

MINUTES
Zoning Board of Appeals
Linda O'Brien, Chairperson
January 13, 2022

A meeting of the Peoria County Zoning Board of Appeals was held on Thursday, January 13, 2022, in Room 403 of the Peoria County Courthouse, 324 Main Street, Peoria, Illinois. The meeting was called to order by Vice Chairperson Andrew Keyt, at 9:00 a.m.

PRESENT: Andrew Keyt – Vice Chairperson, Greg Happ, Jim Bateman, J. Greg Fletcher, Robert Asbell

ABSENT: Linda O'Brien – Chairperson, Leonard Unes, Justin Brown, John Harms

STAFF: Kathi Urban – Director
Andrew Braun – Assistant Director
Taylor Armbruster – Planner I
Jack Weindel – 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 9, 2021 hearing and was seconded by Mr. Fletcher. A vote was taken, and the motion passed; (5-0)

Case No. **ZBA-2021-000048** at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **PEORIA COUNTY, acting on its own behalf, a MAP AMENDMENT** to zone parcels of approximately 53.24 acres and 36.19 acres, totaling two parcels of approximately 89.43 acres, to "A-2" Agriculture.

Ms. Urban opened the case. There are 3 consents and 0 objections on file. The case was published in *The Peoria Journal Star* and *The Chillicothe Times-Bulletin* on December 15, 2021.

Andrew Braun was sworn in. Mr. Braun gave a presentation of the countywide map, aerial view of the parcels, and surrounding zoning. The parcels do not currently have a zoning designation, or a future land use plan designation. There is a series of islands, to the north of the subject island, that are all zoned "A-2", and it is consistent with the proposal to zone the subject parcels "A-2". The maps from 1974, 1986, 1996, and 2004 do not indicate a zoning designation for the parcels. There was no Future Land Use Plan designation in the 1992 Comprehensive Land Use Plan or the most recent 2009 Comprehensive Land Use Plan. The County has been assessing the parcels since January 1966.

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

Mr. Fletcher confirmed that the parcels have been assigned tax id numbers, and have been assessed, but the ZBA is just attaching a zoning designation. Mr. Braun stated that this was correct.

Mr. Happ asked if the new zoning would affect the property taxes. Mr. Braun stated that he would not anticipate that it would have an effect.

Jim Fennell was sworn in. Mr. Fennell stated that he is the County Board representative in that area, and he lives right across from the island. Many of the residents are concerned about what happens to the island. There is a bald eagle station, and people love to watch the migrating birds. It is a great place to view the river in its natural state. Mr. Fennell added that he and many of the people he spoke to support the “A-2” zoning designation, as it will preserve the island.

Kevin Day of 3914 N Northwood Ave, Peoria, IL was sworn in. Mr. Day stated that he was in attendance as the City Attorney for the City of Chillicothe, speaking in support of the proposal. The island is an environmentally sensitive area, and it means a great deal to the residents of Chillicothe. Mr. Day stated that the City feels that the “A-2” designation is appropriate. The City of Chillicothe will be monitoring the proceedings and will be moving forward in the near future with zoning the northern most parcel of the island, that is within the Chillicothe municipal boundaries, to the agricultural designation.

Mr. Keyt asked if the Findings of Fact for the rezoning would be used for this case. Ms. Urban stated that in the ordinance, a rezoning is referred to as a map amendment and the Rezoning Findings of Fact would be used.

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

Case No. **ZBA-2021-000036** at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **BRIAN PAUL, acting on behalf of RABER PACKING COMPANY (A corporation, Henry Courdt – president, 923 Wildwood Ct, Peoria, IL 61604, Julia Courdt – secretary, 1320 N Wood, Peoria, IL 61604) (owner), a SPECIAL USE** from Section 20-5.11.2.3.a of the Unified Development Ordinance. This section allows for a special use for a junkyard. The petitioner proposes to junk cars in the “I-2” Heavy Industrial Zoning District.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on October 20, 2021, and *The Limestone Independent News* on October 20, 2021. The Limestone Township Planning Commission recommends approval with spill containment. The Limestone Township Supervisor has also voiced concerns regarding draining vehicles and possible contamination of Kickapoo Creek. Andrew Braun gave a presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Rural for the northern half, Urban for the Southern half, and the entire parcel is overlaid with Environmental Corridor). The site plan and two videos of the property were shown. The property is zoned “I-2”. The parcel is located within a designated special flood hazard area and is located in proximity to the Kickapoo Creek. Section 7.14 of the Unified Development Ordinance identifies the floodplain regulations. Within the regulations, there is a public health standard that no development in the floodplain shall include locating or storing chemicals, explosives, animal wastes, fertilizers, flammable liquids, pollutants, or other hazardous or

