

**MINUTES – UNOFFICIAL UNTIL APPROVED**  
**KENDALL COUNTY**  
**ZONING BOARD OF APPEALS MEETING**  
111 WEST FOX STREET, COUNTY BOARD ROOM (ROOMS 209 and 210)  
YORKVILLE, IL 60560  
**December 13, 2021 – 7:00 p.m.**

**CALL TO ORDER**

Chairman Randy Mohr called the Zoning Board of Appeals meeting to order at 7:00 p.m.

**ROLL CALL:**

Members Present: Scott Cherry, Cliff Fox, Tom LeCuyer, Randy Mohr, Dick Thompson, Anne Vickery, and Dick Whitfield

Members Absent: None

Staff Present: Matthew Asselmeier, AICP, CFM, Senior Planner

Others Present: Gregg Ingemunson, Dan Koukol, Brian Henrichs, and Rick Porter

Chairman Mohr swore in Gregg Ingemunson, Dan Koukol, Brian Henrichs, and Rick Porter prior to the start of the public hearings.

**PETITIONS**

**Petition 21 – 37 – Kendall County Planning, Building and Zoning Committee**

**Request:** Text Amendments to the Kendall County Zoning Ordinance Pertaining to the Illinois Garden Act and Roadside Stand Regulations

**Purpose:** Petitioner Wishes Vegetable Gardens and Roadside Stands To Be Permitted Uses on all Residentially Zoned Properties, Establishes Sight-Line Requirements to Vegetable Gardens, Updates Appendix 9, Table of Uses, and Makes Citation Corrections to the Zoning Ordinance

Mr. Asselmeier summarized the request.

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0180 (formerly House Bill 0633) also known as the Garden Act.

The Garden Act allows people to plant vegetable gardens as the primary use on residential pieces of property. Further, no county in Illinois can prevent people from using residential property for the purpose of vegetable gardens. The Garden Act becomes effective January 1, 2022. A copy of Public Act 102-0180 was provided.

Presently, farming is a permitted use on A-1, RPD-1, RPD-2, and RPD-3 zoned property in unincorporated Kendall County.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate text amendments to the Zoning Ordinance to allow vegetable gardening as a primary use on R-1, R-2, R-3, R-4, R-5, R-6, and R-7 zoned property, allow roadside stands selling agricultural products grown on the premises in the same residential zoning districts, and to restrict gardens from forty foot (40') sight triangles where two (2) public streets meet. Roadside stands must be setback at least ten feet (10') from the nearest right-of-way.

Below please find the original redlined version of the proposal:

**8:02.A Permitted Uses in the R-1**

5. Lands and buildings used for horticulture or farm purposes **including vegetable gardens as defined by the Garden Act.**

**8:06.A Permitted Uses in the R-2**

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**

~~b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and~~

~~c. b.~~ Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

**8:07.A Permitted Uses in the R-3**

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

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~~c. b.~~ Farm-type animals shall be prohibited in the R-3 District with the exception of chickens.

**8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts**

**6. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, provided that the stands and produce on display are located ten feet (10') back from the nearest right-of-way line.**

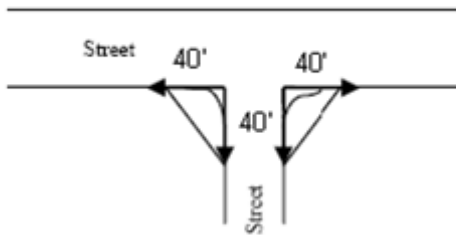
**10. Vegetable Gardens as defined by the Garden Act.**

**Remaining Permitted Uses to be Renumbered.**

**Amendment to Appendix 9, Table of Uses to reflect the addition of Vegetable Gardens and Roadside Stands as Permitted Use in all Residential Zoning Districts.**

Section 11:02.F.11 should be clarified as follows regarding sight triangles:

11. Landscape sight triangle. No landscaping including berms **and vegetable gardens as defined by the Garden Act** shall be planted within a forty foot (40') sight triangle measured at the intersection of two public streets.



Petition information was emailed to the townships on September 22, 2021. To date, only the Na-Au-Say Township Planning Commission has reviewed this proposal and they unanimously recommended approval.

ZPAC reviewed this proposal at their meeting on October 5, 2021. Discussion centered on the State imposing new regulations. ZPAC recommended approval of the proposal by a vote of seven (7) in favor, zero (0) in opposition, and one (1) present with two (2) members absent. The minutes were provided.

At the October 27, 2021, Kendall County Regional Planning Commission meeting, the consensus of the Commission was to establish a setback larger than ten feet (10') in the front yards and side yards of corner lots for Boulder Hill. The minutes were provided.

The Kendall County Zoning Board of Appeals started their review of the proposal on November 1, 2021. The discussion centered on increased traffic. They noted that existing garage sales, which are not regulated, caused additional traffic and parking issues. The Zoning Board also noted that the size of lots in Boulder Hill will restrict the amount produce available to be sold. The minutes of the hearing were provided.

