

**SAUK COUNTY BOARD OF ADJUSTMENT**  
**February 23, 2012 Session of the Board**

PRESENT: Linda White, Chair  
Dan Kettner, Vice Chair  
David Allen  
Henry Netzing  
David Wernecke, Alternate

ABSENT: Nicholas Ladas

STAFF PRESENT: Dave Lorenz  
Gina Templin

OTHERS PRESENT: See Registration slips

Chair White 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 Kettner, seconded by Netzing. **Motion carried, 5-0.**

The Board adopted the agenda for the February 23, 2012 session of the Board on a motion by Netzing, seconded by Kettner. **Motion carried, 5-0.**

Motion by White, seconded by Kettner to adopt the January 26, 2012 minutes. **Motion carried 4-0, with Wernecke abstaining.**

COMMUNICATIONS: None.

**APPEALS:**

A. The Kraemer Co., LLC (SP-02-12) requesting a special exception permit to authorize the continued operation of a quarry.

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 confirmed there have been no comments from the Town of Freedom at this time. He then recommended conditions to be placed on the appeal if the request were approved.

White asked if the Department has received any complaints. Lorenz stated there have not been.

White asked about a 5 year recommended renewal. Lorenz stated that the staff had requested a 5 year renewal.

Wernecke asked about the inspections done by Department staff unannounced and if that is done. Lorenz explained that the staff is onsite during scheduled blasts.

Wernecke asked during the last 5 years if staff were onsite unannounced. Lorenz stated the Department did.

Wernecke asked about water quality or fencing measures. Lorenz stated there are no water quality measures required and there is fencing around the site.

Wernecke asked if the hours of operation have been followed in the past. Lorenz stated the Department has not received any complaints about the hours of operation.

Wernecke asked if the Department is notified if there are any water quality issues. Lorenz stated typically neighbors would call the Department to file a complaint and then staff would follow up with the State.

Kettner talked about the slopes and requirements for maintenance and reclamation. Lorenz explained the reclamation plan to take place once the mineral extraction is done and in unsure how long they have reserves available to continue to operate and referred to the applicant.

Wernecke asked about the reclamation and if the staff signs off on it. Lorenz explained the inspections and what takes place to determine whether a site is reclaimed.

Richard Marino, The Kraemer Co., Applicant, appearing in favor, stated that Lorenz explained the operation very well and stated all permits are in place to include NR135 with the County, Air Quality permit, and a Stormwater permit, both from the State. He spoke of 10 year leases on the property, however there is a large quantity of rock there which allows for many years of reserves. He also addressed the reclamation standards and process. He reviewed the history of the site and stated it is basically used for local work.

White asked about accidents on County Highway PF. Marino stated he is not aware of any accidents, but also stated they have a stop sign at their gate and a speed limit posted for truck traffic.

Marino stated he did attend a Town of Freedom meeting and did receive their approval for the request. He also stated they would like to request a 10 year permit on this renewal.

Wernecke asked about the spill process at the site and if there have been any spills at the site. Marino stated he doesn't believe there have been any spills and does have to be cleaned up according to their spill prevention plan and has to be reported.

Wernecke asked if any inspections have been done for air and water quality by State officials. Marino stated there may have been one in the past.

Bob Jewell, The Kraemer Co., Applicant, appearing in favor of the request, stated that the DNR has been out several times for water monitoring, as there is a stream that runs through the

property, and the DNR feels they are doing well. He also stated that due to MSHA regulations, they call first so that they can meet safety issues.

Wernecke asked about the water quality report being filed with the County. Jewell stated he is unsure if they received a copy but he can get them one.

Wernecke asked about the county making unannounced visits and why it would be a safety issue. Jewell explained that there is a liability issue and they have to follow the rules of MSHA which is a federal regulation.

Kettner asked how often they blast. Jewell stated some years they don't blast at all and last year they blasted once and figures maybe every other year.

