

**MINUTES**  
**Zoning Board of Appeals**  
**Linda O'Brien, Chairperson**  
**October 14, 2021**

A meeting of the Peoria County Zoning Board of Appeals was held on Thursday, October 14, 2021, in Room 403 of the Peoria County Courthouse, 324 Main Street, Peoria, Illinois. The meeting was called to order by Vice Chairperson Andrew Keyt, at 9:00 a.m.

**PRESENT:** Andrew Keyt – Vice Chairperson, Greg Happ, Jim Bateman, J. Greg Fletcher, Leonard Unes

**ABSENT:** Robert Asbell, Justin Brown, John Harms

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

---

Mr. Happ made a motion to approve the minutes from the September 9, 2021 hearing and was seconded by Mr. Fletcher. A vote was taken, and the motion passed; (5-0)

Case No. **ZBA-2021-000034** at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **STUART A. CUNNINGHAM, acting on his 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 30’ by 36’ accessory structure on a parcel without a principal structure in the “A-1” Agriculture Preservation 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 15, 2021, and *The Weekly Post* on September 23, 2021. Jack Weindel gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Environmental Corridor and Agricultural Preservation). The site plan and two videos of the property were shown. The property is zoned “A-1”.

Stuart A. Cunningham of 11319 W. Doubet Rd., Hanna City, IL was sworn in. Mr. Cunningham stated that he lives four miles from the subject property. The property has a long road to access it. He uses it primarily for recreation and he and his family hike and camp on it. Mr. Cunningham drives his tractor and transports tools to the property in order to maintain it. It is dangerous to drive the tractor on Taylor Road, and he would like to have the building there in order to store his equipment to maintain the land.

Mr. Happ asked if there would be power to the building. Mr. Cunningham stated that he plans to wire it for a generator or possibly solar.

Mr. Fletcher asked if the property could be seen from the road. Mr. Cunningham stated that it could not, and the nearest house is about 1300 feet away and there are a lot of trees.

Mr. Keyt reiterated what Mr. Cunningham had stated about the need for the building. Mr. Cunningham stated that he mows about four or five times a year and he maintains the road with a box blade, so he has the equipment there for four or five days in a row.

Mr. Keyt asked if there were any more questions from the Board, and there were none. Mr. Keyt asked if there was anyone that wanted to speak for or against the proposal, 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; (5-0)

### ***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 lives four miles away and has no plans to build a house on the property. He currently is driving a tractor on the road to go back and forth from the property.
2. That the variation, if granted, will not alter the essential character of the locality;
  - The timber area is also in the agricultural district, and the building will not have any effect on the character of the locality or 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 applicant has testified that he needs a building to maintain the property, as he lives four miles away, and is currently driving a tractor back and forth. He has tools and other items that he needs to store on the property. He has no plans to run electricity but may wire it for solar or a generator in the future.
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 trees surrounding the property, and the building will not be able to be seen from the road.
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 request is consistent with the adopted County plan, and the building will fit with others in the area.
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;
- There is no evidence, or information, that there would be negative impacts along those lines for this particular application.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
- The building that Mr. Cunningham proposes to build, according to the application, is the minimum amount required for him to have access to his equipment and tools to maintain 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.
- Not being able to utilize equipment and tractor storage at the property will require him to continue to traverse four miles back and forth between the properties. See also the above findings.

Mr. Fletcher made a motion to approve the findings of fact and was seconded by Mr. Unes. A vote was taken, and the motion passed. (5-0)

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

Case No. **ZBA-2021-000032** at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **TIMOTHY AND KERRY HANLEY, acting on their own behalf, a VARIANCE** request from Section 20-6.3.2.2.d.2.a of the Unified Development Ordinance, which requires a side setback of 15 feet for an accessory structure less than two thousand (2,000) square feet in the "A-2" Agriculture Zoning District. The petitioner proposes to construct a 576 sq. ft. structure at a distance of 5 feet from the eastern side setback, resulting in a variance request of 10 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 15, 2021, and *The Weekly Post* on September 23, 2021. Jack Weindel 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 two videos of the property were shown. The property is zoned "A-2".

Timothy Hanley of 9910 N. Wood St., Edwards, IL was sworn in. Mr. Hanley stated that he has two teenage boys that are driving, so he has a couple more vehicles and he also has a company vehicle that

he takes home. He would like to add a garage so that the vehicles would be covered and make the property look better. The location is the only place that would work that wouldn't require more gravel driveway be added, or cause lights from vehicles to shine into neighbors' houses. When they built the house, they put in a two car garage, but they removed the garage from the old house, and it is on a trailer and that is what he would like to install in that location.

Mr. Happ advised the Board that he does know Mr. Hanley personally, but it will not affect his decision either way.

Mr. Fletcher asked if he currently had a two car garage. Mr. Hanley stated that he does currently have a two car garage. Also, he took the garage off the old house that was demolished, and that is what he would like to put at the location.

Mr. Fletcher asked if there was a third building in the back. Mr. Hanley stated that there is a Morton building in the back that he keeps his camper and his boat in, and he plans to put his work vehicle in it as well. Mr. Fletcher said that on the arial view there appears to be another building. Mr. Hanley stated that this is the garage that was removed from the old house.

Mr. Fletcher asked if any trees would need to be cut down to install the garage. Mr. Hanley stated that the building would go where his burn barrel was and will fit right between the trees. Mr. Fletcher asked if there would be any excavation that would need to be done. Mr. Hanley stated that they might have to raise it slightly for water, but not much.

Mr. Keyt asked if the well and the slopes to the property prohibited him from putting the garage in another location on the property. Mr. Hanley stated that they did.

