.m. Only load-out and trucking is permitted after 5:00 p.m. Monday – Friday and after noon on Saturday.
- ❖ Section 5 (Reclamation Plan) and Section 11 (Performance Bond) be revised to reflect that Northeast Asphalt, Inc. shall receive a credit on the \$28,000 performance bond equal to the amount of the bond provided to Fond du Lac County under the County's NR135 Reclamation Ordinance;
- ❖ Pre-blast notification letters shall be submitted to Bertram/Eckert.

Barb Bertram seconded the motion. Motion carried (5-0).

Gale Burg motioned to renew the Conditional Use Permit for four years, seconded by Bob Holzman. Roll call vote:

Angie Prull	yes	
Bob Holzman	yes	
Gale Burg	yes	
Barb Bertram	yes	
John Buechel	yes.	Motion carried (5-0).

Angie Prull motioned to adjourn, seconded by Gale Burg. Motion carried (5-0).

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

October 15th, 2003

Board of Appeals
Ray Wagner Jr. variance petition

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Wednesday, October 15th, 2003, at 7:30 p.m., at the Taycheedah Town Hall, for the purpose of considering a variance petition received from Ray Wagner, Jr. Mr. Wagner requests a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a reduced front setback. The property is located at W3158 Hwy. 149. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman, Barb Bertram and Secretary Brenda Schneider.

The Chairman called the public hearing to order. The Secretary read the notice. The Secretary tape recorded the hearing and took notes.

Raymond S. Wagner, Jr. (Butch) was sworn in. His testimony was as follows:

Exhibit #1 was presented to the Board-a picture of the barn/lean-to.

- Mr. Wagner wishes to add 22 feet to the east side of the lean-to which is currently 33 feet.
- The lean-to is 75 feet from the centerline. The barn is 48.5 feet from the centerline.
- Mr. Wagner has contacted the DOT about buying back some of the right-of-way so he could add on to the northeast corner of the barn. The DOT is not interested. The highway right-of-way was increase from 33 feet to 55 feet.
- The east end of the lean-to will have curtains and the south end will be partially open.
- The entire roof of the lean-to will be raised 4 feet in order to keep the same clearance height on the east side.
- Bracing will be placed every 16 feet. The trusses will be an extension of the existing 2x12's.
- The concrete floor will be extended 12 feet beyond the addition.
- The grade will be raised 4 inches.

Board comments:

- ☐ Section 13-1-24(e)(2) states in part that *additions to and replacements of existing structures may be made, provided the owner files with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this Section, at his expense, when necessary for the improvement of the highway.*

No one from the public spoke in opposition to the request.

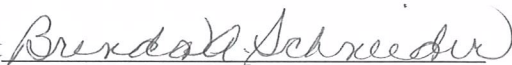
- ☐ Jim Rosenthal motioned to approve the variance request of Mr. Wagner and require an agreement in writing to the effect that he will remove all new construction, additions and replacements erected after the adoption of this Section, at his expense, when necessary for the improvement of the highway, seconded by John Buechel. Roll call vote:

Barb Bertram	yes
John Buechel	yes
Tom Friess	yes
Bob Holzman	yes
Jim Rosenthal	yes

Motion carried (5-0).

Barb Bertram motioned to adjourn, seconded by Bob Holzman. Motion carried.

Attest



Brenda A. Schneider
Board of Appeals Secretary

TOWN OF TAYCHEEDAH
Fond du Lac County, Wisconsin

MINUTES OF MEETING OF TOWN OF TAYCHEEDAH
BOARD OF APPEALS

November 4th, 2003

ROLL CALL The meeting was called to order by Chairman, James Rosenthal II. Present were Board members Rosenthal, Friess, Buechel, Holzman and Burg. Also present were Town counsel, John St. Peter, Dan Bertram and his counsel, George Twohig, James Eckert and various members of the public. Motion and second to approve the Minutes of the Board's September 16th, 2003 meeting. Motion carried.

BACKGROUND Attached to those Minutes is a letter dated September 17, 2003 from Attorney John St. Peter to J&E Construction Co., Inc. and Ms. Virginia Bertram. This letter served as a summary for the purpose of the Board's November 4, 2003 meeting. Specifically, the Board was meeting to receive the information requested in the September 17, 2003 letter.

TESTIMONY Mr. James Rabideau, from Bay Environmental Strategies, Inc. presented two reports regarding the monitoring wells at the site, dated September 18, 2003 and October 28, 2003. The letters confirmed that the monitoring wells were disinfected, with the DNR's consent and approval. After being disinfected, the monitoring wells were retested. The water testing report disclosed no bacteria. The Board accepted the results.

The October 28, 2003 letter from Bay Environmental Strategies, Inc. requested a modification to the requirements of the Conditional Use Permit. Specifically, the permittee is requesting that the testing occur at the well producing potable water rather than the monitoring wells. The potable water well would be tested for bacteria and diesel-range organics. The Board took the request under advisement. It will be addressed at the Board's November 18, 2003 meeting.

Next to testify was Mr. James Eckert. Mr. Eckert did not produce the fugitive dust control plan, which was requested by the Board at its September 16, 2003 meeting and by follow-up correspondence from the Town Attorney dated September 17, 2003. The Board expressed serious concerns over Mr. Eckert's failure to respond to requested information. Mr. Eckert did testify that he retained the

firm of McMahon to prepare the benchmark survey. This survey has been completed and will be forwarded to the Board prior to the November 18, 2003 meeting. Finally, the blasting subcontractor, Ahlgrimm Explosives, Inc. submitted a hand-written plan describing how Ahlgrimm Explosives will avoid blasting within 48 hours of any blast at the quarries owned by Northeast Asphalt in the Town of Taycheedah. The Ahlgrimm plan was accepted by the Board.

BOARD
DETERMINATION

After carefully considering the evidence presented during the hearing, The Board of Appeals unanimously adopted the following resolution:

RESOLVED, that J&E Construction Co., Inc. and Ms. Virginia Bertram will have until November 18, 2003, to produce a fugitive dust control plan, which is to be prepared in consultation with Mr. Matt Hostak, Air Pollution Engineer of the State of Wisconsin Department of Natural Resources. Failure to produce the required plan may result in the revocation of the Conditional Use Permit.

FURTHER RESOLVED, that as a consequence of the failure to produce the fugitive dust control plan by November 4, 2003, the Board does hereby impose a forfeiture against J&E Construction Co., Inc. and Ms. Virginia Bertram, joint and several, in an amount equal to the meeting expenses and actual attorney's fees incurred by the Town arising out of and relating to the September 16, 2003 hearing, the November 4, 2003 hearing and the November 18, 2003 hearing. Failure to promptly pay the Town's invoice may result in the revocation of the Conditional Use Permit.

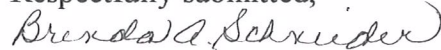
NEXT MEETING

The next meeting of the Board of Appeals was scheduled for November 18, 2003, at 7 o'clock p.m. at the Town Hall. The purpose of the meeting will be to review the fugitive dust control plan referenced above. The Town Attorney was instructed to publish a legal notice.

ADJOURNMENT

No other business coming before the Board of Appeals, the meeting was adjourned at approximately 9:00 p.m.

Respectfully submitted,



Brenda A. Schneider, Town Clerk

TOWN OF TAYCHEEDAH
Fond du Lac County, Wisconsin

MINUTES OF MEETING OF TOWN OF TAYCHEEDAH
BOARD OF APPEALS

November 18, 2003

ROLL CALL

The meeting was called to order by Chairman James Rosenthal II. Present were Board members Rosenthal, Friess, Buechel, Holzman and Burg. Also present were Town counsel, John St. Peter, David Bertram, James Eckert, James Rabideau, and various members of the public. The Minutes of the November 4, 2003 meeting were approved as submitted.

FUGITIVE DUST
EMISSIONS CONTROL
PLAN

As requested by the Board of Appeals at its November 4, 2003 meeting, Mr. Eckert presented a Fugitive Dust Emissions Control Plan. Mr. Eckert responded to various questions concerning the contents of the Plan. The Plan was acceptable to the Board, with the exception of the reference to a well as a water source in section III of the Plan. The existing permit prohibits a well within the quarry. Mr. Eckert was also asked to provide the cell phone number of the facility foreman. Mr. Eckert was instructed to revise the Plan so as to comply with the two requests set forth above.

QUARRY SURVEY

Mr. Eckert presented a survey prepared by McMahon Associates, Inc. dated November 2003. The purpose of the survey is to establish various benchmarks, including the elevation of the quarry floor. This information was requested by the Board in order to monitor compliance with the 30' maximum floor limitation. The survey discloses that the top of the quarry is approximately 114' and that the bottom of the quarry is approximately 989'.

GROUNDWATER
MONITORING

At its November 4, 2003 hearing, the Board tabled the Bertrams' request to modify the groundwater monitoring requirements in two respects: (1) switch groundwater monitoring from the monitoring wells to the shallowest

potable well serving the Bertram farm, and, (2) change the VOC testing parameters to the DRO (Diesel Range Organics) parameter. See November 4, 2003 meeting Minutes and exhibits. To supplement the above request, the Bertrams presented a report from Vibra-Tech stating that the blasting activity at the Bertram quarry is having no impact on the adjacent manure lagoon. Mr. Rabideau provided further testimony and support of the requested modifications. There was extensive cross examination and discussion of Mr. Rabideau. Additional documentation was received by the Board at the hearing.

ASSIGNMENT OF PERMIT

Due to the age of Virginia Bertram, Dan and Dave Bertram requested that the permit be assigned from their mother to them. John St. Peter expressed no legal objection to the assignment; provided, however, that the assignment should not occur until the Town Clerk receives a copy of a recorded deed transferring title to the quarry from Virginia Bertram to her sons.

FORFEITURE

At the November 4, 2003 hearing, the Board determined to impose a forfeiture against J&E Construction Co., Inc. and Ms. Virginia Bertram, jointly and severally, in an amount equal to the meeting expenses and actual attorney fees incurred by the Town arising out of and relating to the September 16, 2003 hearing, the November 4, 2003 hearing, and the November 18, 2003 hearing. The Board received a memorandum from John St. Peter disclosing \$1,848 in attorney's fees. The Board received a memorandum from the Town Clerk disclosing \$802.43 relating to Board hearings, together with an unpaid invoice dating back to September 17, 2002. The total forfeiture amount is \$2,650.43.

