

STATE OF WISCONSIN  
OZAUKEE COUNTY  
DEPARTMENT OF PLANNING, RESOURCES & LAND MANAGEMENT  
BOARD OF ADJUSTMENT

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June 6, 2006 - 9:45 a.m.  
Ozaukee County Administration Center  
Port Washington, Wisconsin  
Reported by: Liane Baranek, RMR

Board Members Present:

Bernadyne Pape, Chairman  
Barbara Jobs  
John Riordan  
Catherine Stern  
Absent: Steve Castner

Also Present:

Andy Holschbach, Department of Planning, Resources  
& Land Management

Agenda:

Dominic and Katherine D'Alexander - Conditional Use  
Permit (Page 3). Present: Rory Palubiski and Tracy  
Werner of Fein Design, Dick Lallensack.

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Baranek & Stanke, Court Reporters  
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P R O C E E D I N G S

1  
2 MRS. PAPE: We'll reconvene the Board of  
3 Adjustment committee. We met at 8:45 and then went  
4 out to see the site.

5 Mr. Holschbach, has the news media,  
6 neighbors, general public, applicant and property  
7 owners been notified of this meeting?

8 MR. HOLSCHBACH: Yes, they have.

9 MRS. PAPE: Thank you.

10 MR. HOLSCHBACH: You're welcome.

11 MRS. PAPE: The Board meeting and the  
12 public hearing are open to the public. Anyone may  
13 address the Board providing they are recognized by  
14 the Chairperson, identify themselves, and print  
15 their name on the attendance sheet, please.  
16 Adequate time will be provided to address the Board  
17 regarding the various requests.

18 The hearing is being recorded by a court  
19 reporter. Therefore, I ask that you do not  
20 interfere, interrupt or interject comments while  
21 another person has the floor. Please speak one at  
22 a time so the court reporter can accurately record  
23 the meeting. Thank you.

24 Now the only case that we have, would you  
25 like to read that?

1                   MR. HOLSCHBACH: The request this morning  
2                   is for a conditional use permit by owners, Dominic  
3                   and Katherine D'Alexander, and Rory Palubiski of  
4                   Fein Design as agent for the excavating, grading  
5                   and filling to allow for placement of approximately  
6                   1700 square feet of fill and a 93-foot retaining  
7                   wall in the floodplain area of the Milwaukee River  
8                   to accommodate a building pad for the construction  
9                   of a single-family home in accord with Section  
10                  7.1007 of the Ozaukee County ordinance.

11                  It's located in the Town of Grafton. The  
12                  site address is 2186 Edgewater Drive.

13                  MRS. PAPE: Thank you.

14                  MR. HOLSCHBACH: You're welcome.

15                  MRS. PAPE: And would you like to present  
16                  the case to the Committee, please?

17                  MR. PALUBISKI: Sure.

18                  MRS. PAPE: What you are proposing and so  
19                  forth.

20                  MR. PALUBISKI: We have a -- Actually,  
21                  I'm sorry, what does the Board have as far as a  
22                  packet?

23                  MRS. PAPE: Well, we have the  
24                  explanation, the description of the project,  
25                  conditional use request, and then we have a few

1 maps.

2 MR. PALUBISKI: Okay. Great. If I could  
3 just use your information to just kind of show you.

4 Basically what the first site plan is  
5 just proposing how the existing site is now and  
6 where we want to introduce that retaining wall,  
7 where we would introduce the fill.

8 MRS. PAPE: He's the neighbor.

9 MR. LALLENSACK: I'm Dick.

10 MR. PALUBISKI: Hi, Dick. I'm Rory.

11 MS. WERNER: I'm Tracy.

12 (Discussion off the record.)

13 MR. LALLENSACK: So my house has got to  
14 be right there.

15 MR. PALUBISKI: Yeah, yeah, and the  
16 retaining wall, it has not been determined exactly  
17 what the material would be. We're thinking more of  
18 a natural stone to try and make it feel as much a  
19 part of the landscape as possible.

20 Obviously it's going to be a little bit  
21 of a wall but we'll do everything in our power to  
22 put in the proper drain tile and drainage system so  
23 anything can naturally flow out and it won't  
24 disturb any of the surrounding soils. That's what  
25 this drawing represents.

1           The next drawing represents the proposed  
2 footprint of the house that the client would like  
3 to put on there. Now there are setback  
4 requirements from the retaining wall that we need  
5 to be in keeping with regards to -- I think it's  
6 the county or the state code. I'm not 100% sure,  
7 and also the reason that the fill, retaining wall  
8 needs to be where it is is because the size of the  
9 building that they want to do, which is a modest  
10 size, needs to conform to a setback given by the  
11 town from the road, so that's approximately where  
12 the building needs to be, which somewhat dictates  
13 where the retaining wall with the proposed fill  
14 needs to go.

15           Also with this drawing we're representing  
16 potential rain gardens so that any roof water from  
17 the building would be directly positioned towards  
18 those gardens to help dissipate the additional roof  
19 water from going in the soil and disrupting any of  
20 the natural flow, and then the last page is not a  
21 drawing by me but by D&H Survey which shows the  
22 property with the topographical, and you guys were  
23 out there so you got a little gist of how it flows,  
24 so I used this site plan as my guide to create  
25 where the things will go and approximately did my

1 best to figure out how much fill we will need and  
2 about how high we'll have to go with that wall.

3 MRS. PAPE: Any questions, Committee?

4 MRS. STERN: Where will the septic system  
5 be placed and what kind -- do you know what kind  
6 they're going to use and where will the well be?

7 MR. PALUBISKI: Okay. Great question.  
8 I'm not 100% sure with either, but I believe we're  
9 going to have to have a holding tank. I'm not  
10 sure.

11 MR. HOLSCHBACH: I would suspect a  
12 holding tank, and the Town of Grafton does allow  
13 holding tanks.

14 MR. PALUBISKI: And that would be closer  
15 towards the road where it's at the higher part and  
16 flatter.

17 As far as the well, I have not gone  
18 there. We would obviously make it conforming to  
19 keep it away from the septic system, but the exact  
20 location I do not know. I would assume towards the  
21 road.

22 MR. HOLSCHBACH: Yeah. I really don't  
23 know where the proposed well is. It's important  
24 typically they meet the -- When you're doing a home  
25 design, typically the most important thing first is



1 MRS. STERN: 1700?

2 MR. PALUBISKI: No, that's the fill.

3 1700 is the fill.

4 MR. RIORDAN: How many stories?

5 MR. PALUBISKI: About -- not quite --  
6 just over a thousand square feet of a footprint for  
7 the house and garage, and it would be a two-story.

8 MRS. PAPE: We're going to get back to  
9 you. We'll have the director point out some of his  
10 facts.

11 MR. HOLSCHBACH: I thought -- Today we  
12 have a new committee member. I thought it would be  
13 important to just reflect on just a few things  
14 before we get too far along here.

