

**SAUK COUNTY BOARD OF ADJUSTMENT**  
**April 29, 2010 Session of the Board**

**PRESENT:** Richard Vogt, Chair  
Robert Roloff, Secretary  
Fred Halfen  
David Wernecke, Alternate  
Ron Lestikow, Alternate

**ABSENT:** Linda White  
David Allen

**STAFF PRESENT:** Gina Templin  
Steve Sorenson

**OTHERS PRESENT:** See individual appeal files for registration appearance slips.

Chair Vogt 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 discussed regarding SP-05-10 and notification not going to those parcel across from County Road A. Steward appeared and spoke about the Class II notice that is required, which waws done, however, there is not a specific description as to what the “interested parties” specifically shall be. He advised that Corporation Counsel is researching. The Board decided to continue with the hearing and move the City of Baraboo to the end of the agenda. Certification accepted on a motion by Halfen, seconded by Wernecke. **Motion carried 5-0.**

The Board amended the agenda to move the City of Baraboo to be heard after 5 E. The amended agenda adopted the agenda for February 25, 2010 meeting on a Motion by Halfen, seconded by Roloff. **Motion carried 5-0.**

Motion by Roloff, seconded by Lestikow to adopt the March minutes. **Motion carried 4-0 with Wernecke abstaining.**

**COMMUNICATIONS:**

None to report.

**APPEALS:**

- B. David Kamman (SP-06-10) requesting a special exception permit to authorize filling and grading on slopes of more than 20%.

Dave Lorenz, Environmental and Zoning Specialist, appeared and provided the history and background of the request as well as photos and a video of site. He then provided recommendations by staff if the request is approved.

Halfen asked about the project being completed and did not get a permit and now asking for permission after the fact. Lorenz explained the process began with a new holding tank being installed and that it was noticed during inspection of the holding tank that slopes had been disturbed.

Vogt asked about getting permission to put the access road in on the adjacent property. Lorenz explained that was correct, but they needed to extend it, which is where they got into issues with the slopes.

Vogt referred to Exhibit II,3. Vogt asked if this was an oversight on their part or the contractors part. Lorenz stated he didn't feel they knew a special permit was required to put in a new holding tank.

Wernecke asked if this was grading on 2 different properties. Lorenz stated there was probably grading done on the north side of the property as well.

Vogt asked if they had permission, would the owner of lot 44 have to get a permit. Lorenz stated that anyone could act as agent for the project.

Halfen asked who did the inspection of the tank and if it was advised that they needed a special permit. Lorenz stated that he did the inspection and after returning the office and verifying that a special permit was not issued, he contact the landowner and notified them of what was needed.

Roloff asked if the holding tank was replaced due to the county program. Lorenz stated he was not sure.

Wernecke asked if the tanks are setback from the water and if the owners and contractors were not aware of the need for a special exception permit. Lorenz stated the setbacks are met and he believes the contractors were not aware of the requirement.

Wernecke/Halfen asked about previous special exception permits. Lorenz explained that landscaping permits have been issued to the owner in the past.

Vogt, referring to Exhibit II,6, a site plan from Blakeslee's, which does not show any access. Lorenz explained that was the site plan submitted for the holding tank permit, and it also shows a different location for the proposed tank versus where it actually was installed.

Wernecke asked what steps Planning & Zoning is doing to minimize the projects being done prior to permits being issued. Lorenz stated that any work done on shoreland areas is to physically inspect the site prior to issuing any permits.

Wernecke asked if there is any regular communication with landowners to warn them. Lorenz stated that the office fields calls and do have literature that is relevant.

Roloff asked how many steel septic tanks have to be replaced around Lake Redstone. Lorenz stated there were approximately 300 steel tanks identified and possibly half have already been replaced and some have taken out permits. Roloff asked if all of those people required special exception permits for those replacements. Lorenz explained that digging for the system, they do not need a special exception permit, its only when they disturb further out around the area for the tank.

Lestikow asked about the install of the tanks and how to do it properly. Lorenz stated that was correct, however due to the change in the site plan, that required the filling and grading.

Vogt, referring to Exhibit II,9 and 11, and if that shows the previous system.

Wernecke asked if Exhibit II 6 is the plan submitted for the permit and if Exhibit II,11 is what was actually done. Lorenz stated that is correct, where II,6 is a proposal with the soil test and Exhibit II, 11 is the plan that came in with the permit.

Halfen asked if the contactor shouldn't know the regulations and if a citation was issued. Lorenz explained.

Shea Geffert, Blakeslee Inc, appearing as agent for the applicant, spoke of the history on the site, the inspection being done due to the steel tank program done by the county, showed that his drainfield and tank was failing. He also explained the difference between Exhibit II, 5 & 6 and Exhibit II, 11. He then explained the process of replacing the tanks and setting them into the ground and where the disturbance came into play, due to disturbing the soil with the backhoe, they repaired the lawn with seed and mulch and erosion control. He confirmed they were unaware that a special permit was necessary for the installation of the tanks.

