

**ZONING, PLATTING & ADVISORY COMMITTEE (ZPAC)
April 4, 2023 – Approved Meeting Minutes**

PBZ Chairman Seth Wormley called the meeting to order at 9:00 a.m.

Present:

Matt Asselmeier – PBZ Department
Meagan Briganti – GIS Department
David Guritz – Forest Preserve
Fran Klaas – Highway Department
Alyse Olson – Soil and Water Conservation District
Aaron Rybski – Health Department
Seth Wormley – PBZ Committee Chair

Absent:

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

Audience:

Darrin Hane, Mark Daniel, Judy Bush, Don Ebert, Sydney Ebert, and Laura Campos

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. Guritz made a motion, seconded by Mr. Rybski, to approve the February 28, 2023, meeting minutes.

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

PETITIONS

Petitions 23-17 Kendall County Planning, Building and Zoning Committee

Mr. Asselmeier summarized the request.

In 2010, through Ordinance 2010-21, Kendall County legalized the keeping of a maximum of twelve (12) hens on properties zoned R-1, R-2, and R-3, provided the property was at least one (1) acre in size. A copy of this ordinance was provided.

Prior to the 2023 Kendall County Regional Planning Commission's Annual Meeting, the County received a request from a resident in Boulder Hill to allow hens on properties zoned R-6. The resident and several other residents of Boulder Hill presented information at the Kendall County Regional Planning Commission Annual Meeting on the subject and Staff was directed to explore a text amendment on the matter.

After researching the regulations in other, nearby communities, Staff prepared attached proposal.

In summary, the proposal would be as follows:

1. Allow the keeping of a maximum of six (6) hens on any lot zoned and used for single family residential purposes.
2. Lots one (1) acre or larger in size may have a maximum of twelve (12) hens.
3. The keeping of roosters would not be allowed on residentially zoned property, except by special use permit in the RPD Districts (this is already allowed in the Zoning Ordinance).
4. No other poultry would be allowed.
5. Confinements would have to be a maximum of ten feet (10') from residential lot lines.

6. Uncovered fence enclosure must be at least four feet (4') in height.
7. The sale of chickens or eggs would not be allowed.

A redlined version of the proposal was provided.

At their meeting on March 13, 2023, the Planning, Building and Zoning Committee voted three (3) in favor, one (1) in opposition, and one (1) absent to initiate this amendment.

The comparison table of local chicken regulations, the original request for backyard hens, and a map of the County showing areas zoned R-4, R-5, R-6, and R-7 was provided.

Mr. Klaas asked about complaints about chickens. Mr. Asselmeier responded the Department receives complaints about people having chickens in locations where keeping chickens is not allowed. Mr. Asselmeier explained the concerns that people have about chickens that cause phone calls.

Mr. Guritz asked if similar situations arise in other parts of the County. Mr. Asselmeier explained the current regulations and the locations impacted if the proposed regulations were adopted.

Mr. Klaas was unsure if ZPAC should weigh-in on the proposal because the decision on number of chickens is a policy decision and not a technical decision.

Mr. Guritz wanted an opinion from someone raising chickens on the potential adverse impacts that could arise if people were raising chickens in more densely populated areas.

Mr. Rybski was concerned about time investigating complaints and higher potential of contracting certain diseases from proximity to chickens. He would like to see education or a permitting process on having chickens properly.

Mr. Klaas made a motion, seconded by Mr. Rybski, to issue a neutral recommendation.

The votes were follows:

Ayes (6): Asselmeier, Briganti, Klaas, Olson, Rybski, and Wormley
Nays (1): Guritz
Abstain (0): None
Absent (3): Chismark, Holdiman, and Langston

The motion passed.

The proposal goes to the Kendall County Regional Planning Commission on April 26, 2023.

Petition 23-18 Edward J. Brongiel on Behalf of Prairie Creek Trust

Mr. Asselmeier summarized the request.

The Petitioner would like to demolish one (1) approximately one thousand one hundred sixty (1,160) square foot two (2) story house, one (1) approximately nine hundred ninety-two (992) square foot garage, and one (1) approximately one thousand three hundred sixty-four (1,364) square foot frame building at 9120 Route 34, Yorkville. Pictures of the structures proposed for demolition were provided.

The Petitioner plans to sell the property; a future owner may decide to construct additional structures on the property.

