

- I. **Call meeting to Order. The meeting was Called to Order at 7:30PM.** The Pledge of Allegiance was recited.
- A. **Official Meeting Notification.** Chairman Schulteis reported that the notice of the meeting was sent to the West Bend Daily News, the Hartford Times Press, WBKV, WTKM, Milwaukee Journal Sentinel, and posted at the Town Hall, Roskopf RV Center, and Cedar Lake Hills bulletin boards.
- B. **Roll Call.** Present: Chairman Albert Schulteis, Theodore Merten, Karen Reiter, Dennis Sang, Mark Peters, William Whitney; and Zoning Secretary Tracy Groth. Guest Supervisor, Robert Roecker Excused absence: Timothy Yogerst.
- C. **Moment of Silent Prayer.** The Chairman asked for a moment of silent prayer.
- E. **Approval of the Plan Commission Meeting Minutes, April 6, 2015.** A minor punctuation error was noted. Karen Reiter moved to accept the Minutes. William Whitney seconded the motion. All voted in favor and the motion carried.  
**Approval of the Plan Commission Meeting Minutes, April 13, 2015.** Minor spelling errors were noted. Karen Reiter moved to accept the Minutes with noted corrections. William Whitney seconded the motion. All voted in favor and the motion carried.

## II. Unfinished Business - None

## III. New Business

- A. **Site Plan Review for construction of additional mini-storage buildings at Cedar Creek Storage, 3685 Mayfield Road, Town of Polk, Washington County, Wisconsin. Tax Key #T9-0720-00C, Section 23, Zoned B-1 Business District. Peter Stefanski, Owner.**

Chairman Schulteis invited the applicant, Peter Stefanski to present to the Commission. Stefanski stated he would be working into Phase 3 of the mini storage complex with the building labeled as Number 9 on the site plan. This is the sixth building to be constructed at the facility. Stefanski would like approval for Phase 3 of the complex. Washington County has approved the erosion control plans including the retention pond along State Highway 60. Zoning Secretary Groth noted that the Building Inspector, John Frey, had a conversation with Eric Hyde at Washington County Land Use and verified that the permits and the work in progress were up to date. Karen Reiter inquired as to whether Stefanski would be installing surveillance cameras on the new building. Stefanski stated he would be placing surveillance cameras on the building. The possible positioning of the camera(s) was discussed.

Reiter asked about the wrecked car on the property. Stefanski's stated the vehicle belongs to his daughter. She was recently in an accident and the car would be moved. Schulteis confirmed with Stefanski that he is following the landscaping plans and that the landscaping would be progressing along with the installation of the mini warehouse buildings. Stefanski would be following the landscaping plan approved by the Plan Commission [June 2010]. Stefanski confirmed that the property to the northeast would be screened out with Blue Spruce [planted on Stefanski's property]. Stefanski confirmed that the exterior materials and colors of the Phase 3 buildings would be consistent with the existing storage buildings. All lighting will be down lighting. There is no plan to install fencing. Schulteis commented that the Town still has on deposit a \$1,000 cash bond to ensure the completion of the landscaping.

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Sang asked if Stefanski was coordinating with the County for erosion control. Stefanski stated that he was. Secretary Groth commented that with the building of Phase 3, the installation of the retention pond was required as part of the erosion control plan. Stefanski is waiting for the ground to dry out before starting.

Dennis Sang moved to recommend to the Town Board approval of the Phase 3 Buildings numbered 7 through 16 for Cedar Creek Storage. Mark Peters seconded the motion. All voted in favor and the motion carried.

**B. Variance to the Town of Polk Title XI Land Division Ordinance 7.06 LOTS to divide a non-conforming vacant parcel into two (2) Lots in the R-1 Single Family Residential District. N ½ - W Cedar Lake Hills Addition 1, Lot 2+3, Block 6, Section 5, Tax Key # T9-0097-076. Zoned R-1 Residential District. Property Owners Michael and Maria Burns.**

