

**St. Clair County Zoning Board of Appeals
Minutes for Meeting
At the Courthouse – 7:00 P.M.
April 3, 2017**

Members Present: Chairman Scott Penny, Kent Heberer, George Meister, Alexa Edwards, & Rev. Gene Rhoden.

Members Absent: Patti Gregory

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

County Board Member: John West, County Board Member – District 15
Steve Reeb, County Board Member – District 13
Nick Miller, County Board Member, District 4
Carol Clark, County Board Member, District 29
Michael O'Donnell, County Board Member, District 22

Pledge of Allegiance

Call to Order

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

Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

Approval of Minutes

MOTION by Heberer to approve minutes of the March 6, 2017 meeting. Second by Rhoden. Motion carried.

Public Comment

There were no comments from the public.

Announcements

Chairman Penny announced Case 2017-06-SP scheduled for this evening at 7:40 PM has been continued until May 8, 2017, at the conclusion of the scheduled cases for that evening.

Chairman Penny announced Case 2016-18-ABV scheduled for this evening for Mary McCabe at 119 Cardinal Drive has been withdrawn.

New Business - Case #1

Subject Case #2017-05-SP -- James Sternau & Lisa Brauer, 109 Gebhardt Lake Road, Swansea, Illinois, Owners and Kelli Scharf-Sternau, 108 Gebhardt Lake Road, Belleville, Illinois, Applicant and Jacqueline Wells, 27 Candlelight, Fairview Heights, Illinois, Applicant. This is a request for a Special Use Permit to allow the placement of a single-wide mobile home in a "SR-3" Single-Family Residence Zone District, on property known as 2714 Smelting Works Road, Swansea, Illinois, in St. Clair Township. (Parcel #08-10.0-303-001 & 002)

Zoning Board Member, Alexa Edwards is a surrounding property owner to this case and will be abstaining from vote at this hearing.

Jacqueline Wells & Kelli Scharf-Sternau, Applicants

- Ms. Wells stated she would like to place a mobile home on this property.
- Ms. Wells stated there was a mobile home on the property that was removed approximately 2-years ago.
- Ms. Wells stated she is 82-years old and would like to live close to her family.
- Ms. Scharf-Sternau explained if the board approved the mobile home they would have to hire a surveyor to move the property line to include the mobile home and the septic system.

Discussion

- Mr. Penny asked how long the mobile home has been gone off the property. (Mr. Sternau stated the home has been gone for approximately 5-years.)

- Chairman Penny asked when the mobile home was installed on the property. (The property owner stated the mobile home was installed in the early 70's and was a double-wide mobile home.)
- Mr. Rhoden asked how big the mobile home was on the property. (The property owner stated it was a 3-bedroom, 2-bath mobile home that was on the property when they purchased it. The mobile home was occupied by renters and when they moved out the mobile home was removed.)
- Chairman Penny asked when they purchased this property. (The applicant stated they purchased the property in 2001.)
- Chairman Penny asked if the mobile home was on the property when they purchased it. (The owner stated the mobile home was on the property when they purchased it.)
- Chairman Penny asked if there was a tenant in the mobile home at the time of purchase. (The applicant stated there was a tenant living there and then another family moved into the mobile home.)
- Chairman Penny asked if the mobile home was hooked up to sewer or septic system. (The applicant stated the home has a septic system, but per the Health Department regulations they will be required to replace the system.)
- Chairman Penny asked where the applicant lives currently. (The applicant stated she is a widow that lives in Fairview Heights in a single-family residence.)
- Mr. Rhoden asked what year mobile home will be moved on the property. (The applicant stated she is purchasing a 2016 mobile home.)
- Mr. Schneidewind confirmed the applicants will be cutting off a portion of the front parcel and adding it to the adjacent parcel where the mobile home will be located. (The applicant stated that is correct, but there will be no transfer of ownership.)
- Mr. Penny asked Mr. Schneidewind what type of enforcement the Zoning Board could place on this hearing that the mobile home be removed. (Mr. Schneidewind stated if this hearing is approved the board can add a condition that the mobile home be removed after the passing of the applicant.)

