

Sangamon County, Illinois
ZONING BOARD OF APPEALS

The Zoning Board of Appeals met on November 16, 2017, at 7:00 P.M. in the County Board Chamber in the County Complex.

ATTENDANCE **(X) denotes present**

(X) Chairman Chimento	(X) Committee Member Mares
(X) Committee Member Wulf	(X) Committee Member I Beaty
() Committee Member Spiro	(X) Committee Member II Sudeth
() Committee Member Lathan	

STAFF PRESENT:

Steve Keenan, Senior Planner, Spfld-Sang County Regional Planning Commission
Dwayne Gabb, Assistant States Attorney, States Attorney's Office
Trustin Harrison, Zoning Administrator, Sangamon County Zoning

Chairman Chimento called the meeting to order.
Approval of October 19, 2017 Minutes

Committee Member Don Wulf made a motion to approve the minutes.

Committee Member Tony Mares seconds the motion.

5/0/0

2017-056 Schultz was heard before 2017-055 Hoyle

Docket 2017-052 Mary K. Ramsey for property located at 3200 Block of Young Road, Mechanicsburg, IL 62545

PETITIONER(S): Mary K. Ramsey

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: A

REQUESTING: Petitioner requests for Proposed Parcel 1: a rezoning from "A" Agricultural District to "R-1" Single-Family Residence District.

Mary Ramsey was sworn in.

Ramsey: I am adding to little over an acre to my current property.

ZBA Chimento: Any questions? County board? Objectors? Hearing none read the staff recommendation.

STAFF RECOMMENDATION: Recommend approval. The purpose of the request is to allow a neighbor immediately to the south to buy a portion of the property and combine it with the adjoining property to the south. Rezoning would allow R-1 on the entire two acre property to be created. The LESA score is 120, which indicates the subject property is suitable for non-agricultural usage. The subject property will never be farmed because it is surrounded by floodplain and a rock quarry.

Committee Member Don Wulf made a motion to recommend approval of staff recommendation.

Committee Member Tony Mares seconded the motion.

Motion carries 5/0/0

Docket 2017-053 David Downing for property located at 1500 Bolivia Road, Mechanicsburg, IL 62545

PETITIONER(S): David Downing

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: A

REQUESTING: Petitioner requests for Proposed Parcel 1: a variance to allow one (1) parcel less than forty (40) acres (approximately 20 acres).

Mark Downing was sworn in.

Downing: We are selling off 60 acres and need a variance to split the 80 acres...60 acres and 20 acres. The CREP has expired and my father wants to get rid of it and not have to maintain the 60 acres.

ZBA Chimento: Any questions? County board? Objectors? Hearing none read the staff recommendation.

STAFF RECOMMENDATION: Recommend approval. The purpose of the requested variance is to allow the owner to sell a portion of the property to the neighbor to the east, which creates a parcel less than forty (40) acres in the Agricultural District. Granting the variance would allow the split of a piece of land formerly in CREP that contains 90% floodplain for which there are few other appropriate uses than farming. A substantial portion of the subject property is floodplain, but no change in land use is contemplated. The two residences currently on the subject property will remain on the proposed 20-acre parcel. In 1977, the second residence was granted a certificate of compliance by

Sangamon County. As such, having two residences on one acre outside the floodplain is considered non-conforming.

Committee Member Larry Beaty made a motion to recommend approval of staff recommendation.

Committee Member Tony Mares seconded the motion.

Motion carries 5/0/0

Docket 2017-054 Ronald & Catherine McAtee for property located at 2801 S. College Street, Springfield, IL 62704

PETITIONER(S): Ronald & Catherine McAtee

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: B-3

REQUESTING: Petitioners request a variance to allow two (2) principal uses on one (1) parcel: (a) single-family residence and (b) "B-3" business; a variance to allow a single-family residence in the "B-3" General Business District; a variance to allow the side yard setback to be zero (0) feet instead of the required seven and one-half (7 ½) feet on a corner lot; a variance to allow the front yard setback to be ten (10) feet instead of the required fifteen (15) feet; and, a variance to allow the rear yard setback to be zero (0) feet instead of the required twenty (20) feet.

Ronald McAtee was sworn in.

McAtee: My wife and I purchased this property back in 2003. We also purchased the tanning salon...I closed that back in 2007...I continued renting the enclosed parking lot for tree service to park their trucks and chippers, etc. and I also rented out the block building to a contractor to let him store his materials. I tried several times to sell it and no success; I now have a buyer wanting to purchase the property, but wants the large building turn into a residence and keep the block building as a garage, for a mechanic shop, so I am asking for a variance to allow the block building to remain the business and the main building to be continued as a residence.

ZBA Chimento: Any questions? County board? Objectors? Hearing none read the staff recommendation.

