

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

Regular Meeting
6:00 p.m.

November 9, 2023

The meeting came to order at 6:05 pm.

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

Members Absent: Neil Turner

Board Members Present: James Carley, Gerald Earing, Linda Ambrose, Bill Mays, Steve Lovell and Rebekah Fehr

Others Present: Regional Planning/Zoning Director Brittney Miller, Administrative Assistant Trish Merlino, County Board Executive Director Alina Hartley, Michael Schafer, Ryan Magnoni (US Solar), Jennifer Walls, Megan Dassow, Angie Cavanaugh, Karen Branz, and Michelle Cool

Approval of the Agenda:

Chair Huisman noted the agenda for this meeting. Randolph moved, seconded by Flott that the agenda for this November 9, 2023 meeting be approved as presented. **Motion carried by roll call vote of all ayes.**

Approval of Minutes:

Chair Huisman noted the minutes of the September 28, 2023, and October 5, 2023 ZBA meetings. Flott moved, seconded by Runyon that these minutes be approved as revised.

Business to be reviewed:

Case SU-18-23 – Schafer

This zoning case pertained to the review of a proposed special use to operate a dog breeding kennel on property located in an AG, Agricultural District in unincorporated Chatsworth.

Miller gave an overview of the case to ZBA members.

Schafer made a clarification with his previous testimony at the Monday, November 6, 2023 Regional Planning Commission meeting, stating that he misspoke when asked how many puppies he had the previous year. Schafer stated that 143 puppies were born from February 2022 to March 2023 and that he had kept back 16 of the puppies. Schafer also stated that he owns 10 Great Pyrenees, 3 Newfoundlanders, 31 American Cocker

Spaniels, 1 Blue Heeler, 1 St. Bernard, 2 St. Bernard puppies, and 6 Pyrenees/Newfoundlanders mix, having a total of 54 dogs.

Schafer addressed concerns of sales tax, noting that his tax and employee ID statuses are current and all future sales will be taxed accordingly. Schafer explained his process of how a new client can purchase a puppy and also indicated that all puppies are microchipped, registered with animal control, and are up to date on their vaccines.

Huisman questioned Schafer regarding how long he had been breeding dogs, to which Schafer stated that he had been breeding dogs for 3 years and had been licensed for almost 3 years. Schafer stated that he was unaware of having to be licensed until Joel Aschermann from the Department of Agriculture came to his house for an inspection. Schafer testified that he and Aschermann had a disagreement regarding the care of the animal and that Schafer would build a barn to appease Aschermann, however, he would still house the dogs inside the home.

Huisman questioned if Schafer was raising the dogs himself, to which Schafer stated that he is raising the dogs alone, but that he intends to hire a helper or two in the future. Huisman questioned Schafer if he is in compliance with the Department of Agriculture, to which Schafer stated that when Aschermann inspected the home, Aschermann had stated that an investigation is done when a complaint has been brought to the attention of the office and left without giving Schafer any violations.

Huisman then questioned Schafer regarding his neighbors and how far away the closest neighbor is, to which Schafer stated that the closest neighbor is ¼ of a mile away.

Runyon questioned Schafer about the greatest number of dogs that he had owned at once, to which Schafer stated that last fall, 3 large litters were born at once, making his total to be 93 puppies. Runyon clarified that the dogs and puppies were in the home without kennels, to which Schafer stated that although he does not have any kennels, he set up a whelping area in the basement for the puppies to be delivered safely during the winter. Schafer then stated that the larger dogs go into the heated garage. Runyon questioned Schafer regarding the future of possibly building kennels for the dogs, to which Schafer stated that he would only build them if they are required.

Huisman then opened the floor to anyone who had questions for Mr. Schafer.

Walls questioned Schafer about his breeding program, asking how he determines who to breed and when to breed them. Schafer gave an overview of his breeding process, noting that he breeds based upon what the puppies will look like and that he focuses primarily on chocolate colored puppies. Walls then questioned Schafer to average how much does he has spent on genetic testing to make sure he is getting a healthy dog to which Schafer stated that he could not give a correct average, however, most of his dogs are embarked.

Dassow testified that she has not had any negative interaction with Mr. Schafer, however wanted to present factual information. Dassow submitted and explained Vcom records regarding lost dogs, Full Circle Farm Facebook page postings, a police report from the Chatsworth Police Department regarding the sale of a puppy, complaints by the applicant, and the Illinois Department of Agriculture investigation findings. Dassow stated that she believes that the other County departments should have notified the zoning department regarding compliance with County ordinances. Dassow stated that being Schafer's neighbor, she did not have any issues in the area until around 2020. Dassow believes that when the issues became apparent, the timing coincides with when Schafer started his breeding business. Dassow believes that Schafer has become a target

on social media with some disturbing and malicious posts that puts him at risk, which then also puts the neighbors at risk, as traffic has increased with people driving by to see his kennel, as well as taking pictures. Dassow stated that this special use permit should not be permitted, as it is in the best interest of everyone involved.

