

SAUK COUNTY BOARD OF ADJUSTMENT
June 28, 2012 Session of the Board

PRESENT: Dan Kettner, Acting Chair
David Allen
Nicholas Ladas
Henry Netzinger
David Wernecke, Alternate

ABSENT: Linda White, Chair

STAFF PRESENT: Dave Lorenz
Gina Templin

OTHERS PRESENT: See Registration slips

Acting Chair Kettner 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 Netzinger, seconded by Allen. **Motion carried, 5-0.**

The Board adopted the agenda for the June 28, 2012 session of the Board on a motion by Wernecke, seconded by Netzinger. **Motion carried, 5-0.**

Minutes to be reviewed and adopted at the July meeting.

COMMUNICATIONS: None.

Discussion and possible action on an appeal postponed May 24, 2012.

Motion by Allen, second by Wernecke to reopen appeal SP-15-12. Motion carried 5-0.

A. Gregory Anderson & Sandra Snow (SP-15-12), a variance to authorize the location of a garage built within the minimum setback of the road.

Gregory Anderson, appearing in favor, stated there was never a survey done prior to the purchase of the property.

Kettner verified that the survey submitted was done just prior to the owner purchasing the property. Anderson confirmed that the survey submitted was done prior them closing on the property.

Kettner verified that the applicant was aware that the property was in violation and the structures were within the setbacks of the road and property line. Anderson stated that was correct.

Kettner asked about the intention of correcting the side lot line issue. Anderson stated he will apply for a permit to demolish part of the garage to correct the side lot line issue and is only asking for a variance to allow for the garage to remain in the road setback.

Netzinger asked if this garage was added onto or if this is the way it was originally built. Anderson stated he is unsure.

Kettner reminded the board members and the applicant of the criteria for granting a variance.

Wernecke stated he was not here for the original hearing and asked if a question was asked about the buildings on either side of the property and whether or not averaging can be used. Anderson was unsure.

Allen stated it is unfortunate, but he doesn't feel it is a hardship other than financial. Common sense would be to leave it alone, however, when the survey was done, the closing took place anyway without remedying the situation.

Netzinger stated the fact is that it is too close to the road, the survey seems to be correct, however there is no excuse for being too close and part of the building is already being demolished to comply. He would be happy with leaving it with where it is at, however, it doesn't meet hardship.

Ladas stated that the owner was aware of noncompliance prior to purchase but went ahead and trying to resolve it with a variance and feels he can't approve the request.

Wernecke stated he feels that it is difficult to support the request. The problem is with the builder and not building it correctly, however the property was purchased knowing it was nonconforming. He also stated there is no hardship and asked for more direction from the county board on the purpose of setback lines. He feels the request being contrary to public interest is a tossup. He concluded with stating he could not support granting a variance.

Kettner asked if the party that it was purchased from was the builder. Anderson stated that the owner built the garage with a Town of Baraboo permit, but did not have a Sauk County permit.

Kettner spoke of the age of the building, the builder that built the garage in the manor that was done and believes that it does not meet the criteria for a variance.

Ladas asked if the road was there prior the building of the garage. Allen stated he believes it was.

Netzinger stated that the garage meets the distance from the center of the road, but not the right of way. He also feels that the only way to set the garage back is to attach it to the house.

Allen asked who from Planning and Zoning has been there. Allen asked if he needs to correct the corner of the garage or the entire front. Kettner stated it is 18 inches out of compliance with

the setback. Anderson stated he is going to ask for a permit to demolish the building in violation of the side yard and asking for a variance for the front corner of the garage.

Kettner asked the board if they wish to leave it as it or ask him to do a similar cut to the corner on the front to comply with the road setback.

Netzinger feels that the hardship is self inflicted, but the other two criteria can be met.

Kettner stated that it is not the intention of the board to punish someone for something they didn't do. Anderson stated they made no assumptions and said they just want to bring the property into compliance and stated it is an appearance issue as much as anything.

Netzinger asked about the removal of that corner of the building. Anderson stated it is not a financial issue but is just aesthetics and is trying to keep the appearance of the garage.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at approximately 9:33 a.m.

Motion by Netzinger, seconded by Allen to approve the variance request.

Wernecke stated there needs to be a case built for this other than saying they are going to ignore the variance criteria. He stated it is in a small residential neighborhood, there is no purpose statement in the setbacks, and read from the purpose statement for single family residential. He stated that the setback variance in this case meets the purpose of the single family district and feels that can be used as the basis for granting the variance.

Ladas and Kettner discussed the growth of the road. Kettner also stated that there is a reasonable basis for them to make the decision rather than an emotional side in making their decision.

Netzinger stated the applicant can cut that front corner off to become in compliance but feels it won't look good in the neighborhood.

Wernecke stated that the person who built this, by granting a variance, excuses builders from paying attention to the county ordinance, but feels there is a basis to grant.

Allen stated they got a permit from the Township and should have been told to get one from the County.