15 First I just wanted to mention that the  
16 reason we're here is because we have the Ozaukee  
17 County shoreland/floodplain ordinance, and the  
18 purpose of the ordinance has a lot of different  
19 things. One is to further the maintenance of safe  
20 and healthful conditions, protect fish and other--

21 MR. RIORDAN: Andy, can you reference  
22 where you're reading?

23 MR. HOLSCHBACH: I'm on Page 1 under  
24 Purpose. Further the maintenance, protect fish and  
25 other aquatic life, preserve natural beauty, and



1 zoning maps, this is our shoreland and floodplain  
2 zoning map. This is hard to see but it's good  
3 information.

4 The site is right here roughly. I don't  
5 know if you can all see that. Here's the home, the  
6 neighboring home to the north.

7 MR. LALLENSACK: That's me.

8 MR. HOLSCHBACH: The open lot is here.  
9 This is the flood fringe area above the dotted  
10 line. Our ordinance does allow for residential  
11 development within the flood fringe. Filling is  
12 allowed, provided they meet the floodplain  
13 development standards and get a special exception  
14 permit through the committee.

15 Then you get down here and it's kind of  
16 interesting. Here's the floodway and it makes a  
17 swoop towards the west. There's a home here which  
18 is in the floodway, and this is the wetland area,  
19 but here you have the flood fringe up here and then  
20 down below is the floodway.

21 MR. LALLENSACK: I have been in his yard  
22 when it rained two years ago in June and I was in  
23 water that deep.

24 MR. HOLSCHBACH: It gets wet. That is  
25 the floodway.

1 MR. LALLENSACK: Yeah.

2 MR. RIORDAN: Is this the new FEMA map?

3 MR. HOLSCHBACH: This is the new  
4 shoreland and floodplain -- This is the most  
5 current information we have.

6 MR. RIORDAN: From SEWRPC or FEMA or--

7 MR. HOLSCHBACH: From SEWRPC. The lake  
8 -- the Milwaukee River floodplain is one that  
9 hasn't been restudied per se. There are other  
10 streams that are being studied which have changes  
11 that would be -- you'd be more concerned with the--

12 MRS. PAPE: Relating that dotted line, is  
13 that this here?

14 MR. HOLSCHBACH: No. That's the 100-year  
15 floodplain.

16 MRS. PAPE: What is that dotted line?

17 MR. HOLSCHBACH: The line that you're  
18 looking at here would be -- This purple line here?

19 MRS. PAPE: The purple line, okay.

20 MR. RIORDAN: The river is down here.

21 MR. HOLSCHBACH: Yeah.

22 MRS. PAPE: Yeah.

23 MR. RIORDAN: So if I am hearing you  
24 correctly, this may be subject to reevaluation?

25 MR. HOLSCHBACH: No. No. I'm saying

1 this map is accurate regarding -- There's no  
2 changes proposed at all regarding the Milwaukee  
3 River in that area as far as I know, so this is our  
4 most recent map, and this is the FEMA -- we take  
5 the FEMA map, SEWRPC does, and they transpose the  
6 information on to an aerial photograph.

7 These are also approved typically by FEMA  
8 and the DNR, and it's representative of the  
9 100-year floodplain.

10 MR. LALLENSACK: There's a tree line back  
11 here, and I've seen several times where the water  
12 goes from here to that tree line. I don't know how  
13 far into the tree line it goes.

14 MR. HOLSCHBACH: Yeah. Then I understand  
15 Mr. D'Alexander did go to the Town of Grafton Board  
16 of Appeals on January 26th and the Board of Appeals  
17 met on the 23rd of February and they denied him a  
18 request for a variance.

19 He went before the board for a variance  
20 to not encroach into the flood zone. He wanted to  
21 keep the house closer to the road, is my  
22 understanding.

23 MR. LALLENSACK: He wanted to go closer;  
24 I'm going to assume probably 25 feet from the road.

25 MR. HOLSCHBACH: So he did make an effort

1 to try and move the home out of the flood zone.

2 MR. PALUBISKI: The town wouldn't allow  
3 him to come any closer to the road so we're at  
4 basically the town setback requirement which is  
5 what dictates where that retaining wall needs to  
6 be.

7 MR. HOLSCHBACH: Right.

8 MRS. PAPE: And that requirement is  
9 50 feet I'm pretty sure.

10 MR. PALUBISKI: I think so. I think so.

11 MRS. PAPE: In the Town of Grafton I  
12 think it is, so--

13 MR. PALUBISKI: I'm almost positive  
14 that's what the number is, but I don't want to--

15 MR. LALLENSACK: I was going to say 75.

16 MRS. PAPE: It is the Town of Grafton,  
17 isn't it?

18 MR. HOLSCHBACH: This is the Town of  
19 Grafton.

20 MR. LALLENSACK: 'Cause where my garage  
21 is is not -- I only make that just where I placed  
22 the house. I made it by feet.

23 MR. PALUBISKI: Okay.

24 MR. LALLENSACK: So I'm--

25 MR. PALUBISKI: How long ago did you

1 build?

2 MR. LALLENSACK: '88.

3 MR. PALUBISKI: Not that long ago. I  
4 don't know if it would have changed.

5 MR. LALLENSACK: I wish I knew. I  
6 apologize for not knowing it.

7 MR. HOLSCHBACH: Then I wanted to also  
8 mention on site we saw where the wetland was. You  
9 did spot those two additional paint flags which  
10 were representative of the wetland delineation that  
11 was done that's marked on our map here.

12 Right now the important thing for us is  
13 that they protect the wetland or not place any fill  
14 in it. We do not have a setback distance from a  
15 wetland.

16 MRS. STERN: We do not.

17 MR. HOLSCHBACH: No. That's just some  
18 information I thought might be helpful.

19 MR. RIORDAN: Just a question of -- Dick  
20 is your first name? Did you fill in your land when  
21 you built?

22 MR. LALLENSACK: Yes, I did fill in a  
23 little bit. I remember having to get a permit and  
24 so on, and what we excavated out for the basement,  
25 that was just placed around the house, and I do

1 remember bringing in some fill.

2 I don't remember how much on the back  
3 side, and I remember coming up here to get a permit  
4 for that and--

5 MR. RIORDAN: That wasn't the natural  
6 land?

7 MR. LALLENSACK: No. There's some areas  
8 there off the edge of the house where I probably  
9 got five feet and it tapers off.

10 MR. RIORDAN: Thank you.

11 MR. LALLENSACK: On the north end of the  
12 lot, that's natural. Whatever that flow was there  
13 and on the south side, whatever was dug out from  
14 the basement was just dropped there.

15 MRS. PAPE: Is that your property? Is  
16 that where that--

17 MR. PALUBISKI: To the north where the  
18 concrete slab was. He's just to the north of that.

19 MRS. PAPE: The slab, where the slab was.  
20 That was my question.

21 MR. LALLENSACK: There was a building  
22 there.

23 MRS. PAPE: He is on the other side?

24 MR. HOLSCHBACH: Yeah.

25 MR. LALLENSACK: There was a building

1 that stood on that concrete slab. There was a  
2 small cottage there that stood there. I don't  
3 know, the previous owner took that down ten plus  
4 years ago, something like that.

