

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

Regular Meeting
7:30 p.m.

August 30, 2018

The meeting came 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:

Chair Huisman noted the agenda for this meeting. Gerald Earing moved, seconded by William Flott, that the agenda for this August 30, 2018 meeting be approved as presented. This motion was approved by a unanimous vote.

Approval of the Minutes:

Chair Huisman noted the minutes James Blackard moved, seconded by Richard Kiefer, that the minutes of the June 7, 2018 meeting be approved as presented. This motion was approved by a unanimous vote. Chair Huisman then noted the transcripts to the May 10, 2018, May 31, 2018 and June 19, 2018 meetings. It was acknowledged that these transcripts will stand as the minutes to these meetings.

Business:

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

Case V-6-18 – Hargitt.

The applicants were unable to be present for this zoning meeting. The zoning board was informed that the Steffen's the closest neighbor is okay with the proposed house addition variance. The zoning board stated that it is their practice to have an applicant present for the zoning board review of zoning cases. This zoning case will now be reviewed at a future meeting.

Case V-7-18 - Pulliam

This zoning case pertains to a review of a request for a variation in the zoning regulations requirements, to allow for the construction of an addition onto a residence, with this addition proposed to be 4 feet instead of 10 feet from a side lot line, in an R2, Low Density Multiple Family Residence, District. The subject property in this zoning case is a parcel of land located in the unincorporated area of Cayuga, at 18381 E – 2160 North Rd. The zoning administrator presented his report, exhibits and other information relative to this zoning case.

Frank Pulliam, 18381 E – 2160 North Rd., Pontiac, IL, the property owner and applicant representative in this zoning case, presented testimony relative to this zoning case.

Mr. Pulliam explained that they would like to enlarge their garage from 24 X 26 to 40 X 40. A recent survey indicates that the new garage area would be 6 feet from the property line. So with the overhang it would be 5 feet from the property line. His neighbor has no issues with the proposed new construction.

Questions about the other buildings located on the property, were answered by Mr. Pulliam. Mr. Pulliam confirmed that the survey he mentioned was done in the last couple of weeks, so they are sure where the property line is.

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

Mr. Pulliam had not closing statements.

Gerald Earing moved, seconded by William Flott, that Livingston County Zoning Case V-7-18 be approved, to allow for a variation in the side yard setback requirements to allow for a garage addition to be 5 feet instead of 10 feet from a side lot line, in an R2, Low Density Multiple Family Residence, District.

This motion was approved by roll call vote.

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

Case SU-8-18-Amendment – Sember

This zoning case pertains to a request for the approval of a special use pertaining to a proposal to develop an outdoor commercial recreational enterprise/lodge or private club, in an AG, Agriculture, District/FP, Flood Plain, District. The subject property in this zoning case is a 2.99 acre tract of land bordering the Vermilion River, in the West half of the Northwest Quarter of Section 7 of Newtown Township, at 31543 N – 600 East Rd. The zoning administrator presented his report and the amendments to the application made since the last meeting, with exhibits and other information relative to this zoning case, including draft conditions. A new aerial photo was also presented, which shows the existing off road concrete parking on the south edge of the property, and the path going down to the river.

Lee Sember, 29473 N - 864 East Rd., Manville, IL., representing the applicant in this zoning case, presented testimony relative to this zoning case. Mr. Sember he commented about couples wanting to come out and play the machines, that may come out after dinner and will want to play his machines later than 10 pm, such as until midnight. He commented about his other business hours. So new hours are being proposed to close the beer garden at 10 pm and the indoor area at midnight. Mr. Sember then confirmed he plans to call this a private club, and he has no problem with that. Memberships were then discussed, with Mr. Sember agreeing to have memberships. The parking area in the aerial photo was then discussed, of which Mr. Sember may extend towards the road. In regards to membership, he would like to have around 100 members. The possibility of a two bedroom addition still exists. The outdoor commercial special use classification was discussed, as to how that fits into the zoning regulations. The memberships will be for all, boating, fishing and the indoor club area. The latest aerial photo was discussed in regards to the parking and the property layout.

The hours were discussed in regards stopping at 10 pm, in regards how some clients will remain after 10. Mr. Sember questioned why he would need to close at 10, as no other taverns close at 10 pm. They close at 2 am in Streator. But he is glad to close at midnight. The convenience store issue was then discussed. Mr. Sember agreed that the beer garden would close at 10 p. Mr. Sember said the indoor area will not be loud. The beer garden is not to be fenced in. He plans on having a 20 X 36 pad for the beer garden behind the building on the property. The 2.99 acre parcel size was discussed again. Mr. Sember expected that he would average about 15 people up to 20 people. The existing building and bathroom and capacity were discussed. Mr. Sember discussed about what he expects his membership to consist of. Mr. Sember anticipates he would favor the fishermen, with an area for about 10 boats. He may having varying memberships for boating fishing and using the machines. Hours of operation were further discussed.

