

**St. Clair County Zoning Board of Appeals
Minutes for Meeting
At the Courthouse – 7:00 P.M.
July 6, 2015**

Members Present: Charles Frederick, Alexa Edwards, Scott Penny, Rev. Gene Rhoden, Alexa Edwards & Chairman George Meister

Members Absent: Kent Heberer

Staff Present: Anne Markezich, Zoning Department
Mark Favazza, Zoning Attorney

Call to Order

The meeting was called to order at 7:00 p.m. by Chairman, George Meister.

Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

Approval of Minutes

MOTION by Frederick to approve minutes of the June 8, 2015 meeting. Second by Rhoden. Motion carried.

Public Comment

There were no comments from the public.

New Business – Case #1

Subject Case #2015-07-ABV – Gary & Laura Klotz, 1035 South Jefferson Street, Millstadt, Illinois, owners and applicants. This is a request for an Area/Bulk Variance to allow a parcel with 12.56-acres instead of the 40-acres required in an “A” Agricultural Industry Zone District on property known as XXXX Forest Hill School Road, Millstadt, Illinois in Stookey Township.

Gary Klotz, Owner/Applicant

- Mr. Klotz stated he and his wife purchased a 34-acre piece of property.
- Mr. Klotz stated he purchased some property up North for hunting purposes, so they had to sell part of the property off to help fund the other property.
- Mr. Klotz stated he was not aware if he broke that 34-acre parcel into a 12-acre parcel it would void the building opportunity.
- Mr. Klotz stated some day when he and his wife retire they would like to build a home on this property.
- Mr. Klotz stated they sold the farm ground off to the farmer, Mr. Weilbacher and sold the timber off to the neighbor.
- Mrs. Klotz explained this is the parcel they want to live on; she explained they did not realize they were not allowed to break up that parcel.

Discussion

- Chairman Meister asked if the 18-acre parcel is owned by the Weilbachers. (The applicant stated that is correct.)
- Chairman Meister asked if there would be a business on the property. (The applicant stated there will be no business on the property. He will build one residential home.)
- Ms. Markezich stated the LESA rating is 152 – Low.
- Ms. Edwards confirmed this was a 34-acre tract divided into three parcels.
- Ms. Edwards asked when Mr. Klotz will build a home. (Mr. Klotz stated he will build a home in 10-12 years, after they retire.)
- Ms. Edwards asked if the property is currently being tilled. (Mr. Klotz stated 6 or 7-acres are being farmed.)

Public Testimony

- Ken Weilbacher, 6470 Triple Lakes Road stated he feels this division is compatible with the area and the property is not prime farm ground.
- Chairman Meister asked the applicant where the driveway would be on the property. (The applicant stated the passageway is 75' wide, so they would put a 25 ft. rock road right down the center of the property.
- Mr. Penny asked if the lots to the North of this property have houses on them. (Ms. Markezich stated it looks like there are houses on the aerial photos.)

Further Discussion

Larry Stammer, County Board Member, District 26 stated he met Mr. Klotz on the property and stated he supports this issue. Mr. Stammer has received no complaints from constituents and he supports the zoning variance.

MOTION by Penny to grant the request for the following reasons: The applicant submitted a reasonable case of not fully understanding the division process; there are similar subdivisions both to the North and South of this property; the request is in harmony with the general purpose and intent of the Zoning Ordinance; granting the variance would not be injurious to the neighborhood; the request would not be a detriment to the area; the request is not in conflict with the Comprehensive Plan since there are similar developments in abundance in that area; it would not increase hazards of fire or create other dangers; it would not diminish the value of land and buildings in the area, it would actually enhance it; the impact on the roadways would be minimal; and granting the request would not otherwise impair public health, safety, comfort or welfare of the adjacent properties.

Rhoden: Rhoden seconds.

Roll call vote:	Rhoden -	Aye
	Penny -	Aye
	Gregory -	Aye
	Edwards -	Nay
	Frederick -	Nay
	Meister -	Nay

This case has a tie-vote and requires four votes for approval. This case will be rescheduled for next month.

