

MINUTES
Zoning Board of Appeals
Loren Bailliez, Chairman
March 14, 2019

A meeting of the Peoria County Zoning Board of Appeals was held on Thursday March 14, 2019, in Room 403 of the Peoria County Courthouse, 324 Main Street, Peoria, Illinois. The meeting was called to order by Chairperson Loren Bailliez at 9:00 a.m.

PRESENT: Loren Bailliez, Greg Fletcher, Greg Happ, Jim Bateman, Andrew Keyt, Linda O'Brien, Leonard Unes

ABSENT: John Harms, Justin Brown

STAFF: Corbin Bogle – Planner I
Kathi Urban – Director
Alex Kurth – Civil Assistant State’s Attorney
Ellen Hanks - ZBA Administrative Assistant

Mr. Fletcher made a motion to approve the minutes from the February 14, 2019 hearing and was seconded by Mr. Bateman. A vote was taken and the motion passed; (7-0).

Case No. 006-19-U at 11:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **PEORIA SAND & GRAVEL, INC.** (*A Corporation – Kenneth Aupperle – President, Steve Aupperle – Secretary/Treasurer, Roger Aupperle – Director, and Leroy Oaks – Director, all of 190 E. Washington St., Morton, IL 61550*), **acting on their own behalf**, a **SPECIAL USE** request from 20-5.2.2.4.e of the Unified Development Ordinance. This section allows for a Special Use for Mineral Extraction Facilities in the “A-2” Agriculture Zoning District, as provided for in Section 7.12 (“Mineral Extraction Facilities”). The petitioner proposes to operate a mineral extraction facility at this location.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in the Peoria Journal Star and the Weekly Post on December 20, 2019. Ms. Urban explained that the petitioner was asking for a continuance to the April 11th hearing in order to give themselves more time to produce requested information to staff for the case. Ms. Urban recommended a time of 10:00 a.m.

Mr. Fletcher made a motion to continue the case to April 11th at 10:00 a.m. and was seconded by Ms. O’Brien. A vote was taken and the motion passed; (7-0). Ms. Urban explained to the petitioner that the case would be republished and adjacent owners would be re-notified since several months had passed since the initial application was made.

Case No. 014-19-V at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **DAN & ANNA HEINZ, acting on their own behalf**, a **VARIANCE** request from Section 20-6.6.2.1.e.1 of the Unified Development Ordinance, which requires a road setback of 25 feet from the right of way in the "R-2" Medium Density Residential Zoning District. The petitioner proposes to construct a garage addition at a distance of 10 feet from the right of way, resulting in a variance request of 15 feet.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in the Peoria Journal Star on February 9, 2019 and the Weekly Post on February 14, 2019. The Kickapoo Township Road Commissioner had no objection. Corbin Bogle gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Unincorporated Center). The site plan and three videos of the property were shown. The property is zoned R-2.

Mr. Keyt stated that he knew the petitioner, but it would not affect his judgement on the case.

Dan Heinz of 9809 W. Wood St., Edwards, was sworn in. Mr. Heinz stated that he was requesting an addition to his garage that would be closer to Garden Street than allowed. Mr. Heinz stated that he was unable to position the addition to the north of the garage because of the location of the septic field. Mr. Heinz also stated that he had staked out the area where the garage addition would be placed and had also met with the road commissioner and a survey company to measure the exact distances from the right of way. Mr. Heinz stated that the road commissioner had no objection to the request. Mr. Heinz added that an addition to the south would block the current garage.

Mr. Heinz added that his house is centrally located to where he farms and that sometimes he brings tractors and machinery to his residence to maintain and repair them. Mr. Heinz stated that he also drives about 20 miles to work on his farm equipment inside of a friend's barn when needed. Mr. Heinz stated that he would like a place at his residence where he could securely work on his equipment. Mr. Heinz then stated that he had spoken with neighbors about the request and had received consent from several. Mr. Heinz handed two consent letters from neighbors to the board. Mr. Heinz added that he was aware of one neighbor who objected to the request.

Mr. Happ asked how tall the addition would be, and Mr. Heinz responded that he was not certain yet, but it would probably be around 10-12 feet to the eave; however, Mr. Heinz added that he would not make it so tall that it would overshadow the house or look odd. Ms. O'Brien asked if the garage would be made to match the house, and Mr. Heinz responded that it would. Mr. Heinz added that he intended to upgrade the existing garage and build the addition to match the house. Mr. Bailliez asked if the addition might be taller than the existing garage, and Mr. Heinz responded that it might be slightly taller, but he was not sure at this time how tall the addition would be. Mr. Bailliez pointed out that there was some room for a building on the east side of the property and asked why the building could not be placed in that area. Mr. Heinz explained that the east side of the property frequently has problems with water drainage and there would also be no existing driveway to utilize for the building on that side of the property.

Nan and Steve Powers of 8206 N. Garden St., Edwards, were sworn in. Mr. Powers stated that he and his wife were objecting to the size and use of the building in addition to the fact that the addition would block their view.