Kettner asked about notification on the blasting. Jewell stated that they go out approximately ½ mile and notify 24 hours prior and 1 hour prior to blasting.

Mary Klingenmeyer, appearing as interest may appear, stated that she became the general partner with the quarry due to the passing of her husband and explained that previously there were conflicts in the neighborhood which is why there was a 5 year permit and encouraged the Board to consider a 10 year permit. She also spoke of the pond and water quality and that they have no issues.

Steve Sorenson, Conservation, Planning & Zoning, appearing as interest may appear, stated that he did attend the Freedom Plan Commission and Town Board meeting where the request was approved. He spoke of meetings he has had with staff from the Kraemer Co., and the inspections that were done, which may not be unannounced, but often can be at short notice. He also explained that he often will sit near a site and watch for dust and noise without the operator knowing it.

Wernecke asked about the meetings at the Town. Sorenson explained.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at approximately 9:35 a.m.

White stated the Kraemer Company has a very clean record and good understanding of the process and recommended the Board consider the 10 year permit.

Wernecke stated he does not support a 10 year permit, as the Town Plan Commission and Town Board approved a request for 5 years, as well as past contention in the neighborhood, which is why there is a 5 year permit in place.

White stated it would be helpful if the Town has any issues with the length of extension.

Wernecke stated that if activities increase in intensity, the residents would have to wait 10 years versus 5 if there were any issues.

White stated there are a lot of different routes if there are issues and reporting it to the county can get the permit pulled.

Kettner stated he believes that it would be nice if someone from the Town would be here, as they approved the 5 year extension and whether or not it was requested for a 10 year extension. From the testimony given today he feels comfortable with a 10 year, but if the Town approved a 5 year permit then he would have concern with that.

White stated if the Town had a concern or neighbors had a concern they would be here.

Allen asked for Sorenson to return.

Sorenson, appearing as interest may appear.

Allen asked if the Town discussed a 5 or 10 year permit if they only spoke of a renewal of the existing permit. Sorenson spoke of a presentation by the operator and how it's been run over the past year and doesn't remember a length of time being discussed.

Kettner asked for Jewell to return.

Jewell reappearing in favor, stated that he can't be certain if they asked for a 10 year permit, but feels he spoke of other quarries starting as a 5 year permit, but have been extended to 10 year permits, but is unsure if it was discussed or not.

Wernecke stated that the request is a renewal for an existing permit which is for 5 years. Jewell stated that is correct, but understands that they request a 10 year permit as it has been granted for other sites in the past.

Netzinger confirmed that the Conservation, Planning and Zoning Department are recommending 5 years.

Kettner spoke of not going over what the Town wanted.

Wernecke spoke of past issues with the neighbors and the quarries and a petition with over 100 names in opposition to the quarry and feels that is why the 5 year permit was put in place.

Sorenson, reappearing as interest may appear, stated that the Town Clerk does work in the building and can testify if needed.

Melody Rehr, Town of Freedom Clerk, appearing as interest may appear.

White asked if the Town discussed the length of the permit. Rehr stated the Town did approve the request and were ok with everything that was presented.

Wernecke asked if it was a renewal of the permit or a renewal for a longer period of time. Rehr stated she is unsure if that was discussed.

White asked if over the years there have been issues with neighboring land owners. Rehr stated during her time, nothing has been brought to the Town.

Netzinger stated he will support the 10 year permit and feels if there were issues, the Town would have heard something and feels if there were problems in the past, they must have gone away.

White stated that she agrees that the county can show up unannounced and could address any issues that could arise.

Allen agrees with everything Netzinger stated and feels that if there is something that needs to be addressed the staff can deal with it.

Kettner stated he would be in favor of the 10 years, but requests that the information being provided to the Town Board includes the same requests coming to the BOA so that they are not seen as stepping on the toes of the Town.

White believes that issues have been in the past, but doesn't feel there were any issues at their last request.

