

MINUTES
LIVINGSTON COUNTY ZONING BOARD OF APPEALS
Livingston County Historic Courthouse
112 W. Madison St.
Pontiac, Illinois

Regular Meeting
7:00 p.m.

April 6, 2017

The meeting came to order and roll call was taken.

Members Present: Michael Cornale, John Vitzthum, Richard Kiefer, Richard Runyon,
Connie Casey and Joan Huisman.

Members Absent: William Gerber.

Agenda:

Chair Joan Huisman mentioned the agenda. Then Michael Cornale moved, seconded by Richard Kiefer, that the agenda for this April 6, 2017 meeting be approved as presented. This motion was approved by unanimous voice vote.

Minutes:

Chair Joan Huisman mentioned the minutes from the last meeting. Then John Vitzthum moved, seconded by Connie Casey, that the minutes of the March 9, 2017 meeting be approved as presented. This motion was approved by a unanimous voice vote.

Business:

Case V-1-17 – Bull

This zoning case pertains to a request for a variation in zoning regulations requirements to allow for the construction of a new dwelling in the same location as an existing building 32 feet instead of 40 feet from a front lot line and 4 feet instead of 50 feet from a rear lot line, in an AG, Agriculture, District. The property in question in this zoning case is a .85 acre parcel of land being Lot 3 and part of Lot 2 of Ozzie Williams Subdivision in Section 21 of Indian Grove Township. The zoning administrator presented his report, exhibits, copies of aerial photos, property development plans and other information relative to this zoning case.

Charles Bull, 5955 N – 2060 East Rd., Fairbury, IL, the applicant and property owner in this zoning case, presented testimony relative to this zoning case. Mr. Bull stated that they just want to replace the house that his there because it has some issues. Mr. Bull informed the zoning board that they had hired Executive Homes do work on the planning for this project. Mr. Bull remarked that they need to do this project. The zoning board confirmed the existing setback distances be similar to the proposed setback distances.

Mr. Bull related that he had discussed this project with Frank Nestor, the property owner to the rear of Mr. Bull's property, and Mr. Nestor is fine with the project as it is being proposed. Mr. Bull confirmed that he has had no issues with the building being setback off the property line as it is now. Mr. Bull's wife confirmed that they want to replace the existing house with something new and better, and it should not affect anything more than the existing house placement. The Bull's confirmed that they do live in this house.

No other interested parties presented testimony relative to this zoning case.

No closing statements were made.

Michael Cornale moved, seconded by Connie Casey, that the zoning board of appeals approve Livingston County Zoning Case V-1-17 to allow for a variance in the yard size requirements to allow for the construction of a new dwelling in the same area of a house, with the new dwelling to be setback 32 feet instead of 40 feet from the front lot line and 4 feet instead of 50 feet from the rear lot line, in an AG, Agriculture, District.

This motion was approved by a roll call vote.

Cornale	- Yes	Vitzthum	- Yes
Kiefer	- Yes	Runyon	- Yes
Gerber	- Absent(Did not vote)	Huisman	- Yes
Casey	- Yes		

Case SU-10-95 – Review – Erdman Farms

This zoning case pertains to a request for the renewal of a special use permit to allow for the continued location of a mobile home to be used for farm labor housing, in an AG, Agriculture, District. The property in question in this zoning case is a 41.23 acre parcel of land located in the Northwest Quarter of Section 32 of Indian Grove Township. Mr. Erdman called the county zoning/planning office to inform them that this mobile home has been demolished, and the zoning/planning office staff checked the site to confirm that this mobile home has been removed from the subject property. A discussion took place on how to close this case including comments on the current zoning regulations for mobile homes, concluding that the zoning board should make a motion to finalize this zoning case. Then Michael Cornale moved, seconded by Connie Casey, that the zoning board of appeals acknowledges that the mobile home located on the subject property to be used for farm labor housing, as outlined in Livingston County Zoning Case SU-10-95 has been removed. Therefore, this zoning case is rescinded for the location of a mobile home.

This motion was approved by a roll call vote.

