

**SAUK COUNTY BOARD OF ADJUSTMENT**  
**September 25, 2008 Session of the Board**

**PRESENT:** Bruce Duckworth, Chair  
Richard Vogt, Vice Chair  
Robert Roloff, Secretary  
Halsey Sprecher

**ABSENT:** Linda White

**STAFF PRESENT:** Gina Templin  
Dave Lorenz

**OTHERS PRESENT:** See individual appeal files for registration appearance slips.

Chair Duckworth called the session of the Sauk County Board of Adjustment (BOA) to order at approximately 9:00 A.M. The Chair introduced the members of the Board, explained the procedures and the order of business for the day. The staff certified that the legally required notices had been provided for the scheduled public hearing. The certification of notice was accepted on a motion by Roloff, seconded by Sprecher. **Motion carried 4-0.**

The Board adopted the agenda for the September 25, 2008 session of the Board on a Motion by Sprecher, seconded by Vogt. **Motion carried 4-0.**

Motion by Vogt, seconded by Sprecher to adopt the August 28, 2008 minutes. **Motion carried 3-0, with Duckworth abstaining.**

**COMMUNICATIONS:**

Duckworth spoke of phone calls he received on SP-23-08 and a prior case, in which he referred the caller to the Department of Planning and Zoning.

**APPEALS:**

A. Sammy Nixon, (SP-18-08), a special exception permit to authorize a plan for replanting a clear cut section of shoreline and also authorize filling and grading in the shoreland protection zone.

Dave Lorenz, Environmental and Zoning Specialist, appeared and gave the history and background of the request. He then reviewed the photos and video of the site. Mr. Lorenz concluded with the staff recommendation of conditions to be placed on the request if approved by the Board.

Vogt asked if the stockpile of material is not located on the owners lot. Lorenz stated it is not on the lot.

Duckworth asked if all the material came from the riprapping project. Lorenz stated the question could be addressed by the landscaper who did the work.

Duckworth asked what percentage of the lot was cut near the shore. Lorenz stated that they removed about 7 large trees that pretty much cleared the entire lot by the water within the 35 feet from the lake.

Duckworth asked about the cutting ordinance and shrubbery in addition to trees and how much of the shoreline in the 35 feet was cut. Lorenz stated that along the boulder retaining wall, just about everything was removed.

Duckworth stated it looks like 100% of the shoreline has been cut back. Lorenz stated that is correct, it goes from lot 50 to lot 52.

Duckworth asked how they got a permit to build a retaining wall without getting other permits. Lorenz stated that the plans that were originally submitted, they were on slopes of less than 20%.

Duckworth confirmed that the applicants told the Planning & Zoning office they were working on slopes of less than 20%, but in actuality, there were greater than 20%. Lorenz stated that is correct.

Duckworth asked for permit applications from the Planning & Zoning Department.

Sammy Nixon, applicant, appearing in favor of the request, stated that just prior to buying the property he called Steve Sorenson and asked him to come out and walk the property with him and was aware of erosion issues on the shoreline and trees leaning over the water and pulling soil out of the ground. In walking the property with Steve, they discussed a plan to protect the shoreline and prevent the erosion from increasing which included riprapping and terracing the land below. He stated the trees were right along the riprapping and the intention was to remove them and establish the riprap and replant trees afterwards. Once into the project, they realized they needed an additional wall up the hill and the root systems with the trees were so large that when they pulled them out, it created the need for an additional rock wall up the hill. He also spoke of the erosion at the end of the property near the water.

Duckworth asked for a replanting plan in writing. Nixon stated it is Exhibit II,6a.

Duckworth confirmed that they are planning on grading the lot from lot line to lot line and build 2 retaining walls. He reviewed the plan.

Duckworth asked for topographic plans prior the project being started. Nixon stated he has a survey from Blakeslee but it is not a topographical survey. Nixon continued to explain.

Duckworth asked that on Exhibit X,1 that area that was cleared was graded and reseeded, was originally gravel.

The board reviewed the photos with the applicant.

Vogt asked where the pine tree came out of. Nixon stated it came from below it.

Vogt asked what all the scrap was on the ground. Nixon stated that someone prior to him owning the property, came in and cut trees and piled brush there. Vogt asked if the stump was taken out at the time. Nixon stated that the stump was taken out when his project was started.

Duckworth asked for the replanting plan. Nixon stated he has a photo to show what the intention is, but does not have any species or anything like that. He referred to Photo II-7a.

Vogt asked about the trees and vegetation that was removed was the vegetation that was leaning into the lake which you had to take out to riprap, and the DNR required the trees to go so that the shoreline could be stabilized. Nixon stated that was correct, and other trees that were leaning as well, they would need to be removed as well.

Roloff asked about the more extensive grading to be done because of the tree roots and disturbance, did you go back to Planning and Zoning and ask if this would need additional permits. Nixon stated he did not. He said he was shocked at the amount of money it was going to take to do it right, but assumed it was fine.

