

MACON COUNTY ZONING BOARD OF APPEALS

HEARING MINUTES – APRIL 5, 2023

MEMBERS PRESENT

Barb Lamont, Chair
Ron Grider
Marcia Potrafka
Adam Brown
Dennis Hughes
Clint Gorden, Alternate Member
Gary Hutchens, Alternate Member

COUNTY PERSONNEL PRESENT

Tracy Sumpter, Planning & Zoning Director
Amy McKinney, Environmental Mgt
Debra Kraft, County Board Member
Tamara Wilcox, County Administrator
Michael Baggett, State’s Attorney
Kevin Greenfield, County Board Chairman

MEMBERS ABSENT

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

MINUTES

Ms. Potrafka made the motion to approve February 1, 2023 minutes, seconded by Mr. Brown. All members present answering, Aye. Motion Carried (5-0).

OLD BUSINESS:

- 4.1 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**

Ms. Sumpter reported that ZBA passed the petition on February 1st, EEHW passed it on February 23rd, and County Board passed it on March 9th.

- 4.2 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**

Ms. Sumpter reported that ZBA passed the petition on February 1st, EEHW passed it on February 23rd, and County Board passed it on March 9th.

Chair Lamont states that we have three for this morning and if anyone is wanting to speak on any of the three that we have you all stand up I will swear you all in at one time.

NEW BUSINESS:

Chair Lamont called Jason Brown

- 5.1 V-01-04-23 a petition filed by Jason Brown requesting a variance to change the required lot size from 10 acres to 1.3 acres in (A-1) Agricultural Zoning. The property is commonly known as 7754 Pleasant View Road, Blue Mound, IL 62513
Blue Mound Township PIN: 02-15-20-100-005**

Mr. Brown states that he did not know exactly what to do about purchasing but I see you already got a picture of the property at 7754 Pleasant View Road. It was a home built by my grandparents in 1979 on 40 acres of farm ground. That house has been in our family since then and different relatives have lived in it. Recently it became open and I am going to purchase it but I would like to request a variance to change the required lot size from 10 to the 1.3 acres of yard that it sits on so that it will be its own separate parcel with its own separate tax bill separate from remaining 39 acres that it currently sits on.

Chair Lamont asked if the rest of the farm will still be in the family farm.

Mr. Brown said yes, the rest of that 40, and the 40 behind it will still remain with the Osbernvillle Grain Company we are currently registered under.

Chair Lamont asked if anybody had any questions. No response.

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

- Petition: For a Variance, to change the required minimum lot size from 10 acres to 1.3 acres in (A-1) Agricultural Zoning.
- Parcel Number: 02-15-20-100-005
- Location: This property is located at 7754 Pleasant View Road in Blue Mound Township.
- Zoning: A-1 Agricultural Zoning
- Acreage: Approx. 40

Finding of Facts

- Petitioner wants to separate the house from the existing 40 acres of farmland.
- The variance is needed to allow the minimum lot size to be reduced from 10 acres to 1.3 acres. Under the Macon County Zoning Ordinance, Section 155.183 states the minimum lot size for Agriculture is 10 acres.

- The petitioner cannot automatically reduce the lot size to one acre minimum because the house was not built prior to 1970.
- Per the Supervisor of Assessment records, the house was built in 1979.
- There is no floodplain located on the property.

EFFECTS ON GENERAL WELFARE: None

EFFECTS ON NEARBY PROPERTY: None

EFFECT ON DEVELOPMENT OF SURROUNDING PROPERTY: None

ADEQUACY OF UTILITIES & FACILITIES: Correct

INGRESS & EGRESS: Already existing.

CONFORMITY TO REGULATIONS: With the passage of the Variance the property will conform.

STAFF RECOMMENDATION: You may vote to approve or deny this petition, or amend as appropriate. Staff has been on site and Staff recommends approval for the variance to change the required lot size from 10 acres to 1.3 acres in (A-1) Agricultural Zoning.

Chair Lamont asked if anyone had any questions for Tracy. No response.

Ms. Potrafka made a motion to approve, seconded by Mr. Grider. All members present to vote, Aye. Motion carried 5-0.

**5.2 R-02-04-23 a petition filed by Gregory Hostetler requesting to rezone approximately 4.47 acres from (A-1) Agricultural Zoning to (M-2) Heavy Industrial Zoning. The property is commonly known as along South Route 121, Hervey City, IL 62549
Mt Zion Township PIN: 12-17-15-200-019**

Chair Lamont said state your name and address.

Mr. Gregory Hostetler introduced himself and stated that he thinks everyone received an aerial picture. Into I know covers of the salvage yard that I already have there and it was there before I was born. It has been over 50 years. I am not wanting to do any salvaging on this property. I just strictly have grown my business and I need it for storage space. Any of the salvage businesses is still going to continue stay in the zoning area and I know that, that does not make a difference.

On the farmland, I have put a new fence all the way around it and I didn't put up used I put up new. Hervey City through the years when my dad was in charge of the junkyard I will be the first to admit that it looked like hell through there excuse my language but it just did. He junked darn near on the highway and since I took over things and if anybody is in the Hervey City area and

the Dalton City you can see that every time that you are through I made improvements and I am going to continue to make improvements.

I always use Bodine Sewers layout on Firehouse road as a beautiful industrial business that's nice with landscaping and that's what I want to get to. That is what my plans are is to get to that. When I did the fence between Charles Genet and our house which I have known Charlie when he moved there I was in the eighth grade we set the fence back because he is a good neighbor to where we give yard space he can look out to see my parents' house and they can see his. Also, too down at the corner of McDonald road and 121 I have an entrance gate right there. I have no intention of using that entrance gate ever once I get this set-up inside. I am going to do all my entering from the current location of were the junk yard ends next to Top Quality Roofing.

