

**KENDALL COUNTY
REGIONAL PLANNING COMMISSION**

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

Meeting Minutes of January 24, 2024 - 7:00 p.m.

Chairman Bill Ashton called the meeting to order at 7:03 p.m.

ROLL CALL

Members Present: Bill Ashton, Eric Bernacki, Dave Hamman, Karin McCarthy-Lange, Larry Nelson, Ruben Rodriguez, Bob Stewart, Claire Wilson, and Seth Wormley

Members Absent: Tom Casey

Staff Present: Matthew H. Asselmeier, Director, and Wanda A. Rolf, Administrative Assistant

Others Present: Dan Kramer

APPROVAL OF AGENDA

Member McCarthy-Lange made a motion, seconded by Member Wilson to approve the agenda. With a voice vote of nine (9) ayes, the motion carried.

APPROVAL OF MINUTES

Member Nelson made a motion, seconded by Member Rodriguez, to approve the minutes of the of the December 13, 2023, meeting. With a voice vote of nine (9) ayes, the motion carried.

PETITION

Petition 23-35 Tyler Arbeen on Behalf of Arbeen, LLC

Mr. Asselmeier summarized the request.

The Petitioner is seeking a special use permit for a landscaping business, including allowing outdoor storage of materials. They are also seeking variances to Section 7:01.G.2.b and Section 11:02.F.7.a to allow accessory structures in the front yard setback and to allow outdoor parking in the front yard setback, thus reducing the front yard setback from one hundred fifty feet (150') as measured from the centerline of Stewart Road to fifty-one feet (51') as measured from the centerline of Stewart Road.

The application materials, site plan, landscaping plan, and pictures of the property and area were provided.

The property is located between 3900 and 3716 Stewart Road on the east side of Stewart Road.

The property is approximately four (4) acres in size.

The existing land use is agricultural.

The County's Future Land Use Map called for the property to be Mixed Use Business. The Village of Oswego's Future Land Use Map called for the property to be Residential.

Stewart Road is a Major Collector maintained by Oswego Township.

The Village of Oswego and the County have a trail planned along Stewart Road.

There are no floodplains or wetlands on the property.

The adjacent land uses are Agricultural and Farmstead.

The adjacent properties are zoned A-1 Agricultural.

The County's Land Resource Management Plan calls for the area to be Mixed Use Business. The Village of Oswego's Plan calls for the area to be Residential and Mix Commercial.

Properties within one half (1/2) mile of the property are zoned A-1, A-1 SU, and R-1 in the County and PUD for Agricultural Uses in the Village of Oswego.

The A-1 special use permit to the north is for a horse training and boarding business. The A-1 special use permit to the northwest is for a landscaping business.

Approximately twelve (12) houses are located within a half mile (0.5) miles of the subject property.

EcoCAT Report was submitted on October 19, 2023, and consultation was terminated.

The LESA Score for the property was 186 indicated a low level of protection. The NRI Report was provided.

Petition information was sent to Oswego Township on December 22, 2023. Prior to formal application submittal, Oswego Township submitted an email requesting a thirty-five foot (35') deep right-of-way dedication from the center of Stewart Road. This email was provided.

Petition information was sent to the Village of Oswego on December 22, 2023.

Petition information was sent to the Oswego Fire Protection District on December 22, 2023. The Oswego Fire Protection District submitted an email dated December 27, 2023, outlining sprinkling requirements. This email was provided.

ZPAC reviewed the proposal at their meeting on January 2, 2024. The Petitioner's Attorney requested that the deadline to install landscaping be extended to September 1, 2024. Discussion occurred regarding the number of people that might come onto the property in relation to well regulations and septic system location; more information would be provided after the stormwater engineer reviewed the site. Discussion occurred regarding the history and need for front yard setback regulations; concerns were expressed regarding setting a precedent if the variances were granted. ZPAC recommended approval of the proposal with the conditions proposed by Staff (approval of the special use permit and denial of the variances) with the amendment to the deadline for installing landscaping by a vote of nine (9) in favor and zero (0) in opposition and one (1) member absent. The minutes of the meeting were provided.

Per Section 7:01.D.32 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 Arbeen Landscaping, LLC at the subject property.

They would use the site for storage of landscaping materials, equipment, offices, and related operations. They indicated some potential customers would visit the property, but most customer related interactions would occur at the customer's property, by telephone, or by email.

The business would be open from 6:00 a.m. until 6:00 p.m. everyday throughout the year and would be open twenty-four hours (24) during snow events. The business has a maximum of twenty-five (25) employees, during the busy season. Employees either report to the subject property or report directly to job sites.

Equipment stored at the property consists of small trailers, lawn mowers, bobcats, skid steers, end loaders, and similar landscaping related equipment. Equipment would be parked indoors when the business was closed.