Per the Zoning Ordinance, the required front yard setbacks in the R-4, R-5, and R-6 Districts are forty feet (40') from the right-of-way from freeway and arterial roads, thirty feet (30') for major and minor collector roads, and twenty-five feet (25') from all other roads. For the R-7 District, the front yard setbacks are fifty feet (50') for freeway and arterial roads, forty feet (40') from major and minor collector roads, and thirty feet (30') from all other roads. The side yard setback for corner lots in the R-4, R-5, R-6, and R-7 Districts is thirty feet (30').

A map showing the areas zoned R-4, R-5, R-6, and R-7 was provided.

The proposal could be amended to restrict roadside stands from the front yard and side yards of corner lots in the R-4, R-5, R-6, and R-7 Districts with the setbacks as noted in the previous paragraph. This would cause roadside stands to be placed closer to the house, including on porches and inside garages, on smaller lots.

Staff would like to point out that accessory structures are presently not allowed in the front yard or side yards of corner lot setbacks and that lawn furniture can be placed within two point five feet (2.5') of any property line. Staff has also been directed not to strictly enforce setback restrictions related to lemonade and similar stands in residential areas.

With the above information in mind, the Kendall County Regional Planning Commission met on December 8, 2021, and recommended that roadside stands be restricted from required front yard setbacks and side yard setbacks for corner lots in the R-4, R-5, R-6, and R-7 Districts by vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes were provided.

Member Vickery asked who would be impacted by this proposal. Mr. Asselmeier responded the proposal would impact people zoned residential and not agricultural; properties in Boulder Hill for example.

Chairman Mohr opened the public hearing at 7:44 p.m.

The consensus of the Board was that the County would have difficulty enforcing setbacks.

Mr. Asselmeier provided a history of the State law.

Member Whitfield questioned the number of houses that would have roadside stands.

Chairman Mohr closed the public hearing at 7:50 p.m.

Member Whitfield made a motion, seconded by Member Cherry, to recommend approval of the text amendment as originally proposed with roadsides stands allowed up to ten feet (10') of the nearest right-of-way line.

The votes were as follows:

Ayes (7):	Cherry, Fox, LeCuyer, Mohr, Thompson, Vickery, and Whitfield
Nays (0):	None
Abstain (0):	None
Absent (0):	None

The motion passed.

The townships will be notified of the results of the public hearing and will have thirty (30) days to object.

The proposal will go to the Kendall County Planning, Building and Zoning Committee on Monday, January 10, 2022.

The Zoning Board of Appeals completed their review of Petitions 21-37 at 7:51 p.m.

**PUBLIC COMMENTS**

Mr. Asselmeier stated a special use permit and variance for landscaping business at 1038 Harvey Road and Petition 21-49 would be on the agenda on January 31, 2022.

**ADJOURNMENT OF THE ZONING BOARD OF APPEALS**

Member LeCuyer made a motion, seconded by Member Vickery, to adjourn.

With a voice vote of seven (7) ayes, the motion carried.

The Zoning Board of Appeals meeting adjourned at 7:55 p.m.

The next hearing/meeting will be on January 31, 2022.

Respectfully submitted by,  
Matthew H. Asselmeier, AICP, CFM  
Senior Planner

**Exhibits**

1. Memo on Petition 21-37 Dated December 9, 2021
2. Certificate of Publication for Petition 21-37 (Not Included with Report but on file in Planning, Building and Zoning Office)



## DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 203

Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

### MEMORANDUM

To: Kendall County Zoning Board of Appeals  
From: Matthew H. Asselmeier, AICP, CFM Senior Planner  
Date: December 9, 2021  
Re: Public Act 102-0180-Garden Act (Petition 21-37)

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0180 (formerly House Bill 0633) also known as the Garden Act.

The Garden Act allows people to plant vegetable gardens as the primary use on residential pieces of property. Further, no county in Illinois can prevent people from using residential property for the purpose of vegetable gardens. The Garden Act becomes effective January 1, 2022. A copy of Public Act 102-0180 is attached.

Presently, farming is a permitted use on A-1, RPD-1, RPD-2, and RPD-3 zoned property in unincorporated Kendall County.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate text amendments to the Zoning Ordinance to allow vegetable gardening as a primary use on R-1, R-2, R-3, R-4, R-5, R-6, and R-7 zoned property, allow roadside stands selling agricultural products grown on the premises in the same residential zoning districts, and to restrict gardens from forty foot (40') sight triangles where two (2) public streets meet. Roadside stands must be setback at least ten feet (10') from the nearest right-of-way.

Below please find the original redlined version of the proposal:

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1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**

~~b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and~~

~~c. b.~~ Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

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**8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts**

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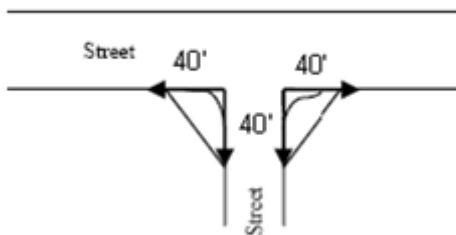
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A map showing the areas zoned R-4, R-5, R-6, and R-7 is also attached.

