

**St. Clair County Zoning Board of Appeals
Minutes for Meeting
At the Courthouse – 7:00 P.M.
August 8, 2016**

Members Present: Chairman Scott Penny, Rev. Gene Rhoden, Alexa Edwards & Charles Frederick

Members Absent: George Meister, Kent Heberer & Patti Gregory

Staff Present: Anne Markezich, Zoning Department
Dave Schneidewind, Zoning Attorney

Pledge of Allegiance

Call to Order

The meeting was called to order at 7:00 p.m. by Chairman, George Meister.

Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

Approval of Minutes

MOTION by Frederick to approve minutes of the July 11, 2016 meeting. Second by Penny. Motion carried.

Public Comment

There were no comments from the public.

New Business – Case #1

Subject Case #2016-12-ABV – John & Sheila Campe, 4901 Floraville Road, Millstadt, Illinois, owners & applicants. This is a request for an Area/Bulk Variance to allow the division of 5-acres instead of the 40-acres required in an “A” Agricultural Industry Zone District, on property known as 4901 Floraville Road, Millstadt, Illinois in Millstadt Township. (Parcel #12-35.0-300-016)

John & Sheila Campe, Owners/Applicants

- Mr. Campe stated he has a parcel of ground that is 54.9-acres.
- Mr. Campe stated he would like to divide off a 5-acre tract from this parcel with 350' of frontage along Floraville Road.
- Mr. Campe stated the division would be for his daughter who is currently living out of state.
- Mr. Campe stated the slope on the site is one of the steepest on the parcel and is not suited for farming.
- Mr. Campe stated his daughter will inherit this ground in the future.

Discussion

- Mr. Rhoden asked the applicant if his daughter will build a home on the property. (The applicant stated his daughter would like to build in the next couple years.)
- Ms. Edwards asked how many divisions have been done on this property. (The applicant stated in 1959 he had the property surveyed and had the original 70-acres divided. The applicant explained that the house on 5-acres is where his son lives; a 7 ½ acre tract was sold off in a divorce proceeding; the applicant lives on a 3-acre tract; and there is a 54.9-acre piece he wants to take the 5-acres off of for his daughter.)
- Ms. Edwards stated the Zoning Board does not like to divide off a parcel until there is no access to the center of the property.
- Ms. Edwards asked if there was a reason the applicant couldn't divide off the property next to the 3.01 acre parcel with the home on it. (The applicant stated there is no reason other than they do not want to live on top of each other in the country.)
- Ms. Markezich stated she received a phone call today from Michael O'Donnell, County Board Member who stated he has not received any complaints regarding this request.

- Mr. Penny asked if this variance was granted, does the applicant anticipate any further divisions of the property. (The applicant stated there will be no further family divisions.)
- Ms. Edwards asked what type of utilities are on the property. (The applicant stated there will be a well and septic system to the property.)
- Mr. Frederick asked if there was any further correspondence. (Ms. Markezich stated she received no correspondence from neighbors.)
- Ms. Markezich stated she has no issue with the division because the property will be divided for the two children in the future.
- Mr. Schneidewind asked the applicants daughter name for the record. (The applicant's daughter stated her name is Tina (inaudible last name).)

Public Testimony

There were no persons present for public testimony.

Further Discussion

MOTION by Edwards to approve the request for the following reasons: The utilities are well/septic; the Comprehensive Plan calls for Agricultural Preservation; the 5-acre division is for the applicants daughter Tina to build a home; the applicants gave their son 5.31-acres in the past; the request is the highest and best use of the property; the division is in harmony with the general purpose and intent of the Zoning Ordinance; the request would not be injurious to the health of the neighborhood or detrimental to the public welfare; the request is not in conflict with the Comprehensive plan since the property is going to a family member; the request would not increase the hazard for fire or other dangers to the area.

Second by Frederick.

Roll call vote:	Rhoden -	Aye
	Edwards -	Aye
	Frederick -	Aye
	Chairman Penny-	Aye

This case has been approved by this board.

New Business – Case #2

Subject Case #2016-13-ABV, Eugene M. Harris TR & Donna M. Harris TR, 4500 Liberty Mine Road, Belleville, Illinois, owners and applicants. This is a request for an Area/Bulk Variance to allow the division of 6-acres instead of the 40-acres required in an “A” Agricultural Industry Zone District on property known as 4500 Liberty Mine Road, Belleville, Illinois in Shiloh Valley Township.

Eugene & Donna Harris, Owners

- Mr. Harris stated he is the Trustee of half the parcel. He explained Donna M. Harris owns the other half and she is also present at the meeting as well.
- Mr. Harris stated he would like to provide a 6-acre lot for his son to build a home on the property.