BOARD DETERMINATION

After carefully considering the evidence presented during the hearing, the Board of Appeals unanimously adopted the following resolution:

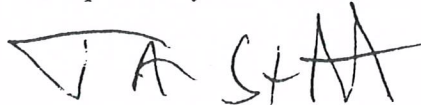
RESOLVED AS FOLLOWS:

- (1) That the Fugitive Dust Emissions Control Plan is accepted subject to the deletion of the reference to a well within the quarry and the submission of a cell phone number for the facility foreman. The Plan shall be incorporated by reference into the permit.
- (2) The benchmark survey prepared by McMahon Associates, Inc. is accepted and it too, shall be incorporated by reference into the permit.
- (3) That the monitoring requirements in the current permit are hereby modified so as to require monitoring at the shallowest potable well on the Bertram farm instead of at the sites of the existing monitoring wells and, further, that the potable well be tested for fecal/coliform and DRO (Diesel Range Organics).
- (4) The request to assign the permit from Virginia Bertram to her sons, Dan and Dave Bertram, is hereby approved; provided, however, that the assignment shall not take effect until the Town Clerk has been presented with a copy of the recorded deed transferring the quarry real estate from Virginia Bertram to Dan and Dave Bertram.
- (5) A forfeiture of \$2,650.43, payable within 30 days of November 18, 2003 is hereby imposed on J&E Construction Co., Inc. and Ms. Virginia Bertram. The obligation to pay the forfeiture is joint and several. A check payable to "Town of Taycheedah" shall be forwarded to the Town Clerk within the 30 day deadline.

ADJOURNMENT

No other business coming before the Board of Appeals, the meeting was adjourned at approximately 8:45 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J A St. Peter", written over a horizontal line.

John A. St. Peter, Acting Secretary

December 11th, 2003

Board of Appeals
Non-Metallic Mining Reclamation Plan Review

1.

The Town of Taycheedah Board of Appeals met on Thursday, December 11th, 2003, at 7:00 p.m., at the Taycheedah Town Hall; for the purpose of review the non-metallic mining reclamation plans as requested by the Fond du Lac County Code Enforcement Department. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman, Barb Bertram and Secretary Brenda Schneider.

The Chairman called the meeting to order.

NR 135 requires and the Fond du Lac County Nonmetallic Mining Reclamation Ordinance requires all nonmetallic mineral extraction contractors to submit reclamation plans to the County. The Code Enforcement Dept. has asked that each township review the reclamation plans to determine if the proposed final land use is consistent with current zoning and land use planning.

The Board of Appeals reviewed reclamation plans for the J&E Construction/Bertram quarry, the Northeast Asphalt quarry, the Northeast Asphalt/Simon quarry and the L&H Gyr Excavating site.

The meeting adjourned at approximately 8:30 p.m.

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

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Thursday, February 26th, 2004, at 6:30 p.m., at the Taycheedah Town Hall for the purpose of considering a variance request submitted by Jamie & Susan Fiebig. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Barb Bertram, 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. The Secretary read aloud the public notice.

Mr. Fiebig requested a variance to 13-1-24(f)(3)(a), highway setback, for a home to be constructed no closer than 90 ft. from the centerline of Kiekhaefer Parkway.

Jamie A. Fiebig was sworn in. His testimony was as follows:

- The lot is triangular in shape with the narrow end at the east side.
- The lot contains several berms/drumlins and mature trees.
- He has designed a home to fit within the natural clearing.
- The house would be positioned at about 92' from the centerline.
- There would be a 40 ft rear setback.
- A 20 ft. high berm will be between the rear lot line and the house with about five feet of separation. There is a severe drop in grade behind the rear berm.
- The house size would be comparable to those in the neighborhood.
- The lot percs for a conventional septic system and a well was recently drilled.
- The home will be 2400 sq. ft. with a 3-car attached garage. A 2-car garage would decrease the marketability of the home in the future. Altering the garage size would require a change in the rooflines and pitch.
- The Fiebig's intend to build the home for themselves.
- He has spent a great deal of time trying to fit the home on the lot and maintain the minimum setbacks.
- The berms and tree growth are assets to the property. He intends to maintain as much of it as possible.
- He has tried shortening the rooms. However, reducing the rooms would affect marketability.

John Morris, W4124 Kiekhaefer Parkway, was sworn in. His testimony was as follows:

- His lot is adjacent to the west of the Fiebig lot.
- The new house will impact them.
- He appreciates the Fiebigs' efforts to preserve the natural beauty of the property.
- The new home will add to the tax base.
- The triangular lot with the berms and trees is a challenge.
- He is not concerned with the proposed reduced front setback.
- The foliage will block most of the house from his view.
- He looked at purchasing the lot himself. It was priced as a developable lot.
- The drainage goes southeast and there is sandy soil between the two home sites.

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

- He applauds Fiebigs' efforts with the project.
- He feels a 3-car garage is more a luxury; and a 2-car garage would not meet a hardship.
- He is also concerned about setting a precedence.

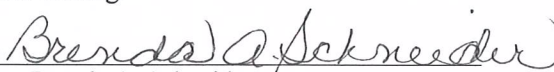
Board member deliberation was as follows:

- The Fiebigs knew the limitations of the property before they purchased it.
- A reduced setback could affect any future widening of the road.

Barb Bertram motioned to grant a reduced setback of not less than 90 feet, acknowledging the property abuts a town road, seconded by Angie Prull.

Barb Bertram	aye	Angie Prull	aye-a conscientious effort to preserve the natural beauty
John Buechel	aye	Bob Holzman	aye-a small distance
Jim Rosenthal	nay	Motion carried (4-1).	

The Board of Appeals recessed briefly before the next hearing.

Attest 
Brenda A. Schneider
Appeals Board Secretary

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Thursday, February 26th, 2004, at 7:30 p.m., at the Taycheedah Town Hall for the purpose of considering a Release of Bond Liability and to clarify the forfeiture imposed at the November 4th, 2003 hearing regarding the Conditional Use Permit issued to Mrs. Virginia Bertram and J&E Construction Co. Inc.. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Barb Bertram, and Angie Prull. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order. The Secretary read aloud the public notice. The Chairman reminded the Board members and the audience that the only topics open for discussion are the bond liability and forfeiture.

The bond to be discussed is the reclamation bond only.

The Conditional Use Permit, as renewed and amended, does not allow for a reduction of the bond. The Conditional Use Permit would need to be amended before any liability could be released.

Jim Rosenthal motioned to deny the Release of Bond Liability, seconded by John Buechel.

Bob Holzman aye

- Barb Bertram aye

Angie Prull aye

John Buechel aye

Jim Rosenthal aye Motion carried unanimously (5-0).

At the November 4th, 2003 hearing, the Board of Appeals passed a motion stating the J&E shall be responsible for all fines. J&E paid half of the forfeiture on December 8th; thus forcing Bertram to pay the other half before the expiration of the 30 day deadline. The Board restates that J&E is to pay 100% of the forfeiture imposed on November 4th, 2003.

Jim Rosenthal motioned that the minutes of this meeting be sent to J&E Construction by certified mail; the minutes state the Board's position in respect to the bond and the forfeiture will be clarified, seconded by Bob Holzman.

Barb Bertram aye

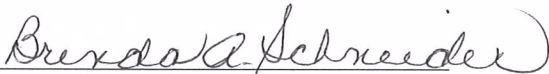
Angie Prull aye

John Buechel aye

Bob Holzman aye

Jim Rosenthal aye Motion carried unanimously (5-0).

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

Attest 
Brenda A. Schneider
Town Clerk
Board of Appeals Secretary

July 1st, 2004

Board of Appeals
Kenneth Schmitz variance petition

1.

The Town of Taycheedah Zoning Board of Appeals conducted a public hearing on Thursday, July 1st, 2004, at 7:00 p.m., at the Taycheedah Town Hall for the purpose of considering a variance request submitted by Kenneth Schmitz. Members present were Chairman James Rosenthal, John Buechel, Bob Holzman, Tom Friess, and Barb Bertram. The hearing was tape-recorded and Secretary Brenda Schneider took notes. The Chairman called the public hearing to order. The Secretary read the notice.

Mr. Schmitz requests a variance to 13-1-24(f)(3)(a), highway setback for a 16' x 9.5' deck to be attached to his home. If a variance were approved, the structure would have a 33-foot highway setback. The home is located at W4807 Golf Course Drive.

Ken Schmitz was sworn in. His testimony and responses to Board member questions were as follows:

Mr. Schmitz proposes a 16'x9.5' deck attached to the south side of the house. The deck would be less than 2 ft. high. The current structure has a 43 ft. setback from Golf Course Drive. The deck would reduce the setback to 33 feet. The south side of the house would allow for more privacy. If approved, a patio door will be installed for access to the deck from the kitchen/dining room.

Constructing the deck on the north side of the house would interfere with the access to the upstairs apartment and would have to be accessed through the living room.

There are currently two large trees to the south of the house. The deck would not be closer to the road than the trees. The deck will have a railing but not a roof.

Mr. Schmitz prefers a deck above the ground from a patio.

The State plans to discontinue the intersection of Golf Course Drive and Winnebago Drive. Golf Course Drive will end with a cul de sac. The work was proposed for 2006; current timeframe is unknown.

Patrick Sesing, Bill Sesing Construction, was sworn in. His testimony and responses were as follows:

The proposed deck would be 9.5'x16' with a box step off of one end; either east or west. The deck would be mounted on three posts. The deck would be approximately 16" above the ground. It would be constructed of green treated wood. Sesing Construction would construct the deck in conjunction with a kitchen/dining room remodel project.

Arthur R. Gilbert was sworn in. His testimony and responses were as follows:

Mr. Gilbert lives in the home located at W4808 Golf Course Drive; which is directly across the street from the proposed deck. Mr. Gilbert feels he would be the most impacted by the proposed deck. Mr. Gilbert supports Mr. Schmitz's request.

