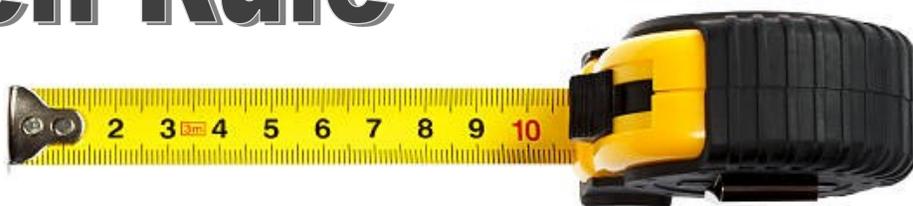


The Golden Rule

AUGUST 2024



President's Message

I've always enjoyed building. It goes back to when I was a kid and watching my dad build stuff. He wasn't a builder, per se, but he was always doing projects around the house. Finishing a basement, pouring a driveway, building a garage. It was fun to watch, help and learn.

Fast forward to doing this as a career. The passion is still there...I still marvel at what we do and how we do it. We get to design and build homes, and that's pretty cool. But along with it comes the need to run a successful business, meaning the need to pay attention to more than just swinging a hammer. So, here's my two cents on that side of things and I hope this will resonate with you, especially those fairly new to our industry.

I'll start with a question...How do you measure success at your company? It's a simple question and there's many ways to do it, but it can be hard to judge if you're not taking the time to measure your performance objectively. In our ongoing efforts to enhance project outcomes, it helps to establish and monitor key metrics for assessing performance. Effective measurement can drive improvements, streamline processes, and ensure project success.

To get you started, here are a handful useful metrics you can focus on that relate well to what we do in the building industry:

1. **Project Timeliness:** Track the percentage of projects completed on or ahead of schedule. This metric helps gauge your efficiency in adhering to deadlines and managing time effectively. It can also help identify any bottlenecks or pitfalls you have in your processes when you dig into the root cause for any delays.
2. **Budget Adherence:** Monitor the variance between estimated and actual project costs. Keeping projects within budget is critical for both your financial health and client satisfaction. Job cost reports don't lie, so learn from them.
3. **Quality of Work:** Assess the rate of rework, defects, or reordering of materials that you experience on each project. High-quality work with minimal rework or delays is a good indicator that you pay attention to detail and adhere to your set of standards.
4. **Safety Record:** Review the number of on-site accidents/injuries. A strong safety record is essential for protecting your workers and curbing the costs of insurance premiums. In fact, your insurance agent can often give advice or provide you with resources to minimize risk on job sites.
5. **Client Satisfaction:** Evaluate feedback and satisfaction ratings from clients. Positive client relationships and satisfaction scores reflect your ability to meet or exceed expectations. Negative feedback provides you with an opportunity to improve.

Yes, these metrics can be boring compared to the everyday duties of building a house. But, trust me, by regularly monitoring these metrics, you reinforce to your team the importance of delivering projects efficiently, within budget, and to the highest standards that you have established. And use this data to as a commitment to continuous improvement by making any changes you feel necessary to uphold the quality and reliability of your services.



Mark Robinson, Blenker Construction

5741 Windy Dr Ste D, Stevens Point, WI 54482

715-824-5665

mark.robinson@blenkerco.com

20th Annual Jeff Nygaard Golf Outing





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Thank you Seth Stormoen, Bergmans and Eric Golla for being on the Golf Committee and putting a lot of hard work into organizing this event. Thank you to everyone that came and volunteered and those members that did events for the golfers at the tees. It is a long day in the sun and you guys rocked! Special thanks to the Nygaards and Linda Nygaard and Leah Busse for bringing a cake to celebrate the 20th year of this event.



The current tenant in our GSHBA office (located at 1001 Theater Dr in Plover) will be leaving at the end of August. We would like to open up the opportunity to lease space to all our GSHBA members prior to listing the space for rent. The office is 1,512 sq feet and can be divided into four separate office areas. There is a kitchen, bathroom and lobby area. We are open to renting out the entire space or the office spaces separately. The price is negotiable dependent on your needs.

If you are interested, reach out to me via email office@gshba.net or call 715-340-2242.

CALENDAR *of* EVENTS

August 15 - Place of Peace Dinner

Sept 4 - Parade of Homes Bus Tour

Sept 6-9 - Parade of Homes

Sept 17 - Awards & Installation Dinner

Sept 29 - Winner Winner Chicken Dinner

PARADE - O F - HOMES

September 6-9, 2024

Fri. & Mon 3:00pm - 7:00pm
Sat & Sun 11:00am - 6:00pm



PLATINUM SPONSOR



ADVANCE TICKETS

\$12



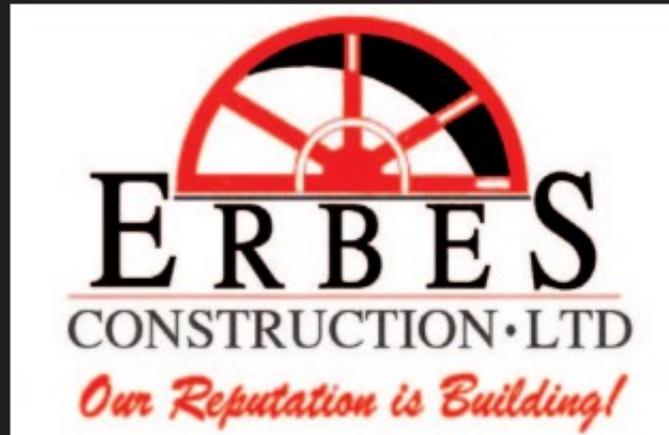
Tickets Available at any Parade Home during Parade Hours \$15.

Visit us Online for Directions to Parade Homes
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*Successful events are the result of successful partnerships.
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This year we have 11 homes in the Parade. See list below of participant builders and houses. Reach out to a builder to see if they need help at their home with ticket taking or anything else during the weekend. Help spread the word about the event. If you have an electronic board at your company or an area you could put up posters, please share the event. We will be doing a lot on social media so please share those posts and the Parade event as they become available.

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6397 County Rd O Rudolph, WI 54475

2714 N. Biron Drive (Village of Biron) Wisconsin Rapids

233 County Rd. Z Nekoosa, WI

2121 Peninsula Place Junction City 54443

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CHICKEN
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PLUS OINKERS

Sunday September 29

11:00 AM - 2:00 PM

At Lucke's *3252 Mecca Dr. Plover*

Dine In or Grab & Go



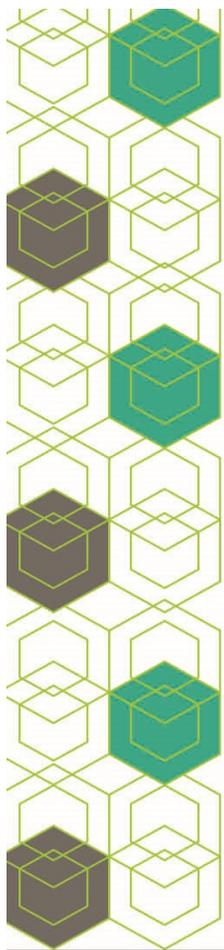
Tickets at www.gshba.org or Lucke's

\$20 Includes: Charcoal grilled 1/2 Chicken or Pork Chop, Baked Potato, Coleslaw, Beans, Roll and a Drink Ticket. Proceeds fund scholarships for local students pursuing careers in the building industry.

