

**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 21-38 at 7:45 p.m.

**Petition 21 – 38 – Kendall County Planning, Building and Zoning Committee**

**Request:** Text Amendments to the Kendall County Zoning Ordinance Pertaining to the Illinois Agricultural Experiences Act and Seasonal Festival Regulations

**Purpose:** Petitioner Wishes Seasonal Festivals To Be a Permitted Use on A-1 Agriculture District and B-4 Commercial Recreation District Zoned Properties Without Restrictions, Updates to 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 102-0492 (formerly House Bill 3650) also known as the Agricultural Experiences Act. A copy of Public Act 102-0492 was provided.

The Agricultural Experiences Act defines an agricultural experience, as “. . . any agricultural-related activity, as a secondary use in conjunction with agricultural production, on a farm which activity is open to the public with the intended purpose of promoting or educating the public about agriculture, agricultural practices, agricultural activities, or agricultural products.” Crucially, the Act forbids a county from requiring conditional use permits, special use permits, or variances for this type of use.

The definition of agricultural experience in State law is similar to the County’s definition of seasonal festivals. Seasonal festivals, as defined in the Zoning Ordinance, are defined as follows:

“A temporary event held during a specified time of the year which is designed to enhance the sales of seasonal crops and related products produced in conjunction with existing agricultural businesses such

as orchards, vineyards, nurseries and similar agricultural operations. Related activities may include, but are not limited to, corn mazes, wagon rides, pony rides, farm animal petting zoos, and pumpkin patches. Activities including amusement park rides, live music concerts, truck and tractor pull competitions are specifically prohibited from Seasonal Festivals.”

The Agricultural Experiences Act forbids counties from requiring these types of events from obtaining special use permits, conditional use permits, or variances.

Seasonal festivals are conditional uses in the A-1 Agricultural District and are permitted uses in the B-4 Commercial Recreation District. The conditions for seasonal festivals are as follows:

- a) Adequate parking on site shall be provided in such a way that no on-street parking is necessary.
- b) Event areas, stands, booths, parking and other uses and facilities appurtenant to the site shall not be located within 150 feet of a residential district, or residential structure located off the subject zoning lot unless written consent from the effected residents is provided to the Planning, Building and Zoning Office.
- c) The operator shall have adequate waste receptacles and toilet facilities on site as determined in writing from the Department of Health and Human Services.
- d) No alcohol shall be sold on the premises.
- e) Petting Zoos shall provide adequate hand sanitation devices as determined by the Department of Health and Human Services.
- f) All food prepared or sold on site shall comply with the Department of Health and Human Services requirements.
- g) Noise levels generated from non-agricultural sources shall not exceed 60 dBA as measured at the nearest occupied residential structure on an adjoining property.
- h) The operator shall provide adequate crowd control and parking direction as reasonably determined by the Kendall County Sheriff's Office.
- i) No event activity shall start earlier than 9:00 a.m. any day of the week, and shall end no later than 10:00 p.m., Monday thru Wednesday and no later than 11:30 p.m. Thursday thru Sunday.
- j) Events shall be permitted once a year unless otherwise approved by the PBZ Committee.
- k) Seasonal Festivals shall be permitted up to, but not exceed, ninety (90) consecutive days in length in one calendar year.
- l) Accessory uses including but not limited to temporary vendors engaged in the sale of ancillary items not produced on site but which are related to products produced on site or associated with the season shall be permitted during the duration of the Seasonal Festival subject to the review and approval of the Zoning Administrator.

m) All signage shall comply with Section 12:00 of the Zoning Ordinance.

n) All proposed lighting shall be non-obtrusive onto adjoining properties and should not exceed 0.2 foot candles at any property line.

o) Any Seasonal Festival which cannot meet these standards may still be permitted if approved as a Special Use. An applicant seeking an approval of the conditional use shall submit an application to be acted upon by the Zoning Administrator. The Zoning Administrator may, at his or her discretion, refer the request to the PBZ Committee of the County Board for recommendation prior to taking action. In addition, the petitioner may appeal the decision of the Zoning Administrator in the review of a Conditional Use for a Seasonal Festival to the PBZ Committee. In such instances the PBZ Committee shall be the final authority.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate a text amendment adding seasonal festivals to the list of permitted uses in the A-1 Agricultural District without conditions or restrictions, removing the conditions and restrictions on seasonal festivals in the B-4 Commercial Recreation District, deleting seasonal festivals from the list of conditional uses in the A-1 District, updating Appendix 9 Table of Uses to reflect this text amendment, and correcting citation errors caused by this text amendment.

Presently, three (3) special uses are impacted by the Agricultural Experiences Act. The special use permits for Woody's Orchard (Ordinances 2016-21 and 2021-07), Heap's Giant Pumpkins (Ordinance 2015-11), and Keller Farms (Ordinance 2009-18) contain provisions related to Seasonal Festivals. Staff would like to point out that some of these properties have special use permits beyond agricultural experiences (i.e. Woody's Orchard and Heap's Giant Pumpkins have special use permits for banquet facilities).