5 MRS. PAPE: That was really--

6 MR. LALLENSACK: Yes, it was. Oh, yeah,  
7 yeah. I saw that the people were there that owned  
8 it at the time and there was about a foot of water  
9 in there, foot and a half of water in there in the  
10 spring of '75. No, there was more than that in  
11 there probably. A couple feet in there.

12 MRS. PAPE: Yes, Cathy.

13 MRS. STERN: Will that retaining wall  
14 then be in the floodway or flood fringe?

15 MR. HOLSCHBACH: Flood fringe.

16 MRS. STERN: Still be in the flood  
17 fringe. Okay.

18 MRS. PAPE: And is that going to have a  
19 foundation, the wall?

20 MR. PALUBISKI: John had asked that  
21 already. I'm not an engineer so I can't say for  
22 certain, but no matter what, it's going to at least  
23 have a footing if it's like a natural stone wall.  
24 Natural stone's got to move, so probably like a  
25 three-foot wide by foot deep with rebar footing for

1           it to sit on with drain tile so that any  
2           hydrostatic pressure won't cause it to heave and  
3           move.

4                        It's going to be a -- like Roman pieces  
5           style retaining wall where it's like the blocks.  
6           Then the company that manufactures that product  
7           would probably give us specifications on how they'd  
8           want a foundation put in, so I don't know exactly,  
9           but yes, either way there's going to have to be  
10          some sort of foundation.

11                      MRS. PAPE: Just curious. It's not  
12          pertinent, I don't think. Barb, any questions?

13                      MRS. JOBS: No.

14                      MRS. PAPE: John, any further questions?

15                      MR. RIORDAN: No.

16                      MRS. PAPE: We didn't have the staff  
17          report yet.

18                      MR. HOLSCHBACH: I'll read the department  
19          findings:

20                      1. The placement of fill in the Milwaukee  
21          River floodplain is necessary to provide a building  
22          site for this property.

23                      2. The filling of the property is not  
24          likely to seriously reduce the storage capacity of  
25          the Milwaukee River floodplain. I just wanted to

1 add a little caveat here, you know. Each  
2 individual project, as they add up, has an impact  
3 on the floodplain. It's felt that this one here is  
4 not of major significance.

5 3. The placement of fill to an elevation  
6 of 753 feet will allow for the rezoning of the  
7 property and removal of the filled portion of the  
8 property from the floodplain.

9 4. The use of a retaining wall on the  
10 property reduces the need for an additional 1,116  
11 square feet of fill within the Milwaukee River  
12 floodplain.

13 5. Through the use of rain gardens, the  
14 project intends to incorporate the post-development  
15 infiltration requirements of NR 151, Wisconsin  
16 Administrative Code, and, therefore, will not  
17 adversely affect drainage to neighboring  
18 properties. I just want to add -- I'll do that  
19 later.

20 6. The proposed project should not  
21 adversely affect water quality if properly managed  
22 through the use of erosion control provisions at  
23 least as effective as those in the Construction  
24 Site Best Practices Handbook.

25 7. The filling will not significantly

1 reduce wildlife habitat for the area. I want to  
2 mention, though, that as you saw this morning, it  
3 is a nice vegetated area, and certainly we did  
4 identify some of these large maple trees that would  
5 have to be cut, so it does have an impact on  
6 wildlife.

7 And then we go on to mention if the Board  
8 does find this project approvable, we have some  
9 conditions listed. I don't know if you want me to  
10 read through those at this point in time?

11 MRS. PAPE: Well, it's up to the  
12 Committee. What do you want? You want that in the  
13 minutes?

14 MRS. STERN: Yes.

15 MRS. PAPE: Okay.

16 MR. HOLSCHBACH: Should the Board decide  
17 to grant the conditional use permit to allow the  
18 placement of approximately 1700 square feet of fill  
19 and a 93-foot retaining wall in the floodplain area  
20 of the Milwaukee River, the department recommends  
21 the following conditions of approval to assure that  
22 the public interest and neighboring properties are  
23 protected and to mitigate adverse environmental  
24 impacts associated with the proposal:

25 1) Only clean fill be used. The fill

1 should not contain hazardous or putrescible  
2 materials or demolished building materials  
3 including concrete, rubble or asphalt.

4 2) No filling, grading and excavating  
5 shall be allowed in areas identified as wetlands.

6 3) The fill shall be placed to a minimum  
7 elevation of 753.0 feet NGVD, extend 15 feet from  
8 the outside perimeter of the proposed structure,  
9 and terminate with a DNR-approved retaining wall.

10 4) Erosion control provisions at least as  
11 effective as those in the Construction Site Erosion  
12 Control Best Management Handbook be installed  
13 immediately downgrade from the project site to  
14 prevent sediment delivery off the property or into  
15 the nearby wetlands or waterway. These controls  
16 must be maintained until the soil is adequately  
17 revegetated or otherwise protected to prevent  
18 erosion. Once the vegetation is adequate to  
19 prevent erosion, the barriers shall be removed.

20 5) A stormwater management plan shall be  
21 submitted for department review and approval. The  
22 stormwater management plan shall be designed in  
23 accordance with and incorporate the  
24 post-development infiltration requirements of NR  
25 151, Wisconsin Administrative Code.

1                   6) An as-built elevational survey by a  
2 licensed surveyor shall be submitted to demonstrate  
3 compliance with the conditions of the permit before  
4 the Certificate of Zoning Compliance can be issued.

5                   7) Prior to any construction on the  
6 property, the filled floodplain areas shall be  
7 rezoned to non-floodplain area -- That should be  
8 period. We no longer have a Recreational-  
9 Residential District. To change the location of  
10 the floodplain boundary or county zoning district  
11 to recognize the placement of the floodplain fill  
12 requires a rezoning request and associated fees.

13                   MRS. PAPE: So they have to go to the  
14 Zoning Committee.

15                   MR. HOLSCHBACH: They would have to go to  
16 the Environment & Land Use Committee and ask to  
17 have that rezoned from floodplain to  
18 non-floodplain.

19                   MRS. PAPE: Before any construction.

20                   MR. HOLSCHBACH: Yes, and it also goes to  
21 the full County Board for approval, and then Item  
22 8, the area of the parcel identified as suitable  
23 for a POWTS shall be roped or staked off to prevent  
24 damage during the filling, grading and excavating  
25 of the parcel.

1                   9) All required state, federal and local  
2 permits must be acquired.

3                   10) Notify the department within ten days  
4 of project completion to request a Certificate of  
5 Zoning Compliance.

6                   11) The conditional use permit shall be  
7 valid for one year from the date of issuance with  
8 renewal or extension only upon review and approval  
9 by the Board.

10                   Then we have the Board and applicant must  
11 be aware that if the project is approved, an appeal  
12 period extends for 30 days after this hearing.  
13 During that period, any interested party can appeal  
14 the decision, either approved or denied, to circuit  
15 court. Any work done prior to permit issuance is  
16 at the applicant's own risk.

