

**St. Clair County Zoning Board of Appeals
Minutes for Meeting
At the Courthouse – 7:00 P.M.
June 8, 2015**

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

Members Absent: Patti Gregory

Staff Present: Anne Markezich, Zoning Department
Dave Schneidewind, 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 1, 2015 meeting. Second by Edwards. Motion carried.

Public Comment

There were no comments from the public.

New 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)

Ryan Mahoney, Attorney representing Mr. & Mrs. Toenjes

- Mr. Ryan Mahoney introduced himself as counsel for the Toenjes family.
- Mr. Mahoney introduced Daniel & Lynette Toenjes owners of the property and owners of the Toenjes Brick Contracting Company.
- Mr. Mahoney stated the applicants have submitted a number of documents in support of the petition, including aerial photos which show the Toenjes family keeps a very neat and orderly business.
- Mr. Mahoney stated the applicants submitted a petition from neighbors with supporting signatures from neighbors with no objection to the business.
- Mr. Mahoney stated the applicants submitted letters from Local Laborers, Bricklayers, Mason Contractors, and a letter of support from Mike Todd, Mayor of Millstadt.
- Mr. Mahoney stated the Toenjes’ purchased this property in 2001 for \$169,000. The property consisted of 10-acres, a residence and a building. They Toenjes family moved into the home in August of 2002. The Toenjes family has significantly improved the property since the time of purchase.
- Mr. Mahoney stated the Toenjes’ are requesting to continue the use of their operation that is located on the property.
- Mr. Mahoney explained there is currently a main office and buildings and a covered area for the storage of equipment for their business, which encompasses less than 1-acre of the premises. He stated a majority of the 10-acres is residential.
- Mr. Mahoney stated this business is very similar to the impact of farm operations which would normally be found in the Agricultural Zone District.
- Mr. Mahoney stated there are two employees on a day to day basis in the office.

- Mr. Mahoney stated there is one Bobcat and one Forklift on the property and from time to time flat beds are utilized to transport machinery equipment and etc.
- Mr. Mahoney stated all construction, installation, operations do not happen at the property; they happen off-site at various construction jobs.
- Mr. Mahoney stated this property has particular and unique characteristics that make it compatible with an Agricultural Industry Zone District and will not have an adverse affect on neighboring properties or on the general neighborhood of its location.
- Mr. Mahoney stated the only vehicles coming and going from the premises will be pick-up trucks and flat bed trucks and that will not be on a regular basis.
- Mr. Mahoney stated the Toenjes family is not aware of any adverse impact on the surrounding property owners.
- Mr. Mahoney stated there was farm machinery & equipment repair on this property in the past.
- Mr. Mahoney stated the overall tax base for St. Clair County has increased as a result in Mr. Toenjes rehabilitating this property.
- Mr. Mahoney stated the office and buildings are protected by a protective fence separating the operations from the remaining portions of the premises. There is also a tree line that goes along the road and along the property so that the property owner that lives behind them doesn't have to see or view other portions of this property.
- Mr. Mahoney stated as to whether the proposed design or location, development, operation of the Special Use will adequately protect the public's health, safety and welfare and physical environment. There is no physical impact to the property that would be greater than this operation. There is no dumping, no hazardous waste or contamination potential to any local water supply. There is neat and orderly storage. There are no toxic fumes or anything of that nature. The only noise would be from a BobCat from time to time.
- Mr. Mahoney stated the Comprehensive Plan calls for Rural Residential and they under stand there is a need to preserve prime farmland however, no part of this property that is used for their operations or residence was previously farmland.
- Mr. Mahoney stated there is no expansion necessary and the imprint of the operation will remain.
- Mr. Mahoney stated the traffic circulation on nearby streets this business has less than an impact of a normal operation.

