

St. Clair County Zoning Board of Appeals
Minutes for Meeting
At the Courthouse – 7:00 P.M.
June 5, 2017

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

Members Absent: Patti Gregory

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

County Board

Members Present: John West, County Board District 15
June Chartrand, County Board District 16
Brian Bingel, County Board District 7
Michael O'Donnell, County Board District 22
Carol Clark, County Board District 29

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 Rhoden to approve minutes of the May 8, 2017 meeting. Second by Edwards. Motion carried.

Public Comment

There were no comments from the public.

Announcements

Subject Case #2017-02-SP (Merritt) has been rescheduled to July 10, 2017.

Subject Case #2017-06-SP (Green Door Apartments LLC) has been continued to July 10, 2017.

New Business – Case #1

Subject Case #2017-10-ABV – John I. Mueller, 2507 Park Road, Belleville, Illinois, Owner and Applicant. This is a request for an Area/Bulk Variance to allow the division of 3-acres instead of the 40-acres required in an “A” Agricultural Industry Zone District on property known as 2507 Park Road, Belleville, Illinois in Smithton Township. (Parcel #13-06.0-200-021)

John Mueller, Owner/Applicant

- Mr. Mueller stated he has lived at this property since 1985.
- Mr. Mueller stated he would like to give his daughter 3-acres to build a home.
- Mr. Mueller stated there was 3-acres cut off prior to him purchasing it for the owners sister.
- Mr. Mueller’s daughter gave testimony that she may build a 2-car garage on the property with a living use on top.

Discussion

- Mr. Rhoden asked how many acres the applicant owns. (The applicant stated he owns 17-acres.)
- Ms. Edwards asked if the 3-acre lot to the North of his property is a buildable lot. The applicant stated it is not buildable there is a big ravine on the property.)
- Ms. Edwards asked Ms. Markezich if she knew when the two 3-acres to the South of this property were divided off. (Ms. Markezich stated she has a 1982 Sidwell map and the divisions were done at that time.)
- Ms. Edwards asked if a garage with a living use above it will pass code. (Ms. Markezich stated there will be restrictions such as there must be a kitchen, bath, bedroom and etc.)

- Chairman Penny asked the applicant if the Zoning Board granted the 3-acre division would the applicant be willing to merge the similar division of 3-acres off the North side to the main parcel of property. (The applicant stated he is willing to consolidate the property.)
- Mr. Heberer asked if the applicant will have the required frontage. (Ms. Markezich stated the parcel will require 100 ft. of frontage on the road and 200 ft. at the building line.)
- Ms. Markezich stated to the applicant that she can only have one residence on her parcel, so she cannot build an additional home in the future, on the same parcel. (The applicant stated she may connect a house with the garage in the future.)
- Ms. Edwards stated she does want the garage to become a rental property because it would change the character of the neighborhood.

Public Testimony

- Gene Meurer, 2435 Park Road, Belleville confirmed the division of property will be on the South side of the property. Mr. Meurer stated he owns the property to the North of this property.

Further Testimony

Mr. O'Donnell stated he does not have any objection to this request with the condition of the property swap.

MOTION by Edwards to grant this request. The utilities are well/septic system; the Comprehensive Plan calls for Agricultural. The applicant Mr. Mueller agreed to take the 13.81-acres and combine it with the 3.17-acres for this division of 3-acres to be approved and will comply with the Zoning Ordinance of 200 ft. of frontage. The request is in harmony with the general purpose and intent of the Zoning Ordinance; it is not injurious to the neighborhood; it would not be detrimental to the public welfare; and it is not in conflict with the Comprehensive Plan; there is no hazard from fire or other dangers to the said property and will not diminish the land and value of buildings in the immediate area or throughout the County; it would not cause traffic congestion of any type; and therefore it is the recommendation of this board with the previously said contingencies that this Area/Bulk Variance be approved.

Second by Rhoden.

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

Motion carried. This case has been granted by this board.

