



# Dane County Board of Adjustment

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## Decision of the Dane County Board of Adjustment

**Appeal of ZLR Decision regarding Conditional Use Permit:** Appeal 3721. Appeal by Henry Spelter appealing the decision of the Dane County Zoning and Land Regulation Committee regarding approval of conditional use permit 2563: Non-metallic mineral extraction operation 1,000 feet south of 439 center road, Section 28, Town of Rutland.

### FINDINGS OF FACT

In following the Rules and Procedures for an appeal of grant or denial of conditional use permit, having considered the evidence presented, the Board determines the facts of this case to be:

**Filing Date:** August 16, 2022.

**Meeting notice published:** October 13 and 20, 2022 Wisconsin State Journal.  
Affidavit of publication/posting is on file.

**Hearing Date:** October 27, 2022.

**Appellant:** Henry Spelter

1. The Board accepts the official record of CUP 2563 as facts of the appeal.
2. A public hearing for CUP 2563 was held by the Zoning and Land Regulation Committee on May 24, 2022.
3. The Zoning and Land Regulation Committee approved conditional use permit 2563 at their July 12, 2022 meeting.
4. A brief or Memo of Opinion was submitted by Appellant Henry Spelter. No other interested party submitted a brief.

### **CONCLUSIONS OF LAW**

Based on the above findings of fact the Board concludes that:

1. Appellant argues that the conditional use permit application was incomplete at the time of public notice of public hearing. The Board found that the required items of a complete application for a conditional use permit were present at the time of application and the

application was therefore complete. The Board determined that an application did not become incomplete if supplemental information was included after the initial complete application.

2. Appellant argues that the conditional use permit application contains inconsistent legal descriptions. The Board concluded that the written legal description did not contain the area described in the approved site plan, operational plan, and phasing plan.
3. Condition #2 of CUP 2563 requires “The physical development and operation of the conditional use must conform, in all respects, to the approved site plan, operation plan and phasing plan”. The Board concludes this condition cannot possibly be satisfied as the written legal description does not contain all areas included in the plans.

On the basis of the above findings of fact, conclusions of law and the record in this matter the Board reverses the July 12, 2022 final decision of the Zoning and Land Regulations committee regarding CUP 2563.

Appeals. This decision may be appealed by a person aggrieved by this decision or by any officer, department, board or bureau of the municipality by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

Written Decision prepared by: Hans Hilbert, Assistant Zoning Administrator.

Written Decision approved at the \_\_\_\_\_ Dane County Board of Adjustment meeting.

I certify that this is the decision of the Dane County Board of Adjustment:

Al Long, Chairman                      Sign: \_\_\_\_\_                      Date: \_\_\_\_\_

Filed with the Dane County Planning and Development Department, Zoning Division:

Todd Violante, Director                      Sign: \_\_\_\_\_                      Date: \_\_\_\_\_