

MACON COUNTY ZONING BOARD OF APPEALS

HEARING MINUTES – November 7, 2018

MEMBERS PRESENT

Barb Lamont, Chair
Bill Koretke, Vice Chair
Blake Noland
Ron Grider
Dennis Hughes, Alternate Member
Ed Leonard, Alternate Member

COUNTY PERSONNEL PRESENT

Jennifer Gunter, Planning & Zoning Director
Tracy Sumpter, Planning & Zoning
Michael Baggett, States Attorney's Office
Debra Kraft, County Board Member

MEMBERS ABSENT

Andy Freeland

Chair Lamont called the meeting to order at 8:30.

MINUTES

Bill Koretke stated on page 10 and 11 a statement was repeated.

Ed Leonard made the motion to approve October 3, 2018 minutes, seconded by Bill Koretke with corrections made. All members present answering, Aye. Motion Carried (6-0).

OLD BUSINESS:

- 4.1** R-01-10-18 a petition filed by Benjamin & Breck Corrington for rezoning approximately 1.21 acres from (R-4) Single Family Residential Zoning to (A-1) Agricultural Zoning. The property is commonly located on Kitchen Road, Oakley, IL 62501.
PIN 14-13-03-400-017

Mrs. Gunter stated Zoning Board of Appeals approved this October 3, 2018, EEHW approved October 25, 2018 and it goes to full County Board November 8, 2018.

- 4.2** R-02-10-18 a petition filed by Michael Sams for rezoning approximately 37.73 acres from (R-4) Single Family Residential Zoning to (A-1) Agricultural Zoning. The property is commonly located on Sandcreek Road, Decatur, IL 62521.
PIN 17-16-01-201-017

Mrs. Gunter stated Zoning Board of Appeals approved this October 3, 2018, EEHW approved October 25, 2018 and it goes to full County Board November 8, 2018.

- 4.3** S-03-10-18 a petition filed by Novel Energy Solutions/Paula Fitzgerald requesting a Special Use Permit for the construction of a 2MW Community Solar Garden on approximately 20 acres of leased land in (A-1) Agricultural Zoning. The property is commonly located on Kirby Road in Oreana, IL 62501.
PIN 18-08-14-351-007

Mrs. Gunter stated Zoning Board of Appeals approved this October 3, 2018, EEHW approved October 25, 2018 and it goes to full County Board November 8, 2018.

- 4.4** AMENDED PETITION:
S-03-05-18 a petition filed by Lisa Smith requesting a Special Use Permit to operate a coffee house and beauty salon in (A-1) Agricultural Zoning. The property is commonly known as 8791 Bethel Road, Blue Mound, IL 62513.
PIN 15-15-28-100-010

Mrs. Gunter stated this petition was filed and being presented again today. The petition was tabled at the September 27, 2018 EEHW meeting due to the discrepancies with the survey. She stated it is back to Zoning Board of Appeals and that one county board member wanted a second survey done because of the big changes on the property lines, another county board member wanted the land surveyor to come to the meeting and answer questions on why the property lines changed so much prior to the beginning. She stated since this will be presenting new evidence, the petition had to come back to Zoning Board of Appeals. She stated all the board members have a copy of the new survey, the amended survey.

Chair Lamont asked for any persons wishing to speak today to please stand so she could swear them in.

Lisa Smith
1550 E 2500 N Road
Blue Mound, IL 62513

Mrs. Smith stated she had been up here a few times, she thinks this started last May with their first meeting, they had plans for the site, which they presented; they had a deed, and agreement from the cemetery board, they were going to change an old church building into a Christian coffee house and a salon in the basement. She stated that was approved and sent to the second level where it was rejected because they did not have enough room for septic and everything around there. They were brought back. She stated they had a septic guy come out and look at the land, they came back in, and she stated that wasn't good enough, they were told they needed a variance for parking and a land survey done. She stated they did all of that, they did the land survey and brought in the parking agreement for renting the parking area that the cemetery owns. She stated the cemetery board has been here for most of the meetings, approving of what

is being done with the site and approving the variance that would allow them to rent that area for parking. She stated that was approved and they were sent back up to the second level again where they were rejected because the board members did not understand the land survey. She stated this is where they are, they have been here a few times now, she believes this is the fourth time. She stated they have done every step that has been proposed to them, land surveys are not cheap and for the board to request another one is not reasonable. She stated they have their land surveyor here who will come up to present why the lines on the property are the way they are, how they have enough room for everything they are proposing and she added they would like to move forward with this, it has been going on for several months.

