Resolution of the County Board of Kankakee County, Illinois

RE: ZBA CASE #17-08; SPECIAL USE PERMIT SECTION 121-99.C.3 (AUTOMOBILE WRECKING YARD / JUNKYARD) IN THE A1-AGRICULTURAL DISTRICT AND VARIANCES TO SECTION 121-99.C.3 (FENCE)

WHEREAS, an application pursuant to the terms of the Kankakee County Zoning Ordinance, has been filed by 6SF Properties, LLC, property owner and applicant in the Office of the County Clerk of Kankakee County for a Special Use Permit to Section 121-99.c.3 (Automobile Wrecking Yard / Junkyard) in the A1-Agricultural District and Variances to Section 121.99.c.3 (Fence), on a parcel legally described herein Exhibit A, a copy of which is attached; and,

WHEREAS, the Zoning Board of Appeals held a duly noticed public hearing, on the application on December 18, 2017 and from the testimony and evidence presented findings were made as described in Exhibit B, a copy is attached and the ZBA recommends that the request of 6SF Properties, LLC, property owner and applicant, be approved with a condition on the Special Use Permit; and,

WHEREAS, the Planning, Zoning, and Agriculture Committee (PZA), at its regularly scheduled and duly noticed meeting of December 20, 2017 having reviewed, discussed and considered the matter, has approved the request and adopted the findings and recommendation of the Zoning Board of Appeals with an updated condition, Exhibit B; and,

WHEREAS, all matters required by law of the State of Illinois and the Zoning Ordinance of Kankakee County have been completed; and,

WHEREAS the County Board at its regularly scheduled meeting of January 9, 2018 after review, discussion, and consideration, agrees with the findings of the Zoning Board of Appeals and committee minutes of the PZA Committee, and finds that the conclusions expressed are both reasonable and rationally supported by the evidence presented, and the special use permit and variance will not be detrimental to the public health, safety, and economic and general welfare.

NOW, THEREFORE, be it resolved by the Kankakee County Board, State of Illinois as follows:

1. The findings of the Zoning Board of Appeals are hereby approved, confirmed, ratified, and adopted and the conclusions of the Planning, Zoning and Agriculture Committee based upon those findings are rational and in the public interest.

2. The findings, conclusions and recommendation expressed in the minutes of the Planning, Zoning, and Agriculture Committee meeting of December 20, 2017 are also
supported by the record and are in the public interest and are also approved, confirmed, ratified and adopted.

3. Special Use Permit to Section 121-99.c.3 Automobile Wrecking Yard / Junkyard) in the A1-Agricultural District and Variances to Section 121.99.c.3 (Fence), be approved on a parcel legally described in Exhibit A, a copy of which is attached herein and made a part hereof.

4. The following is the condition imposed on the Special Use Permit:
   a. In the event that the trees along the eastern, western, and/or northern property lines of the subject site no longer exists, the owner of the subject property will install a 12' privacy fence along the entire length of the eastern, western, and/or northern property lines at their own expense.

PASSED and adopted this 9th day of January, 2018.

Andrew H. Wheeler, County Board Chairman

ATTEST:

Dan Hendrickson, County Clerk
LEGAL DESCRIPTION:
THE WEST 350 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 30 NORTH, RANGE 14 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN KANKAKEE COUNTY, ILLINOIS.
FINDINGS OF FACT AND RECOMMENDATION
OF THE KANKAKEE COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the Kankakee County Zoning Board of Appeals concerning an application from property owner and applicant BSF Properties, LLC in ZBA Case No. 17-08. The applicants and owner s are seeking a special use permit to allow the expansion and therefore the continued use of a 10.72 acre automobile wrecking yard located at 4441 W 1000 S Road in Limestone Township.

The automobile wrecking yard has existed on the property for many years and predates the County’s zoning ordinance which was adopted in 1967. Accompanying the request for a special use permit is a request for a variance that would relieve the owners of the burden to construct a twelve (12) foot tall solid fence around the entire perimeter of the site.