Mr. Keyt asked if there were any other questions from the Board and there were none. Mr. Keyt asked if there was anyone that wanted to speak for or against the proposal, 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; (5-0)

### ***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;
  - There is a creek located in the front of the property, existing buildings on the property, as well as a well, and underground utilities, which make the location that Mr. Hanley is proposing the only feasible location. There is also sloping on the property which limits the available space. Mr. Hanley has testified that he has two new drivers in the household and a company vehicle that he needs to accommodate. He has also arranged the building to avoid shining headlights into neighbors' houses at night.

2. That the variation, if granted, will not alter the essential character of the locality;
  - The location chosen will not alter the character of the locality where it is located. It will allow for storage of vehicles currently parked outside. Mr. Hanley has indicated that he will not be removing trees in the process.
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;
  - Refer to fact number 1 as well, as he will not be removing any trees.
4. That the conditions upon which the petition for a variation are based are unique to the property for which the variance is sought and are not applicable, generally, to other property;
  - Refer to fact number 1.
5. That the granting of the variation will not be detrimental to the public health, safety, comfort, morals and welfare, or injurious to other property or improvements in the neighborhood in which the property is located, or otherwise be inconsistent with any officially adopted County plan or these regulations;
  - The request appears to be consistent with the adopted County plan. The location of the garage would not be detrimental to the surrounding properties. The proposed location is on the east side of the property, adjacent to a 6 acre vacant lot.
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 location is next to trees and will not impair any light or air to adjacent property. There are no streets next to the location so it will not affect traffic flow. The addition of this garage will clean up the property and have a positive effect on property value.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
  - It is the minimum adjustment necessary because of the existing drive, the location of the well, and the ability to maneuver vehicles into the garage. Also, refer to fact number 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.
  - If the garage is placed in another location, a new drive would have to be installed around the existing building. This would impact the amount of green space and visual impact to neighboring properties.

Mr. Bateman made a motion to approve the findings of fact and was seconded by Mr. Happ. A vote was taken, and the motion passed; (5-0)

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

Case No. **ZBA-2021-000033** at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **ALL AMERICAN AIR B & B, LLC** (*A limited liability company, Rocky J. Darnell – authorized agent, of 1605 W. Candletree Dr., Suite 104, Peoria, IL 61614, Tyson R. Smith – authorized agent, of 26277 Oak Leaf Ln., Canton, IL 61520, Scott J. Miller – authorized agent, of 1111 E. Juniper St., Canton, IL 61520*), acting on its own behalf, a **SPECIAL USE** request from Section 20-5.5.2.2.C which allows for Overnight Accommodations, provided that they meet the requirements set forth in Section 7.8 (Overnight Accommodations) and provided that no more than 5 rooms or suites of rooms are rented; and rooms are not rented for a period of more than 14 days. The petitioner proposes to provide overnight accommodations on a short term rental basis.

Ms. Urban opened the case. There are 0 consents and 42 objections on file. The case was published in *The Peoria Journal Star* on September 15, 2021. The Peoria County Health Department had no objections but did have comments. The Medina Township Planning Commission did not take action on this case. The County Highway Department deferred to the Medina Township Road Commissioner, and there were no comments from the Road Commissioner. Staff has recommended approval with restrictions. Taylor Armbruster gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Environmental Corridor with some Agriculture and an overlay of River Freight). The site plan and three videos of the property were shown. The property is zoned “R-2”.

Mr. Unes asked Ms. Armbruster to go back to the video that showed the garage. Mr. Unes asked about the number of garbage cans sitting in front of the garage.

John McCarthy of 209 E. Chestnut Street, Suite 1, Canton, IL was sworn in. Mr. McCarthy stated that he represents All American Air B&B, an Illinois limited liability company, consisting of three members, two of whom are present, Tyson Smith and Rocky Darnell. Mr. McCarthy submitted photos of the property, as well as all of the Airbnb reviews, and pointed out that there are no negative reviews. Mr. Keyt stated that they would be entered into the record.

Mr. McCarthy stated that his client has submitted an application for a Special Use permit in an R-2 zoning district. The request is to provide overnight accommodations on a short-term rental basis. The house is a three bedroom, approximately 1,500 square feet ranch style home with a four car garage. On average, the property is rented to four guests who usually consist of a single family unit. On occasion, the property has been rented to guests who are friends of one another. Individual sleeping rooms are not rented. On average, the property is rented for approximately four days and nights, or over a long weekend, and is not rented for more than 13 days at a time. It has been available for rental over the last 6 or 8 months, and on average, there have been 4 or 5 rentals per month, so it is rented 50-60% of the time. Like other homes in the area, the property is advertised on the Airbnb website. The R-2 zoning classification allows similar uses as permitted uses, such as: small and medium sized residential care homes, two family dwellings rented long-term, and childcare homes. In addition, there are other properties that offer overnight accommodations on a short-term basis. The special use that is being requested is consistent with the community character in the immediate vicinity of the property. The residential uses in the area consist of single family dwellings, two family dwellings, long-term rental homes, and other Airbnb properties. The proposed use will have no adverse effects, including visual

impacts, on adjacent properties. The proposed use will have no impact on noise levels in the area, as the property is being used as a single family dwelling. The property has ample off street parking, as it has a long driveway, so there should be no significant impact on traffic. Mr. McCarthy summarized the planner report conclusions.

Mr. McCarthy said he would be happy to answer any questions.

Mr. Unes pointed out that Mr. McCarthy stated that there is not a noise or traffic problem, but a letter from a neighbor, states differently. Mr. McCarthy stated that he would dispute such claims. The property is generally rented to families, and people rent the facility to visit with relatives and go to events in the area. It may be that the guests are out in the yard, playing catch or having a cookout, and they don't see how that is objectionable. There is ample parking, and there is no impact on traffic patterns. The owners also require quiet hours after 10:00 p.m.