Bill Koretke stated the original survey, his understanding was, he wants to know what her understanding was, the cemetery board agreed that was the survey, the setbacks, distance from the church...

Mrs. Smith stated yes, they did not know exactly where, this has been there for so long that she thinks the exact property lines were somewhat vague to everyone.

Bill Koretke asked so the church was on a separate parcel from the cemetery itself.

Mrs. Smith stated yes.

Bill Koretke stated he thinks this is where they are getting astray, in other words why was it surveyed this way and then re-surveyed again giving them the room they needed. He stated his understanding was the cemetery board approved all of this so he would think the lines are where they thought they should be. He thinks that is the confusion.

Mrs. Smith stated she thinks...she is going to let her surveyor speak on that because it is his area and that is why he is here today. She also stated she wanted to apologize about this because they would have been at the EEHW meeting if they thought that...they were under the understanding they didn't need to be there or they would have been there and they would have brought their surveyor if they needed to know this. She knows this is getting tedious for everybody, the board is tired of hearing from them and they are tired of coming in here. She asked to get this done.

Matt Schwenk
1041 W Mound Rd
Decatur, IL
Land Surveyor for SKS Engineers

Mr. Schwenk stated he is the one that did the land survey and he is not sure if this board had the questions, or the other board, but in any case he will go over it.

Mr. Koretke stated he is presenting the evidence.

Mr. Schwenk stated the cemetery had the whole plot, and the first thing he found was in 1929 when the description was written to break out the church and that is the same description that Mike and Lisa Smith purchased. He stated he went back and looked at that and the description is

the same. He stated he surveyed that description on the ground. He surveyed that out on the ground and what they found was, he stated he doesn't know why this is the case, but the church building was not entirely on this parcel of land so they had a problem. He stated he does not know if they just built it in the wrong place, he does not know how that came to be, he just knows that it was. He stated the Smith's went back and spoke to the cemetery board and they came to an agreement to move the lines, which is the plat that the board members have now. He stated right now, really the old survey does not really matter in his mind because they have agreed to transfer the land so it is where it should be.

Debra Kraft stated at the July hearing, they were told there was fifteen feet around the building that the Smith's acquired when they purchased the building, then they had the survey and now it is 37 feet on the east and 39 feet on the west, she asked if that was correct. She stated that is a big discrepancy.

Mr. Schwenk stated that is right and that is because they moved it.

Debra Kraft asked how they could do that.

Mr. Schwenk stated they transferred the land, the cemetery board, he doesn't know if they sold or agreed to trade the land, some of the land that was outside the Smith's boundary before is now inside of it and some of the land that was outside of the cemetery before is now, they just transferred land is what they did.

Mr. Koretke asked if he was saying the total amount of square footage is the same.

Mr. Schwenk stated he believes the square footage is different, he thinks, but everyone knows what they transferred so it is not like, nobody is cheating anyone but...he stated they have a quarter of an acre right now, he doesn't know what they had before exactly.

Mrs. Smith stated they ended up owning some of the graves because the land on the one side where they worried about not having enough room for the septic system, they owned more than what anyone thought, they owned more on that side. She stated they do not want the graves, the cemetery wants them, they transferred that land back to the cemetery and they filed it and then they ended up getting a little more land on the other side of the building but it was all with the cemetery board. They went and had a meeting with them and figured out what they wanted to do because they should have those graves, they should not be a part of the Smith's property. She stated they moved it over to where it was reasonable past the graves. She stated this happened 100 years ago or whenever and they are just trying to make it right for the cemetery.

Mr. Koretke stated he thinks the problem is they re-surveyed it to fit the description that he saw...

Mr. Schwenk stated after they saw where the description laid out on the ground and, he doesn't know if the church was built in the wrong place, but there were graves on the property, according to the description, he stated all he did was take the description from 1929, and it has been the same up until now, and put it on the ground where it says it is and then he measured the building

and everything and it was not on it. He stated at that point they just wanted to solve the problem and, he stated people transfer land all the time and that is really all it was.

Mrs. Gunter stated the original was .23 acres and now the new legal description is .25 acres, if this legal description was done in 1929, how come when it is drawn on our maps, property lines are not changed unless a deed is recorded. She asked Mr. Schwenk if that was correct.

Mr. Schwenk stated he believes so.

Mrs. Gunter stated so if this deed was in 1929 and it had gravesites on it, how come it is not represented on the GIS map. She stated they have not recorded a new deed to show these new property lines. She asked the Smith's if they had done a new deed.