Board member Tom Friess, identified Section 13-1-24(e)(2), Structures Permitted within Setback Lines, *Telephone, telegraph and power transmission poles and lines and microwave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner files with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of the Section at his expense, when necessary for the improvement of the highway.*

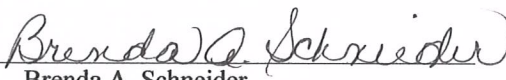
Tom Friess motioned to grant the setback variance request to build the deck, to be located between the two large trees, and have a setback from Golf Course Drive of no less than 33 ft. from the centerline and subject to a written agreement as stated in Section 13-1-24(e)(2), seconded by John Buechel.

Roll call vote:

Bob Holzman	aye
Tom Friess	aye
John Buechel	aye
Jim Rosenthal	aye
Barb Bertram	aye

Motion carried (5-0).

John Buechel motioned to adjourn the public hearing at 7:45 p.m., seconded by Bob Holzman. Motion carried (5-0).

Attest 
Brenda A. Schneider
Town Clerk
Appeals Board Secretary

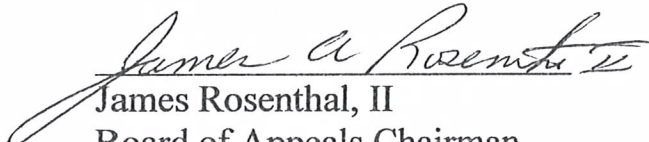
TOWN OF TAYCHEEDAH
FOND DU LAC COUNTY, WISCONSIN

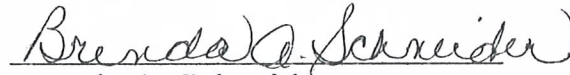
DECISION

WHEREAS, the Zoning Board of Appeals of the Town of Taycheedah, Fond du Lac County, Wisconsin, having conducted a public hearing on July 1st, 2004, to consider the variance petition of Kenneth C. Schmitz, W4807 Golf Course Drive. Mr. Schmitz requested a variance to Section 13-1-24(f)(3)(a), Highway setback, in order to construct a 16' x 9.5' deck to be attached to the home with a 33-foot setback instead of 63 feet as dictated by said section.

The Zoning Board of Appeals voted unanimously (5-0) to grant Kenneth C. Schmitz's variance to construct said deck to the house, subject to a stipulation that the owner shall remove the deck, at his expense, when necessary for the improvement of Golf Course Drive. The stipulation shall be applicable to any and all future owners of the property.

Dated this 1st day of July, 2004.


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 Tuesday, August 31st, 2004, on behalf of Navitas Energy, to consider approving a Conditional Use Permit for a temporary meteorological tower on a parcel of land owned by Adrian Schmitz. Members present were Chairman Jim Rosenthal, John Buechel, Bob Holzman, Angie Prull and Tom Friess. The Secretary, Brenda Schneider, tape recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read the notice.

Adrian Schmitz and Michael Arndt of Navitas were sworn in. Their testimony and responses to Board of Appeals questions was as follows:

- The tower would test wind velocity.
- There is no need for an additional driveway.
- The tower is proposed to be erected off of Stenz Drive.
- It is proposed to be in a remote location and would not be fenced in or near any buildings.
- The tower would be for a maximum of four years; minimum of two years.
- The tower is steel tubing; 8 inches wide at the base. It is 197 feet tall and would not require electrical infrastructure. It is erected with a truck and a winch.
- The tower would send data by signals.
- Navitas would be responsible for the maintenance of the tower; the maintenance is generally only the changing of the data collection card which is needed approximately every six months.
- Data is collected and transmitted via cellular means to a website every 15 minutes.
- The tower would be auger anchored guy wires 66 ft. from center.
- The data collected is private and confidential.
- Navitas understands that another Conditional Use Permit would be needed for any permanent structures.
- Anything is susceptible to vandalism. If someone were to cut the guy wires; there are no structures nearby.
- Migratory bird patterns have not been studied.
- The grade will not be adjusted in any way. After removal there will be no evidence the tower was ever there.
- Navitas has a crop damage agreement with Mr. Schmitz.

The Board discussed the possibility of establishing a probationary period.

Jesse Burg, W2575 Blackberry Drive, was sworn in. His testimony was as follows:

- Why is another test tower when there are others nearby? Navitas' answer: The topography will change the wind resource.
- Where will the energy go? Navitas' answer: They need to have a buyer which usually uses it locally.
- Will there be any revenue for the Town? Navitas' answer: Shared revenue will be given to the Town and the County. The landowner would also be paid for the land lease.
- What is the impact to property values? Navitas' answer: A federal study has indicated that values increase within the view-shed of turbines. The study is called the Repp Study and was done two years ago.

Lisa Halbach, N8304 Cty. W, was sworn in. Her testimony was as follows:

- If the data collect is sufficient for a turbine project and it moves forward, how would it proceed? Board answer: Another Conditional Use Permit would need to be approved. If approved, the permit would need to be renewed every four years.

Dan Bertram questioned how the other towns established the turbine project as a building permit. Navitas' answer: The other towns' ordinances establish the turbines as a permitted use. The Town of Taycheedah's ordinance establishes turbines as a conditional use. They have worked with Towns that have required conditional use permits.

Jerry Guelig, Town Chairman, questioned bond requirements and a general review by the Town Board. Board answer: The Board of Appeals has the authority to establish bond requirements and that only the Board of Appeals has jurisdiction over conditional use permits; per the Zoning Ordinance.

Jeff Meixensperger, N8446 Cty. W, questioned the height of the turbines and the setback requirements. Navitas' answer: 300 feet at the hub and approximately 450 feet with the blades. The Board's answer to the setback question: The Board of Appeals will address the setback issue if the project moves forward and that each site will need to be evaluated. However, a temporary data collecting tower is the only request under consideration at this time. Navitas added: There is a State Statute that does not give the municipalities the authority to deny the installation of wind turbines unless there is a threat to public health and safety. Mr. Meixensperger also questioned the number of turbines that would be installed if the project proceeded. Navitas' answer: They can not even speculate at this time. However, the project could not proceed if the landowners weren't willing to sign land leases.

Chairman Rosenthal reminded the audience several times that the hearing is for a conditional use permit for one temporary testing tower; not a wind turbine project. A few of the audience members expressed concern that if Navitas is allowed to erect the test tower; the Town will have little control and will be forced to approve the turbine project. They are concerned about the impact to property values and urban growth. Tom Friess, Board member, read aloud Section 13-1-68(a) of the Town's Zoning Ordinance. The section establishes the conditions that the Board of Appeals has authority to require and enforce.

An audience member questioned the tons of fossil fuel that would be saved by the wind turbines. Navitas' answer: An 80 megawatt project would save approximately 120,000 tons of coal.

John Morris, W4124 Kiekhaefer Parkway, was sworn in. His statement was as follows:

- He is in support of the project. Our fossil fuels are being depleted and there are global warming issues. We need to decrease our need for fossil fuels.

Jeff Meixensperger, N8446 Cty. W, was sworn in. His statement was as follows:

- He is opposed to the project. He is looking for global warming after this summer.

Board of Appeals deliberations were as follows:

- A study should be done on the affect of turbines on the bats and birds and their migratory flight patterns. Navitas' response: Before the turbine project could move forward, the DNR, Army Corp of Engineers, Fish & Wildlife and other agencies will require permits to be secured. They may require studies. They did require studies in the other areas. Navitas will not start such a study until they know the project is feasible.
- The bond is intended to cover the cost of removal of the test tower and reclamation of the land. Navitas is required to maintain liability insurance in the event there are damages or injuries. Navitas' costs for the temporary tower will be approximately \$15,000 for the tower and \$4,000 to ship and erect it.
- The time period was discussed and whether or not to require an annual review. A four month window would allow enough time for the removal of the tower and reclamation of the land.

Angie Prull motioned, seconded by John Buechel, to approve a Conditional Use Permit for the temporary meteorological tower under the following conditions:

- ✓ The permit will be for a period of no less than two years nor more than four years,
- ✓ If the test data collected is conducive for turbines, Navitas must complete environmental studies regardless of any waiver granted by the DNR or any other state agency,
- ✓ Navitas must report to the Town Clerk when the test data collection phase is complete,
- ✓ Navitas must remove the temporary tower within four months of the completions of test data collection,
- ✓ Navitas must notify the Town clerk when the environmental studies begin,

August 31st, 2004

Board of Appeals
Navitas-temporary meteorological tower

3.

- ✓ Navitas must submit a \$20,000 bond to the Town.

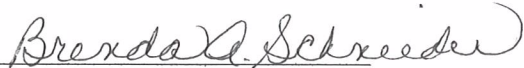
Roll call vote:

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

Motion carried (5-0).

John Buechel motioned to adjourn at 8:45 p.m., seconded by Angie Prull. Motion carried (5-0).

Attest:


Brenda A. Schneider
Board of Appeals Secretary

April 26th, 2005

Board of Appeals
Jeremiah Mand setback variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Tuesday, April 26th, 2005, on behalf of Jeremiah Mand. Mr. Mand requests a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a reduced front and side setback. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read the notice.

Jeremiah Mand was sworn in. His testimony was as follows:

- Mr. Mand plans to demolish the existing house and re-build a new house attached to the existing garage. He intends to build a one-story ranch home.
- Mr. Mand plans to use the existing septic system; which is approximately 10 feet behind the house.
- The proposed house would have a 95 foot setback from Church Road and an 85 foot setback from McCabe Road.
- Mr. Mand also proposes an additional 6 foot extension to the north of the footprint of the garage so that they don't undermine the garage slab.
- The existing garage would have a new roof line. It will be altered and extended in order to increase it to a 3-car garage.

Jeremiah Mand's responses to Board of Appeals questions:

- The current garage depth would remain.
- The total length of the house and garage will be 73 feet.
- The existing driveway will be blacktopped.
- He intends to demolish the existing house as soon as possible. He may start it in June. Section 13-1-192(c) states that a variance shall expire within 6 months unless substantial work has commenced. The Board of Appeals would consider demolition as substantial work.
- The house would be behind the setbacks of the existing garage.