Discussion

- Mr. Penny asked the applicant if he lives on the property. (Mr. Harris stated the farm consists of 141.9-acres and he resides on the 1-acre lot in the middle of the parcel, which is on a separate deed.)
- Mr. Penny asked if the other buildings were outbuildings for the farm operation. (The applicant stated that is correct.)
- Mr. Penny asked if he farms the property. (The applicant stated he farmed the property in the 1950’s with his father and the property is now share-cropped.)
- Chairman Penny asked how long he has lived on the property. (The applicant stated he has owned the property since 1962.)
- Ms. Edwards asked if the applicant will have a well and septic tank. (The applicant stated that is correct.)

Further Discussion

County Board Member, Dave Tiedemann stated he spoke to several surrounding property owners that have no objection to the request. Mr. Tiedemann also stated he is in favor of this project.

MOTION by Edwards to approve the request for the following reasons: The applicant has stated he would like to divide off 6-acres for his son, so he can live close to them to assist them; the division is contiguous to the owners property which makes this the highest and best use of the property; the applicant has access of the 1-acre through an existing easement; the request is in harmony with the general purpose and intent of the Zoning Ordinance; the request would not be injurious to the neighborhood; the division would not be detrimental to public welfare; the request is not in conflict with the Comprehensive Plan; the request would not increase the hazard from fire or other dangers to the said property; and granting the request would not diminish the value of land and buildings in the immediate area or throughout the county; the request would not create any additional traffic; and therefore it is the recommendation of this board and the County Board Member that this Area/Bulk Variance be approved.

Second by Frederick.

Roll call vote:	Rhoden -	Aye
	Edwards -	Aye
	Frederick -	Aye
	Chairman Penny-	Aye

This case has been approved by this board.

New Business – Case #3

Subject Case #2016-09-SP – Daniel W. Daenzer, 6510 Town Hall Road, Belleville, Illinois, owner and applicant. This is a request for a Special for a Planned (Single-Family Development) to allow a 3-Lot Subdivision in an “A” Agricultural Industry Zone District on property known as 6510 Town Hall Road, Belleville, Illinois in Stookey Township.

Daniel Daenzer, Owner/Applicant

- Mr. Daenzer stated he currently owns acreage on Town Hall Road.
- Mr. Daenzer stated he originally filed to rezone this property to “RR-3” Rural Residential and is now requesting a Planned Development.
- Mr. Daenzer stated he currently has a home on Lot 1. Mr. Daenzer stated Lots 2 and 3 will be sold.

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- Mr. Daenzer stated Lots 2 and 3 will be 4-acres each with 212 ft. of frontage.
- Mr. Daenzer stated the property is connected to public water.
- Mr. Daenzer stated public sewer is not available to the property.

Discussion

- Mr. Frederick asked if the applicant spoke to his neighbors regarding the proposal. (The applicant stated the neighbors have different opinions.)
- Ms. Edwards stated the covenants attached are standard.
- Ms. Edwards stated the 1,200 square foot minimum for a residence is small in her opinion.

Public Testimony

- Kevin Khaufold – Attorney for Jack Kniepmann. Mr. Khaufold stated this is the second time Mr. Daenzer has requested a variance. Mr. Khaufold questioned why the property is 14.12-acres at this time and was 15.27-acres at the original hearing. (Ms. Markezich stated the applicant had the property surveyed and the road right-of-way was subtracted from his parcel, which made it smaller.)
- Mr. Khaufold asked if the contested 30-ft. is still included in the proposed zoning. (Ms. Markezich stated that is correct.)
- Mr. Khaufold stated on behalf of his client he objects to this zoning request. Mr. Khaufold stated he filed a Lis Pendens on this parcel after the last hearing because his client has claimed interest to 30 ft. of this property to the East of this parcel going North and South. Mr. Khaufold stated as he explained in the prior hearing, his client has continuously farmed the 30 ft. since the 1970's or before. Mr. Khaufold supplied a court case to the Attorney that says continuous occupation of that contested farm ground would effectively transfer ownership to my client. Mr. Daenzer has not responded to their proposal regarding the 1-acre. Mr. Khaufold stated he does not have a problem with the other two parcels. Mr. Khaufold stated his objection is to the entire process and feel the request should be denied because his client has a claim to 30 ft. of the property.
- Mr. Khaufold also has objection generally regarding the land use development and is concerned with the additional two exit points onto Town Hall Road.