Mrs. Smith stated not yet.

Mrs. Gunter stated again if this was done in 1929, when the county drew the property lines from the deed, why it does not show this on the map. She stated that is her confusion. She said if they actually owned gravesites and everything, why does the map not show that.

Blake Noland asked Mrs. Gunter if she was talking about the digital map.

Mrs. Gunter stated yes.

Blake Noland stated he does not think they are accurate because he has looked at several...

Mrs. Gunter stated she knows they are going to be off by a little but there is just a lot of difference.

Mr. Schwenk stated he cannot really speak for the maps but he does know he has seen discrepancies...

Bill Koretke asked if they gained fifteen feet on the east side of the church to the fence line, where the real change was.

Mrs. Smith stated she remembers when the cemetery guy was up here and he mentioned or said fifteen feet but he did not know for sure, he was guessing on that so she doesn't know why that number keeps coming up saying it is exactly fifteen feet because...

Bill Koretke stated the original line is somewhere between the church and that east fence, the original survey, he asked if that is what they are saying.

Mr. Schwenk stated the original survey was east of the fence about twelve feet.

Mrs. Smith pointed out that the original one went way over into some gravesites.

Bill Koretke asked what he is saying where the church was supposed to be.

Mr. Smith came to the table to explain the survey to the board members.

Chair Lamont asked him to please state his name for the record.

Mike Smith
1550 E 2500 N Road
Blue Mound, IL

At this time, Mr. Smith continued to have a conversation with the board members explaining the survey.

Mr. Smith stated the graves end at the fence and someone had put that fence in there at that location so what is estimated is whatever they went off of. As far as what they are calling the section corner, was off by that much when they were out there doing it then.

Bill Koretke stated this is what they are trying to establish is how this ship got so far off course.

Mr. Smith stated they traded an area (he pointed out on the map) and moved it over to match the fence.

Bill Koretke stated that explains it a little better.

Mr. Smith stated none of this was done without the cemetery board there.

Bill Koretke stated they did not have anything showing the error until the actual survey.

Mr. Smith stated correct, until they put it on the ground and did the survey and did everything.

Mrs. Smith stated it shows they own out on the road and everything else...

Mr. Smith stated you pay taxes to the center of the road.

Chair Lamont stated you just pay for it, to use it.

Mr. Smith stated they did not change that on the new survey, the front line has not changed. The east, west and south line changed and that was all with the cemetery board. When they seen this, we have to put the building on the property.

Bill Koretke asked if everyone was in agreement.

Mr. and Mrs. Smith both stated yes. Mr. Smith added the cemetery board members were here at the last meeting to assure that.

Mrs. Smith stated there has been no one show up to oppose this in these meetings. She said they want to make it right with the cemetery, that is very important to them. They wanted to make

sure the cemetery was okay with this and they want to respect the cemetery. They have been trying to do everything they can just to make sure they do it right.

Mr. Smith stated while he was at the church yesterday, a lady pulled up and knocked on the door to ask what they were doing, with the dumpster there and all, he said he explained it to her and she asked about access to the graves. He stated he told her there would be no different access to the cemetery; they will not be putting up any fences or anything to block. They hope in the long run to put in a prayer garden on the side of the cemetery where the old cemetery is which would be on the east side. He stated they are working on this. He explained the sign that is over the gate...

Bill Koretke stated okay, but we have other hearings to get to.

Debra Kraft asked the Smith's if they had signed a lease agreement with the township cemetery trustees for the west side of the building.

Mr. and Mrs. Smith stated yes.

Debra Kraft asked where they intend to put the septic system.

Mr. Smith stated the east side.

Debra Kraft asked why it could not go on the west side.

Mrs. Smith stated because you cannot drive or park over a septic system, that is the law.

Debra Kraft asked if they knew how close the graves are.

Mrs. Smith stated yes, and that is why they wanted to make sure they had enough land to comply with what the health department said they had to have for that.

Debra Kraft stated she guarantees there are families that are not aware of the plans for this church.

Mrs. Smith stated well the zoning sign has been out in front of the church and no one has showed up to oppose anything.

Mr. Smith stated the graves that are right next to the church are from the early 1900's and the late 1800's.

Debra Kraft stated she is well aware.

Mrs. Gunter stated this would be sent on to EEHW, which meet on November 15, 2018 @ 5:30.

Mr. Smith asked Mrs. Gunter if they should attend the EEHW meeting.

Mrs. Gunter stated yes, probably along with the surveyor (Mr. Schwenk). She told the Smith's it is not a mandatory meeting to attend, but she always suggests the petitioners be there to answer questions.

