MINUTES OF THE SPRINGDALE TOWN BOARD MEETING, JULY 20, 2015

IN ATTENDANCE: Town Board Chair Ed Eloranta, Supervisor I Jeff Smith, and Supervisor II Richard Schwenn (A quorum is present.) Clerk Vicki Anderson.

CALL TO ORDER: by Chair Eloranta, 7 p.m.

NOTICE OF THE MEETING: pursuant to Wisconsin Open Meeting Law was confirmed. By 7/16/15 the agenda was posted in the three customary locations in the Town of Springdale as required by law and, as a courtesy to the residents, the agenda was published in the *Mt. Horeb Mail* on 7/16/15*.* Significant notice requirements were met for the public hearing re: proposed road discontinuances.

MINUTES: MOTION by Schwenn/Eloranta to approve the minutes of 6/22/15, the June, 2015 business meeting as distributed. MOTION carried 2-0-1 (Smith abstained since he didn’t attend the 6/22/15 meeting.)

DON ANDERSON/CHANGES TO PLAT AGREEMENT AND SHARED DRIVEWAY EASEMENT AGREEMENT/REVISED BUILDING ENVELOPES/GETZ RD./SEC. 6: MOTION by Smith/Schwenn to approve the two documents which have been reviewed and approved by the Town Attorney Chris Hughes (First Amendment and Restatement of Declaration of Covenants, Restrictions and Conditions dated 7/8/2015, and First Amendment and Restatement of Declaration of Joint Driveway and Utility Easement dated 7/8/2015) and to approve the adjustment to the approved building envelopes on file in the Town Hall for Lots 2 and 3 as presented. Discussion: The PC recommended approval of the slight revisions to the building envelopes as requested by D. Anderson. One request of an additional 30’ south on Lot 2, allowed for more room for a barn at the northwest corner of the lot, farther away from the residence. Another request for an additional 20’ north on Lot 3 allowed for house placement back by the woods. Motion to approve carried 3-0.

PUBLIC HEARING: PLAN COMMISSION RECOMMENDATIONS:

JON HENSEY/QUIT-CLAIM DEED TO CORRECT ROAD RIGHT-OF-WAY/WHITE CROSSING RD./SEC. 13: MOTION by

Smith/Schwenn to approve the quit-claim deed as presented. Discussion: The existing right-of-way of White Crossing Rd. at its intersection with Dairy Ridge Rd. is 97’ wide. The standard r-o-w is 66’ wide. When the property owner J. Hensey planned an addition to his existing garage, the extra width in road right-of-way at this point was discovered. Since the Town does not plan to turn this intersection into a major highway, the additional road r-o-w is unnecessary. Motion to approve carried 3-0.

TOM AND ELLEN STEINHAUER-HAZEL FUEGER LANDS/RESIDENTIAL ACCESSORY BUILDING AND MODIFICATION TO EXISTING DRIVEWAY PERMIT TO ACCESS ADDITION TO EXISTING RAB/MESSERSCHMIDT DR./SEC. 27: MOTION by Schwenn/Smith to approve the RAB as depicted on the aerial photo and to formally approve an extension to the existing driveway for its access. Discussion: This is an addition to an existing RAB. Since the Residential Accessory Building Ordinance was adopted in 2014, the size, location and residential, not commercial use, of accessory buildings is reviewed by the Town when the total square footage of RAB would be greater than 1500 sq. ft. Motion to approve carried 3-0.

PUBLIC HEARING AND TB ACTION: DISCONTINUANCE OF PORTION OF CRABB LANE, PORTION OF GRIMSTAD ROAD, PORTION OF HOLLFELDER DRIVE, PORTION OF RINGGENBERG DRIVE AND ALL OF RENNEBOHN ROAD:

Introduction by Town Chair Eloranta: Before discussing the particular roads proposed for discussion tonight, two roads are removed from the list:

a. Hollfelder Drive will not be discontinued because the existing roadside slopes are too steep to allow for construction of a reverse-direction area. The only area for the snow plow to safely change direction is at the end of the road, the existing termination point.

b. Grimstad Road will not be discontinued at this time because that proposal is based on the Bella Vista Plat and the documents for the Plat are incomplete at this time. The Town would not complete the proposed upgrade to Grimstad Road unless the Plat were going forward because a portion of the Town’s cost will be reimbursed through the special assessment process by which the developers of the Plat bear most of the road upgrade cost. In addition, the discontinuance must be agreed to by the property owners involved because it would involve a shared driveway agreement and for one owner, a special agreement would be required because their 66’ frontage on a road requirement is based on frontage on Grimstad Rd.