- Mr. Khaufold repeated his main objection is to the 30 ft. and the board would be affecting his client's rights.
- Mr. Schneidewind asked Mr. Khaufold if he has filed suit against Mr. Daenzer. (The applicant stated they are not trying to file suit and litigate over one acre.)
- Mr. Schneidewind explained to Mr. Khaufold, the applicant is not asking to rezone the property and asked Mr. Khaufold how the decision of the board would affect his client if the property is not being rezoned. (Mr. Khaufold feels his client is being affected because development is being authorized on this 30 ft. of property. He stated his client did not consent to this hearing and objected to the previous hearing.)
- Mr. Rhoden asked who is paying the taxes on the 30 ft. of property. (Mr. Daenzer stated he is paying the taxes on the property.)
- Mr. Frederick asked how old the survey on the property is. (Mr. Daenzer stated the property was surveyed approximately one year ago.)
- Ms. Edwards stated she feels she should not be involved with this case. Ms. Edwards stated she could not be a fair and impartial vote in this case. (Ms. Markezich noted if Ms. Edwards will not vote on this case, the board will not have a quorum for a vote.)
- Ms. Markezich stated the next Zoning meeting available is October 3, 2016.
- Natalie Shields stated she is the purchaser of the Lot 2. Ms. Shields stated Mr. Daenzer paid the money for the survey so he would have an accurate property line. Ms. Shields feels just because the farmer plowed the property, it doesn't make it his.

Further Discussion

County Board Member, Larry Stammer stated he has not received any correspondence from neighbors. He spoke to Mr. Daenzer and feels like a good use of land.

Mr. Schneidewind explained that with one board member abstaining from a vote; there will not be a quorum for a vote tonight.

MOTION by Frederick to take this case under advisement until October 3, 2016. second by Rhoden. Motion carried.

New Business – Case #4

Subject Case #2016-14-ABV – Dean Seib Land Trust, 6901 State Route 163, Millstadt, Illinois, owner and Brad and Stacy Behrmann, 1918 Hawksbill Drive, Belleville, Illinois, applicant. This is a request for an Area/Bulk Variance to allow the division of 5-acres instead of the 40-acres required with 50 ft. of frontage instead of the 100 ft. required in an “A” Agricultural Industry Zone District, on property known as XXXX State Route 163, Millstadt, Illinois in Millstadt Township.

Mark Seib, Owner

- Mr. Seib stated his daughter Stacy Behrmann would like to build a home on the property adjacent to his.
- Mr. Seib stated his other daughter did the same thing 8-years ago.
- Mr. Seib stated the property will come out of the land trust owned by his brother and sister.
- The applicant stated the land trust will be divided up to his children in the future.

Discussion

- Ms. Edwards asked how many total acres were there. (The applicant stated there was a total of 36.5-acres.)
- Chairman Penny asked if there is a public access to the property. (Mr. Schneidewind stated the 50 ft. strip is part of the Area/Bulk Variance for 50 ft. versus 100 ft. of frontage.)
- Ms. Edwards asked how the applicant will access the rest of the parcel after these three parcels have been cut off. (The applicant stated he will use the same access as he does now.)
- Ms. Markezich asked the applicant if he has only two daughters. (The applicant stated he has two daughters and will inherit the remaining acreage eventually.)
- Mr. Penny asked if he plans on any further divisions in the future. (The applicant stated the property will not be divided further.)
- Ms. Edwards stated she feels it should be a matter of record that the gentlemen and future heirs are aware that there has been a hardship placed on this property not by the action of this board, but by the action of the applicants and that was his desire for the property and for all future heirs in the future.

- Ms. Edwards stated she feels this is not the highest and best use of the property. (Mr. Schneidewind stated the property is not agricultural it is strip-mined property. He stated the Comprehensive Plan calls for residential. He also stated future provisions similar to this request will not work and the hardship is being created by this application today and the applicant has acknowledged that.)

Public Testimony

There were no members of the public present at the meeting.

Further Discussion

Ms. Markezich stated she spoke to County Board Member, Michael O'Donnell and he stated he is in favor of the Zoning variance.

Mr. Schneidewind stated the applicant has acknowledged that future divisions will be problematic due to frontage requirements. He explained the applicant could be placing a hardship on the remaining parcel for future divisions.

MOTION by Edwards to grant the request for the following reasons: The applicant stated that of the 36.5 acres he has given one daughter a piece of property; the applicant's desire now is to give his other daughter a piece of property; the division of property is contiguous to the applicant's home site. The applicant acknowledges that in the future because of the placement of this 5-acres, there may not be any further divisions for future heirs. Ms. Edwards stated the request is not necessarily in harmony with the general purpose and intent of the Zoning Ordinance but the Trustee understands the consequences of what he is asking and is in agreement that this would be the highest and best use for his family and the Trust. The request is not detrimental to the public welfare; it would not create any hazard from fire or other dangers to said property; it will not diminish the value of land and buildings in the immediate area or throughout the county and will not create any additional traffic or congestion to the public. Therefore, with the understanding that there have been limitations as far as future divisions that this Area/Bulk Variance be approved and this variance cannot be used as a hardship placed on the property in the future to the Seib Land Tr or any future heirs.

FREDERICK: Frederick seconds.

PENNY: Motion and a second. A roll call vote:

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Roll call vote:

Rhoden -	Aye
Edwards -	Aye
Frederick -	Aye
Chairman Penny-	Aye

This case has been approved by this board.