

**MACON COUNTY ZONING BOARD OF APPEALS**

**HEARING MINUTES – MAY 3, 2023**

**MEMBERS PRESENT**

Ron Grider Vice Chair  
Marcia Potrafka  
Adam Brown  
Dennis Hughes  
Clint Gordon, Alternate Member  
Gary Hutchens, Alternate Member

**COUNTY PERSONNEL PRESENT**

Tracy Sumpter, Planning & Zoning Director  
Amy McKinney, Environmental Mgt.  
Tamara Wilcox, County Administrator  
Kathy Wade, Health Department

**MEMBERS ABSENT**

Barb Lamont, Chair

Vice Chair Grider called the meeting to order at 8:30.

**MINUTES**

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

**OLD BUSINESS:**

- 4.1 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**

Ms. Sumpter reported that ZBA passed the petition on April 5<sup>th</sup>.

- 4.2 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**

Ms. Sumpter reported that ZBA did not pass the petition on April 5<sup>th</sup>, and that the petition was withdrawn before going to EEHW on April 27<sup>th</sup>.

- 4.3 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 Sumpter reported that ZBA did not pass the petition on April 5th, and that the petition was withdrawn before going to EEHW on April 27th.

Mr. Grider stated we have four for this morning and if anyone is wanting to speak on any of the four that we have you all stand up I will swear you all in at one time.

**NEW BUSINESS:**

Vice Chair Grider called Eric Rubright

**5.1 S-01-05-23 a petition filed by Eric Rubright requesting a Special Use Permit to allow the operation of the sale and transfer of firearms and ammunition business in (A-1) Agricultural Zoning. The property is commonly known as 1804 E Hampshire Road, Maroa, IL 61856  
Maroa Township PIN: 10-02-24-300-002**

Mr. Rubright introduced himself and stated his address. He stated that he has been at the property since 2017 and is licensed through the state for the sale and transfer of firearms and ammunition. When someone buys a firearm or ammunition online, he is the point of contact for the customer to physically get the firearm or ammunition. He is responsible for all paperwork, background checks, and making sure that everything needed is filed through the state. He mentioned that he has been in this business for several years but never knew he needed the special use permit through the county since he was licensed by the state.

Mr. Hughes asked if customers are allowed to try out the firearms before they took possession or if there was a public shooting range.

Mr. Rubright responded no, he does have a shooting range on site but that is his private personal one. The public is not allowed to shoot there.

Ms. Potrafka asked if he has ever had any complaints from the neighbors.

Mr. Rubright stated that he has not had any complaints.

Ms. Potrafka asked about the amount traffic to the business.

Mr. Rubright stated that all business is by appointment only. He does not have “walk-in” traffic.

Vice Chair Grider asked if anybody had any questions. No response.

Ms. Wilcox was called on to present the finding of facts.

Petition: For a Special Use permit to allow the operation of the sale and transfer of firearms and ammunition business in A-1 Agricultural Zoning.

Parcel Number: 10-02-24-300-002

Location: This property is commonly known as 1804 E Hampshire Road in Maroa Township.

Acreage: 5.02 Acres

Zoning: A-1 Agricultural

**Finding of Facts**

- 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 A-1 Agricultural.
- The special use permit is also required by the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) for approval of the Federal Firearms License which is federal regulations.

**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:

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 Mr. Rubright only and immediate family on the property.
3. No firing of firearms related to the business.
4. Said property and all operations shall be in compliance at all times with all applicable federal, state, and local laws and regulations. Failure to be in compliance may result in the suspension or revocation of this special use permit.
5. The special use permit shall be for a 2 year period beginning June 8, 2023 and ending June 8, 2025.

Vice Chair Grider asked if anyone had any questions. No response.

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

**5.2 V-02-05-23 a petition filed by AgReliant Genetics LLC requesting a variance to change the required front setback from 50 feet to 12 feet and the maximum height from 35 feet to 35 feet 3 inches in (A-1 Agricultural Zoning. The property is commonly known as 4775 W Pershing Road, Decatur, IL 62526  
Harristown Township PIN: 06-11-01-200-001**

Vice Chair Grider said state your name and address.

