

AGENDA
Board of Zoning Appeals

Thursday, August 1, 2013 – 9:00 AM

City Conference Room – 1515 Strongs Avenue, Stevens Point, WI 54481

(A Quorum of the City Council May Attend This Meeting)

Discussion and possible action on the following:

1. Report of the October 18, 2011 Board of Zoning Appeals meeting.
2. Request from William Cooper, representing Cooper Oil Co. Inc., for a variance to allow a reduced street yard setback for a 30,000 gallon above ground liquid propane tank at **2172 Prairie Street (Parcel ID's 2408-32-4014-13 and 2408-32-4014-15)**.
3. Adjourn.

Maps further defining the above area(s) may be obtained from the City of Stevens Point Department of Community Development, 1515 Strongs Avenue, Stevens Point, WI 54481, or by calling 715-346-1567, during normal business hours.

Any person who has special needs while attending these meetings or needs agenda materials for these meetings should contact the City Clerk as soon as possible to ensure that a reasonable accommodation can be made. The City Clerk can be reached by telephone at (715)346-1569, TDD# 346-1556, or by mail at 1515 Strongs Avenue, Stevens Point, WI 54481.

PUBLISH: July 19, 2013

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Board of Zoning Appeals of the City of Stevens Point will hold a Public Hearing and hear evidence and make a determination on **Thursday, August 1, 2013 at 9:00 AM** in the City Conference Room of the County-City Building, 1515 Strongs Avenue, Stevens Point, Wisconsin, on a variance request relating to the following matter(s):

- 1) Request from William Cooper, representing Cooper Oil Co. Inc., for a variance to allow a reduced street yard setback of 19 feet for a 30,000 gallon above ground liquid propane tank at 2172 Prairie Street (Parcel ID's 2408-32-4014-13 and 2408-32-4014-15). This property being zoned "M-2" Heavy Industrial, and described as LOTS 1, 2 & 3 CSM#6779-25-2 BNG PRT LOTS 516 & 517 BLK 58 STRONG ELLIS & OTHERS ADD & LOTS 506, 507 & 508 & THE SELY 19' OF E77' OF LOT 517 & PRTS OF LOTS 509, 510, 512, 515 & 516 AS LIES N OF & ADJ TO RR ROW ALL IN BLK 58 S E & 0 ADD;EX PRT TAKEN FOR PRAIRIE ST ROW IN DOC #689939 S32 T24 R8 355/882 826/75 549554, City of Stevens Point, Portage County, Wisconsin.

Maps further defining the above area(s) may be obtained from the City of Stevens Point Department of Community Development, 1515 Strongs Avenue, Stevens Point, WI 54481, or by calling 715-346-1567, during normal business hours.

All interested parties are invited to attend.

BY ORDER OF THE BOARD OF ZONING APPEALS
OF THE CITY OF STEVENS POINT, WISCONSIN

John Moe, City Clerk

Decision Form

_____ Zoning Board of Adjustment/Appeals

Application/petition # _____

FINDINGS OF FACT

Having heard the testimony and considered the evidence presented, the Board determines the facts of this case to be:

Filing Date: _____

Affidavit of publication/posting is on file.

Hearing Date: _____

A. The applicant or appellant is (name and address):

B. The applicant or appellant is the owner/lessee/mortgagee of the following described property which is the subject of the application or appeal: _____ 1/4 of _____ 1/4, City/Village/Town of _____, _____ County known as (street address) _____

C. The property is presently in use for _____ and has been so used continuously since _____.

D. The property includes a nonconforming structure/use described as

E. The property has been the subject of a prior appeal/variance/conditional use described as

F. The applicant or appellant proposes (brief project description/attach plans):

G. The applicant or appellant requests:

- an appeal of the zoning administrator's determination
 - a conditional use/special exception
 - a use variance
 - an area variance
- under Section _____ of the ordinance.

The features of the proposed construction and property that relate to the grant or denial of the application or appeal are (refer to the language/standards of the ordinance):

CONCLUSIONS OF LAW

Based on the above findings of fact the Board concludes that:

Appeal/Interpretation – The order of the zoning administrator (is/is not) in excess of his/her authority because (or)

The zoning administrator’s interpretation of Section _____ of the zoning code (is/is not) a correct interpretation because

Variance – The variance (does/does not) meet all three of the following tests:

A. The hardship (is/is not) due to physical limitations of the property rather than the circumstances of the appellant because

B. The variance (will/will not) harm the public interest because

C. Unnecessary hardship

- For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome. The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests. This standard reflects the new *Ziervogel* and *Waushara County* decisions.
- For a use variance, unnecessary hardship exists only if there is no reasonable use of the property without the variance.

D. Unnecessary hardship (is/is not) present because

Conditional Use – The application for a conditional use permit (does/does not) qualify under the criteria of Section _____ of the ordinance because

ORDER AND DETERMINATION

On the basis of the above findings of fact, conclusions of law and the record in this matter the board orders:

Appeal/Interpretation – The zoning administrator’s order/interpretation of the zoning code or map is (affirmed/modified/reversed) and the administrator is ordered to:

Variance/Conditional Use – The requested (variance/conditional use) is (denied/granted/granted-in-part) subject to the following conditions/mitigation:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

The zoning administrator is directed to issue a zoning permit incorporating these conditions and certifying by the petitioner/applicant’s signature that he/she understands and accepts the conditions.

Expiration of permit. Any privilege granted by this decision must be exercised within _____ months of the date of this decision after obtaining the necessary building, zoning and other permits for the proposed construction. This period will be extended if this decision is stayed by the order of any court or operation of law.

Revocation. This order may be revoked by the Board after notice and opportunity to be heard for violation of any of the conditions imposed.

Appeals. This decision may be appealed by a person aggrieved by this decision or by any officer, department, board or bureau of the municipality by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

_____ Zoning Board of Adjustment/Appeals

Signed _____ Attest _____
Chairperson Secretary

Dated: _____

Filed: _____

REPORT OF BOARD OF ZONING APPEALS

Tuesday, October 18, 2011 – 1:00 PM

PRESENT: Alderperson Jerry Moore, Bob Woehr, and John Gardner (Edward Bancker Jr. and Henry Kroeger absent).

ALSO PRESENT: Community Development Director Michael Ostrowski, Zoning Administrator Brent Curless, City Attorney Louie Molepske, Mayor Halverson, Barb Jacob, Reid Rocheleau, and Deanna Woelfel.

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1. **Public Hearing** - Request from Barb Jacob, for an administrative appeal regarding the necessity of a conditional use permit for the purposes of expanding the premises of Big Hunchies Roadhouse, 2408 Division Street (Parcel ID 2408-32-4020-09), for a one day event.
 2. Discussion and possible action on the above.
 3. Adjourn.
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1. **Public Hearing** - Request from Barb Jacob, for an administrative appeal regarding the necessity of a conditional use permit for the purposes of expanding the premises of Big Hunchies Roadhouse, 2408 Division Street (Parcel ID 2408-32-4020-09), for a one day event.

Ms. Jacob, 2408 Division Street, does not feel she should have to pay for a conditional use permit for a one day event for a fundraiser, when she never had to do this before. To the best of her knowledge and looking through prior case report files, she is the first person to have to do this. She indicated that the ordinance was written in 1979 and the basis of the ordinance has not changed. The way that Community Development Director is interpreting is what has changed. For the last 10 years, the only people who had to get a conditional use permit are the people who already are considered a conditional use. Archies, Guu's, Partners, Final Score have all held one day events outside without having to get a conditional use, they just had to go to the Public Protection Committee. Ms. Jacob stated she held an event 7 years ago and did not have to get a conditional use permit, all she had to do was go to the Public Protection Committee. She does not feel that people should have to pay \$90.00 for a conditional use when they can't even find out before hand what conditions are going to be put on them. Her premises is nonconforming . Ms. Jacob does not feel that a one day event should have to get a conditional use permit.

Chairperson Moore asked Director Ostrowski what has changed in the interpretation of the ordinance. Director Ostrowski stated he can't speak for what has been done in the past. However, for the events that have occurred since he has been here, we have required any extension of premise for a tavern to go before the Public Protection Committee, and the Plan Commission/Common Council for a conditional use permit. One of the things that is different about this request, is that this location is nonconforming use, as it does not currently have a conditional use permit. Our zoning ordinance requires that any expansions to a nonconforming use would need to be brought back into compliance. In order to do that, Ms. Jacob would have to get a conditional use permit.

2. Discussion and possible action on the above.

Mr. Gardner asked what where the sequence of events. Director Ostrowski stated that Ms. Jacob did go through the Public Protection Committee on August 8, 2011, and they approved the event. At that meeting, she was informed that she would need a conditional use permit for this event.

Mr. Gardner clarified with Ms. Jacob that on the second Monday in August, August 8, 2011, that she was made aware that she would need a conditional use permit for this event. Ms. Jacob stated that it was brought up at the meeting, but according to the minutes it does not say in the minutes that I have to have a conditional use permit.

Mr. Gardner indicated that she knew at the time. Ms. Jacob stated yes, and that she had been talking to Director Ostrowski all along, and it wasn't like she was waiting until now to do this. Ms. Jacob stated that Director Ostrowski and she had been in discussion since before she had gone to the Public Protection Committee. She found out when Director Ostrowski sent her the letter telling her she could go to the Board of Zoning and Appeals, and that was the first time that she knew she could appeal it.