Mr. Unes asked if four trash cans was common for the neighborhood. Mr. McCarthy stated that he couldn't speak for the other people in the neighborhood. The facility is cleaned by a professional cleaning service and is extremely well kept. Mr. McCarthy stated that he found it hard to believe that the Board would deny a special use permit because guests were having a barbecue or playing a football game in the yard.

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

Mr. Bateman stated that he will be abstaining from this case. He lives in the neighborhood and has already heard quite a bit about the case.

Mr. Fletcher asked how many weeks or days the property is rented. Mr. McCarthy responded that the owners have only owned the property since the spring of this year and as he had indicated, it is generally rented for a weekend or long weekend. It is rented for three or four days at a time. So, it is rented about 50-60% of the time. He doesn't know if that will decline with the colder weather.

Mr. Fletcher asked if it was rented six times in August. Mr. McCarthy stated that it could be rented six times in a month. Mr. Fletcher asked if the reviews were all individual rentals. Mr. McCarthy stated that they were.

Mr. McCarthy added that there were concerns at the Medina Township Planning Commission meeting. Each renter has to agree to the house rules, every renter has to provide a photo government issued ID, no events are allowed at the facility, and they must submit a review after the rental.

Mr. Fletcher stated that Medina Township also asked about a fence being installed. Mr. McCarthy said the applicant is willing to install a boundary fence and trees. There is a bid for this work, and Mr. McCarthy offered to present it to the Board. The owners are also willing to install a Ring Doorbell.

Mr. Fletcher asked if the fence would go all the way to the road or just by the garage. Mr. McCarthy stated that it hasn't been determined yet, but the ideal situation is that it would shield the property to the north. Mr. Fletcher confirmed that the fence would shield the house that is on the north side of the property. Mr. McCarthy stated that this was correct. Mr. McCarthy also stated that he would defer to Mr. Darnell.

Mr. Fletcher asked if he knew the addresses of the other Airbnb properties that he had previously mentioned. Mr. McCarthy stated that some of the owners of the other Airbnb rentals are present, and that they have received documentation from the County asking that they apply for a special use permit. Mr. Fletcher asked if Mr. McCarthy knew the address of any of those. Mr. McCarthy stated that he did not.

Mr. Happ asked who polices the restrictions listed in the report, and if the restrictions are found to be violated, if they lose their special use. Ms. Urban stated that the four automobiles is a requirement in the zoning ordinance for all residential properties in the County. If there was a complaint, it would need to be made with Planning and Zoning, and the code enforcement officer would investigate. Mr. Happ asked if it was one strike and done. Ms. Urban stated that this is a very difficult ordinance requirement to enforce. The ordinance states that the vehicles have to be present for 72 consecutive hours, and with an Airbnb, guests may be out in that amount of time and there would be a different group of people. Even with an ordinary single family residence, it is 72 consecutive hours, and code enforcement officers are not able to monitor for 72 consecutive hours. When there is a complaint, the department does its best to monitor and document on a daily basis. Ms. Urban stated that there isn't a "one strike and you're out" requirement in the ordinance, but that she, as the Zoning Administrator, would make the determination.

Mr. McCarthy asked for clarification concerning the parking ordinance. He stated that as he understands, the cars must be on the property for 72 hours or more. Ms. Urban stated that this was correct. Mr. McCarthy then asked if there were six cars for one evening, then that would not be in violation. Ms. Urban confirmed that this was correct.

Mr. Keyt said that the property was purchased in the Spring of 2021 and asked if it had previously been used as a single family residence. Mr. McCarthy stated that he did not know the answer to that question. Mr. Keyt asked if the owners had planned to use the property as an Airbnb rental when they purchased it. Mr. McCarthy stated that they had. Mr. Keyt asked if they had checked the ordinances to determine what needed to be done to operate an Airbnb rental. Mr. McCarthy stated that they did not and were unaware of the requirements. This is his clients' 3<sup>rd</sup> Airbnb rental property. The other two are in Fulton and Knox counties, and they do not have similar rules. Mr. Keyt asked if Mr. McCarthy's clients spoke with the neighbors about what their intention was. Mr. McCarthy stated that he would have to defer to his clients, but based on the objection, he believes that they spoke to the neighbor to the north.

Mr. Keyt stated that his understanding of the objections is that there seems to be a noise issue with having a number of people at the property. Mr. Keyt asked if anything had been done to attempt to mitigate that noise. Mr. McCarthy stated that his clients are immediately responsive to any complaints that they receive. Mr. Keyt asked if the owners would be willing to give out a telephone number to neighbors. Mr. McCarthy said that the neighbors have the telephone number.

Mr. Keyt stated that the problem is not the registered guests, but any guests that they might invite. The concern then becomes how the County assists the neighbors in making sure that this doesn't become an issue. Mr. Keyt asked Mr. McCarthy how the owners could ensure that there isn't an issue with people having large parties. Mr. McCarthy stated that Mr. Darnell might better be able to answer these questions.

Mr. Happ stated that the way he reads restriction number three, is that only eight people are allowed to be on the property at one time. Ms. Urban stated that the intent was that there be a maximum of eight overnight guests and the restriction was not intended to limit the number of visitors at the property. Mr. Happ stated that he would like to amend the restrictions so that the number of people on the property are limited.

Mr. Keyt asked if there were any questions for Mr. McCarthy.

David Charles Kellenberger asked if there was a septic at the house. Mr. McCarthy stated that there was. Mr. Kellenberger asked if septic tanks were sized based on the number of bedrooms in a house. Mr. McCarthy said that he believed they were. Mr. Kellenberger was concerned that a large number of guests would overload the septic system. Mr. Kellenberger also inquired about Airbnb's screening process. Mr. McCarthy stated that Mr. Darnell would be able to answer that question. Mr. Keyt had to remind Mr. Kellenberger, several times, that he could only ask questions of Mr. McCarthy and could not introduce evidence at this time.

Mike Hursey asked, if there was a party and several cars were parked in the driveway, how would the first car leave without turning around in the neighbor's yard. Mr. McCarthy said that he could not answer that question.