NOTE: The existing garage was granted a variance for reduced setbacks on May 11th, 1988. The Board of Appeals members discussed the variance granted to Mr. Prost. Mr. Prost was restricted from parking vehicles or junk on the south side of the lot. Mr. Mand has begun removing the junk on the property. He has also removed the fence along Church Road. Mr. Mand will need to maintain an open vision triangle.

The 6 foot extension of the garage wall will not further encroach the current setback.

Jim Rosenthal motioned, seconded by John Buechel, to approve the variance with the stipulations as follows:

- There will be no trees, or any other obstruction, of the vision triangle of Church Road and McCabe Road,
- The driveway is to remain at the same location; at the same grade,
- The setbacks of the existing garage walls are to remain 90 feet from Church Road and 75 feet from McCabe Road,
- Demolition of the house must be completed within 6 months, and
- The proposed house will have a setback of no less than 95 feet from Church Road and 85 feet from McCabe Road.

Roll call vote:

Bob Holzman aye

Barb Bertram aye

John Buechel aye

Tom Friess aye

Jim Rosenthal aye Motion carried unanimously.

The public hearing adjourned at 8:12 p.m.

Attest. Brenda A. Schneider
Brenda A. Schneider
Secretary

June 8th, 2005

Board of Appeals
3-D Dairy, LLC-setback variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Wednesday, June 8th, 2005, on behalf of Joe, Bill and John Diederichs, d.b.a. 3-D Dairy, LLC. The Diederichs request a variance to Section 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a reduced front setback. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read the notice.

John Diederichs, representing 3-D Dairy, was sworn in. His testimony was as follows:

- A variance was granted to 3-D Dairy in 1999, for a 75 foot front setback.
- 3-D Dairy needs to add to the barn.
- The existing special needs barn is 120 feet long and has a 75 foot setback.
- The addition would be 200 feet; maintaining the 75 foot setback.
- The manure alleys will work in the addition only if they are extended from their current position. The existing manure alleys would require the addition be 75 feet from the center of Schaefer Road.
- The special needs barn needs to be close to the parlor.
- Bayland Builders, Green Bay, would build the addition. They plan to start around the end of June.
- The barn addition will house an additional 200 cows; bringing the total to approximately 800.
- They are required to obtain a permit from the DNR for manure management. The DNR approved the permit 2-3 years ago.

John Diederichs' responses to Board of Appeals questions:

- The addition will impact Schaefer Road only.
- Schaefer Road is a deadend with only two houses beyond the dairy complex.
- The site of the addition is pretty much to grade. They will need to do a little scraping, filling and graveling.

Member Tom Friess has viewed the property. He commended the Diederichs for a well planned and operated dairy.

Town Board Supervisor Mike Wirtz informed the Board of Appeals that it is believed that Schaefer Road lies west of the center of the right-of-way; meaning that the setback to the barn would increase if and when the road is reconstructed at its' proper location. The Town Board is considering widening Schaefer Road.


Tom Friess stated that based upon the previous variance approved by the Board of Appeals and that the addition will not be closer to Schaefer Road, he motioned to grant the variance for the expansion with a 75 foot front setback, seconded by Barb Bertram.

Roll call vote:

Bob Holzman	aye
Tom Friess	yes
John Buechel	yes
Barb Bertram	aye
Jim Rosenthal	aye

Motion carried unanimously (5-0).

Jim Rosenthal motioned to adjourn the public hearing at 7:45 p.m., seconded by John Buechel. Motion carried (5-0).

Attest. 
Brenda A. Schneider
Secretary

The Town of Taycheedah Board of Appeals conducted a public hearing on Wednesday, June 8th, 2005, for the purpose of determining whether or not a variance was still valid. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order at 7:45 p.m.. The Secretary read the notice.

Background: A public hearing was conducted on February 25th, 2003, at the request of Pat Mand. Mr. Mand requested a variance for a 32'x54' addition to a storage building that would have a 60 foot setback from Church Road. The variance was approved unanimously.

Mr. Mand recently attempted to obtain a building permit. Brenda Schneider, Permit Issuer, denied Mr. Mand's request for a building permit due to Section 13-1-192(c) *Variances, substitutions or use permits granted by the Board shall expire within six months unless substantial work has commenced pursuant to such grant.*

Mr. Mand proceeded with construction without a permit. A stop work order was issued.

The Board of Appeals needs to determine what constitutes substantial and whether or not the variance has expired.

Pat Mand was sworn in. His testimony and responses to Board of Appeals questions were as follows:

- Mr. Mand stated that he spoke with Jim Rosenthal and Jerry Guelig about the issue was under the impression that everything was alright.
- Mr. Mand stated the delay in construction was caused by his builder.
- He has been storing his jetting equipment at Agri-Land Coop.
- Mr. Mand stated that he wasn't told that the variance had an expiration and that someone should have told him.
- Mr. Mand admitted that he didn't ask about an expiration.
- Mr. Mand admitted to starting construction without a permit. He claimed Jim Rosenthal and Jerry Guelig said it was ok to start. He also admitted that Brenda Schneider denied him a permit three times and told him he couldn't start construction.

It was clarified to Mr. Mand that neither Jim Rosenthal nor Jerry Guelig has the authority to allow him to proceed with construction without a building permit.

- Mr. Mand claimed to have dumped fill at the site in preparation for construction during the initial six month period.
- After being asked more than once, Mr. Mand estimated the 100 yards of fill was dumped at the site at a cost of approximately \$1,300.00-1,500.00 worth of work.
- It was noted that no expiration is stated on the Board's formal decision.
- Mr. Mand stated that his contractor was hired on time and materials and that he doesn't have an estimate for the total project.
- Chairman Rosenthal stated that he had told Pat not to start the project without a permit.
- Mr. Mand stated that he didn't have compactor 1.5 years ago and would add fill periodically as it settled.
- After being asked several times, Mr. Mand estimated the cost of the building to be \$20,000.00.
- Mr. Mand stated that he started adding fill right after the variance was approved. He added that he recently added considerably more fill.
- It was noted that the current Code of Ordinances has been in effect since 1998; thus it is applicable.
- Mr. Mand stated that nothing has changed with the building and that it would be there if he would have started the addition within six months or not.

June 8th, 2005

Board of Appeals
Pat Mand-validity of a variance

2.

The Board members discussed two pending situations that have approved variances and haven't started their projects. One being a fence along Hwy. 149; which wasn't built due to the pending reconstruction of Hwy. 149.

Chairman Rosenthal reminded the group that the issue at hand is whether or not Mr. Mand completed substantial work within six months.

- Mr. Mand stated that he believes he had added fill to the site within the six months after the variance was approved.
- Board Member Buechel stated that he always watches the progress of projects done under approved variances.
- Mr. Mand then stated that he did start within 12 months after the variance was approved.

Attorney John St. Peter gave an opinion, in email form, regarding the Town not being responsible to inform Mr. Mand that he needed to substantially begin his project within six months.

Chairman Rosenthal stated that when the variance was approved it was assumed that work would be done in a timely manner. Chairman Rosenthal acknowledged that the Board of Appeals was not aware of the 6 months limitation when Mr. Mand's variance was approved.

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

- Last Thursday he noticed construction had begun at the site. He made a comment to that effect to Brenda. It was decided to call Rich Bernath, the Town's Building Inspector.
- Mr. Wirtz commented that building permits expire after two years but can be extended for up to an additional six months.
- Mr. Wirtz believes 180 cubic yards of fill is closer to reality.
- Mr. Wirtz commented that part of the reason for an expiration of a variance is because ordinances change from time to time.

The Board of Appeals was reminded that the main question before them is whether or not substantial work was done within six months of the granting of the Mr. Mand's variance.

John Buechel motioned that substantial work was completed by the filling of the site within one year but not within six months; however, he would consider the project grandfathered due to the recent discovery of Section 13-1-192 and based upon the \$1300.00 estimated cost for fill which could be doubled and based upon an estimated \$20,000.00 for the building cost which he would consider to be substantial, seconded by Tom Friess.

Roll call vote:

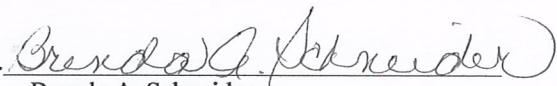
Barb Bertram	aye
John Buechel	aye
Bob Holzman	aye
Tom Friess	aye
Jim Rosenthal	aye

Motion carried (5-0).

Chairman Rosenthal appreciated everyone's time and effort for the meeting.

Jim Rosenthal motioned to adjourn the public hearing at 9:15 p.m., seconded by Tom Friess.
Motion carried (5-0).

Attest.


Brenda A. Schneider
Secretary

June 30th, 2005

Board of Appeals
John Wehner-size of accessory building variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, June 30th, 2005, on behalf of John Wehner. Mr. Wehner requests a variance to Section 13-1-140(b)(3) of the Town of Taycheedah's Code of Ordinances to allow for a 24' x 48' carport addition to an existing detached accessory building which exceeds the 1264 sq. ft. maximum size. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman (tardy) and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read the notice.

John Wehner was sworn in. His testimony and responses to Board of Appeals questions were as follows:

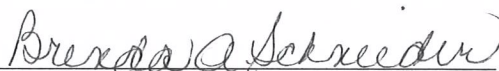
- He owns more than 20 contiguous acres.
- The lot with the existing accessory building is 650' x 329'.
- He intends to keep the hobby-farm type use of his land. He bought the additional acreage to keep out development. His goal is to plant apple and fruit trees on the land.
- He needs additional storage for his farm equipment and his lawn care equipment.
- The existing building is 30' x 50'. It houses a machine shop and is used for storage.
- Pinno Construction has designed the carport. It will have a stable-type appearance. It will be a roof only; no siding.
- If he were required to build an additional building; he would have to extend the electrical service.
- He has contacted most of his neighbors. No one voiced an objection.
- The building will have a stone based floor; no concrete.
- The support posts will be anchored by cement.
- He intends to keep the existing grade which drops an estimated 3.5 feet.
- The eave height will be approximately 9-10 feet.
- He does not plan on installing lighting in the carport.
- It will not be used for business activity. His company operated at 226 South Cotton Street.
- The existing building faces vacant land owned by him.
- There is a 20 foot ridge to the north of the existing building.
- The existing building is approximately 700 feet from the nearest neighbor. The visibility is very limited from the neighbors. The lot is very wooded. His house can not be seen from the street.
- The neighbors in attendance were in support of the project.
- No opposition was presented.