Vogt, referring to Exhibit II,3, asked about the existing drive and all that was done was using lot 44, and did not build a driveway, but the land was disturbed by the equipment used. Geffert confirmed that no work was done to make an access, but merely disturbance by the equipment which they fixed once they were finished.

Wernecke asked what kind of vegetation was removed. Geffert stated some brush and small tree saplings.

Lestikow asked about the pumping of the tanks and how the trucks will get access. Geffert, referring to Exhibit II,3, stating that the existing drive is blacktop that the truck will back down into and then there is a port right along the driveway, not needing to access the tanks in that location.

Seeing as no one else wished to appear, Chair Vogt closed this portion of the hearing at 9:45 a.m.

Halfen suggested that if Planning and Zoning is onsite that they advise all parties of the requirements that may be needed in addition to normal permits.

Motion by Roloff, seconded by Halfen, to approve the special exception request for filling and grading on slopes in excess of 20%. **Motion carried 5-0.**

- B. Dannie Gingerich SP-07-10 requesting a modification of the conditions of a special exception permit granted for an agricultural related business / auction barn, requesting to allow parking on the town roads and allow household goods to be auctioned.

Dave Lorenz, Environmental and Zoning Specialist, appeared and provided the history and background of the request as well as photos and a video of site. He provided Exhibit IV, 2,3,4 from the Town of Ironton. He then provided recommendations by staff if the request is approved.

Wernecke asked what zoning district is more appropriate for this type of request. Lorenz stated that the Department felt that the sale of household goods would fit more in a commercial site.

Wernecke asked if there is a zoning district that provides self imposed conditions. Lorenz explained that the only conditions that can be made is by the Board.

Wernecke asked about the comprehensive plan and what it states in relation to this type of request. Lorenz stated he does not know.

Halfen asked about the previous permit and the restrictive parking on the road. Lorenz stated that was a condition made by the Town.

The Board reviewed the ordinance.

Dannie Gingerich, applicant, appearing in favor of the request, stated they would like parking allowed on the northwest side of the road and stated there were problems keeping people from parking on the road. He stated the

household items that would be auctioned are antique type items that are used by the amish community, but no electric appliances, etc.

Wernecke asked how many auctions are per year. Gingerich stated they have 3. Wernecke asked who brings in the items. Gingerich stated mostly local people.

Vogt asked about the household goods. Gingerich stated because his permit was for ag related items only and that if he sold household goods he would need rezoning to commercial.

Vogt asked what type of items for household goods. Gingerich stated no electric items, but can't provide a list to the board.

Vogt stated the problem is that leaves many things open to sell. Gingerich stated that is a problem that can be run into and they don't know how to handle it best.

Vogt asked if it would be prudent to put the condition that it has to be non electrical personal items rather than commercial items.

Wernecke asked about people that come to the auction to purchase items where do they find goods to live. Gingerich stated many wait for these auction.

Halfen asked if there is not sufficient space around the barn to park. Gingerich stated there is room, but when the ground is soft, its difficult for people to park there, but in May and July they will park more off the road.

Halfen stated that the county ordinance states only off street parking.

Roloff spoke of the Exclusive Ag ordinance and reviewed for the Board and what an agricultural related business is and stated that they have to deal with the County ordinance, not the town. He also addressed non ag related commodities to be sold. He feels that the ordinance is very strong and will be difficult for the Board to allow this request unless the disregard the County ordinance.

Terry Smelcer, Town of Ironton Chair, appearing in favor of the request, stated that in the request originally, the Town was not able to be there and when the permit was granted it was the Board's decision and doesn't believe they said anything, but because of issue that neighbors were having. He stated that the Town does not have a problem with parking on only 1 side of the road. He also stated he does not know how the landowner is going to handle those that are breaking the law.

Wernecke asked what the difference between an auction business and someone having an auction, how its treated in a community. Smelcer stated he can see them being treated differently because of issues that can be caused by multiple auctions.

Wernecke stated that the zoning district was created so farmers could take advantage of tax credit program and keeping a farming area in farming and the town chose this ordinance. He spoke of the Board brining up the parking and the issue was specified by the Town of Ironton and asked how the comprehensive plan deals with businesses in rural areas as opposed to business areas. Smelcer stated that auctions were not addressed, but there is a commercial zoning district around all the villages and as far as spot commercial zoning, it wouldn't happen at his location and they are promoting agriculture.

Lestikow asked about complaints from other neighbors besides the one that got blocked out of her home. Smelcer stated he has received several complaints from neighbors.