History of road discontinuances in Town: Since 2013, based on the recommendation of the Wisconsin Towns Association, the Town has reviewed all dead-end or loop roads with the intent of discontinuing the portion of those roads which serve a single residence. The policy is based on the financial savings to the Town of discontinuing the practice of basically plowing a private driveway for a few residences while most residences plow their own driveways. When these private driveways to farms were converted to town roads, there was a financial incentive to the Town to increase the number of miles of town road to increase the state highway aids received calculated on $/per mile. Now, it costs much more to plow, mow and maintain the roads than monies received for the roads. Since 2013 the following roads or portions thereof have been discontinued at an estimated savings of $20,000/yr. (This figure can fluctuate based on the amount of snowfall in a year.)

ROADS OR PORTIONS OF ROADS DISCONTINUED OR UNDER CONSIDERATION TO-DATE - 2013: ANDY COURT (ALSO KNOWN AS BLAHA DRIVE), BAKER DRIVE, BARNES ROAD, BERG DRIVE, BERGLUND ROAD (ALSO KNOWN AS BERGLUND), FRYE ROAD, HEFTY ROAD, HEUSER ROAD, PORTION OF JOLLY ROAD, KITTLESON ROAD, LEWIS DRIVE, MARTIN ROAD, MCSHERRY ROAD, MIDTHUN ROAD, MOORE ROAD, O.C. HARRIS ROAD, QUIET GLEN DRIVE, RINDY ROAD, SCHWARZ ROAD (ALSO KNOWN AS SCHWARTZ ROAD), SUTTER DRIVE SOUTH, THOMAS ROAD,  2014: PORTION OF BEAT ROAD, 2015: PORTION OF GAMMETER ROAD,

2015 UNDER CONSIDERATION: RENNEBOHM ROAD, PORTION OF CRABB LANE, PORTION OF GRIMSTAD ROAD

PORTION OF HOLLFELDER DRIVE, PORTION OF RINNGGENBERG DRIVE.

Town roadwork before returning the road to a private driveway: It is the policy of the Town to repair the roadway as needed prior to discontinuing it. The Town cannot complete roadwork on a private driveway. It was clarified that the status of a private driveway does not interfere with fire protection and emergency services since private driveways have to be constructed in such a way as to provide access for emergency equipment, too. At this time, the Town is completing the lengthy legal discontinuance process of notices, publications, public meetings, etc. Upon completion of the roadwork, official documents will be recorded at the Dane County Register of Deeds.

Town policy to restore status as a town road when the development options available to a landowner under the Town of Springdale Land Use Plan require access or frontage on a town road. The intent of the road discontinuance is NOT to take away land division options. If and when land divisions necessitate a town road, the landowner/developers/benefitting property owners will cover the road upgrade expense. The “Town Policy on New Town Roads” applies.

Discussion and Action on individual roads:

Portion of Crabb Lane. The portion proposed for discontinuance would commence beyond the property line for Jennifer and Jan Stoddard. A reverse-direction area would be constructed within the right-of-way there. The two residences served by Crabb Lane would continue to front a public road. The portion for discontinuance passes between agricultural fields to its culmination at a barn and uninhabitable building. A resident suggested that so little work has been done on Crabb Lane over the years that the Town might actually have made money on Crabb Lane since more money might have been received in road aid than spent on road maintenance.

 MOTION by Schwenn/Smith to approve resolution #15072 for the discontinuance of a portion of Crabb Lane in the Town of Springdale, Dane County, Wis. Motion to approve carried 3-0.