STAFF RECOMMENDATION: Recommend approval. The property was rezoned in 1982 to B-3. However, the property is surrounded on three sides by property that is used and zoned residential. Allowing part of the subject property to be used for a residence is seen as keeping with the trend toward residences surrounding the subject property. Regarding the requested setback variances, the buildings were present in 1969, so there is

a good chance they pre-date the Zoning Ordinance. The presence of the alley also provides some separation between the garage and the residences to the west.

Committee Member JD Sudeth made a motion to recommend approval of staff recommendation.

Committee Member Tony Mares seconded the motion.

Motion carries 5/0/0

Docket 2017-056 Chase Schultz for property located at 3245 Mathers Road, Springfield, IL 62707

PETITIONER(S): Chase Schultz

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: I-1

REQUESTING: Petitioner requests a Conditional Permitted Use for an auto body repair shop with spray painting.

Chase Schultz was sworn in.

Schultz: I am looking at buying a piece of property and need to get it zoned properly to put up an auto body shop.

ZBA Chimento: What are you going to be doing there? Repairing or painting?

Schultz: It's going to be a complete repair and painting.

ZBA Chimento: Are you going to keep things inside?

Schultz: The building should allow for all the vehicles that are being fixed to be stored inside. The vehicles dropped off in the evening will sit outside till they are ready to be brought in and restored and fixed.

ZBA Chimento: Any questions?

ZBA Mares: Do you have a shop currently?

Schultz: Yes.

ZBA Mares: Where is that located?

Schultz: That is based out of my office.

ZBA Mares: So, you are going to be re-locating?

Schultz: Yes.

ZBA Mares: Are you in Sangamon County?

Schultz: Yes.

ZBA Chimento: County board?

CB Scaife: What kind of fence are you putting up?

Schultz: It's in the works still, there's an easement on property that's going to have to be worked out and mostly will be a white fence back side facing interstate and then along the side...nothing 100% worked out.

CB Scaife: Ok.

ZBA Chimento: Any objectors? Hearing none read the staff recommendation.

STAFF RECOMMENDATION: Recommend approval of the requested Conditional Permitted Use with the following conditions: (1) all painting shall be conducted inside a paint booth enclosed in a building; and, (2) no more than five (5) wrecked cars are stored on the subject property behind the building and fenced in compliance with the Zoning Ordinance. The proposed subject property is located in a mixed use area. Properties to the east are office. Properties to the west are zoned commercial and industrial, and are used for office and commercial.

Committee Member Don Wulf made a motion to recommend approval of staff recommendation.

Committee Member Tony Mares seconded the motion.

Motion carries 5/0/0

Docket 2017-055 Mike Hoyle for property located at 12750 Edgewater Way, New Berlin, IL 62670

PETITIONER(S): Mike Hoyle

OBJECTOR(S): Yes

PRESENT ZONING CLASSIFICATION: A

REQUESTING: Petitioner requests a variance to allow the side yard setback to be approximately seven (7) feet instead of the required ten (10) feet.

Attorney Tom Pavlik representing.

Mike Hoyle was sworn in.

Pavlik: In 2009, Mr. Hoyle asked for a variance for building a storage shed on a unique piece of property; at that time he asked for a variance for the front yard setback to be 15' instead of 30', which variance was granted. He also submitted a building permit for the storage shed which did show 10' from the side setback property line. The contractor did not locate the pad on the east west access line, he missed it by approx. 2.5' so as a result on the east side about 10' but missed it by literally 2' west. In 2009, Mr. Hoyle built the property....currently we are not meeting setbacks and heard rumblings that this was intentional and this is not the case. I understand there is one objector that is the neighbor. Mr. Hoyle has been a good neighbor over the years (mowed and snow plowed for Ms. Elam)...none of this was not an issue until recently when Mr. Hoyle was offered a deal to buy the property and he declined. The reality is he needs a variance, or tear the building down which is all over 2.5'. I think this is a good case for a variance, Mike general contracted this himself and when he completed the building he neglected to get a final inspection. He has since contacted the building department for a final inspection.

ZBA Chimento: Any questions?

ZBA Wulf: Did you say he sub-contracted this himself?

Hoyle: No, I contracted JRE (Pat Patterson) for the concrete and layout. I did have a survey done prior to that so we knew where lines were. Pat measured from the middle of the road which in our neighbor is little blacktop road that varies in width and so on. It's an unfortunate mistake but I promise I wasn't doing on purpose and not meet the setback by a couple feet.

ZBA Wulf: You say you had it surveyed, were the stakes still in the ground when he came out to pour the pad?

Hoyle: I believe that the corners were staked but not right along where we did the building, but honestly sir it's been so long I honestly do not remember. I was there for part of the pour, but I don't recall. There is a fence to the south of the building to the Elam's and talking to him and that that was going to be close for the property line, but obviously it was not, so I don't know if he was going to use the road as his mark...the fence is not all the way up against the property line on their north side of the property line.

