BOARD OF ADJUSTMENT
August 19th, 2015 1:30 PM
COUNTY BOARD ROOM
WURZER

Chairman Andre called the meeting to order at 1:30 PM.

Andre verified that the Open Meeting Law requirements had been complied with through notifications and posting.

Members present: James Andre, Gerald Hawkenson, Nancy Horton, and James Schwartz

Staff members present: Kevin Lien, Nick Gamroth, Joe Nelsen

Others present: Steven J. Wurzer, Steven Wiggins, Lisa Lyngen, Corey Yarrington, Arnold Yarrington, Harlan Vold, Gary Christen and Judy Christen.

Approval of Agenda - Schwartz made a motion to approve the agenda, Horton seconded, motion carried unopposed.

Approval of Meeting Minutes – Hawkenson made a motion to approve the July 15th, 2015 (Fairmont Santrol) meeting minutes, Horton seconded, motion to approve carried unopposed.

Public Hearing –Steven J. Wurzer, Eau Claire, WI, Petitioner/Landowner - Frontage variance - Town of Hale Chairman Andre called the public hearing to order. Horton read the public hearing notice aloud. Nick Gamroth stated Steven Wurzer is a landowner in the Town of Hale. Gamroth noted the Board has maps in front of them and for the audience present it is also on the screen. Gamroth said that prior to any conveyance, Wurzer was an owner of the land that is outlined in blue and also the lands that are shaded in pink and that is where the improvements are. On November 4th, 2014, Wurzer conveyed the land shaded in pink to Drew and Lisa Lyngen and shortly after that, when Gamroth was processing the conveyance and the tax and assessment role, Gamroth noticed that, based on this conveyance, Wurzer landlocked himself and did not have the adequate 100 feet of public road frontage. On December 5th, Gamroth sent Wurzer a letter by mail explaining the situation and that this violates the Trempealeau County Comprehensive Zoning Ordinance, Chapter 3.03 (3) which requires that all lots or parcels have 100 feet of public road frontage. Gamroth also attached a copy of that section of the Ordinance (highlighted in yellow) which was given to the Committee. On January 8th, Gamroth sent Wurzer another letter because he (Gamroth) received some correspondence back from one of the parties involved stating that they wished for a new deadline to come into compliance with the ordinance. Gamroth always gives a month or a little greater than a month to let the parties work out the situation and come into compliance. Because of this certain situation and how this property lies, Gamroth gave several extensions. Each month they were good enough to contact Gamroth to say they were still working on it so Gamroth was glad to give them extensions, etc. At one point in late spring, early summer the deadline did lapse and Wurzer was issued a citation for not meeting the deadline. Gamroth believed Wurzer went ahead and took care of that citation and in addition we said his next step right now is to come before the Board of Adjustment for a hearing for a variance. Both Wurzer and Steve Wiggins filled out the application, which should also be in front of the Board members, explaining why they wish to have a variance granted for this section of our County zoning ordinance. Gamroth asked the Board to keep in mind that the area shaded in pink, which the Lyngen's purchased, totals 25.066 acres. They are only required to have a certified survey map (CSM) for a land division under 20 acres.