17                   I would add a couple other conditions.  
18 One is that the grading, excavating and filling be  
19 done in a manner that does not adversely impact any  
20 neighboring properties, as well as the condition  
21 that the slab that you had mentioned--

22                   MRS. JOBS: I think that I would remove  
23 that.

24                   MR. HOLSCHBACH: That that would also be  
25 removed.

1 MRS. JOBS: Since you didn't know it was  
2 there before.

3 MRS. PAPE: Is that 12?

4 MR. HOLSCHBACH: You can add that as 12,  
5 that the slab be removed with the intent to prevent  
6 impervious area.

7 MR. PALUBISKI: I didn't realize that was  
8 there either. I think that's a no-brainer; get  
9 that out of there. It's not helping anything right  
10 now.

11 MRS. PAPE: Well, we're going to put it  
12 in as a condition. Remove slab?

13 MR. HOLSCHBACH: Remove existing concrete  
14 slab.

15 MRS. PAPE: And ensure proper drainage,  
16 or what?

17 MR. HOLSCHBACH: Item 13, we could add--

18 MRS. PAPE: No, no, I mean on this.

19 MR. HOLSCHBACH: Did you want to make  
20 that all one? Okay, removing existing concrete  
21 slab.

22 MRS. PAPE: And ensure proper drainage?

23 MR. HOLSCHBACH: And ensure grading,  
24 excavating and filling is done in such a manner as  
25 not to adversely impact neighboring properties?

1 MRS. PAPE: Good. I'll read it later.  
2 So I think we've covered all the hazards. What do  
3 you propose, Committee, or do you have any  
4 questions or concerns?

5 MR. RIORDAN: Just one question. Dick,  
6 do you have any other comments?

7 MR. LALLENSACK: I don't know where I fit  
8 in on this agenda. Do I fit in now?

9 MRS. PAPE: If you want to question the  
10 Committee or the architect -- Is that what you are?

11 MR. LALLENSACK: Can you define a square  
12 foot of fill for me?

13 MRS. PAPE: Square footage of fill?

14 MR. LALLENSACK: Yeah. I asked several  
15 contractors if I could buy a thousand square feet  
16 of fill.

17 MR. HOLSCHBACH: You'd like to see this  
18 in cubic yards. I'm used to seeing everything in  
19 cubic yards. That was a question I was planning on  
20 asking on-site, too, is know the cubic yards of  
21 fill.

22 MR. LALLENSACK: The last time I was here  
23 I was chastised and indicated how stupid I was I  
24 didn't know what a square foot of fill is.

25 I told that gentleman I could describe a

1 cubic yard of fill to you; now you show me what a  
2 square foot of fill is. I won.

3 MR. HOLSCHBACH: I didn't do the  
4 calculation on that.

5 MR. LALLENSACK: Because -- Go ahead.

6 MR. PALUBISKI: When I was submitting  
7 this, Ed Pfister, Andy's cohort, he actually helped  
8 me with the calculation. I had talked to him about  
9 that, too, because I think he views it as how many  
10 dump trucks.

11 MR. HOLSCHBACH: By cubic yards.

12 MR. LALLENSACK: There ain't a contractor  
13 on this planet that will sell you a square foot of  
14 fill.

15 MR. HOLSCHBACH: He was getting at the  
16 area.

17 MR. LALLENSACK: You're looking at an  
18 area. We're looking at a thousand some--

19 MR. PALUBISKI: 1700.

20 MR. HOLSCHBACH: Square feet.

21 MRS. PAPE: Of fill.

22 MR. PALUBISKI: It's 1700 of fill, of the  
23 area for fill, but the house square footage is just  
24 over a thousand.

25 MRS. PAPE: So, in other words, what

1           you're saying, that 1700 is the area that will be  
2           filled.

3                   MR. PALUBISKI:   Correct.

4                   MRS. PAPE:   That is not the amount of  
5           fill.

6                   MR. PALUBISKI:   Correct.

7                   MRS. PAPE:   Well, that's worded like  
8           this, of fill.  It's incorrect.

9                   MR. PALUBISKI:   That is incorrect.  It  
10          should be cubic yards.

11                   MRS. JOBS:   You're missing a number.

12                   MR. HOLSCHBACH:   We know the area.  We  
13          don't know the volume.

14                   MRS. JOBS:   I understood it as area, but  
15          I know what you're saying.

16                   MR. LALLENSACK:   I assumed it was area  
17          also, but how high?

18                   MR. PALUBISKI:   I know we give the grade  
19          height here, and let's see if we can determine -- I  
20          want to say it was like four or five feet.  We're  
21          at like 748.  We're going to 751, so approximately  
22          three feet.  I thought it was going to be more like  
23          four feet when I spoke with Ed about it.

24                   MRS. STERN:   I think that was the figure  
25          you mentioned on site this morning.

1 MR. PALUBISKI: That might be grade  
2 height. We want the retaining wall a little higher  
3 anyway to do our pitch from the house, so that's  
4 why I think it's about four feet.

5 Now it is tapering, so if I go four feet  
6 and taper it down, that's maybe where I would need  
7 to figure out that calculation. I don't know how  
8 accurate that would be. I'm sure I could get  
9 something closer.

10 If the Board's decision is based on  
11 knowing that number, I'm sure I can try and figure  
12 something out and resubmit that if that's important  
13 to know.

14 MRS. STERN: I would like to know that  
15 figure before I go ahead and make a decision.

16 MRS. PAPE: Here the elevation is 750  
17 plus 58, and you're saying here that it's going to  
18 be raised -- the fill will be raised to 753? Where  
19 did I read that? Here.

20 MR. HOLSCHBACH: Well, yeah. It's got to  
21 be two--

22 MR. PALUBISKI: Two feet higher than the  
23 flood line, correct.

24 MR. HOLSCHBACH: But as we go up it  
25 becomes shallower. You have almost four feet of

1 fill because you're two feet above the regional  
2 flood elevation.

3 MRS. PAPE: This would indicate the top.

4 MR. HOLSCHBACH: We still have to be --  
5 the fill should be placed to a minimum elevation of  
6 753, right. Here we're at 751 so that's--

7 MRS. PAPE: Two feet.

8 MR. HOLSCHBACH: Yeah, so it isn't four  
9 feet.

10 MRS. JOBS: It's not the same on all  
11 levels.

12 MR. HOLSCHBACH: As you go closer to the  
13 road it becomes a lot less.

14 MRS. JOBS: So you just can't say  
15 1700 square feet by such and such.

16 MR. HOLSCHBACH: According to the survey,  
17 on the lower end you're looking at 753. We're at  
18 753 approximately, 751, so two feet on the lower  
19 end. Let me double-check this number. This is  
20 750. That's 751.

21 MR. PALUBISKI: Andy, if I could  
22 interject. I was thinking, here's how I would  
23 propose a retaining wall would get built.

24 The retaining wall should be slightly  
25 higher -- if here's the floodplain, here's the

1 house, the wall is a little greater so the grade  
2 doesn't keep eroding. We want the retaining wall  
3 slightly -- maybe six inches to a foot higher, put  
4 like a drain tile system so any water that gets in  
5 there immediately filters and won't cause any  
6 erosion to any of that soil, so I think the 751 is  
7 our floodplain -- hundred-year flood line height.