New Business – Case #2

Subject Case #2015-07-SP – Joe Nell Hummert, 6500 State Rte 15, Mascoutah, Illinois, Owner and Lynn Hummert, 6500 State Rte 15, Mascoutah, Illinois Applicant. This is a request for a Special Use Permit to allow the placement of a single-wide mobile home as a living use in an “A” Agricultural Industry Zone District on property known as 6500 State Rte 15, Mascoutah, Illinois in Fayetteville Township. (Parcel #19-10.0-100-015)

Lynn Hummert, Applicant

- Mr. Hummert stated he replaced the mobile home on his property and was not aware he needed a building permit to replace a mobile home.
- Mr. Hummert stated he was issued a stop work order by the County.
- Mr. Hummert stated the mobile home is sitting behind a machine shed on the property and is not visible to any neighbors.

Discussion

- Chairman Meister asked what year the mobile home was on the property and what year he replaced it with. (The applicant stated there was a 1983 and replaced it with a 2013.)
- Ms. Edwards asked how long the first mobile home was gone before replacing. (The applicant stated 6-years.)
- Ms. Markezich stated the applicant never got a building permit to place the first mobile home. (The applicant explained it was a clubhouse that he eventually hooked to utilities and made his home.)
- Chairman Meister asked where the old mobile home is currently. (The applicant stated the mobile home is at the bottom of the hill currently being torn apart.)
- Chairman Meister asked how long the mobile home has been sitting down the hill. (The applicant stated the County issued him a stop work order.)
- Mr. Rhoden asked if the applicant went through the board to allow the first mobile home. (The applicant stated they did not because they were only using the mobile home as a clubhouse.)
- Mr. Penny asked what the intent of the mobile home is. (The applicant stated he will live in the mobile home to care for his mother who resides in the home on the property.)

- Mr. Penny asked who lives in the house on the property. (The applicant stated his mother lives in the home alone, father passed away 5-years ago.)
- Ms. Edwards asked what the applicant is doing with the mobile home he is tearing down. (The applicant stated he will take the existing home to the scrap yard.)
- Ms. Markezich asked the applicant his time-frame to remove the existing mobile home. (The applicant stated it will take him a couple of weeks.)
- Chairman Meister asked if the home is on a foundation. (The applicant stated the home is on piers.)
- Ms. Edwards asked if the home was tied down to the Illinois Code. (The applicant stated the home was tied down before he removed it.)
- Chairman Meister asked if the existing mobile home had its own sewer. (The applicant stated the mobile home has a septic system and well.)
- Ms. Edwards asked what year the new mobile home is. (The applicant stated the new home is a 2013.)
- Ms. Edwards asked if the home has a shingled roof and vinyl siding. (The applicant stated the home has a shingled roof and vinyl siding.)

Public Testimony

There were no persons present for public comment.

Further Discussion

County Board Member, Ed Cockrell stated he has known the Hummert family for 40-years. Mr. Hummert placed the mobile home on the property as a clubhouse for family and friends. After Mr. Hummert passed, his son moved in the mobile home to take care of his mother. Mr. Cockrell stated the home is placed behind the barn is cannot be seen by the public. Mr. Cockrell received no complaints from neighbors and feels as long as Mr. Hummert complies with zoning regulations he is in favor of granting the request.

Ms. Edwards stated the problem the County has had in the past is, when the hardship ceases to exist the manufactured home becomes a financial hardship to move and then they want to rent it out. (Ms. Markezich stated the property will be divided; so the mobile home will be on its own parcel.)

Mr. Favazza informed the board that they can put a time limit on a Special Use Permit.

Chairman Meister asked the applicant how much time he needs to remove the existing mobile home. (The applicant stated he can have the mobile home removed within 30-days.)

Mr. Cockrell stated he would personally monitor the removal of the existing mobile home from the property.

MOTION by Edwards to take this case under advisement to allow time for the applicant to remove the existing mobile home from the property. This meeting is scheduled for September 14, 2015.

Second by Friederich.

Roll call vote:	Rhoden -	Aye
	Penny -	Aye
	Gregory -	Aye
	Edwards -	Aye
	Frederick -	Aye
	Meister -	Aye

This case has been taken under advisement and rescheduled for September.

