

June 27, 2011

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

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Timothy Deppe  
E12558 Bay Rd.  
Merrimac, WI. 53561

Dear Mr. Deppe:

On June 23, 2011, the Sauk County Board of Adjustment considered your application for a special exception permit, pursuant to Sauk Co. Code § 8.08(3)(a)1. Based upon the applicable records, evidence and testimony presented at the hearing, the Board of Adjustment makes the following:

#### FINDINGS OF FACT

Timothy Deppe, hereinafter referred to as "Applicant", applied for a special exception permit pursuant to Sauk Co. Code § 8.08(3)(a)1, to authorize filling and grading on slopes in excess of twenty percent. The property is located in Section 8 of the Town of Merrimac and subject to Chapter 8, the Sauk County Shoreland Protection Ordinance.

The Applicant is applying to modify the special exception permit for filling and grading granted by the Board in October of 2010 (SP-25-10). The parcel included is 026-0184-00000.

The property has a land use permit for a residential dwelling (89-361), an addition (96-203), and a replacement conventional septic system (88-191). There is a previous Board of Adjustment (SP-38-99) for a house addition which included an attached garage to a nonconforming structure that would not meet the road setback. This request was granted.

The surrounding area is a residential subdivision and condominium development in the shoreland protection district.

## 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 testimony of the contractor for the project stated that the original boulders used for the retaining walls were too small, the soil behind the walls was not compacted and there was not any fabric installed. The contractor also stated he would complete the work in stages to minimize the amount of open, disturbed ground. The Board determined that the proposed work will limit the amount of erosion entering the lake and that the proposed retaining walls will stabilize the steep slope.

## 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 to authorize the filling and grading as proposed with a three (3) year permit time frame to complete the project.

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. Any plan changes/modification outside of those proposed at the hearing must be approved by the Office of Conservation, Planning and Zoning, including activities on slopes greater than 20%. 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 filling & grading, construction of retaining walls and tree cutting (three years to complete instead of two).

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. Per Sauk Co. Code 8.08(5)(a), the smallest amount of bare ground shall be exposed for as short a time as feasible.
- F. 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.
- G. 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.
- H. Per Sauk County Code 8.08(5)(e), fill shall be stabilized according to accepted engineering standards.
- I. The applicant shall have three years to complete the project.
- J. 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.
- K. 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 are 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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Linda White, Vice 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