

MINUTES
Zoning Board of Appeals
Linda O'Brien, Chairperson
January 12, 2023

A meeting of the Peoria County Zoning Board of Appeals was held on January 12, 2023, in Room 403 of the Peoria County Courthouse, 324 Main Street, Peoria, Illinois. The meeting was called to order by Vice Chairperson J. Greg Fletcher, at 9:11 a.m.

PRESENT: J. Greg Fletcher, Stephen Pollack, Greg Happ, Chris Duncan, LaVonne Sammis

ABSENT: Linda O'Brien – Chairperson, Rob Asbell, Justin Brown

STAFF: Kathi Urban – Director
Taylor Armbruster – 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 December 8, 2022, hearing and was seconded by Mr. Duncan. A vote was taken, and the motion passed; (5-0)

Case No. **ZBA-2023-005** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **BENJAMIN EMERICK, acting on behalf of BENJAMIN AND KAYLA EMERICK, a VARIANCE** request from Section 20-6.2.2.1.a.1 of the Unified Development Ordinance, which requires a road setback of one hundred thirty-five (135) feet from the center of the right-of-way in the "A-1" Agricultural Preservation Zoning District. The petitioner proposed to construct a porch at a distance of 105 ft. from the center of W. State Route 90, resulting in a variance request of 30 ft.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* and *The Weekly Post* on December 15, 2022. Taylor Armbruster gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Agriculture Preservation). The site plan and two videos of the property were shown. The property is zoned "A-1".

Benjamin Emerick of 11809 W. Route 90, Princeville, IL was sworn in. Mr. Emerick stated that he wants to rebuild his front porch, and thought he was within his rights to rebuild an existing structure. He is not trying to change the size. Mr. Emerick stated that he wants to pour footings and was trying to replace beams that were rotted.

Mr. Fletcher asked if the porch is the original porch on the house. Mr. Emerick stated that to his knowledge, it was, and he has pictures of the house from 1900 showing the porch.

Mr. Fletcher asked if there were any other questions or comments from the Board and there were none.

Mr. Fletcher asked if there was anyone that wished to speak in support or opposition of the request. There was no one.

Mr. Happ made a motion to close and deliberate and was seconded by Mr. Duncan. 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 owner is requesting the variance to complete the porch. There was previously a porch on the front of the property. The new or remodeled porch will be in the same place, although it must have a variance to be rebuilt.
2. That the variation, if granted, will not alter the essential character of the locality;
 - If the variance is granted, it will allow the owners to complete the porch as it was and in the same location. This will not alter the character of the locality.
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;
 - If the variance was to be denied, the petitioner would be unable to complete the porch, the property would remain as it is, and they would have no access to the front door for use.
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;
 - As stated previously, the owners are requesting a variance to complete the front porch.
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;
 - Granting the variance would not be detrimental to the public health, comfort, morals, and welfare of the neighborhood. It would not be injurious to other properties or neighborhood improvements. Granting of the variance would not be inconsistent with the adopted County plan or regulations.
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;
 - Granting the variance would improve the neighborhood, enhance nearby homes, and increase property values for the immediate area.

7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - Granting the variance will be the minimal necessary needed to use the land.
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.
 - With approval of the variance, the home's front entrance will be usable as it had been in the past.

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

Case No. **ZBA-2023-001** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **MICHAEL B. HOLLAWAY, acting on behalf of STEVE AND JODIE KEMP (owners), a VARIANCE** request from Section 20-5.13.3.4 of the Unified Development Ordinance, which requires that for lots and parcels in platted subdivisions not created by tract surveys or in residentially zoned districts, the total floor area of all accessory buildings, attached or detached, shall not exceed the footprint of the principal structure or 1,300 square feet, whichever is less, plus 750 square feet for a private garage. The petitioner proposes to construct a 780 square feet accessory structure on a parcel which already exceeds the allowable cumulative square footage by 434 square feet in the "R-2" Medium Density Residential Zoning District, resulting in a variance request of 1,214 square feet.

Ms. Urban announced the case and asked if anyone was present to testify. There was no one.