Public Testimony

- Ms. Edwards stated her concern is there are nice homes in the area and would not want it to be an adverse effect to surrounding properties. Ms.

Edwards also stated if public sewers are available they should be utilized; and if the permit is approved, she would like the mobile home removed after Jacqueline is no longer living there, at least 180-days after.

Further Testimony

County Board Member Steve Reeb, stated he is familiar with the property and knows they are good people. Mr. Reeb thinks the intentions are good and the area supports the request.

Chairman Meister asked if Mr. Schneidewind could prepare an agreement for the applicants to sign. Mr. Schneidewind agreed to prepare the agreement and submit it at the May Zoning Meeting for a vote.

MOTION by Meister to take this case under advisement to allow the Zoning Attorney to draft an agreement and submit back to the board on May 8, 2017.

Second by Rhoden.

Roll call vote:	Meister -	Aye
	Rhoden -	Aye
	Heberer-	Aye
	Edwards-	Abstain
	Chairman Penny -	Aye

This case has been taken under advisement by this board and will be reviewed on May 8, 2017.

New Business - Case #2

Subject Case #2017-04-ABV -- Steven L. Kreher TR #100 & Linda M. Kreher Trust #200, 4800 Fischer Road, Smithton, Illinois, Owners & Applicants. This is a request for an Area/Bulk Variance to allow the division of 20-acres instead of the 40-acres required in an "A" Agricultural Industry Zone District, on property known as 4800 Fischer Road, Smithton, Illinois, in Smithton Township & Prairie DuLong Township. (Parcel #17-03.0-100-003, 005, 006 & 13-34.0-300-010)

Steven Kreher, Owner

- Mr. Kreher stated he would like to sell the house place off of his property.
- Mr. Kreher stated he purchased the property in 2016.
- Mr. Kreher stated the division of property will straddle Smithton Township and Prairie DuLong Township.
- Mr. Kreher stated he was notified he needed at least 5-acres in Prairie DuLong Township and a 50 ft. strip to Fischer Road.
- Mr. Kreher stated this property is being purchased by his daughter.

Discussion

- Ms. Markezich stated the applicant's intention was to put all of the farm buildings together, but since he is located in two separate townships the properties cannot be combined. (Mr. Kreher stated that is correct and that is why there is five acres with the house.)
- Ms. Edwards feels there is a hardship on the property, since the Township line splits the farm.
- Mr. Schneidewind asked the applicant if the remaining property will be added to the surrounding farm. (The applicant stated the remaining property will be consolidated with the farm ground to the East.)
- Mr. Schneidewind asked the applicant if consolidate the remaining farm ground from the 5-acre tract. (The applicant stated that is correct.)
- Mr. Meister and Mr. Heberer agreed that nothing is changing just the parcel boundaries.
- Ms. Markezich stated she received correspondence from Mr. Heiligenstein stating he is favor of this request.

Public Testimony

Unknown neighbor - stated he seen the Zoning meeting sign in the yard and just wanted to see what the request was. (Mr. Meister explained the applicant is only moving property lines.)

Further Testimony

MOTION by Meister to approve the request for the following reasons: The applicant has discussed with the board how he would like to rearrange the property lines with different townships being involved; there will be no change other than boundary lines.

Second by Heberer.

Roll call vote:	Rhoden -	Aye
	Meister -	Aye
	Heberer-	Aye
	Edwards-	Aye
	Chairman Penny -	Aye

This case has been approved by this board.

New Business – Case #3

Subject Case #2017-06-ABV – Mark & Brenda Swift, 24103 Rodles Road, Macedonia, Illinois, owners and applicants. This is a request for an Area/Bulk Variance to allow the division of 2-acres instead of the 40-acres required in an “A” Agricultural Industry Zone District on property known as 11840 Dressel Road, Lebanon, Illinois in O’Fallon Township. (Parcel #04-10.0-200-014)

Mark Swift, Owner

- Mr. Swift explained he purchased 2-acres and would like to build a home on this property.
- Mr. Swift stated this property was an old farmstead.
- Mrs. Swift explained the seller of the property was not aware that the minimum lot size in St. Clair County is 40-acres.

