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Buffalo County Courthouse
407 South Second Street
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Paul van Eijl
Zoning Administrator

DECISION OF ZONING BOARD OF ADJUSTMENT
7th DAY OF JUNE 2011

Case Number: 2011-7

Filing Date: July 14, 2011

Notice Dates: June 23rd and 30th, 2011 Mondovi Herald News

Hearing Date: July 7, 2011

COPY

FINDINGS OF FACT

1. The applicant/appellant is: Steve & Beth Segerstrom
Address: S561 State Rd 37
Mondovi, WI 54755
2. The applicant/appellant is located in the SW ¼ of the SE ¼, SW ¼ of the SW ¼, SE ¼ of the SW ¼ Sec. 28 T. 24N. R. 11W. NE ¼ of the NE ¼, NW ¼ of the NE ¼, SW ¼ of the NE ¼, SE ¼ of the NE ¼, NE ¼ of the NW ¼, N 2A of NE ¼ of the SE ¼, NW ¼ of the NW ¼ Section 33, T. 24 N., R. 11 W., Town of Mondovi, Buffalo County, Wisconsin.
3. The property is currently used for agricultural purposes.
4. The applicant/appellant proposes to: implement a sand mine at said location.
5. The applicant requests a conditional use.
6. The features of the proposed construction that relate to the granting of a variance are: NA.

CONCLUSIONS OF LAW

INTERPRETATION: The Zoning Administrator's interpretation of Article IV, Section 41.1 of the Buffalo County Zoning Ordinance is a correct interpretation because: It states that the following uses may be permitted upon issue of a Conditional Use Permit and subject to the following conditions:

Manufacturing and processing of natural mineral resources indigenous to Buffalo County incidental to the extraction of sand and gravel and the quarrying of limestone and other rock for aggregate purposes, including the erection of buildings, and the installation of necessary machinery and equipment incidental thereto, but not the storage of cement, asphalt or road oils or the mixing of concrete or black top or related materials, provided that any county, town or municipal government or its agent may store or mix such materials when incidental to the improvement of highways or streets.

APPEAL: The order of the Zoning Administrator is not in excess of his zoning authority because: NA

CONDITIONAL USE

The application for a conditional use permit does qualify under Article IV, Section 41.1 of the Zoning Ordinance because: The intended use of the sand mine will be incidental to the improvements of highways and/or streets.

The application for a conditional use permit does qualify under Article IV, Section 41.1 of the Buffalo County Zoning Ordinance because: In applying the standards applicable to all conditional uses, the Board of Adjustment considered the following factors:

- 1) The location, nature, and size of the proposed use.
The location for the sand mine on the property is compatible with the nature of the property and the surrounding land usage. The sand mine will be located near an existing nonmetallic mining quarry.
- 2) The size of the site in relation to it.
The site in question has adequate room for the sand mine. The total acreage included within the application is 570.4 acres in which the sand mine will be located.
- 3) The location of the site with respect to existing or future roads giving access to it.
Landowner(s) have been working with the Wisconsin DOT in respect to any access concerns. The access into the site is off of an existing driveway, of which a haul road will be implemented.
- 4) Its compatibility with existing uses on land adjacent thereto.
The site is located in the Agricultural District and is surrounded entirely by agricultural land. Article IV, Section 41.1, lists sand mines as a conditional use in the Agricultural District.
- 5) It's harmony with the future development of the district.
As of the date of the hearing, the zoning office has not been made aware of development or subdivision plans within the immediate vicinity that would be impacted by a sand mine.
- 6) Existing topography, drainage, soils types and vegetable cover.
The mine will be located behind and near the Segerstrom residence, which consists primarily within a large bowl. The primary soil type in the area is FvD2, Fayette silt loam that is well-drained. Existing vegetative cover currently consists of agricultural crops, both row crops and forestland.
- 7) Its relationship to the public interest, the purpose and intent of this ordinance and substantial justice to all parties involved.
The zoning department has not received any written opposition to the sand mine, itself. Some questions were raised in respect to the reclamation process, addressed through NR 135. Parties were also concerned about the affect of the mine in respect to truck traffic in the Village of Nelson and its effect upon tourism. It was addressed by limiting haul hours on weekends April 1-October 31.

