

SAUK COUNTY BOARD OF ADJUSTMENT  
March 29, 2012 Session of the Board

PRESENT: Linda White, Chair  
Dan Kettner, Vice Chair  
David Allen  
Nicholas Ladas  
Henry Netzinger

ABSENT: None.

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

The Board adopted the agenda for the March 29, 2012 session of the Board on a motion by Netzinger, seconded by Kettner. **Motion carried, 5-0.**

Motion by White, seconded by Kettner to adopt the February 23, 2012 minutes. **Motion carried 5-0.**

COMMUNICATIONS: None.

Election for Secretary of the Board. Motion by White, seconded by Kettner, to nominate and elect Henry Netzinger for Secretary. Nominations closed. **Motion carried 5-0.**

APPEALS:

A. DL Gasser Construction (SP-05-12) requesting a special exception permit to authorize the location and operation of a temporary hot mix asphalt plant in the Charlie Miller Quarry owned by the Kraemer Co, LLC.

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 the previous appeal for a temporary hot mix plant and complaints by neighbors. Lorenz stated he does not recall hearing any complaints while the previous temporary hot mix plant was in operation.

White asked about the previous plant and if there was any indication that it was there. Lorenz stated an inspection was done after the plant had been removed and there were no issues.

White spoke of the Town's concerns that were provided to them regarding the appeal.

Ladas asked about the staff report and the reference to the ordinance and the difference in the numbering for the ordinance. Lorenz explained that when the ordinance was modified the ordinance reference changed.

John Traxler, DL Gasser, applicant, appearing in favor of the request, stated that they have a contract with Richland County Highway Department which is where the request comes from. The work would start in June and they are only mixing the asphalt and then the county will do the work, hauling, etc. He stated they will abide by all rules that the existing quarry has in place.

White spoke of the prior permit saying they indicated they would use the site for a couple of months and a permit was given for extended amount and asked if there were done when they stated. Traxler stated they were.

White asked about future work. Traxler stated they only have a contract with Richland County for their work currently, but could see a Town possibly interested.

White asked about any issues with the previous permit. Traxler stated they had no complaints.

Kettner asked if the rock from the quarry will be used. Traxler stated it will be and also spoke of the grade of sand that will need to be used.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at approximately 9:20 a.m.

White spoke of the municipalities liking the operation close enough to prevent long trucking. She also spoke of the previous concerns from neighbors, but with no issues on the previous permit and no comments on this hearing, it seems the concerns were addressed and no issues were had.

Motion by Allen, seconded by Netzinger, to approve the special exception permit to authorize the location and operation of a temporary hot mix asphalt plant in an existing quarry, with the conditions recommended by Conservation, Planning & Zoning. **Motion carried .**

B. Robert Sand and Troy Rose (SP-06-12) requesting a special exception permit to authorize the location and operation of a contractors storage yard with warehousing, outside storage and the sale and rentals of mobile homes, recreational vehicles, boats and autos.

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 fire truck repair and maintenance business and that is not under this request, but he can do that under commercial zoning. Lorenz confirmed that was correct.

White asked if this is coming before them as a correction of oversight or change of ownership and noted the boat storage is there but is not permitted. Lorenz stated this is to bring the property into compliance.

White asked if this is one permit or two permits, as Sorenson notes that this request would require two permits.

Ladas stated that he is a resident of the Town of La Valle and is familiar with one of the applicants and his pontoon is in storage on the property under question. He allowed the Board to decide if he should recuse himself.

White stated due to a financial interest he would be best off to recuse himself, but it is up to him. At this time Ladas recused himself from the hearing.

Kettner asked if they are currently in violation of the ordinance. Lorenz stated that is correct. Kettner asked the consequence of that. Lorenz deferred to Sorenson again, but stated they have gone through the rezone process and special exception process to bring the property into compliance.

White asked if this is a long term owner or they just purchased the property and now they are doing this business.

Troy Rose, applicant, appearing in favor of the request, stated that they have owned and operated a tree business out of this location for approximately 6 years and have stored boats inside of the building, but the last fall, a local marine closed down and there was a need for the boat storage. He stated they had no idea they were in violation until they were contacted by Sorenson, and at that time they agreed to go through the process to bring the property into compliance there would be no penalty.

White asked about the request for just recreational vehicles and boat, but also permission for the wood business. Rose stated the wood business is not included and doesn't believe he needs a permit for the wood business.

White read from the ordinance and stated it sounds like the permit would cover the wood business. She also asked if mobile homes or autos would be stored or sold there. Rose stated they would not be storing or selling mobile homes or autos.

Kettner asked how many boats are stored outside. Rose stated about 52 pontoons and 4 boats.