The proposal could be amended to restrict roadside stands from the front yard and side yards of corner lots in the R-4, R-5, R-6, and R-7 Districts with the setbacks as noted in the previous paragraph. This would cause roadside stands to be placed closer to the house, including on porches and inside garages, on smaller lots.

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With the above information in mind, the Kendall County Regional Planning Commission met on December 8, 2021, and recommended that roadside stands be restricted from required front yard setbacks and side yard setbacks for corner lots in the R-4, R-5, R-6, and R-7 Districts by vote of nine (9) in favor and zero (0) in opposition with one (1) member absent. The minutes are attached.

If you have any questions, please let me know.

MHA

Encs.: Public Act 102-0180  
October 5, 2021 ZPAC Minutes (This Petition Only)  
October 27, 2021 Kendall County Regional Planning Commission Minutes (This Petition Only)  
November 1, 2021 Kendall County Zoning Board of Appeals Minutes (This Petition Only)  
R-4, R-5, R-6, and R-7 Map  
December 8, 2021 Kendall County Regional Planning Commission Minutes (This Petition Only)



AN ACT concerning vegetable garden protection.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Garden Act.

Section 5. Purpose. The Act's purpose is to encourage and protect the sustainable cultivation of fresh produce at all levels of production, including on residential property for personal consumption or non-commercial sharing.

Section 10. Vegetable garden defined. As used in this Act, the term "vegetable garden" means any plot of ground or elevated soil bed on residential property where vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, or other edible plants are cultivated.

Section 15. Right to cultivate vegetable gardens. Notwithstanding any other law, any person may cultivate vegetable gardens on their own property, or on the private property of another with the permission of the owner, in any county, municipality, or other political subdivision of this state.

Section 20. Home rule. A home rule unit may not regulate gardens in a manner inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

Section 25. State and local regulation still permitted. Section 20 of this Act notwithstanding, this Act does not preclude the adoption of a regulation or local ordinance of general nature that does not specifically regulate vegetable gardens, including, but not limited to, regulations and ordinances relating to height, setback, water use, fertilizer use, or control of invasive or unlawful species, provided that any such regulation or ordinance does not have the effect of precluding vegetable gardens.

**ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)  
October 5, 2021 – Unapproved Meeting Minutes**

PBZ Chairman Scott Gengler called the meeting to order at 9:00 a.m.

Present:

Matt Asselmeier – PBZ Department  
Meagan Briganti – GIS Department  
Scott Gengler – PBZ Committee Chair  
Brian Holdiman – PBZ Department  
Fran Klaas – Highway Department  
Sergeant Dave Lawson – Sheriff's Department  
Alyse Olson – Soil and Water Conservation District  
Aaron Rybski – Health Department

Absent:

Greg Chismark – WBK Engineering, LLC  
David Guritz – Forest Preserve

Audience:

Brenda Zeiter, Gregg Ingemunson, Greg Dady, Boyd Ingemunson, and John Tebrugge

**PETITIONS**

**Petition 21-37 Kendall County Planning, Building and Zoning Committee**

Mr. Asselmeier summarized the request.

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0180 (formerly House Bill 0633) also known as the Garden Act.

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Presently, farming is a permitted use on A-1, RPD-1, RPD-2, and RPD-3 zoned property in unincorporated Kendall County.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines.

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1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**  
~~b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and~~

~~c. b.~~ Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

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**8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts**

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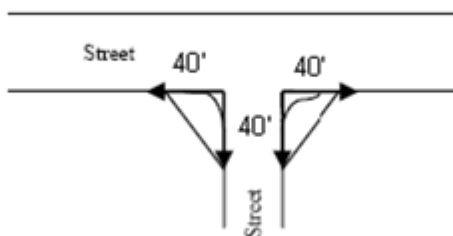
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Mr. Asselmeier was unaware of any complaints against vegetable gardens in Kendall County.

Chairman Gengler asked what happens if the County does not approve this proposal. Mr. Asselmeier said State law supersedes County law. If the County tried to prosecute someone for violating regulation in conflict with State law, the court probably would rule against the County.

Discussion occurred regarding the threshold to meet the agricultural zoning exemption in State law.

Ms. Briganti made a motion, seconded by Mr. Rybski, to recommend approval of the text amendment.

The votes were as follows:

- Yeas (7): Asselmeier, Briganti, Gengler, Holdiman, Lawson, Olson, and Rybski
- Nays (0): None
- Present (1): Klaas
- Absent (2): Chismark and Guritz

The motion carried.

The proposal goes to the Kendall County Regional Planning Commission on October 27, 2021.

**CORRESPONDENCE**

None

**PUBLIC COMMENT**

None

**ADJOURNMENT**

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

With a voice vote of eight (8) ayes, the motion carried.

