

**MINUTES**  
**Zoning Board of Appeals**  
**Loren Bailliez, Chairman**  
**July 11, 2019**

A meeting of the Peoria County Zoning Board of Appeals was held on Thursday July 11, 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, Leonard Unes, Jim Bateman, Andrew Keyt, Greg Happ, John Harms

**ABSENT:** Justin Brown, Linda O'Brien

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

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Mr. Fletcher made a motion to approve the minutes from the June 13, 2019 hearing and was seconded by Mr. Bateman. A vote was taken and the motion passed; (7-0)

Case No. 026-19-U at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **ALLISON HAHN, acting on her own behalf**, a **SPECIAL USE** request from Section 20-6.2.1.1.b of the Unified Development Ordinance. This section allows for a special use when a proposed land split does not meet the 40 acre minimum lot size in the A-1 Agricultural Preservation Zoning District. The petitioner proposes to divide 1 acre from an existing 5.002 acre parcel in order to construct a single family dwelling.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in the Peoria Journal Star on June 18, 2019 and the Weekly Post on June 20, 2019. Celia Burke gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Agriculture Preservation). The site plan and four videos of the property were shown. The property is zoned A-1.

Allison Hahn of 12714 N. Whittaker Rd., Brimfield, was sworn in. Ms. Hahn stated that she would like to divide 1 acre from the existing 5-acre piece so that her son could purchase the existing house from her. Ms. Hahn further explained that she planned to build a new house on the remaining 1 acre that would be smaller and more suitable for her and her husband's needs.

Mr. Keyt asked if each house would have its own access driveway, and Ms. Hahn responded that this was correct. Ms. Hahn added that each parcel would also have its own well and septic system. Mr. Keyt pointed out that there were many parcels nearby similar in size, and Ms. Hahn concurred that this

was correct. Mr. Harms asked why the petitioner was required to put a well on the property before the Special Use was approved, and Ms. Urban explained that the ordinance requires the well as part of the submission for the Special Use for a land division for residential use so that there is proof of adequate water supply for future development. Mr. Bailliez asked if the new house would meet the setback requirements, and Ms. Hahn stated that she believed it would. Mr. Bailliez asked what the size of the new house would be, and Ms. Hahn responded that it would be a 2-bedroom, 1-bathroom home with no garage. Ms. Hahn added that the existing house was the last house on Whittaker Road, which is a dead end. Mr. Bailliez asked if the well would be placed in front of the house, and Ms. Hahn responded that it would be.

Mr. Bailliez asked if there was anyone present who wanted to speak for or against the case, and there was no one. Mr. Fletcher made a motion to close and deliberate and was seconded by Mr. Happ. A vote was taken, and the motion passed; (7-0)

Case No. 027-19-V at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **JAMIE & KURT OEHLWEIN, acting on their own behalf**, a **VARIANCE** request from Section 20-6.4.2.2.c.2.a of the Unified Development Ordinance, which requires a side setback of 15 feet for an accessory structure in the “R-R” Rural Residential Zoning District. The petitioner proposes to construct an accessory structure at a distance of 8 feet from the north side lot line, resulting in a variance request of 7 feet. Also, a Variance request from Section 20-6.4.2.3.c.2.a of the Unified Development Ordinance, which requires a rear setback of 15 feet for an accessory structure. The petitioner proposes to construct an accessory structure at a distance of 8 feet from the rear lot line, resulting in a variance request of 7 feet.

Ms. Urban opened the case. There are 0 consents and 2 objections on file. The case was published in the Peoria Journal Star on June 18, 2019 and the Weekly Post on June 20, 2019. The Kickapoo Township Planning Commission recommended denial. Corbin Bogle 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 three videos of the property were shown. The property is zoned R-R.

Kurt Oehlwein of 6005 N. Kickapoo Edwards Rd., Dunlap, was sworn in. Mr. Oehlwein stated that he was requesting a shed in his backyard that would be closer to the property lines than allowed.