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 five (5) in favor, two (2) in opposition, and one (1) present with two (2) members absent. The minutes were provided.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on October 27, 2021. No members of the public spoke regarding this proposal. The Kendall County Regional Planning Commission recommended approval of the proposal by a vote of seven (7) in favor and zero (0) in opposition with three (3) members absent. The minutes were provided.

Mr. Asselmeier noted that the Planning, Building and Zoning Committee did not necessarily approve of the Agricultural Experiences Act.

Chairman Mohr said we cannot stop anyone from having a festival. Mr. Asselmeier said yes, if the festival met the definition of an agricultural experience.

Chairman Mohr noted that he witnessed nearly three (3) accidents at Heap's because a lack of directional signage. If someone is hurt, Heap's could get sued.

Chairman Mohr opened the public hearing at 7:52 p.m.

Nobody spoke regarding the proposal.

Chairman Mohr closed the public hearing at 7:52 p.m.

Member LeCuyer made a motion, seconded by Member Fox, to recommend approval of the text amendment as presented.

The votes were as follows:

Ayes (5): Fox, LeCuyer, Mohr, Thompson, and Whitfield  
Nays (0): None  
Abstain (0): None  
Absent (2): Cherry and Clementi

The motion passed.

The townships will be notified of the results of the hearing. The proposal will go to the Kendall County Planning, Building and Zoning Committee in December 2021.

The Zoning Board of Appeals completed their review of Petitions 21-38 at 7:52 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 21-38 Dated October 28, 2021

2. Certificate of Publication for Petition 21-38 (Not Included with Report but on file in Planning, Building and Zoning Office)





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## DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 203

Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

### MEMORANDUM

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To: Kendall County Zoning Board of Appeals  
From: Matthew H. Asselmeier, AICP, CFM Senior Planner  
Date: October 28, 2021  
Re: Public Act 102-0492-Agricultural Experiences Act (Petition 21-38)

Earlier in 2021, the Illinois General Assembly passed and the Governor signed Public Act 102-0492 (formerly House Bill 3650) also known as the Agricultural Experiences Act. A copy of Public Act 102-0492 is attached.

The Agricultural Experiences Act defines an agricultural experience, as “. . . any agricultural-related activity, as a secondary use in conjunction with agricultural production, on a farm which activity is open to the public with the intended purpose of promoting or educating the public about agriculture, agricultural practices, agricultural activities, or agricultural products.” Crucially, the Act forbids a county from requiring conditional use permits, special use permits, or variances for this type of use.

The definition of agricultural experience in State law is similar to the County's definition of seasonal festivals. Seasonal festivals, as defined in the Zoning Ordinance, are defined as follows:

“A temporary event held during a specified time of the year which is designed to enhance the sales of seasonal crops and related products produced in conjunction with existing agricultural businesses such as orchards, vineyards, nurseries and similar agricultural operations. Related activities may include, but are not limited to, corn mazes, wagon rides, pony rides, farm animal petting zoos, and pumpkin patches. Activities including amusement park rides, live music concerts, truck and tractor pull competitions are specifically prohibited from Seasonal Festivals.”

The Agricultural Experiences Act forbids counties from requiring these types of events from obtaining special use permits, conditional use permits, or variances.

Seasonal festivals are conditional uses in the A-1 Agricultural District and are permitted uses in the B-4 Commercial Recreation District. The conditions for seasonal festivals are as follows:

- a) Adequate parking on site shall be provided in such a way that no on-street parking is necessary.
- b) Event areas, stands, booths, parking and other uses and facilities appurtenant to the site shall not be located within 150 feet of a residential district, or residential structure located off the subject zoning lot unless written consent from the effected residents is provided to the Planning, Building and Zoning Office.
- c) The operator shall have adequate waste receptacles and toilet facilities on site as determined in writing from the Department of Health and Human Services.
- d) No alcohol shall be sold on the premises.
- e) Petting Zoos shall provide adequate hand sanitation devices as determined by the Department of Health and Human Services.
- f) All food prepared or sold on site shall comply with the Department of Health and Human Services requirements.
- g) Noise levels generated from non-agricultural sources shall not exceed 60 dBA as measured at the nearest occupied residential structure on an adjoining property.

- h) The operator shall provide adequate crowd control and parking direction as reasonably determined by the Kendall County Sheriff's Office.
- i) No event activity shall start earlier than 9:00 a.m. any day of the week, and shall end no later than 10:00 p.m., Monday thru Wednesday and no later than 11:30 p.m. Thursday thru Sunday.
- j) Events shall be permitted once a year unless otherwise approved by the PBZ Committee.
- k) Seasonal Festivals shall be permitted up to, but not exceed, ninety (90) consecutive days in length in one calendar year.
- l) Accessory uses including but not limited to temporary vendors engaged in the sale of ancillary items not produced on site but which are related to products produced on site or associated with the season shall be permitted during the duration of the Seasonal Festival subject to the review and approval of the Zoning Administrator.
- m) All signage shall comply with Section 12:00 of the Zoning Ordinance.
- n) All proposed lighting shall be non-obtrusive onto adjoining properties and should not exceed 0.2 foot candles at any property line.
- o) Any Seasonal Festival which cannot meet these standards may still be permitted if approved as a Special Use. An applicant seeking an approval of the conditional use shall submit an application to be acted upon by the Zoning Administrator. The Zoning Administrator may, at his or her discretion, refer the request to the PBZ Committee of the County Board for recommendation prior to taking action. In addition, the petitioner may appeal the decision of the Zoning Administrator in the review of a Conditional Use for a Seasonal Festival to the PBZ Committee. In such instances the PBZ Committee shall be the final authority.

