

**ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)  
June 1, 2021 – Approved Meeting Minutes**

PBZ Chairman Scott Gengler called the meeting to order at 9:09 a.m.

Present:

Matt Asselmeier – PBZ Department  
Scott Gengler – PBZ Committee Chair  
David Guritz – Forest Preserve  
Fran Klaas – Highway Department  
Alyse Olson – Soil and Water Conservation District  
Aaron Rybski – Health Department

Absent:

Meagan Briganti – GIS  
Greg Chismark – WBK Engineering, LLC  
Brian Holdiman – PBZ Department  
Commander Jason Langston – Sheriff's Department

Audience:

Wanda Hogan and Michael Mattingly

**AGENDA**

Mr. Guritz made a motion, seconded by Mr. Klaas, to approve the agenda as presented.

With a voice vote of six (6) ayes, the motion carried.

**MINUTES**

Mr. Guritz made a motion, seconded by Mr. Rybski, to approve the April 6, 2021, meeting minutes.

With a voice vote of six (6) ayes, the motion carried.

**PETITIONS**

**Petition 21-19 Thomas and Wanda Hogan**

Mr. Asselmeier summarized the request.

In March 2021, the Petitioners submitted an application for a market at the subject property. At the Kendall County Regional Planning Commission meeting, Kendall County Zoning Board of Appeals hearing, and Kendall County Planning, Building and Zoning Committee meeting, concerns were raised about the intensity of the use, the compatibility of the use in relation to adjacent agricultural uses, the impact of the proposed use on property values, safety at the property and along Brisbin Road, and the appearance of the property. After receiving negative recommendations at the above meetings and hearing, the Petitioner withdrew the original Petition.

On May 13, 2021, the Petitioner submitted a revised Petition. According to the information provided to the County, the Petitioners would like to offer an outdoor, twenty (20) stall market on the subject property with food. The market would feature vendors, including the Petitioners, their family members, and other vendors, that would sell goods not produced on the premises. The Petitioners have removed some items from the property and have agreed to install a four foot (4') snow fence around the ponds when the market is occurring.

The application materials, plat of survey, site plan, and the aerial of the property were provided.

The property is located at 14975 Brisbin Road.

The property is approximately three point eight (3.8) acres.

The current land use is Agricultural. The future land use is Rural Estate Residential.

Brisbin Road is a township maintained Major Collector.

There are no trails planned along Brisbin Road.

There are no floodplains or wetlands on the property.

The adjacent land uses are Agricultural.

The adjacent zoning districts are A-1.

The Future Land Use Map calls for the area to be Agricultural and Rural Estate Residential. The Village of Plattville's Future Land Use Map calls for the property to be Low Density Residential. The subject property is greater than one point five (1.5) miles from the Village of Lisbon. However, the Village of Lisbon's Future Land Use Map calls for this property to be Mixed Use Business and Agricultural.

The A-1 special use to the west is for an indoor storage facility of boats, trailers, recreational vehicles and classic cars.

EcoCat submitted on February 2, 2021, and consultation was terminated.

NRI application submitted on January 28, 2021 as part of the original application. A revised application was submitted on May 13, 2021. The LESA Scores from both the original and revised applications was 190 indicating a low level of protection. The revised NRI Report was provided.

Lisbon Township was emailed information on May 18, 2021.

Seward Township was emailed information on May 18, 2021.

The Village of Plattville was emailed information on May 18, 2021.

Lisbon-Seward Fire Protection District was emailed information on May 18, 2021.

According to the plat of survey and the site plan, the site will consist of twenty (20) outdoor vendor stations plus one (1) additional food vendor located along the western and southwestern portion of the property near the existing approximately forty foot by eighty foot (40'X80') steel barn. A food area will be located north of the barn. An existing red storage trailer is located north of the existing gravel drive.

No new buildings are planned for the site. No existing structures are planned for demolition.

One (1) four foot (4') temporary snow fence will be installed around the ponds when the market is occurring.

Section 7:01.D.48 places several conditions and restrictions on special use permits regarding the sale of pottery, art, and home décor. These include:

1. A sit-down food area is allowed if incidental to the primary operation of retail sales.
2. The subject parcel must not be less than three (3) acres in size.
3. Must be along a hard surfaced road classified as an arterial or major collector in the Land Resource Management Plan.
4. Is located in an area not designated as Agricultural on the Land Resource Management Plan.
5. Must occur in a manner that will preserve the existing farmhouse, barns, related structures, and the pastoral setting.
6. Must serve as a transitional use between agricultural areas and advancing suburban development.
7. Must serve to prevent spot zoning.
8. Retail and wholesale must occur in an existing building, unless otherwise approved by the County Board.
9. Any new structures must reflect the current architecture of the existing structures.
10. No outside display of goods.