Tom Friess motioned to approve the variance request for the carport, noting no visual impact to the neighbors and no neighbor opposition, seconded by John Buechel.

Roll call vote:

Barb Bertram	yes	
John Buechel	yes	
Tom Friess	yes	
Bob Holzman	yes	
Jim Rosenthal	yes	Motion carried unanimously (5-0).

Barb Bertram motioned to adjourn the public hearing at 7:00 p.m., seconded by Jim Rosenthal. Motion carried (5-0).

Attest. 
Brenda A. Schneider
Secretary

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, June 30th, 2005, on behalf of Fred Moyer, dba Fred's Fastrac, and St. Peter Lions Club. Mr. Moyer and the Club requests a variance to Section 13-1-104(a)(3) of the Town of Taycheedah's Code of Ordinances to allow for two oversized signs. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read the notice.

Fred Moyer was sworn in. His testimony and responses to Board of Appeals questions were as follows:

- The highway was relocated about 170 feet to the west.
- His existing signs are hard to read from the road.
- He currently has two 3' x 4' x 12' signs. The signs were visible from the former highway location.
- The proposed top sign would be 8' x 12' and approximately 23 feet from grade. The two lower signs would be 3' x 6' with approximately 1 foot between them. He may eventually add a third sign below the main sign.
- The land is zoned business with public sewer (B-1).
- He has operated his business at the site for 31 years.
- The new 170' right-of-way is owned by the state.
- Customers have commented about not being able to read the sign from the highway.
- The signs can't be seen from the north due to the size and the berm.
- The new sign will be lit only when he is open for business and it is needed; which would be no later than 8:00 p.m. He won't have it lit when he is not there.
- There are no other businesses in the immediate area with signs 170' away from the highway.
- Yeager Signs has designed a sign with interior illumination. It will be aluminum framed. It will not have flashing lights.
- The State will not allow him to go closer to the highway; nor will they sell him part of the right-of-way.
- The existing sign is approximately 125 ft. from the building.
- The new sign will have room for a third product or vendor sign.

Stan Freund, representing the St. Peter Lions Club, was sworn in. His testimony and responses to Board of Appeals questions were as follows:

- The Club intends to use the sign as a fund raiser by advertising for the local businesses. They will have an annual fee.
- There is currently no advertising on the highway for the businesses located in the plaza.
- Some businesses have already committed to participating.
- The Club's logo will be at the top.
- The business names will be 1' x 6'. They could request a larger line. It will have a maximum of 20 lines.
- The total face of the sign will be 12' x 18'; excluding supports.
- The sign structure will be 24-30' high depending upon the length of the telephone poles. They planned for 30 feet so that it is behind and above Fred's sign facing parallel to the highway. The two signs will be approximately 50-70 feet apart.
- The Club needs Board of Appeals approval before applying to the Dept. of Transportation for a permit.
- The bottom of the sign will be about 6 feet above grade. They don't plan to add to the bottom of the sign.
- The sign will be painted lettering and logo. It will be wooden back with aluminum clad face. It will not be lit.
- The Club plans to install a short retaining wall with shrubs.
- St. Peter Lions Club will maintain the sign.

- When a business closes; their name will be removed from the sign.

Donald Larson, representing DOT, District Outdoor Sign Permit Coordinator, was sworn in. His testimony and responses to Board of Appeals questions were as follows:

- The blue and white gas/food/lodging signs are determined by speed limit and the number of lanes. The State has yet to approve the area east of Hwy. 41 for such signage. Legislation would have to be passed before such signs could be placed along Hwy. 151. Such signs are for advertising gas/food/lodging only.
- He believes the size of the proposed signs is normal for the distance.
- The Lions Club signage would be classified as a service club; however, including advertising for local businesses changes the classification to a billboard.
- Billboards require commercial zoning and must be at least 300 feet from the intersection of Hwy. 151/149 starting at the taper and it must be off of the right-of-way. Requirements also limit the height to no more than 30 feet. The State permits illumination.
- The approximate middle of Fred's driveway is 300 feet from the intersection. The Club's sign must be north of a perpendicular line from the highway at the 300 foot setback.
- The estimated 170 ft. right-of-way in a transition area for future four lane expansion. If the highway expands, any non-conforming signage is grandfathered. He is unaware of any planned changes.
- There are no restrictions on Fred's proposed sign, other than beyond the right-of-way, because it advertises an on-site business.
- It was unknown if Fred's lot extends far enough to the north in order to place the Club's sign beyond the 300 foot setback. It was noted that the variance is needed for the size of the sign; not the location of the size as long as it is located on property zoned business.
- The DOT would work with the Club to determine the setback line.
- Section 13-1-107(c) requires signs to be located no closer than 5 feet from the property line.

Barb Bertram motioned to approve the variance requested by Fred Moyer for an oversized sign, per submitted plan, classified as an on-site sign, under the condition the sign be well maintained and constructed as stipulated, due to the distance from the highway, seconded by Jim Rosenthal.

Roll call vote:

Bob Holzman	yes	
Tom Friess	yes	
John Buechel	yes	
Barb Bertram	yes	
Jim Rosenthal	yes	Motion carried unanimously (5-0).

Jim Rosenthal motioned to approve the variance requested by the St. Peter Lions Club for an oversized sign, per the submitted plan, not to exceed 30 feet in height, due to the need to off-set Fred's sign and under the condition the sign location meets the State's setback from the highway requirement, seconded by Tom Friess. Applicant must apply for DOT permit and comply with all of the State's regulations.

Roll call vote:

Barb Bertram	yes	
John Buechel	yes	
Tom Friess	yes	
Bob Holzman	yes	
Jim Rosenthal	yes	Motion carried unanimously (5-0).

John Buechel motioned to adjourn the public hearing at 8:07 p.m., seconded by Bob Holzman. Motion carried (5-0).

June 30th, 2005

Board of Appeals
Fred Moyer & St. Peter Lions Club-size of signage variance

3.

Attest. Brenda A. Schneider
Brenda A. Schneider
Secretary

July 25th, 2005

Board of Appeals

1.

John Wagner setback/enlarge a nonconforming structure variance

The Town of Taycheedah Board of Appeals conducted a public hearing on Monday, July 25th, 2005, on behalf of John & Claudia Wagner. Mr. & Mrs. Wagner requests a variance to Sect. 13-1-80(a)(1) of the Town of Taycheedah's Code of Ordinances to allow for the enlargement of a nonconforming structure with a reduced front setback. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order. The Secretary read the notice.

John Wagner was sworn in. His testimony was as follows:

- He currently has a one-stall attached garage and a two-car detached garage
- He plans to remove both existing garages.
- He plans to add a 10 foot wide entryway on the north side of the house plus a laundry room and a three-car garage.
- The addition will be 46 ft. x 36 ft.
- The existing kitchen and bathroom does not have a basement. He plans to excavate and construct a full foundation.
- The house has an 82 foot front setback and the barn has a 50 ft. front setback. The State was not interested in buying either building when Hwy. 149 was improved.
- There will be no change in the driveway location.
- The lot is 9.3 acres.
- The building addition will be to the rear of the property; not near the street.
- The centerline of the highway stayed pretty much the same; however, the roadway dropped approximately 3 feet.

No one appeared to object to the variance petition.

The Board of Appeals noted that the addition will not further reduce the front setback and that the front setback of the barn is even less than the house.

John Buechel motioned to approve the request for a variance as submitted, seconded by Bob Holzman.

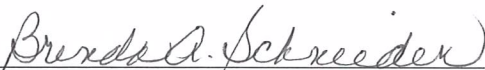
Roll call vote:

Barb Bertram	aye
John Buechel	aye
Tom Friess	aye
Bob Holzman	aye
Jim Rosenthal	aye

Motion carried unanimously.

The public hearing adjourned at 7:20 p.m.

Attest.



Brenda A. Schneider
Secretary

The Town of Taycheedah Board of Appeals conducted a public hearing on Monday, July 25th, 2005, on behalf of Dave & Dan Bertram. The Bertram's request an amendment to the Conditional Use Permit for quarry operations. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. Also present was Attorney John St. Peter. The Chairman called the hearing to order. The Secretary read the notice.

Dan Bertram was sworn in. His testimony and responses to Board of Appeals questions were as follows:

- The lease with J&E Construction will expire at the end of July 2005.
- They have chosen Evenson Construction Co., Inc., to take over the quarry operation.
- Exhibit 1-Lease of Understanding between Dave & Dan Bertram and Evenson Construction Co., Inc., was reviewed.
- The lease began May 1st, 2005 and will expire in 2014.
- The current conditional use permit expires in August of 2006.
- The Bertrams request a renewal of the CUP for a period of four years at this time.

Attorney St. Peter advised the Board of Appeals that they could leave the expiration as August 2006, extend for two years but not for the 10 year period as stated in the lease.

Attorney St. Peter also advised that the Town should know what the operational terms in the lease are.

- Operational hours on Saturday will be 7:00 a.m. to noon. They do not intend to ask for additional hours.
- Evenson Construction will be responsible for the reclamation plan.
- The stone on site is owned by J&E Construction. Evenson is negotiating with Eckert to purchase the on-site material and the scale.
- It is believed that the scale will remain in its current location.

Kurt Marshall, representing Evenson Construction Co., Inc., was sworn in. Mr. Marshall's testimony and responses to Board of Appeals questions were as follows:

- Mr. Marshall was accompanied by Pat Strachan, Evenson Construction and Susan Courter, Courter Resource Group.
- They are familiar with the terms of the Town's ordinance.
- Exhibit 2-Certificate of Liability Insurance was presented. The Certificate satisfies the requirements of the ordinance.
- Mr. Marshall is working to secure a performance bond in the form of a Irrevocable Letter of Credit in the amount of \$35,300.00; \$20,000.00 for the Town and \$15,300.00 for the County.
- Evenson operates an excavating and quarrying business.
- They currently employ 13 people.
- They operate 13 pits and quarries; 8 of them currently active.
- Evenson has been in business 53 years. The original owner is still active in the business.
- Evenson has never had a permit revoked.
- Evenson has never had any issues with the Environmental Protection Agency.
- Evenson has never had any regulation violations.
- The Mine Safety Health Association did cite Evenson for a faulty plug on a cord and for no porta-potty at a job site. Mr. Marshall added that they were just moving into the site when the inspector arrived.
- Susan Courter, Courter Resource Group, consultant for Evenson, audits the company for compliance with regulatory agencies. She has found no violations. She conducts quarterly site inspections. The company performs daily equipment inspections. She files annual reports and provides educational training in the spring.
- Mr. Marshall is currently in negotiations with J&E for the purchase of existing materials at the site and the scale.
- The current lease with J&E will expire 7/31/05. Typically time is given for the former leasee to remove his equipment.
- Mr. Marshall plans to erect a gate at the entrance in order to control the hours of operation.

