

SAUK COUNTY BOARD OF ADJUSTMENT
May 2010 Session of the Board

PRESENT: Linda White, Vice Chair
David Allen
Henry Netzinger
David Wernecke, Alternate

ABSENT: Richard Vogt
Robert Roloff

STAFF PRESENT: Gina Templin
Dave Lorenz

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

Acting Chair White 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. Certification accepted on a motion by Allen, seconded by Wernecke. **Motion carried 3-0.**

Motion by Wernecke, seconded by Allen to adopt the agenda for the May 27, 2010 meeting. **Motion carried 3-0.**

Members of the Board that were present for the previous meeting were not available. Minutes will be adopted at the next scheduled meeting.

COMMUNICATIONS:

Mark Steward, Planning and Zoning, appeared and provided an update on the Propp appeal to the Supreme Court.

APPEALS:

- A. Dale Clark (SP-10-10) a special exception permit to authorize the location of multiple mineral extraction sites.

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.

White asked about trees to be removed as shown on the video. Lorenz explained that the trees will not be removed.

White asked about financial assurance. Lorenz explained.

Wernecke asked if the Department has been in contact with the Town. Lorenz stated he has not, however, they have received information from the town which was presented to the Board in the packets.

Dale Clark, applicant, appearing in favor of the request, stated he agrees with the conditions provided by Planning and Zoning, and has worked very closely with the County and the Town on this project and has a plan that doesn't have any disadvantages for anyone and feels it will not harm the community.

White confirmed it is all property that is owned by him. Clark stated that is correct.

White asked about the material to be removed. Clark stated he is unsure and in the first stage about 150,000. He explained the issues he had with the flood and how his plans will assist in helping so that the losses are not repeated if it is flooded again. His plans will be done in stages and will mine parcel 1, then reclaim and put back into RC35, then he will move on to parcel 2, etc. It will depend on crop sequence and the market and is limited by how much stockpile material he can store.

White asked if there is a long term contract for the removal. Clark stated he does.

Wernecke asked about a 2 foot berm on the northern border and asked if that ties into the drainage. Clark stated that they are capturing the water where it flows across the intersection before it gets into the middle of the field. He continued to explain and suggested that more detailed information could be provided by Jewell and Associates.

Wernecke asked about the plan and the Town of Spring Green request for material being removed within 4 feet of the groundwater. Clark stated that they have briefly discussed it and provided an explanation.

Wernecke asked about the flow of groundwater and if it flows towards the Village of Spring Green. Clark stated he believes it goes south to the river more than east to Spring Green, but doesn't know that for sure.

Wernecke asked about parcel 3, there are no final grade projections, but are some elevations on the reclamation plan, there is a 12 foot drop left on sand and if the engineering qualities of that soil hold that. Clark stated that is a good question for the engineer, but he believes that there will be at least 50 feet from the boundary before anything is done and everything will be reclaimed at a 3 to 1 slope and then will be reseeded with recommendations from the County Conservationist.

White asked who will be responsible for the seeding. Clark stated the contractors will take care of that.

White asked if there are concerns with the conditions listed by the Township. Clark stated he is concerned about limiting the stockpile sizes as it will be difficult to do that. He also spoke of the problem being that sand could blow across County Rd G and stated that recommendations to address that were placed into the reclamation plan and suggest that he change the wording from limit stockpile size to manage stockpile size.

Wernecke asked if the town had a specific size. Clark stated they did not and all they were concerned about was the blowing on Highway G.

White confirmed that the plan is to the Town's satisfaction. Clark confirmed it is. He also stated that the Town required them to protect the neighbors for any additional water and he provided information on how they will do that.

White asked how close the nearest residence is from the stock piles. Clark stated it would be about 3/8th of a mile and he is in support of the project.

Greg Jewell, Jewell Assoc Engineers, appearing in favor of the request, stated that they represent the drainage district and the applicants property is important and the work he is doing increases the size of their basin and the berm is designed to it takes the low flows and keeps it into the drainage system. He also stated the size of the

stockpile with the Town is the concern on blowing and stated that limiting is not necessary what will take place, but monitoring. He also suggested that the timing is good as it goes along with the project the drainage district is doing.

Wernecke asked about the groundwater flow. Jewell stated the groundwater flows towards the river.

Wernecke asked about the slope on parcel 3 and the final grade seems steep for that type of soil. Jewell stated that historically through the valley the 3 to 1 slope work and will have topsoil and the right seed to take hold.

Wernecke asked about the plans and no final grade sections for parcel 3. Jewell stated there is a note that states it will all be 3 to 1 slopes.

