

**KENDALL COUNTY
REGIONAL PLANNING COMMISSION**

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

Meeting Minutes of December 14, 2022 - 7:00 p.m.

Secretary Larry Nelson called the meeting to order at 7:02 p.m.

ROLL CALL

Members Present: Eric Bernacki, Tom Casey, Karin McCarthy-Lange, Larry Nelson, Bob Stewart, Claire Wilson, and Seth Wormley

Members Absent: Bill Ashton, Dave Hamman, and Ruben Rodriguez

Staff Present: Matthew H. Asselmeier, Senior Planner

Others Present: Boyd Ingemunson and Brooke Shanley

APPROVAL OF AGENDA

Member McCarthy-Lange made a motion, seconded by Member Stewart, to approve the agenda. With a voice vote of seven (7) ayes, the motion carried.

APPROVAL OF MINUTES

Member Wilson made a motion, seconded by Member Stewart, to approve the minutes of the of the October 26, 2022, meeting. Mr. Asselmeier noted that the landscaping business at the corner of Route 126 and Grove Road, referenced in the minutes, plans to submit an application for a special use permit by the January 2023 application deadline. With a voice vote of seven (7) ayes, the motion carried.

PETITION

Petition 22-24 Raymond Gonzalez as Beneficiary of Merchants National Bank Under Trust Agreement Dated February 24, 1997 as Trust Number 5191

Mr. Asselmeier summarized the request.

The Petitioner would like to provide housing for a watchman in one (1) of the units on the first floor of the southern, mixed use building on the subject property.

Also, the Petitioner would also like to store boats, recreational vehicles, and granite outdoors at the subject property north of the garage building.

The southern, mixed use building was constructed in 1960. The subject property has been zoned B-2 since 1976. The existing dwelling units on the second floor are lawfully non-conforming.

The application materials, site plan, a picture of the mixed use building, a picture of the garage, a picture of the western fence, a picture of the eastern fence and, a picture of the existing monument sign was provided.

The property is approximately one point six-three (1.63) acres in size.

The existing land use is improved commercial.

The County's Future Land Use Map calls for the property to be Suburban Residential (Max 1 DU/Acre). The Village of Oswego's Future Land Use Map calls for the property to be Downtown.

Route 34 is an Arterial Road maintained by the Illinois Department of Transportation.

The Village of Oswego has a trail planned along Route 34 in this area.

There are no floodplains or wetlands on the property.

The adjacent land uses are single-family residential, vocational school, parking lot, and vacant.

The adjacent properties are zoned R-3, B-2, and B-3.

The County's Future Land Use Map calls for the area to be Suburban Residential.

The Village of Oswego's Future Land Use Maps calls for the area to be Downtown.

Nearby properties are zoned A-1, A-1 SU, R-3, R-3 SU, B-1, B-3 and B-3 SU in the County and R-2, R-3, R-4, and B-2 inside the Village of Oswego.

The R-3 special use to the east is for a church sign. The B-3 special use to south is for outside storage. The A-1 special use to west is for a riding stable, including an apartment.

EcoCAT Report not required because the property was not zoned A-1.

The NRI application was submitted on November 16, 2022. The LESA Score was 133 indicating a low level of protection. The NRI was provided.

Oswego Township was emailed Petition information on November 21, 2022.

The Village of Oswego was emailed Petition information on November 21, 2022.

The Oswego Fire Protection District was emailed Petition information on November 21, 2022. The Oswego Fire Protection District submitted an email clarifying condition 2 regarding the living situation of the watchman. This email was provided.

ZPAC reviewed this proposal at their meeting on December 6, 2022. Mr. Rybski noted that the existing septic system was located near the front monument sign. The septic system was designed in 1987 for seven (7) bedrooms. Discussion occurred regarding the definition of Downtown Use in the Village of Oswego's plan. The Petitioner's Attorney said the Petitioner was agreeable to the proposed conditions, but may request clarification on the documents required for annual submittal as outlined in condition 2. ZPAC recommended approval of the proposal with the conditions proposed by Staff by a vote of five (5) in favor and zero (0) in opposition with four (4) members absent. The minutes of the meeting were provided.

According the submitted information, there are four (4) commercial tenants housed on the first floor of the mixed use building. The specific unit where the watchman and their family would live was not identified.

The outside storage would consist of boats, recreational vehicles, and granite. No information was provided regarding the number of boats and recreational vehicles that would be parked on the premises. No information was provided regarding the amount of granite that would be stored outdoors. The materials would be stored outdoors within the fenced area north of the garage.

One (1) two (2) story approximately three thousand eight hundred (3,800) square foot masonry and frame mixed use building is located on the property; this building was constructed in 1960. One (1) approximately three thousand seven hundred fifty (3,750) square foot detached garage is located on the property north of the mixed use building.

The property is served by well and septic.

