

MINUTES
Zoning Board of Appeals
Loren Bailliez, Chairman
October 10, 2019

A meeting of the Peoria County Zoning Board of Appeals was held on Thursday October 10, 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, Leonard Unes, Jim Bateman, Greg Fletcher, Greg Happ, John Harms

ABSENT: Linda O'Brien, Andrew Keyt, Justin Brown

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

Mr. Harms made a motion to approve the minutes from the September 12, 2019 hearing and was seconded by Mr. Unes. A vote was taken and the motion passed; (6-0)

Case No. 039-19-V at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **BRANDON & CASSANDRA SCHOCK, acting on their own behalf**, a **VARIANCE** request from Section 20-5.13.1 of the Unified Development Ordinance, which requires that an accessory structure shall not be commenced prior to the commencement of the principal structure. The petitioner proposes to construct a 60' x 100' pole barn on a parcel without a principal structure in the "A-2" Agriculture Zoning District.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in the Peoria Journal Star on September 24, 2019. 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 A-2.

Brandon Schock of 212 E. Santa Fe Rd., Chillicothe, was sworn in. Mr. Schock stated that he would like to build an accessory building for personal storage. Mr. Schock further explained that the property with the house on it did not have an area suitable for the building, which is why he was proposing to place it on the adjacent vacant property he owned.

Mr. Harms asked if any business equipment would be stored in the building, and Mr. Schock responded that there would not. Mr. Schock added that it would be a boat, some cars, and other personal belongings. Mr. Bailliez asked what Mr. Schock's intentions were with the adjacent 10 acre parcel where the proposed building would go, and Mr. Schock responded that he intends to keep the parcel as is. Mr. Schock added that he has no intention to build another home on it. Mr. Bailliez asked if Mr.

Schock thought about combining his two parcels, and Mr. Schock responded that he was not planning to combine them unless he had to.

Mr. Bailliez pointed out that the advantage of this particular variance request was that the petitioner lived on the property adjacent to the proposed property. Mr. Fletcher asked where the proposed building would be located, and Mr. Schock pointed it out on the map. Mr. Schock added that some of the neighbors might be able to see a small part of the building, but it would mostly be hidden by trees.

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; (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 petitioner owns two adjacent properties and would like to build a 60' x 100' pole barn on the vacant parcel.
2. That the variation, if granted, will not alter the essential character of the locality;
 - The building will be surrounded by trees on three sides and the fourth side will be facing toward the current 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;
 - The topography of this property only allows for a building on the flat area.
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;
 - There are two adjoining parcels. The one with the house is not large enough without building in the front lawn.
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;
 - There will not be any variation to the county plan on these regulations.
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 10 acre parcel will not change any of the above rules.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - The petitioner needs the storage space to store equipment for maintaining the property.
 8. That aforesaid circumstances or conditions are such that the strict application of the provisions of this Section would deprive the applicant of reasonable use of his or her land.
 - Without using the adjacent parcel there will not be a place for equipment storage.

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

Case No. 040-19-V at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **DARRIN & ANGIE SYMONDS, acting on their own behalf**, a **VARIANCE** request from Section 20-5.13.3.4 of the Unified Development Ordinance, which requires that for lots and parcels in platted subdivisions not created by tract surveys, the total floor area of all accessory buildings, attached or detached, shall not exceed the footprint of the principal structure or 1,300 square feet, whichever is less, plus 750 square feet for a private garage. The petitioner proposes to construct a 1,728 square feet accessory structure in the "A-2" Agriculture Zoning District, which would result in a variance request of 272 square feet from the allowable square footage.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in the Peoria Journal Star on September 24, 2019 and the Weekly Post on September 19, 2019. 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 two videos of the property were shown. The property is zoned A-2.

Darrin Symonds of 202 E. Illinois St., Brimfield, was sworn in. Mr. Symonds stated that he was seeking a variance for an accessory structure that was bigger than allowed. Mr. Symonds explained that they were currently building a house on one of the two lots they own in their subdivision. Mr. Symonds further explained that he would be using the building for personal storage and to store equipment necessary for maintaining the large lots.