toxic materials below the flood protection elevation. The flood protection elevation is the base flood elevation, the number identified by FEMA and the National Flood Insurance Program, plus 2 feet in any given location. The base flood per the FEMA maps is 481.1 feet, meaning the flood protection elevation is 483.1 feet. Any locating or storing of chemicals, explosives, animal wastes, fertilizers, flammable liquids, pollutants, or other hazardous or toxic materials below 483.1 feet is prohibited. Mr. Braun indicated on the map that there is no portion of the parcel that is above 483 feet, therefore the storage of those types of materials/liquids is prohibited on this property.

The Peoria County Comprehensive Land Use Plan describes an Environmental Corridor as a network of interlinked environmentally significant or sensitive lands that reach throughout the County. Land uses allowed in these areas include agriculture, open space, and conservation design. The Land Use Plan notes that one significant aspect of these corridors is their value in reducing stormwater runoff, flooding, erosion, and sedimentation. The environmental corridors reflected on the Future Land Use Form Map include waterways, wetlands, and floodplain areas. Inclusion of these features is deliberate and critical, in order to recognize the value these areas have in preventing and minimizing the negative aspects development can have on stormwater-runoff related problems and public safety via flood protection.

Theme number 2 of The Peoria County Comprehensive Land Use Plan's environmental stewardship states surface water bodies and aquifers are protected from contamination and/or degradation. Liquids such as gasoline, waste oil, coolant, brake fluid, and other byproducts which have not been completely drained before vehicles arrive on site, may lead to significant contamination of soils on site and the Kickapoo Creek in the event of flooding. It is the department's position that a junkyard is not compatible within the environmental corridor and the request is inconsistent with The Peoria County Comprehensive Land Use Plan.

Mr. Fletcher asked if the automobiles that are already on the property would need to be cleaned up if this request is denied. Mr. Braun stated that this came to the department's attention in May as a complaint, and this request is an attempt to come into compliance. However, based on the floodplain regulations, it is the department's opinion that it is a prohibited use for this area.

Mr. Happ asked what the elevation of the old Raber's building was. Mr. Braun said he did not have that information.

Mr. Fletcher referenced the elevation exhibit in the Planner's Report. Mr. Happ mentioned the floods of 1974 and 1996 that flooded the building on the parcel. Mr. Braun stated that the location is prone to flooding.

Brian Paul of 4026 W Smithville Rd, Peoria, IL 61607 was sworn in. Mr. Paul stated that the back half of the property has been used as a junkyard for the last 35 years. Mr. Paul stated that Mr. Raber had advised him that the parking lot is where the property floods, and he wants to use the back part of the property for storage as it is a higher elevation. Mr. Paul stated that he doesn't understand the "483". Mr. Braun stated that the 483 feet was based on mean sea level. Mr. Paul asked if Mr. Braun had a measurement of how high the water goes on the property. Mr. Paul stated that in the flood of 2013 the water came up two feet on the door of Raber's. Mr. Paul presented a photograph of a truck, that was approximately 4 feet off the ground, that he would like to use for storage of the chemicals. Mr. Paul stated that the cars that were being stored have already been drained. He stated that he only wanted to

use the back portion of the parcel. Mr. Keyt stated that he understands what Mr. Paul is saying, but if the special use is granted, it would be for the entire parcel. Mr. Keyt further stated that if the request is granted then the entire parcel could be used to store cars and the problem would then be that cars could be stored anywhere on the property, even in the flood zone. Mr. Paul stated that perhaps he went about this the wrong way since he only needs to use a portion of the parcel to store vehicles. Mr. Keyt stated that perhaps splitting the parcel would be better if that was possible. Ms. Urban stated that if you look at the map, almost the entire property is not just in the floodplain, but the floodway. Mr. Keyt stated that he thinks this is a problem, because if the request is granted, there is no way he can be told not to leave the cars in the floodway.

Mr. Paul asked for clarification regarding the Department of Planning and Zoning's role in assisting applicants.

Mr. Paul stated that he would prefer that the ZBA deny the request and he would start over. Mr. Keyt asked if Mr. Paul had any more evidence to introduce or if he would prefer to just withdraw the case. Mr. Paul stated that he would like to withdraw.

