

**ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)  
November 2, 2021 – Approved 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  
David Guritz – Forest Preserve (Arrived 9:03 a.m.)  
Brian Holdiman – PBZ Department  
Fran Klaas – Highway Department  
Alyse Olson – Soil and Water Conservation District  
Aaron Rybski – Health Department

Absent:

Greg Chismark – WBK Engineering, LLC  
Commander Jason Langston – Sheriff's Department

Audience:

Sergiu Tugutchi, Gregg Ingemunson, and Greg Dady

**AGENDA**

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

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

**MINUTES**

Mr. Rybski made a motion, seconded by Mr. Klaas, to approve the October 5, 2021, meeting minutes.

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

**PETITIONS**

**Petition 21-45 Sergiu Tugutchi on Behalf of KST Express LTD**

Mr. Asselmeier summarized the request.

Sergiu Tugutchi on Behalf of KST Express LTD is under contract with Bo Transmissions, Inc. to purchase the subject property and demolish the approximately eight thousand seven hundred ninety (8,790) square foot building on the property that was damaged by fire.

The application materials, plat of survey, and pictures of the building were provided.

Section 13:10 of the Zoning Ordinance requires site plan review for this type of activity on B-3 zoned property. Site plan approval will also be required for construction of any replacement structures.

The property is located at 1214 Route 30.

The property is approximately a quarter (1/4) acre in size.

The Future Land Use Map calls for the property to be Suburban Residential.

Route 30 is a State maintained Arterial. There are no trails planned in the area.

There are no floodplains or wetlands on the property.

The adjacent land uses are Agricultural, Commercial, and Industrial.

The adjacent properties are zoned B-3 and Oswego M-1.

The Future Land Use Map calls for the area to be Suburban Residential and Urban Areas.

Petition information was sent to Oswego Township on October 12, 2021. No comments were provided.

Petition information was sent to the City of Aurora on October 12, 2021. No comments were provided.

Petition information was sent to the Village of Oswego on October 12, 2021. No comments were provided.

Petition information was sent to the Oswego Fire Protection District on October 12, 2021. No comments were provided.

The Petitioner wishes to demolish the damaged building and construct another building on the site in 2022.

Site plan review will also be required for the new building.

The subject property has been zoned B-3 since 1974.

Pursuant to Section 13:10.D of the Kendall County Zoning Ordinance, the following shall be taken into account when reviewing Site Plans:

**Responsive to Site Conditions**-Site plans should be based on an analysis of the site. Such site analysis shall examine characteristics such as site context; geology and soils; topography; climate and ecology; existing vegetation, structures and road network; visual features; and current use of the site. In addition to the standards listed below, petitioners must also follow the regulations outlined in this Zoning Ordinance. To the fullest extent possible, improvements shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative effects and alteration of natural features. Fragile areas such as wetlands and flood plains should be preserved as open space. Slopes in excess of 20 percent as measured over a 10-foot interval also should remain as open space, unless appropriate engineering measures concerning slope stability, erosion and safety are taken. The demolition will not negatively impact the site.

**Traffic and Parking Layout**-Site plans should minimize dangerous traffic movements and congestion, while achieving efficient traffic flow. An appropriate number of parking spaces shall be provided while maintaining County design standards. The number of curb cuts should be minimized and normally be located as far as possible from intersections. Connections shall be provided between parking areas to allow vehicles to travel among adjacent commercial or office uses. Cross-access easements or other recordable mechanisms must be employed. Not applicable for the demolition. Additional information will be required when a new building is planned for the property.

**Conflicts between pedestrians and vehicular movements** should be minimized. When truck traffic will be present upon the site, the road size and configuration shall be adequate to provide for off-street parking and loading facilities for large vehicles. Barrier curb should be employed for all perimeters of and islands in paved parking lots, as well as for all service drives, loading dock areas, and the equivalent. Parking lots in industrial or commercial areas shall be paved with hot-mix asphalt or concrete surfacing. Not applicable for the demolition. Additional information will be required when a new building is planned for the property.

**Site Layout-Improvements** shall be laid out to avoid adversely affecting ground water and aquifer recharge; minimize cut and fill; avoid unnecessary impervious cover; prevent flooding and pollution; provide adequate access to lots and sites; and mitigate adverse effects of shadow, noise, odor, traffic, drainage and utilities on neighboring properties. No grading information has been submitted related to the demolition.