The site plan shows fourteen (14) landscape material storage areas near the southeast corner of the property. No information was provided regarding the height or depth of the storage areas. The Petitioner indicated that the piles of materials would not exceed ten feet (10') in height. The site plan also shows one (1) nursery stock storage area at the northwest corner of the property and a second nursery stock storage area at the northeast corner of the property. No information was provided regarding the specific types of nursery stock or materials that would be stored in the storage areas.

Though not explicitly stated in any of the materials, the Petitioner will likely have a nursery growing component as well.

One (1) approximately eleven thousand, three hundred seventy-five (11,375) square foot shop/office is proposed for the property. A picture of the type of building the proposed building was provided.

The site plan also shows five (5) hoop houses; no specific dimensions were provided for the hoop houses. The hoop houses will be at least ten feet (10') from the southern property line. The western most hoop house would be approximately eighty feet (80') from the centerline of Stewart Road.

The Petitioner is requesting a variance to the front yard setback requirement, reducing the front yard setback from one hundred fifty feet (150') from the centerline of Stewart Road to fifty-one feet (51') of the centerline of Stewart Road. The Petitioner was agreeable to not constructing any permanent structures within one hundred five feet (105') of the centerline of the road and no permanent structures within seventy-five (75') of the centerline of WIKADUKE.

Any structures related to the landscaping business would be required to obtain applicable building permits.

The property is presently farmland. The proposed well would be located southwest of the main building and the proposed septic field would be located north of the main building.

One (1) approximately three hundred twenty-four (324) square foot dumpster area is proposed east of the main building. The dumpster area would be fenced with board-on-board fencing as shown by the image provided. The maximum fence height is eight feet (8').

The property drains mostly to the southeast.

The Petitioners submitted an application for a stormwater management permit. No stormwater related calculations were provided. On January 4, 2024, WBK Engineering submitted a letter requesting additional information. This letter was provided.

Per the site plan, the Petitioner's propose one (1) thirty foot (30') wide northern entrance and a second sixty foot (60') wide southern entrance off of Stewart Road.

As mentioned previously, Oswego Township is requesting a thirty-five foot (35') deep right-of-way dedication.

According to the site plan, the Petitioner proposes fifteen (15) parking spaces, including two (2) handicapped parking spaces, to the west and south of the main building.

The driving areas in general would be grass or asphalt screenings, except for solid paving or concrete at the two (2) entrances and handicapped parking spaces.

The Petitioner indicated that no lighting was planned for the property.

One (1) sign was proposed for the property. The sign would be approximately thirty-two (32) square feet in size and would look substantially like the image provided. No information was provided regarding the height of the sign. No information was provided regarding the specific location of the sign. The sign would not be illuminated.

Though not shown on the site plan, the Petitioner proposes to install one (1) wood post farm fence with wire mesh around the entire perimeter of the site except at the two (2) entrances to the property. The fence would be six feet (6') in height.

The landscaping plan shows six (6) Colorado blue spruce trees, four (4) purple birches, four (4) bald cypresses, thirteen (13) Techny arborvitae and fifteen (15) Eden outcropping stones along the western side of the property. The Colorado blue spruces would be eight feet (8') in height at the time of planting and would grow to a maximum of fifty feet (50'). The Techny arborvitae would be six feet (6') in height at the time of planting and would grow to a maximum fifteen feet (15'). The bald cypresses would be eight feet (8') at the time of planting and would grow to a maximum fifty feet (50'). The purple birches would either be ten feet (10') in height or two point five inch (2.5) diameter at the time of planting and would grow to a maximum forty feet (40'). The landscaping would be located outside of the security fence.

No information was provided regarding noise control.

No information was provided regarding odor control.

If approved, this would be the twentieth (20th) 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. Numerous landscaping businesses have been approved throughout unincorporated Kendall County. The proposed use is along Stewart Road, which is classified as a major collector. Reasonable restrictions can be placed in the special use permit to ensure the health, safety, and general welfare of the area are protected.

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. The use will not impede farms or residential uses on the adjoining properties. Reasonable restrictions may be placed on the special use permit to address hours of operation, noise, landscaping, and site layout to prevent neighboring property owners are not negatively impacted by the proposed use.

Adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. The proposal identifies locations for the future well and septic field. Two (2) points of ingress/egress are proposed. The proposed use likely will generate little traffic onsite and adequate space exists for parking for customers and employees of the proposed use. The proposal will have to obtain a stormwater permit to address drainage concerns. Adequate space exists for storage of equipment and materials related to the proposed uses.

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. If the requested variance to the front yard setback requirements are granted, this is true. The site could also be reconfigured to shift the parking lot and hoop houses east outside of the required front yard setback.