Schwartz said on the map where it is all laid out in a grid there is a green section on the Lyngen's and Schwartz questioned what that was. Gamroth explained that at one time when Steve Wiggins and also Lisa Lyngen, who was the purchaser, contacted Gamroth, they were wondering what it would look like if they conveyed a 100 foot strip back to Steve Wurzer in order for him to get his frontage. Gamroth had created some maps for them so that they could see what that looked like and it roughly came out to be about six acres of land. If that were to happen, Gamroth explained that Drew and Lisa Lyngen would then fall under that 20 acre threshold so their parcel would then become noncompliant and they would be forced/required to have a Certified Survey Map (CSM) done, so that is all the "green line" on the map represented at that time. Gamroth added this has been going on since December so there has been a lot of correspondence between Steve Wurzer, Steve Wiggins, Gamroth and also Lyngen's (since they are the purchaser of the property). Andre asked if the Board had any other questions for Gamroth. Andre asked if Wurzer wished to address the Board. Wurzer stated that basically he didn't know where to go from here. Wurzer explained he tried to get the 100 foot frontage back from the people who bought the property and they have concerns where that makes their property too narrow. Wurzer talked to neighbors and it is just so far back. One of the prices that Wurzer said he got was like $270,000, which might get it done but Wurzer didn't know if that was even available anymore to purchase. Wurzer said that was a considerable amount of money. That was part of the reason that he sold the property so as not to have that kind of expense out there. Right now Wurzer stated he is just looking for a way to get this behind us to where it is satisfied and to move forward. Wurzer had a Realtor® involved in this; he also had a title company involved so he was a little bit surprised that there was another easement drew up. Wurzer was surprised that it didn't get caught or brought to his attention before it was all final to where there is really no recourse for Wurzer. Wurzer didn't know what he really could have done different but he is at this situation now just looking to try to move forward and move beyond it. Schwartz asked how Wurzer was planning to access his land. Wurzer responded he had an easement drew up by a title company and a surveyor. Wurzer explained these two properties were also separate even though they were owned by the same person, there was a loan on the 26 acres with the house/farm and there was an easement drew up at the time Wurzer got that loan and they were separated. Then, in talking with the Lyngens and the way the separation came through the driveway up close to the house, they wanted to move that so that it was further down below the hill and came up the south property line, so all Wurzer did was change where that recorded easement cut through. Wurzer continued that halfway up the driveway there is a little golden area (referencing a map) there and that cuts straight south there and heads down the south property line. According to Wiggins, when the transfer occurred that 50 foot easement was incorporated with the property so right now there is a 50 foot ingress/egress that is recorded with the property to gain access to the back properties. Wiggins verified it was just a 50 foot access and it is an easement and not ownership so if it was 100 feet it still wouldn't change this, but it is 50 feet and it is enough that if Wurzer wants to build a road through he would have a driveway. Lien gave the Board a little bit of history. Lien stated that back in 1972 when the entire County was zoned, Section 2.4 of the 1972 Ordinance – Site Restriction - states, "all lots shall abut upon a public street and each fan-shaped lot shall have the minimum street frontage of 60 feet" because the County recognized all the problems with easements and not owning public road frontage to a property. In March 11th, 1998, Lien stated we received another letter from the County's Corporation Counsel re-affirming that decision that the County should make sure that lots are not created that do not have public road frontage. The issue and how things work, as Mr. Wurzer stated, is that if one does not do a survey which isn't required for anything greater than 20 acres, one can draft a deed, bring it to the Register of Deeds office and it gets recorded. After it has been recorded, the Real Property Lister, Nick Gamroth, checks to see if it is compliant with county zoning and other restrictions. Parcels like this get "flagged" because they are not compliant. Lien stated the problem is, people like Mr. Wurzer, use people who are believed to be professionals, i.e. surveyors, attorney's, title company's and their job is know this Ordinance. If they are drafting things and do not know this Ordinance, they shouldn't be drafting them. Lien stated if he were

hired to give advice for Trempealeau County that is his job. He can't give advice for Jackson and Buffalo County. You have to know the Ordinance if you are in that type of business. Lien stated Wurzer was put into an unfortunate situation because of poor advice. Lien explained the County has modified that Ordinance starting about the year 2000. After the County Surveyor, Joe Nelsen, completed the remonumentation of each township, it was then a requirement of 100 feet of road frontage, a 4 to 1 width to depth ratio (if the parcel is only 100 feet wide then the parcel should not be more than 400 feet deep so that subdivisions and other things are plotted out correctly) and the surveys are reviewed. Again, that is required for any parcel created less than 20 acres. Anything greater than 20 acres can still be recorded in Register of Deeds. All of these efforts have been put in place to avoid things like the easements and lawsuits, etc. that typically don't end very well. Lien stated we do recognize easements as a secondary access. Once a newly created property has road frontage, an easement could be secondary. That is something the County recognizes. That is the intent of the County's zoning ordinance and it's been that way since 1972 because we had too many pieces prior that were landlocked where people would end up in a lawsuit. It all seems like a good idea at the time because it may be one relative conveying to another relative but no one lives forever and when the property changes hands that seems to be when troubles arise. Lien stated the intent of the Ordinance is for the well being of people today and into the future and that there will always be access to the property. In a case like this, Lien said it is unfortunate for Wurzer because the problem probably lies in the advice that he had received. It isn't his fault or the County's fault but in the people that he perhaps leaned upon and they should know the rules if they are drafting those documents. Schwartz questioned that even if one has a strip 100 feet wide, but in the road, it can't be more than 400 feet long? Lien answered that for all practical purposes, when one is plotting out land, one should try to make everything meet a 4 to 1 width to depth ratio, and we usually we do. Lien explained that County Surveyor Joe Nelsen reviews them but because of the unique topography of our County and the unique existing parcels, Nelsen and Lien have the administrative ability to wave that 4 to 1 requirement. According to Lien, what commonly happens is that someone might want to separate out existing farm buildings to keep or sell off the remainder of the farmland/hunting land or whatever it may be so in those cases it is really difficult to meet those requirements. If one sees a subdivision plat, very rarely is that ever waived unless there would be an odd pre-existing shaped corner or something that just can't meet the requirement. Lien stated he has been in zoning here in the County since 1992 and Lien thought we have had two or three cases come before the Board of Adjustment asking to vary road frontage. Not one of those was granted. That is one of the key things in the County that so many other things are tied to. If we didn't have the road frontage, the 4 to 1 width to depth ratio, the minimum lot size requirement and all those other things really become moot points if one doesn't have public road access to those lots. It is really important that the County stay consistent with this item. Gamroth added this is something that has always been supported by the townships. Lien agreed and added that we know there are a lot of pre-existing parcels out there that are land locked or have easements to them and over time this language will take care of some of them but not all of them. A lot of them will get taken care of in court because as they change hands it is just one battle after the next. It may seem like a good idea to drive through their yard today but the next owner might not appreciate it at all. Lien said we have had verbal or written easements that have been very vague in nature and were fine for 20 years and then, i.e. one wet spring a logger decided to take the logs through there and made 2-3 foot deep roots and blocked off the entrance. Unless the language properly addresses that issue it is really tough to deal with. Lien and Nelsen had talked to an attorney once about some of the language and how to address some of these and the attorney's thoughts were, to write an easement that would cover everything that someone needs it to would be thicker than this zoning book because of all the possible scenarios, so that is why they are looked at as a secondary access only and not a primary access. An easement is not owned frontage, it is someone giving permission to access someone else's property and we all know those property's can change hands.