Based up on the applicant not meeting any of the criteria to meet a variance request, the Board continues with their motion to approved based on the applicant's situation meeting the intent of the purpose statement of single family residential. **Motion carried 5-0.**

APPEALS:

A. Steven Blakeslee (SP-17-12), a special exception permit to authorize the location and operation of a new mineral extraction site.

Dave Lorenz, Environmental Zoning Technician, appeared and gave a brief history and background of the property, as well as reviewing photos and a video of the site. He also discussed the conditions requested from the Town of Excelsior should the request be granted. He then recommended conditions to be placed on the appeal if the request were approved.

Wernecke asked if the storm water retention basin will be enlarged. Lorenz stated he believes the plan states that will continue to be utilized.

Kettner asked about the previous mining use. Lorenz stated the previous use was a short term mining permit and this request is more of a permanent use.

Wernecke asked what State, Federal and County permits are necessary. Lorenz explained. Wernecke asked about any erosion control plans. Lorenz stated he was onsite and it is heavily vegetated and they have not received any complaints since the other two special exception permits have been permitted.

Wernecke asked about the slopes and if there is any sense that there could be any runoff towards Lake Virginia. Lorenz stated all the runoff seems to run towards the storm water basin. Wernecke asked about additional plans for erosion control. Lorenz stated if the plans are followed, all runoff should be self contained.

Steven Blakeslee, Applicant, appearing in favor the request, stated that the property in question, part of CSM 5121, presented Exhibit 8,1 an aerial photo of the property and referred to lot 2, which is a contractor storage yard and is permitted under a special exception permit for log storage area, and is not part of this application. He stated all mining will occur on the west side of lot 3 and the south side of lot 1. He stated that the rest of this property is permitted as a contractor storage yard and there will be no mingling of the materials already located in the contractor storage yard from the mining activities. He referred to Exhibit 8,1 and showed where the mining will take place.

Kettner asked if sand extraction has taken place on this property in the past. Blakeslee stated that the area of the storm water basin and the west part of lot 3 was previously used for sand extraction. He also stated that the storm water basin will contain all the water runoff of this property.

Blakeslee then explained what the sand will be used for such as sand for dairy cattle bedding, septic system and filling in buildings. He also stated that the Town will be rezoning to Exclusive Ag that will prevent a mining activity. He also spoke of a short term mining permit and the rules that the State put into place for mining activities.

Kettner asked about the stockpiles already located on the property are used for what. Blakeslee stated they are used for septic systems. Kettner verified they are for sale. Blakeslee confirmed they are.

Kettner asked about the stockpile use and the need for topsoil when the area is reclaimed. Blakeslee stated it is a gravel floor and the property is identified as commercial property for the Town of Excelsior. He stated everything on the site is 100% certified reclaimed. He also stated he has a permit from the DOT to access the state highway for 100 trucks a day.

Kettner asked about the amount to be extracted per year. Blakeslee stated it would be around 20,000 yards of material but unsure if the timeline. He stated he will be doing no blasting, but depending on how much rock and how difficult it is to extract.

Kettner asked about the amount of trucking going in and out of the facility. Blakeslee stated it could be 10-15 trucks a day. He also spoke of the entire property being screened.

Kettner asked when the two closest residential homes were built, if it was before or after the mineral extraction was done. Blakeslee stated both homes were built after the site was mined. He verified all storm water is kept onsite, access off of Lake Virginia road is not used and will only use the access on State Highway 23/33. He also requested a 10 year permit, versus 5 year.

Ladas confirmed that he requested 10 years and not 5 years. Blakeslee stated that is correct.

Ladas also asked about the conditions requested by the Town of Excelsior. Blakeslee stated he was fine with the conditions by the Town. Blakeslee spoke of the slope and the elevation to be leveled off the same height as the existing highway.

Kettner verified that he has permits for other activities located on the property. Blakeslee explained.

Wernecke asked about the current runoff area and if it is as long as the finished one and the only change will be the depth. Blakeslee stated that was correct. Wernecke stated that the testimony does not match what the plans state.

Wernecke asked how many feet to groundwater. Blakeslee felt it is 30-40 feet to groundwater.

Wernecke confirmed there is no stated amount of trucks, just whatever is needed. Blakeslee stated that the State allows him up to 100 trucks per day. Wernecke explained that they look at the traffic.

Wernecke asked about the hours of operation the same. Blakeslee stated it would be the same.

Kettner stated those are 7 a.m to ----- . Blakeslee stated that is correct and then on some Saturdays.

Wernecke asked about the plans and that he isn't seeing any. Blakeslee stated the plans are basis as he is only taking the hill and moving it over a couple hundred feet, the slope would be seeded and the floor will be seeded.

Wernecke confirmed that the maps and the couple statements made with this application is what the reclamation plan will be. Blakeslee stated that is correct.

Mary Clay, appearing in opposition, stated she is just south of the property in question and their house was built in 1999, shortly after that, a neighboring land owner requested a special exception permit for mining and she did not testify and object and she has gone to local, town, county and state and no one can correct this. She stated what the property looked like when they built their home and what the site looks like now with reclamation and the quarrying. She is concerned about the noise, the lowering of their property values and the impact on the groundwater. She stated all properties around them are on wells and they need their water to be clean. She spoke of the neighboring pit not following their reclamation plan and no one monitoring the clean fill.