Rennebohm Road: The entire road is proposed for discontinuance since the two properties served by the road have access from US/Hwy. 18/151 in the state-owned right-of-way. The residents served by Rennebohm Road pointed out a culvert that needs repair and questioned the use of gravel or black top on the roadway.

MOTION by Smith/Schwenn to approve resolution #15071 to discontinue all of Rennebohm Road located in the Town of Springdale, Dane County, Wis. Motion carried 3-0, 7:50 p.m.

Ringgenberg Drive: Only the portion of Ringgenberg Drive that goes North from the bend in the road is proposed for discontinuance. This is approximately .19 miles. The house located at the termination of the road has frontage on US/Hwy. 18/151. The residences served by the southern section of Ringgenberg Drive need the 66’ of frontage on a public way via Ringgenberg Drive.

MOTION by Smith/Schwenn to approve resolution #15074 to discontinue a portion of Ringgenberg Drive located in the Town of Springdale, Dane County, Wis. Motion to approve carried 3-0.

This is the Resolution adopted with the particular road name inserted into the blank.

RESOLUTION NO. \_\_\_\_\_\_ TOWN OF SPRINGDALE DANE COUNTY, WISCONSIN

A RESOLUTION TO DISCONTINUE A PORTION OF \_\_\_\_\_\_\_\_\_ LOCATED IN THE TOWN OF SPRINGDALE, DANE COUNTY, WISCONSIN RECITALS:

A. It is in the public interest that a portion of the public way, shown and described on the diagrams and legal descriptions attached hereto and incorporated herein is vacated and discontinued in the Town of Springdale, Dane County, Wisconsin, under 66.1003(4).

B. The Town Board of Springdale intends to discontinue a portion of the Right-of-Way.

C. The discontinuance of a portion of the Right-of-Way will not deprive the landowner of all access to a highway and will not result in a landlocked property.

D. This Resolution was introduced before the Town Board of the Town of Springdale on May 18, 2015. A Notice of Pendency of Application to vacate a portion of the Right-of-Way was filed with the Registry of Deeds for Dane County on May 18, 2015. The Notice of Hearing was published as a class 3 notice under Chapter 985 of the Wisconsin Statutes. A copy of the Notice of Hearing was served or mailed more than 30 days prior to the hearing in the manner prescribed by law on the owners of all the frontage of the lots and lands abutting upon the Right-of-Way. A public hearing was held before the Town Board of the Town of Springdale on July 20, 2015.

E. This matter was referred for consideration and report to the Town of Springdale Plan Commission which considered and reported on this matter on June 22, 2015.

F. No proper written objection to the discontinuance of a portion of the Right-of-Way was filed with the Town Clerk.

G. The public interest requires that a portion of the Right-of-Way be discontinued.

H. To the extent that public utilities have rights on, over, under and through the entire vacated area, such rights are not vacated by the discontinuance.

I. No Town Driveway Permit application shall be required for the vacated town road or vacated portion thereof. The vacated town road or vacated portion thereof shall continue as a private driveway and the Town shall approve and issue a Town Driveway Permit for the vacated town road address.

NOW, THEREFORE, based on the above recitals, pursuant to section 66.1003 of the Wisconsin Statutes, the Town Board of the Town of Springdale hereby resolves as follows:

1. Discontinuance of Right-of-Way. The Right of Way is hereby vacated and discontinued.

2. Official Map Amendment. The Town’s official map shall hereby be amended consistent with this Resolution.

3. Clerk Duties. The Town Clerk is instructed to record a certified Copy of this Resolution with the Dane County Register of Deeds.

ROAD WORK CONTRACTS: GRIMSTAD ROAD AND ROADS IMPACTED BY DISCONTINUANCES:

MOTION by Schwenn/Smith to inform Fink’s that the Town will not complete roadwork on Grimstad Rd. as detailed on the bid opened and conditionally accepted on May 21, 2015. Discussion: The Fink’s bid expires on July 21, 2015. Since the Bella Vista Plat documents are not complete the Town cannot move forward with the project at this time. To rebid, the costs could be higher and the higher costs should be passed on to the developer. Motion carried 3-0.

