

MACON COUNTY ZONING BOARD OF APPEALS

HEARING MINUTES – FEBRUARY 1, 2023

MEMBERS PRESENT

Barb Lamont, Chair
Ron Grider
Adam Brown
Marcia Potrafka
Dennis Hughes

COUNTY PERSONNEL PRESENT

Tracy Sumpter, Planning & Zoning Director
Tammy Wilcox, County Administrator
Crystal Hugger, County Board Secretary
Amy McKinney, Planning & Zoning Administrator
Debra Kraft, County Board Member
Kevin Greenfield, County Board Chairman

MEMBERS ABSENT

Clint Gorden, Alternate Member #1
Gary Hutchens, Alternate Member #2

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

MINUTES

Ron Grider made the motion to approve January 4, 2023 minutes, seconded by Marcia Potrafka. All members present answering, Aye. Motion Carried (5-0).

OLD BUSINESS:

- 4.1 S-01-01-23 a petition filed by Holly Mowry requesting renewal of a Special Use Permit to allow a bakery business in (RE-5) Single Family Estate Zoning. The property is commonly known as 4216 Bowman Road, Decatur, IL 62521 South Wheatland Township PIN: 17-16-05-100-005**

Ms. Sumpter stated this was approved by ZBA on January 4, 2023, approved by EEHW January 26, 2023, and will go to County Board February 9, 2023.

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

NEW BUSINESS:

- 5.1 S-01-02-23 a petition filed by John C Lee M.D. requesting renewal of a Special Use Permit to allow a doctor's office in (R-1) Single Family Residential Zoning. The property is commonly known as 1714 S Blaine Lane, Decatur, IL 62521 Long Creek Township PIN: 09-13-20-378-001**

John C. Lee
1714 S Blaine Lane
Decatur IL, 62521

Dr. Lee stated he was here for a renewal of his special use permit that was granted 25 years ago and that he is an ophthalmologist that arrived here in 1979. He has served in this town around 42 years. He has decided to size down as somewhat of a cost control and reasonable economical service for the local residents. In doing that at that location has been much more cost effective than large tall beautiful

buildings. They have had a good record, meaning that he feels good they see people that are potentially going to lose their sight, and they do free public talks. He sees patients one day a week, on Wednesdays which means he is slowing down. It is very important that they have continued operation and he is very grateful to Decatur for the opportunity to serve the community with his practice.

Barb Lamont asked if anyone had any questions.

There were no questions.

Ron Grider stated on behalf of Dr. Lee, that Dr. Lee's practice does free screenings for anyone, and that he has been to Argenta several times for some of their events.

Ms. Sumpter was called on to present her finding of facts.

Finding of Facts

Petition: For a Special Use permit to allow a doctor's office in (R-1) Single Family Residential zoning.

Parcel Number: 09-13-20-378-001

Location: This property is commonly known as 1714 S. Blaine Lane in Long Creek Township.

Acreage: .8 Acres

Zoning: R-1 Single Family Residential Zoning

- This is a petition for a renewal of a special use permit. The last permit was renewed in 2013 for a 10 year period. The original permit was approved in 1998.
- 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. Therefore, the Special Use Permit is needed because this property is zoned R-1 Single Family Residential Zoning.

EFFECTS ON GENERAL WELFARE: None

EFFECTS ON NEARBY PROPERTY: None

EFFECT ON DEVELOPMENT OF SURROUNDING PROPERTY: None

ADEQUACY OF UTILITIES & FACILITIES: Correct

INGRESS & EGRESS: Correct, it will stay the same as existing.

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

STAFF RECOMMENDATION: While you may vote to recommend approval or denial of this petition, staff has inspected the property and staff recommends **approval** with the following stipulations:

1. The doctor's office is limited to use by one doctor.
2. Use of the property is to be confined to the existing residence.
3. Access to the parking area of the doctor's office will be directly from Fulton Street.
4. The special use permit shall be for a 10 year period beginning March 9, 2023 and ending March 9, 2033.

Barb Lamont asked if there were any questions for Tracy.

Ron Grider made the motion to approve the petition, seconded by Adam Brown. All members present voting, Aye. Motion carried (5-0).

