



ZONING BOARD OF APPEALS
Tuesday, December 18, 2018
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Thomas Fabiano
Kim Johnsen
Alicia Neubauer
Dan Roszkowski
Jennifer Smith
Craig Sockwell
Maurice Redd

Staff: Scott Capovilla – Zoning and Land Use Administrator
Kelly Nokes – Deputy Operations Manager
Samuel Bellone – Administrative Assistant
Matthew Flores, Assistant City Attorney
Lafakeria Vaughn – Assistant City Attorney
Tim Morris - Fire Prevention Coordinator
Karl Franzen- Director of Community & Economic Development

Others: Alderman Tuffy Quinonez
Kathy Berg - Court Stenographer
Applicants and Interested Parties

Scott Capovilla explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

- The Chairman will call the address of the application.
- The Applicant or Representative will come forward and be sworn in.
- The Applicant or representative will present their request before the Board.
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name to the Zoning Board of Appeals secretary and the stenographer.
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.

- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns/questions of the Objector or Interested Party.
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Wednesday, January 2, 2019, at 5:30 PM in City Council Chambers in this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact the Zoning Office for any further information and the phone number was listed on the top of the agenda which was made available to all those in attendance. This information was also presented in written form attached to the agendas and letters to adjacent Property owners.

The meeting was called to order at 5:42 PM. A **MOTION** was made by Kim Johnsen to **APPROVE** the minutes from the November 21, 2018 meeting as written. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 5-0 with Craig Sockwell and Maurice Redd abstaining.

ZBA 042-18	3019 Broadway
Applicant	Susan Lynn Habel
Ward 11	Appeal of Administrative Decision

The subject property is located on the south side of Broadway and approximately 170 feet east of H26th Street.. The Appeal of the administrative Decision stems from the determination made by Zoning Officer, Scott Capovilla, that food processing is only permitted in the Industrial Districts and, therefore, would not qualify for a home business license in an R-1, Single Family Residential Zoning District.

Attorney Bill Ellsworth, representing the Applicant, and Susan Lynn Habel, the applicant, were present. Attorney Ellsworth stated that Ms. Habel received a letter in September concerning her residential business of dog food processing. He explained that Ms. Habel's business clearly falls within the requirements for the City of Rockford's Home Business ordinances. He explained that Ms. Habel has a license from the Illinois Department of Agriculture. He stated, Ms. Habel does not have customers go to her home, only twenty (20) percent of her home is used in the dog food process, and is not governed by the Illinois Department of Health. Attorney Ellsworth explained the City of Rockford advertises the intent to keep the residential character of the neighborhood, and therefore Ms. Habel's home business should be permitted.

Alicia Neubauer asked what is taking place at the facility. Ms. Habel stated, that she is processing supplemental animal feed. Neubauer stated that it is still food processing either human or animal feed. Ms. Habel explained, it is actually dog feed processing since it is governed by two (2) different government agencies. She stated that she is licensed by the Illinois Department of Agriculture and they classify it as feed.

Craig Sockwell asked how many pounds of ground food is made in a week. Ms. Habel explained that she expects to grind around four-thousand (4,000) pounds in a month. She states that she is currently doing a "test run" for her business in hopes of obtaining a business loan. She is looking to expand into a larger rented facility and eventually hire employees. Ms. Habel is hoping to become efficient in bagging the food by hand. Attorney Ellsworth stated that Ms. Habel moved to Rockford because of the advertised home occupation business ordinance. She has three (3) dogs that she currently owns that benefit from her operation. Attorney Ellsworth explained this operation and her dogs are her life and that she has invested into the City of Rockford and is looking to invest more by opening up this dog food process.

Ms. Neubauer asked what room is being used for the operation. Ms. Habel explained that it is a five-thousand (5,000) square foot home and that has a non-finished basement. The operation on the inside consists of a large freezer, two (2) grinders and a sink. Ms. Habel stated that the food has to be slightly thawed before it can be ground and once it is ground it is refrozen immediately.

Dan Roszkowski asked how the dog food is delivered and how the ingredients are delivered to her home. Ms. Habel stated that the bags of dog food are hand delivered by herself to her customers. She also explained that she picks the ingredients up from Chicago or Madison. The ingredients she uses are human grade restaurant quality food.

Tom Fabiano asked how big the equipment that she uses is. Ms. Habel stated that the grinder she currently uses is a table top grinder. She also has a commercial grade grinder that is not operational yet and the size of that grinder is around six (6) feet tall. She also uses some chest freezers and stand freezers to store the processed dog food. Ms. Habel stated that the dog food is mixed with meat and bone. The applicant shows the Board a picture of the dog food and bags. Mr. Fabiano asked if she has been doing this process for a while. Ms. Habel stated that she has been doing it for almost a year without any inspections from the Department of Agriculture. She also explained that she has to renew her license each year and follow the strict laws and regulations set by the Department of Agriculture.

Mr. Sockwell asked if the applicant has been in contact with the health department. Ms. Habel stated that she has not been in contact with the health department. She explained that the Department of Agriculture handles the restrictions and the rules. The Department of Agriculture is stricter on rules and regulations.