Mr. Unes asked how the proposed building would be accessed, and Mr. Symonds responded that the driveway would be extended out towards the building. Mr. Unes asked if the access would come from Shane Road, and Mr. Symonds responded that it would use the same driveway as the house, which is already established with access off of Shane Road. Mr. Bailliez pointed out that the request was only for 272 square feet beyond the allowed square footage, which was not much in the broader scope of the building's size.

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; (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 need for safe and proper machine and equipment storage is the main desire for this request to maintain two large lots.
2. That the variation, if granted, will not alter the essential character of the locality;
 - There are other large storage buildings in this 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 petitioner has a large 5 acre lot plus a long driveway to maintain and needs large equipment.
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 requested 36' x 48' building needed to maintain the unique property will improve property values.
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 variance will keep the equipment inside from public view and not affect the above conditions.
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 descriptions listed above will apply to this variance.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - Storing equipment outside invites theft, presents hazards for small children, and devalues equipment ownership equity.
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.
 - Equipment is currently stored on the family farm.

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

Case No. 041-19-V at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **RUSSELL N. CORRINGTON, acting on his own behalf**, a **VARIANCE** request from Section 20-6.6.2.2.c.3 of the Unified Development Ordinance which requires a side setback of 5 feet for an accessory structure in the "R-2" Medium Density Zoning District. The petitioner is proposing to construct a detached garage at a distance of 3 feet from right of way, resulting in a variance request of 2 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 September 24, 2019 and the Chillicothe Bulletin on September 18, 2019. Corbin Bogle gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Unincorporated Center). The site plan and three videos of the property were shown. The property is zoned R-2.

Russell Corrington of 14824 Gardenland Dr., Chillicothe, was sworn in. Mr. Corrington stated that the garage has been on the property longer than he can remember and was recently crushed by a tree. Mr. Corrington explained that he simply wanted to replace the old damaged garage with a new one in the same spot. Mr. Corrington further explained that the lot is narrow and small, so there is no other suitable spot for the new garage to be placed.

Mr. Bateman asked if the closest neighbor was aware of the request, and Mr. Corrington explained that it was that neighbor's tree that crashed into his garage, so the neighbor was aware. Mr. Harms asked if the garage would be the same size, and Mr. Corrington responded that it would be slightly bigger because it was so small originally that it was difficult to fit anything more than a car inside. Mr. Bailliez pointed out that the petition stated it would be 24' x 30'. Mr. Bailliez asked if the proposed garage would go in the same spot as the old one, and Mr. Corrington responded that it would. Mr. Happ asked if the garage would be used for personal storage, and Mr. Corrington confirmed that this was correct.

Mr. Bailliez asked if there was anyone present who wanted to speak for or against the case, and there was no one. Mr. Bateman 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 petitioner is replacing a garage that was hit by two fallen trees.

2. That the variation, if granted, will not alter the essential character of the locality;
 - Replacing a garage with a 3' variance.
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 size of the parcel.
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;
 - Replacing a garage.
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 affect the above conditions.
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 affect the above conditions.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - To replace a garage.
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.
 - To replace a garage.

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

The board took a break at 9:40 a.m. and reconvened at 10: 00 a.m.

Case No. 042-19-V at 10:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **KURT & JAMIE OEHLWEIN, acting on their own behalf**, a **VARIANCE** request from Section 20-7-15.2.2.a of the Unified Development Ordinance, which requires that a private swimming pool be located a minimum of 5 feet from walls, landscaping elements or structures, trees and other appurtenances. The petitioner has constructed a pool at a distance of 0 ft from a retaining wall, resulting in a variance request of 5 feet. Also, a Variance request from Section 20-7-15.2.2.c of the Unified Development Ordinance, which requires that a private swimming pool be located 10 feet from principle

or accessory structures, excluding decks. The petitioner has constructed a pool at a distance of 4 feet from the principle structure, resulting in a variance request of 6 feet. Also, a Variance request from Section 20-7-15.2.2.d of the Unified Development Ordinance, which requires a side setback of 15 feet in the "R-R" Rural Residential Zoning District. The petitioner has constructed a pool at a distance of 2 ft from the south side property line, resulting in a variance request of 13 feet. Also, 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. The petitioner has constructed a deck at a distance of 2 feet from the south side property line, resulting in a variance request of 13 feet.