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 proposal is also consistent with a goal and objective found on page 6-34 of the Land Resource Management Plan, "A strong base of agriculture, commercial and industrial uses that provide a broad range of job opportunities, a healthy tax base, and improved quality of services to County residents." "Encourage opportunities for locally owned business." In addition, the future land use map calls for this property to be Mixed Use Business. Similar types of uses were planned for the subject property and properties in the vicinity of the subject property.

As noted in the application materials, the Petitioner believes the front yard setback requirement is unconstitutional and is regulatory taking. Staff does not agree with this opinion and has proposed the following findings of fact accordingly.

The proposed findings of fact for the variance 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. No information has been provided showing a topographical hardship existing that prevents the parking lot and hoop houses from being relocated outside of the required front yard setback.

The conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. Other A-1 zoned properties could request the same variance for the same reason that the Petitioner is requesting this variance. No information has been presented showing a unique condition or situation applicable to this property.

The alleged difficulty or hardship has not been created by any person presently having an interest in the property. The site is presently a farm field. No information has been provided explaining why the Petitioner cannot design the site in a manner to avoid the requested variance.

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. Granting the variance would not be detrimental to the public or substantially injurious to other properties. Granting the variance could impact the ability to widen Stewart Road in the future.

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. The proposed variance would not impair light or air on adjacent property, cause congestion, increase the danger of fire, or negatively impact property values.

Staff recommended approval of the requested special use permit and denial of the requested variances subject to the following conditions and restrictions:

1. The site shall be developed substantially in accordance with the submitted site plan and landscaping plan with the exception that the western most parking lot and hoop houses are removed from the required front yard setback. One (1) wood post farm fence with wire mesh shall be installed around the enter perimeter of the site expect at the two (2) entrances to the property. The fence shall be six feet (6') in height maximum. The landscaping shall be installed between the fence and Stewart Road.
2. Within ninety (90) days of the approval of the special use permit, the owners of the subject property shall dedicate a strip of land thirty-five feet (35') in depth along the western property line to Oswego Township. The Kendall County Planning, Building and Zoning Committee may grant an extension to this deadline.
3. Equipment and vehicles related to the business allowed by the special use permit may not be stored outdoors at the subject property when the business is closed.
4. 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.
5. 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.
6. 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.

7. 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 submitted site plan. The maximum height of the piles of landscaping related material shall be ten feet (10') in height.
8. A maximum of twenty-five (25) 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.
9. The hours of operation of the business allowed by this special use permit shall be daily from 6:00 a.m. until 6:00 p.m. and the business shall be open twenty-four (24) hours to address snow events. The owners of the business allowed by this special use permit may reduce these hours of operation.
10. 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.
11. One (1) sign as described in the sign description may be installed along Stewart Road at the subject property. The sign shall not be illuminated.
12. Only lighting related to security may be installed outdoors at the subject property.
13. 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.
14. The materials and vegetation described in the landscaping plan shall be installed within ~~six (6) months of the approval of the special use permit by September 1, 2024~~. The Kendall County Planning, Building and Zoning Committee may grant an extension to the deadline to install the vegetation. Materials and vegetation stored in the nursery stock storage areas and landscaping material storage area shall not be subject to this requirement and shall not be considered part of the landscaping plan. **(Amended at ZPAC)**
15. No landscape waste generated off the property can be burned on the subject property.
16. 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.

Only homes permitted prior to the date of the issuance of the special use permit shall have standing to file noise complaints.

17. 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.
18. The dumpster area shall be fenced with board-on-board fencing as shown by the image provided. The maximum height of the fence shall be eight feet (8').
19. The owners of the business allowed by this special use permit acknowledge and agree to follow Kendall County's Right to Farm Clause.
20. 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.
21. 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.
22. If one or more of the above conditions is declared invalid by a court of competent jurisdiction, the remaining conditions shall remain valid.
23. This special use permit shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property.

Dan Kramer, Attorney for the Petitioner, requested a variance allowing parking and portable hoop houses for growing plants to be located within the front yard setback at location of fifty-one feet (51') from the centerline of Stewart Road instead of one hundred fifty foot (150'). Mr. Kramer compared the setback of other businesses in the area which do not have a setback of one hundred fifty feet (150') and have parking in the front. Mr. Kramer stated that the setback of the property would not infringe on any possible expansion of roadways. The township supervisor called Mr. Kramer and stated his only concern was to guarantee through the special use permit that a thirty-five foot (35') dedication from centerline would occur at no cost. Mr. Kramer agreed to that request. Mr. Kramer stated he tried to contact the Village of Oswego three (3) times but was not able to reach them. He stated he sent certified letters to both the Village and Township of Oswego. Mr. Kramer noted that the site plan would change to reflect the stormwater management of the site and the installation of a berm.