Mr. Keyt asked if anyone had questions for Mr. McCarthy. There was no one.

Rocky Darnell of 1 Briarwood Ln, Metamora, IL was sworn in.

Mr. Happ asked if Mr. Darnell owned the property. Mr. Darnell stated that he was a part owner.

Mr. Fletcher asked how the guests were screened by Airbnb. Mr. Darnell stated that guests first have to create a profile on the Airbnb platform, they must submit a government issued ID, email address, and photo. If guests have a negative review, All American Air B & B will not rent to them. Potential renters must give a statement on their purpose for renting the property.

Mr. Darnell referenced the reviews. Guests are not required to leave a review. Most of the reviews reference that the property is a center point for families to meet. The house has an entry that has no steps, and this is convenient for some people. The property is also pet friendly.

Mr. Fletcher asked if there was an additional set of rules besides what Airbnb has. Mr. Darnell stated that the house is advertised as suitable for children, non-smoking, pet friendly, and events are not allowed, and the rules are as follows:

1. Place all dirty towels in bathroom to be laundered
2. Load dishwasher with all dirty dishes and start
3. Leave beds unmade
4. Empty refrigerator
5. Take all garbage out to cans
6. Place all TV remotes on tables
7. Clean up pet waste and dispose of properly
8. Smoking permitted outdoors/ not on patios and dispose of waste properly

9. Quiet time is 10:00 pm as we are in a residential neighborhood

Mr. Happ confirmed that no events are allowed and questioned whether that meant a cookout. Mr. Darnell said no large scale events. Mr. Happ asked what was considered a large scale event. Mr. Darnell explained that the Airbnb platform has a radio button to select whether or not large events are allowed. This makes the property searchable by whether or not the guest is looking for a place to hold an event. Mr. Keyt asked what is considered a large scale event, and is the number defined within the rules. Mr. Darnell stated that this is a case by case basis. When the potential guest requests the reservation, they are to give the purpose of the stay, as well as a list of guests. Mr. Darnell also stated that there is a Ring Doorbell installed so they can monitor who comes and goes. Mr. Keyt asked if the house rules were that no events are allowed. Mr. Darnell stated that it is not in the house rules, but the Airbnb listing is classified as a property where events are not allowed. Mr. Keyt asked, if guests rent the property and want to have people over, the house rules would still allow for that to occur. Mr. Darnell stated this was correct. Mr. Keyt asked what the limit is on the number of people allowed to be at the house. Mr. Darnell stated that they allow a maximum of 8 guests to stay at the house overnight. When guests are filling out the initial request to book, they must give an intended use of the property. They have denied booking requests based on the intended use. In the past, they had denied a booking request to guests that wanted to have a 21<sup>st</sup> birthday party. Mr. Darnell stated that they don't want the property destroyed, so it is in their best interest to deny such requests. Mr. Keyt confirmed that there is no limit to the number of people allowed to be on the property. Mr. Darnell stated this was correct. Mr. Keyt said that the people that live nearby have a concern about that and asked how Mr. Darnell plans to address that concern. Mr. Darnell stated that the initial screening about the intended use of the property and quiet hours at 10:00 p.m. were measures taken to address the concern. He doesn't see how 50 people being at the home during the day, as long as they're quiet during quiet hours, is that disruptive. Mr. Keyt asked what time quiet hours ended. Mr. Darnell said just in the morning. Mr. Keyt said that there needs to be a period of time for quiet hours, not just a start time.

Mr. Happ asked if they had received complaints from neighbors. Mr. Darnell said they had noise complaints and that they contacted the guests and that was the last they heard of it. Mr. Happ asked how many complaints they had received. Mr. Darnell said that he had received one complaint and Mr. Smith had received one.

Mr. Keyt stated that it sounded like, when they purchased the home, they didn't know that a special use permit was required. Mr. Darnell confirmed that this was correct. Mr. Keyt asked if they had spoken to any of the neighbors about the intended use for the property. Mr. Darnell said that they did, and they told them that he and Mr. Smith would be staying there themselves, renting it to friends, and eventually would be renting it as an Airbnb. Mr. Keyt asked if there was someone that was contracted to mow the lawn and take care of the yard. Mr. Darnell stated that JP Seasonal Services maintains all of the exterior.

Mr. Unes asked when All American Air B & B was chartered. Mr. McCarthy stated that he would have to look for that information. Mr. Darnell said it was in the Spring. Mr. Unes asked when the property was acquired. Mr. McCarthy said March of 2021. Mr. Unes then asked if it was acquired before or after the charter. Mr. McCarthy said it was after the charter. Mr. Unes asked if All American Air B & B owns other rental properties. Mr. McCarthy stated that they own two others.

Mr. Fletcher asked if they had inquired with the counties where the other Airbnb properties were located about zoning regulations. Mr. McCarthy said that they hadn't check the other counties, but he didn't believe there were any requirements.

Mr. Fletcher asked if the other properties were in a town. Mr. Darnell stated that one of the properties was in Maquon, IL on 330 acres and the other is in Cuba, IL on lake Wee Ma Tuk.

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

Mr. McCarthy had one other comment about the number of guests. He stated that the petitioner limits the number of overnight guests to eight and feels that it is a slippery slope to say that guests can only have 10 people at a barbecue. People gather in homes. There are no events allowed and any complaints were responded to immediately.

Mr. Keyt asked if Mr. McCarthy had any other witnesses to call. Mr. McCarthy did not.

Mr. Keyt asked if there was anyone that wanted to speak in favor of the application. There was no one.

The Board took a break from 10:25 a.m. to 10:35 a.m.

Mr. Keyt asked Mr. McCarthy if there was one other applicant that would like to speak. Mr. McCarthy stated that Mr. Smith would like to speak.

