

MINUTES (Revised)

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

Regular Meeting  
7:00 p.m.

August 3, 2017

The meeting was called to order and roll call was taken.

Members Present: Michael Cornale, James Blackard, Richard Kiefer, Richard Runyon,  
William Flott, Gerald Earing and Joan Huisman.

Members Absent: None

Agenda:

William Flott moved, seconded by Richard Kiefer, that the agenda for this August 3, 2017 meeting be approved as presented. This motion was approved by a unanimous voice vote.

Minutes:

None, as Case ZT-3-17 is being reviewed in a recessed meeting.

Business:

Case SU-5-04 – Crouch – Review

This zoning case pertains to a request for the review of a special use to allow the property described to be used for the continued location of a junk yard/recycling center, in an I2, General Industry, District. The property in question in this zoning case is a parcel of land located in the west half of Section 15 of Pontiac Township. The zoning administrator presented his report, exhibits and other information relative to this zoning case.

Michael Crouch, 107 Grove St., Emington, IL, the applicant in this zoning case presented testimony relative to this zoning case. Mr. Crouch reviewed that he runs a recycling facility, and now they have a high pile with the demolition of the Livingston Manor Nursing Home and jail. The zoning board questioned Mr. Crouch explained that he just collects sorts and ships the recyclable products out in their own trucks and in Behr trailers, though Behr has been sold. He does not processing of the materials other than sorting them. He would like to continue to running his business the same way. The condition of any new owner would need to discuss use with the zoning administrator, with any substantial change would require a separate special use. Mr. Crouch confirmed that he does work recycling paper and cardboard, with cardboard stored in trailers on the property. Operation is the same as always.

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

In his closing comments Mr. Crouch thanked the zoning board of appeals members.

Gerald Earing moved, seconded by James Blackard, that Livingston County Zoning Case SU-5-04-Review be approved to allow for the continuation of the current use of the subject property as described to the Board in this hearing and in past hearings with this zoning case to be reviewed again in two years unless otherwise determined by the Livingston County Zoning Administrator, with the applicant still needing to comply with the other previously approved conditions pertaining to this zoning case.

This motion was approved by roll call vote.

Cornale	- Yes	Blackard	- Yes
Kiefer	- Yes	Runyon	-Yes
Flott	-Yes	Earing	- Yes
Huisman	- Yes		

#### Case SU-7-13 – Laminating Products, LLC – Review

This zoning case pertains to a continuation of a request for a special use which allows for the subject property to be used as an agricultural product manufacturing business, for perforating and lamination of acoustical products operation in an AG, Agriculture, District. The property in question in this zoning case is part of a 120 acre parcel of land which is the West Half of the Southwest Quarter and the Southwest Quarter and the West Half of the East Half of the Southwest Quarter of Section 33 of Avoca Township. The zoning administrator presented his report, exhibits and other information relative to this zoning case, including conditions placed on the approval of this zoning case, and recent photos of the subject property.

David Korowicki, 8856 N – 2200 East, Downs, IL. representing the applicant presented testimony relative to this zoning case. Mr. Korowicki explained the history of this business, supplying product for Fehr Cab. He explained they had custom made machines for the building used for the business. He then explained that the IEPA requested that a thermal oxidizer be installed and then they had to get an IEPA permit. They are slowly starting their business as hoped. They are okay with the number of employees, for now but that they may need 8 within 3 years. Their limited truck traffic was discussed. The entire cab interior business was further discussed. Their waste ends up recycled in carpet pads.

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

In closing statement Mr. Korowicki expressed his appreciation to the zoning board.

William Flott moved, seconded by James Blackard, that Livingston County Zoning Case SU-7-13 – Review be approved to allow for the continued special use of an agricultural product manufacturing business of a perforating and lamination of acoustical products, in an AG, Agriculture, District, with the Zoning Board of Appeals reviewing this case again in 3 years, unless otherwise determined by the Livingston County Zoning Administrator. And that the number of employees be changed to 8, with the business hours ending at 7:30 pm.

This motion was approved by roll call vote.