Section 13:10 of the Zoning Ordinance requires site plan review for structures on properties zoned B-3.

Mr. Rybski asked about an abandoned well or septic tank; he would like to see the site properly investigated before demolition takes place. Darrin Hane, representing the Petitioner, said that permits have been applied for abandoning the well and septic tank.

Mr. Rybski made a motion, seconded by Mr. Guritz, to approve the site plan.

The votes were follows:

Ayes (7): Asselmeier, Briganti, Guritz, Klaas, Olson, Rybski, and Wormley
Nays (0): None

Abstain (0): None
Absent (3): Chismark, Holdiman, and Langston

The motion passed.

Petition 23-19 Brent A. Stary and Tracy A. Stary on Behalf of MCB52, Inc. (Property Owner) and Roman Correa on Behalf of R&S Landscaping and Nursery, Inc. (Tenant)

Mr. Asselmeier summarized the request.

In October 2022, the Planning, Building and Zoning Department received a complaint regarding a landscaping business operating at 5022 Route 126 without a special use permit. In the intervening months, the property owner and business owner worked with an attorney and engineer to submit an application for a special use permit.

The Petitioners are seeking a special use permit for a landscaping business, including allowing outdoor storage of materials. They are also seeking variances to Section 4:05.B and Section 11:02.F.7 to allow outdoor parking and loading no closer than twenty-five feet (25') of the right-of-way line of Route 126 and to allow a portion of the accessible parking space to be no closer than sixty-nine feet (69') of the south right-of-way line of Route 126; parking is not allowed within the front-yard setback. The Petitioners would like a variance to Section 11:02.F.4 to allow parking spaces with a depth of eighteen feet (18') with an overhang of two feet (2') instead of the twenty foot (20') depth requirement. Finally, they are seeking a variance to Section 4:09.A to allow the existing driveway on Grove Road to be less than twenty feet (20') in width until such time as the driveway is replaced.

The Petitioners also wish to use the existing house and existing accessory structures for their business. Some of these structures pre-date the adoption of the Kendall County Zoning Ordinance. The Petitioners are requesting a variance to Section 7:01.G.2.a to allow the existing house to be no closer than seventy-three feet (73') south of the right-of-way line of Route 126 instead of the required one hundred feet (100') and no closer than twenty-one feet (21') west of the right-of-way line of Grove Road instead of the required one hundred feet (100'). The Petitioners are also requesting a variance to Section 7:01.G.2.b to allow accessory structures no closer than fifty-seven feet (57') south of the right-of-way line of Route 126 instead of the required one hundred feet (100') and no closer than fifty-three feet (53') west of the right of the right-of-way line of Grove Road instead of the required one hundred feet (100'). These requests are part of a separate Petition (Petition 23-20).

Finally, the Petitioners wish to have the opportunity to use the home on the property to house an employee of the landscaping and nursery business. Accordingly, they request a conditional use permit for that purpose, which is a separate Petition (Petition 23-21).

The application materials, stormwater information, existing conditions survey, site plan, landscaping plan, and pictures of the property were provided.

The property is approximately two point nine (2.9) acres in size.

The County's plan called for the property to be Commercial. Yorkville's plan calls for the property to be Estate Residential.

Route 126 is a State maintained Arterial. Grove Road is a Major Collector maintained by the County.

Yorkville has a trail planned along Route 126 and Grove Road.

There are no floodplains or wetlands on the property.

The adjacent land uses are agricultural.

The adjacent properties are zoned A-1.

The County's plan calls for the area to be Commercial. Yorkville's Plan calls for the area to be Estate Residential and Agricultural. Oswego's Plan calls for the area to be Agricultural.

The properties within one half (1/2) mile are zoned A-1, A-1 SU, and RPD-2.

Grove Road is the boundary line between the United City of Yorkville's and the Village of Oswego's planning areas.

The A-1 special use permits to the west are for a golf course.

A cemetery is located near the subject property to the south.

Approximately six (6) houses and the Whitetail Ridge Subdivision are located within one point five (1.5) miles of the subject property.

EcoCAT Report was submitted on February 22, 2023, and consultation was terminated.

The NRI Application was submitted on February 15, 2023, see Attachment 1, Page 27.

Petition information was sent to Na-Au-Say Township on March 27, 2023.