Joe Bauer, appearing as interest may appear, stated that he was at the meeting and stated that if this project doesn't happen, the water could be diverted into his property.

White asked when he is referring the ditch, is that the Town or this project. Bauer stated it is the Town.

Wernecke confirmed his property is immediately south of parcel 1. Bauer explained where his property is located.

Jewell, reappearing, stated that they did listen at the Plan Commission meeting, but the plan has changed and will stay 50 feet off the property line to address any neighboring issues and stated that the only way the water will change is if the drainage district does their project. Right now all property will stay on Mr. Clark's property.

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

Motion by Wernecke, seconded by White, to approve the special exception request for multiple mineral extraction sites with the conditions from the Town of Spring Green, the Planning and Zoning Department, and shall not divert any water onto the neighboring properties. **Motion carried 3-0.**

- B. Bindl Bauer Limestone (SP-11-10) for a special exception permit to modify the conditions of a special exception permit for mineral extraction issued in 2008.

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.

White asked about hours of operation. Lorenz stated the hours being changed was a decision of the Department due to the fact that the operator has violated the hours of operation.

Wernecke stated that he noticed the hours have changed as well as other recommendations. Lorenz stated that the Department felt due to violations, that the changes have been requested.

Wernecke asked about the changes to the hours of operations. Lorenz stated that was a decision by the Director and he was not privy to the reasoning's of the decision.

Joe Bauer, applicant, appearing in favor, stated that the person having the problems that sent in the complaints, should have come to him, rather than to Planning and Zoning. He also spoke of concerns with the neighbors and blasting. He presented Exhibit VIII, 1 a signature page from neighbors stating they have no issues and stated that the hours of operation were unacceptable.

White stated he has asked for 24 hours unlimited access and how that protects the neighbors. Bauer stated it doesn't mean that will run that much, but need the availability and will work when the weather allows and always has.

White asked about the prior hours of operation did not include Sunday, but now you are requesting it on Sunday. Bauer stated he had 2 requests and one they didn't have the material, the other they couldn't haul on Sunday. He also stated that there are no neighbors that have a problem with the noise and the loudest noise is a screen deck, which is 75 decibels.

Wernecke asked about the 2008 special exception permit and he agreed to operate within certain time limits and that didn't happen and once it was found out that someone complained, he then locked the gate and tried to operate the hours as agreed to. Bauer stated he hired operators and never told them when to start.

Wernecke asked why he didn't tell them when they could start or when the hours of operation are. Bauer stated he did not, figured they could start when they wanted to. He continued to talk about the blasting and hours allowed for that due to possible rain or bad weather.

White asked how much notice is had before drilling and blasting crews are called in. Bauer stated they watch the weather and try to get a shot in between storms and just try to get something in before the rain comes.

Allen asked about the previous hours of operation. White and Wernecke explained.

White asked if he had a problem of the Department being notified of the blasting. Bauer stated he has no problem with notification, but said to ask the blaster.

White asked how long it takes to drill the holes. Bauer said about 2-3 days to drill a nice shot, but when you are drilling you don't know what is going to happen depending on material and equipment.

Keith Klink, appearing in favor of the request, stated that he has no problems with the blasting hours and asked for an opportunity in emergency situations they have the ability to get on the jobs early and set the blast off at a different time that during the hours allowed to avoid a possible emergency situation.

White asked if he was the company that was in at 4 a.m. Klink stated that is a separate company from him, and he takes care of the blasting.

White asked about drilling 6 a.m. adequate start time. Klink stated he does not do any drilling.

White asked if the hours for blasting are ok. Klink stated they get ready at daylight, but could follow the hours for blasting, as they would not set the blast off until during those hours.

Dan Ruetten, appearing in opposition, stated he is the person who wrote the letters to Planning and Zoning. He also provided background on the quarry's request in 2008 and the testimony that was given does not match what work has been done. He also provided information of work being done on Easter morning, 2009 at 6 a.m., but did not report the violation and the spring blast in 2009 and requested the seismic information from the blast and have never received it. This year they provided seismic equipment in his yard, but it was maybe a 1/4 of the strength of the blast compared to the one in 2009. He stated the foundation of his barn is being impacted and has contracted with someone to take it down. He feels there is a problem with the owner taking responsibility for the work being done, as it is contracted out. He concluded that he is in favor of the recommendations that have been presented by the Department because he has shown he is not a responsible quarry operator.

White asked how many times a year they blast at the site. Ruetten stated it depends, however there is a large blast in the spring, but it can vary, sometimes 2-3 years.

