

Piatt County
Zoning Board of Appeals

December 17, 2020
Minutes

The Piatt County Zoning Board of Appeals met at 1:00 p.m. on Thursday, December 17, 2020 in Courtroom #2 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, Jim Harrington, Dan Larson, Bruce Stoddard, Kyle Lovin via Zoom and Nusbaum.

County Board members in attendance: Jerry Edwards

MOTION: Harrington made motion, seconded by Larson to approve the minutes from November 19, 2020 as written. Roll was called. Harrington – Yes; Lovin – Yes; Larson – Yes; Stoddard – Yes; Wax – Yes. Motion carried.

New Business: Application for Special Use

Debra Miner applied for a Special Use Permit to allow construction of a second single family dwelling on a 5.054 acre parcel of I-B land located at 760 East 1700 North Road, Monticello. She wasn't told I-B zoning did not permit residential use when she recently purchased the property. She planned to remodel and place an addition on the existing residence but has run into problems and unanticipated expense with that plan. She requests the zoning action to allow her to build a new home. She would rent the existing home.

Diane Anderson was sworn in. They own adjacent farm ground, and she is concerned about the drain tile which goes through Ms. Miners property. The City of Monticello has not exercised jurisdiction over this property which is within 1.5 miles of the city. The ZBA members considered the zoning factors.

ZONING FACTORS- Miner

1. Does the current special use restriction promote the health, safety, morals, or general welfare of the public? No. The ZBA members agreed 5-0 that it does not.
2. Will granting the special use be injurious to the use and enjoyment of other property within the immediate vicinity? The ZBA members agreed 5-0 that there is a concern about the drain tile.
3. Will granting the special use diminish property values of other property within the immediate vicinity? The ZBA members agreed 5-0 that there is no evidence of that.
4. Is there adequate infrastructure to accommodate the special use, if granted (i.e. roads, utilities, drainage)? The ZBA agreed 5-0 that drainage and additional access will need to be addressed.
5. Would the special use, if granted, be in harmony with the overall comprehensive plan of the county? The ZBA agreed 5-0 there is no evidence that it would not be in harmony.

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 5-0 it would not.
7. Would the special use, if granted, create a hardship on other landowners within the zone? The ZBA agreed 5-0 that if the drainage tile is damaged it could be.
8. Would denying the special use create a hardship on the applicant? The ZBA agreed 5-0 that it would be 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 5-0 that it is.
10. Would the special use, if granted, have a harmful impact upon the soil? No. The ZBA agreed 5-0 that there is no evidence that it would.
11. What is the Land Evaluation and Site Assessment (LESA) rating for the subject land? N/A

MOTION: Larson made motion, seconded by Harrington to recommend approval to the County Board, with the stipulation that the drainage tile retains its integrity.

Roll was called. Larson– Yes; Harrington – Yes; Lovin – Yes; Stoddard – No; Wax-Yes. The motion carried with a vote of 4-1.

The County Board will consider the matter at their next regular meeting on January 13, 2020 at 9 a.m.

New business: Review and recommendation of text amendments. Shadow Flicker

On September 9, 2020 the County Board met at their regularly scheduled meeting and voted 6-0 to request the ZBA reconsider the following items. Setbacks from non-participating parcel lines and homes, sound, tip height and shadow flicker. The ZBA will consider shadow flicker and tip height. The board will hear testimony on shadow flicker first.

Alan Moore, on Zoom, was sworn in. He re-capped previous expert testimony relative to today’s subjects. An Apex team member in the audience held up a large visual. Moore said that a limit of 30 hours at residences would match the most restrictive ordinances in the state. Larson asked what the average number of hours per year of shadow flicker is for a project. Moore said there is no average number. Larson asked if Moore had any studies on residences that did receive more than 30 hours per year.

Dan Smith, via Zoom, asked if it was possible to have 0 hours of shadow flicker. Moore said there was no way economically to site towers with no shadow flicker. A zero shadow flicker rule would mean Piatt County does not want wind development.

