

**MINUTES OF THE  
LEE COUNTY ZONING BOARD OF APPEALS**

**Regular Meeting  
Thursday, May 6, 2021, at 7:00 p.m.**

**County Board Room  
Old Lee County Courthouse, Dixon, Illinois**

**Zoom Video- & Tele-conferencing  
Meeting ID: 91539239154  
Password: 209840**

**YouTube  
<https://www.youtube.com/watch?v=bJIZ-ktiBFU>**

Board Members

Bruce Forster, Chair  
Craig Buhrow, Vice Chair  
Mike Pratt, Member  
Gene Bothe, Member  
Glen Hughes, Member  
Rex Meyer, Alternate Member

Staff

Dee Duffy, Zoning Administrator  
Charles Boonstra, Lee County State's Attorney  
Alice Henkel, Clerk

At 7:00 p.m., Chair Bruce Forster called the meeting to order and asked the Clerk to call the roll:

Members present: Forster, Buhrow, Pratt, Bothe, Hughes. Alternate Member Meyer was also present.

Members absent: None.

The first order of business was the approval of the minutes for March 4, 2021. Gene Bothe made a motion to approve the minutes. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

The next order of business was the motion to adjourn Petition No. 21-P-1560, by Jerad Zellhofer, pursuant to the County Board's vote. Glen Hughes made a motion to adjourn Petition No. 21-P-1560 pursuant to the County Board's vote. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

The first order of old business was Petition No. 21-P-1559 by Petitioner Jerad M. Zellhofer. The parcel identification number is 13-21-01-101-007, commonly known as 1749 Winding Rd., Amboy, Illinois, and is in May Township. The parcel is zoned Ag-1, Agricultural. Petitioner is requesting a Special Use in an Ag-1, Agricultural zone, for the purpose of conducting a business for construction of agricultural buildings, production of steel roofing, lawn care and landscaping services, and general carpentry.

At the last meeting (March 4, 2021), this Board voted to table Petition No. 21-P-1559 until the April 1, 2021 to allow Mr. Zellhofer and his attorney to draft a proposal to deal with the existing special use and moving the steel business to the industrial-zoned property.

Petitioner Jerad Zellhofer and his attorney, Courtney Kennedy, were present and Mr. Zellhofer was sworn in.

Mr. Zellhofer wanted to clarify a few things from the last meeting. First, the aerial photo of 1749 Winding Road obtained from the GIS does not reflect the current condition of the property. He has removed several of the small buildings along the edge of the property and brought in shipping containers.

Additionally, he said it was insinuated at the last meeting that he stopped getting building permits to avoid paying property taxes. He provided a copy of an email correspondence between him and Chief County Assessment Officer Wendy Ryerson that he feels proves otherwise.

Mr. Zellhofer said he has put together two proposals to present that evening. The first is a business amnesty program. He feels there is not enough commercial and industrial zoned properties to accommodate all the businesses in Lee County. The assessment office indicated that there are over 3,000 registered businesses in Lee County but there are only approximately 430 properties in Lee County that are zoned for commercial or industrial use. Mr. Zellhofer feels these numbers are disproportionate and indicative of other businesses operating in improper zones. He would like to see the County set up amnesty program, similar to the building permit amnesty program the County recently offered, to address businesses that are located on not properly zoned parcels.

In Mr. Zellhofer's second proposal, he explained to the Board that he is in communication with the City of Amboy about developing multiple properties within the city limits. Mr. Zellhofer would need to purchase multiple parcels from the City of Amboy, as well as from private individuals. Additionally, Mr. Zellhofer will need to remove hundreds of trees, acquire permits to fill in the flood plain, acquire 35,000 cubic yards of fill dirt that will need to be hauled, placed, compacted and graded, create a new highway access, perform new drainage ditch construction, undergo road and right of way vacation, work with engineers, have surveying done and perform other required certifications. A handout was provided to the Board including pictures of the proposed properties and a letter from the Mayor of Amboy.

