

SAUK COUNTY BOARD OF ADJUSTMENT

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

February 24, 2011

DECISION
SAUK COUNTY BOARD OF ADJUSTMENT
Appeal Application No. SP-04-11

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Milestone Materials
P.O. Box 441
Baraboo, WI. 53913

Dear Sirs:

On February 24, 2011, 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

Milestone Materials, 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 a concrete batch plant. The property is located in section 22 in the Town of Baraboo and subject to Chapter 7, of 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 mineral extraction sites and agricultural properties with very few residential properties. Five special exception permits have been granted since 1984 for mineral extraction activities and a asphalt plant at this location. A land use permit was issued for the temporary asphalt plant in 1995.

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

The Board determined that this site has been used for mineral extraction activities for more than sixty years. There is currently an agreement between the applicant and the Town of Baraboo addressing maintenance of the roads used to access the site. The applicant also agreed to operate within the conditions imposed when the permit to renew the mineral extraction at this site was granted in 2009. The plan is to move the concrete batch plant to the site in June and be out by the end of August.

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 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 a land use permit for the batch plant.
- B. No work shall be commenced prior to receiving the Board of Adjustment decision letter and securing the required permits.
- C. The plant shall operate for the term under all the conditions, and during the hours as permitted by special exception permit SP-24-09. This permit is due to expire July of 2019.
- D. A new land use permit is required for every batch plant to locate at this site.
- E. 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 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.
- F. 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

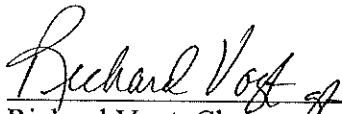
permit and possible enforcement action. In order to have the special exception permit reinstated after suspension, the applicant must comply with all the conditions established by the Board of Adjustment, as determined by the Sauk County Planning & Zoning Director or appear in front of the Board of Adjustment. 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.

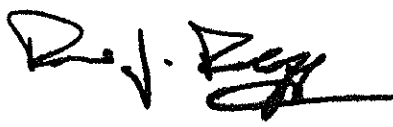
APPEAL RIGHTS

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 Netzinger, 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