Area resident Lisa Schmink, 31320 N - 600 East Rd. a quarter mile south of the site, commented about a time frame, and she lives near the boat club, and she does not want more noise from the beer garden. Mr. Sember said the beer garden would close at 10 pm., she clarified she is on the west side of the river. She commented about how the boat club operates. She would like a stipulation that they shut down at a certain hour, to control the noise. Robert Morlan with property across the river, expressed he agreed with Mrs. Schmink's property. His property location was clarified.

Donnie Simmons from the Livingston County Public Health Department, questioned Mr. Sember about what would the bar be. Mr. Sember said it would be a seating arrangement, with just canned beer service, but this is seeking an all-encompassing liquor license. He plans mostly on canned beer, but his license would allow hard liquor. He plans to serve that in plastic glasses. Ice would be part of the drink business. He may have frozen pizzas. Mr. Sember confirmed he has permits in LaSalle County for his Streator businesses. So Donnie questioned a need for a food permit for his proposed business. Mr. Sember said that would not be a problem, for the pizza and ice. Mr. Simmons then said they would like a set of plans for his business. Mr. Simmons then inquired about restrooms. Mr. Sember mentioned his port-a-potties use. Mr. Simmons said he may need two restrooms for 15 to 16 people, and that they need to discuss the waste water system for this building. Mr. Simmons said that the septic would be sized on the number of potential customers and for the two proposed bedrooms. If he is to only one bathroom he could be limited to 10 seats. The beer garden seating would not count. Mr. Sember says he plans on having three machines. Donnie related that number of seats related to bathroom needs. The septic system would also need to be evaluated. A three hole sink need was discussed, of which Mr. Simmons said he would need such a sink for the pizza etc. Mr. Sember he may do that later, when he would put an addition on. Mr. Sember commented about his potential restroom plans, of which Mr. Simmons would need to review. Mr. Sember said he will not have pizzas for now so he does need a food permit for now. Ice? Limiting beer garden hours to 10 pm was agreed to. The draft conditions were then discussed. The small convenience store is not being considered at this time. A need for more detailed plans was discussed. More building plans, health dept. plans, use plans etc. Limiting new bedrooms to family was discussed. A need for a new concrete plans as discussed. Mr. Sember said that he can meet health dept. requirements limiting the seating to 10 people with no food license. Mr. Cornale requested that the record indicate that the applicant refused to have a food license, were Mr. Simmons indicated he needs one. Mr. Sember said he would not need a license if he does not have food. Donnie clarified that he can have canned beer, bottled wine spritzers or whatever comes in individual bottles. If ice is handled and pizza is served etc. then a food license would be needed, as they have permitted several gaming businesses in the county. Ice may be treated as a food. The septic system still needs to be discussed, and possible plumbing inspector regulations. Draft condition hours were then discussed. With the beer garden open to 10 pm and the gaming machines open until midnight. New language to the draft conditions was then discussed.

Limiting the beer garden hours from 9 am to 10 pm and then the hours for the indoor gaming machine area would be allowed to be open until midnight. An added condition of limiting the potential apartments/bedrooms to family members only on a temporary basis, to clarify who could be someone living there. The four employees are to include family and non-family members.

No other interested parties presented testimony.

Mrs. Schmink asked that the beer garden be closed down earlier to control the music in her closing statement.

Mr. Sember had not closing statement.

The zoning board stressed he needs to follow all of the rules, and it needs to be reviewed. It was questioned if it would affect the neighborhood, and comply with. Mr. Sember noted that he sits right across from the old Smith Douglas site and the Vermilion Boat club is in the area.

Michael Cornale moved, seconded by James Blackard, that Livingston County Zoning Case SU-8-18 amendment be approved allowing for an outdoor commercial recreational enterprise/lodge or private club on the subject property in an AG, Agriculture, District/FP, Flood Plain, District as outlined by the applicant with the conditions as drafted and then amended and as follows.

Allowing three generations of family was discussed, grandchildren was discussed. Mr. Sember said that his children do have interest in the property. Condition 2 was amended to remove grandchildren.