Mr. Fletcher stated that the Board can either take the next case and see if Mr. Hollaway appears or reschedule the case for next month.

Mr. Happ made a motion to give the petitioner a chance to appear and was seconded by Mr. Duncan. A vote was taken, and the motion passed; (5-0)

Case No. **ZBA-2023-004** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **DOUG HUFF, acting on behalf of MICHAEL C. GATZ REVOCABLE LIVING TRUST & GAYLE M. GATZ REVOCABLE LIVING TRUST (owners), a SPECIAL USE** request from Section 20-5.2.2.2.f 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 in the "A-2" Agriculture Zoning District.

Ms. Urban opened the case. There are 0 consents and 31 objections on file. The case was published in *The Peoria Journal Star* on December 15, 2022. 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 and Agriculture). The site plan and two videos of the property were shown. The property is zoned "A-2".

Doug Huff of 300 Lakeshore Dr., Washington, IL was sworn in.

Mark Walton of Miller Hall & Triggs, 416 Main St., Peoria, IL was sworn in.

Mr. Huff stated that he wanted to thank staff for doing such an excellent job on the case analysis. He also stated that they are looking at a wonderful opportunity for people to take advantage of nature, that don't always have the opportunity to do so. The property is a wonderful location, with deer, turkey, eagles, and a stocked pond. Mr. Huff stated that his intent is to share location with people, that haven't been blessed with the opportunity to live in and own properties like this, by offering short-term rentals. Mr. Huff stated that he is in the process of acquiring the property pending the approval of the special use. He wants to keep the property the way it is and will not be adding any additional structures. Rentals will be restricted to an 8-person capacity as per the County Board's recommendation. This works well for their plans, as they don't want large groups of people. The intent is to do weekly rentals, and allow guests to take advantage of the land and the stocked lake.

Mr. Huff stated he has been in the real estate business for over 30 years, and has properties throughout Central Illinois. They are in the process of working on their second short-term rental. They have on-site staff that has been doing this for several years that handle maintenance, and they want to make sure they follow best practices for this property.

Mr. Walton stated that he didn't have anything to add but would like to reserve the right to comment after the public has had a chance to comment.

Mr. Fletcher asked if there were any questions from the Board.

Mr. Happ asked if the fishing lake would be open to guests and if they could use his boat or kayak. Mr. Huff stated that they intend to provide kayaks and fishing would be allowed with proper licensing.

Mr. Happ asked if there were clearly marked trails. Mr. Huff stated that there are currently trails that have been cut through the forest. They intend to add some taller grasses for observing deer so they could be viewed without disturbing them.

Mr. Happ asked if the petitioner would provide 4-wheelers for guests. Mr. Huff stated that he would not. Mr. Happ asked if he could bring his own 4-wheeler to the property if he were renting. Mr. Huff stated that he didn't know yet but probably not. Some of the neighbors were concerned that if guests were allowed to have 4-wheelers, they may unintentionally wonder onto neighboring property. Mr. Huff stated that he wants to make sure that property lines are clearly marked.

Mr. Happ asked if hunting would be allowed. Mr. Huff stated that he hadn't decided yet. He will use the property for his own personal hunting with family but will likely not allow it for short-term rental guests.

Mr. Fletcher asked if he would be doing hunting leases for weekend shotgun or bow hunting. Mr. Huff stated that is not their intent. Mr. Fletcher asked if the intent was for just the rental of the home with use of the lake and the woods, and it would not be a sportsman club. Mr. Huff stated that it was not his intention to have a sportsman club.

Mr. Fletcher asked if there was a company that would be managing the property. Mr. Huff stated that they are currently talking to a couple groups to find out who would be the best to work with.

Mr. Fletcher asked if they had done this type of facility before. Mr. Huff stated they have not done a short-term rental at this time.

Mr. Fletcher clarified that the property is owned by another individual right now, and if the special use is granted, Mr. Huff will purchase the property. Mr. Huff stated that it is currently owned by a trust, but yes, he will purchase the property if the special use is approved.

Mr. Pollack asked if Mr. Huff had answered the questions about whether or not guests would be allowed to hunt. Mr. Huff stated that guests would not be allowed to hunt, just to enjoy the property. He plans to hunt personally though.