Director Ostrowski stated that on August 12, 2011 he spoke with Ms. Jacob and informed her that she did need a conditional use permit, and an email was sent stating that she would need a conditional use permit for this event. He also stated that he also sent her a letter on August 25, 2011 stating that she would need a conditional use permit and if she didn't believe that she needed a conditional use permit that she could appeal this decision through the Board of Zoning and Appeals.

Mr. Gardner clarified that it was 2 months ago that she knew she needed a conditional use permit, and the event is to occur this weekend. Ms. Jacob stated yes, this Saturday.

Ms. Jacob stated that she received a letter from Director Ostrowski on September 10, 2011, and then she ended up going to the hospital due to her brother being there. She stated that she was there for a couple of weeks and she was going to drop stuff off to Director Ostrowski prior to that time. However, Director Ostrowski never received her letter and payment for the appeal prior to her leaving for Madison where she spent a week and a half with her brother in intensive care. When she got back she called Director Ostrowski because she did not see it on the Plan Commission agenda. She believes that she came down just after that and gave him another check and the request.

Chairperson Moore asked Director Ostrowski for clarification between this property and the other establishments that she is referring to. Director Ostrowski stated there are two issues with this request, the first being is that this property is a nonconforming conditional use. She has been grandfathered in, and she can continue to operate as a tavern, however a nonconforming use cannot be expanded. Once you expand the use, you need to come back into conformity. Secondly, if she was a legal use, she would be required to obtain a conditional use permit for the event.

Chairperson Moore stated, so she would need a conditional use either way. Director Ostrowski stated that we had recently amended the zoning ordinance to allow for temporary expansions of a conditional uses, not exceeding 2 days, without having to amend their conditional use permit. It would just need to be approved by the Zoning Administrator. However, the business must have a conditional use permit prior.

Ms. Jacob stated that her point is that she never had to do this before. The ordinance was not rewritten and nothing was changed. Now all of a sudden this year, it is being reinterpreted that we have to do this. We have never had to do it before.

Mr. Gardner asked Director Ostrowski when you amended the ordinance recently to allow for the two day events with staff approval, was it considered at that time to allow just those that have conditional use permits, or was it conditional uses plus nonconforming. Director Ostrowski stated just conditional uses, because the Zoning Administrator would need something to refer to regarding conditions. Mr. Gardner stated so you would say that it was not an omission by accident, but you intended to limit the amendment to just the properties who had conditional use permits. Director Ostrowski indicated that this was correct.

Mr. Woehr stated that he is aware of numerous alcohol events that have been authorized without applying for a conditional use permits. An example of this would be North Side Bar a couple of years ago. In that instance the new owners of the North Side Bar were also grandfathered in. They applied for a 2 day extension of premise because of wanting to support the hockey teams at the university. It was denied, however, that was a grandfathered nonconforming conditional use that never went to the Plan Commission. Even if the Public Protection Committee approved it, there was not sufficient time to go back to the Plan Commission and the Common Council for approval. The event would have been the weekend prior to the Common Council meeting. Mr. Woehr stated that Chapter 12 allows city employees to sell alcohol in the parks with approval from the Public Protection Committee. In this case, there is not Plan Commission approval required, nor are the parks zoned appropriately for taverns or beer gardens. Mr. Woehr said it appears to be a new interpretation of the requirements for a conditional use. Maybe in past it was interpreted as temporary, not permanent extensions. Mr. Woehr asked if anyone was aware of events that have been held for a temporary premise extension not requiring a conditional use permit.

Attorney Molepske said he believes that this is a classic case where the petitioner does not want to spend the \$90.00 for a conditional use permit for the tavern, which would make it a conforming situation. When you look at the record, Director Ostrowski indicated to Ms. Jacob on August 15, 2011 that a conditional use permit was needed. If the information would have been in for the August meeting, we wouldn't be here today. In addition, if it would have been in for the September meeting, we still wouldn't be here today. Director Ostrowski also wrote to Ms. Jacob on August 25, 2011 as a follow up, again explaining what is needed. Then, Ms. Jacob indicates that she felt we were incorrect in our decision for requiring a conditional use permit for the event. The only issue here is really the interpretation of the ordinance and what does it say. The problem is that we don't have a flexible type of zoning. There is a lot of case law on this, where an extension of a nonconforming use involves a physical extension of the use to land not used for the prohibited purpose prior to the enactment of the restrictive ordinance. The courts have held that the extension violates the ordinance, which in general language, prohibits the extension of nonconforming accessory uses. Our ordinance is a very restrictive ordinance relating to nonconformities. Our ordinance says that no structure or use shall be enlarged, increased, extended, reconstructed, resumed, substituted, or altered unless the nonconformity is changed to conforming. There is a progressive theory of a tavern starting small beginning to enlarge the bar to a 10 foot bar, then people keep coming so I enlarge it to a 20 foot bar, the people keep coming, so I enlarge it to a 30 foot bar, and keep extending. That is referred to as the progression and some zoning ordinances omit that and don't have this carte blanche extension for expanding. Being the devil's advocate, our ordinance says the use is a use that we're expanding that is not in the area at the present time. I don't know what is in back of Ms. Jacob's tavern; I assume it is parking or asphalt.

However, she currently does not sell alcohol in this location. Therefore, I would say you may be able to make an argument in this case that the use under our ordinance shall not be enlarged or increased. However, the use can continue as is. The parking lot is auxiliary to the use and we are not extending that use into the parking lot area. I think the argument of what went on in the past is immaterial. How we have interpreted this ordinance in the past, or how it may have been interpreted, and I really don't know if there were that many nonconforming conditional uses, is immaterial. Ms. Jacob mentioned Guu's and Partner's, which are conditional uses.

Director Ostrowski stated that Partner's just came in and got their conditional use amendment for the homecoming event.

Mr. Woehr stated that Partner's was initially a grandfathered use, and then they put in the volleyball court, which required them to get a conditional use permit. Homecoming has been held at Partner's back when Mr. Molepske was in school, and the volleyball court was not there.

Attorney Molepske stated Ms. Jacob takes exception to what the rule is, and I think the ordinance is pretty clear in this case. In this case, what the event is is really immaterial. Whether it is AMVETS, or whether it is for Red Cross, it is simply the extension of the use of the premise. The applicant could have made the September or October meetings, but elected not to, as she felt she was right on this particular issue. If there were some ambiguity within the ordinance, then I would say ok. However, the ordinance reads, but no use or structure on such premises shall be enlarged, increased, extended, unless the nonconformity is changed to conforming. It would have been so simple to make this conform, but the applicant didn't want to.

Ms. Jacob stated that Attorney Molepske talked about a \$90.00 fee, which was not an issue. When she spoke with Director Ostrowski, she asked him what conditions will be placed upon the conditional use. His response was that we wouldn't know until the Commission acts on the issue. One condition may be to screen the dumpster. Ms. Jacob indicated that she checked out what it would cost to just to screen in the dumpster, and it was over a thousand dollars. Ms. Jacob stated that she is not going to pay a thousand dollars. She stated she also has apartments on her property, which changes the whole procedure of whether she is just has a tavern. Since this is the case, she stated that she could be forced to plant trees and put shrubs in. So there is a lot more to the fact than just it being a \$90.00 fee. This could cost her a fortune just to try and raise money for the city to put playground equipment in a park that has been neglected. Of course Director Ostrowski cannot say for sure that they are going to require her to screen the dumpsters, but she does not want to take that chance. Once she files for a conditional use, then she has a conditional use, and has no choice. Ms. Jacob stated that she does not have that kind of money to do a fundraiser to try to help the city. She thinks that the city is discouraging people from doing these things because it is going to cost us money to do it. Ms. Jacob stated that she has been out there walking the streets selling tickets for this event. It is not benefiting her personally. She stated that she has been asking the Mayor for quite a few years about playground equipment, and she was told that there would be playground equipment this year. Now she has been told that the budget does not allow for it. She spoke to the Mayor in June and was told at that time it would be 2015/2016 before there would be any. Ms. Jacob did not feel this was an acceptable timeframe, so she made an appointment and spoke with the Mayor directly as to what she can do to get playground equipment for the kids. After a conversation with the Mayor she believes they came up with the consensus of having a benefit. The playground equipment does not benefit her, if anything, it hurts her with the little kids that have to use the bathroom facilities. Ms. Jacob stated that she cleans the park with nothing in it for her. She also takes care of the garbage can in the park by placing a garbage bag in there and empties it into

her dumpster. She picks up the garbage daily in the park, not because she has to, but because she wants the park to look nice, and she wants people to use the park. If you do go over there to look, the train has rotted wood around the bottom and some little kid could get hurt, and she has given mothers tweezers on several occasions to pull the little wood chips out of their kid's feet. She did look at trying to do this fundraiser in the park, but she was unable to get a beer license to do it in the park because she is not an organization, and the organization that she does have, does not meet the criteria to do it. There is no playground equipment on this side of Division Street for those kids to play at all; they have to cross the highway in order to have playground equipment to play on, other than on a swing that has been there since 1954.