Cornale	- Yes	Vitzthum	- Yes
Kiefer	- Yes	Runyon	- Yes
Gerber	- Absent(Did not vote)	Huisman	- Yes
Casey	- Yes		

Case SU-2-13 – Review – Country Cupboard – Dale Dotterer

This zoning case pertains to a review of a request for a special use permit that allows for a craft and service occupation of a bulk food store with a deli and bakery goods, in an AG, Agriculture, District. The subject property in this zoning case is a tract of land 8.62 acres in size located in the Southwest Quarter of Section 6 of Forrest Township.

The zoning administrator presented his report, exhibits, copies of aerial photos and other information relative to this zoning case. Previous stipulations that had been placed on this special use were reviewed. The review period was then clarified. The separate sign special use for this business was then remarked about.

Dale Dotterer, 43 Clover Lane, Fairbury, IL, the applicant in this zoning case, presented testimony relative to this zoning case. Mr. Dotterer related that his special use business operation are all the same. Mr. Dotterer related that essential oils and a vitamin line have been added to the business offerings. The conditions that have been placed on this special use approval were reviewed and Mr. Dotterer is okay with these conditions.

No other interested parties presented testimony relative to this zoning case.

In his closing statement Mr. Dotterer inquired as to if this special use and the special use approving his advertising structure can be combined. Mr. Dotterer believes that the new signs have helped his business.

John Vitzthum moved, seconded by Richard Kiefer, that the zoning board of appeals approve the continuation of the operation of a special use of a craft and service occupation as a bulk food store with a deli and bakery goods, in an AG, Agriculture, District, as outlined in Livingston County Zoning Case SU-2-13, with the conditions placed on the approval of this zoning case remaining in effect, except that the zoning board of appeals will review this case again in five years, unless otherwise determined by the county zoning administrator.

This motion was approved by a roll call vote.

Cornale	- Yes	Vitzthum	- Yes
Kiefer	- Yes	Runyon	- Yes
Gerber	- Absent(Did not vote)	Huisman	- Yes
Casey	- Yes		

Case SU-2-12 – Review – Consolidated Grain and Barge Co.

This zoning case pertains to the review of a special use to allow for the continuation of the property to in part be used as a contractor's storage yard, limited to silica sand transportation, in an AG, Agricultural, District. The property in question in this zoning case is the Southeast Quarter of Section 5 of Round Grove Township. The zoning administrator presented his report, exhibits, remarks on the previous conditions placed on the approval of this zoning case and other information relative to this zoning case.

Nate Schmidgall, 3620 E. Livingston Rd, Reddick, IL, facilitator manager of the Consolidated Grain and Barge Co., Dwight location, presented testimony relative to this zoning case. Mr. Schmidgall related that silica sand business is a market driven business and with the current oil prices the silica sand is slower than what was projected but they would like to continue their permit in case that market comes back. It is congruent with their grain business in that in can keep their employees busy during the slow times of the year.

The zoning board then inquired about how much they are using the silica sand loading area. Mr. Schmidgall answered that they are using it less than expected and that they have not used this facility for a couple of years, but this can change quickly. So they want to keep their permit to adjust to the market if need be. Mr. Schmidgall discussed that he had not had any complaints in the past about this silica sand business. The zoning board of appeals inquired about the previously proposed fertilizer business on this property. Mr. Schmidgall responded that this proposed fertilizer operation development is on their back burner for now, as their company goes through new business models. Mr. Schmidgall then confirmed the flat storage under construction on the property. This will allow for less reliance of the rail during harvest, allowing for more grain storage during the fall.

Area resident, Mark Christenson, 32810 N – 3100 East Rd., Dwight, IL. presented testimony relative to this zoning case. Mr. Christenson questioned about the timeline on the fertilizer business development, and as to if this special use may need be reapproved. This will be investigated. Mr. Christenson commented about telephone poles being off loaded off the rail spur in the silica sand area.

No other interested parties presented testimony relative to this zoning case.

No closing statements were made.

Richard Kiefer moved, seconded by Connie Casey, that the zoning board of appeals approve the continuation of a special use for a contractor's storage yard that allows for the subject property to be use as a facility to trans load and store silica sand, via a permanent pit conveyors and steel storage tanks, as outlined in Livingston County Zoning Case SU-2-12, with this case again in three years, unless otherwise determined by the county zoning administrator.