Mr. Bailliez asked what size the new shed would be, and Mr. Oehlwein stated that he was proposing a 26' x 32' pole barn. Mr. Oehlwein added that most of the backyard is a septic field, which limits the available area for accessory structures. Mr. Oehlwein explained that the proposed size of the shed was allowable without a variance. Mr. Oehlwein also explained that the garage is already full and they need more room for storage. Mr. Oehlwein stated that he would like to put the proposed building in the backyard, so it would look nicer. Mr. Oehlwein stated that there was much more room in front of the house, but he felt that placing the building in the front would not look as nice. Mr. Oehlwein stated that his neighbors' greatest concern was that it would impede their view, but Mr. Oehlwein disagreed that the proposed building would obstruct the neighbors' view. Mr. Oehlwein added that a variance was granted when the house was built to allow it be to 10 feet from the side property lines.

Mr. Bailliez asked if there would be a driveway going back to the proposed building, and Mr. Oehlwein responded that he was planning to put one in. Mr. Oehlwein added that there are existing drainage problems on that side of the house that he is hoping to improve with the addition of the driveway. Mr. Keyt asked where the driveway would go because he did not feel there was much room on the property for it, and Mr. Oehlwein responded that it would be on the north side of his house. Mr. Happ asked how tall the building would be, and Mr. Oehlwein responded that he was unsure as they had not asked for bids from contractors yet. Mr. Oehlwein added that it would probably be in the range of 12-16 feet tall. Mr. Harms asked how close the proposed building would be to the septic field, and Mr. Oehlwein responded that if the variance was granted, it would be around 4-6 feet from the septic system.

Mr. Fletcher asked how long Mr. Oehlwein had owned the property, and Mr. Oehlwein responded that they had purchased it in November of 2018. Mr. Harms asked how close the existing shed was to the northern property line, and Mr. Oehlwein responded that he would guess it was around 6 feet from the property line, which is closer than his proposed variance. Mr. Oehlwein added that the existing shed was put there by the previous owner. Mr. Harms asked if the existing shed would be kept if the proposed building was approved, and Mr. Oehlwein responded that he would like to keep it if he could but would move it to different part of the yard.

Mr. Oehlwein reiterated that he felt the proposed location of the shed had the least impact on his neighbors. Mr. Oehlwein also pointed out that the existing shed was already in the same location as the proposed shed would be, so he did not see how it would impact his neighbors' view. Mr. Happ asked how tall the existing shed was, and Mr. Oehlwein responded that it was probably 10 feet tall. Mr. Happ pointed out that the new shed could be much taller according to previous testimony, and Mr. Oehlwein confirmed that this was correct. Mr. Oehlwein added that he felt storing everything inside would make the property look nicer and the proposed building would help him do that. Mr. Oehlwein added that he could just put the proposed shed in front of the house without a variance. Ms. Urban clarified that the shed would need to meet the front setbacks and pointed out that in this instance he would need to place the proposed building 75 feet from the right of way or 115 feet from the center of the right of way, whichever was greater. Ms. Urban stated that she did not believe this building would be able to meet the front setbacks if placed in front of the house. Mr. Fletcher asked if Mr. Oehlwein would be agreeable to making the building slightly smaller in order to meet the setback requirements, and Mr. Oehlwein responded that he would consider it if that was the only way he could build the building.

Mr. Keyt asked if the board could approve the request subject to conditions, and Ms. Urban responded that they could choose to do so. Mr. Keyt asked how big the existing shed was, and Ms. Urban stated that Mr. Bogle could look it up. Mr. Oehlwein stated that he believed it was 10' x 12'. Mr. Bogle explained that the structure was not on the assessment record because there was no permit obtained for it by the previous owner.

Tim Beckman of 6007 N. Kickapoo Edwards Rd., Dunlap, was sworn in. Mr. Beckman stated that he was Mr. Oehlwein's neighbor to the north and had lived in this location since 1967. Mr. Beckman asked Mr. Bogle to show the third video in order to show the location of his house in relationship to the view of the proposed building. Mr. Beckman stated that the proposed shed would be much taller than the existing shed, which would block his view from his home. Mr. Beckman stated that there are existing drainage issues between their properties that would only be made worse with the addition of an access drive going back to the proposed shed. Mr. Beckman stated that he had no problem with the current

shed's size, but the proposed size was much too big for the backyard. Mr. Beckman stated that if Mr. Oehlwein had a lot of stuff he wanted to store, he should have bought a piece of property with more room to build a large storage building.