Motion by Netzinger, seconded by Allen, to approve the special exception permit to authorize the continued operation of a quarry, with the conditions recommended by Conservation, Planning & Zoning modifying the permit renewal to 10 years. **Motion carried 4-1 with Wernecke in opposition.**

B. Joe and Linda Ford, (SP-03-12) requesting a special exception permit to authorize filling and grading within 300 feet of navigable waterway during the construction of two ponds.

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 then recommended conditions to be placed on the appeal if the request were approved.

Serge Koenig, Conservation, Planning & Zoning, appearing for the Applicant, stated that the Department is assisting the land owners with this project and has done all the design work on the scrapes, with depths being 0-4 feet and will be present during construction to verify it meets all erosion control and design specifications and confirm that the seeding takes hold and the land will be enrolled into CRP program.

White asked about the water fill for the pond/scrape. Koenig stated it would be groundwater and surface runoff from the field and will not be artificially filled. He stated if there is a dry summer, it will dry up and is natural for the landscape.

Wernecke asked about a large rain event and if that will affect water runoff into Narrows Creek. Koenig spoke of a water buffer from Narrows Creek and adjusted the farming practices away from Narrows Creek and now putting the pond in place.

Kettner asked if this will be fenced off or available to livestock. Koenig stated it will not be fenced but livestock will not have access to it as that is a requirement of the CRP program.

Kettner asked about the topography of the pond. Koenig stated it is to separate the two ponds and make them independent of each other.

Kettner asked about the varying depths of water in each pond. Koenig stated it is for the water species and provides the most benefit to adjust the depths of the water.

Wernecke stated that due to the county designing this permit and assumes that it meets Chapter 8 requirements. Koenig confirmed that is what he will be following.

Wernecke asked for improvements made on the mapping provided to the Board by staff.

Kettner asked about the advantages of the land owner enrolling in the CRP program. Koenig explained the program and verified it is for 10 years and can be renewed at that time.

Allen asked what the total acres are for the CRP project. Koenig stated that it is about 4.3 acres all together.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at approximately 10:05 a.m.

Wernecke stated he approves of the request with the conditions recommended.

Netzinger feels it is a good project.

Allen stated he also feels it is a good project.

Kettner stated everything sounds reasonable.

White spoke of the benefit of CRP land benefit and protecting environmentally sensitive areas and feels it is a good project and good use of the land.

Motion by Wernecke, seconded by Kettner, to approve the special exception permit to authorize filling and grading within 300 feet of a navigable waterway during the construction of two ponds, with the conditions recommended by Conservation, Planning & Zoning. **Motion carried 5-0.**

C. Ray Zobel & Sons, Inc., (SP-04-12), requesting the renewal of a special exception permit to authorize the continued operation of a quarry.

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 then recommended conditions to be placed on the appeal if the request were approved.

White asked about what happened when the prior operator was in violation of using for a landfill. Lorenz explained that they had intended to come in front of the BOA to ask for approval of land landfill, but then withdrew the application and withdrew as operator of the quarry site.

Wernecke asked how the refuse on the site was discovered. Lorenz stated the Department received a complaint and then an inspection was done on the site.

Wernecke asked about inspections unannounced and if that happened. Lorenz stated that this site is more accessible and is very visible from Highway 33 and Wilkenson Rd, so each time staff drives by, they do a visual inspection of the site.

Wernecke asked about any provisions on air quality monitoring. Lorenz stated not at this location, as the only material excavated was sand, and no crushing was being done.

Ed Zobel, Applicant, appearing in favor of the request, stated he was approached by the owner of the site, as well as approached by Steve Sorenson and was asked to take over the site and the site was open and he has hauled out of there since 1960 and gave a history of the site.

White asked how many yards would be removed per year. Zobel felt that it would be small, only about 5 yards per year and would most likely be used in the area, such as for fill around septic tanks or helping with the slopes at Lake Redstone.

Zobel asked about bringing in fill from other location and storing it in the quarry.

