



TOWN OF HULL  
**PLAN COMMISSION  
MEETING**  
August 17, 2010

- 1. CALL THE MEETING TO ORDER:** The Town of Hull Plan Commission Meeting was called to order by Chairperson John Holdridge at 7:00 P.M. at the Town of Hull Municipal Building, 4550 Wojcik Memorial Drive, Stevens Point, WI 54482.

Present: John Holdridge, Bob Bowen, Shelley Binder, Secretary Patty Amman, new members: Al Stemen and Jocelyn Reid

Also present: Chuck Lucht, Associate Planner of Portage County Planning and Zoning and Citizens:

Kurt & Jessica Groholski, David Brilowski,  
Kelly & Daniel Hebbe, Tiffany & Lance Broecker  
John Oberthaler of Chopper Farms, Mike & Marie Gawlik,  
Jerry & Teri Koziczowski  
Ray Firkus, James Kozickowski, William Gollon, Dennis Brzezinski

Absent: LaVerne Syens (excused), Bob Enright

- 2. CITIZENS WISHING TO ADDRESS THE COMMISSION ON NON-AGENDA ITEMS. AGENDA ITEMS ARE FOR DISCUSSION AND POSSIBLE ACTION:**

*None.*

- 3. APPROVAL OF MINUTES OF July 20, 2010 meeting:** *Motion to approve the minutes of the meeting on July 20, 2010- by Bowen, second by Binder. Motion carried by voice vote.*

General Announcements:

Holdridge                    There was considerable discussion on those minutes about Jordan Village Plat where they went from 7 lots to 4. I think it was before for 2 meetings. It was going to be on the Town Board's agenda in August but all of a sudden they pulled it. We thought we had it resolved.

Lucht                         The resolution passed for it is still good but we need to have a map with it and I've brought those materials so you can use them.

Holdridge                    I'm talking about the Jordan Village Plat. Are you talking about something else? You member when Mrs. Fox was here?

Lucht Oh, no, I'm talking about a different thing.

Holdridge Remember we had it at one meeting and then we had it at the next meeting and the surveyor was here. I thought we had it resolved. Then all of a sudden, she just took it off and it didn't go anyplace.

Lucht That's her right to do that.

Holdridge I know that.

Lucht However, we have an answer. The question at the Plan Commission as to what happens if the Town doesn't sign the certified survey map. If the Town doesn't sign off on it, the County won't sign off on it. So the answer to that question is if the Town doesn't sign off on it, it's not going to be accepted.

Binder I've got a question, John on this letter we got about that Jordan Plat with Mrs. Fox. In my reading of the letter, it sounds like the Town Board referred the topic back to the Hull Plan Commission. But you make it sound a little bit different, like Mrs. Fox took it off the agenda.

Holdridge Yes, she took it off the agenda. So it's going to have to come back to us. But she pulled it and I don't know why.

Stemen Is that postponed then John, or is that a dead issue?

Holdridge That's a dead issue until she brings it back. I think she maybe modified it some way.

Binder Probably going to re-draw the map again.

Holdridge This was right over off Brilowski and that Plat was put together in about 1857 before the Civil War. Somebody may know that area. She owns the land and she was trying to..... they weren't 2 acre lots, but they were lots of record, which means she could use them as long as they meet basic setback requirements. She had 7 lots and they combined them into 4. It seemed like a good plan. Dave Medine had done the perk testing and some of that stuff over there. But right now, it's sort of a dead issue until she gets it back. I gave you a copy of the letter we sent to Dennis Brzezinski, you all have that. I sent him also minutes of the meeting so he knew just what was happening over there. The County is looking for a member of the rural steering committee for planning purposes. They are also looking for a member for the urban steering committee. I think the urban one, I and Larry Fritz were on it and Larry passed away. The rural one, Dave Pederson was on it. So Chuck, we'll see what we can do about trying to find somebody. We've got some zoning changes that the County is proposing that I think can be put on the agenda and talk about those.

**4. ADMINISTRATION OF OATH OF OFFICE FOR AL STEMEN AND JOCELYN REID.**

Holdridge                    We have Al replacing Bob Brilowski. I think most of you knew Bob who passed away recently. Al has been in the Town of Hull for 50 years and lives over on Old Wausau Road.

Bowen                        50?

Holdridge                    Over 50 years. His term will expire in April of 2011. He's finishing the unexpired term of Bob Brilowski. Jocelyn Reid has lived in the Town of Hull for 23 years and she lives up in Meadow Manor subdivision. She's replacing Dave Way who was on right from the beginning and was an outstanding board member. Jocelyn, your term expires in April of 2012. What we have is the oath (*which John handed out and read it*).

*The oath was administered to Al Stemen and Joceyln Reid and signed and dated.*

Holdridge                    That is provided by the State. The Plan Commissions are authorized by State Statute and this whole fairly extensive planning process, starting with the County but now in all local governments, is fairly recent. I would say 2001 or 2002 that we really got going with it with the Comprehensive Plan. So we welcome you aboard. It's good to have you.