Testimony in Favor - Andre called for any other testimony in favor of granting the variance.

Lisa Lyngen – Registered to testify in favor. Lyngen stated she chose to come and speak today just because she and her husband seem to be caught in the middle of all of this. Lyngen wanted to assure the Board that none of this was done intentionally. It seems as though a bunch of professionals made a mistake and it was one after another, after another who didn't make this work correctly for the County but the problem then becomes that one of the neighbors (Lyngen didn't know but thought there were eight on the list) is the only one who can help him out unless you do. Lyngen explained they own such a skinny parcel there, we're probably the easiest/shortest way out but that is right next to their barn. That is where their livestock are and that is where their animals are so to sell him those 100 feet of six acres that is a third of their land and then where do her cows graze. That is all pasture and fenced out into rotational pasture. That is where their cattle eat from therefore they haven't fed the cattle hay all summer. Lyngen added that for them to give that up really devalues the property as a farm which is what they use it for but yet we are neighbors. During the hunting season Lyngen sees Wurzer drive by every day and she doesn't know what to do about the fact that he is going to be facing $300-$350 fines per day. Lyngen stated it is a really tough spot for the Lyngen's and they have said no to several agreements that Wurzer has come up with in which to try and solve this by Lyngen's giving him land. It is just not in the Lyngen's best interest but as a compassionate human being, Lyngen said she had to come and speak because she doesn't see another way out for him without sacrificing her own farm. Andre called for any other testimony in favor of granting the variance. Andre asked if there was anything from the Town of Hale. Gamroth stated the Town of Hale sent a letter and they wished to remain neutral. Andre once again called for any testimony in favor. Gamroth announced that he had e-mail correspondence from three persons in favor.

Raymond and Marjorie Crawford, Pawelke Road, Strum - Gamroth received an e-mail on Wednesday, August 19th, 2015. The e-mail read as follows: Let it go! Sometimes laws are not what they say and are worded wrong and should be changed. Please change the zoning law to benefit all of Trempealeau County.

Dianna Christen – Whitehall, WI - Gamroth received an e-mail on Tuesday, August 18th, 2015. The E-mail read as follows: I cannot attend the meeting tomorrow regarding the above matter, however; want to inform you and the Committee that I am for and in favor of allowing the zoning change regarding Mr. Wurzer's situation. Thank you. If you have any further questions, please feel free to call me.

Gary & Judy Christen – Gamroth received an e-mail on Tuesday, August 18th, 2015. The e-mail read as follows: Because of the misunderstanding of the Trempealeau County Comprehensive Zoning Ordinance and the requirements of the road frontage of 100 feet, we agree the road frontage should be given a variance of "zero". This is a problem of human error and lack of knowledge, and not asking of a favor. Please acknowledge an understanding of our commitment and request.

Lien read a letter from the Town of Hale dated June 29th, 2015 which stated the Town of Hale Board met on June 29th, 2015 in regard to a letter that was sent to Steven Wurzer on June 22nd, 2015. The Board made a motion that they will stay neutral in the matter of the easement that Mr. Wurzer is asking for. If the Department of Land Management needs anything else from the town board please contact them.

Andre called for any other testimony in favor of granting the variance.

Testimony in Opposition – Andre called for any testimony in opposition of granting the variance.