8 We need to be two feet higher than that,  
9 and at around our wetland area where the lower west  
10 part was at 758, so 748 and 753, that's five feet,  
11 so that's why I thought around four feet of fill,  
12 and I'd have the retaining wall about a foot  
13 higher.

14 Does that sort of--

15 MR. HOLSCHBACH: That makes sense.

16 MR. PALUBISKI: If I'm going to do a fill  
17 calculation, which I should have provided anyway,  
18 what I probably will do, I will do a worst-case  
19 scenario and best-case scenario and do a median in  
20 between that; I would think get close at least to  
21 what our cubic volume is.

22 MRS. PAPE: When you calculate that are  
23 you going to get the okay from the office that  
24 you're going to accept that?

25 MR. HOLSCHBACH: I think the question

1 here, some people want volume to help in their mind  
2 to know the significant--

3 MRS. JOBS: Replacement of fill.

4 MR. HOLSCHBACH: Yeah. Well, yeah, and  
5 it helps visualize better if you know if it's ten  
6 dump truck loads versus one dump truck load. We're  
7 going to come up with a number.

8 MR. PALUBISKI: Yeah.

9 MR. HOLSCHBACH: Perhaps at this point in  
10 time we should talk about elevations more to help  
11 if you'd like. We're going to come up with a  
12 number. We may come up with a hundred cubic yards.

13 MRS. PAPE: After you--

14 MR. HOLSCHBACH: How much is that going  
15 to help you? That's a question I have. Or should  
16 we now look at the elevations and talk  
17 incrementally about how much fill we're looking at  
18 on each contour line? That's a question.

19 MRS. PAPE: My question is, should we  
20 pass this not knowing those figures, and will that  
21 make a difference to us?

22 MR. HOLSCHBACH: That's right. Does it  
23 matter to you.

24 MRS. PAPE: Does it matter to us how much  
25 fill goes in there and how it's done.

1                   MR. HOLSCHBACH: You know the area of  
2 fill and you know the approximate height on the  
3 lower end and on the upper end, if that's enough  
4 for you.

5                   MRS. JOBS: You know the area.

6                   MR. HOLSCHBACH: If you don't feel  
7 comfortable, it's your decision, but we have that  
8 shaded-in area where the fill is, and on the lower  
9 end you're looking at -- you're saying three feet  
10 because of your retaining wall.

11                   On the upper end you don't -- it blends  
12 into the landscape so you're looking at a 1700-foot  
13 area with an average depth of a foot and a half.  
14 That's pretty visual.

15                   MR. LALLENSACK: To put it in  
16 perspective, if you had 100 cubic yards of fill in  
17 that lot, it's a hundred feet wide, you could put  
18 three feet of ground nine feet wide all the way  
19 across the lot. That would be a hundred cubic  
20 yards, and if you try to visualize that into there,  
21 you may not even need a hundred. I don't know  
22 what's got to go behind it.

23                   MR. HOLSCHBACH: We can give you a -- I  
24 can do a calculation real quick now. Just take  
25 1700 square feet times a foot and a half and divide

1           it by 27. That will give you your cubic yards. I  
2           don't have a calculator. Normally I do.

3                   MR. RIORDAN: But you're not filling all  
4           the way across the property, just this area here.

5                   MR. HOLSCHBACH: Right. We have the  
6           square footage identified here. Are you a licensed  
7           engineer?

8                   MR. PALUBISKI: Dick's going to save the  
9           day.

10                  MR. LALLENSACK: Divided by 27. 1700  
11           divided by 27.

12                  MR. HOLSCHBACH: 1700 times a foot and a  
13           half and then divide that by 27.

14                  MR. LALLENSACK: Divided by 27 cubic feet  
15           per yard. 94.4.

16                  MRS. PAPE: Close.

17                  MR. HOLSCHBACH: I was going to get a  
18           hundred.

19                  MR. LALLENSACK: Cubic yards.

20                  MRS. PAPE: 94.4.

21                  MR. LALLENSACK: 94.4444.

22                  MRS. PAPE: My impression is that they  
23           have to come for a Certificate of Zoning Compliance  
24           and, therefore, I think we could make a decision  
25           here as a committee with the information that we

1 have, so you'll entertain a motion?

2 MR. LALLENSACK: Could I ask a few  
3 questions, please?

4 MRS. PAPE: Sure.

5 MR. LALLENSACK: How far will that house  
6 be proposed from the lot line, from my lot line  
7 from the driveway there? My driveway is about ten  
8 or 15 feet from the lot line.

9 MR. HOLSCHBACH: This is drawn to scale;  
10 one inch equals 30 feet. Normally I have a scale.  
11 I'll grab an engineering scale.

12 MR. LALLENSACK: I left mine at my desk.

13 MRS. JOBS: I guess we're assuming it's  
14 in compliance with Grafton's code?

15 MR. LALLENSACK: Which is 20 feet.

16 MR. PALUBISKI: I want to say that's what  
17 they are. This is about 14 feet, so that that's  
18 about 20 feet.

19 MRS. PAPE: That's a requirement for the  
20 town?

21 MR. PALUBISKI: It's a little further  
22 away obviously.

23 MR. LALLENSACK: Twist the building a  
24 little bit.

25 MR. PALUBISKI: And then as far as like

1 any vegetation, I know that while Board members had  
2 some concerns of losing some nice trees, but I know  
3 the client did say if there's any extra vegetation  
4 that would be requested or required to be put in to  
5 help try and keep the appeal, we would do that, and  
6 if you're looking to keep a little bit of a barrier  
7 like you have now, obviously some of that is just  
8 thicket.

9 MR. LALLENSACK: I trimmed that out a  
10 little bit up to my lot line that summer because it  
11 was just flowing over on my driveway. I don't  
12 really have a problem with this. I just -- Let's  
13 do for Mr. D'Alexander, Dominic, what makes sense,  
14 you know, and I don't think there's a problem  
15 putting stuff there. I know other people feel  
16 different about it.

17 I've seen that river over a quarter mile  
18 wide in a flood and it's going to take an awful,  
19 awful, awful lot of fill to raise it up a hundredth  
20 of an inch. It just isn't going to happen.

21 We talked about wildlife last year. The  
22 night before deer season I looked in my back yard  
23 to check the temperature. What is that raccoon  
24 doing down there? Went in the other room. I had  
25 three deer laying in my back yard, so there's lots

1 of wildlife.

2 I had a fox run across my deck. I'd be  
3 watching TV at night, I had a fox looking at me,  
4 but go ahead.

5 MR. PALUBISKI: It's 21 feet.

6 MR. LALLENSACK: How far are you from the  
7 road?

8 MR. PALUBISKI: I'm 50.

9 MR. LALLENSACK: 50 on the front side, so  
10 you're going to be about 75, 80. Okay. Actually  
11 I'm going to still maintain my view to the south  
12 pretty well and then swaling and working it out.