**Consistent with the Land Resource Management Plan**-The proposed use and the design of the site should be consistent with the Land Resource Management Plan. This is true.

**Building Materials**-The proposed site plan design shall provide a desirable environment for its occupants and visitors as well as its neighbors through aesthetic use of materials, textures and colors that will remain appealing and will retain a reasonably adequate level of maintenance. Buildings shall be in scale with the ultimate development planned for the area. Monotony of design shall be avoided. Variations in detail, form, and setting shall be used to provide visual interest. Variation shall be balanced by coherence of design elements. Not applicable for the demolition. Additional information will be required when a new building is planned for the property.

**Relationship to Surrounding Development**-A site shall be developed in harmony with neighboring street pattern, setbacks and other design elements. Not applicable for the demolition. Additional information will be required when a new building is planned for the property.

Open Space and Pedestrian Circulation-Improvements shall be designed to facilitate convenient and safe pedestrian and bicycle movement within and to the property. This is not an issue.

Buffering-Measures shall be taken to protect adjacent properties from any undue disturbance caused by excessive noise, smoke, vapors, fumes, dusts, odors, glare or stormwater runoff. Incompatible, unsightly activities are to be screened and buffered from public view. Not applicable for the demolition. Additional information will be required when a new building is planned for the property.

Emergency Vehicle Access-Every structure shall have sufficient access for emergency vehicles. Not applicable for the demolition. Additional information will be required when a new building is planned for the property.

Mechanical Equipment Screening-All heating, ventilation and air conditioning equipment shall be screened on sides where they abut residential districts. Not applicable for the demolition. Additional information will be required when a new building is planned for the property.

Lighting-The height and shielding of lighting fixtures shall provide proper lighting without hazard to motorists on adjacent roadways or nuisance to adjacent residents by extending onto adjacent property. Cut-off lighting should be used in most locations, with fixtures designed so that the bulb/light source is not visible from general side view. No lights are planned for the site.

Refuse Disposal and Recycling Storage Areas-All refuse disposal and recycling storage areas should be located in areas designed to provide adequate accessibility for service vehicles. Locations should be in areas where minimal exposure to public streets or residential districts will exist. Screening shall be required in areas which are adjacent to residential districts or are within public view. Such enclosures should not be located in landscape buffers. Refuse containers and compactor systems shall be placed on smooth surfaces of non-absorbent material such as concrete or machine-laid asphalt. A concrete pad shall be used for storing grease containers. Refuse disposal and recycling storage areas serving food establishments shall be located as far as possible from the building's doors and windows. The use of chain link fences with slats is prohibited. No information was provided regarding refuse.

Pending comments from ZPAC members, Staff recommended approval of the proposed site plan as proposed with the following conditions:

1. The site shall be developed substantial in conformance with the submitted site plan with the approximately eight thousand seven hundred ninety (8,790) square foot building demolished as proposed.
2. The site shall be developed in accordance with all applicable federal, state, and local laws related to site development and the type of use proposed for the site, including, but, not limited to, securing the applicable building related permits.

Dave Guritz arrived at this time (9:03 a.m.).

Mr. Rybski asked if there was an existing well and septic system on the property. Sergiu Tugutchi, Petitioner, responded yes. The well needed to be capped or sealed. Mr. Rybski wanted to make sure the well and septic systems will be protected during demolition. Mr. Tugutchi agreed to work with the Health Department.

Mr. Tugutchi planned to construct a building in the spring or summer of 2022 and will have to go through the site plan review process again at that time. He planned to use the property as a mechanic shop.

The demolition was the only thing the Committee was considering.

Mr. Klaas made a motion, seconded by Mr. Guritz, to approve the site plan with the conditions proposed by Staff.

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

**Petition 21-46 Greg Dady on Behalf of DTG Investments, LLC and Robert Baish on Behalf of Baish Excavating, Inc.**

Mr. Asselmeier summarized the request.

Greg Dady, on behalf of DTG Investments, LLC would like to sell the subject property to Baish Excavating. After exploring a text amendment to allow an excavating business on the subject property, the Petitioners decided to pursue a major amendment to the existing special use permit for a landscaping business at the subject property.

The application materials, aerial of the property, aerial with the flood zone, plat of survey, site plan, the court order regarding a previous excavating business at the property, and the special use permit for a landscaping business previously granted by Ordinance 2007-10 were provided.

The subject property is approximately five point five (5.5) acres in size.

Route 126 is a State maintained arterial; there is a trail planned along Route 126.

There is a floodplain on the north end of the property (Zone A-no base flood elevation determined).

The adjacent uses are agricultural or agricultural related.

The adjacent zonings are A-1. The zonings in the area are A-1, R-1, and A-1 with special use permits.

The Future Land Use Map calls for the area to be Rural Residential and Public Institutional.

The A-1 SU to the east is for a farm market, garden shop, winery, corn maze, and fall festival. The A-1 SU to the west is for a farm equipment sales and service business.

Oswego School District 308 owns the property southwest of the subject property.

Ten (10) existing houses are within one half (1/2) mile of the subject property.

Pictures of the property and area were provided.

EcoCAT Report submitted and consultation was terminated.

The LESA Score was 189 indicating a low level of protection.

Petition information was sent to Na-Au-Say Township on October 26, 2021.

Petition information was sent to the Village of Oswego on October 26, 2021. The property is inside Oswego's planning boundary.

Petition information was sent to the Village of Plainfield on October 26, 2021. The property is within one point five (1.5) miles of Plainfield.

The Oswego Fire Protection District was sent information on October 26, 2021. The Oswego Fire Protection District submitted an email on October 27, 2021, requesting that fuel tanks be installed, permitted, and inspected per applicable law, storage heights inside the storage bins be capped at twenty-five feet (25') in height, and no miscellaneous storage of vehicles, machinery, or equipment occur in the storage bins. The Petitioners were agreeable to these requests.

The subject property has been used as a landscaping business and repair and restoration business. The Petitioner would like to retain the special use permit for a cleanup and restoration business at the property.

According to the business plan, Baish Excavating, Inc. does excavation, concrete, landscaping, site maintenance, railroad and major pipeline work. Their work takes place offsite within a radius of approximately thirty-five (35) miles of Plainfield. They are relocating from their current location because their existing location has been sold.

The hours of operation are Monday through Friday from 6:00 a.m. until 5:00 p.m. The company operates outside these hours of operation during snowfalls and other emergencies. The company has eleven (11) employees, but this number could rise to fifteen (15) employees. Four (4) or five (5) of these employees work onsite while the remainder of employees work at job sites.

Equipment and trucks would be stored indoors as much as possible, but some equipment would be stored outside. Equipment consists of excavators, loaders, skid steers, track skids, two (2) semi dumps, and dump trailers. The site plan shows a sixty foot by one hundred foot (60' X 100') trailer parking area.

According to the site plan, the Baish Excavating, Inc. would like to install three (3) fuel tanks on a concrete pad. The area would be twenty feet by thirty feet (20' X 30').

The site plan also calls for a twenty foot by sixty foot (20' X 60') outdoor storage bin area. This area would be used to store aggregates and salt in "tents". The "tents" would be a maximum of thirty feet (30') in height. The tents would be enclosed except for one (1) side. A picture of the "tent" was provided.

The existing special use permit for a landscaping business was granted on March 20, 2007, and included the following conditions and restrictions:

1. The maximum number of employees reporting to the site is 40.
2. The development of the site shall be in conformance with the submitted Site Enhancement Plan dated August 18, 2006 with a latest revision of date of March 9, 2007.
3. All commercial vehicles used for the special use are to be stored inside an accessory structure when not in use.
4. No construction activity can take place on the portion of the subject parcel located in Section 9 of Na-Au-Say Township until such time that a detailed flood plain study has been forwarded to PBZ staff and Strand Associates, to ensure that there are no negative impacts to Aux Sable Creek.
5. A site development permit will need to be secured prior to construction of the proposed parking stalls demonstrating that the post construction elevations of that portion of the parking lot located within the flood plain as depicted on the existing FEMA FIRM maps dated July 19, 1982 (Community Map Panel 170341 0100C) will not exceed the existing elevations of the existing grades on the site.
6. No construction activity shall take place and no permits (building, occupancy or site development) shall be issued for the subject property located in Section 9 of Na-Au-Say Township until such time that the required 15 foot Regional Trail easement, and the additional ROW along Route 126 per the previous Agreed Court Order, has been supplied and recorded.
7. All renovations to existing structures must conform to a commercial standard per the provisions of the Kendall County Building Code, including handicapped accessibility of the structures.
8. Other than the outside storage of non-growing landscaping materials, no outside storage shall be allowed on the site.
9. Occupancy in the existing residence will be restricted to an employee of the petitioner, for use as a caretaker's residence, and his/her immediate family members.
10. No composting will be done on-site. All grass clippings will be stored temporarily in a bin or dumpster and be hauled off the site periodically when the bin becomes full.

The Petitioner is requesting that conditions 1, 2, 3, and 8 be amended or repealed. Conditions 4, 6, and 7 have previously been met. The FEMA FIRM maps have been updated since the original special use permit was granted in 2007.

According to the site plan, there is one (1) approximately fourteen thousand (14,000) square foot metal building on the property that is used for office operations and maintenance. One (1) approximately one thousand six hundred (1,600) square foot wood frame machine shed is located on the northeast corner of the truck parking area. One (1) single-family home with a detached garage is located on the west side of the property.

Any new structures would require applicable building permits.

The property is served by well and septic.

There is floodplain as part of the Little Slough Creek on the property. This area is considered Zone A which means no flood elevation has been determined; therefore, this area is considered Floodway.

On October 26, 2021, the Petitioners and their engineer met with the Senior Planner, a representative of WBK, and the Planning, Building and Zoning Committee Chairman at the property. The Petitioners agreed that no hazardous or flammable materials would be stored in the floodway. The Kendall County Stormwater Management Ordinance forbids the storage of such materials in the floodway.

The property has two accesses off of Route 126. The western access would be used by the existing house and the eastern access would be used by the business operating out of the metal building.

According to the site plan, a parking area is shown north of the metal building. The parking area is gravel.

Contrary to the business plan, no additional lighting beyond the existing lighting on the building and light near the entrance is planned at this time. Section 11:02.F.12.A requires an illumination plan for parking lots with thirty (30) or more parking spaces.

There is one (1) existing four foot by eight foot (4'X8') freestanding sign. A light exists next to the sign. A picture of the sign was provided.

There is an existing wooden fence around the property and a single gate east of the metal building.

A berm and several mature trees are between the metal building and Route 126. Pictures of the landscaping were provided.

No information was provided regarding noise control.

No new odors are foreseen by the proposed use.

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. The operation of the special use will not be detrimental to the public health, safety, morals, comfort, or general welfare provided that the operator of the business allowed by this special use permit develops the site according to the submitted site plan, follows the agreed upon hours of operation, and follows the Kendall County Inoperable Vehicle Ordinance, Kendall County Junk and Debris Ordinance, and Kendall County Stormwater Management Ordinance, and related ordinances.

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. Provided that the business operates as proposed, no injury should occur to other property and property values should not be negatively impacted.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Adequate utilities exist on the site based upon the number of proposed employees at the property. No additional buildings are planned for the site. The Petitioners are aware that parking cannot occur in the front yard setback. Route 126 is a State maintained road and should be able to handle the traffic. The Petitioners are aware that floodplain exists on the property and certain materials cannot be stored in the floodplain per the Kendall County Stormwater Management Ordinance.

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 because the Petitioners are not asking for any variances.

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 10-

11 of the Kendall County Land Resource Management Plan which calls for “a strong base of agricultural, commercial and industry that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents.”

Staff recommended approval of the requested major amendment to an existing special use permit subject to the following conditions and restrictions:

1. Conditions 1 (pertaining to number of employees), 2 (pertaining to the site plan), 3 (pertaining to outside storage of commercial vehicles), and 8 of Ordinance 2007-10 shall be repealed. The remaining conditions and restrictions in Ordinance 2007-10 shall remain in force and valid.
2. The site shall be developed substantially in accordance with the site plan. The property owner or operators of the business allowed by this special use permit may remove the frame residence, garage, wood frame machine shed, and corn crib without amending the site plan.
3. The owners of the business allowed by the special use permit shall maintain the parking areas shown on the site plan and in substantially the same location as depicted on the site plan. The parking area north of the building shall be gravel and the parking lot south of the building shall be asphalt. Any expansions of either parking lots shall require an amendment to the special use permit.
4. The owners of the businesses allowed by this special use permits shall diligently monitor the property for leaks from equipment and vehicles parked and stored on the subject property and shall promptly clean up the site if leaks occur.
5. Any new structures constructed or installed on the property shall not be considered for agricultural purposes and must secure applicable building permits.
6. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
7. None of the vehicles or equipment parked or stored on the subject property related to the business allowed by the special use permit shall be considered agricultural vehicles or agricultural equipment.
8. All of the vehicles and equipment stored on the subject property related to the business allowed by the special use permit shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
9. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated outdoor storage bins as shown on the site plan. The maximum height of the bins or “tents” shall be thirty feet (30’) and shall look substantial like the structures shown in the provided picture.
10. One (1) maximum four foot by eight foot (4’ X 8’) freestanding sign may be located on the subject property. The sign may be illuminated.
11. No landscape waste generated off the property can be burned on the subject property.
12. A maximum of fifteen (15) employees of the business allowed by this special use permit, including the owners of the business allowed by this special use permit, may report to this site for work. No employees shall engage in the sale of landscaping related materials on the property.
13. No retail customers of the business allowed by this special use permit shall be invited onto the property by anyone associated with the use allowed by this special use permit.
14. The hours of operation of the business allowed by this special use permit shall be Monday through Saturday from 6:00 a.m. until 5:00 p.m. Business operations may occur outside the hours of operation in the event of bad weather and snow removal. The owners of the business allowed by this special use permit may reduce these hours of operation.
15. The noise regulations are as follows:  
Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty-five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.

Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.

EXEMPTION: Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

16. At least one (1) functioning fire extinguisher and one (1) first aid kit shall be on the subject property. Applicable signage stating the location of the fire extinguisher and first aid kit shall be placed on the subject property.
17. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
18. The conditions and restrictions contained in Ordinance 2014-29 shall be separate and enforceable from the conditions and restrictions contained in Ordinance 2007-10 and this major amendment to an existing special use permit.
19. The property owner and operator of the business allowed by this special use permit shall follow all applicable Federal, State, and Local laws related to the operation of this type of business, including but not limited, the public health protection standards for properties in the floodplain contained in the Kendall County Stormwater Management Ordinance.
20. 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.
21. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
22. This special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.

The number of people onsite will be decreasing.

Ms. Olson asked what types of equipment would be parked in the floodplain area. Gregg Ingemunson, Attorney for the Petitioner, said that only trailers would be parked in the floodplain area.

Chairman Gengler asked Mr. Klaas, if Route 126 got improved, would turning lanes be installed at the property. Mr. Klaas responded the State would do the evaluation. No immediate plans to widen Route 126 exist at this time.

The trail easement has been recorded.

The Petitioner was comfortable with having fifteen (15) employees.

Mr. Guritz made a motion, seconded by Mr. Klaas, to recommend approval of the amendment to an existing special use permit with the conditions proposed by Staff.

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

The proposal goes to the Kendall County Regional Planning Commission on December 8, 2021.

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

Mr. Asselmeier reported that Petitions 21-29, 21-30, 21-31, and 21-33 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 eight (8) ayes, the motion carried.

The ZPAC, at 9:23 a.m., adjourned.

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

Enc.

## Matt Asselmeier

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**From:** Alec Keenum <akeenum@oswegofire.com>  
**Sent:** Wednesday, October 27, 2021 9:47 AM  
**To:** Matt Asselmeier  
**Subject:** [External]RE: Kendall County Zoning Petition 21-46

Matt,

- Fuel tanks – additions of fuel tanks shall be as per Office of the State Fire Marshal (OSFM) with applicable obtained permits, inspections, and approvals from the State
- Outside storage bins – storage heights of any wood chips, or other combustible materials shall be limited in height to 25' as per the International Fire Code (IFC 2015) section 2808.3
- Outside storage bins - shall not be used for miscellaneous storage of vehicles, machinery, equipment, etc.

Regards,

Capt. Alec J Keenum  
Fire Marshal  
Oswego Fire Protection District



**KENDALL COUNTY  
ZONING & PLATTING ADVISORY COMMITTEE  
NOVEMBER 2, 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)
<i>Gregg Ferguson</i>		