New Business - Case #2

Subject Case #2017-09-SP – Steven & Julie Kelley, 7505 Red Ray Mine Road, Freeburg, Illinois, owners and applicants. This is a request for a Special Use Permit for a Planned Building Development pursuant to Section 40-9-3 (H)(3) to allow a Landscaping Business in conjunction with a single-family residence in an “A” Agricultural Industry Zone District, on property known as 7505 Red Ray Mine Road, Freeburg, Illinois in New Athens Township. (Parcel #18-05.0-100-018)

Steven & Julie Kelley, Owner/Applicant

- Mr. Kelly stated he would like to obtain a Special Use Permit for Landscaping business at his new residence.
- Mr. Kelly stated in March, 2014 the Zoning Board granted him a Special Use Permit to allow the landscaping business at his current address.
- Mr. Kelly stated they are moving to a larger house because his daughter wanted a horse; and this home has a larger pole building to store the equipment and trucks and trailers.

Discussion

- Mr. Heberer stated the applicant already has a Special Use Permit for a landscaping at this current address.
- Ms. Markezich stated the Zoning Board granted the applicant a Special Use Permit in 2014.
- Chairman Penny asked how far the current address is from this address. (The applicant stated approximately 2 ½ to 3-miles.)
- Chairman Penny asked how many pieces of equipment the applicant has for the business. (The applicant stated he has four trucks.)
- Ms. Edwards asked if the applicant stores everything inside. (The applicant stated most everything is stored inside.)

- Mr. Heberer stated he is familiar with the applicant's current address and the property is very neat and orderly.
- Ms. Edwards asked if there are any similar businesses in this area. (Mr. Heberer stated there is a construction business across the field from this property.)
- Ms. Edwards stated the biggest concern regarding granting a Special Use Permit is the outside storage of materials and equipment.
- Ms. Edwards stated since this request is a Planned Development the applicant will follow his plan of 4 employees; seasonal employment; hours 8:00 AM to 5:00 PM; storage of equipment will be in the shed; ample parking on the gravel, so no street parking; will not sell or house bulk items, no customers will visit the property; the property is landscaped and turf is maintained; and will carry an umbrella policy on the property.
- Mr. Schneidewind asked if the applicants will have a business sign. (The applicant stated they will not have a sign.)

Public Testimony

- Todd Biesiegel, 3105 Stonecliff Court, Belleville stated he owns property adjacent to this parcel. Mr. Biesiegel wanted to verify his taxes will not be affected by the adjacent business and if the applicant moves will the property remain zoned business. (Ms. Markezich explained Mr. Biesiegels taxes will not be affected by the Special Use Permit and the applicants property is not being rezoned, the property will remain Agricultural and no further business will be allowed in the future.)
- Steve Woodward – Chairperson of the Village of Freeburg Planning & Zoning Board stated they have no objection to this request.

Further Discussion

County Board Member, Bryan Bingel stated he is in support of this request.

MOTION by Heberer to grant the request for the following reasons: There will be no environmental problems; will not change the overall taxbase; the SP is consistent with the Comprehensive Plan; and there will be no additional traffic use on the streets.

Second by Edwards.

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

Motion carried. This case has been approved by this board and will now go before the County Board for final consideration.

Old Business – Case #3

Subject Case #2017-01-ZA – Lynn N. Rohwedder, 3854 Lower Saxtown Road, Waterloo, Illinois, owner and applicant. This is a request for a Zoning Amendment to change the zone district classification of 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. (Parcel #16-03.0-100-008 & 16-03.0-200-001)

Mr. Schneidewind explained at the last meeting held on April 3, 2017 the Zoning Board did not have four concurrent votes to approve the Zoning change. There were three yes votes and two no votes.

Lynn Rohwedder – Owner/Applicant

- Ms. Rohwedder explained they would like to get the entire parcel rezoned to “RR-3” and as stated in April the property is surrounded by “RR-3” zoning.
- Ms. Rohwedder stated the field across the street that she previously owned is already zoned “RR-3”.
- Ms. Rohwedder stated she would like to divide the parcel line along fence line for a separate parcel that she will give to her son.
- Mr. Rohwedder stated she has no intention of selling property.
- Ms. Rohwedder stated she has an appraisal of 1.1-million dollars and cannot see someone tearing it all down to divide into lots.
- Mr. Rohwedder stated this is a family piece of property that is not used for traditional Agricultural purposes which is the raising of crops. He stated Ms. Rohwedder is a hobby farmer and raises horses. He stated the surrounding zoning is “RR-3” and the trend in the area is “RR-3”. Mr. Rohwedder stated that at the last meeting Chairman Penny stated that whatever the board is trying to prevent is already underway.