Kettner verified where Clay's residence is located.

Phil Douglas, appearing in opposition, asked who decided who was going to get a letter of notice of this request.

Dave Lorenz, reappearing, explained the noticing requirements listed in the ordinance.

Douglas, reappearing, provided Exhibit 10, a petition signed by neighbors objecting to the request.

Kettner verified these are people that are located to the south and to the east of the proposed site. Douglas confirmed that was correct.

Douglas asked what this will do to the value of their homes and if anyone would want to live next to it.

Wernecke attempted to explain the board's responsibilities on making a decision on a request.

Wernecke asked about the noise coming from which site. Douglas spoke of the backup beepers and tailgates of the dump trucks closing.

Kettner asked if there are other sites that could be where the noise is coming from. Douglas stated it is from the sandpit and where they are unloading the logs.

Linda Johnson, appearing in opposition of the request, stated that they live right next door to the proposed site and is concerned about the water table and the damage to their well, the noise concern and is late Saturday night and sometimes on Sunday morning. She also asked how they are going to do this digging and where is the sediment from the digging operations going. She stated if he wants a 10 year permit, how far with the extraction go on this property.

Wernecke stated there is a designated site for the extraction in the plans provided, but what is discussed today is what this permit is for not anything more, but he has the right to come back and request an expanded area.

Johnson stated her main concern is that they are going to have water that they can drink. She also stated her concern with the property value.

Joe Fish, appearing as interest may appear, stated that he is the Chair of Excelsior Town Board and had a meeting concerning the property. He stated that several people were contacted through emails and others and Mr. Blakeslee showed up and tried to explain the concerns of the neighbors. He also addressed the concerns of the Town and the conditions that they provided if the board approves the request. He also stated that this is an ag related business which fits with their comprehensive plan and understands what the neighbors are saying, but after himself and two other board members walked the property together and viewed what Blakeslee is doing, they decided to approve the request with the conditions they came up with.

Steve Blakeslee, reappearing, stated that much of the noise is coming from an adjoining pit operated by someone else and his pit is a defined area about 4 acres in size and is not planning on digging down into the groundwater and plans to only grade into the hill and other than the storm water basin, there will be no digging down. He spoke of the difference between his site and the other mining site in reference to the Mary Clay residence. He addressed the log site and that there is only about 5-10 loads throughout the summer and there is no noise at their site and have only hauled about 15 trucks out of this site for the topsoil. He also said that that only people within 300 feet of his property are the duck farm and the Clays. He stated no fill will come into this site and will be only used to extract the sand from the hill and then will reclaim.

Wernecke asked about the greatest depth provide in the plan is 15 feet, looking at the beginning elevations that were provided and the ending elevations provided. Blakeslee confirmed that he is not going to dig a hole and will not be going below the existing grade of the State Highway.

Wernecke stated that there is possible concern because this pit will be operated by the same operator that the other pit with all the issues is being operated by.

Lorenz, reappearing.

Wernecke asked if there are any standards in the county ordinance related to groundwater and the effects on groundwater. Lorenz stated there is nothing at the county level, but the State does have regulations.

Seeing as no one else wished to appear, Acting Chair Kettner closed the public portion of the meeting at approximately 10:52 a.m.

Wernecke stated he is concerned that there are no limits set on traffic that the site generates and asked the Board if they are comfortable allowing the market to determine the number of trucks.

Netzinger stated he would be in favor of limiting the number of trucks.

Wernecke also spoke of the times of operation. Ladas stated he is proposing to operation 7 a.m. to 6 p.m. Monday through Friday and 7 a.m. until noon on Saturday. Netzinger stated he feels this is reasonable time.

Netzinger stated that he is looking for 5 years versus 10 years.

Ladas stated he feels they should abide by the conditions set by the Excelsior town board as well.

Kettner stated the Town testified that they surveyed the site and walked the property and are satisfied with their conditions.

Ladas spoke of the application stating 5-10,000 yards a year and feel that the permit is limited to that.

Netzinger stated that if you look at the number of truck loads going in and out, a problem will be caused with the logging business being operated there. He also mentioned the Town's plan showing future commercial site.

Kettner spoke of the recommendation of the Town Board, the testimony that it will not create a pit, as no digging below the elevation of Highway 23/33 will take place.

Wernecke stated in the plans that were provided, the applicant shows that.

Kettner stated if he wants an expansion in the future then he will have to ask for another permit. He also stated he is comfortable granting the permit but believes 5 years is adequate.

Motion by Wernecke, seconded by Ladas, to approve the special exception permit to authorize the mineral extraction activities, with the conditions outlined by the Town of Excelsior and with the conditions recommended by Conservation, Planning & Zoning. **Motion carried 5-0.**

Motion by Netzinger, seconded by Allen to adjourn. Motion carried.

Meeting adjourned at 11:00 a.m.

Respectfully submitted,

Henry Netzinger, Secretary