- Mr. Mahoney stated there are no schools or hospitals close by that should be considered by the board.
- Mr. Mahoney stated the business is compatible to adjacent uses in the vicinity.
- Mr. Mahoney stated they believe this operation exceeds the quality of development that could be achieved through strict compliance.
- Mr. Mahoney stated they have several street view pictures and various views of the property approaching their home and driving around their home.
- Mr. Mahoney stated if the board wishes to consider putting a definitive time period of the property the Toenjes family has no issue with that. However, this is a family business and their dream is to pass it on to their children. Mr. Mahoney requested the board consider allowing the Special Use with a stipulation that a Toenjes family member hold deed to the property.
- Mr. Toenjes stated the neighbors property is 13 ft. lower than his property and is 30-40 acres North of his property. Mr. Toenjes stated the neighbor who is in objection to the business cannot see his property from their home.

Discussion

- Mr. Rhoden asked for clarification if the business is currently operating. (Mr. Toenjes stated he is a brick layer/contractor.)
- Mr. Rhoden asked the applicant exactly what he is asking the board for. (Mr. Toenjes stated he would like to be allowed to continue his office where he does bidding/billing and paperwork; he stated some of the equipment is stored on the property. He explained the bulk of the equipment goes from job to job and all work happens on the jobsites of the surrounding community.)
- Mr. Rhoden asked how many employees the business employs and how many they will employ in the future. (Mr. Toenjes stated there are two people that work at the property; there are 45 to 50 people depending on the weather in the field that go to the jobsites and work.)
- Chairman Meister asked what year the property was purchased. (The applicant stated 2001.)
- Chairman Meister asked what time-frame the house was built. (The applicant stated they remodeled the home from 2001 until Fall of 2002.)

- Chairman Meister asked where Toenjes Brick Contracting Company was before they moved to this property. (The applicant stated they started out on 29th Street in Belleville.)
- Chairman Meister asked if they still own this property. (The applicant stated they sold that property.)
- Chairman Meister asked when the first shed was built. (The applicant stated he built a pole barn in 2002 or 2003 but there were several sheds on the property when he purchased it.)
- Chairman Meister asked the applicant if he acknowledges the fact that they would be used for the Brick laying company. (The applicant stated that they would be used for storage.)
- Chairman Meister asked if the brick laying company was on the property when the first pole building was built. (The applicant stated the business was not on the property at that time.)
- Chairman Meister asked when the second building permit was taken out and what was the situation at that point. (The applicant stated at that time, the business was on Centreville Avenue, Belleville. The applicant explained at this point they were phasing and moving the parents into his house and put the office out there so they could be taken care of.)
- Chairman Meister asked what year the Belleville location was closed and moved out to Forest Hill. (The applicant stated 2004 or 2005.)
- Chairman Meister asked the applicant what happened at the 2001 Zoning hearing. (The applicant stated in 2001 the neighbor solicited a lot of false information to the neighbors; and at that time they stayed in Belleville but only moved the office to the property and several pieces of equipment.)
- Ms. Edwards confirmed there was a Zoning Hearing in 2001 and the applicant withdrew his request. (The applicant stated that is correct.)
- Ms. Edwards asked why the request was withdrawn by the applicant. (The applicant stated they withdrew their request because they weren't sure if they were going to remain in the house at that time.)
- Ms. Edwards asked if public water is available to the property. (The applicant stated public water was just out by Monroe County Coop., however they have not hooked up yet.)
- Ms. Edwards asked if this request is approved; would the applicant be willing to hook to public water services. (Mr. Toenjes stated he would hook up the public water services.)