The structure he is proposing to move a portion of his business into is a former milk plant that is 110 years old and in need of complete renovation, including plumbing, electrical and extensive exterior and roof repairs. He would use this building for overflow storage and storing vehicles and parts. He would be looking to construct a new building for his production line on one of the parcels in Amboy he is looking to acquire. He also mentioned the inflated costs of building right now.

Questions from the Board were heard.

If Mr. Zellhofer proceeds with moving his businesses to the City of Amboy, he would be acquiring approximately 7.5 to 8.25 acres. He would prefer to acquire 10 acres but is finding that to be difficult due to the price not being feasible, the zoning being incorrect, the property being in the wrong location, not having the proper power requirements, not being located on posted roads, etc. The parcel known as 1749 Winding Road is 4.66 acres.

Mr. Zellhofer has looked in the Green River Ordinance Plant area near the Lee County landfill. He said there were a couple of properties available, but the location is not ideal for retail. Additionally, the buildings located on the available properties are as in bad of shape as the milk plant, if not worse, and the prices are too high.

Questions from Attorney Kennedy were heard.

The City of Amboy is supportive of Mr. Zellhofer moving his businesses within the city limits.

Mr. Zellhofer was not able to provide a timeline for completing the move of his businesses. He feels it could take up to 10 years to completely move his businesses due to all the moving parts. He also said that things could change or fall through at any time, ultimately setting him back even further.

Mr. Zellhofer feels that plan to move to the City of Amboy is his only viable option left.

Mr. Hughes stated he does not have much sympathy for Mr. Zellhofer as he has gotten himself into this situation. He said that Mr. Zellhofer's testimony revealed that he has been in violation of the zoning code from the very start. He feels Mr. Zellhofer's request to continue violating the zoning code at that property for another 10 years is a little absurd. Mr. Hughes feels 3 years would be more appropriate and possibly up to 5 depending on how progressive Mr. Zellhofer's plan is.

Mr. Hughes reiterated that while some of the circumstances surrounding Mr. Zellhofer's situation are unfortunate, such as astronomical building material prices; it was Mr. Zellhofer's own actions that have caused him to end up in this situation.

Mr. Hughes said that Mr. Zellhofer's violations were brought to attention in 2018. It is now 2021 and no progress has been made. He feels the County has already given him 2-3 years to get some things resolved. Mr. Hughes would be willing to give him another 90-120 days to come up with a solid plan, with definable benchmarks and a timeline, but feels another 10 years is absurd. Mr. Hughes feels if Mr. Zellhofer cannot come up with a legitimate plan within the 90-120 days, then he should be served with a cease-and-desist order and the buildings would only be allowed to remain standing so long as Mr. Zellhofer is not operating any offending businesses from that location.

Mr. Zellhofer has looked in the Sublette area but did not have any luck. He did look into Henkel Seed near the Lee County/LaSalle County border; however, it is not set up for what Mr. Zellhofer's businesses will need. Mr. Zellhofer feels the asking price is not feasible.

Mr. Pratt asked Mr. Zellhofer how the Board should proceed. Mr. Zellhofer talked about his proposed business amnesty program or a possible special use that would include conditions for time limits.

Mr. Zellhofer said he is not denying that he is a commercial or an industrial business in an Ag-1 area. He said he has been commercial since day one but has never intensely broke any zoning ordinance. He said when he initially met with former Zoning Administrator Chris Henkel, he has a plan to build a post-frame house with a lawncare business, landscape, tree work and other things attached to it. He referred to home occupations and feels most businesses do not meet the criteria because there can be no employees (other than immediate family members), there can be no

manufacturing, and there is a whole list of other things that cannot be done. He said he is not saying he is not commercial; he's saying he's been commercial for 22 years and it hasn't been an issue until recently. As far as Mr. Pratt's question, Mr. Zellhofer said he doesn't have an answer.

Mr. Hughes reiterated his position that 10 years is too long, that Mr. Zellhofer needs to bring a tangible, viable plan before this Board and if Mr. Zellhofer is unable to provide this Board what it is requesting, then a cease-and-desist order shall be imposed on the businesses. Mr. Hughes explained that the plan will need to have steps, stages and timelines; and if Mr. Zellhofer is not able to meet deadlines, he will need to provide proof as to why.