Mr. Fletcher made a motion to approve withdrawal of the special use request and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (5-0)

Case No. **ZBA-2022-000001** at 9:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **ROBERT AND CAROL MEISCHNER, acting on their own behalf, a SPECIAL USE** request from Section 20-6.2.1.1.b of the Unified Development Ordinance. This section allows for a special use when a proposed land split does not meet the 40 acre minimum lot size in the A-1 Agricultural Preservation Zoning District. The petitioner proposes to divide 1.5 acres from an existing 19.19 acre parcel in order to separate and sell 2 existing buildings from the remaining agricultural use.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on December 15, 2021, and *The Limestone Independent News* on December 15, 2021. The County Highway Department had no objections, but any additional access off of Taylor Rd would need to be coordinated with the Department prior to construction. The Health Department had no cause to recommend denial but commented that the septic system that serves the building would need to remain on the parcel with the building. The Limestone Township Planning Commission recommends approval. Jack Weindel 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 three videos of the property were shown. The property is zoned "A-1".

Carol Meischner of 11602 N State Route 40 Dunlap, IL was sworn in. Ms. Meischner and her husband purchased the 19.19 acre property. The Doubet family constructed the buildings in 1942 and the buildings were leased for 35 years. The business they were rented to finally went bankrupt and the buildings were left in disarray. In 2020 they cleaned out the junk that was left by the tenants. Mr. and Mrs. Meischner would like to get rid of the buildings and need to separate the 1.5 acres in order to do so.

Mr. Keyt asked if there were any questions from the Board. There were none. Mr. Keyt asked if there was anyone that would like to speak in favor of the proposal.

Deb Spencer of 6203 N Schaffer Rd, Elmwood, IL was sworn in. Ms. Spencer stated that she is a real estate agent and has a client that is interested in the property. They would like to keep it an agricultural business and she feels this would be in the best interest of the current owner and for the potential future business in the County.

Mr. Keyt asked if there was anyone else that wanted to speak for or against the proposal. There was no one.

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

The Board took a break from 9:45 a.m. to 10:00 a.m.

Case No. **ZBA-2022-000002** at 10:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **CHRIS AND GLENDA LOWERY, acting on their own behalf, a VARIANCE** request from Section 20-5.13.1 of the Unified Development Ordinance, which requires that an accessory structure shall not be commenced prior to the commencement of the principal structure. The petitioner proposes to construct a 36' by 56' accessory structure on a parcel without a principal structure in the "A-1" Agriculture Preservation Zoning District.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on December 15, 2021, and *The Weekly Post* on December 16, 2021. 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 and Environmental Corridor). The site plan and two videos of the property were shown. The property is zoned "A-1".

Chris Lowery of 129 Elmridge Cir, East Peoria, IL was sworn in. Mr. Lowery stated that they would like to build a machine shed or a pole barn on the property that they acquired in 2020. They would like to use the structure to store lawn mowing equipment, a tractor, and other equipment to use to maintain the property. In the future he would like to have a hay field and would like to purchase a hay baler to store on the parcel.

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

Mr. Happ asked if there were future plans for a home on the property. Mr. Lowery stated that it is a possibility after they retire.

Mr. Keyt asked if there was anyone that wanted to speak for or against the request.

Mr. Asbell made a motion to close and deliberate and was seconded by Mr. Fletcher. 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;
 - There is currently no building on the property, however there are several waterways and culverts that necessitate maintenance to ensure that the waterways keep draining appropriately.
2. That the variation, if granted, will not alter the essential character of the locality;
 - The surrounding area is zoned similarly and there are other similar types of structures on nearby properties.
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;
 - The property is an irregular shape with approximately 13 tillable acres, 20 acres of timber, and 7 acres of pasture, that need to be maintained, as well as the waterways and culverts.
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;
 - The conditions are not unique to the property itself, but the building will be used to store equipment to maintain the property.
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;
 - The building will be used for storage of equipment to maintain the property. There are other similar buildings on properties nearby.
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;
 - Construction of the building will not impair 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, and will likely increase property values.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - The request is the minimum adjustment necessary to maintain and improve the property and maintain the waterways.
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.

- If the owner is not able to maintain the property, the property may depreciate due to lack of ability to maintain waterways.

Mr. Fletcher made a motion to approve the findings of fact and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (5-0)

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

Case No. **ZBA-2022-000003** at 10:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **CHARLES JOHNSON, acting on his own behalf, a VARIANCE** request from Section 20-6.6.2.1.a.1 of the Unified Development Ordinance, which requires a road setback of 75 feet from the right-of-way in the “R-2” Medium Density Zoning District. The petitioner has constructed a front porch at a distance of 0 feet from the right-of-way, resulting in a variance request of 75 feet.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on December 15, 2021. Jack Weindel gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Agriculture). The site plan and a video of the property were shown. The property is zoned “R-2”.