**5. CERTIFIED SURVEY MAP FOR KURT GROHOLSKI, 5881 RAINBOW DRIVE, LAND IN SECTION 25, TOWN 24N, RANGE 8E, ABUTTING RAINBOW DRIVE.**

Holdridge                    In your packet you have a memo from Phil Deffenbaugh, who is our assessor who typically reviews these surveys. Is Don Buza here? Are the Brilowski's here? As you can see, he says: "I have reviewed the above CSM. The CSM meets the Town's requirement for Town road dedication." That is that the roads have to be dedicated to the Town and that's been done on the CSM. "The lot is over 2 acres and would therefore meet the minimum lot size for the ground water protection issue." Part of Hull is in what we call the ground water protection area for the City of Stevens Point well field. In that area, any new lot has to be at least 2 acres. This one meets that. "The Brilowski farm area is zoned General Ag. The side yard requirements as per the County zoning ordinance are 25 feet but in some cases may be less. The side yard setback in most cases are less than this but this would be strictly a County zoning issue. I do not know if the County has reviewed and approved the setbacks per the CSM." The process, once we act on this tonight, then this will be taken up by the Town Board on September 7<sup>th</sup>, the day after Labor Day. We approve it, then it goes to Chuck. This is Chuck Lucht with Portage County Planning and Zoning Dept. Then it goes to your Planning and Zoning Committee.

Lucht                         Right. One of the Planning Technicians will take it.

Holdridge                    Once it approved there, it's approved, right? You don't go to the County Board with this?

Lucht Correct. I believe they have the ability to sign off on CSM's.

Holdridge You have also an e-mail from Don Buza and he said: "Kurt Groholski is the son-in-law of the owners of the property, David and Rose Brilowski. Kurt is getting 20 acres as shown as Lot 2 on the survey map. The Brilowski's are keeping 2 acres as shown as Lot 1 on the survey map. The portion of Town road known as Rainbow Drive is being dedicated by the owners, the Brilowski's, as shown on sheet 1 of the survey map and dedicated per the owner's certificate of dedication on sheet 2 of the survey map as required by the Town." To me it's all in order. It looks like what you are doing is cutting out Hull's part, right? There is the dedications plus the various signatures by the Town and the County. This is probably the first time you've seen a certified survey map?

Reid Yes.

Holdridge Is this for you too, Al? Yes, okay. Any questions from the Board?

Bowen I thought when they developed these, the Planning and Zoning did a preliminary recommendation to us. Is that coming yet?

Holdridge No, typically they start here with a registered surveyor who knows the requirements and then we have our assessor/building inspector review it, and that's what we've done. Then after we approve it, it goes to the Town Board and then it goes to the Planning and Zoning Committee and that's the first time you folks get involved in it, right?

Lucht I don't normally handle them.

Holdridge That's the process right?

Lucht It comes to the County.

Holdridge Right, Planning and Zoning. They do whatever review they do, then the Planning and Zoning Committee signs off on it or at least the Planning and Zoning Dept. signs off on it.

Binder But there's no building going on here. There's just a land survey.

Holdridge Yes, just a land survey. Just cutting out that parcel.

Binder So where is Rainbow Drive?

Holdridge Rainbow Drive is off Brilowski Road near Fleet Farm at one of the curves, you would go straight and it goes onto Rainbow Drive. Is Dave here? Dave, Al is taking your dad's place. Al knows your dad pretty well.

Dave Brilowski It's kind of ironic that the first time I'm here for a meeting, he's being sworn in to replace my dad.

Holdridge I should say that Wayne Hartzheim was buried today. Wayne was on the Board with your dad and had a really great relationship. One was from Sentry but your dad was basically a rural farmer. But we'll miss them both.

Stemen I have big shoes to fill.

Holdridge 41 years. Is there a motion to approve this?

Binder I make a motion that the land split be approved.

Stemen I'll second it.

Holdridge Any discussion?

Bowen How big is lot 1 again?

Holdridge Lot 1 is a little over 2 acres. Lot 2 is about 20 acres.

*Motion passed without further discussion.*

Holdridge This will go to the Town Board on the 7<sup>th</sup> and that's generally a formality. So we thank you folks for coming.

## **6. FIRKUS ROAD DEVELOPMENT – ROAD RIGHT-OF-WAY, ACCESS TO LAND AND LAND DIVISION.**

Holdridge Now we have a very interesting situation to say the least. Here's a letter I'm passing out from Tiffany Broecker. In looking at this, I sent a letter out to maybe 6 or 7 families on Aug. 13<sup>th</sup>. You have the letter from Daniel Hebbe. As we look at it, we have a number of parties interested and involved in this, some with ownership interest. This is the first one which is the big overview, the big map. It shows North Reserve Road coming up, bending, then going up into Dewey. Firkus Road goes straight, then it bends and goes north a little bit. This road from the intersection with Reserve is .75 miles. That .75 miles we get State Aid on. In other words, this has been going on, our Town Clerk, Janet Wolle, she thinks it probably went on from the mid-1970's.

Lucht Firkus Road has shown up on all the parcel maps at least as early as the early 1940's. That elbow to the north has existed as a road since that time. It shows it on all those maps that far back.

Holdridge Starting on that, we would say, that is a Town road and we get State aide on it. Pete Kaminski and I were up on it last week right to the end, turned into the little driveway there and that would be hard to define as a Town road. All of you who live there know that. If we go further in this, in terms of the certified survey maps that we have on file here, letter "A"

really abuts Reserve. That's this one on the big map. That has access. That has Firkus on the south and North Reserve on the west. Then we have "B" (*handout map*). Is John Oberthaler here?

Oberthaler                    Yes sir, right here.

*Some general discussion that was lost on tape as the power cord had gotten kicked out of its socket. The discussion was between John Oberthaler of Chopper Farms, Jerry Koziczkowski, owner of land on the east of Firkus Road, Mike Gawlik, Chuck Lucht all regarding DNR management forest land program, back taxes of 10 years, abandonment of road, no maintenance or maintenance of road, etc. The tape was restated with the conversation in progress as below:*

Brzezinski                    .....without an easement through his property that you were using for years, is what you did. He basically drove through that property that he sold you, to the property that is now landlocked. By state law, he should have kept an easement right-of-way to that property because he was using it for x amount of years and now with their statement, they could prove that you did not use that road so you abandoned that right-of-way to use that road. If a road is not used 1 day per year, it is basically.....you lose your easement right to use that road.....if it's not on paper. If I was to cross your 40 and did it for x amount of years and as long as I did it once every year, only once, you could never stop me and I would never have my property land locked.