ZBA Wulf: Not knowing where the property lines are I don't know how he found the middle of the road.

Hoyle: Yeah, I agree sir.

ZBA Sudeth: Is the fence on your property or the neighbors?

Hoyle: It's on the neighbor's property, it's their fence.

ZBA Mares: So, is it the SW corner?

Hoyle: The SW corner is 7.87' and SE corner is 9.87'.

ZBA Beaty: On this property you have a garage and a shed?

Pavlik: We are in the process of getting an easement with the Island Grove Township with the row by agreement with county zoning till we get that worked out. We will be back to ask for a variance after that.

ZBA Wulf: If this doesn't pass which one has to be torn down?

Pavlik: If this doesn't pass the pole barn will have to be torn down. If the shed petition doesn't pass...the shed will need to be moved.

ZBA Chimento: The only violation is the SW corner of the 7.87'?

Pavlik: We are in violation of the SE corner by .13'...we are 9.87'...I don't know if Martin Engineering went by the concrete pad or the overhang. I haven't asked them where they measured from.

ZBA Mares: How long has the building been there?

Hoyle: The concrete pad was poured in 2012. I bought the property at the end of 2008, or beginning of 2009.

ZBA Chimento: What do you do with this building?

Hoyle: I store ATV, UTV, old tractor that I restored, area with a lift that I change oil and brake pads....I use for personal use.

ZBA Chimento: You have a lift in there?

Hoyle: I do.

ZBA Chimento: Any questions? County Board? Objectors?

Virginia Elam was sworn in.

Elam: I am here to complain because it was built in 2012...my husband was sick at the time and we had bigger concerns. My husband recently passed in April and then I want to now sell the place because I can't take care of it by myself, so when I went to sell it I offered it to Mike, he offered me \$40,000 which is less than half of what it's worth. The

property has been diminished in price because of the building that is so close to it. It overshadows my house and no good air flow and can't see the view of the lake like we used to. I wrote out a complaint letter. **[Ms. Elam reads on record her complaint letter]**. I can't even get a mower between my fence and the backyard because the building is so large and items that have been placed between...in order to mow we have to go out around the building and into the drive and the drive there's an electrical conduit that goes across the driveway running from the big building to the small building and my lawn care people didn't want to drive across conduit and charged me more to use a small mower to get in yard. He dumped broken concrete on my side of the ground which I spoke to Hoyle earlier tonight about and he recalls nothing about that. There were things piled against my fence but basically he has done what he wanted to. I want it to look nice when I go to sell it because I need to get the most from it because I do still owe money on house. There is concern that it's going to be hard to sell because the building is so close and it had diminished the property value. I think he has been very disrespectful to my boundaries and I don't want to grant him any kind of easement or variance.

ZBA Chimento: The fence between the building and your house, that's your fence, right?

Elam: Yes, it's been up there for 10-15 years; my husband deliberately did not put it up to property line because he didn't want there to be an issue about it.

ZBA Chimento: So, you're mowing on the other side of the fence?

Elam: There's a little of our property on other side of fence, and I can't get a mower on other side but really can't mow because no room.

ZBA Sudeth: How close is your house to the building?

Elam: 171" from corner of my house to his building...and it has an overhang so it's actually closer than that.

ZBA Wulf: There's a carport there too, isn't there?

Elam: Yes, it's not on that side but more to side by road, by back of my house.

ZBA Chimento: So you're just a 171" from your property line?

Elam: No. I am not 10' I know that, but we have been there for 40 years so we are "grandfathered" in, I know that. Our water comes from other side of the road...it was brought in when we went on city water and that was done before that was ever sold to him.

ZBA Chimento: How is the water line going to affect you?

Elam: He (Hoyle) said that I would need an easement for water line.

Pavlik: Mr. Hoyle and I looked into the status of the property to see if any existing easements; and one of the things discovered is what I believe is the water line goes to Elam's property goes across Mr. Hoyle's property. We can't find an easement for that that has been recorded. We called Curran-Gardner and they can't find it. And yes we discussed that side with Ms. Elam to trade an easement to solve my 2.5' problem, for an easement to solve what I believe is her water line.

ZBA Chimento: The water line that's been put in, that's Curran-Gardner, right? It's been put in since 1968.

Hoyle: No, I don't have an exact date but I would say 2006-2007, Curran-Gardner wasn't in neighborhood till then.

Elam: This agreement was made with Dave Barnett when we ran the water line.

ZBA Chimento: That explains a lot.

ZBA Chimento: Any questions? County board?

CB Hall: I have been out there several times and before building was built in 2009. The building is large and looks like an arc next to the house. The small building that is built already, you are talking to the township to see if that can be adjusted to the property line? Can you adjust a property line with the township? And does the county recognize that as being done?