After due notice required by law, the ZBA held a public hearing on this case on December 18, 2017 in the County Board Room, 4th Floor, Kankakee County Administration Building, Kankakee, Illinois, and hereby report their findings of fact and their recommendation as follows:

Site Information: See Staff Report (attached herewith).

Public Comments: The following individuals spoke during the Public Comment period:

Jonathan Schults – A neighboring property owner asked if a magnetic crane would be used on the property. The answer was yes. He also, asked about the type of fence that would be constructed at the front of the property. The owner stated it had not been decided but thought it would likely be concrete like their facility in Cook County.

Glenn Kramer – Mr. Kramer is the Limestone Township road commissioner. He stated that he was working with the owners to devise a plan for using the roads posted with weight restrictions. He also stated that he was not aware of any accidents attributed to the facility.

(Refer to transcripts for full details)

Analysis of Six Standards: After considering all the evidence and testimony presented at the public hearing, the Board makes the following analysis of the six (6) standards listed in Section 17.03.F4 (Standards for Special Uses) of the Kankakee County Zoning Ordinance that must all be found in the affirmative prior to recommending granting of the petition.

1. That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

The Board finds that the land is already a scrap yard and has been for years. The new processing of additional scrap and recycling will not change the use of the land.

2. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
The Board finds that the land is already in use, as a scrap yard that does not emit noise vibrations or smells. The owners would like to put up new buildings and a fence to enhance the appearance of the site.

3. That the establishment of the special use will not substantially impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

The Board finds that the land will continue to be used as a scrap yard and the additions will only enhance the appearance and usefulness of the property to its surroundings.

4. That adequate utilities, access roads, drainage, or necessary facilities have been or will be provided.

The Board finds that the land is already equipped with utilities, access roads and drainage adequate for current use that should not change.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

The Board finds that adequate ingress and egress already exist due to its existing use as a scrap yard.

6. That the special use will, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the board.

The Board finds that the special use would conform as there are special uses permitted under A-1 for junkyards and the land is already being used as one. The current use of “scrap yard” would transition seamlessly into the special use as a junkyard as permitted by the ordinance.

Conditions: The Board has requested that the following conditions be imposed on the issuance of this special use permit.

1. In the event that the trees along the eastern property line of the subject site no longer exists, the owner of the subject property will install a 12’ privacy fence along the entire length of the eastern property line at their own expense.

Recommendation: We find that the proposed special use requested meets all the standards for recommending granting as found in Section 17.03.F4 of the Kankakee County Zoning Ordinance and that such a request is in the public interest. Therefore, the Zoning Board of Appeals hereby recommends that the special use permit to establish an automobile wrecking yard/ junkyard in the A1-Agriculture District on the property described in the application hereby be granted with the conditions as stated.

Roll Call Vote: The roll call vote was 5 (5) members for the motion to recommend granting, zero (0) opposed.

Respectfully submitted this 18th day of December, 2017 by the Kankakee County Zoning Board of Appeals.
VARIANCE

Analysis of Four Standards: After considering all the evidence and testimony presented at the public hearing, the Board makes the following analysis of the four (4) standards listed in Section 17.03.G5 (Standards for Variances) of the Kankakee County Zoning Ordinance that must all be found in the affirmative prior to recommending granting of the petition.

1. That a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of the regulations were to be carried out.

   The Board finds that the lot is quite large and a privacy fence that is 12’ high would be expensive to install. The trees on site acting as a fence are mature, and they would also have to be removed despite fitting in with the current appearance. This would also be extremely expensive.

2. That the conditions for this request are unique to the property in question and would not apply, generally, to other property with the same zoning classification.

   The Board finds that there are currently mature trees on site that booth is taller than the 12’ required for a privacy fence and provides more privacy than any fence would for the site. See attached photos of trees.

3. That the granting of the variance would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located.

   The Board finds that variance would allow the property to maintain its current appearance that matches those properties and improvements in the neighborhood.

4. That the variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public street, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

   The Board finds that variance would maintain the current situation of the property and maintain its fit within the other properties. Building a fence to comply with the ordinance would potentially diminish the value of properties and increase traffic congestion during the removal of trees and installation of the fence that would otherwise be required.