Wernecke asked how far from Lime Ridge this site is. Smelcer stated Lime Ridge is probably the closest and is maybe 2 miles, possibly a little further.

Linda Broleske, appearing in favor of the request, stated that she has been to the auctions at the site and feels he provides a good service to rural Sauk County as she has used the auction to sell some of her livestock. She stated she also understands the need to see the horses hitched, but there was parking on the road. She spoke of some of the household items she may purchase at the auction.

Todd Nelson, appearing in favor of the request, the auctioneer at the site and is very concerned with the road and have always have someone in the road trying to keep it open and are only asking for one side of the road. He spoke of the first incident they had with the horses as well as cones in front of neighboring homes.

Vogt asked how this is compared to other one time auction sales. Nelson stated this is different, but have problems with the big trucks turning around and such.

Vogt confirmed the auctions are geared more towards the amish community and small scale farmers. Nelson stated that was correct.

Carroll Holmes, appearing in opposition, stated that there was a town meeting and at that time they made the decision to not allow parking on the road. He stated there is ample parking and a track with gravel for the horses to run on and they couldn't use it because they parked cars and trucks on it, so they put the horses on the road. He had a horse laying upside down with a cart on its side and mailbox smashed with no cooperation from the amish gentleman nor Mr. Nelson. He spoke of a conversation regarding the track provided for the horses and people were never told of the use and cars and trucks were parked on it. He then spoke of the small road, no shoulders, and very limited ability to pass without cars parked on it. He suggested all sales on one side of the road, not both and not allow parking on the road. He provided a letter from Susan Rockweiler who was not able to attend due to health issues. He spoke of calling the Sheriff's Dept when the accident happened.

Templin read the Rockweiler letter into record.

Nelson reappearing in favor of the request, stated that the man driving the horse did not own it and stated the road has been always kept open for thru traffic.

Mark Steward, Director of Planning & Zoning, appearing as interest may appear, spoke of the ordinance requiring that off street parking be available, one space equaling 216 sq. ft., and read the ordinance to the Board, based on that calculation and reviewing air photos, he has approximately 90 parking spots in about ½ acre, possibly less depending on access roads and such.

Roloff asked about cottage industry and off-street parking being provided. Steward stated that under (3)g speaks of off street parking referring to it extending to all other uses in Exclusive Ag.

Vogt confirmed that off-street parking is prohibited? Steward stated it is not prohibited, but required that it be provided.

Wernecke asked him to comment on the household goods issue. Steward stated that when it was originally presented, it was presented as an Ag related business and those items to be auctioned would be agriculturally related. The comprehensive plan does talk about promoting businesses of this nature, but does not specify anything about an auction.

Halfen asked if auctioning cars be considered an ag related item. Steward stated most likely not, you would be looking at auctioning implements and vehicles that are considered ag implements.

Wernecke asked about the county making ordinance changes will agricultural uses be addressed? Steward stated it would be and also looking at agri-touism in these areas, making it easier to get permits and more defined for everyone to understand.

Seeing as no one else wished to appear, Chair Vogt closed this portion of the hearing at 10:55 a.m.

The Board reviewed the request and the ordinance as it applies.

Halfen stated he is uncomfortable allowing the household items as it sounds like they are already auctioning household items. He feels the county ordinance is straight forward on the parking issue and feels they are in place to protect the rights of the others that live in that area, which have already been violated.

Roloff stated if they do allow parking they use the language in the ordinance and leave it up to the town to police the roads. He also feels they should not change the special exception permit allowing household items and if the county goes out there and finds several items not allowed the county should issue a citation and leave the request to the wording found in the ordinance.

Vogt stated this is a business and a business should provide adequate facilities if he wants to run his business in accordance with the ordinance.

Halfen stated that by granting this accepting, they are modifying the ordinance and doesn't feel they can do that.

Motion by Wernecke, seconded by Halfen, to deny the request to modify the original special exception permit to allow onstreet parking and the sale of household goods. **Motion carried 5-0.**

The Board recessed for 5 minutes.

Upon reconvening, Lorenz appeared and stated the City of Baraboo requested that the Board postpone their appeal until next month so all landowners can be properly noticed. Motion by Roloff, seconded by Halfen to postpone the hearing on SP-05-10 until the May hearing. **Motion carried 5-0.**

C. Ray Zobel & Sons Inc SP-08-10, requesting a special exception permit to authorize the location of a proposed private landfill.

Dave Lorenz, Environmental and Zoning Specialist, appeared and provided the history and background of the request as well as photos and a video of site. He then provided recommendations by staff if the request is approved.

Vogt stated there is no site plan or proposed plan. Lorenz stated there is no plan other than the maps and aerial photos.

Vogt confirmed that if the board approves, it allows them to move ahead with planning this.

Wernecke asked if they are conforming with the Sauk County Solid Waste plan. Lorenz stated that they have specified the clean fill that is allowed and received that from the Department of Natural Resources.