Attorney St. Peter was concerned about the timing of the transition. The Eckert material will either have to be removed or purchased. Dan Bertram added that after 6 months the materials revert to their ownership and that the loader and scale are the only equipment on site.

Further discussion:

- Susan Courter informed the Board that Evenson contracts for the blasting activity. Attorney St. Peter commented that compliance regarding blasting and dust control will be expected.
- Evenson has submitted requests for proposals to Falcon, Barbarossa, Orica and Ahlgrimm for blasting services. They have not selected a firm at this time.
- Chairman Rosenthal informed the group that there are multiple sites for seismograph readings; particularly the Freund tower and the Steffes residence.
- Chairman Rosenthal also informed them that they will need to coordinate blasting times and dates with Northeast Asphalt. They must also notify the neighbors before blasting and they are required to use water as necessary.
- The current document consists of the CUP dated 1998, Amendment #1 dated 9/11/02, Renewal #1 dated 8/12/02, Amendment to the Renewal #1 dated 11/18/03 and the Fugitive Dust Plan. Attorney St. Peter will incorporate the documents into one document.
- Dan Bertram questioned the possibility of drilling a well for the quarry operation. The response was no due to contamination concerns. In the past, the Bertrams ran a hose to the operation.
- Evenson was informed that he would be solely responsible for any citations or fines.
- Exhibit 3-Public meeting notice.
- Evenson currently operates a site in Valders that has several abutting residential properties. The only complaint received was for shoulder and lawn damage.
- Evenson has received no other complaints nor has ever been the defendant of any law suits.
- Evenson would be responsible, through their blaster, to maintain the 25-foot benchmark established by McMahon & Associates. Attorney St. Peter provided Evenson with his file copy of the benchmark map.
- Attorney St. Peter informed Evenson that they are responsible to request all documentation. In the event of a problem, their defense will not be a lack of documentation or knowledge.
- Evenson would be responsible to address any complaints. Mr. Marshall will personally address complaints.

There was considerable discussion regarding the expiration of the current conditional use permit held by J&E Construction and his rights pursuant to the current CUP. There was concern that Evenson could be held responsible for Eckert's activities. However, Eckert will not have a lease with the Bertrams which would remove his rights to the property. Attorney St. Peter suggested obtaining a letter of release from Eckert. Dave Bertram commented that Eckert was informed 6 months prior to the expiration of the lease that the lease will not be renewed.

- Dan Freund questioned a gate erected on both the east and south sides of the quarry. The egress is to Cty. Q.
- Mr. Freund also questioned completing the berm around the perimeter of the quarry.
- Mr. Freund also questioned the silage pile in the quarry. Dan Bertram responded that last fall they covered a pile of silage in the area ready for reclamation. They are currently using the area for bag feed storage. Mr. Freund added that nitrates could be entering the water supply and that he would like to see the monitoring wells used again. Dan Bertram responded that the potable well is within 100 feet of the area. Attorney St. Peter warned that the intent of the public hearing is not to re-open all these issues. Dan Bertram added that the silage pile will be gone by fall and that future storage will be in bags. They are currently accepting fill for reclamation. Attorney St. Peter warned that there is to be no ag-related activity in the pit until it is reclaimed.
- Dan Freund referred to a letter stating the site is 15 acres yet the permit covers 11.25 acres. He wants this noted in the conditional use permit.
- Dan Freund commented that Ahlgrimm had visited him. He was under the impression that Ahlgrimm was going to do the blasting. All blasting needs to be done by 4:00 p.m. and seismographs need to be set up at the tower site and by the Steffes. He was assured that letters will be sent as in the past and that he will receive a call within 24 hours of the blasting activity.
- Evenson accepts responsibility for reclamation with the lease.

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

- Mr. Freund stated that he is not opposed to the transfer to Evenson. He advised that the Board not transfer the permit without a letter from Eckert.

July 25th, 2005

Board of Appeals
Bertram/Evenson CUP for quarry operation

3.

- Mr. Freund claimed the current ordinance will not allow an extension of more than two years.
Chairman Rosenthal summarized the following issues:
- Evenson needs to obtain a letter from J&E Construction relinquishing all rights to the quarry,
- A scale will be in place at the site whether or not J&E sells the existing scale to the leasee,
- Evenson is responsible to make sure the sales & weights are accurate,
- Evenson will be responsible to control the dust,
- A locked gate will be erected for use during non-operation hours,
- If Eckert submits the letter, Evenson will be responsible after 7/31/05,
- A minimum of two seismographs will be used at the locations previously noted,
- Evenson will be responsible to obtain and follow all documentation and procedures.

Jim Rosenthal resolved to approve a new conditional use permit to Evenson Construction, Co., Inc, for a period to begin 8/1/05 and expire 7/31/09. The permit will take effect upon receipt of the letter from J&E Construction surrendering all rights to the existing permit. Jim Rosenthal further resolved that Evenson will be bound by all terms and conditions set forth in the current permit which will be incorporated into a new permit, Bertram is to remove all loose feed from the quarry area as soon as possible, and Bertram is not to use the area for bag feed storage until the area is reclaimed, seconded by Tom Friess.

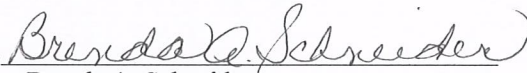
Roll call vote:

Bob Holzman	aye
Barb Bertram	aye
John Buechel	aye
Tom Friess	aye
Jim Rosenthal	aye

Motion carried (5-0).

There was further discussion regarding the storage of feed on the quarry site. Dan Bertram was advised to not use the area for feed storage until after the area is reclaimed.

John Buechel motioned to adjourn the public hearing at 9:21 p.m., seconded by Barb Bertram. Motion carried (5-0).

Attest. 
Brenda A. Schneider
Secretary

The Town of Taycheedah Board of Appeals met on Thursday, August 25th, 2005. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman, Barb Bertram and Secretary Brenda Schneider.

- 1 Call the public hearing to order. President Rosenthal called the public hearing to order at 7:02 p.m.
- 2 Public hearing on the variance application submitted by Jerry & Carol Schmitz. See public hearing minutes.
- 3 Adjournment of the public hearing. John Buechel motioned to close the public hearing at 7:15 p.m., seconded by Bob Holzman. Motion carried (5-0).
- 4 Call the special meeting to order. President Rosenthal called to meeting to order at 7:20 p.m.
- 5 Review and possible action regarding the setback variance approved for the property located at N7906 Church Road owned by Jeremiah Mand. The Board of Appeals conducted a public hearing on April 26th, 2005, to consider the variance petition of Jeremiah Mand, for property located at N7906 Church Road. Mr. Mand requested a variance to Section 13-1-24(f)(3)(a), Highway setbacks in order to demolish and re-build a house attached to the existing garage. The Board of Appeals voted unanimously to approve the variance to demolish and re-build a house attached to the existing garage with the following stipulations:
 - There will be no trees, or any other obstruction, of the vision triangle of Church Road and McCabe Road,
 - The driveway is to remain at the same location; at the same grade,
 - The setbacks of the existing garage walls are to remain 90 feet from Church Road and 75 feet from McCabe Road,
 - Demolition of the house must be completed within 6 months, and
 - The proposed house will have a setback of no less than 95 feet from Church Road and 85 feet from McCabe Road.

Late spring/early summer, Mr. Mand demolished the house. In July, Mr. Mand proceeded to demolish the existing garage. After consultation with Attorney John St. Peter, the Board of Appeals was assembled to consider whether or not they wanted to pursue the reaffirmation of the variance due to the demolition of the garage.

Mr. Mand's explanation was as follows:

- He planned to increase the height of the garage by adding 2 rows of concrete block at the base of the wall.
- In order to increase the height of the sidewalls; he had to dismantle and remove the walls.
- When he dismantled the walls; he discovered the walls were not built to appropriate standards.
- There were bare electrical wires and the studs were not 16' on center.
- The existing 4 ft. frost-wall remains intact.
- Destroying the garage was not his original intention.
- Had he known he would end up destroying the garage; he would have moved the new structure back.
- He has started rebuilding the garage on the same footing.
- He was not aware of the need to contact the Appeals Board about changing his plans.

Appeals Board members comments were as follows:

- Members understood that at least the south wall would remain. Some thought all three walls would remain.
- The footprint remains unchanged.
- The Appeals Board should have been contacted before the garage was destroyed.
- At least one member stated that he would not have supported the variance had he known the garage may be destroyed.
- The Board discussed the Zoning Ordinance stipulation not allowing the enlarging, moving or rebuilding a non-conforming structure unless it is to make the structure conforming.

August 25th, 2005

Special Meeting
Status of Jeremiah Mand's variance

2.

- The Board discussed the variance granted in 1988 for the original construction of the garage.
- The Board discussed the 50% rule pertaining to improving a non-conforming structure.

Barb Bertram motioned to leave Mr. Mand's variance as is with all the stipulations established on April 26th intact; taken on good faith that Jeremiah Mand did not intend to deceive the Board, seconded by Tom Friess.

Roll call vote:

Bob Holzman	yes
Barb Bertram	yes
John Buechel	yes; as long as the south wall remains as is.
Tom Friess	yes
Jim Rosenthal	yes

Motion carried (5-0).

Mr. Mand informed the Board that the lot stake is 15 ft. into the asphalted area on the curve, at the corner. Mr. Mand was advised to speak to the Town Board about the stake.