ORDER AND INTERPRETATION

On the basis of the above findings of fact, conclusions of law and the record in this matter, the Board orders:

INTERPRETATION: The Zoning Administrator's interpretation of the zoning code is affirmed and the Zoning Administrator is hereby ordered to: Issue a Conditional Use permit to Steve & Beth Segerstrom.

- 1) VARIANCE/CONDITIONAL USE: The requested conditional use is granted subject to the following conditions:
 - 1) Permit and site activities shall be conducted in compliance with all provisions of the Buffalo County Non-Metallic Mining Ordinance and WI Administrative Code NR135.
 - 2) Tracking pad must be paved at a minimum of 200' from ST RD 37
 - 3) Access road into quarry must be secured
 - 4) Transport of product is restricted to state highways only
 - 5) Dry Processing Facility only
 - 6) Surface mining only
 - 7) No blasting shall occur at the site
 - 8) No excavation shall take place within 100 feet from the right-of-way line of ST HWY 37
 - 9) No excavation shall take place, nor shall the slope of the uatural land surface be altered as such excavation, nor shall the storage of materials take place nearer than 20 feet to any property. This setback shall not apply where the adjoining property is used for mineral extraction

- 10) Mining operations shall maintain a minimum of 5' separation from groundwater
- 11) No topsoil or subsoil shall be allowed to leave the site during the entirety of the site operations
- 12) Existing perimeter tree canopy (at highest points of elevation) must remain to keep the visual appearance, aesthetics and reduce dust/noise from leaving the proposed mining area
- 13) In the event that on-site fuel storage is planned, a fuel storage area that complies with WI Administrative Code COMM 10 shall be established at a fueling station located outside the mine excavation area. A fueling pad constructed of concrete or compacted base material shall be implemented as part of the fueling station. Fueling of highly mobile vehicles such as rubber tire loaders shall occur on the constructed fueling pad.
- 14) No solid waste materials shall be used in site reclamation or shall be deposited/stored/ or disposed of at the site before receiving all necessary solid waste permits or approvals as required by town, county, state, or federal laws or ordinances.
- 15) A plan review will be conducted every (3) years to evaluate the effectiveness of reclamation related activities, and to identify plan modifications that may be warranted to meet reclamation standards as established in WI Administrative Code NR135.
- 16) Non-Metallic Mining activities must always comply with the most recent Wisconsin Department of Natural Resources standards. These include but are not limited to air emission permitting and storm water permits (WPDES).
- 17) Obtain any and all required WI DOT permits and adhere to WI DOT regulations
- 18) Operator will be responsible for compliance with any federal, state, or local HAZMAT requirements and any other rules, regulations, laws, and/or guidelines; approval of conditional use permit does not constitute approval of reclamation plan or any other federal, state, or local requirements.
- 19) Financial assurance amount will be established after final reclamation plan approval and prior to any excavation activity.
- 20) The operator must notify the non-metallic mining department in advance of any changes in ownership, operator, or lease terms.
- 21) Annual permit applications must be filed and annual fees must be submitted by the given deadline.
- 22) County Sanitary Permit required at minimum.
- 23) A Zoning Permit must be issued for any applicable building development in regards to the issuance of this Conditional Use Permit.
- 24) Address number issued for site.
- 25) No haul hours are Saturday 12:00 p.m. (noon) to 11:00 p.m. and Sunday 7:00 a.m. to 12:00 a.m. (midnight) April 1-October 31.

The Zoning Administrator is directed to issue a copy of the Findings and Conclusions to the applicant, which shall constitute Conditional Use # 2011-7.