White asked how long he has been in the residence. Ruetten stated he grew up at the property, but has owned in for years.

White asked about previous problems with the operator prior to Bauer. Ruetten stated he has not, but his father did because of the damage done to a well and the buildings.

White asked, other than blasting, is it at an unacceptable level of shaking. Ruetten stated that the blasting is inconsistent.

Allen asked if he is the closest neighbor. Ruetten stated he is the closest non-related, non-benefiting party of the quarry operation.

Pat McCuin, appearing as interest may appear, stated that while he doesn't live near the site now, they have a hunting cabin that they use occasionally, but don't really have any problems with the quarry.

Seeing as no one else wished to appear, Acting Chair White closed this portion of the hearing at 10:30 a.m.

Lorenz reappearing. Wernecke asked of a proposal for flexibility of notifications on blasting. Lorenz stated that what all other operators do, notify 24 hours prior with a general time and then the blaster will actually call sometimes 2 hours before to give an actual time to have staff onsite for the blast, if staff are not available, they can blast, but then submit the seismographs to the Department.

Wernecke asked can they call in and say a particular day, or narrow it down. Lorenz stated other operators typically narrow it down, but are flexible enough to work with the blasters.

Wernecke asked if they can flex the time. Lorenz stated that is flexible.

White asked if the Department can work with the blaster if there are weather or safety concerns involved. Lorenz stated they can do that.

White asked if the Department would have a problem if they stayed with the original conditions. Lorenz stated the Board can set the conditions they chose to and then the Department has to enforce.

White asked if the gate was there and just left open or just installed. Lorenz stated the gate has always been there.

Wernecke is looking at the 3 changes, blasting, which he doesn't have a problem with, changing the permit from years versus 10 years which he doesn't have a problem with because of the violations, but hours of operation the one thing that was added is a specific time for blasting, which is needed, and the others he doesn't have a problem with. But the concern is the reaction of the operator is that he wants 24/7, which is not something any other operator has asked for and it indicates that there is a problem to follow the guidelines.

White stated that the testimony by the applicant that they operate on Sunday which is in clear violation, but feels the start time should be at 6 a.m.

Wernecke stated if the Planning and Zoning staff are to be present you need to have it during business hours.

Allen compared the quarry to a farm operation and feels the hours should go back to 6 a.m.

White suggested changing Saturdays hours for loading and trucking to 6 on Saturday.

Motion by Wernecke, seconded by White, to approve the special exception permit with the conditions provided by pz with the hours of operation for crushing and processing 6-6, loading and truck, 6-6 MF and Saturday. Motion carried.

- C. The Bruce Co., (SP-12-10) requesting a special exception permit to authorize filling and grading within 300 feet of Lake Wisconsin to landscape an existing residence.

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.

White asked about erosion control being installed versus submitting one. Lorenz stated the Department will review erosion control.

White asked about other homes in the area and the slopes involved. Lorenz stated this project is much larger than the other homes in the area.

Wernecke asked when it was viewed if there are issues with parts of the plan. Lorenz stated the issues the Department has is how it will be accessed with machinery or done by hand or accessed from the water. Erosion control will be an issue on this site.

Todd Batsil, The Bruce Company, appearing in favor, stated they plan to maintain the natural beauty of the slope and there is not a lot of erosion on the site because of the vegetation, but there is erosion under the stairs. They are trying to alleviate that and make access to the lake easier for the home owner and they are not removing any of the trees within the 75 foot setback from the lake. He described the limestone staircase to the lake, as well as limestone walls, erosion control done by 9 inch filter sock around the entire property. Will also use combination of living walls and spoke of material to be used in the landing.

White asked where the source of water is for the pond above. Batsil stated that is a pool within the building envelope of the site and will be well water.

Wernecke asked about the deck on house. Batsil stated the deck will be removed to construct the pool area.

Wernecke asked about the removal of vegetation within the 75 feet of the lake and suggesting trees will not be removed and spoke of the intention of the shoreland ordinance. Batsil stated that the stone pier by the lake is not part of the project anymore and the area there is where broom-handle sized trees will be removed where they want to create a less than 20% slope. He confirmed that when looking from the lake back at the property, you will see something that is very similar and will not clear out anymore than 3 or 4 trees from the upper area, but will replace and replant. It will look as natural as it looks now.

Wernecke stated there is grading proposed to accommodate the deck area by the lake. Batsil stated there is no deck area now in the plan but there will be grading in that area, although the upper slope is at 50-60%.