Cornale	- Yes	Blackard	- Yes
Kiefer	- Yes	Runyon	-Yes
Flott	-Yes	Earing	- Yes
Huisman	- Yes		

#### Case V-3-17 – Earing

This zoning case pertained to a review of a variation in zoning regulations pertaining to a proposal to replace a garage/shop destroyed by fire with a new garage/shop in the same location as the destroyed building 3 feet instead of 40 feet from the front lot line. The property in question in this zoning case is a 65 acre tract of land in the Northeast Quarter of Section 32 of Round Grove Township. The zoning administrator presented his report, exhibits and other information relative to this zoning case, including conditions placed on the approval of this zoning case, and recent photos of the subject property.

Kevin Earing, 31976 E – 2800 North Rd., Dwight, the applicant and property owner in this zoning case presented testimony relative to this zoning case. Gerald Earing being the applicant's brother recused himself from this zoning case. Mr. Earing explained that his garage was destroyed by fire, but with good concrete in place they can build in the same place and that is the best way to go for him. Kevin Earing then commented that he would like to make the building 12 feet larger to the north. The Board discussed with Kevin Earing how he has other buildings in line with the proposed building line. A discussion as to that no zoning regulations were in place when the building was first constructed. It then discussed as to how this road has little traffic.

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

In his closing statement Mr. Earing stated that he would just like to rebuild.

James Blackard moved, seconded by Richard Kiefer, that the Livingston County Zoning Board of Appeals approve a variation in zoning regulations pertaining to a proposal to replace a garage/shop destroyed by fire with a new garage/shop in the same location as the destroyed building 3 feet instead of 40 feet from the front lot line, on the property in question in this zoning case being a 65 acre tract of land in the Northeast Quarter of Section 32 of Round Grove Township.

This motion was approved by roll call vote.

Cornale	- Yes	Blackard	- Yes
Kiefer	- Yes	Runyon	-Yes
Flott	-Yes	Earing	- Abstained
Huisman	- Yes		

This zoning case pertains to a review of a request for a special use to allow for a private family cemetery in and AG, Agriculture, District. The subject property in this zoning case is a 7 acre parcel of land, in the Northwest Corner of the Northeast Quarter of Section 17 of Saunemin Township. The zoning administrator presented his report exhibits and other information relative to this zoning case, including potentials conditions that may be placed on the approval of this zoning case, and recent photos of the subject property. The zoning board members were informed that the Livingston County Regional Planning Commission had reviewed this zoning case, and that they recommend the approval of this zoning case with conditions proposed to them at their meeting plus conditions that the applicant notify their lender of this proposed property use, and that a map of the burial ground be filed as a property record. These conditions plus the proposed conditions were discussed with the zoning board of appeals. In a reply to one of these conditions the applicant submitted a letter to the zoning administrator, in which the applicant stated that they had contacted their lender and he was unaware of any mortgage agreement that would prevent the development of this proposed family cemetery. Also, in this letter as a follow up to part of the discussion that took place at the planning commission meeting, the applicant has contacted the Illinois Department of Financial and Professional Regulation and they have submitted an exemption form to that agency to exempt them from state statutory requirements for cemetery care.

Donna O'Shaughnessy, 25582 E – 1900 North Rd., Saunemin, the applicant and a property owner regarding this zoning case presented testimony relative to this zoning case. She explained their purchase of this property and their history of living in Livingston County. She remarked as how she was a previous hospice director and how she was impacted as how she and her husband would like to have their funeral and burial. That in purchasing this property in rural Saunemin they decided that they wanted a family cemetery on this property, and they started this process of having a cemetery approved. They are planning on having natural burials, no caskets or vaults will be involved in their burials. They will be buried with four feet of cover, and their bodies will naturally decompose. They do not plan on having a formal cemetery with headstones, natural rocks or tagged trees may be used as cemetery markers. She will maintain a good map and records of whom and where they are buried. She commented that 20 family members over 50 years is a concept of how many burials would take place in the cemetery. Their son agrees to carry on this cemetery and they plan to continue to have the property in the family.