Kettner asked if the business is looking to expand the number of boats that will be stored. Rose stated that the number of boats will increase this year, but the area that they are asking, there is room in the areas that already exist.

Kettner mentioned the slope in the area and will this activity increase erosion or harm to the existing slopes. Rose stated they won't be expanding in the areas where the slopes increase and won't be disturbing any of the landscape.

Bob Sand, applicant, appearing in favor of the request, mentioned the two permits due to it being two separate properties.

White asked if the operator would be Rose and not Sand, but Sand is a property owner.

Kettner asked about the property description and the map. Sand spoke of the zoning of the property and the ag zoning and the commercial zoning on the property and bringing the property into compliance.

Kettner asked about an existing driveway and new driveway. Sand stated they have approval from the State for the additional driveway. He also spoke of the fire truck repair and that he does all that off site, he merely needed storage. He also confirmed they are not selling mobile homes or autos.

White asked about the firewood and processing or wood-splitting. Sand stated that is a question for Rose, but feels it is dumped there, cleaned up and then taken offsite.

Kettner asked about future expansion of fire truck repair or salvage. Sand stated he has no intention of expanding or salvaging or creating a salvage yard.

Steve Sorenson, appearing as interest may appear, provided a history of the property, the complaint and meetings that were held between staff and the property owners/applicants. He stated he did not write citations, it was late in the year, so he didn't base on the owners working with staff to bring the property into compliance.

White asked about the issue brought up by one of the neighbors and whether or not they are opposed to the use. Sorenson confirmed it was a neighbor and they wanted them to come into compliance.

White asked about the two permits. Sorenson confirmed that the rezone and board of adjustment were done as one permit due to them being partners, but they would each have a land use permit for the property once all the approvals have been done.

White asked about the permits allowing for expanded uses and made notes that the Town isn't looking at it that way and are looking at it as a limited use permit. Sorenson stated the Town looked at it as a boat storage permit.

White asked about the lumber yard and building contractor storage yard being part of the permit. Sorenson stated they included everything so that all bases were covered.

White stated the permit request isn't worded properly and asked if the Town knows about that part and asked about specifying those things in the permit. Sorenson stated the Town is aware.

Kettner asked about building contractor storage yards and are they looking at storing excavation equipment, bulldozers, dump trucks and is that allowed under that wording and does this permit allow for anything. Sorenson spoke of the equipment for the wood cutting business, which are part of the contractor storage yard and suggested asking the applicant about details.

Rose, reappearing. White asked if a condition was put on that stated it allowed for storage and repair of boats, rv's, storage and processing of firewood and associated equipment and activities associated with those items, would that be ok with the applicant. Rose confirmed he would be ok with that.

Kettner asked about the semi trailers behind the building and are they used for storage themselves or are they being stored there and is there a plan for more. Rose stated they are used for storage and do not intend to place any additional trailers and belong to Mr. Sand. He also stated that all his wood equipment is stored indoors, but he does have a truck outside currently.

White asked about the storage that is there is currently connected with Mr. Sands' business. Rose stated he is unsure.

Sand, reappearing. White asked about the storage in the semi trailers. Sand stated that is all his personal storage and there is no intent to rent or lease them for other storage. He stated he lives on Lake Redstone and there is no storage at the residential lot. He confirmed that when he sold the building to Rose, he moved several things that were stored in the buildings into the semi trailers.

Kettner stated that he is concerned with expansion allowed under this permit and would like to make sure the aesthetics stay put. Sand stated he has owned the property since 2005 and spoke of the natural screening and addressed theft.

White confirmed the owners understand that if the property is sold the new owners will have to come back for a new special exception permit.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at approximately 9:57 a.m.

White stated she is concerned about the ability to expand the business, but there may be some things that come up down the road and allow some leeway.

Netzinger stated he does not have a problem with the business, as the material will come and go with the business. He stated he is all for the expansion and allowing a person to make a living.

Allen questions whether it should be two separate parcels and how they can approve as one. White stated the Department makes the determination how this can be done and at their discretion and stated they have seen this on occasion.

Kettner stated he was confused as to what was being asked for, however all his questions have been answered.

Motion by White, seconded by Netzing, to approve the special exception permit to authorize the location and operation of a contractors storage yard with warehousing, outside storage and the sale and rental of mobile homes, recreational vehicles, boats and autos, with the conditions recommended by Conservation, Planning & Zoning, and add condition F, the permit will allow for storage and repair of marine related equipment and materials, rv's and the storage and processing of firewood and the equipment associated with these activities. **Motion carried 4-0.**

Ladas returned to the Board.

C. Mid-Continent Railway Historical Society (SP-07-12), requesting a special exception permit to authorize the location and operation of a recreation camp and campground.