Roloff asked if they ever had a conversation with the contractor whether or not he felt he needed additional permits. Nixon stated he did not ask the contractor about additional permits. Roloff asked if the contractor advised him of the shoreland protection ordinance as far as filling and grading. Nixon stated they did not discuss whether or not more permits needed to be issued and said that it is his own responsibility to find out if additional permits were needed.

Roloff asked if the contractor has done other grading on the shoreland. Nixon stated he has visited another site that was done by this contractor and he spoke with the land owner and was very pleased with the work that was done.

Roloff stated that as the customer, would you assume that your contractor would advise you what is in the Sauk County Ordinance. Nixon stated he assume so.

David Viness, appearing in favor of the project, stated he owns the property directly across the lake and he took Steve Sorenson and DNR out on his boat, so they could see the property from the water side and they were sitting in the middle of the lake when the trees were cut down and watched the project happen. He also spoke of the trees leaning and falling into the lake. The project looks a lot better than it did and feels that you see a nicely landscaped property and everyone has to clear trees to put a house in and encouraged the board to try to see what the end project will look like.

Duckworth asked the testimony to be limited to filling and grading and the replanting plan. Viness stated that the shoreline consisted of old trees, shrubs, tires, etc., and feels it is going to protect the shoreline.

Vogt asked about Exhibit VI,2, which lot is his. Viness stated he is not in the cove, he is directly across the lake.

Roloff, in reviewing the shoreland protection ordinance, read what the purpose of the ordinance is. And suggested that while landscaping and development might be beauty to one person, it may not be to another and the purpose of the ordinance is to maintain the natural state of the ordinance. Viness stated he agrees with the ordinance and feels it is talking about natural beauty rather than a shoreline filled with junk.

Duckworth spoke of the 2008 Sauk County permit for the filling and grading dated 6/25/08, there is an attachment that shows there is a gravel road and gravel clearing that has been reseeded. He also spoke of the permit being for disturbances less than 2,000 sq. Ft.

Jerry Maj, appearing in favor of the request, stated that he is the contractor on the project, and when the site construction was started, in order to remove the stumps, they did remove more fill than they expected to. Referring to Exhibit II,12, those were the only trees removed from the shoreline. The other trees that were removed were about 60 feet from the shoreline. He also stated he had the ok to remove those trees and there is a plan to replant 7 trees on the east corner of the property and those will be 12 to 14 feet tall, consisting of red and white pines.

Duckworth asked when the project was started, did you stake out the 2,000 square feet. Maj stated they measure it. Duckworth asked what happened once the 2,000 square feet was disturbed, did you go back to Planning and Zoning for an amendment. Maj stated that he did speak to Dave Lorenz about getting a

permit for the 2nd wall because the original permit was only for 1 retaining wall, however, the Department asked them to stop work. He also stated that the reason they went over on the disturbance was because of the root system of the larger trees and removing them. He spoke of Exhibit II,10, shows just after the flood, that 7 feet of the bank went to the lake and the riprapping will cure that. He also spoke of erosion all throughout the entire lot.

Roloff asked about other jobs around Lake Redstone and Dutch Hollow and if he is aware of the Sauk County Shoreland Protection Ordinance. Maj stated they have not done any work to the shoreline directly. Roloff asked if he is familiar with the ordinances. Maj stated he is. Roloff spoke of the requirements of the shoreland ordinance. Maj stated he is aware of it, and the top part of the property is on slopes above 20%, but the lower part is on slopes of less than 20%. He also spoke of the process of seeding the gravel road and that was part of exceeding the 2,000 sq. Ft.

Roloff asked if he advised his client that he exceeded the allowable square feet. Maj stated they were not working in the top part of the lot, so he didn't recognize the amount that was disturbed.

Steve Sorenson, Sauk County Planning & Zoning, appearing as interest may appear, stated that he and the DNR have been on the site prior to it being disturbed, pointed out the tree cutting and filling and grading rules and what to do to comply. He stated he issues a permit for the one retaining wall project on slopes of 12-20% and felt the wall could be built within compliance. He then spoke of calls that were received due to the tree cutting and then met onsite and the entire lot was clear cut and citations were issued to the owner and the contractor and instructed them to go the Board of Adjustment. He stated that within the 35 feet, the larger trees were either in the water or leaning in the water and/or dead or dying, however there were a number of other smaller trees, shrubs, seedlings and all those were removed as well and should have been protected. The wall is started on the original permit after the tree cutting Board of Adjustment is applied for and the office receives more calls on the filling and grading, and after being on site, the second wall was built and more grading was done, in which more citations were issued and the Board of Adjustment application was applied for this as well.

Duckworth asked if the replanting plan submitted is sufficient. Sorenson stated it is not as good as what was there and if you look at the lot you can never replace what was there. He stated his plan does replace vegetation and protect erosion, but as far as the species he didn't have a chance to see if they were native and size suitable to get some of the height back that was lost.