**5.2 R-02-02-23 a petition filed by Illinois Valley Paving, a division of United Contractors Midwest, Inc. requesting to rezone approximately 30.66 acres from (A-1) Agricultural Zoning to (M-2) Heavy Industrial Zoning. The property is commonly known as 5515 S Business Route 51, Decatur, IL and the parcel directly north of this address.
South Wheatland Township PIN: 17-16-09-200-004 & 17-16-09-200-008**

Ross Munsterman
Featherstun, Gaumer Law firm
101 S. State Street Suite 240
Decatur IL, 62523

Mr. Munsterman stated he was here on behalf of his client Illinois Valley Paving, which is a division of United Contractors Midwest. UCM is one of the largest paving contractors in the state of Illinois. They own property just south of Elwin, far enough off of US 51 that unless you were looking for it you probably wouldn't even notice it was there. It is currently zoned A-1. Approximately seven (7) to ten (10) years ago it was in operation as an asphalt batch plant the company decided to relocate that operation to another location. They are simply seeking to resume operation as an asphalt batch plant at this location and due to the restrictions of A-1 they need to rezone to M-2 Heavy Industrial. The prior use as an asphalt batch plant by his understanding did not cause any conflict with neighboring property owners, did not negatively impact the values of those properties, and did not cause any other issues by nuisance or any other conflicts with surrounding properties. That operation lasted approximately fifteen (15) years. Currently the surrounding properties are primarily agricultural, this property in particular has no farm ground associated with it, but all the surrounding properties to the west, north, and south are agricultural properties that are farmed. The property directly to the east is Business Route 51. Their position is that this use of the asphalt batch plant and the M-2 rezoning will not negatively impact those current uses of those agricultural properties. In addition, they would argue that this would create any health or traffic hazards. The batch plant itself will be regulated by the IEPA. They will need a permit in order to operate that plant, related to the emission that may be created. They will be supervised and regulated strictly by the IEPA the entire time that plant is in operation. So based on the IEPA's oversight, of course it is not his client intention to violate those restrictions, and so they would argue that the use will not create any health hazard. In addition as far as traffic is concerned, there is actually an access road off of Route 51 that only services this property. It's actually got a dead end sign approximately 50 feet off the access that notifies

any stray drivers that this is not a road to be traveled down. It goes for approximately half of a mile and turns, goes over the rail road tracks and only services this property. His understanding is that the added truck activity that may be created by the asphalt batch plant use would not create any hazards, obviously business route 51 is highly traveled, it is two (2) lanes going both ways and they do not anticipate any issues traffic related with this rezoning. In addition, it's their position that this proposed use will be beneficial to Macon County. The operation of the batch plant will create some jobs for the actual operation and it will create materials to be utilized in local business and trade practices here in Macon County through the creation of this asphalt that can be used for roadway projects, parking projects, things of that nature. That activity in and of itself would increase the economic base for Macon County, and resuming this beneficial use from its current use which is the property is just sitting there, would potentially create a higher assessed value, and therefore increase the tax base for Macon County as well. He then stated he was happy to answer any questions anyone might have.

Barb Lamont asked if anyone had any questions.

Adam Brown asked the size of the foot print of this property compared to the batch plant located in Warrensburg IL.

Mr. Munsterman answered that this property is about 30 acres, and he didn't know off the top of his head the size of the Warrensburg property, but he could look back at his file.

Adam Brown stated that he was just curious. The Warrensburg property has expanded fairly quickly, and he thinks it has be of value to the community as road resurfacing has been a major issue.

Barb Lamont ask if there were any more questions.

There were no more questions.

Ms. Sumpter was called on to present her finding of facts.

Petition: For rezoning approximately 30.66 acres from (A-1) Agricultural Zoning to (M-2) Heavy Industrial District Zoning.

Parcel Numbers: 17-16-09-200-004 & 17-16-09-200-008

Location: 5515 S Business Route 51, Decatur, IL & the Parcel Directly North of this
Address

Acreage: 30.66 acres

Zoning: A-1 Agricultural Zoning

Finding of Facts

- This is a rezoning of 30.66 acres from (A-1) Agricultural Zoning to (M-2) Heavy Industrial District Zoning.
- The rezoning is needed for the property to be used for an asphalt batch plant. The property was previously used as an asphalt batch plant. This was ceased by the owner and they now desire to restart the batch plant operations. Heavy Industrial Zoning would be the correct zoning for such an operation.

- The surrounding properties are zoned: (A-1) Agricultural Zoning to the North, South & West, Business Route 51 to the East.
- There is no floodplain located on this property.

EFFECTS ON GENERAL WELFARE: None

EFFECTS ON NEARBY PROPERTY: None

EFFECT ON DEVELOPMENT OF SURROUNDING PROPERTY: None

ADEQUACY OF UTILITIES & FACILITIES: Shall conform to Macon County Ordinance Rules and Regulations.

INGRESS & EGRESS: Adequate if used properly.