11. Cannot generate noise, vibrations, glare, fumes, odors, or electrical interference beyond which normally occurs on A-1 zoned property.
12. Limited demolition of farmhouse and outbuildings is allowed.
13. Site plan is required.
14. Signage must follow the requirements in the Zoning Ordinance.
15. Off-street parking must follow the requirements in the Zoning Ordinance.

Assuming the County Board approves sales outside existing buildings, all of the above requirements of the Zoning Ordinance are addressed.

If approved, this would be the tenth (10<sup>th</sup>) special use permit for the sale of products not grown on the premises in the unincorporated area.

According to the business plan provided, the Petitioner would like operate the market a maximum two (2) weekends per month between April and October. The market would be open from 8:00 a.m. until 5:00 p.m. with vendors given additional time to set-up their spaces. A weekend is considered Saturday and Sunday.

Other than the Petitioner and their family, the business will not have any employees.

All vendors will have necessary insurance.

No new structures are planned for the property.

A barrier will be installed by the propane tank.

According to the site plan, two (2) porta-johns are planned south of the existing red storage trailer.

A potable water source is available in the existing steel barn.

The Petitioner would make accommodations for vendors that want electricity. Solar panels are onsite.

A refuse area is planned east of the porta-johns.

The property drains to the east.

The Petitioner secured stormwater permits in 2000 for the construction of the two (2) ponds on the premises.

Based on the information provided, no stormwater permits are required.

The property fronts Brisbin Road. Patrons would drive west on the existing gravel driveway and parking in one (1) of the designated areas. Patrons would leave the property on the same gravel driveway.

The site plan shows two (2) parking areas. The parking area by the existing steel barn consists of eight (8) parking spaces including two (2) handicapped accessible parking spaces. The eight (8) parking stalls would be eight feet by fifteen feet (8'X15'). The two handicapped parking spaces would be ten feet by fifteen feet (10'X15') with a five foot (5') landing area. An additional thirteen (13) parking spaces are planned along the north property line. The parking spaces would be gravel with the exception of the two (2) handicapped accessible spaces which would be hard surfaced. Vendors would park at their vending station.

The Petitioners plan to use cones with chains to keep vehicles away from pedestrians.

No additional lighting was planned as part of this project. If additional lighting were added, a photometric plan would be required because the number of parking spaces exceeds thirty (30).

The Petitioner plans to have a sign at Brisbin Road when the market is open. A picture of the sign was provided. The sign is approximately four feet by six feet (4'X6') in size. While the sign can be illuminated, the Petitioner will not light the sign.

No additional landscaping is planned.

No information regarding noise control was provided.

The proposed Findings of Fact were as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. True. The Petitioner has submitted a site plan indicating that measures will be taken to ensure that the use will not have a negative impact on public health, safety, morals, comfort, or general welfare. Conditions may be placed in the special use permit to address hours of operation and signage. The Petitioner agreed to follow all applicable public health and public safety related laws.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. True. Conditions are proposed that will regulate hours of operation and site layout. No new buildings or other significant alterations away from the appearance of the property as an agricultural related property are planned.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Utilities are already available at the property. The site plan includes a parking plan. The property previously secured a stormwater management permit.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Zoning Board of Appeals. This is true. No variances have been requested.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. True, the proposed use is consistent with an objective found on Page 3-5 of the Kendall County Land Resource Management Plan which calls for "a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents."

Staff recommends approval of the requested special use permit subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the site plan. Any new structures related to the uses allowed by this special use permit shall require a major amendment to the special use permit and any new structures must reflect the current architecture of the existing structures. Limited demolition of farmhouse and outbuildings is allowed.
2. The owner(s) or operator(s) of the business allowed by this special use permit must ensure the four foot (4') fence is erected around the ponds as shown on the site plan prior to the opening of the business allowed by this special use permit when the business is open to the public.
3. The subject parcel must remain at least (3) acres in size.
4. The uses allowed by this special use permit must occur in a manner that will preserve the existing farmhouse, barns, related structures, and the pastoral setting.
5. Retail and wholesale sales may occur outside existing buildings.
6. The uses allowed by this special use permit cannot generate noise, vibrations, glare, fumes, odors, or electrical interference beyond which normally occurs on A-1 zoned property.
7. A maximum twenty (20) vendors and one (1) additional food vendor may be on the subject property.
8. The uses allowed by this special use permit may operate a maximum of two (2) weekends per month. For the purposes of this ordinance, a weekend shall be considered Saturdays and Sundays. The uses may be open for

sale between the hours of 8:00 a.m. and 5:00 p.m. The property owner may reduce these hours of operation. Vendors may setup no earlier than two (2) hours prior to opening and must be offsite within two (2) hours of closing. The uses allowed by this special use permit may be operational between the months of April and October.