Bowen                         Do you have an easement?

Brzezinski                    No. If you have..... if it's been a road that's been..... if it is a road that has been established..... okay, let's say you gave me the right of way to cross your property. Once you gave me that right of way and you use it once a year.....

Bowen                         Per a gentleman's agreement.

Brzezinski                    Even if it's a gentleman's agreement, once you do it for once a year, that road stays open for me, only me, nobody else. Now once that happens and I abandon that road, then you're done. You don't have to let me in, even if it land locks my property. Because what happened with his situation, he had another way to get into the property so he abandoned this roadway....

Unidentified                 When we put it up, it was because Mr. Koziczkowski put a cable across.

Speaker

Brzezinski                    He closed it. Once he closes it that road....

Mike Gawlik                 My brother in law asked about that, he said the only reason he put that on was because college kids were back there having parties.

Brzezinski                    That doesn't matter. Once he closed the road, he took.....

Bowen                         Can you verify....

Holdridge                    Let's have some order. Can you give me your name sir?

Brzezinski                Dennis Brzezinski. Most roads are deeded to the Township, if the Town owns the land, they are deeded and you know that from the Village of Jordan. All those roads are deeded. So you should have in your records.... and that goes back to 1800's when those were deeded.

Holdridge                What we will do on this issue is have our attorney analyze it and get the current state of the law with the attorney's signature and so forth. We'll clarify that aspect of it. Did you have a question? Go ahead.

Mike Gawlik              That was brought up and we thought he was.... and we didn't want parties or people back there having parties either.

Marie Gawlik            That's why we probably starting using my dad's land because he had it barricaded and so when nobody wanted to disturb him to go through the land, and so that's why....

Holdridge                So you went across John's land.... And John when you took it over, that crossing was eliminated?

Oberthaler              Yes.

Mike Gawlik            When we acquired that property, I came here and talked to somebody. They said.... and I mentioned about the cable across, and I said are we going to lose that road and they said no, we won't develop it until somebody builds back there. So we made sure of that when we acquired that.

T. Broecker              You know who you spoke to? Was it someone in this office?

Mike Gawlik            Yes. I came here but I don't remember.

Holdridge                When was that, do you remember?

Mike Gawlik            About 17 years ago something like that.

Marie Gawlik            I remember the snowplows going down the road. On the farmhouse, we could see them go down the road.

Holdridge                Where it goes north? That road was plowed?

Marie Gawlik            Yes.

Unidentified            How could a snowplow go down that road?

Unidentified                    That was never plowed since we owned it. Other than me plowing it.

Holdridge                      You're saying plowed by the Town of Hull and I don't know that it....

Unidentified                    That was plowed, I remember it being plowed. It was never plowed for 20 years.

Lucht                              There's an old farmstead or something way back there at the northeast corner. You can still see the road cut where it goes east/west.

Oberthaler                      That would go almost another quarter mile north.

Lucht                              *(He showed everyone on an aerial map he had, where the road was or is.)*

Holdridge                      There would always be a road and when it came time to activate it...*(several people talking at once)*..let's deal with one issue at a time. Comments, Chuck, from your standpoint? What do you have there that relates that we should know about?

Lucht                              What we know is that it is a question that lawyers should hash out as to what the actual state of the road is. The fact that the road has always been shown back there since at least to the 1940's, there is good probability that it was a Town road at one point. There are many cases in the County where someone owns a full 20 and the right-of-way actually takes 33' out of it even though they own up to the centerline, even the whole road. They may own the property, at one time, it still shows it like that. This is the kind of thing that we clear up in this kind of process. So yes, you may have had the whole pair of 20s in forest management, but there may actually be 33' roads there even if it's not there now, it still may exist. However, your CSM is correct as shown until the Town would be able to prove something about Firkus Road. They may or may not have those records. As you stated it, your property is the way it is. The existence of that 33' wide strip that heads north/south, it's in the CSM so there's a question as to whether it exists as a Town road or not. There's no reason that I can imagine that the Town would say that it's abandoned since it's been there for so long.

Holdridge                      Wait a minute, the Town isn't saying anything. We're trying to get to the bottom of it.

Lucht                              Right. Which is the legal question that will involve a deed search. There's...as far as the Town goes, way on the back of handouts "C" and "D", there's 2 weird little parcels about 24 1/2' wide. They are a rod and a half wide. That was acquired by the Town of Hull. That's your *(the Town's)* land and it was acquired in 1955 or 1958.

Holdridge                      Where is that on here, that you're talking about?

*Chuck showed him on a different map, 2 parcels way in the back, north, looking on the CSM handout, 24.75 section. Chuck took it over to other commission members to show them.*



Bowen                               How would you connect this and that with North Reserve which is over here?

Lucht                               As a possibility....this is land that the Town has taxes on, the Town could search....the land could be put down there and put on their tax rolls. Then they would only need a small part.

Holdridge                        Chuck, let's show the audience and involve them. That's why we're talking about it. (*John H. and Chuck showed where the tiny lines were on the map up towards the top of the parcels – north edge, that Chuck was referring to.*)

Lucht                               There are 2 little lines right up here on "D", those belong to the Town of Hull (*that small strip that the 2 little lines represent.*) There were purchased as a batch parcel in 1955 or 1958. The County sold them to the Town of Hull for \$375 as a whole batch of parcels.