The only reason why I have it like that right now is because I am growing and as I am expanding that is the way that I needed to get in there. I got a lot of rock and fill that is in there and I am going to use that for across the street were we have leveled all those trees for fill where we are taking out stumps etc...that is what all that rock and etc..is in there for. Other than storing vehicles on it that is all I intend to do and I will not use all that property down there in front State property we keep all that mowed in the front and like I said there will be no entering for us using that down there at any time that will all just be grass across there. Our entrance is going to be inside the junkyard we will come in and we will enter this new field area through the junkyard. That is the plan and I have not done the fence everywhere around there is going to be to be fenced. It just take time and money and you can see all the new fence we have put up. I am going to continue to do that down this side. Right now if you drive by there unless you are over there with a drone you wouldn't know if there was one car back there or 100 cars back there because it is all hidden by a fence. I want it to look nice for the community and I look at Hervey City as being the gateway to Macon County. When you come in I want it to be attractive and want it to look nice. Like I said if you had seen it two years ago compared to what it is now I have made a lot of improvement. I spent a lot of money there and I am going to have about \$80,000 in fence when I am done and I am not done. I will continue to do landscaping and I have drawings of where I am going to put landscaping in between it is going to be nice it is going to be something that everybody is going to be proud of. It is a recycling yard and it has been for years but it is not going to be an eyesore. I did not realize when storing something on it, I knew that I couldn't junk on that property but I had no intention on junking on that property. We don't junk on that property we just need it for storage is what I need it for. If anybody has any questions that I can address I will be glad to.

Chair Lamont asked how many cars do you have stored in this piece of property now.

Mr. Hostetler said right now there are approximately 200.

Chair Lamont said in that new area.

Mr. Hostetler said in that new area yes.

Mr. Brown stated but that parcel is zoned agricultural correct

Mr. Hostetler said that is correct

Mr. Brown said so what is the current agricultural purpose of that property

Mr. Hostetler said it was farmland my whole life until I purchased it and I have put cars on it for storage now. Then I fenced it I don't have the fence down along the railroad way. The part where it says M-2 that is where my parents' house is and they have lived there 57 years. He started a junkyard before I was born and it has been going about 55 years there. The area where the cars are we are going to enter in were we still enter the junkyard right now. A lot of that has change since the way the aerial shot is now but we got a path through here and a gate through here that we will enter in and set the cars inside of here and there will be no entering here off of the McDonalds entrance way.

Mr. Hughes asked about the cars that you have stored there, what are the condition of those cars are they whole cars and do they have liquids in them.

Mr. Hostetler said yes they come in as a complete car.

Mr. Hughes stated he noticed in the past you have had some problems with oil and probably antifreeze in the salvage area.

Mr. Hostetler said yes, Nick from the EPA and we had a car fire there a few years ago and it was a guy that I sale my junk car to one of his worker caught a car on fire and it caught three other cars on fire. What I was allowing them to do was actually junk the car on my property and we no longer do that. They come in now and we just pick them up with a track hoe and set them in a trailer and take them to New Berlin, Illinois and that is where they process them with a shredder over there.

Mr. Hughes said you don't process them.

Mr. Hostetler said no we do not process them at a time before they was just basically doing them there. What he was doing before he was trying to have them prepared to take to Peoria straight to market he has since bought a \$3.1 million dollar shredder. He is eliminating those guys and he is doing that at his facility. He takes the car over there as it is with the fluids in it and he process all of that. What I take off the cars we set them on a rack, take of the aluminum wheels and cut off the catalytic converter and remove the battery. No cars go with the battery and we do not take out any radiators. In the old days all cars had copper and brass radiators and almost all your new stuff is aluminum and plastic and it is worth \$2 bucks. We do not even take it out it is not worth the effort for me to pay a guy \$20 bucks an hour and do that. We don't even do that take out radiators. Very seldom we might get a copper radiator or so often big grain truck or something but very rarely. We set the cars on a rack and take of the tires and wheels and cut of the catalytic convertors remove the battery and then junk them.

Mr. Hughes asked how you get rid of those tires.

Mr. Hostetler said believe it or not right now I actually got a deal on the sale of the aluminum. Aluminum is up right now and I am actually selling aluminum wheels on tires right now. As far as any other tires I got receipts that I can show you for last year I paid Tommy Love Tire Transport were he took over 3000 from me. We have been always in the past broke them down and we had to get rid of the tires and sale the aluminum wheels separately since aluminum is up I got a deal. They are getting shipped straight to Mexico and I am just selling them as they are I just stack them in a semi van trailer and I am going to sell them the whole van trailer. It has been a big deal for us not to have to labor involved in doing it. You lose a couple of bucks but in the end you are making money.

Ms. Sumpter asked what your intention of the half acre is across the highway where you have cut down all the trees and what have you.

Mr. Hostetler said you are talking about the point 52ac, right now nothing. Just clearing it out from grove to grove. Here back in the back once I started getting control 116 trees back there we had to have a lot of fill hauled in for all the tree roots etc... That is what we got. If you guys have looked here there is a lot of rock and fill that has been here hauled in and that is for over here just to fill in where those stumps have been out.

Ms. Sumpter asked and are your planning to or have you already rocked the parcel that we are speaking of.

Mr. Hostetler said no I have not. That is what my plans are yes. It gets soft.

Chair Barb asked what about that 1.96 acres because I know there has been vehicles all the way up and down that spot.

Mr. Hostetler said I currently had over 200 on there and they are back here. I just sold 375 junk cars that we just hauled out. We moved them and did that. My business has just a few years ago, it just snowballed into doing this more and more of recycling cars. I've just gotten bigger and I do zero advertising and I run no ads. My name is out there and we are buying 100 cars a month. We are just getting a lot of vehicles.

Chair Barb said it is not having anything against what you are doing we just want to make sure that you do the zoning properly for your business.