Discussion

- Mr. Penny stated the minimum lot size in an “A” Agricultural Industry Zone District is 40-acres. (Mr. Swift stated he was not aware of the 40-acre minimum in St. Clair County.)
- Ms. Markezich explained that when a division is made the Mapping & Platting stamps the deed “Subject to Zoning Regulations”.

- Chairman Penny explained it would be very difficult for this Board to grant a division of 2-acres because this board would be inundated with requests for 2-acre lots and this would start a precedent for this board. Chairman Penny explained the Agricultural zone district is intended to have this area remain as agricultural and not have people carving out 2 & 4 acres because the infrastructure is not in place to service it.
- Chairman Penny asked the applicant if it was possible to return to the seller and get his money back. (The applicant stated he would prefer not to.)
- Chairman Penny stated the Zoning Board is sympathetic to the applicants but the Comprehensive Plan passed by the County Board states this area is for Agricultural use primarily and farm residences which require 40-acres.
- Chairman Penny explained each Zoning case is unique and the applicants can present their case to the board and get a vote or withdraw their case.
- Mr. Schneidewind explained the property owner divided the property off in 2016 subject to the zoning regulations in place. The previous owner should have checked the regulations prior to the property being divided.
- Ms. Markezich stated the LESA evaluation on the property is 156-low.

Public Testimony

There were no persons present for public comment.

Further Testimony

County Board Member, Nick Miller stated he attended the O'Fallon Township meeting regarding this case. He stated one of the points brought up at the meeting is the fact that this area attracts young kids that party and drink on this property. Mr. Miller stated neighbors have expressed their support of the Swift's building on this property for nothing else but to curb the illegal activity on this property. Mr. Miller stated he is in favor of this case and O'Fallon Township is in favor of the case.

The applicant submitted a letter in support of the request from Shelly Essenpreis.

MOTION by Edwards to deny the variance for the following reasons: The utilities are public water and septic tank; the Comprehensive Plan calls for Agricultural Preservation. The applicant has stated that they bought the property with the intentions of building a home; the applicants were not aware of the zoning ordinances at the time; granting this request would allow precedence because anybody else before the board in the past has been denied and anybody in the future would have to get the same consideration as you; this is not in harmony with the general purpose and intent of the Zoning Ordinance; it would be injurious to the neighborhood; it would be detrimental to the public welfare; it is in conflict with the Comprehensive Plan; and with the Zoning Ordinance of the 40-acre rule.

Second by Heberer.

Roll call vote:	Rhoden -	Aye
	Meister -	Aye
	Heberer-	Aye
	Edwards-	Aye
	Chairman Penny -	Aye

This case has been denied by this board.

New Business – Case #4

Subject Case #2017-02-ZA – S. Shafer Excavating, Inc., 15 Sycamore Drive, Caseyville, Illinois, Owner and Sammy Shafer Jr., 280 Oliver Street, Caseyville, Illinois, applicant. This is a request for a Zoning Amendment to change the zone district classification of a certain tract of land from “SR-3” Single-Family Residence Zone District to “B-2” General Business Zone District on property known as XXX E. Brookhaven Drive, Caseyville, Illinois in Caseyville Township. (Parcel #03-04.0-206-001)

Tammy Shafer, Owner

- Ms. Shafer stated she is the President of S. Shafer Excavating, Inc.
- Ms. Shafer stated they are selling the 9-acre parcel to their son Sam Shafer Jr.
- Ms. Shafer stated this property is on the North side of Brookhaven.
- Ms. Shafer stated their intention is to build two buildings on the property.

- Ms. Shafer stated one building will be for her sons business SS Hauling and this will be his shop and park his trucks there.
- Ms. Shafer stated the other building will be for a mechanics shop, a small business.
- Ms. Shafer explained the Hauling Business will be on 8-acres and the mechanics shop will be on 1-acre.