Mr. Bailliez pointed out that Mr. Beckman's current view toward Mr. Oehlwein's house was of the 6-foot fence and asked how this shed would be any different. Mr. Beckman responded that the proposed building would be much taller than the 6-foot fence. Mr. Beckman added that he lives in the country to be able to see nature and this proposed building would greatly affect that.

Mr. Bailliez asked if there was anyone else present who wanted to speak for or against the case, and there was no one. Mr. Fletcher made a motion to close and deliberate and was seconded by Mr. Keyt. A vote was taken, and the motion passed; (7-0)

Mr. Bailliez stated that he felt that people who live in the country should be able to have a little more freedom to vary from the requirements, but he could also see the neighbors' concern of having the building closer to his property. Mr. Fletcher stated that he understands that people in rural settings do not want to see buildings closer to their properties than allowed. Mr. Fletcher added that he did not feel the lot was big enough to accommodate a building of this size. Mr. Happ stated that the proposed shed could be much taller than the existing one, which would impede the neighbor's view. Mr. Harms added that he also did not agree with how close the proposed building would be to the neighbor's house considering the character of the area.

Mr. Unes commented that the recommendation of denial from the Kickapoo Township Planning Commission was weighing heavily on his decision. Mr. Keyt stated that his concerns with the request were related to the existing drainage issues, which would only be worse if the petitioner were to put in a driveway to access the proposed building. Mr. Bateman stated that he was also concerned with the drainage issue and thought that it might be worthwhile to place a restriction on the case that the runoff would need to be diverted to the back of the property in order to help fix this problem. Mr. Keyt stated that although he agreed that the drainage was a definite issue, the practical application of enforcing a restriction of that kind would be incredibly hard. Ms. Urban confirmed that Mr. Keyt was correct in that the board would need to craft specifications for a restriction of that kind that would be enforceable as well as help solve the identified problem. Mr. Fletcher stated that he agreed with Mr. Unes that the Kickapoo Township Planning Commission recommendation also weighed heavily on his decision.

### ***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 an 8-foot setback from the side and rear to build a 26' x 32' pole barn in their backyard, which has limited space because of the septic field and lot size.
2. That the variation, if granted, will not alter the essential character of the locality;
  - The building will be behind the house and there is a tree line in the backyard.

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 has limited space in the backyard because of the location of the septic field.
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 size and location of the septic field takes up a large portion of the backyard.
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;
  - Will not impact the neighborhood with the building being located in the rear of the house and also the tree line in the back. There are other similar accessory buildings in the area. However, adding a driveway on the north side of the property to access the building could negatively impact the existing drainage issues with the neighbor to the north.
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;
  - Again, adding a driveway on the north side of the property to access the building could negatively impact the existing drainage issues with the neighbor to the north.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
  - See items #1, 2 and 4.
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 petitioners stated that they need the building to store lawn equipment along with other personal items.

Mr. Unes made a motion to approve the findings of fact and was seconded by Mr. Fletcher. A vote was taken, and the motion passed; (5-2) (Mr. Bateman and Mr. Bailliez voted no.)

Mr. Bateman made a motion to defer to the following month's meeting in order to give the petitioner time to submit information on the drainage issue. Ms. Urban pointed out that the study would need to be completed by an engineer, which would have to be provided by the petitioner at the petitioner's cost. Mr. Keyt seconded the motion to defer. Mr. Harms stated that he would feel bad if the petitioner did the drainage study only to come back and be denied. Mr. Harms stated that he felt there were more issues than drainage alone. Mr. Fletcher stated that he agreed with Mr. Harms and was not willing to defer based on the fact that he felt there were more issues than drainage. Mr. Bateman made a motion to withdraw his motion to defer and was seconded by Mr. Keyt.

Mr. Fletcher made a motion to approve the request and was seconded by Mr. Happ. A roll call vote was taken and the motion was denied (1-6) (Mr. Bailliez was the sole member to vote aye.)