Applicant Michael Burns presented to the Commission. The variance request is to return a track of land to two lots as it was originally platted for the subdivision in 1958. According to Burns, in 1972 the two lots in question, which are now one tax ID, were purchased by Ben and Danielle Vondrak. Burns recently bought the lots from Vondrak. In 1985, the Town created an ordinance which changed the required minimum lot size. When that happened there were 15 lots in the subdivision that were combined without property owner's consent or knowledge. Property Owners became aware of the combination of their adjacent lots when they received their tax bill. Over the course of the next five years, all of them were dis-joined except for the two lots in question. There are 105 lots in the subdivision. There are still four vacant parcels. John Roever owns one of them. His lots were combined. He asked the Town to dis-join the lots [approximately 1990] to maintain the value of his property. The Town allowed him to dis-join the lots. The former property owners were absentee property owners and the lots were never built upon. The application attachment shows properties that were listed under different tax ID's then combined and split again at a later date [1986 - 1997]. This information was obtained from the microfiche at the Register of Deeds Washington County. The Town does not have record of the combination of the lots or the splitting of the combined lots. The County Real Property Lister does not have record of these transactions either. Burns read a statement from Danielle Vondrak stating that she and her late husband purchased the lots in question in 1972 as two single family residential lots. In 2015 she decided to sell the two lots to Michael and Maria Burns. Up until the time of sale, she had no knowledge that the Town of Polk would only allow one single family house to be built on the two lots. The Vondrak's have paid yearly subdivision assessments fees for each of the lots since 1972. Vondrak stated, "They would not have a paid a yearly subdivision assessment for two lots if it was determined that we could only build on one of the lots."

Burns stated the subdivision has always treated these lots as two individual lots. The property owners are each entitled to stock for the marina, beach area and boat slip. The property owner of the lots in question are entitled to two boat slips as the subdivision recognizes these lots as two lots even though the Town see the lots as one parcel. Burns referred to the subdivision map provided with his application for variance. The average size lot is approximately one half acre which is approximately the size of each of these lots. The variance would be an asset to the subdivision, the adjacent properties, and to the Town. New housing would be added to the subdivision increasing the value of the

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surrounding properties and increase tax revenue for the Town without improvements to the infrastructure.

Burns stated that he had been told that these properties should be treated differently because this is vacant property. Many of the other examples presented with the variance application had a house involved and a vacant lot. In one case, there were three lots that were together with one house. All were combined, and then split.

Schulteis commented that when the Ordinances [for substandard lots] went into effect, it was not just the Town of Polk that established these type ordinances. Towns all over southeastern Wisconsin have similar ordinances regarding substandard lots. Mike Burns stated that he is aware of the ordinances in other municipalities. Secretary Groth commented for the record that the Town did not adopt an ordinance 1985 to increase the lot sizes. The ordinance adopted in 1985 stated that contiguous lots of the same ownership that were nonstandard would be combined. Minimum lot areas were not increased.

Burns commented that these lots could not have been combined if they had been titled differently. Some of the lots combined, then split were done so because of the way the lots were titled.

Reiter stated, *"These were all government lots, now they are residential district. They were all platted prior even though they are [fish-hooked]. The minimum of 50 feet goes back to around the lake, and some were 40 or 45 feet [lot width] around Keeley Drive and Highland Park. So that is part of where this ordinance came into effect. Reiter read aloud Title XI Section 6.04(3). Neither lot has a sanitary POWTS, therefore I think he should be allowed to perk test on both lots. If they don't pass you have one parcel. I feel that we are doing these people and the other people in the subdivision an injustice if we do not allow them to do this [dis-join the lots]."* Sang commented that the legal description describes the parcel as lot one and lot two [other comments inaudible].

Burns was asked what his intentions were with the lots. Burns commented that he intends to build a house almost immediately on one of the lots and leave the other lot vacant and possibly pass it on to their children.

John Roever addressed the Commission. Roever said, *"The Town probably had good intentions when it adopted this ordinance, but it was flawed. I had a value of \$120,000 [in current market value] and had that value taken away from me. The concept was poor. Over the years, various Town Boards approved the dis-joining of these lots which suggests to me at least, that those Boards thought the idea was wrong because they backtracked on it. Secondly, the process was flawed. We were never notified."* Schulteis asked how quickly his lots were dis-joined. Roever said it took some time as he didn't know the joining had taken place. Schulteis asked Roever what procedure he went through [with the Town] to dis-join the lots. Roever stated that they hired an attorney to resolve the issue with the Town.

Jack Dowden, President of the Cedar Lake Hills Service Corporation, addressed the Commission. *"We have a standing in this issue. As Mike indicated earlier, we do assess by lot. We have always recognized this tax key as two lots. Since these lots have not been re-surveyed and there has not been a re-platting of the lots, the lots should be restored as originally platted"*. Dowden considers the

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combining of the lots "a taking" by the Town and expressed concern that when the lots in the subdivision were combined by [by Ordinance 6.04(3)], that property owners were not notified other than by their tax bill. The Service Corporation supports the reestablishment of the individual tax keys.