The driving area perpendicular and south of the garage is asphalt paved.

The site plan showed twenty-three (23) parking spaces around the mixed use building. One (1) parking space was marked onsite as a handicapped accessible parking space.

The storage area within the fence north of the garage is gravel.

The property fronts Route 34.

On November 17, 2022, Staff emailed the Illinois Department of Transportation for comments regarding this proposal; this email was provided. The Illinois Department of Transportation submitted an email stating they were not requesting a right-of-way dedication for a trail and noted that an access permit would be required, if the property owner changed or added entrances. This email was provided.

According to the submitted materials, no additional impervious surface is planned.

No information was provided regarding lights.

One (1) existing monument sign was shown on the site plan. A picture of the sign was provided. The sign was approximately nine feet (9') in width and seven feet (7') in height with a small shake roof. No plans existed to illuminate the sign. Each tenant in the mixed use building has one (1) sign attached to the building. No information was provided regarding whether the storage business would have a sign or the placement of the sign.

No information was provided regarding security of the outdoor storage area. There is one (1) eight foot (8') tall cedar privacy fence around the outdoor storage area.

In addition to the cedar privacy fence, there is one (1) white vinyl fence located east of the mixed use building.

According to the site plan, there are two (2) landscape planters located at the southern end of the property. One (1) of these planters is located in the middle of the access from Route 34 and the other planter is located around the monument sign.

No information was provided regarding noise control.

The site plan showed one (1) dumpster located east of the garage. The dumpster area is six foot by eight foot (6'X8'). The dumpster was visible in the picture of the eastern fence.

If approved, this would be the second (2nd) active special use permit for a dwelling unit for a watchman on non A-1 zoned property in unincorporated Kendall County.

If approved, this would be the third (3rd) active special use permit for a storage facility on non A-1 zoned property in unincorporated Kendall County.

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. Provided the site is developed in accordance with the submitted site plan, including the maintenance of the existing vinyl and cedar fences, and the business allowed

by the special use permit follows the Kendall County Inoperable Vehicle Ordinance, Kendall County Junk and Debris Ordinance, and related ordinances, the special use permit will not be detrimental to the public health, safety, morals, comfort, or general welfare.

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. The same is true with allowing a watchman and their immediate family to reside on the premises.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. The proposed uses will be low utility users. Adequate utilities exist for the site. Adequate access exists for the site. Because no additional impervious surfaces are planned, drainage should not be an issue.

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, provided the screening created by the vinyl and cedar fences are maintained.

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. This is true for both proposed uses. The operation of an outdoor storage facility and allowing a dwelling unit for a watchman is consistent with an objective found on Page 6-34 of the Kendall County Land Resource Management Plan which calls for “a strong base of agricultural, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents” through the encouragement “. . . of locally owned businesses.” Allowing a dwelling unit for a watchman at the property should help ensure that the building continues to be maintained in a manner that attracts and retains quality tenants.

Staff recommended approval of the special use permits subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the submitted site plan. Except for loading and unloading, outside storage of materials shall be restricted to the fenced area north of the frame garage shown on the submitted site plan.
2. The owner of the property shall submit information to the Kendall County Planning, Building and Zoning Department annually confirming that the tenants of the apartment are employed as a watchman of a business operating on the subject property or are immediate family members of the watchman. **(Amended at ZPAC).**
3. The operator(s) of the business allowed by this special use permit shall ensure that the existing fences shown in the submitted pictures are maintained in good order to provide screening of the outdoor storage area from adjacent and surrounding properties. The operator(s) of the business allowed by this special use permit may alter the materials used to create the fences, but shall not decrease the screening created by the fences that existed at the time of the issuance of the special use permit.

4. None of the vehicles or items parked or stored on premises shall be considered agricultural equipment as they relate to the businesses allowed by these special use permits.
5. All of the vehicles or items stored on the premises shall be maintained in good condition with no deflated tires and shall be licensed if required by law.
6. The owners of the business allowed by these special use permits shall diligently monitor the property for leaks from vehicles and items stored on the premises and shall promptly clean up the site if leaks occur.
7. The operator(s) of the business allowed by these special use permits acknowledge and agree to follow Kendall County's Right to Farm Clause.
8. The operator(s) of the business allowed by these special use permits shall follow all applicable Federal, State, and Local laws related to the operation of this type of business, including but not limited to the sign regulations contained in the Kendall County Zoning Ordinance.
9. The property owner shall follow all applicable Federal, State, and Local laws related to renting the property to a watchman and the family of the watchman.
10. Failure to comply with one or more of the above conditions or restrictions could result in the amendment or revocation of the special use permits.
11. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
12. These special use permits shall be treated as covenants running with the land and are binding on the successors, heirs, and assigns as to the same special uses conducted on the property.