NEW BUSINESS:

- 5.1** S-01-11-18 a petition filed by Kenny Ferguson requesting a Special Use Permit to store construction and excavation equipment on the property when not in use in (A-1) Agricultural Zoning. The property is commonly located at 2640 Sangamon Road, Decatur, IL 62521.
PIN 14-13-03-176-013

Nancy Handegan, Attorney
101 S State Street
Suite 102
Decatur, IL 62523

Ms. Handegan stated Mr. Ferguson wanted to be here today but he does blacktopping and still has a few days left and had some jobs he needed to get done. She stated he just wants to store equipment, and if you look at the general area, there are a lot of, she will call them general businesses, but there is a lot of commercial stuff around this area and he simply wants to be able to park his blacktopping equipment. She pointed on the map where he would like to park it.

Mrs. Gunter stated the area he would like to use for parking his equipment is on the north side of the pond.

Ms. Handegan stated he hopes to eventually add a building but right now, it will not happen. She stated if you look at the surrounding areas and what the property is used for, this is zoned agricultural and the reason he is requesting the variance. She stated there are not many houses around the proposed area either.

Chair Lamont asked how much equipment he would be storing on the property.

Ms. Handegan stated not a great deal...

Chair Lamont asked what kind of equipment.

Ms. Handegan stated it would be black top equipment, trucks, and a machine...that type of thing.

Bill Koretke asked 6 – 8 pieces of equipment.

Ms. Handegan stated probably at the most she would say and it may not even be that much. She stated she is not absolutely certain, but she could check with Mr. Ferguson and let the board know but she is not sure.

Chair Lamont asked if he is planning to store it there during the off-season.

Ms. Handegan stated just during the off-season yes, or when it is not at a job site.

Chair Lamont stated so there would potentially be 5, 6, 7, 8 or so people coming in and out to get the equipment.

Ms. Handegan stated probably yes. She stated if you look at the surrounding areas, he backs up to the City of Decatur and she thinks there are some businesses to the south.

Chair Lamont stated that is quite a ways away from him. She asked Ms. Handegan what kind of traffic flow is on that road.

Ms. Handegan stated it is mostly agriculture she thinks. She stated she is not as familiar and she wishes he could have been here, but she does not think there is a huge amount of traffic. She knows that previously he was raising deer on the property and it does have to be fairly quiet to raise deer.

Don Floyd
5969 Apollo Dr
Decatur, IL 62521

Mr. Floyd stated Sangamon Road is 2.5 miles long, it runs from 105 over to Rea's Bridge Road. He stated there is much traffic on it and he has spoken to Bruce Bird at the County and he said the last count they had from the State, which was, several years ago, was 600 cars per day. He stated this road goes between 105 and Rea's Bridge which goes to Richland Community College, ADM, Caterpillar, it is route to go over and catch I72 and also a route that is used to go to the north side of Decatur and to Forsyth so there is a lot of traffic on it. He stated the community college is growing; there are 4 or 5 school buses that use this road daily back and forth, back and forth, to Richland who has an AG program, small engine, all kinds of things going on. He stated they are all thrilled to the college grow. He would like to pass out some information to the board members (Objector's Exhibit #1). He stated the petition they did, if the board members would notice they are Sangamon Road addresses, Apollo drive which is a dead end that comes back out onto Sangamon Road, Kitchens Road, people are not really opposed to his machinery, they are opposed to the safety that is going on with this machinery. He asked the board to look at the pictures he provided and explained he has one that shows north, so the access Mr. Ferguson is using is down in a lower area. The next picture is pointing toward the south, the city has a thing that comes back up to their berm and his access that he is using is right next to this. He stated there is some erosion going on from the city and there is some water off of Mr. Ferguson's ground. He stated the third picture shows the road going back up to where he wants to store his equipment and you can see the mud and water at the bottom of it. The next two pictures on the left you can see where he has come out to go up the hill, more than likely with a dump truck, and you can see where the water is dumped out. He stated Mr. Ferguson is half way up this incline on the wrong side of the road. He asked the board if they could imagine a school bus coming up over the top of the hill meeting that dump truck pulling a trailer or whatever he is pulling. He stated on the right picture is just kind of shows again back up to Mr. Ferguson's access area. He

stated again none of them are so concerned about storing equipment, he stated he is actually running a business out there. Mr. Floyd stated he uses this road daily and Mr. Ferguson is in and out constantly with equipment. He stated the safety part of it, it is not a question of if there will be an accident; it is a question of when there will be an accident there. Is it going to be next week, 6 months from now, if the board grants this variance they will be affection 600 and some cars a day going through there. He asked the board members if they had any questions for him.