County Surveyor Joe Nelsen introduced himself. Nelsen stated one of his main duties is to review subdivisions and divisions of property for compliance with the zoning code and the Subdivision Ordinance. One of Nelsen's biggest concerns is the precedence that is going to be set today. For the future of the zoning code and the Subdivision Ordinance, Nelsen believed this precedence has to be set for the zoning code so that other applicants and other people who come into us looking at subdivisions with less than 100 foot of frontage can see that this is serious business. We are looking for frontage on these lots, Lien has explained the reasoning and that precedence is a very important part of our enforcement. Nelsen thought we would lose some credibility if we don't have the backing of the Board in the enforcement of this Ordinance and that was probably Nelsen's major concern. Nelsen has a secondary concern that some of our professionals who are working in this area that should be protecting the rights of some of their clients apparently don't treat our Ordinance very serious and that is a problem also. To Nelsen, it doesn't matter if these professionals are from outside the County or inside the County – it is the County and the Ordinance is in place for those reasons and those purposes and that is Nelsen's major concern about a variance. Hawkenson stated that was a question he had as to why the title company didn't catch that. Wiggins explained how this came about – as there were multiple parties involved (Wiggins holds a real estate brokers license and he was certainly one of those party's) and this goes back from that standpoint to 2012 when the first easement was put on the property. There was an easement on the property that was recorded and so in their mind all we were doing is moving the easement. The title company has stated that they don't concern themselves with boundaries and lot lines and they don't pick up zoning ordinances and that doesn't fall into title insurance. According to Wiggins they also had a surveyor involved and they have gone back and talked to him about how this got missed because that seems like that would have been the logical spot and of course the surveyor's statement was simply that he was asked to take an easement that was here and move it to there and that is what he did. He wasn't dividing anything nor creating anything new. These were already separate parcel numbers so he was just taking an easement and drafting it on paper and putting it from one point over to the other point. Wiggins said it all makes sense now but at the time, as it played out, it all was there. Wiggins added that the question is going to beg itself as to what do we do from here if we don't get that, do the fines start and what that means. Is there a window where the fines aren't there to give other options? Is the sale negated so that the sale couldn't occur and Wurzer has to buy the property back from Lyngens – if it wasn't a valid sale to start with? Again, Wiggins said these are all questions that we've (Wiggins and Wurzer) had to ask ourselves over the last 7-8 months in trying to figure out what that solution is and there has certainly been enough energy and stress, etc. involved in this to try to get to that resolution and now we're still here trying to resolve this. Wiggins stated the property is unique in that when you cut across 80 acres to really get to the beginning of that property, there aren't roads that are really close for access to it so it is really difficult and to have somebody maybe break part of their property up to get you access to get back there, it isn't something somebody else is wanting to do right now. There is just so much depth between those two roads, that many acres between them, that it is tough. Wurzer realized that property probably isn't worth as much to himself with just an easement back there but he understood that when he sold the property. At this point, Wurzer wished he hadn't sold it because to try and get 100 feet somewhere, for what he would have to pay for that 100 feet and what he got for his property, etc. it just wouldn't even make sense to go out and have to spend that kind of money to buy another piece of property. Wurzer did think this property is very unique in the fact of how varied it is from the roads. Wurzer stated we tried to make our agreement, as far as what the access was, as clad as possible by looking out for their benefit and for Wurzer's benefit for the future. Wurzer added at this point it is just very stressful, even for this long, trying to resolve this situation. Wurzer