The applicant and the zoning board discussed the meaning of immediate family being by blood or marriage. The applicant used an aerial photo to show where the cemetery would be on their property. They do not plan on having a trust for care, in that no care fund will be formed in that no money will be collected. The use of the cemetery will be part of a will update. The cemetery care act was then discussed as part of licensed cemeteries. Donna O'Shaughnessy noted they have applied for an exemption from that act. They board then inquired as to how close a burial ground can be to a well. Donna noted that since they would be exempt, and she has not found any regulations for family cemeteries. Donnie Simmons from the Livingston County Public Health Department, present at this meeting, stated he was not aware of any regulations for separation of burial grounds from wells. Donna confirmed that they are proposing to have this burial plot 25 feet from their property lines. Variances in these setbacks were discussed. The reasoning for recording their plans was discussed. Records of burials in the cemetery was discussed. Recording a detailed cemetery map was discussed. The deed recording should suffice. A subdivided cemetery map request was discussed.

Donna O'Shaughnessy explained that a coroner and a licensed funeral director would be involved. Future access to the cemetery if family members sold the property, Donna noted that an easement or access agreement could be part of any sale of the property. The proposed rock markers were then discussed. The burial sites would be measured out. How corn is planted on top of an Indian burial ground was discussed. The further away from property lines was discussed, and compliance with requirements was discussed. A more formal map and easement was then discussed by the zoning board of appeals members. They would also like to see a letter from the state. Recording of the burials was then discussed, beyond the deed. So 40 plots could be plotted out, with an easement access was further discussed. The group wanting to use the cemetery are okay with the plans. The board discussed continuing this portion of the hearing.

Rick Vitzthum, the Saunemin Township Supervisor, noted that they oversee cemeteries and how they keep records of the cemetery's they care for. He explained were the township cemeteries are located, and they do not wish to maintain this cemetery. The township was concerned about changes in taxes. Barbara Frantz, she noted family property in the area, with issues being a change from agriculture to a cemetery, and how property values may be affected. The definition of a family cemetery was then further discussed, and how the enforcement of family would take place, and will natural burials continue in the future, and what will the property look like in the future.

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

In her closing statement Donna O'Shaughnessy commented that while we have a set idea as to how a cemetery should look but what is being proposed is something that has been done for centuries, so review the preconceived ideas of a cemetery.

James Blackard moved, seconded by Gerald Earing, that Livingston County Zoning Case SU-3-17 be recessed to the November Zoning Board of Appeals, after proof that the state has approved/confirmed the exemption for this cemetery that is being sought, that a draft copy of a document to be recorded be provided to the Zoning Board of Appeals, and that an permanent easement to the cemetery be created. This motion was approved by a unanimous voice vote.

Cases SU-4-17 and V-2-17 – Graymont Cooperative

This zoning case pertains to a review of a request for a special use to allow for a commercial liquefied fertilizer storage & distribution site, including a proposed one million gallon UAN Solution Storage tank, with a setback distance of 120 feet instead of 300 feet from a residential use and 12 feet instead of 100 feet from a side lot line. The subject property in this zoning case is a parcel of land located in Graymont, in Section 20 of Rooks Creek Township. The zoning administrator presented his report exhibits and other information relative to this zoning case, including potentials conditions that may be placed on the approval of this zoning case, and recent photos of the subject property. The zoning board members were informed that the Livingston County Regional Planning Commission had reviewed this zoning case, and that they recommend the approval of this zoning case with conditions proposed to them at their meeting, as these same conditions have been discussed with the zoning board of appeals.

Philip Rich, representing the applicant Graymont Cooperative, Inc., presented testimony relative to this zoning case. Mr. Rich explained that their current tanks are getting older and needed to be considered for replacement, so they needed to decide if they wanted to replace with tanks similar to

their existing tanks or go a different route, of which they chose with the proposed larger tank. Mr. Rich that this business area is expanding with farmers needing more product in a shorter window and this seemed like a good route to go. Mr. Rich remarked that their old tanks would be removed and replaced with the new tank with a 65 foot diameter and a height of 40 feet. Mr. Rich commented that it would be a steel tank with a 40 millimeter plastic membrane, with the metal tank serving as a containment vessel. All of the valving and piping is contained in a box. Mr. Rich explained how the tank is inspected during construction. Then Mr. Rich commented about the 6 leak ports that are part of containment check. Mr. Rich then mentioned state inspections of the tank.