Ms. Urban explained that the petitioner had just recently hired an attorney to assist with his case and the attorney was requesting a continuance to the November 14th hearing in order to give himself time to prepare. Ms. Urban suggested a time of 11:00 a.m. Mr. Harms made a motion to continue the case to the November 14, 2019 hearing at 11:00 a.m. and was seconded by Mr. Fletcher. A vote was taken and the motion passed; (6-0).

Case No. 043-19-Z at 10:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **LEONARD & PEGGY LIVENGOOD, acting on behalf of DOUG & DIANE OBERHELMAN, owners, a REZONING** request from "A-2" Agricultural to "R-R" Rural Residential. The petitioner proposes to rezone the property in order to combine with an adjacent parcel.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in the Peoria Journal Star on September 24, 2019 and the Weekly Post on September 19, 2019. The Kickapoo Township Planning Commission recommended approval. Staff has also 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 (Agriculture & Environmental Corridor). The site plan and two videos of the property were shown. The property is currently zoned A-2.

Lenny Livengood of 6100 N. Kickapoo Edwards Rd., Edwards, was sworn in. Mr. Livengood stated that he had an easement agreement with his neighbors for approximately 20 years in order to access his house. He was responsible for maintaining it as part of that agreement. Mr. Livengood stated that he had recently approached his neighbors about purchasing the piece of property he uses as part of the easement. Mr. Livengood added that they had surveyed the property and were ready to purchase it, but then discovered that the two pieces of property would have to be zoned the same in order to combine them after the purchase. The neighbor's property is zoned A-2 while Mr. Livengood's property is zoned R-R. Mr. Livengood explained that everything else had been taken care of and the sale was ready pending the rezoning. Mr. Livengood added that the easement would be dissolved after the sale.

Mr. Happ asked where the portion of property to be rezoned was located, and Mr. Livengood pointed it out on the map. Mr. Bailliez asked what Mr. Livengood meant by having the easement dissolved, and Mr. Livengood explained that after he purchased the piece of property from his neighbor, the easement would no longer be necessary because he would have permanent access to his property. Mr. Livengood explained that the Oberhelms would own the abandoned portion of the easement and he would then own the lane to his house. Mr. Unes asked how the Oberhelms would continue to access their property, and Mr. Livengood explained that their access driveway is located to the south of his home and would not be affected by this request. Ms. Urban explained that if the Oberhelms and the

Livengood's property had been zoned the same, there would have been no need for Mr. Livengood to come before the board as the matter could have been settled with a survey and a sale of property between the two property owners. Ms. Urban further explained that properties to be combined need to be zoned the same, which is why Mr. Livengood was requesting the rezoning.

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; (6-0)

Case No. 044-19-U at 10:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **MIKE DAWSON, acting on behalf of COURI & COURI – (A Partnership, Phillip E. Couri & Phillip A. Couri, both of 552 Lincoln Ave., Winnetka, IL 60093), owners**, a **SPECIAL USE** request from Section 20-7.5.11.6.b of the Unified Development Ordinance which allows for a non-residential sign that is a billboard located off premise in the "I-1" Light Industrial Zoning District. The petitioner is proposing to construct an off-premise billboard for a business located approximately 700' to the east.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in the Peoria Journal Star on September 24, 2019 and the Weekly Post on September 19, 2019. The Kickapoo Township Planning Commission recommended approval. Staff has also recommended approval with restrictions. 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 two videos of the property were shown. The property is zoned I-1.

Mike Dawson of 9805 Primrose Lane, Edwards, was sworn in. Mr. Dawson stated that he would like to place a sign to advertise his business out by the road in order to help direct traffic from the main road back to his gym.

Mr. Bailliez asked who owned the property where the sign would be placed, and Mr. Dawson responded that Dennis LaHood owned it and he had submitted a notarized signature with the owner's consent as part of his request.

Mr. Happ disclosed that he knows Mr. Dawson and goes to his gym, but this would not affect his decision on the case.

Mr. Fletcher asked if Mr. Dawson was aware of the restrictions that were placed on the case, and Mr. Dawson responded that he was.

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. Harms. A vote was taken, and the motion passed; (6-0)

The board took a break at 10:25 a.m. – 11:00 a.m.