The ZPAC, at 10:44 a.m., adjourned.

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

Enc.

**KENDALL COUNTY  
REGIONAL PLANNING COMMISSION**

*Kendall County Office Building  
Rooms 209 and 210  
111 W. Fox Street, Yorkville, Illinois*

**Unapproved - Meeting Minutes of October 27, 2021 - 7:00 p.m.**

Chairman Ashton called the meeting to order at 7:28 p.m.

**ROLL CALL**

Members Present: Bill Ashton, Roger Bledsoe, Tom Casey, Dave Hamman, Larry Nelson, Claire Wilson, and Seth Wormley

Members Absent: Karin McCarthy-Lange, Ruben Rodriguez, and Bob Stewart

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Brenda Zeiter, Boyd Ingemunson, Ron Miller, Fran Miller, and Dan Koukol

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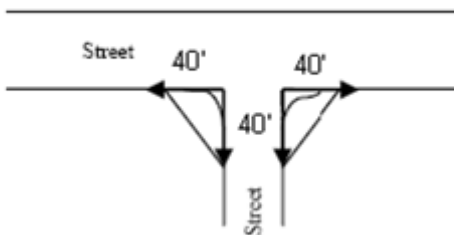
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Chairman Ashton asked about having vegetable stands in Boulder Hill. Mr. Asselmeier said yes, if they were located at least ten feet (10') from the right-of-way. The produce would be required to be grown on the property where it was sold. The stands could be on both vacant and improved lots.

Member Nelson asked about the imposition of setbacks for the sale produce. He had concerns regarding the ten foot (10') setback as being too small.

Discussion occurred regarding the location of the right-of-way in Boulder Hill in relation to sidewalks.

Accessory structures would have to follow setback requirements.

Discussion occurred the State's agricultural zoning regulations on lots five (5) acres or less.

Member Nelson made a motion to have Mr. Asselmeier research restricting roadside sides in the front yard and street side yard setbacks in the R-6 and R-7 Districts. The motion was not seconded, but the consensus of the Commission was to Mr. Asselmeier research this item.

The Commission had no objections to the general growing requirements and the requirement restricting growing of gardens in the forty foot (40') sight triangles where two (2) or more public streets meet.

This proposal will go back to the Regional Planning Commission on December 8, 2021.

### **CITIZENS TO BE HEARD/ PUBLIC COMMENT**

Member Wilson asked if any special use permits had to be rescinded due to the Agricultural Experiences Act. Mr. Asselmeier responded that several of the entities that have seasonal festivals also have special use permits for other activities. The special use permits for other activities could still be enforced. Any restrictions on a seasonal festival specifically would no longer be enforceable.

Dan Koukol, as a County Board Member, thanked all of the Commissioners for their time and work on the Commission. He noted all of the experience of the Commissioners. He stated that the issues raised by the Regional Planning do not always get enough time and attention at the Planning, Building and Zoning Committee. He also discussed the complaints that he received regarding agricultural special uses.

Dan Koukol, as a citizen, noted that he has a special use permit. He noted that he communicated with a landscaper in McCook that wanted to move to Kendall County because the zoning was easy and he could just purchase land and start operations. He expressed concerns about companies claiming to be landscaping businesses with large amounts of heavy equipment. He discussed the floodplain and requested special use permit amendment at 3485 Route 126. He suggested weight restriction for equipment for landscaping businesses. He also discussed the pallet factory near Ashley Road and Plattville Road. Member Nelson suggested having a boiler plate restriction for landscaping businesses.



Chairman Ashton discussed a conversation he had regarding an industrial zone along Route 126. After the October 27, 2021, Comprehensive Land Plan and Ordinance Committee meeting he did not think a conversation like that along Route 126 would occur. He noted a future exodus from the County because of taxes.

Mr. Asselmeier noted that only a small number of special use permits have periodic reviews.

**ADJOURNMENT**

Member Nelson made a motion, seconded by Member Hamman, to adjourn. With a voice of seven (7) ayes, the motion carried.


The Kendall County Regional Planning Commission meeting adjourned at 8:47 p.m.

Respectfully submitted by,  
Matthew H. Asselmeier, AICP, CFM  
Senior Planner



**KENDALL COUNTY  
REGIONAL PLANNING COMMISSION  
OCTOBER 27, 2021**

IF YOU WOULD LIKE TO BE CONTACTED ON FUTURE MEETINGS REGARDING THIS TOPIC, PLEASE PROVIDE YOUR ADDRESS OR EMAIL ADDRESS

NAME	ADDRESS (OPTIONAL)	EMAIL ADDRESS (OPTIONAL)
Ron & Fern MILLER		

**MINUTES – UNOFFICIAL UNTIL APPROVED**  
**KENDALL COUNTY**  
**ZONING BOARD OF APPEALS MEETING**  
111 WEST FOX STREET, COUNTY BOARD ROOM (ROOMS 209 and 210)  
YORKVILLE, IL 60560  
**November 1, 2021 – 7:00 p.m.**

**CALL TO ORDER**

Chairman Randy Mohr called the Zoning Board of Appeals meeting to order at 7:00 p.m.