Old Business - Case #1

Subject Case #2015-06-SP - Daniel & Lynette Toenjes, 3040 Forest Hill School Road, Millstadt, Illinois, Owners & Applicants. This is a request for a Special Use Permit for a Planned Building Development pursuant to Section 40-9-3(H)(3) of the St. Clair County Zoning Code to allow a Brick Contracting Company in an "A" Agricultural Industry Zone District, on property known as 3040 Forest Hill School Road, Millstadt, Illinois in Stookey Township. (Parcel #07-29.0-200-005)

Chairman Meister announced this case was taken under advisement on June 8, 2015. There will be no additional testimony.

Mr. Favazza stated Zoning Board Member, Patti Gregory was not at the initial Zoning meeting but has had an opportunity to review a recording of the previous meeting and review the materials presented at the meeting. Ms. Gregory confirmed she has reviewed the case heard on June 8, 2015.

Ms. Edwards stated she is not exactly sure where the other board members stand at this point but feels granting this case would be spot-zoning and feels this area has not changed to warrant the zoning change. Ms. Edwards feels the Zoning Board needs to be consistent and fair to all applicants that come before the board. Ms. Edwards stated she has prepared a motion that is fair to the applicants, the surrounding property owners and the entire St. Clair County and in compliance with the Comprehensive Plan and Zoning text.

Ms. Gregory stated she feels granting this request would be precedent setting to the Zoning Board.

MOTION by Edwards.

Case #2015-06-SP – The Zoning Board of Appeals having considered the Petitioner, Daniel & Lynette Toenje's request for a Special Use Permit to allow a Planned Building Development pursuant to 40-9-3(H)(3) of the St. Clair County Zoning Code for a brick contracting company in an "A" Agricultural Industry Zone District, and pursuant to the Petitioner's Petition, the evidence and testimony presented at the hearing of June 8, 2015, I move that the Zoning Board of Appeals recommend that the Petitioner's Petition be denied based upon the following:

1. The proposed location, development and operation of the proposed Special Use does not adequately protect the public's health, safety and welfare and the physical environment. The area in which this proposal is situated is rural in nature, with little to no infrastructure in place that would be indicative of an area developed or to be developed with business or industrial uses, such as commercially developed roads, public water, and public sewer. Petitioner's property is serviced by a private well and septic system. Further, this area is sparsely developed with houses, in a rural country setting, which were developed in this area because of the peaceful and quietness of the rural country setting versus the noise and traffic of a business or industrial area, and that which a brick contracting company will generate.
2. The proposed Special Use is not consistent with the County's Comprehensive Plan. The County's Comprehensive Plan calls for Agricultural Preservation. Land designed as Agricultural Preservation is for areas traditionally used for agricultural farming and the raising of domestic animals. Such areas generally encompass prime and important farmland, and areas that should be maintained in a rural and undeveloped state. Also, this property has a LESA score of 183,

moderate retention as farm ground. Therefore, to allow the development of a brick contracting company, a business better suited for a general business district or industrial district; in a rural Agricultural preservation zone district would be inconsistent with the Comprehensive Plan.

3. The proposed Special Use Permit would have an adverse affect on the value of neighboring property. Objector, Dona Barber, an adjacent property owner and residence objected the Petitioner's proposal citing concerns of an adverse impact the property values. Objector Barber also presented the Zoning Board a signed petition containing signatures of objecting owners and residents of properties located on Otten Road, Glauber Road, and Forest Hill Lake Road, all of which are within close proximity to the proposed Special Use. Further, Objector Barber presented the Zoning Board with a letter from Realtor Judy Doyle regarding the affect on property values that the proposed Special Use would have; while this letter indicates that the property values would decline, the Zoning Board gives little evidentiary weight to this letter as it is unsigned. However, Objector, Barber presented a signed letter to the Zoning Board from Scott Tade of Tade Appraisal Company dated June 4, 2015. Mr. Tade is an Illinois licensed certified general appraiser. Mr. Tade indicated in said letter that it is his opinion that if the commercial use is granted such would adversely affect surrounding property values, and the proposed commercial use would not be consistent with the surrounding area, and detrimental to the neighborhood. Thus, neighboring property values would be negatively impacted by the proposed Special Use. Further, the proposed Special Use would be detrimental to the neighboring property owner's use and enjoyment of their own property.
4. Roads in the vicinity of the proposed Special Use are rural roads. Such roads were not designed, built, or intended for commercial business development uses. While traffic circulation may be minimally impacted, the rural roads are not intended for commercial business traffic, and will likely lend themselves to faster deterioration. Further, the width of commercial type vehicles in relation to narrower rural roads may create traffic hazards for two-way traffic, thus, presenting a safety threat to the general public who use such roads.

