

MINUTES
Zoning Board of Appeals
Linda O'Brien, Chairperson
June 10, 2021

A meeting of the Peoria County Zoning Board of Appeals was held on Thursday, June 10, 2021, in Room 403 of the Peoria County Courthouse, 324 Main Street, Peoria, Illinois. The meeting was called to order by Chairperson Linda O'Brien, at 9:00 a.m.

PRESENT: Linda O'Brien – Chairperson, Greg Happ, Leonard Unes, Jim Bateman, Robert Asbell, J. Greg Fletcher

ABSENT: Andrew Keyt – Vice Chairperson, Justin Brown, John Harms

STAFF: Kathi Urban – Director
Taylor Armbruster – Planner I
Jennie Cordis-Boswell – Civil Assistant State's Attorney
Sarah Cox – ZBA Administrative Assistant

Mr. Happ made a motion to approve the minutes from the May 13, 2021 hearing and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (5-0) Mr. Fletcher abstained.

Case No. ZBA-2021-000023 at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **DGS PROPERTIES, LLC** (*A limited liability company, Robert J. Lenz – authorized agent, of 202 N. Center St., Bloomington, IL 61701*), acting on behalf of **CARTER FAMILY PROPERTIES LLC** (*A limited liability company, Kevin M. Reece – authorized agent, of 16 Bishops Ct., Washington, IL 61571*), AND **ST. ELMO COMPANIES, LLC** (*A limited liability company, Ryan C. Hoerr – authorized agent, of 7904 State Route 91, Peoria, IL 61615*), owners, a **REZONING** request from "I-1" Light Industrial to "I-2" Heavy Industrial. The petitioner proposes to rezone 6 parcels in order to operate a construction and demolition debris outdoor recycling facility.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on May 20, 2021. Taylor Armbruster gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (River Freight and Environmental Corridor). The site plan and 3 videos of the property were shown. The property is zoned "I-1".

Brian Meginnes of Elias, Meginnes & Seghetti, P.C., and residing at 3602 W. Chartwell Rd., Peoria, IL, was sworn in. Mr. Meginnes stated that he is representing the petitioner, DGS Properties, LLC. DGS is affiliated with Stark Excavating, a Bloomington based road and bridge construction company. The intent is to locate its Peoria office at the Carlar Ct. site. There would be 4-5 full time employees based there. Currently, they have a very small office on Darst St. in Peoria, and they need room to expand. They

have contracts with Carter Family Properties, LLC and St. Elmo Companies, LLC to purchase the lots in Medina Crossing Section 1. They want to rezone lots 2, 3, 4, 5, 6, and 7A from “I-1” to “I-2” in order to operate a recycling facility for clean construction or demolition debris. The machines used for crushing the materials must be located in an “I-2” district. The crushers are portable machines that are moved from site to site once enough debris has been accumulated. The machines are very sophisticated, and they have water bars that help control dust. An air emissions permit from the EPA is required. It is estimated that it would only be used approximately twice a year. This site would be used mostly for road projects in northern Peoria County and the surrounding northern counties. Mr. Meginnes stated that he has looked for heavy industrial sites in Peoria County for clients over the years and they are difficult to find. They believe this location is ideal, and road access is very convenient. The lots they are purchasing were platted in 2006 and are still owned by the original owners.

Mr. Unes asked if State Street would be able to handle the loads. Mr. Meginnes stated that the truck loads would only be about 30,000 pounds. Mr. Unes asked about the crushers and wanted to make sure that it wouldn't be used for crushing cars or anything of the like. Mr. Meginnes confirmed that it would only be used to crush clean demolition debris from road and bridge projects.

Ms. O'Brien asked if there would be silt fences installed. Mr. Meginnes stated that fences would be installed to keep dust and debris from running into the creek.

Mr. Fletcher asked what the hours of operation would be. Mr. Meginnes stated that the hours would be 9-4. Mr. Fletcher asked about the noise levels of the machines, and Mr. Meginnes stated that he didn't know what the actual noise levels were, but they meet the requirements of the City of Peoria.

Ms. O'Brien asked if there was anyone that would like to speak for or against the petitioner. There was no one.

Mr. Asbell made a motion to close and deliberate and was seconded by Mr. Happ. A vote was taken, and the motion passed; (5-0) Mr. Fletcher abstained.

Case No. ZBA-2021-000022 at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **REFUGIO L. DOMINGUEZ, acting on his own behalf, a VARIANCE** request from Section 20-6.12.1 of the Unified Development Ordinance, which requires the minimum size of any industrial zoned district shall be ten (10) acres. The petitioner proposes to rezone a 1.58 acre parcel to “I-2” Heavy Industrial, resulting in a variance request of 8.42 acres.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on May 20, 2021, and *The Weekly Post* on May 26, 2021. Taylor Armbruster gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Village). The site plan and 3 videos of the property were shown. The property is zoned “C-2” and “A-2”.

