

SAUK COUNTY BOARD OF ADJUSTMENT
July 31, 2014 Session of the Board

PRESENT: Dan Kettner, Acting Chair
David Allen
Henry Netzinger
Nick Ladas

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 9:15 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, 4-0.**

The Board adopted the agenda for the July 31, 2014 session of the Board on a motion by Allen, seconded by Ladas. **Motion carried, 4-0.**

The Board adopted the minutes from the April 2014 session of the Board on a motion by Netzinger, seconded by Allen. **Motion carried 4-0.**

COMMUNICATIONS: None.

APPEALS:

A. Matt Elsing (SP-09-14) requesting a special exception permit to reinstate a revoked permit for filling and grading within 300 feet of Lake Wisconsin during the construction and landscaping of a new residence.

Dave Lorenz, 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.

Kettner asked about the failure of the retaining wall. Lorenz referred the citation questions to Steve Sorenson. He also spoke of the angle of the retaining walls by the DNR that failure was a possibility.

Kettner asked about whether silt fence was in place and the height of the retaining wall near the water and the lot line. Lorenz stated silt fence was now in place near the boat house and the approximate height of the retaining wall was about 10 feet high.

Steve Sorenson, Conservation, Planning & Zoning, appearing as interest may appear.

Kettner asked if he issues citations on the property. Sorenson stated he did.

Kettner asked why. Sorenson stated that the wall closest to the lake fell over and onto the driveway and many of the blocks are stacked on top of each other and not tied in and will continue to fail, which was one of the citations.

Kettner asked about the height of the wall near the water in compliance. Sorenson stated the height is in compliance. Kettner verified the only issue was the wall simply was not built properly and is failing. Sorenson stated that was correct.

Kettner verified the property was not stabilized, not controlling runoff. Sorenson agreed.

Kettner asked about the second set of citations. Sorenson explained the applicant failed to follow Board of Adjustment conditions and failed to stabilize the lot.

Kettner asked the outcome of the citations. Sorenson stated that the applicant plead guilty and paid the fines and then his original special exception permit was revoked which brings him to this hearing today.

Kettner verified that all work came to a halt at that time. Sorenson stated all work stopped except he required silt fence and drainage and berms had to be maintained.

Matt Elsing, Applicant, appearing in favor of the request, stated that none of the retaining walls have ever failed and there was a lot line issue and he has since purchased the lot.

Kettner asked about the lot line to the south property and if there is a retaining wall on the lot line. Elsing stated the retaining wall is currently built on the south lot line.

Kettner asked how far from the lot line is the existing retaining wall. Elsing, referring Exhibit XIII, 1, a larger map showing the future plan and the retaining wall is shown on the property line. He stated that they will keep the retaining wall off the line a few feet and is unsure why it is shown on the line in this exhibit.

Kettner asked if he is aware if the structures meet the required setbacks. Elsing stated he feels the retaining walls can be within the setback, but said they will keep it a couple feet off of the lot line.

Elsing stated he feels they met all of the conditions of the first approval and believes that the rain that they had, had erosion due to that in one day and were unable to control it at that time. He also spoke of the DNR being involved this spring and met their conditions as well. He spoke of engineering stormwater plans produced and will have DNR permits and feel they approve of everything they've done thus far. He stated it took a lot more room for the project and they exceeded the area and disturbed more than they were allowed. The DNR is also requiring them to redo the shoreline and reestablish the shore and seed near the water.

Kettner asked if they bit off more than they could chew and then nature worked against. It is also the property owners responsibility to protect the landscape and water and everything involved. Elsing agreed.

Kettner verified that the request is to continue to prepare the site and not to build the house. Elsing confirmed. He also spoke of the purchase of the lot to the north they will be able to do a stormwater retention and drain the water away.

Kettner asked if the check dam is already in place. Elsing stated it was and will be able to stop any water coming from the house and driveway and divert it and will reduce any surface drainage. Also in place of grass seed, they will be using sod near the water.

Ladas asked if he is acknowledging that the retaining wall has pushed out and will go in and lock into place. Elsing stated Sorenson was referring to the wall that was never really built and when it is completed it will be locked into place.

Randy Marten, appearing in favor of the application, stated that he assisted with the design of the home that is planning to be built, as well as assisting in stabilize the site this spring to be able to build the home. He stated he also met with the DNR staff to figure out the best way to stabilize the site, as well as the lot being a natural gorge which they had to address as well. He also spoke of the things they did to stabilize the lot and continue to keep water off of the lot even after the house is built.