Claudia Coil was sworn in. She is concerned about the health effects of shadow flicker. Robert Scott, via Zoom, asked if there were other factors in the country which could have seasonal effects. She agreed that harvest, etc. did cause noise, dust, etc. but they were not year round activities.

Dave Oliger was sworn in. He said turbines are computer controlled and there was no reason to have shadow flicker on a home. He showed a map on the FAA website, showing the locations of 75, 742' tall turbines APEX has provided to the FAA.

Moore said that the test locations provided to the FAA are not final locations.

Dr. Jeffrey Ellenbogan was sworn in via Zoom. He spoke about health concerns related to shadow flicker. He said there are no documented cases of health related problems caused by shadow flicker. A very small percentage of the population can experience photosensitive seizures, but they are not related to shadow flicker. He said wind turbines are too slow, and the intensity is too low to cause them.

Claudia Coil voiced the concern that adequate studies have not been done, and that symptoms are treated as psychosomatic. Dr. Ellenbogan said that misinformation is a reason that some people attribute health problems to wind turbines.

Mark Gershon, representing Apex was sworn in.

Letters from Ironworkers Local Union 280, Chris Stillabower of Mansfield, John Jordan of Mansfield, Muhammad Al-Saqri, Joe Horvat, and AWEA were read into the record.

The Zoning board members discussed the testimony, the current verbiage on record, and the verbiage regarding shadow flicker previously recommended to the county board

MOTION: Harrington made motion to recommend to the County Board:

E. Shadow Flicker

1. The applicant shall conduct an analysis on the potential shadow flicker onto adjacent properties as part of the approval process. The analysis shall identify the locations of the shadow flicker and the expected duration of the flicker over the course of a calendar year.
2. Shadow flicker shall not affect a primary structure in excess of 15 hours per calendar year. This limitation may be waived in writing by the owner(s) of the impacted primary structure.

Larson seconded the motion. The ZBA members reviewed the zoning factors for text amendments provided by former SA, Dana Rhoades.

ZONING FACTORS FOR TEXT AMENDMENTS- Shadow flicker

1. Does the proposed text amendment promote the health, safety, morals, or general welfare of the public.
Yes. The ZBA agreed 5-0 that the text amendments do promote the health, safety, morals, or general welfare of the public.
2. Will the proposed text amendment be injurious to the use and enjoyment of other property within the immediate vicinity
Yes. The ZBA agreed 5-0 that the proposed text amendment could be injurious to the use and enjoyment of other property owners in the immediate vicinity.

3. Will the proposed text amendment diminish property values of other property within the immediate vicinity?
The ZBA agreed 5-0 that they have heard evidence that it will, and evidence that it will not. Some land value will be increased by a wind lease.
4. Does the proposed text amendment take into consideration whether there is adequate infrastructure (i.e. roads, utilities, drainage)
N/A
5. Is the proposed text amendment in harmony with the overall comprehensive plan of the county
Yes. The ZBA agreed 5-0 that renewable energy is included in the comprehensive plan.
6. Would the proposed text amendment compete with or impede the existing zoned uses of other property within the zone
The ZBA agreed 5-0 that the shadow flicker text amendment will not.
7. Would the proposed text amendment create a hardship on landowners within the zone?
The ZBA agreed 5-0 that it could for non-participating owners.
8. Would it create a hardship on landowners within the zone if the text amendment were not made?
Yes. The ZBA agreed 5-0 that it could.
9. Would the proposed text amendment have a harmful impact upon the soil?
The ZBA agreed that shadow flicker will not affect the soil.

Roll was called. Harrington- Yes; Larson-Yes; Lovin-Yes; Stoddard -Yes; Wax – Yes. The motion carried and the County Board will consider the recommendation on January 13 at 9 a.m.