13 I'll make this comment. I'd be happy to  
14 work with anybody to fill that in so we would end  
15 up with a shallow swale for the natural drainage,  
16 and I was critical at the town meeting when they  
17 were talking about you should take care of water  
18 that comes down Edgewater Drive that I drained so I  
19 wouldn't have water problems.

20 I built my house in '88. I had to have a  
21 sump pump pit. I do not have a sump pump. There's  
22 never been water, so if you drain it correctly you  
23 don't have an issue, and I'll say that. I drained  
24 several hundred yards to the north and all of  
25 Edgewater Drive because there's no ditch.

1                   MR. HOLSCHBACH: It all flows towards the  
2 river.

3                   MR. LALLENSACK: I'd be happy to work  
4 with anybody there, fill it in, put a swale,  
5 whatever is needed, put the swale on the lot line  
6 because we're not supposed to dump any water on  
7 anybody else.

8                   Well, then, take care of the lots to the  
9 north of me. Hardly anything goes across my  
10 driveway. Whatever runs off my driveway is pretty  
11 much what the driveway catches because I got it  
12 swaled around the north side of the house to drain  
13 that when it comes down Edgewater Drive.

14                  MRS. PAPE: Your concerns are satisfied.

15                  MR. LALLENSACK: I am, yeah. I was  
16 concerned about how much fill, okay? And I don't  
17 see a whole lot going in there.

18                  Like I said, I wonder, when you get to  
19 the other side you're going to need a little more,  
20 but over on this area, probably looking at a  
21 hundred yards; five, six, seven dump trucks and you  
22 got it there.

23                  I don't know. When you dig the basement  
24 you create fill. I know the last time it was this  
25 big concern about bringing in all the fill and

1           digging a basement and hauling it away. Why not  
2           just use our head and--

3                   MR. HOLSCHBACH: Unfortunately, the way  
4           you have to -- It doesn't always totally have logic  
5           to it.

6                   MR. LALLENSACK: I understand.

7                   MR. HOLSCHBACH: I'm sorry, but in this  
8           case you do have to put the -- raise the fill,  
9           raise it up. You have to rezone it out of the  
10          floodplain.

11                  MR. PALUBISKI: So it becomes a  
12          conforming structure.

13                  MR. HOLSCHBACH: Now it's a legally  
14          nonconforming area no longer within floodplain that  
15          meets the floodplain development standards and all  
16          the state and federal rules, and then you get out  
17          of the floodplain and you can dig a basement.

18                  MR. LALLENSACK: Whatever.

19                  MR. HOLSCHBACH: I know.

20                  MR. LALLENSACK: I understand, and  
21          there's a whole lot of stuff that doesn't conform  
22          to that and hasn't conformed for 200 years,  
23          300 years, and suddenly now it's all got to  
24          conform. The people who made the laws put it that  
25          way and not necessarily common sense.

1 MRS. PAPE: Okay. So I entertained--

2 MR. HOLSCHBACH: I thought maybe you had  
3 a--

4 MR. LALLENSACK: Why don't you make them  
5 take the concrete there. It's there now. What do  
6 you call that, the grandfather clause? I don't  
7 care if you want to take it out. Take it out.  
8 That would be a nice place for a picnic table.

9 MRS. PAPE: I thought it interfered with  
10 drainage.

11 MRS. JOBS: Well, it's an impervious  
12 surface.

13 MR. LALLENSACK: The water runs over the  
14 top.

15 MRS. JOBS: I know, but the water would  
16 seep in if it weren't there.

17 MR. RIORDAN: That's the argument.

18 MR. LALLENSACK: The building that was  
19 made there--

20 MR. HOLSCHBACH: See, you do show a rain  
21 garden on that.

22 MRS. JOBS: Two rain gardens.

23 MR. HOLSCHBACH: So that's probably the  
24 approximate area where the rain garden is going.

25 MR. LALLENSACK: It makes no difference

1 to me. There's even a sand pit. There was a --  
2 the slab sits about -- it's very close right here,  
3 and right here was a well that -- it was a working  
4 well with a pump and all, and it had to be capped  
5 for whatever reason after Dean put that building  
6 down.

7           Somebody was there, and I don't know who  
8 it was. They said that's got to be capped, so  
9 there was a working well there with an old pump.  
10 You could pump her up and get water.

11           MRS. PAPE: Okay, Committee? If you're  
12 going to have these conditions you have to decide  
13 about 12 then. Are you going to leave it in or  
14 take it out? Should you require it?

15           MR. RIORDAN: That's the concrete --  
16 Yeah. That's as a condition, yes. I'm not willing  
17 to make it a proposal, though. As a condition I  
18 would say.

19           MRS. PAPE: Yes.

20           MR. RIORDAN: Yes.

21           MRS. JOBS: I would say yes.

22           MRS. STERN: Yes.

23           MRS. PAPE: Okay. Leave it in then, and  
24 let's hear a motion.

25           MRS. STERN: I would make a motion that

1 we accept this conditional use permit based on the  
2 fact that all of the items are adhered to, the  
3 conditions.

4 MRS. PAPE: All 12.

5 MRS. STERN: As stated by the department.

6 MRS. PAPE: Okay. It's 12 conditions.

7 MRS. JOBS: Hm-hmm.

8 MRS. PAPE: Okay. A second, please?

9 MRS. JOBS: I'm new. I'm not -- I'm  
10 looking at you guys for this.

11 MR. RIORDAN: My vote is -- goes to the  
12 other issue here so I can't second it.

13 MRS. JOBS: I'll second it.

14 MRS. PAPE: Seconded by Barbara. You do  
15 have Barbara's name. Thank you. We have a new  
16 member on our committee.

17 MRS. JOBS: I'm new. It's my first.

18 MR. HOLSCHBACH: But you have a lot of  
19 experience.

20 MRS. JOBS: Oh, yeah.

21 MRS. PAPE: Any further discussion on the  
22 motion to grant the special exception permit?  
23 Hearing none, how do you vote?

24 MRS. STERN: Aye.

25 MRS. JOBS: Aye.

1 MR. RIORDAN: I vote nay based on the  
2 incremental effect of all these -- that they just  
3 keep doing it and doing it and doing it, and I  
4 don't know where it stops, so it's a philosophical  
5 approach, I suppose. You've heard me vote that way  
6 before.

7 MRS. PAPE: Mrs. Pape votes aye, so it  
8 passed, three to one. Now, anything else on that?  
9 You'll have to work with them.

10 MR. PALUBISKI: Well, thank you very  
11 much. Andy, what's the next step then?

12 MR. HOLSCHBACH: Well, you need to  
13 provide the stormwater management plan. We need to  
14 ensure that NR 151, the infiltration requirement,  
15 is met as part of that stormwater management plan.