Mr. Hostetler stated that he just talked to his attorney about this. When I bought that land I never had any intention of junking on it at all. I am not going to because I can't be back there driving with a tow truck driving through where there is debris whatever. I have no plans for that I just didn't realize that I wouldn't be able to store something. I just didn't think about I am just storing stuff on it and that it was going to be an issue. If I would of I would have before I went and spent the money on farmland I would have looked an addressed and said hey, can I do that I just didn't think about it. I wasn't going to have any intention to junking on it and then down here on this other area here my plan is, he is not petitioning to rezone that part today, the 1.96 acres.

Ms. Sumpter stated no, that is another issue if vehicles become...

Mr. Hostetler stated his intention with everything he has here in the space he has, he will not need that for overflow. His intention is to fence that just so no one can come in the back way because he has equipment there.

Ms. Sumpter stated that is currently zoned A-1 Agricultural.

Mr. Hostetler stated he has no problem right now with not putting any vehicles on that property.

Ms. Sumpter stated he would not be able to, it would be a violation.

Mr. Hostetler agreed.

Chair Lamont asked if the lot zoned RMH-1 needs to be changed.

Ms. Sumpter stated it depends on what he intends to do with it.

Ron Grider asked how tall the fence is.

Mr. Hostetler stated it is 8 feet tall on one side and 10 feet on another side,

Ron Grider asked if it was 8 feet on the lot zoned RMH-1

Mr. Hostetler stated that is correct.

Ron Grider asked about the height restriction for the fence.

Mr. Baggett stated there is no fence on the RMH lot.

Mr. Hostetler stated there is a fence along the front of this lot and he plans to put a fence down the side as well.

Mr. Baggett asked on the East side?

Mr. Hostetler stated that is correct.

Mr. Baggett apologized, he was not following.

Mr. Hostetler stated his father purchased that property from Mrs. Sowa many years ago. It is right up next to his storage lot for his towing business, and next door to the car lot. Right now there has been nothing on it except trees. He asked if he parks something on it, does he need to have it rezoned. Right now he is planning to just park equipment on it.

Ms. Sumpter stated the ordinance says the fence height cannot exceed 8 feet on residential.

Mr. Grider asked on the front?

Ms. Sumpter stated we do not permit fences, as long as it does not exceed 8 feet, the fence is on their property line and are not obstructing the view of traffic.

Mr. Grider stated he thought it said....

Chair Lamont stated residential, this is not a residential fence.

Mr. Grider stated it is zoned residential.

Chair Lamont stated we are not talking about this lot today.

Marcia Potrafka asked for clarification of what can be put on A-1 zoned lots. She stated it sounds like when he purchased the property and he knew it was agricultural, he did whatever he wanted to do. Not knowing the zoning or what was allowed on the zoning. She wants to clarify that what he is doing right now on the property is legal for that zoning.

Mr. Grider stated no.

Ms. Sumpter stated this petition was the result of a complaint filed concerning running a business and the fence along the railroad track. The violation notice was sent out, Mr. Hostetler called the office, came in and had a meeting with her and wanted to know how he could remedy the violation. She told him the rezoning and special use permit would be the steps he could take. She stated "junkyard" is a special use under M-2 Heavy Industrial Zoning so the lot needs to be rezoned and then additionally have a special use permit.

Chair Lamont stated he is heading in the right direction.

Mr. Hostetler stated as far as Hervey City, it is an industrial little city as far as the businesses there. There was a concrete company years ago where his car lot is now. He has tried to have a good relationship with everyone in Hervey City. He knows everyone thinks he just keeps saying this, but when comes down the road every day to come to work and he sees all the stuff, it grinds his gears. He does not want to see it either. He wants it to look nice. It will get there, people driving by would not know if there was corn 10 feet tall behind the fence. Nobody can see it unless you have x-ray vision and see through the fence. You are not tall enough driving past it to see it. He wants it to look nice and look good. If there is a step to zone it something different than M-2 just for the storage because that is his only intention. He will not junk on this property.

Chair Lamont stated she has seen a big improvement, she was impressed.

Mr. Hostetler thanked her. He stated in the old days, his father junked right off the highway. There was no fence of any kind and it was a mess for years. He stated it was an eyesore.

Adam Brown stated he is not sure satellite picture does the property justice. If you look at the satellite picture and you see the row crops that were there and unfortunately he has taken that

ground out of production and the intent here is to zone is agricultural for Ag production. He stated he does not know how you remedy that when he has clearly defied what was zoned there.

Mr. Hostetler stated we all know what farmland is valued at now, it has gone up every year. The only reason they had interest in selling that land is because it is a pain in the butt to farm with the way it is shaped. He stated you can talk to Kraft who farmed it for years, that is the reason they were willing to sell it because there is not a straight shot on it, you have to enter along the railroad tracks and take the sharp turn to get in there. He stated when he inquired about purchasing it, his dad told him nobody would sell him farmland to store cars. He stated all he could do was ask and the seller stated they would love to get rid of it. He stated he never put one item in that field until he had a fence up to cover it. He would not do that to his neighbor Mr. Genet. He wanted to be a good neighbor to him. Just like where Tony Mancini lives, he stated where their property lines divide, he will put a fence up there as well.

Marcia Potrafka stated talking about fence height, she thinks that is the point. You can do anything behind a solid fence and we do not know if you are in violation. She appreciates the aesthetics and hearing about his neighbors but she does not like the idea that he wants to hide things.

Mr. Hostetler stated he is not trying to hide, he wished the meeting was on-site so everyone could go back there...

Marcia Potrafka stated she has been out to the property.