We are looking for Volunteers to help serve at the Chicken Dinner!

Shifts are from 10:45 - 12:30 & 12:30 - 2:15pm.

Email office@gshba.net if you are able to help.



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715.842.9510



psst...we have options for you to get involved with the Parade of Homes events too!

GSHBA Members,

Each week people of all walks of life gather together at The Place of Peace to share a hot meal, prayers, conversation, and their lives. We live in an amazing community that make these important meals possible by providing the food, additional hygiene items, and a friendly smile!

GSHBA will be providing the meal at The Place of Peace on August 15th. We would love for you to be involved!



Doors open at 4:30 and dinner is served at 5pm sharp.

We are planning a meal of: ham/meatballs/mashed potatoes, Mac and cheese, Fresh fruit – strawberries/ grapes/melon, Dessert – bars/brownies/cookies, and PB&J sandwiches (premade with some in baggies ready to grab).

We are asking for your help collecting additional items that are much needed.

Many of these items can be purchased at the Dollar Store or during sales coming up for the 4th of July holiday!

Grab N Go Items:

- | | |
|-----------------------------|--------------------------------------|
| Boxes of granola bars | Energy Bars/Protein bars |
| Pudding pouches/cups | Fruit Snacks/ Raisins |
| Crackers with peanut butter | Canned goods/tuna or chicken packets |
| Juice pouches/boxes | Anything nonperishable |

“To Go” containers for them to put extra food from the meal or paper lunch bags or plastic bags for the Grab N Go items to go in.

Hygiene Items:

- | | |
|----------------|--|
| Body Wipes | Toothpaste/brushes (adults and children) |
| Deodorant | Feminine hygiene items |
| Shampoos/Soaps | Lip balm |
| Diapers/wipes | |

All donations can be dropped off at The Portage County Bank or call me to arrange pickup!

You can also make monetary donations and we will purchase the needed items. If you would like to make a monetary donation, go to our website www.gshba.org under the “Events” tab and donate there. If you need a sales receipt for the donation email Carrleen at office@gshba.net .

Anything you can donate is greatly appreciated and very needed by the people that the Place of Peace serve each week.

Thank you,

Jennifer Novotny

GSHBA Community Service Committee Chair (715) 340-9034



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Hi, I'm Brian Jeske. I am a 25 year veteran of Pella Windows and Doors of Wisconsin. My wife and I relocated from the greater Milwaukee area. I am a 5 time Pella Corporation presidents club winner. I work with residential builders, remodelers, architects, and homeowners to help select the right windows and doors for their projects. I take pride in my customer service, detail and accuracy. How can I help you with your project?

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2

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Rebate Claim

3

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By: Rebecca J. Roeker, Attorney, Attolles Law, s.c.
Pictures: Roeker, DOT

****For purposes of brevity, the accompanying footnotes or legal citations are not included in this article****

Imagine a scenario in which you are developing a parcel of land adjacent to a state trunk highway (STH). You are required to obtain subdivision plat approval from the Wisconsin Department of Transportation (WisDOT). You have plans to build a berm with landscaping as a buffer between the development and the STH. In addition to the berm and landscaping, the local municipality is also requiring that you accommodate extension of a bike trail in between the berm and the STH. You have local approval, so WisDOT approval should be just another box to check, right? Wrong. WisDOT tells you that you cannot have any improvements in a 100-foot setback area adjacent to the STH. This prohibits you from having the bike path, the berm, or flowers planted in this area. No exceptions. It does not matter what the local municipality is requiring in its approval of the development. In order for your development to move forward, you will have to convince the local municipality that no improvements may be located in the 100-foot setback area.

This was the nightmare scenario for owners and developers following a series of amendments to the Wisconsin Administrative Code that greatly expanded WisDOT's regulatory oversight, the resulting court cases, and then legislative gridlock that often produced absurd results. Property owners and developers were left stunned at the inability to improve significant portions of their land, and WisDOT was left frustrated by the lack of flexibility to grant an exception to the setback requirements when it made sense to do so. This was a lose-lose situation.

After many years of its members experiencing frustrating scenarios like the one above, WBA was happy to support the passage of 2023 Senate Bill 413, which became 2023 Wisconsin Act 157 (Act 157) on March 22, 2024. Act 157 is a "win" for property owners because it allows for greater use of one's land and additional clarity in the legal standards for WisDOT's administrative obligations of highway setbacks, and a "win" for WisDOT because it now has a tool to grant special exceptions in particular circumstances, and may therefore avoid absurd results. This article provides an overview of the events leading up to Act 157 to illustrate the legislative needs, and to understand the resulting legislative solution contained within Act 157.

A. Highway Setbacks and TRANS 233: The Original Regulatory Intent, and More Regulations.

The issues underlying the need for legislative change in highway setback requirements went back several decades and involved multiple versions of Wis. Admin. Code. Ch. TRANS 233 (TRANS 233), which addresses WisDOT's rights and obligations in approving land divisions along STHs. The original intent of highway setback regulation in the context of subdivision review under Wis. Stat. Ch. 236 was to promote public health, safety and general welfare by allowing WisDOT an opportunity to review subdivisions of property that abutted a STH. The limited review was consistent with the stated purpose of TRANS 233, which was to specify minimum standards necessary to meet safety requirements for entrance on and departure from the abutting state trunk highways

However, during a period of regulatory expansion, WisDOT oversaw a series of amendments to TRANS 233 in both 1999 and 2001 that significantly expanded WisDOT's power in regulating land divisions along STHs (Amendments). The expanded regulatory authority included WisDOT review and approval of all land divisions of property abutting an STH, including certified survey maps, and a mandatory review process that included a "conceptual review," a preliminary review and a final review by WisDOT. The review process imposed other significant regulatory requirements, such as noise standards, vision corner requirements, drainage requirements and specific fee requirements. While the Amendments included a tool for WisDOT to grant a "special exception" to the new regulations, property owners and developers were frustrated with the expanded regulatory oversight that did not appear to be supported by WisDOT's statutory authority. The frustration and regulatory overreach resulted in two cases that made significant impacts on highway setback regulation.