Maurice Redd asked how loud the equipment is. Ms. Habel explained that the equipment is not that loud. It is only loud in the room the operation is happening in. There is no noise that can be heard from outside of the house. Ms. Habel stated that she has notified her neighbors about her business and what is happening in her home. Mr. Redd also asked how large is the waste that is made from the process. Ms. Habel stated that there is some waste but not much more than a normal person. Most of the meat is used in the processing. Only some blood may go down the drain, but most of the meat and bone is used in the dog food. Ms. Habel further explains that she does not want too much to go down the drain due to potential plumbing issues. She also stores the waste in a freezer until trash pickup day.

Jennifer Smith asked Scott Capovilla whether the alderman of the ward has been notified about the home business. Mr. Capovilla stated that he has not talked to the alderman and was unsure if the applicant had reached out to the alderman. Ms. Habel has made sure that the process is undisruptive to the neighbors surrounding her.

Assistant City Attorney Matthew Flores presented on behalf of the City of Rockford. Attorney Flores stated that according to the Zoning Ordinance in Section 11-001, a word that is not defined in the Zoning Ordinance is given the common meaning associated with it. He then explains according to Merriam – Webster Dictionary, food processing is not an entire word, but two (2) different words. Food is not defined to just human consumption, but as a blend of materials for consumption to provide nourishment, and as such even food prepared for animals qualified as food for the purposes of the zoning ordinance, and the process taking place at the applicant's residence is food processing. Attorney Flores further explains, that section 11-008 of the Zoning Ordinance states in relevant part that when lists are provided in the zoning ordinance that they are merely illustrative, and so even if the applicant's business was not food processing by a strict definition, that the board should read the enumerated items in the zoning ordinance to include related uses. Attorney Flores stated that the Zoning Officer placed the application in the less restrictive General Industrial Use, despite the fact that the use could have fit into a more restrictive category within the industrial use groups. He explained that the use is not listed as prohibited according to the Home Business Ordinance, however under Section 20-004 in the Zoning Ordinance that

industrial uses in a residential district are not permitted. That the home based business is a modification to a lawfully established business not a stand-alone permission. Attorney Flores asked the Board to affirm the decision made by the Zoning Officer.

Zoning Officer Mr. Capovilla also presented additional information on behalf of the City. He explained that the decision is pretty cut and dry. The use charts in the Zoning Ordinance have to be followed in what is permitted. He stated that it is not as simple as looking at one section of the ordinance and then making the determination. Mr. Capovilla stated that he has talked to the Rock River Water Reclamation District and a facility such as this would require a commercial/industrial permit and would not be allowed in a residential district. Ms. Smith asked Mr. Capovilla if there have been any other options offered to help the applicant. He stated that he has tried, however the applicant wanted to start in her home in the small space. He explained that there are a lot of small industrial spaces open that the applicant can move into for her business. He also stated that two electrical services are not permitted in a residential zoned area. Mr. Capovilla further explained similar locally owned businesses started in small industrial spaces and have grown into large industrial space.

In rebuttal, Ms. Habel explained that she does not need an additional electrical service. That it was only there to make a separation from her home and business uses. Ms. Habel once again states that there is no waste product besides some blood from the meat that runs down the drain and that she does not want to ruin her own plumbing lines. Attorney Ellsworth stated that it is up to the Zoning Board to uphold the defined Zoning Ordinance since food processing is not clearly defined. It is up to the City of Rockford to amend the Zoning Ordinance for a clear definition of the ordinance itself. He restated the Home Business Ordinance is to help promote and develop small business. He stated the County has a cottage food law that allows the processing of foods in homes to help with farmers markets and fairs. Ms. Habel explained, the county loosened regulations of home processed food to help grow produce at homes instead of at restaurants and commercial areas.

Attorney Flores asked the Board to allow comments on new information presented by Ms. Habel and Attorney Ellsworth. Attorney Flores explained that the Health Department has gotten stricter with their food service regulations. Additionally, the Winnebago County classifications are not applicable to the City of Rockford.

During the Board's discussion, Ms. Neubauer stated that the City of Rockford ordinances takes priority in this case since the applicant resides in the City of Rockford boundaries. Therefore, the business of the applicant is food processing and is not permissible in the given zoning district. She explained that the business would be largely beneficial if it were done in an industrial zoned district. Mr. Sockwell explained, that it is hard to approve this without the blessing of the Health Department and Sanitary District.

No objectors or interested parties were present.

A **MOTION** was made by Alicia Neubauer to **AFFIRM** the action of the Zoning Officer. The **MOTION** was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 7-0.

ZBA 043-18

Applicant
Ward 12

1303 and 1325 Samuelson Road

Ryan Peters / SolAmerica Energy, LLC

Special Use Permit for the installation of a solar farm (Free-standing solar panel racks and solar panels) in an I-3, Airport Industrial Zoning District

The subject property is located 3592 feet west of 11th Street and on the south side of Samuelson Road. The subject property is surrounded by industrial, commercial, and residential uses. The subject property consists of one large parcel, which is 26.32 acres.