Mr. Mand also commented that the driveway elevation will remain the same for the first 25 ft., then slope into the garage.

6. Adjournment of the special meeting. John Buechel motioned to adjourn at 8:33 p.m., seconded by Jim Rosenthal. Motion carried (5-0).

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

August 25th, 2005

Board of Appeals
Jerry Schmitz setback/enlarge a nonconforming structure variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, August 25th, 2005, on behalf of Jerry & Carol Schmitz. Mr. & Mrs. Schmitz request a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a reduced side setback. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order at 7:02 p.m.. The Secretary read aloud the public hearing notice.

Carol M. Schmitz was sworn in. Her testimony was as follows:

- The south side of the house currently has a 16' deck; which they intend to remove.
- They plan to construct a 16' addition for a bedroom and a sunroom in the location of the deck.
- The home was built in 1988.
- Linden Drive was established several years after the home was constructed. They were surprised the new road wasn't required to be further away from their deck.
- The addition will be the same size as the existing deck and therefore would not encroach any further into the right-of-way.
- Val Eppli owns a 33' strip of land between the Schmitz's property and Linden Drive.
- The addition would be 80' from the center of Linden Drive and 105' from the center of Fine View Road.

The home became a non-conforming structure due to new development.

John Buechel motioned, seconded by Barb Bertram, to approve the variance due to the fact that the house was built prior to the establishment of the road.

Roll call vote:

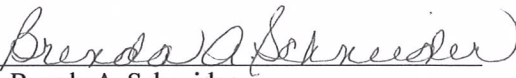
Tom Friess	aye
John Buechel	aye
Barb Bertram	aye
Bob Holzman	aye
Jim Rosenthal	aye

Motion carried unanimously.

An attendee, who resides near Jennie Lee Court, questioned when Jennie Lee Court will be blacktopped. He commented that the dust from the road is bad. Chairman Rosenthal informed the resident that he needs to contact the Town Board on that issue.

John Buechel motioned to close the public hearing at 7:15 p.m., seconded by Bob Holzman. Motion carried (5-0).

Attest.


Brenda A. Schneider
Secretary

September 7th, 2005

Board of Appeals
Elmer Thome setback/enlarge a nonconforming structure variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Wednesday, September 7th, 2005, on behalf of Elmer Thome. Mr. Thome requests a variance to Sect. 13-1-80(a)(1) of the Town of Taycheedah's Code of Ordinances to allow for the enlargement of a nonconforming structure with a reduced setbacks. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order at 7:03 p.m.. The Secretary read the notice.

Elmer Thome was sworn in. His testimony was as follows:

- Mr. Thome's house has one bedroom and one bathroom on the main floor.
- The bathroom door is 26" wide; not accessible with a walker or wheelchair.
- Mr. Thome had knee surgery last January. It was difficult for him to get in and out of the bathroom.
- The front setback of the house is approximately 22 feet from the center of Railroad Street.
- The street was established after the house was built.
- Mr. Thome plans to construct an addition to the house in order to enlarge the bedroom; which would also allow him to install a wider door.
- The addition would be 7'2" x 7'8" at the back of the house.
- The right sideyard setback of the house is approximately 30" from the edge of Mr. Koenigs' driveway.
- The addition would not encroach closer to the lot line.
- The roof-line will not extend further than the existing roof-line.

Delmore Koenigs and Dick Schaefer, representing Agri-Land Coop, were present and did not object to the variance petition. The western portion of Railroad Street was abandoned by the Town Board. Abandonment of the entire road would land-lock Delmore Koenigs. The Town improved the street with grading and recycled blacktop. Agri-Land plows the snow.

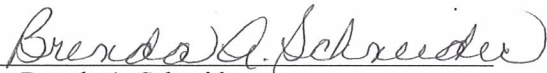
John Buechel motioned to approve the variance request as submitted due to the construction of the road after the construction of the home and under the condition that the Town will not be held liable in the event of any future conflicts that may be caused by any change in the location of the road right-of-way, seconded by Barb Bertram.

Roll call vote:

Bob Holzman	aye
Tom Friess	aye
John Buechel	aye
Barb Bertram	aye
Jim Rosenthal	aye

Motion carried unanimously.

Jim Rosenthal motioned to adjourn the public hearing at 7:48 p.m., seconded by Barb Bertram. Motion carried (5-0).

Attest. 
Brenda A. Schneider
Secretary

October 4th, 2005

Board of Appeals
Stan Freund front setback variance

1.

The Town of Taycheedah Board of Appeals conducted a public hearing on Tuesday, October 4th, 2005, on behalf of Stan Freund. Mr. Freund requests a variance to Sect. 13-1-24(f)(3)(a) of the Town of Taycheedah's Code of Ordinances to allow for a reduced front and side setback. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the public hearing to order. The Secretary read the notice.

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

- Mr. Freund hopes to construct a 24'x60' one-story addition to his home.
- He requests a variance for a front setback of 90 ft. from Meadow Drive; which would include the overhang.
- The addition would need to extend forward in order to tie in the roofline of the existing structure.
- His contractor is proposing a 96' setback from Meadow Drive and a 104' setback from Lakeview Road. Stan is projecting approximately 93' from Meadow Drive and 96' from Lakeview Road.
- The homes to the north and east are allowed front setback of 30' from the right-of-way because their lots are part of a platted subdivision. Mr. Freund's lot was created by a certified survey map; which requires a 100' setback.
- The addition is planned to have a 2' overhang.
- The addition is also planned for a 5' protrusion from the existing structure.

The Board of Appeals members discussed the varying setbacks of the addition.

No public objection was presented.

Tom Friess motioned to grant the variance based upon the dimensions provided by Stan Freund which were that the sidewalls shall not be closer than 93 ft. from Meadow Drive and that the sidewalls shall not be closed than 96 ft. from Lakeview Road, seconded by Bob Holzman.

Roll call vote:

Bob Holzman	aye
Barb Bertram	aye
John Buechel	aye
Tom Friess	aye
Jim Rosenthal	aye

Motion carried unanimously.

John Buechel motioned to adjourn the public hearing at 8:02 p.m, seconded by Tom Friess.
Motion carried.

Attest. Brenda A. Schneider
Brenda A. Schneider
Secretary

The Town of Taycheedah Board of Appeals conducted a public hearing on Tuesday, October 4th, 2005, on behalf of Matthew Schmitz. Mr. Schmitz requests a variance to Section 13-1-140(b)(3) of the Town of Taycheedah's Code of Ordinances to allow for a 30'x60' addition to an existing detached accessory structure. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, taped recorded the hearing and took notes. The Chairman called the hearing to order at 8:05 p.m.. The Secretary read the notice.

Matthew Schmitz was sworn in. His testimony and responses to Board of Appeals questions were as follows:

- The existing building is 30'x40'.
- The existing building is a pole shed.
- He needs the additional space for a workshop and the storage of cars, trailers and a boat.
- He wants to add overhead doors.
- The existing house is 67' from the curbing of Hwy. 149 and 30' from the side lot line.
- The existing structure is well shielded from the view at the street.
- The parcel is 1.59 acres zoned residential with public sewer (R-1).
- The pole building posts would be 8 feet on center.
- The structure would maintain the existing sideyard setback.
- The sidewalls would be 12 feet.
- The storage space would be used by him and his dad.
- He does not intend to lease storage space.
- The pole shed was built in 1985.

Board of Appeals discussion was as follows:

- In 2002, the Town Board increased the maximum size of detached accessory structures.
- The maximum size limit, per the ordinance, is 1264 sq. ft.
- Approval of the petition would create a building twice the size limit for a 1.5 acre lot.
- The existing structure is 1,200 sq. ft..
- The addition would be three walls with overhead doors on the side.
- The pole shed style is prohibited in the residential district. The existing structure is grandfathered.
- The zoning was changed from agricultural-transitional to residential years ago.
- The home has an attached garage.

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

- The pole shed was built in September of 1985.
- The property was rezoned to residential.
- He said he was told that he could continue to use the property for ag purposes as long as he owns it. He used to raise steers.
- Mr. Schneider was informed that he lost his ability to raise steers on the property once he discontinued raising steer. Continued ownership does not extend a non-conforming use.
- The shed has a 5 foot sideyard setback.
- The shed met the requirements of the ordinance at that time.
- The shed is currently being used for storage of a camper, boat and trailer.
- The total height of the shed is approximately 18 feet.
- The front of the shed has a service door.
- The rear of the shed has a 12'x10' sliding door.
- It has fiberglass windows and skylights.

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

- Mr. Wirtz, a private contractor, was asked about matching a 10 foot sidewall addition into a 12 foot existing sidewall.

October 4th, 2005

Board of Appeals
Matthew Schmitz-size of accessory building variance

2.

- Mr. Wirtz's response was that special trusses could be made to accommodate the transition in the change in sidewall height. However, a portion would still have to be extended from the addition to the existing.
- The Town Board is scheduled to address increasing the maximum square footage of detached accessory structure. The largest structure that is proposed to be allowed would be 1500 sq. ft. on a 2.5 acre or larger lot.
- Mr. Wirtz was asked if the Town is being unreasonable.
- Mr. Wirtz's response was that there is some demand for larger structures however; the neighbors don't always like to look at them.
- He added that there is no limit to the size of an attached garage.
- The limit on the number of detached structures is still one.

No public comments were received. All property owners within 300 feet received direct written notice.

Further discussion by the Board of Appeals members was as follows:

- There was concern that a precedence might be established if the petition were approved.
- There must be a hardship that is not based upon needs or wants.
- The members questioned the need for the larger structure.

Barb Bertram motioned to deny the variance request on the grounds that the petitioner had not proven a hardship and on the basis that the request is excessive of the current maximum size limit, seconded by John Buechel.


Roll call vote:

Bob Holzman	no
Tom Friess	no
John Buechel	yes
Barb Bertram	yes
Jim Rosenthal	yes

Motion carried unanimously (3-2).

Chairman Rosenthal informed the Mr. Schmitz that the proposal was deemed not acceptable and that he has the right to re-petition in the future for a smaller size.

Jim Rosenthal motioned to adjourn the public hearing at 9:35 p.m., seconded by Barb Bertram. Motion carried (5-0).