Mr. Hughes also touched on the potential fines, based on the maximum penalty of \$500 per day, are approximately \$16 million at this time, not to mention the fees for obtaining the building permits for the illegally built structures are around \$10,000. Mr. Hughes did not indicate that it is the desire of the County to fine him the maximum penalty but that a substantial fine would be appropriate.

Attorney Kennedy requested a 120-day continuance to allow Mr. Zellhofer time to work out a timeline with the City of Amboy.

Mr. Zellhofer has not yet spoken with a bank about financing as he does not have enough information to present them.

There were no questions and/or comments from any visitors.

Mike Pratt made a motion that this matter will be continued 120 days, to the September meeting of the Zoning Board of Appeal, and that the County is not requiring Mr. Zellhofer to cooperate with the City of Amboy and that no further expansions shall take place at 1749 Winding Road. A discerned was discerned and there was no debate. A vote was taken, and the ayes prevailed. Motino passed, 5-0. Alternate Member Meyer did not vote.

Mr. Zellhofer asked about the zoning violation located at 1760 Winding Road. That property is owned by his family. The Board agreed to deal with that issue at a later time.

The next order of old business was a request for an extension on Building Permit #14846, by Brian Florschuetz. Mr. Florschuetz was sworn in.

Mr. Florschuetz was found to be in violation of the zoning code for building an accessory building without a permit and without having first built a primary structure. Mr. Florschuetz was given until April 1, 2021 to have the foundation completed. As he was not able to make that deadline, he was coming back before this Board to request an extension.

Mr. Florschuetz presented the Board with the floor plan for his proposed home and a projected timeline for its completion. The foots and foundation were poured around the third week of April. The state building inspector has been out to look at the plumbing in the floor so they can now finish pouring the floor. His building package has been ordered and should be in sometime in July as they are currently waiting on windows. He was able to get electrical service in last summer. The well was dug last fall. While he is about a month behind, he is substantially underway.

The letter that was sent last year to Mr. Florschuetz from the zoning office stated that if he did not have the foundation completed by April 2021, he would need to come back before the Zoning Board of Appeals to explain why. Additionally, it stated if Mr. Florschuetz complied, he would be given two additional years to complete the construction of the home. As such, no action from this Board is necessary.

The first order of new business was Petition No. 21-P-1561 by Petitioner Haywell, LLC. The parcel identification number is part of 19-22-05-300-005 and is located in Sublette Township. The parcel is zoned Ag-1, Agricultural and would be approximately 5 acres in size. Petitioner is requesting a Special Use Permit in an Ag-1, Agricultural District for the purpose of a self-storage facility.

Tim Hayden was sworn in on behalf of the Petitioner.

Mr. Hayden gave an overview of his proposal. He has been a real estate broker for over 15 years. He has diversified his business by developing storage units with facilities in Kirland and Byron. Mr. Hayden is looking to construct a facility between Amboy and Sublette that would serve both communities, as well as the local recreational facilities such as Woodhaven Lakes Resort.

The property is located at the intersection of US Route 52 and Green Wing Road. The visibility is on Route 52 but the access to the storage facility would be located on Green Wing Road. He feels this is important for traffic safety as it minimized stopping and slowing on the highway.

The parcel is not appealing to farming because of its size and location. He has worked with the current owner to deal with drainage issues and has a drainage easement in place. The facility would be built in phases based on need. The first phase would include 3 buildings constructed on the east half of the property. They would have brick accent and would be approximately 9 feet to the eave. The parking area will be paved. The property would be surrounded on 2 side by natural fencing and the 3<sup>rd</sup> side is adjacent to the waterway. The facility will not be accessible to anyone after a certain time of night, including tenants. There will be minimal lighting. The lighting will also be activated by motion. There will be an automatic gate and tenants will be able to gain entrance once they enter an access code. A photo of each entrant will also be taken. The entrance to the facility is approximately 200 feet north of the entrance to the home located across the street from the facility. There will be no outdoor storage. It is not designed for semi traffic. Wendler Engineering performed the engineering work. The facility will not need sewer or water. There would be weekly lawn care and maintenance done at the facility.

