

May 26, 2011

DECISION  
SAUK COUNTY BOARD OF ADJUSTMENT  
Appeal Application No. SP-09-11

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Amber Giddings  
320 W. Maple St.  
Baraboo, WI. 53913

Dear Ms. Giddings:

On May 26, 2011, the Sauk County Board of Adjustment considered your application for a special exception permit, pursuant to Sauk Co. Code § 7.08(2)(b)1 and 7.08(2)(b)13.. Based upon the applicable records, evidence and testimony presented at the hearing, the Board of Adjustment makes the following:

#### FINDINGS OF FACT

Amber Giddings, hereinafter referred to as "Applicant", applied for special exception permits pursuant to Sauk Co. Code § 7.08(2)(b)1 and 7.08(2)(b)13, to bring an existing restaurant and bar into compliance with the Sauk County Zoning Ordinance. The property is located in Section 11 of the Town of Baraboo and subject to Chapter 7, the Sauk County Zoning Ordinance.

Section 7.08(2)(b)1 of the Sauk County Zoning Ordinance provides that a special exception permit is required for eating establishments in which liquor and/or malt beverages are served or sold. Section 7.08(2)(b)13 provides the a special exception permit is required for tennis courts, playfields and sportsfields with night lighting.

This site had been used as a restaurant since the 1950's the applicant purchased the property on November of 2006 and reopened the restaurant in February of 2007. The zoning was brought into compliance in December of 2010.

#### CONCLUSIONS OF LAW

The Sauk County Board of Adjustment may not grant a special exception permit for the sale or serving of liquor and/or malt beverages and night lighting unless all of the conditions listed in Sauk Co. Code § 7.08(2)(b) and 7.08(4)(b) are met. As part of its review, the Board must determine whether the location of the restaurant and bar with night lighting 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 § 7.08(2)(b) and 7.08(4)(b). 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 proposed location of the existing restaurant and bar is consistent with the purpose and intent of the Ordinance. The board made this decision based on testimony and information provided at the hearing, and the following:

The Sauk County Board of Adjustment noted that the Town of Baraboo was in support of the applicants request and that the applicant had to secure a change in zoning on the property in order to bring it into compliance with the Ordinance.

## DECISION

Based upon the evidence, testimony, exhibits and legal authority, the Sauk County Board of Adjustment, by a vote of five to none, approves your request, subject to conditions, for a special exception permit for the sale of alcoholic beverages and night lighting.

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 any building or change of use.

B. The permit shall be in effect for a period of ten years and may be renewed by the Board of Adjustment at the end of that period.

C. The permit shall be non transferable.

D. The night lighting shall be limited to the current conditions.

E. 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.

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 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

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Richard Vogt, Chair

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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