Wernecke asked about the first landing area where a fire pit is located, and the landings not exceeding 32 square feet, which the plan does not meet. He also spoke of the intent to do grading and then come back later and ask for a boathouse to skirt the ordinance and seems to defeat the purpose of the ordinance. Batsil stated that currently where the fire pit is located, the landing, natural area actually exists now and is trying to make use of the land with the way it lays now and does not intend to change anything other than removing the wood and use natural stone. He stated that the boathouse concern, they are asking to put in the living wall to stabilize what is already

there and they are not trying to circumvent the ordinance and suggested that future plans could include a boathouse.

White asked where the source of water is for the waterfall. Batsil stated the water feature is now taken out of the plan as well, and any water to be used will be well water.

White asked how deep the pool will be. Batsil stated 3 ½ to 5 feet and will be used as a swimming pool and will fall in the building envelope part of the property.

Wernecke asked if the dotted lines are the existing elevations or the after elevations.

Rich Stominger, appearing in favor of the request, stated that the dashed lines are the existing elevations and the solid lines are the proposed elevations.

White asked how equipment will access the property. Stominger stated they will come down the right side of the property and down the slope.

White asked about the project diverting any water onto the neighboring properties. Stominger stated no water will be diverted to the neighbors property.

Wernecke asked about keeping natural vegetation. Stominger stated that was correct and spoke of material that is found in that area.

Wernecke asked what the fate of the more established trees are. Stominger stated there are no established trees in the lower area, but the near the swimming pool is where the older trees are located.

Wernecke asked about vegetation planning near the water. Stominger stated it would be more like a grassy meadow type look, but no trees.

Wernecke asked why the smaller trees are being removed. Stominger stated they are being removed because of the grading that will be done.

Wernecke asked if the intent is to remove the vegetation and then have fescue in there, as well as sloping the entire area. Stominger stated that is correct.

Wernecke confirmed the erosion control material.

Todd Batsil, reappearing, clarified the no mow near the living wall, currently what exists there is the dock and there are no established trees, but small trees, and they are not planning on clearing the entire waterway.

Wernecke confirmed that about 6-7 foot drop over about a 20 foot area. Batsil stated that the water comes back to where they are proposing to put in the living wall.

Seeing as no one else wished to appear, Acting Chair White closed this portion of the hearing at 11:20 a.m.

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

Allen stated that the Town of Merrimac has no problem and the plan is complete so he does not have issue with it.

White stated she feels the absolute number of trees to be removed.

Motion by Allen, seconded by Wernecke, to approve the special exception permit for filling and grading the recommendations set forth by Planning and Zoning. **Motion carried 3-0.**

- D. City of Baraboo (SP-05-10) requesting a special exception permit to authorize a governmental use a proposed transfer station.

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.

Lorenz stated the Town of Baraboo or the Town of Fairfield have not commented on the request at this time.

White asked who owns the site and if it has to be rezoned. Lorenz stated the City owns the site and it does not need to be rezoned.

White asked if there are other large buildings in the area. Lorenz stated there is residential to the east, but mostly surrounded by ag properties.

Allen asked why the landfill was abandoned. Lorenz stated it was a landfill that was used and capped and reclaimed.

Chuck Bongard, City of Baraboo, appearing in favor of the request, stated that the current transfer is hauled to the Viola company on Ash Street at the Baraboo River and it is in the City River Redevelopment district and the city has purchased and requiring Viola to move the out of that area and because of that the City needs another place to transfer the garbage. He stated the site is a landfill and had to be closed because it was out of compliance and needed to be closed and capped according to DNR regulations. He provided a description of the property using an arial photo as well as the plans for the building the driveway and the operation of the transfer station. The City picks up garage days a week and has 1 truk hauling garbage, same day compacted and transfered. He also addressed the recyclables being done once a week. Maximum 2 trucks a day out the site 5 days a week The applicaton is entirely and strictly used for the City of Baraboo and will not have garbage brought in for any other sourcs and is not open to the public. All solid refuse will be scooped up and floorsare washed down daily. He also stated that this site was slected because the city already owns the site, it fronts a county highway that allows for the heavier trucks, the site was used as a landfill previously, but also has a natural large border of trees providing large buffer level between the operation and the residents across the street and it is a relatively minimal use. He confirmed that they have gone to the Town of Baraboo meetings and stated their concerns.

White asked about the dumping of the trucks. Bongard stated all dumping will be done inside. There will be no outside dumping to reduce opportunity for trash to blow or odor.

White asked about the odor level and if it will be similar to the one existing. Bongard stated it will not be like the current one and they don't operate the way they should. Because of the extra steps taken to clean up the garbage, he feels it will be minimal. Waste water will be collected in a holding tank and be pumped and hauled to the City's waste water treatment.

