

Piatt County  
Zoning Board of Appeals

January 23, 2020

Minutes

The Piatt County Zoning Board of Appeals met at 1:00 p.m. on Thursday, January 23, 2020 in Courtroom 1 of the Courthouse. Chairman Loyd Wax called the meeting to order. The roll was read and Nusbaum announced there was a quorum. Attending were: Wax, Jerry Edwards, Jim Harrington, Dan Larson, Bruce Stoddard and Keri Nusbaum.

County Board members in attendance were: Ray Spencer, Randy Shumard, Shannon Carroll and Dale Lattz.

**MOTION:** Edwards made motion, seconded by Harrington to approve the minutes from November 21, 2019 as written. On voice vote, all in favor, motion carried.

**New Business: Special use with variation**

Plunk Bros Inc applied for a Special Use Permit to construct grain storage facilities with variation to height. Luke Feeney, attorney for the petitioner spoke about the project. Harrington asked if the power lines and setbacks had been addressed. There were no other questions.

**ZONING FACTORS- Plunk**

1. Does the current special use restriction promote the health, safety, morals, or general welfare of the public?  
The ZBA voted unanimously (5-0) that there was no evidence that the current restriction promotes the health, safety, morals, or general welfare of the public.
2. Will granting the special use be injurious to the use and enjoyment of other property within the immediate vicinity?  
The ZBA voted unanimously (5-0) that there was no evidence that granting the special use as proposed would be injurious to the use and enjoyment of other property within the immediate vicinity.
3. Will granting the special use diminish property values of other property within the immediate vicinity?  
The ZBA voted unanimously (5-0) that granting the SUP would not diminish property values in the immediate vicinity. It is all agriculture ground.
4. Is there adequate infrastructure to accommodate the special use, if granted (i.e. roads, utilities, drainage)?  
The ZBA voted unanimously (5-0) that there appears to be adequate facilities to accommodate the special use.

5. Would the special use, if granted, be in harmony with the overall comprehensive plan of the county?  
The ZBA agreed unanimously (5-0) that the special use would be in harmony with the comprehensive plan. It is zoned A1.
6. Would the special use, if granted, compete with or impede the existing zoned uses of other property within the zone?  
The ZBA agreed unanimously (5-0) that the property within the zone is all zoned A-1 agriculture.
7. Would the special use, if granted, create a hardship on other landowners within the zone?  
No. The ZBA agreed unanimously (5-0) that no hardships were brought to their attention.
8. Would denying the special use create a hardship on the applicant?  
No. The ZBA agreed unanimously (5-0) that it would create problems with storage and an inconvenience.
9. Is the subject land suitable for the special use and is the subject land suitable for the current zoned use?  
Yes. The ZBA agreed unanimously (5-0) that the subject land is suitable for both the current and proposed use which is agriculture.
10. Would the special use, if granted, have a harmful impact upon the soil?  
No. The ZBA agreed unanimously (5-0) that the proposed use would not have a harmful impact on the soil.
11. What is the Land Evaluation and Site Assessment (LESA) rating for the subject land?  
The LESA score is 212.5 indicating a medium level of protection.

**MOTION:** Larson made motion, seconded by Harrington to recommend approval to the County Board for their consideration. Roll was called. Larson – Yes; Harrington – Yes; Edwards – Yes; Stoddard – Yes; Wax – Yes. All in favor.

The County Board will consider the matter at their next regular meeting on February 13, 2020 at 9 a.m. Nusbaum reminded the Plunks that building permits are required for grain bins and other agriculture buildings.

**Variation**

Angela Norman applied for a variation to allow construction of a single family dwelling on 9.04 acres of AC agriculture land. Angela Norman was sworn in. She owns a 9 acre parcel near the property she currently resides on. She would like to build a home with a possible barn for either herself or her children. The zoning board considered the variation factors.

**VARIATION ZONING FACTORS- Norman**

1. Will the proposed use compete with the current use of the land?  
The ZBA voted (5-0) that the land is not currently in production.

2. Will the proposed use diminish property values in surrounding areas?  
The ZBA agreed (5-0) that there is no evidence that the proposed use would diminish property values.
3. Would a denial of the variance promote the health, safety and general welfare of the public?  
The ZBA agreed (5-0) there is no evidence a denial would promote the health, safety and general welfare.
4. Would denying the variance create a hardship for the landowner?  
The ZBA agreed (5-0) that denying the variance would not be a hardship.
5. Would granting the variance create a hardship for the surrounding property owners?  
The ZBA agreed (5-0) that there is no evidence it would create a hardship.
6. Is the property suitable for its current use?  
The ZBA agreed (5-0) that it is suitable for the current use.
7. Is the property suitable for the proposed use?  
The ZBA agreed (5-0) that it is suitable for the proposed use.
8. Is there a community need to deny the variance?  
The ZBA agreed (5-0) that there is no evidence of a community need to deny the variance.
9. Is the subject property non-productive with its current use?  
The ZBA agreed (5-0) that the subject property is currently not productive.  
There are no crops on the property.
10. Would a granting of this variance compete with the Piatt County Comprehensive Plan?  
The ZBA agreed (5-0) that a granting of the variance would not compete with the Piatt County Comprehensive Plan.