The zoning board of appeals then discussed this zoning case. A discussion on the unloading of power poles on the subject property took place, pertaining to needing to better align the special use to accommodate the poles. The temporary unloading of poles is not a consistent business. It consists of unloading three rail cars off loaded onto semis. Just their rail facility is used, and how this was approved as a temporary business. The poles are just off loaded there, not stored on the subject property. They have no traffic issues, with 3 to 4 semi loads to a rail car, with just 10 to 12 semi loads per each power pole unloading occurrence. This power pole unloading happens sporadically 2 to 3 times a year and Mr. Schmidgall would like to keep this option open to their business operations. The zoning board agreed that they should review this as a modification to the contractor's storage yard permit, since it currently specifies just silica sand, as part of a separate special use review.

This motion was approved by a roll call vote.

Cornale - Yes
Kiefer - Yes
Gerber - Absent(Did not vote)
Casey - Yes

Vitzthum - Yes
Runyon - Yes
Huisman - Yes

Case SU-5-04 – Review – Crouch

Mr. Crouch informed the county zoning administrator that he was unable to attend this meeting. The zoning board of appeals postponed their review of this zoning case until their June 2017 meeting.

Case SU-3-13 – Review – Behr Iron & Steel, Inc.

This zoning case pertains to a review of a request for a special use permit that would allow for a metal recycling/junk yard operation that is part of a business plan for the applicant to acquire the Crouch recycling business in an unincorporated area of the Northwest area of the City of Pontiac, in a C3, General Business, District.

No representative of Behr Iron & Steel, Inc. was present at this meeting. Since the previously mentioned Crouch property is the subject property linked to this zoning case, Mr. Crouch informed the zoning administrator that Behr Iron & Steel has either been sold or merged with another company and that they no longer have an interest in buying Mr. Crouch's recycling business.

The zoning administrator then asked that the zoning board of appeals consider a motion to rescind this zoning case. The zoning board discussed the status of this zoning case. It was confirmed that the properties in question for both case SU-5-04 and SU-3-13 are the same.

John moved, seconded by Michael Cornale that the approval of Livingston County Zoning Case SU-3-13 be rescinded.

This motion was approved by a roll call vote.

Cornale - Yes
Kiefer - Yes
Gerber - Absent (Did not vote)
Casey - Yes

Vitzthum - Yes
Runyon - Yes
Huisman - Yes

Case ZT-2-17 – County Board of Livingston County Illinois

The subject of this report regards a review of a proposed text amendment for the purpose of amending the text of the Livingston County Zoning Regulations to add Zoning Article VIII Wind Energy, Section 56-633, extending a moratorium on the Livingston County Zoning Regulations concerning Wind Energy Conversion Systems.

As you consider this proposed text amendment you may review and refer to the attached application and language pertaining to Livingston County Zoning Case ZT-2-17.

Since the process of reviewing the entire wind energy regulations section of the Livingston County Zoning Regulations is continuing, the Livingston County Board is considering the extension this moratorium. This wind energy regulations review, with the formal hearings and approval of any amendments to these wind energy regulations, may not be completed by the time the current moratorium on WECS applications is set to expire. So at this time it may be practical to consider such a moratorium extension, since various circumstances as to how this matter could progress may need to be contemplated. Therefore, you are being asked to review the extension of this moratorium for a three month period to allow for possible further review and action on the Livingston County wind energy regulations. If approved the additional moratorium extension would extend from June 1, 2017 through August 31, 2017.