Tyson Smith of 26277 Oakleaf Lane, Canton, IL was sworn in. Mr. Smith stated that he is a 40% owner in All American Air B & B. He wants to address some of the questions that had been asked. Mr. Smith stated that, concerning the background check, Airbnb does a background check on renters, and a credit card is on file. The renters are responsible for any damage that would be done to the house, so they don't want to invite people that would do damage to the property. Guests enter the house via key code that is given to them just prior to check-in. Mr. Smith stated that he has 35 rental properties, and he doesn't do half of the background checks that are done with Airbnb. Mr. Smith stated that they are not promoting events. They don't want 50 people in the backyard, tearing it up. Mr. Smith also addressed the trash can issue. He stated that usually only two cans are used, but the others are there so that trash isn't spilling out onto the driveway.

Mr. Keyt asked how All American Air B & B vets that guests are not going to have an event. Mr. Smith said there is a camera so they can see who is coming and going, and also, they have a credit card on file and the guest are responsible. He said that most of the guests aren't spending most of their time at the house, they are coming for events in town such as at Three Sisters Park or Louisville Slugger Sports Complex.

Mr. Keyt asked if there were any questions from the Board. There were none. Mr. Keyt asked if there were any questions from the audience for Mr. Smith.

Mike Hursey of 13605 N. River Beach Dr. asked Mr. Smith if they've ever had check-in time after 10:00 p.m. Mr. Smith stated that guest could check in after 10:00 p.m. and that's not unreasonable. Mr. Hursey stated that it's not what he would do.

David Kellenberger asked if the four car garage in the back was for guests. Mr. Smith stated that it was not. Mr. Kellenberger asked if it was for LP tanks. Mr. Smith said that he does keep his LP tanks in there, but he rents the garage to a friend for storage.

Mr. Smith stated, that to answer Mr. Hursey's previous questions about the septic tank, they have had it inspected by the Health Department and it is maintained very well.

Mr. Keyt asked if Mr. McCarthy had any other questions. Mr. McCarthy did not but stated that there were people in the audience that would like to speak in favor of the petitioner.

Kyle Holloway of 1311 N Wood Rd, Peoria, IL was sworn in. Mr. Holloway stated that he is an Airbnb owner for the past three years in a similar area, he would like to speak in support of the petition. The decision will affect all other similar property owners in the area. In the three years that he has rented the property, he has never had any complaints. He also stated that he was not aware of the need for a special use permit.

Mr. Fletcher asked how many rentals Mr. Holloway has. Mr. Holloway said that he has four, one in a similar area in Chillicothe, one in the City of Peoria, and two in Knox County. He keeps the property clean, is always available to neighbors and renters if there are any problems.

David Russell of 5161 N. Prospect Rd., Peoria Heights, IL was sworn in. Mr. Russell stated that he has a house that is rented through Airbnb that is similar to the petitioner's property. He and his wife purchased the house in 1994. They had previously rented the house to long-term tenants, but that had been rough on the house. They decided to try short-term rentals through Airbnb. Mr. Russell stated that he and his wife spoke to the neighbors to make sure they were okay with it being rented as a short-term rental. They have had outstanding success. Most of the renters are from the suburbs of Chicago. His wife has an emotional attachment to the house, so they are very careful about who rents it. They have never had a rental they regretted and have had no complaints. Mr. Russell was unaware that a special use permit was needed. Airbnb rentals police themselves in that they are expensive, and users know they will be rated.

Jason Briscoe of 8747 E Hansel Rd, Channahon, IL was sworn in. He owns six different Airbnb properties in several counties in addition to about 95 other rental properties, from commercial to residential. Airbnb is a new segment of an old rental market. What he has found is that the regulation of Airbnbs is handled very differently across counties. Mr. Briscoe stated that he is not necessarily there in defense of any of the issues that the neighbors of the petitioner may have, he hopes they can come to a resolution, but the Board's decision today will affect other Airbnb owners.

Mr. Fletcher asked how many Airbnbs Mr. Briscoe has. Mr. Briscoe said that currently he owns six. Mr. Fletcher asked if they were in Peoria County. Mr. Briscoe said that he has one in Peoria County, but others will be coming. He is in the process of fixing and cleaning them. Mr. Briscoe went on to say that Peoria is promoting tourism and bringing people to the area. Not everyone wants to stay at a hotel. Mr. Briscoe stated that families like his, he, his wife and four boys, can't stay in a hotel without breaking the family into two rooms and it's not logical to travel this way. If they stay in a home with a kitchen it is much easier for his family. This is the use that he is seeing for Airbnb properties.

Mr. McCarthy asked where Mr. Briscoe's property is. Mr. Briscoe stated that his property is on the river side, less than a mile north of the petitioner's property.

Mr. Keyt asked if there was anyone else that would like to speak in favor of the applicant. There was no one. Mr. Keyt asked if there was anyone that would like to speak against the petitioner.

Richard Laukitis of 611 N Fourth Street, Chillicothe, IL was sworn in. Mr. Laukitis stated that he is an attorney that represents Mark Krueger and Joan Kissler of 14001 N. River Beach Dr., the adjacent owners of the subject property. The petitioners purchased the home in March 2021 and Airbnb guests started showing up in April. The petitioners continue to rent out the property. Mr. Laukitis submitted that the owners don't respect the neighbors and they don't respect Peoria County Zoning ordinances.

Mr. Laukitis stated that on October 11, he submitted his client's objections, along with a petition signed by 41 area residents, two of which are adjacent neighbors. He further stated that no one wants a mini hotel next door to them. Unlike a hotel, an Airbnb does not have management on the premises so there is no accountability for the actions of the guests. Mr. Laukitis stated that Airbnbs create a significant loss of privacy, loss of security, loss of peace of mind, and destabilize the neighborhood.

