

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

Regular Meeting  
6:00 p.m.

June 8, 2023

The meeting came to order at 6:06 pm

Members Present: Joe Stock, Richard Kiefer, Joan Huisman, William Flott, Dave Randolph, and Richard Runyon

Others Present: Zoning Administrator Jesse King, Assistant Zoning Administrator Trish Merlino, Drew Bauman, Todd Mehalic, Frank Pulliam, Brenda Morris, Dale Carstens, Matt Mance, Mary Loudon, Devin Birch (Austin Engineering), Justin Swinford (Illinois American Water), Steve Garrells, Zach Garrells, Tiffany Hahn, Ryan Carley, Rebecca Taylor, Tera Graves, and Mein Ho Schlesner

Members Absent: Neil Turner

**Approval of the Agenda:**

Chair Huisman noted the agenda for this meeting with an amendment to move the approval of minutes to the end of the meeting. Randolph moved, seconded by Flott to approve the agenda as amended. **Motion carried by roll call vote of all ayes.**

**Business to be reviewed:**

**Case V-3-23 – Fehr**

This zoning case pertained to the review of a proposed variance to allow for reduced front yard setbacks for a recreational building on property in an AG, Agricultural, District located in unincorporated Chenoa.

King gave an overview of the case to ZBA members.

Bauman, from Blunier Builders, was present as a representative of the case and didn't have anything to add from the overview that King gave.

There was discussion between ZBA members, King, and Bauman about the location of the road right-of-way line location. Next, there was discussion about the size of the existing building and how big the addition would be. Bauman explained that the addition is about the same size as the existing building and that it would be roughly 20 feet off of the road right-of-way instead of the required 40 feet.

Randolph made a motion, seconded by Stock that this zoning case be approved. **Motion carried by roll call vote of all ayes. Ayes:** Stock, Flott, Kiefer, Runyon, Randolph, Huisman **Nays:** None **Absent:** Turner

#### **Case V-4-23 – Mehalic**

This zoning case pertained to the review of a proposed variance to allow for reduced minimum acreage for a new single family dwelling on property located in an AG, Agricultural, District in unincorporated Streator.

King gave an overview of the case to ZBA members.

Mehalic was present as a representative of the case. Mehalic stated that he spoke with the previous zoning administrator a few years back who told him that since there was an existing home on the property, that he would be grandfathered in to put a new home on the property. However, Mehalic added that when he spoke with King, he told him that he needed a variance to construct the new home on the property.

There was then discussion on Mehalic's length of ownership of the property and whether or not the home is for him. Mehalic stated he has owned the property since 2020 and that the new home would be for him and his wife.

Randolph made a motion, seconded by Kiefer that this zoning case be approved. **Motion carried by roll call vote of all ayes. Ayes:** Stock, Flott, Kiefer, Runyon, Randolph, Huisman **Nays:** None **Absent:** Turner

#### **Case ZM-1-23 & SU-2-23 – Pulliam**

This zoning case pertained to the review of a proposed zoning map amendment to change the zoning of a 1.9-acre parcel located in Cayuga currently split-zoned R2, Low Density Multiple Family Residence and AG, Agricultural to a zoning classification of AG, Agricultural. As well as a proposed special use to allow for the same property to be used as a craft and service business to allow for the operation of an IT Service Business.

King gave an overview of the case to ZBA members.

Pulliam was present as a representative of the project. He gave an overview of the history of his business along with the history of expansion of the building that currently houses the business in Cayuga.

A couple of questions were asked about signage on the business and the number of employees currently working for the business. Pulliam explained that there is a sign on the front of the building and that he currently has 26 employees that mostly work away from the shop, take their vehicles home and are only at the shop if they need to pickup materials.

Stock made a motion, seconded by Flott that the special use be approved and that the map amendment be recommended for approval. **Motion carried by roll call vote of all ayes. Ayes:** Stock, Flott, Kiefer, Runyon, Randolph, Huisman **Nays:** None **Absent:** Turner

### **Case ZM-2-23 – Morris**

This zoning case pertained to the review of a proposed zoning map amendment to change the zoning of a 1.74-acre parcel located in unincorporated Long Point from a zoning classification of AG, Agricultural to a classification of I2, General Industrial.

King gave an overview of the case to ZBA members as well as the recent court proceedings that took place between the county and Morris regarding the subject property.

Morris then explained the nature of her business to ZBA members which included recycling, scrapping cars for valuable parts and discarding the rest of the vehicle, as well as selling various types of containers. Morris also mentioned that they plan to construct a shed on the property in order to house some of the items on the property, though after asked, Morris stated that she didn't believe it would be big enough to house everything on the property.

A question about fencing then came up. Morris stated that they have installed a 6 foot fence along with some privacy screening. Another question was then asked about the name of the business, Morris stated the name of the business is Partners in Crime Auto.

There was then discussion between ZBA members and Morris about the condition of the property and making it more organized. There was then a question about what Morris is storing inside of the vehicles on the property. Morris stated that she stores collectibles, plywood, and nails inside of them to keep the weather off of them. A follow up question was asked as to how many vehicles are currently on the property. Morris stated there is approximately 50 vehicles there now.

