

March 24, 2011

DECISION
SAUK COUNTY BOARD OF ADJUSTMENT
Appeal Application No. SP-07-11

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Gary & Denise Schyvinch
E7949 South Ave.
Reedsburg, WI. 53959

Dear Mr. & Ms. Schyvinch:

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)(1)2,10,19 and 20. Based upon the applicable records, evidence and testimony presented at the hearing, the Board of Adjustment makes the following:

FINDINGS OF FACT

Gary Schyvinch, hereinafter referred to as "Applicant", applied to renew special exception permits pursuant to Sauk Co. Code § 7.05(2)(1)2, 10, 19 and 20, to authorize the location and operation of a contractor's storage yard, private land fill, mineral extraction site and agricultural related business. The property is located in section 29 in the Town of Dellona and subject to Chapter 7, of the Sauk County Zoning Ordinance.

Section 7.05(2)(1)2 of the Sauk County Zoning Ordinance provides that a special exception permit is required for a contractor's storage yard. Section 7.05(2)(1)10 provides that a special exception permit is required for a private landfill. Section 7.05(2)(1)19 provides that a special exception permit is required for a mineral extraction site. Section 7.05(2)(1)20 provides that a special exception permit is required for an agricultural related business.

The surrounding area contains agricultural properties with very few residential properties. Two special exception permits have been granted since 2001 for the activities proposed at this location.

CONCLUSIONS OF LAW

The Sauk County Board of Adjustment may not grant a special exception permit for these activities unless all of the conditions listed in Sauk Co. Code §7.05(2)(1), 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 requested uses are 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 these activities since 2001 without Planning & Zoning receiving any complaints or issuing any citations. The Town of Dellona also recommended that the Board of Adjustment renew the special exception permit for these uses as requested by the applicant. They also noted that the applicants have occupied the residence located at the site and have a vested interest in keeping the site in compliance with the ordinance.

DECISION

Based upon the evidence, testimony, exhibits and legal authority, the Sauk County Board of Adjustment, by a vote of three to none, approves your request, subject to conditions, to renew the special exception permit for these 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 prior to commencing operations.
- B. No work shall be commenced prior to receiving the Board of Adjustment decision letter and securing the required permits.
- C. The site shall operate per the conditions and during the hours as permitted by special exception permit SP-10-01. Condition H. shall be amended to read "The applicant shall provide financial assurance to be in compliance with section 24.07 of the Nonmetallic Mining Reclamation Ordinance and chapter NR135 of the WI. DNR code.
- D. These permits shall be in effect for a period of ten years and may be renewed by the Board of Adjustment at that time.
- E. The landfill shall only accept approved clean fill. Clean fill consists of concrete, topsoil, subsoil, stumps and brush, unpainted brick, block and wood.
- F. 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.

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 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, Vice Chair

Robert Roloff, Secretary

Filed on this date: _____

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