

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
March 28, 2022 – 7:00 p.m.

CALL TO ORDER

Chairman Randy Mohr called the Zoning Board of Appeals meeting to order at 7:01 p.m.

ROLL CALL:

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

Members Absent: Scott Cherry

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

Others Present: Andrew R. Smith, Jeremy Dippold, and Mark Fecht

PETITIONS

The Zoning Board of Appeals started their review of Petition 22-06 at 7:14 p.m.

Petition 22 – 06 – Kendall County Planning, Building and Zoning Committee

Request: Text Amendment to Section 3:02 (Definitions) of Kendall County Zoning Ordinance Adding Definitions of “Landscaping Business” and “Excavating Business” to the Kendall County Zoning Ordinance

Purpose: Petitioner Wants to Add Definitions of Landscaping Business and Excavating Business to the Kendall County Zoning Ordinance

Mr. Asselmeier summarized the request.

At the December 14, 2021, Planning, Building and Zoning Committee meeting, the Planning, Building and Zoning Committee requested Staff to prepare definitions for landscaping businesses and excavating businesses.

For preparing the proposed definition of landscaping business, Staff used the definition found in the North American Industrial Classification System as published by the United States Census Bureau. The proposed definition of landscaping business was as follows:

“LANDSCAPING BUSINESS. A business engaged in providing landscape care and maintenance services and/or installing trees, shrubs, plants, lawns, or gardens and businesses primarily engaged in providing these services along with the design of landscape plans and/or the construction and installation of walkways, retaining walls, decks, fences, ponds, and similar structures.”

Landscaping businesses are special uses in the A-1, B-3, M-1 and M-2 Districts.

When considering a definition of excavating businesses, the North American Industrial Classification System grouped excavating businesses with other site preparing contractors including dirt movers,

trenching, and foundation drilling. Also, the terms “excavating business” and “excavator” do not appear in the Zoning Ordinance. Accordingly, Staff proposed the following definition of excavating business:

“EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors’ office or shop.”

Contractor and Contractor Offices and Shops are conditional uses in the B-2 and B-3 Districts and permitted uses in the M-1 and M-2 Districts. In the B-2 and B-3 Districts, all work and storage must be inside buildings.

On January 25, 2022, the Kendall County Planning, Building and Zoning Committee unanimously voted to initiate a text amendment to the Kendall County Zoning Ordinances adding the above definitions as proposed by Staff.

This proposal was sent to the Townships on February 15, 2022. To date, no comments were received from the Townships.

ZPAC reviewed this proposal at their meeting on March 1, 2022. ZPAC recommended approval of the request by a vote of six (6) in favor and zero (0) in opposition with four (4) members absent. The minutes of the meeting were provided.

The Kendall County Regional Planning Commission reviewed the proposal on March 23, 2022. Discussion occurred regarding businesses engaged only in design of landscapes. If they had no outside storage, they could be considered home occupations on A-1 zoned property and offices on Business or Manufacturing zoned property. The following amendment to the definition of excavating business was proposed:

“EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment **weighing over thirty thousand pounds (30,000 lbs.)** for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors’ office or shop.”

The Kendall County Regional Planning Commission recommended approval of the requested text amendment with the amendment to the definition of excavating business listed above in red by a vote of seven (7) in favor and zero (0) in opposition with two (2) members absent. The minutes of the Kendall County Regional Planning Commission meeting were provided.

Staff had concerns regarding obtaining the weights of various pieces of equipment.

Chairman Mohr questioned the thirty-thousand pound (30,000 lbs.) proposal. Mr. Asselmeier explained that the Kendall County Regional Planning Commission wanted the weight to be high enough so that businesses that rented small equipment were not considered excavating businesses. Member LeCuyer was agreeable to the weight restriction.

Member Vickery questioned the activities of certain businesses, including a business that has a large mound of dirt on County Line Road north of Route 52. Mr. Asselmeier explained that the business with the mound of dirt claimed to be a forester and the State does not have a definition of forester; this business was also using an agricultural exemption in the Stormwater Management Ordinance. Mr. Asselmeier noted that Illinois Drainage Law still applied to the property.

Mr. Asselmeier stated that landscaping businesses currently have to obtain a special use permit and a stormwater permit if they pile materials taller than three feet (3'). Under the subject proposal, excavating businesses would not be allowed in the A-1 District, would not be considered agricultural, and would need to obtain a stormwater permit if they met the thresholds of the Stormwater Management Ordinance.