Wernecke spoke about the banks being sloped into the pit and that the map shows that the slopes go towards the east towards a stream. Zobel stated that the natural landscape does slope towards the creek now, but with the extraction of sand it will be a 4-5 foot wall and it will be done in short phases with some taken out and then restored. He stated he didn't feel the site would be more open than it is right now.

Wernecke asked if there will be runoff from the site going into the creek. Zobel stated it will end up at a 1 to 1.5% slope going towards the stream.

Steve Sorenson, Conservation, Planning and Zoning Department, appearing as interest may appear, stated that the previous operator wanted to close out and met with the owner and spoke of options for the site. At that time the previous owners attempted to reclaim the old high wall, but created a clean landfill without permits. At this time it does not meet reclamation standards to release the site and requesting the owner and previous operator come into compliance with the old landfill site, get proper permits and go through proper reclamation.

Wernecke asked if this would have to be corrected before the new operator could go in. Sorenson stated that the new owner could go in and take over the current sand pit without disturbing the existing high wall and landfill so the previous operator can address those issues.

Wernecke asked if he has reviewed the plans for the finish grade, where the map shows something different than the testimony by the new operator. Sorenson stated at the west is the old site and the high wall, which is seeded and sloped. Then there is an existing floor, which the elevation will continue at the same elevation to the slopes towards the stream and the hope is that before it gets to the stream everything will be seeded and stabilized. He also stated that the water from the site stays within the site and does not go to the stream.

White confirmed that the prior operator has given up their permit, but will have to return to fix issues still remaining on another portion of the site. Sorenson explained.

White asked how the Department feels about the operator bringing in clean fill and stockpiling in the pit. Sorenson state the Department has no issues with it, as it can be used in the reclamation of the site.

White confirmed it is clean fill. Sorenson stated it will be topsoil or mud.

Lorenz reappearing.

White asked if piling something from offsite is in this permit or if the Board has to put that into the conditions. Lorenz stated that it will be part of the reclamation plan on the site, so it is considered to already be included.

Bob Jewell, The Kraemer Co, appearing in favor of the request, stated they were asked to look at the site as well and feels that Zobels will do a good job and is a reputable operator and does a good job with reclamation.

Sorenson, reappearing as interest may appear, stated that the previous operator did pull the bond on the site without staff knowing and contacted the bonding company about pulling the bond without the Department releasing it.

White asked about the liability. Sorenson explained this was an actual bond and the bonding company was from Canada and the requirement to have the Department sign off on the release was not done.

White asked what happens if they can't pay for the reclamation. Sorenson stated we have been talking to the County's Attorney and advised the previous operator that they will go to court.

Wernecke asked if the Town of LaValle heard this request. Sorenson stated he met with both the Town of LaValle Board and Plan Commission and are in favor of the request.

Kettner asked if there is any need for changes in regulations to try to prevent this bond issue from happening in the future. Sorenson explained the options that the county can accept and reviewing all the bonds to make sure everything is in place and in order.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at approximately 10:40 a.m.



White stated she feels this site should be approved for 5 years, as it is a new operator and has been a problem site in the past.

Kettner stated he appreciates that Sorenson is involved in the operation and getting everything into compliance and feels comfortable with the request and agrees with the 5 year permit.

Allen stated he sees the need to get this back into production and is unsure how the County will go after the previous owner.

Netzinger stated he feels it will be good for the LaValle area and is necessary for sanding the roads and septic replacements.

Wernecke agrees with the 5 year permit due to it being a new operator and with the Town Board and Plan Commission being in favor.

Motion by White, seconded by Allen, to approve the special exception permit to authorize the continued operation of a quarry, with the conditions recommended by Conservation, Planning & Zoning, with the permit being for 5 years versus 10. **Motion carried 5-0.**

Motion by Kettner, seconded by Wernecke to adjourn. **Motion carried 5-0.**

Meeting adjourned at 10:43 a.m.

Respectfully submitted,

Linda White, in place of Secretary