Mayor Halverson stated that there are a couple of things he needed to clarify. First of all, the reasons for the extension are irrelevant. The request in terms of why it is being justified is irrelevant, and should not be taken into account in terms of the quasi-judicial role that this particular board needs to fulfill for this decision. The ordinance is very clear, the language is very very clear, a conditional use would be required to bring a nonconforming property up to compliance to be able to move forward. It does not matter what the use is of the event, the requirements also were made very clear to the applicant. The additional conditions that may or may not be placed on that property will not be known until you are in front of the Plan Commission working through the conditional use process. The protection is geared specifically by personal financial reason because of the exposure inherent with pursuing a conditional use for a property that would require one in order for it to have a premise extension. This is why the language of the ordinance is very clear. It does not matter why the event is supposed to be happening, or what the use is for that park. It is irrelevant, the question is a question on language within the ordinance and the language, whether it is difficult or not for Ms. Jacob to understand is very clear. The decision of the Zoning Board of Appeals is not about whether we want playground equipment on the south side, we do, and we will figure out a way to do that some time, but this is irrelevant in terms of what this body needs to be considering. It needs to be about language, and zoning requirements that specifically require a certain measure. It is also irrelevant how this was handled in the past. The way it's going to be handled is by a complete reading of the zoning code, and we are also recognizing that there are areas that need to be cleaned up, but under the reading of the zoning ordinance today, and the language that is there today, this needs to be denied.

Mr. Gardner asked the City to explain what the scope of the decision was for this board, and what are the criteria is for this board to make a decision. Attorney Molepske stated unlike a variance, this is simply an interpretation of what the ordinance says. In other words, we are deciding whether or not Director Ostrowski's opinion and decision as it relates to saying this is a nonconforming use, and this is an expansion of the use in connection with that nonconforming use, is correct. I would suggest to the board to read the language and make a determination. What is really in front of us is what does the ordinance say.

Ms. Jacob stated that our ordinance hasn't changed, it is the same ordinance that was written in 1979, and it is just that Director Ostrowski interprets it differently than what is was interpreted before.

Mr. Gardner asked what is the vote that needs to happen today, is it a simple majority. Attorney Molepske stated that yes, under the new ordinance it is the simple majority, it used to be 4 out of 5.

Mr. Gardner asked that the question before us is whether the highlighted section in the handout is interpreted correctly or not. On the top of the same page under number 2, it says that minor modifications on nonconforming premises may be approved by the Zoning Administrator. Most of the

things it lists however are physical in nature, and this is a use as opposed to a physical structure. The Public Protection Committee has reviewed this specific request and said that you can consume outside for a temporary period of time. Mr. Gardner asked if this would apply in this particular case. Attorney Molepske stated that, that section would apply to permitting a substitution of a more restricted use, permitting ordinary maintenance repairs, or permitting minor deviations from parking, yard, setback, or density where there are special circumstances caused by the nonconformity which would deprive the subject property of privileges enjoyed by other property within the vicinity under the same zoning classification.

Mr. Gardner pointed out that it does say such as, as opposed to a limiting list.

Chairman Moore stated it is a suggestive list.

Attorney Molepske read that minor modifications are permitted only after the Zoning Administrator finds the modifications are not contrary to the public health, safety, or well being, the modifications are compatible with surrounding uses, and the modifications would not injure the neighborhood. To some extent we have a dilemma because let's say we go under that at this late date, he hasn't made a determination under this, he made a determination that the language that he has doesn't permit this use or extension. The extension of the use is what is before the board. Then we have to go back and he has to make a determination now whether or not it meets the criteria, assuming you come up with an answer that we think that there could be a minor modification based on sub 2 of this, so then it goes back to Director Ostrowski to determine whether or not there should be a modification granted.

Mr. Woehr asked what Attorney Molepske meant by some of the lines in here are problematic. Attorney Molepske clarified that when he said problematic, it was as the devil's advocate to attempt to make this go through, because it is frankly so cluttered.

Mr. Woehr asked was the word permanent implied when this was written. Could we imply just what has transpired in the past that the word permanent might have been left out when they typed up this thing prior to the word interior or exterior extension. Attorney Molepske stated that his statutory interpretation is this is that you take the plain reading of the words.

Mr. Woehr asked if they should apply the principle of the legal term stare decisis, because previous councils, previous committees, and previous mayors have interpreted this as allowing the Public Protection Committee to make the determination. Attorney Molepske stated that you really wouldn't use that; you need to interpret the ordinance the way the administrator interprets the ordinance in a particular way that isn't binding on the city.

Chairperson Moore stated that what we have to remember that part of our code is designed to bring nonconforming properties into conformity. It is not a matter of what this is for. We do need to abide by this because if we make an exception here, it is going to be hard to bring nonconforming properties into conformity in the future. Mr. Woehr stated that he understands that.

Mr. Gardner said that we have heard today that it was an intentional omission on the part of the council and the part of the person drafting the ordinance, to not include nonconforming uses in the recently amended city ordinance. The recently amended ordinance allows conditional uses, taverns who have conditional use permits, to hold outdoor events without going to the Common Council to amend their conditional use permit. This tells me that the Common Council recently dealt with this issue. We

wouldn't be here today if they had expanded that amendment to include nonconforming uses. With that, let's presume that staff intentionally excluded nonconforming uses, and the Common Council intentionally did not include nonconforming uses. We have seen correspondences on August 15th and August 25th informing Ms. Jacob that she needed a conditional use permit, and on September 12th, she writes back and says I don't think I do. Clearly, there was enough time between the first communication and on August 15th, in fact it was discussed at the Public Protection Committee that she did need a conditional use permit on August 8th. It has been ignored until this late date in October, that is not our fault. So the fact that we are right up against this thing is not our responsibility, it actually is the responsibility of the applicant, who chose to ignore this for whatever reason. I think that we heard that this board has a limited scope of review and our charge is to review the ordinance and see what the plain meaning of the words are, not necessarily to interpret them. I think that's frankly what our role is, we are not here to legislate, that's for the council to do. The council would have had the opportunity to deal with the other issues if they would have had the application, and could have chosen to screen the dumpsters, or not, we won't know the answer to that, as they did not have the application. We are not legislative, they are legislative. I will not substitute my opinion for their opinion, and I have always been under the rule that if it was past practice, it does not necessarily make it right. We are not talking about making law here, we are talking about interpretation of the ordinance. Just because it was interpreted poorly in the past, does not necessarily mean it has to be interpreted poorly in the future. I think again we go back to the issue of what is the plain meaning of the ordinance. I think the plain meaning of the ordinance is that no use or structure on such premises shall be enlarged, increased, extended, reconstructed, resumed, substituted, or altered unless the nonconformity is changed to conforming.

Motion by Mr. Gardner to support the City's interpretation and deny the application for an interpretation that says this use should be allowed without having a conditional use permit; seconded by Chairperson Moore.

ROLL CALL: Ayes: Woehr, Moore, and Gardner. Nays: None. Motion carried.

3. Adjourn.

Meeting Adjourned at 1:53 PM.

Administrative Staff Report



**Cooper Propane LLC
Variance Request
2172 Prairie Street
August 1, 2013**

**Department of Community Development
1515 Strongs Avenue, Stevens Point, WI 54481
Ph: (715) 346-1568 - Fax: (715) 346-1498**

<p>Applicant(s):</p> <ul style="list-style-type: none">• William Cooper <p>Staff:</p> <ul style="list-style-type: none">• Michael Ostrowski, Director mostrowski@stevenspoint.com• Kyle Kearns, Associate Planner kkearns@stevenspoint.com <p>Parcel Number(s):</p> <ul style="list-style-type: none">• 2408-32-4014-13• 2408-32-4014-15 <p>Zone(s):</p> <ul style="list-style-type: none">• "M-2" Heavy Industrial District <p>Master Plan:</p> <ul style="list-style-type: none">• Industry <p>Council District:</p> <ul style="list-style-type: none">• District 9 – Stroik <p>Lot Information: 2408-32-4014-13</p> <ul style="list-style-type: none">• Actual Frontage: 120 feet• Effective Frontage: 120 feet• Effective Depth: 120 feet• Square Footage: 14,400• Acreage: 0.33 <p>Current Use:</p> <ul style="list-style-type: none">• Gasoline/Petroleum and Propane storage. <p>Applicable Regulations:</p> <ul style="list-style-type: none">• 23.05 and 23.02(3)(b)	<p>Request</p> <p>Request from William Cooper, representing Cooper Oil Co. Inc., for a variance to allow a reduced street yard setback for a 30,000 gallon above ground liquid propane tank at 2172 Prairie Street (Parcel ID's 2408-32-4014-13 and 2408-32-4014-15).</p> <p>Attachment(s)</p> <ul style="list-style-type: none">• Property Data• Exhibit Map• Application• Plans• State Approval Letter• Resolution <p>Findings of Fact</p> <ul style="list-style-type: none">• The property is zoned "M-2" Heavy Industrial District.• The propane tank is currently in the process of being installed, along with associated uses.• A conditional use permit was granted by the Common Council on July 15, 2013 permitting the use.• The propane tank has a street yard setback of approximately 13 feet, failing to meet the required 40 foot street setback. <p>Staff Recommendation</p> <p>After review, staff has concluded that the variance requirements are not met. Specifically, staff has not found that a hardship, due to the physical limitations of the property exists. In addition, the placement of this structure in this location could harm the public interest. Furthermore, staff does feel that an unnecessary hardship exists that would render the property useless, or be unnecessarily burdensome for the applicant to comply with the ordinance standard. Due to these standards not being met, staff would recommend that this request be denied.</p>
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Vicinity Map



Background

Mr. Cooper is requesting a variance from the required 40 foot front yard setback requirement for properties within the M-2 Heavy Industrial zoning district. Currently, the propane tank has a 13 foot front yard setback, therefore a 27 foot variance is requested. City staff were able to find the property markers and measure the actual distance from the property line, which is 13'. A conditional use permit was approved by the City's Common Council on July 15, 2013 which permitted the use (propane storage and distribution) on the property. Currently, the property is home to a bulk oil, gasoline, and diesel business. Activities related to propane have been halted, as City ordinance requirements haven't been met. Therefore, the 30,000 gallon propane storage tank, along with several 500-1000 gallon tanks sit empty.