Vogt asked about the concern of trees being cut beyond the 35 feet, but within that 35 foot boundary, the trees that were cut leaning in the water, were ok and the permit for the DNR riprap was ok and one for the single retaining wall, you didn't expect that they would be able to save those because of the work to be done. Sorenson stated he would expect them to save that the rip rap is within 10 feet of the shoreline and they could have made efforts on not running it over or cutting it down - everything on the lot was mowed down.

Vogt, referring to Exhibit II,6, that was the original plan with the one retaining wall and on the lake side of the retaining wall, that was anticipated that all that would be graded out. Sorenson stated he received the impression that the wall was 50 feet from the water and there were a number of trees and shrubs that certain efforts could have been made to protect that.

Sorenson then spoke of stop work orders placed on the property at the road and the water and the steps he took to encourage seeding to take place. The lot is stable and the dirt pile is still out there incase they need to restore some of the lot to what it was before.

Seeing as no one wished to appear, Chair Duckworth closed the public portion of the hearing at 10:00 a.m.

Chair Duckworth reviewed the request and the ordinance and he stated that the permit for the first retaining wall was at 50 feet rather than 30 feet. He also feels the planting plan is extremely deficient and does not include what the county expects. He stated he is unwilling to vote positive on the planting plan because of lack of information and has never allowed anyone to show a picture and say good luck. He stated he is also not sure about the filling and grading proposal if it had come to them prior to the work.

Sprecher asked where would they direct them to make the decision on what they need to do. Duckworth stated they need to decide if they are going to allow them to fill and grade and then address the replanting plan.

Vogt stated that the lot is stabilized and from a lake quality, what was testified and provided in the packet, from a visual standpoint, it is an improvement of what was there. He does not have a problem going along with the permit for the grading, as the lot is stable and they should proceed to finish the job. As far as the planting, there needs to be something more and questions how the Board addresses it.

Duckworth stated the Board could table and bring the planting plan back to them or give Planning and Zoning the authority to look at the planting plan and give approval or not give approval. Vogt stated he would prefer the Planning & Zoning office review and approve the plan.

Roloff spoke of his frustration in projects like this. The work is done, the vegetation is gone, the ground is disturbed and now they are here for a special exception permit. He stated he agrees with the replanting plan being inadequate and have it redone and approved by the Planning and Zoning. For the filling and grading, the damage is done, so he is unsure how he feels about that.

Vogt spoke of the riprapping project being able to be done without tearing up the shoreline, however, the permits were issued for the retaining wall and riprap.

Roloff spoke of the frustration of people doing what they want to do and then go in and say "Im sorry", get what they want, pay their fine and then walk off.

Sprecher, in reviewing the ordinance and wonders how much of this has been dictated by the DNR and who is responsible for what. He feels that people need to know they need their permits and the plans are followed instead of after the fact requests.

Motion by Roloff, seconded by Vogt, to grant the special exception permits for filling and grading with the added condition that the landowner have the replanting plan approved by Planning and Zoning prior to planting. **Motion carried 3-1, with Duckworth in opposition.**

B. Thomas Happ (SP-19-08), requesting a special exception permit to authorize filling and grading on slopes of more than 20% during the construction of a detached garage.

Dave Lorenz, Environmental and Zoning Specialist, appeared and explained which area of the property that the board will be making a decision on. He then gave the history and background of the request and reviewed the photos and video of the site. Mr. Lorenz concluded with the staff recommendation of conditions to be placed on the request if approved by the Board.

Duckworth asked about the others that were heard for similar cases, how did they complete their process. Lorenz stated we have done some and they seem to have gone ok. Roloff stated he is aware of others along West Redstone and they have been built successfully.

Sprecher asked about the seeding of disturbed area, how will you stabilize the steep bank. Lorenz stated they are concerned about not a lot of soil at the site, but rock and feels you can get something to grow.

Thomas Happ, applicant, appearing in favor of the request.

Duckworth asked what will be done with all the material that will be dug out. Happ stated he plans on spreading it out on top of the lot. He then stated he would like to add a garage to the lot to protect his investments. They will be digging into the hill and the back of the garage will be a 9 foot tall concrete wall, with a space behind the garage for drainage, and will be within the required distance of the lot line and there will be silt fencing put in between the house and where the garage is going to go to prevent runoff getting to the lake.

Duckworth asked if a contractor has looked at and believe it could be done successfully. Happ stated he did a probe for rock, and there is some where it will be graded out.

Vogt asked about the concrete wall. Happ, referring to Exhibit II-3 and showed where the concrete wall will be, the stepped wall on both sides. Vogt confirmed the garage will be built at the end of the access road.

Duckworth asked about plans to control the water runoff onto the neighboring property. Happ stated drain tile will be installed and they will use silt fencing. He also spoke of an existing drain tile and drainage grate in between the properties. Duckworth confirmed that all filling and grading will be located between the well and West Redstone Drive.