16 MR. PALUBISKI: Can I meet with you or Ed  
17 or Barry?

18 MR. HOLSCHBACH: Absolutely. An erosion  
19 control plan, and those are the immediate items.

20 MR. PALUBISKI: Once you get--

21 MR. HOLSCHBACH: And then we need -- Then  
22 what happens is you place your fill, provided all  
23 the conditions are going to be met, and then a  
24 surveyor comes in and surveys it, provides an  
25 elevational survey, and we take it to the

1 Environment & Land Use Committee. There's a few  
2 steps we need to work with you on.

3 MR. PALUBISKI: So we're not digging the  
4 foundation in a couple weeks.

5 MR. HOLSCHBACH: No. No.

6 MR. PALUBISKI: No, that's fine. We'll  
7 also, if you want to put it in the minutes, we will  
8 work with the neighbor to the north to try and make  
9 sure we deal with any drainage issues and listen to  
10 -- He's obviously lived there a long time, probably  
11 get some helpful direction.

12 Does the county need to review any of  
13 that if we're doing anything like that?

14 MR. HOLSCHBACH: Yeah, we would want to  
15 be involved in that, too. Keep in mind you're in  
16 the floodplain area. We don't want to be adding  
17 any additional fill.

18 MR. PALUBISKI: I don't think we would do  
19 that, just to create a swale between the direct  
20 water.

21 MR. HOLSCHBACH: We would want to really  
22 actually see plans for that, too. I know you can  
23 work--

24 MR. LALLENSACK: I had SolidWorks at home  
25 that--

1 MR. HOLSCHBACH: Put something together  
2 so he does know what the plan is.

3 MR. PALUBISKI: No problem. That way  
4 we're keeping with the neighbor's interest as well.

5 MR. HOLSCHBACH: Thank you.

6 MR. LALLENSACK: I know Jay's not going  
7 to like this, but that's okay. We'll figure it out  
8 somehow.

9 Can I get a copy of any of that? All I  
10 got was this. Can I get a copy of any stuff that  
11 you have?

12 MR. HOLSCHBACH: Sure.

13 MR. LALLENSACK: Just so I have it and I  
14 know where I can expect the wall and stuff like  
15 that.

16 MR. HOLSCHBACH: So you just mainly  
17 have--

18 MR. LALLENSACK: All I have is the letter  
19 that you sent.

20 MRS. PAPE: Is that with the 12th  
21 condition? The one with the 12 conditions?

22 MR. HOLSCHBACH: I have the 12th  
23 condition on mine. I just mentioned that was a  
24 draft so it does not include the Item No. 12.

25 MRS. PAPE: No. 12 is remove the concrete

1 slab and ensure proper drainage.

2 MRS. JOBS: To the neighboring  
3 properties.

4 MR. RIORDAN: The minutes are available  
5 publicly so he can get them on-line.

6 MR. HOLSCHBACH: Not on-line.

7 MRS. PAPE: We'll work -- you work with  
8 the office, and then you're dismissed, and we'll  
9 carry on now. Now if you want to talk about  
10 something before we go to the next -- You want to  
11 talk to him off the record here?

12 (Discussion off the record.)

13 MRS. PAPE: Thank you very much, and  
14 we're back in business, and the next agenda item is  
15 approval of the previous meeting minutes.

16 Does anybody remember them? March 7th.  
17 I only had one -- two actual corrections. Now  
18 whether they are corrected or not, I don't care,  
19 but I had a question about Page 14, Line 3 that  
20 said "attached garage", and if I read my report  
21 correctly, it was an unattached garage.

22 Now is that an error or am I wrong?

23 MR. HOLSCHBACH: Well, again, it was --  
24 goes back to Liane and what she heard said.  
25 Sometimes people misspeak and that's how it gets

1 recorded, so it may have been one of the--

2 MRS. PAPE: That's why I'm using an  
3 oops-type statement, but it definitely says  
4 attached garage here and I think we were dealing,  
5 according to my memory, is that the request was for  
6 an unattached garage.

7 All right. That's that one, and then  
8 Page 55, Lines 3 and 5, "in our present county  
9 ordinance". I think it should say, you know, "in  
10 our sanitation ordinance, we specifically say that  
11 holding tanks are not a system of choice".

12 That is the one that was originally,  
13 right? What is it now?

14 MR. HOLSCHBACH: Well, the way that reads  
15 right now, but in our county ordinance, which is  
16 our present ordinance, in our sanitation ordinance  
17 we specifically say that holding tanks are a system  
18 of choice.

19 MRS. PAPE: Of choice.

20 MR. HOLSCHBACH: They are now, right.

21 MRS. PAPE: And in the previous one, and  
22 this is what this is referring to, but in our  
23 present county ordinance it's not a system of  
24 choice because we didn't, at this time in March,  
25 the County Board had not--

1 MR. HOLSCHBACH: We did. See, we have a  
2 sanitation ordinance and then the zoning ordinance,  
3 and the County Board recently approved the zoning  
4 ordinance.

5 MRS. PAPE: Before March?

6 MR. HOLSCHBACH: Yeah -- No, sanitation  
7 ordinance before March. This is in reference to  
8 the sanitation ordinance and not the zoning  
9 ordinance?

10 MRS. PAPE: Yes.

11 MR. HOLSCHBACH: So the sanitation  
12 ordinance was changed actually probably about a  
13 year, two years ago.

14 MRS. PAPE: So then this is correct.

15 MR. HOLSCHBACH: I would read that as  
16 being correct, yeah.

17 MRS. PAPE: That's it.

18 MR. HOLSCHBACH: Okay.

19 MRS. PAPE: Any other corrections? And  
20 now is this going to be mailed to me now instead of  
21 Mr. Brunnquell because he is no longer with us.

22 (Discussion off the record.)

23 MRS. PAPE: Shall we move to approve the  
24 minutes officially, or what?

25 MRS. STERN: I think we have to.

1 MRS. PAPE: We don't have to. I could  
2 declare them approved.

3 MRS. STERN: Then go right ahead.

4 MRS. PAPE: I'll do that, and as long as  
5 anybody else had any corrections, and we talked  
6 about McCue. We're done with that, the status of  
7 McCue.

8 MR. HOLSCHBACH: McCue was issued a  
9 permit and she is -- it's my understanding she is  
10 building her residence.

11 MRS. PAPE: Moving in. Okay. Good news.

12 MRS. JOBS: Do you have a pending one for  
13 next month?

14 MR. HOLSCHBACH: I'm not aware of  
15 anything pending.

16 MRS. JOBS: Are we on Communications and  
17 Miscellaneous? Is that where we are on the agenda?

18 MRS. PAPE: Yeah.

19 MRS. JOBS: I have a comment, just with  
20 him here, administratively when we get our packet,  
21 do you send the packet to somebody that is a known  
22 person that's going to be in attendance, because  
23 that would have helped him a whole lot.

24 MR. HOLSCHBACH: We publish a Class 2  
25 notice and then we send the neighbors a letter,

1           which he would have received.

2                   MRS. JOBS:   He could have had--

3                   MR. HOLSCHBACH:   That's what happened.

4           Most people tend to call and they stop in, and we,  
5           in our letter, we do state if you'd like more  
6           information please call, and most people, we do get  
7           calls.  People do stop by and I show them, get the  
8           folder and sit down with them.

9                   MRS. JOBS:   Because if he had that same  
10           packet, that would have answered a lot of his  
11           comments.

