

Piatt County  
Zoning Board of Appeals

November 19, 2020  
Minutes

The Piatt County Zoning Board of Appeals met at 1:00 p.m. on Thursday, November 19, 2020 in Courtroom #1 of the Courthouse and via Zoom. Chairman Loyd Wax called the meeting to order. The roll was read. There was a quorum. Attending were: Wax, Jerry Edwards, Jim Harrington, Kyle Lovin via Zoom and Nusbaum.

County Board members in attendance: Randy Shumard, Renee Freundt and Dale Lattz attended via Zoom.

**MOTION:** Harrington made motion, seconded by Edwards to approve the minutes from October 22, 2020 as written. Roll was called. Edwards – Yes; Harrington – Yes; Lovin – Yes; Larson – Yes; Wax – Yes. Motion carried.

**New Business: Application for Variation**

Harold Vogelzang applied for a variation to allow him to deed a house to his son on approximately 5 acres of AC land. The zoning ordinance requires 20 acres for a single family dwelling in AC zoning. Harold Vogelzang was sworn in and answered questions. A twenty acre parcel would wrap around an adjacent parcel and land would be taken out of CRP if 20 acres is required. This would allow his son to get a loan on the property. The ZBA members considered the zoning factors.

**VARIATION ZONING FACTORS- Vogelzang**

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

**Motion:** Harrington made motion, seconded by Edwards to recommend approval of the variation to the county board.

Roll was called, all in favor and the motion carried.

**Application for Special Use**

Victor and Nadalie Walsh were sworn in. They applied for a Special Use Permit for a special events facility at their property located at 2 Timber Ridge Lane, Mansfield. They wish to host outdoor weddings at their property. They may consider building a barn in the future. They will have parking near their existing detached garage. They will supply porta johns for the attendees. The ZBA considered the zoning factors.

ZONING FACTORS- Walsh

1. Does the current special use restriction promote the health, safety, morals, or general welfare of the public? No - The ZBA agreed (3-0) that the current zoning does not promote the health, safety, morals and 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? No. The ZBA agreed (3-0) that granting the SUP would not be injurious to the use and enjoyment of other property in the immediate vicinity.
3. Will granting the special use diminish property values of other property within the immediate vicinity? No. The ZBA agreed (3-0) that there is no evidence that granting the special use would diminish property values.
4. Is there adequate infrastructure to accommodate the special use, if granted (i.e. roads, utilities, drainage)? Yes. The ZBA agreed (3-0) 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? Yes. The ZBA agreed (3-0) that it would be in harmony with the comprehensive plan.
6. Would the special use, if granted, compete with or impede the existing zoned uses of other property within the zone? No. The ZBA agreed (3-0) that the special use would not compete or impede with the existing zoned uses.
7. Would the special use, if granted, create a hardship on other landowners within the zone? No. The ZBA agreed (3-0) that the special use would not create a hardship on other landowners.
8. Would denying the special use create a hardship on the applicant? No. The ZBA agreed (3-0) it would not be a hardship.
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 (3-0) that the land is suitable.
10. Would the special use, if granted, have a harmful impact upon the soil? No. The ZBA agreed (3-0) the site is a wooded area, and there would be on harm to the soil.
11. What is the Land Evaluation and Site Assessment (LESA) rating for the subject land?  
N/A

**MOTION:** Edwards made motion, seconded by Harrington to recommend approval to the County Board.

Roll was called. Edwards – Yes; Harrington – Yes; Wax-Yes.

The County Board will consider the matter at their next regular meeting on December 9, 2020 at 9 a.m.

**Application for Special Use Permit**

Frontier Farms applied for a special use permit to construct and operate a grain leg elevator with dryer and grain storage facilities with variation exemptions for height. Bret Hermann was sworn in on Zoom. They purchased some property with existing bins and have added an adjacent parcel of land. They wish to add bins and construct a new leg. The leg will be 145’ tall. The ZBA reviewed the zoning factors.