The zoning administrator explained that this moratorium extension text amendment is being presented as an administrative option, so that if the Livingston County Board needs to extend this moratorium at their May 2017 meeting this text amendment will have preceded through the public hearing review process needed as part of the review of text amendments. Existing wind energy text amendments are being reviewed by the county board at this time, and the status of that review may dictate a need to approve or deny this proposed moratorium extension. The zoning administrator made an explanation that the Livingston County Board is considering the results of the referendum that was on the ballot in this past November's election. The county board is considering two sets of wind energy related setbacks that would reflect results from this referendum on wind energy setbacks. One set of setbacks would be for the majority of the county reflecting setback distances currently under consideration by the county board, and a second set of setbacks would reflect lesser setbacks for seven contiguous townships in the northeastern part of the county. The status of the review of the current wind energy text amendment was related to the zoning board of appeals members. It was noted that if this zoning text amendment is approved with an effective date prior to the current moratorium expiring then the moratorium text amendment extension before the zoning board of appeals tonight may not be needed, with the county board acts on this zoning case in May. It was discussed and clarified with the zoning board that the first zoning text would be approved for all townships, with the potential second text amendment focusing in on seven townships. It was clarified that an additional hearing will be needed for the potential second text amendment. Discussion took place in regard to the outcome of the referendum vote, with 23 townships voting in the referendum for larger setbacks and then 7 townships voting the lesser setbacks. A dialogue took place in regard to a previous similar discussion for one township, in which it was referred the one township could not be separated out. It was explained to the zoning board of appeals that new attorney are now advising on this matter, and in considering this avenue is one way to approach this. New evidence being reviewed as a new hearing was explained. The zoning board related their concerns that this would be a form of spot zoning. John Vitzthum expressed his discontentment of the process of this continuing review of the county wind energy regulations and left the meeting.

This hearing is focused on extending the WECS moratorium, as an administrative function. The zoning board of appeals expressed their frustration of the wind regulations zoning text amendment review as whole. And, some related that they feel no more moratoriums are needed, and it is time for action. Concerns of a patchwork quilt of zoning in the future was expressed.

Linda Ambrose, 19840 E – 300 North Rd., Fairbury, presented testimony relative to this zoning case as an interested citizen.

Mrs. Ambrose implored the zoning board of appeals to consider recommending the moratorium and to look at the spot zoning later, in that the process has come so far, and she expressed how the county board and zoning board of appeals have differ opinions as to this review process, and she just wants a far referendum to represent people. She wants this moratorium to continue to prevent the possibility of the zoning regulations going back to the existing regulations. She related the misconceptions between the zoning board of appeals and the county board. Mrs. Ambrose noted that the county board is now working to move forward with referendum results. She said everyone is tired of the whole process, and want to move forward. Dean Steidinger, 4887 N – 3200 East Rd., Chatsworth, presented testimony relative to this zoning case as an interested citizen. Mr. Steidinger remarked the attorney general opinion and his interpretation of that opinion that that arbitrary action should not be taken, and that the referendum results need to be supported for a reason(s) why the northeast area of the county is different. Dean Steidinger noted how the lasts committee meetings on these issues has shown a lot of movement. He expressed it would be nice to have the option to extend the moratorium as is being discussed this evening. He confirmed that the first text amendment being considered is similar to the zoning board's recommendation with the changes the zoning administrator noted, along with changing the flicker hours back to 30 hours. Daryl Holt, representing the AG & Zoning Committee, 311 Linden, Dwight, IL. presented testimony relative to this zoning case. Mr. Holt remarked that all have spent a lot of time on this matter, but that recently the committee has agreed to the majority of the zoning board recommendations, and that they are working on future changes separately, to stop stringing the first zoning text amendment out. He noted that even the county board is tired of extending the moratorium. Mr. Holt noted that the first text amendment will be presented at the county board meeting and if it is approved then the larger setbacks will be in place until a second amendment is reviewed. Mr. Holt is working to get this right with everyone. He expressed the need to maintain the option to extend this moratorium, so that all the time put in this process is not wasted. Zoning Board Chair Huisman related that this board is acting on what is being presented to this zoning board in hearings. The procedure to review the new referendum results and text amendment were then reviewed. It was clarified what the committee is recommending to the county board. Future potential changes were then discussed. It was clarified that the hearing facilitator would be just for wind energy special uses, with the zoning board still making the recommendations. John Slagel, 308 Mirlynbeth, Fairbury, provided testimony relative to this zoning case. Mr. Slagel remarked about the whole process, and his interpretation of the attorney general's opinion, if which he believes did not give a definitive opinion of what one can or cannot do.

Mr. Slagel noted that the referendum results reflect a contiguous area with allows for more specific reasons to be presented why these townships also. He expressed his past frustration on this matter. He thinks in the end everyone can be happy.