Questions from the Board were heard.

During the first phase, 130 units will be constructed. The second phase will have approximately 160 units. The smaller units will be 5 feet by 10 feet, and the larger units will be 10 feet by 20 feet. Each unit is constructed as needed.

The facility is designed for storage of household items, vehicles, recreational vehicles, etc.

The units will not have electricity. This will prevent individuals from hanging out at the facility or running a business of a unit.

The natural fencing would be a berm. Mr. Hayden felt earthen berm would be more compatible to the character of the neighborhood than a chain link fence.

The Petitioner has satisfied the notification requirements.

Questions and/or comments from visitors were heard.

Brandon Miller was present via ZOOM and lives on Green Wing Road, across from the proposed project. His property is owned by his wife's deceased grandfather, but they built the home.

Mrs. Duffy said a Natural Resources Information Report was prepared on March 23, 2021, and there are no identifiable wetlands on the 5-acre parcel. Approximately 100% of the soils found on the parcel are considered prime. The report suggests the encouragement to use on-site detention for stormwater runoff. The soil survey indicates that 84% of the parcel has a moderate to high potential for erosion. The LESA score was 219. The Lee County Highway Engineer said that issues concerning drainage would be addressed under the County's stormwater ordinance and would require drainage permits. The Village Sublette's land use plan states that Sublette's planned business district is along the north side of US Route 52. The Sublette planning commission met in March 2021 to review the proposal and found that it does not fit the Village's comprehensive plan. The Sublette Village Board met after that and Mr. Hayden presented his request. The board made a motion to deny the zoning change because it does not comply with the Village comprehensive plan. Additionally, the Zoning Office receive a petition to deny Mr. Hayden's request that had been signed by many citizens; however, only 3 of the signors are adjacent landowners.

The proposed project is located 1.4 miles from the Village of Sublette and is located within the 1.5-mile jurisdiction surrounding the Village. Mr. Hayden noted he was not invited to be present at the meeting of the Village's planning commission. He only found out about the Village Board meeting from Mrs. Duffy. He feels is proposal is consistent with the existing uses in the area.

Mr. Miller feels that this business is primarily to serve Woodhaven, and the Village wishes to keep Woodhaven commerce on the north side of Route 52. He does not feel this is a community-serving facility. He additionally has concerns about traffic coming off Route 52. He said it a bad intersection during the camping season.

Mr. Hayden said his business is not associated with Woodhaven, but it will possibly serve residents of Woodhaven. Additionally, he noted that IDOT classified his project as a low-impact development.

Mr. Miller brought up concerns about drainage. Mr. Hayden said water drainage has been addressed by professional engineers. He also said the current landowner support this petition and has no concerns about drainage.

There were no further questions.

The Board conducted its Findings of Fact. Their findings are as follows:

1. The effect of the proposed use upon the character of the neighborhood:

- a. It would change the character of the neighborhood from agricultural to special use/small business.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, resulting in a 4-1 vote. Motion passed. Alternate Member Meyer did not vote.

2. The effect of the proposed use upon traffic conditions:

- a. Minimal.
- b. It is a low traffic business development.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

3. The effect of the proposed use upon public utility facilities:

- a. Very minimal due to some lighting.
- b. No well or septic.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

4. The effect of the proposed use upon public health, safety, and/or general welfare.

- a. No effect.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

5. The effect of the proposed use on surrounding properties.

- a. Nominal.
- b. Some lighting effects.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

6. The effect of the proposed use on environmental concerns.

- a. No noted concerns.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

Craig Buhrow made a motion that the Lee County Zoning Board of Appeals recommends to the Lee County Board that Petition No. 21-P-1561 by Petitioner Haywell, LLC be approved. A second was discerned and there was no debate. A roll call vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

The next order of new business was Petition No. 21-P-1562 by Petitioner Lincoln Avenue Church of God and Co-petitioner Larry G. McCormick. The parcel identification number are 16-07-09-300-004 and 16-07-09-300-005 and are in Palmyra Township. The parcels are zoned Ag-1, Agricultural and are 6.15 acres in size. Petitioner is requesting a Special Use Permit in an Ag-1, Agricultural District for the purpose of a place of worship.