Mr. Laukitis inquired about the restrictions. Ms. Urban advised Mr. Laukitis that there were extra planner reports that listed the restrictions.

Mr. Keyt asked what the difference between a long-term renter was, that has a lot of family members that frequently has parties, and a short-term renter. Mr. Laukitis stated that with a long-term renter there would be more accountability. It would be easier to enforce violations with a long-term renter. Mr. Keyt stated that the converse argument to that would be that it would be more difficult to remove a long-term renter. Mr. Laukitis agreed that it is not easy to evict a tenant. Mr. Keyt continued that there are some aspects of an Airbnb, that if you have a bad renter, it's only for a weekend or whatever the time period would be, then they are gone.

Mr. Keyt asked if there were any questions from the Board. There were none. Mr. Keyt asked if there was anyone from the audience with questions for Mr. Laukitis.

Mr. McCarthy asked Mr. Laukitis, if he believes, that if the owner's turned the property into a long-term rental, which would be allowed under the ordinance, they could have a single, two family, childcare home, etc., without applying for a special permit, the neighbors would be more accountable. Mr. Laukitis said yes. Mr. McCarthy wanted to know to whom they would be more accountable. Mr. Laukitis stated that they would be more accountable to the neighbors. He explained that there is an opportunity for the neighbors to understand and gage the renters. There are different people at different times and the house is rented 60% of the time. It is a more fluid situation. Mr. McCarthy posited that that fluidity was more to the advantage of the neighbors as it is only rented 60% of the time not 100% as a long-term renter would be.

Mr. Keyt stated that things were getting off track and Mr. McCarthy was making closing arguments instead of just asking a question.

Mr. McCarthy stated that Mr. Laukitis indicated that the applicants don't respect the neighbors and asked what evidence he had. Mr. Laukitis said the neighbors were here, and they would testify.

Mr. Keyt asked if there were any more questions for Mr. Laukitis, and there were none. Mr. Keyt asked if Mr. Laukitis had an order that he would like the witnesses to be called. Mr. Laukitis stated that whoever would like to come up.

Joan Kisser of 14001 N. River Beach Dr., Chillicothe, IL was sworn in. Ms. Kisser stated that she hoped that everyone had read the letter that she had submitted through Mr. Laukitis. Ms. Kisser pointed out that Peoria County Zoning sent a letter to all American Air B & B on June 21, and since that time, the petitioners have been advertising and operating as an Airbnb. According to Ms. Kisser, this indicates that they don't care if they are in violation of Peoria County ordinance. Ms. Kisser addressed some issues that she had with the petition. The petition states that they should be able to operate because there are other properties in the area that advertise with Airbnb. Other properties do not have special use permits and are operating in violation of County code. The petition also states that the home is usually rented to a family unit. Ms. Kisser stated that this is not the case and the home is usually rented to all adults. The house has turned into a residential party house, and there is noise well past 11:00 at night. Ms. Kisser stated that friends and family of the renters arrive, and it makes for large gatherings at the house. They like to party in the driveway, which is very close to her house. When the house was a single family residence, there was not the parties or level of noise. Ms. Kisser stated that she and her neighbors have had to go over at night and asked them to turn the music down. Many of them play rowdy games in the yard and hit golf balls into the river. Ms. Kisser also stated that the yard has not been taken care of. Ms. Kisser complained that traffic has increased and there are additional cars in the driveway. Ms. Kisser stated that the petition claims that the Airbnb is consistent with the character of the neighborhood. She disagreed and stated that the neighborhood was a quiet neighborhood until the arrival of the Airbnb. Ms. Kisser stated that some have argued that charging \$400 a night for accommodations ensures that the guests are "high-end", but if \$400 is divided between 8-10 people it is affordable. Ms. Kisser stated that they have owned their home for 24 years and have never witnessed this kind of behavior in the neighborhood. There are now times when they don't feel comfortable sitting outside in their yard. Ms. Kisser asked that the Board vote no.

Mr. Unes asked if Ms. Kisser was aware of any times that neighbors have called the county and complained about tenants. Ms. Kisser said no, they've thought about it, but this is all brand-new and they wanted to be nice, however, it may come to that. Mr. Unes asked if anyone in the neighborhood had called the police for any reason in the last several months. Ms. Kisser asked Mr. Unes to clarify if he meant in general, or at this house. Mr. Unes said in general. Ms. Kisser said not recently, but the City of Chillicothe police had put out a warning because of thieves burglarizing cars and homes in the area.

Mr. Keyt clarified that the warning was not in reference to the guests staying at the Airbnb. Ms. Kisser stated that it was not in reference to the Airbnb, and that the notice wasn't on River Beach but on roads close to River Beach.

Mr. Keyt referenced Ms. Kisser's issue with the yard, and stated that, from the pictures submitted by Mr. McCarthy, the lawn looks well kept. Ms. Kisser stated that there had been weeds in the yard all summer long and that someone just came within the last two weeks and cut down the weeds and some of the

bushes next to the house. She went on to say that some of the weeds are taller than she, and some are poisonous. Mr. Keyt said that the pictures he has don't match what she is describing.

