

# ***SAUK COUNTY BOARD OF ADJUSTMENT***

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*SAUK COUNTY WEST SQUARE BUILDING*

*505 BRADWAY*

*BARABOO, WI 53913*

*Telephone: (608) 355-3285*

April 27, 2012

DECISION  
SAUK COUNTY BOARD OF ADJUSTMENT  
Appeal Application No. SP-11-12

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

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

Dear Sirs:

On April 26, 2012, the Sauk County Board of Adjustment considered your request for a modification of a special exception permit, pursuant to Sauk Co. Code § 7.05(2)(1)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 modification of its special exception permit pursuant to Sauk Co. Code § 7.05(2)(1)19, to authorize the location and operation of a quarry. The property is located in section 22 in the Town of Baraboo and subject to Chapter 7, of the Sauk County Zoning Ordinance. The modification sought to change the permitted hours of operation. The current hours of operation specified in permit SP-13-06 are:

## **AGGREGATE EXTRACTION, PROCESSING, TRUCKING & MAINTENANCE**

A. Crushing & Processing	6 AM to 9 PM	Monday through Friday
B. Loading & Trucking	6 AM to 9 PM	Monday through Friday
	6 AM to 3 PM	3 Saturdays/Month
C. Maintenance	As needed, 24 HR/day Monday through Saturday	

## **ASPHALT PROCESSING, TRUCKING & MAINTENANCE**

A. Processing	6 AM to 9 PM	Monday through Friday
	6 AM to 12 PM	3 Saturdays/Month
B. Loading & Trucking	6 AM to 9 PM	Monday through Friday
	6 AM to 3 PM	3 Saturdays/Month
C. Maintenance	6 AM to 11 PM	Monday through Saturday

Sauk Co. Code § 7.05(2)(1)19, provides that a special exception permit is required for mineral extraction activities in the Agricultural District.

Five special exception permits have been granted for mineral extraction at this location since 1988. In 2006 a permit was granted to the applicant for the continued operation at this location for a period of ten years.

## 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)(1)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)(1)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 that the requested amendment 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 the applicant should have the opportunity to accept contracts for work that would require them to operate (with limitations) at hours not permitted by the existing special exception permit.

## 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, to modify the hours of operation at this mineral extraction site.

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

- A. The existing hours of operation shall remain in effect except the applicant may operate outside of the these hours for up to 30 days during each year except Saturday and Sunday. The hours may only be modified if the applicant has a signed contract for work that requires operation outside of the permitted hours, with notification to Conservation, Planning & Zoning 24 hours prior to operating at extended hours.
- B. The hour modification does not apply to any crushing operation.
- C. This modification of permitted hours of operation shall be in effect until April 26, 2014.

D. 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.

E. 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.

F. All other conditions of SP-13-06 remain in full force and effect.


#### 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

  
Henry Netzinger, Secretary

Filed on this date: May 2, 2012

**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