Vogt confirmed that he is carving out around the footprint so the walls can be put in and is only being done for construction purposes. Happ stated that was correct.

Seeing as no one wished to appear, Chair Duckworth closed the public portion of the hearing at 10:30 a.m.

Motion by Vogt, seconded by Roloff, to grant the special exception permit for filling and grading, with the conditions recommended by Planning and Zoning. **Motion carried 4-0.**

C. Dannie Gingerich, (SP-20-08) requesting a special exception permit to authorize the location and operation of an agricultural related business, a harness shop with occasional auctions.

Dave Lorenz, Environmental and Zoning Specialist, appeared and explained which area of the property that the board will be making a decision on. He then gave the history and background of the request and reviewed the photos and video of the site. Mr. Lorenz concluded with the staff recommendation of conditions to be placed on the request if approved by the Board.

Vogt asked if the residence shown in the video belonged to the applicant. Lorenz stated it does not and provided the address of the applicant.

Duckworth asked if he has any concerns on the limitations that the Town of Ironton is asking for, specifically any damage to the road. Lorenz stated he is not sure what their intent is. He did talk to the

Town Chair and he was unable to make the meeting because of a prior commitment and noted they did not address the harness shop in their minutes, but the Town was not opposed to the harness shop.

Dannie Gingerich, applicant, appearing in favor of the request, stated he has had the harness shop there for some time and they do have auctions already.

Duckworth confirmed he has an auction license from the state and what is to be auctioned. Gingerich stated he does and they plan to auction livestock and machinery.

Duckworth asked if he has seen the restrictions requested by the Town of Ironton. Gingerich stated he has seen them and is ok with them.

Duckworth asked if the harnesses are used by the farming community or for pleasure. Gingerich stated they will be used by people for farming and transportation.

Sprecher asked what is available for parking, since none is allowed on the road. Gingerich stated there is parking available shown in the exhibits, labels "p-lot".

Duckworth stated that this will be a family business and asked him to define family. Gingerich stated that it will be his children, parents, grandchildren. But for the Auction they need to hire clerks and auctioneers.

Roloff asked if his residence is onsite. Gingerich stated he lives right across the road.

Carroll Holmes, appearing in opposition, stated he is in opposition to 4 auctions a year on that property because of safety issues and debris that is left after auctions that finds its way to his property and can not get into his own driveway because of other people parking in his driveway, trucks have blocked the road, trucks have broke the blacktop around his culvert and diesel fuel has been leaked all over his driveway. He did say when the road was posted for no parking, people ignored it and he had to contact the police for it. He feels that the number of auctions is a business, rather than "occasional" and has no opposition to one auction a year, but is opposed to more than that. He spoke of damage to the road on the shoulder that was done 5 or 6 weeks ago. He also spoke of the junk that is left over from the auctions, that are an eyesore. He also stated his opposition to parking on another road, leading to the driveway of the neighbor, which is barely wide enough for 2 cars, whether is parking on the applicants property, there is a safety issue due to parking that is not wide enough for 2 cars to pass without parking on the road. He feels the safety issues and damage to his personal property due to trespassing of people and animals in preparation for the auctions. He has spoke to the applicant several times to stop the damage to his land and fix the problems that he has caused and the applicant has never once come forward to assist and feels he will have to take him to court to get him to fix the damage he's done.

Vogt asked where his house is located. Holmes stated he lives across from the parking area noted.

Roloff asked if he spoke to the Ironton Town Board and they have not heard about his issues. Holmes stated he did not let the Board know of his issues, but plans to. He stated he was not at the meeting addressing the auctions.

Vogt asked if he was made aware of the Town meeting. Holmes stated he was not. Vogt confirmed that his house is right across the street from the parking lot. He also stated that there is hundreds of feet on both sides of the driveway that he installed and it could be moved.

Susanne Rockweiler, appearing in opposition, stated that she had to contact the Sheriff's Department, she was barely able to get into her home that day and if there was ever a need for emergency personnel, no one could get there. Her yard was torn up and no one fixed her lawn and nothing was done. She doesn't agree with four auctions a year and doesn't feel they should be before May because the ground is too soft and unstable. People use her yard to turn around with large trucks and trailers and has drive 8-10 miles out of her way to get to her house a different way. The garbage truck was not able to get to her trash and she needed to take it back to her house. The mail person can not get to the mail boxes. Several people traveling these roads can not get through, people park on the roads and most of the auctions are during the school year and are unpassable.

Vogt asked if she was present at the Town meeting. Rockweiler stated she had no knowledge of the Town meeting.

Duckworth spoke of the call to the Sheriffs Department. Rockweiler stated the officer spoke to the applicant and were told they would help fix it, but it was never done, so they did it themselves. Vogt asked if adequate parking was made available off road, would there be a problem with the auctions. Rockweiler stated if all parking was off road, she would not have an issue, but any parking on the road, she would be opposed to.

