

SAUK COUNTY BOARD OF ADJUSTMENT

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

February 24, 2011

DECISION
SAUK COUNTY BOARD OF ADJUSTMENT
Appeal Application No. SP-03-11

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Town of Spring Green
E4411 Kennedy Rd.
Spring Green, WI. 53588

Dear Gentle people:

On February 24, 2011, the Sauk County Board of Adjustment considered your application for a special exception permit, pursuant to Sauk Co. Code § 8.08(3)(a)3. Based upon the applicable records, evidence and testimony presented at the hearing, the Board of Adjustment makes the following:

FINDINGS OF FACT

The Town of Spring Green, hereinafter referred to as "Applicant", applied for a special exception permit pursuant to Sauk Co. Code § 8.08(3)(a)3 to authorize filling and grading of more than 4000 square feet in the Shoreland Protection District. The property is located in Section 10 of the Town of Spring Green and subject to Chapter 8, the Sauk County Shoreland Protection Ordinance.

In June of 2008 heavy rains caused widespread flooding in the southern half of the Town. Agricultural losses exceeded \$9,000,000 and 28 homes were destroyed at a loss in excess of \$5,000,000. The Town of Spring Green has worked with the Village and County to develop a plan to reduce the extent and duration of future flood events.

The parcel included is 032-0537-00000.

The surrounding area has a residential subdivision to the west. A pine plantation to the east, agricultural properties with a few residences to the north and wetlands and floodplain to the south.

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 testimony and information provided at the hearing, and the following:

The Board determined that the project as proposed was in the public interest of the citizens of the Town of Spring Green to attempt to alleviate the flooding that has occurred in this area of the Town many times in the past. However there was concern over directing water onto neighboring properties as the Town did not purchase any easements. Since the Board cannot force them to obtain an easement they struck original condition "D" that stated that this project shall not increase stormwater runoff onto neighboring properties, because as part of the project water will be directed to other properties, most likely to DNR property to the south of the site.

DECISION

Based upon the evidence, testimony, exhibits and legal authority, the Sauk County Board of Adjustment, by a vote of four to none, approves your request, subject to conditions, for a special exception permit to authorize the filling and grading and clearing 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 a land use permit for filling and grading.

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. Per Sauk Co. Code 8.08(5)(a), the smallest amount of bare ground shall be exposed for as short a time as feasible.

E. Per Sauk Co. Code 8.08(5)(b), temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.

F. Per Sauk Co. Code 8.08(5)(c), diversion berms or bales, silting basins, terraces, filter fabric fencing, the application of polymers and other methods shall be used to prevent erosion.

G. Per Sauk County Code 8.08(5)(e), fill shall be stabilized according to accepted engineering standards.

H. The swale shall be kept free of woody vegetation and maintained by mowing the grass cover and the removal of sediment from the catch basins as necessary.

I. Sauk County 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 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.

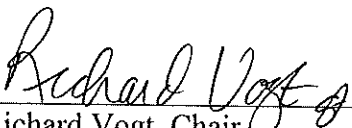
J. Failure by the Applicant to follow all of the conditions set forth by the Sauk County Board of Adjustment is grounds for suspension or revocation of the special exception permit and possible enforcement action. In order to have the special exception permit reinstated after suspension, the applicant must comply with all conditions established by the Board of Adjustment, as determined by the Sauk County 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.

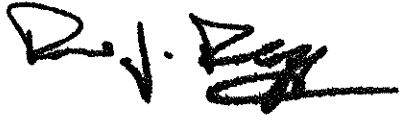
APPEAL RIGHTS

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


Richard Vogt, Chair



Robert Roloff, Secretary

Filed on this date: Mar 1, 2011

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