1. Wisconsin Builders Association v. Wisconsin Dept. of Transportation.

In 2004, the Wisconsin Builders Association (WBA) brought the first case challenging the application and authority of the Amendments in Wisconsin Builders Association v. Wisconsin Dept. of Transportation. The WBA sought a declaratory judgment on several points, including an argument that the Amendments expanded WisDOT's authority beyond the scope authorized by the Wisconsin Statutes. Specifically, the WBA asserted that WisDOT only had authority to regulate subdivisions, and not any other type of land division.

On the first issue of whether WisDOT had statutory authority to regulate all land divisions, the Wisconsin Builders Court found that WisDOT's statutory authority is limited to review of subdivisions that abut an STH. The Wisconsin Builders Court recognized this statutory reference as granting WisDOT explicit authority to regulate land divisions which are statutorily defined as "subdivisions," but does not grant WisDOT authority to regulate other types of land divisions.

The Wisconsin Builders Court also rejected WisDOT's argument that it had implied statutory authority to regulate all land divisions pursuant to WisDOT's police power, and may do so via administrative rules such as TRANS 233. On the contrary, the Wisconsin Builders Court held that WisDOT must have explicit statutory authority to promulgate administrative rules, thereby avoiding excessive regulatory reach through the use of administrative rules and provisions set forth in the Wisconsin Administrative Code, such as TRANS 233. Both the Wisconsin Supreme Court and the Wisconsin Attorney General have recently reaffirmed the "explicit statutory authority" requirement for a state agency to promulgate an administrative rule.

2. Madison Area Builders Association, et al. v. Wisconsin Department of Transportation.

The second case to significantly impact WisDOT's authority under TRANS 233 is Madison Area Builders Association, et al. v. Wisconsin Department of Transportation. Ultimately, the Madison Builders Court held that the Amendments, in their entirety, were invalid and unenforceable. As a result, the significant regulatory restrictions set forth in the Amendments were not valid, and WisDOT only had authority to regulate via the pre-Amendment version of TRANS 233. While the Madison Builders decision eliminated WisDOT's expanded regulatory oversight set forth in the Amendments, WisDOT also lost the ability to grant special exceptions to the highway setback requirements because that provision was also contained in an Amendment.

B. Post-Wisconsin Builders and Madison Builders: Less Oversight, Less Flexibility, Same 100-foot Setback Restriction.

After the court cases, WisDOT continued reviewing subdivision plats adjacent to STHs, continued to impose a 100-foot setback restrictions, and continued to enforce the rule of no improvements in the 100-foot setback area. Property owners' and developers' frustrations continued at the inability to improve a significant amount of land, and WisDOT's frustration continued at the lack of flexibility.

The WBA weighed the options for "fixing" the legal deficiencies resulting in property owners not being able to place any improvement or structure in the 100-foot setback area. The WBA also met with WisDOT officials multiple times to discuss a resolution to the "lose-lose" situation of lost property rights and WisDOT's loss of flexibility in administering highway setback regulations. After discussion with members, a statutory change was sought as the most direct and efficient option of securing property owners' ability to use the setback area within a context that would be agreeable to WisDOT and lawmakers.

The goals for the new legislation were clear: (1) establish statutory authority that would not be misapplied or abused by a confused application of TRANS 233 or result in overregulation of land divisions adjacent to an STH; (2) allow an owner the greatest use of property as possible without sacrificing public safety or public investment in existing infrastructure; (3) establish a clear, data-driven process to allow WisDOT to grant exceptions to the highway setback requirements in order to avoid absurd results.

C. Act 157 and Wis. Stat. § 86.074: New Options for Use of Highway Setback Area

A property owner's rights and regulations protecting the public's best interests do not have to be mutually exclusive. In fact, a fundamental premise of our government is the balance between private rights and public protection. The intent behind 2023 SB 413 was to find that balance between an owner's right to use land adjacent to an STH while maintaining public safety and preserving highway infrastructure that is paid for with public dollars. Act 157 achieves this balance of interests: allowing a property owner the greatest use of property even if it abuts a STH, while maintaining public safety and the investment in highway infrastructure.

While it is hard to argue against public safety and protecting taxpayer investments in infrastructure, the standard of "maintaining public safety" and "protecting resources" can be easily manipulated to result in a significant curtailment of property owners' rights. WBA focused on regulatory standards that were not prone to abuse or misinterpretation, and therefore could be easily manipulated to justify "public benefit." Fortunately, WisDOT is a data-driven agency and maintains detailed plans of highway improvement projects planned decades in advance. In achieving the balance of interests, Act 157 focuses on future use and facility improvements, objective standards to establish public safety and protection of public investment, and requires "substantial evidence" to justify restrictions and deny exceptions on highway setback areas.

Using the "nightmare example" referenced above, what if WisDOT had a major improvement project planned for the STH in the next five years? Should the property owner/developer be able to build a berm with landscaping and a bike path in the highway setback area knowing that the highway will soon be expanded, and then be compensated when WisDOT acquires the area for the expanded highway? No, not if the taxpayers will have to pay for it and the owner/developer knew the area would be part of a highway within five years when it built the improvements! In this situation, when WisDOT has planned projects, an owner/developer may proceed at its own risk in making improvements to the setback area. In order to prevent taxpayers from having to compensate the owner for the "taking" of the improvements, the owner/developer must sign a waiver of damages for any compensation for those improvements. There may be a plethora of reasons why an owner/developer agrees to a waiver of damages, and now the owner/developer has that option to consider its business needs in deciding whether to build in the setback area. Prior to Act 157, the automatic answer was "no."

D. Key Components of Act 157.

Act 157 includes several parts to achieve the balance between an owner's right to use property and protection of public safety and public investment.

1. **Setback Reduction.** For any subdivision plat approved after March 23, 2024, WisDOT may not impose a highway setback area greater than 50 feet from the right-of-way line of the highway. This is a reduction from 100 feet pre-Act 157. WisDOT may also grant a smaller setback area if the reduction does not adversely affect the safety of the entrance or departure from the STH or public investment in the highway system.

2. **Defines Items Prohibited in a Setback Area.** The specific definitions of "structure" and "improvement" clarify that non-movable items that adversely affect public safety or the preservation of public investment in highways are prohibited in the setback area unless a special exception is granted. The amended definition allows WisDOT to focus on the safety of keeping a setback area free of non-movable objects, yet allows WisDOT to use its future planning tools to determine whether a structure or improvement may be allowed in the setback area. Allowing WisDOT this flexibility will avoid absurd results.

3. **Further Restrictions on Setback Restrictions.** Even in the highway setback area, WisDOT may regulate only structures and improvements that "adversely affect the safety of entrance upon or departure from STHs or connecting highways or the preservation of public interest and investment in those highways."

4. **Creates Statutory Authority to Grant a "Special Exception."** Act 157 establishes statutory authority for WisDOT to grant a "special exception" to highway setback requirements, thus correcting the confusion created by various court cases and conflicting TRANS 233 provisions. By clearly establishing WisDOT's statutory authority to grant a special exception, WisDOT now has a tool for flexibility in administration of setback regulations.