Duckworth asked if her road is a dead end. Rockweiler stated it is a dead end, however it is not posted as a dead end.

Jim Sieber, appearing as interest may appear, stated he lives near the Gingerich place and believes if this is going to pass, there should be a stipulation stating the roads should be patrolled by someone dealing with the auction and people should be about there to direct traffic and not allow parking, or have security. He feels 2 auctions a year is ample enough, even though the Township said 4. He also stated he is not on the Town Board, but part of the Comprehensive Planning Committee.

Duckworth asked how this fits into the Towns smart growth plan. Sieber stated the way it was put into the minutes at the Town Board meeting.

Duckworth asked if he knows how auctions fit into the Comprehensive Plan. Sieber stated he does not know how it fits or if it fits. He also stated he would be opposed to 4 a year, but ok with 1 or 2.

Duckworth asked how many auctions they have a year now. Sieber stated they have at least 2 a year now and if the weather conditions are appropriate its hard to get into and out of his field.

Todd Nelson, appearing in favor of the request, stated he is the auctioneer and stated that one of their customers did turn around and tear up her lawn, but it was minor and the township plowed her snow and tore it up more. The applicant stated he would go up and fix it or pay her to fix it, but she never contacted them.

Duckworth asked if there was an auction on the 19th of March. Nelson stated that the applicant has a license to have up to 4 sales, but can't have more than that.

Duckworth asked about the lawn torn up and asked if an auction was had the day the Sheriff came to talk to him. Nelson stated that is correct. Duckworth stated but then the applicant did not do anything. Nelson stated that is correct and she should have called them.



Duckworth asked about the parking on Barreau Road. Nelson stated they had a bad winter, put up no parking signs, but had people parking on the road, but said some people you can't stop from parking on the road, they park there anyway.

Vogt asked if tickets are issued for no parking. Nelson stated he never has. Vogt asked why not.

Duckworth stated no parking signs are only posted on one side of the road. Nelson stated they do. Duckworth asked about no parking on Smelcer Lane. Nelson stated they do not post anything there.

Vogt asked about the parking area being adequate to handle all the traffic. Nelson stated in good weather it is plenty enough, but when its wet, they can't park there.

Dannie Gingerich, reappearing in favor, stated that they meant to fix it, but Rockweilers must have fixed it before he could get a chance. He stated maybe they could block the road.

Roloff asked about auction days having road blocks put up past Smelcer Lane and across the neighbors driveways. Gingerich stated they could.

Vogt stated he has been to many farm auctions and it would appear that if people are brining cattle and materials in, that they need an area where they can load and unload, park and doesn't feel there is enough area or drive through access for actually providing a good facility for the type of auctions that are taking place. Parking the road is a problem, large trucks and trailers are a problem and the facilities to handle the traffic are not adequate. Gingerich stated people are not suppose to unload cattle or machinery on the road and feels they have places for unloading on the property, off of the road. They try to tell people they can't do something, but they just don't listen.

Vogt asked if he feels it is a police matter. Gingerich stated that is correct and said that they do have someone to control traffic, but people park right on the no parking signs and there is nothing you can do. He also spoke of an auction this September, people were parking on the road.

Carroll Holmes, reappearing in opposition, stated that going through auction bills, there is advertisements of around 90 horses, 110 cattle, etc., and most of them are strange to that farm, animals are spooked and unpredictable, people try them out, run them up and down the road with little carts and feels this is an accident waiting to happen. He asked what for insurance, liability, medical, etc., does the applicant have where someone is seriously hurt or killed. The entire situation is a safety hazard and is he properly insured or bonded.

Todd Nelson, reappearing in favor, stated that he has the liability insurance and you can't stop people from driving to the auction.

Seeing as no one wished to appear, Chair Duckworth closed the public portion of the hearing at 11:20 a.m.

Vogt stated the harness shop he does not have a problem with and wishes someone from the Town Board was here. The fact that the people were not specifically made aware of the Town meeting and unable to express their opinion, seems like complaints revolve around the fact that a public facilities in the roads are being used for private purposes for private enrichment. He also questions if the facility they have the auctions at if it is adequate.

Duckworth spoke of this being in Exclusive Ag and reviewed the ordinance in 7.05B(4), the potential for ag conflict, the need for the proposed use, availability for alternative locations, compatibility with

adjacent land, productivity of land, location and the need for public services created by the use and ability of adequate public services, affected use on water, soils or air pollution.

He also stated that when he read the information, he didn't expect the auctions to be as large as testimony provided.

Roloff spoke of addition a condition, that security will be provided on auction days to enforce parking restrictions.

Sprecher stated parking signs should be on both sides of the road for restrictions and all parking should be on off road parking. If the season isn't right for parking in the designated areas, then you have to hold off on having the auction. He also spoke of the comprehensive planning meeting, no parking shall take place on the road. If they need to, they shall hire the sheriff's department to have someone patrol it and if parking is a problem then Planning and Zoning has the right to discontinue their permit if the parking is violated.

