

**MINUTES**  
**Zoning Board of Appeals**  
**Linda O'Brien, Chairperson**  
**September 9, 2021**

A meeting of the Peoria County Zoning Board of Appeals was held on Thursday, September 9, 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, Andrew Keyt – Vice Chairperson, Greg Happ, Jim Bateman, Robert Asbell, J. Greg Fletcher

**ABSENT:** Leonard Unes, Justin Brown, John Harms

**STAFF:** Kathi Urban – Director  
Andrew Braun – Assistant Director  
Taylor Armbruster – Planner I  
Jack Weindel – Planner I  
Jennie Cordis-Boswell – Chief Civil Assistant State's Attorney  
Dana Hughes – Civil Assistant State's Attorney  
Sarah Cox – ZBA Administrative Assistant

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Mr. Asbell made a motion to approve the minutes from the August 12, 2021 hearing and was seconded by Mr. Happ. A vote was taken, and the motion passed; (6-0)

Case No. **ZBA-2021-000030** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **RYAN AND ANDREA SCHATSIEK, acting on their own behalf, a VARIANCE** request from Section 20-7.4.6.3 of the Unified Development Ordinance, which requires that an open fence erected on a premise located in the front setback past the building line shall not exceed four (4) feet. The petitioner proposes to construct an open fence at a height of five (5) feet to serve as a barrier to an inground pool in the front setback past the building line, resulting in a variance request of 1 foot.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on August 14, 2021, and *The Weekly Post* on August 19, 2021. The Peoria County Health Department had no objections. The County Highway Department deferred to the Jubilee Township Road Commissioner, and there were no comments from the Road Commissioner. Taylor Armbruster 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 two videos of the property were shown. The property is zoned "R-R".

Ryan and Andrea Schatsiek of 15001 W. Windsong Drive, Brimfield, IL were sworn in. Ms. Schatsiek stated that they are requesting an additional foot of height, for their fence, that will be in the front

setback past the building line of the house to act as a barrier for a pool. They chose to put the pool in front of the building that is currently being built, so that the building would not obstruct the view of the neighbors looking down the street. Behind the house there is a closer tree line, as well as the septic tank and septic field, so the front of the house is the only place for the pool to be.

Ms. O'Brien asked if there were any questions from the Board. There were none. Ms. O'Brien asked if there was anyone that wanted to speak for or against the petitioner. 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; (6-0)

### ***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 petitioners have obtained a permit to construct a building in the side yard of the property and need to meet the requirements to install an inground pool on the proposed location. Section 20-7.4.6.3 of the Unified Development Ordinance states that an open fence erected on a premises located in the front setback past the building line shall not exceed four feet. The petitioner proposes to construct an open fence, to serve as a barrier for an inground pool, in the front setback past the building line resulting in a variance request of one foot.
2. That the variation, if granted, will not alter the essential character of the locality;
  - The petitioners' home is located on 1.65 acres, and if granted, the 1 foot taller fence would not be out of scale or out of place and would 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 petitioners are requesting a variance of 1 foot in order to construct a 5 foot fence to serve as a barrier for an inground pool. Without the variance, the petitioners would be deprived of the pool and reasonable use of their land, resulting in a hardship.
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 petitioners need to meet the requirements to install an inground pool in the desired location on their property. The variance request will enable the petitioners to install the appropriate required fence/barrier around said pool.
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. If granted, the variance would be an added safety measure.
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 requested variance is for an additional 1 foot in fencing height for an open fence. Granting of the variance will not affect the supply of light and air to any neighboring property, will not increase congestion in the streets, nor increase the danger of fire or endanger public safety. Granting of variance will not diminish property values in the neighborhood.
  7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
    - The one foot variance request for the proposed fence barrier is the minimum adjustment necessary for reasonable use of the petitioners' land.
  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 number 3.