would just look for a way to just have it be that this is a unique piece of property and therefore what we have in place, because of the uniqueness, that it is given to us in this one circumstance. Andre called for any other questions from the Board. Schwartz asked if there was significance in the fact that these were both separate parcels at one time. Lien responded the land was all under common ownership. Lien added that the Ordinance is also very clear in that it says that if you take a legal nonconforming parcel and ever make it conforming, it can never go back to nonconforming, so if Lien had a land locked piece of property, perhaps a 40 or an 80, and he bought the 40 or 20 in front connecting it to a road and recorded it identically so that it became conforming, it can never go back to making it nonconforming. Andre called for any other testimony in opposition to granting the variance. Gamroth commented that it is correct that it is unique in its' situation and Gamroth wanted the Board to remember that since we have been dealing with this Ordinance, we've had other landowners come in and work with us, in finding ways to divide their land in order to get them the correct frontage, etc., so we have to keep in mind all the people in the past which we have made come into compliance either before they sold their property or after (if they were in violation). We have to remember that going forward too so that we stay consistence. Gamroth stated we have a lot of areas like this in Trempealeau County where there are decent sized land masses that fall in between town and county roads, etc. Gamroth feels really nervous about variances being granted, as the next time something like this happens and we have nothing here to back ourselves up, because as Joe Nelsen commented the precedence was set for granting variances, then our Ordinance doesn't have the "teeth" anymore. Gamroth feels for Wurzer being in his situation because he did hire professionals to help him with this sale. Gamroth wanted to make the Board aware that the attorney that did handle the sale and drafted the documents did contact Gamroth around the time he sent the first or second letter. According to Gamroth that attorney did make a comment to Gamroth that, "He didn't have time to know all the different ordinances in the county's that he works in" which really took Gamroth aback as he was a professional and someone is coming to him/her for a service and he made that comment. Gamroth wanted to Board to be aware of that comment and that it was made. Andre called for any other testimony in opposition to granting the variance. Horton asked if Wurzer had worked with Gary and Judy Christen at all to buy some of the land as that road over there looks closer. Wiggins wasn't sure if that is a true road and asked Horton to clarify what part she is talking about. Gamroth clarified which road he was talking about and stated that is a town road according to the official town map that they (the Town) send to the State for reimbursement for road aid. Upon Andre asking about the road that runs north, Gamroth stated it was Pawelke Road and then at this intersection it turns to Gunum Road down to the south and Pawelke continues on to the west. Andre verified that is also a town road. Gamroth stated each of the squares on the map is a forty so Gamroth pointed out a quarter of a mile. Wurzer commented there is some pretty steep terrain. (Some inaudible text) Andre stated regardless of how steep that property is, a 100 foot strip meets the requirements of the Ordinance and he can use the existing piece. Lien asked Gamroth to provide an example as this isn't new or unique and we have probably dealt with hundreds of these over the years. Lien had a very unique situation with a neighbor of his. Gamroth is going to display this property on the overhead aerial map. Lien has always said to his staff/department that unfortunately we are not here to tell people what they can do with their property but sometimes what they can't do. Lien continued that Wurzer has somewhat of a self created situation. We can't tell him how to fix it but can give him some tools; one is acquisition of the property back; acquisition of other properties to get frontage, or extending town roads into the property (that is really common). Lien wasn't sure if Hawkenson has had to do it in his township but every other town in the County has. Because we do have these unique situations in the County where a town road "dead ends" at a very large farm and they want to divide it between two kids and retain the farmstead, they extend that town road into the property thus giving it frontage. The steepness of the terrain, the practicality of putting a road in across the stream, etc. is really irrelevant. The Ordinance states there has to be owned frontage so at some point in the future someone can access that property. If it costs a lot of money that really isn't the matter it is that there always be access. Lien asked Gamroth

to pull up an aerial photo of a property where Lien said you can see the uniqueness of what we are dealing with. Lien explained a number of situations to the Board. Lien thought perhaps Wurzer has adopted some options, perhaps not, but Lien said there are ways these things can get worked out. Perhaps in a case where they can't , Lien thought instead of spending money on a variance, Lien would have hired an attorney and went after the professionals that gave Wurzer bad advice. Lien continued that as we and County Surveyor Joe Nelsen have stated that is their role. If people are selling property, doing title insurance, surveyors or attorney's drafting documents, they should know these rules and they vary from county to county. Nelsen asked Hawkenson if that was a survey map of that easement? Hawkenson responded yes. Nelsen asked to take a look at it. Lien asked Wurzer if he had approached the Town of Hale at all? Upon Lien clarifying that the driveway that goes back into Wurzer's property is private, the response was yes. Lien asked if that is where the easement description was moved to. Lyngen responded no it is not on the driveway. Lyngen and Wurzer responded the bottom part of it is and then it cuts off of the driveway. Lien stated there is a really good example again of how one uses the property, easement versus ownership, as Lyngen mentioned not being able to utilize her property. Lien said an easement can change how it is used as well, depending upon what the easement language says. Even if the property was sold and Lyngen wanted to use it for pasture/farming that still could be an agreement between Lyngen's and Wurzer. Lien added it definitely does change the value of Lyngen's farm for the future. Lien reiterated there are many different types of options. The point is this isn't unique as we have dealt with this hundreds of times. It is unfortunate that it really falls back to the poor professional advice that Wurzer received. If you have to point fingers in a bad scenario, Lien said that is where he would be pointing them. When one seeks legal/professional advice, they should know what they are talking about or it isn't legal or professional really. Again, Lien said it isn't unique as we have just looked at four examples where people have resolved that frontage issue. It may not make sense today but to the people in the future that want to access those properties, they are going to be pretty grateful that those things exist. Hawkenson mentioned what Gamroth had said about the lawyer "not having time for that". Gamroth asked everyone to keep in mind that this is a warranty deed so Wurzer is warranting to Lyngen's that the property is free and clear of all encumbrances, title and everything else. Gamroth thought the title company that Wurzer was working with who said it isn't part of their job – Gamroth said it is part of their job/service to make sure that the title is free and clear of all encumbrances and part of that is knowing what the Ordinance is in the county that they are working in. Wiggins said that was the first place that he went to say, "How can I be working with the biggest company in Eau Claire to draft this for me and how can I be in this situation?". Wurzer said he did try with Christen's and other people in that area to get something across. At this point when people say no, Wurzer asked, What do you do? Wurzer is in a situation where fines are going to keep coming to him every day or every week or whatever. Wurzer asked if there was some other way that we can work around this to make it so this is not such a hardship on me when I didn't just sell this "on a napkin" to somebody else. Wurzer stated he is kind of surprised he is even in this situation with what he did and it is very stressful. Gamroth asked Wurzer what happened with his workings with Kevin Nelson to the north. Wurzer responded he wanted $270,000. Gamroth knew that Wurzer had been trying to purchase land from him to come in from that road to the north. Wurzer said the only thing that Nelson would sell is the parcels that the road would come through and for $270,000 it wasn't worth it for Wurzer. Hawkenson asked about Christen's. Wurzer stated they are present and he has asked them and they don't want to sell at this point. Wurzer thought their farm has been in their family for maybe five generations. Judy Christen said this is the eighth generation right here as this is Steve's daughter. Gary Christen stated one proposition we are talking about goes through two different properties. The one property belongs to our two daughters and it is rough terrain. Wurzer added the one on the north line is right where he crosses a creek and sends his cattle out to pasture so to take that creek crossing away and have him make another creek crossing, it just gets messy. Lien stated he and Nelsen were just looking this morning that right in this area right here (Kevin Nelsen) we are reviewing the extension of a road