- Ms. Edwards asked the applicant hours of operation. (The applicant stated the jobsite hours are 7:00 AM to 3:30 PM and the office is open from 8:00 AM to 3:00 PM where his niece works and his cousin has similar hours 7:00 AM to 3:30 PM.)
- Ms. Edwards asked what days of the week the business is open. (The applicant stated Monday through Friday.)
- Ms. Edwards asked if any of the 50-employees come out to the property. (The applicant stated the employees may come out to the property to grab a file; but no activity happens on the property.)
- Ms. Edwards asked on an average week in addition to the two employees how many other employees come to the property. (The applicant stated maybe two a week.)
- Ms. Penny asked how many trucks are parked on the property in connection with the business. (The applicant stated approximately 5 or 6 trucks are on the property. He stated he has a pickup and a flatbed and his son has a pickup and a flat bed; there is also a delivery truck and an old dump truck.)
- Mr. Penny asked if the employees come to the property to pick up the trucks. (The applicant stated his employees that have trucks take them home.)
- Ms. Edwards stated the vehicles he has on the property all meet the weight limits of the roads that they travel. (The applicant stated that is correct.)
- Mr. Penny stated if he remembers correctly, truck traffic was a concern from the neighbors at the last meeting. (The applicant stated his neighbor was implying that there would be brick delivered to the shop and distributed from there, whereas the brick is delivered to the job sites and they build there.)
- Ms. Edwards asked if there were any other businesses (non-agricultural) in the vicinity of this property. (The applicant stated there is a business Electrico a few miles away; and a rendering plant.)
- Ms. Edwards stated she has not seen an applicant withdraw their case and then continue to run the business. (Mr. Mahoney stated the explanation for that is when they withdrew they thought there was a way they could have the business that they could be conforming; and the business has evolved at the beginning it was not what it is now. Mr. Mahoney stated over the course of 13-years they have never had any objection to it; other than it was contested at the time of the petition. Mr. Mahoney stated there were never any citations received and the County had been out there early on a complaint in 2002 and did nothing.)

- Ms. Edwards asked how this case came back before the board. (Ms. Markezich stated she received several complaints from Stookey Township Supervisor, David Bone regarding the business. Ms. Markezich stated she believes he was receiving complaints from his constituents.)
- Ms. Edwards stated the Comprehensive Plan calls for Agricultural Preservation.
- Chairman Meister stated the building permits that were issued by the Zoning Department, the applicants marked not for business use on the application. (The applicant stated it was correct at that time; there was not a business there.)
- Chairman Meister stated none of these buildings on this property were built for this business.
- Chairman Meister asked the applicant to explain the future construction drawn on the site plan. (The applicant stated that the only future construction on the property he could envision is building this addition to close out the corner of the property from the vision of his neighbors.)
- Chairman Meister stated there is a building permit on file to remodel an old shed and a new shed, 60 x 30 in 2001.
- Chairman Meister asked what type of equipment is stored in the Southern portion of the walled-in area. (The applicant stated mixers, scaffolding, and etc.)
- Chairman Meister asked if there are leftover bricks at a job site where are those stored. (The applicant stated he has land that they are delivered to.)
- Ms. Edwards asked if the applicants would have to get these buildings inspected and comply with the commercial codes. (Ms. Markezich stated that is correct.)
- Mr. Penny asked if the applicant is done with construction of buildings. (The applicant stated that is correct.)

Public Testimony

- Donna Barber – 3055 Forest Hill School Road, Millstadt stated she was involved in the 2001 Zoning petition. Ms. Barber stated her husband could not make the meeting tonight and she is also representing him. She stated to recap in 2001 there were 2 ayes and 2 nays in approving the variance. Then the case was withdrawn and June Chartrand was the representative at the time and she called us and said that since they had withdrawn the equipment would be removed and that the business

would end. Ms. Barber stated that did not occur and she talked to Ms. Chartrand several times and she referred us to Mike Mitchell, the Zoning Director at the time.

- Ms. Barber stated the issue at hand is whether or not they want commercial property in the neighborhood that is zoned Agricultural and residential. Ms. Barber stated she visited the neighbors in the area and they were very surprised that the Zoning was not already approved for the business.
- Ms. Barber submitted a letter from Judy Doyle, Realtor/Broker stating her opinion is having a commercial business in a residential/agricultural area can affect the property value of a minimum 10%.
- Ms. Barber also submitted a picture of the view she sees coming down her driveway. She stated her driveway runs right along the side of the Toenjes property. The neighbors are surprised because they thought a variance had been given and the second thing was they want the area to stay Agricultural.
- Ms. Barber stated this is not about depriving an economic business because she feels Mr. Toenjes will be successful wherever he places his business, if it is on his personal property or elsewhere.
- Mr. Mueller – 2914 Forest Hill School Road stated he would like the board to take into consideration this case affects a lot more than Mr. Toenjes. This decision will affect his employees and this relocation could cost \$100's of thousands of dollars to rebuild.
- Michael Souther – 8 S. Main Street, Millstadt stated Mr. Toenjes is his employer and is a good person. Mr. Souther stated he is here to support the application.
- Rob Mills – 12 Weinel Drive, O'Fallon stated this business is putting a positive impact on the area.

