

WOODFORD COUNTY ZONING BOARD OF APPEALS

Woodford County Board Room
6:00 P. M. Tuesday, October 23, 2018

Minutes

1. Call to Order:

Ms. Gauger called the meeting to order at 6:00 pm

Ms. Gauger requested nomination for acting chairman. Ms. Holmes nominated Mr. Lay, seconded by Gauger. *Motion carried*

2. Roll Call: Teresa Gauger, Jerry Lay, Kim Holmes, James Loshier and Curtis Heilman were present.

Acting Chairman Lay declared a quorum present.

Others present: Doug Huser, Duane Kingdon, Bryant Kempf, and Barry Logan

3. Approval of minutes for September 25, 2018.

Motion to approve September minutes with correction made by Gauger, seconded by Loshier. *Motion Carried*

Executive Session minutes for September 23, 2014, to keep confidential/make public.

Executive Session minutes for January 28, 2017, to keep confidential/make public.

Motion to approve and keep confidential both executive session minutes made by Holmes, seconded by Gauger. *Motion Carried.*

Amendment to the July 24, 2018 minutes to correct an error in the writing

Ms. Holmes discussed that while she discussed the comprehensive plan item in the negative, it is consistent with the County comprehensive plan and consistent with what is allowable in Ag. The changes the City of Eureka made abruptly making it inconsistent, but the two plans were also at odds not only with the Special Use but also with each other. The verbiage:

~~Not Consistent with the Woodford County comprehensive long range plan, this is agriculture, it is by residential. In reading the Woodford County comprehensive plan and in consideration with the Eureka Long range plan in which the area is included as potential residential development, might be at odds with the special use request.~~

was struck and corrected to read:

The ground is Agricultural by residential, In reading the Woodford County comprehensive plan and in consideration with the Eureka Long range plan which they included this as potential residential development that might be or seem at odds with the special use request.

This verbiage is also in agreement with the transcript.

Motion to approve the corrections made by Ms. Gauger, seconded by Ms. Holmes. *Motion Carried.*

4. Swearing in and/or affirmation- completed for each petition.

5. Petitions Submitted for Review:

WITHDRAWN 2018-26-S Spring Bay Township - Darren & Kimberly Mitchell for an expansion of an existing Special Use to also allow weddings and events while continuing to maintain public stables, located in the (AG) Agricultural District, commonly described as 163 E North Lakeview Drive, East Peoria, Illinois

2018-27-Z Worth Township - William Keith Andrew for a map amendment from Heavy Industrial (I-2) to Agricultural District (AG), on 42.58 acres described as part of the W ½, NE ¼, Section 8, T27N-R3W of the 3rd P.M. Woodford County, Illinois, more commonly described 327 Elkhorn Lane, Metamora Illinois.

- Swearing in and/or Affirmation: was completed for petition **2018-27-Z**

Mr. Andrews noted that he uses the property for food plots and agriculture. He noted that agriculture zoning is more appropriate than Heavy Industrial., he noted that most of the other lots in the area are currently Agriculture.

Motion to approve petition 2018-27-Z by Holmes approve the map amendment from Heavy Industrial to Agriculture, seconded by Lay:

Findings by the Zoning Board of Appeals for Petition 2018-26-Z:

- A. Whether the proposed zoning district classification is consistent with the Woodford County Comprehensive Land Use Plan; (No Negative Findings)**
- B. Whether there are any changed or changing conditions in the area affected that make the proposed rezoning necessary; (No Negative Findings)**
- C. Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on the other properties in the immediate vicinity; (No Negative Findings)**
- D. Whether adequate infrastructure exists or can be provided to serve the uses that would be permitted on the property if it were rezoned; (No Negative Findings)**
- E. The impact the uses, which would be permitted if the property were rezoned, will have upon the volume of vehicular traffic in the vicinity; (No Negative Findings)**
- F. Whether a reasonably viable economic use of the subject property will be denied if the proposed rezoning is not approved; (No Negative Findings)**
- G. Information submitted at the public hearing. (All information was in the affirmative)**

Roll call vote: Curtis Heilman – *Yes*, Teresa Gauger – *Yes*, Kim Holmes – *Yes*, Jerry Lay – *Yes*, James Loshier – *Yes*. *Motion carried.*

2018-29-S Montgomery Township - Mark Powley for a Special Use to operate an Aggregate Supply Business and Fabrication Shop, Loos Service & Supply, Inc, located in the (AG) Agriculture District, on a 5.1 acres ±, part of NW ¼ SW ¼ of Section 10 T25N-R2W of the 3rd P.M. Woodford County, Illinois, and more commonly described as 1110 County Road 325 N, Deer Creek, Illinois.