dedication, so they are working on extending the road already right here. Lien didn't know what the avenue is of coming through there. Wurzer stated that is the guy (Kevin Nelson) that he has talked to and he wants $270,000. Wurzer explained that Nelson sold the buildings there to somebody else. Nelson was going to sell some land back there and Wurzer told him he had better check into it because Wurzer was going through this deal. According to Wurzer, Nelson ended up selling the farm buildings and a section behind the farm and then to keep his land he needed to just extend the road up 100 feet and then he was able to have his 100 feet for two parcels basically; one for the person that bought it and the rest for Nelson. Wurzer said Nelson owns all the land coming out front too but Nelson is keeping that for himself so there is becoming three different parties to which he wants to sell land. The end of the road is right up to that property. He is just extending to 100 feet so that he can get two different sites. Schwartz asked if Nelson is extending the road or is the township extending it as it has to be a public road. Lien interjected saying it is a dedication from a private landowner to the town so it will become a town road but they work together on that. Wurzer thought they were requiring Nelson to have 6 or 8 inches of base in there and to put it in himself, at his expense and then they are granting it. Schwartz questioned if Nelson would extend it further in order to give Wurzer some access. Wurzer stated the only way he is willing to do anything is if Wurzer bought (and it might be sold now as this was back a couple of months ago) land which was about 60 acres at $270,000 worth. Upon Hawkenson clarifying that it wasn't the 100 feet which Wurzer needs, Wurzer said correct he is not willing to sell the 100 feet. Gamroth thought if Nelson were to sell just the 100 feet all the way back, it would divide Nelson's property just like Lyngen's parcel. Gamroth thought it would probably hurt Nelson because then he would have been in this situation. Andre called for any other testimony in opposition. Wurzer stated at some point, if things go as planned, which it doesn't always do that, he is guessing that his kids would have probably their (Christen's) farm and my farm someday and this problem would be gone with that. Judy Christen said their line fence and his line abut up against each other. Wurzer added this is unique in a lot of different ways with crossing creeks or going up steep terrain but the other fact is that if he could get this variance, time would probably heal this problem. Wurzer even thought if his kid was on their title and on mine if that would just get rid of the problem. Lien asked Wurzer to explain that as he wasn't following what Wurzer was saying. Lien questioned if Wurzer's children have other land around this. Wurzer responded his children don't but their grandparents do which are here. Gary Christen said his two daughters have forty acres along the top of the hill on Gunem Road that butts up with this property and their farm butts up to that forty there, but the terrain there is just unbelievable. Lien stated one resolution is if, referring to the land locked piece, it is sold to any neighbor, (we assume every neighbor around there has frontage or it is a legal nonconforming land locked parcel, so if you have family ties to another piece around there and title them all the same, the problem goes away. Wurzer asked how one titles them all the same. Lien responded multiple owners. Wurzer asked what if there was one member that was the same. Lien responded no and that courts have ruled that it has to be identical ownership so either they are on with Wurzer or Wurzer is on with them. Wurzer said at this point that wouldn't work. Someday down the road it would because the kids would own it. Gamroth pointed out on the aerial map the land that LuAnn and Dianna Christen and Gary and Judy Christen own and then where Gunem road is. Wurzer stated the other spot on Gary and Judy Christen's land would be to the north. Lien did more explaining about legal nonconforming parcels and the titling of properties and possible solutions. Wurzer said if he had split this the day he bought it we wouldn't even be here right now. Gamroth clarified Wurzer meant the shaded area and where the buildings were. Gamroth asked what year Wurzer bought it. Wurzer responded 2001. Gamroth said Wurzer would have still had to meet the requirements. Schwartz asked what if one ran a 100 foot strip across the top of Judy and Gary's northern boundary there as that little strip really wouldn't diminish much off the farm. Schwartz added he wouldn't actually have to drive there he just has to have 100 feet of ownership and Wurzer can continue to use the easement that he has. Gary Christen asked what if he wants to build a road in there later on – what happens then and where does that leave them on the easement of using that land.