Bill Koretke asked Mr. Floyd if he is maintaining that Mr. Ferguson is running this business on daily basis.

Mr. Floyd stated yes, it is not storage. He stated Mr. Ferguson had a business location on Pershing Road behind the Sundown Lounge where there was a boat shop. He had the excavating business there and a used car lot there. He stated Mr. Ferguson has moved a bunch of used cars back out to the property on Sangamon Road. He does not know why he gave up the business location, whether he lost his lease, but he is moving it. He stated there are no businesses around Mr. Ferguson's property, there are two business south of the railroad tracks, Walker Landscaping, which is commercially zoned, and then Ace Blacktop, which is also commercially zoned. He stated Walker is also using trucks and trailers going down this hill, you have Ace using this road and then here Mr. Ferguson is trying to pull equipment out to that low area and going up a hill. He stated everything around Mr. Ferguson on either side is residential. There is no commercial whatsoever in that area other than the City of Decatur berm behind them.

Chair Lamont asked Mr. Floyd if he had talked to Bruce Bird about what he could do if this business is allowed to come in.

Mr. Floyd stated no, he did not go that far with Mr. Bird, he wanted to know about the traffic counts. He stated another thing that is very important, was he wanted to know about the speed limit. Mr. Bird told him the speed limit is 55 mph, it is not posted. He stated Mr. Bird said you cannot drive it at 55 mph but somebody is always going to be a little bit faster than they should be. Mr. Floyd stated there is no weight limit on it other than wintertime but he did not ask Mr. Bird whether he was opposed to it or what he thought. He just gathered information from him.

Mrs. Gunter stated she would address the Bruce Bird thing when she gives her report.

Mr. Floyd stated safety is the number one thing they are after.

Bill Koretke stated he would like to hear a rebuttal from Ms. Handegan.

Larry Oliver
6075 Sangamon Rd
Decatur, IL

Mr. Baggett advised we need to label the petition and pictures as Objector's Exhibit #1.

Mr. Oliver stated he lives just directly east of the Isaac Walton League on the hill. He stated he must back into his driveway; he cannot back from his driveway onto Sangamon Road because of traffic.

Ed Leonard asked Mr. Oliver to point his property out on the map.

Mrs. Gunter stated his property would not show on the map because it is a close up of Mr. Ferguson's property.

Mr. Oliver stated he is directly east from Rea's Bridge Road.

Mrs. Gunter stated when you go north on Sangamon Road, it makes a 90 degree turn off to the west and Mr. Oliver is down there.

Mr. Oliver stated there are no businesses from Rea's Bridge Road to the railroad tracks. He stated it is all residential. He stated Mr. Ferguson uses that daily and last night around 6:20, he comes in with a truck, trailer it is a tandem axel dump truck with a trailer with a paving machine. He stated the paving machine has to be around eight feet he thinks. He stated there is not just a little bit of traffic, when they leave it is a whole convoy. He stated it is a business being ran, he is not just storing the equipment, he is storing it until the next day. He stated he is opposed to the whole variance thing. It does not make sense to put a business in there. He stated in 1978, just south of Angle Crossing Road, they tried to put in a metal building with a cabinet shop, which was shot down. He stated Jimmy Kitchens tried to put in a repair shop over on Old Sangamon Road, which was denied. He stated this has been a while back but they do not need it, it is just too dangerous.

Ms. Handegan asked the board members to look at the map she provided with the petition. She stated they are talking about a lot of heavy equipment coming in but the City of Decatur has an easement for heavy equipment to go back to their property. She stated she is not so sure that all of the mud and everything is attributable to Mr. Ferguson. She stated there is heavy equipment already going in and out of there. She just wanted to point this out.

Mr. Leonard asked if the City of Decatur uses the easement for heavy equipment.

Ms. Handegan stated that is what she is told. She just wanted everyone to be informed of the easement, which is just South of Mr. Ferguson's driveway.

Mr. Floyd stated he wanted to clarify a little information about the City. He stated they use that very very rarely. He stated he is a trustee on the Oakley Township Board and the City is only supposed to move equipment in and out of Angle Crossing. He stated they are only supposed to take it down to Route 25, if they have a repair, they will bring equipment down. He stated they just had a leak 2 or 3 months ago, they came in, brought some equipment down, and repaired the leak but the easement is used very rarely. He stated when he talked to Bruce Bird, he stated he has had to make the City come out and clean up erosion from that. Mr. Floyd stated he does not know how many times, but this is not an area that the City used daily back and forth up through there.