Petition information was sent to the United City of Yorkville on March 27, 2023.

Petition information was sent to the Bristol Kendall Fire Protection District on March 27, 2023.

Per Section 7:01.D.30 of the Kendall County Zoning Ordinance, landscaping businesses can be special uses on A-1 zoned property subject to the following conditions:

1. All vehicles, equipment and materials associated with a landscaping business shall be stored entirely within an enclosed structure, unless otherwise permitted under the terms of this Special Use Permit.
2. The business shall be located on, and have direct access to, a State, County or Collector Highway as identified in the County's LRMP, having an all-weather surface, designed to accommodate loads of at least 73,280 lbs, unless otherwise approved in writing by the agency having jurisdiction over said Highway. Such approvals shall establish limitations as to the number of employees and types of vehicles coming to and from the site that are engaged in the operation of the use (including delivery vehicles). These restrictions shall be included as controlling conditions of the Special Use.
3. No landscape waste generated off the property can be burned on this site.

If the County Board approves the outdoor storage of materials and variances, the above conditions have been met.

As noted in the project narrative, the Petitioners would like to operate R&S Landscaping and Nursery at the subject property. The existing home would be used as the office for the business and would possibly be used as a dwelling in the future for an employee. The northern most barn would be used as a tool shop and meeting space.

No retail activities related to the business would occur at the subject property.

The business would be open from 7:00 a.m. until 7:00 p.m. everyday throughout the year. The business has a maximum of seventeen (17) employees, during the busy season. The business hauls vegetation and other landscaping items from the property to work sites. Employees either report to the subject property or report directly to job sites. Equipment is parked either at the subject property or the job site.

The site plan (Attachment 4) shows seven (7) four foot (4') tall concrete block storage areas approximately five feet (5') from the western property line. These storage areas range from approximately one thousand seven ten (1,710) square feet in size to approximately five hundred ten (510) square feet in size. All of the storage areas are thirty feet (30') in depth. The storage areas will hold top soil, boulders, sand, mulch, gravel, landscape waste, and brush. No piles will be taller than six feet (6') in height. Areas for outdoor equipment storage are located east of an interior driveway. One (1) outdoor storage area for bricks is planned is also planned in this area.

In addition to the landscaping component, the Petitioners will have a nursery with two (2) membrane flower storage areas and areas for growing trees, bushes, and flowers. The nursery area will be located south of the gravel driveway.

One (1) one point five (1.5) story, approximately one thousand three hundred ninety-two (1,392) square foot house, is located on the property. There is one (1) approximately five hundred fifty (550) square foot detached garage, one (1) approximately one thousand seventy (1,070) square foot accessory building (labeled as machine tool shop, storage, breakroom and meeting room on the site plan), one approximately seven hundred (700) square foot chicken coop, and one (1) approximately three eight hundred sixty (3,680) square foot accessory building (labeled as equipment storage on the site plan). Two (2) silos are also located on the property.

Any structures related to the landscaping business would be required to obtain applicable building permits, including changes in occupancy.

The property is served by a well and septic. No information was provided regarding whether or not employees would use these facilities.

The property has a propane tank, which will be protected by bollards.

No information was provided regarding a refuse area.

The property drains to the west and south.

The Petitioners submitted an application for a stormwater management permit.

Per the site plan, the Petitioners' propose to make the driveway off of Grove Road as the main access point. This driveway is approximately seven feet (7') wide. The Petitioners propose to widen the driveway to approximately fifteen feet (15') in width. The driveway expands to twenty-four feet (24') in width west of the propane tank. The Petitioners are pursuing a variance related to this driveway.

The property also has access from Route 126. This driveway will be used as an exit only.

According to the site plan, the Petitioners propose nine (9) parking spaces south of the brick storage and equipment storage area along the southern driveway. One (1) handicapped accessible parking space is proposed north of the existing garage.

The southern driveway would be gravel and would be twenty-four feet (24') in width.

One (1) north-south twenty-four foot (24') wide driveway would be located between the storage areas and stockpiles and a second sixteen foot (16') wide east-west driveway would be located between the two (2) equipment storage and truck parking area. These drives would be CA-7.

One (1) twenty-six foot (26') wide gravel driveway would run from the southern driveway to the handicapped parking space.

The driveway north of the handicapped parking space to Route 126 would be asphalt.