Discussion

- Mr. Meister asked if this is strictly a Zoning change. (Ms. Markezich stated that is correct.)
- Ms. Edwards asked if there were any similar businesses in this area. (The applicant stated there are other businesses right down the road.)
- Chairman Penny asked how far this parcel is from the City of Collinsville equipment facility, mall and shopping center. (The applicant explained this parcel goes all the way to the creek and on the other side of the creek is where the City's maintenance property starts.)
- Chairman Penny asked Mr. Shafer if he will sell this property to his son. (Mr. stated this property will be sold to his son where he would like to build a nice shop, where he will park his 5 dump trucks and will have a place for his office and his future son -in-law would like to have a mechanics shop on the property.
- Chairman Meister asked if the access to the property will be off of Highway 159 or Brookhaven. (The applicant stated access will be off of Brookhaven.)
- Ms. Edwards stated the Zoning Board has to establish if the character of the neighborhood has changed from residential to warrant a "B-2" Business zoning change.
- Ms. Edwards stated in the "B-2" Zone District there are several businesses that would be allowed and the Zoning Board has no regulation and this property abuts a residential area.
- Ms. Edwards asked the applicant if he thinks the area has changed to warrant a rezoning. (The applicant stated in his opinion Highway 159 is a 5-lane road now and there is commercial property adjacent.)
- Ms. Markezich stated there is a trucking company on Route 159 not too far from this parcel.

Public Testimony

- Ann Raines, Brookhaven Drive stated this is a residential area and the adjacent business is in the City of Collinsville. She stated all the other businesses referenced to have an entrance off of 159. She stated Brookhaven Drive is a quiet, little road with a lot of concerned residents.
- Woodford Martin, Brookhaven Drive stated he has lived on Brookhaven for 40-years. Mr. Marks stated since Mr. Shafer has purchased the property he has heard nothing but trucks. He stated the Shafer's have stripped the land, there is no grass, he cut down the hill and it is just mud. He stated when it rains the mud goes onto Brookhaven. Mr. Martin stated the big trucks run that road and do not do the speed limit. He stated the applicants took all the trees down on the property and pushed them into the Canteen Creek. Mr. Martin stated he is concerned the creek will flood if it gets plugged up. (Ms. Markezich stated the applicants have all of the required permits from FEMA for digging on the property.)
- Mr. Woodord Martin submitted pictures to the board of the property showing the Shafer's cleared trees on this property.
- Joyce Witkowski stated her property is higher and she is not in a floodplain. She stated if the applicants flood out the area they will have no way out of their properties.
- Unknown Man stated he is concerned with the noise in the area.
- Joyce Woodcott stated the business will ruin her view

Further Testimony

- Chairman Penny asked if there was a way the entrance could come off of State Rte 159.
- Mr. Shafer explained that the property that they are currently excavating is not the same property they are asking to rezone. He stated that property is across the street.
- Chairman Meister asked if the property is higher than the residential properties. (The applicants stated the elevation is only higher where the building will be constructed because the government says you have to build at a certain elevation.)
- Mr. Shafer explained they are not clearing the trees at the rear of this property and the residents will not be able to see this property unless they are driving down Brookhaven.

- Chairman Penny asked the applicant if they have done any groundwater engineering. (The applicant stated they have an Engineer that is working on the project.)
- Chairman Penny stated the Zoning Department will look into the applicant dumping trees into the Canteen Creek prior to building permits being issued on this property.
- Mr. Meister stated this is a residential area with a single-family zoning. He asked why the applicant doesn't develop this property. (Ms. Shafer stated she builds houses for a living and has built in a flood plain area before and there are lots of specifications and a lot of people do not want to live there because they do not want to pay for the insurance.)
- Chairman Penny asked the applicant if he has contacted IDOT regarding an entrance off of 159. (The applicant stated there is 70 or 80 feet slope to the highway from this property.)
- Chairman Penny asked how far the applicant would have to travel on Brookhaven to make the first left onto your property. (The applicant explained approximately 150-200 ft.)
- Mr. Meister asked who maintains Brookhaven Drive. (Ms. Markezich stated that is a County road.)
- Ms. Edwards stated she doesn't like to see residential and commercial share the same ingress/egress. She feels that is a conflict with the additional traffic.
- Ms. Edwards stated she would like to do an on-site inspection of this property to see if this zoning change is warranted.
- Ms. Markezich stated she received a letter from the City of Collinsville stating they are opposed to the rezoning request.