**ROLL CALL:**

Members Present: Cliff Fox, Tom LeCuyer, Randy Mohr, Dick Thompson, and Dick Whitfield

Members Absent: Scott Cherry and Karen Clementi

Staff Present: Matthew Asselmeier, AICP, CFM, Senior Planner

Others Present: Brenda Zeiter, Boyd Ingemunson, Ron Miller, and Fran Miller

Chairman Mohr swore in Brenda Zeiter, Boyd Ingemunson, Ron Miller, and Fran Miller.

**PETITIONS**

The Zoning Board of Appeals started their review of Petition 21-37 at 7:33 p.m.

**Petition 21 – 37 – Kendall County Planning, Building and Zoning Committee**

**Request:** Text Amendments to the Kendall County Zoning Ordinance Pertaining to the Illinois Garden Act and Roadside Stand Regulations

**Purpose:** Petitioner Wishes Vegetable Gardens and Roadside Stands To Be Permitted Uses on all Residentially Zoned Properties, Establishes Sight-Line Requirements to Vegetable Gardens, Updates Appendix 9, Table of Uses, and Makes Citation Corrections to the Zoning Ordinance

Mr. Asselmeier summarized the request.

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0180 (formerly House Bill 0633) also known as the Garden Act.

The Garden Act allows people to plant vegetable gardens as the primary use on residential pieces of property. Further, no county in Illinois can prevent people from using residential property for the purpose of vegetable gardens. The Garden Act becomes effective January 1, 2022. A copy of Public Act 102-0180 was provided.

Presently, farming is a permitted use on A-1, RPD-1, RPD-2, and RPD-3 zoned property in unincorporated Kendall County.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate text amendments to the Zoning Ordinance to allow vegetable gardening as a primary use on R-1, R-2, R-3, R-4, R-5, R-6, and R-7 zoned property, allow roadside stands selling agricultural products grown on the premises in the same residential zoning districts, and to restrict gardens from forty foot (40') sight triangles where two (2) public streets meet. Roadside stands must be setback at least ten feet (10') from the nearest right-of-way.

Below please find the redlined version of the proposal:

#### **8:02.A Permitted Uses in the R-1**

5. Lands and buildings used for horticulture or farm purposes **including vegetable gardens as defined by the Garden Act.**

#### **8:06.A Permitted Uses in the R-2**

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**

~~b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and~~

~~c. b.~~ Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

#### **8:07.A Permitted Uses in the R-3**

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:

a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**

~~b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and~~

~~c. b.~~ Farm-type animals shall be prohibited in the R-3 District with the exception of chickens.

#### **8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts**

**6. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, provided that the stands and produce on display are located ten feet back from the nearest right-of-way line.**

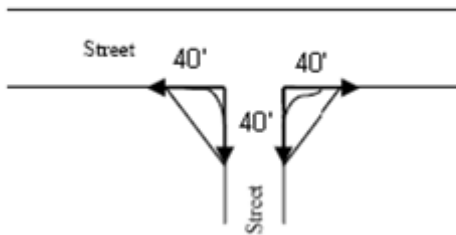
**10. Vegetable Gardens as defined by the Garden Act.**

**Remaining Permitted Uses to be Renumbered.**

**Amendment to Appendix 9, Table of Uses to reflect the addition of Vegetable Gardens and Roadside Stands as Permitted Use in all Residential Zoning Districts.**

Section 11:02.F.11 should be clarified as follows regarding sight triangles:

11. Landscape sight triangle. No landscaping including berms **and vegetable gardens as defined by the Garden Act** shall be planted within a forty foot (40') sight triangle measured at the intersection of two public streets.



Petition information was emailed to the townships on September 22, 2021. To date, only the Na-Au-Say Township Planning Commission has reviewed this proposal and they unanimously recommended approval.

ZPAC reviewed this proposal at their meeting on October 5, 2021. Discussion centered on the State imposing new regulations. ZPAC recommended approval of the proposal by a vote of seven (7) in favor, zero (0) in opposition, and one (1) present with two (2) members absent. The minutes were provided.

Mr. Asselmeier noted that the Regional Planning Commission reviewed this proposal on October 27, 2021, and voted to lay over the proposal because of concerns regarding roadside stands in Boulder Hill in the front yard and street side yard setback.

Mr. Asselmeier noted that the County does not strictly enforce setbacks related to lemonade stands.

Member Whitfield asked if the setbacks were different for garage sales. Mr. Asselmeier said there was no difference. If people were not allowed to have roadside stands in their front yards, the stands would be moved to garages to porches.

Member Whitfield noted that freewill offer vegetable stands already exist in the County.

Member Whitfield expressed concerns about parking and pedestrians at garage sales.

