

From: Corey <coreyelane@yahoo.com>
Sent: Tuesday, June 20, 2023 6:19 PM
To: Nate Fogg - Effingham Land Use; G. Bull
Subject: for 6.20.23 EPB meeting - Letter regarding 6.19.23 site walk and gas station proposal

June 20, 2023

Dear Chairman Bull and the Effingham Planning Board,

It is appreciated that Chair Bull stated that public comment will be allowed tonight if new information is considered. It is also appreciated that he stated letters from the public will be part of the record while the Meena gas station proposal is before the Planning Board.

Please address the following at tonight's planning board meeting per the Board's statements as stated at the June 19, 2023 site walk:

The 50 foot front line setback requirement applies to structures:

Page 4 of the Effingham Zoning Ordinance: "Structure: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground (page 4 of ordinance under definitions)."

On page 5, Article 4 Lot Requirements Section 402 states: "A minimum lot size of 2 acres with minimum frontage of 200 feet are required in all districts except of Open Space Conservation Subdivision. [Adopted 2015] "

"Minimum Structure Setbacks from Property Line (feet) [Amended 2001] " The Rural Agricultural front lot line setback has a 50 foot requirement. The applicant is proposing many structures in the 50 foot setback which has been acknowledged by the applicant on a plat but not adhered to.

The planning board must address this issue and require the applicant to meet all lot line setback requirements just as all citizens in Effingham are required to do. At the site walk on June 19th, It was very concerning to hear the applicant's representative (Mark Lucy) stated that he was unaware of Effingham's sign requirements in the Ordinance. It is clear that he is either unaware of many requirements in the Ordinance including the front lot line setback standards as well or the applicant does

not want to adhere to them. Please see this issue on the submitted map as mentioned at the site walk.

As it stands, the applicant is proposing "structures" within feet of the abutting property on the front lot line which was not allowed to be accurately identified at the site walk with, again, the Chair stating that it will be discussed at tonight's meeting so it is appreciated that the Board will do so. Some structures proposed within the 50 foot setback include the illegally installed 2 underground gas tanks, the two proposed regular gas pumps, the proposed canopy for the diesel pump and will likely include the diesel pump itself if it is moved toward the front property line to meet the 15 foot setback requirement, the proposed oil/water separator and the proposed deep sump catch basin to name a few. The applicant is required to meet the current setback standards in the Ordinance. The Planning Board is required to deny this application for not doing so.

The elevations identified on the plat does not seem to match what is actually occurring on site and it is unclear as to how these elevations were obtained. The spray paint along the front lot line along the wetland buffer (not identified on site) was not helpful either and is not a good representation of what is proposed. What is helpful is that this issue will be eliminated if/when the applicant is required to meet the front lot line setbacks.

There appears to be issues with the submitted land survey, which was only a boundary survey. The zoning districts are not included in the notes which is a requirement of this survey. Not including the district (including the groundwater protection overlay) can create a domino effect on other plats submitted which may be the case in this situation. This also may be why the applicant is still not meeting current standards.

There also appears to be issues with the topographic lines and defined boundaries regarding where (and how much) water will run off on the submitted maps. This issue could be cleared up if the applicant conducted an accurate survey of the topography of the land instead of what the applicant identified as the minimum standards. As you saw on site, there is a great potential for contaminated water to run off into the wetland so accurate elevations. This is not allowed under the ordinance.

For about two years now, the planning board has been dealing with this applicant's refusal to adhere (either willing or out of lack of expertise) and they still cannot meet the standards of the Effingham Zoning Ordinance. This is clear grounds for denial because these standards are in place to protect the health and safety of the citizens. How many times does the Board have to "catch" the applicant's proposal violating the ordinance? How many times do citizens and outside professionals need to do that? Should all citizens need a lawyer and hydrogeologist to protect themselves? I know I couldn't afford that.

Consider that the current application still includes Mark McConkey (informally) asking for a qualification waiver while he proposed dumping all of the untreated contaminated gas station runoff into an abutting property including the unidentified wetland which would violate many regulations. There are also countless other concerning deficiencies which shows the lack of care for the town's laws.. The applicant installing tanks without approval is a self inflicted wound and the tanks must be removed per the Effingham Zoning Ordinance.

The Planning Board has bent over backwards attempting to accommodate the applicant but the applicant still fails to meet many guidelines. As a former Planning Board member for 10 years with a few of those as Chair, I have never seen an applicant treat a Board this way including refusing to answer questions from the public and refusing to produce documents/plats when requested as this representative/applicant does repeatedly. It is disrespectful to the Board and your efforts, along with time put in to reviewing their project repeatedly with hundreds of rotating pages. The applicant is counting on the Board to not doing your due diligence but I believe that you will and deny this proposal.

Finally, please note that there was never any notification posted on the town website for the Meena site walk that took place yesterday, June 19, 2023, and there was no notification regarding tonight's planning board meeting as of 10:00 am (June 20, 2023). The public has no way to find out when these public meetings are taking place which impedes due process. Also, there are still no draft minutes posted from the planning board meeting that was held on June 13, 2023 for the public to review prior to the meeting being held tonight.

Your consideration of the regulations that apply to all citizens in the Effingham Zoning Ordinance is appreciated and as stated, this project is incompatible with the Town's standards so it must be denied.

Sincerely,

Corey Lane

Porter