Representative from Milano and Grunloh Engineers introduced himself and stated he was representing Ag Reliant Genetics LLC. He stated AgReliant is seeking this variance in order to construct a new building that will be a warehouse and office spaces. The existing office building will be demolished to make room for the new building.

Ms. Wilcox was called on to present the finding of facts.

Petition: For a Variance, to change the required front setback from 50 feet to 12 feet and the maximum height from 35 feet to 35 feet 3 inches in (A-1) Agricultural Zoning.

Parcel Number: 06-11-01-200-001

Location: This property is located at 4775 W Pershing Road in Harristown Township.

Zoning: A-1 Agricultural Zoning

Acreage: 8.26

**Finding of Facts**

- Petitioner wants to construct a new building on the parcel.
- The variance is needed to allow the required front setback be reduced from 50 feet to 12 feet and the maximum height be changed from 35 feet to 35 feet 3 inches. Under the Macon County Zoning Ordinance, Section 155.183 states the front setback for (A-1) Agricultural Zoning is 50 feet and maximum height is 35 feet.
- 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 front setback from 50 feet to 12 feet and the maximum height from 35 feet to 35 feet 3 inches in (A-1) Agricultural Zoning.

Vice Chair Grider asked if anyone had questions. No response.

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

**5.3 S-03-05-23 a petition filed by Paul Butler requesting a Special Use Permit to allow the operation of a winery and venue facility in (A-1) Agricultural Zoning. The property is commonly known as 6671 Hibbard Road, Macon, IL 62544 South Wheatland Township PIN: 17-16-18-200-004**

Vice Chair Grider said state you name and address.

Mr. Butler stated his name and address. Mr. Butler explained the reason for requesting a special use permit was to allow the operation of the winery. He stated his plans for the building was to have 3 sections, one to be a storage area, one as the active winery, one for the public and events

to be held. Mr. Butler then explained his plans to have a septic system and the possibility of having to drill a new well.

Ms. Potrafka ask ZBA member Gary Hutchens, as South Wheatland Highway Commissioner if he had concerns with additional traffic and wear on Hibbard Rd. Mr Hutchens stated he did not have any concerns.

Mr. Grider stated he had an email to read from a neighbor with questions/concerns. The letter read as follows:

*I am the owner of the property located directly north of the Butler property at 6671 Hibbard Road, Macon, IL 62544. My property was purchased by my great grandfather in 1912 and is a certified Centennial Farm.*

*My comments and questions regarding the operation of a winery and venue facility on the Butler property concern the lack of municipal services at the location. The following comments and questions are general in nature because I am not familiar with details such as exact locations and sizes of proposed structures and services for the winery and venue.*

- 1) The proposed winery and venue facility would be accessed via Hibbard Road. Hibbard Road is a rural blacktop road with no pavement markings and few traffic control signs. During late summer and early fall drivers must be cautious at intersections because maturing corn can block the view of oncoming vehicles. Drivers who are not accustomed to rural roads may be unaware of potential hazards. Additional traffic control signs and pavement marking may be necessary for safe access and traffic flow.*
- 2) This area does not have a municipal water supply. Wineries require a substantial amount of water. Will the water come from wells? Will new wells be drilled?*
- 3) The property will require a large septic System to handle winery byproducts and the needs of visitors to the winery and venue.*
- 4) The winery and venue will need sufficient onsite parking so the visitors will not have to park on the side of Hibbard Road. If parking lot is built, stormwater runoff would potentially be polluted with automotive oils and greases. How will stormwater runoff be handled?*

*Thank you for your time.*

*Sincerely,*

*Carol A Schnepfer*

Vice Chair Grider stated that most all of the questions in the email were already answered by Mr. Butler.

Vice Chair Grider asked if anyone had any other questions. No response.

Ms. Wilcox was called on to present the finding of facts.

Petition: For a Special Use permit to allow the operation of a winery and venue facility.

Parcel Number: 17-16-18-200-004

Location: This property is commonly known as 6671 Hibbard Road, Macon, IL 62544 in South Wheatland Township.