INFORMATION ONLY: Since Hollfelder Drive cannot be discontinued, the culvert intended for that road can be used on Swiggum Road, retaining the contracted amount of work for Fink’s.

BELLA VISTA FINAL PLAT DOCUMENTS/GRIMSTAD RD./SEC. 10: No Action, awaiting documents.

R. AND S. NEERLAND/REZONING A-1 WITH CUP #2310 TO BRING EXISTING BUSINESS IN ACCESSORY BUILDING INTO COMPLIANCE WITH DANE COUNTY ZONING CTH G/SEC. 25:

Update since the 6/22/15 PC meeting and action on the CUP application:

\*On 6/22/15, the PC voted on the six standards for CUPs and each of the six standards was considered met by a majority in attendance with some negative votes for three of the six standards.

\*On 6/22/15 the PC voted 3 in support and 3 in opposition, a split vote. The PC did not approve the application. The PC is advisory to the TB.

\*On 6/22/15, the PC created 16 conditions for the CUP (which were presented on a slide to those in attendance.)

\*Since the PC meeting, the Town has received legal interpretation re: Dane County Code of Ordinances 10.192(3) “All employees, except one or one full-time equivalent, shall be member of the family residing on the premises.”

In an email dated July 10, 2015 an attorney stated: “…the “one full-time equivalent” employee includes all time an employee works for the limited family business regardless of where that employee works.” The attorney went on to stay that “…it is understood that Dane County interprets the definition of limited family business differently. Since Dane County drafted the ordinance (and is the enforcing authority for the zoning code), ..he doesn’t think it …”it would be unreasonable for the Town to give deference to and apply Dane County’s interpretation. Ultimately, how the TB wants to interpret and apply the definition is up to the TB.”

In an email dated July 16, 2015, an attorney, a colleague of the attorney referenced above, restated their interpretation as stated above. “….However, the Town could also choose to interpret the ordinance differently, consistent with our opinion last week. Our interpretation is just as reasonable, if not more reasonable, than Dane County’s..”

Other towns’ interpretation of DCC10.192(3) Dane County Zoning dept. states that most towns in Dane County use the interpretation as explained to the Town by Roger Lane, Dane County Zoning Inspector. That is, the calculation of one-full time equivalent is based on the number of hours the employee works in the Town of Springdale site, not the total number of hours the employee works off-site and on-site.

\*Since the 6/22/15 PC meeting the Town Building Inspector Tracy Johnson inspected the accessory building and verified that the sink has been removed. No permit for sink installation had been obtained and the sink was improperly drained.

\*In an email dated 7/17/15 Building Inspector Johnson stated “I do not feel the Neerland shed would be commercial.”

\*At the 7/20/2015 TB meeting Bob Neerland stated that the previous calculation prepared by the Town Clerk regarding the number of hours spent by employees not living on the premises, 48 hours/week, was too high. The correct calculation is the following based on actual observations on site.

Breanna – up top 1 hr./2 times a week 2 hrs.

Ryan – Mondays, 3 hrs. 3 hrs.

Meg – office work on site – 17 hrs./week 17 hrs.

Nick – 20-30 min./day x 5 2.5-3 hrs.

Chris – 20-30 min./day x 5 2.5-3 hrs.

Jake- 20-30 min./day x 5 2.5-3 hrs.

Bruce- 20-30 min./day x 5 2.5-3 hrs.

Total employee hours on site for employees who do not live on site 34 hrs.

\*At the 7/20/2015 TB meeting Bob Neerland stated that he has imposed a new policy for employees. That is, all paperwork is to be completed on the job site, not in the RAB.

Comments in support: The comments in the meeting include, but may not be limited to the following:

\* A neighbor expressed total support for the business. It has no negative impact on the town rural character; one would never know there was a business there and she is a customer.

\*A resident of Springdale expressed support for the CUP and urged the Town not to overreach by being too strict. Business in the Town is a positive.