Lauren Phillips of 5203 S Trails End, Bartonville, IL was sworn in. Ms. Phillips stated that she is Mr. Johnson’s secretary. Ms. Phillips stated that the house belonged to Mr. Johnson’s brother, and he purchased it to bail his brother out of a tax situation. Mr. Johnson’s nephew moved into the house and built the porch. The house does not meet setbacks. The porch was needed to be able to go in and out of the front door of the house.

Mr. Fletcher asked if the porch was already completed. Ms. Phillips stated that construction was already completed unless they were required to make it smaller. Mr. Fletcher asked if the porch was actually the wooden deck part. Ms. Phillips stated that it was.

Mr. Keyt stated that it appeared that a majority of the house was actually within the setback. Ms. Phillips stated that the house is very close to the road.

Mr. Keyt asked if there was anyone that wanted to speak for or against the proposal. There was no one.

Mr. Fletcher made a motion to close and deliberate and was seconded by Mr. Asbell. 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;

- There is a unique topography to the property as demonstrated by the videos. The petitioner stated that there were concrete steps that were unusable for the front entry. The deck will allow for safe ingress and egress into the home. Due to the slope to the front yard, there isn't another option.
2. That the variation, if granted, will not alter the essential character of the locality;
 - There will not be an essential character alteration as the front yard has a slope and the home was built approximately 50 years ago. The deck will allow for safe ingress and egress for the home and there are similar homes along this stretch of road.
 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;
 - Refer to number 1 and 2.
 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;
 - The home currently does not meet setback requirements. It will allow for safe ingress and egress to the home.
 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;
 - There are no detrimental impacts.
 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;
 - There are no negative impacts related to the addition of the deck. It will allow for safe ingress and egress to the home as opposed to the previous unsafe porch.
 7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - It is the minimum adjustment necessary to allow for safe ingress and egress.
 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.
 - Allowing the variance will allow utilization of the front door to the home.

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

Case No. **ZBA-2022-000004** at 10:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **DEBORAH AND PATRICK RUDER, acting on their own behalf, a VARIANCE** request from Section 20-5.13.1 of the Unified Development Ordinance, which requires that an accessory structure shall not be commenced prior to the commencement of the principal structure. The petitioner has constructed a 16' by 28' accessory structure with a 12' by 26' screened porch on a parcel without a principal structure in the "A-1" Agriculture Preservation Zoning District.

Ms. Urban opened the case. There are 0 consents and 1 objection on file. The case was published in *The Peoria Journal Star* on December 15, 2021, and *The Weekly Post* on December 16, 2021. Jack Weindel gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Agricultural Preservation and Environmental Corridor). The site plan and a video of the property were shown. The property is zoned "A-1".

Patrick Ruder of 5700 E Queenwood Rd, Groveland, IL was sworn in. Mr. Ruder stated that they are requesting a variance so they can obtain a building permit. Mr. Keyt asked Mr. Ruder if he could give the Board more information. Mr. Ruder stated that they purchased the land about 5 years ago and he promised his wife they would build their dream home, but in the meantime, he was working on clearing the land. Mr. Ruder stated that he is a cabinet maker by trade. He was diagnosed with cancer 4 years ago and was very sick but has since recovered. He started building the cabin and didn't get a permit, and regrets that he didn't. Mr. Keyt asked Mr. Ruder to point out on the video which structure he was referring to. Mr. Ruder pointed out the 6' by 6' outhouse and the cabin that was built. Mr. Keyt asked if there was some circumstance as to why it was there. Mr. Ruder stated that they've wanted to build a house and when he got sick, he thought that it wouldn't happen, and now that he is better, they are wanting to continue with their plan to build.

Mr. Fletcher asked if the structure is completely finished. Mr. Ruder stated that he still has some things to finish, but as soon as he received the letter from the County, he stopped working. Mr. Fletcher asked what the percentage of completion was. Mr. Ruder stated that it was 95% complete. Mr. Fletcher asked if Mr. Ruder was familiar, as a cabinet maker, that when building a structure, you needed a permit. Mr. Fletcher asked if there were other structures that Mr. Ruder built without a permit. Mr. Ruder stated that there were not. Mr. Fletcher asked how many years it took to build the building. Mr. Ruder stated that it took 5 years, and that he hadn't been working on it on the site the entire time.

Debra Ruder was sworn in. She stated that her husband built most of the building in the shop and then took it to the location and assembled it. The building had only been on the site since September 2020.