Boyd Ingemunson, Attorney for the Petitioner, explained that one (1) tenant would like to store granite at the property and the owner would like to have a watchman reside in one (1) of the units on the first floor. Mr. Ingemunson noted that the property is fenced and he felt the property was appropriately screened from neighboring properties.

Member Wilson asked if people were living in the upstairs apartments. Mr. Ingemunson responded yes; the apartments are legally non-conforming. The watchman would reside on the first floor.

Member Bernacki asked if the vinyl fence would be extended further north. The response was the fence would not be extended north because such an extension would impact access to the area between the two (2) existing buildings.

Member Wormley asked where the other non A-1 zoned outdoor storage areas were located. Mr. Asselmeier responded that one (1) of the properties was located in Seward Township next to the Go Pro Sports facility and another one (1) was located near the subject property. Member Nelson noted there were additional outdoor storage special uses on A-1 zoned properties.

Member Wormley expressed concerns about the special use permit passing to a future owner. Mr. Asselmeier noted that a petition should be evaluated based on the merits of the request and not a specific petitioner. Member Nelson noted the importance of having strong conditions on the special use permit in the event the property was sold. Member Wilson felt that, even if the property were sold, the tenant operating the granite business might not be removed from the property.

Member Wormley asked why this request occurred. Mr. Asselmeier responded that the owner wanted to rent out a space to a watchman and obtain proper approval for outdoor storage.

Member Bernacki asked about possible uses of the vacant lot to the east. Mr. Ingemunson felt that the property to east would not be suitable for development.

The property would likely be annexed into the Village of Oswego, at some point.

Discussion occurred about restricting the type of materials and vehicles stored to specific items. Concerns were raised that the property could be turned into a junk yard. Mr. Ingemunson said that his client would not oppose limiting items to boats, recreational vehicles, trailers cars, granite, and other items owned by tenants of the property. A suggested condition was that items stored outdoors were limited to cars, boats, trailers, recreational vehicles, granite, and other materials related to businesses housed on the property and no junk or debris as defined by the Kendall County Junk and Debris Ordinance shall be stored outdoors on the property. The consensus was not to have landscaping materials on the property, unless a special use permit for a landscaping business was granted in the future.

Member Bernacki asked about the contents of the garage. Mr. Ingemunson responded that tenants store items inside the garage. The garage would need a change of occupancy permit if it were to be converted to something other than a garage.

Discussion occurred regarding which unit would house the watchman. Based on the location of the vinyl fence and the appearance of the property, the eastern most unit would likely be the location for the watchman. The consensus of the discussion was that only one (1) watchman would reside on the property and only one (1) unit on the first floor would be used for a watchman.

Member Wilson made a motion, seconded by Member McCarthy-Lange, to recommend approval of the special use permits and with the conditions proposed by Staff and the addition of the condition related to types of materials stored on the premises.

The votes on were as follows:

Ayes (7): Bernacki, Casey, McCarthy-Lange, Nelson, Stewart, Wilson, and Wormley

Nays (0): None

Absent (3): Ashton, Hamman, and Rodriguez

Abstain (0): None

The motion carried. The proposal will go to the Kendall County Zoning Board of Appeals on December 19, 2022.

CITIZENS TO BE HEARD/PUBLIC COMMENT

None

NEW BUSINESS

Review of Invitation List for February 2023 Annual Meeting

Commissioners reviewed the list.

The Annual Meeting is February 4, 2023.

Member Wilson expressed concerns about the definition of watchman's quarters. The intent of the Zoning

Ordinance was to allow family members of an onsite watchman to reside with the watchman on the premises. A watchman could not live offsite while his/her family resided on the premises. The consensus was to review the definition at the beginning of 2023.

OLD BUSINESS

None

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

Mr. Asselmeier reported that Petition 22-19 was approved by the County Board. Petition 22-20 was approved by the Millbrook Village Board.

OTHER BUSINESS/ANNOUNCEMENTS

Mr. Asselmeier reported that the application deadline for the January meeting is December 20, 2022. The kennel/veterinary at the corner of Ridge and Bell Roads was working on a major amendment to the site plan of their special use permit. The Friestad Family was working on three (3) applications for Agricultural Conservation Areas.

Member Nelson asked about the status for collecting the fine for the illegal landscaping business at 1038 Harvey Road. Mr. Asselmeier responded a lien for the amount of the fine has been placed on the property. At an upcoming Planning, Building and Zoning Committee meeting, the question will be asked if the Committee and/or County Board would like to ask the State's Attorney's Office to pursue the fine in another fashion besides the lien.

The owner of 2511 Wildy Road was considering a special use permit for a banquet facility and was working on obtaining compliance with the Kendall County Stormwater Management Ordinance. The next court date for this property is January 10, 2023.

ADJOURNMENT

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

The Kendall County Regional Planning Commission meeting adjourned at 7:47 p.m.

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