The existing conditions survey and the site plan show five (5) lights attached to the middle portions of buildings, two (2) lights at building corners, and one (1) new eighteen foot (18') tall wall mounted light. These lights are considered necessary for security reasons. The sign at the northeast corner of the property would also be illuminated from 6:00 a.m. until 11:00 p.m. as allowed by the Zoning Ordinance.

According to the site plan, the Petitioners propose to install one (1) thirty-two (32) square foot wooden sign near the northeast corner of the property. The sign would be illuminated as detailed previously.

Two (2) proposed "Do Not Enter" signs are proposed at the driveway on Route 126. One (1) "No Left Turn" sign is proposed in the same area.

Other than lighting, no other security information was provided.

The site plan and landscaping plan show twenty-six (26) black hill spruce trees and ten (10) emerald green arborvitae near the north property line. The spruce trees are approximately seven (7') feet in height and the arborvitae are approximately twelve (12') feet in height. There are twenty-eight (28) white pines and twenty-one (21) arborvitae at the southeast corner of the property. The white pines are approximately ten feet (10') in height and the arborvitae are approximately twelve (12') feet in height. Several other plantings are scattered throughout the site, including landscaping around the sign at the northeast corner of the property.

On the landscaping plan the Petitioners noted the existing row of trees located to the west of the subject property. The Petitioners are agreeable to planting trees on the subject property if the trees on the adjoining property are removed.

No information was provided regarding noise control.

No information was provided regarding odor control.

If approved, this would be the nineteenth (19th) special use permit for a landscaping business in unincorporated Kendall County.

The proposed Findings of Fact for the special use permit were as follows:

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. Petitioners plan to preserve existing buildings and existing sign on the north accessory building. Areas surrounding the property are zoned and used for agricultural purposes. Petitioners plan for drainage and will maintain the existing direction, rate and volume of stormwater flowing in the handful of directions noted in the elevations submitted within the application. Petitioners will reduce use of the Route 126 driveway from full access to emergency right-out only use. The main entrance is sufficiently south of Route 126 and there is ample stacking to make a safe left turn into the main driveway without obstructing left turns from Grove Road onto Route 126. Most of the variances requested relate to existing conditions. The location of the parking, loading and storage yard in the west half of the property relates to the circumstance that all existing buildings are centralized. The avoidance of paving for parking and loading and the loading space variation are the only new development needs for relief from the Zoning Ordinance.

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 makes 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. The subject property is in a large A-1 Agricultural District. Growing of trees, shrubs and flowers is a form of agricultural use. Growing is one part of the use proposed in the application. The use will not impede farms on the four adjacent and opposing sides of the Property. The use is deemed legislatively compatible because it meets all of the requirements contained in the Zoning Ordinance for landscaping businesses, if permission is granted for outdoor storage of materials. The use at the subject property will meet several purposes for the A-1 district as outlined in Section 7:01.A of the Zoning Ordinance, including the preservation of fertile, tillable soils as a valuable natural resource by recharging soils and groundwater through the large CA-7 field, by respecting grades and by engaging in a mix of soil planting and planting in potters, all the while re-using an existing residential home and outbuildings that have long existed. Reasonable restrictions, including hours of operation, maximum number of employees at the property, noise regulations, and lighting requirements are proposed that will protect the enjoyment and use of other properties in the vicinity.

Adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Restrictions can be placed in the special use permit to address the number of people on the property. No retail customers will be on the property. As such, there are sufficient utilities on the property to handle the proposed uses. The intersection abutting the northeast corner of the Property is sufficiently designed with ample left turn stacking and a stop sign control for traffic crossing Route 126. The existing driveways are sufficiently connected to Grove Road (main driveway) and Route 126 (emergency limited access). Drainage on the property flows in three directions, with most stormwater eventually flowing south down a change in grade of roughly five feet (5'). Petitioners have restored a tile and respected drainage rights under the Illinois Drainage Code in the present placement of cement blocks to allow for the passage of stormwater in the one (1) area of the Property where it flows west and to avoid redirecting stormwater other than to the south. Otherwise, stormwater flows into the culverts along roadways. A stormwater management permit will be secured.

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. Petitioners provided an A-1 Agricultural District Table of Compliance addressing all elements of zoning compliance. Variations are necessary, but these variations are primarily related to preservation of existing buildings, structures, and improvements. New relief related to the loading and storage yard places this activity in an area where there was prior activity west of the smaller barn. The use area will benefit from a continuous screen of trees that have already been planted at a substantial height.