County Board Member, Carol Clark stated she has not heard anything from the applicants or from the residents in the area as to how they feel about the rezoning. Ms. Clark stated she has a few concerns regarding this request, stormwater drainage is a concern because everything North is all downhill from 159; another concern is the ingress/egress they will be using. Ms. Clark does not like the fact that they are using the residential road to come in and out of their property as well as to access 159. Ms. Clark stated she would prefer to see an entrance off of State Route 159, if the permit were to be granted.

Mr. Meister suggested the applicants prepare a schematic of what is proposed for the property and contact IDOT about construction of a new entrance off of 159.

MOTION to continue this case until June 5, 2017 by Meister, second by Rhoden.
Motion carried.

Roll call vote:	Rhoden -	Aye
	Meister -	Aye
	Heberer-	Aye
	Edwards-	Aye
	Chairman Penny -	Aye

This case has been taken under continuance and will come back to the board on June 5, 2017.

New Business - Case #5

Subject Case #2017-01-ZA - Lynn Rohwedder, 3854 Lower Saxtown Road, Waterloo, Illinois, owners and applicants. This is a request for a Zoning Amendment to change the zone district classification of a certain tracts of land from "A" Agricultural Industry Zone District to "RR-3" Rural Residential Zone District on property known as 3854 Lower Saxtown Road, Waterloo, Illinois in Millstadt (South) Township.

Lynn Rohwedder, Owner/Applicant

- Ms. Rohwedder stated she submitted an application for rezoning.
- Ms. Rohwedder stated she purchased this home with her husband in 1993 and built a home on the property.
- Ms. Rohwedder stated she has been the sole owner of the property since 2012 since she divorced.
- Ms. Rohwedder stated she has approximately 12-acres in woods and 20-acres in fields which currently have hay; 23-acres estimated are the home and several outbuildings; and fence pasture for horses.
- Ms. Rohwedder stated she currently raises horses as a hobby.
- Ms. Rohwedder introduced her son Corey Rohwedder and her daughter Amanda Bear and her husband Chris.
- Ms. Rohwedder stated her son would like to build a residence on this property.
- Ms. Rohwedder stated she is asking for the rezoning so in the future she can gift them property and it stays in the family.

Discussion

- Mr. Meister asked the applicant why she chose to rezone the property instead of requesting a variance. (Ms. Rohwedder stated she was told since they are zoned Agricultural the home would have to stay on a minimum 40-acres.)
- Ms. Markezich explained the applicant could file for a variance for the son and then in the future she would have to file again for the daughter.
- Mr. Schneidewind stated she currently has the 12.7-acre lot and is that where you want to build the house for your son. (The applicant stated no that is not where the house will be built.)
- Mr. Meister stated if the board grants the rezoning to “RR-3” then the applicant could divide into 3-acre tracts or the next owner without coming back before the Zoning Board. (Ms. Rohwedder stated she owned the 32-acres to the North of this property and it is already zoned “RR-3”, the majority of the building around there to the West is subdivision, Arbor Ridge Subdivision and there are several rural residential neighbors. She stated it is a very rural area.)
- Mr. Meister stated the neighbors would also want to do the same thing.
- Ms. Edwards asked if the applicant divided off the 4.5-acre tract of property. (Ms. Rohwedder stated that parcel was already divided off prior to them purchasing the property.)
- Mr. Schneidewind asked the applicant to show on a map where her son will build his home. (The applicant’s son showed his house would be constructed on the existing 12.7-acres.)
- Mr. Schneidewind explained the applicant’s son could build a home on the 12.7-acres without a zoning hearing.
- Ms. Edwards stated the Comprehensive Plan calls for Agricultural Preservation and while there are many divisions that are out there, there are none that abut you directly.
- Chairman Penny stated the parcel is abutting an “RR-3” Zone District and feels whatever the board may be trying to prevent is already underway.
- Ms. Edwards asked if there is public water available to this property. (The applicants stated everything is on well and private sewers.)
- Ms. Edwards asked how the wells work in the area. (The applicant stated she has a 310 ft. deep well that has had no issues in 23-years.)
- Ms. Edwards stated as the density increases the more hardship it places on the wells.