The zoning board then inquired about the size of the existing tanks, of which Mr. Rich answered they are three 20,000 gallon tanks, and they almost ran out at times earlier this year. Mr. Rich commented about the UAN product, and the assumed life of the proposed tank being 15 to 20 years as a time period to replace the membrane. Mr. Rich pointed out the location of their existing tanks on an aerial photo. Mr. Rich explained they plan to be their own customers, and would like to buy the larger quantity for pricing purposes. Mr. Rich explained that the proposed location was chosen because they are land locked at their current mixing shed, and if they went behind their fuel depot they have more difficulty in piping the new tank, and that they have power existing at the proposed location. The 120 feet from the residential use was then explained with use of an aerial photo. The board then questioned why they did not place the tank in the area of the existing tanks, of which Mr. Rich answered they did not have enough room to do that. In regard to a leak, Mr. Rich explained how the tank would be emptied. The underground dual pipe lines also have leak ports that are monitored. How this product is replacing anhydrous was discussed. Mr. Rich explained that the tank will be filled by trucks. The 12 foot variance distance area was then explained.

Donnie Simmons of the Livingston County Public Health Department had a couple of questions, first about the ground water protection program and who assesses the existing wells in the area and their depths, in that as Mr. Simmons looks at the rules a setback of 200 feet may be required for some wells and 400 feet for other wells, with both types of wells in Graymont. Mr. Rich replied that he is currently going through the state permitting process. Mr. Simmons and Mr. Rich then discussed the different distance rules. Mr. Simmons then stated that no one will be allowed to construct a new well within 200 feet of this site, including replacement wells. The township shed well location was also discussed. The coop well location was then discussed on the north side of their shop. Existing wells are Dept. of AG permit review issues, with Mr. Simmons being curious as to how the wells are evaluated by the Dept. of AG. Alternative locations for the proposed tank were discussed with Mr. Rich and the zoning board. Mr. Rich did not think there are any more particular sites. Wells issues were discussed further by the zoning board.

Eddie Hoerner, as part of the Graymont Cooperative, Inc. board, noted that the setbacks are closer to 140 and not 120 being the conservatively assumed setback. The township well location was then discussed, in relation to a new well and use of the well is no issue when permitting a new well. Other buildings on the Graymont property was discussed. Other potential tank locations were then discussed, with the Graymont Coop reps concluding that the proposed site is there best site for them.

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

In closing statements Mr. Hoerner expressed his appreciation for the consideration of the proposed site as it seems to be the most logical for where they load out of their sheds. Mr. Rich expressed his appreciation to the zoning board members.

The zoning board discussed this zoning case, with concerns on the water, and clarification on as to where it can be placed in regard to the wells. It was agreed the Department of AG rules covered the wells and it was determined that the Department of AG had not yet made a site visit to determine the merits of the application for the proposed tank placement. So the status of the state permit was discussed, and it may be best to wait until the Department of AG issues their permit. The construction timetable was then discussed.

Gerald Earing moved, seconded by Michael Cornale, that Livingston County Zoning Case SU-4-17 be tabled, until September 7<sup>th</sup> or until the Department of Agriculture approves this site. This motion was approved by a unanimous voice vote.

Wells locations and notification of property owners of the potential zoning trespass.