Refugio L. Dominguez, Jr. of 19227 N. Mendenhall Rd., Princeville, IL was sworn in. Mr. Dominguez stated that he received a letter stating that he needed to rezone the property.

Ms. Urban stated that Planning & Zoning received a complaint about the property and after investigating it was determined that the parcel was the wrong zoning.

Ms. O'Brien asked If there was anyone that would like to speak for or against the petitioner. There was no one.

Mr. Happ made a motion to close and deliberate and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (5-0) Mr. Fletcher abstained.

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;
 - Section 20-6.12.1 of the Unified Development Ordinance requires the minimum size of any industrial-zoned district be 10 acres. The petitioner is also proposing the rezoning of a 1.58 acre parcel to "I-2" Heavy Industrial, resulting in a variance request of 8.42 acres. The variance request coincides with the petitioner's upcoming rezoning case (#012-21-Z) in order to bring an existing truck storage yard in compliance with the Unified Development Ordinance.
2. That the variation, if granted, will not alter the essential character of the locality;
 - Granting of the variance will not alter the essential character of the locality as the subject parcel has existed as a truck storage yard for 17 years. In addition, it is consistent with the current existing uses, zoning and needs of the surrounding area.
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 variance request has been filed in conjunction with the upcoming rezoning case #012-21-Z. Refer to #1.
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 variance request has been filed in conjunction with the upcoming rezoning case #012-21-Z. Refer to #1
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;
 - Granting of the variance will have no effect on the public health, safety, comfort, morals and welfare of the neighborhood. Nor be injurious to property or improvements in the

neighborhood. Granting of the petitioner's variance is in conjunction with the upcoming rezoning case #012-21-Z.

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;
 - Granting of the variance 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.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - Refer to #1.
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.
 - Refer to #1.

Mr. Asbell made a motion to close and deliberate and was seconded by Mr. Bateman. A vote was taken, and the motion passed; (5-0) Mr. Fletcher abstained. Mr. Happ made a motion to approve the request and was seconded by Mr. Bateman. A vote was taken, and the motion passed; (5-0) Mr. Fletcher abstained.

Case No. 012-21-Z at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **REFUGIO L. DOMINGUEZ, acting on his own behalf, a REZONING** request from “A-2” Agriculture and “C-2” General Commercial to “I-2” Heavy Industrial. The petitioner proposes to rezone the property in order to bring a truck storage yard into compliance.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on May 20, 2021, and *The Weekly Post* on May 26, 2021. Staff recommends approval.

Mr. Happ made a motion to incorporate the facts from ZBA-2021-000022 and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (5-0) Mr. Fletcher abstained.

Ms. O’Brien asked if there was anyone that would like to speak for or against the petition. There was no one.

Case No. ZBA-2021-000024 at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **MATTHEW HEWITT, acting on behalf of Todd & Kimberly Coulter, owners, a VARIANCE** request from Section 20-6.3.2.1.d.1 of the Unified Development Ordinance, which requires a road setback of 40 feet from the right-of-way in the “A-2” Agriculture Zoning District. The

petitioner proposed to construct a front porch at a distance of 15 feet from the right-of-way, resulting in a variance request of 25 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 May 20, 2021 and *The Weekly Post* on May 26, 2021. Taylor Armbruster gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Agriculture). The site plan and 2 videos of the property were shown. The property is zoned "A-2".

Todd Coulter of 13613 Evans Mill Rd, Dunlap, IL was sworn in. Mr. Coulter stated that they would like to put the porch back on the house that was there in 1875. It was taken off by the previous owner. The only difference would be that the new porch would wrap around the north side of the house.

Ms. O'Brien asked if the house was sitting 30 feet from the right-of-way. Mr. Coulter stated that it was.

Ms. O'Brien asked if there was anyone that would like to speak for or against the petitioner.

Mr. Happ made a motion to close and deliberate and was seconded by Mr. Bateman. A vote was taken, and the motion passed; (5-0) Mr. Fletcher abstained.

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 Unified Development Ordinance requires a road setback of 40 feet from the right-of-way in the "A-2" Agricultural Zoning District. The petitioner is proposing to construct a front porch at a distance of 15 feet from the right of way, resulting in a variance request of 25 feet. The application indicates the petitioner's home was constructed 30 feet from the right of way.
2. That the variation, if granted, will not alter the essential character of the locality;
 - The petitioner's home is located in a rural area on 4.033 acres and granting of the variance will not alter the essential character of the locality.
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 petitioner is requesting a variance in order to replace an existing porch from the 1800's. A steep ditch lies between the home and Evans Mill Road. Not being able to replace a porch would result in a hardship to the owner.
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;