Mr. Fletcher asked if there were any additional questions at this time, and there were none.

Mr. Fletcher asked if there was anyone that wanted to speak in support of the request. There was no one.

Mr. Fletcher asked if there was anyone that wanted to speak in opposition of the request.

Terry Ruhland of 820 N. Hushaw Ave., Chillicothe, IL was sworn in. Mr. Ruhland stated that as a County Board member that the allowance of this type of facility, in Peoria County, is very much in need of an overhaul. Mr. Ruhland stated that there have been 13 or 14 short-term rentals allowed so far, with minimal problems, but he thinks this one is different because it is in the middle of agricultural production as well as single-family homes. Mr. Ruhland stated there is no particular rule against what Mr. Huff is trying to do, and he just wants to find a way for everyone to coexist. The County ordinance doesn't take into account fair competition. Hotels and motels pay lodging taxes, pay for inspections, etc. that the Ordinance doesn't require of a short-term rental, and it sets up an unfair competition. Mr. Ruhland thought it was good that Mr. Huff did not plan to allow hunting or ATV's, as a hunting lodge brings in a whole set of permits from the County and IDNR. Some of neighbors have already had trespassers, ATV tracks, hunting tents and blinds on the property without permission. He further stated that he strongly urges the ZBA to add restrictions, allowing hunting and ATV use to the property owner only, and not guests. Mr. Ruhland asked Ms. Cordis Boswell, if the property transfers to any other form of ownership, would the special use permit go with it.

Ms. Cordis Boswell stated that the Ordinance is set up that the special uses run with the land unless the ZBA restricts them. It is the practice of the ZBA to restrict special use permits only to the applicant or any entity that he solely controls, which is what she would anticipate the ZBA will do if they approve this request.

Mr. Ruhland stated that if the hunting and ATV restrictions are placed on the special use, it does comply better with the short-term rentals already approved in the area. If hunting and 4-wheelers are allowed, it no longer is a bed and breakfast and becomes a hunting lodge and is subject to different rules and regulations by the County and IDNR.

Bruce Thiemann of 1523 Fondulac Dr., East Peoria, IL was sworn in. He and his wife Teri, have owned property in the area for many years, dating back to the 50s. They know the neighbors and intended to build on the site. Mr. Thiemann stated that his brother-in-law lives near their property. They have 65-70 acres on the north side of Hicks Hollow and 30 acres on the south side of Hicks Hollow.

Ms. Boswell encouraged the objectors to speak as to the petition that is before the Board.

Mr. Thiemann stated that the application is deficient and should have been rejected because the application minimum standards require an explanation of the need for this special use at this particular site. There is no need for an Airbnb at this site and there is nothing in the petition that speaks to that. There is no clear description of how the factors of the land and the proposed use meet each of the review standards. The major standard that the Board has to follow is whether the special use is consistent with the community character of the immediate vicinity. Mr. Thiemann stated it is not consistent, and the application does not justify the inconsistency. The application should be rejected as it does not meet the standards. Mr. Thiemann stated that if the special use is granted, they would like the conditions of hunting to include all types of hunting. He and his wife don't hunt deer, but do hunt mushrooms and gather wild ginseng, and they don't want people trespassing on their land. Mr. Thiemann stated that he wanted the restriction that Mr. Huff and his guests would not be allowed to trespass on his land, and if there are violations, the special use would be revoked.

Mr. Fletcher asked if there were any questions for Mr. Thiemann. There were none.

Mr. Fletcher asked if there was anyone else that wanted to speak in opposition of the request. Mr. Fletcher asked objectors not to restate what previous objectors have already said.

Theresa Heath of 5819 W. Guinivere Dr., Mapleton, IL was sworn in. Ms. Heath stated she is speaking on behalf of her mother, Lydia Ierulli of 5819 W. Charlston Ct., Peoria, IL. Ms. Heath stated that they looked at the Airbnb website, and it states that an Airbnb home rental, for a 4 bedroom, 2.5 bath home, can accommodate up to 16 people. Ms. Heath is concerned that that many people every week in the home will cause undue stress on the septic system as well as drawing on the aquifer. Ms. Heath stated that they have also had illegal hunters on her mother's property and the police have been called many times.