Case No. 028-19-V at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **PATRICIA A. RODDE, acting on behalf of herself and CYNTHIA S. HOGAN (owners)**, a **VARIANCE** request from Section 20-6.6.2.1.a.1 of the Unified Development Ordinance, which requires a road setback of 135 feet from the center of the right-of-way in the “R-2” Medium Density Residential Zoning District. The petitioner proposes to construct a single family dwelling at a distance of 73 feet from the center of the right-of-way, resulting in a variance request of 62 feet.

Ms. Urban opened the case. There are 0 consents and 1 objection on file. The case was published in the Peoria Journal Star on June 18, 2019 and the Limestone Independent News on June 19, 2019. The Limestone Township Planning Commission recommended approval. 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 two videos of the property were shown. The property is zoned R-2.

Patricia Rodde of 6233 W. Farmington Rd., Peoria, was sworn in. Ms. Rodde stated that she and her sister were proposing to build a house for their friend who is a blind Vietnam Veteran and needs to be located nearby someone to help care for him. Ms. Rodde stated that the proposed home would need its own septic system, which creates some limitations on where the house can be located on the lot. Ms. Rodde added that they would place the house as far back on the lot as possible, but the variance request was for the closest distance to the road they would want to be depending on the location of the future septic system.

Mr. Harms asked if the proposed home would ever be closer to the road than the existing houses on each side of the lot, and Ms. Rodde responded that it would not. Mr. Happ clarified that the house might be moved back further than the requested distance, but that would all depend on the septic location, and Ms. Rodde confirmed that this was correct.

Mr. Fletcher asked if Ms. Rodde lived in the house to the west, and Ms. Rodde stated that she and her sister lived there currently. Ms. Rodde added that this was the house that they grew up in. Mr. Fletcher stated that the aerial view looked as though Ms. Rodde’s house was partially over the property line on the parcel where the proposed house would go. Ms. Rodde stated that she did not know much about it as it had been that way since her father had owned the house and constructed an addition around 1970. Ms. Rodde stated that the properties had always been separate from one another as far as she understood. Mr. Harms asked if two homes could be placed on one lot, and Ms. Urban responded that it was not permitted except for accessory dwellings, which have very specific requirements that must be followed.

Mr. Fletcher asked if there was any way the proposed house would fit behind the existing house, and Ms. Rodde stated that this is where the current house’s septic system was located. Ms. Rodde reiterated that they were not sure where the location of the septic system would be for the proposed house, but they would place the house as far back from the road as possible.

Keith McKimney, representative from Morton Buildings, of 418 E. Edgewood, Morton, was sworn in. Mr. McKimney stated that he was the contractor for the project. Mr. McKimney pointed out that the required setback would push the house back so far that there would not be enough room for the septic system to be placed behind the house. Mr. McKimney stated that as Ms. Rodde had testified, they would place the house as far back from the road as possible, but the request was for the closest distance from the road that they would potentially locate the house.

Mr. Fletcher asked if there was access to the property, and Mr. McKimney responded that there was an existing culvert and access off of Farmington Road.

Helen Crum of 6227 W. Farmington Rd., Peoria, was sworn in. Ms. Crum stated that she lives in the house to the east of the proposed lot and likes her view from her house. Ms. Crum stated that this house would block the view from her house and she would prefer if it were setback further from the road and behind her house. Ms. Crum added that Ms. Rodde had approached her previously and had initially said that the house would be setback further, which she had no objection to. Ms. Crum reiterated that she opposed the request to locate the house closer to the road.

Mr. Bailliez stated that most of the houses in the area were all setback the same distance from the road and that the variance request would still set the house back into the same line as the surrounding houses. Mr. Bailliez asked if Ms. Crum wanted to house to be setback further than the other houses, and Ms. Crum responded that she did.

Mr. Bailliez asked if there was anyone else present who wanted to speak for or against the case, and there was no one. Mr. Harms made a motion to close and deliberate and was seconded by Mr. Happ. A vote was taken, and the motion passed; (7-0)

Mr. Fletcher asked if it was possible to locate a septic system in front of a house, and Ms. Urban responded that septic systems are regulated by the Health Department, so she was unsure of the requirements.

