

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

**Regular Meeting
Thursday, July 7, 2022, 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=tlepidz40E>**

Board Members

Bruce Forster, Chair
Craig Buhrow, Vice Chair
Mike Pratt, Member
Glen Hughes, Member
Rex Meyer, Member
Garrett Schoenholz, 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 roll was called.

Members present: Forster, Pratt, Meyer

Members absent: Buhrow, Hughes, Alternate Member Schoenholz

Staff present: Duffy, Henkel

Staff absent: Boonstra

There were no minutes to approve.

There were no petitions to adjourn pursuant to the Lee County Board's vote.

Under old business was Petition 22-P-1593, by Petitioner Lee County Zoning Office, PPN# 19-22-05-400-006 in Sublette Township. The Lee County Zoning Office is asking for a revocation of a special use permit pursuant to §10-2D-3 of the Lee County Code; and Petition 22-P-1594, by Petitioner Lee County Zoning Office, PPN# 19-22-08-200-002 formerly known as part of PPN# 19-22-08-200-002 in Sublette Township. The Lee County Zoning Office is asking for a revocation of a special use permit pursuant to §10-2D-3 of the Lee County Code.

As the special use permit holder is the same in both petitions, both cases will be discussed simultaneously this evening.

Renewable Energy Coordinator Alice Henkel explained that these petitions first came before this Board in May of 2022. As there is current litigation involving the Adam turbine (Petition No. 22-P-1593), the Board continued these petitions to today for status only as to litigation.

Attorney Courtney Kennedy was present via ZOOM on behalf of permit holders, Bruce and Joyce Papiech. The board members had been provided a status letter from the lead attorney for the turbine litigation. There are seven defendants in the lawsuit, each having their own expert witness, and those expert witnesses each have a right to test the turbine and the blades that are currently lying on the ground. The Papiech's have a duty to preserve the evidence in this case but understand that they need to get the blades relocated. The next court status date is scheduled for August 29, 2022.

Attorney Kennedy explained that the litigation is in the discovery phase of the lawsuit. Each party will have the opportunity to send out interrogatories, requests to produce and take deposition. Given the number of defendants, Attorney Kennedy feels this portion of the lawsuit may take some time.

Attorney Kennedy requested continuing the hearing on these petitions before this Board until after the next court status date, at which time she will be able to better inform this Board of the discovery process and when they can expect those blades to be removed from their current location.

Attorney Kennedy noted that lead attorney, Rick Dimonte, in his status later states that the Papieches have not abandoned the use of the turbine, rather they have maintained and used the components of the Adam turbine that are still operational. They keep the turbine heated and have had several inspections performed on the turbine. She also believes that if there were ever a need to shutdown the Eve turbine, it would have to be done through Adam. Further stated that they maintain they have not abandoned the use of the turbine.

Bruce Papiech stated that ComEd has their interconnection control in the basement of the Adam turbine, where it has communications with their offices in Dixon, Illinois. It allows ComEd to shut down Eve should there be any emergency or islanding. He states it's a safety issue. It also reports to ComEd when Eve is producing, how much it is producing so ComEd can schedule its production.

Mr. Papiech said that the neighboring landowner lets him know how much the blades are impacting his production, there is a number attached to that, and the neighbor will be compensated for the loss.

Attorney Kennedy noted that the lawsuit was stalled approximately one and half years due to Covid. Also, additional parties joined the lawsuit which essentially restarts the process each time that occurs.

Attorney Kennedy explained that there are two claims to the lawsuit. The first is the claim for the damage caused to the blades by the ice storm. The second is the claim for the damage caused by the insurance company during its inspection of the initial claim.

It was noted that the sole purpose of tonight's meeting was to get an update as to the status of the litigation surrounding the Adam turbine. No testimony should be taken as no parties are under

oath at this time or prepared for a hearing. The Board shall make a determination to continue the matters for further status or set for hearing.

Attorney Kennedy requested a continuation to a date a couple months out to allow another court status to occur and as she will be on maternity leave starting in August.

Ms. Henkel had no objection to continuing Petition No. 22-P-1593 to a later date for status due to the pending litigation; however, she asked that the Board set Petition No. 22-P-1594 for hearing as it is not affected by litigation surrounding the Adam turbine.

Rex Meyer made a motion to table Petition No. 22-P-1593 to the October 2022 meeting of the Zoning Board of Appeals. A status update shall be provided at that time. A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 3-0.

With regard to Petition No. 22-P-1594, Mr. Papiach stated the special use permit for that site was originally for a maintenance building and a hotel/conference center. After the market crash around 2008, they were unable to proceed with the hotel/conference center but did construct a maintenance building for the turbine. He said it is their storage yard for the turbines. The majority of the land that was originally under the special use permit has been sold off and only one acre remains where the maintenance building sits.

Mr. Pratt made a motion to set Petition No. 22-P-1594 for hearing on August 4, 2022. A second was discerned and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 3-0.

Ms. Henkel provided the members of this Board with a copy of the proposed ordinances for pipelines, solar energy systems, and wind energy conversion systems earlier that day. Any discussion was postponed as the Board was unable to review the ordinances prior to this meeting.

Any comments, questions, concerns, corrections, clarification should be sent to Ms. Henkel for consideration by the Renewable Energy Committee at the July 11, 2022 meeting.

At 7:29 p.m., Rex Meyer made a motion to recess. A second was discerned and there was no debate. A vote was taken, and all were in favor. Motion passed, 3-0.

Respectfully submitted,

/s/

Alice Henkel