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; (6-0)

Mr. Fletcher made a motion to approve the request and was seconded by Mr. Happ. A vote was taken, and the motion passed; (6-0)

Case No. **ZBA-2021-000029** at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **CRAIG A. THOMPSON, acting on behalf of K9CT, LLC, a VARIANCE** request from 20-6.2.4.5 of the Unified Development Ordinance, which allows for a maximum height of 3 stories or 36 feet, whichever is less. The petitioner is proposing to construct amateur radio towers with a maximum height of 160 feet and 50 feet in the "A-1" Agricultural Preservation Zoning District, resulting in a variance request of 124 feet and 14 feet, respectively.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on August 14, 2021, and *The Weekly Post* on August 19, 2021. The Peoria County Health Department had no objections. The County Highway Department deferred to the Trivoli Township Road Commissioner, and the Road Commissioner gave no comments. The Trivoli Township Planning Committee recommended approval.

Mr. Keyt stated that one of the petitioner's attorneys would be listening via telephone. Mr. Hopengarten joined the hearing via telephone.

Andrew Braun 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 two videos of the property were shown. The property is zoned "A-1". Mr. Braun stated that staff does not typically write a report for a variance case, but due to the complexity of the case and the subsequent case that could follow, a report was written. There was a comment within the technical adequacy portion of the report, that stated that despite numerous complaints, by Mr. Thompson's neighbors, about the addition of two towers to the property, the Trivoli Township Planning Committee unanimously recommended approval of the variance. One of the petitioner's attorneys advised that this was not necessarily the exact objection. The objections that were received by staff were, overall, in objection to the construction of the towers even though the objections were received in response to the appeal case. Mr. Braun read the comments from Mr. Gabel, the Trivoli Township Planning Committee Chair, regarding the August 23, 2021 meeting, and his letter did not state whether or not there were any members of the public at the Township meeting. It could be interpreted that the discussion was amongst the planning committee members.

Mr. William Shay and Mr. Craig Thompson were sworn in. Mr. Shay gave a history and timeline of the request. On May 5, the building permit application was filed, and on June 4, the department, through Ms. Urban, responded that the permit would not be issued because of the maximum height limitation in the ordinance. Mr. Thompson filed an appeal on July 2, based on federal law and preemption. On July 30, the variance petition was filed. On August 31, the department provided reports on the two matters. On September 3, Mr. Hopengarten sent a letter in support of the appeal. Mr. Shay stated that he had sent a letter on September 8 in support of the variance. The Trivoli Township Planning Committee recommended approval of the appeal and the variance. Mr. Shay stated that Mr. Thompson was present at the Trivoli Township Planning Committee meetings.

Mr. Thompson thanked the Board for hearing his request. He stated that ham radio is a hobby, and he doesn't make any money from it. He was federally licensed at the age of 14, and that sparked his career choice. Mr. Thompson stated that he went to Bradley University, received his degree in electrical engineering, and started a business in Peoria. The federal law states that ham radio exists for the public good, for public safety, and for training people to be communications engineers. Every year he participates in emergency preparation drills and was an active participant in the Emergency Operations Center in Kickapoo. Since then, he has had young people from all over the world come and visit his station. The two proposed towers both add to, and supplement, what he is already doing. This will just advance the technology. They are able to bounce signals off the moon and can communicate with others that have that capability. Also, he is able to communicate with the International Space Station ham radio operator. Being able to adjust the height of the towers will allow him to do some things he hasn't been able to do.

Mr. Keyt asked if there were any questions from the Board.

Mr. Bateman asked what the two towers allowed him to do that he cannot presently do. Mr. Thompson stated that he would be able to do Earth-Moon-Earth on 6 meters which is 50 MHz, and to communicate with people similarly as he would on 2 meters. The other antenna allows horizontal polarization and would allow him to have a higher angle of arrival.

Mr. Bateman asked what the purpose of the K9CT, LLC business is. Mr. Thompson stated that it is a farming business and isolates him personally from liability.