Recommendation: We find that the proposed variance does meet all the standards for recommending granting as found in Section 17.03.G5 of the Kankakee County Zoning Ordinance and that such request is in the public interest. Therefore, the Zoning Board of Appeals hereby recommends that the variance regarding fencing hereby be granted.
**Roll Call Vote:** The roll call vote was five (5) members for the motion to recommend approval, zero (0) opposed.

Respectfully submitted this 18\textsuperscript{th} day of December, 2017 by the Kankakee County Zoning Board of Appeals.

John Fetherling, Chairman – Aye
David Deyoung – Aye
William Sawyer – Absent
Edwin Meents – Aye
William Hemm – Absent
Beth Scanlon – Aye
Gene Raedemacher – Aye
ZBA CASE 17-08

STAFF REPORT

BSF Properties, LLC (Owner & Applicant)
SUP Section 121-99.c.3 (Automobile Wrecking Yard / Junkyard)
Variance Section 121-99-c.3 (Fence)

P.I. No. 07-16-04-400-018
Limestone Township

Prepared By: Delbert Skimerhorn, Sr., AICP,GISP, CFM
Planning Manager / GIS Manager

Kankakee County Planning Department
189 E. Court Street, Room 201
Kankakee, IL 60901
Phone: 815-937-2940 Fax: 815-937-2974
Email: planning@k3county.net
Background

The applicants and owners, BSF Properties, LLC, are seeking a special use permit to allow the expansion and therefore the continued use of a 10.72 acre automobile wrecking yard located at 4441 W 1000 S Road in Limestone Township.

The automobile wrecking yard has existed on the property for many years and predates the County's zoning ordinance which was adopted in 1967. Accompanying the request for a special use permit is a request for a variance that would relieve the owners of the burden to construct a twelve (12) foot tall solid fence around the entire perimeter of the site.

Finding of Fact Responses - Special Use Permit

The following sections highlight the Petitioner's responses to the findings and the Planning Department's comments for the proposed special use permit.

A. EXPLAIN HOW THE ESTABLISHMENT, MAINTENANCE, OR OPERATION OF THE SPECIAL USE WILL/WILL NOT BE DETRIMENTAL TO OR ENDANGER THE PUBLIC HEALTH, SAFETY, MORALS, COMFORT, OR GENERAL WELFARE.

Petitioner's Responses: "The land is already a scrap yard and has been for years. The new processing of additional scrap and recycling will not change the use of the land."

Planning Department Analysis:

While the general characteristics of the use will remain largely the same as it has in the past, there is the potential for increased detrimental effects to the road network due to increased traffic which, due to the site's location on a hill with poor visibility could result in detriments to the public's safety. Further, increasing the intensity of the use may also affect levels of noise and dust emanating from the site. The Board should ask the applicants how they intend to mitigate these potential detrimental effects.
B. **Explain how the special use will/will not be injurious to the enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish or impair property values within the neighborhood.**

**Petitioner’s Response:** "The land is already in use, as a scrap yard that does not emit noise, vibrations or smells. The owners would like to put up new buildings and a fence to enhance the appearance of the site."

**Planning Department Analysis:**

The subject site has been used as an automobile salvage yard for several decades and to staff’s knowledge, without complaints. However, the Board needs to determine if the proposed improvements and more intensive use would change these facts and if so, how the applicant intends to mitigate them.

C. **Explain how the establishment of the special use will/will not substantially impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

**Petitioner’s Response:** "The land will continue to be used as a scrap yard and the additions will only enhance the appearance and usefulness of the property to its surroundings."

**Planning Department Analysis:**

Most of the area surrounding the subject site is zoned A1-Agriculture that is being used for large lot residential uses. In recent years, the Village of Limestone was formed to the north of the subject site and two new residential subdivisions have been established in the area. Since these new uses were established after the automobile salvage yard, it would appear that the automobile salvage yard has had little if any affect on the establishment of these uses."
D. EXPLAIN HOW AND IF ADEQUATE MEASURES HAVE BEEN OR WILL BE PROVIDED FOR UTILITIES, ACCESS ROADS, AND DRAINAGE.

