

SAUK COUNTY BOARD OF ADJUSTMENT

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

October 27, 2011

DECISION
SAUK COUNTY BOARD OF ADJUSTMENT
Appeal Application No. SP-24-11

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Paul Rosenau
S8733 Waters Edge Way
Merrimac, WI. 53578

Dear Mr. Rosenau:

On October 27, 2011, the Sauk County Board of Adjustment considered your application for a special exception permit, pursuant to Sauk Co. Code § 8.07(5). Based upon the applicable records, evidence and testimony presented at the hearing, the Board of Adjustment makes the following:

FINDINGS OF FACT

Paul Rosenau, hereinafter referred to as "Applicant", applied for a special exception permit pursuant to Sauk Co. Code § 8.07(5), to authorize clearing and replanting of more than twenty five percent within thirty five feet of Lake Wisconsin. The property is located in Section 19 of the Town of Merrimac and subject to Chapter 8, the Sauk County Shoreland Protection Ordinance.

The surrounding area is a residential condominium plat.

CONCLUSIONS OF LAW

The Sauk County Board of Adjustment may not grant a special exception permit for filling and grading unless all of the conditions listed in Sauk Co. Code §8.08(3), 8.14(3)(b) and 8.14(3)(c), are met. As part of its review, the Board must determine whether the proposed project is consistent with the intent of the ordinance and whether the work 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 § 8.08(3). 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 project is consistent with the purpose and intent of the Shoreland Protection Ordinance. The board made this decision based on the following testimony and information provided:

The Board determined that by replacing the ash trees with red maples would be an improvement due to the presence of the emerald ash borer insect in the State. The also were pleased that the contractor would guarantee to replace the trees if they did not survive.

DECISION

Based upon the evidence, testimony, exhibits and legal authority, the Sauk County Board of Adjustment, by a vote of four to one, approves your request, subject to conditions, for a special exception permit to authorize the cutting and replanting as proposed.

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 for tree cutting and replanting.
- B. No work shall be commenced prior to receiving the Board of Adjustment decision letter and securing the required permits.
- C. Erosion control shall be installed and maintained until the site is stabilized/revegetated per the plans submitted at the time of application.
- D. This project shall not increase stormwater runoff onto neighboring properties.
- E. The approved plan shall be maintained and if any damage occurs to the vegetation they will maintain or replace it.
- F. Sauk County Conservation, Planning and Zoning shall be granted permission to view the site to ensure compliance with these conditions and other relevant provisions of 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.

G. 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 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.

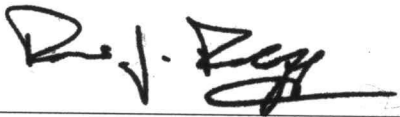
APPEAL RIGHTS

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


Robert Roloff, Secretary

Filed on this date: 11-2-11

COPY TO:

Ms. Linda White, S3175 White Road, Reedsburg, WI. 53959

Mr. Robert Roloff S1661 Fox Court, La Valle, WI. 53941

Mr. Henry Netzinger, E11085 Sauk Prairie Road, Prairie Du Sac, WI. 53578

Mr. David Allen, S3951 Grote Hill Road, Reedsburg, WI. 53959

Mr. Daniel Kettner, E4717 Rolling Ridge Road, Spring Green, WI. 53588

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