Holdridge                        What year was that?

Lucht                               1955 or 1958.

Holdridge                        What does that mean?

Lucht                               That means those 2 little slivers (*of land*) belong to the Town of Hull.

Holdridge                        Yes, but what does it mean?

Lucht                               It means that.....

Unidentified

Speaker                         At one time.....there's an old house foundation back there in that field. I think it's north of that "D", it would actually be on Schoeneker's property (*in Dewey*) I think. I think that was originally a road or a driveway to that foundation, possibly. I'm guessing.

Holdridge                        Does it go anywhere? It's just there.

Al Stemen                        The Town of Hull owns it, but it's landlocked.

Lucht                               We thought it was weird, too, when we were looking at it. We were wondering what the heck is it? As part of the process, as both parcels need access at some point, those 2 parcels (*little strips of land*) belong to the Town of Hull and nobody pays taxes on them.

Holdridge                        But let's get back to this issue. How does this resolve the problem with Firkus Lane going north? Those look like they are just isolated up there.

Lucht                               Right, but the Town can dispose of them as they see fit. Or, as part of a deal to provide access.

Holdridge                    How wide are those?

Lucht                        They're 24.75 feet. As part of any deal that gets made for access at some point through whomever's property, they can....the Town can say, make sure everybody has got access....we'll let you have that, but you'll pay taxes on those 2 slivers, but at least you'll have access to your property when you deed out 33' wide.

Bowen                        If you put in a driveway.

Holdridge                    Is that right on the Dewey line?

Lucht                        That's some the Town of Hull has land to make sure they get access to those as part of....

Holdridge                    Is there anything else you have that we don't have (*on our maps*)?

Lucht                        No, other than the Firkus Road on the CSM we have here, clearly states dedicated to the public for that whole length.

Dennis  
Brzezinski                    When was that CSM done? What year? Who did it?

Binder                        It was certified.

Brzezinski                    I know it was certified. What happens when it's certified is the Board has to approve it and then it becomes certified.

Holdridge                    Chuck, why don't you go through the standing on certified survey maps. Wait just a second Dennis, we need some clarification. My understanding, if it's more than 20 acres, the Town Board....certified surveys don't go through the Town Board, right?

Lucht                        I don't have a firm answer on that. They just switched.

Holdridge                    That's what I've been told.

Brzezinski                    They switched?

Lucht                        The policy on CSMs is now changing to....that's the problem. I'm not the zoning technician and I don't normally handle CSMs.

Bowen                        A point of clarification: could we have some of these people identify themselves again so we know who's talking from which viewpoint, because it's going back and forth. I think I've got some people identified but I'd just like to clarify again who's here and who we've got....

Holdridge Right. Dennis, now you don't live up there, right? We're now on Firkus Road. Let's try to keep the discussion to those people who live up there or are interested in buying property.

Brzezinski I have a right to be here.

Holdridge Now, now, wait, absolutely.

Brzezinski I can voice my opinion.

Holdridge You can and you'll be recognized.

Bowen Say your name.

Brzezinski Sure, Dennis Brzezinski.

Holdridge Dennis lives on Brilowski Road and he's the one we sent the letter to with the documents on the Jordan Village Plat.

Brzezinski Those roads are platted.

Holdridge Now wait. We're dealing with Firkus Road now, okay?

Brzezinski There's got to be some record in the Town and Courthouse that those roads were turned over. Because they go off of the tax roll when they become the Town of Hull's property.

Holdridge Dennis, we know that. We will research all that. We're trying to get information tonight from those people who live up in there, primarily, okay? Maps "A" and "B" are John Oberthaler, right here.

Oberthaler I'm John Oberthaler. I have "A" and "B" properties that I purchased last year.

Bowen Oh, you're Chopper Farms.

Holdridge Then let's go to "C". Who is "C"?

Oberthaler It's Paul Firkus and Paul Firkus isn't here.

Holdridge So that's Paul Firkus' land?

Oberthaler But it doesn't connect. It's "D" that's the one in question.

Holdridge "C" has access to North Reserve, so that's not an issue. "D", that's Mr. Gawlik? The other is Dave Firkus. Dave isn't here? Okay. Those are the ones that own the

land. Then over on “E” is Teri and Jerry Koziczkowski. That’s their property. Those are the ones that have an interest.

Binder Mrs. Broecker, she wants to build up there and is there access?

Holdridge Daniel (*Hebbe*), why don’t you explain your position.

D. Hebbe I think the letter I did explains that we’re willing to purchase the property only if we can get access, vehicle access.

Bowen And you’re purchasing it from.....?

D. Hebbe From Mike and Marie Gawlik.

Bowen Okay, right, I’ve got it. And where’s Tiffany?

T. Broecker Right here, and this is Lance my husband.

D. Hebbe So we’re looking to buy the Gawlik’s land if we can build a primary home on it.

Holdridge So Tiffany, you may well buy some of Daniel’s land?

T. Broecker If...yes. The option is to buy from David Firkus and if that doesn’t work out, then we would be looking to Dan and Kelly Hebbe to survey that 20 into 2 parcels, split that, approximately 20, it’s actually less, 17.35 acres I think.

Bowen Are you buying the entire parcel?

D. Hebbe I’m just buying the Gawlik’s property.

Bowen Right, Michael’s....one half of “D”.

D. Hebbe Right.

Oberthaler At one time, Dave Firkus owned all of it and they (*Gawlik’s*) acquired half of it from him (*Dave Firkus*).

Holdridge John, didn’t you buy this from a Firkus too?