### ***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 proposing to construct a single-family residence at a distance of 73 feet from the center of Farmington Rd., which creates a variance of 62 feet. This lot is only .26 acres and is narrow, which leaves little room for the septic field in the rear of the lot. The house will be in line with the other houses.
2. That the variation, if granted, will not alter the essential character of the locality;
  - This variance will put the house in line with other houses in the 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;
  - See items #1 and 2.
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;
  - A small lot of .26 acres makes this variance request for a 62 foot setback needed to build a house.
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;
  - This would not affect any issues to the public or safety of the neighborhood.
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 impair the air, light, traffic, or public safety. It could improve the property value.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
  - See item #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.
  - This setback will allow for the required septic system.

Mr. Happ made a motion to approve the findings of fact and was seconded by Mr. Bateman. A vote was taken, and the motion passed; (7-0). Mr. Harms made a motion to approve the request and was seconded by Mr. Bateman. A roll call vote was taken, and the motion was approved; (6-1) (Mr. Fletcher voted no.)

The board took a break at 10:35 a.m. and reconvened at 10:41 a.m.

Case No. 029-19-V at 10:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **ROGER A. YACKLE, acting on his 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 Zoning District. The petitioner is proposing to construct a garage at a distance of 23 feet from right of way, resulting in a variance request of 2 feet.

Ms. Urban opened the case. There are 2 consents and 0 objections on file. The case was published in the Peoria Journal Star on June 18, 2019 and the Limestone Independent News on June 19, 2019. The

Limestone Township Planning Commission recommended approval. 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 two videos of the property were shown. The property is zoned R-2.

Roger Yackle of 9523 W. Lake Lancelot Dr., Mapleton, was sworn in. Mr. Yackle explained that he would like to have a garage for his home on the property, but due to the irregular shape and topography of his lot, there is only one suitable place to put it. Mr. Yackle further explained that the Lake Camelot covenants require him to have a two-stall garage, which means that it could not be any smaller than the proposed size. Mr. Yackle stated that he believed the proposed garage would greatly improve the property and would not negatively impact the neighbors.

Mr. Harms asked if just the corner or the whole side of the garage would be 2 feet closer to the road, and Mr. Yackle responded that it was just one corner that would be 23 feet from the right of way. Mr. Yackle pointed out that there is a large drop off toward the back, which prevented him from placing the garage further back. Mr. Bailliez asked if the proposed garage would match the color and style of the house, and Mr. Yackle responded that this was correct. Mr. Happ asked if the proposed garage would be attached to the house, and Mr. Yackle responded that it would be approximately 6 feet from the house. Mr. Yackle added that he would follow all fire proofing requirements as the building would be closer to the house than 10 feet.

Daryl Johnson of 16815 W. Cottonwood, Elmwood, was sworn in. Mr. Johnson explained that he is the General Manager for Lake Camelot. Mr. Johnson explained that Lake Camelot required a 30-foot setback from the right of way as opposed to the county's 25-foot setback requirement. Mr. Johnson stated that the board was not for or against the request but would defer to the county's decision. Mr. Johnson stated that he did believe that Mr. Johnson had a hardship that prevented him from meeting the setback requirement.

Mr. Bailliez asked if there was anyone else present who wanted to speak for or against the case, and there was no one. Mr. Keyt made a motion to close and deliberate and was seconded by Mr. Happ. 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 2 foot variance from the proposed garage to the property line. The required distance is 25 feet. The petitioner is requesting a 23 foot setback because of the parcel shape and size.
2. That the variation, if granted, will not alter the essential character of the locality;
  - The garage will run parallel to the home and will have similar siding and roof material. It will not look out of place and will blend into the character of the property.

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;
  - Because of the shape and size of the parcel , there is only one place suitable to build the garage without affecting the character of the property. There is a deep ravine running adjacent to the home and a lake in the back yard as well as a close neighbor. It will be 2 feet short of the zoning requirement of 25 feet.
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;
  - See #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 home owner's association requires a two-stall garage to be built in Lake Camelot. A two-stall garage will also allow for more parking.
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 proposed variance will not impair these conditions.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
  - See items #1 and #5.
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.
  - Due to the home owner's association, only a two-stall garage can be built, which causes the 2 foot variance.