The required setbacks for substandard lots were discussed and the consensus of the Commission was that there was sufficient space on the lots to build within the required setbacks. Schulteis stated, "*There are two separate issues here. One of them would be the way the lots were originally platted and we want to respect that; and the other one would be the way our Ordinance reads. We just need to come to a conclusion as to which way we are going to go with it. If we are going to follow our Ordinances, it would not work. If you want to follow the original plat we have a new ballgame.*"

Reiter expressed her disagreement. Sang stated, "We are dealing with something that has been platted [inaudible comments]." Schulteis commented the Commission needs to be very specific as to why it would approve the division of this parcel into two nonconforming lots. The variance request is heard by the Plan Commission which makes a recommendation to the Town Board. The Town Board will make the final determination. No variance will be granted unless the Town Board makes a specific finding based on documented evidence that all the following facts and conditions exist and so indicates in the Minutes of the proceedings. There are three different criteria. We need to meet all them to recommend the granting of the variance:

a. Exceptional Circumstances. There are exceptional, extraordinary, or unusual circumstances or conditions where a literal enforcement of the requirements of this Ordinance would result in severe hardship. (Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that the Land Division Ordinance should be changed).

*The unusual circumstance is that there are lots that were combined and then later dis-joined and that the original plat has the parcel as two lots. The original plat has not been re-platted to combine the two lots.*

b. Preservation of Property Rights. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.

*The applicant has established that the parcel in question was not the only parcel in the vicinity [sub-division] that was combined by the Town and then restored as originally platted.*

c. Absence of Detriment. That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this code or the public interest.

*There is no detriment.*

There was discussion as to how to word the motion. Karen Reiter moved to recommend to the Town Board the granting of the variance as presented.

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Robert Roecker addressed the applicant. *“If we grant the variance, and the perk tests don't turn out the way you would like to see them, you are going to end up with two separate tax keys. Are you prepared for that? You will have two lots instead of one.”* Burns indicated that he understood.

Dennis Sang seconded the motion. All voted in favor and the motion carried.

**C. Minor Land Division to provide additional six (6) feet of frontage to adjacent property for future private road. Property located at 3553 Western Avenue, Town of Polk, Washington County, Wisconsin. Section 35. Tax Key# T9-1020-00B. Zoned A-1 General Agricultural District. Carol Ann Neuburg, Property Owner.**

Chairman Schulteis invited the applicant to address the Plan Commission. Ken Neuburg spoke on behalf of Carol Neuburg [his mother]. Carol Neuburg would like approval to sell six feet along the east property line to Ken so his frontage upon Western Drive would be 66' versus 60' to accommodate a potential future private road to access the rear of his parcel [20+ acres]. Schulteis asked if Carol's lot was square. Ken indicated that the parcel is square. To not make Carol's parcel any more nonconforming, Schulteis suggested taking six feet from Ken's property and add it to the back side [south side] of Carol's parcel. Schulteis commented that it made common sense to address the issue of Ken Neuburg's frontage width now.

Dennis Sang moved to recommend to the Town Board the approval the sale of six (6) feet off the easterly side of Tax Key 1020-00B [to add to abutting Tax key 1021] and purchase of nominal 6 feet along the southerly lot line abutting Tax Key 1021. The motion was seconded by Mark Peters. All voted in favor and the motion carried.

**D. Zoning Violations**

Secretary Groth reported there is a property on County Road C that the Town has been working with for several years. The Town Deputy has been diligent in visiting with him and obtaining receipts for junk that has been removed from the property. The situation has not been getting any better. The neighbors have expressed their frustration with all the junk on the property. The Town will elevate its efforts to bring the property owner into compliance.

The Town has a deferred judgment on a property on State Hwy 60. The property owner has until September 1, 2015 to bring the property into compliance. If he does not, he will be paying a substantial fine plus legal fees. We are working with the deputy now to create an incremental schedule for removing the junk from the property and providing him a list of junk and clean up services in the area should the property owners not be physically capable of cleaning up the area on their own.

**IV. Other Business**

- A. Correspondence. None
- B. Informational Items. None
- C. Zoning Board of Appeals Report. None. The Board did not convene in April 2015.

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**IV. Adjourn.**

Mark Peters motioned to adjourn. Karen Reiter seconded the motion. All voted in favor and the motion carried. The meeting adjourned at 8:13PM.

Respectfully submitted,

Tracy L Groth, Zoning Secretary