The applicant has also received approval to install the tank from the Wisconsin Department of Safety and Professional Services (DPS). The attached letter from the WI DPS outlines the approval and required conditions for installation. Below are details regarding the propane tank.

Liquefied Petroleum Gas Tank (LPG - Propane)

Size: 30,000 gallon
Working Pressure (PSIG): 250
Length: 36 feet
Inner Diameter: 10.86 feet
Nominal Thickness: .75 inches

The Zoning Board of Appeals shall have the authority to review and grant or deny special exception (variances) from the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. Section 23.05 found below describes the zoning Board of Appeals review process.

23.05 Board of Appeals

*The Board of Appeals shall not permit any change in established flood elevation or profiles; shall not grant flood plain variances for a use that is common to a group of adjacent lots or premises (in such case, the Zoning Ordinance would have to be amended through proper procedures); shall not grant a variance unless it is consistent with the spirit and intent of the ordinance and will not be contrary to public interest or damaging to the rights of other persons or property values in the area; shall not grant a variance for an action which requires an amendment to the flood plain regulations; shall not grant a variance which would have the effect of allowing or expanding a use or structure which is prohibited in that zoning district; **shall not grant a variance for a self-created hardship.***

Below are variance standards of review which have been reviewed by staff.

Standards of Review

1) The hardship is due to physical limitations of the property rather than the circumstances of the appellant.

Analysis: The applicant/property owner placed the tank within the required front yard setback. As footings for the 30,000 gallon propane tank exist, a 40 foot front yard setback needs to be met on the property for the M-2 Heavy Industrial District. The State of Wisconsin recognizes the far side of the street or public right-of-way as area within the setback. Local ordinances however can be more stringent with regards to setbacks and in this case the City measures setbacks from the property lines of the property in question.

Findings: After staff review, it has been concluded that the applicant placed the propane tank on the property prior to applying for a building permit and obtaining a variance and therefore caused the practical difficulty. No other practical difficulties or hardships exist on the property. Furthermore, the practical difficulty could have been avoided by rotating the propane tank 90 degrees south in order to meet the front yard setback. The applicant is required by the State to have a 50' setback from residential properties. As indicated above, local ordinances require the applicant to have a 40' setback from the street property line. The tank is approximately 11' wide. The property in which the tank is on is 120' deep. Given this, the applicant could fit the tank on the property, meeting setbacks and without a variance. This standard is not met.

2) The variance will not harm the public interest.

Analysis: The intent of the setbacks within the ordinance is to provide a buffer between buildings and adjacent properties which minimize effects from the use. Manufacturing districts have larger setbacks because the uses are typically more intense.

Seven residential properties exist directly adjacent to the property in question and several more to the north. Although many are zoned light or heavy manufacturing, their continued use is allowed to occur and therefore, certain protections are provided for them through the zoning code. Pedestrians and vehicles that travel along Wood Street within this transitional area may suffer from the inadequate buffer area, along with those uses and activities that occur within the buffer area.

Findings: Granting of the variance would fail to provide a needed buffer between the propane tank and street right-of-way. Danger is increased from vehicles traveling along Wood Street due to the close proximity of the propane tank to the road. This elevated risk of danger jeopardizes the safety of nearby residential homes in the area. If bollards and fencing are installed around the tank to provide protection from vehicles and pedestrians, aesthetics are significantly decreased as they will be installed nearly up to the right-of-way. Future uses of the adjacent property may be hindered by the close proximity of the propane tank. Therefore, staff feels that granting this variance will harm the public interest.

3) An unnecessary hardship is present.

Analysis: For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome.

Findings: If the variance is not granted, the property still could have many uses associated with it, including the existing use. The variance request stems from a self-created hardship that occurs with the expansion of the use on the property. This standard is not met.

Photos



7/23/2013 11:35:55 AM

GVS Property Data Card

Stevens Point

Name and Address		Parcel #	Alt Parcel #	Land Use
Cooper Oil Co Inc PO Box 165 Stevens Point, WI 54481		240832401413	240832401413	Vacant Land - Commercial
		Property Address		Neighborhood
		Wood St		Division St/Church St (Comm)
		Subdivision		Zoning
Display Note		S E & Other Plat		M2-HEAVY INDUSTRIAL

OWNERSHIP HISTORY

Owner	Sale Date	Amount	Conveyance	Volume	Page	Sale Type
Cooper Oil Co Inc	9/22/2009	\$12,000	Warranty Deed	737283		Land & Build.

SITE DATA

PERMITS

Actual Frontage	120.0	Date	Number	Amount	Purpose	Note
Effective Frontage	120.0					
Effective Depth	120.0					
Square Footage	14,400.0					
Acreage	0.331					

2013 ASSESSED VALUE

Class	Land	Improvements	Total
(2) - B-Commercial	\$17,300	\$0	\$17,300
Total	\$17,300	\$0	\$17,300

LEGAL DESCRIPTION

LOT 520 & 521 BLK 58 STRONG ELLIS & OTHERS ADD S32 T24 R8 737283

PROPERTY IMAGE



PROPERTY SKETCH

Name and Address		Parcel #	Alt Parcel #	Land Use
Cooper Oil Co Inc PO Box 165 Stevens Point, WI 54481		240832401413	240832401413	Vacant Land - Commercial
		Property Address		Neighborhood
		Wood St		Division St/Church St (Comm)
		Subdivision		Zoning
Display Note		S E & Other Plat		M2-HEAVY INDUSTRIAL

BUILDING SUPERSTRUCTURE DATA

Bldg	Sec	Occupancy	Year	Area	Framing	Hgt

Total Area		0
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BASEMENT DATA

COMPONENTS

Bldg	Sec	Adjustment Description	Area	Bldg	Sec	Component Description	Area

DETACHED IMPROVEMENTS

Structure	Year Built	Square Feet	Grade	Condition

SITE IMPROVEMENTS

STRUCTURE DATA

Site Improvement	Units	Age	
		Year Built	
		Eff. Year	
		One Bedroom	
		Two Bedroom	
		Three Bedroom	
		Total Units	
		Stories	
		Business Name	

Variance from Setback Requirements – 2172 Prairie St. – Exhibit Map (200 Feet Boundary)



Tax Key	Name	Mailing Address	City	Zip	Address
281240831401604	WISCONSIN CENTRAL CN BUS DEV & RE	1 ADMINISTRATION RD FL1	CONCORD ON L4K 189 OO	0	0
281240832301205	WOOD STREET PROPERTIES LLC	1955 RIVER ROAD	JUNCTION CITY WI	54443	2116 WOOD ST
281240832402303	THOMAS OKONEK	2916 Dixon	Stevens Point WI	54481	2109 PRAIRIE ST
281240832402318	JOSEPH S & CYNTHIA A MAPES	2124 Water St	Stevens Point WI	54481	2124 WATER ST
281240832401401	HOUA & MAY LOR YANG	2100 Prairie St	Stevens Point WI	54481	2100 PRAIRIE ST
281240832402304	MARK D MARTI	2117 Prairie Street	Stevens Point WI	54481	2117 PRAIRIE ST
281240832402317	LORNA SILVICKE	1551 Polk Ln	Rosholt WI	54473	2132 WATER ST
281240832401412	RICKI J GWIDT	2108 Prairie St	Stevens Point WI	54481	2108 PRAIRIE ST
281240832402305	ROBERT J GIESE	2125 Prairie St	Stevens Point WI	54481	2125 PRAIRIE ST
281240832401402	SHF SERVICES LLC	1411 Melissa Ct	Plover WI	54467	809 SHAURETTE ST
281240832402316	AMBER R MUSOLFF	2140 Water Street	Stevens Point WI	54481	2140 WATER ST
281240832401411	MICHAEL D & CARRIE E BULA	6364 Everett Heights Ct	Plover WI	54467	2116 PRAIRIE ST
281240832401403	SUMMIT POINT PROPERIES LLC	1070 CROWN POINTE	SUAMICO WI	54173	801 SHAURETTE