- Refer to #1.
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;
 - If granted, the variance will not be detrimental to the public health, safety, comfort, morals and welfare, nor injurious to other property in the neighborhood. The construction/replacement of a new porch is an improvement and is not inconsistent with any officially adopted County plan.
 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;
 - The petitioner's home is located in a rural area on 4.033 acres and granting of the variance will not affect the supply of light and air to any neighboring property, will not increase congestion on N Evans Mill Rd, nor increase the danger of fire or endanger public safety. Granting of the variance will not diminish property values in the neighborhood and will likely increase the homeowner's property value.
 7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - The petitioner is requesting a variance to replace an existing porch and has stated the new porch will be the same size, only wrapped around the north side of the house.
 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.
 - Denying the applicant a variance to replace an existing porch would be denying him reasonable use of his land.

Case No. ZBA-2021-000025 at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **MARY M. SCHULER, acting on behalf of Matt Koener, III, a REZONING** request from "A-2" Agriculture to "R-R" Rural Residential. The petitioner proposes to rezone 8.839 acres in order to create a buildable lot.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on May 20, 2021 and *The Weekly Post* on May 26, 2021. The Radnor Township Road Commissioner recommends denial. Staff also recommends denial. Taylor Armbruster gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Environmental Corridor). The site plan and 3 videos of the property were shown. The property is zoned "A-2".

Michael Cochran of 311 SW Water St., Ste. 215, Peoria, IL was sworn in.

Mary Schuler of 9713 N Voorhees Rd, Edwards, IL was sworn in.

Mr. Cochran stated that the subject parcel was recently listed for sale by the owner, Matt Koener. Ms. Schuler lives next door and was trying to find a way to purchase a part of the lot in order to ensure that she can maintain privacy on her property. Mr. Cochran stated that Ms. Schuler contacted him to find a way to make that happen. After speaking to Taylor, he was advised of a previous special use on the property that prohibited the further split of the land, unless the land was rezoned. They determined that the appropriate course of action was to ask for the rezoning to "R-R". This is consistent with the uses of surrounding properties that are all residential.

Mr. Cochran stated that he understands that staff has recommended denial, and he wants to highlight some areas in response to the letter that was received from planning and zoning.

There is a total of 25 residential properties that are on this section of Voorhees Road in Radnor Township. Creation of the lot would potentially allow for a buildable single family residence home site. Mary has said she has no intention of doing so but wanted the option should she decide to sell the lot in the future or sell her own lot.

While Ms. Schuler's property is zoned "A-2" and the other tracts that were created from that original special use are zoned "A-2", they are all single family lots. The homes to the north are all "R-R", and 60 feet to the west are zoned "R-R" as well.

They were informed by staff that the future land use plan is Environmental Corridor. When you look at the land use plan, that use extends through a majority of the properties that are all single family residential use. He doesn't see how adding one other parcel is a detriment.

The LESA score was 166/300 which is a low rating for agricultural protection. Because the farm field is not producing, taking it out of production is a non-issue.

Mr. Cochran stated that it was his understanding that the statement from the road commissioner was highly relied upon by staff when making the decision. The road commissioner stated that the road was in poor condition and the township doesn't have the funds to fix it. Mr. Cochran stated that he doesn't believe that a single family home being built there would have an effect on the road. They feel there are no safety factors in granting access to the parcel.

Ms. O'Brien asked about the 25 homes along Voorhees Road and if they were referencing Indian Ridge subdivision

Ms. Schuler stated that yes, there are 25 homes that are serviced by that stretch of Voorhees Road.

Ms. O'Brien reiterated that they are not on Voorhees Road.

Mr. Cochran agreed that the houses are not on Voorhees, but homeowners in Indian Ridge have to use the road to access their homes so they have the same amount of impact on the road.

Ms. Schuler stated that she thinks that there are personal factors affecting the comments made by the Radnor Township Road Commissioner. Ms. Schuler, her husband, and neighbors asked to speak at a

Township monthly meeting, in 2014, regarding their requests for the Township to better maintain the road. At the time, the road was essentially dirt. She believes the comments may be from ill feelings.

Ms. O'Brien stated that this was a personal opinion and couldn't be used to make a determination. Ms. O'Brien also stated that the bridge on Voorhees is a one lane bridge, and the road is dangerous.

Ms. Schuler stated that she is not a developer and has no thoughts of a subdivision. She just owns the adjacent property and is simply trying to protect her privacy by ensuring that no one will build right on top of her lot. She would continue to rent to same farmer that farms the land now, and nothing would change.

Mr. Asbell asked if Ms. Schuler currently owns the property.

Ms. Schuler stated that she owns the land next door. Matt Koener owns the subject parcel. He is trying to sell 22 acres in total.

Mr. Asbell asked why she was trying to rezone if she had no plans to develop the land.

Ms. Schuler stated that because of the special use that was granted in 2002, they were unable to split the land.