- Swearing in and/or Affirmation: was completed for petition **2018-29-S**

Mr. Powley discussed that he has a small supply and custom fabrication shop. Mr. Powley noted that they just supply parts and supplies for the aggregate companies. Ms. Gauger asked about the proposed building. Mr. Powley explained that he would like to put up another building to move things under roof that are out on pallets. Ms. Holmes asked about the storage yard. Mr. Powley noted that they purchase and refurbish equipment for sale like sand screws and tanks, etc.

Ms. Holmes asked where they planned to place trees or a fence. Mr. Powley explained that he planned on trees, not a fence. He noted that there is a fence on the front side of the property that he may extend. He felt the trees would cover the view on the west side of the property. Ms. Holmes asked what type road he is on. Mr. Powley stated the road is actually the Village of Deer Creek's. Ms. Gauger asked about the entrance shown on his drawings. He noted that second entrance is already there, it allows the semi's to pull through without having to back up. Mr. Heilman asked how close the nearest residence is located. Mr. Powley noted it is 400-500 ft. Ms. Holmes asked who was notified for County road 325 N. Ms. Jording noted that the Township Supervisor, Township Road Commissioner and Village of Deer Creek were notified. Mr. Lay asked if there were any objectors. Ms. Jording noted there were none. Ms. Holmes asked if Mr. Powley would be agreeable to the stipulation of a fence. Mr. Powley noted he would be willing to do that. The Board discussed the need for a fence and the stipulation they may require.

Motion to approve petition 2018-29-S by Holmes to approve Special Use for an aggregate supply and fabrication shop business with all findings in the affirmative, seconded by Gauger:

Findings by the Zoning Board of Appeals for Petition 2018-29-S:

- A. **Will not be detrimental to the public health, safety, and welfare;** (Affirmative)
- B. **Will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted. The applicant need not demonstrate complete compatibility, but the applicant shall demonstrate reasonable efforts to minimize incompatibility;** (Affirmative) A Temporary fence will be required until the trees are sufficient to act as a screen to the storage area.
- C. **Will not be injurious to the district in which it shall be located;** (Affirmative)
- D. **Will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the districts;** (Affirmative)
- E. **That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided;** (Affirmative)
- F. **That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public roads;** (Affirmative)
- G. **Is consistent with the Woodford County Comprehensive Land Use Plan.** (Affirmative)

Stipulation: A temporary privacy fence will be required to provide screening to the storage yard until the trees are established to provide screening.

Roll call vote: Teresa Gauger – *Yes*, Kim Holmes – *Yes*, Jerry Lay – *Yes*, James Losher – *Yes*, Curtis Heilman – *Yes*. *Motion carried.*

2018-30-S Greene Township - Tri-Global Energy, LLC for a Special Use to erect a meteorological tower, on 82.92 acres described as part of the N ½, NE ¼ Section 4, T27N-R1E of the 3rd P.M. Woodford County, Illinois, more commonly described farm ground 1,100 ft. south of County Road 1700 N on the East side of County Road 2250 E, Benson, IL.

- Swearing in and/or Affirmation: was completed for petition **2018-30-S**

Mr. Chris Green of Tri-Global Energy presented the petition. He noted that this petition to put up the test tower to measure the wind. He noted they would like to place the tower in the southwest corner of the parcel in question. A map was provided to show the distances to homes. He discussed that this tower is temporary and the max time it will be up is four years. He noted it will comply with the color and marking requirements. Ms. Holmes discussed the height of the tower. Mr. Lay discussed the proximity to a grass airstrip to the west of the subject property. Ms. Jording measured the distance at 2,612 ft. Mr. Lay asked if it could be under 150 ft. Mr. Lay discussed the Tall structures stipulation that nothing over 150 ft. may be within 5000 ft. Mr. Lay noted that this is state code and county ordinance. Mr. Green noted they may be able to move the tower on the same parcel. Mr. Green noted that they had used this parcel for towers before. Ms. Holmes discussed the distances to homes. Mr. Lay discussed the need for an exact location of the tower. The Board discussed options for moving the tower on the same parcel.

