

SAUK COUNTY BOARD OF ADJUSTMENT
February 26, 2015 Session of the Board

PRESENT: Linda White, Chair
Dan Kettner, Vice Chair
Henry Netzing
Nick Ladas

ABSENT: David Allen

STAFF PRESENT: Dave Lorenz
Gina Templin
Steve Sorenson

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 Ladas. **Motion carried, 4-0.**

The Board adopted the agenda for the February 26, 2015 session of the Board on a motion by Ladas, seconded by Kettner. **Motion carried, 4-0.**

The Board adopted the minutes from the August 28, 2014 session of the Board on a motion by Ladas, seconded by Netzing. **Motion carried 4-0.**

COMMUNICATIONS: None.

APPEALS:

A. D.L. Gasser Construction (SP-01-15) requesting a special exception permit to modify the conditions of a special exception permit to operation a mineral extraction site.

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 if there has been a similar type of modification to operating hours. Lorenz stated in 2012 there was a similar request associated with the Highway 12 bypass and explained the conditions associated with that request. He also explained they met the conditions of the board at that time and it has expired.

White asked how many times they used that permit exception. Lorenz referred that question to Sorenson.

Kettner asked if that was an extension of all activities like the crusher. Lorenz explained it was not for the crushing operations and explained that this request is only required if they go beyond the due date of the DOT resurfacing project and referred to the letter from the applicant.

White asked if there were any problems with the prior permit. Lorenz stated there were not.

Ladas asked if the Town Board was in approval of the special exception permit in 2012. Lorenz stated they were.

John Traxler, DL Gasser/Mathy Construction Co., applicant, appearing in favor of the request, reviewed the current hours of operation, the previous extended hour permit for 2 years in 2012, which was used only a handful of times in 2013.

White asked if they received any comments from the neighbors during that time. Traxler stated they did not.

Kettner asked how asphalt is prepared prior to being taken to the site. Traxler explained the difference in production and DOT standards which would require different standards.

White asked about the project. Traxler explained.

Kettner confirmed the modifications being requested are exactly as in the past. Traxler stated he wrote it the same as the 2012 permit, but if the Board chooses to make it only for this project, he stated they could accept that as well.

Kettner asked if it is the practice to use strobe light backing up instead of back up sounds. Traxler stated it can be done, but they don't work nights now, but they can do that.

White asked about working on Sundays. Traxler stated what she is referring to is due to hours of the job through DOT due to shutting down traffic.

Kettner asked if he received any complaints from neighbors during the operations of extended hours the previous time. Traxler stated he did not.

Randy Thomas, appearing in opposition, stated he is concerned about the expanded hours and has issues with the back up noise. He suggested limiting the permit to 10 days of operation rather than 30 days.

White asked if he lived in the subdivision since 2012 and if the back up noise is a concern through the evening not just at night. Thomas stated he hasn't heard the noise at night, but early on the weekends sometimes, however, they simply keep their windows closed so they don't hear the noise.

Ladas asked if he filed any complaints. Thomas stated as a subdivision they have done a poor job of filing complaints and have not done so.

Sharon Terry, appearing in opposition, stated her home is not near the quarry, but is here supporting those that do live near the site.

Matthew Renn, appearing in opposition, stated that his property is about 80 acres away from the quarry and questions whether the hours are being adhered to currently. He stated he has lived there since 2001.

White spoke of a compromise with the applicant for a trade off and the specific project that is taking place and asked what a trade off could be. Renn feels if the project would benefit the Town of Baraboo, he could compromise, but feels Sauk County gets no benefit to having this pit in the Town and will not offer a compromise.

Ladas asked if Renn feels the operator is not following current rules. Renn stated he is unsure, however, he gets up early but doesn't write down what time they start.

Ladas stated that this business is an asset to the Township. Renn stated he, himself, is the highest tax payer in the Town of Baraboo and the company doesn't barely pay taxes, they don't pay for car washes when cars are dirty, or fix roads, etc., so he does not believe they are an asset to the Town.

Netzinger asked when the subdivision was created. Renn stated it was created in 1999 -2000 and he built his house in 2001 and was the 2nd home out there. He stated the pit existed at that time but it wasn't a problem.

Warren Trager, appearing in opposition, presented Exhibit VIII, a copy of the Nonmetallic mining reclamation ordinance, and copies of the Chapter 7, Sauk County Zoning ordinance, as well as a copy of one page from a 1996 Board of Adjustment Decision letter, and a copy of one page from a 2001 Decision letter.

White explained to Trager how to file a complaint with the Department of Conservation Planning and Zoning.

Steve Hess, appearing in opposition, representing himself and not the Town Board, stated they live in a subdivision with nice people who won't call and complain, but asked what constitutes a complaint. He stated that the quarry serves no purpose for Baraboo or Sauk County and it is solely for Wisconsin Dells and to cater around their tourist season. He feels if Wisconsin Dells wants it then they should build their own asphalt plant. He stated he would be in favor of some type of trade off and doesn't want to see this site become a manufacturing hub.

Ladas stated if they are operating within the hours that they are allowed to operate within, then there is no complaint.

White stated if there are issues that are impacting the quality of life, while they are not violating their permit, they are valid comments to provide and give a real picture, other than just the emotional picture of the day and it needs to be more than opinion.