Mt. Hostetler stated yes but they have not walked through there in the fence to see it is just full of cars. He is not doing any junking on there, no cars being turned over, no glass being broke or any of that stuff that is going on in the M-2 zoning part. He is not going to junk on this property even if the zoning becomes M-2. It will just be storage of vehicles. He will not be entering from McDonald Road either, he knows there has been an issue with mud on the road. It will be complete grass and no entering in that area. He is not trying to hide anything, he is just simply saying that if you drive by anywhere with a fence, nobody knows what is behind that fence. He is shocked that he got a complaint with the improvements he has made to Hervey City. He travels to Litchfield for supper, he goes to Effingham and people tell him he has done a lot of improvements to Hervey City. In two days he has spent in Mt Zion, he has 100 signatures supporting him and saying why anyone would be complaining, it looks great and does not look like a junkyard. He stated he is not done, there are a lot of improvements that will still be made, landscaping, bushes, rocks etc. He has some nice ideas of how he wants to do it. He has a new sign being designed for the car lot, it will look very nice.

Mr. Baggett stated to be fair, he knows Mr. Hostetler has made multiple references to the fact that he does not junk on the property. The zoning ordinance has a different definition of junkyard than he thinks he is using. If he has an accumulation of cars that are not operable, it is a junkyard by virtue of the way it is defined in the zoning ordinance however, to be fair to him it not zoned currently to M-2 and he is using it as though it is zoned M-2, that is a whole different issue but he would be required to have an 8 foot fence blocking the view of a junkyard by the M-

2 zoning rules. He does not think Mr. Hostetler is expressing an intent to hide things. He would actually be compliant with the ordinance if he is allowed to zone it M-2.

Ron Grider stated but he should have come here first to get it rezoned before...

Mr. Baggett stated that is a different issue and it is an issue to be addressed.

Ron Grider stated that is his issue with the whole thing. Why should they do this now when he already has the fence and the vehicles? Mr. Grider stated he has a lot of issues with someone coming in after the fact and say hey could you approve this for me.

Mr. Hostetler stated he understands that...

Mr. Grider stated he knows we are only talking about this lot, but the other lots across the street and everything, he has a lot of issues. He understands it does look a lot better when you are driving down through there but Mr. Hostetler should have come to us before he started all of it.

Chair Lamont stated we have had this happen before with other people.

Mr. Hostetler stated he just did not realize that storing something on it, because he has no intentions to junk on it, he just did not realize he would not be able to store something on it. You go to a farmer's land and they have trailers sitting, they have broken down tractor or grain trucks on some farms that are unkept. He just did not think it would be...you have a railroad track here and M-2 zoning that has been that way for over 50 years in a little industrial town, he just did not think it would ever be an issue especially since he was making it look nice.

Chair Lamont stated he is trying to rectify what was wrong.

Mr. Hostetler stated yes, when he received the violation letter...

Chair Lamont stated even though he knows now he should have...

Mr. Hostetler stated Tracy knows that the first day he received the letter, he was in contact with her and came in within two days for a meeting to learn what he needed to do to make it right. He stated he told Tracy he would have the cars moved from the East side of the highway by April 1st which there was almost 200 cars there, they are off the property. There is a large van still down at the end that he has sold. It was supposed to be gone by April 1st but it should be out of there by Saturday. He did not want to have to move it again since someone is coming to pick it up.

Gary Hutchens stated but the property we are speaking about does have cars on it right now.

Mr. Hostetler stated yes.

Gary Hutchens asked how long ago he was made aware that was not allowed.

Ms. Sumpter stated when he received the violation, which would have been December 19th.

Gary Hutchens stated there are still 200 cars parked there right now.

Mr. Hostetler stated that is correct but he asked Tracy if he had to have those moved immediately and she said he is following the needed steps and did not need to move them at that time. He stated they have just crushed out 350 cars.

Chair Lamont stated so the number of cars would vary.

Mr. Hostetler stated they will vary. When he leaves here today he is going to New Berlin and will sell another 300 cars. Those that are back there will be out of there within about 90 days but there are cars constantly coming in. He has already bought 2 over the phone this morning. It is recurring, he cannot say there will never be cars on it again because that is what he purchased the land for, to have the place to store the cars.

Gary Hutchens stated he is just throwing this out there, it seems disingenuous for him to say "had I had known this, I wouldn't have done it" but once he was made aware of it, he did not rectify it. He knows Mr. Hostetler is going through the procedure but it is still a violation.

Mr. Hostetler stated he asked Tracy if he needed to move the vehicles from the property.

Ms. Sumpter stated that is probably her fault, she told him that while he was going through the process it would probably be okay. She stated maybe she was wrong there but she figured if he went through the process and it did not get approved, then the violation would stand and the vehicles would need to be removed from the property.

Mr. Hostetler stated on the part he is not petitioning to rezone (East side of highway), had almost 200 cars on it which he removed. Ms. Sumpter told him those vehicles needed to be removed and he had no intention of rezoning that piece of property. He has removed those vehicles from the East side of the highway.

Ron Grider stated on his petition it was stated that the fencing was installed using new materials.

Mr. Hostetler stated that is correct.

Ron Grider stated the semi-trailers across the back of the property are not new.

Mr. Hostetler stated they will have fence...

Ron Grider stated that right now the zoning states the fence has to have less than 15% total area free gaps. Six to eight feet between those trailers does not meet this.

Mr. Hostetler stated he is not finished. He has just gotten started over the last couple of years. He stated just digging the post holes was \$5500 so the semi-trailers help keep the fence up when the wind is strong. It will be fenced all along, right now he has the semi-trailers so the fence

does not get blown down. He stated you will not be able to see the semi-trailers when he is finished. It will look nice.

Chair Lamont asked Mr. Hostetler if he had contacted the railroad

Mr. Hostetler stated he had a CN Railroad guy on the tracks who stated he could not help him so he had a supervisor call Mr. Hostetler and came out to the property to measure and determine where the fence could be. Then he received a letter from Ms. Sumpter regarding the fence blocking the view but according to the railroad guy, it was fine. He stated he could have went closer to the railroad but he did not. He wanted to leave the railroad plenty of space. He needed the ground to be flat so the fence would be nice and straight.

Chair Lamont just didn't know how many feet the railroad had on each side of the track.