A ZBA member then asked if it would be possible for Morris to acquire additional acreage to get the 10 acres that is required by the ordinance for a junk yard. Morris responded that she didn't believe she could get the additional acreage.

Morris concluded by saying that she is just trying to make a living and it not trying to hurt anyone.

Carstens then spoke as an interested party and related his concerns about the possibility of the soil being contaminated from all the cars sitting on the property and that it should be tested. Carstens then explained the history of the property to the ZBA members.

Mance then spoke as an interested party. Mance voiced his concerns about the possible contamination of the nearby Mole Creek that feeds into the Vermilion River. Mance further explains that he decontaminates water for a living and emphasized the difficulty of doing it especially if it were to get into the Vermilion River.

Loudon then spoke as an interested party. Loudon further discussed the recent court case mentioned by King and explained that she testified in the case. Loudon went on to talk about how the property is not big enough to house a properly functioning junk yard and also emphasized how poorly maintained the property currently is. Loudon also raised a concern about who would be responsible for cleaning up the property if Morris were to abandon the property.

Huisman then allowed closing comments.

Loudon asked for disapproval of this zoning case.

Carstens agreed with Loudon's statements and added that it needs to be cleaned up and that it makes him sick every time he drives by it.

Morris closed by stating that she understands everyone's concerns and that she is not trying to make anyone angry. Morris added that they have planted trees around the property that are growing and will eventually act as a living buffer. Morris also added that they are working to improve the gate to the property so that people won't be able to see into the property at all when driving by. Morris also agreed that the property needs to be better organized.

Flott then made a motion, seconded by Runyon to recommend denial of this case. After some discussion, it was advised by Huisman that there should be a motion in the affirmative to eliminate confusion on what a "yes" and "no" vote mean. Flott agreed to amend his motion to a motion to recommend approval and Runyon agreed to second the motion again. **Motion failed by roll call vote. Ayes:** None. **Nays:** Stock, Flott, Kiefer, Runyon, Randolph, Huisman **Absent:** Turner

#### **Case SU-4-23 – Illinois American Water**

This zoning case pertained to the review of a proposed special use to allow for the development of an above ground water storage tank on property that is zoned AG, Agricultural and FP, Flood Plain located in unincorporated Pontiac.

King gave an overview of the case to ZBA members.

Swinford and Birch were present as representatives of the zoning case. Swinford gave a Powerpoint presentation about the project which included information such as the site selection process, reasoning for needing a new tank, site design, and benefits of the project.

There was then discussion about which existing tank is being replaced for this proposed tank. Swinford clarified that the tank near the prison is being replaced. Swinford was then asked to clarify the location of the nearest main. Swinford stated that the nearest main runs along Rt. 116 that they would likely replace and make bigger if the tank were to be constructed. There was then discussion about the site plan and flood plain maps that were submitted which included the layout of a potential expansion of the nearby Illini Subdivision with the proposed tank site. It was clarified that the majority of the subject parcel is in the 500-year floodplain and that only a small part of the entrance is in the 100-year floodplain.

The topic of annexation into the City of Pontiac was then discussed. Birch explained that they could enter into a pre-annexation agreement with the city and subsequently get permitted for the tower, but the applicants did not want it to seem like they are trying to hide anything by avoiding a public hearing.

The applicants and the ZBA then discussed the life left on the existing tower and the height difference between the existing tower and the proposed tower. Swinford stated that they should be similar heights and that the proposed tower will be approximately 150 feet tall.

The applicants were asked if soil samples were taken from the subject property. They explained that there was and that the soil is favorable for development.

The timeline of construction was then discussed between the applicants and ZBA members.

Huisman then opened up the meeting to questions for the applicants.

Steve Garrells asked how many people were notified of this project. King explained that they sent out notice to all property owners within approximately 300 feet of the subject property lines. He then asked the applicants how deep they drilled for soil samples. Birch stated that he didn't know for sure, but that it was likely 50-60 feet. He then asked about how much space the tank would take up. The applicants were not sure. Lastly, he asked if Pontiac's population has gone up since the existing tank was built. The applicants were not sure.

An audience member then asked how the company would keep nearby residents informed of the construction process and mentioned concerns with fugitive dust and erosion. The applicants stated that there would be construction mailers and that there are erosion and dust control measures that are required for construction. The audience member then asked what impact this project would have on the 100-year flood plain. The applicants stated that it would have no impact since the project is above the 100-year flood plain. Next, the audience member asked what the construction would look like. The applicants stated that all equipment would enter off of Rt. 116 onto the site parcel and that the rest of the field would continue to be farmed. Lastly, the audience member asked if they would be storing any construction materials in the nearby subdivision. The applicants stated that they would not.

Carley then asked if the City of Pontiac had been contacted about this project. Birch stated that he reached out to them early on.

Another audience member then asked when the last flood elevation survey had been completed. The applicants stated that it was 2007. They then asked if there was anywhere near the current tank that the new tank could go. The applicants stated that they reached out to the state to see if any prison property would be available for placement of a tank which there was not. Lastly, this audience member asked if they were aware of a certain type of fungus that occurs near water towers. The applicants were not aware.