Halfen stated it talks about bricks and how do you remove the bricks from the rubble without getting other things such as lead paint or asbestos. Lorenz stated he does not know, but lead paint and asbestos items would not be considered clean fill.

Halfen verified that both the County and the Wisconsin Department of Natural Resources will inspect. Lorenz confirmed.

Ed Zobel, Ray Zobel and Sons Inc., applicant, appearing in favor, stated this is a clean fill site and not a demolition site and only clean fill. He spoke of many old streets having bricks under them and that is where they would come from.

Vogt asked how this is a suitable site and what the purpose is. Zobel stated that this was an exhausted mining site prior to permitting mining sites and you have a highwall and there is a high demand for sites like this and will be cared for and under county monitoring.

Vogt asked about visibility. Zobel stated you have to be in the site to see it and you can't see it from any location unless you fly over it.

Vogt asked if an application was made to DNR and if the reclamation plan has been started. Zobel stated that he was told he does not need a DNR permit.

Vogt asked if there is adequate topsoil. Zobel stated all the topsoil is still there from the old quarry operation.

Wernecke asked about the runoff going onto grassland. Zobel spoke of drainage areas on parcels around the site.

Linda Borleske, Plan Commission Chair, Town of Reedsburg, appearing in favor of the request, stated that they did recommend approval to the Town Board and the Town approved the project. She addressed the much needed disposal service, that it will be gated and only used by Mr. Zobel and is not visible from the road. She also read a letter from the Town of Reedsburg.

Seeing as no one else wished to appear, Chair Vogt closed this portion of the hearing at 11:30 a.m.

The Board reviewed the request and the ordinance as it applies.

Motion by Roloff, seconded by Wernecke, to approve the special exception permit for a private clean landfill with the conditions set forth by Planning and Zoning. **Motion carried 5-0.**

- D. Dells Dynasty LLC SP-09-10 requesting a special exception permit to authorize filling and grading of more than 4000 square feet (as completed) for the landscaping of a sign.

Dave Lorenz, Environmental and Zoning Specialist, appeared and provided the history and background of the request as well as photos and a video of site. He then provided recommendations by staff if the request is approved.

Roloff asked about page 2-7, 2-8 and 2-9 and if this structure has been in place since 2005. Lorenz stated the photos were taken by applicants agents, and does not believe it was out there since 2005.

Vogt asked if this is here because it is within 300 feet of the Wisconsin River. Lorenz explained that it is here because it is located in the Floodzone.

Halfen confirmed this is an after the fact permit. Lorenz stated that was correct.

Roloff asked what a "before/after" conditions study. Lorenz explained.

Halfen asked if a permit was received. Lorenz stated they did not get a permit.

Halfen asked if any citation were issued. Lorenz stated no citations, but triple fees on land use permit because it was done prior to getting a permit.

Jerome Mercer, agent for the applicant, appearing in favor, stated the sign was put up without permits, and done out of ignorance and intends to comply with whatever needs to be done. He stated the purpose of the sign is merely to identify the owner and was constructed within the last few months and additional work to be done includes seeding with grass for erosion control and to make the sign more attractive.

Wernecke asked about 1200 cubic yards of material brought from the edge of the field and where that is. Mercer stated he did not know.

Wernecke asked about the owner not knowing to get permits. Mercer stated when he got involved he did not know.

Mark Steward, Director Planning and Zoning, appearing as interest may appear, spoke of the property being an AE zone, meaning it was studied, and speaks of the ordinance allowing further studies to be done to make sure that the impact is not detrimental to the floodplain.

Wernecke asked about the fill. Steward stated it is significant.

Roloff asked if the fill came from the floodfringe as well. Steward stated he is unsure but something the department should look into as well.

Bill Meyer, appearing as interest may appear, stated that the fill was taken off an existing site where they tried to make a pond. He is not opposed to the work, but he needs to do it the correct way and asked that no lights be placed on it as he can see it from his house.

Vogt asked if it is towards the river. Meyer stated it is closer to the river. Vogt confirmed that if the sign location is a floodfringe, that the fill also came from a floodfringe. Meyer stated he feels that could be true.

Halfen asked if the photo of the globe is for an addition to the sign. Lorenz stated that the original proposal was for the globe to go on the sign.

Seeing as no one else wished to appear, Chair Vogt closed this portion of the hearing at 11:58 a.m.

The Board reviewed the request and the ordinance as it applies.

Motion by Wernecke, seconded by Vogt, to approve the special exception permit with the conditions set forth by Planning and Zoning. **Motion carried 5-0.**

Motion by Wernecke, seconded by Lestikow. **Motion carried.**

Meeting adjourned.

Respectfully submitted,

Robert Roloff,  
Secretary