Discussion occurred about landscaping design businesses. If a business engaged in landscaping design does not have outside storage, they could be a home occupation in the A-1 District. Architects and other professional services are required to get special use permits in the A-1 District if the property does not meet the home occupation requirements.

Chairman Mohr opened the public hearing at 7:30 p.m.

No members of the public testified regarding the proposal.

Chairman Mohr closed the public hearing at 7:30 p.m.

Member LeCuyer made a motion, seconded by Member Thompson, to recommend approval of the text amendment with the thirty-thousand pound (30,000 lbs.) amendment.

The votes were as follows:

Ayes (5): Fox, LeCuyer, Mohr, Thompson, and Whitfield

Nays (1): Vickery

Abstain (0): None

Absent (1): Cherry

The motion passed.

Member Vickery voted no because she felt the proposal would open a can of worms.

Member LeCuyer felt the proposal was an attempt to fix some issues.

The townships will be notified of the results of the public hearing.

The proposal will go to the Kendall County Planning, Building and Zoning Committee on Monday, May 9, 2022.

The Zoning Board of Appeals completed their review of Petition 22-06 at 7:32 p.m.

PUBLIC COMMENTS

Mr. Asselmeier reported that, for the May hearing, there will be a Petition regarding changing the Future Land Use Map for the properties near 12565 Fox Road and a requested map amendment rezoning property along Brisbin Road in Seward Township from A-1 to R-1. The Seward Township moratorium and special use permit request for 1038 Harvey could also be on the agenda.

Mr. Asselmeier also reported that the County Board will recognize Karen Clementi at their meeting on April 5, 2022, at 6:00 p.m.

Mr. Asselmeier said the Village of Oswego Planning and Zoning Commission will hold a public hearing on April 7, 2022, at 7:00 p.m., to consider annexing the Hide-A-Way Lakes Campground.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS

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

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

The Zoning Board of Appeals meeting adjourned at 7:46 p.m.

The next hearing/meeting will be on May 2, 2022.

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


Exhibits

1. Memo on Petition 22-06 Dated March 24, 2022
2. Certificate of Publication for Petition 22-06 (Not Included with Report but on file in Planning, Building and Zoning Office)



**KENDALL COUNTY
ZONING BOARD OF APPEALS
MARCH 28, 2022**

In order to be allowed to present any testimony, make any comment, engage in cross-examination, or ask any question during this public hearing, you must enter your name, address, and signature on this form prior to the commencement of the public hearing. By signing this registration sheet, you agree that you understand that anything you say will be considered sworn testimony, and that you will tell the truth, the whole truth and nothing but the truth.

NAME	ADDRESS	SIGNATURE
Andrew P Smyth		
Best Budget Tree Jeremy Diopold		
Mark Fechr		



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204

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: March 24, 2022
Re: Definitions of Landscaping and Excavating Businesses

At the December 14, 2021, Planning, Building and Zoning Committee meeting, the Planning, Building and Zoning Committee requested Staff to prepare definitions for landscaping businesses and excavating businesses.

For preparing the proposed definition of landscaping business, Staff used the definition found in the North American Industrial Classification System as published by the United States Census Bureau. The proposed definition of landscaping business is as follows:

“LANDSCAPING BUSINESS. A business engaged in providing landscape care and maintenance services and/or installing trees, shrubs, plants, lawns, or gardens and businesses primarily engaged in providing these services along with the design of landscape plans and/or the construction and installation of walkways, retaining walls, decks, fences, ponds, and similar structures.”

Landscaping businesses are special uses in the A-1, B-3, M-1 and M-2 Districts.

When considering a definition of excavating businesses, the North American Industrial Classification System grouped excavating businesses with other site preparing contractors including dirt movers, trenching, and foundation drilling. Also, the terms “excavating business” and “excavator” do not appear in the Zoning Ordinance. Accordingly, Staff proposes the following definition of excavating business:

“EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors’ office or shop.”

Contractor and Contractor Offices and Shops are conditional uses in the B-2 and B-3 Districts and permitted uses in the M-1 and M-2 Districts. In the B-2 and B-3 Districts, all work and storage must be inside buildings.

On January 25, 2022, the Kendall County Planning, Building and Zoning Committee unanimously voted to initiate a text amendment to the Kendall County Zoning Ordinances adding the above definitions as proposed by Staff.