Chairman Mohr noted that the amount of garden space available on the average parcel in Boulder Hill was small.

Chairman Mohr suggested revisiting the subject, if roadside stands became a nuisance.

Mr. Asselmeier noted that the growing season and season during which people would sell products grown in the garden would not be the entire year.

Member Whitfield concurred that most lots in Boulder Hill lacked space to have large gardens.

Mr. Asselmeier provided a background of the bill.

Mr. Asselmeier has not received a garage sale complaint.

Chairman Mohr noted there were existing produce sales in Yorkville.

Roadside stands would only allow for products grown on the premises.

Member Whitfield said that some kids would plant a garden for 4H or scouting.

Member Thompson questioned the number cars a roadside stand in Boulder Hill would generate.

The proposal will go back to the Kendall County Regional Planning Commission on Wednesday, December 8, 2021.

The Zoning Board of Appeals completed their review of Petitions 21-37 at 7:45 p.m.

#### **PUBLIC COMMENTS**

Mr. Asselmeier stated that a request for a major amendment to a special use permit for a landscaping business at 3485 Route 126 had been submitted. The major amendment changes the site plan to have outdoor storage of equipment and materials and changes the number of employees that can report to the property. This item will be on the December 13, 2021, Zoning Board of Appeals agenda. The application deadline for that meeting is November 12, 2021.

#### **ADJOURNMENT OF THE ZONING BOARD OF APPEALS**

Member Whitfield made a motion, seconded by Member Thompson, to adjourn.

With a voice vote of five (5) ayes, the motion carried.

The Zoning Board of Appeals meeting adjourned at 7:57 p.m.

The next hearing/meeting will be on December 13, 2021.

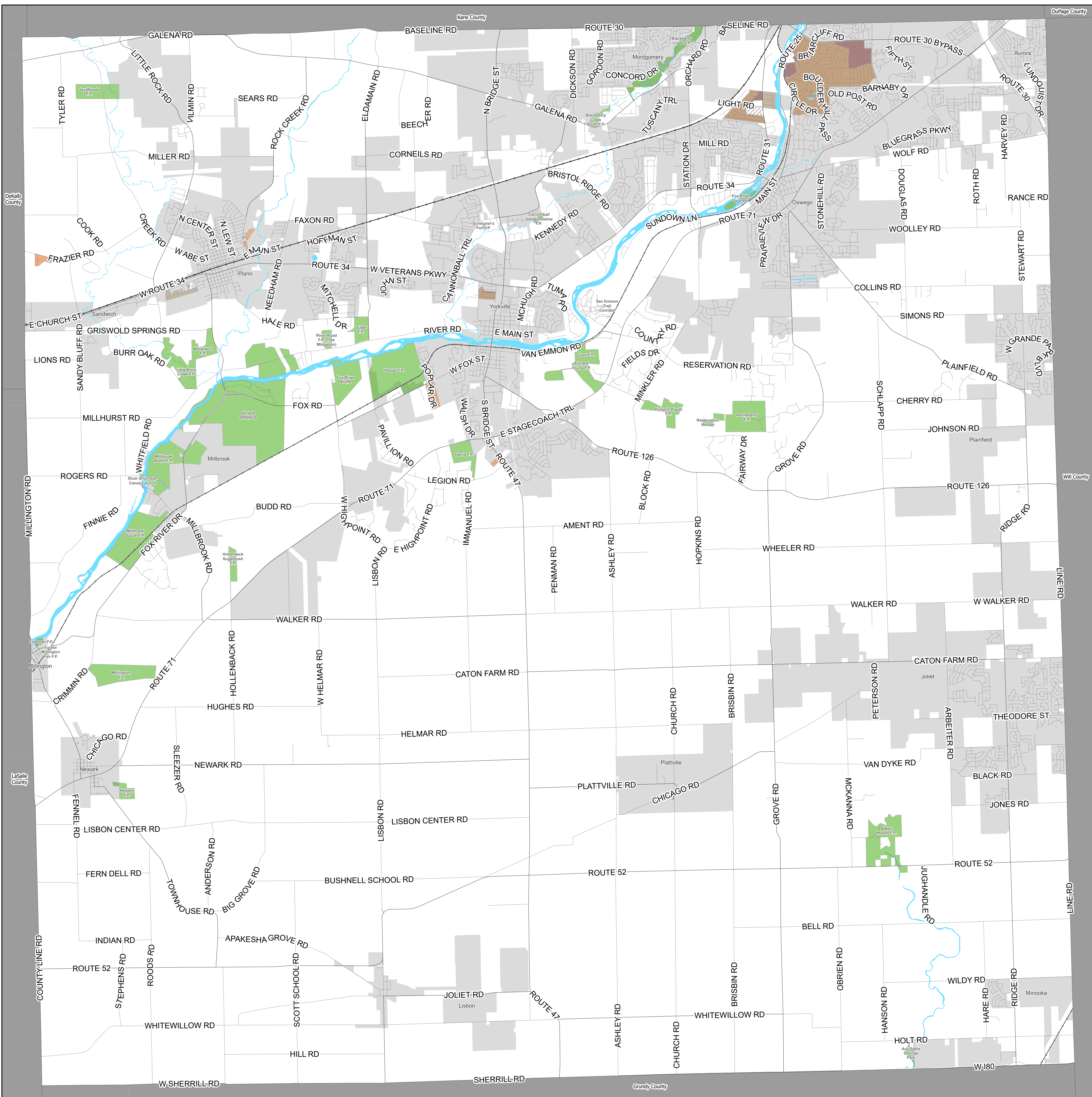
Respectfully submitted by,  
Matthew H. Asselmeier, AICP, CFM  
Senior Planner