Zach Garrells then asked the applicants if they had witnessed the flooding in that area before. The applicants stated that they have not.

Steve Garrells then asked what the elevation of the footings would be. Birch responded that they would be at least 1 foot above the 500-year flood plain.

Huisman then called for a break at 8:18 p.m.

Huisman called the meeting back to order at 8:30 p.m.

Taylor then presented her Natural Resource Information Report and concluded that this proposed project would have a “low impact” to agriculture. A ZBA member asked Taylor if she was aware of any tiling in the field. Taylor was not aware of any, but always recommends that a survey is done to make sure there are none. Another question was asked if flooding is considered in the LESA score. Taylor stated that it is a little bit, but not as much as other areas.

Hahn then spoke as an interested party. Hahn commented on the age of the last flood plain survey and added that not many people in the area knew about this hearing. Hahn also added that she would like to see more information about the project and that the applicants should have worked with the city to find a better location. Lastly, Hahn stated that the water quality in the area is bad as it is and wasn't sure what impact this would have on it.

Zach Garrells then spoke as an interested party. Zach spoke of the flooding issues that the area currently has and the effects it has on his residence and others across the road.

Steve Garrells then spoke as an interested party. Steve handed out packets illustrating the existing flooding issues in the area and explained each photo to ZBA members. Steve related his concerns about flooding and his thought that the notification wasn't sufficient. Steve also voiced his concern about the impact to wildlife in the area and argued that the new tank doesn't need to be as big as what is being proposed.

Carley then spoke as an interested party. Carley also argued that the applicants should have worked with the City of Pontiac to find a better location. Carley also stated his concerns about the flooding and the outdated floodplain maps. Carley also stated that in a bad flood that Rt. 116 can get flooded so bad that Illinois American Water may not be able to access the property in the case of an emergency.

Schlesner then spoke as an interested party. Schlesner also discussed his concerns about the flooding and the impact it has on his residence. Schlesner also mentioned that this will be a very long-term site and that it needs to be a perfect location. Lastly, Schlesner pointed out that the RPC voted against this proposal.

Graves then spoke as an interested party and voiced her concerns about the flooding and the impact it currently has on her home.

Huisman then opened up the floor for closing statements.

Schlesner stated that there hasn't been more development in that area because of the floodplain.

Steve Garrells urged the ZBA to slow down so that a better site could be found for the new tower and argued that the new nursing home is the reason for the decreased water pressure at his house. Steve also reiterated the impact to wildlife that this proposal might have.

Hahn emphasized the flooding issues and that there is a better site for the water tower.

Swinford then made a closing statement by saying that he understands everyone's concerns and argued that it is not the City of Pontiac's duty to be a realtor for Illinois American Water. Swinford also argued that the tower would serve residents of the county and city and that the structure could be built without a special use. Lastly, Swinford stated that this site could be developed without impacting the flooding to the area.

Flott then announced he would be voting no on this case because of the lack of partnership with the City of Pontiac and that it seemed as though the applicants didn't do their homework. Huisman stated that it may be helpful to have more information on the project.

Randolph made a motion, seconded by Runyon that this case be approved. **Motion failed by roll call vote. Ayes:** Kiefer, Runyon, Randolph **Nays:** Flott and Huisman **Present:** Stock **Absent:** Turner

#### **Approval of Minutes:**

The transcripts from the Livingston Wind hearings from September 20<sup>th</sup> and 21<sup>st</sup>, October 20<sup>th</sup>, and November 1<sup>st</sup> as well as minutes from the April 6<sup>th</sup> and 10<sup>th</sup> and May 4<sup>th</sup> and 24<sup>th</sup> were noted.

Flott made a motion, seconded by Stock that the minutes from May 4<sup>th</sup> and 24<sup>th</sup> be approved as presented. **Motion carried by roll call vote of all ayes.**

Kiefer made a motion, seconded by Randolph that all of the Livingston Wind transcripts be approved as presented. **Motion carried by roll call vote of all ayes.**

Randolph made a motion, seconded by Runyon that the minutes from April 6<sup>th</sup> and 10<sup>th</sup> be approved as presented. **Motion carried by roll call vote of all ayes.**

#### **Other Business:**

King mentioned to ZBA members that the next wind farm is projected to file an application in September of this year and asked ZBA members to start thinking about a couple of consecutive dates that work for them in September or October to get those hearings started.

**Findings of Fact and Decision:**

Flott then made a motion, seconded by Randolph that the findings of fact be approved from last month's meeting. **Motion carried by roll call vote of all ayes.**

**Public Comment:** None

**Report of Officers:** None

**General Discussion:** Randolph asked that a discussion about limiting public comment be added to next month's agenda.

**Adjournment:**

Flott then made a motion, seconded by Kiefer that this case be recommended for approval.

This meeting was adjourned at 9:45 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,

Jesse J. King, Administrator  
Livingston County Regional  
Planning Commission