		CIR			ST
281240832402306	RICHARD C GIESE	2133 Prairie St	Stevens Point WI	54481	2133 PRAIRIE ST
281240832402315	JAMES T CYCHOSZ	541 Avon	Wisconsin Rapids WI	54494	2148 WATER ST
281240832401410	WILLIAM G & D HERZ	2124 Prairie St	Stevens Point WI	54481	2124 PRAIRIE ST
281240832401413	COOPER OIL CO INC	PO Box 165	Stevens Point WI	54481	0
281240832402314	RYAN J & LARA C KUZJAK	312 W Blodgett St	Marshfield WI	54449	2156 WATER ST
281240832401409	HERZ MICHAEL&ANDREW&D JANISZEWSKI TG	417 West Cornell Ave	Stevens Point WI	54481	2132 PRAIRIE ST
281240832402307	YANG MAI XIONG LOR	3323 Howard Avenue	Stevens Point WI	54481	2157 PRAIRIE ST
281240832402313	ANTHONY OPIOLA REV TRUST	404 Polk St	Stevens Point WI	54481	0
281240832401415	COOPER OIL CO INC	P O Box 165	Stevens Point WI	54481	2172 PRAIRIE ST
281240832402308	CAP SERVICES INC	5499 Hwy 10 East	Stevens Point WI	54481	2165 PRAIRIE ST
281240832402321	ANOTHONY & FAMILY OPIOLA REV TRUST	404 Polk St	Stevens Point WI	54481	916 PARK ST
281240832301012	WOOD STREET PROPERTIES LLC	1955 River Rd	Junction City WI	54443	2240 WOOD ST
281240832401406	DAVID & DONNA SUCHON	825 Park St	Stevens Point WI	54481	808 PARK ST
281240832401407	PORTAGE COUNTY	1516 Church Street	Stevens Point WI	54481	0
281240832401601	DAVID A SUCHON & DONNA R BERNAS	825 Park St	Stevens Point WI	54481	825 PARK ST
281240832402211	CITY OF STEVENS POINT	1515 Strongs Ave	Stevens Point WI	54484	2325 PRAIRIE ST
281240832401611	NEWHOUSE PROPERTIES 101 LLC	4705 Dickens Dr	Granite Bay CA	95746	2308 PRAIRIE ST
281240832301409	RICK & CYNTHIA A TIELENS	1321 Robin Ln	Stevens Point WI	54481	800 & A Shaurette St.
281240832301410	ROBERT L PESCH	810 Shaurette St	Stevens Point WI	54481	810 Shaurette St
281240832301411	CLEMENT J & HILLARY E STENCIL	818 Shaurette St	Stevens Point WI	54481	818 Shaurette St
281240832301412	RICHARD BAUER	W4662 State Rd 67	Campbellsport WI	53010	824 & A Shaurette St
281240832402302	NANCY HUDY	901 Shaurette St	Stevens Point WI	54481	901 Shaurette St



City of Stevens Point
Community Development Department

1515 Strongs Avenue, Stevens Point, WI 54481
(715) 346-1567
(715) 346-1498
communitydevelopment@stevenspoint.com
<http://stevenspoint.com>

APPLICATION FOR A ZONING VARIANCE
(Pre-Application Conference Optional)

7/10/13
1.53525

ADMINISTRATIVE SUMMARY (Staff Use Only)

Application #	-	Date Submitted	7/10/13	Fee Required	\$250.-	Fee Paid	\$250.-
Associated Applications if Any	-	Assigned Case Manager	Kyo Keams				

APPLICANT/CONTACT INFORMATION

APPLICANT INFORMATION		CONTACT INFORMATION (Same as Applicant? <input checked="" type="checkbox"/>)	
Applicant Name	WILLIAM COOPER	Contact Name	
Address	1320 PHILLIPS ST	Address	
City, State, Zip	STEVENS POINT, WI 54481	City, State, Zip	
Telephone	715-218-6434	Telephone	
Fax	715-344-6568	Fax	
Email	coopoi@solarus.net	Email	

OWNERSHIP INFORMATION

PROPERTY OWNER 1 INFORMATION (Same as Applicant? <input checked="" type="checkbox"/>)		PROPERTY OWNER 2 INFORMATION (If Needed)	
Owner's Name		Owner's Name	
Address		Address	
City, State, Zip		City, State, Zip	
Telephone		Telephone	
Fax		Fax	
Email		Email	

VARIANCE SUMMARY

Subject Property Location [Please Include Address and Assessor's Identification Number(s)]		
Parcel 1	Parcel 2	Parcel 3
2108-32-4014-13		
Legal Description of Subject Property		
Lot 520 & 521 Blk 58 Strongs Ellis & Others Add. S32 T24 R8 737283		
Designated Future Land Use Category	Current Use of Property	
Industry	Vacant / Storage	
Proposed Use of Property	Current Zoning District(s)	
	M-2 Heavy Industrial	
Ordinance Provision(s) from which a variance is requested		
Setback requirement with M-2 Heavy Industrial (front/street yard setback) Section 23.02(3)(B)		

13' Staff OK
Kuflo Koww

TYPE OF VARIANCE REQUESTED

Project (i.e. setback, parking, height, area, etc.)	Required	Proposed
SETBACK	40' FROM PROPERTY LINE	23' FROM PROPERTY LINE

List the exceptional and extraordinary circumstances that are peculiar to the land or structure involved which are not applicable to other land or structures in the same zoning district. (use additional pages if necessary for questions below)

- THE STRUCTURE IS NOT A BUILDING BUT AN ABOVE GROUND TANK THEREFORE THE 10' BUILDABLE SETBACK DOES NOT APPLY. ALSO THE STATE OF WISCONSIN CONSIDERS THE ROAD A USEABLE SETBACK AND THE CITY DOES NOT RECOGNIZE THAT.

List any and all practical difficulties or unnecessary hardships that will result from the exceptional and extraordinary circumstances.

THIS WOULD CAUSE US TO HAVE PUT THE TANK IN LESS DESIRABLE SPOT. THIS WOULD CREATE SAFTY PROBLEMS WITH BUSINESS TRAFFIC & WITH SNOW REMOVAL. ALSO WOULD MAKE OTHER PARTS OF THE PROPERTY USELESS.

The applicant must prove that the exceptional and extraordinary circumstances do not result from the actions of the applicant. How were the exceptional and extraordinary circumstances created?

THE CIRCUMSTANCES WERE CREATED WITH THE CITY OF STEVENS POINT NOT RECOGNIZING THE STATE OF WISCONSIN'S VARIANCES & SETBACKS. THE PLACEMENT OF THE TANK WAS APPROVED BY THE STATE OF WISCONSIN.

List any and all alternatives considered by the applicant and provide evidence as to why they are not feasible.

THE ONLY OTHER ALTERNATIVE WOULD BE TO PLACE THE TANK IN THE MIDDLE OF TWO LOTS. THIS WOULD MAKE THE REST OF THE PROPERTY USELESS AND EXPOSE OUR TANK TO MORE SMALL & LARGE VEHICLE TRAFFIC. ALSO PRESENTS A MORE DANGEROUS SITUATION FOR WINTER SNOW REMOVAL.

Would approval of this variance allow the applicant to do something that other property owners in the same situation would not be able to do? If so how?

NO

Would denial of this variance deprive the applicant of rights commonly enjoyed by other property owners in the similar situations? If so how?

YES - OTHER BULK PROPANE TANKS IN THE CITY OF STEVENS POINT DO NOT MEET THE CURRENT REQUIREMENT OF A 40' SETBACK OF THEIR PROPERTY LINE.

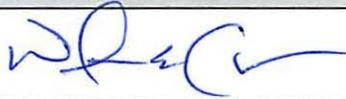
Current Zoning Surrounding Subject Property			
North:	R-3 TWO FAMILY ? M-1 / LIGHT IND	South:	M-2 HEAVY INDUSTRIAL
East:	B-4 COMMERCIAL ? R-3 TWO FAMILY	West:	M-2 HEAVY INDUSTRIAL
Current Land Use Surrounding Subject Property			
North:	RESIDENTIAL	South:	INDUSTRIAL
East:	COMMERCIAL & RESIDENTIAL	West:	INDUSTRIAL / MANUFACTURING

EXHIBITS

Owner Information Sheet	<input type="checkbox"/>	Additional Exhibits If Any:
Maps (vicinity, zoning, floodplains, wetlands others as requested by staff)	<input type="checkbox"/>	
Site Plan (designating primary, side, and service street frontages)	<input checked="" type="checkbox"/>	
Photos of property, building, etc.	<input checked="" type="checkbox"/>	

CERTIFICATION AND SIGNATURE

By my signature below, I certify that the information contained in this application is true and correct to the best of my knowledge at the time of the application. I acknowledge that I understand and have complied with all of the submittal requirements and procedures and that this application is a complete application submittal. I further understand that an incomplete application submittal may cause my application to be deferred to the next posted deadline date.

Signature of Applicant	Date	Signature of Property Owner's (If not the Applicant)	Date
	7-10-13		

APPLICANT & OWNER INFORMATION SHEET

Any applicant for a variance must provide the applicant's name, address, and respective ownership interest, if any, on the application. In addition, the applicant must provide, in the space provided on this form, a list of all the owners of the property and the holders of any deeds of trust, identifying which owners and holders of deeds of trust are represented by the applicant.

Application Number	Applicant's Name
	WILLIAM COOPER

Property Address(es)

2172 PRAIRIE ST, STEVENS POINT, WI 54481

Applicant's Address

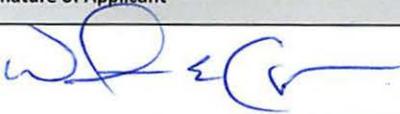
1320 PHILLIPS ST, STEVENS POINT, WI 54481

NOTE: If the applicant is not the property owner, this form must be accompanied by a Power of Attorney statement from the property owner.

Indicate as accurately as possible the form of interest in the property, and the amount held by the individual or entity listed as "applicant" above.

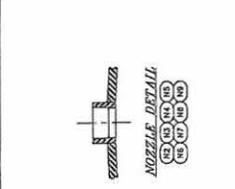
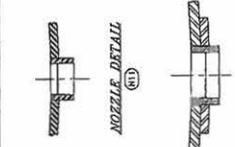
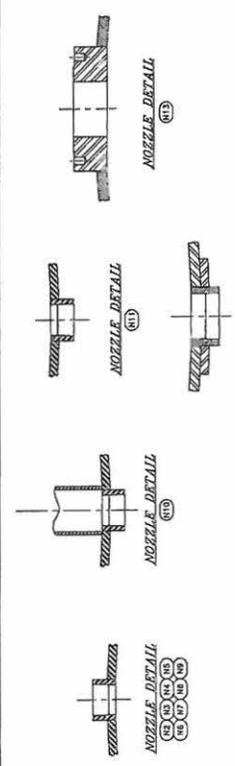
Fee Title Owner (Has Deed of Ownership)	All <input type="checkbox"/>	
	A Portion <input checked="" type="checkbox"/>	
Contract Owner	All <input type="checkbox"/>	
	A Portion <input type="checkbox"/>	
Holder of a Security Interest	All <input type="checkbox"/>	
	A Portion <input type="checkbox"/>	

List the names and addresses of all owners and holders of Deeds of Trust for the property, if any, and indicate which owners or holders of deeds of trust are represented by the applicant in the space below (please add additional pages, if needed).