Mr. Bailliez asked if Mr. Powers was aware of how and where the addition was proposed to be constructed, and Mr. Powers stated that he was somewhat informed about the request. Mr. Powers stated that he was still unsure if a new entrance off of Garden Street would be needed. Mr. Powers then handed out a report that he had compiled summarizing his objection to the request. Ms. Powers stated that she and her husband had moved to this house in 1974 because they loved the quiet neighborhood. She also added that they frequently watch their grandkids at their home and are worried that having the addition nearby would impact the tractor traffic in the area. Ms. Powers stated that the tractors are also noisy and the smell from the diesel fuel is undesirable. Ms. Powers did not see how the request was a hardship or how the proposed use was suited for a residential neighborhood. Mr. Powers stated that he believed that the addition would block the view from their home and that an entrance off of Garden Street would be unsafe. Mr. Powers added that he was disturbed by the fact that people in the area have been constructing larger buildings, which he believes are an eye sore.

Ms. O'Brien pointed out that the petitioner had stated that he currently works on the tractors on the concrete outside of the garage and asked Mr. Powers if this was true. Mr. Powers responded that Mr. Heinz does currently work on his tractors on the concrete outside of the garage. Ms. O'Brien asked if it would be more beneficial for Mr. Heinz to have the addition so that he could work inside a building and keep the work out of their sight, and Ms. Powers responded that that was a fair point. Mr. Powers stated that this did not address the issue of increased traffic. Ms. O'Brien stated that she did not understand where increased traffic would come from.

Mr. Bailliez asked Mr. Powers to point out his house on the map and he did so. Mr. Bailliez stated that he did not see how the traffic would increase and also agreed with Ms. O'Brien that the addition would be an advantage to neighbors because it would allow Mr. Heinz to work on his tractors in an enclosed space to help reduce noise, smell, and the visual impacts. Mr. Bailliez stated that Mr. Heinz was also planning to take an existing building and improve it during the process. Ms. Powers stated that she was concerned that the building would be very tall. Mr. Bailliez stated that Mr. Heinz had indicated that it would be 10-12 feet to the eave. Ms. Powers stated that she did not feel comfortable with the fact that Mr. Heinz could change his mind on the height. Ms. O'Brien stated that the existing garage was already within the line of sight and she did not see how an addition would affect the view.

Mr. Fletcher asked how many tractors are currently being brought to the property to be worked on each year, and Mr. Powers responded that he would guess 4-6 agricultural machines were being worked on. Mr. Bailliez pointed out that the variance was concerned with the setback from Garden Street, not the use of the building. Ms. Powers stated that she disagreed that the use was not pertinent. Mr. Powers stated that he was also concerned that the addition would detract from his property value. Mr. Bateman asked staff if the proposed use of the building would require a home occupation, and Ms. Urban responded that the proposed use of the building was a permitted use. Ms. Powers asked how the use was permitted, and Ms. Urban explained that Mr. Heinz was maintaining his own personal equipment at the location, which was not used for business purposes.

Ms. O'Brien made a motion to close and deliberate and was seconded by Mr. Bateman. A vote was taken and the motion passed; (7-0)

FINDINGS OF FACT FOR VARIANCES

Section 20-3.7.3

The findings of the ZBA or the Zoning Administrator shall be based on data submitted pertaining to each standard in this Subsection as it relates to the development. A variance shall be granted only if the applicant demonstrates:

1. That the plight of the owner is due to unique circumstances;
 - The request is for a 26' x 28' addition to the existing garage to park and repair equipment. This request will reduce the side setback to 10 feet instead of the required 25 feet, making a variance of 15 feet.
2. That the variation, if granted, will not alter the essential character of the locality;
 - There are similar sized buildings within the Village of Kickapoo.
3. That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out;
 - The lot already has an unattached garage with the septic field located behind the garage. There is space behind the house, but the entry would be from the alley.
4. That the conditions upon which the petition for a variation are based are unique to the property for which the variance is sought and are not applicable, generally, to other property;
 - The lot is .47 acres not leaving much space for buildings. See step #3.
5. That the granting of the variation will not be detrimental to the public health, safety, comfort, morals and welfare, or injurious to other property or improvements in the neighborhood in which the property is located, or otherwise be inconsistent with any officially adopted County plan or these regulations;
 - The 10 foot setback from the street could be injurious to the neighborhood if the height is an issue.
6. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood;
 - Repairing equipment inside will improve the neighborhood.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - The street and septic field location on a small lot limits building space.
8. That aforesaid circumstances or conditions are such that the strict application of the provisions of this Section would deprive the applicant of reasonable use of his or her land.
 - The 25 foot setback required by the ordinance would make the requested addition too small for the repairs on equipment.

Mr. Bateman made a motion to approve the findings of fact and was seconded by Mr. Fletcher. A vote was taken and the motion passed; (7-0) Mr. Happ made a motion to approve the request and was seconded by Mr. Fletcher. A vote was taken and the motion was approved; (7-0)

Case No. 015-19-V at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **MARK A. & MICHELLE JEWELL, acting on their own behalf**, a **VARIANCE** request from Section 20-5.13.1 of the Unified Development Ordinance, which requires that an accessory structure shall not be commenced prior to the commencement of the principal structure. The petitioner proposes to construct a 280 square foot accessory structure in the "R-R" Rural Residential Zoning District prior to construction of a home. Also, a Variance request from 20-6.4.2.1.e.1 of the Unified Development Ordinance, which requires a road setback of 25 feet from the right of way. The petitioner proposes to construct a single-family residence at a distance of 15 feet from the right of way, resulting in a variance request of 10 feet.