Case No. 045-19-V at 11:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **PHILIPPE BOLAND & MDB PROPERTIES, LLC, acting on behalf of MDB PROPERTIES, LLC** – (*a Business, Philippe Boland of 202 E. South St., Hudson, IL 61748, manager*), owner, two **VARIANCE** requests from Section 20-6.9.1.1.b of the Unified Development Ordinance, which requires a minimum lot area of 10,000 square feet in the "C-2" General Commercial Zoning District. The petitioner proposes to rezone two parcels, which will result in lot area less than the minimum required. The northerly parcel, an existing 6,120 square foot lot, will result in a variance request of 3,880 square feet. The southerly parcel, an existing 6,187.5 square foot lot, will result in a variance request of 3,812.5 square feet. Also, Two **VARIANCE** requests from Section 20-6.9.1.2.b of the Unified Development Ordinance, which requires a minimum lot width of 80 feet. The petitioner proposes to rezone two parcels, which will result in a lot width less than the minimum required. The northerly parcel, an existing 72' wide lot, will result in a variance request of 8 feet. The southerly parcel, an existing 62.5' wide lot, will result in a variance request of 17.5 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 September 24, 2019 and the Weekly Post on September 19, 2019. The Kickapoo 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 (Unincorporated Center). The site plan and four videos of the property were shown. The property is currently zoned C-1.

Mr. Unes asked if denial of any of the petitioner's cases would affect the outcome of the other cases, and Ms. Urban responded that all three cases would need to be approved in order for the petitioner to be able to do what he was requesting.

Phillipe Boland of 705 Trimmer Dr., Hudson, IL, was sworn in. Mr. Boland stated that his grandfather bought the family plumbing business from his father in 1959 and changed the name to F.W. Boland Plumbing at that time. At that time, the business was run from a home in Kickapoo. Mr. Boland explained that his father took over the business approximately 40 years ago and then moved the business into the back of an antique store in Kickapoo, owned by Clifton Miller. Mr. Boland added that his father had a verbal agreement with Mr. Miller to lease a portion of the building for the plumbing business. Mr. Boland stated that they have kept their supplies and have run the business at this location for approximately 40 years. Mr. Boland stated that he and his brother now run the business and were approached by Mr. Miller about three years prior to see if they were interested in buying the building, but at the time Mr. Boland did not have the means to do so; however, Mr. Boland did end up purchasing the property from Mr. Miller in December of 2018 after being approached again that summer. Shortly after the purchase, Mr. Boland explained that a truck ran over the septic and it had to be repaired. Mr. Boland added that at that time the repair created a mess on the vacant lot and there was machinery stored on the lot to help fix the septic issues. Additionally, the front of the building has been in disrepair because Mr. Boland stated his funds were tied up in a divorce and he was also still considering renting the front portion of the building to another business and so he had delayed repairing it.

Mr. Boland stated that he had some petitions to submit which were signed with a total of 67 consents. Mr. Boland stated that he has always been a supporter of the community in Kickapoo and wanted to keep the family business in town as it has been for 40 years. Mr. Boland added that before he purchased the building, he called Planning & Zoning to check and make sure the parcel was zoned Commercial. Mr. Boland stated that his error was that he did not ask what kind of uses were permitted in the current

zoning district when he purchased it. Mr. Boland stated that the majority of his business serves the Brimfield and Princeville areas and that he can keep his prices lower due to his central location in Kickapoo. Mr. Boland added that until now, he had never had a complaint about running his business from this building and has always received support from the local community. Mr. Boland took a moment to then read one of the consent letters from a nearby neighbor, Mary Zinser.

Mr. Happ disclosed that he knows the Boland family, but that would not affect his decision on the cases. Mr. Fletcher asked if the new septic system had been installed, and Mr. Boland stated that they were currently working on it, but they were waiting on the decision from the zoning cases to see what the need of the system would be before moving forward.

Mr. Boland stated that he had intentions to put a privacy fence up around the vacant lot. Additionally, there would be no employees working on site and there would be no service trucks stored on site. Mr. Boland stated that both parcels would be used for storage. Mr. Fletcher asked what is currently stored on site, and Mr. Boland responded that he is storing fittings, tools, and other equipment and machinery not needed on a daily basis. Mr. Harms asked what the trailers were for, and Mr. Boland responded that they were for transporting the mini excavator, the skid steer, or other equipment used on varying jobs. Mr. Harms asked if he was able to pull into the vacant lot and turn around without backing in, and Mr. Boland responded that he was able to do so. Mr. Unes asked if Mr. Boland had any plans to use any additional outdoor storage, and Mr. Boland stated that he had no intention to grow his business. Mr. Boland added that he had four plumbers working for him and his sister and mother helped with paperwork, which they completed at their homes. Mr. Unes pointed out that the condition of the building was a concern for him, and Mr. Boland stated that he wants to fix the exterior of the building, however, his money has been tied up in his divorce until very recently. Additionally, Mr. Boland was worried that he may not be able to stay in the location if his cases were not approved, so he did not want to spend money on fixing it up if he had to leave the location.