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. The use involves a commercial operation recognized as the use that will prevail at the property under the Land Resource Management Plan. The proposal is also consistent with a goal and objective found

on page 10-11 of the Land Resource Management Plan, "A strong base of agriculture, commercial and industry that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents." ". . . encourage additional agriculture and agribusiness."

The proposed Findings of Fact for the variance to allow yard obstructions and parking areas in the setbacks were as follows:

The particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. The topography and stormwater flow runs west or south. Substantially all of the property south of the driveway from Grove Road is a flow route for storm volume. In attempting to avoid placement of the loading and storage yard away from the intersection and away from Grove Road, the drainage concerns and the loss of benefits of filtration and ground water recharging played a significant role in determining not to locate this yard south of its proposed location. With respect to the location of the existing garage, it is situated behind the house where such a garage would ordinarily exist, but the house was constructed one hundred (100) or more years ago before the expansion of the abutting roadways and the adoption of zoning regulations pertaining to the setback issue. The interior drive has existed for decades and the most logical location for an accessible parking stall is adjacent to the two buildings where an accessible space can be of benefit. The design of the space leaves all but roughly four feet of the space outside of the setback. These circumstances drive a finding in favor of the variations.

The conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. Due to the varying topography throughout the County and the circumstance that the property is a corner lot that was improved before 1922, it cannot be said that the concern causing the difficulty and hardship generally prevails in the A-1 Agriculture District.

The alleged difficulty or hardship has not been created by any person presently having an interest in the property. The only new element relates to the parking, loading and storage area. Since the 1920's, the area near Route 126 has been higher land. This is evident in aerial photographs of the topography of the area. Moreover, the use area to be occupied by the parking and loading area is similar to the use area that existed from at least the early 1980's until 2006. Petitioners do not propose the loading and storage area adjacent to the lot line, but plans for it at a distance of fifteen feet (15') from the right-of-way, but in the same area that has the historically higher elevation and the historical use. In plain terms, Petitioners are not the first to recognize this higher elevation and they did not create it any more than they created the grades, slopes and swales south of the barns that cause the area south of the driveway to be incapable of hosting the loading and storage area without presenting a visual obstruction, placing impermeable or less permeable surface over land that is saturated and helps to recharge groundwater while also filtering stormwater.

The granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. Petitioners propose that none of the outdoor use should be plainly visible to passersby due to the screening. The use of CA-7 stone for the yard allows for infiltration of more water.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. One (1) basis for the proposed location of the loading and storage yard is that it avoids placing the area in plain view. The yard will not create shadows or obstruct the flow of air. The yard itself does not contribute to traffic. In fact, it reduces traffic by avoiding excess trips Petitioners would make if they were required to store and load materials elsewhere. The conditions on the special use above also touch on changes to be made if the treeline west of the property no longer exists.

The proposed Findings of Fact for the variance for parking stall depth were as follows:

The particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. The topography of the Property and water concerns led to an effort to avoid as much impervious surface as possible. The request for an adjustment in the parking lot design to allow for the same twenty foot (20') parking space, but with a two foot (2') overhang, and an eighteen foot (18') space from tire to tail of a vehicle, is a di minimus request, but it avoids an extra several hundred feet of pervious surface in an area of storm flow, filtering and recharging.

The conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. While applicable to several properties, this concern is not generally applicable to the A-1 district. The original parcel containing the property was a long, narrow farmstead that extended to the cemetery. Through various

transactions, including estate and probate matters, the property was divided so that it became a roughly square lot with the southern one hundred eighty feet (180') being an area of significant surface and subgrade flow during rain events and wet seasons.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. Certainly, parking can be relocated. Nine (9) parking spaces for the use is also more than needed. Petitioners' preference for parking along the south side of the large barn may be personal. However, Petitioners could have placed these on the south side of the driveway and reduced the area of soil that would accept water for filtration and recharging purposes. In planning for this use and similar uses, there is a general design principal that consolidation of buildings, parking and loading is best for the use and for passersby as well as eventual neighbors.

The granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variation has absolutely no impact on public welfare or on property and improvements in this vicinity.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. Petitioners are providing more parking than is necessary for the use. However, the provision of more parking does not conclusively lead to substantial increases in congestion since we are dealing with parking for only a few vehicles above that which is necessary. Parking on the north line of the interior drive will consolidate activity and also allow vehicles to park in a line where they will not be as noticeable to traffic on either abutting street. The variation should impact property values in any manner.

The proposed Findings of Fact for the variance to the Grove Road driveway construction were as follows:

The particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. The driveway has been in existence for a number of years and could be utilized by other agricultural uses on the property. Having the primary access off of Grove Road instead of Route 126 ensures that employees of the proposed use will not cause increase traffic congestion on Route 126 because the business deliveries will utilize the Grove Road access.

The conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. Other properties zoned A-1 that were in existence prior to Kendall County adopting zoning in 1940 could have similar issues. The exact number of properties with lawfully non-conforming driveways is unknown.

The alleged difficulty or hardship has not been created by any person presently having an interest in the property. Petitioners did not construct the subject driveway.

The granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The maintenance of the driveway as proposed will not harm public welfare. No retail is planned for the site. Therefore, no large increase in the amount of vehicles entering and exiting the property on Grove Road is anticipated.

The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. The variance will not cause congestion or endanger public safety because little additional traffic is anticipated at the property. There should be no risk of fire and property values will not be impacted if the variance is granted.

Pending comments from ZPAC, Staff recommended approval of the requested special use permit and variances subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the site plan and landscaping plan.
2. A variance to Section 4:05.B and Section 11:02.F.7 of Kendall County Zoning Ordinance shall be granted to allow outdoor parking and loading with twenty-five feet (25') of the right-of-way line of Route 126 and to allow a portion of the accessible parking space to be no closer than sixty-nine feet (69') of the south right-of-way line of Route 126.
3. A variance to Section 11:02.F.4 of the Kendall County Zoning Ordinance shall be granted to allow parking spaces with a depth of eighteen feet (18') with an overhang of two feet (2').

4. A variance to Section 4:09.A of the Kendall County Zoning Ordinance shall be granted to allow the existing driveway on Grove Road to be less than twenty feet (20') in width until such time as the driveway is replaced.
5. Equipment and vehicles related to the business allowed by the special use permit may be stored outdoors.
6. 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.
7. 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.
8. The owners of the businesses allowed by this special use permit shall diligently monitor the property for leaks from equipment and vehicles parked and stored and items stored on the subject property and shall promptly clean up the site if leaks occur.
9. Except for the purposes of loading and unloading, all landscape related materials shall be stored indoors or in the designated storage areas shown on the site plan. The maximum height of the piles of landscaping related material shall be six feet (6') in height.
10. No retail sale of landscaping materials may occur at the subject property.
11. A maximum of seventeen (17) 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.
12. The hours of operation of the business allowed by this special use permit shall be daily from 7:00 a.m. until 7:00 p.m. The owners of the business allowed by this special use permit may reduce these hours of operation.
13. Any structures constructed, installed, or used related to the business allowed by this special use permit on the property shall not be considered for agricultural purposes and must secure applicable building permits.
14. Signage shall be limited to the signs shown on the site plan. Signage may be illuminated as outlined on the site plan. Signs within rights-of-way may be relocated to another location on the property if requested by the Illinois Department of Transportation without the need to amend this special use permit. Religious signs in existence on the property at the time of application submittal shall be exempt from permitting requirements.
15. Except for the lighting around the business sign, the lights shown on the site plan shall be considered for security purposes.
16. Damaged or dead plantings described on the landscaping plan shall be replaced on a timeframe approved by the Kendall County Planning, Building and Zoning Department.
17. Any vegetation described on the landscaping plan that has not been installed by the approval date of this special use permit shall be installed within ninety (90) days of the approval of the special use permit. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the vegetation.
18. The owner of the subject property shall plant trees to fill in the gaps on the western property line as outlined in the landscaping plan. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to plant the screening. The site plan may be adjusted without an amendment to the special use permit to reflect the addition of these trees.
19. Vegetation related to the operations of a nursery on the property shall be exempted from the planting and vegetation maintenance requirements of this special use permit.
20. No landscape waste generated off the property can be burned on the subject property.
21. 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.

22. 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.
23. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
24. 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.
25. 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.
26. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
27. This special use permit and variances shall be treated as covenants running with the land and are binding on the successors, heirs, and assigns as to the same special use conducted on the property.