Attest. 
Brenda A. Schneider
Secretary

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, November 3rd, 2005, on behalf of RBH Enterprises, Inc., to consider a Conditional Use Permit for a monopole telecommunications tower on a parcel of land in the NW 1/4 of the SE 1/4 of Section 20. Members present were Chairman Jim Rosenthal, John Buechel, Bob Holzman, Barb Bertram and Tom Friess. The Secretary, Brenda Schneider, tape recorded the hearing and took notes. The Chairman called the hearing to order at 8:30 p.m.. The Secretary read the notice.

Ken Franzen, representing RBH Enterprises, Inc. and Singular was sworn in. His testimony and responses to Board of Appeals questions were as follows:

- RBH proposes to erect a monopole telecommunications tower on the KFIZ tower site.
- The monopole would be erected in the northeast corner of the property.
- The monopole would be 140 feet tall.
- A 60' x 60' x 6' fence with barbed wire around the top would be installed around the monopole.
- The monopole is designed to hold two carriers in addition to Singular.
- The other towers in the Town are lattice.
- The monopole is self-supporting and does not need guide-wires.
- Singular has also co-located on the Mengel Hill tower.
- The monopole will withstand 80-85 mph winds.
- Due to the location, if it fell, it would not hit anything.
- The monopole is proposed to be located 100' from the KFIZ tower.
- The closest property line would be 150 feet; approximately 200' from the other property lines.
- Singular constructs monopole towers exclusively.
- He has been in the business for over 12 years and knows of no defects or problems with the monopole towers.
- Eventually, Singular will have a total of 12 antennas on the tower; 6 for receiving and 6 for transmitting.
- Singular is working to co-locate or build towers for coverage along the Hwy. 151 corridor all the way to Manitowoc.
- The monopole and co-locate in the Town should take care of the dead-spots.
- The length of the signal is 1-2 miles in the rural areas.
- The monopole will not cause any hazards, will not make any noise.
- The monopole will have a 60 watt light bulb at the top.
- Singular does not anticipate requesting an extension to the height of the monopole.
- The monopole is at a height that will clear the Ledge.
- There will be an un-manned station at the base of the monopole.
- Quarterly inspections of the tower will be needed.
- Lawn mowing, snow removal and emergency responses will require site visits.
- Emergency contact information will be posted on the fence as required by the FCC.
- The owner is aware that they would incur costs for removal of the tower in the event the tower is no longer needed.
- The monopole will be lower than the KFIZ tower.
- The monopole will be made of galvanized steel; no need for paint.
- The base will be 6 feet across with a 40 foot deep footing.
- The site will have an alarm that will call the company in the event of tampering.
- The first 20 feet of the tower has removal ladder rungs.
- The monopole is made to break in half instead of at the bottom.
- Singular worked closely with KFIZ in the design of the monopole.
- A modulation study has proved that the monopole will not cause interference to the current users of the tower.
- They have co-located on FM towers on numerous occasions without any interference problems.
- The monopole will put out 1800-1900 megahertz.

November 3rd, 2005

Board of Appeals
Singular-monopole telecommunications tower

2.

- Any possible instances of interference are addressed in the lease between KFIZ and Singular.
- The KFIZ tower can not handle any more antennas.

Eileen Schmitz owns the property surrounding the KFIZ site. Her father sold the site to WFON. The deed for the site notes one tower; now Singular is proposing to lease space for another tower. Mrs. Schmitz also commented on the easement with KFIZ to access the tower site through her property.

Mr. Franzen commented that in his experience, the owner of land can lease land to others and that the leasee would have the same rights under an easement as the owner.

The Board of Appeals does not have the authority to grant alternate access to the site. They can only grant the use of the site.

Mrs. Schmitz added that they have horse breeding stock on the farm. Mr. Franzen assured her that there will be no stray voltage or any other ill-effects from the monopole unless the animals are immediately in front of an antenna. The antennas will be over 100 feet above ground. Mr. Franzen offered to provide Mrs. Schmitz with contact information.

Chairman Rosenthal suggested the parties review the documents and seek a legal opinion if warranted.

Tom Friess motioned to grant the Conditional Use Permit for the monopole telecommunications tower, seconded by Barb Bertram.

Roll call vote:

John Buechel	yes
Bob Holzman	yes
Barb Bertram	yes
Tom Friess	yes
Jim Rosenthal	yes

Motion carried (5-0).

Jim Rosenthal motioned to direct the company, or their designees, in ownership of the tower, of the responsibility for all future costs to remove the tower if the company would go into default or the tower is no longer needed, seconded by John Buechel.

Roll call vote:

John Buechel	yes
Bob Holzman	yes
Barb Bertram	yes
Tom Friess	yes
Jim Rosenthal	yes

Motion carried (5-0).

John Buechel motioned to adjourn at 9:10 p.m., seconded by Barb Bertram. Motion carried (5-0).

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

November 3rd, 2005

Board of Appeals

1.

John Rixen setback/enlarge a nonconforming structure variance

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, November 3rd, 2005, on behalf of John Rixen, doing business as Fisherman's Cove. Mr. Rixen requests a variance to Section 13-1-80(a)(1) of the Town of Taycheedah's Code of Ordinances to allow for the enlargement of a nonconforming structure with a reduced setbacks. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, tape recorded the hearing and took notes. The Chairman called the hearing to order at 8:10 p.m.. The Secretary read the notice.

John Rixen was sworn in. His testimony was as follows:

- The structure was built in 1948; which was 10 years before the highway was expanded.
- The expansion of the highway created a non-conforming structure.
- He plans to construct three additions to the structure:
 - 12' x 21' Handicap-accessible bathrooms,
 - 20' x 20' kitchen expansion,
 - 12' x 22' walk-in cooler and storage.
- The bathroom addition would extend the walls to corner-off the north and east sides; not impeding any further into the setback.
- Removing the existing bathroom from it's current location will double the seating in the restaurant.
- The current setback from Hwy. 151 is 58'9".
- The current setback from Fisherman's Road is 75'6".
- The kitchen addition will triple the kitchen space.
- They are currently using space in the basement for kitchen preparation work.
- The Health Dept. wants all kitchen work done on one floor.
- The exterior appearance of the additions will be the same as the current exterior.

Bill Casper and John Zahn voiced support of the requested variance citing the need for the improved bathrooms, kitchen space and dining space.

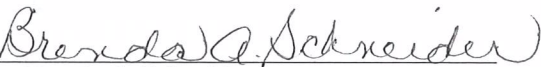
John Buechel motioned to approve the request for a variance as submitted, citing the pre-existing structure status, noted that the additions will not further impede on the current setbacks, the improvement to the property and the need to comply with handicap accessibility requirements, seconded by Tom Friess.

Roll call vote:

Bob Holzman	aye
Barb Bertram	aye
John Buechel	aye
Tom Friess	aye
Jim Rosenthal	aye

Motion carried unanimously.

John Buechel motioned to recess at 8:35 p.m., seconded by Barb Bertram. Motion carried (5-0).

Attest. 
Brenda A. Schneider
Secretary

November 3rd, 2005

Board of Appeals

1.

David & Laurie Pieper variance to exceed the number of accessory structures

The Town of Taycheedah Board of Appeals conducted a public hearing on Thursday, November 3rd, 2005, on behalf of David & Laurie Pieper. Mr. & Mrs. Pieper request a variance to Sect. 13-1-140(c) of the Town of Taycheedah Code of Ordinances to allow for a second detached accessory structure. Members present were Chairman James Rosenthal, John Buechel, Tom Friess, Bob Holzman and Barb Bertram. The Secretary, Brenda Schneider, tape recorded the hearing and took notes. The Chairman called the hearing to order at 7:30 p.m.. The Secretary read the notice.

Laurie Nichols-Pieper was sworn in. Her testimony was as follows:

- They plan to build a 2-car detached garage that would offset from the existing structure.
- The property currently has a 16'x12' fancy garden shed used for the storage of the tractor and garden tools.
- The second floor of the structure would be used for storage, a music room and a sewing room.
- The first floor would be used for vehicle storage and a bathroom.
- The Piepers were not aware of the restriction on the number of accessory buildings allowed by the ordinance when they purchased the property.
- The gardening tools and equipment is used on the abutting five acre lot that they are in the process of purchasing from Val & Betty Eppli on a land contract.
- The sidewalls of the garden shed are 9'6".
- The detached garage will look like the house and will be landscaped.
- The peaks and doors will match with the house.
- If the structure were attached to the existing garage, they would have to replace the footing because the existing footings would not support the addition.
- The proposed garage is planned for the same side of the house as the existing garage.
- The space proposed between the structures in less than 20 feet.

Board of Appeals questions and comments were as follows:

- The Board suggested the garage be increased in size in order to store the garden tools and equipment.
- The Board also suggested the new garage be attached to the existing garage and increased in size for the storage of the garden tools and equipment.
- Mrs. Pieper's response was that the septic tank and drain field would not accommodate a larger structure.
- The Board suggested moving the fancy shed onto the five acre lot.
- Mrs. Pieper's response was that they would need the Eppli's permission because they do not own the land yet. The Eppli's property assessment would increase due to the shed. And, if they would default on the land contract, they shed would become the Eppli's.
- The Board suggested they survey a portion of the primary lot onto the five acre lot.
- The Board advised Mrs. Pieper to submit a signed letter from the Epplis approving the relocation of the fancy shed and that the five acre lot must remain a separate lot from the principal structure in order to not exceed the maximum number of accessory/garage structures.
- Mrs. Pieper requested an extension for the relocation of the shed to the five acre property due to the approaching winter season and the desire to begin construction as soon as possible.

Jim Rosenthal motioned to grant Mrs. Pieper's request for the relocation of the garden shed to the five acre property for nine months; which would expire July 1st, 2006, or the garden shed will be torn down if the Epplis don't approve of the relocation. A letter of agreement from the Eppli's must be submitted to the Secretary. The motion was seconded by Bob Holzman.

Roll call vote:

Barb Bertram aye **Motion carried unanimously.**

Bob Holzman aye

John Buechel aye

Tom Friess aye

Jim Rosenthal aye

Jim Rosenthal called a recess at 8:05 p.m..

Attest.



Brenda A. Schneider
Secretary