Attorney Linda Giesen was present on behalf of Petitioner Lincoln Avenue Church of God. Co-petitioner Larry McCormick was present and sworn in.

Linda Giesen said her clients have agreed to purchase the above-referenced properties so long as they are able to obtain a special use permit.

The parcels are located on the east side of Sauk Road, across from the college. The building already exists on this property. The property was formerly under a special use permit, but that permit was revoked due to lack of the special use. While the property is zoned Ag-1, Agricultural District, it has already been developed with a building and parking lot. The neighborhood consists of the college, an apartment complex and farmland.

The traffic will be minimal and will mainly occur on Sundays when services are held.

Attorney Giesen feels that by granting the Petitioner a special use will do nothing but improve the neighborhood and the use of the property.

The property's entrance is located on Sauk Road, not IL Route 2. As no classes at Sauk occur on Sunday, there will be no school traffic at the time of church services.

There is an existing well and septic system. She knows the well is working but both the well and septic will need to be tested.

Questions from the Board were heard.

Both lots would be under special use. Attorney Giesen said that once the parcels are purchased, they will most likely be combined into one parcel. The Petitioner has no intention of building on the other lot. Mr. McCormick explained that the previous owner expanded the septic system and part of it is located on the other parcel.

Mr. McCormick noted there are 190 parking spaces.

There were no questions and/or comments from visitors. Church member were present in support of the petition but did not speak.

Palmyra Township supports the petition.

There were no further questions.

The Board conducted its Findings of Fact. Their findings are as follows:

1. The effect of the proposed use upon the character of the neighborhood:

- a. There will be no change and may improve the character of the neighborhood.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

2. The effect of the proposed use upon traffic conditions:

- a. Minimal.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

3. The effect of the proposed use upon public utility facilities:

- a. None, all already exist.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

4. The effect of the proposed use upon public health, safety, and/or general welfare.

- a. None.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

5. The effect of the proposed use on surrounding properties.

- a. None.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

6. The effect of the proposed use on environmental concerns.

- a. None.

Glen Hughes made a motion to accept these findings. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

Glen Hughes made a motion that the Lee County Zoning Board of Appeals recommends to the Lee County Board that Petition No. 21-P-1562 by Petitioner Lincoln Avenue Church of God and Co-petitioner Larry G. McCormick be approved. A second was discerned and there was no debate. A roll call vote was taken, and all were in favor. Motion passed, 5-0. Alternate Member Meyer did not vote.

A brief recess was called at 9:30 p.m. The meeting resumed at 9:35 p.m.

The last order of new business was Petition No. 21-P-1563 by Petitioner BSW DevCo, LLC. The parcel identification numbers are cited in the petition. The parcels are located in East Grove and May Townships. The parcels are zoned Ag-1, Agricultural District. Petitioner desires a Special Use Permit in an Ag-1, Agricultural District for the purpose of repowering a wind energy conversion system.

Gene Bothe made a motion to engage the services of retired Judge Tim Slavin as facilitator of this hearing. A second was discerned and all were in favor. A vote was taken, and the ayes prevails, 5-0. The motion passed. Alternate Member Meyer did not vote.

Judge Slavin gave a brief introduction and explained the procedures and rules for this hearing, including public participation via Zoom and public observation via YouTube due to the restrictions of the COVID-19 pandemic.

Judge Slavin proceeded with the scheduling of the special hearing dates. This petition will be hearing on May 11, May 17, and June 10, 2021, at 7:00 p.m.

At 9:58 p.m., Judge Slavin called for recess until May 11, 2021, at 7:00 p.m.

Respectfully submitted,

/s/ \_\_\_\_\_  
Alice Henkel