Mr. Fletcher asked if the assessor had been to the property. Ms. Ruder stated that she had received a letter from the Board of Assessments as the buildings had originally been assessed as a shed and a house. She isn't sure if someone from assessments had actually been to the property.

Mr. Fletcher stated that he believed the assessor had been to the property. Ms. Ruder stated that she had not been made aware that they had and that they have only received a letter stating how much would be charged for taxes. This was prior to the application for a variance. There is no running water, appliances, or plumbing, so it is not deemed a dwelling.

Mr. Fletcher asked about the LP tank on the property. Ms. Ruder stated that the tank was for the generator. Mr. Fletcher confirmed that there is an outhouse. Ms. Ruder stated that there was an outhouse, and it was on a vat that can be pumped. There is no well on the property.

Mr. Fletcher asked if staff had photos of the interior of the property. Ms. Urban stated that there were photos, but they were not available on the board room computers. Mr. Fletcher asked Ms. Ruder to further describe the interior of the cabin. Mr. Ruder described the construction of the cabin. Ms. Ruder stated that there were hardwood floors and a loft that was just big enough for a bed.

Mr. Bateman asked if there was heat in the building. Mr. Ruder stated that they have a wood burning stove and they have a generator and a heat pump to cool the building in the summer.

Mr. Keyt asked if the intention was that the building would be the home. Mr. Ruder stated that they plan to build a permanent home. Mr. Keyt asked what the timeline would be for that. Mr. Ruder stated that he would like to build within the next couple of years. Mr. Keyt stated this building sounds like home without indoor plumbing or electricity. Mr. Keyt asked if there was a stove. Ms. Ruder stated that there is only the wood burning stove, and whenever they go to the property, they bring coolers and water.

Mr. Keyt asked if there was anyone that wanted to speak for or against the petition.

Bob Casas of 4622 W Farmington Rd, Peoria, IL 61604 was sworn in. Mr. Casas stated that he had some questions. He and his wife own the property south of the subject property. Mr. Casas asked the petitioners where on the property they would like to build the home. Mr. Ruder stated that they planned for it to be 1,015 feet from the front of the property. Mr. Casas asked if they planned to build more than one house. Ms. Ruder stated they didn't plan to subdivide the land.

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

Mr. Keyt asked if there was any discussion from the Board. Mr. Fletcher stated that the petitioner has been building for a long time, he is a contractor by trade, and is probably very well aware of permit requirements to be able to build a building like this. Planning and Zoning as well as the Assessor were unaware of the building that is almost complete. Mr. Fletcher stated that he will probably be voting against the request. Mr. Asbell asked if the petitioners would have to get an address if the variance is granted. Ms. Urban stated that the variance would allow the petitioners to keep the building, but they would need to follow through with the permitting requirements, and part of that includes obtaining an address. Mr. Keyt stated that it does seem like a pretty substantial structure to have been built without a permit.

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 app stated that the building was built prior to a permanent house being constructed. There are plans to build a home, but no building permits for a permanent home have been obtained. There are no other unique circumstances.
2. That the variation, if granted, will not alter the essential character of the locality;
 - There would be no changes to the locality. There are other properties nearby with homes.
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;
 - There was no shelter on the property previously. There appears to be no topographical, parcel shape/size, physical surroundings or physical natural features that would necessitate the variance.
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;
 - The petitioner has indicated that it is not their primary residence, but they do plan to build a home there. There are no other conditions unique to the property that are not applicable, generally, to other properties.
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;
 - There is no evidence that it would be consistent/or inconsistent with the adopted County Plan.
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;
 - There doesn't appear to be any impacts to 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. It does not appear that it would have any negative impacts on surrounding properties or the neighborhood.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - There was no evidence that it was the minimum necessary adjustment. The applicants stated in the application that the structure was already in place, and they needed to correct the violation so that it does not prohibit them from obtaining other permits in the future for the home or well.
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.

- If they did not have a shelter, they would not be able to stay on the property.

Mr. Happ made a motion to approve the findings of fact and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (5-0)

Mr. Happ made a motion to approve the request and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (3-2)

Case No. **ZBA-2022-000005** at 10:00 a.m. Hearing to be held in room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **PEORIA COUNTY, acting on its own behalf, a TEXT AMENDMENT** to amend Chapter 20, Article 3, Section 3.5 ("Special Use Permits") and Article 11, Section 11.1 ("Definitions") of the Peoria County Code.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on January 13, 2022.

Andrew Braun was sworn in. Mr. Braun gave a presentation of the case. Mr. Braun stated that this section was amended in 2021, however with the continuing changes to some of the special use permits and projects that the department has seen and is expecting. