

KENDALL COUNTY PLANNING, BUILDING & ZONING COMMITTEE

Kendall County Office Building

Rooms 209 and 210

111 W. Fox Street, Yorkville, Illinois

6:30 p.m.

Meeting Minutes of January 10, 2022 – Approved

CALL TO ORDER

The meeting was called to order by Chairman Gengler at 6:30 p.m.

ROLL CALL

Committee Members Present: Elizabeth Flowers, Scott Gengler (Chairman), Judy Gilmour (Vice-Chairwoman), Dan Koukol, and Robyn Vickers

Committee Members Absent: None

Also Present: Matt Asselmeier (Senior Planner)

APPROVAL OF AGENDA

Member Koukol made a motion, seconded by Member Vickers, to approve the agenda as presented. With a voice vote of five (5) ayes, the motion carried.

APPROVAL OF MINUTES

Member Vickers made a motion, seconded by Member Flowers, to approve the minutes of the December 14, 2021, meeting. With a voice vote of five (5) ayes, the motion carried.

PUBLIC COMMENT

None

EXPENDITURE REPORT

The Committee reviewed the expenditure report from December 2021.

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 became 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.

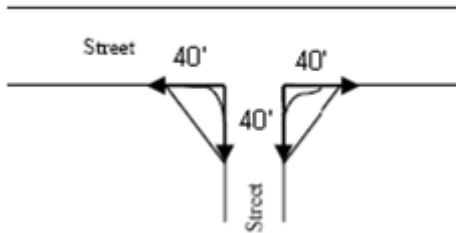
7. Vegetable Gardens as defined by the Garden Act.

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 of 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.

The Kendall County Zoning Board of Appeals concluded the public hearing on December 13, 2021. The Zoning Board of Appeals felt the County would have difficulty enforcing setbacks and there were questions regarding the number of houses that would have roadside stands in Boulder Hill. The Kendall County Zoning Board of Appeals recommended approval of the text amendment with the original proposal to allow roadside stands up to ten feet (10') of the nearest right-of-way by a vote of seven (7) in favor and zero in opposition. The minutes were provided.

The draft ordinance was provided.

The consensus of the Committee was to leave the setback as originally proposed for roadside at ten feet (10') from the right-of-way line. The belief was that garage sales would be more problematic than produce sales.

Member Gilmour made motion, seconded by Member Koukol, to recommend approval of the proposal.

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

The proposal goes to the County Board on January 18, 2022, on the consent agenda.

Petitions 22-02 Daniel L. Dycus on Behalf of Gospel Assembly Church

Mr. Asselmeier summarized the request.

On March 15, 2005, the Kendall County Board granted a special use permit for a church, parsonage, church school, and church daycare at the subject property. Ordinance 2005-06 was provided.

Condition 2 of Ordinance 2005-06 required the church to file a pre-annexation agreement with Yorkville. No pre-annexation agreement was executed. The property was for sale and the lack of a pre-annexation agreement created confusion regarding the types of uses that could be placed on the property.

On December 10, 2021, a representative of the church filed a request for voluntary revocation of the special use permit. This request was provided.

The draft revocation ordinance was provided.

The subject property is zoned A-1. If the special use permit is revoked, the property will retain its A-1 zoning classification.

Staff recommended approval of the proposed special use permit revocation.

Member Gilmour made motion, seconded by Member Flowers, to recommend approval of the request.

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

The proposal goes to the County Board on January 18, 2022, on the consent agenda.

NEW BUSINESS

Approval of Annual Renewal of Mobile Home Permit at 13443 Fennel Road

Mr. Asselmeier said this mobile home was for taking care of a family member needing medical care. No complaints have been filed with either the Planning, Building and Zoning Department or Health Department regarding this property.

Member Koukol made a motion, seconded by Member Vickers, to approve the renewal. With a voice vote of five (5) ayes, the motion carried.

Discussion of a Contract Between Kendall County and Wiss, Janney, Elstner Associates, Inc. Regarding the Historic Structure Survey in Kendall and Bristol Townships; Committee Could Refer the Proposal to the State's Attorney's Office

Mr. Asselmeier presented the proposed contract and comments from the Historic Preservation Commission.

Member Gilmour suggested waiting with having the State's Attorney's Office review of the contract until the grant was awarded.

It was noted that a tight timeline existed for completing the project, if the grant was funded.

Member Flowers suggested having the Committee of the Whole review the proposal and then have the State's Attorney's Office review the proposal, if the grant was funded. If the grant was funded, then the proposal could go directly to the County Board.

Chairman Gengler made a motion, seconded by Member Flowers to forward the proposal to the Committee of the Whole. With a voice vote of five (5) ayes, the motion carried.

The proposal goes to the Committee of the Whole on January 13, 2022.

Discussion of Future Land Use Along Route 47 in Kendall and Lisbon Townships

Mr. Asselmeier summarized the issue.

Chairman Gengler said that he had conversation with a local resident and the local resident favored not changing the plan at this time. Chairman Gengler acknowledged the growth coming to the County.

Member Vickers noted that property owners might never sell their property.

Member Koukol said that site selectors look at the County's map and go to Grundy County because the Kendall County map still shows non-commercial and non-industrial future land uses. He felt some land owners were interested in changing the future land use map.

Member Vickers noted that more businesses in the County would help lower property taxes.

Member Gilmour asked if the residents that were previously opposed to the original proposal were still opposed to changing the map. Chairman Gengler said that the resident he spoke with was still against the proposal and that resident wanted the County to examine changes on a case-by-case basis.

Mr. Asselmeier explained the process for changing the plan.

The Committee reviewed Morris' Future Land Use Map.

Discussion occurred regarding road improvements in the southern portion of the County.

Member Gilmour requested input from the residents. The residents would be notified and given an opportunity to provide input during the adoption process, if the proposal was initiated.

Member Koukol made a motion, seconded by Member Flowers, to forward the proposal to the Committee of the Whole with a positive recommendation.

The votes were as follows:

Yeas (5): Flowers, Gengler, Gilmour, Koukol, and Vickers
Nays (0): None
Abstain (0): None
Absent (0): None

The motion carried. The proposal goes to the Committee of the Whole on January 13, 2022.

Kendall County Regional Planning Commission Annual Meeting-February 5, 2022, at 9:00 a.m.

Mr. Asselmeier reported the Kendall County Regional Planning Commission Annual Meeting would be February 5th in the County Boardroom.

Kendall County Historic Preservation Commission Annual Meeting-February 16, 2022, at 6:00 p.m., at the Little White School Museum

Mr. Asselmeier reported the Kendall County Historic Preservation Commission Annual Meeting would be February 16th at the Little White School Museum in Oswego.

Approval to Schedule a Second Planning, Building and Zoning Committee Meeting in January 2022

The consensus of the Committee was to have a special meeting on January 25, 2022, at 5:30 p.m.

OLD BUSINESS

Review and Approval of Policy Regarding Code Enforcement in Cases Where Parties Are Pursuing Compliance Through Legislative or Administrative Means (Examples Include Text Amendments, Map Amendments, Special Use Permits or Variance Applications)

Mr. Asselmeier summarized the request.

Since at least 2017, the Planning, Building and Zoning Department's understanding was that, in cases where parties were pursuing text amendments, map amendments, variances, special use permits, or other legislative or administrative approvals, the Department would not issue citations against these parties until a final legislative or administrative decision was made. The Department was aware that several months may be necessary in order reach final legislative or administrative decisions. The Department was also aware that courts historically layover such cases until final legislative or administrative decisions are made before rendering verdicts.

Since 2016, the following businesses and activities were allowed to operate while waiting for zoning approvals:

1. Delaney Gun Range at 16502 Church Road (Ceased After Special Use Permit was Withdrawn)
2. Jet's Towing at 790 Eldmain Road
3. Billboard at 34 and Hafenrichter (Special Use Permit Not Renewed Between 2004 and 2017)
4. 15331 Burr Oak Road (Special Use Permit Not Renewed Prior to 2018)
5. TZ Landscaping at 276 Route 52
6. Temporary Use Permit Renewal at 9211 Route 126
7. Pipe Strong at 17854 N. Wabena Road
8. Driveway in the Setback at 9261 Kennedy
9. Cox Landscaping at 9000 Route 34
10. Trucking Business at 3485 Route 126
11. Fence at 68 Saugatuck (Lowered after ZBA Denial)
12. Craft Fair at 5681 Whitewillow Road
13. Brighter Daze at 10978 Crimmin Road

A proposed policy outlining enforcement actions and warning period was provided.

Chairman Gengler favored not allowing businesses to operate under new rules unless and until those new rules were approved by the County Board. Businesses would have to operate under the approved rules until new conditions were approved.

Member Koukol did not favor closing businesses while the businesses went through the process.

Member Flowers favored tighter and clear rules.

Member Gilmour favored at looking at cases on an individual basis and to have enforcement in these cases to be a Committee decision.

Discussion occurred regarding 1038 Harvey Road going through the application process and related court actions.

The consensus of the Committee was to lay over this item until the January 25, 2022, meeting.

REVIEW VIOLATION REPORT

Review of Violation Report for December 2021

The Committee reviewed the violation report.

Review of FY 20-21 Inspection Report

The Committee reviewed the report.

The consensus of the Committee was to add hiring an additional full-time code inspector to the January 25, 2022, agenda.

REVIEW NON-VIOLATION REPORT

Review of Non-Violation Report for November 2021

The Committee reviewed the non-violation report.

Review of Non-Violation Report for December 2021

The Committee reviewed the non-violation report.

UPDATE FOR HISTORIC PRESERVATION COMMISSION

Certified Local Government Annual Report

The Committee reviewed the report. Mr. Asselmeier noted that the report that was sent to the State included all of the minutes of the Commission's meetings in 2021.

REVIEW PERMIT REPORT

Review November 2021 Permit Report

The Committee reviewed the report.

Review December 2021 Permit Report

The Committee reviewed the report.

Review of End of Year Permit Report

The Committee reviewed the report.

REVIEW REVENUE REPORT

Review of November 2021 Revenue Report

The Committee reviewed the report.

Chairman Gengler suggested looking into building and zoning fees in the spring.

Review of 2009-2021 Revenue Report

The Committee reviewed the report.

Review of December 2021 Revenue Report

The Committee reviewed the report.

CORRESPONDENCE

Correspondence Related to the Temporary Use Permit Granted in December 2019 and Renewed in January 2021 (Petitions 19-45 and 20-31) for Portable Concrete Crushing Operations at 9211 Route 126 (PIN: 05-04-400-003) in Kendall Township

The Committee reviewed the correspondence.

COMMENTS FROM THE PRESS

None

EXECUTIVE SESSION

None

ADJOURNMENT

Member Flowers made a motion, seconded by Member Vickers, to adjourn. With a voice vote of five (5) ayes, the motion carried.

Chairman Gengler adjourned the meeting at 8:00 p.m.

Minutes prepared by Matthew H. Asselmeier, AICP, CFM Senior Planner