12                   MR. HOLSCHBACH:   He had his letter but he  
13           didn't go any further.

14                   MRS. JOBS:   That would be my first step  
15           is I'd go and request the packet.

16                   MR. HOLSCHBACH:   Me too.  Well, then  
17           you'd get everything.

18                   MRS. JOBS:   I want to be on the same  
19           level as--

20                   MRS. PAPE:   John?

21                   MR. RIORDAN:   No, I have nothing to add.

22                   MRS. PAPE:   Cathy?

23                   MRS. STERN:   Did you hear anything from  
24           the person that's putting the roadway in on the  
25           Seyfert farm in the Town of Fredonia?  Have they --

1 has anything been checked out there?

2 MR. HOLSCHBACH: The Seyfert farm, Barry  
3 Sullivan from our department did contact the  
4 contractor. They have been in touch, and he was  
5 going to be providing our department with  
6 information regarding the project.

7 MRS. STERN: He has not.

8 MR. HOLSCHBACH: I have to check on that.  
9 I'd have to check on that, and I will check on  
10 that. I can get back to you.

11 MRS. STERN: I would like to know, and  
12 the gravel pit situation.

13 MR. HOLSCHBACH: Well, the gravel pit  
14 situation--

15 MRS. STERN: Not the beekeeper but the  
16 other one.

17 MR. HOLSCHBACH: Camp Awana.

18 MRS. STERN: Yes.

19 MR. HOLSCHBACH: These are items that --  
20 the gravel pit was one that the town needs to be  
21 involved with, right? I guess I would ask you, has  
22 the town approved that as a pit?

23 MRS. STERN: No.

24 MR. HOLSCHBACH: And then we -- it's not  
25 in the shoreland area, but what we have is a

1           reclamation ordinance, so they need to provide us  
2           with the reclamation plan, but we're waiting for  
3           the town first to work with this individual.

4                    MRS. STERN:  They probably --  
5           administration probably won't do anything about it.

6                    MR. HOLSCHBACH:  No?

7                    MRS. PAPE:  Is it a private party?

8                    MR. HOLSCHBACH:  It's a private party.  I  
9           don't know how big the pit is or how much material  
10          they're planning on taking out.

11                   NR 135, the nonmetallic mining ordinance  
12          or rule, talks about if they sell materials in a  
13          certain amount of it, then it's supposed to fall  
14          under the reclamation ordinance, but certainly it  
15          would become a town issue.

16                   MRS. STERN:  It should become a town  
17          issue.

18                   MRS. JOBS:  That's where it should start,  
19          right?

20                   MR. HOLSCHBACH:  That's where it should  
21          start.

22                   MRS. PAPE:  They pay a mining fee, don't  
23          they?

24                   MRS. STERN:  This just was opened up.  
25          They bought the place and they just opened it up

1 and they've just been hauling gravel like crazy,  
2 so--

3 MR. HOLSCHBACH: Are they hauling a lot  
4 of material?

5 MRS. STERN: A lot of material.

6 MR. HOLSCHBACH: It's not just a farmer  
7 pit? Okay.

8 MRS. PAPE: Don't they have to get a  
9 license or something to do that?

10 MRS. STERN: That was my question.

11 MR. HOLSCHBACH: They'd have to work with  
12 the town. The land's got to be zoned for mining,  
13 but the town has a mining reclamation rule and  
14 conditional use permit.

15 MRS. JOBS: The owner said they were  
16 doing landscaping and -- the trucks were rolling  
17 out and rolling out and rolling out but they  
18 weren't doing any more than re-landscaping the  
19 property, so there is a lot of wiggle room.

20 MR. HOLSCHBACH: Everyone should have  
21 received a copy of the bound ordinance for your  
22 information.

23 MRS. JOBS: That's my nighttime reading  
24 now that's on-line.

25 MR. HOLSCHBACH: It is on-line.

1 MRS. JOBS: I printed it on the 29th of  
2 April. Would that have been the right one on-line?  
3 I can throw that one out?

4 MRS. PAPE: This is effective April 13th.

5 MR. HOLSCHBACH: I'd have to see when it  
6 was put on-line. I'd feel more comfortable if you  
7 use the bound copy.

8 MRS. JOBS: Just because I was trying to  
9 get ready for this meeting to hopefully know what  
10 I'm looking at here.

11 MRS. PAPE: So this is effective before  
12 the 29th? So you're up to date.

13 MRS. STERN: This is adopted 4/6.

14 MRS. JOBS: This is 4/29 when I printed  
15 it.

16 MRS. PAPE: Date of publication is  
17 April 13th.

18 MR. HOLSCHBACH: I want to make sure that  
19 the on-line date is -- that's right.

20 MRS. JOBS: I understand that. I did all  
21 that. Okay. Last updated August 11, 2004, so it's  
22 out of date, so pitch that.

23 MRS. PAPE: Does she have the up-to-date  
24 one there?

25 MR. HOLSCHBACH: Yes.

1 MRS. JOBS: What I printed there I can  
2 just pitch because it must not have been updated.

3 MRS. PAPE: Does anybody else have  
4 anything else to bring before the Committee?

5 MR. RIORDAN: I will not be here next  
6 month. I'll be traveling.

7 MRS. PAPE: Where are you going?

8 MR. RIORDAN: Italy; Tuscany area.

9 MR. HOLSCHBACH: Next meeting date, I  
10 believe the next first Tuesday of the month is  
11 July 4th. July 11th is the next meeting.

12 MRS. JOBS: How do you cancel?

13 MR. HOLSCHBACH: We would notify all of  
14 you board members.

15 MRS. PAPE: Does anybody want to -- We're  
16 closed, right? Move to adjourn?

17 MRS. STERN: So moved.

18 MR. RIORDAN: Second.

19 MRS. PAPE: All in favor say aye.

20 (Vote taken - Unanimous.)

21 (Proceedings concluded at 10:55 a.m.)  
22  
23  
24  
25

1 STATE OF WISCONSIN)  
 ) ss.  
2 OZAUKEE COUNTY )

3 I, LIANE M. BARANEK, Notary Public in  
4 and for the State of Wisconsin, do hereby certify that  
5 the foregoing proceedings were taken before me at the  
6 time and place set forth in the caption thereof; that  
7 the foregoing proceedings were reported by me  
8 stenographically in shorthand; and that the foregoing  
9 proceedings constitute a true and accurate  
10 transcription of my original machine shorthand notes  
11 taken upon the hearing to the best of my ability.

12 I FURTHER CERTIFY that I am not a  
13 relative or employee or counsel to any of the parties  
14 hereto, nor a relative or employee of their counsel,  
15 and have no interest in the outcome or events of said  
16 action.

17 IN WITNESS WHEREOF, I have hereunto  
18 affixed my official signature and seal of office, this  
19 15th day of June, 2006 at Port Washington, Wisconsin.

20  
21

\_\_\_\_\_  
LIANE M. BARANEK  
Notary Public  
State of Wisconsin

24 My Commission Expires:  
25 December 27, 2009.