White asked about trucks on site. Bongard stated there will be one trailer on site backed up to the compactor and then will be switched out with the next truck when it gets full.

White asked about the garbage trucks themselves. Bongard stated they will not be stored there.

White asked about flies and such. Bongard stated the truck will be sealed to the compactor, so there is not access to rodents, but because they will be compacting it daily, that nuisance will be minimal.

Wernecke asked about the surface and the backing up to the compactor. Bongard explained using the arial photo.

White asked about a possible recycling building on the drawing. Bongard stated that they are considering future use depending on the need and this would be done to keep everything fully enclosed again, but this is not something they plan to do right away.

White asked about the line across the driveway. Bongard explained it is a drainage culvert.

Wernecke asked if the extra building is to transfer/sort. Bongard stated they don't have to do any sorting so it all gets hauled out the way it is collected and the only intention of the other building is if they did not have enough room long term to store the recyclables with the garbage building, this way they could have another building to keep the recyclables enclosed.

Wernecked confirmed 2 trucks a day and how many trucks. Bongard confirmed 1 trip of garbage trucks per day and 1 recycle truck.

White asked about the other transfer spot. Bongard confirmed that is leased to the Town of Baraboo and is a completely separate operation.

Wernecke asked about the old landfill and any stormwater management. Bongard explained and confirmed there is no water going off the site now and will be no water going off the site in the future.

Glen Herndon, appearing in opposition of the request, asked if it for the area where the building will be or is it for the entire site and does this allow for additional groups to use this area and is concerned about waste and liquid being put into a tank and questions the compacting of solid waste from the City of Baraboo and what about the liquid and feels the liquid is impossible to collect. He asked why the transfer station has to be in the rural area and not in the City.

White asked where he lives. Herndon stated he lives approximately 1 ½ miles east from the site. Stated he is also concerned about odor.

Jerry Wershack, appearing in opposition, stated he is speaking on behalf of his father, and property is now owned by his daughter and has a couple concerns with traffic on County Road A and is a main road for an ambulance to the hospital here in Baraboo. Feels that the area is a nice clean and safe road. He feels there are other sites in the area that should be looked at.

White asked about spillage being there already Wershack spoke of regulations in Chicago.

Wernecke asked about a business and redeveloping you would have to dig down, but what if an adjacent lot had issues would they have to reclaim their property as well. Wershack state they would per the EPA if they find any chemical spillage. Wernecke stated that the location of transfer station is off the site of the old landfill.

Lisa Zimmerman, appearing in opposition, stated she lives across the street from the proposed site and she understands that Viola is a mess and stinks and should be out of the city, but the person who moves in there would be just as bad. She then spoke of the pre-existing dump site and the well and water was contaminated back then and had test wells put in and the City did extend water to Trap Shoot Rd and the DNR came out to monitor the site and filled one of the test wells that were onsite. She feels only 2 trucks a day is hard to believe and feels there is a lot of garbage and has an issue with the garbage pick up, as well as traffic issues. She also questions long term effects.

White asked if this will be screened from her view. Zimmerman stated there will be no view, but its more about the smell and the traffic.

Allen asked if she has lived there for 10 years and the Trapp Shoot has been there. Zimmerman stated that is correct.

Randy Puttkamer, Town of Baraboo, appearing as interest may appear, and provided Exhibit VIII,1, written recommendations from the Town of Baraboo, which included odor control and no private operation and that it is only for the City household property only and only the garbage will be coming into the site.

Wernecke asked if the Town was satisfied that the City's measures to control odor were appropriate. Puttkamer stated that all questions asked of them, they had answers to all questions that they felt were well addressed, but still want to make sure the odor is addressed and no outside contracts.

White stated that in the recommendations from Planning and Zoning that the permit be non-transferable. She also asked what they would suggest odor control would be. Puttkamer stated that from the farming aspect if there is a problem with odor, its addressed immediately and feels that the City will be able to address any issues if they arise

Seeing as no one else wished to appear, Acting Chair White closed this portion of the hearing at 12:15p.m.

Allen state he should put his personal feelings in this, but he wouldn't want to live next to a facility.

White stated that because of the screening and not being in the open and it being moved offsite constantly she feels more comfortable with it.

Wernecke stated that there is a design shown that backs up the testimony of what they say they are doing. He also stated that the permit is for 5 years so if the City does not address all concerns and operate the facility the way they are required to, they may not get the permit renewed.

White confirmed t

Motion by Wernecke, seconded by Allen, to approve the special excecution npermit. Motion carried.

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,

Linda White, Acting Chair