Duckworth stated anything that is done for Barreau Road, the same should be done for Smelcer Road.

Vogt spoke of the dates.

Roloff asked if this is approved, with the condition that the restrictions be imposed by the Town of Ironton, can go to the Town, they can alter their parking restrictions accordingly.

The Board continued to discuss parking issues. Duckworth also stated that the other option is to deny.

Motion by Duckworth, seconded by Roloff, to approve the special exception permit for the auction business, with the conditions listed by Planning and Zoning, and additional conditions that there will be no more than 4 auctions per year to be held between March 15 and October 15, no parking allowed on either side of Barreau Road or Smelcer Lane, the applicant is responsible for signage and clean up, as well repair to any damage to the road. Any complaints of parking on Barreau Road or Smelcer Lane or trespassing onto the neighboring properties, during auctions days, filed with the Planning and Zoning Department will constitute immediate suspension of the special exception permit by the Department until the Board of Adjustment is able to rehear the appeal. **Motion carried 4-0.**

Motion by Vogt, seconded by Sprecher, to approve the special exception permit for the harness shop with the conditions listed by Planning and Zoning. **Motion carried 4-0.**

The board recessed for 5 minutes. The Board reconvened.

D. Richard Iverson (SP-21-08) requesting a special exception permit to authorize the location of a pond (as built) within 110 feet of a property line.

Dave Lorenz, Environmental and Zoning Specialist, appeared and explained which area of the property that the board will be making a decision on. He then gave the history and background of the request and reviewed the photos and video of the site. Mr. Lorenz concluded with the staff recommendation of conditions to be placed on the request if approved by the Board.

Duckworth asked if there was a lot of erosion over the birm. Lorenz stated there was a lot of erosion leading to the pond, which could be the reason they decided to construct it at this location.

Richard Iverson, applicant, appearing in favor of the request, stated that he put the retention pond in to control the water runoff and the erosion from the field above.

Duckworth asked if he did the work himself. Iverson stated he did.

Duckworth asked what problems it will cause to the downstream neighbor. Iverson stated it should not cause any, as there is just a field down there.

Duckworth asked about the neighbor. Iverson stated the neighbor complained after the pond was put in.

Vogt asked if he put in a pond to control the water running onto the neighbors property. Iverson stated that was correct. He also stated it will be a water hole for deer and other animals.

Duckworth asked why it wasn't built 60 feet up the hill. Iverson stated this was a better spot and he would have had to clear the trees and did not realize there was a 110 foot setback.

Duckworth asked if he has experience building these so water doesn't destroy it. Iverson stated there are 2 culverts in there and an access road across it.

Roloff asked who made the topographical maps. Iverson stated his construction company did. Roloff asked if any studies as far as hydrology were done and verified what size tubes were needed. Iverson stated nothing like that was done, and only originally had one culvert in, but after the floods this spring, he added the second one.

Vogt asked if there is an emergency spillway built in. Iverson stated he does not and feels once it is seeded and grassed over, it will be fine.

Duckworth asked how deep it is. Iverson stated when it was originally built, it was 12 feet deep, but now its only about 6.

Roloff asked how long the pond has been there. Iverson stated its been there about a year.

Sprecher asked if you are in the construction business, why didn't you get a permit. Iverson stated he didn't know he needed a permit.

Seeing as no one wished to appear, Chair Duckworth closed the public portion of the hearing at 11:51 p.m.

Duckworth suggested it is more a settling pond, catching all the erosion and may have to be dredged out every couple of years. He also stated he doesn't see any ill effect on the neighbor down stream.

Roloff spoke of his concerns of being only 30 feet from the property line.

Motion by Duckworth, seconded by Vogt, to grant the special exception permit for a pond within 110 feet of a property line, with the conditions recommended by Planning and Zoning. **Motion carried 3-1, with Roloff in opposition.**

E. Lawrence & Jeannette Meade (SP-22-08) requesting a special exception permit to authorize filling and grading within 300 feet of Lake Wisconsin as part of a shoreline protection and restoration project.

Dave Lorenz, Environmental and Zoning Specialist, appeared and explained which area of the property that the board will be making a decision on. He then gave the history and background of the request and reviewed the photos and video of the site. Mr. Lorenz concluded with the staff recommendation of conditions to be placed on the request if approved by the Board.

Roloff asked about the boathouse foundation and it being cut into the slope. Lorenz stated it is correct, and they did get permits for the boathouse, but they may have expired.

Duckworth asked what part of the shoreline within the 35 feet, do they propose to do their cutting. Lorenz stated he is unsure.

Duckworth asked what part is going to have the filling and grading take place. Lorenz explained that will happen right at the shoreline. Duckworth asked if they will riprap too. Lorenz stated is in unsure.

Duckworth confirmed that we do not know where the filling and grading will be or how much of the land will be clear-cut. Lorenz stated that is correct.