Ms. Urban stated that when a Special Use is granted in the "A-2" zone, the zoning ordinance states that the parcels are not allowed to be divided again unless the minimum lot size of 25 acres is met, or it is rezoned to a zoning designation that allows smaller lots.

Mr. Asbell reiterated that in order for her to buy this it has to be rezoned.

Ms. Urban stated that right now the parcel is protected because it can't be divided again without rezoning and it has the restriction on it. In order for Ms. Schuler to purchase the lot, she is suggesting that she would like to create a buildable lot by rezoning it and having access to the lot off of Voorhees Road.

Ms. O'Brien stated that 6.30 acres of this parcel is in a Zone A unstudied flood hazard area

Mr. Cochran stated that an acreage cannot be applied because the line on the map could shift, and it has to be determined by elevation and an engineering study would need to be done to determine for sure.

Ms. Schuler had a study done, prior to purchasing her property in 2003, through the University of Illinois, because they were concerned by the floodplain issue. They concluded that it isn't even a 200 year floodplain based on soil samples. When the last big flood that occurred in the Kickapoo/Edwards area, the other side of the bridge flooded, but her land and the adjacent land that she is trying to purchase did not.

Ms. O'Brien commented that she thinks that they need to go by what the road commissioner and township supervisor said as far as extra traffic. The type of soil for access seems like it's not a buildable site for a home.

Mr. Cochran stated that he would like to go on record as an engineer and the owner of a business that does this kind of thing all the time, that he wholeheartedly disagrees. From a traffic engineering standpoint, a single family residence traffic generation doesn't even register on the radar in reference to impacts to roadways. Also, there is no engineering standard that states that putting in a culvert or access to a driveway that is in a floodplain, is an unsafe practice.

Mr. Asbell asked what Ms. O'Brien's issue is with the soil. Ms. O'Brien stated that it was in regard to the access to the North. Ms. Urban explained that in the report there is a section that talks about other access without going through the floodplain, and the soil indicates the slope.

Ms. O'Brien asked if there was anyone that would like to speak for or against the petitioner. There was no one.

Mr. Bateman made a motion to close and deliberate and was seconded by Mr. Unes. A vote was taken, and the motion passed; (5-0) Mr. Fletcher abstained.

Ms. O'Brien asked if there were any comments or questions. Mr. Fletcher stated that the applicant is not buying the property to build a house on, but to protect their privacy. Ms. O'Brien stated that they would be able to if this request is approved.

Mr. Asbell stated that he didn't see a problem. Ms. O'Brien stated that the Future Land Use form is for Environmental Corridor and Agricultural Preservation. Mr. Asbell said that it wasn't that before, and it's such a small piece of land.

Mr. Fletcher stated that he noticed when looking at the GIS, the lot size is similar to or larger than many of the residential properties in the area.

Mr. Bateman said that most of the objections are from a technical standpoint, and he's not sure what the disagreement is. Mr. Asbell agreed.

Mr. Unes stated that he is not in favor of the petition. Ms. O'Brien stated that she is not in favor either. Mr. Unes stated that, if the Board approves, it's going against the County's policy. Ms. O'Brien stated that with the road commissioner's and supervisor's statements, the adopted County Plan, and the Future Land Use plans, that it shouldn't be granted.

Mr. Happ agreed, and stated the Special Use that was granted years ago, restricts further dividing of the property. Mr. Happ asked if the only way that she could do this would be if she bought the whole parcel, and Ms. Urban stated that another house could not be put on the property.

Mr. Bateman stated that the proposal is in violation of the rules, and the reason the Board exists is to deal with exception to the rules, and he thinks this exception is valid.

Ms. Cordis-Boswell stated that what she would suggest, is that for findings of fact, read them one by one, and the members could vote them up or down. If the fact is voted down, the wording could be changed until it passes.

APPROVED 07/08/2021

Mr. Bateman requested a 5 minute break.

The Board took a break from 10:28 am to 10:31.

Mr. Fletcher left the hearing at 10:31

Ms. O'Brien asked for a motion to either go through the findings of fact line by line or a motion to continue to next month.

Mr. Bateman made a motion to continue the case to the July 8 2021 hearing at 9:00 a.m and was seconded by Linda O'Brien. A roll call vote was taken, and the motion passed; (5-0)

Ms. O'Brien made a motion to reopen deliberation and was seconded by Mr. Happ. A vote was taken, and the motion passed (5-0).

Mr. Happ stated that he was concerned that this would set a future precedent. Mr. Asbell agreed.

Ms. O'Brien stated that prior to the next hearing, the members need to review the planner's report.

Mr. Happ made a motion to adjourn and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (5-0)

Meeting adjourned at 10:45 a.m.

Respectfully submitted,

Sarah Cox
ZBA Administrative Assistant