#### **Exhibits**

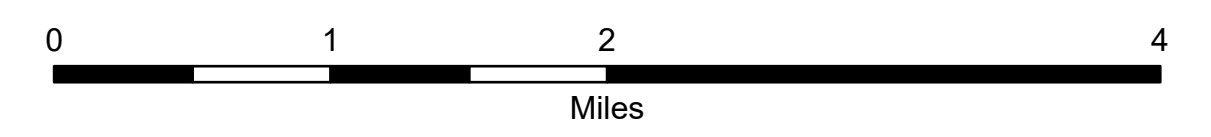
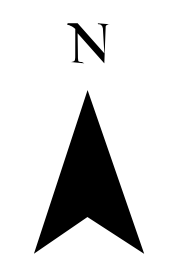
1. Memo on Petition 21-37 Dated October 20, 2021
2. Certificate of Publication for Petition 21-37 (Not Included with Report but on file in Planning, Building and Zoning Office)



# Properties zoned R-4, R-5, R-6, and R-7



- R4
- R5
- R6
- R7
- R7-SU
- Forest Preserves



**Kendall County GIS**  
 111 West Fox Street - Room 308  
 Yorkville, Illinois 60560  
 630.553.4212



**KENDALL COUNTY  
REGIONAL PLANNING COMMISSION**

*Kendall County Office Building  
Rooms 209 and 210  
111 W. Fox Street, Yorkville, Illinois*

**Unapproved - Meeting Minutes of December 8, 2021 - 7:00 p.m.**

Chairman Ashton called the meeting to order at 7:01 p.m.

**ROLL CALL**

Members Present: Bill Ashton, Roger Bledsoe, Tom Casey, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Bob Stewart, Claire Wilson, and Seth Wormley

Members Absent: Dave Hamman

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Greg Dady, Gregg Ingemunson, Brian Henrichs, Rick Porter, Chris Lannert, Pat Kelsey, Rick Porter, James Kohout, James Clune, Shabbir Shamsuddin, and Gerald Chase

**PETITIONS**

**Petition 21-37 Kendall County Planning, Building and Zoning Committee**

Mr. Asselmeier summarized the request.

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0180 (formerly House Bill 0633) also known as the Garden Act.

The Garden Act allows people to plant vegetable gardens as the primary use on residential pieces of property. Further, no county in Illinois can prevent people from using residential property for the purpose of vegetable gardens. The Garden Act becomes effective January 1, 2022. A copy of Public Act 102-0180 was provided.

Presently, farming is a permitted use on A-1, RPD-1, RPD-2, and RPD-3 zoned property in unincorporated Kendall County.

Also, per Section 4:05.B of the Kendall County Zoning Ordinance, gardens may encroach up to all property lines.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate text amendments to the Zoning Ordinance to allow vegetable gardening as a primary use on R-1, R-2, R-3, R-4, R-5, R-6, and R-7 zoned property, allow roadside stands selling agricultural products grown on the premises in the same residential zoning districts, and to restrict gardens from forty foot (40') sight triangles where two (2) public streets meet. Roadside stands must be setback at least ten feet (10') from the nearest right-of-way.

Below please find the original redlined version of the proposal:

**8:02.A Permitted Uses in the R-1**

5. Lands and buildings used for horticulture or farm purposes **including vegetable gardens as defined by the Garden Act.**

### **8:06.A Permitted Uses in the R-2**

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:
  - a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**
  - ~~b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and~~
  - ~~e. b.~~ Farm-type animals shall be prohibited in the R-2 District with the exception of chickens.

### **8:07.A Permitted Uses in the R-3**

1. Any permitted use in the R-1 One-Family Estate Residence District, Section 8:02.A except:
  - a. Lands and buildings used for horticultural or farm purposes, **not including vegetable gardens as defined by the Garden Act and roadside stands following the setback requirements in Section 8:02.A**
  - ~~b. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, and~~
  - ~~e. b.~~ Farm-type animals shall be prohibited in the R-3 District with the exception of chickens.