Oberthaler Yes. I bought it from 3 Firkus members, then 2 individuals.

Holdridge Those are the ones that clearly have an interest.

Bowen Yes, right. Right now, there seems to be some controversy about you even having access to walk up and look at the land. These folks over here (*Teri and Jerry K.*) said that you're trespassing.

D. Hebbe Correct. If we are, then obviously we're going to stay off. According to all the surveys and the research.....

Bowen Sounds like you can walk to the end of Firkus Road and then jump over in the.....

Holdridge As a practical matter, Bob, if you drive out there, that is not a road.

Brzezinski Right now, the Town of Hull cannot prove it's their road.

Holdridge I'm not convinced whether we can or cannot.

Bowen Between Phil and Pete, they should be able to.....

Holdridge Well this goes way back in time. Janet has looked and she's researched it and we will go from what we've got here tonight. We clearly have to clarify that and if we have to clarify it through the legal process, we will clarify it through the legal process. We know that the Town of Hull, for a considerably long time, has considered that a road and we've gotten State aid on it.

Brzezinski Right, but just because you guys have considered it to be a road and have gotten tax aid on it, it doesn't necessarily mean it was a road. There are places in the State of Wisconsin where towns had maintained roads and they actually didn't own them. In fact, you had a situation that you laid down blacktop ..... at the last meeting.... And they deeded the land over just after it was all done. Correct? You were at the meeting.

Holdridge What or where are you talking about?

Brzezinski Where they did the CSM and that land was given to the Town and the blacktop was already laid and the road was there, but actually it wasn't even the Town of Hull's land at the time. It's in the CSM that was okayed last month at the meeting.

Bowen But not at this meeting.

Brzezinski John was there and I was at that meeting.

Holdridge I don't recall that.

Brzezinski I recall that. It's in the minutes.

Holdridge Anyway, Dennis, we will.....

Bowen It was a Town Board meeting?

Brzezinski Yes, it was a Town Board meeting, not this group.

Holdridge Now questions from those people who live up there and are interested in buying. Let's go to them. Jerry, you first. Questions or comments.

J. Koziczkowski First I'm just going to say, the road was abandoned and we're blocking it off and it's basically our land. Back when we bought that property, we were at this Board meeting and the same thing happened and they wanted the road for the road tax.

Holdridge Do you know approximately what year that was?

Koziczkowski I believe it was 1990 or 1991. We do have some documentation where there was a case like this where it went across a supposedly public road, went across the land. In the State of Wisconsin, they had a road and the people blocked it off. They went to court and the court decided that the township did no maintenance on that road for 10 years, nothing, that it reverted back to those people and it was blocked off. It was actually through public and private land. Public hunting land. It was blocked off and they could not use it anymore. It reverted back to the people. So when we bought this land, we were also told, if we wanted that road in there, at that time, we would have to pay to develop that road. I believe some of that is still in, where if you wanted a road, you'd have to pay to develop it and you're going to have to dedicate it back. So obviously, we decided not to develop it. Nobody decided to develop it. So it stayed dormant. So as of now, there's no road there.

Holdridge You actually bought your property in 1991 or whenever, 1990?

Teri Koziczkowski Yes.

Holdridge Other questions or comments?

Marie Gawlik I have a comment. We had nephews that would go snowmobiling and I believe....when did we purchase the land, when they..... 1993, anyway, then already, we couldn't....there was still a road there. I know there was a road. My nephews went snowmobiling and Jerry would come out and say: "You are trespassing." My dad was still living and he was still..... the road was there when my dad was still living. Shortly after we purchased the land, my husband would take a lot of stuff from our yard and take it into..... when we had a lot of over-shrubs or weeds and stuff, and the road was blocked off and we couldn't go back there anymore.

Bowen In 1993?

Marie Gawlik Correct. My husband....

Bowen You knew you didn't have access?

Mike & Marie  
Gawlik                    That's where I checked here. They told me there was access there and I asked if we would lose it. They said here that no, I would never lose it.

Bowen                    Here, this office?

Mike Gawlik            Yes.

Holdridge                But you didn't actually go in that route, did you? That's where you went across the field.

Marie Gawlik            It was always blocked and we couldn't go down the road, even if we wanted to use the road.

Bowen                    So where is the barricade? At the end of Firkus Road as we know it?

Holdridge                No, as you turn north.

Koziczkowski           I can prove that it first started when I first bought the property. In that big oak tree, there is an eyelet that has grown into that tree. That's where the original cable was.

Holdridge                There is a what that's grown in?

Koziczkowski           An eyelet. The actual eyelet that the cable was on. That grew right into that tree. It's still there. That's where I originally cabled it off. Then when we built, I moved it down a little further. I was told by the Town Board, too, do it also.

Holdridge                Are there other questions or comments? Bob, did you have something?

Bowen                    We need some documentation. We have all of these statements. He was at a Town Board meeting and someone said that you could do that. So that would be in the minutes of.....

Holdridge                I'm not sure that's in the minutes.

Bowen                    It probably is.

Holdridge                That was in 1993 or something? 1990?

Koziczkowski           We actually purchased the land in 1990. I know when we purchased the land, we were told.....I believe....Borski?

Holdridge                He told you that?

T. Broecker              Can I ask you a question? Jerry, I'm Tiffany Broecker and I'm interested in David Firkus' parcel or going in with Dan (*Hebbe*).

*At this point, the power cord to the tape machine was kicked out and some conversation was lost.*

*Tape #2 side one. Second side of tape #1 would not work properly or record after the power cord had been kicked out, so a new tape was started.*

Holdridge                   ...section of North Reserve as you go east. That section isn't in dispute. You're talking about this section here? He's talking about this section right here.