Petitioner's Response: The land is already equipped with utilities, access roads and drainage adequate for current use that should not change.

Planning Department Analysis:

Staff agrees that the site is already served by utilities, road access, and drainage. The question staff has is: Are they adequate to support the expanded use of this facility? Particularly, the road access, 1000 S road is a narrow, tar and chip township road that is not built to accommodate heavy truck traffic and as such has a load limit of 5 tons for several months each year. In addition, the site sits atop a hill with poor visibility for traffic in the area. Staff is concerned that increased traffic on the roadway combined with the poor visibility would create a hazardous situation that may increase traffic collisions in the area.

E. EXPLAIN HOW AND IF ADEQUATE MEASURES HAVE BEEN OR WILL BE TAKEN TO PROVIDE INGRESS AND EGRESS SO DESIGNED AS TO MINIMIZE TRAFFIC CONGESTION IN THE PUBLIC STREETS.

Petitioner's Response: Adequate ingress and egress already exist due to its existing use as a scrap yard.

Planning Department Analysis:

Again, staff would have to ask: "Is this adequate?" See staff's comment for finding of fact D.

F. WILL THE SPECIAL USE, IN ALL OTHER ASPECTS, CONFORM TO THE APPLICABLE REGULATIONS OF THE DISTRICT IN WHICH IT IS LOCATED, EXCEPT AS SUCH REGULATIONS MAY, IN EACH INSTANCE, BE MODIFIED BY THE BOARD.

Petitioner's Response: It would conform as there are special uses permitted under A-1 for junkyards and the land is already being used as one. The current use of "scrap yard" would transition seamlessly into the special use as a junkyard as permitted by the ordinance.

Planning Department Analysis:

It appears that the property will conform with all other aspects of the Zoning Ordinance with the exception of the variance being requested with the special use permit application. The Board should ask the applicant to confirm this at the hearing.
By their nature, uses subject to a special use permit generally have a higher intensity or have a greater potential to adversely affect surrounding properties than permitted uses in a zoning district. Because of this fact and the need for these uses to gain special approval, conditions can be placed on a special use permit to lessen their impact on surrounding properties and alleviate any concerns voiced by neighbors and public officials. The Planning staff recommends that the following conditions be imposed on the special use permit. These conditions and additional conditions may be imposed by the Zoning Board of Appeals and the Kankakee County Board prior to approval.

PROPOSED CONDITIONS (IF APPROVED):

1. Staff will wait until after questions have been answered at the hearing to determine if recommending any conditions would be warranted.

Finding of Fact Responses - Variance

The following sections highlight the Petitioner's responses to the findings and the Planning Department's comments for the proposed variance:

A. WOULD A PARTICULAR HARDSHIP TO THE OWNER RESULT, AS DISTINGUISHED FROM A MERE INCONVENIENCE, IF THE LETTER OF THE REGULATIONS WERE TO BE CARRIED OUT, I.E., BECAUSE OF THE PARTICULAR Existing USE, PHYSICAL SURROUNDINGS, SHAPE OR TOPOGRAPHICAL CONDITIONS OF THE PROPERTY IN QUESTION.

Petitioner's Response: “Yes, the lot is quite large and a privacy fence that is 12’ high would be expensive to install. The trees on site acting as a fence are mature, and they would also have to be removed despite fitting in with the current appearance. This would also be extremely expensive.”

Planning Department Analysis:

The applicants are wishing to use the mature trees around the perimeter of the site as a buffer rather than construct the required 12’ high privacy fence. It appears that they feel there hardship in this instance would be the fact that constructing the fence would be expensive. Staff believe the Board needs to determine if the trees would make an adequate buffer similar to a privacy fence but must also keep in mind that it appears the majority of these trees are on neighboring property and that their existence is not within the applicants power to control or maintain.