ZONING FACTORS-Frontier Farms

1. Does the current special use restriction promote the health, safety, morals, or general welfare of the public?  
The ZBA agreed (3-0) that the subject property is properly zoned for the current use.
2. Will granting the special use be injurious to the use and enjoyment of other property within the immediate vicinity?  
The ZBA agreed (3-0) that there is no evidence that granting the special use would be injurious to the use and enjoyment of other property.
3. Will granting the special use diminish property values of other property within the immediate vicinity?  
The ZBA agreed (3-0) 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)?  
Yes. The ZBA agreed (3-0) that the infrastructure is adequate.
5. Would the special use, if granted, be in harmony with the overall comprehensive plan of the county?  
Yes, The ZBA agreed (3-0) that the special use would be in harmony with the comprehensive plan.
6. Would the special use, if granted, compete with or impede the existing zoned uses of other property within the zone?  
No. The ZBA agreed (3-0) that the special use would not compete with or impede the existing uses.
7. Would the special use, if granted, create a hardship on other landowners within the zone?  
The ZBA agreed (3-0) that there is no evidence it would create a hardship on other landowners.
8. Would denying the special use create a hardship on the applicant?  
The ZBA agreed (3-0) that it may not be a hardship but would impede expansion.
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 (3-0) that the land is suitable for both the current zoned use and the proposed special use.
10. Would the special use, if granted, have a harmful impact upon the soil?  
No. The ZBA agreed (3-0) that there will not be a harmful impact upon the soil.
11. What is the Land Evaluation and Site Assessment (LESA) rating for the subject land?  
N/A

**MOTION:** Harrington made motion, seconded by Edwards to recommend approval to the County Board.

Roll was called. Edwards – Yes; Harrington – Yes; Wax-Yes. The motion passes.

**Application for variation**

Michael Mack applied for a yard setback variation to construct a 50' x 60' shed 20 feet back from the Right of way on a 2.35 acre parcel of A-1 Agriculture land located at 1209 E Old Route 47, White Heath. Michael Mack was sworn in. He wants to build a shop for his semi and equipment, however there is a pipeline going through the property which will not allow the 50' setback from the right of way and the size building he needs. The ZBA members considered the variation factors.

**VARIATION ZONING FACTORS-Mack**

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

**MOTION:** Harrington made motion, seconded by Edwards to recommend approval of the variation to the County Board. Roll was called. Harrington- Yes; Edwards – Yes; Wax – Yes. The motion carried.

The proposed meeting schedule for 2021 was presented to the Zoning board members.

**MOTION:** Harrington made motion, seconded by Edwards to approve the schedule to the County Board. Roll was called, all in favor and the motion carried.

**New business: Review and recommendation of text amendments. Sound**

Chairman Wax reminded those in attendance that this discussion is regarding the ordinance only, and the subject under discussion today is sound.

Alan Moore of Apex Energy was sworn in. He recapped previous testimony and the reports that have been previously submitted regarding economic development, ice shed, property value, and acoustic studies. He recommends using IPCB standards. Harrington asked if the IPCB standard was 46 dBa, and Moore said that was approximate. A question was submitted from Zoom asking who would enforce the IPCB standards? Moore said it is a complaint based system, and a study would be done. Theodore Hartke asked how a study could be done by the state when IPCB employs no acoustician.

Mike Hankard, an acoustical expert for Apex was sworn in. He said the IPCB standards have been used for decades, and feels they are some of the most restrictive. He agreed that the IPCB standard is approximately 46 dBa. Harrington asked if the current projects in Illinois adhere to the 46 dBa. Hankard said it is a complaint based system, and when there is a complaint, a professional would go out and measure and do a report.

Claudia Coil was sworn in. She feels the IPCB standards which are decades old, were not designed to measure the sound from a wind turbine. dBa does not measure low frequency sound. She listed possible medical effects of low frequency sound. She believes the setbacks previously recommended do not offer protection from sound. Hankard asked about the Cooper study referenced. He said that IPCB limits do measure low frequency sound and those are included in studies. He also said that the 30 dBa she referenced are measurements inside the home. Harrington asked Hankard what could be done if there are issues with noise? Hankard said all modern turbines come with noise reduced operation.

Dave Olinger was sworn in. Olinger reminded the assembled persons that the purpose of the ordinance was to make sure that wind operation was safe and effective. He said the WHO recommends that noise should never be above 35 dB. He said that Apex has on their website that at 1600' the sound would be 38 dBa. The project could be up to 57 years according to their leases.