Bowen                       He's talking about the east/west.

*Power cord kicked out again and more conversation lost.*

Koziczkowski           He's talking about the school bus. The school bus wouldn't even come down there. So now, all these years, I go back there, I've plowed this road, my property. I blocked it off and now somebody is saying they can just build a road and go to it. No, it's my property. Now it's my property.

Bowen                       I think it has to be established if it's a Town road or not.

Koziczkowski           I'm not against anybody building back there. I'm not. But as of right now, that's my property and there's no deeded right for 33'. It's not even enough for a road.

Holdridge                 It's got to be 4 rods.

Bowen                       Who was your lawyer or whomever closed on the property when you bought it?

Koziczkowski           When we got it, we made a swap with some property with Dave Firkus in Plover so it was an even swap. He wanted to be able to build a house and at the time, it was too expensive to put power back there for him. So we had property in Plover and we made a swap. Like I said, people keep up on this to understand all these laws, we don't.

Gawlik                     As far as I was told, we had been paying taxes on it. So we figured we have access to it for the property.

Holdridge                 If that is a road, you are landlocked.

Gawlik                     Why do we pay taxes on it then?

Bowen                       We all pay taxes. I pay taxes on 33' of North Second Drive. A mile and a half of it I pay taxes on.

Gawlik                     We wouldn't have made that swap in the first place if we'd have known that.



Holdridge                    This wouldn't be an issue if John hadn't bought that land. Because you were able to get to it across the previous.....

Marie Gawlik                I remember when the snow plows went down the road and there was a road at one time. Like I said, my husband had come and talked to someone here and they said that road would not be.....until someone would build, they would not maintain that road.

Mike Gawlik                I asked if we would lose the rights and they said no. That road was there and existed.

Holdridge                    Frankly, this issue wouldn't have even come up now if these people hadn't wanted to buy something up there. That's what brought it up.

T. Broecker                Can I ask one more question? Jerry, do you have an idea if there is a possible solution or something you feel would make it fair for you but still allow access through that possibly abandoned road – possibly still active road? Is there something you feel would be a win-win situation? An idea? I don't know if it's an amount of money, or if it's the township providing anything. I'm just throwing that out there.

Koziczkowski              I think we have 2 issues here. One is that it's not a road anymore.

Bowen                        We don't know that.

Holdridge                    The first thing we have to do is to establish if that is a road. If we are told by our attorney and legal situation that is a road, then the Town of Hull is going to need to create a road there.

Koziczkowski              As of right now, I don't have.....I guess I don't want a road back there. I don't have anything against you guys. You've been great owners and I've never had a problem. But there's no road.

Bowen                        But you said a few minutes ago that you didn't have any objection to people building back there.

Koziczkowski              Exactly, I don't. They could actually come from North Reserve. If they want to buy the road or land from us where that other road is, they could go right to Reserve.

Unidentified  
Speaker                      It's really low land along there.

Brzezinski                 The other problem you're going to have with this is that it's sitting on his 40 so once you get to the 40 line, you've got to actually do a big 90 degree turn into Chopper Farms. If he doesn't give the land, Chopper Farms would have to give the land. Because you can see you can't get kitty corner to this property. There is the corner. Just the corner, so that would be a step like this (*he was demonstrating stepping over something*). Now he owns this piece and Chopper Farms owns this piece. The road, if it is even there, it stops there. There is

no way it can go to Firkus' or any..... if nobody else gives any land. Plus, they need a cul-de-sac because you have 3 diamonds. You have 4 diamonds like this (*he demonstrated with pieces of paper*), 4 pieces of paper. The road comes up here, right? This is your property. I take this back. Let's do it this way.

Koziczkowski            I understand the point you are trying to make.

Brzezinski            The corners are here. Once you come here, there is no way for the Town of Hull to come into here with this road to make a cul-de-sac. And the cul-de-sac would need to be on your property if these guys wouldn't give any property at all. So the Town of Hull would come in on a 33' road with a plow in the wintertime. Plow that road and back out. They do that now on the road behind my house. It is a bear and they fight it all the time because there's no cul-de-sac on that road. We closed some road. That's going to be another problem. So the other thing they have to look at is getting some more land to make the cul-de-sac and you're going to end up giving "X" amount of land. There's no way to get to that corner besides stepping across. Even if the road was a road.

Koziczkowski            You ask me that question, but John (*Oberthaler*), what's your bidding on that?

Oberthaler            Well it affects you just as much as it affects me. This has been a crazy thing where I've gotten numerous phone calls. The impression when I purchased the land that I purchased was that there was 33' of right-of-way. I understand your position and you may very well be legally correct in the taking back of that property of an abandoned road. There are so many legal things with regards to real estate that I can't even address it. So you probably have some merit and some ground to stand on with respect to that oak tree that the eyelet is in. That's older than any plow that's ever plowed down that road. There's a bunch of major issues that are here, but I was under the assumption that there was 33' on your side that the Town of Hull owned. I talked with these folks and I said I don't want to obstruct them from ever selling their property back there. I've also checked at the County level and tried to figure out what can happen there. There are some other rules and regulations. You were talking about easements. They don't allow properties to be sold with easements any more. You must own access to the road. So if this was ever going to be developed and the Town of Hull does not own that road, the only way that property would ever be sold is for me or Paul Firkus to sell them a chunk of property over to a mainline road because there is no such thing as selling a piece of property with easement any longer.

Holdridge            But you would need to sell the property and that would become the easement.