9. Only the owners of the property and their family members shall be employees of the business allowed by this special use permit.
10. The owners of the business allowed by this special use permit may install one (1) sign along Brisbin Road. The sign shall be a maximum of four feet by six feet (4'X6') in size. The sign shall not be illuminated. The sign may be placed along Brisbin Road on days when the uses allowed by the special use permit are open. The sign may be placed along Brisbin Road the day before the business allowed by this special use permit is open.
11. All trash and garbage generated by uses allowed by this special use permit shall be stored in the garbage areas designated on the site plan. The owner(s) or operator(s) of the business allowed by this special use permit shall ensure that garbage and trash shall be removed from the property at least one (1) time per week or as necessary to maintain the property clear of garbage and trash.
12. No music shall be generated by the uses allowed this special use permit.
13. The owner(s) or operator(s) of the uses allowed by this special use permit shall live at the subject property as their primary place of residence.
14. The operator(s) of the uses allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
15. The operator(s) of the uses allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of use.
16. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permit.
17. This special use permit and the ordinance granting this special use permit shall be considered revoked on the tenth (10<sup>th</sup>) anniversary of the Kendall County Board's approval of this special use permit ordinance or when Thomas or Wanda Hogan no longer own the subject property, whichever occurs first. If Thomas or Wanda Hogan wish to continue the use allowed by this special use permit after the tenth (10<sup>th</sup>) anniversary of the Kendall County Board's approval of this special use permit ordinance or if a subsequent owner of the subject property wishes to operate the use allowed by this special use permit, a new special use permit shall be required. This condition shall not be eligible for a minor amendment.
18. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.

Mr. Rybski asked if the food vendor would be a mobile vendor. Michael Mattingly, Attorney for the Petitioner, responded the food vendor would be mobile, similar to a food truck.

Mr. Rybski asked if a hand washing station would be available. Wanda Hogan, Petitioner, responded that she can have a hand washing station near the restrooms.

Mr. Rybski discussed the non-community well program. Based on the information provided, the proposed use would not be active enough times during the year to qualify for the program.

Mr. Gengler asked if there were any other special use permits similar to this proposal. Mr. Asselmeier responded that this use, if approved, would be the tenth (10<sup>th</sup>) such use in the unincorporated area.

Mr. Gengler asked what concerns were expressed during the previous review of the proposal. Mr. Asselmeier responded that previous concerns included the intensity of the use, compatibility of the use in relation to adjacent agricultural uses, impact of the proposed use on property values, safety at the property and along Brisbin Road, and the appearance of the property.

Mr. Gengler asked the distance to the nearest residence not including the owner. Mr. Mattingly responded approximately one quarter (1/4) mile.

No parking would occur along Brisbin Road.

Mr. Gengler asked about items laying around the property. Mr. Mattingly stated that the Petitioners have been cleaning up and the property and invited everyone to visit the property. If something needed to be removed or stored differently, please let the Petitioners know.

A snow fence will be erected around the ponds during the days when the market is open to the public.

Mr. Guritz made a motion, seconded by Mr. Klaas, to recommend approval of the proposal.

The votes were as follows:

Yeas (6): Asselmeier, Gengler, Guritz, Klaas, Olson, and Rybski

Nays (0): None

Abstain (0): None

Absent (4): Briganti, Chismark, Holdiman, and Langston

The motion carried.

The proposal goes to the Kendall County Regional Planning Commission on June 23, 2021.

**REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD**

Mr. Asselmeier reported that Petitions 20-32, 21-06, 21-08, 21-10, and 21-14 were approved by the County Board.

**OLD BUSINESS/NEW BUSINESS**

None

**CORRESPONDENCE**

None

**PUBLIC COMMENT**

None

**ADJOURNMENT**

Mr. Guritz made a motion, seconded by Mr. Rybski, to adjourn.

With a voice vote of six (6) ayes, the motion carried.

The ZPAC, at 9:26 a.m., adjourned.

Respectfully Submitted,  
Matthew H. Asselmeier, AICP, CFM  
Senior Planner