At their meeting on September 13, 2021, the Kendall County Planning, Building and Zoning Committee voted to initiate a text amendment adding seasonal festivals to the list of permitted uses in the A-1 Agricultural District without conditions or restrictions, removing the conditions and restrictions on seasonal festivals in the B-4 Commercial Recreation District, deleting seasonal festivals from the list of conditional uses in the A-1 District, updating Appendix 9 Table of Uses to reflect this text amendment, and correcting citation errors caused by this text amendment.

Presently, three (3) special uses are impacted by the Agricultural Experiences Act. The special use permits for Woody's Orchard (Ordinances 2016-21 and 2021-07), Heap's Giant Pumpkins (Ordinance 2015-11), and Keller Farms (Ordinance 2009-18) contain provisions related to Seasonal Festivals. Staff would like to point out that some of these properties have special use permits beyond agricultural experiences (i.e. Woody's Orchard and Heap's Giant Pumpkins have special use permits for banquet facilities).

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 five (5) in favor, two (2) in opposition, and one (1) present with two (2) members absent. The minutes are attached.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on October 27, 2021. No members of the public spoke regarding this proposal. The Kendall County Regional Planning Commission recommended approval of the proposal by a vote of seven (7) in favor and zero (0) in opposition with three (3) members absent. The minutes are attached.



If you have any questions, please let me know.

MHA

Encs.: Public Act 102-0492

October 5, 2021 ZPAC Minutes (This Petition Only)

October 27, 2021 Regional Planning Commission Minutes (This Petition Only)

AN ACT concerning Agriculture.

**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 Agricultural Experiences Act.

Section 5. Agricultural experiences.

(a) In this Section, "agricultural experience" means any agriculture-related activity, as a secondary use in conjunction with agricultural production, on a farm which activity is open to the public with the intended purpose of promoting or educating the public about agriculture, agricultural practices, agricultural activities, or agricultural products.

(b) To assist in the promotion of agricultural experiences, a county shall not require a conditional use permit, special use permit, special exception, or variance for agricultural experiences on property of which the primary use is agricultural production.

**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 21-38 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 102-0492 (formerly House Bill 3650) also known as the Agricultural Experiences Act. A copy of Public Act 102-0492 was provided.

The Agricultural Experiences Act defines an agricultural experience, as “. . . any agricultural-related activity, as a secondary use in conjunction with agricultural production, on a farm which activity is open to the public with the intended purpose of promoting or educating the public about agriculture, agricultural practices, agricultural activities, or agricultural products.” Crucially, the Act forbids a county from requiring conditional use permits, special use permits, or variances for this type of use.

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- m) All signage shall comply with Section 12:00 of the Zoning Ordinance.
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The proposal would apply to apple orchards, pumpkin patches, and Christmas tree farms where the plants were grown on the premises.

Mr. Klaas asked if the proposal make any uses more cumbersome for the existing special uses. Mr. Asselmeier responded no.

Mr. Rybski asked if these uses still had to follow other regulations. Mr. Asselmeier responded that the proposal only applies to zoning regulations; uses would still have to follow other applicable regulations.

Chairman Gengler expressed his opposition to the State intervening in local zoning regulations. Mr. Holdiman concurred with Chairman Gengler.

Mr. Klaas made a motion, seconded by Mr. Asselmeier, to recommend approval of the text amendment.

The votes were as follows:

Yeas (5): Asselmeier, Briganti, Lawson, Olson, and Rybski

Nays (2): Gengler and Holdiman

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

**PETITIONS**

**Petition 21-38 Kendall County Planning, Building and Zoning Committee**

Mr. Asselmeier summarized the request.

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B-4 Commercial Recreation District, deleting seasonal festivals from the list of conditional uses in the A-1 District, updating Appendix 9 Table of Uses to reflect this text amendment, and correcting citation errors caused by this text amendment.

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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 five (5) in favor, two (2) in opposition, and one (1) present with two (2) members absent. The minutes were provided.

Member Nelson made a motion, seconded by Member Hamman, to recommend approval of the text amendment as proposed.

The votes were as follows:

Ayes (7): Ashton, Bledsoe, Casey, Hamman, Nelson, Wilson, and Wormley

Nays (0): None

Absent (3): McCarthy-Lange, Rodriguez, and Stewart

Abstain (0): None

The motion carried.

This proposal will go to the Kendall County Zoning Board of Appeals on November 1, 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.

**OTHER BUSINESS/ANNOUNCEMENTS**

None

**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		