Mr. Fletcher asked where her mother's property was in relation to the subject property. Ms. Heath stated that her mother's property is adjacent to the south. She also stated that she gave the Gatz's son permission to hunt on the property and there are hunting and deer blinds in the trees that aren't his.

Ms. Heath stated that neighboring properties were zoned "A-2" for a reason. They were not intended to be a small hotel or catered venue. Ms. Heath stated that she would request that the Board take into consideration her concerns, and the concerns of the neighboring land owners, and vote "no" on the proposed zoning of overnight accommodations.

Mr. Fletcher asked if there were any questions for Ms. Heath and there were none.

Mr. Fletcher asked if there was anyone else that wanted to speak in opposition of the request.

Kari Dill of 16905 N. Staab Rd., Chillicothe, IL was sworn in. Ms. Dill stated that she lives on 2.5 acres that had been purchased from the Hendersons. Her parents built the house in 1997 and she now lives there. Her children love to play outside, and she doesn't have to worry about strangers. Her biggest concern is safety, privacy, security, and background checks on guests. Ms. Dill stated that there is no guarantee that it will always be families staying in the home. There have already been problems with people shooting in the middle of the night. Ms. Dill wanted to know what measures would be taken to ensure the safety of her family. She stated that her husband is a firefighter and he is gone for 24 hours at a time and she is home alone with her children. Ms. Dill was also concerned about the increase of vehicles. The road was recently seal coated and she doesn't want people tearing it up. She has to drive a mile down the road to take her kids to the bus stop. Mr. Fletcher stated that he didn't think this was pertinent. Ms. Dill stated that more traffic would just add another excuse for the bus not to pick up her kids.

Mr. Fletcher asked if there had been previous problems with people hunting on her property. Ms. Dill stated that there had been, but didn't know if it was the current owner's son's friends that were allowed to be there.

Mr. Fletcher asked if there were any questions for Ms. Dill and there were none.

Mr. Fletcher asked if there was anyone else that wanted to speak in opposition of the request.

Jeff Dunbar of 222 E. Hallock Hollow Rd., Edelstein, IL was sworn in. Mr. Dunbar stated that one of the properties that is attached to this property belongs to the park district. He is on the other end of that park district property. He is concerned that guests could go for a hike and wander onto his property or the park district property. Mr. Dunbar also stated that he is concerned that once the special use is allowed, it would be very difficult to get rid of if there were problems.

Mr. Fletcher asked if there was anyone else that wanted to speak in opposition of the request.

Ben Vonk of 17418 N. Old Galena Rd., Chillicothe, IL was sworn in. property. He rents and farms the land adjacent to the south, the Ierulli farm. His major concerns are about crop damage by either vehicles or ATVs.

Mr. Fletcher asked if there was anyone else that wanted to speak in opposition of the request.

Mike Lahood of 112 LaSalle Dr., East Peoria, IL was sworn in. Mr. Lahood stated that he is a licensed realtor. His opinion is that this is just the wrong location for a short-term rental. Mr. Lahood asked if this petition would continue to the Land Use Committee.

Mr. Fletcher stated that the case would be heard at the January 23, 2023 hearing at 4:00 p.m. and would go before the full County Board on February 9, 2023, at 6:00 p.m.

Mr. Lahood asked if there needed to be a two-thirds majority vote to pass the matter since there were so many contiguous landowners. Ms. Urban stated that there did not.

Mr. Fletcher asked if there was anyone else that wanted to speak in opposition of the request.

Marcus Horan of 612 S. Stillwater Dr., Chillicothe, IL was sworn in. Mr. Horan stated he is representing his father who recently passed. He stated that some of his concerns are theft and people using the excuse of seeing the property to be in the area. Mr. Horan stated he thinks there should be a written comprehensive business plan that should be submitted with the special use application. He stated that the current owners have torn up the road and he is concerned that guests will tear up the road with ATVs.