Mr. Rich Burmood was sworn in. Mr. Burmood is the Clayton Township Supervisor. He noted that the road they are discussing moving to is a Clayton Township road. He noted they may have requirements that must be met.

Mr. Scott Gerdes, Mr. Gerdes noted that he is Clayton Township Road Commissioner. He noted that changing the location would place it on a Clayton Township road. Mr. Gerdes noted that he is concerned

about moving the location and Clayton Township not receiving notification. Mr. Burmood discussed that the Village of Benson has an ordinance that restricts towers within 1.5 miles of the village. Ms. Holmes discussed the need to continue to allow notifications. Mr. Gerdes discussed his concerns over weight limits. Mr. Green noted that this tower is brought in with a 1.2 ton pick-up truck pulling a trailer, all loads are legal weight. Mr. Huser asked the verbiage about notifying the road commissioner. Ms. Jording noted that the verbiage is:

“24-1400 D. All Special Uses shall be evaluated by the Road Authority to determine the necessity of a road agreement. Said road agreement shall be in place prior to commencing the special use”

Mr. Gerdes noted that if the information provided is correct then no road agreement is needed since all loads will be legal.

Motion to continue petition 2018-30-S until November by Holmes due to the extenuating circumstances of a landing strip in the area, seconded by Gauger:

Roll call vote: Kim Holmes – *Yes*, Jerry Lay – *Yes*, James Loshier – *Yes*, Curtis Heilman – *Yes*, Teresa Gauger – *Yes*. Motion carried.

The Conservation, Planning and Zoning Committee called their meeting to order to begin the joint session. Mr. Huser, Mr. Kingdon, and Mr. Kempf were present.

2018-28-A County Wide - Conservation, Planning and Zoning Committee to amend Section 24 Special Use, Section 28 Wind Energy Conversion Systems, and Section 30 Solar Energy Systems of the Woodford County Zoning Ordinance, amending regulations regarding Special Use approval, Wind Farm Decommissioning, and Solar Farm Energy System permitting times.

- Swearing in and/or Affirmation: was completed for petition **2018-28-A**

Mr. Kingdon explained that they would walk through the text changes they are requesting. Mr. Kingdon noted that they took the original paragraph in the ordinance and broke it out to make it clearer and added some clarification.

- a. Removal of all structures (including transmission equipment and fencing) and debris to a depth of five (5) feet, restoration of the soil, and restoration of vegetation within six (6) months of the end of project life or facility abandonment.*

Mr. Kingdon noted that the removal depth was increased from four ft. to five ft. as that was more agronomically correct. Mr. Huser also noted that that was the depth in the solar section as well.

- b. An estimate of the decommissioning costs certified by an independent professional engineer, approved by the County, in current dollars. The engineer providing this estimate shall be engaged under contract by the Woodford County Board and all costs associated with this engagement shall be borne by the applicant;*

Mr. Kingdon noted that this was to make it clear who would pay the bill for the engineer.

- c. The decommissioning plan shall state how the facility will be decommissioned, the financial resources, of which estimated salvage value is not to be included, necessary to accomplish decommissioning.*
- d. The applicant shall provide the county with a new estimate of the cost of decommissioning the WECS project every five (5) years, due on the anniversary of the date the special use was granted or at such other times as determined by the Conservation, Planning and Zoning Committee, under the same conditions as set forth in this Section above. Upon receipt of this new estimate, the county may require, and the applicant, owner, and/or operator of the WECS project shall provide, a new financial plan for decommissioning acceptable to the county. Failure to provide an acceptable financial plan shall be considered a cessation of operations.*

Mr. Kingdon noted that the 3 years was moved to 5 years to match the solar section and the date the plan will be due is set. Mr. Kingdon noted that they added the cessation of operations. Ms. Holmes clarified what the intent is for terminating operations, if it is 6 months after operation have ceased that the financial security can be pulled for decommissioning. Ms. Holmes and Mr. Kingdon discussed that the intent was to add some teeth to the ordinance, Ms. Holmes concern was how to enforce this. She noted that the County Board would need to revoke and that could be difficult. Mr. Huser noted that it would probably have to take legal action to decommission a project. Ms. Holmes stated concerns that the county retain the right to request their own report and the company would have to pay for it. Mr. Kingdon noted they wanted to be sure that what they have learned from the current farm is included in the ordinance. Ms. Jording noted that the State's Attorney has reviewed the changes.