Bill Koretke asked on the 600 vehicles per day, could Mr. Floyd say how many were heavy equipment.

Mr. Floyd stated no he can't, he knows that Ace Blacktop and Walker's use it, the propane trucks use it, UPS, FedEx, school busses, he said they never see any semis to speak of up through there but mainly it is people going to and from work and school and that type of thing other than the regular utility vehicles. He stated the City does not use this. He stated he cannot remember a vehicle going up through there and he lives there and uses that road daily.

Mrs. Gunter was called on to present her finding of facts.

Petition: For a Special Use permit to store construction and excavation equipment on the property when not in use in (A-1) Agricultural Zoning.

Parcel Number: 14-13-03-176-013

Location: This property is commonly known as 2640 Sangamon Road, Decatur, IL 62521 in Oakley Township.

Acreage: 13.99 Acres

Zoning: A-1 Agricultural Zoning

Finding of Facts

- The current owners want to store construction and excavation equipment on the property only. No business will be conducted on the actual property.
- This petition was in a result to receiving complaints in our office about the petitioner running a business on the land.
- A special use permit is needed because the Macon County Zoning Ordinance (Section 155.008) defines a special use as a use, either private or public, which, because of its unique characteristics, cannot be properly classified as a permitted use in any particular district or districts. Therefor the Special Use Permit was needed because this property is zoned A-1 Agricultural Zoning.
- The Oakley Planning Commission and the Oakley Township Board met on October 22, 2018 and both board voted recommended approval with opposition from one township Board Member for the Special Use Permit.
- Received one letter of opposition from an Oakley Board Member.
- Sangamon Road is a County Road and is maintained by Bruce Bird at the Macon County Highway Department. After reaching out to Bruce, he stated there is a

sight issue for every drive on that roadway, but that is more of a speed issue with the traffic than the residents are.

Mrs. Gunter stated with the way the road goes; it is kind of a hazard for any of them to pull out.

Bill Koretke asked her if she meant site or sight.

Mrs. Gunter read the exact email she received from Bruce Bird:

Mr. Bird wrote: We have not had issues with his drive oozing dirt – it is from the next one to the north, which is the silt basin entrance. And it has not been very much either. I could see making him add rock to his drive in order to help prevent any possible dirt from washing out, and that he maintain the drive. There is a sight issue for every drive on that roadway, but that is more of a speed issue with the traffic than the residents.

Mrs. Gunter stated Bruce Bird does not have any issues.

Chair Lamont stated she also called Bruce Bird and was told he has no problem putting signage up that is necessary for it.

Bill Koretke asked if it would be enough, to stipulate that he asphalt his entrance and widen it. He asked if that is part of the solution to the problem.

Mrs. Gunter stated she drove up Mr. Ferguson's drive in her car and it is rock going up it but it has kind of washed out on the bottom, same way with City of Decatur, they have problems with keeping the erosion off of theirs too. She stated being the person that does the land disturbance inspections out there, that is where they have violations of run off too sometimes. She stated because of the lay of the land, she thinks it would be best for him to add rock to the base, apron of it but it is pretty good rock going up. She stated he probably does not want to asphalt it until he gets the special use permit.

Bill Koretke asked if they could stipulate that.

Mrs. Gunter stated they could add any stipulations, they are the zoning board.

Bill Koretke stated if the concern is vehicles, oncoming traffic being able to see and his equipment, when he read Mr. Ferguson's application he thought he was parking it during the non-use season, the winter season, but he picking up now that he doing it on a daily basis. He stated Mr. Ferguson is moving equipment back and forth on a daily basis. Every morning and every evening.

- A petition with 41 signatures was submitted into evidence along with pictures from an objector submitted also.

EFFECTS ON GENERAL WELFARE: The establishment, maintenance, or operation of this Special Use will not be detrimental to or endanger the public health, safety, welfare, and morals.

EFFECTS ON NEARBY PROPERTY: The Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish and impair property values with the neighborhood.

EFFECT ON DEVELOPMENT OF SURROUNDING PROPERTY:
The establishment of the Special Use Permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

ADEQUACY OF UTILITIES & FACILITIES: No known problems with required utilities and facilities.

INGRESS & EGRESS: No known problems with ingress and egress.

CONFORMITY TO REGULATIONS: With the passage of the Special Use Permit by the Macon County Board the property will conform.