**MOTION:** Harrington made motion, seconded Edwards to recommend approval of the variation to the County Board. Roll was called. Harrington – yes; Edwards – Yes; Harrington – yes; Larson- yes; Stoddard – Yes; Wax – Yes. All in favor. The county board will consider the variation at the February 13 meeting.

### **Special Use**

Joshua Cothren and Ronald Falk applied for a Special Use Permit for a Cannabis Craft Grown Facility for a 37.36 acre parcel of A1 property. Josh Cothren was sworn in. He is in the process of applying for a license for a craft grow facility from the Il Dept of Agriculture. He proposes an approximate 12,000 sq. foot building, using 4-5 acres of the property. He showed two different concepts for the building. It will likely be either a greenhouse or a metal building. They plan to be as environmentally responsible and energy efficient as possible. They are applying for their initial license to cover 5,000 sq. of flower canopy, with possibly applying for more in the future. The state has security requirements, including perimeter fence and security systems with surveillance. They would process and package at the site, as well. There would be no heavy vehicle traffic in the construction or shipping. The board asked for further clarification of the ‘craft grower’.

Sandra Mason was sworn in. She lives nearby and is concerned about the water usage. They have a 65’ deep bored well in an area that doesn’t recharge quickly.

Cothren said they intend to recapture and recycle 80-90% of the water used. They have also considered a permeable paver parking lot to capture water. They estimate 1000 gallons used per day for the facility. They would also consider having water hauled in. Mason said the area is very sandy, and that is why they have a shallower containment well. Mason is also concerned about additional traffic and wear and tear on the road. Cothren said they would employ 15-20 people.

Sandra Smith was sworn in. She asked if his application was required by January 28 or wait until the end of the year. Cothren said it was a March 28 deadline. She asked if his was not one of the first 40 growers permitted, would it be permitted later. Also, are the permits limited by number per county? She asked about the use of space in the building. She thinks if they are using 5 acres, they should carve off 5 acres and deed it to be clearer for assessments.

Larson asked if the petitioner would be willing to do a water use study/calculation and agree to make the neighbor's whole if their well was affected. Larson asked if they would be willing to do a test to be sure it wouldn't affect the water supply. The ZBA considered the zoning factors.

#### ZONING FACTORS- Cothren/Falk

1. Does the current special use restriction promote the health, safety, morals, or general welfare of the public?  
The ZBA agreed unanimously (5-0) that it does not. The property is farm ground.
2. Will granting the special use be injurious to the use and enjoyment of other property within the immediate vicinity?  
The ZBA agreed unanimously (5-0) that there is a possibility for a problem with water use.
3. Will granting the special use diminish property values of other property within the immediate vicinity?  
The ZBA agreed unanimously (5-0) that there is no evidence that property values would be diminished.
4. Is there adequate infrastructure to accommodate the special use, if granted (i.e. roads, utilities, drainage)?  
The ZBA agreed unanimously (5-0) that there appears to be adequate infrastructure.
5. Would the special use, if granted, be in harmony with the overall comprehensive plan of the county?  
The ZBA agreed unanimously (5-0) that the use would be in harmony, it is agriculture related.
6. Would the special use, if granted, compete with or impede the existing zoned uses of other property within the zone?  
The ZBA agreed unanimously (5-0) that the special use would not impede the A1 use of other property in the zone.
7. Would the special use, if granted, create a hardship on other landowners within the zone?  
The ZBA agreed (5-0) that if there are water issues, it would create a hardship.
8. Would denying the special use create a hardship on the applicant?  
The ZBA agreed (5-0) that it would not be a hardship, but they would not be able to use the property as desired.

9. Is the subject land suitable for the special use and is the subject land suitable for the current zoned use?  
The ZBA agreed unanimously (5-0) that the land is suitable.
10. Would the special use, if granted, have a harmful impact upon the soil?  
The ZBA agreed unanimously (5-0) that there will be no harmful impact on the soil.
11. What is the Land Evaluation and Site Assessment (LESA) rating for the subject land?  
The LESA score is 258 which falls into the high level of protection.

**Motion:** Larson made motion, seconded by Harrington to recommend approval to the County Board with conditions that the water table will be tested, and the water use will be calculated, and the neighbors will be made whole if the operation causes problems with their water supply. Roll was called. Larson – Yes; Harrington – Yes; Edwards – Yes; Stoddard-Yes; Wax- Yes. All in favor.

**Text amendment to the Piatt County Zoning ordinance**

Proposed text amendments to the WECS ordinance was introduced, and the proposed changes read. Karle Olinger was sworn in. He doesn't think the statements should read 'shall' but say 'will' instead. He believes there should be a minimum 3.75x setback from any building. He thinks setbacks should be 2x from roads due to ice throw, wind or failure. He believes that 50 dba is not livable and WHO recommends no more than 40 dba. He says its not safe without large setbacks and the manufacturer safety manual reads 3250'.