\*A neighbor who views the property from his place, feels the building is pleasing to look at and an improvement over the old barn that was falling down in its place. The Neerlands are good neighbors.

\*A Springdale resident, who has worked for the Neerland’s business for four months, appreciates a job in his community.

\*Town Board Chair Eloranta: The Town has not received complaints from the public about the business. The issue is NOT the impact of the business on the Town now. Rather, the question is how does the Town define limited family business, number of employees, etc. in the future; a precedent is being set. The Town needs/wants a set of rules to apply to everyone coming forward. The Town cannot approve an application for one person because they are a ‘nice guy’ and not approve an application for another guy that is not considered a ‘nice guy.’ However, the number of employees and the number of hours spent on site is right at the boundary of the number appropriate for a limited family business. If the business grows, it will need to relocate. Expansion is not an option at this point. But, to deny them, it would be to throw them under the bus. So, he supports the CUP with conditions to comply with the size and operation of a limited family business.

Regarding the Town process-Eloranta agrees that the Town could interpret the number of employees rule differently than Dane County Zoning Inspector Lane’s interpretation. It is important for the Town to have a discussion about this and generate the definition of the rule to be used by the Town. Since the enforcement agency is Dane County Zoning, it seems reasonable in the short term to use the definition provided to the Town by the enforcing entity.

Also, Eloranta believes that it is important to maintain boundaries between a CUP and a rezoning. Generally speaking, it is not to the advantage of the Town to rezone a small business to a Limited Commercial -1 zoning district because the zoning stays with the land. A CUP is temporary (“…shall automatically expire on sale of the property or the business to an unrelated third party. DCCO 10.192 (8).) Also, he believes that the Town Land Use Plan is intended to serve its citizens, make it relatively expansive to permit uses which do not impinge on the core rural character of the Town.

\*Town Board Supervisor Schwenn: He supports it and can’t see any reason to deny it. He can’t see any impact on neighbors. It is a neat place and with the acres and A-1 zoning, the owner could have started a pig farm which could have created negative impacts on neighbors. If the property were in a more residential area, he would have concerns. In response to comments re: a CUP application that was denied by the Town, Schwenn believes this application and that application are different. The denied application would have created much more traffic because customers and vehicle testing were to be done on site and on roads in that area.

Comments in opposition: The comments in the meeting include, but may not be limited to the following:

\*Town Board Supervisor Smith: His concerns are based on applying the rules to everyone. His concerns are not about Neerlands. Business is good in the Town but these are residential properties. The Town did not go looking for this matter. The fact that a business was operating out of a building described as an agricultural building on the Dane County Zoning Permit in 2013 was discovered by a Dane County Zoning Inspector in 2015. The Neerlands were required to apply for a rezone, which was later amended to apply for a CUP.

There have been several issues with the application:

 \*\*The interpretation of the number of employees’ hours on-site vs. total of on-site and off-site employee hours was new to Jeff. Where did this interpretation come from? He asked PC members whether their opinion on the application would change if the interpretation of number of employees’ hours changed and some said ‘yes.’ He believes the Town has not had a fair discussion on the interpretation question and legal opinions (previously stated above) support his interpretation of the rule. In referencing a 2010 example of the number of employees’ hours calculated on-site only in a Town seasonal landscaping business CUP that was approved, he thought Dane County Zoning was ready to clarify the interpretation for four employees in a limited family business in 2010, so he agreed with application at that time since that was approximately the number of employees with that application.

 \*\*He believes that DCCO requires the limited family business to take place entirely within the accessory building.

 \*\*The Neerlands have changed the report of the number of employees and their hours to fit the 40 hour maximum/one full-time equivalent. Full disclosure and accounting of employees is necessary to evaluate compliance with limited family business standards.

In applying conditions to a CUP to make it fit within the Plan, within a limited family business, when it is close to the limit allowed for employees, the Town has to rely on trusting the applicant.

 \*\*A sink and faucet were installed without the proper building permit and drainage.