Public Testimony

- Kevin Poettker, 1060 Gilmore Lake Road, Waterloo stated he owns the property to the West and the North and South of this property. Mr. Poettker stated the applicants are great neighbors and we would love for Corey to be a neighbor, but feels the request to divide up the entire property, when he applicant has 12-acres available, is not needed. Mr. Poettker stated the applicant could have kept some acreage for her daughter across the street.
- Robert Frederick Bernhardt – 3808 Lower Saxtown Road stated he concerned if she will subdivide the properties and would be opposed to that request.
- Gloria Bernhardt – 3808 Lower Saxtown Road stated she feels this request could cause water problems, drainage, and wells problems. (Corey Rohwedder stated the drainage is quite substantial meaning it is a very rolling terrain and everything drains to the South of the property.)

Further Testimony

Michael O'Donnell, County Board Member stated he has no problem with the request for rezoning the property for Estate Planning. Mr. O'Donnell stated if the applicant requested a variance, the daughter would have to come back to the board and that way if this request is granted it will be a quick change off when the time comes. Mr. O'Donnell stated there is Rural Residential in the area and feels it is compatible with the area.

Ms. Edwards stated she feels it would be reckless of the Zoning Board to zone anymore "RR-3" in this area until we see what development happens.

Chairman Penny stated he has a slightly different point of view. He stated there are too many "RR-3" platted lots surrounding this parcel to count. Chairman Penny stated he does not think the proposal is outrageous or inconsistent with the character of the neighborhood.

Mr. Meister stated he would rather grant a variance than the rezoning to "RR-3". He stated the owner's son could build one home on the 12-acres now and come back to the board for a variance for another division.

MOTION by Meister to approve the request for rezoning. Second by Rhoden.

Roll call vote:	Meister -	Aye
	Rhoden -	Aye
	Heberer-	Nay
	Edwards-	Nay
	Chairman Penny -	Aye

Mr. Penny explained there are not enough votes to approve the request. This hearing will be held over until June 5, 2017.

ORDINANCE UPDATES

Ms. Markezich presented a proposal to revise Chapter 40-1-18(B) to read as follows: (D) The International Building Code 3012, International Residential Code 2012, International Mechanical Code 2012, International Fuel Gas Code 2012, International Energy Conservation Code 2012, National Electric Code 2011, International Electrical Code Administrative Provisions, International Swimming Pool and Spa Code 2012, NFPA 72 - National Fire Alarm and Signaling Code 2013, Illinois Accessibility Code 1997, the current Illinois Plumbing Code as adopted by St. Clair County.

Ms. Markezich explained the building codes are being updated, which are referenced in the Zoning Code.

MOTION by Meister to recommend approval of the amendment proposed amending Chapter 40-1-18(B) with the respected codes to be adopted by the County Board in April.

Second by Rhoden.

Roll call vote:	Meister -	Aye
	Rhoden -	Aye
	Heberer-	Aye
	Edwards-	Aye
	Chairman Penny -	Aye

NOMINATION OF VICE-CHAIRMAN

MOTION by Edwards to nominate Kent Heberer as Vice-Chairman of the Zoning Board. Second by Meister.

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Roll call vote:	Meister -	Aye
	Rhoden -	Aye
	Heberer-	Abstain
	Edwards-	Aye
	Chairman Penny -	Aye

Kent Heberer was nominated Vice-Chairman.

MOTION by Meister to adjourn. Second by Rhoden. Motion carried.