Mr. Keyt asked how many times the noise levels have been too loud, and she had to tell the guests to turn it down. Ms. Kisser stated at least 50 or 60 times. Mr. Keyt asked why she had never called the police. Ms. Kisser said that it is all new and they wanted to be nice to the people staying there. Mr. Keyt said that at 50 or 60 times he would just call the police. Ms. Kisser said that it will probably come to that. Mr. Keyt asked, what would be the difference between the current use and a long-term renter. Ms. Kisser said that if you have a bad neighbor, at least you know what you have. Mr. Keyt stated that if there was a long-term renter that was difficult, it would be more difficult to get that person out of the rental home, and at least with an Airbnb, the complaint is a short-term one. Mr. Keyt asked if Ms. Kisser agreed. Ms. Kisser stated that she did see his point. Mr. Keyt asked if there was anything that the owner could do to coexist, such as change hours of operation, fences, landscaping, or anything. Ms. Kisser said that she didn't think there was enough room to put up a fence or plant bushes, as the pad at the end of the driveway is only a foot off the property line. Mr. Keyt asked what the difference would be if there was a daycare in the home instead of an Airbnb. Ms. Kisser responded that it would be little children and not adults having beer parties. Mr. Keyt asked what Ms. Kisser's primary issue is with the Airbnb. Ms. Kisser stated that it was the noise, people being disrespectful, and people trying to steal things. Mr. Keyt asked Ms. Kisser to clarify what people were trying to steal and from whom. Ms. Kisser stated that they witnessed guests trying to break-in to the garage. Mr. Keyt asked if they had called the police. Ms. Kisser said that they were too aghast at the time.

Mr. Keyt asked if she had even spoken to the petitioners about the noise issue. Ms. Kisser stated that she had not, but her husband had.

Mr. Fletcher asked who lived at the house before the petitioner purchased it. Ms. Kisser said that Scott Nelson and Joan Bumbar had. Mr. Fletcher asked how long they had lived there. Ms. Kisser stated that they had lived there for about 16 years. Mr. Fletcher asked if they had moved away. Ms. Kisser said they had moved back to the DeKalb area where family members live.

Mr. McCarthy said he had a few questions for Ms. Kisser. He confirmed that Ms. Kisser had complained about noise 50 or 60 times. Ms. Kisser stated that she hadn't counted, but it had been a lot. Mr. McCarthy asked if the property was generally rented on the weekends. Ms. Kisser stated that it depends, sometimes it is rented during the week, and sometimes it's a long weekend. Mr. McCarthy said that 50 or 60 times seems like a lot and that would be two months, and the petitioners only started renting the home in April. Ms. Kisser stated that she was just guessing, but it had been with great frequency. Mr. McCarthy stated that it isn't rented all the time, and asked Ms. Kisser if she agreed. Ms. Kisser stated that once in a while it is empty. Mr. McCarthy stated that Ms. Kisser had mentioned that she witnessed someone trying to steal something, that she didn't call the police, and they turned out to be tenants. Mr. McCarthy asked if Ms. Kisser had heard Mr. Smith's testimony that the propane tanks are kept in the garage. Mr. McCarthy stated that Ms. Kisser had testified that she knew 10 people staying in the house overnight and asked if she had gone in the house and counted the number of people staying. Ms. Kisser said no. Mr. McCarthy asked how she knew. Ms. Kisser stated that the people were coming out of the house early in the morning and the same cars that had been there the night before were in the driveway. Mr. McCarthy asked Ms. Kisser if she was aware that the zoning violation case was continued pending the outcome of the special use request. Ms. Kisser stated that she was.

Mr. Keyt asked if there were any other questions for Ms. Kisser. There were none. Mr. Keyt asked if there was anyone else that would like to speak.

Roberta Frohm of 13919 N. River Beach Dr., Chillicothe, IL. Ms. Frohm stated that she is the adjacent property owner to the south. She stated that her home is 100 feet from the Airbnb, so she has not witnessed everything, but the noise has been a problem. Ms. Frohm stated that the gatherings have been downplayed as barbecues and family gatherings, but they were at 11:00 p.m. and that is not an appropriate time to have a barbecue. She stated that she had to go over and ask them to turn the music down. Ms. Frohm also stated that the music was not just rap music, but the lyrics were vulgar, and it isn't something that she would let her son listen to. Ms. Frohm stated that the petitioner's testified that they had only received two phone calls about the noise, but she doesn't have their phone number or any way to contact them. If she did have a complaint, she would have to go over or call the police, but to be honest no one wants the police coming into the neighborhood late at night, disturbing all the neighbors. Ms. Frohm stated that Ms. Kisser had said that there had been 50 or 60 times, and those are all different people, and you don't know them, and you want to give them a chance to rectify the situation. Ms. Frohm pointed out that all of the Airbnb owners that spoke were in favor of Airbnb in general, and their properties haven't had complaints. She also stated that the petitioners have concern for their property and safety for the guests, and not the neighbors. Ms. Frohm also stated that in regard to a short-term versus long-term renter, she would rather have a neighbor that she knew, rather than different people coming and going.

Mr. Fletcher asked if there had been multiple times or tenants that had played loud or vulgar music. Ms. Frohm stated that it was multiple times. Sometimes it was earlier in the day and it was easier to ignore, but when you are trying to go to bed, it is much more difficult.

Mr. McCarthy asked if guests had complied when she had gone over and asked them to turn the music down. Ms. Frohm stated that they did begrudgingly.

Mike Hursey of 13605 N River Beach Dr., Chillicothe, IL was sworn in. Mr. Hursey stated the property is just too close to neighbors, and he understood the neighbors' fear about how many people would be showing up. Mr. Hursey stated that the background check is only done on the person making the reservation and there is no way of knowing about the other seven guests that can stay at the property. Mr. Hursey also stated that there is nowhere for cars to turn around in the driveway, so they will turn around in Ms. Kisser and Mr. Krueger's driveway. Mr. Hursey went with Mr. Krueger to pass the petition around the neighborhood and there was no one that wanted the Airbnb in the neighborhood.

Mr. Keyt asked where Mr. Hursey lived in relation to the subject property. Mr. Hursey said he was 8-10 houses south. Mr. Keyt asked if Mr. Hursey had heard noise from the property at his house. Mr. Hursey stated that he had not.

Albert Pettet of 14325 N. River Beach Dr., Chillicothe, IL was sworn in. Mr. Pettet stated that he expects that the value of neighboring houses will drop because no one wants to live next to a rental party house. Mr. Pettet also addressed the issue of drugs and asked how a background check prevented guests from bringing drugs to the Airbnb. He also stated that he doesn't think the owners have respect for rules, as they have been running the Airbnb for some time without the proper permits. In reference to the

short-term/long-term question, Mr. Pettet stated that he believes long-term renters are there to enjoy the quiet neighborhood and short-term renters are there to party and leave.