### **8:08.A Permitted Uses in the R-4, R-5, R-6, and R-7 Districts**

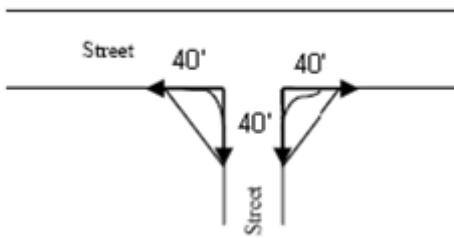
- 6. Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, provided that the stands and produce on display are located ten feet (10') back from the nearest right-of-way line.**
- 10. Vegetable Gardens as defined by the Garden Act.**

### **Remaining Permitted Uses to be Renumbered.**

### **Amendment to Appendix 9, Table of Uses to reflect the addition of Vegetable Gardens and Roadside Stands as Permitted Use in all Residential Zoning Districts.**

Section 11:02.F.11 should be clarified as follows regarding sight triangles:

11. Landscape sight triangle. No landscaping including berms **and vegetable gardens as defined by the Garden Act** shall be planted within a forty foot (40') sight triangle measured at the intersection of two public streets.



Petition information was emailed to the townships on September 22, 2021. To date, only the Na-Au-Say Township Planning Commission has reviewed this proposal and they unanimously recommended approval.

ZPAC reviewed this proposal at their meeting on October 5, 2021. Discussion centered on the State imposing new regulations. ZPAC recommended approval of the proposal by a vote of seven (7) in favor, zero (0) in opposition, and one (1) present with two (2) members absent. The minutes were provided.

At the October 27, 2021, Kendall County Regional Planning Commission meeting, the consensus of the Commission was to establish a setback larger than ten feet (10') in the front yards and side yards of corner lots for Boulder Hill. The minutes were provided.

The Kendall County Zoning Board of Appeals started their review of the proposal on November 1, 2021. The discussion centered on increased traffic. They noted that existing garage sales, which are not regulated, caused additional traffic and parking issues. The Zoning Board also noted that the size of lots in Boulder Hill will restrict the amount produce available to be sold. The minutes of the hearing were provided.

Per the Zoning Ordinance, the required front yard setbacks in the R-4, R-5, and R-6 Districts are forty feet (40') from the right-of-way from freeway and arterial roads, thirty feet (30') for major and minor collector roads, and twenty-five feet (25') from all other roads. For the R-7 District, the front yard setbacks are fifty feet (50') for freeway and arterial roads, forty feet (40') from major and minor collector roads, and thirty feet (30') from all other roads. The side yard setback for corner lots in the R-4, R-5, R-6, and R-7 Districts is thirty feet (30').

A map showing the areas zoned R-4, R-5, R-6, and R-7 was provided.

The proposal could be amended to restrict roadside stands from the front yard and side yards of corner lots in the R-4, R-5, R-6, and R-7 Districts with the setbacks as noted in the previous paragraph. This would cause roadside stands to be placed closer to the house, including on porches and inside garages, on smaller lots.

Staff would like to point out that accessory structures are presently not allowed in the front yard or side yards of corner lot setbacks and that lawn furniture can be placed within two point five feet (2.5') of any property line. Staff has also been directed not to strictly enforce setback restrictions related to lemonade and similar stands in residential areas.

Member Wormley said there was not much the Commission could do regarding changing the proposal.

Mr. Henrichs asked about the procedure considering the Land Resource Management Plan calls for the area to be zoned R-3. Member Nelson said the Petitioner had a pretty good chance of winning in court. Member Nelson also felt that there would be difficulties get septic permits.

Member Wormley made a motion, seconded by Member McCarthy-Lange, to recommend approval of the text amendment to restrict roadside stands from the required front yard and corner yard setbacks in the R-4, R-5, R-6, and R-7 zoning districts.

The votes were as follows:

Ayes (9): Ashton, Bledsoe, Casey, McCarthy-Lange, Nelson, Rodriguez, Stewart, Wilson, and Wormley

Nays (0): None

Absent (1): Hamman

Abstain (0): None

The motion carried.

This proposal will go to the Kendall County Zoning Board of Appeals on December 13, 2021.

#### **CITIZENS TO BE HEARD/PUBLIC COMMENT**

None

#### **ADJOURNMENT**

Member Rodriguez made a motion, seconded by Member Wilson, to adjourn. With a voice of nine (9) ayes, the motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 9:53 p.m.

Respectfully submitted by,  
Matthew H. Asselmeier, AICP, CFM  
Senior Planner

Enc.

**KENDALL COUNTY  
REGIONAL PLANNING COMMISSION  
DECEMBER 8, 2021**

IF YOU WOULD LIKE TO BE CONTACTED ON FUTURE MEETINGS REGARDING THIS TOPIC, PLEASE PROVIDE YOUR ADDRESS OR EMAIL ADDRESS

NAME	ADDRESS (OPTIONAL)	EMAIL ADDRESS (OPTIONAL)
Gregg Ingemann		
Boyd Ingemann		
CHRIS LANNERT		
PAT KELSEY		
Rick Porter		
James Kohout		
James Cunniff		
SHABIR SHAMSUDDIN		

Gerald Chase