Further Discussion

Larry Stammer – County Board Member, District #26 stated for the record he has not seen either of the signed petitions. Mr. Stammer stated he did receive a call from Mrs. Barber. Mr. Stammer stated he shares the Zoning Board concern that the business just kind of started out there and exists there today. Mr. Stammer stated he feels we will run in this problem more and more because he can drive around his district and see several businesses. Mr. Stammer stated he can reasonably support this as a County Board Member, because he doesn't feel there will be a significant impact on the area because he has driven back there and looked and if you don't know they are back there you would never know it existed.

Ms. Edwards stated granting this request would be very precedent setting in numerous different ways: First of all there are no other businesses in the immediate area and the board always weighs the most affected neighbor and their impact. She stated there is also being a precedent set here that this person came before the board, there was a public hearing and a vote and they withdrew the case and went on to have a business. Ms. Edwards stated the next time a similar case comes before us; this will be the case that will be the catalyst by which everybody else will compare. Ms. Edwards asked the board to weigh the decision carefully because there are two setting two precedents; one for this neighborhood and one for the entire County.

Chairman Meister explained he is concerned with granting a Planned Building Development to an applicant that disregarded the process in 2001.

Mr. Stammer asked if the application is granted will the buildings on the property be taxes as commercial. (Mr. Schneidewind stated that is correct.)

Mr. Frederick stated the applicants reputation speaks for itself. Mr. Toenjes has an excellent business that employs approximately 45 people; and feels this will have a big impact on the employees and economy of the area. Mr. Frederick stated the building is well kept and personally does not have a problem granting the request.

Mr. Penny stated he supports that there is very minimal impact to the property and other than the argument and theory that the commercial use has an impact on residential property values which could be debated; he doesn't feel this has any affect beyond that.

Chairman Meister suggested the board take this case under advisement to get the Motion together

MOTION by Frederick to take this case under advisement.

Second by Penny.

Roll Call vote:	Heberer -	Aye
	Penny -	Aye
	Edwards -	Aye
	Frederick -	Aye
	Meister -	Aye

This case has been taken under advisement and will be revisited on July 6, 2015.

New Business – Case #2

Subject Case #2014-20-SP -- Casper Stolle Quarry & Contracting Company, 3003 Stolle Road, Dupu, Illinois, Owners & Applicants. This is a request for a Special Use Permit to allow a Planned Mineral Extraction Development in an "A" Agricultural Industry Zone District, on property known as XXXX Triple Lakes Road, Dupu, Illinois, in Sugarloaf Township. (06-23.0-100-002 & 003 & 06-23.0-200-001, 002 & 003)

Mr. Schneidewind explained to the board that there is a new board member that was not at the previous case. Mr. Penny has been given the audio transcript from the hearing and received all the materials from the previous case.

Mr. Penny stated he is conversant on the case and is comfortable with proceeding to vote on the case at hand.

Mr. Schneidewind stated the board received a letter from the Casper Stolle Quarry & Contracting Company explaining there are mechanisms to stop the flow of water into the pit.

June Chartrand, County Board Member – District 16 stated as she testified last month this request should be granted for the expansion. All concerns and materials were reviewed for years and feels strongly to approve the request.

MOTION by Edwards:

Ms. Edwards thanked the Casper Stolle Quarry & Contracting Company and its representatives, for the presentation of its Petition and their research and hard work that they put into this matter. Ms. Edwards thanked Professor Steven Esling for his work, report, and testimony on this matter. Ms. Edwards stated all the information, testimony and documents submitted were very informative and helpful. Ms. Edwards stated the Zoning Board Members are aware of the change of landscape this proposal will have and have weighed its benefits to the citizens of St. Clair County both present and future. The Zoning Board is relying on the veracity of the facts as they have been presented and will rely on the Government agencies responsible for monitoring the quarry and protecting Falling Springs including the bluff area.