Kettner verified that the water does eventually run into the lake, but not over the ground, but underground. Marten stated that is correct, however, there is an amendment to the maps that the Board has, per the request from the DNR.

Marten asked for permission to adjust the plan before the Board to allow for sod rather than seed. The sod will be pegged to stay and the seed will only be done on the flat area and the sod will be used on the areas that have more slope. The construction of the home will not begin until the entire lot is stabilized, soded and seeded and established.

Howard Lenerz, appearing as interest may appear, stated that his property adjoins the applicants property to the west and to the south. They appeared at the 2013 hearing and expressed issues with the erosion to their property and issues with the applicant and his appeal was granted. He also asked additional questions about plans to build a residence and additional drainage and runoff, as well as where the new well, septic and drainfield may be placed and how that may affect their property. They are also concerned about the boulder wall being placed on their property line and the boathouse is also built too close to their property line, as well as the concrete apron is right up to their lot line. His new plan also show a patio and a pool shown right up next to their property line. He stated his trees have been damaged by trees falling on them and the root system have been damaged from all the trees being removed. He asked the board what recourse they have when all the work done on the applicant's property has caused damage to his property.

Kettner stated the board is sympathetic to their concerns, however the Board is not able to answer in many ways and feels the applicant should be questioned over those things.

Matt Elsing, reappearing, stated there was only 1 incident where a tree had fallen towards the Lenerz property and they had called a tree service to piece it down and swing the branches to their property and do a cleanup. He stated the retaining wall near the boathouse is already in and is not going closer to their property.

Kettner asked about the proposed retaining walls, patios, etc., that are shown right on the lot lines and the removal of trees that affect things that happen on his property and what will be done to make sure that damage to their property will be addressed. Elsing stated he is not sure what their issue is and said they can keep the proposed wall can be kept 2 or 3 feet off of the lot line.

Kettner asked about the silt running into the lake and it's in everyone's interest that this be cleaned up and stabilized. Elsing referred to the survey and it shows that the flow is going onto their lot and maybe at the bottom, it may go towards the Lenerz lot, but they are not done with the project.

Netzinger asked about Exhibit IX,3, you are building on lot 2. Elsing stated they would.

Netzinger stated he just built lot 1. Elsing stated he did just purchase lot 1.

Netzinger stated there is a utility easement and you are not allowed to build in a utility easement, as your plans are showing. Elsing stated he feels you are allowed to, however it is at your own expense if a utility needs to be put in there.

Netzinger asked if he owns lot 3. Elsing stated he does not.

Netzinger stated there is also a utility easement on the north side. Elsing stated they would look into it.

Kettner stated if that easement was recognized by all structures, that would solve the problem of encroachment onto the neighbors property.

Steve Sorenson, reappearing.

Kettner asked how the utility easement affects building structures. Sorenson stated under shoreland zoning easements are not recognized and he refers to the applicant to the easement holder to ask if they can build a structure. However, to his knowledge all easement have to be free of structures. However, it is not something he regulates. But it is his understanding they have to be kept free and clear.

Sorenson also spoke of a retaining wall being built on the north line, even though he owns both lots, it is still on 2 lots, so he request the applicant needs to adjust the lot line or the wall needs to be moved entirely on his lot to avoid future issues. He also spoke of the north lot having a huge water way emptying out on his lot.

Kettner asked if these two lots were joined into 1 lot would that solve some of the problems here today. Sorenson stated that is also an option. He stated this lot needs to be stabilized immediately. He needs to start at the shoreline and redo the riprap that was done wrong and work his way back.

Matt Elsing, reappearing, stated they are planning on addressing the lot line and they plan to move the lot line over to address the retaining wall issue and stated that if he has to combine the lot that is a financial hit to him.

Kettner asked if the intention is to move the existing lot line to make the retaining wall onto one lot, which would be about a foot and one half. Elsing verified. He also stated he would do a maintenance easement on the retention pond.

Kettner asked about the underground drainage system would then be owned by and maintained by whoever the new owner would be. Elsing stated they would do a maintenance easement on it on the pond inlets/outlets.

Kettner asked what is the width of his lot as it stands today. Elsing stated about 96-97 feet.