Oberthaler            Yes and I'm not interested in chopping up the property at this point. I'm not here to obstruct anybody from doing anything. What I'm here to do is.....I'm not going to give the Town of Hull my land that I paid for and I paid back taxes on just because they claim it with a magic marker that they own 66' of road.

Holdridge            Let's be clear. The Town of Hull has not claimed anything.

Oberthaler                No. But there are maps. The maps that you sent out to us that show a 66' wide road and it may very well be. But last year, I bought that land and last year I paid the DNR to pull that property out of the forest protection management program so how can I have to pay taxes to the DNR to pull out management forest property on the Town of Hull property?

Bowen                      But if the Town of Hull establishes that there is a 66' or 33' road there, the DNR will refund your money.

Oberthaler                Oh yeah, I'm sure they will!

Bowen                      They will. Because.....

Lucht                        I can say the State is pretty good about that. Because I'm aware of cases where they found out people had land locked parcels and they were actually part of the right-of-way for interstate and state roads. When they found out they had paid taxes on that small little land locked parcels that wasn't even theirs for all those years, the State did give them their tax money back.

Oberthaler                I'm going to say one more thing. What I would suggest is that you need to talk to your attorney. We're really not going to get anyplace here right now. These folks think the property belongs to them. I don't believe they own any property that was certified on my map. So if you own any property, I think you only own 33' of property. You're going to need to find some documentation to prove that you own 33' of my property that I just bought and whether or not you have the legal right to the 33' of property that you haven't plowed for the last 20 years that has trees in the middle of it. Until you come to a legal decision about that, or you want to buy a chunk of my property .....

Holdridge                 If we add 33' of yours, it has to be a 4 rod or a 66' road. That's almost a standard. Then we still have the problem with Jerry and his 33'. We're probably not going to have a road that the Town of Hull is going to plow and take care of if it's only 33' wide. It's got to be 66'.

Oberthaler                So if you in fact own the part that is parceled off next to Jerry's, then show me the documentation where you own the 33' that I just paid the Firkus' for last year. That's really the next step. We can argue about this thing forever, but nothing is going to get resolved that way.

Holdridge                 I knew we weren't going to resolve this tonight. We're just trying to clarify what we've got here, because we've got all these documents and we get this story and that story. The ultimate situation will be resolved by our lawyer, probably. He'll go through and review the documents. There may well be some things we can find in the archives or the County may even have or the Register of Deeds may have. Right now, it's all up in the air. We're not saying, Jerry, that's a 33' road that we have, or John, or anybody else. We know this: we've had that on a map as a 66' road and we've been collecting State aid on it for quite a while, at least since the mid-1970's. That's about all we know. Well we know another thing because we've

been out there, that is not a road. You cannot drive down that road. It's pretty clear (*it's grown over*). So where does that leave us? It leaves us with the fact that at this point, we're going to need to sit down with Bob Konkol who is our attorney and we'll review the whole situation. He'll need to review it. We'll see what other documents we've got and we'll probably notify you folks and we'll share everything we've got with you.

Mrs. Gawliks'

Brother                    If you were receiving State aid all those years, why wasn't the road maintained? Where did that money go?

Holdridge                Well it comes to....that part is....the whole stretch is .75 of a mile, so I don't know what the State aid is for that. Typically a mile of State aid is about \$250 annually for State road aid. So for that little part that goes north there, that came to our budget. But this has happened in other situations where you've gotten some State aid for a road that for one reason or another, is not being utilized. Again, we may have other situations like this. This situation....you know when this thing might have come up is, John, if your certified survey map had to come before us, we could probably have picked up the fact when you bought that land. The only reason it's before us now is because.....

Oberthaler              Actually, your assessor looked at it when I was in here talking with him and he shook his head trying to figure out why you only had 33' there.

Holdridge                Typically those, just like the first group, comes before the Town Board and then we review it and then look for road dedications. Okay, are there any other questions from anybody?

D. Hebbe                I have a question for the Gawliks: As of right now, it sounds like hands off. We can't go out there. But since they own it, do they have the right to walk down that, whether it's a Town road or not? Just protecting their interest.

Holdridge                Walk down that road here? I can't say at this point if that's a Town road.

Reid                      Jerry, was that road abandoned or were you understanding it to be abandoned when you purchased the property in 1990?

Koziczkowski        Yes, I was told to chain it off. I figured the only reason that road was still there and they wouldn't accept our original survey with that road, was the State aid. They wanted that State aid. No other reason. I also was told....never mind. Because I did say, if that road was there, I would have changed some things and done things a little differently. But I didn't because they basically said, if you want a road there, first of all 33' is not enough for a road, so I'd have to purchase another 33' and then I would need to have the expense to develop that road. If there are some concerns, one would be if you do develop that road, and buy 66', is that going to be an asphalt road, because of the dust? Right now, I don't have to put up with any dust. How much does a quarter mile of road that is paved cost?

Holdridge                Blacktop you mean?

Koziczkowski Yes.

Holdridge A mile of blacktopping is about \$110,000. A mile of seal coating, which is probably what you'd have, or double seal coating, that's about \$15,500. That's why we seal coat. So unless someone else has questions here or the Board has questions, I would think we would table this. We'll put it on the agenda in September and we'll have the best legal information we can have.

D. Hebbe So by then, you'll have talked to your attorney?

Holdridge We'll have more than talked to him, we'll secure the documents. Bob is sort of a real estate, document sort of guy.

Bowen As far as attitude is concerned, and I've been listening to a lot of attitudes and opinions being expressed. Everyone should be prepared to accept what the law says and that is what Mr. Konkol will tell us. It could change things or things could remain exactly the same.