In case number 2014-20-SP, the Zoning Board of Appeals having considered the Petitioner, Casper Stolle Quarry & Contracting Co.'s request for a Special Use Permit to allow a Planned Building Development for an expansion of an Industrial Mineral Extraction, and pursuant to the Petitioner's Petition, evidence and reports submitted, and testimony presented by Petitioner's representatives, Professor Steven Esling, the Public, and the various Public Officials, the Zoning Board of Appeals recommend that Petitioner's Petition be **GRANTED** based upon the following facts, conclusions, and subject to the following conditions and restrictions:

1. That the Zoning Board received and reviewed the Zoning Administrator's advisory report on this matter, in which the Zoning Administrator concluded that she is in support of the Petitioner's Petition, and would recommend approving the Petition to the County Board.
2. That the location of the proposed Special Use, the development and expansion of the quarry, and the operation of the quarry will adequately protect the public's health, safety, and welfare and the physical environment. In support of this factor, the following facts were presented through the evidence and testimony heard:
 - a. The proposed Special Use area is immediately adjacent to Petitioner's currently permitted and operating quarry that consists of approximately 219-acres.
 - b. The proposed Special Use area consists of an additional 135 acres of which only 64 acres will be quarried, because of the 1000 foot setback requirement from a residence, and for the protection of Falling Spring.
 - c. That the LESA Report score of 182, is moderate for agricultural retention.
 - d. That the Department of Army Corps of Engineers has determined no permit is required in the proposed expansion area.
 - e. That the Illinois Department of Natural Resources has concluded through its EcoCat analysis and report of March 6, 2015 that the proposed project is unlikely to affect resources identified by it in the vicinity of the proposed project.

- f. That a considerable number of geological studies and tests have been conducted in the area of the proposed expansion, which include dye trace testing and monitoring of water being discharged from Falling Spring. Professor Steven Esling, geologist, has reviewed these studies and the results of the tests, and has concluded that quarrying in the proposed expansion area poses little to no threat to Falling Spring and will have minimal to no impact on Falling Spring.
3. That the proposed Special Use is not inconsistent with the 2011 St. Clair County Comprehensive Plan. Pursuant to the 2011 Comprehensive Plan, the Petitioner's currently-operating quarry is a planned Industrial Use area. The five (5) parcels of property upon which the Petitioner desires to expand its quarry operations upon are identified as Agricultural-PSA. However, at least two (2) of the five (5) parcels are situated immediately adjacent to and abutting the Industrial Use area and the edge of Petitioner's active quarry pit, and the other three (3) parcels are immediately adjacent or in close proximity to the Industrial Use area. Therefore, to conclude that the Industrial Use ends at the property line, under the specific set of facts and circumstances before the Board, would fail to take into account the trend of development, or lack thereof, in the area of the proposed Special Use.
4. The proposed Special Use would have little to no impact on the value of the neighboring property and on the County's overall tax base. The quarry in question has been in existence since the 1860's. Thus, the effect of the quarry on neighboring property values and the overall tax base has been considered and taken into account for the last 100 plus years. Any negative impact to neighboring property would have been considered by the neighboring property owners prior to building. Further, there was no evidence or testimony presented that neighboring property values and the County's overall tax base would be negatively affected by this Special Use. Moreover, the granting of this Special Use would ultimately lead to additional sales tax revenue for the County. A positive impact to the County.