Richard Runyon moved, seconded by Mr. Flott, that Livingston County Zoning Case V-2-17 be tabled with all well owners within 400 feet of this site being notified that the Illinois Department of Agriculture has regulations on wells regarding the proposed tank location. This motion was approved by a unanimous voice vote

Case SU-5-17 - Justus/Arbogast

This zoning case pertains to a review of a request for a special use to allow for a previously approved machine shop, and as a new welding shop/craft and service occupation, and as a temporary second dwelling on a lot in and AG, Agriculture, District. The subject property in this zoning case is 2.91 acre parcel of land, located at the intersection of Route 66 and 1600 East Rd., in unincorporated Pontiac in Section 14 of Pontiac Township. The zoning administrator presented his report exhibits and other information relative to this zoning case, including potentials conditions that may be placed on the approval of this zoning case, and recent photos of the subject property. The zoning board members were informed that the Livingston County Regional Planning Commission had reviewed this zoning case, and that they recommend the approval of this zoning case with conditions proposed to them at their meeting, as these same have been discussed with the zoning board of appeals. A change in the applicant plans was discussed at the planning commission meeting in that they no longer plan on having a long term second dwelling unit on the property.

Jesse Justus, 818 S. Walnut, Pontiac, IL. the applicant in this zoning case, presented testimony relative to this zoning case. Mr. Justus explained that he and his wife go to craft shows with home décor products they make from metal. They currently operate their business out of the garage in town and they have run out of room, and they would like to move to the subject property and continue their business. He does metal fabrication and welding repairs. Mr. Justus then passed out a binder with photos of their products for the zoning board to review. Then Mr. Justus related that they would like a show room in the subject building, in that they take custom orders at shows and they would like a place for customers to pick up their products.

They would also like to have the show room open on Wednesday nights occasional Saturdays and around the holiday seasons. They are gone many weekends to shows.

The zoning board inquired as to how long they had been in business, with Mr. Justus that they had been a registered business for one and half years, but he has done sub contract welding for over 12 years. Mr. Justus explained that this proposal pertains to their hobby in that both he and his wife have full time jobs that they plan on keeping. Mr. Justus related that show room hours would be from 4 to 8 on Wednesdays and if they are present on Saturdays they would be from 9 to 5, advertising on Face book when open. The proposed special use concept was then discussed. Mr. Justus then explained about how they may need to live in the shed during part of the renovation of the house on the property. They can live in the shed as it is now, in that a bathroom is in the building. He does not foresee having any employees at this time, though friends and family may help them out occasionally.

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

In his closing statement expressed his appreciation of the zoning board's time and consideration.

Michael Cornale moved, seconded Richard Runyon, that Livingston County Zoning Case SU-5-17 be approved to allow for a special use for a previously approved machine shop, and as a new welding shop/craft and service occupation, and as a temporary second dwelling on a lot in and AG, Agriculture, District, with the proposed conditions with it being reviewed in three years, unless otherwise determined by the county zoning administrator with those conditions being;

- 1 That the applicant's special use be limited to the request as outlined in the applicant's application and the explanation the applicant gave at the hearing for this request for a special use.
- 2 That the ownership of this special use be limited to the applicant, unless otherwise approved by the zoning board of appeals.
- 3 That the signage for this special use be limited to an 8' X 8' sign to be placed on the side of the building, or as outlined by the applicant during the public hearing, as approved by the Livingston County Zoning Administrator.
- 4 That the status of this special use be reviewed again in three years, unless otherwise determined by the Livingston County Zoning Administrator.

A discussion took place as to who the special use was being approved for, the applicant. This is for the applicant and if the purchase of the property does not take place, then the special use would not be in effect.

This motion was then approved by roll call vote.

Cornale - Yes

Blackard - Yes



Kiefer - Yes  
Flott - Yes  
Huisman - Yes

Runyon - Yes  
Earing - Yes

Findings of Fact and Decision:

Michael Cornale moved, seconded by James Blackard, that the Findings of Fact and Decision for the zoning cases on which final action was taken at this August 3, 2017 meeting, be approved. This motion was approved by a unanimous voice vote.

General Discussion and Informational Update:

Future meeting dates of August 31, 2017 on the wind energy text amendment and on September 7, 2017 on the Valley View Special Use were discussed.

Public Comment: John Slagel commented on cemetery including the easement issue, and he commented on the well issues discussed during this meeting.

Then William Flott moved, seconded by Richard Kiefer, that this meeting be adjourned.

This meeting was adjourned at 9:30 p.m.

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

Respectfully submitted,

Charles T. Schopp, Secretary  
Livingston County  
Zoning Administrator