This proposal was sent to the Townships on February 15, 2022.

ZPAC reviewed this proposal at their meeting on March 1, 2022. ZPAC recommended approval of the request by a vote of six (6) in favor and zero (0) in opposition with four (4) members absent. The minutes of the meeting were attached.

The Kendall County Regional Planning Commission reviewed this proposal at their meeting on March 23, 2022. Discussion occurred about requiring businesses that engage in designs of

landscapes only to obtain a special use permit. These types of office businesses would be allowed in the B-3 without a special use permit and could be allowed as a home occupation if the other home occupation rules were met. The Kendall County Regional Planning Commission, by vote of seven (7) in favor and zero (0) in opposition with two (2) members absent voted to recommend approval of the text amendments with a change to the proposed definition of excavating business as shown below in red:

“EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment weighing over thirty thousand pounds (30,000 lbs.) for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors’ office or shop.”

The minutes of the Kendall County Regional Planning Commission meeting are attached.

Staff has concerns regarding obtain the weights of various pieces of equipment.

If you have any questions regarding this memo, please let me know.

Thanks,

MHA

Encs. March 1, 2022 ZPAC Meeting Minutes (This Petition Only)
March 23, 2022 Kendall County Regional Planning Commission Minutes (This Petition Only)

**ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)
March 1, 2022 – Unapproved Meeting Minutes**

PBZ Senior Planner Matt Asselmeier called the meeting to order at 9:02 a.m.

Present:

Matt Asselmeier – PBZ Department
Meagan Briganti – GIS Department
David Guritz – Forest Preserve
Brian Holdiman – PBZ Department
Fran Klaas – Highway Department
Alyse Olson – Soil and Water Conservation District

Absent:

Greg Chismark – WBK Engineering, LLC
Scott Gengler – PBZ Committee Chair
Commander Jason Langston – Sheriff's Department
Aaron Rybski – Health Department

Audience:

Tim O'Brien, Jillian Prodehl, Jessica Nelson, and Anne Vickery

PETITIONS

Petition 22-06 Kendall County Planning, Building and Zoning Committee

Mr. Asselmeier summarized the request.

At the December 14, 2021, Planning, Building and Zoning Committee meeting, the Planning, Building and Zoning Committee requested Staff to prepare definitions for landscaping businesses and excavating businesses.

For preparing the proposed definition of landscaping business, Staff used the definition found in the North American Industrial Classification System as published by the United States Census Bureau. The proposed definition of landscaping business was as follows:

“LANDSCAPING BUSINESS. A business engaged in providing landscape care and maintenance services and/or installing trees, shrubs, plants, lawns, or gardens and businesses primarily engaged in providing these services along with the design of landscape plans and/or the construction and installation of walkways, retaining walls, decks, fences, ponds, and similar structures.”

Landscaping businesses are special uses in the A-1, B-3, M-1 and M-2 Districts.

When considering a definition of excavating businesses, the North American Industrial Classification System grouped excavating businesses with other site preparing contractors including dirt movers, trenching, and foundation drilling. Also, the terms “excavating business” and “excavator” did not appear in the Zoning Ordinance. Accordingly, Staff proposed the following definition of excavating business:

“EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors’ office or shop.”

Contractor and Contractor Offices and Shops are conditional uses in the B-2 and B-3 Districts and permitted uses in the M-1 and M-2 Districts. In the B-2 and B-3 Districts, all work and storage must be inside buildings.

On January 25, 2022, the Kendall County Planning, Building and Zoning Committee unanimously voted to initiate a text amendment to the Kendall County Zoning Ordinances adding the above definitions as proposed by Staff.

This proposal was sent to the Townships on February 15, 2022. To date, no Townships have submitted comments.

Mr. Klaas asked if the Planning, Building and Zoning Department approved of this language. Mr. Asselmeier responded yes.

No definition of landscaping business presently exists in the Zoning Ordinance

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

The votes were follows

Ayes (6): Asselmeier, Briganti, Holdiman, Klaas, Olson, and Guritz

Nays (0): None

Abstain (0): None

Absent (4): Chismark, Gengler, Langston, and Rybski

The motion passed.

The proposal goes to the Kendall County Regional Planning Commission on March 23, 2022.

PUBLIC COMMENT

None

ADJOURNMENT

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

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

The ZPAC, at 9:36 a.m., adjourned.

