

**BOARD OF ADJUSTMENT STAFF REPORT
SP-29-11**

Taylor & Abbey

Public Hearing Scheduled for: 12/15/11

1. Request

A request for a special exception permit to authorize filling and grading within 300 feet of Lake Wisconsin and a variance for a proposed deck within the minimum shoreline setback.

2. History

Location/Zoning	Permits Issued	Previous Appeals	Citations
Property is located in the Shoreland Protection Zoning District, on real estate described as: Lot 1 CSM 5692 and lot 1 CSM 5740, part of the SE ¼, section 36, T11N, R7E, Town of Merrimac	<u>Permits:</u> Permits have been issued since 2008 for filling and grading, retaining walls, a boathouse, a residence and a septic system.	SP-45-09 was granted in November of 2009 for filling and grading.	A citation was issued to Classic Custom Homes in 2011 for filling and grading beyond the permitted area.

3. Finding of Fact:

When reviewing a special exception proposal for special exceptions in the Shoreland Protection District, the Board of Adjustment looks at several criteria, including the conditions in section 8.08(3) and the provisions specified in sections 8.14(3)(b) and 8.14(3)(c).

Section 8.08(3)(a) provides that a special exception permit is required for any filling or grading of any area which is within 300 feet landward of the ordinary high water mark of a navigable water and which has surface drainage toward the water and on which there is any of the topographic conditions listed below:

1. Any filling or grading on slopes of more than twenty percent.
2. Filling or grading of more than 2000 square feet on slopes of twelve percent to twenty percent.

3. Filling or grading of more than 4000 square feet on slopes of less than twelve percent.

When reviewing a variance appeal, the Board of Adjustment looks at several criteria, including unique property limitations, the protection of public interest and proof of an unnecessary hardship.

Section 8.06(2) provides that; all buildings and structures, except piers, wharves, boathouses, boat hoists, boat shelters, stairways, walkways, lifts, landings, and open fences shall be set back at least 75 feet from the ordinary high water mark and shall meet the building requirements of this ordinance.

Surrounding Properties		Floodplain/Wetland	Other:
North, West & South	Developed and vacant residential properties.	Floodplain map, panel 5511C0438 E, effective date 12-15-09. The buildings are located above the floodplain. There are no mapped wetlands indicated in this area.	Lake Wisconsin is a navigable water and is subject to the Shoreland Protection Ordinance.
East	Lake Wisconsin		

4. Plan Commission/Town Recommendation

The Town Board of Merrimac is aware that an appeal has been made to the Board of Adjustment for this project.

5. Planning and Zoning Recommendation

Planning and zoning recommends that the following conditions be considered by the Board should the Board grant the special exception permit and variance.

- 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 & 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. This project shall not increase stormwater runoff onto neighboring properties.

E. 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.

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 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.

Report submitted by David D. Lorenz