

Everything You Need!

Phone 309-852-2611
Fax 309-856-6001

June 29, 2020

Honorable Mayor and City Council
Kewanee City Hall
401 E. Third Street
Kewanee, Illinois 61443-2365

RE: Report from Plan Commission for June 25, 2020 Meeting.

The Plan Commission convened on June 25, 2020 via teleconferencing over the ZOOM online conference call application. Commission members Costenson, Edleman, and Hemphill, were absent. Hemphill made repeated attempts to connect to the meeting via Zoom, but none were successful. Because a quorum was present without her, the meeting was official called to order at 7:14 p.m. For business, there was one Special Use Permit application and one petition to discuss a change to the allowed uses under B3 zoning.

Case Number 1:

Parcel 25-03-126-007 Located at 118 Poplar St., Request for a Special Use Permit to allow a taxicab service.

Property Owner: Amanda Bond, 118 Poplar St., Kewanee, IL. 61443.

Petitioner: Same as owner.

Address: 118 Poplar St.

Legal Description: LT 9 BLK 1 QUINNS SUB OF LTS 3,4,25 & 26 ORIG TOWN OF WETHERSFIELD CITY OF KEWANEE, Henry County, Illinois.

Location: On the East side of the 100 block of Poplar St.

Dimensions: 150 feet East to West, 60 feet North to South

Area: 9000 Square feet.

Existing buildings or uses: Single family dwelling.

Current Zoning District: R-1 One-Family Dwelling District.

Surrounding Zoning: R-1 One-Family Dwelling District in all directions.

Existing Land Use: Low Density Residential.

Proposed Land Use Map: Low Density Residential.

Background Information:

Amanda Bond contacted me at City Hall wishing to start a Taxicab service out of her home. I advised her that a Special Use Permit is required. Bond applied for the permit on March 12th just before the COVID-19 Pandemic began. Her application was postponed and she was able to operate the service out of a location, elsewhere in town, that is zoned for Business use. Now that the COVID restrictions are easing up, I contacted Amanda who stated she would like to

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proceed with the Special Use Permit. Please see the written narrative in this packet describing the operation of the proposed Taxicab service.

I do not see any items of concern with this Special Use Permit request. At the end of this section are the three criteria that have to be satisfied prior to recommending a Special Use Permit granted. The following are typical stipulations that are placed upon most in-home occupation Special Use Permits:

1. The Special Use Permit to allow a Taxicab service is granted to Amanda Bond and is not transferable to any future owners or operators on the site.
2. Amanda Bond shall maintain primary residency in the house at 118 Poplar St.
3. Any violations of the terms and conditions of the Special Use Permit are subject to review and possible revocation by the Plan commission and City Council.
4. All activities associated with this Special Use Permit for a Taxicab service operation shall be conducted in full compliance with the Kewanee City Code and the laws and regulations of the State of Illinois.

Special Use Permit Criteria (155.157 C)

- (1) That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community;
- (2) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity, and
- (3) That the proposed use will comply with the regulations and conditions specified in this chapter for such use, and with the stipulations and conditions made a part of the authorization granted by the Council.

The Public Hearing:

At 7:14 p.m. on June 25, 2020, the hearing on the proposed Special Use Permit to allow a Taxicab service to Amanda Bond at 118 Poplar St. was held via teleconferencing over the ZOOM application. **Amanda Bond** of Kewanee, Illinois, was present to represent the application.

No others were present to speak in support of the petition.

No others were present to speak in opposition of the petition.

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Recommendation:

After discussing the facts and testimony presented, the Plan Commission recommends, by a vote of six in favor of the application, none opposed to the application, three absent, that the application to grant a Special Use Permit to allow a Taxicab service at 118 Poplar St. be approved by the City Council.

Additionally, the Plan Commission recommends by a vote of six in favor, none opposed, three absent that the following restriction be placed on the Special Use Permit.

1. The Special Use Permit to allow a Taxicab service is granted to Amanda Bond and is not transferable to any future owners or operators on the site.
2. Amanda Bond shall maintain primary residency in the house at 118 Poplar St.
3. Any violations of the terms and conditions of the Special Use Permit are subject to review and possible revocation by the Plan commission and City Council.
4. All activities associated with this Special Use Permit for a Taxicab service operation shall be conducted in full compliance with the Kewanee City Code and the laws and regulations of the State of Illinois.
5. That all taxi cabs operated by the business use off street parking that is available at the residence.