Kettner asked the width of the second lot. Elsing stated 100 feet.

Netzinger stated if he wanted to sell lot 1, there would be a lot of issue. Elsing stated it would all be recorded easements and would all be disclosed.

Marten, reappearing, using Exhibit XIII showed where the water runoff will be going once the house will be built, and explained that they will be taking as much water as possible underground.

Netzinger asked how many trees will need to be removed on lot 1. Marten stated smaller trees will need to be removed, but no trees greater than 4-6 inches will be removed.

Seeing as no one else wished to appear, Acting Chair Kettner closed the public portion of the meeting at approximately 10:20 a.m.

Motion by Netzinger, seconded by Allen, to approve the special exception permit to reinstate a revoked permit for filling and grading within 300 feet of Lake Wisconsin during the construction and landscaping of a new residence with the conditions listed by Conservation Planning and Zoning, with the added conditions of approval granted by the easement holder of the utility easements to allow encroachment of structures to be built within them, as well as a survey be done and recorded to adjust the lot line to move the retaining wall onto one lot. **Motion carried 4-0.**

B. Jeffrey & Lorraine Schwab (SP-10-14) requesting a special exception permit to authorize filling and grading within 300 feet of Lake Redstone during the construction of a pathway and stone patio.

Dave Lorenz, 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.

Rich Blakeslee, agent for the applicant, appearing in favor of the appeal, spoke of the existing pathway that leads from the front lawn to the lake and will improve that will level out a small area and build a small retaining wall and pour a patio.

Kettner asked about the equipment. Blakeslee stated they will use a skidster on tracks and will be very mild, no disturbance, no trees cut down and the contractor should be in and out within a week. He also spoke of planning and follow up.

Kettner asked if the retaining wall will be natural stone and if the existing stairs will be removed. Blakeslee stated the natural stone will be used and the existing stairs above will stay but the one near the lake will be rebuilt.

Ladas asked about the material that will be removed to build the patio will be removed and hauled off site. Blakeslee said it will be removed and hauled offsite immediately.

Bev Vaillancourt, appearing in favor of the appeal, stated she is the Chair of the Town of LaValle, and that the Plan Commission and Board support the project.

Seeing as no one else wished to appear, Acting Chair Kettner closed the public portion of the meeting at approximately 10:42 a.m.

The Board discussed the application.

Motion by Ladas, seconded by Netzinger, to approve the special exception permit to authorize filling and grading within 300 feet of Lake Redstone during the construction of a pathway and stone patio, with the conditions recommended by Conservation Planning and Zoning. **Motion carried 4-0.**

C. Douglas Quinn & Marcie Anne Lowe (SP-11-14) requesting a special exception permit to authorize filling and grading within 300 feet of Lake Redstone during the construction of two block retaining walls.

Dave Lorenz, 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.

Richard Blakeslee, agent for the applicant, appearing in favor of the request, stated that the integrity of the slope is dropping towards the lake and took some of the deck towards the house and had to rebuild the deck to keep it from going down the hill. The plan is to build two retaining walls to stabilize the slope, which he reviewed the plans in detail.

Kettner asked about the life of the product and it filling up with silt. Blakeslee referred the product questions to the contractor.

Kettner asked more about the construction of the retaining wall. Blakeslee explained.

Kettner asked about the equipment to be used. Blakeslee referred to the contractor.

Jason Sammons, appearing in favor of the appeal, stated he is the contractor on the project and explained the retaining wall block and the construction of the block.

Kettner asked where the drainage will go. Sammons stated it will drain out the bottom of the wall facing the water.

Kettner asked if they will be removing trees. Sammons stated they will not.

Ladas confirmed the drainage process.

Kettner verified silt fencing and establishing the vegetation. Sammons confirmed.

Bev Vaillancourt, appearing in favor of the appeal, stated the LaValle Plan Commission and Board are in favor of this request.

Seeing as no one else wished to appear, Acting Chair Kettner closed the public portion of the meeting at approximately 11:02 a.m.

The Board discussed the application.

Motion by Netzinger, seconded by Ladas, to approve the special exception permit to authorize filling and grading within 300 feet of Lake Redstone during the construction of two block retaining walls, with the recommended conditions by Conservation Planning and Zoning.

Motion carried 4-0.

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

Meeting adjourned at 11:05 a.m.

Respectfully submitted,

Henry Netzinger, Secretary