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 the flood plain versus flood way. Lorenz explained.

Lorenz also confirmed that the campground would be used for the volunteers that are working and not open to the public.

Kettner asked about how much of the area was flooded during the 2008 flooding event. Lorenz stated there was extensive damage to the buildings that were out there as well as existing cars that were out there and needed to repair gears and wheels. He confirmed there were no injuries, but significant property damage.

Ladas asked about the federal government mandate that the county control the floodway and flood fringe and the flood fringe area complies with the ordinance by the county for a special exception permit. Lorenz confirmed that the county adopted new floodplain ordinance.

White asked how this appeal came about with housing people without realizing they needed a permit. Lorenz stated they were housing people without a permit and then worked with the applicant to bring the property into compliance.

Jeffrey Bloohm, President of Mid-Continent Rail Historical Society, appearing in favor of the request, stated that the museum is starting its 50<sup>th</sup> year this May and he understands that the museum has always allowed the members to stay somewhere on the property and allowed them to own their own cabooses and allowed them to living in them on a temporary basis, such as weekends, but if they stay longer they need permission from management. He addressed the

flood of 2008 and new floodplain ordinances that were adopted, as well as them feeling they had federal pre-emption, due to them being regulated by the Federal Railroad Administration. After further discussions with staff from the FRA, he came back to the County to continue through the process to bring them into compliance. He addressed the yellow highlighted areas on the map (Exhibit II,7) and spoke of volunteer members that own motorized camping vehicles and stay in their camper and occasionally they will have a boy scout troop that will camp out in some of these areas or they are parking lot areas, but would allow campers to stay on a temporary basis, which are located out of the floodway, but located in the flood fringe.

White asked if there are enough facilities for campers or volunteers using restrooms and such. Bloohm stated there is a public mens, public women and then a members only restroom and the facilities are on holding tanks that are plenty adequate. He also spoke of port-o-potty's used in the summer.

White asked about showers. Bloohm stated the members restroom already has showers.

Kettner asked about the damage in 2008 and what was the source of the funds to make repairs and restorations. Bloohm stated they received a CDBG grant from FEMA/Sauk for about \$425,000 and the loan will be totally forgiven as long as they stay in business in Sauk County. He also spoke of a small business administration loan for about \$425,000 and then raised through donations about \$150,000, and that still did not cover the costs of the flooding.

Kettner asked about the history of the site and if there has been any high water that has approached the property prior to the flood in 2008. Bloohm stated since 1992, they had 2 significant floods prior to 2008 and none of them did any damage to buildings or equipment, no rail washed out.

White asked if they built new construction would it have to be located out of the flood fringe. Bloohm stated he understand that the existing buildings are allowed, but would take a special permit to allow for a new building in the flood fringe. He believes they can't build any additional buildings at this location, but needs to defer to staff on that question.

Ladas asked about the Freedom Town Board. Bloohm stated he attended the Freedom Plan Commission which was approved and then addressed the full Town Board and was approved.

Cindy Haertlein, appearing in favor of the request, stated that she and her family have been members of the Mid Continent Rail Historical Society and they own a property adjacent to the museum and they are not opposed to any members camping in the cars and have historically done it. She confirmed camping has never been open to the public and will not be.

White asked if a small campground made to the public would they be opposed to it as a neighbor. Haertlein stated they would not be opposed to it as a neighbor, but it would not be allowed due to their non-profit status and could not happen.

Steve Sorenson, appearing as interest may appear, spoke of the flooding in 2008 and working with the railroad. He spoke of a plan needing to be in place to monitor the river and a 72 hour notice, exits and changes to the power supply.

White asked if these are considered the same as permanent camping units. Sorenson stated they can stay there for up to 180 days in the flood fringe and the units can stay there year around. He also stated that cars that become part of the museum can stay in the floodway, but the ones that will have active camping will need to be moved.

Bloohm, reappearing in favor, stated that they are a 501C3 non-profit organization and are tax exempt and confirmed that they could open up a campground but that part could not be tax exempt which they would have to pay income and sales tax.

White asked how they operate the gift stores. Bloohm stated the gift store's revenue is generated for their mission and while they still pay sales tax, they don't have to pay state or federal income tax, as the revenue generated is part of their mission.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at approximately 11:00 a.m.

The board discussed the request.

Motion by Netzinger, seconded by Allen, to approve the special exception permit to authorize the location and operation of a recreation camp and campground, with the conditions recommended by Conservation, Planning & Zoning. **Motion carried 5-0.**

Meeting adjourned at 11:01 a.m.

Respectfully submitted,

Henry Netzinger, Secretary