STAFF RECOMMENDATION: You may vote to approve or deny this petition, or amend as appropriate. Staff has inspected the property and staff recommends **approval** with the following stipulations:

Stipulations:

1. This Special Use Permit constitutes a license issued to the named Petitioners only. This special use permit is not property nor does it convey any property right. This special use permit is, therefore, not assignable or transferable.
2. Employees shall be limited to three employees other than the owner.
3. Advertising sign regulations on the subject property shall comply with Macon County Zoning Ordinance.
4. Building permits shall be obtained as required.

5. Said property and all operations shall be in compliance at all times with all applicable local, county, state, and federal regulations. Failure to do so will result in revocation of this special use permit and it will be effective immediately.
6. This special use permit shall be for a 2 year period beginning December 13, 2018 and ending December 10, 2020.

At this time, an audience member was sworn in to speak.

Colleen Medley
2905 N Sangamon Road
Decatur, IL

Ms. Medley asked when a special use permit is applied for and it is for something that it is not actually is, how is that special use permit still legitimate. She stated it says it is for storing equipment, it is not, it is for running a business.

Mr. Oliver asked if the special use permit would allow him to store cars or is this for equipment only.

Mrs. Gunter stated this is for the storage of construction and excavation equipment for his business, not for storing cars. She stated she did not know anything about that until it was mentioned earlier. She stated she has not received any complaints and when she was at the property, she did not see any overabundance of cars on the site. She addressed Ms. Medley's question, she told Ms. Medley that Mr. Ferguson will store the equipment on the property but he is actually doing the business out peoples driveways and that kind of thing, he is not bringing the peoples driveways there and doing it on his property. He is storing his stuff and then taking it to another site and paving the driveway there.

Ms. Medley stated he is running a business, yes he has to go out and do asphalt obviously but at the same time this is where he is running his business out of and all of a sudden they have this big potentially business...

Mrs. Gunter stated there are many people that do this; they have to go somewhere else for their business.

Ms. Medley stated she does not know why a permit for storage is being addressed when that is not...

Blake Noland stated he thinks he can clarify both ends of it, he asked Ms. Medley if she believes it is a business being ran out of there.

Ms. Medley stated obviously he is storing it; he cannot just leave it on people's property...

Blake Noland stated he thinks what we are doing right now is a special use permit for the storing of vehicles, however if there are complaints, you can complain about this special use permit

which will be brought up at the next board meeting, the EEHW meeting, which then there would need to be more evidence proving that and then it can stop the ability of storing equipment there but then if it goes through, it would be more about following up on the special use for running a business out of there. He thinks Mr. Ferguson is applying for storing equipment instead of running a business out of there because the fine line of customers not actually coming to the business so because of the fine line, he can apply for storing of the equipment, not running the business there. He stated that would probably be more of the fact finding sided of things, which we are here for, to understand this better. He told Ms. Medley he does not think she out of line by asking these questions just to go through the process to be able to get to the point of what she is assuming is happening whether that is true or not is what they are trying to figure out now. He told Ms. Medley she is voicing it at the right time, he thinks she will have more opportunity to state her case at the next meeting. He told Ms. Medley this is not final.

Mrs. Gunter told Ms. Medley that running a business would be the public coming to you directly.

Ms. Medley asked if that is the only definition of running a business.

Blake Noland stated it could be defined as we go through this process. He stated that is a good question and a question that she could bring her evidence to the next meeting...

Mike Baggett interrupted and informed that you cannot bring any new evidence to any future hearings this is the only opportunity to present evidence. He stated they could certainly come to the EEHW committee meeting or the County Board and state their objections for those committee and county board members but no evidence can be presented that was not presented here today. He stated this is the only opportunity for the presentation of evidence. He stated they certainly have the opportunity to say their peace.

Ms. Medley stated okay.

Mike Baggett stated he has a couple of things he would like to address, as far as the procedure here, this does not end here. The ZBA is here to take evidence and to make findings of facts that will be forwarded on to the County Board. The County Board has the ultimate and final say as to whether the special use permit is granted or not. It does that through hearing any additional public comment during committee hearing but that is not binding either and then it goes on to the full county board which will be December, that would be the final decision. He stated as far as Ms. Medley's ultimate question, the petitioner presents his or her petition in whatever fashion her or she presents it. He said Blake Noland said it very well, it is up to this board as well as the County Board to ultimately decide whether the petitioner's characterization of the petition is accurate or not, disingenuous or not and that may have an effect on whether they recommend approval, whether the County Board ultimately approves it but it is certainly appropriate for her to stand here and to take issue with the way the petition has been characterized by the petitioner but it does not stop the process from occurring. It flavors the debate. He stated that is why they are here today, to hear what she has to say and what the petitioner has to say, but it does not stop it by trying to say well he is not really meaning what he said he is meaning. He stated you could just argue her interpretation vs. his.