Huisman questioned Dassow regarding the documents that she provided. Huisman questioned if the documents were state statutes or online documents, to which Dassow answered that the State Statutes were found online, some documents were obtained via Freedom of Information request, and some that she had gotten off of Facebook. Huisman informed Dassow that the provided documents would have to be looked over, as some were not able to be submitted into evidence.

Cavanaugh testified she that she submitted a Freedom of Information request with Livingston County Animal Control, to which she had received documentation on rabies certification for 55-65 dogs. Cavanaugh also expressed concern with the limited living space for the animals, as there is only 1,400 sq. ft. of living space in the home. Cavanaugh voiced to the committee that Schafer's disregard of the zoning ordinance supports a vote against approval of SU-18-23.

Branz voiced that she has heard dogs crying in pain at different times and days, that she saw 4-5 dogs in the ditch across from his property, and that she can smell the dogs on a windy day. Huisman questioned Branz if she saw the dogs lying in a ditch one only one occasion, to which Branz stated that she saw this only the one time.

Cool testified that while she is a vet tech, she is there on a more personal level. Cool stated that she has been to Schafer's home on multiple occasions and has seen Schafer interact with the dogs. Cool stated that Schafer has a clean home, happy dogs, and that Schafer takes better care of the dogs than most of her customers.

Motion by Randolph, second by Runyon that zoning case be approved. **Motion failed on roll call vote with all nays. Ayes:** None **Nays:** Flott, Huisman, Randolph, Kiefer, Stock, and Runyon **Absent:** Turner

Huisman called for a break at 7:56 p.m.

Huisman called the meeting back to order at 8:06 p.m.

Case SU-14-23 – USS Man Solar, LLC

This zoning case pertained to the review of a proposed special use to develop a 1.998 MW solar farm on approximately 10.52 acres of a 57.90-acre tract of land in an AG, Agricultural, District located near Manville.

Miller gave an overview of the case to ZBA members.

Magnoni, a representative of the applicant, then gave a brief explanation of the project, which included information regarding their company, as well as the revised site plan, tax revenue, site equipment, battery energy storage system, setbacks, screening, interconnection agreement, and location of the project.

Huisman questioned Magnoni regarding the interconnection agreement with Commonwealth Edison and where the information was located in the provided documentation. Magnoni showed the committee where the interconnection agreement was placed in the documentation and Huisman informed Magnoni that the information was not provided correctly, therefor, the application was technically incomplete.

Flott questioned how far the nearest house from the battery energy storage system, to which Magnoni responded that the house is approximately 600-700 feet. Flott and Magnoni briefly discussed the access road to the battery energy storage, with Magnoni indicating that the access road will be up to fire code. Flott then questioned Magnoni on the size of the battery, to which Magnoni stated that the battery is approximately 20' x 12,' no taller than the solar panels themselves. Magnoni also informed the committee that battery energy storage would allow solar energy to be used 24 hours a day and discharged to the grid when electricity is being used the most. Flott questioned the safety plan for the battery storage system, to which Magnoni stated that the battery has to go through all certifications before being issued to the company. Magnoni also stated that the battery storage is in a sealed container, so if a fire were to happen, the container would be flooded with water or a chemical foam. After discussion regarding the decommissioning plan and assembly of the project, Flott explained to Magnoni that the County is currently in the process of creating a battery storage ordinance and questioned if USS Solar plans to comply with the new ordinance once the ordinance goes into effect. Magnoni stated that the company would comply with the new ordinance.

Randolph questioned Magnoni regarding the decommissioning plan. Randolph read the section in the provided documentation that states that the recycling of Lithium-ion batteries is correct at 663,506 pounds. Magnoni stated that the information is not known to him and that he believes that the number provided was an error.

Huisman announced at 8:55 p.m. that the committee still needs information from Magnoni and questioned the committee if they would like to continue with the vote or recess the meeting until he can pull together the missing information that is required. After brief discussion, the committee voted to recess the meeting.

Adjournment:

Motion by Randolph, second by Kiefer that the meeting be recessed until Wednesday, November 29, 2023 at 6:00 p.m. **Motion carried on roll call vote with all ayes.**

This meeting was recessed at 9:05 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,

Trish Merlino, Administrative Assistant
Livingston County Regional
Planning Commission