Mr. Rybski expressed concerns about the lack of information about the septic system due to the age of the system. He said if a change of use at the site occurred, the septic system would need to be analyzed. He also discussed the non-community well requirements; these requirements would not apply given the proposed number of employees. Mark Daniel, Attorney for the Petitioners, said the house would remain a single-family use with an office.

Mr. Klaas asked if a pipe culvert was in existence under the Grove Road access. He was not opposed to widening the access. There was no pipe culvert.

Mr. Klaas suggested giving the Petitioners the option to use the access off of Route 126 as a right-in, right out, if approved by the Illinois Department of Transportation, because of concerns about seeing the signs. Mr. Daniel said that IDOT favored seeing the historic use of the driveway continue. Mr. Daniel was not opposed to adding a note allowing right-in, right-out. He noted the location of certain signs in the right-of-way and that the Petitioners would not object to relocating those signs, if requested.

Chairman Wormley asked if an additional setback was necessary due to potential widening of Route 126. Mr. Klaas said that Route 126 will remain a two (2) lane road. A traffic signal is proposed for the intersection. No additional right-of-way is needed for the foreseeable future.

Mr. Guritz made a motion, seconded by Mr. Klaas, to recommend approval of the proposal with the conditions proposed by Staff with an added condition allowing the option of a right-in, right-out access off of Route 126, pending approval by the Illinois Department of Transportation and related adjustments to the site plan with regards to signage.

The votes were follows:

Ayes (7): Asselmeier, Briganti, Guritz, Klaas, Olson, Rybski, and Wormley
Nays (0): None
Abstain (0): None
Absent (3): Chismark, Holdiman, and Langston

The motion passed.

The proposal goes to the Kendall County Regional Planning Commission on April 26, 2023.

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

None

OLD BUSINESS/NEW BUSINESS

None

CORRESPONDENCE

None

PUBLIC COMMENT

Judy Bush, Oswego Township Trustee and resident of Boulder Hill strongly opposed chickens. She questioned how the County will enforce the regulations. She questioned enforcement of existing regulations. She served on the advisory committee that discussed concerns about Boulder Hill. She sends violations to Brian Holdiman weekly. She expressed concerns that chickens will cause her dog to try to get at chickens in neighboring properties.

Don Ebert, resident of Boulder Hill, has chickens. They take care of their chickens and they have the chickens for eggs. He said chickens do not need one (1) acre of land. He discussed his chicken coop. He would like the opportunity to feed himself. He considers Boulder Hill country. He discussed the animals that he saw in the neighborhood.

Chairman Wormley asked how Mr. Ebert felt about enforcement and if Mr. Ebert felt the proposal was fair. Mr. Ebert felt that six (6) was a good number; Mr. Ebert has nine (9) chickens. Mr. Ebert did not see why the proposal had to be strict. He discussed the maintenance and care of his chickens. Chairman Wormley explained the need for the proposed regulations. Mr. Ebert thought that chickens were legal in Boulder Hill when he moved to the area.

Mr. Klaas asked about the regulations of hens in other communities. Discussion occurred regarding homeowners' association rules. Mr. Asselmeier provided the comparison of chicken regulations.

Discussion occurred regarding the situation that would arise if the proposal failed.

Sydney Ebert said that their neighbors' dogs did not negatively interact with chickens. She favored having a maximum of twelve (12) chickens.

Laura Campos asked about enforcement of the rules. Mr. Asselmeier explained how homeowners' associations enforce rules and how Kendall County enforces rules. The proposal did not require a permit. Ms. Campos asked if the number of allowed chickens could increase. Mr. Asselmeier responded that, as the proposal moves through the process, various boards could recommend changes to the proposal, including changing the number of allowed chickens. Mr. Asselmeier encouraged Ms. Campos to attend all of the meetings regarding the proposal. Ms. Campos discussed the productivity and life spans of hens.

ADJOURNMENT


Mr. Klaas made a motion, seconded by Mr. Rybski, to adjourn.

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

The ZPAC, at 10:03 a.m., adjourned.

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

Enc.



**KENDALL COUNTY
ZONING & PLATTING ADVISORY COMMITTEE
APRIL 4, 2023**

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)
Judy Bush		
Sydney Don Ebert		