Ms. Medley stated she believes a letter regarding a business was sent ahead of today.

Mike Baggett stated she also has to understand that a special use permit is just that, it has conditions and if a special use permit holder is in violation of the conditions of that permit, a complaint can be made to the Planning and Zoning office which would be investigated and possibly charged or litigated to determine whether or not that complaint has any merit. He stated that is down the road.

Ms. Medley stated she thinks if anyone actually went out there and looked, she has owned her property since 1978, and years ago there was an argument made when they wanted to cross that railroad track a couple of miles down the road, and they said that made a natural barrier. Where Ace and Walker is, the railroad track made a natural barrier between what is commercial and what is residential. She just wanted to point this out.

Mr. Leonard asked Mrs. Gunter is she feels they go to this site daily to pick up a piece of equipment or every few weeks and take it out.

Mrs. Gunter stated she would probably assume that after you asphalt a driveway, you take your equipment to the holding site until your next job.

Mr. Leonard stated so she thinks it would be more like a daily...

Mrs. Gunter stated she would assume, yes, without having the...

Mr. Oliver stated he lives out on the hill there as he explained earlier, he stated this is a daily operation, 9:00 – 9:20 last night, Mr. Ferguson went by last night at 6:21 up and down the road at all hours and multiple vehicles, not just one or two, trailers, paving machines, rollers, sealing machines etc. He stated he talked to Mr. Bird several years ago and the shift commander at the Macon County Sheriff's Office to see if they could do something to slow the traffic down and nothing was ever done. They could not tell you the last time they wrote a ticket out there. Mr. Oliver said he wanted to get some hidden driveway signs and Mr. Bird told him the signs would not do any good, not worth putting up.

Mr. Floyd addressed the signs, he stated when he comes out of his road, the railroad tracks are there, they blocked that road where they can't get out so he talked to Stuart Jacobs at the highway department. He asked Stuart if they could put up some signs so they will not block the road and then both roads on the other side, he stated Stuart said it would not make any difference putting those signs up. People will do exactly what they are going to do. Mr. Floyd stated so even if Bruce Bird puts up signs, it will not help a lot. He would also like to address the comment Mrs. Gunter made on the Oakley Township Zoning and Board meeting. He stated they had three zoning people show up; they had to start it 15 minutes late because they only had two guys so they listened to stuff. He stated Mr. Muirhead cut some people off, he stated George seems to think if it is A-1, he can move equipment in and out, as a farmer does. He stated that was the whole situation that started that so when they got ready to vote on it, George voted yes and the guy next to him looks at George and asks how he wants him to vote. George told him to vote yes. The other guy, they pulled off a combine that was 15 minutes late, had never been to

the property. Mr. Floyd stated he had several calls from people asking what in the world went on out there. He stated you could guess who the no vote was, but because the zoning board approved it, 100% they went along with it. He stated it was not pretty.

Bill Koretke made the motion to vote, seconded by Blake Noland.

All members present voting nay. Petition failed (6-0)

Mrs. Gunter informed that this still goes on to the EEHW committee on November 15, 2018.

5.2 R-02-11-18 a petition filed by Douglas Henderson for rezoning approximately 5.11 acres from (R-4) Single Family Residential Zoning to (RE-5) Single Family Estate Zoning. The property is commonly located at 4129 N Prairie View Road, Oakley, IL 62501.
PIN 14-08-26-428-004

Chair Lamont advised that nobody was here for this petition and tabled it until the next hearing, which will take place December 5, 2018.

Mike Baggett informed Chair Lamont she needs a motion to table the petition.

Blake Noland made a motion to table the petition, seconded by Ed Leonard with all members voting Aye. Motion carried (6-0).

Chair Lamont asked Mrs. Gunter if the board has anything for next month.

Mrs. Gunter stated we have two, possibly three petitions for next month.

CITIZENS COMMENTS: None.

ADJOURNMENT: Ron Grider made the motion to adjourn; Blake Noland seconded. All members present voting, Aye. Motion Carried. (6-0). Meeting adjourned at approximately 9:36 A.M.

Minutes submitted by Tracy Sumpter, Macon County Planning and Zoning Dept.