Mr. Fletcher confirmed that K9CT is a farming business. Mr. Thompson stated that it is an LLC, the land is held in that name, and he has farm and rental income in that name. Mr. Fletcher asked if the towers were in the business' name. Mr. Thompson stated that they are. Mr. Fletcher asked if the purpose of the towers was just for communication. Mr. Thompson stated that it was, and that he does not receive any revenue or income from the towers as it is against the law to do so. Mr. Fletcher confirmed that there were no antennas being used for commercial uses, and Mr. Thompson stated that this was correct. Ms. O'Brien reiterated that this is strictly a hobby and there is no income associated with the towers. Mr. Thompson stated that this is correct.

Mr. Fletcher asked how many towers were currently on the property. Mr. Thompson stated that he believes there are 13 structures. Some of them are not technically towers but are antennas.

Mr. Fletcher asked if there was any way that what he wants to do can be accommodated by the towers that are present. Mr. Thompson stated that he couldn't, and that he had a tower custom made to accomplish what he'd like to do. He wanted a tower that was short enough that it was out of the weather and that he could do maintenance with just a standard lift that can be rented. The towers can be raised only when in use. He doesn't believe that visually the towers will be noticeable. The larger tower that extends to 150 feet will only be extended for very short periods of times when in use and it is set back about 1,500 feet from the road. There is a broadcast station that is 1,000 feet from his station, with a 360 foot tower, that broadcasts at 4,000 watts 24/7, and has been there since 1995.

Mr. Fletcher asked if the 150 foot tower would have an antenna on top. Mr. Thompson stated that it is a mast, and on the mast, there will be antennas. The whole tower rotates.

Ms. O'Brien asked if Mr. Thompson was aware of his neighbors' objections, siting interference and internet dead zones, and if he would like to comment on that. Mr. Thompson stated that the device they were referring to is a baby monitor that happened to be on a ham radio frequency. When the neighbors brought it up to him, he found out what frequency it was on and it was one of his frequencies. He had not heard from any other neighbors. Everything is digital now so there is no frequency interference. In terms of the point-to-point Wi-Fi, the original company the neighbors were with, went out of business. The company in the area now is Noize Communications and they are having success without interference. Mr. Thompson stated that he uses point-to-point internet in the middle of all of his towers and has no problems.

Ms. O'Brien stated that there were 13 residents at the Trivoli Township meeting that had concerns. Mr. Thompson said that there were only two people that had concerns and they didn't object, they just had questions.

Mr. Keyt asked if there were time periods that the towers would be up and in operation. Mr. Thompson said usually just on weekends when there was an event that was happening, and if the weather was good. He would not leave the towers up if he wasn't there. Mr. Keyt asked if there were other times that the towers would be in use other than the weekends. Mr. Thompson said no, possibly a day during the week, but it would be completely random and only for an hour or two.

Mr. Keyt asked about the shorter tower. Mr. Thompson stated it is a Rohn 65 freestanding tower. Mr. Keyt asked if it was a telescopic tower. Mr. Thompson stated the tower is a fixed 65 feet, but it has antennas on top that elevate and track.

Mr. Keyt asked about the interference concerns, and stated that if he understood correctly, most communications are digital and that Mr. Thompson's communications are not. Mr. Thompson stated that he does both analog and digital, but it is not on the same frequency.

Mr. Keyt asked if there were towers on his property that weren't being used. Mr. Thompson said they are all being used. Mr. Keyt asked if the two new towers enhanced what he wanted to do. Mr. Thompson said that is correct and one of the things he does is advance the state of the art and tries to stay current. Mr. Keyt asked how the towers were different from what he currently has. Mr. Thompson said the towers are different than the application of the towers. The actual towers are both more substantial in terms of what they are able to do. He currently has a tower for Earth-Moon-Earth (EME) that is two meters, and the new tower is for 6 meters. This is the frequency of the wavelength.

Mr. Fletcher asked Mr. Thompson to clarify if the towers were different than the applications. Mr. Thompson said it is the vernacular.

Ms. O'Brien asked if Mr. Thompson was currently able to communicate with the moon. Mr. Thompson said that he could, but not on the same frequency as the new tower will allow him to use.