Mr. Hostetler stated he gave the railroad four feet extra of where they needed to be, and the fence along Route 121, he had the power company come out to let him know how much room they would need if they needed to replace a pole.

Ms. Sumpter stated there was concern as well with the fence obstructing the view of an oncoming train. According to Mr. Hostetler, he has met the requirements from the railroad with the fence but she did reach out to the railroad because this crossing does not have lights or arms. The railroad stated this crossing is in the works for this summer to have arms/lights installed.

Chair Lamont stated that will be great.

Mr. Hostetler stated Illinois corn gets 10 feet tall, the corn actually went further than where his fence is. The most dangerous part of that railroad crossing has nothing to do with the fence or corn. When it is dark and you pull up to that railroad crossing and a train is already going across the track, you cannot see it. That would not matter if his fence was up or corn was up it is still there in front of you and you could drive right into it. He stated where the semi-trailers are, it will be fenced. He just have those up there to give some strength where the fence doesn't get ripped out. It will be covered, it will not just be semi-trailers there.

Chair Lamont stated she looks at a semi-trailer fence everyday coming to town from Route 48 North.

Ron Grider stated and he does not like it every day that he sees it but that is not his problem.

Mr. Hostetler stated he spent \$14,000 just in the metal to go around this. He could have used tin but he doesn't want to look at used tin, he wants it to look nice. He stated he thinks we all know who we are talking about with the trailer fence and he will not mention any names, but it looks very crappy to come into Decatur and see that. It is what it is. They could easily spend some money to make it look nice like he is trying to accomplish. The only spot on his property where there will be used fence will be along the back side of the property. It is nice metal fence but not brand new.

Adam Brown stated Tracy mentioned dirt on the roadway and visibility at the railroad. He asked if there were any other complaints they should be aware of.

Ms. Sumpter stated the complaint consisted of Mr. Hostetler running a business and the fence. That was the initial complaint.

Chair Lamont stated if both petitions are approved, he would be in compliance with zoning.

Mr. Hostetler stated it sounds like he would just need to finish the fence according to the ordinance.

Mr. Baggett stated no, to be clear, they have the authority to recommend to the County Board.

Chair Lamont stated she means from ZBA's standpoint. It would then go on to EEHW and County Board would have the final vote.

Mr. Baggett stated that is correct. If the County Board approves the petitions, it would be in compliance.

Ron Grider confirmed the lot. He asked if he was still in violation on the east side of the highway...

Chair Lamont stated we do not care about across the street, it does not have anything to do with this hearing. We would deal with that one when the time comes.

Mr. Hostetler stated to address Mr. Grider, he did move the cars that were on the east side of the highway. He stated the parcel that is zoned RMH-1, he does not have anything on there except for a bulldozer since they are clearing trees.

Mr. Baggett asked if there was anyone who would like to cross examine the petitioner.

John Trusner
1345 Country Lane
Mt Zion, IL

Mr. Trusner stated he is affiliated with Mt Zion Township. He stated his question was answered, he has attended some disaster training with the county and the only thing that worried him was some of the cars that are stacked and have still have gasoline, radiator fluid, brake fluid...he was worried about the fluids environmentally. He also would like to compliment Mr. Hostetler, he thought he would need to visit the chiropractor when he drove through Hervey City and saw the fences. He thought wow, excellent job.

Mr. Hostetler thanked him.

Chair Lamont asked if anyone else had any questions for Mr. Hostetler.

There were none.

Chair Lamont asked if anyone would like to speak.

Cindy Smith stated the reason she is here is because when you look at the map, here family owns the agricultural area. They feel very serious about this area, this was purchased for her great grandmother when she became a widow with three little girls. They have been affiliated with this area for 125 years. She knows the concern today is with the new growing area however, there is a lot of history that does go into considering an ongoing zoning requirement. Her family has ongoing battle since June 1987 with this same problem. Leonard Hostetler also ran a salvage yard here and as it was stated, looked awful. He ran it without a special use permit. In 1991-1992, they complained to this organization, the zoning department, about the accumulation of junk on this property. Bob Sullivan at that point agreed something had to be done about it. In 1993 Larry Fichter helped them out and sent a letter setting up a pretrial conference for March 1st about burning material and dumping of household goods. In 1995 her father continued trying to get the area cleaned up. He contacted Jim Beckett of this department, she has pictures with her documenting the violation with cars. They were promised that a fence would be put up in 1993 however this did not happen. In 2002 Tony VanNatta of Planning & Zoning responded to the expanded storage of old cars on the property. He received a promise from the owner at that time the vehicles would be removed. This was never done. Now the problem is moving across Route 121 and increasing in size. She drove by the other day, it is true that the fence is quite the improvement however, you can see cars over the fence. Apparently the EPA also has issues with this property. She has two citations violations that were issued for open dumping of garbage and 500 used tires filled with water to help our mosquito population.

Chair Lamont asked when that was issued.

Ms. Smith stated she believes it was March 2021. She stated she basically would just like the board to look at the facts here. If a rezoning to heavy industrial or special use permit is allowed, it is obvious it will never be reversed land that is contaminated can never be used for farming. You will not get oil out of the soil, who will spend the money digging up what is buried or used car parts. She stated the board is being asked to consider granting a rezoning for a use that is already in operation. He already began this before, this is history repeating itself again. If Mr. Hostetler cannot follow the rules for recording ownership of customers selling catalytic converters how can he correctly run a salvage yard with so many cars and so many restrictions that are included? The board is asked to believe the regulations will be followed and the junk will be properly screened. A lovely fence is obviously visible and that soil contamination will not occur and he will now follow restrictions without further problems as the site will continue to grow. She would like to know who is going to protect the surrounding neighbors, all of them are not so enamored with the junkyard and have not been. Who is going to clean up when the yard is no longer profitable, is there a slush fund you set aside for these areas that are contaminated. She stated she is sorry, but after 36 years of her family having big complaints about the mismanagement, it is very difficult for her to believe things will change with the current ownership. The presence of the junkyard for people entering Mt Zion on Route 121, this junkyard on either side with wonderful fences. Is this really the image we want to show as people are coming into our community? This is not a personal decision, she really has driven by