Conditions;

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 approval, with limitations that follow in some of the accompanying conditions. This includes the applicant's proposed bar, beer garden, docks, gaming machines and two potential bedrooms.
2. That the ownership of this special use be limited to the applicant and the applicant's children unless otherwise approved by the Livingston County Zoning Board of Appeals.
3. That this proposed property development be limited to 4 employees.
4. That the hours for this proposed business be limited to 9 am to 10 pm for the beer garden and from 9 am to 12 midnight for the indoor space including the gaming area.
5. That this proposed property development shall also comply with the Livingston County Public Health Department requirements, along with other state, federal or local regulations that may apply to this proposed development.
6. That a status review of this zoning case be conducted by the Livingston County Zoning Board of Appeal in one year, unless otherwise determined by the Livingston County Zoning Administrator.
7. That any signage for this proposed development is approved by the Livingston County Zoning Administrator.
8. That the proposed apartments/bedrooms shall be limited to family members only on a temporary basis, to clarify who could be living there.

This motion was approved by roll call vote.

Cornale -	No	Blackard -	Yes
Kiefer -	Yes	Runyon -	Yes
Flott -	No	Earing -	No
Huisman -	Yes		

Case SU-9-18 & SU-10-18 - Vermilion Solar I LLC, and Vermilion II LLC

These zoning cases pertain to a proposal to develop two 2 MW Community Solar Farms on property to be located in the West Half of the Northwest Quarter of Section 36 of Pontiac Township. The zoning administrator commented about the copies of information that were provided to the zoning board of appeals members. The Livingston County Regional Planning Commission recommendation was mentioned to the zoning board of appeals members. Draft conditions were presented and explained to the zoning board of appeals members, by the zoning administrator. The proposed to review this case in one year was further explained, primarily dealing with state approval.

Representing these zoning cases is Ric Ahern, N1955 – 300 85th St., Maiden Rock, Wisconsin, representing the project developer for Community Energy Solar. Bryan Whitson with Kimley Horn, 111 W. Jackson Blvd., Chicago, IL, a consultant on this project also noted his presence. Ric Ahern explained that under the Illinois Power Agency regulations they can site a 2 MW community solar project, and they are allowed to locate 2 projects in the same area, as is being proposed in this case. Mr. Ahern commented that the state deadline for applications is January 19th. A large number of projects are expected, with them being permitted by local agencies. Both projects may not be accepted in the first round of procurement. Mr. Ahern commented about the planned state lottery system, and state approval system. Mr. Ahern noted the project area had been handed out earlier, and that they would use the project site as the projects are approved. Mr. Ahern noted that Virgil Ledford is the land owner and that his son is present at this meeting. Mr. Ahern noted both binders are identical, starting on page 3 of the binder for the Vermilion I project Mr. Ahern reviewed the application binder. Mr. Ahern then reviewed their compliance plans with the county ordinance plans, with the interconnect line be on the transmission line on the old rail road property. The property location was confirmed. The fencing plans reflect a plan for a wild life, woven wire fence with wooden fence. It would allow small game onto the project area, while being a barrier for humans and deer. Noise levels will be met. In a question on potential vegetative buffer along the road, Mr. Ahern said one is not planned because of the low volume of traffic along that road, and that area of the property will continue to be farmed as row crops. With the site being 100 feet off of the road way. A pollinator mix and grass mix is planned for vegetation on the solar farm development site. The first three years will require some mowing and maintenance on the vegetation to allow it establish, with less maintenance their after. No lighting is planned at the entrance. No concrete will be involved in the panel area, with the panels being on posts that will be driven into the ground. The converter systems will sit on concrete. Mr. Ahern referred to Exhibit B Figure 7 that refers to his matter. Drainage tiles on the property. A drain tile collector moves along the railroad, but the owners are not aware of drain tile on the property. A further investigation will be done to confirm this. This site will offset 5600 metric tons of carbon a year.

They would hope to start construction in the spring, with construction taking 90 to 120 days, with a state requirement to be done by the end of year. There will be no heavy truck traffic during construction. They plan on hiring local contractors depending on their availability. Tractor/trailers will deliver the components to the site. Mr. Ahern mentioned the decommissioning, with a proposed guarantee above their estimates, with a guarantee of \$135,000 for each proposed solar farm. The decommissioning factors were also discussed.

The state agriculture impact mitigation agreement was then clarified. The closest residence is a department of corrections property house used by one of their employees. The location of this house was pointed out on an aerial photo. The drainage tile study will be conducted, and if any are found they will be mapped out. The only above ground electric line would be were the project will tie into a Com Ed transmission line along the old rail road area. The interconnect agreement status was discussed. A preliminary study has been done and they have a que position. They use several manufacturers for the panels, though they will probably be coming from China. The chair asked that if they get approval from the state will they come back to the county with what project and where on the project site it would be built, as part of applying for their construction permit. They are aware of a need to review the decommissioning every three years. The Soil and Water report is not complete. It was confirmed that all of these solar developments need to be approved by the state. The assessment is set by the state, with this project generating \$40,000 to \$50,000 in taxes. The renewable energy credits would be going to the power company.