B. HOW ARE THE CONDITIONS FOR THIS REQUEST UNIQUE TO THE PROPERTY IN QUESTION THAT WOULD NOT APPLY, GENERALLY, TO OTHER PROPERTY WITH THE SAME ZONING CLASSIFICATION?

Petitioner's Response: “There are currently mature trees on site that booth is taller than the 12’ required for a privacy fence and provides more privacy than any fence would for the site. See attached photos of trees.”

Planning Department Analysis:

Staff feels that the uniqueness of this request centers on the densely wooded are surrounding the site which would not be typical of other properties in the At zoning district.
Finding of Fact Responses - Variance

C. WILL THE GRANTING OF THE VARIANCE BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO THE PROPERTY OR IMPROVEMENTS IN THE NEIGHBORHOOD IN WHICH THE PROPERTY IS LOCATED?

Petitioner's Response: "The variance would allow the property to maintain its current appearance that matches those properties and improvements in the neighborhood."

Planning Department Analysis:

The Board will need to determine if allowing the existing trees to act as a barrier would accomplish the same goal of providing a buffer to adjoining properties.

D. WILL THE VARIANCE IMPAIR AN ADEQUATE SUPPLY OF LIGHT AND AIR TO ADJACENT PROPERTY, SUBSTANTIALLY INCREASE THE CONGESTION OF THE PUBLIC STREET, INCREASE THE DANGER OF FIRE, ENDANGER THE PUBLIC SAFETY, OR SUBSTANTIALLY DIMINISH OR IMPAIR PROPERTY VALUES WITHIN THE NEIGHBORHOOD.

Petitioner's Response: "The variance would maintain the current situation of the property and maintain its fit within the other properties. Building a fence to comply with the ordinance would potentially diminish the value of properties and increase traffic congestion during the removal of trees and installation of the fence that would otherwise be required."

Planning Department Analysis:

The applicant will be constructing the required fence along the front portion of the property which will provide a visual buffer from the road. The other three sides of the property are surrounded by mature trees and would likely have less detrimental affects than a 12' high privacy fence. The Board will need to decide if this is true.
Reference:
Hearing Date: December 18, 2017
Applicant's name: BSF Properties, LLC.
Land Owner's Name: Same
Legal Counsel: Brian D. Scott

Location:
Property Location: 4441 W 1000 S Road, Kankakee, IL 60901
TOWNSHIP: Pembroke Township.
Parcel Number: 07-16-04-400-018
911 Address: 4441 W 1000 S Road, Kankakee, IL 60901
Existing Land Use: Automotive Salvage Yard
Applicant Request: Special Use Permit for automobile salvage yard / scrap yard and variance for fence.

Dimensions:
Size of Parcel: 10.72 acres
Road Frontage: 350'
Parcel Depth: 1310'
Parcel History: Original

Existing Land Use Features:
Public Road: 1000 S Road
Floodplain: None
Wetland: None

Surrounding Zoning:
North: RE-Rural Estate
West: A1 - Agriculture and R1-Single Family Residential
South: A1 - Agriculture
East: A1 - Agriculture

Surrounding Land Use:
North: Vacant woodland & residential
West: Large lot residential
South: Agriculture & large lot residential
East: Large lot residential

1000 S Road looking west towards subject site. Notice the hill.
7. Municipal Planning Boundary:
   Nearest Municipality: Village of Limestone
   Distance: 600' northeast.

8. Comprehensive Plan Designation:
   Kankakee County: Agricultural Conservation Area
   Municipality: N/A
   Township: N/A

9. Distance to Public Services and Facilities:
   Police Protection: Kankakee County - 6 miles.
   Fire Protection: Limestone Fire Protection District - 1.5 miles.
   School District: Herscher - 10.5 miles.
   Sewer: KRMA - 2.5 miles.
   Water: AQUA - 1/4 mile.

10. Miscellaneous Information:
    County Board District: Eleven (11) - Mrs. Webber

Outbuildings / storage buildings on west side of subject site.

Hill on 1000 S Road in front of subject site (looking west).

1000 S Road looking east from subject site.