MOTION: Stoddard made motion, seconded by Harrington to take a 10 minute break. Roll was called. Stoddard – Yes; Harrington – Yes; Larson – Yes; Lovin-Yes; Stoddard-Yes; Wax-Yes.

The meeting was re-called to order at 3:24 p.m.

Review and recommendation of text amendments. Tower Tip Height

Alan Moore of Apex spoke about turbine height and referenced the map shared earlier. He said FAA has to approval all turbine heights. He said taller heights are quieter and there will be fewer. Harrington asked why the towers are quieter. They make the same sound, but because they are taller, they impact a smaller area. Larson asked about the map being displayed by an Apex colleague in the audience. He asked if they could add smaller turbines in between the taller turbines later. Moore answered no.

Mr. Robert Scott was sworn in on Zoom. He said the rotor diameter has doubled in the last 10 years. The cost of wind power has decreased and revenue to taxing districts has increased.

Dave Olinger spoke. He said Apex has applied for 742' towers with the FAA. He said a larger diameter means more birds and bats are killed. He cited a DNR report which recommends turbines turn less than 5 mph between July 15 and October 15 to conserve bat species. Taller towers require more lights, larger bases and more concrete. He also questions the amount of funding the schools will get once their other funding is cut to account for the wind revenue, and when the towers are depreciated. He is concerned about residences not over the aquifer who rely on shallow wells.

Max Jubricio on Zoom asked Mr. Olinger if he was aware that there are 4 wind farms over the aquifer now with no effects, and of new acts which protect school funding.

Mark Gershon said there are rules for assessment which means the revenue will not go away. He referenced the large map from APEX and noted that the sound footprint will improve with taller towers. He said there will be significant economic benefits from a wind project.

The ZBA considered the ordinance. Larson asked if allowing taller towers would also result in fewer landowners getting paid. Moore said that the leases are restructured so that "it's not winner take all".

The members discussed the testimony and the surrounding counties ordinances.

MOTION: Harrington made motion, seconded by Larson to recommend the following verbiage to the county board.

WECS Tower Tip Height shall not exceed 625 feet.

The ZBA members considered the zoning factors.

ZONING FACTORS FOR TEXT AMENDMENTS- Tip Height

1. Does the proposed text amendment promote the health, safety, morals, or general welfare of the public?
The ZBA agreed 5-0 that it would
2. Will the proposed text amendment be injurious to the use and enjoyment of other property within the immediate vicinity?
The ZBA agreed 5-0 that it could be injurious to some persons enjoyment.
3. Will the proposed text amendment diminish property values of other property within the immediate vicinity?
The ZBA agreed 5-0 that it is possible. Some will have increased value, others may decrease.
4. Does the proposed text amendment take into consideration whether there is adequate infrastructure? (i.e. roads, utilities, drainage)
N/A

5. Is the proposed text amendment in harmony with the overall comprehensive plan of the county?
The ZBA agreed 5-0 that it is.
6. Would the proposed text amendment compete with or impede the existing zoned uses of other property within the zone?
The ZBA agreed 5-0 that it would not.
7. Would the proposed text amendment create a hardship on landowners within the zone?
The ZBA agreed 5-0 that it could.
8. Would it create a hardship on landowners within the zone if the text amendment were not made?
The ZBA agreed 5-0 that a change in the height would not have an impact on hardship to landowners.
9. Would the proposed text amendment have a harmful impact upon the soil?
N/A

Roll was called. Harrington- Yes; Larson – Yes; Stoddard- Yes; Lovin- Yes; Wax – Yes.
The motion carried.

Public Comments:

Robert Feller commented that the taller the towers the more flicker.
Claudia Coil thanked the ZBA for considering non-participants.
Alan Moore thanked the ZBA for their time.

MOTION: Harrington made motion, seconded by Larson to adjourn. Roll was called, all in favor.
The meeting adjourned at 4:12 p.m.

Respectfully submitted,

Keri Nusbaum
Piatt County Zoning Officer