Lyngen added what they are saying is he could put 50 houses back there if he wanted because he could put a road through on that 100 feet. Lien commented it would have to be a public road that went all the way back otherwise there would only be one house on the property. As long as that was brought up, Gamroth wanted the Board to understand that if one looks at his application for the variance, on the third page #1, its says "At some point the applicant would desire to build a cabin on the property and would like to have it considered that this variance would allow for that also" so right there we are looking at a potential structure being built back on property that doesn't meet the adequate public road frontage. Horton added that part of this is that 10 -15 years down the line things are not the same, people's lives change and someone totally different comes in here and it is a mess. Horton added they can't build a cabin, they can't build a house, they are stuck and you've had these parcels before. Horton reiterated that lives change and we're looking at the long term here for the variance. A variance is not an easement it is a variance and it stays with it. Horton added that is why this piece that got sold off to Lyngen's is probably on there in the first place – to give you that road frontage. It is an odd shaped parcel but it had to have that. Lien asked if Wurzer talked to Marjorie Herold as well. Wurzer stated he has been trying to buy land from her for years. Horton suggested Lyngen's selling the land back and Wurzer renting it to Lyngen's. Lyngen stated she didn't want to be a renter. Lyngen thought that is part of the problem as she didn't buy it from him at the kitchen table. We had a bank and real estate people there. Lyngen said she has lived there ten months and this has gone on the whole time she's lived there and it really takes away from your pleasure of living when this is constant. She really just wants it to be over as she didn't do this. Horton understood that but all those entities had to do was look it up or call Lien, but we have three legal entities that didn't call the County. As a note, County Surveyor Joe Nelsen stated this firm forced a buyback about three years ago in the Town of Albion for a land locked parcel. Andre commented so they have dealt with Trempealeau County before. Andre called for any other testimony in opposition. There being none Andre announced that public testimony was closed and that the Board would begin the 3 step process to determine if the variance should be granted. Schwartz asked Lien to clarify that if one has to have 100 feet of frontage if that meant it has to be 100 feet wide all the way back. Lien responded that was correct that it had to be at a minimum 100 feet wide extending all the way out to the public road way. The Board addressed " unnecessary hardship". Andre feels for Wurzer. Andre continued that one of the numerous professionals that he employed should have caught this and that it is a dirty shame that he is in this position. Andre didn't believe the blame lies with him, it lies somewhere in one of the people that assisted him in the sale of the property. Andre understood Lyngen's feelings also. She did not expect to be in the middle of all of this ever since she purchased the property. Andre stated the hardship is somewhat self-imposed. Schwartz stated he would incur with that. Horton and Hawkenson agreed with that also. Hawkenson said someone should have caught this long before this and it is unfortunate. It is also unfortunate that the Lyngen's have had to live with this since they purchased the property and also Wurzer too. Andre referred to the attorney, who said they can't know all the laws in all the County's, and stated ignorance of the law isn't a defense anywhere. The Board moved onto the second point of "unique physical property limitations". Schwartz stated he didn't think it meant that criteria as it is not a unique characteristic of the property, it is just a "position" of the property. Andre stated Trempealeau County is full of potentially land locked property's. In order to get the 100 foot of frontage, Wurzer may have to go through land where one can't build a town road or a driveway. Andre added you do not need a road off that 100 foot frontage, you just need the frontage as the existing easement gives him access to it. The Board addressed "no harm to public interest". Horton stated part of the reasoning in the Ordinance is for the orderly development of the County which is in the public interest to have the County developed in an orderly manner and this is not going to be in compliance with the orderly development. The intent of the Ordinance is going to be harmed by this situation. It is not cleaning up the situation if we let this go on. Hawkenson said it is creating more problems. Andre stated there may be no harm to public interest at this point but it leaves the potential for future problems. We've all discussed it that everything is fine

today, all the property owners get along, the easement agreement is working the way it is, but what happens a year or five or ten years from now when the players change, then we have problems. Andre called for any other discussion on the third point.