Mr. Fletcher asked if Mr. Boland lived in the area, and Mr. Boland responded that he lived in Hudson, IL, but his mother and brother live in the area and he visits regularly. Mr. Fletcher asked if the back lot was fenced, and Mr. Boland responded that it was not; however, Pizza 150 had their own fence that buffered his property from theirs. Mr. Boland added that it was his intention to put up more fencing if the cases were approved. Mr. Bateman asked how tall the fence would be, and Mr. Boland responded that he hoped to put up a 6-8' tall fence along with some required landscaping. Mr. Boland stated that as far as what was stored outside, he was willing to work with the board to find a compromise or follow whatever they suggested.

Clifton (Bill) Miller of 10230 W. Route 150, Edwards, was sworn in. Mr. Miller stated that he lives in Kickapoo and previously owned this building for 47 years. Mr. Miller added that his wife had run an antique store from the building for many years, but they had decided recently to sell the building to Mr. Boland as his wife's health has been declining. Mr. Miller stated that although he does not agree with the way the building has recently been taken care of, he still believes that he sold the building to the right person. Mr. Miller stated that he knows Mr. Boland will begin taking care of the property now that his divorce has been finalized. Mr. Miller stated that he wants the neighbors to be happy with how the building looks, and he feels that Mr. Boland will do that if given the chance.

Diane Feuchter of 10126 W Bridgeport Way, Hanna City, was sworn in. Ms. Feuchter explained that she owned the adjacent business, Pizza 150, along with another property to the south of Kickapoo in the industrial park. Ms. Feuchter stated that she did not want to hinder development of a business owner, however, the building has been in disrepair for quite some time. Ms. Feuchter stated that she has never talked with Mr. Boland about his plans or been approached about what is going on with the property. Ms. Feuchter stated that changing the zoning of the property would greatly affect her adjacent business because the zoning change would be forever. Ms. Feuchter pointed out that she could not think of another small town that had a construction yard in the middle of town. In addition to the disrepair of the building, Ms. Feuchter pointed out that the weeds had become problematic. Ms. Feuchter stated that she had no problem with Mr. Boland continuing his business as he has in the past by only utilizing indoor storage, but she did not agree with rezoning the property and expanding the outdoor storage. Ms. Feuchter stated that there is a storage area less than a mile away that could accommodate the storage of the construction equipment appropriately.

Ms. Feuchter then took a moment to read the objection letter that she had submitted for the file. Ms. Feuchter pointed out in the letter that the property looked unsightly, the property is marketable as zoned so it is not a financial hardship to the owner, the use would affect their adjacent business, and future owners of the property would be able to use the parcels with any permitted C-2 use if rezoned. Additionally, Ms. Feuchter stated that she did not feel that the rezoning would match the character of the area. Mr. Unes asked if Ms. Feuchter's business parking is currently affected by Mr. Boland's use of the property, and Ms. Feuchter pointed out that the street parking in front of his building might be. Ms. Feuchter reiterated that she had no problem with Mr. Boland continuing to use the property as he had for years prior, but she did not agree with rezoning the property. Mr. Bailliez asked if Ms. Feuchter had seen the mini excavator over her fence, and Ms. Feuchter responded that she had. Ms. Feuchter stated that they had made a significant investment in the property that is now Pizza 150 and the rezoning would affect that.

Mr. Happ asked if Mr. Boland would be able to use the building as a warehouse if the requests were denied, and Ms. Urban explained that he would not be able to use the parcels for this type of use unless all three of the cases were approved; however, Ms. Urban did point out that there was an exception that would allow Mr. Boland to apply for a non-conforming use if he could prove that the business had been running as a legal use from this property without cessation for more than 6 months since a time when the use would have been allowed by the ordinance. Ms. Urban added that staff had not been provided with any proof to that effect.