The applicant, Ryan Peters, of SolAmerica Energy, LLC and Brad Baker from Slidematic. Mr. Peters explains that SolAmerica is based out of Atlanta, Georgia and has designed and constructed forty (40) projects that are operational now throughout the Country. With the recent initiatives the State of Illinois has passed, SolAmerica wants to take steps in utilizing those initiatives and help with businesses that are interested in solar. Mr. Peters stated that SolAmerica is proposing a ten (10) acres solar farm in a fifteen (15) acre area undeveloped parcel. The project ties directly into the Slidematic's operation. It is based off of a net metering system that pulls energy directly out of the solar project. Additional power that is generated is sent to the grid. A large fence would surround the project area. The fence is six and a half (6 ½) foot tall, which is up to electrical codes. The panels that are being used are six (6) feet off the ground and rotate with the sun. The maximum height of the panels are just under ten (10) feet. The proposed project will also be planning native grasses that are deep rooted, stabilizing the project area as far as stormwater management is concerned. Mr. Peters stated that the staff recommendations calls for a paved road while the project proposes a gravel road. He explained that the proposal can be changed to include a paved road. The paved road would be five hundred (500) feet long and ten (10) feet wide. There are not many workers that visit the site. The only times the site is visited is if the panels have to be replaced, which is done locally and by a two (2) man crew. Also, a crew visits that site to reduce overgrowth that may cause issues of the solar panel's energy production.

Dan Roszkowski asked about the decommissioning plan and who is liable for paying for the decommissioning of the project. Mr. Peters stated that the owner of the system is responsible for the cost of decommissioning. Once the project is being decommissioned, SolAmerica is responsible for getting the property back to the way it was before the project. Mr. Roszkowski asked if there is an escrow account that can be put in place for the decommissioning of the project. Mr. Peters stated that there is usually some type of account or bond put in place for the decommissioning of a project.

Craig Sockwell asked what is the usual cost to decommission a project. Mr. Peters explained that some of the materials used can be recycled and reused. However, the cost can range from \$150,000 to \$200,000.

Maurice Redd asked about the lifespan of each panel. Mr. Peters explained that each panel has a twenty five (25) year warranty. Kimberly Johnsen asked if SolAmerica would be obtaining the native species list. Mr. Peters stated that they are consulting with a third party called Prairie Grass on obtaining the list.

In the Board's discussion, Mr. Roszkowski asked Scott Capovilla if there was a bond or escrow account that will not hold the City of Rockford liable for the decommissioning of the project. Mr. Capovilla explained that in the applicant's decommissioning plan there is no language of an escrow for the decommissioning plan, but other solar projects have such language. A condition can be made to add an escrow account for the decommissioning of the project.

A **MOTION** was made by Jennifer Smith to **APPROVE** Special Use Permit for the installation of a solar farm (Free-standing solar panel racks and solar panels) in an I-3, Airport Industrial Zoning District amending condition six (6) to add an escrow account for decommission funding for the decommissioning of the project. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 7-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. Submittal of Building Permits for Staff review and approval.
3. Submittal of a detailed site plan for staff's review and approval.
4. Submittal of Fence Permit for Staff review and approval.
5. Gravel is prohibited on the site.
6. Decommission of the solar farm shall comply with Exhibit F, the Solar Facility Decommissioning Plan approved by Staff, which shall include an escrow account for the decommissioning of the project.

ZBA 043-18
FINDINGS OF FACT FOR APPROVAL OF A SPECIAL USE PERMIT
FOR INSTALLATION OF A SOLAR FARM (FREE-STANDING
SOLAR PANEL RACKS AND SOLAR PANELS)
IN AN I-3, AIRPORT INDUSTRIAL ZONING DISTRICT
1303 AND 1325 SAMUELSON ROAD

1. The establishment, maintenance, or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage, and/or necessary facilities have been, are being, or will be provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall conform to the applicable regulations of the I-3 District in which it is located.

OTHER BUSINESS

2019 Schedule

The 2019 Zoning Board of Appeals Schedule was presented for vote as follows:

FILING DEADLINE: (Thursday, 5:00 P.M.)	MEETING DATE: (Third Tuesday of the Month)
December 13, 2018	January 15, 2019
January 17, 2019	February 20, 2019-Wed
February 14, 2019	March 19, 2019
March 14, 2019	April 16, 2019
April 18, 2019	May 21, 2019
May 16, 2019	June 18, 2019
June 13, 2019	July 18, 2019
July 18, 2019	August 20, 2019
August 15, 2019	September 17, 2019
September 12, 2019	October 16, 2019-Wed
October 17, 2019	November 20, 2019
November 14, 2019	December 19, 2019
December 12, 2019	January 22, 2020-Wed

A **MOTION** was made by Alicia Neubauer to **APPROVE** the 2019 Zoning Board of Appeals schedule as presented. The Motion was **SECONDED** by Jennifer Smith and **CARRIED** by a vote of 7-0.

With no further business to come before the Board, the meeting was adjourned at 6:41 P.M.

Respectfully submitted,
Samuel Bellone, Administrative Assistant
Zoning Board of Appeals