Harrison: Are you asking that we recognize that the township allows for this existing structure to be in the right-of-way?

CB Hall: Yes.

Harrison: We would recognize that the township would allow it but that would still be a zoning violation according to ordinance and they would have to grant a 0' lot line variance for that side and rear yard and part of that would have to disclose that not only is it 0' but that it's in the right-of-way, so would not satisfy us but would have to go back thru zoning process.

Pavlik: We would never turn off anyone's water that would be a heinous act. I don't think you can legally turn off anyone's water. Never any intention here. Our request from Island Grove is for an easement in to township right-of-way and would not meet the setbacks, so even if Island Grove gives us the easement we still have to come back thru zoning because even with the easement we still would not meet the setback requirements.

ZBA Chimento: That has nothing to do with this now?

Pavlik: No.

ZBA Chimento: What would it cost to tear that large building down?

Pavlik: \$150-\$175K, maybe?

ZBA Wulf: Is that bolted in to concrete?

Hoyle: Yes, the pad was poured first, framed and osb and then the metal siding was put on.

ZBA Mares: Who was contractor that set the pad?

Hoyle: JRE (Pat Patterson).

ZBA Chimento: Who put up the building?

Hoyle: Myself and my guys at Quik-Wall setup walls and Kevin Brim did all the adjustments of the metal, etc.

ZBA Mares: Did you pull permits for the property when you set the pad?

Pavlik: Yes.

Hoyle: I did learn that I would never want to build my own thing because I don't know all the rules and regulations. I don't.

CB Fulgenzi: Your access to the building to the large door comes off of South Wake Road?

Hoyle: South Wake Road and Edgewater.

CB Fulgenzi: I said the large door.

Hoyle: I have two large doors; one on East end and one on West end.

CB Fulgenzi: The one off Wake Road. And your property doesn't go all the way to Wake Road? Do you have an easement for that access?

Pavlik: I believe the East edge of the property butts Wake Road. I haven't had that surveyed.

CB Fulgenzi: Not according to maps that we have that you have submitted. The other doors come off Edgewater Way?

Hoyle: Correct.

CB Fulgenzi: So you have lots of access to your building. The water line... where does it come into on this property?

Hoyle: It comes roughly to the northeast corner (I haven't measure it) but somewhere in the maybe 10-15' to the east of the northeast corner and maybe 1' to edge of building.

CB Fulgenzi: So, if you don't own property all the way up to Wake Road, as it shows on our maps...then her water line is not on your property at all?

Hoyle: Her water line/meter are right next to one they put in for me, for this building.

CB Fulgenzi: So it's on public ground? Not on private property.

Hoyle: It's on my ground.

CB Fulgenzi: Only if you own up to Wake Road.

Harrison: Linda, let me clarify when you are looking at map when the subdivision was platted, they had taken more right-of-way on the road, so actually the property line does go up to Wake Road right-of-way so they do have access there on Wake Road. So they do go up to Wake Road.

CB Fulgenzi: How much do you own then?

[Harrison shows Fulgenzi on map what they own]

Pavlik: I would be happy to have Martin Engineering go back out and do survey I am confident where water meter is.

ZBA Chimento: Any other questions? Objectors? Hearing none read the staff recommendation.

STAFF RECOMMENDATION: Recommend denial. The petition cites that the unique circumstances are that the contractor poured the concrete pad in the wrong location. While this may be the case, this is not a circumstance related to the property nor does it alleviate the responsibility of the property owner to ensure that the regulations of the ordinance are met. The Standards for Variation are not met.

Committee Member Tony Mares made a motion to recommend denial of staff recommendation.

Committee Member Don Wulf seconded the motion.

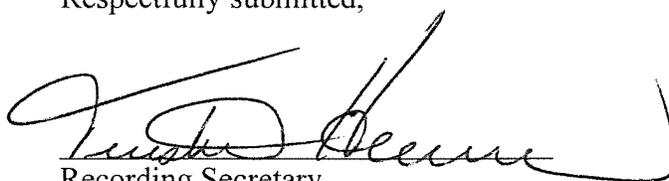
Motion carries 4/1/0

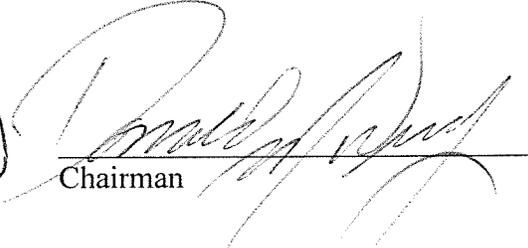
Committee Member Tony Mares made a motion to adjourn.

Committee Member Don Wulf seconded the motion.

Meeting adjourned.

Respectfully submitted,


Recording Secretary


Chairman

Minutes of November 16, 2017

Full record of minutes available upon request in the Zoning Department