Mr. Lawrence Meade, applicant, appearing in favor of the request, stated that they want to build on lot 20, owning lot 19, 20 and 21. He stated he has spoke to all the neighbors and there is no objection.

Duckworth asked why its necessary for excess cutting. Meade stated they need to clear cut it protect it from eroding. Duckworth asked if they are going to riprap. Meade stated they will. Duckworth asked if this will not take care of the erosion. Meade stated it won't. Duckworth asked about merely thinning the lot so grass can grow. Meade stated it won't work.

Vogt asked for any cross sections. Meade stated his contractor has more detailed plans.

Duckworth stated he is leery that the applicant wants to cut and grade 100% of the shoreline, instead of just here and there where there is evidence of erosion. Meade stated he should talk to the contractor.

Tim Ripp, appearing in favor of the request, stated he is the contractor on the project and is a representative of the Bruce Company. Duckworth asked if the photos on Exhibit II, 4 and 5 if they are stock photos or actual photos. Ripp stated they are photos that they took. Duckworth asked about photo II,6, 7. Ripp stated those photos are stock.

Ripp spoke of the vegetation cutting, which will consist of dead or dying vegetation or trees leaning into the water and any invasive species and plan on restoring the shoreline to its natural state prior to the erosion. He then spoke of he construction of the living walls.

Duckworth asked of details items of how and which materials will be removed and which will be left. Ripp stated he does not have a detailed plan on it, however 95% of the site is invasive materials. He spoke of the slopes and erosion existing.

Duckworth asked how much of the shoreline are you planning on doing this too. Ripp stated about 5,000 sq. Ft of shoreline. Duckworth confirmed that the applicant is asking to redo about 100% of the shoreline within 35 feet from the water.

Duckworth asked how you are going to restore the shoreline when you remove everything from it and replace something that isn't natural. Ripp stated they are reseeding with native vegetation.

Duckworth asked about II,5 and if this would be done. Ripp stated they would not do it to the area shown in II5.

Duckworth stated again, they need plans and need to know what part of the shoreline they plan to do this work too. Ripp stated it would be difficult to get in and do a detailed placement plan. He spoke of the goal to restore the hillside and shoreline.

Duckworth confirmed that they are planning to fill and grade so the water runs into the catch basins. Ripp stated that is correct.

Vogt asked if any flattening of the slopes will be done at all. Ripp stated that is correct. Vogt confirmed that it is only to put the terrace and the socks in to reestablish the vegetation. Ripp stated that is correct.

Roloff asked if he does not know which vegetation will be removed and which will not be. Ripp stated he does not have a current plan for that. Roloff confirmed that the goal is to save native healthy species and remove dead, dying and diseased plant material.

Vogt asked about contacting the DNR for permits for the riprap. Ripp stated he believes the home owner has taken care of the DNR permit.

Roloff, in reference to Exhibit III,9, this shows the scope of the project. Ripp stated that is correct. Roloff asked about the living wall and where it is located. Ripp stated the living wall is illustrated by the planting plan. Roloff confirmed it was along the entire shoreline. Ripp stated that is correct and it is approximately 500 linear feet of shoreline and living wall. He also spoke of the environmental credits of the living wall and other projects where they have taken place.

Vogt confirmed the riprap will be at the water line. Ripp stated he is not in control of the riprapping project.

Amy Sausen, appearing in favor of the request, stated she represents the Bruce Company, spoke of the attributes of the living wall. She also stated that they only need to clear less than 24 inches from the toe of the retaining wall.

Duckworth asked how it will be determined which vegetation will be left. Sausen stated she will only remove dead and dying vegetation.

Duckworth asked when you cut off the undesirables, will you poison them. She said that is not the plan.

Sprecher asked about the material in the socks. Sausen explained where the compost comes from and how its used in the socks.

Duckworth clarified that the only filling and grading will be to cut a 24 inch wide area at the riprap. Sausen stated that is correct, no filling and grading will take place anywhere else or larger than the 24 inch wide area.

Duckworth confirmed that the slopes will not change to remove the slope, flatten out or create a beach. Sausen stated that would not happen.

Lawrence Meade, reappearing in favor, spoke of the technically to be used and reiterated their plans.

Seeing as no one wished to appear, Chair Duckworth closed the public portion of the hearing at 12:50 p.m.

Vogt stated he is familiar with the technology and the conservation services have worked with similar type of things and it seems to have had good success.

Duckworth asked if it will meet the requirements of the ordinance. Vogt stated he does feel it meets those standards.

Roloff asked Lorenz if this passes as a natural wall and asked if you could use this as far as boulders. Lorenz stated this type of wall is the first time its ever come before the department and will be more of a natural end result than a boulder wall. He also spoke of an erosion control seminar he attended where the technology was spoke of.

Duckworth asked if the project was approved, does the department have enough information to make sure it is carried out as planned and asked if the planting plan is complete enough. Lorenz stated he feels it is better than what they've typically seen.