Regarding the Town process-Smith believes that if the Town does not come up with an even-steven kind of approach, the Town will forget rules and by decree approve or deny applications. With a previous application that was denied, yes, there were some differences between that application and the Neerland’s, but does either business fit in the Town?

MOTION by Eloranta/Schwenn to approve the CUP #2310 with the following conditions.

1. The limited family business shall be limited to the pest control business.

2. The on-site business operation shall be restricted to the accessory building, building permit dated 01/15/13. Additions to the existing building and/or construction of another building for business purposes shall not be permitted. The Town shall be notified of any additional building of residential accessory building(s) for residential purposes, not business purposes.

3. The hours of operation shall be Monday through Friday, from 7 a.m. to 6 p.m.

4. All employees except one or one full-time equivalent, shall be a member of the family residing on the property. The number of hours for family members not residing on the property and for non-family members to work on site shall be limited to 40 hours/week.

5. The vehicles used in the business shall be limited to seven vehicles and the number of one-person trips per day for the business is limited to twenty, one-person trips in and out of the CTH G site.

6. No customers shall visit the site. No retail sales shall be conducted on the property. The on-site business shall not be opened to the public.

7. No business activities shall be conducted outside of the accessory building.

8. Outside loudspeakers are prohibited.

9. Outside signs are prohibited.

10. Outdoor lighting, except for required security lighting, shall be operational only during hours of operation. All lighting shall conform to the Town of Springdale Dark Sky Ordinance and shall be shielded to prevent glare into the night sky or direct-beam illumination of neighboring residences. All new lighting fixtures shall use full cut-off fixtures which prevent all upward transmission of light.

11. All chemicals for the pest control business shall be properly disposed of off-site and in accordance with all pertinent county, state, federal, and industry regulations.

12. Servicing of personal and business vehicles shall be permitted on site with the proper disposal of vehicle fluids in accordance with all pertinent county, state, and federal regulations. The servicing of vehicles for hire on site shall be prohibited.

13. The conditional use permit shall automatically expire on sale of the property or business to an unrelated third party.

14. The building permit issued by the Town of Springdale, dated 01/15/13, shall be corrected to accurately reflect the elements of the accessory building as it is used.

15. State, county and local approval of the accessory building shall be in compliance with all applicable codes and ordinances.

16. This CUP shall be reviewed by the Town of Springdale Plan Commission and Town Board and Building Inspector in two years from 06/22/2015, 6/2017, to confirm its compliance with the conditions of the CUP and for consistency with the current goals of the Town of Springdale Land Use Plan. Motion to approve carried 2 in support and 1 opposed vote.

Standard considerations for all CUP applications: The Town Board after consideration of the conditional use permit made the following findings of fact. Dane County Code of Ordinances 10.255(2)(b):

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare;

2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

MOTION by Schwenn/Eloranta that the CUP meets the six standards for a CUP. Discussion: In disagreement with #6 –The interpretation of the rule for 40 hrs./week of employers’ hours on or off site versus 40 hrs./week of employers’ hours on site. It was agreed that the Town use of the one full-time employee or the equivalent thereof needs to be discussed. Motion carried 2-1.

FARLEY CENTER /NATURAL PATH SANCTUARY AND AMENDMENT TO MEMORANDUM OF UNDERSTANDING, MOU, RE: BURIAL PRICING: MOTION by Smith/Schwenn to approve the changes as presented in the MOU. Discussion: Shedd Farley submitted the following amendment to MOU 9. “An individual…if he or she chooses to do so, the Farley Center will advise that the fair market value of the burial plot is $500 and the cost of opening and closing a grave is $500.” Previously, the language read $800 for the grave and $200 for the burial costs with 15% of the grave cost deposited in the permanent care fund. Since the upkeep for a green center is low, less monies are needed in the permanent care fund. Motion to approve carried 3-0.

BILLS: MOTION by Schwenn/Smith to approve the bills. Motion carried 3-0.

ADJOURN: MOTION by unanimous consent.

Respectfully submitted, Vicki Anderson, Recording Secretary