5. The proposed Special Use is not compatible with adjacent uses in the vicinity. Petition failed to establish that because of the particular and unique characteristics of the proposed Special Use or his property in question that such would be compatible with and have no adverse effect on adjacent properties or the general neighborhood. The aerial maps provided to the Zoning Board demonstrate that there are no similar commercial businesses in the vicinity of the proposed Special Use. The Zoning Board does not agree with Petitioner that his proposed Special Use is similar to a farming operation. Petitioner is a commercial brick contracting company. Petitioner's business does not raise any agricultural crops or farm animals. Petitioner's business does not raise any agricultural crops or farm animals. Petitioner's business as compared to a farming operation is clearly distinguishable. Moreover, farming is a permitted use in an Agricultural district. A brick contracting company is neither a permitted use nor a special use in an Agricultural district. While there was testimony that there are one or two businesses over two miles away from this proposed Special use, such are inconsequential, as the nature of those businesses, infrastructure, and impact on property values are likely factually different from the set of facts now before the Zoning Board, and no such testimony or evidence was presented by Petitioner to establish any similarities to Petitioner's proposed Special Use. In addition, there is no trend in the vicinity of the proposed Special Use for business, commercial, or industrial development, and the Zoning Administrator's Advisory Report finds that the proposed will adversely impact adjacent uses and would not be in harmony with the Special Use for business, commercial, or industrial development, and the Zoning Administrator's Advisory Report finds that the proposed Special Use will adversely impact adjacent uses and would not be in harmony with the area in question or the Comprehensive Plan.
6. The currently existing structures on Petitioner's property that Petitioner intends to use for his business were built upon the pretext that such were non-commercial in nature. The structures were neither built to commercial or business specifications and codes, nor inspected by the proper authorities as such. Thus, the structures were not designed or built to code for carrying a business of this nature.

7. Regarding the letters submitted by different unions and the testimony that was heard from the petitioner's employees such was and is duly noted by this Board. However, the claim that if Petitioner's business is required to move from its present location that such move would then financially impact Petitioner's employees, is not a fact to be considered by the Zoning Board in making its recommendation. Further, the Zoning Board finds such a claim to be without merit. As Petitioner testified to at the hearing that if his equipment and employees are not on a job site he is not making any money, and that a majority of his employees report directly to the jobsite and not to the petitioner's place of business. Thus, to conclude that if Petitioner's business is not located at 3040 Forest Hill School Road it would be less successful, or that Petitioner's employees would be financially impact by a relocation is mere speculation and conjecture, and more importantly is not a factor to be considered by this Board.
8. Lastly, and of an alarming nature, the Petitioner in May 2001 came before this Zoning Board seeking approval to operate a brick contracting company upon this same piece of property. At that time, a hearing was held by this Zoning Board on the issue. The matter was taken under advisement; however, before a final decision was made upon the matter the Petitioner withdrew his petition. The Petitioner in 2001 knew that approval was required from the Zoning Board and ultimately the County Board before he could operate a brick contracting company upon his property. Despite this knowledge, Petitioner decided to develop his brick contracting company upon this property without the required consent and approval by this Board or the County Board. All in contravention to the Zoning Board of St. Clair County, Illinois. Petitioner did this at his own risk, and in disregarding of this Board, the County Board, and the laws and regulations of St. Clair County, Illinois. Therefore, for those reasons it is my motion that this Zoning Board recommend to the County Board that this Petitioner's Petition for a Special Use Permit be denied.

Per Mr. Favazza the written motion will become part of the Zoning File.

Second by Gregory.

Roll call vote:	Rhoden -	Aye
	Penny -	Aye
	Gregory -	Aye
	Edwards -	Aye
	Frederick -	Nay
	Meister -	Aye

This case has been denied by this board and will go to the County Board for final action.

MOTION by Edwards to adjourn. Second by Frederick. Motion carried.