Signature of Applicant	Date Signed
	7-10-13

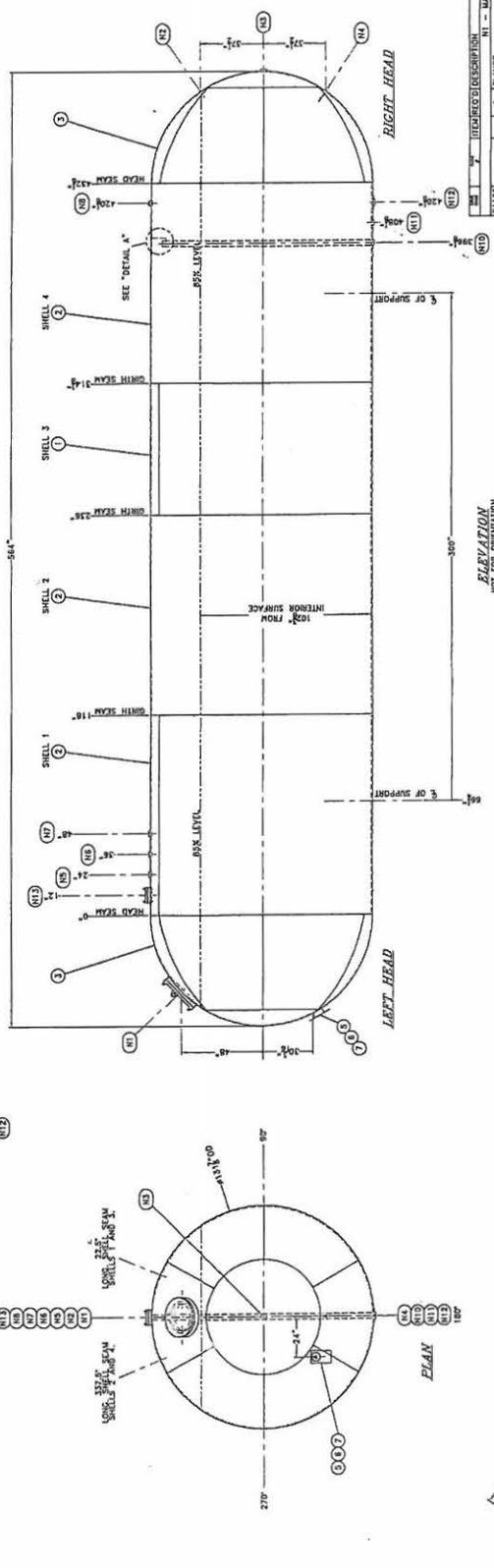
CERTIFIED BY:
 APACHE STEEL FABRICATION, INC.
 FLOYD, WISCONSIN
 MAX. ALLOW. WORKING PRESSURE
 250 PSIG AT 125°F
 MAX. ALLOW. EXTERNAL PRESSURE
 NONE PSIG AT 250°F
 MIN. DESIGN METAL TEMPERATURE
 15°F AT 250 PSIG
 YEAR BUILT _____ 2012
 MFG'S SERIAL NO. _____
 EQUIP. NO. _____

NAMEPLATE DETAIL (5)



MATERIAL	FINISH	INTERIOR	EXTERIOR
SH-16	304	304	304
SH-17	304	304	304
SH-18	304	304	304
SH-19	304	304	304
SH-20	304	304	304
SH-21	304	304	304
SH-22	304	304	304
SH-23	304	304	304
SH-24	304	304	304
SH-25	304	304	304
SH-26	304	304	304
SH-27	304	304	304
SH-28	304	304	304
SH-29	304	304	304
SH-30	304	304	304
SH-31	304	304	304
SH-32	304	304	304
SH-33	304	304	304
SH-34	304	304	304
SH-35	304	304	304
SH-36	304	304	304
SH-37	304	304	304
SH-38	304	304	304
SH-39	304	304	304
SH-40	304	304	304
SH-41	304	304	304
SH-42	304	304	304
SH-43	304	304	304
SH-44	304	304	304
SH-45	304	304	304
SH-46	304	304	304
SH-47	304	304	304
SH-48	304	304	304
SH-49	304	304	304
SH-50	304	304	304

1. PLACE BEST SIZES ARE TO FINISHES UNLESS OTHERWISE SPECIFIED.
2. FINISHES ALL BIRDS AND HONEY COMBS.
3. FINISHES ALL BIRDS AND HONEY COMBS.
4. FINISHES ALL BIRDS AND HONEY COMBS.
5. FINISHES ALL BIRDS AND HONEY COMBS.
6. FINISHES ALL BIRDS AND HONEY COMBS.
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15. FINISHES ALL BIRDS AND HONEY COMBS.
16. FINISHES ALL BIRDS AND HONEY COMBS.
17. FINISHES ALL BIRDS AND HONEY COMBS.
18. FINISHES ALL BIRDS AND HONEY COMBS.
19. FINISHES ALL BIRDS AND HONEY COMBS.
20. FINISHES ALL BIRDS AND HONEY COMBS.

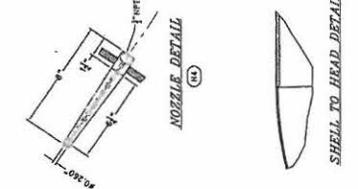
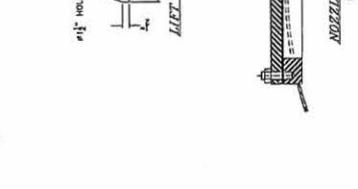
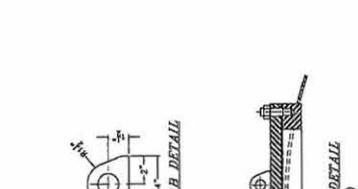
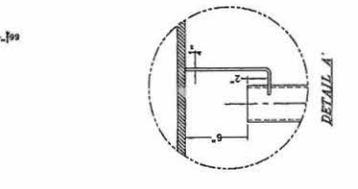


APPROVED FOR
 ASME CONSTRUCTION

CERTIFIED PRINT
 DATE: 4/19/13 BY: TUD

ITEM NO.	ITEM NO.	DESCRIPTION	QTY	UNIT	REMARKS
SA100	1	FLANGE	1	EA	CS18, 150# 24" 3" THICK
SA100	1	BLIND FLANGE	1	EA	CS18, 150#
SA100	1	GASKET	1	EA	316L 18"-18" SPHAL WOUND
SA100	1	GRAB BAR	1	EA	316L 18" X 4-1/2" LONG
SA100	1	GRAB BAR	1	EA	316L 18" X 4-1/2" LONG
SA100	1	LIFT TAB	1	EA	CS3/8 PLATE
SA100	1	COUPLING	1	EA	CS3/4 NPT 30529 HALF
SA100	1	FLANGE GAUGE	1	EA	CS1/2 NPT 30529 HALF
SA100	1	THERMOWELL	1	EA	CS1/2 NPT 30529 HALF
SA100	1	RELIEF	1	EA	CS1/2 NPT 30529 HALF
SA100	1	PLUG (MS)	1	EA	CS12 NPT
SA100	1	COUPLING	1	EA	CS1/2 NPT 30529 HALF
SA100	1	VALVE RETURN	1	EA	CS1/2 NPT 30529 HALF
SA100	1	PPR	1	EA	CS1/2 NPT 30529 HALF
SA100	1	PPR SUPPORT	1	EA	CS1/2 NPT 30529 HALF
SA100	1	COUPLING	1	EA	CS1/2 NPT 30529 HALF
SA100	1	DISCHARGE	1	EA	CS1/2 NPT 30529 HALF
SA100	1	FLANGE	1	EA	CS1/2 NPT 30529 HALF
SA100	1	GASKET	1	EA	316L 18"-18" SPHAL WOUND
SA100	1	STUD	1	EA	316L 18" X 3-1/2" LONG
SA100	1	WELD NUT	1	EA	CS3/4 X 3-1/2"

ITEM NO.	ITEM NO.	DESCRIPTION	QTY	UNIT	REMARKS
SA100	1	SH-16	1	EA	304
SA100	1	SH-17	1	EA	304
SA100	1	SH-18	1	EA	304
SA100	1	SH-19	1	EA	304
SA100	1	SH-20	1	EA	304
SA100	1	SH-21	1	EA	304
SA100	1	SH-22	1	EA	304
SA100	1	SH-23	1	EA	304
SA100	1	SH-24	1	EA	304
SA100	1	SH-25	1	EA	304
SA100	1	SH-26	1	EA	304
SA100	1	SH-27	1	EA	304
SA100	1	SH-28	1	EA	304
SA100	1	SH-29	1	EA	304
SA100	1	SH-30	1	EA	304
SA100	1	SH-31	1	EA	304
SA100	1	SH-32	1	EA	304
SA100	1	SH-33	1	EA	304
SA100	1	SH-34	1	EA	304
SA100	1	SH-35	1	EA	304
SA100	1	SH-36	1	EA	304
SA100	1	SH-37	1	EA	304
SA100	1	SH-38	1	EA	304
SA100	1	SH-39	1	EA	304
SA100	1	SH-40	1	EA	304
SA100	1	SH-41	1	EA	304
SA100	1	SH-42	1	EA	304
SA100	1	SH-43	1	EA	304
SA100	1	SH-44	1	EA	304
SA100	1	SH-45	1	EA	304
SA100	1	SH-46	1	EA	304
SA100	1	SH-47	1	EA	304
SA100	1	SH-48	1	EA	304
SA100	1	SH-49	1	EA	304
SA100	1	SH-50	1	EA	304