5. **Establishes Legal Standards for the Special Exception Process.** In the special exception review process, WisDOT may utilize its future plans, applicable data, and planning tools when considering a special exception request, as that information is the best data available to WisDOT and meets the "substantial evidence" requirement. WisDOT is also required to use a "substantial evidence" threshold when placing conditions on the special exception permit. The conditions must be "related to the purpose of the highway setback area, based on substantial evidence, reasonable, and, to the extent practicable, measurable." In addition, the special exception process commences in the regions, and a denial may be appealed to WisDOT's central office. As such, there will be statewide application of the standards to ensure consistency in enforcing highway setback regulations, but property owners may start the process of obtaining a special exception permit with the "local" WisDOT regional office.

6. **Special Exception Availability is Retroactive.** The special exception process is not limited to subdivision plats approved after Act 157's effective date of March 23, 2024. As such, the special exception process is available to owners for placement of a structure or improvement in a 100-foot setback area that was established prior to March 23, 2024. The special exception process may also be used by an owner wishing to place an improvement or structure in the 50-foot setback established under the new law.

E. **Post-Act 157 and Next Steps.**

As property owners, developers, municipal officials, and business leaders look to the future, Act 157 provides a slice of certainty in the planning process by defining WisDOT's statutory authority, setting forth specific standards of regulation, and identifying the circumstances in which an owner may be granted relief from the burdens of owning property adjacent to an STH. While the "win-win" has finally been accomplished with the passage of Act 157, WBA will continue to monitor the implementation process that WisDOT must undertake to administer the new highway setback law. In addition, WBA will continue to educate its members regarding the new law so Act 157 and the new regulations may continue to be a "win-win."

MEMBERSHIP DIRECTORY

ACCOUNTING & TAX

CliftonLarsonAllen 3125 John Joanis Dr. Stevens Point, WI 54482
www.CLAconnect.com Email: joancarroll@claconnect.com Phone (715) 344-4984

KerberRose 4949 2040 Jay Mar Rd #1, Plover, WI 54467
www.kerberrose.com Phone (715) 341-1115

APPLIANCES

Ferguson Enterprises, Inc. Michelle Cusack 2425 North 14th Ave. Wausau, WI 54401
www.ferguson.com Email: michelle.cusack@Ferguson.com Phone (715) 679-2397

Furniture & Appliance Mart Ted Peotter 2917 Business Park Dr. Stevens Point, WI 54481
www.furnitureappliance.com Email: ted.peotter@bostonfam.com Phone (715) 344-7700

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www.solarus.net Phone (715) 421-8111

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ARCHITECTURE

A-K Design Professionals LLC K Andy Kunkel 916 Western Ave. Mosinee, WI 54455
www.a-kdesignprofessionals.com a_design@hotmail.com (715) 321-1301

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www.countymaterials.com Email: marty.kizewski@countymaterials.com Phone (715) 341-3765

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www.kafkagranite.com Email: jchilson@kafkagranite.com Phone (715) 316-7817

Krukowski Stone Co. Joanie Whit 162445 County Road C Mosinee, WI 54455
www.krukowskistone.com Email: joaniew@krukowskistone.com Phone (715) 693-6300

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Ability Builders, Inc. Mark Camalieri 6559 County Rd. A Amherst, WI 54406
www.abilitybuildersinc.com Email: ability@wi-net.com Phone (715) 824-3988

Bergman Builders, Inc. Kurt Bergman 2200 Okray Dr. Plover, WI 54467
www.bergmanbuilders.com Email: bergmanbuilders@charter.net Phone (715) 341-5982

Blenker Construction Melissa Ellingson 5741 Windy Dr., Suite D Stevens Point, WI
www.blenkerco.com Email: melissa.ellingson@blenkerco.com Phone (715) 824-5665

Curb Appeal Exteriors Inc. Jay Jicinsky 3449 State Hwy 54W Nekoosa, WI 54467
www.bcurbappealabc.com Email: curbappealabc@gmail.com Phone (715) 342-4066

Denyon Homes Heath Tappe 5309 Schofield Ave. Schofield, WI 54476-4330
www.denyonhomes.com Email: office@denyonhomes.com Phone (715) 410-1110

Duralum Building Center Carey Larson 3250 Mecca Dr. Plover, WI 54467
www.duralumbuildingcenter.com Phone (715) 344-7363

Edward's Quality Construction Andy Edwards 4959 County Road D Vesper, WI 54489
www.edwardsqualityconstruction.com Email: edwardsqualityconstruction@yahoo.com Phone (715) 213-8180

Erbes Construction Mark Jr. & Rob Erbes 3010 Cleveland Ave. Plover, WI 54467
www.erbesconstruction.com Email: erbes@erbesconstruction.com Phone (715) 344-7499

Eric Beggs Construction Eric Beggs 6314 5th Ave. Bancroft, WI 54921
www.ericbeggsconstruction.com Email: ebeggs11@yahoo.com Phone (715) 498-8858

Evergreen Builders, Inc. Oscar Fuentes N660 N. Curtis Lake Lane Coloma, WI 54930
Email: evergreenbuildersusa@gmail.com Phone (608) 481-0151

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Hyer Homes Ryan Hyer 3530 Karrington Pl. Plover, WI 54467
www.hyerhomes.com Email: ryanhyer@gmail.com Phone (715) 340-7773

Impact Remodeling LLC Daniel Pautz 3374 Evergreen Ave Wisconsin Rapids, WI 54494
Email: dan_impactremodelingllc@gmail.com Phone (715) 340-5915

JMJ Construction Company, Inc. James Seebruckn Marty 302 Bickford Street, New Lisbon WI
www.jmjbuilds.com Email: nicholem@jmjbuilds.com Phone (608) 733-6301

Jon Marty's Custom Carpentry, LLC Jon Marty 3960 Bluff Rd. Stevens Point, WI 54482
www.jmcchomes.com Email: jmcchomes@gmail.com Phone (715) 592-4663

JS Home Improvement Jeremy Szymkowiak PO Box 186 Amherst, WI 54406-0186
Email: jershimmy16@gmail.com

Kezeske Construction LLC Luke Kezeske 4629 N Tree Lake Ln. Rosholt, WI
Email: kezeskeconstruction@gmail.com Phone (715) 321-5800

Nicholson Construction Bill Nicholson 2616 Blaine St. Stevens Point, WI 54481-4705
Email: nicholson91@live.com Phone (715) 347-8887

Peskie Builders, Inc. Dan Peskie 3351 Tommy's Turnpike Plover, WI 54467
Email: dpeskie@peskiebuilders.com Phone (715) 344-5783