Mr. Fletcher asked if Staab Rd. was paved in the last couple years. Mr. Horan stated that it had been paved within the last six months. Mr. Horan is also concerned about theft. He doesn't currently live there but will most likely move there. He believes that short-term rentals change the landscape of the community and also feels like guests will be partying. People will be turning into the wrong address to find the property, and he is concerned about theft.

Mr. Horan stated that his mother, Mary Horan, is present as well. They own several hundred acres of adjacent property.

Mr. Fletcher asked if there was anyone else that wanted to speak in opposition of the request and there was no one.

Mr. Walton stated that all the concerns addressed are legitimate concerns. He stated that the ZBA needs to recognize the question before it is not whether or not a short-term rental should be allowed in the "A-2" zoning district, as the County Board has already resolved this question by allowing short-term rentals in the "A-2" district with a special use permit. Mr. Walton asked what it is about this particular property that makes it more or less suitable for an allowed use. The need issue that is in the ordinance was addressed by Mr. Huff when he pointed out that there aren't a lot of options for people that live in the city to get into this type of recreational property. This is a very strong statement of need. There is no inconsistency with what the County Board has already approved as a special use in the "A-2" zoning district. Mr. Walton stated that the real question is what sort of restrictions are appropriate. There are concerns that apply to this property specifically. This use is not a change in use and will be used for residential purposes and short-term renters won't be doing anything different than what Mr. Huff could do as owner. The focus should be on what makes it suitable and what restrictions might ameliorate property specific concerns.

Mr. Huff joked that he is not sure he wants to buy the property with the rampant theft, trespassing, shooting, and other safety concerns mentioned by the neighbors. He understands the concerns of the neighbors. Mr. Huff stated that online travel agencies have vetting. He personally was declined at an Airbnb because someone with the same name and birthdate was a felon. Mr. Huff stated that there is no guarantee that a felon wouldn't be the one buying the property as there is nothing to regulate this. Mr. Huff stated that as far as trespassing and ATV use – he owns land near Galena and he has people trespassing all the time. The intent of the use is to have a nice natural resort for people to go and play.

He has stayed in Airbnbs and didn't throw parties and left the properties in a better place than when he arrived. He understands the concerns and doesn't want people to destroy the property.

Mr. Happ stated that the other short-term rentals that have been approved installed ring cameras or surveillance, and asked if Mr. Huff had plans to install cameras. Mr. Huff stated that within what is allowed for privacy reasons they do have cameras and will add more.

Mr. Fletcher asked if Mr. Huff will provide guests with ATVs. Mr. Huff stated that he would not for liability aspects but will use them himself.

Mr. Fletcher asked what the price range would be for this property through Airbnb or VRBO. Mr. Huff stated that he would probably be charging anywhere from \$800-\$1,000 per night, based on other similar properties available.

Mr. Happ asked if there was a maximum stay. Mr. Huff stated that the ordinance limited the stay to 14 days or less.

Mr. Fletcher asked if there were any additional questions from the Board and there were none.

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

Case No. **ZBA-2023-001** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **MICHAEL B. HOLLAWAY, acting on behalf of STEVE AND JODIE KEMP (owners), a VARIANCE** request from Section 20-5.13.3.4 of the Unified Development Ordinance, which requires that for lots and parcels in platted subdivisions not created by tract surveys or in residentially zoned districts, the total floor area of all accessory buildings, attached or detached, shall not exceed the footprint of the principal structure or 1,300 square feet, whichever is less, plus 750 square feet for a private garage. The petitioner proposes to construct a 780 square feet accessory structure on a parcel which already exceeds the allowable cumulative square footage by 434 square feet in the "R-2" Medium Density Residential Zoning District, resulting in a variance request of 1,214 square feet.

Mr. Hollaway did not show up to testify.

Mr. Happ made a motion to continue the case to the February 9, 2023 ZBA hearing at 9:00 a.m. and was seconded by Mr. Pollack. A vote was taken, and the motion passed; (5-0)

Adjournment

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

Meeting adjourned at 11:57 a.m.

Respectfully submitted,

APPROVED 02/09/2023

Sarah Cox
ZBA Administrative Assistant