Mr. Keyt asked if there was a schematic for the Rohn 65 tower. Mr. Thompson said he believed it had been submitted with the original application.

Mr. Keyt asked if there was a reason to do EME communications on a different frequency. Mr. Thompson said there is different software, and he would just like to be able to do it. Mr. Keyt asked if there was another person he was communicating with while using EME communication. Mr. Thompson said that there is always another person that he is communicating with, and none of it is automated. Mr. Keyt asked if there were different people that he would be communicating with on the new frequency that he is not able to communicate with now. Mr. Thompson said yes, that on the new frequency there are fewer people, and it is more difficult. Mr. Keyt asked if there were other people that had the new technology. Mr. Thompson said there are people that he knows in Wisconsin and Virginia. Mr. Keyt asked if the new technology was faster or what makes it better. Mr. Thompson said that the new technology isn't so much better, just different and more of a technological challenge. It's not as easy. Mr. Keyt asked why he wanted it to be harder. Mr. Thompson said because he can. Ham radio is a hobby and there is nothing rational about hobbies.

Mr. Keyt asked if the two towers operate together. Mr. Thompson said that they operate independently from each other.

Ms. O'Brien asked of the towers he currently has, how close is the tower nearest to McDonald Rd. Mr. Thompson said that the closest tower is 200 feet from the road. Ms. O'Brien confirmed the Rohn tower is going to be 350 feet from McDonald Rd. Mr. Thompson said that is correct.

Mr. Keyt stated that his understanding is that Mr. Thompson has addressed the issues of interference regarding the towers already on the property but wanted to know if there is anything about the two new towers that would have some anticipated interference with anyone in anyway. Mr. Thompson said not at all. Mr. Keyt asked if that is for the same reasons that there would be no interference with the current towers. Mr. Thompson said that is correct.

Mr. Keyt asked if there were any more questions from the Board. There were none. Mr. Keyt asked if there was anyone that would like to speak for or against the petitioner. There was no one.

Mr. Fletcher made a motion to close and deliberate and was seconded by Ms. O'Brien. A vote was taken, and the motion passed; (6-0)

The Board took a recess from 9:55-10:15.

### ***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 communications that Mr. Thompson desires are inherently unique to him, in that he provides amateur radio communications and tests new technology, as there is an existing amateur radio station at the property including towers, antennas, and other facilities. The proposed towers must be nearby, as they all need to be connected electrically to the radios by transmission lines. Radio frequency loses transmission over distances, which makes locating the towers elsewhere impractical. The additional towers need to be within 750 feet of the radio station. The applicant is desiring to construct two towers at the property to allow communications with others and testing technology with the towers. The applicant currently can communicate with others with the current antennas and can bounce communications off the moon. These towers will allow for further communications on a new frequency.
2. That the variation, if granted, will not alter the essential character of the locality;
  - The property is presently agricultural and in use and also has an amateur radio station with towers. The property has 13 other towers and there is also a broadcast tower for ESPN radio on an adjacent property, which has been present since 1995. According to the testimony, this tower is approximately 300 feet tall. The essential character of the locality will not be altered as there are already existing towers and antennas on the property and nearby.
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;
  - Facts here included that the hardship is particular to the owner because of the applicant's knowledge. No other owner in the country has the same amateur radio service communication needs. He is testing new technology and communicating with others. The

