

**BOARD OF ADJUSTMENT STAFF REPORT
SP-11-11**

Timothy Deppe

Public Hearing Scheduled for: 06/23/11

1. Request

A request for a special exception permit to authorize filling and grading within 300 feet of Lake Wisconsin. The plans call for the revision of the approved plans granted in October 2010 for rebuilding/repair of failing boulder retaining walls.

2. History

Location/Zoning	Permits Issued	Previous Appeals	Citations
Property is located in the Shoreland Protection zoning district, on real estate described as: E12558 Bay Rd., part of the SW ¼, NW ¼, section 8, T10N, R7E, Town of Merrimac.	<u>Permits:</u> A permit to replace the septic system was issued in 1988. In 1989 a land use permit for filling and grading was issued. In 1996 a land use permit was issued for additions to the house and garage.	In 1989 a special exception permit was granted for filling & grading. In 1999 two variances were granted for additions to the residence by a previous owner. A special exception permit was approved for filling and grading in 2010.	None found

In 1989 a previous owner applied for a variance to allow a proposed deck within the shoreland setback and a special exception permit for filling and grading. The variance was denied by the Board and the special exception request was granted with conditions. In 1996 a permit was issued for additions to the house and garage. In 1999 the owner applied for two variances to permit the additions as built in 1996 that was within the minimum road setback and adding to a nonconforming structure. Both variances were granted by the Board with conditions. A special exception permit was granted for this project in October 2010, this appeal is a modification of the plan approved by the Board at that hearing.

3. Finding of Fact:

When reviewing a special exception proposal for filling and grading in the Shoreland Protection District, the Board of Adjustment looks at several criteria, including the conditions in section 8.08(3) and the provisions specified in sections 8.14(3)(b) and 8.14(3)(c).

Section 8.08(3)(a) of the Sauk County Shoreland Protection Ordinance provides that a special exception permit is required for any filling and grading which is within 300 feet landward of the ordinary high water mark of navigable water and which has surface drainage toward the water and on which there is any of the topographic conditions listed below:

1. Any filling or grading on slopes of more than twenty percent.
2. Filling or grading of more than 2000 square feet on slopes of twelve to twenty percent.
3. Filling or grading of more than 4000 square feet on slopes of less than twelve percent.

Surrounding Properties		Floodplain/Wetland	Other:
North	Lake Wisconsin	Floodplain map, panel 5511C0552 E, effective date 12-15-09 (attached). There are no mapped wetlands indicated in this area.	Lake Wisconsin is a navigable water and is subject to the Shoreland Protection Ordinance.
South	Agricultural lands with few residences.		
East	Developed and vacant residential lots.		
West	Developed residential lots.		

4. Plan Commission/Town Recommendation

The Town Board of Merrimac has been notified that an appeal has been made to the Board of Adjustment.

5. Planning and Zoning Recommendation

Planning and zoning recommends that the following conditions be considered by the Board should the Board grant the special exception permit.

A. All work on and use of the premises shall proceed with the plans and supplemental evidence presented at the hearing. It is the responsibility of the applicant to secure all required Town, State, Federal and County permits within one year of the hearing date. County permits required for this approval include land use permits for filling & grading, construction of retaining walls and tree cutting.

B. No work shall be commenced prior to receiving the Board of Adjustment decision letter and securing the required permits.

C. Erosion control shall be installed and maintained until the site is stabilized/revegetated per the plans submitted at the time of application.

D. This project shall not increase stormwater runoff onto neighboring properties.

E. Per Sauk Co. Code 8.08(5)(a), the smallest amount of bare ground shall be exposed for as short a time as feasible.

F. Per Sauk Co. Code 8.08(5)(b), temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.

G. Per Sauk Co. Code 8.08(5)(c), diversion berms or bales, silting basins, terraces, filter fabric fencing, the application of polymers and other methods shall be used to prevent erosion.

H. Per Sauk County Code 8.08(5)(e), fill shall be stabilized according to accepted engineering standards.

I. Sauk County Planning and Zoning shall be granted permission to view the site to ensure compliance with these conditions and other relevant provisions of Sauk County Ordinances. The power to ensure compliance with these conditions is given to Sauk County Planning and Zoning. If the department finds that any of these conditions have been violated, they are hereby authorized to take corrective action, either through suspension of the permit, citations or by any means of enforcement that is within their power.

J. Failure by the Applicant to follow all of the conditions set forth by the Sauk County Board of Adjustment is grounds for suspension or revocation of the special exception permit and possible enforcement action. In order to have the special exception permit reinstated after suspension, the applicant must comply with all conditions established by the Board of Adjustment, as determined by the Sauk County Planning & Zoning Director or appear in front of the Board of Adjustment. In order to have the special exception permit reinstated after revocation the applicant must appear in front of the Board of Adjustment for a new hearing and comply with all requirements as outlined in this letter.