Precision Builders By Alan Hucke, Inc. Alan Hucke 1605 Willow Springs Dr. Stevens Point, WI 54481
www.precisionbuilderswi.com Email: alanjucke@precisionbuilderswi.com Phone (715) 341-5485

Pro Seamless of Wisconsin Tony Trzebiatowski & Brodie Brooks 2010 26th St. N Wisconsin Rapids, WI 54494
Email: tony@pro-seamless.com brodie@pro-seamless.com Phone (715) 423-5616

R. Smith Construction Inc. Ryan Smith 525 Copperleaf Ct. Plover, WI 54467
www.rsmithconstructionwi.com Email: rsmithcon@gmail.com Phone (715) 343-5250

Stevens Point Log Aaron Cordy 1203 Stans Dr. Stevens Point, WI 54482
www.stevenspointloghomes.com Email: aaron@pointlogs.com Phone (715) 544-4194

Stone Point Custom Homes Seth Stormoen 1203 Stans Dr. Stevens Point, WI 54482
www.stevenspointloghomes.com Email: seth@pointlogs.com Phone (715) 544-4194

Stoltz Enterprises LLC Ryan Stoltz 5260 Ann Marie Ct. Stevens Point, WI 54482
Email: stoltzenterprise@gmail.com Phone (715) 252-9005

Stratford Homes Tom Kolb 212501 St. Hwy 97 Stratford, WI 54484
Email: tkolb@stratfordhomes.com Phone (715) 687-3133

Wally World Inc. Walter Kotlowski N2504 State Rd. 13 Adams, WI 53910
Email: wallykowlowski@gmail.com

Warrior Construction LLC Stacy and Ron Johnson 2109 Ironwood Ave. Stevens Point, WI 54482
www.warriorconstruction.net Phone: 715-252-3888 Email: warriorconstruction.llc@gmail.com

Welling Kitchen, Bath & Floor Ariel Welling 3701 Patch St. Stevens Point, WI 54481
www.wellingkbf.com Email: ariel@wellingkbf.com Phone (715) 344-2688

Woodcraft Homes James Schmidt W5175 State Rd. 21 Necedah, WI 54646
www.woodcrafthomeswi.com Email: jean@woodcrafthomeswi.com Phone (608) 565-2478

W. Much Construction Wayne Much N 3384 Alm Lane Waupaca, WI 54981
Email: wmuchconst@sbcglobal.net Phone (715) 258-2341

BUILDING MATERIALS & LUMBER

ABC Supply Mike Martin 102 Fulton St. Wausau, WI 54403
Email: mike.martin@abcsupply.com Phone: (715) 845-6271

Drexel Building Supply Keith Strebelski W3053 Country Road F Berlin, WI 54923
www.drexelteam.com Email: keith.strebelski@drexelteam.com Phone (920) 361-2833

Duralum Building Center Carey Larson 3250 Mecca Dr. Plover, WI 54467
www.DuralumBuildingCenter.com Phone (715) 344-7363

Feltz Lumber Rick Okray 3737 Minnesota Ave. Stevens Point, WI 54481
Phone: (715) 344-4970 Email: feltzro@sbcglobal.net

reSAWN Timber co. Diane Petfalski Phone: (414) 881-6339
Email: dpetfalski@resawntimberco.com www.resawntimberco.com

Torborgs Waupaca Lumber Curt Drews 1682 Royalton St. Waupaca, WI 54981
Email: curt@torborgs.com Phone (715) 256-3635

Wisconsin Building Supply Chuck Milloux 2200 COUNTRY ROAD B PLOVER, WI 54467
Phone 715- 344-0100 Email: chuck.milloux@wibuildingsupply.com

CABINETS

Mid-State Supply & Kitchen Design Tim Retzlaff PO Box 510 Wautoma, WI 54982
www.mssupply.com Email: rt@mssupply.com Phone (920) 716-4710

Thorcraft Custom Kitchen Jesse Zepplin W8836 Cty Hwy X Thorp, WI 54771
Phone (715) 669-7557 Email: jzepplin@thorcraft.net www.customcabinets.co

Welling Kitchen, Bath & Floor Ariel Welling 3701 Patch St. Stevens Point, WI 54481
www.wellingkbf.com Email: ariel@wellingkbf.com Phone (715) 344-2688

Woodstock Hardwood Flooring & Design Center 360 US Hwy 45 Birnamwood, WI 54414
www.woodstockflooring.com Phone (715) 449-2280 Email: phil@woodstockflooring.com

CELLULAR SERVICE

Cellcom Chad Krueger 152 Crossroads Dr. Plover, WI 54467 www.cellcom.com Email: chad.krueger@cellcom.com Phone (715) 321-1020

CONCRETE & MASONRY

Alchemy Concrete Judah Haas PO Box 161 Nelsonville, WI 54458
www.alchemyconcrete.com Email: judah@alchemyconcrete.com Phone (715) 824-3010

Carew Concrete & Supply Corey McLaughlin 277 Wendt Dr. Waupaca, WI 54981
www.carewconcrete.com Email: cmclaughlin@carewconcrete.com Phone (920) 427-5616

County Materials Corp. Marty Kizewski 2000 Patch St. Stevens Point, WI 54481
www.countymaterials.com Email: marty.kizewski@countymaterials.com Phone (715) 341-3765

Firkus Masonry, Inc. Ryan Firkus 2000 Patch St. Stevens Point, WI 54481
Rmail: fminc.att.net Phone (715) 572-8027

Kafka Granite Jason Chilson N7519 Pacific Estates Ct. Portage, WI 53901
www.kafkagranite.com Email: jchilson@kafkagranite.com Phone (715) 316-7817

Krukowski Stone Co. Joanie Whit 162445 County Road C Mosinee, WI 54455
www.krukowskistone.com Email: joaniew@krukowskistone.com Phone (715) 693-6300

Point Masonry LLC Jason Bacher 3336 Lindbergh Ave. Stevens Point, WI 54481-5447
Phone: (715) 344-8104 Email: pointmasonry.jbacher@gmail.com

COUNTERTOPS

Feltz Lumber Rick Okray 3737 Minnesota Ave. Stevens Point, WI 54481
Phone: (715) 344-4970 Email: feltzro@sbcglobal.net

Stone Innovations, Inc. Dave & Matt Lansing 3611 Post Rd. Plover, WI 54467
www.stoneinnovations.com Email: stoneinn@stoneinnovations.net Phone (715) 345-1601

Welling Kitchen, Bath & Floor Ariel Welling 3701 Patch St. Stevens Point, WI 54481
www.wellingkbf.com Email: arielwelling@wellingkbf.com Phone (715) 344-2688

DECKS

Warrior Construction LLC Stacy and Ron Johnson 2109 Ironwood Ave. Stevens Point, WI 54482
Phone: 715-252-3888 Email: warriorconstruction.llc@gmail.com