Acreage: 10.00 Acres

Zoning: A-1 Agriculture

### **Finding of Facts**

- The petitioner is seeking to open a winery and venue facility.
- 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 A-1 Agricultural.
- With the unique nature of this Special Use Permit, other government departments such as the Macon County Health Department and County Road Commissioners were contacted to ensure the health and safety to our citizens.
- South Wheatland Township was previously a “dry” community. The proposition of reversing this was on the November 8, 2022 ballot and was passed.

#### **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:**

Utilities and facilities are addressed in the stipulations.

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:** 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:

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 one full time and up to six part time in addition to owners.
3. Advertising sign regulations on the subject property shall comply with Macon County Zoning Ordinance.
4. Building permits shall be obtained as required.
5. There shall be no parking on the county roads. Ample parking shall be provided to handle all events on the property.
6. If said property has more than 25 people at the facility more than 60 days a year (does not have to be a consecutive 60 days), a Non-Community Public Water Supply application must be applied for through Illinois Department of Public Health. This will require private testing annually of the water supply, at a cost the owner will incur, and allow for annual inspections of the water well system.
7. The septic system for the winery will not only need to be sized for the maximum number of people they plan on having, but they must also take into consideration the alcohol brewing process with yeast and other byproducts that will be produced when it comes to sizing.
8. If the pre-packaged foods require refrigeration, a food license will be required. If a food license is required, a plan of the food area will need to be submitted to the Macon County Health Department prior to construction to be approved.
9. 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.



10. Hours of operation for the winery business are Friday 6:00 p.m.-10:00 p.m., Saturday 10:00 a.m.-10:00 p.m. and Sunday 12:00 p.m.-5:00 p.m. Hours for the venue to host special events will vary dependent on the event, however, alcohol would be prohibited unless provided and managed by the winery staff.
11. This Special Use Permit shall be for a 2 year period beginning June 8, 2023 and ending June 8, 2025.
12. The Special Use Permit holders are required to apply for a renewal of this special use permit on or before April 2, 2025. Upon a timely application being made, the Zoning Board of Appeals shall hear evidence and testimony regarding compliance with the terms of this special use permit and shall also consider all other relevant matters related to the issuance of a special use permit and recommend to the County Board whether the renewal should be granted or denied.

In regards to stipulation number 10, Ms. Potrafka requested that the hours of operation be revisited as the project progressed.

After Ms. Wilcox gave the Finding of Facts, Mr. Butler and Ms. Wade discussed the septic system after Mr. Butler mentioned failing the percolations test when building his house years ago. Ms. Wade state they would need to discuss it going forward.

Vice Chair Grider asked if anyone had questions. No response.

Ms. Potrafka made motion to approve, with the stipulation that the hours of operation can be revisited at a later date, seconded by Mr. Brown. All members present to vote, Aye. Motion carried 5-0.

**5.4 S-04-05-23 a petition filed by SolAmerica Energy LLC requesting a Special Use Permit to allow the development and construction of a solar energy system on approximately 12 acres of an existing 38.33 acre tract of land in (A-1) Agricultural Zoning. The property is commonly known as Cundiff Road, Decatur, IL  
Whitmore Township PIN: 18-08-20-100-007**

Vice Chair Grider said state your name and address.

A representative from SolAmerica stated his name and address. He stated this was actually approved for a special use permit in 2018 but they did not get drawn for the state lottery and were not able to build it.

Vice Chair Grider asked if anyone had questions. No response.

Ms. Potrafka made motion to approve including the attached Standard Agricultural Impact Mitigation Agreement, seconded by Mr. Brown. All members present to vote, Aye. Motion carried 5-0.

**CITIZEN'S REMARKS:** There were no citizen remarks.

Vice Chair Grider asked if there is anything for next month. Ms. Sumpter stated at this time we did not have anything.

**ADJOURNMENT:** Marcia Potrafka made the motion to adjourn; Clint Gordon seconded. All members present voting, Aye. Motion Carried. (5-0). Meeting adjourned at approximately 9:16 A.M.

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