APACHE STEEL FABRICATION, INC.
 1200 W. WISCONSIN ST., FLOYD, WI 53125
 TEL: 920.833.1234 FAX: 920.833.1235
 WWW.APACHESTEEL.COM

REVISIONS

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DIVISION OF INDUSTRY SERVICES
 141 NW BARSTOW ST FL 4TH
 WAUKESHA WI 53188-3789
 Contact Through Relay
 www.dsp.wi.gov
 www.wisconsin.gov

Scott Walker, Governor
 Dave Ross, Secretary

May 7, 2013

CUST ID No. 272098

JEFF MUNZEL
 LPG & NH3 SUPPLY INC
 1200 1ST ST NE
 BUFFALO MN 55313

COOPER PROPANE LLC
 2172 PRAIRIE ST
 PO BOX 165
 STEVENS POINT WI 54481

**SITE INSPECTION REQUIRED FOR
 CONDITIONAL APPROVAL
 PLAN APPROVAL EXPIRES: 05/07/2014**

Identification Numbers
Transaction ID No. 2243457
Site ID No. 64704
Please refer to both identification numbers, above, in all correspondence with the agency.

FOR:

Installation of NEW HORIZONTAL APPACHE STAINLEESS 30,000 LPG STORAGE TANK
 Regulated Object ID No.: 1426622; NB # Not given, Cont. S.A. 1623 sq. ft; Year: 2013
 Facility: 64704 Cooper Oil, 2172 Prairie St, Stevens Point WI 54481 Portage County

The submittal described above has been reviewed for conformance with applicable Wisconsin Administrative Codes and Wisconsin Statutes. The submittal has been **CONDITIONALLY APPROVED**. The owner, as defined in chapter 101.01(10), Wisconsin Statutes, is responsible for compliance with all code requirements.

The following conditions shall be met during construction or installation and prior to use:

1. SPS 340.31(1) The local fire department shall be notified of installation with a "SBD-9656, Certificate of Installation" within 10 business days of the installation. (Form is attached to a copy of this approval letter.)
2. SPS 340.34 (2) b The installer shall notify Inspector Dean Yourchuck Jr, @ (608) 235-0607 at least five (5) business days prior to the start of construction to arrange for inspection
3. NFPA 58, 5.2.8.3 Markings specified for ASME containers shall be on a stainless steel nameplate attached to the container located to remain visible after the container is installed and shall have a National Board registration number. (Provide a copy of the tank MDR upon receipt / make available at site inspection.)
4. NFPA 58, 5.7.8.1 G Shut-off valves either shall be located in a readily accessible position less than 6 feet above ground level or provide extension handles, stairs or platforms for easy access or shall be equipped for remote operation.
5. NFPA 58, 5.7.8.5 Container inlet and outlet connections on ASME containers of more than 2000 gallon water capacity shall be labeled to designate whether they communicate with vapor or liquid space.
6. NFPA 58, 5.9 Pipe, hose, fittings and valves shall meet the requirements of this section.
7. NFPA 58, 6.3.1 Containers installed shall meet distance requirement with respect to other containers, important buildings or line of adjoining property that may be built upon per applicable tables of this section. (minimum 50 ft distance to lot lines)
8. NFPA 58, 6.4.5.2 Loose or piled combustible material or weeds and long grass shall be separated from containers by a minimum of 10 feet.
9. NFPA 58, 6.5.3 Point of transfer (load/unloading) locations shall meet the requirements of this section including distance requirements per Table 6.5.3.
10. NFPA 58, 6.6.1.2 LP-Gas containers, or systems of which they are part shall be protected from damage by vehicles. (Verify at site inspection that crash posts are not needed)
11. NFPA 58, 6.9.3.1 Piping shall be installed per ASME / ANSI B 31.3 *Process Piping*, or Section 6.9.
12. NFPA 58, 6.12.10 Emergency shut-offs shall be installed in accordance with this section. All installations shall have at least one clearly identified and easily accessible manually operated remote emergency shutoff device located not less than 25 feet nor more than 100 feet in the path of egress from emergency shut-off.

13. NFPA 58, 6.18.1 Operations and Maintenance The provisions of Chapter 14 shall apply to all new and existing LPG installations. (Facilities shall prepare and maintain written operating manuals including emergency action for the operator, owner can provide a written statement to inspector at site inspection that manual is completed and will be made available upon request)
14. NFPA 58, 6.25.3.1 Protect ASME Containers and dispensing stations. Fire protection shall be provided for locations with an aggregate water capacity of more than 4000 gallons. The modes of fire protection shall be specified in a written product release prevention and incident preparedness review. (Owner can provide a written statement to inspector at site inspection that written review is completed and will be made available upon request)
15. NFPA 58, 6.25.4.2 Each industrial plant shall be provided with at least one approved portable fire extinguisher having a minimum capacity of 18 # of dry chemical with B-C rating.
16. All work performed must comply with Chapter SPS 340, Wisconsin Administrative Code and NFPA 58-2011 including electrical which was not part of this review for conditional approval.

A copy of the approved plans, specifications and this letter shall be on-site during construction and open to inspection by authorized representatives of the Department, which may include local inspectors. All permits required by the state or the local municipality shall be obtained prior to commencement of construction/installation/operation.

In granting this approval, the Division of Industry Services reserves the right to require changes or additions, should conditions arise making them necessary for code compliance. As per state stats 101.12(2), nothing in this review shall relieve the designer of the responsibility for designing a safe building, structure, or component. The Division does not take responsibility for the design or construction of the reviewed items.

Inquiries concerning this correspondence may be made to me at the telephone number listed below, or at the address on this letterhead. We look forward to working with you to make this code-compliant construction.

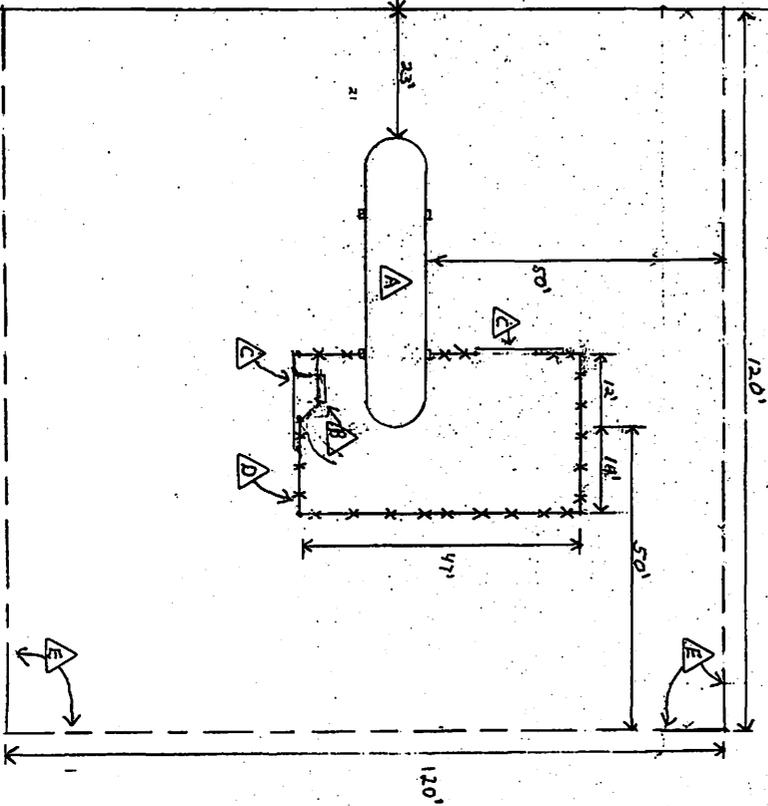
Sincerely,

Michael J Verhagen
Mechanical Safety Consultant
(262)548-8617
mike.verhagen@wisconsin.gov

Fee Required \$	700.00
Fee Received \$	700.00
Balance Due \$	0.00

WiSMART code: 8258B

cc: Dean Yourchuck Jr, Boiler Safety Inspector, (608) 235-0607
Rick Merkle, Bureau Section Chief



- NOTE:
- ▲ NEW 30000 GALLON PROPANE TANK
 - ▲ COMBINATION TRANSPORT UNLOADING BULK TRUCK LOADING BULK HEAD
 - ▲ 10' SLIDE GATE
 - ▲ INDUSTRIAL FENCE WITH 3 STRANDS BARRIERS
 - ▲ PROPERTY LINE

NOTE:
 INSTALLATION WILL COMPLY WITH THE
 LATEST EDITIONS OF MECHANICAL AND ALL
 LAWS & REGULATIONS OF THE STATE OF
 WISCONSIN IN REGARD TO THE
 STORAGE & HANDLING OF PROPANE GAS.