Tui Lynch was sworn in. He represents the electrical workers union. None of their members has experienced any property value reduction.

Dr. Jeffrey Ellenbogen spoke via Zoom. He was asked by Apex to participate. He believes that some people are being misled that their health problems are related to wind turbines. Hartke asked him some questions. Dr. Ellenbogen will share emailed information in response to a Zoom question.

Chris Stillabower via Zoom was sworn in. He said that often things are thought to be good, and years later we find out it is not. He used examples such as asbestos and x-rays which were later found to have bad effects. He also said the IPCB has been defunded. He tried to file a noise complaint earlier this year and could not because the IPCB is not fully funded and cannot enforce any violations. The police and health department cannot enforce it either. He shared links to various newspaper articles. He said that he felt the taller turbines would make more sound. Hankard responded that the taller turbines are not louder. He also indicated that IPCB no longer runs a noise program.

Robert Scott was sworn in. He is a representative for Apex. He said IPCB is standard practice and widely accepted across the state.

Theodore Hartke gave a presentation based upon his experiences with wind turbines in Vermillion county which included slides, etc. He referenced studies by Dr Paul Schomer. He said that the ZBA and the Co Board have already messed up on the setbacks.

Mark Gershon, representative for Apex responded to items presented before. He said the IPCB has determined safe sound levels and they are still in business. He said we should rely on experts for this information. In response to a question from Max Jubricio on Zoom, Mr. Gershon said that if the IPCB standards were changed in response to any study, the new standards would be applicable.

In response to a question on Zoom, Mr. Hankard responded that the taller turbines were also quieter because there were fewer of them.

Letters were read into the record from Huey and Kate Freeman of Monticello, Tony Kirkman of Piatt County Mental Health Center, Gary and Melissa Kambic of Save Piatt County, Barbara Lamont, and Amanda Pankau.

The ZBA considered some zoning factors.

#### ZONING FACTORS

1. Does the current standard promote the health, safety, morals, or general welfare of the public?  
The ZBA agreed (3-0) that the current ordinance does.
2. Will granting the special use be injurious to the use and enjoyment of other property within the immediate vicinity?  
N/A There is no certain property under consideration.
3. Will changing the sound restriction diminish the property values of other property within the immediate vicinity?  
The ZBA agreed (3-0) that it is possible.
4. Is there adequate infrastructure to accommodate the special use, if granted (i.e. roads, utilities, drainage)?  
The ZBA agreed (3-0) this was N/A as there is no certain parcel under consideration.
5. Would a change in sound restrictions be in harmony with the overall comprehensive plan of the county?  
The ZBA agreed (3-0) that it could be.
6. If the sound level is changed, would it compete with or impede the existing zoned uses of other property within the zone?  
The ZBA agreed (3-0) that is unknown.
7. If the noise level is changed, could it create a hardship on other landowners within the zone?  
The ZBA agreed (3-0) that it is possible that it could if it is changed.
8. Would a change in the noise level create a hardship on the applicant?  
The ZBA agreed (3-0) that it could.
9. Is the subject land suitable for the special use and is the subject land suitable for the current zoned use?  
N/A
10. Would the special use, if granted, have a harmful impact upon the soil?  
N/A
11. What is the Land Evaluation and Site Assessment (LESA) rating for the subject land?  
N/A

**MOTION:** Harrington made motion, seconded by Edwards to recommend the following to the County Board.

Noise levels from each WECS or WECS project shall be in compliance with applicable Illinois pollution control board (IPCB) regulations. The applicant, through the use of a qualified professional as part of the special use application process, shall appropriately demonstrate compliance with the above noise requirements, with the condition that homes and families that are affected by wind turbine noise levels are given due consideration as it relates to the health and enjoyment of those individuals.

Roll was called. Harrington- Yes; Edwards - Yes; Wax – Yes.

**Public Comments:** Chris Stillabower of Mansfield voiced a complaint about the noise from the Andersons Grain Elevator.

**MOTION:** Edwards made motion, seconded by Harrington to adjourn. Roll was called, all in favor. The meeting adjourned at 4:17 p.m.

Respectfully submitted,

Keri Nusbaum  
Piatt County Zoning Officer