

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

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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-11-10

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Bindl Bauer Limestone  
S12318 Big Hollow Rd.  
Spring Green, WI. 53588

Dear Mr. Bauer:

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**

Bindl Bauer Limestone, hereinafter referred to as "Applicant", applied for a special exception permit pursuant to Sauk Co. Code § 7.05(2)(l)19, to authorize the modification to the hours of operation for their mineral extraction site. The property is located in sections 15 and 22 in the Town of Bear creek 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 properties include agricultural, forest and limited residences.

## **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 that reducing the period of time that the special exception permit would be in effect would be justified due

to the violation of the conditions imposed by the Board in 2008. Also that requiring the operator to notify Planning & Zoning of any blasting would be consistent with the conditions imposed on other mine operators in Sauk County.

## DECISION

Based upon the evidence, testimony, exhibits and legal authority, the Sauk County Board of Adjustment, by a vote of three to none, denies your request to expand the hours of operation imposed by the Board for the appeal SP-30-08.

To continue operation of the site the Board set forth the following conditions the Applicant shall comply with:

1. The permit shall be limited to five (5) years from the date of approval of SP-30-08 and the Applicant may apply for a renewed permit at that time with the Board of Adjustment.
2. Planning and Zoning shall be granted permission to inspect the operations on an unscheduled and unannounced basis.
3. A bond posted for one thousand, five hundred dollars (\$1,500.00) per acre disturbed shall be in effect prior to commencement of operation. Alternatives to the bond will be considered. The acres to be disturbed will be jointly set by the Office of Planning and Bindl Bauer Limestone and adjusted annually, and this will be the amount of the bond necessary for the coming year.
4. Measures will be used to reduce dust and watering equipment will be used during crushing and/or loading when conditions warrant it. Air quality shall be maintained to conform to state standards. If it is determined that there is a need for further testing, Bindl Bauer Limestone will, at their expense, bring in the needed equipment to test for possible air quality violations.
5. Water quality will be addressed to meet state standards. This will be done through the use of settling ponds, grassed waterways, or other means deemed necessary by the Planning and Zoning Office.
6. Fencing will only be necessary if Sauk County Planning and Zoning deem a health or safety hazard has been created. Permit boundaries of the quarry shall be clearly posted with "NO TRESPASSING" signs.
7. An undeveloped buffer zone of 50 feet shall be established between all property lines of adjacent land owners and any part of the quarry operation. A buffer zone of 600 feet shall be established from an existing residential structure, other than structures owned by Bindl Bauer Limestone and Frederick Lins. The 50 and 600 foot buffer zones may be waived upon release of adjacent property owner(s) and the waiver shall be provided to Planning & Zoning

8. An agreement between Bindl Bauer Limestone and the Town of Bear Creek shall be reached on road maintenance of Town roads involved. This would include an inventory of existing conditions and what is expected of both parties and one copy filed with the Office of Planning and Zoning. If the Town deems this unnecessary, a letter from the Town to Planning and Zoning should address this issue. Bindl Bauer Limestone shall provide this letter to Planning & Zoning within thirty days of the Boards decision.

9. The hours of operation shall be as follows:

AGGREGATE EXTRACTION, PROCESSING, TRUCKING, & MAINTENANCE

|                          |               |                         |
|--------------------------|---------------|-------------------------|
| A. Crushing & Processing | 6 AM to 6 PM  | Monday through Friday   |
| B. Loading & Trucking    | 6 AM to 6 PM  | Monday through Friday   |
|                          | 6 AM to 6 PM  | Saturday                |
| C. Blasting              | 9 AM to 4 PM  | Monday through Friday   |
| D. Maintenance           | 6 AM to 10 PM | Monday through Saturday |

The Applicant shall use strobe lights for night time operations in place of the back-up alarm when permitted by law.

10. The operator shall notify Planning & Zoning a minimum of 24 hours prior to blasting. Planning & Zoning shall monitor all blasts for compliance with State standards. Seismograph reports will be submitted to the department within ten days of each blast event.
11. Under emergency conditions, the Planning and Zoning Administrator shall have the power to enact emergency operational hours.
12. The reclamation shall follow the approved plan submitted and comply with NR 135 and Sauk County Chapter 24.
13. Where mineral extraction has been completed, those areas will be reclaimed by grading, covered with top soil, mulched and planted with a grass mixture. When quarrying is completed, the area will be returned to wildlife habitat and forest. It will be the responsibility of Bindl Bauer Limestone, to establish and maintain a good solid sod cover on the slopes, benches and floor. It shall be the responsibility of Bindl Bauer Limestone, to inform Planning and Zoning of completion of reclamation and that area be accessible to Planning and Zoning staff.
14. Enforcement. Within reasonable time after the Planning and Zoning Office is aware of any violation, it will provide a written notice to Bindl Bauer Limestone 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.

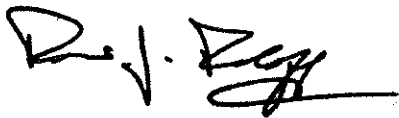
#### APPEAL RIGHTS

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: 6/2/10

#### 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