several times and she understands the Mr. Hostetler is a very hard worker, that is not in dispute, and that he continues to improve upon what they have had major problems with perhaps his father. The restrictions this department requires and zoning are required for good business practices to succeed. If it is not followed where they are located and by whoever runs them, who does she go to next, how many years do we continue this complaining? She would like the East side to be completely cleaned up. It has been neglected for years, cars come and go, maybe the cars are not stored there now. If you look at the map again, the area that is A-1 on the East side of 121 near the abandoned railroad track, that has been full of junk cars and her farmer struggles with the debris getting into very expensive field machinery. They have just invested quite a bit in tiling that entire field and would like this investment to continue to be proud of their family farm. They have a decorative old fence along Route 121, they have a centennial farm designation and sign there. She would very much appreciate if their side could be cleaned up and earn her good faith after many years of promises. She would like this department to make sure any requirements that are placed are actually followed. Not just printed, distributed and ignored for them to complain and complain again. She has pictures and supporting documents if the board needs more information. She does not wish to cause Mr. Hostetler any problems, she wishes to have a nice area and to continue the family farm and its operations in the best way they can.

Chair Lamont asked if the East side of Route 121 would be addressed at a later time but today...

Ms. Smith stated that is news to her but this does go to be able to believe promises and restrictions would be put into place.

Chair Lamont stated this would be taken care of correctly.

Mr. Hostetler stated as far as some things Ms. Smith addressed, the 2021 issue with the EPA, all of those things were years and years ago as far as the fence that was supposed to be put up and never was etc. he had already stated that through the years, Hervey City did not look good so they are on the same page as far as that goes. As far as the EPA, if Nick was here he could come in and tell you what happened. There was a car fire there, they picked up the car that was on fire and tried using another car to get it out. When they were doing that, car came over and flipped things out. He didn't have any fence up at that time and there were some pictures taken that looked like, you get cars that have items in it and that was what was being considered open dumping. He was never fined, Nick came out and said it needed to be cleaned up, and he could not have any tires unless they are on wheels or stored in a trailer. He addressed that and you can come out to the property today and see there are no violations. He just had a Pugsley container he paid \$450 for to have debris picked up. Top Quality roofing has insulation items blow, once a week Mr. Hostetler has one of his employees go around that field. There is not any debris that has been in that cornfield ever. He doesn't care if it is an aluminum can, he has someone go down once a week to pick up and make sure there is no debris getting in that farmer's field. As far as that goes, if he wanted to, he had this cost him \$3000 to have it surveyed, he is being farmed on 20 feet in that field, but he doesn't care because it has been farmland for years and he is not planning to use that land. He used it because it was an overflow. He has removed those cars like Tracy asked him to do and he will not be putting them back there. As far as, to put her questions to rest, everybody here has seen and even she said it looks nice. The area he is using

incorrectly right now, there are no cars visible, and you cannot drive by and know if there is 1 car or 100 cars back there. The part that is M-2 where the junkyard is, you can see debris above that.

Ms. Sumpter stated she wanted to add that as far as the used tires and fluids go, that would be regulated by the EPA, if they receive a complaint they would need to act on it. Most likely it would be passed to her or Amy since we are a delegated county. He is also required to have a storm water permit for the business and also required to have a permit from the Secretary of State which Mr. Hostetler stated he had.

Mr. Hostetler stated the cars are going out of there with the fluids in them. He also stated that what Ms. Smith had mentioned about not following the rules on catalytic converters, he was found innocent on all of those charges as well.

Ms. Sumpter was called on to present her finding of facts and asked if she should do both at the same time.

Mr. Baggett stated the petition before the board at this time is the rezoning. The special use may not require as much testimony but he thinks it is best to address them separately.

Finding of Facts

- This is a rezoning of 4.47 acres from (A-1) Agricultural Zoning to (M-2) Heavy Industrial District Zoning.
- The rezoning is needed due to Mr. Hostetler purchasing this parcel with the intention of expanding storage area for his junkyard business. In December, our office received a complaint of vehicles being stored on the property and running a business. A violation notice was sent to Mr. Hostetler who then contacted me for a meeting to determine what steps he could take to correct the violations.
- Macon County Zoning Ordinance Section 155.151 states a junkyard is a special use under (M-2) Heavy Industrial Zoning only when the premises upon which the activities are conducted are wholly enclosed within a building or by a fence not less than eight feet in height and in which the openings or cracks are less than 15% of the total area. Therefore, a petition for rezoning and special use permit are needed for this use.
- The surrounding properties are zoned: (A-1) Agricultural Zoning to the West & South, (M-2) to the North and (R-1) to the East.
- There is no floodplain located on the property.
- Mr. Hostetler has had several nuisance and environmental violations in the past. I have provided ZBA members with a list of those which includes the dates and findings of each.

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 at this time, staff provides no recommendation for rezoning, approximate 4.47 acres from (A-1) Agricultural Zoning to (M-2) Heavy Industrial District Zoning.

Ron Grider stated his recommendation is all junk vehicles be removed from all lots in violation and restored to the conditions of the proper zoning. The lot should be restored to an A-1 zoning and not already being used. That is kind of the way a lot of his other complaints from EPA and zoning, he gets a complaint and then he corrects it. That is not the way we do it. He is doing it backwards.

Marcia Potrafka stated he is not the only person who has done that.

Ron Grider stated he understands that.

Chair Lamont stated that whether right or wrong, Tracy told him to leave the vehicles there for now.

Ron Grider stated he understands all of that, it doesn't make any difference to him. All along he has kind of done what he wants to do and then comes and asks for permission to get it okayed.