- Ms. Rohwedder explained if something happened to her today, her children would have to sell this property. Neither of them have the means to maintain this property. Trying to make sure and secure that her children have some of her property and feels she is unfairly discriminating against her. Ms. Rohwedder stated she is surrounded by RR-3 and is not going to create a subdivision just pass on ground to her children.

Discussion

- Mr. Meister asked if the applicant's plans were to carve out two lots, one to the right and then one to the right of it that runs along the fence line. (Ms. Rohwedder stated that is correct.) (Ms. Markezich corrected that the 12.7-acre tract is already a separate parcel.)
- Mr. Heberer asked how many acres would be left at the farm residence. (The applicant stated 36 to 38-acres.)
- Ms. Schneidewind confirmed the applicant will divide off property and consolidate it with her sons parcel.
- Ms. Markezich asked how many acres the applicant is giving her daughter. (The applicant stated she does not have definite plans and if she doesn't then her son will retain all of the land.)
- Ms. Markezich stated an Area/Bulk Variance would be sufficient for what the applicants are asking for. (The applicants stated then they could not divide off for their sister or his children in the future.)
- Ms. Edwards stated another problem is as the density increases there are problems with wells and septic systems.
- Mr. Meister explained in 1993 some areas of the County were rezoned to Rural Residential where smaller lots already existed.
- Mr. Meister asked what is the mechanism they can provide to guarantee only family members will divide off property in the future. (Mr. Rohwedder asked does the board really think someone will spend over \$1 million dollars to build a couple of houses.) (Mr. Schneidewind stated you can divide at least 15 houses in there in some way shape or form.)
- Mr. Schneidewind asked the applicants why the property cannot be utilized under its present zoning classification. (The applicants stated the intention is to give a portion of the property to her son and then potentially to her daughter on her property where they grew up with out the need to come back before the board in the future, when a grandson or daughter is ready to build.)

Public Testimony

- Mearl Jany, 5214 White Oak Drive, Smithton stated he owns the 3-acres in front of the property. Mr. Jany stated he has no objection to the request but feels a new address needs to be established on the properties because there are doubled up in that area. (Ms. Markezich stated the applicants can contact the 911 office to get a new address assigned.)
- Christopher Bayer – 407 W. Harrison Street, Millstadt stated he is the applicant's son-in-law and he went back to 2012 and looked at cases where land was going from "A" Agricultural to "RR-3" and in each case were unanimously approved with no "RR-3" around them. Mr. Bayer stated he could submit the case numbers to the board. This request has not been denied since 2012. (Chairman Penny stated the testimony and facts are looked at for each unique case and make a decision based on the facts at hand. I resist that comment because otherwise there would be no need for the Zoning Board.)

Further Discussion

County Board Member, Michael O'Donnell stated this is a tough situation and realizes the Zoning Board would like to control growth and density in the County, but stated he is in favor of the plan and feels an extension of the "RR-3" Zone District would not be detrimental to the area.

MOTION by Edwards to deny the request for the following reasons: The utilities are well/septic; the Comprehensive Plan calls for Agricultural Preservation; there has not been any significant change in the area to warrant a zoning change from an Agricultural Preservation to an "RR-3"; the request is not in compliance with the Comprehensive Plan; it does not have the utilities necessary to support an "RR-3" with a well/septic system; the applicant stated she wants to plan for the future from her children to her grandchildren while we have provided an opportunity where she can build a home for her son which she wants to do presently and there is an alternative solution to that problem and the home can be built without rezoning the property to "RR-3"; therefore it is the recommendation of this board that this request would not serve the public health and general welfare of the community and that this request should be denied.

Second by Heberer.