Case Number 2: Discussed, directions provided, item TABLED

The topic of trailer sales or rental (house trailers or mobile homes) on an open lot or within a building has come up a few times in the past and now once again in the 1000 block of North Main Street. Currently this use is only allowed in a B-4 Business District. The property owner at 1047 N. Main St. (which is zoned B-3) would like to use the property to continue storage/parking of his trucks and trailers and to have a place to work on the same. The property owner is currently working on removing the house and is applying for a demolition permit. Staff asks that the Plan Commission considers moving the use of Trailer sales or rental (house trailers or mobile homes) on an open lot or within a building to the B-3 district or under the allowable Special Uses in the B-3 district.

There's also the question of whether to allow the property owner to apply to rezone the property. The topic of "Spot Zoning" brings with it, its own set of challenges and concerns. The following is information from plannersweb.com:

Occasionally, planning boards or commissions are faced with a petitioner's request to re-zone property only to be challenged with an objector's claim that doing so would constitute illegal spot zoning. The plan commission often has a quandary; approve the development and risk making an improper, if not illegal decision, or deny the development which would have financially improved the community. To better assist with this difficult decision, it is beneficial for the commission to understand exactly what "spot zoning" is.

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What Constitutes Spot Zoning

The “classic” definition of spot zoning is “**the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners.**”¹

Spot zoning is, in fact, often thought of as the very antithesis of plan zoning.² When considering spot zoning, courts will generally determine whether the zoning relates to the compatibility of the zoning of surrounding uses. Other factors may include; the characteristics of the land, the size of the parcel, and the degree of the “public benefit.” Perhaps the most important criteria in determining spot zoning is the extent to which the disputed zoning is consistent with the municipality’s comprehensive plan.

Rebutting Spot Zoning

Spot zoning, however, may be rebutted when the challenged zoning is found to be consistent with a municipality’s recent zoning trends in the area, not just with the present surrounding uses.³ To illustrate the importance that each factual scenario must be closely addressed, rather than merely labeled, it should be noted that one Illinois court found that the rezoning of small parcels inconsistent with the zoning of surrounding areas is not necessarily unlawful.² The size of a parcel is just one factor to be considered in determining spot zoning.

A claim of spot zoning may also lack merit, for instance, when the zoning or planning regulations consider the boundaries of the property in dispute to contain a line of demarcation between zoning districts which would appropriately separate one zoning district from another.⁴

Most importantly though, if the zoning is enacted in accordance with a comprehensive plan, it is typically not “spot zoning.”²

What's a Planning Commission to Do?

When considering zoning map amendments, the planning commission or board must not only determine whether the petitioner has satisfactorily responded to the traditional standards in support of his or her application, but it should also closely scrutinize whether a potential exists for spot zoning. In doing so, the commission should look at the comprehensive plan and the surrounding uses to the property at issue.

While the commission is not qualified to make legal determinations of spot zoning, it is nonetheless the gatekeeper of identifying that such an issue may exist. It is therefore appropriate for the commission to defer its decision and consult with its municipal attorney *before* voting to approve the rezoning and referring it to the governing body for adoption.

Summing Up:

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Spot zoning must be addressed upon the facts and circumstances of each case. As such, when faced with allegations of spot zoning, the courts will closely look at factors such as the size of the parcel; the anticipated public benefit; the consistency with the community's comprehensive plan; and the consistency with surrounding zoning, and uses, to make a determination of the validity of the rezoning.

This information raises concerns over the legalities of "Spot Zoning". It is staff's opinion that avoiding "Spot Zoning" is the best practice if at all possible. By moving the use of truck and trailer storage to a permitted special use under B-3 zoning, it offers more control over the usage by placing stipulations on the special use permit including but not limited to making the permit non-transferrable.

The Public Hearing: TABLED

There being no further business, the meeting adjourned at 7:39 p.m.

Respectfully yours,

Steve Morrison, Chairman