need for proximity requires the additional towers to be located on the same property and not merely for his convenience. Also, see fact number 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 definition of property in the Zoning Ordinance does include improvements. This property does currently have communication towers and antennas. The additional improvements are in harmony with the property's existing improvements and make them suitably unique to the property. The conditions upon which the variance request is based are not applicable, generally, to other property for uses other than amateur radio operations. The new towers would need to be in proximity to the current facility or it will not be functional.
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 amateur radio service was designed to promote public health, safety, comfort, morals, and welfare within a community. The requirement that public health and safety will not be adversely affected has been testified to by Mr. Thompson. Two additional towers, utilized in the same manner as the existing towers, will not be detrimental to the surrounding property. There were concerns regarding interference with a baby monitor and other communications, as well as aesthetics, that were provided to the Board via letter of correspondence from various neighbors. Mr. Thompson has testified that those concerns are not valid as they are not on the same frequency, and his new towers will not be interfering with any existing communications from any neighboring properties.
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;
  - Amateur radio station antennas are not anticipated to have any impact on light or air on any adjacent properties, two of which the applicant owns. The proposed antenna will not increase traffic once installed, although there could be an increase in traffic in relation to construction. As to the danger of fire, the proposed amateur radio station antenna structures are all steel and aluminum. As to public safety, amateur radio use promotes public safety. There is no evidence that the current amateur radio station structures impair property values within the neighborhood.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
  - The towers must be able to elevate in order to provide the requested communication. Both antennas will be retracted when not in use according to the testimony of Mr. Thompson.
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 fact number 1. There was also testimony that Mr. Thompson can currently communicate with other existing ham radio operations and can currently bounce communications off the moon.

Mr. Fletcher asked if the requirement, “or otherwise be inconsistent with any officially adopted County plan or these regulations” for fact number five was addressed. Mr. Keyt stated that the question is for staff as to whether or not allowing the variance would make it inconsistent with some other regulation within the code. Ms. Urban stated that staff would say that it would not be inconsistent. The property is zoned “A-1” and it allows for accessory structures, and this is considered an accessory structure.

Ms. O’Brien made a motion to approve the findings of fact and was seconded by Mr. Fletcher. A vote was taken, and the motion passed; (6-0)

Mr. Fletcher made a motion to approve the request and was seconded by Mr. Bateman. A vote was taken, and the motion passed; (6-0)

Case No. **ZBA-2021-000028** at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **CRAIG A. THOMPSON, acting on behalf of K9CT, LLC**, requests an **APPEAL** under Section 20-3.8 of the Unified Development Ordinance (UDO), which authorizes the Zoning Board of Appeals to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Zoning Administrator or other administrative official in the enforcement of the zoning regulations of the UDO. The appellant alleges that based on Federal Communications Commission (“FCC”) regulations pertaining to what is called Amateur Radio Service address station antenna structures, the Zoning Administrator’s determination that the building permit application for antenna structures submitted May 5, 2021, does not meet the maximum height restrictions in Section 20-6.2.4 of the Peoria County Code which are the lesser of three stories, or thirty-six (36) feet in the “A-1” Agricultural Preservation Zoning District shall not apply to the proposed structure.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on July 14, 2021 and *The Weekly Post* on July 15, 2021.

Mr. Shay asked if the granting of the variance was final or if it was subject to appeal by an objector. Ms. Cordis-Boswell stated that the variance case does not go to the County Board. Mr. Keyt asked if Mr. Shay’s question was if an objector could appeal a decision of the Zoning Board. Mr. Shay stated that this was correct. Mr. Keyt stated that under the County’s code, the decision of the Zoning Board could be appealed under the administrative code by someone who so chose, and he believes that the period of time is 30 days.

Mr. Shay stated that from the petitioner’s standpoint he would like to have the appeal held in abeyance, not dismissed, until the time period for appeal of the variance has run out.

Mr. Keyt stated that the next meeting is in 35 days, but he didn’t want to say what the administrative code statute is, so the other option would be to continue the appeal to the November meeting, subject to the Board’s approval. Mr. Shay stated that continuing to the November meeting would be fine.

APPROVED 10/14/2021

Mr. Fletcher made a motion to continue the appeal to the November 11, 2021 Zoning Board of Appeals hearing and was seconded by Mr. Bateman. A vote was taken, and the motion passed; (6-0)

Mr. Fletcher made a motion to adjourn and was seconded by Mr. Happ. A vote was taken, and the motion passed; (6-0)

Meeting adjourned at 10:37 a.m.

Respectfully submitted,

Sarah Cox  
ZBA Administrative Assistant