Travis Hermann was sworn in. He has concerns about setbacks and would like to go by the manufacturer safety setbacks. He asked if the county was financially prepared to fight litigation from the wind companies. He would like to see setbacks from drainage, and placement of structure for surface drainage and drain tile.

Louis Wozniak was sworn in. He realizes the world is divided about energy. He has research experience with water, solar and wind renewables, each has benefits and deterrents. In 2012 there were a number of studies done, and the Audubon society and the Conservation Federation for Renewables and others asked for federal government support of renewables. Renewable energy production doubled between 2008 and 2018, with wind production quadrupling. America depends upon energy.

There was a 15 minute recess called. At 3 p.m. the hearing continued.

John Jordan was sworn in. He realizes the ZBA tries to protect prime farmland, but we don't need so much farmland. Let the wind farms pay for the debt.

Amanda Pankau was sworn in. She is a longtime resident. She is an ecologist and supports the opportunity for wind. She cited NREL statistics.

Ron Wishaar was sworn in. He is interested in wind farms. The wind farm in McLean County has paid 30 million dollars in taxes. This county needs the taxes. He'd like our ordinance to be similar to surrounding counties, and not be too restrictive. He has solar energy on his property and encourages the board to be responsive to APEX and enable the farms and homes to be protected, and the farmers to collect another revenue stream.

Jay Wetmoor was sworn in. He is a subject matter expert. He prepares decommission plans and estimates for wind and solar. He could help with the decommission plan for the ordinance.

David Loomis was sworn in. He is an ISU professor and researcher for renewable energy. He has prepared an economic impact study at the request of APEX energy. He gave ZBA members copies of the study.

Barbara Lamont was sworn in, she is a township assessor from Macon County. She said Macon County gets \$3 million dollars in taxes. She said in a deficit budget county, it would be silly not to let the turbines pay the taxes. She said 60-65 dB is normal conversation.

Jonathan Rogers was sworn in. He is a subject matter expert for APEX Energy. He is a professor of aerospace engineering at Georgia Tech. He has information about ice shed from wind turbines and has assessed setback requirements. Operational procedure says that turbines are shut down when they are iced, so ice shed drops straight down and does not pose any danger. If improper procedures are not followed ice can be thrown. He says setbacks of 2.5 x the tip height would be probability of 1 ice fragment in 4000 years that a home would be hit. Setbacks of 1.1x tip height from road would be probability of 1 ice fragment impact in 600 years. Blade fragments are very rare so there is no evidence available for study.

Michael Hankard was sworn in. He is an acoustical consultant. He studies noise from wind turbines. He said Illinois has a state noise code. He said the WHO recommendation of 40 dba is an annual average. He said the IPCB regulations boil down to about 46 dba or less. He referenced the Health Canada study which found no link to health problems to wind turbine noise of 46 dba or less. He said projects can be laid out to stay within limits. He said low frequency sound and infra sound articles are often found on the internet. He said the science is clear that wind turbine sound in the mid-40s is not harmful. Some people find it annoying. Larson asked about some of the limits and setbacks. 6dba is a doubling of distance. Audience member Ted Hartke also questioned Mr. Hankard. Larson asked what level health impacts were found. The study was done only to 46.

Michael MaRose was sworn in. He is a real estate appraiser and consultant and has prepared a value impact study for the proposed Apex development. He said he found no negative impacts on property value.

Theodore Hartke was sworn in. He has a TV screen setup. It was not ready and working, so the board proceeded to the next speaker.

Erin Baker from Apex Clean Energy was sworn in. She described the company and said the wind ordinance as it existed was a draw. They are proposing a 300 MW development and have invested approximately \$1 million to date. She gave feedback on the draft ordinance. A higher tip height may result in less turbines, the 500' limit is prohibitive. They ask for 750' or no limit to accommodate current technology. More than 1.1x setback cuts buildable area without adding safety. They object to the school setback and suggest removing it. They suggest modifications to the language for shadow flicker. They ask for waivers to be allowed. They request the environmental pollution liability requirement be removed. They would like the language in the fee schedule to be refined. Baker distributed a map showing the limitations on development with the proposed setbacks. Stoddard asked about the map, showing no interest south of Deland. Wind development is complex, and they are asking for an ordinance which will protect the safety of the community but lets them know they can build.

Mr. Wax announced that the board will need to table further discussion, as access to the building today ends at 4:30 p.m.

**MOTION:** Harrington made motion, seconded by Larson to table the matter to the next regular meeting. February 27 at 1 p.m. Roll was called, all in favor.

**MOTION** Harrington made motion, seconded by Larson to adjourn. All in favor. The meeting was adjourned at 4:22 p.m.

Respectfully submitted,

Keri Nusbaum  
Piatt County Zoning Officer