

SAUK COUNTY BOARD OF ADJUSTMENT

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

May 27, 2010

DECISION

SAUK COUNTY BOARD OF ADJUSTMENT

Appeal Application No. SP-10-10

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Mr. Dale Clark
8467 Arbor Trace Dr.
Verona, WI. 53593

Dear Mr. Clark:

On May 27, 2010, 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

Dale Clark, 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 several mineral extraction sites. The properties are located in sections 2 and 35 in the Town of Spring Green and subject to Chapter 7, 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.

The surrounding area contains agricultural and residential properties. The mineral extraction is limited to sand.

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)10. 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 the following testimony and information provided.

The applicant had worked with the Town of Spring Green and the Drainage District to develop a plan that met the concerns of the Town Plan Commission and Board of Supervisors. The Town Board had submitted a list of conditions that the applicant had agreed to adhere to.

DECISION

Based upon the evidence, testimony, exhibits and legal authority, the Sauk County Board of Adjustment, by a vote of three 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 permits required for this approval include land use permits.
- B. The permit shall remain in effect for five years and may be renewed by the Board at that time.
- C. Permit shall not be transferrable.
- D. All temporary access roads as well as permanent all-weather access roads on site shall be maintained in such a manner as to eliminate off site erosion.
- E. A Reclamation plan shall be submitted to and approved by Sauk County Planning & Zoning prior to operation/dumping.
- F. Financial assurance shall be submitted to Planning & Zoning at the rate of \$1,500/acre. Operation shall not commence until this is on file.
- G. Permit boundaries of the landfill shall be clearly posted with NO TRESPASSING signs.
- H. The Sauk County 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 Codes.
- I. This work shall not direct any additional storm water onto neighboring properties.

J. The applicant shall adhere to the conditions of the Town of Spring Green.

Provide bonding for town roads to cover damages to the road surface and to remove any materials from a town road.

Hours of operation, 7am to 7pm (Monday thru Friday) and 7am to Noon (Saturday).

Limit material stockpiles to prevent excessive blowing due to wind erosion, to protect neighboring homes and farm operations, and visibility on County Highway G.

All stockpiles shall be removed one year following the completion of all mining activity.

Develop a legal instrument to ensure that the Town of Spring Green Flood Mitigation efforts and Mr. Clark's mineral extraction will work in conjunction, after review by the Town's appointed engineer.

The reclamation plans need to protect neighboring land owners from future flooding.

Preserve existing woodlots on the property.

Provide alternate reclamation plan if the Town of Spring Green Flood Mitigation project does not proceed.

Depth of extract shall be no closer than 4 feet from the ground water.

K. Enforcement. Within reasonable time after the Planning and Zoning Office is aware of any violation, it will provide a written notice to Dale Clark specifying the nature of the violation and the action necessary to correct the violation. The second notice of violation of a specific item or the fourth notice over-all violation of any nature would cause a suspension of the permit. The suspension would be in effect until the violation is corrected to the satisfaction of the Office of Planning and Zoning and an application is submitted to the Board of Adjustment for a new/revised permit.

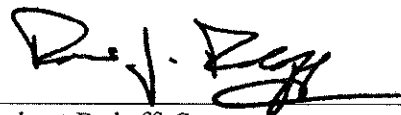
APPEAL RIGHTS

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, Vice Chair


Robert Roloff, Secretary

Filed on this date: 6/4/10

COPY TO:

Mr. Richard Vogt, S10284 Dead End Road, Plain, WI. 53577
Ms. Linda White, S3175 White Road, Reedsburg, WI. 53959
Mr. Robert Roloff S1661 Fox Court, La Valle, WI. 53941
Mr. Henry Netzing, E11085 Sauk Prairie Road, Prairie Du Sac, WI. 53578
Mr. David Allen, S3951 Grote Hill Road, Reedsburg, WI. 53959
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