8 0 1 1 8 6 6
Tx: 4009294

787649

CYNTHIA A. WISINSKI
PORTAGE COUNTY
STEVENS POINT, WI
RECORDED ON
07/23/2013 12:25 PM

REC FEE: 30.00
PAGES: 1
FEE EXEMPT:

RESOLUTION

[2172 PRAIRIE STREET – COOPER PROPANE]

BE IT RESOLVED by the Common Council of the City of Stevens Point, Portage County, Wisconsin, that based upon the application and after reviewing the Plan Commission record and hearing the testimony of interested parties, the Common Council determines that all conditions required have been met, the property located at **2172 Prairie Street (Parcel ID 2408-32-4014-13)**, described as LOT 520 & 521 BLK 58 STRONG ELLIS & OTHERS ADD S32 T24 R8 737283, Stevens Point, Portage County, Wisconsin, hereby be granted a Conditional Use Permit to allow the construction and operation of a 30,000 gallon above ground propane tank with the following conditions:

1. Screening in the form of fencing and vegetation shall be installed on the property to screen the large 30,000 gallon tank and smaller storage tanks. A screening and landscaping plan shall be submitted and reviewed/approved by staff.
2. Concrete barriers (not bollards) shall be installed to completely surround the tank, which are anchored to the ground, and placed in a location to protect the tank from vehicles.
3. The 30,000 gallon propane tank shall meet the zoning district setback requirements if a variance for a lesser setback is denied by the Board of Zoning Appeals.
4. Barb wire fencing shall be permitted.

Such approval constitutes a Conditional Use under the City's ordinances.

Approved:

Andrew J. Halverson, Mayor

Attest:

John Moe, City Clerk

Dated: July 15, 2013

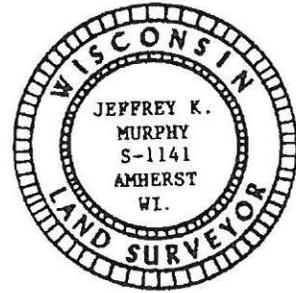
Adopted: July 15, 2013

Drafted by: Michael Ostrowski

Return to: City Clerk

CERTIFIED SURVEY MAP NO. _____

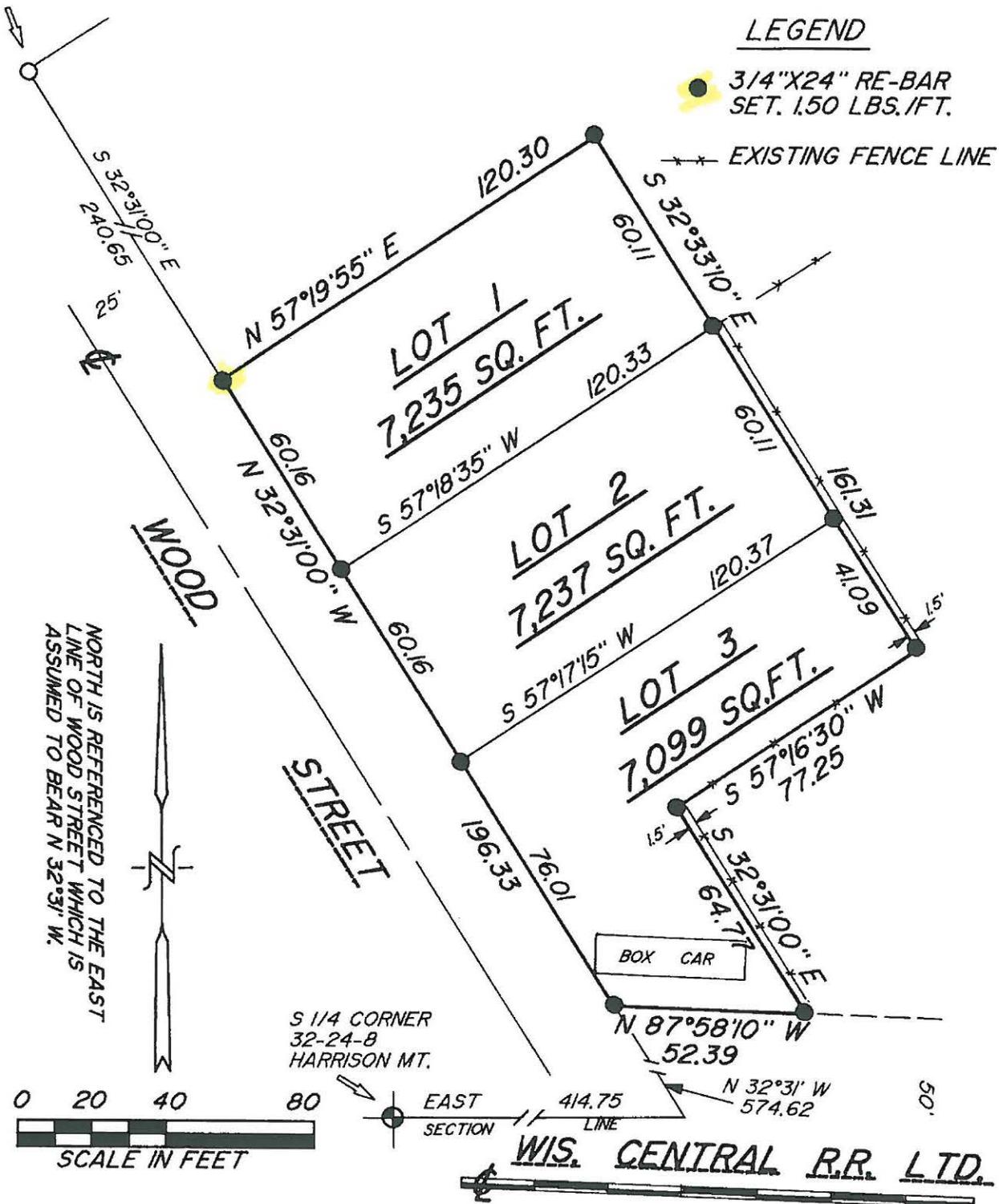
PART OF THE S.W. 1/4 OF THE S.E. 1/4 OF SECTION 32, TOWN 24, NORTH, RANGE 8 EAST, CITY OF STEVENS POINT, PORTAGE COUNTY, WISCONSIN. ALSO BEING PART OF LOT 516 AND 517 ALL OF LOTS 518, AND 519, ALL IN BLOCK 58, STRONG'S ELLIS AND OTHERS ADDITION.



N.W. CORNER
BLOCK 58, STRONG'S, ELLIS
AND OTHERS ADDITION, 1" IRON PIPE

LEGEND

- 3/4"X24" RE-BAR SET. 150 LBS./FT.
- EXISTING FENCE LINE



THIS INSTRUMENT WAS DRAFTED BY:

PAGE 1 OF SHEET 1

JEFFREY K. MURPHY
Registered Land Surveyor

296 John Street
P.O. Box 116
Amherst, WI 54406-0116
715-824-3871

VOLUME _____
PAGE _____

SURVEYOR'S CERTIFICATE

I, JEFFREY K. MURPHY, REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY:

THAT I HAVE SURVEYED, DIVIDED, AND MAPPED THIS CERTIFIED SURVEY LOCATED IN THE S.W. ¼ OF THE S.E. ¼ OF SECTION 32, TOWN 24 NORTH, RANGE 8 EAST, CITY OF STEVENS POINT, COUNTY OF PORTAGE, STATE OF WISCONSIN. ALSO BEING PART OF LOT 516 AND 517 AND ALL OF LOTS 518 AND 519, ALL IN BLOCK 58, STRONG'S ELLIS AND OTHERS ADDITION. BOUNDED AND DESCRIBED AS FOLLOWS:

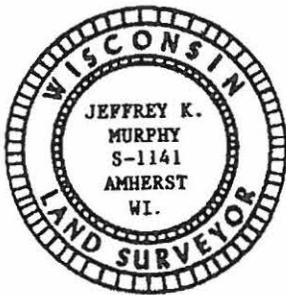
COMMENCING AT THE S. ¼ CORNER OF SECTION 32 RUN THENCE EAST, ALONG THE SOUTH LINE OF THE S.E. ¼ OF SECTION 32, 414.75 FEET; THENCE N 32° 31' W 574.62 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION:

THENCE N 32° 31' W 196.33 FEET; THENCE N 57° 19' 55" E 120.30 FEET;
THENCE S 32° 33' 10" E 161.31 FEET; THENCE S 57° 16' 30" W 77.25 FEET;
THENCE S 32° 31' E 64.77 FEET; THENCE N 87° 58' 10" W 52.39 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

THAT I HAVE MADE SUCH SURVEY AND MAP AT THE DIRECTION OF COOPER OIL COMPANY INC.; THAT SAID MAP IS A TRUE AND CORRECT REPRESENTATION OF ALL THE EXTERIOR BOUNDARIES OF THE LAND SURVEYED; AND THAT I HAVE COMPLIED FULLY WITH ALL THE PROVISIONS OF CHAPTER 236.34 OF THE WISCONSIN STATUTES IN SURVEYING AND MAPPING SAME.

FEBRUARY 17, 1998

Jeffrey K. Murphy
JEFFREY K. MURPHY R.L.S. # 1141



535465

REGISTER'S OFFICE } SS
PORTAGE COUNTY, WI
RECEIVED FOR RECORD }

FEB 24 1998

TIME: 7:30 A.M.
Cynthia A. Wisinski
CYNTHIA A. WISINSKI REGISTER OF DEEDS
pd \$12