Mr. Fletcher 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. Harms 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. 030-19-V at 10:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **MICHAEL P. & LINDA S. SMITH, acting on their own behalf**, a **VARIANCE** request from Section 20-7.4.6.1 of the Unified Development Ordinance, which requires that no fence may exceed 6 feet in height. Also, a Variance request from Section 20-7.4.6.2, which requires that no solid fence shall be constructed in a front setback past the front building line. The petitioner is proposing to construct a solid fence in the front setback at a height of 8 feet in the "R-2" Medium Density Residential

Zoning District, which would result in a variance request of 2 feet from the maximum allowable height and a variance from the open fence requirement.

Ms. Urban explained that the petitioner had requested the case be continued to the August 8<sup>th</sup> hearing. Ms. Urban recommended a time of 9:00 a.m. Mr. Fletcher made a motion to continue the case to August 8<sup>th</sup> at 9:00 a.m. and was seconded by Mr. Happ. A vote was taken and the motion passed; (7-0).

Case No. 031-19-V at 10:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **FONDA S. TIDWELL, acting on her own behalf**, a **VARIANCE** request from Section 20-7.4.6.3 of the Unified Development Ordinance, which requires that fences constructed in the front setback past the building line must be open and the height of such fences shall not exceed 4 feet in the “R-R” Rural Residential Zoning District. The petitioner has constructed a 5 ft open fence in the front setback, which would result in a variance request of 1 foot from the maximum allowable height.

Ms. Urban opened the case. There are 0 consents and 1 objection on file. The case was published in the Peoria Journal Star on June 18, 2019 and the Limestone Independent News on June 19, 2019. The Limestone Township Planning Commission recommended approval. Corbin Bogle gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Rural). The site plan and three videos of the property were shown. The property is zoned R-R.

Fonda Tidwell of 7426 W. Lancaster Rd., Peoria, was sworn in. Ms. Tidwell explained that she had constructed a 5-foot-tall fence because she has a German Shepherd who would jump a fence shorter than that. Additionally, Ms. Tidwell stated that she connected the new fence to the existing fence around the pool, which is 5 feet in height. Ms. Tidwell stated that she wanted the two fences to match so that they looked nicer and also so that her dog could not jump over them. Ms. Tidwell stated that because she is on a corner lot, she is more limited with her fence. Ms. Tidwell stated her fence contractor said that she did not need a permit, but the inspector had stopped to tell her that she needed to get one. Ms. Tidwell added that they had been having many problems with the fence contractor. Ms. Tidwell added that she found out she needed a variance when she came to Planning & Zoning to get the permit.

Mr. Fletcher asked when the fence was constructed, and Ms. Tidwell responded that it was in May. Mr. Harms asked if the inspector came while the fence was being constructed, and Ms. Tidwell responded that this was correct. Mr. Harms asked if the fence continued to be constructed after the inspector told Ms. Tidwell she needed to get a permit, and Ms. Tidwell responded that it did because it only needed the gates finished. Mr. Fletcher asked if Ms. Tidwell had checked into whether or not she needed a permit before she started the project, and Ms. Tidwell responded that her contractor had told her he would take care of all of that. Ms. Tidwell added that she went to the Planning and Zoning office two days after the inspector stopped by in order to get the permit. Mr. Fletcher asked when Ms. Tidwell got her dog, and she responded that she got the dog 11 months prior.

Brenda Buck of 7436 W. Lancaster Rd., Peoria, was sworn in. Ms. Buck stated that she felt Ms. Tidwell should have asked the Planning and Zoning Department if she needed a permit or not. Ms. Buck stated that Ms. Tidwell had repeated experiences with the department for failure to obtain permits for projects. Ms. Buck added that Ms. Tidwell has put up a pool, a shed, and now a fence without permits. Ms. Buck

added that the pool and the shed were both too close to her property, but nothing had been done to fix the problem. Ms. Buck stated that she did not believe the 4-foot fence was necessary and that not checking on the regulations is not an excuse to get a variance. Ms. Buck also mentioned that the dogs had a kennel that they could run in in the backyard.