Motion by Vogt, seconded by Sprecher, to grant the special exception permit for the filling and grading and tree cutting, with the conditions recommended by Planning and Zoning. **Motion carried 4-0.**

F. Steven and Glenna Oleson (SP-23-08), requesting a special exception permit to authorize filling and grading on slopes of more than 20% within 1000 feet of a lake.

Dave Lorenz, Environmental and Zoning Specialist, appeared and explained which area of the property that the board will be making a decision on. He then gave the history and background of the request and reviewed the photos and video of the site. Mr. Lorenz concluded with the staff recommendation of conditions to be placed on the request if approved by the Board.

Duckworth asked if the water flows to Sand Lake. Lorenz explained that it does have drainage to Sand Lake, but there is approximately a ½ mile of grass it will run through first.

Duckworth asked about a permit to build the driveway, other than the slope. Lorenz stated that was correct.

Vogt asked about the permitting through the Township. Lorenz stated the Township contacted the Department and asked if there were any requirements on this driveway.

Steven Oleson, applicant, appearing in favor, stated they purchased the property last November, which included the washout from an old logging road. They hired a contractor, looked it over and found a solution to eliminate the problem, which included a portion of new driveway, with no change to ingress or egress, but followed the ridge into the existing logging road and eliminated that old road. He also stated that in the last couple weeks, additional erosion measures have been made with erosion socks, which allow water, but no soil erosion.

Duckworth asked if there are ditches on both sides of the road. Oleson stated there are ditches. Duckworth asked where the runoff goes. Oleson stated it runs down to Highway DL.

Duckworth asked if they received a driveway permit from the Town of Merrimac. Oleson stated he did not get a permit, but was told he would have to contact the County to get one, however, he was in error believing he didn't need one.

Vogt asked if the driveway is an existing driveway. Oleson stated that is correct. Vogt asked if the logging road was something separate. Oleson stated that is correct. He then reviewed Exhibit II,4 with the Board. Vogt clarified that most of it is a new driveway. Oleson stated that is correct.

Eric Strobl, appearing in opposition of the request, stated that he owns the land immediately north of the applicant, and is appalled of the destruction that was done to put in the driveway and will be a constant source of erosion because much of that slope is more than 20%. He spoke of the destruction being located in the Baraboo Range and the specialty of species found in this area and doesn't feel you should grant exceptions in the Baraboo Range. He also spoke of the flooding and the force of water that comes off the hills.

Linda Lynch, appearing in opposition, representing Riverland Conservancy, presented Exhibit VIII, and is also an adjacent landowner. She stated it is in direct violation of the Merrimac Comprehensive Plan, the Baraboo Range Conservancy, the Shoreland Ordinance and the Riverland Conservancy. She spoke of the organization and what they do and their mission and the negative potential of the filling and grading project. She spoke of the County Highway Department having to remove material on County Highway DL that was deposited there from both sides of that driveway.

Ron Lestikow, appearing in opposition, stated he would like to reiterate the previous testimony and his property borders this property. He also spoke of the Town staying neutral on this because Merrimac at this time does not have a driveway ordinance, but they are in the process of creating one that will prevent driveways such as this from happening. He also provided a background of the property of what existed when a house was there and a field road that provided access to the upper field. He spoke of living in the area for 33 years and never having materials deposited on the road from the previous farmer, but since the driveway has been put in, material is on the road constantly. He spoke of the Baraboo Range and what it is to protect. He also spoke of the ordinance and an alternate location to build a house, the existing driveway where there was no run-off. He also spoke of it being compatible to the neighboring properties and it is in violation of what everything being done around it which is preserving the bluff. He also spoke of the after the fact permits and rewarding those who do the violation first and ask for forgiveness after.

Steven Oleson, reappearing in favor, stated that they can inspect the property, and if they are going to deny what has been done, allow him access to his acreage on top to put on crops.

Duckworth asked if there is no place else the road could have gone. Oleson stated that if they did, they would have had to reconstruct the road.

Ron Lestikow, reappearing in opposition, stated that his appearance here is a long standing advocate of protecting the Baraboo Range and has nothing to do with owning the property and stated all he needed to do was come to the County and get his permits to avoid this situation.

Seeing as no one else wished to speak, Chair Duckworth closed this portion of the meeting at 1:30 p.m.

Duckworth stated they have seen driveways like this other places and this is Shoreland Protection. Roloff stated they have to base this request on the Shoreland Protection ordinance.

Duckworth stated even though he does not like the project, he is unsure that the project will affect Sand Lake.

Vogt spoke of taking it in perspective of the distance, and only the bottom 500 feet of the driveway is in the Board's jurisdiction.

Duckworth stated that as much as he likes the Baraboo Bluffs, he can't say it affects the shoreland ordinance.

Motion by Duckworth, seconded by Roloff, to approve the special exception permit with the conditions listed by the Planning & Zoning Department. **Motion carried 4-0.**

Respectfully submitted,

Robert Roloff,  
Secretary