Member Wormley was not in agreement with Mr. Kramer. He stated that this is a rural area and was not developed. Member Wormley was concerned about setting a precedent if an exception was made as requested. The site plan would need to be adjusted to allow room for a septic plant. Member Wormley also stated that the Petitioner would have to install sprinklers in the building which would be very expensive.

Member Bernacki asked the question about farm stand parking under one hundred fifty feet (150') in the front yard setback. Mr. Asselmeier stated farm stands are not allowed to park in the front yard setback. Member Bernacki also stated that a home near the subject property had a seventy foot (70') setback from the centerline. Mr. Kramer stated that Brian Holdiman provided a history of the setback distance at the ZPAC meeting.

Member Wilson discussed the one hundred fifty foot (150') setback. She believed the distance should be looked at and scrutinized. Commissioners discussed the basis for the setbacks and will reevaluate them.

Member Stewart expressed concerns about voting on the proposal if the site plan was going to change.

Discussion occurred regarding the Commission's review of variances and timing of the completion of the revised site plan.

Member Nelson asked if the Petitioner would have revised site plan in time for the January 29, 2024, Zoning Board of Appeals hearing. Mr. Kramer responded, no.

Mr. Kramer requested that the Commission table the Petition until the next meeting. The Petitioner would be willing to move the hoop houses and the parking lot on the site plan.

Without objection, the Commission laid over the Petition until February 28, 2024, meeting at the request of the Petitioner.

CITIZENS TO BE HEARD/PUBLIC COMMENT

None

NEW BUSINESS

Election of Officers-Chairman, Vice Chairman, Treasurer, Secretary and Recording Secretary

Member Wilson made a motion, seconded by Member McCarthy-Lange, to nominate and approve Bill Ashton for Chairman, Ruben Rodriguez for Vice Chairman, Larry Nelson for Treasurer and Secretary and Matt Asselmeier for Recording Secretary by acclamation. With a voice vote of nine (9) ayes, the nominees were approved.

Appointments to Comprehensive Land Plan and Ordinance Committee

Member Bernacki made a motion, seconded by Member Rodriguez, to nominate and approve the Comprehensive Land Plan and Ordinance Committee as follows: Larry Nelson (Chairman), Chairman of the Kendall County Regional Planning Commission or Their Designee (Bill Ashton), Chairman of the Kendall County Zoning Board of Appeals or Their Designee (Randy Mohr), Chairman of the Kendall County Board or Their Designee (Matt Kellogg), Chairman of the Kendall County Planning, Building and Zoning Committee or Their Designee (Seth Wormley), Kendall County Soil and Water Conservation District Designee (Alyse Olson), Scott Gengler as Immediate Past Planning, Building and Zoning Committee Chairman, Jeff Wehrli, and Matthew Prochaska. With a voice vote of nine (9) ayes, the nominees were approved.

Discussion of Amending the Future Land Use Map Contained in the Land Resource Management Plan by Reclassifying Properties Between 7775 A/B and 8175 Route 47 from Transportation Corridor to Mixed Use Business; Commission Could Vote to Initiate the Amendment

Mr. Asselmeier stated the Comprehensive Land Plan and Ordinance Committee discussed the idea of reclassifying properties between 7775 A/B and 8175 Route 47 to Mixed Use Business. A minor change to the text of the Land Resource Management Plan would adjust the percentages noted in the land use for Kendall Township to reflect current conditions. Member Nelson made a motion, seconded by Member Stewart, to initiate the amendment.

The votes were as follows:

Ayes (9): Ashton, Bernacki, Hamman, McCarthy-Lange, Rodriguez, Nelson, Stewart, Wilson, and Wormley

Nays (0): None

Absent (1): Casey

Abstain (0): None

The proposal goes to ZPAC on February 6, 2024.

Annual Meeting-February 3, 2024 at 9:00 a.m.

Commissioners reviewed the agenda and decided to add the discussion about obstructions and parking in the front yard setback to the agenda.

OLD BUSINESS

None

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

None

OTHER BUSINESS/ANNOUNCEMENTS

Mr. Asselmeier reported that for the February 28, 2024, meeting, the proposed landscaping business on Stewart Road would be on the agenda. Also, the owner of the veterinary and kennel at 949 Bell Road wants to rezone the majority of the property to B-3 which will also cause an amendment to the site plan, landscaping plan, and photometric plans of the special use permit. Finally, the proposed reclassification of the properties south of Yorkville on Route 47 would be on the agenda.

ADJOURNMENT

Member Nelson made a motion, seconded by Member Wormley, to adjourn. With a voice vote of nine (9) ayes, the motion carried.

The Kendall County Regional Planning Commission meeting adjourned at 8:30 p.m.

Respectfully submitted by,
Wanda A. Rolf (Administrative Assistant)

Enc.

**KENDALL COUNTY
REGIONAL PLANNING COMMISSION
JANUARY 24, 2024**

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>Don Ken</i>		