Mr. Harms asked if the condition of the lot has improved at all, and Ms. Feuchter responded that it has improved slightly recently. Mr. Harms asked how long the property was in disrepair, and Ms. Feuchter responded that it was around 5 or 6 months.

Jim Feuchter of 10126 W Bridgeport Way, Hanna City, was sworn in. Mr. Feuchter stated that he wanted to clarify that he believed Mr. Boland could only pull his trucks in and turn around without backing in only if the vacant lot was empty.

Mr. Harms asked what road the vacant lot was accessed from, and Mr. Feuchter responded that it would be Vine Street. Mr. Feuchter added that he could see Mr. Boland's equipment over his fence because they were elevated by their transport trailers.

Susan Dewar of 1614 W. Parkside Dr., Peoria, was sworn in. Ms. Dewar stated that she is the Chief Financial Officer of Custom Underground in Kickapoo and is also related to Ms. Feuchter. Ms. Dewar stated that Custom Underground is also a family business with close ties to Kickapoo. Ms. Dewar stated that while she respects Mr. Boland's interest and commitment in the Kickapoo area, she did not agree that the rezoning should be approved. Ms. Dewar added that she felt that heavy machinery and that type of use was not suited for a downtown area. Ms. Dewar also stated that she was sympathetic to Mr. Boland's personal issues; however, she did not see why that prevented him from maintaining the property. Ms. Dewar added that she felt Mr. Boland had other options for locations to pursue.

Mr. Fletcher asked what Custom Underground does, and Ms. Dewar explained that they were a utility contractor that focused on underground communication facilities.

Mr. Boland came forward to address comments from objectors. Mr. Boland stated that his financial situation was much better now and that he would hopefully be able to begin fixing the property soon. Mr. Boland added that part of the delay was that he was unsure what would be happening with the zoning cases and the use of the building, so he wanted to wait for that determination before moving forward with repairs.

Mr. Boland stated that as far as the nonconforming use was concerned, he was not aware of ever discussing that with the Planning & Zoning staff. Mr. Boland stated that if he had known it was an option, he would have tried to pursue it. Mr. Boland pointed out that he wanted to try and work with everyone and be a good neighbor. Mr. Boland stated that he thought Mr. Feuchter would understand that it took time to repair buildings as the previous buildings on the Pizza 150 site sat idle for quite some time in disrepair before the new business was built.

Ms. Feuchter stated that the difference between their situation and Mr. Boland's was that when they purchased the buildings they were already in a dilapidated state.

Josh Barnewolt of 10005 W. Route 150, Edwards, was sworn in. Mr. Barnewolt explained that he lived and owned a chiropractic business adjacent to this location. Mr. Barnewolt explained that when Mr. Boland bought the property, he did speak with him about his plans and that they have always had a good relationship. Mr. Barnewolt stated that initially he was concerned that once the zoning was changed, it would be changed forever; however, Mr. Barnewolt added that he did not want to be an obstacle for Mr. Boland. Mr. Barnewolt stated that he believed the proposed fences would create a sufficient barrier and that he no longer felt the rezoning was a problem for the future. Mr. Barnewolt added that he believed in the Bolands and their plans for the properties moving forward.

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. Harms. A vote was taken, and the motion passed; (6-0)

Mr. Harms stated that it was very clear that everyone involved in this case had a lot of love and respect for their community and commended everyone for their respectful comments and insights. Mr. Happ asked if there was an update from staff concerning the Non-Conforming Use, and Ms. Urban stated that they were reviewing the ordinance from 40 years ago. Mr. Happ stated that the determination about the

Non-Conforming Use would have an impact on his vote because then Mr. Boland would have another option to pursue. Ms. Urban explained that the board could always decide to continue the case to determine what would happen with the Non-Conforming Use. Mr. Happ made a motion to continue the case to the following month's hearing. After discussion with the rest of the board and no second to the motion, Mr. Happ withdrew his motion to continue the case.

Mr. Bateman asked if they could approve the Special Use in order for Mr. Boland to continue operating as he had, and Ms. Urban explained that he would need approval on all three cases in order to stay at this location. Mr. Happ stated that he had no issue with the variance request, but he did have a problem with the rezoning. Mr. Unes stated that if the cases were to go forward today, he would not be voting in favor of them. Mr. Unes added that he had known the Boland family for years and had great respect for them, but he felt that Mr. Boland had other options.