5. The Special Use would have no adverse effect on public utilities and on traffic circulation. There currently exists adequate electrical supply to the Petitioner's facility and the proposed expansion would not affect the current power supply. Sewer utilities are not at issue. The facility has an adequate water supply for potable water, and it uses ground, rain, surface water that collect in its quarry pit for its non-potable uses. Traffic circulation will remain the same and there are no current traffic circulation problems that have been related to the Zoning Board. Further, the proposed Special Use will not generate any additional traffic.
6. There are no facilities such as schools or hospitals near the proposed Special Use that require special consideration; however, there is a natural feature, Falling Spring, that because of its location does require special consideration. Based upon the testimony and evidence presented at the hearing, there have been years of studies and dye tracing tests done in this area to determine the flow of groundwater and the water source of Falling Spring. Considerable time and expense have gone into these studies to thoroughly investigate this matter. The Board heard testimony by two qualified experts, Mr. John Bognar from Civil & Environmental Consultants, Inc., on behalf of the Petitioner, and Professor Steven Esling, a geologist and professor of geology at Southern Illinois University—Carbondale, an independent expert consultant retained by the Zoning Board. Based upon the testimony and evidence presented, and the agreement by the Petitioner that it will only quarry in that area, approximately 64 acres, indicated on the Petitioner's Operations Plan Map that is marked as Exhibit A and attached to this motion that Falling Spring will be adequately protected to the extent scientifically known at this time. Further, as a condition of the approval of this Special Use, the Petitioner has agreed to execute a Restrictive Covenant and Grant of Conservation Right in favor of St. Clair County, Illinois. This Covenant will protect a strip of ground approximately 225 ft wide by 4,000 ft long, consisting of approximate 16.44 acres, immediately above Falling Spring. The terms and conditions of this Covenant are incorporated into this motion by attaching the Covenant as Exhibit B to this motion.

7. The majority of uses in the general vicinity of the proposed Special Use are agricultural row-crop fields and the Petitioner's currently operating quarry. There are some residential uses in the vicinity but those uses are adjacent to or in proximity to Triple Lakes Road, which is located more than 1000 ft to the east of the proposed Special Use. The proposed Special Use is simply the expansion of the current existing quarry onto parcels of ground immediately adjacent or in close proximity to the existing quarry, thus, the proposal is compatible to adjacent uses and uses in the general vicinity. In addition, the agricultural fields that the quarry will expand upon have a LESA score of 182. A low moderate score for retention as agricultural use.
8. Absent a violation of the terms of this motion, the terms of the Restrictive Covenant and Grant of Conservation Right, or a violation of applicable provisions of the St. Clair County Zoning Code, state law, or federal law this Special Use is not limited in time. In addition, and in further protection of Falling Spring, the Petitioner agrees to enter into the Restrictive Covenant and Grant of Conservation Right, as contained in Exhibit B, immediately upon approval of this Special Use by the St. Clair County Board. The failure of the Petitioner to enter into the Covenant and record the same with the St. Clair County Recorder of Deeds within 21 days of the St. Clair County Board's approval of this Special Use, is cause for revocation of this Special Use Permit by the St. Clair County Zoning Department.
9. Petitioner further agrees as a condition and restriction of this proposed Special Use that it will confine its quarrying activities to those 64 acres as depicted on Exhibit A. If in the future Petitioner desires to quarry anywhere outside this 64 acre area, excepting any previously permitted area, Petitioner is required and shall seek Zoning Board approval and ultimately the County Board's approval prior to quarrying. Petitioner shall construct and maintain along any side or rear lot line of the proposed area a screening fence or evergreen hedge of at least six (6) feet in height. Petitioner further agrees as a condition of the granting of this Special Use permit that it will abide by, follow, and comply with all applicable state and federal laws, including but not limited to all rules, regulations and requirements of the Illinois Department of Natural Resources, which includes IDNR Office of Mines and Minerals' bonding requirements and reclamation requirements. In addition, Petitioner agrees to follow Illinois Department of Natural Resources' requirements and conditions pertaining to any removal of trees, and endangered

9. species that may be in the vicinity of the Special Use area, including but not limited to the Indiana Bat and the Northern Long-Eared Bat as indicated in IDNR's EcoCat Report of March 6, 2015. The failure of Petitioner to comply with any of the above requirements is grounds for the automatic revocation of this Special Use Permit by the St. Clair County Zoning Department.

Chairman Meister asked if there are any revisions by the board to the Motion.

Frederick seconds.

Roll Call vote:	Rhoden -	Aye
	Heberer -	Aye
	Penny -	Aye
	Edwards -	Aye
	Frederick -	Aye
	Meister -	Aye

This case has been granted by this board and will now go before the County Board for final consideration.

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