Chair Lamont asked Mr. Grider how many times we have seen that.

Ron Grider stated well do we approve it.

Adam Brown stated this is also a violation that is tough to undo potentially. If oil is spilled on this ground, this is agricultural ground used to raise crop. Our primary commodity in this state and county is agricultural production and that is the intended purpose for the ground.

Marcia Potrafka stated but the intentions can be changed

Chair Lamont agreed.

Adam Brown stated they should be changed prior to action.

Marcia Potrafka stated she agrees with that 100% but that is the purpose of this hearing.

Chair Lamont stated she understands the little plots like that are a pain to mess with. She has been through that herself. She had a farmer not want to farm anymore because she had cut it down so much. It is hard for a farmer to get big equipment into that little plot.

Chair Lamont asked Ms. Sumpter if the stipulations would go on with the special use petition.

Ms. Sumpter stated that is correct.

Adam Brown made a motion to deny the request to rezone. Ron Grider seconded.

Mr. Baggett stated Mr. Brown asked him before he made the motion, he can make the motion either way. The way it is phrased is a motion to deny a motion. If anyone votes yea then they would be voting to deny the rezoning. If they vote no, then we may need a separate vote. If they go this route, the easier way to do this may simply be to withdraw the motion and then motion to pass the petition and vote in the negative. That way if there is an affirmative vote it is clear what it is. He thinks it can be done this way, he just doesn't know if it is the best way to do it. If that is the way they want it to go we would need to have the motion that is currently on the floor withdrawn and Mr. Grider would have to agree to that withdraw.

Adam Brown withdrew his motion. Ron Grider agreed.

Mr. Baggett stated anyone can move to approve the petition. That does not mean they have to vote to approve it but anyone can move to conclude the matter.

Ms. Potrafka made a motion to approve, seconded by Mr. Hughes.

Roll call vote:

Barb Lamont – Aye
Ron Grider – Nay
Dennis Hughes – Nay
Adam Brown – Nay
Marcia Potrafka – Aye

Motion failed 3-2

Mr. Baggett stated this will go to EEHW and the County Board with the recommendation from the Zoning Board of Appeals to deny the petition for rezoning. There is still a petition for a Special Use Permit. The County Board will make a final decision.

Chair Lamont stated we will move on to the Special Use Permit.

**5.3 S-03-04-23 a petition filed by Gregory Hostetler requesting a Special Use Permit for operations of a salvage/junk yard in (M-2) Heavy Industrial Zoning. The property is commonly known as along South Route 121, Hervey City, IL 62549
Mt Zion Township PIN: 12-17-15-200-019**

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

- This petition is in conjunction with a rezoning petition to change zoning to (M-2) Heavy Industrial Zoning.
- The special use is needed due to Mr. Hostetler purchasing this parcel with the intention of expanding the storage area for his junkyard business. In December, our office received a complaint of vehicles being stored on the property and running a business. A violation notice was sent to Mr. Hostetler who then contacted me for a meeting to determine what steps he could take to correct the violation.
- Macon County Zoning Ordinance Section 155.151 states a junkyard is a special use under (M-2) Heavy Industrial Zoning only when the premises upon which the activities are conducted are wholly enclosed within a building or by a fence not less than eight feet in height and in which the openings or cracks are less than 15% of the total area. Therefore, a petition for rezoning and special use permit are needed for this use.
- The surrounding properties are zoned: (A-1) Agricultural Zoning to the West & South, (M-2) to the North and (R-1) to the East.
- There is no floodplain located on the property
- Mr. Hostetler has had nuisance and environmental violations in the past. I have provided ZBA members with a list of those which includes the dates and findings of each.
- The original Special Use permit issued in 1987 for the salvage/junkyard located at 1335 S State Route 121 had a stipulation which required all materials and all vehicles be stored behind a fence. Mr. Hostetler is actively working to achieve this. He has installed fencing around the parcel.

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: Adequate if used properly.

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 at this time, staff provides no recommendation for a special use permit for the operation of a salvage/junk yard.

If the board so wishes to approve the petition, the following stipulations are suggested.

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. Building permits shall be obtained as required.
3. All fluids must be removed from the vehicles before placing on said parcel to prevent any spills onto the ground.
4. Any used tires without rims must be stored properly, meaning they must be covered or inside a structure to prevent collection of water.
5. Said property and all operations shall remain subject to all other 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. There must be a hardened entrance from McDonald Road to prevent mud being tracked on the roadways.
7. Hours of operation for the business are 8:00 a.m. to 5:00 p.m. for 6 days a week.
8. This special use permit shall be for a 1 year period beginning May 11, 2023 and ending May 11, 2024.

Mr. Baggett suggested asking Mr. Hostetler if he had any additional evidence he would like to present on this petition or if he wants to stand on the evidence from the prior petition.

Mr. Hostetler stated the only thing he would like to address is the stipulation stating there must be a hardened entrance from McDonald road. He stated he will not be using that entrance. The entrance will be from inside the junkyard. It would not be a hardened surface there because he will not use it.

Marcia Potrafka asked if that item would be removed from the special regulations.

Mr. Baggett stated that would be up to the Zoning Board of Appeals and ultimately the County Board. Mr. Baggett stated it could still be required if they choose to or at least recommend that it be required.

Mr. Hostetler stated if it is required, he could put it in but he just has no intentions of using that area.

Marcia Potrafka asked Mr. Hostetler where his entrance would be.

Mr. Hostetler pointed this out on the map for her. They will enter the field from where the junkyard is currently located.

Marcia Potrafka asked if he would be using McDonald Road or Route 121.

Mr. Hostetler stated he would use Route 121 where there is a current entrance to the junkyard business.

He stated again if he is required to put a hardened surface at McDonald Road he could but he will not be using it. He stated he is not done with improvements, he has a lot of plans for landscaping, new sign, etc.