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;
 - Lot sizes are not meeting the minimum size to be rezoned as C-2.
2. That the variation, if granted, will not alter the essential character of the locality;
 - The two lots will become one parcel.
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;
 - Combining the two lots will meet the requirements for C-2 zoning.
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 lots are small for this area.
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;
 - Combining the two lots and improvements will meet the requirements for rezoning.
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 any of these factors in a negative way.

7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - Combining the two lots will make room for office building and storage.
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.
 - Will not be able to continue having the business in the building.

Mr. Fletcher made a motion to approve the findings of fact and was seconded by Mr. Harms. A vote was taken, and the motion passed; (6-0) Mr. Fletcher made a motion to approve the request and was seconded by Mr. Harms. A vote was taken and the motion was approved. (5-1) (Mr. Unes voted no.)

Case No. 046-19-Z at 11:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **PHILIPPE BOLAND & MDB PROPERTIES, LLC, acting on behalf of MDB PROPERTIES, LLC** – (*a Business, Philippe Boland of 202 E. South St., Hudson, IL 61748, manager*), owner, a **REZONING** request from "C-1" Neighborhood Commercial to "C-2" General Commercial. The petitioner proposes to rezone the property in order to operate a contractor's office with an outdoor storage yard.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in the Peoria Journal Star on September 24, 2019 and the Weekly Post on September 19, 2019. The Kickapoo Township Planning Commission recommended approval. Staff has recommended denial.

Mr. Fletcher made a motion to incorporate the testimony from Case 045-19-V into this case and was seconded by Mr. Harms. A vote was taken and the motion passed; (6-0)

Clifton Miller of 10230 W. Route 150, Edwards, was sworn in. Mr. Miller stated that he felt he could give some history of the property that might be helpful for the Non-conforming Use. Mr. Miller stated that he bought the property in the 1970's, which had been previously used as an electrical and plumbing supplier. Mr. Miller stated that the previous owner, WAF Electric, also had several large pieces of equipment stored on site. Mr. Miller stated that he is not sure that was ever a permitted use, but it was used that way. Mr. Miller added that he cleaned up the property after he purchased it in the 1970's and that the Bolands had rented the space from him since then. Mr. Miller asked if this would be helpful for the Non-Conforming Use, and Ms. Urban responded that there would need to be specific documentation to determine the Non-Conforming Use. Ms. Urban recommended that Mr. Boland speak with Planning and Zoning staff after the hearing to schedule a time to discuss the issue further.

Mr. Happ stated that he wanted to make a motion to continue the case to the November hearing in order to see if Mr. Boland was able to provide documentation for the Non-Conforming Use. Mr. Bateman stated that he would not vote to approve the cases regardless of the outcome of the Non-Conforming Use. No second to the motion was given and the motion died. Mr. Harms clarified that even if the board voted to deny the cases, Mr. Boland would still have the option to pursue the Non-Conforming Use, and Ms. Urban confirmed that this was correct.

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. Harms. A vote was taken, and the motion passed; (6-0)

Case No. 047-19-U at 11:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **PHILIPPE BOLAND & MDB PROPERTIES, LLC, acting on behalf of MDB PROPERTIES, LLC** – (*a Business, Philippe Boland of 202 E. South St., Hudson, IL 61748, manager*), owner, a **SPECIAL USE** request from Section 20-5.8.2.1.h of the Unified Development Ordinance which allows for contractors or construction offices including storage yards in the "C-2" General Commercial Zoning District. The petitioner is proposing to operate a contractor's office with an outdoor storage yard.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in the Peoria Journal Star on September 24, 2019 and the Weekly Post on September 19, 2019. The Kickapoo Township Planning Commission recommended approval. Staff has recommended denial.

Mr. Bateman made a motion to incorporate the testimony from Case 045-19-V & 046-19-Z into this case and was seconded by Mr. Fletcher. A vote was taken and the motion passed; (6-0).

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; (6-0)

Miscellaneous:

No further questions or comments were made.

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

Meeting adjourned 1:15 p.m.

Respectfully submitted,

Ellen Hanks

ZBA Administrative Assistant