No other interested parties were present.

Mr. Ahern in is closing comments noted their thankless positions on the zoning board.

James Blackard moved, seconded by , that Livingston County Zoning Case SU-9-18 Vermilion Solar I, LLC be approved to allow for the development of a 2 MW Community Solar Farm on property to be located in the West Half of the Northwest Quarter of Section 36 of Pontiac Township, with the conditions as proposed.

A discussion took place in regard to the soil and water conservation report on this site, with it mentioned in two conditions. A discussion took place as to if they can move forward, knowing what will be in the soil and water report, based on past reports for solar projects. The fencing being proposed being inconsistent with other proposals was discussed, with the wildlife woven fence being considered instead of a chain link fence. The fence proposed is to allow for small game habitat. The proposed fence is what this company has been used on several of their projects in Minnesota. Comparison of the McDowell substation fence to this proposed fence then took place. The solar project has safety redundant features with the proposed fence serving as a visual deterrent. Some board members liked the proposed environmentally friendly fence, with the proposed pollinator plants. Other board members preferred a chain link fence for safety purposes. Mr. Ahern agreed to that would place a chain link fence on the property if so requested, it is not a matter of cost, just a visual. A need to be consistent with the fence types need to be considered. Commercial use of the property with solar panels was then discussed. The soil and water report should be done in September. A condition that the soil and water has completed a satisfactory report is done prior to the county making the final approval. The Chair remarked that she would like to wait for the soil and water report. Mr. Blackard rescinded his motion to move to table this zoning case decision to the zoning board of appeals October meeting. The property value report will be done by the next meeting, with the report being the same as the report already submitted to the county with other projects that have been reviewed. The fence type can also be discussed at the next meeting. The October meeting is scheduled for October 4th. Mr. Blackard moved, seconded by Mr. Kiefer, to table Livingston County Zoning Cases SU-9-18 and SU-10-18 until the October 4th zoning board of appeals meeting beginning at 7 pm. This motion was approved by voice vote.

Case ZT-1-18 – Livingston County Regional Planning Commission

This zoning case pertains to a proposal to amend the text of the Livingston County Zoning Regulations to add Solar Farm to the list of special uses in Section 56-82, AG Agriculture District Special Uses and in Section 56-444, I2 General Industrial District Special Uses, Of the Livingston County Code of Ordinances, Part II, Chapter 56, Zoning.

The zoning administrator presented his report relating that the intent of this zoning case is to clarify and to specify the areas intended to be considered as potential districts for solar farm special uses. The changes in the definition were noted, adding the accessory use solar energy. A seven foot versus eight foot fence was presented. An 8 foot fence would not need to be set in concrete. The board discussed 7 foot versus 8 foot fence height. Should some of the fence language be removed. Discussion continued on the fencing issue. Chain link in comparison to wildlife fencing was discussed in detail. Uniformity of fencing requirements was then considered as the right way to proceed with this fence.

The definition of principal building was then discussed. Interconnect agreement requirements were then discussed as to if they need to be clarified in the regulations. This would be part of the solar farm definition. A discussion took place on specifying a need for an 8 foot tall chain link fence. The fencing discussion took place on how to interpret the language. The solar farm safety factors were discussed. A need for consistency in the fencing was discussed, and the interpretation of the ordinance, though board members liked the wildlife fence. Tabling this zoning case was then discussed. Soil and Water reports were then discussed. Preservation of agricultural land was then discussed. Land owner rights were also discussed. Mr. Kiefer moved, seconded by Mr. Blackard that this zoning case be tabled. This motion was approved by voice vote.

Other Business: None

Approval of the Findings of Fact and Decision:

James Blackard moved, seconded by Richard Kiefer , that the findings of fact and decision for Livingston County Zoning Case SU-7-18 and SU-9-19 meeting be approved. This motion was approved by a unanimous voice vote.

Public Comments: None

Report of Officers: None

General Discussion and Informational Update:

The next meeting for the zoning board of appeals is scheduled for October 4, 2019, at 7:00 pm.

Then William Flott moved, seconded by James Blackard, that this meeting be adjourned. This motion was approved unanimously.

This meeting was adjourned at 10:30 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,

Charles T. Schopp, Secretary
Livingston County Regional
Planning Commission