Dennis Hughes asked Ms. Sumpter if her stipulations said she wanted fluids removed from the vehicles.

Ms. Sumpter stated yes, before being placed on the property.

Dennis Hughes asked who will be checking that.

Ms. Sumpter stated she is over Environmental Management Department as well, so we can actually go out and do checking on that.

Mr. Hostetler stated as far as Mervis Industries, they buy junk cars complete. They come in with batteries, tires, fluids etc. Mervis is doing it differently, they set them up on a rack and they have containers and they are draining the fluids. Mr. Hostetler stated he is not doing that. As far as the junk cars coming in to a junkyard, that goes back to where is the public going to drain their gas or oil. You could not take it to Speed Lube and have your fluids drained and then...if there is a broke down car in their driveway that does not run anymore. Somebody could drain the oil

out but as far as draining gasoline, a homeowner will not be able to do that. That is why they are asking a recycling yard to...

Chair Lamont asked what if you have one that comes in and is leaking fluid.

Mr. Hostetler stated they run into this regularly in the tow yard on accidents. A car comes in and can be leaking gas or other fluids. They have a board, like an OSB board with a handle on it that they will slide underneath the car if they have one they know is leaking fluid. He stated he is not going to sit here and try to misrepresent anything to the board, he will be open and honest. You can go to Walmart parking lot and look at oil all over the ground where every car parks. He will not sit here and tell you...people are not selling the good cars, they are selling me junk cars for a reason. It is junk.

Chair Lamont stated he is trying to be a good steward and make sure...

Mr. Hostetler stated 100%. He does not have any children of his own, he has two twin nieces that come to his parents and play in the backyard. He has no intentions...as far as what Mr. Grider had stated making it seem like he is always doing something after the fact, you have to realize he was not in charge of this. He cannot undo anything that was done but he cannot just magically, when this is his business and livelihood. He wished he had everything completely gone so he could set it up exactly the way he would like to do. It is his livelihood and business to where he is working through it all at the same time he is organizing it and doing it at the same time because it was already a junkyard when he took it. Like we all agreed, it was a mess for years and he cannot undo any of that. He stated to give him another year and no one will know it is a junkyard in Mt Zion. He is not trying to hide anything, but it will not look like Mervis.

Chair Lamont stated it will not be visible.

Mr. Hostetler stated exactly.

Chair Lamont stated not hidden, but not visible.

Mr. Hostetler stated he does not want it to look like a junkyard. He wants a customer that lives in a million dollar home that would come to his business the same as a guy that is going to sell him a junk car. He wants the same person to say hey, we did not even know this was a recycling yard. He wants it to look nice. As far as recycling cars, it is a huge part of their business for everybody. It is an ugly type of business if you want to say, but if we did not have them, everything is made from this kind of stuff. He is trying to address everything he can but like he said, it was already a junkyard when he started. He is working around a lot of things. As far as Mr. Grider's point that he should not have started it. If he would have dreamed he could not store cars on it he would have never ever went and spent what he did on the land and then be facing a problem he may not be able to us it. He stated he is not a farmer and has no intentions on farming the land or paying to have it farmed. He just did not think about it because he did not have any intentions of junking on it. He just thought storage. If you go over on Harryland Road, you have a storage facility sitting right next to the railroad tracks that just has cars stored in it. It is rental storage and campers. There are cars there that do not run that people are paying to store.

To us it may look like junk but to that person they maybe are going to fix it someday. It is no different than all of the storage lots. All that is in there is vehicles to be stored. To address the part of the fluids being out of the vehicles before they come in. He could not be a recycling yard and say hey you have to be sure the fluids are out of the car. He stated they have a sign up and they do not do a lot of that but any refrigerators that come in are required to have the Freon removed. It is up to the customer to get someone to do that. As far as cars coming in, everything has fluids in them.

Dennis Hughes stated he feels the stipulation regarding having fluids removed is unrealistic because they are not going to do it and we will not go out there and check. He stated some may be wrecked to the point where it is leaking anyway.

Marcia Potrafka stated we can amend that stipulation.

Dennis Hughes asked if she was going to check every car.

Marcia Potrafka stated we have the ability to change any stipulations.

Dennis Hughes agreed, and stated or deny it.

Chair Lamont asked Mr. Baggett if he had any input.

Mr. Baggett stated he does not. He would answer any questions but he is not an advocate here. He is just here to advise and be sure the board is doing what it can within its powers.

Mr. Hostetler added it has been a junkyard for over 50 years that looked like a junkyard. He is trying to address every issue he can. It will not look like a junkyard. It is not up to par right now but it will get there.

Marcia Potrafka made a motion to approve the Special Use Permit but change the stipulation regarding the hardened entrance at McDonald Road to make it any entrance onto the property be a hardened entry. She stated not specifically that one spot, but any entrance onto the property. Dennis Hughes seconded.

Roll Call Vote:

Barb Lamont- Aye
Ron Grider-Nay
Dennis Hughes-Nay
Adam Brown-Nay
Marcia Potrafka-Aye

Motion failed 3-2.

Mr. Baggett informed Mr. Hostetler the EEHW will meet on April 27, 2023 at 5:30, understand that while public comment is permitted, you will be given an opportunity to address the

committee but any additional evidence is not permitted. Neither EEHW nor the County Board can accept any new evidence or testimony, exhibits, petitions or anything you attempt to submit that was not submitted today. This was the evidentiary hearing. He told Ms. Smith she will be given an opportunity to speak but not present any new evidence. The County Board will make the final determination.

CITIZEN'S REMARKS: There were no citizen remarks.

Chair Lamont asked if there is anything for next month. Ms. Sumpter stated at this time we have three, possibly four.

ADJOURNMENT: Marcia Potrafka made the motion to adjourn; Adam Brown seconded. All members present voting, Aye. Motion Carried. (5-0). Meeting adjourned at approximately 9:53 A.M.

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