

SAUK COUNTY BOARD OF ADJUSTMENT

*SAUK COUNTY WEST SQUARE BUILDING
505 BRADWAY
BARABOO, WI 53913
Telephone: (608) 355-3285*

March 29, 2012

DECISION
SAUK COUNTY BOARD OF ADJUSTMENT
Appeal Application No. SP-05-12

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

D. L. Gasser Construction
1000 Terrytown Rd.
Baraboo, WI. 539513-0441

Dear Sirs:

On March 29, 2012, the Sauk County Board of Adjustment considered your application for a special exception permit, pursuant to Sauk Co. Code § 7.05(2)(l)19. Based upon the applicable records, evidence and testimony presented at the hearing, the Board of Adjustment makes the following:

FINDINGS OF FACT

D. L. Gasser Construction, hereinafter referred to as "Applicant", applied for a special exception permit pursuant to Sauk Co. Code § 7.05(2)(l)19, to authorize the location and operation of a temporary hot mix asphalt plant. The property is located in section 17 in the Town of Woodland and subject to Chapter 7, of the Sauk County Zoning Ordinance.

Sauk Co. Code § 7.05(2)(l)19, provides that a special exception permit is required for mineral extraction activities in the Agricultural District.

This site has been used for mineral extraction for a number of years. A special exception permit was granted in 2009 to the owner for the continued operation of the quarry for a period of ten years. In 2010 a permit was granted to the applicant for the operation of a temporary hot mix asphalt plant at this location.

CONCLUSIONS OF LAW

The Sauk County Board of Adjustment may not grant a special exception permit for mineral activities unless all of the conditions listed in Sauk Co. Code §7.05(2)(l)19, are met. As part of its review, the Board must determine whether the location of the site is consistent with the intent of the ordinance and whether the site will significantly injure the public health, safety or welfare. The applicant has the burden of showing that the permit meets the standards designated in Sauk Co. Code § 7.05(2)(l)19. Edward Kraemer & Sons, Inc. v. Sauk County Board of Adjustment, 183 Wis. 2d 1, 515 N.W.2d 256, 262 (1994).

Upon reviewing the evidence and testimony, the Board determined the mineral extraction site is consistent with the purpose and intent of the Agricultural District. The board made this decision based on testimony and information provided at the hearing, and the following:

The Board determined that this site has been used for a hot mix asphalt plant just two years ago without any complaints from the neighboring property owners and had the approval from the Town of Woodland.

DECISION

Based upon the evidence, testimony, exhibits and legal authority, the Sauk County Board of Adjustment, by a vote of five to none, approves your request, subject to conditions, for a special exception permit to operate mineral extraction activities.

In issuing the special exception permit, the Board set forth the following conditions the Applicant shall comply with:

- 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 permit required for this approval include a land use permit.
- B. No work shall be commenced prior to receiving the Board of Adjustment decision letter and securing the required permits.
- C. The plant shall operate for the term under all the conditions, and during the hours as permitted by special exception permit SP-29-09. This permit is due to expire September of 2012.
- D. The permit shall be nontransferable.
- E. The Sauk County Conservation Planning and Zoning Office shall be granted permission to view the site to ensure compliance with these conditions and other relevant provisions of the Sauk County Ordinances. The power to ensure compliance with these conditions is given to Sauk County conservation 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.
- F. 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 the conditions established by the Board of Adjustment, as determined by the Sauk County Conservation Planning &

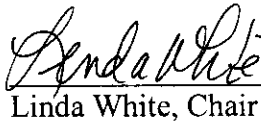
Zoning Director or appear in front of the Board of Adjustment. In order to have the special exception permit reinstated after revocation the applicant must appear in front of the Board of Adjustment for a new hearing and comply with all requirements as outlined in this letter.

APPEAL RIGHTS

A complete record of the hearing and the decision of the Board is available for inspection at the Sauk County West Square Building. Please note that advance arrangements may be necessary to inspect such records. This decision will become final unless a written appeal is filed with the Sauk County Circuit Court within 30 days of the decision being filed in the Sauk County Planning and Zoning Office. Copies of the record may be secured upon written request and upon payment of the transcription fees.

Very truly yours,

SAUK COUNTY BOARD OF ADJUSTMENT


Linda White, Chair

Filed on this date: 3-30-12

COPY TO:

Ms. Linda White, S3175 White Road, Reedsburg, WI. 53959
Mr. Daniel Kettner, E4717 Rolling Ridge Road, Spring Green, WI. 53588
Mr. Henry Netzing, E11085 Sauk Prairie Road, Prairie Du Sac, WI. 53578
Mr. David Allen, S3951 Grote Hill Road, Reedsburg, WI. 53959
Mr. Nicholas Ladas, S500 Warbler Court, La Valle, WI. 53941
Mr. Ron Lestikow, S6463 Devils Delight Road, Merrimac, WI. 53561
Mr. David Wernecke E13119 State Road 33, Baraboo, WI. 53913
Sauk County Planning and Zoning Office
Town Clerk
District Supervisor