No other interested parties presented testimony relative to this zoning case.

No closing statements were made.

The zoning board discussed their options on motions for this zoning case.

They were inclined to make this recommendation so this matter does not move backwards. Richard Runyon moved, seconded by Connie Casey, that the Livingston County Zoning Board of Appeals, recommend to the Livingston County Board the approval of Livingston County Zoning Case ZT-2-17, that pertains to a request by the County Board of Livingston County for a proposed text amendment with the purpose of amending the text of the Livingston County Zoning Regulations to add Zoning Article VIII Wind Energy, Section 56-633, extending a moratorium on the Livingston County Zoning Regulations pertaining to the filing of a special use application(s) concerning Wind Energy Conversion Systems, for three months, from June 1, 2017 through August 31, 2017.

This motion was approved by a roll call vote.

Cornale	- No	Vitzthum	- Absent (Did not vote)
Kiefer	- Yes	Runyon	- Yes
Gerber	- Absent (Did not vote)	Huisman	- Yes
Casey	- Yes		

Other Business:

The zoning board of appeals was asked to consider a proposal by Jamie Connelly from South Streator to operate a pet grooming business as a home occupation similar to that of a one chair barber or beauty shop. Copies of the home occupation section of the zoning regulations was presented to the zoning board of appeals members. Jamie Connelly, 1609 Hawthorne Rd. So. Streator, explained that her goal is subdivide her existing property to build a new home that would allow for her business inside of it, which would be a pet grooming salon. Jamie Connelly remarked that her current business is located in Westgate Plaza in Streator, at this site she is located in between a doctor's office and a restaurant. She works by herself taking in one dog at a time, grooming the dog, then she calls the owner for a pick-up of the dog. She would like to move this business into her new home. She noted she has a letter from the doctor next door that states for the last six years she has been a good neighbor with no issues with the dogs barking etc. She would like to move as she is recovering from cancer and her home with her two children is getting small, and she would like to move and put her shop in it. So she would be home more with her children and she would save rental costs. The zoning board reasoned that it does not fit under the areas listed on the home occupations list.

The zoning board recommended thinking about special use, with pros would provide an avenue for the business to be allowed. Connelly's previous zoning case for the doggy daycare was denied, so the business is being modified to be a dog grooming similar to the beauty shops in the area. She would not be housing dogs, just working on one dog at a time. Jamie Connelly described her property. She commented about her plans for incorporating a shop into building plans. The zoning board further discussed how a special use would be reviewed and how it could be worded for use of the existing house or a new house. The zoning board wanted to interpret the zoning regulations, to review this as a special use. The process of a special use was then described. Jamie Connelly would be okay with a special use review.

Findings of Fact and Decision:

After reviewing the draft details of the Finding of Fact and Decision, Michael Cornale moved, seconded by Richard Kiefer, that the Findings of Fact and Decision for this April 6, 2017 meeting be approved as presented. This motion was approved by a unanimous voice vote.

Public Comments: Existing dog grooming businesses were discussed. Helen Steidinger thanked the zoning board for all that they have done.

Report of Officers: None

General Discussion and Informational Update: The status of the Dollar General proposal was related to the zoning board of appeals.

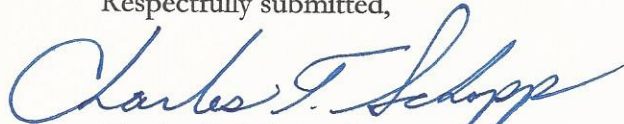
The zoning board of appeals members were informed that their next scheduled meeting will be held on May 4, 2017.

Then Richard Kiefer moved, seconded by Connie Casey, that this meeting be adjourned. This motion was approved unanimously.

This regular meeting portion of this hearing was adjourned at 8:40 p.m.

Material regarding these proceedings is on file in the Livingston County Regional Planning Commission Office, in the Livingston County Historic Courthouse, 112 W. Madison St., Pontiac, Illinois.

Respectfully submitted,

A handwritten signature in blue ink, reading "Charles T. Schopp". The signature is fluid and cursive, with the first name "Charles" being the most prominent part.

Charles T. Schopp, Secretary
Livingston County
Regional Planning Commission