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

STAFF RECOMMENDATION: While you may vote to recommend approval or denial of this petition, staff has inspected the property and staff recommends **approval** for rezoning, approximately 30.66 acres from (A-1) Agricultural Zoning to (M-2) Heavy Industrial District Zoning.

Barb Lamont asked if there were any questions for Tracy.

Dennis Hughes asked when the inspection was done, how she found the property, it hasn't been used for a while.

Tracy answered, no it hasn't been used for a while. If you're heading south of route 51 just outside of Elwin there is a turn off to an access road that goes back to the property.

Dennis Hughes said he knew where it is, he asking about the condition of the property. Has it been kept up at all even though they haven't been using it? Or does it look like it's been abandoned?

Tracy stated it looked like it was abandoned.

Dennis Hughes said maybe his question would be more directed to Mr. Munsterman. Are there intentions to clean up the property to make it look more presentable?

Mr. Munsterman answered that he honestly did not know what his client intends to do as far as cleaning up the property, he knows that in resuming operations, they do not want things to just be simply laying around to create hazards for trucks going in and out, with that he isn't turning to speak out of turn and his client hasn't promised anything one way or the other but he would imagine that the property would be cleaned up to the extent it needs to be to operate the plant.

Dennis Hughes stated his concern is what people see coming from the south, into Decatur. He would like for it to look like its being taken care of.

Mr. Munsterman stated that his client would be more than happy to comply if there was any kind of zoning issues or ordinance issues they were in violation of.

Dennis Hughes stated he just wanted it to look good, or at least better.

Ron Grider asked how many years that property has been not used.

Mr. Munsterman stated operations stopped 7 – 10 years ago.

Barb Lamont asked if there were any more questions.

There were no more questions.

Ron Grider made the motion to approve the petition, seconded by Marcia Potrafka. All members present voting, Aye. Motion carried (5-0).

5.3 Discuss House Bill 4412 – County Wind and Solar Zoning Restrictions

Barb Lamont stated this item was added to the agenda, and that she hasn't had a chance to read it all the way through to really know much about it and asked Chairman Greenfield what he knew about it.

Chairman Greenfield stated that he and Tammy had been working with the Farm Bureau on it, made calls to legislators before the vote, and didn't have much luck. Said that Tammy probably know about more than he does. Said that the just of the matter is the state is taking control out of our hands and going to take it themselves. He isn't sure how the permitting and inspections are going to be, but Tammy can probably answer those questions.

Tammy Wilcox stated her and Tracy had been watching it and they sent in a witness slip in opposition of the bill but it didn't do any good. The farm bureau had submitted some changes they wanted to make to this kind of ordinance, but now it is out of the County's hands, it has to go by the new bill.

Tracy Sumpter stated she has spoken to some the other zoning officials in other counties and they seem to have a lot of concerns with even holding the special use permit hearings because you're going to have members of the public coming to voice their concerns and there isn't a whole lot we can do about it.

Ron Grider asked if the county no longer had anything to do with approving solar farms.

Tracy Sumpter answered that we would still have an ordinance, and that she has to get with Mike Baggett on this. There will still be an ordinance but you cannot have anything more restrictive than what the state has listed.

Marcia Potrafka asked if we would still be required to do inspections to make sure they conform.

Tracy Sumpter said yes.

Tammy Wilcox mentioned that we could still charge.

Tracy agreed stating that we could still charge the building permit fees, but like Moultrie County, they had completely banned wind farms, counties will not be able to do that anymore. If they want to come there, they are going to build it.

Ron Grider replied so the state says you can do it no matter what the county says.

Tracy Sumpter confirmed.

Ron Grider asked if we get an application for a wind farm and nobody on this board thinks it is the thing to do, we can all vote it down.

Tracy Sumpter stated that she has not dug that deep into it, she is going to have to go over it with Mike Baggett but we just cannot have anything more restrictive than what is on the states list.

Barb Lamont asked from what she understood this took effect immediately?

Tracy Sumpter confirmed, also stating she believes you have six months to rewrite the ordinance into compliance.

Barb Lamont asked Tracy that later down the road once they have had a chance to look at it and know some more if they could fill the board in on more details.

Tracy Sumpter said absolutely.

CITIZEN'S REMARKS: There were no citizen remarks.

Tracy Sumpter stated there is one on the agenda for next month's meeting.

ADJOURNMENT: Barb Lamont made the motion to adjourn; Ron Grider seconded. All members present voting, Aye. Motion Carried. (5-0). Meeting adjourned at approximately 8:53 A.M.

Minutes submitted by Amy McKinney, Macon County Planning and Zoning Dept.