Mr. Bailliez asked if the pool or the shed was on Ms. Buck's property, and Ms. Buck responded that they were not; however, they were very close. Mr. Unes asked if the dog kennel was visible in the video or the property aerial. Mr. Bogle pulled up the aerial view and Ms. Buck pointed out where the dog kennel was located.

Dennis Tidwell of 7426 W. Lancaster Rd., Peoria, was sworn in. Mr. Tidwell stated that the fence is needed for the dog to keep the dog from escaping the backyard. Mr. Tidwell stated that they had spoken to some of the other neighbors who said they had no problem with the fence as long as the dog would be contained.

Michael Buck of 7436 Lancaster Rd., Peoria, was sworn in. Mr. Buck stated that the zoning rules exist for a reason and should be followed. Mr. Buck stated that if the variance for the fence was granted there was nothing stopping others from varying from the rules as well.

Mr. Bailliez asked if there was anyone present who wanted to speak for or against the case, and there was no one. Mr. Fletcher 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 5-foot-high fence that has already been constructed instead of the allowable 4-foot-high fence, resulting in a variance of 1 foot. The inground pool has a 5-foot-high fence that matches the fence around the yard.
2. That the variation, if granted, will not alter the essential character of the locality;
  - It will make both fences match.
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;
  - This chain link fence matches the inground pool fence.
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;
  - It will not interfere with any other property.

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;
  - Will not be detrimental to the public health, safety, comfort, morals, or welfare of other property. It is inconsistent with the Peoria 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;
  - None of the above conditions will be affected with this variance.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
  - The 5-foot-tall fence will match the pool fence and will keep the big dog from jumping the fence.
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.
  - See #1 and #7.

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. Bateman made a motion to approve the request and was seconded by Mr. Keyt. Mr. Bateman stated that he was sympathetic to the petitioner because they were given misinformation from their contractor regarding the permit for the project. Mr. Bateman stated that he did not have a problem with the request. A vote was taken, and the motion was approved; (7-0)

Case No. 032-19-U at 11:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **JUSTIN & ANITA DAVIS, acting on their own behalf**, a **SPECIAL USE** request from Section 20-6.2.1.1.b of the Unified Development Ordinance. This section allows for a special use when a proposed land split does not meet the 40 acre minimum lot size in the A-1 Agricultural Preservation Zoning District. The petitioner proposes to divide 6.82 acres from an existing 60.0 acre parcel in order to divide an existing single family dwelling from the farmland.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in the Peoria Journal Star on June 25, 2019. Staff has recommended approval. Celia Burke gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Agriculture Preservation & Environmental Corridor). The site plan and three videos of the property were shown. The property is zoned A-1.

Justin & Anita Davis of 1126 S. Eden Rd., Hanna City, were sworn in. Ms. Davis explained that they had built a home on the 60-acre farm and they wanted to split off 6.82 acres with the house and barn in order to sell it.

Mr. Bailliez asked if the Davises would build on the remaining acreage, and Mr. Davis responded that they would not. Mr. Davis added that they would be moving. Mr. Fletcher asked if the Davises would retain ownership of the remaining acreage and continue to farm it, and Mr. Davis responded that that was the current plan, but they might sell the rest in the future. Mr. Davis added that they gave the interested buyer the option of purchasing the 20 acres of timber, but he was not interested. Mr. Happ asked if the Davises would have access to the farmland after the split, and Mr. Davis responded that they had an easement in place for access. Mr. Davis then pointed out the access on the map and where the proposed easement would be located. Ms. Davis stated that she could provide a document to show where the easement was located and submitted it for the record.

Mr. Bailliez asked if there was anyone present to speak for or against the case, and there was no one. Mr. Keyt made a motion to close and deliberate and was seconded by Mr. Fletcher.

**Miscellaneous:**

No further questions or comments were made.

Mr. Harms made a motion to adjourn and was seconded by Mr. Keyt. A vote was taken, and the motion passed; (7-0)

Meeting adjourned 11:45 a.m.

Respectfully submitted,

Ellen Hanks

ZBA Administrative Assistant