Mr. Keyt asked if Mr. Pettet had anything to cite, showing that property values go down because of short-term rentals. Mr. Pettet stated that he did not.

Mr. Happ asked if Mr. Pettet had been aware that there were already other Airbnb properties on River Beach Rd. Mr. Pettet said he was unaware of that.

Mr. McCarthy asked if Mr. Pettet had any evidence that any of the tenants had brought drugs into the home. Mr. Pettet said he did not.

Mark Krueger of 14001 of N. River Beach Dr., Chillicothe, IL was sworn in. Mr. Krueger stated that he and Mr. Hursey had circulated the petition in the neighborhood. He stated that he and the neighbors do not want an Airbnb in the neighborhood.

Mr. Keyt asked Mr. Krueger where he lived in relation to the subject property. Mr. Krueger stated that he lived in the adjacent property to the north. Mr. Keyt clarified that he lived in the same house as Ms. Kissler. Mr. Krueger stated that he and Ms. Kissler had sold the property to the previous owners and they built the house.

Mr. Pettet added that Mr. Keyt had asked if he had had any evidence about the decrease in property value with an Airbnb next door. Mr. Pettet stated that he had been in real estate for a number of years and saw what happened to property values when an owner started renting a single family home. Mr. Keyt asked if anyone had any questions for Mr. Pettet based on his most recent statement. Mr. McCarthy asked Mr. Pettet if his experience was with long-term rentals causing property values to decrease. Mr. Pettet said that it was. Mr. McCarthy asked, based on Mr. Pettet's experience, that if this home was rented to someone on a long-term basis, that it would cause the value to go down. Mr. Pettet stated that it would. Mr. McCarthy confirmed that Mr. Pettet had no evidence that a short-term rental would cause property values to go down. Mr. Pettet stated that in his opinion, that if long-term rentals caused a problem, then short-term rentals would also cause a problem.

David Kellenberger of 14113 N. River Beach Dr., Chillicothe, IL was sworn in. Mr. Kellenberger stated if there was a house fire, firemen would have no way of knowing how many people were in the house and it could put the firefighter's life in danger. He also addressed the issue of calling the police, and stated that in the neighborhood, if there is a problem, they knock on the door and the issue is usually resolved. Mr. Kellenberger stated that when you don't know the neighbors, you don't know how they will respond.

Mr. Keyt asked if there were any questions for Mr. Kellenberger. There were none.

Mr. Keyt asked if there was anyone else that wanted to speak against the petition.

Pat Martin of 13524 N. River Beach Dr., Chillicothe, IL was sworn in. Ms. Martin stated that she has stayed at bed and breakfasts before. She thinks the problem is that the home is too close to the neighbors, and this Airbnb is just in the wrong place.

Mr. Keyt asked if there were any questions for Ms. Martin. There were none.

Mr. Keyt asked where Ms. Martin lived. Ms. Martin stated that she lives about a quarter of a block away. Mr. Keyt asked if she had had problems with noise. Ms. Martin stated that she had not.

Mr. Fletcher made a motion to close and deliberate and was seconded by Mr. Happ. A vote was taken, and the motion passed; (4-0) (Mr. Bateman abstained)

The Board took a break from 12:20 p.m. to 12:25 p.m.

Mr. Keyt stated that the Board was in the deliberation phase and asked if there was any discussion. Mr. Keyt stated that there is a staff recommendation for approval with restrictions and that they could discuss the proposal as a whole or additions to the restrictions if the Board is so inclined to approve it. Mr. Fletcher stated that the noise issue was raised quite often and was wondering if there was a way to add a restriction to reflect in the Airbnb's rules about music, the garage, and the driveway. Mr. Keyt stated that some could be addressed but there might be the need for some research to see what could be applied. Mr. Keyt also stated that there seems to be some conflicting stories about the noise issue. Also, it seems like the neighbor to the north seems to be the primary issue because it is so close, and Mr. Keyt wondered if there was some way they could work something out. Mr. Fletcher stated that possibly they could come to an agreement for additional landscaping or fencing. Mr. Keyt stated that he doesn't want to continue the case, but if they did, that would give the neighbors time to work it out. Mr. Keyt asked the Board what their feeling was about how to vote. Mr. Fletcher stated that he would like to come to a decision today and would like to amend the restrictions to include some sort of fencing or landscaping to create a sound barrier. Mr. Keyt asked staff if there was enough room to install a fence. Ms. Urban stated that a privacy fence could not go past the front building line of the house. Mr. Keyt stated they could include a restriction stating that a fence would need to be installed in accordance with Peoria County Zoning ordinances. Mr. Keyt asked if they wanted some sort of vegetation. Mr. Fletcher stated that his recommendation would be that he would like some sort of vegetation. Mr. Keyt stated that restriction number three limited the number of overnight guests to eight, and he would like to limit the number of people on the property at all times. He stated that it would be difficult to police. Mr. Happ agreed that at 10:00 p.m. the party needs to end. Mr. Keyt stated that it could be drafted that "no more than 8 people could be on the subject parcel after 10:00 p.m." Mr. Unes stated that he would like to vote on the case as presented, and that a six foot fence would be allowed, but that would be no sound barrier. Mr. Fletcher asked Mr. Unes to clarify that he wanted to vote on the case as presented. Mr. Unes stated that he would like to vote on the petition as presented without any additional restrictions. Mr. Keyt stated that they would move on to the findings of fact.

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

Meeting adjourned at 12:52 p.m.

Respectfully submitted,

Sarah Cox

APPROVED 11/11/2021

ZBA Administrative Assistant