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

**KENDALL COUNTY
REGIONAL PLANNING COMMISSION**

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

Unapproved - Meeting Minutes of March 23, 2022 - 7:00 p.m.

Vice Chairman Rodriguez called the meeting to order at 7:03 p.m.

ROLL CALL

Members Present: Tom Casey, Dave Hamman (Arrived at 7:06 p.m.), Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Claire Wilson, and Seth Wormley

Members Absent: Bill Ashton and Bob Stewart

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Scott Gengler, Tim O'Brien, Jillian Prodehl, Pete Fleming, and Suzanne Casey

PETITIONS

Petition 22-06 Kendall County Planning, Building and Zoning Committee

Mr. Asselmeier summarized the request.

At the December 14, 2021, Planning, Building and Zoning Committee meeting, the Planning, Building and Zoning Committee requested Staff to prepare definitions for landscaping businesses and excavating businesses.

For preparing the proposed definition of landscaping business, Staff used the definition found in the North American Industrial Classification System as published by the United States Census Bureau. The proposed definition of landscaping business was as follows:

“LANDSCAPING BUSINESS. A business engaged in providing landscape care and maintenance services and/or installing trees, shrubs, plants, lawns, or gardens and businesses primarily engaged in providing these services along with the design of landscape plans and/or the construction and installation of walkways, retaining walls, decks, fences, ponds, and similar structures.”

Landscaping businesses are special uses in the A-1, B-3, M-1 and M-2 Districts.

When considering a definition of excavating businesses, the North American Industrial Classification System grouped excavating businesses with other site preparing contractors including dirt movers, trenching, and foundation drilling. Also, the terms “excavating business” and “excavator” do not appear in the Zoning Ordinance. Accordingly, Staff proposed the following definition of excavating business:

“EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors’ office or shop.”

Contractor and Contractor Offices and Shops are conditional uses in the B-2 and B-3 Districts and permitted uses in the M-1 and M-2 Districts. In the B-2 and B-3 Districts, all work and storage must be inside buildings.

On January 25, 2022, the Kendall County Planning, Building and Zoning Committee unanimously voted to initiate a text amendment to the Kendall County Zoning Ordinances adding the above definitions as proposed by Staff.

This proposal was sent to the Townships on February 15, 2022.

ZPAC reviewed this proposal at their meeting on March 1, 2022. ZPAC recommended approval of the request by a vote of six (6) in favor and zero (0) in opposition with four (4) members absent. The minutes of the meeting were provided.

Member Wilson asked why businesses that rent excavating equipment were considered excavating businesses. Mr. Asselmeier said that, if a business has the equipment, they might use the equipment and be an excavating business.

Discussion occurred about setting a weight limit for businesses that rent excavating equipment. Equipment weights can be found online.

Discussion occurred regarding businesses that are run out of houses in the designing of landscaping plans business. The belief was that these types businesses would be considered home occupations if they met the home occupation requirements. Companies engaged in designing landscaping only would be allowed on properties with business zoning classifications.

Member Nelson made a motion, seconded by Member Hamman, to recommend approval of the requested text amendments with the following amendment:

“EXCAVATING BUSINESS. A business engaged in site preparation activities including grading, earthmoving, and land clearing and businesses that rent equipment **weighing over thirty thousand pounds (30,000 lbs.)** for such purposes. For the purposes of this Ordinance, an excavating business shall be considered a contractors’ office or shop.”

The votes were as follows:

Ayes (7): Casey, Hamman, McCarthy-Lange, Nelson, Rodriguez, Wilson, and Wormley
Nays (0): None
Absent (2): Ashton and Stewart
Abstain (0): None

The motion carried.

This proposal will go to the Kendall County Zoning Board of Appeals on March 28, 2022.

CITIZENS TO BE HEARD/PUBLIC COMMENT

None

ADJOURNMENT

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

The Kendall County Regional Planning Commission meeting adjourned at 8:10 p.m.

Respectfully submitted by,
KCRPC Meeting Minutes 03.23.22

Matthew H. Asselmeier, AICP, CFM
Senior Planner

Enc.



**KENDALL COUNTY
REGIONAL PLANNING COMMISSION
MARCH 23, 2022**

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>Aim O'Brien</i>		
<i>Pete Fenley</i>		
<i>Jilligan Prodehl</i>		