Ms. Urban opened the case. There are 1 consent and 0 objections on file. The case was published in the Peoria Journal Star on February 9, 2019 and the Limestone Independent News on February 13, 2019. The Limestone Township Planning Commission recommended approval of the setback variance but did not vote on the issue of having an accessory structure before a principal structure. Corbin Bogle gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Rural & Environmental Corridor). The site plan and three videos of the property were shown. The property is zoned R-R.

Mark & Michelle Jewell of 4208 S. Walnut Point Dr., Mapleton, were sworn in. Mr. Jewell explained that after consulting with the excavator and the builder, it was discovered that they would have to engineer a foundation and put in larger footings if it was positioned further back on the lot due to a large drop off in the back. Mr. Jewell stated that moving the proposed house toward the road 10 feet would drop the cost for the house considerably. Mr. Jewell stated that if they were not allowed to move the house toward the street, they probably would be unable to afford the construction and would likely not build it. Mr. Jewell stated that they were also asking for a variance to have a shed before the house so that they could securely store some building materials during the house construction process. Mr. Jewell stated that the house and shed were designed to match each other. Ms. Jewell stated that the pine trees on the lot would help hide the shed from the neighbors' view. Additionally, Ms. Jewell stated that the septic field would be positioned between the proposed shed and house and they would like to build the shed first so that the septic field is not driven over during construction.

Mr. Fletcher asked if the Jewells lived in the subdivision currently, and Ms. Jewell responded that they lived one block to the south and had lived there for 27 years. Ms. Jewell stated that they bought the 2 lots at the end of the cul-de-sac and combined them into one parcel. Mr. Jewell added that no new houses would be constructed on either side of the house because of the way the property was positioned. Mr. Bailliez asked how long the Jewells had owned this property, and Ms. Jewell responded that they had owned it for approximately 2 years. Ms. O'Brien asked when the Jewells intended to build the home if the variance was approved, and Ms. Jewell responded that they were ready to begin as soon as possible. Mr. Fletcher asked if this new house would be the Jewell's primary residence, and Ms. Jewell responded that this was correct. Ms. Jewell added that they would sell their current home. Mr. Fletcher asked if there were any more lots for sale beyond the Jewell's property, and Mr. Jewell responded that

there was not. Mr. Jewell added that the only empty lots left were on the other side of the lake, but these properties were currently not for sale. Ms. Jewell stated that they love the area and that this lot would have a great view of the lake. Mr. Jewell added that two of the nearest neighbors had given their verbal consent for the variance.

Mr. Bateman made a motion to close and deliberate and was seconded by Ms. O'Brien. A vote was taken and the motion passed; (7-0)

FINDINGS OF FACT FOR VARIANCES

Section 20-3.7.3

The findings of the ZBA or the Zoning Administrator shall be based on data submitted pertaining to each standard in this Subsection as it relates to the development. A variance shall be granted only if the applicant demonstrates:

1. That the plight of the owner is due to unique circumstances;
 - The petitioner is requesting a setback variance of 10 feet to construct a new home due to the topography, shape and size of the lot. Also, they will build a 20 x 14 building to store building materials and equipment when building a new home this year.
2. That the variation, if granted, will not alter the essential character of the locality;
 - The home will be on a dead-end street and will not affect other homes' line of site. No homes can be built on either side or across the street.
3. That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out;
 - Not much flat ground on this lot because of the steep slope across the back of the lot.
4. That the conditions upon which the petition for a variation are based are unique to the property for which the variance is sought and are not applicable, generally, to other property;
 - Of the 2.99 acres there is very little space to construct a house due to the topographical shape of this lot.
5. That the granting of the variation will not be detrimental to the public health, safety, comfort, morals and welfare, or injurious to other property or improvements in the neighborhood in which the property is located, or otherwise be inconsistent with any officially adopted County plan or these regulations;
 - See step #2.
6. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood;
 - Will not change any of the above conditions except normal family traffic of the new home.

7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land;
and
 - The petitioner has changed his house plans to accommodate this lot.
8. That aforesaid circumstances or conditions are such that the strict application of the provisions of this Section would deprive the applicant of reasonable use of his or her land.
 - Without the variance this project may not be possible.

Mr. Bateman made a motion to approve the findings of fact and was seconded by Mr. Keyt. A vote was taken and the motion passed; (7-0) Mr. Fletcher made a motion to approve the request and was seconded by Mr. Keyt. A vote was taken and the motion was approved; (7-0).

Miscellaneous:

No further questions or comments were made.

Mr. Fletcher made a motion to adjourn and was seconded by Ms. O'Brien. A vote was taken, and the motion passed; (7-0)

Meeting adjourned 10:03 a.m.
Respectfully submitted,
Ellen Hanks
ZBA Administrative Assistant