DISPOSAL SERVICES

Central Wisconsin Recycling LLC Brady Beggs 6314 5th Ave. Bancroft, WI 54921
Email: bradyb88@yahoo.com Phone (715) 498-8859

DRYWALL

Patino Drywall Ramiro Patino 163315 Taliesin Way Scholfield, WI 54476
Email: patinosdrywall@gmail.com Phone (715) 302-3389

Raflik Drywall Kevin Raflik 4464 River Heights Court Plover, WI 54467
Email: raflikdrywall@charter.net Phone (715) 341-7367

ELECTRIC CONTRACTORS

Central State Electric Corp. Kevin Modrzewski 3017 Hoover Rd. Stevens Point, WI 54481
www.centralstateelectric.com Email: info@centralstateelectric.com Phone (715) 341-2762

Gauge Electric Rodney Vezina 5261 Bees Lane Plover, WI 54467
Email: gaugerv@gmail.com Phone (715) 572-7723

Home Run Electric LLC Eric Millard 5640 Balsam Circle Wisconsin Rapids, WI 54494
Email: hrulectric@gmail.com

Sand Country Electric LLC Rusty Roe 12107 Old Trail Wisconsin Rapids, WI 54494
Email: sandcountryelectricllc@gmail.com Phone (715) 459-4154

ENERGY CONSULTANT

Focus on Energy Jim Pisani and Andy Kuc N2115 Lake Dr. Lodi, WI 53555 Email: jpisani@psdconsulting.com Phone (608) 260-5867

EQUIPMENT

Wood Street Rental Jeff Wiesman 2240 Wood St. Stevens Point, WI 54481
www.woodstreetrental.com Email: jrwiesman@gmail.com Phone (715) 342-9099

R.H. Liquidation Ryan Hofferber N2598 Hwy 22, Waupaca, WI 54981
Email: ryan@rhliquidators.net Phone (715) 258-8886

ELEVATORS

A-1 Elevator Sales & Services Tony Pfefferman 2213 Velp Ave. Green Bay, WI 54303
www.a1elevator.biz Phone (920) 434-9088

EXCAVATING

Dean Altmann Trucking & Excavating Dean Altmann 1343 State Hwy 13/34 Junction City, WI 54443
www.deanaltmanntrucking.com Email: dean@deanaltmanntrucking.com Phone (715) 457-2651

Fahrner Excavating, Inc. Justin Fahrner PO Box 36, Plover WI 54467
www.fahrnerexcavating.com Email: excavatinginc@gmail.com Phone (715) 341-8902

Kyle Kluck Trucking & Excavating Inc. Kyle Kluck 5628 State Hwy 66 Stevens Point, WI 54482
Email: kylekluck@mwwb.net Phone (715) 340-0763

Optimal Terrain Orean Trzebiatowski 5285 County Rd K Amherst WI 54403
Email: oreanw.optimalterrain@gmail.com Phone (715) 572-5474

Stoltz Enterprises LLC Ryan Stoltz 5260 Ann Marie Ct. Stevens Point, WI 54482
Email: stoltzenterprise@gmail.com

FENCING

Security Fence and Supply Co. Inc Wayne Jr. Semmerling 1508 DuBay Ave. Stevens Point, WI 54482
www.securityfenceandsupply.com Email: wayne@securityfenceandsupply.com Phone (715) 344-6340

FINANCIAL SERVICES & LENDERS

AG Country Farm Credit Services Pam Zinda 1216 Wildwood Dr. Stevens Point, WI 54482
www.agcountry.com Email: pam.zida@agcountry.com Phone (715) 344-1000

Associated Bank Karen Yach Plover/Wisconsin Rapids/Stevens Point
www.associatedbank.com Email: karen.yach@assocaitedbank.com Phone (715) 345-3704

Community First Bank Dan Hebbe 5525 Hwy 10 East Stevens Point, WI 54481
www.cfbwwi.com Email: dhebbe@cfbwi.com Phone (715) 344-5522

CoVantage Credit Union Sarina Vang PO Box 910 Stevens Point, WI 54481
Email: sarina.vang@covantagecu.org

Edward Jones Jay Wolf 3040 Village Park Dr. Plover, WI 54467
www.edwardjones.com Email: jay.wolf@edwardjones.com Phone (715) 252-8981

KeySavings Bank Gerald Canon 811 E Grand Ave. Wisconsin Rapids, WI 54494
www.keysavingsbank.com Email: gcanon@keysavingsbank.com Phone (715) 423-6460

Members' Advantage Credit Union Melissa Kara 1610 Lincoln St. PO Box 1208 Wisconsin Rapids, WI 54495
Email: melissak@membersadvantagecu.com Phone (715) 421-7702

Nicolet National Bank Andrea Sasman 5517 Vern Holmes Dr. Stevens Point, WI 54482
www.nicoletbank.com Email: asasman@nicoletbank.com Phone: (715) 241-2535

Paper City Savings Association Korbi Feltz 2008 County Rd. HH Plover, WI 54467
www.papercitysavings.com Email: kfeltz@papercitysavings.com Phone (715) 204-1663

Prevail Bank Dawn Klesmith 5709 Windy Dr. Suite A Stevens Point, WI 54482
www.prevail.bank Phone (715) 345-1621

The International Bank of Amherst Butch Pomeroy PO Box 39 Amherst, WI 54406
www.ibamherst.com Email: butch@ibamherst.com Phone (715) 824-3325

The Pineries Bank Diane Hintz 3601 Main St. Stevens Point, WI 54481
www.pineries.com Email: bank@pineries.com Phone (715) 341-5600

The Portage County Bank Jennifer Novotny 5417 Vern Holmes Dr. Stevens Point, WI 54482
Email: jennifer@portagecountybank.com Phone (715) 254-0056

U.S. Bank Jake Heyroth NMLS # 502454 5673 US Hwy 10 East Stevens Point, WI 54482
Email: jason.heyroth@usbank.com Phone (715) 342-2225

FIREPLACES & WOOD STOVES

Ferguson Enterprises, Inc. Michelle Cusack 2425 North 14th Ave. Wausau, WI 54401
www.ferguson.com Email: michelle.cusack@Ferguson.com Phone (715) 679-2397

SnowBelt Fireplace & Stove, Inc Adrian Albrecht 1200A Wildwood Dr. Stevens Point, WI 54482
www.snowbeltfireplace.com Phone (715) 341-4328 Email: adrian@snowbeltfp.com

FLOOR COVERING

Ancora Stone and Tile Kristi Kontny 3655 Kettle Ct. E. Delafield WI 53018
www.ancorastone.com Email: chrisboyce@ancorastone.com Phone (414) 788-3588