Martha Trager, appearing in opposition, stated that she lives on the corner of Highway BD and Pit Rd and she can't open her windows because of the effects of the highway and the quarry and has an issue with the jake-brakes.

Steve Anderson, appearing as interest may appear, stated although he does not live near the pit, he has friends that live near the pit and doesn't get the noise or the dust from the pit and didn't realize it was an issue. He made suggestions how to keep record of possible violations with cellphone technology.

Tony Tomashek, Vice President, Milestone Materials, appearing as interest may appear, stated that they are not asking for a change in the pit operations, but for the asphalt plant. He spoke of road agreements with the Town, and the trucks do not go to the South and those could be trucks from another pit located near them. He did speak about a complaint 2 years ago and explained what happened. He spoke of white noise back up beepers, the use of strobe lights and MSHA and OSHA regulations. He also spoke of the company being a good corporate citizen, the donations and local contributions, but also that they are a seasonal operation.

White asked about having a portable plant somewhere else versus working out of this plant. Tomashek explained that when you bid a job and build a job, the logistics, timing and with all other jobs taking place at the same time, the materials if they will meet the specifications and if you can use a portable plant or not.

White asked about the amount of material coming in from the outside and what material for the asphalt plant is used locally. Tomashek explained the circumstances and mentioned it depends on the engineers, DOT and the villages that specifies the asphalt mixes so they have to incorporate materials from different locations.

White spoke of exchange of more hours here and less hours there and if there is an opinion. Tomashek stated Milestone doesn't work every Saturday and maybe they could notify the Township on the days that they don't work. They are only here requesting the extra hours because the job requires them to work at night.

Netzinger stated the emphasis is on they "may" work extended hours, not "will". Tomashek stated that is correct.

Steve Sorenson, Sauk County Conservation Planning and Zoning, appearing as interest may appear, spoke of a formal complaint, provided Exhibit IX, a copy of the formal complaint, a letter in response to the complaint, and explained that after the investigation, it was found that the operator was not in violation. He also explained how calls/complaints are handled.

White asked about grandfathering of the pit. Sorenson explained where the grandfathered site is located, doing the exact same thing and has been in existence since 1930.

Kettner asked about certain guidelines of noise, dust, etc., and the permit is granted and those things are created, an answer to their concern is not "it's permitted".

White suggested meeting with the residents to let them know what they can do if they have complaints.

John Traxler, reappearing, spoke about a portable asphalt plant and there is no aggregate in Juneau County to use for a portable plant.

White asked about an exchange in hours. Traxler stated they don't want to work at night and hope they don't have to work at night.

White spoke of the need to address other issues in 2016. Traxler stated his phone number is on the sign at the site and is on 24/7. He also spoke of the number of employees they have and where they go for work.

Ladas asked without the special exception permit will they be able to take the bid. Traxler stated they have the bid and the progress schedule put together has the job done by May 21st with no need to work at night, but if they get a lot rain, they may need to work at night to finish the job.

Kettner asked if they were present at the Town Board meeting and what was the reasoning why it was voted down. Traxler stated one person on the board is a neighbor and he made the motion. It was a long meeting.

Kettner asked if there were a vocal minority or a large group of people who have problems with the operations. Traxler stated it was the same people that are here today.

Netzinger stated this request is specific to the Highway 90/94 project. Traxler stated right now he does not know of any other projects, however, he wrote it up exactly the same as the previous request. If the Board would like to modify it specific to this job, he would be fine with it.

Mike Terry, appearing as interest may appear, stated because the Town is not getting any taxes from the quarry, they aren't getting anything from the Town.

White stated she felt this request is a contingency plan. Terry stated he doesn't feel sorry for them and should have come to meetings prior to taking the bid.

Ladas asked if he was on the Town Board in 2012. Terry stated he was not.

Warren Trager, reappearing, spoke about grandfathering and other issues at the site.

Seeing as no one else wished to appear, Chair White closed the public portion of the meeting at approximately 10:50 a.m.

Ladas stated he understands there is a lot of angst by the residents, but feels if they do approve the hours, they only give the extension for this project they are working on now. He understands that the company would want to complete the job in the hours allotted. He feels much of the testimony given will be discussed when the entire permit will be reviewed in 2016. He feels he

can approve for only the one project and feels this is the best interest for both the applicant and protecting the neighbors.

Netzinger stated that much of the testimony did not address the application today, but more for the renewal in 2016. He spoke about living in the country and the issues of living in the country. He feels he can support the application if it is adjusted to the one contract and is hoping they don't have to use it.

Kettner stated that as far as the extended hours are concerned, it is the noise and everyone needs to be a good neighbor. He stated he understands the need for materials and good roads and they have to be built in the most efficient and cost effective way. He would like to grant the permit on a limited basis and only if the absolute necessity of working those hours comes into play.

White stated there is a balance to keeping a business in the area, agreements with the Town taking care of the roads, and the extended hours are contract specific.

Motion by White, seconded by Netzinger, to approve an extension of hours, adding conditions of per the hours of the contract only, and if run during night hours, the equipment must be changed to make as little impact on the neighbors, as well as the conditions recommended by Conservation Planning and Zoning, **Motion carried 4-0.**

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

Meeting adjourned at 11:00 a.m.

Respectfully submitted,

Henry Netzinger, Secretary