Roll call vote:	Rhoden -	No
	Howell -	Abstain
	Edwards-	Aye
	Heberer-	Aye
	Meister -	No
	Chairman Penny -	No

Mr. Schneidewind stated the board requires four votes to approve the request and a simple majority to deny it, and in this case it was neither a simple majority to deny nor a vote of four to approve.

MOTION was then made by Meister to approve the application.

Second by Rhoden.

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

Motion carried. This case has been approved by this board and will now go before the County Board for final consideration.

Old 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, Applicants. 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)

Ms. Markezich stated this case was continued to allow the applicant to submit a more detailed site plan. Ms. Markezich gave each member a copy of the revised site plan.

- Mr. Meister asked if the flood issue has been addressed. (Ms. Markezich stated the applicants are working with FEMA and Dallas Alley, St. Clair County Flood Plain Manager to file a LOMA –Letter of Map Amendment on this property. She further explained the applicants will remove dirt from the property to build up where the buildings will be located per FEMA and their Engineer’s discretion.)
- Chairman Penny stated the board did an on-site inspection regarding the testimony that trees were pushed off and were obstructing a creek and it was obvious that this is a case of bank erosion of the bank, the tree roots were exposed and fell. The trees in the creek were an act of nature.
- Chairman Penny asked the applicants in linear feet how far will it be from the turn at Highway 159 to the entrance. (The applicant stated it is approximately 250 ft. from the highway.)
- Chairman Penny stated per the on-site inspection, there is no feasible way to construct a secondary entrance off of 159 without significant changes to the terrain.
- Ms. Edwards stated her only concern is that no trucks continue past this property and would only use ingress/egress out to Highway 159 because those roads could not handle the weight of those trucks. (Ms. Shafer stated that her business operates mainly for the County or St. Louis and that would be their quickest way to get to the jobsite would be Highway 159.)
- Mr. Meister asked who maintains Brookhaven Drive. (The applicants stated Caseyville Township maintains the roads.)
- Ms. Edwards asked if the applicants will have outside storage on the property. (The applicant stated the truck company will have trucks parked there at night and during the day they will be gone. As far as the mechanics shop the only vehicles parked outside will be there to get worked on, no salvaged vehicles.)
- Mr. Schneidewind reminded the board this request is for rezoning only and not a Planned Development.
- Ms. Shafer stated they will landscape the property and enhance the property.
- Ms. Markezich stated in the “B-2” Zone District there is a restriction that all vehicles/equipment and parts have to be behind an enclosed solid fence or in a building.
- Mr. Rhoden asked if the applicant will have tandem trucks. (The applicant stated they have tandem trucks and tractor trailers.)

- Mr. Meister asked if the entire track will be rezoned or just the parcel that is highlighted. (Mr. Shafer stated the entire tract will be rezoned.)
- Don Townzen, 139 E. Brookhaven Drive asked how far back the garage will be off the property line. (Ms. Shafer stated the setback is 70 feet from the front property line and they will have surveyors and engineers mark the property.)
- Mr. Townzen stated his concern about the dirt being removed around the creek. (Chairman Penny stated the creek will not be affected by this construction on this property.)
- Mr. Schneidewind stated how the applicant excavates the property will be regulated by the Federal Government and has nothing to do with the rezoning request.

Further Discussion

County Board Member, Carol Clark stated based on the proposed plan and after further discussion with Ms. Markezich and the applicants and the fact that 159 will be used only for ingress/egress to their property, she does not see a problem with the construction based on other properties that the applicant owns, she feels like this business will enhance the area.

Chairman Penny stated he visited the property and understands the desire of the neighbors not to have anything change within view of their homes but given the lay of the land and the limited distance the applicant will drive down Brookhaven Drive, Mr. Penny stated the impact will be very minor. The applicants have an established business history in the Caseyville area as business people and they run a very professional business which speaks to this issue.

MOTION by Meister to approve this case for the following reasons: The applicant presented his plan for the proposed shop and proposed dirt work.

Second by Heberer.

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

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Motion carried. This case has been approved by this board and will now go before the County Board for final approval.

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