Mr. Loshier discussed that perhaps the county should handle the decommissioning reports and the company will pay for it, it puts the onus on the county. Ms. Jording discussed that the county has RFP and bidding requirements that makes it more involved to do the decommissioning reports themselves but it could be done.

- e. Upon review of the decommissioning plan, the Conservation, Planning and Zoning Committee, or its successor committee(s), of the Woodford County Board shall set an amount to be held in surety bond in the amount of 110% of the estimated cost. The plan shall state that Woodford County shall have access to the project and to the funds to effect or complete decommissioning six (6) months after cessation of operations or facility abandonment; and,*

Mr. Logan was sworn in. He discussed that he supports what they are trying to do but he asked if they should get an outside attorney with experience in wind farm law to be sure this is defensible in court. Mr. Huser noted that the C. P. & Z. committee has asked for an outside attorney to be hired to handle the wind issues.

Mr. Kingdon discussed that this is the same as what was previously in the ordinance except that they specified surety bond.

- f. A written agreement will be prepared, establishing upon what conditions the funds will be disbursed. A written financial plan shall be approved to ensure that funds will be available for decommissioning and land restoration;*

Mr. Kingdon explained that this is very similar to the solar section.

- g. The County is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.*

Mr. Kingdon noted this is already in the ordinance.

- h. The County is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the county's right to seek reimbursement from applicant or applicant successor for decommissioning costs in excess of the amount of the surety bond and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.*

Mr. Kingdon noted that the only change was to keep everything as surety bond.

Section 24 Special Use

24-1500 C. C. Upon the recommendation of the ZBA, the Woodford County Board may, without further public hearing, may approve the recommendation for the special use, reject the petition for the special use, or it may refer the petition back to the ZBA for further consideration.

Mr. Huser noted that he asked this be changed to match State Statute.

Section 30 Solar Energy Systems

30-1200 B. Solar Farm Energy Systems shall require a Special Use within all zoning districts, and shall be subject to the procedures and standards included in Section 24 Special Uses unless otherwise stated in this Chapter. **Solar Farm Energy Systems must obtain permits within 15 months of approval by the County Board of Woodford County.**

Mr. Huser discussed that this was requested to allow for the state lottery system and keep them from having to come back to request extensions continually. The board discussed what the time should be, they concluded that 15 months would be sufficient and they could always return for a second 15 month extension.

Motion to approve petition 2018-28-A by Loshier for a text amendment, seconded by Gauger:

Roll call vote: Jerry Lay – *Yes*, James Loshier – *Yes*, Curtis Heilman – *Yes*, Teresa Gauger – *Yes*, Kim Holmes – *Yes*. Motion carried.

Mr. Huser and Mr. Kingdon thanked the ZBA for working with the committee on all their text amendments over the years as they are both leaving the board.
The C. P. & Z. Committee adjourned.

6. Other Business to Come Before the Board:

Extension of permit 17224-16 issued to Eddie & Cindy Ballard for construction of a single family dwelling
Ms. Jording explained that Ms. Ballard is requesting an extension to finish the single family dwelling her husband was building when he passed away.

Motion to grant a 365 day extension made by Holmes, seconded by Loshier.

Roll call vote: James Loshier – *yes*, Curtis Heilman – *yes*, Teresa Gauger – *yes*, Kim Holmes – *yes*, Jerry Lay – *yes*. Motion carried.

- Update on next month petition/s – November 27
Ms. Jording stated she expects a second met tower and a solar farm, the application deadline is Friday so more could be filed.
- IACZO Seminar discussion
- ZBA By-Law discussion - (if necessary)

7. Any action coming out of Executive Session

8. Adjournment

Ms. Holmes made the motion to adjourn at 8:23, 2nd by Ms. Gauger. *Motion Carried.*

Lisa Jording, Secretary

Jerry Lay, Chairman

Date