Carpets Plus of WI Mark Snellnow 1230 Post Rd. Plover, WI 54467
Phone (715) 341-0422 Email: m.sellnow@carpetspluswi.com

reSAWN Timber co. Diane Petfalski Phone: (414) 881-6339
Email: dpetfalski@resawntimberco.com www.resawntimberco.com

Saindon Carpet One Floor & Home Mick and Tanner Saindon 2651 Post Rd. Plover, WI 54467
www.saindoncarpetone.com Email: sales@saindoncarpetone.com Phone: (715) 342-4230

Welling Kitchen, Bath & Floor Dave Fritsche 3701 Patch St. Stevens Point, WI 54481
www.wellingkbf.com Email: dave@wellingkbf.com Phone (715) 344-6363

Woodstock Hardwood Flooring & Design Center Philip Kersten 360 US Hwy 45 Birnamwood WI , 54414
www.woodstockflooring.com Email: phil@woodstockflooring.com Phone (715) 449-2280

GLASS SERVICES

Precision Glass and Door, LLC Don Turzinski 3101 Post Rd. Stevens Point, WI 54481
www.precisionglasswi.com Email: don@precisionglasswi.com Phone (715) 344-8525

GUTTERS

Pro Seamless of Wisconsin Tony Trzebiatowski 2010 26th St. N., Wisconsin Rapids, WI 54494
Email: tony@pro-seamless.com & brodie@pro-seamless.com Phone (715) 423-5616

Maximum Flow Seamless Gutters Derrick Zagrzebski 1014 W. River Rd. Mosinee, WI 54455
Email: maxgutters@yahoo.com Phone (715) 341-0482

INSULATION, DRYWALL & PAINT

Alpine Insulation & Drywall Ryan Woyak 100 East Bridge St. Wausau, WI 54403 Phone (715) 498-4164

Patinos Drywall and Insulation LLC Ramiro Patino 163315 Taliesin Way Schofield, WI 54476
Email: patinosdrywall@gmail.com Phone (715) 310-3389

Raflik Drywall, LLC Kevin Raflik 4464 River Heights Ct. Plover, WI 54467
Phone: 715-341-7367 Email: raflikdrywall@charter.net

Spray Tech Insulators Caleb Studzinski N4310 Ebbe Acres Dr. Waupaca, WI 54981
www.spraytech-sf.com Email: calebs@spraytech-sf.com Phone (715) 412-0571

INSURANCE & BENEFITS

Community Insurance & Associates Melissa Blenker 183 S Main St Amherst, WI 54406
www.community-insurance.com Email: melissa@community-insurance.com Phone (715) 344-2222

Compass Insurance Services Mikhail Salienko 5569 Hwy. 10 East, Stevens Point, WI 54482
www.compassinsurance.net Email: mikhail.salienko@compassinsurance.net Phone (715) 544-1586

Glavinsured Agency Russ Glavin 107 S. Main St. Necedah, WI 54646-8283 Mailing: PO Box 500 Necedah, WI 54646-8283
Email: info@glavinsured.com Phone (608) 565-7800

The Benefit Doctor Brad DeBot and Phil Hollis 2925 Welsby Ave. Stevens Point, WI 54481
Email: bradd@thebenefitdoctor.com. Brad DeBot (715) 344-4333 Phil Hollis (715) 340-2299

Rural Mutual - Zinda Insurance Group Jennifer Zinda Mancl and Stacey Zimmermann 3205 Post Rd. Plover, WI 54467
Office (715) 341-5808 Cell (715) 340-3879 Email: jzinda@ruralins.com szimmermann@ruralins.com

The Insurance Center Amy Felckowski 2825 Post Rd. Stevens Point, WI 54481
Email: afelckowski@ticinsurance.com Phone (715) 315-3944

INTERIOR DESIGN

Design Theory 19 Mindy Hoppe 632 N 3rd Street, Wausau WI 54403
www.designtheory19.com Email: mindy@designtheory19.com Phone (715) 574-8834

Scotties Interiors Cathy Marks Sargent & Lecia Marks Franson 204 N 2nd Ave. Wausau WI 54401
www.scottiesinteriors.com cathy@schottiesinteriors.com (715) 845-1325

Designers 2 Brad Anderson 130 McDill Ave. Stevens Point WI 54481
www.designers2.net Email: brad@designers2.net Phone (715) 341-7761

Inspired By Design Sara Haumschild 2737 N. 44th Ave. Wausau, WI 54401
Email: sara@inspiredbydesigninteriors.com Phone (715) 344-0740

Small Space Big Style Rene Jerzak 5370 Hwy 10E Stevens Point, WI 54482
www.ssbswisconsin.com Email: ssbs@ssbsdesign.com Phone (715) 344-0740

LANDSCAPING MATERIAL & SERVICES

County Materials Corp. Marty Kizewski 2000 Patch St. Stevens Point, WI 54481
www.countymaterials.com Email: marty.kizewski@countymaterials.com Phone (715) 341-3765

Fisher Services LLC Scott Fisher 6630 Cty Rd. HH Stevens Point, WI 54482
www.scottslawnco.com Email: awish@wi-net.com Phone (715) 592-6927

Green Thumb Lance Stampfli 4275 County Rd. R, Stevens Point, WI 54481
Email: gthumb@charter.net Phone (715) 342-1700

Kafka Granite Jason Chilson N7519 Pacific Estates Ct. Portage, WI 53901
www.kafkagranite.com Email: jchilson@kafkagranite.com Phone (715) 316-7817

Schalow's Nursery Inc. Gordon Schalow 8461 Heritage Dr. Marshfield, WI 54449
www.schalows.com Email: gschalow@schalows.com Phone (715) 591-3478

Central Door Solutions, LLC Bruce Woyak 1400 Integrity Parkway Plover, WI 54467
www.centraldoorsolutions.com Email: bwoyak@centraldoorsolutions.com Phone (715) 342-4153

LAND DEVELOPMENT & SURVEYING

Classic Development Corp. of Plover Keith Hlemrick and David Moodie 1811 Brookridge Dr. Plover, WI 54467
Email: khelmrick@classic-development.com Phone (715) 344-2524

Point of Beginning, Inc Scott Groholski 5709 Windy Dr. Suite D Stevens Point, WI 54482
www.pobinc.com Email: scott@pobinc.com Phone (715) 344-9999

Rettler Corporation Mike Helmrick 3317 Business Park Dr. Stevens Point, WI 54482
www.rettler.com Email: info@rettler.com Phone (715) 341-2633

OVERHEAD DOORS

A+ Doors LLC Alan Pavelski 4086 County Road R Stevens Point WI 54467
www.aplusdoorswi.com Email: sales@aplusdoorswi.com Phone (715) 344-4129

Garage Force Todd Miller W1235 Cty Rd T Alma, WI 54610
Email: ekarsten@allamericancoop.com Phone (608) 418-8204