Holdridge The attorneys give the opinion but the judges make the law. So we'll get the best legal advice we have. If somebody isn't supportive of that, we would go into the good old lawsuit. We're trying to get the facts and information so anybody that buys it is clear what they have. Everybody knows where they stand. Somebody want to make a motion to table it? Our next meeting is what, September 21<sup>st</sup>. Is there a motion then to table it?

Stemen I'll make a motion that we table it until the next meeting of September 21<sup>st</sup>.

Bowen I'll second that.

*Motion passed.*

Holdridge Dennis, if you have some legal information, get it to us.

Brzezinski I will. I just have a question. Since that property up at the Village of Jordan is maybe going to be developed, the question I have is the township going to honor those roads and blacktop those roads? The thing is, if the houses are going to come in, and right now they're talking about 4.....

Holdridge Right now they're not talking anything.

Brzezinski I know they aren't. I've talked to one of the owners and now I'm interested in buying the land and I have a lot that I can cut some property off of and if I buy these lots, I can change lot lines. Since they're grandfathered in as the Board here knows, there are 7 lots that Mrs. Jean Fox owns. Her sister owns 12 lots across the road. Ramczyk Farms owns the 20 behind that. The roads all go into that other 20 also. If an individual like myself was going to buy all that up and turn around and develop it, would the Town of Hull have a problem? The

20's get divided.....since the 20 abuts the lot, I could divide them and add to the lots to make them bigger because joint landowners can move lines as long as they were plotted in before, so all the back lots and all the front lots could be made bigger with the 20. The lots that are between Brilowski and Brychell could be made bigger.

Holdridge                    Why don't you do this, if you would draw up a diagram. I would say in that case, you may be talking a subdivision.

Brzezinski                    No, no....

Holdridge                    Now wait a minute, you're making.....

Brzezinski                    I'm making lots bigger.

Holdridge                    Okay, but I would share that starting with Portage County. In terms of what kind of road we'd have.....

Brzezinski                    I called Portage County. They told me that if that was the situation and I did it with the Village of Jordan, I could do it because it was deeded. It was deeded and those are lots and you have the right to change lot lines and the Town of Hull has no control over that and neither does the County because it's deeded in. Those are lots already. All you are doing is changing lot lines.

Holdridge                    Well why don't you get a sketch of what you are talking about doing. In terms of the road, they would probably not be blacktopped roads. They would be seal coated roads.

Brzezinski                    Okay, so they would do the one that comes across alongside Hwy. 66....

Holdridge                    Dennis, I don't know what we would do until we see some kind of sketch.

Brzezinski                    Okay, I'll draw you up some kind of sketch.

Holdridge                    We would probably be talking with Portage County on it.

Brzezinski                    Okay, very good. Then Whyland (*unknown name or spelling*) has I think 4 lots that possibly may come into this too.

## **7. LAND DIVISION ORDINANCE – REVIEW AND DISCUSSION (CONTINUED FROM PREVIOUS MEETING).**

Holdridge                    I'm not going to take up the next item. We could table #7. Somebody want to move to table that?

Binder I make a motion that we table item #7 until the September Plan Commission meeting.

Reid I second it.

*Motion passed.*

**8. DATE OF FUTURE MEETING:** *The next Plan Commission meeting will be held on Tuesday, SEPTEMBER 21, 2010 at 7:00 p.m.*

Holdridge The next meeting is September 21<sup>st</sup>. It's usually the 3<sup>rd</sup> Tuesday of the month. This will be an interesting resolution.

Bowen It will be our saving grace and we'll trump everything we talked about...

Binder I really think there has to be records back from 1990.

Holdridge I would say 1990 maybe, but beyond.....

Binder Which is when he bought that property.

Holdridge I'm going back to our Firkus Road. But some of this other stuff, "I was told that Borski told them to put your fence up and we wanted to collect State aid but we won't make it a road."

Bowen I don't know if it's on the record.

Lucht If it's not on the record, it never happened.

Bowen Right.

Holdridge But I heard that from 2 different people including Jerry tonight.

Lucht When the discussion of the road comes up, I don't know, preventing access to a public road on purpose. I would think that...just so you can get the land back.....that's.....I would ask about that when you talk to your lawyer. Me not being a lawyer, but I.....

Reid But you can't get back there anyway.

Lucht They won't let you.

Holdridge Anybody who'd looked at it says this isn't a road.

Lucht It may have been at one time. I mean it's been there since the 1940's so it....

Bowen I have an easement that was 33' and it's all trees so I use my neighbors field, but we have an agreement and according to him, if I do it once a year....

Binder Yes, it hasn't been abandoned.

Lucht They say people have tried it, get off my lawn.

Holdridge It was in that letter. One guy was told to get off.

*Power cord kicked out again and some general discussion lost.*

Binder Like Chuck said, there's that strip above there and if they bought a little land from the one there, they could go from North Reserve.....

Lucht How you would frame that would be; if you can get access to this here, you would dissolve that as the Hull property and you would add it down here. It would be back on the tax rolls because they would own it.

Binder Oh, and split it down the middle between those lots.

Lucht It would be deeded as road or access way.

Holdridge Whenever you vacate a road, half of it goes to one side and half goes to the other.

Binder Are you talking that you would move it down to here?

Lucht There is no reason that when everything is redone, these parcels shift down to here.

Bowen Yes but it's wetland and very wet so that's better ground here.

**9. ADJOURNMENT:**

*Motion made by Bowen to adjourn meeting, seconded by Steman. Motion carried by voice vote. Meeting closed at 8:30 p.m.*

***NOTE: All conversation / discussion typed as actually stated during the meeting.***

Respectfully submitted,

Patty Amman, Plan Commission Secretary  
Town of Hull, Portage County