Action Taken –Schwartz made a motion to table the variance request for a period of three months so that there is no fine imposed. (Schwartz assumed there would be fines imposed if the Board indeed made a decision). Lien stated there has already been one citation issued. Gamroth stated Wurzer took care of that. Gamroth explained the reason that citation was issued is because they let the deadline lapse as far as getting it taken care of. Steve Wiggins had contacted Gamroth, and they took care of the citation and then another time period was given to get their application in for this, so there has only been that one citation issued. Gamroth thought it was just a timing issue on their part. Schwartz questioned if the variance isn't granted what recourse do we have. Lien answered that citations could be issued every day until the property is brought into compliance. That becomes an economic hardship for Wurzer. Lien liked the Board's idea of giving him an opportunity to bring this into compliance. Lien presented another landowner situation in the Town of Ettrick and explained the resolution. Lien said that whether it is the Board's wish to deny and have staff work with Wurzer for a period of time to try to come into compliance before issuing citations or whether the Board tables it for three months, Lien didn't have a problem with it either way as it give Wurzer time to comply with the Ordinance. Lien stated the bottom line is that it has to come into compliance. Lien urged Wurzer, if the Board does decide to table the issue, that he keep on this every day until it is resolved and not wait until the end of the 90 day window. Wurzer questioned if you go to every neighbor and they are not willing to sell, is he just supposed to take fines every day? Lien answered no, that unfortunately every action has a reaction and every decision we make has a consequence so Wurzer could sell his property to neighbors or Lyngen's or whatever. Lien added he is not in the business to tell Wurzer what to do but just what he can't do and somehow that property needs to have frontage, one way or the other. It had frontage and it was lost through a sale so that doesn't negate all the ordinances that have been put into place and all the years, it just makes it very difficult for Wurzer to turn back time and fix the problem. Lien added that the staff is here to work with Wurzer and he can bounce ideas off of staff to see whether or not it would work. We will help you with that, but you're going to have to do some hard homework to try to resolve this. Lien stated the worse case scenario would be selling that land to a neighbor. Lyngen stated and Lien agreed that it would only go to someone who owns road frontage. Lien added it has to be anyone touching that property because you can't sell a land locked piece. Nelsen stated technically it could go to another land locked piece. Lien encouraged Wurzer to call staff with any or all possibilities and we will help you but it has to be a decision that Wurzer has to make. Wurzer said there is only one farmer out there that is farming that would even be interested in buying that property and Wurzer had already asked him if he wanted to and he said no. Wurzer said there really is nobody else that is making a living off of farming that would want to have that land back there in the middle of nowhere. Lien clarified that Wurzer was talking about the neighbors around it. Schwartz repeated that his motion was to table the issue for 90 days. Andre seconded the motion. Horton asked what the difference was between tabling and just denying the variance as to what Wurzer had for recourse. Lien answered that either way he had to resolve the issue. If it was denied it would be up to staff to either start issuing citations or work with Wurzer. With tabling the issue, it is a 90 day stay of any action. We aren't going to issue citations or anything and we will continue to work with Wurzer to resolve this issue. After 90 days it will come back to this Board on your next agenda for a resolution. Horton asked if Wurzer resolves the situation does the Board still have to come back in. Lien stated the Board could just pick it up at their next meeting and dismiss the issue. Schwartz modified his motion to add that it be brought before the Board at the next meeting following the 90 day period so that a special meeting wouldn't be required. Andre stated he had no problem seconding that motion. Andre repeated the motion as giving Wurzer a minimum of 90 days and to re-address this at a regular monthly Board meeting that follows that 90 day

period. Andre commented that he generally is not in favor of tabling anything that should be taken care of now but Andre feels this gives Wurzer at least 90 days to re-address this issue with some of the other property owners. Andre added that if the Board denies it Wurzer is in worse shape than he is by the Board giving him the 90 days, because if the Board denies this DLM staff can start imposing fines. Andre stated they don't want to do that. Andre said there have been a lot of suggestions made, some which aren't going to work, but Andre thought Wurzer needed to look into all of them and see if he couldn't get something to work. Andre feels for Wurzer as Wurzer was failed by people that Andre is sure he paid a lot of money to take care of this. Horton took a roll call vote: Andre – yes, Hawkenson – yes, Schwartz – yes, Horton – yes. Andre announced the motion to table carried on a 4-0 vote and the variance is tabled for a period of not less than 90 days. Andre wished Wurzer good luck and the hope that he could work it out to his satisfaction and everyone involved.

The Board verified their next meeting dates.

Hawkenson made a motion to adjourn the meeting, Schwartz seconded, motion carried unopposed.