Premier Overhead Doors, Inc Craig & Brenda Newby 124 Main St. PO Box 25 Almond, WI 54909
www.premierdoorswi.com Email: premierdoors4u@gmail.com Phone (715) 366-8860

TW Services Overhead Doors Jon Tullberg 6193 County Hwy Y Hazelhurst, WI 54531
Email: twjontullberg@yahoo.com Phone (715) 366-7089

PEST CONTROL

Central Wisconsin Pest Control Mark Pearson PO Box 64 Nelsonville, WI 54458
Email: cwpestcontrol@gmail.com Phone (715) 498-1662

PLUMBING, HEATING & COOLING

Bob's Plumbing & Heating of Central Wisconsin Bob Konkol 8105 Stoney Rd. Amherst, WI 54406
www.bobsplumbingandheating.biz Email: bobsph@wi-net.com Phone (715) 824-3902

Excel Plumbing Inc. Scott Kerchefski 225 Kramer Ave. Junction City, WI 54443
Email: info@excelplumbinginc.net Phone (715) 343-5882

Ferguson Enterprises, Inc Ted Peotter 2425 North 14th Ave. Wausau, WI 54401
www.ferguson.com Email: michelle.cusack@ferguson.com Phone (715) 675-3384

JG Plumbing and Heating LLC Jon Glodowski 421 Lorry St. Amherst, WI 54406
www.jgplumbingonline.com Phone (715) 340-1720 Email: jgplumbingheating@gmail.com

Point Heating & Cooling Richard Mead PO Box 728 Plover, WI 54467
www.pointheatingandair.com Email: office@pointheating.com Phone (715) 345-1979

Richard's Plumbing, Heating & AC, LLC Cory Wojtalewicz 1520 DuBay Ave. Stevens Point WI 54482
Email: richardsplumbing@yahoo.com Phone (715) 344-7989

RJ Rasmussen Plumbing & Heating Inc. Rick Wellens 2441 Willow Dr. Plover, WI 54467
Email: service@rjasplumb.com Phone (715) 345-1979

Van Dreef Plumbing & Heating Greg Van Dreef 3314 Howard Ave. Stevens Point, WI 54481
Email: gvandreef69@yahoo.com Phone (715) 341-7860

PORTABLE TOILETS

Crockett Septic, LLC George Van Sedum 2811 W Grand Ave. Wisconsin Rapids, WI 54495
www.crockettseptic.com Email: lori@crockettseptic.com Phone (715) 451-0438

REAL ESTATE

First Weber Group Realtors Diane Jahn 5424 US Hwy 10E Stevens Point, WI 54481
www.firstweber.com Email: jahnd@firstweber.com Phone (715) 498-9722

KPR Brokers Team Kitowski 2417 Post Rd. Plover, WI 54467

www.kprbrokers.com Phone (715) 598-6367 Email: admin@kprbrokers.com

Next Home Priority Joshua Zimmerman 20 Park Ridge Dr. Stevens Point, WI 54481

www.nexthomepriority.com Email: zimmerman@nexthomepriority.com Phone (715) 323-2634

RE/MAX Central Wisconsin Mike Williams 3080 Village Park Dr. Plover, WI 54467

Email: mike@Centralwisconsinrealty.com Phone (715) 544-4881

RESTAURANTS

Lucke's Dana Larson and Jake Hucke 3252 Mecca Dr. Plover, WI 54467

Email: lukes3252@gmail.com Phone (715) 252-6842

The Sky Club Eric Freund 2200 Post Rd. Plover, WI 54467

www.skyclubdining.com Email: skyclubsupperclub@gmail.com Phone (715) 341-4000

Whitetail Lanes Steve Cieslewski 3659 Country Road Q Amherst Junction, WI 54407

www.whitetaillanes.com Email: whitetail@whitetaillanes.com Phone (715) 824-3108

RESTORATION

Servpro of Stevens Point & Wausau 5217 Heffron Ct. Stevens Point, WI 54481

www.office@servprowausau.com Email: office@servprowausau.com Phone (715) 544-4855

ROOFING CONTRACTORS

Coyote Construction LLC Gary Hansen 4125 Lake Emily Road Amherst, WI 54406

www.steelroofingwi.com Email: coyotesteelroofs@wi-net.com Phone (715) 498-7811

SEPTIC SERVICES

Acuantia Sven Fielder PO Box 559 Stevens Point, WI 54482

www.acuantia.com Email: sfielder@acuantia.com Phone (715) 252-9285

Stoltz Enterprises LLC Ryan Stoltz 5260 Ann Marie Ct. Stevens Point, WI 54482

Email: stoltzenterprise@gmail.com Phone (715) 341-1115

SNOW REMOVAL

Point Masonry LLC Jason Bacher 3336 Lindbergh Ave. Stevens Point, WI 54481-5447

Phone: (715) 344-8104 Email: pointmasonry.jbacher@gmail.com

TITLE COMPANIES

Home & Land Title LLC Stephanie Wilhelm 20 Park Ridge Dr. Suite A Stevens Point WI 54481

www.halttitle.com Email: stephanie@halttitle.com Phone (715) 310-8549

Knight Barry Title Services, LLC Trina Barnett 3060 Village Park Dr. Plover, WI 54467

www.knightbarry.com Email: trinab@knightbarry.com Phone (715) 544-1900

Portage County Title LLC Ashley Saindon 2926 Post Rd. Plover, WI 54467

www.portagecountytitle.com Email: pct@title-pros.com Phone (715) 342-4500

WATER CARE

Maher Water Corporation Danielle Maher-Baron 2901 Hoover Ave. Stevens Point, WI 54481

www.maherwater.com Email: dani@maherwater.com Phone (715) 344-2900

WINDOWS

Feltz Lumber Matt Wisz 3737 Minnesota Ave. Stevens Point WI 54481

www.feltzlumber.com Email: feltzmw@feltzlumber.com Phone (715) 344-4970

Pella Window and Doors of Wisconsin Brian Jeske 500 Pilgrim Way Green Bay, WI 54304

www.pellawi.com Phone (715) 496-4320 Email: bjeske@pellawi.com

Pro Seamless of Wisconsin Tony Trzebiatowski 2010 26th St. N., Wisconsin Rapids, WI 54494

Email: tony@pro-seamless.com & brodie@pro-seamless.com Phone (715) 423-5616

WINDOW CLEANING

A Brighter Image LLC Window Cleaning Mike Minger

www.abrigherimagellc.com Email: mike@abrigherimagellc.com Phone (715) 340-0490

WINDOW COVERINGS

Blinds and Designs By Kelly Kelly Roth 77 Sunset Blvd. Stevens Point WI, 54481
www.blindsanddesignsbykelly.com Email: kellyroth@att.net Phone (715) 295-0000

Designers 2 Brad Anderson 130 McDill Ave. Stevens Point WI 54481
www.designers2.net Email: brad@designers2.net Phone (715) 341-7761

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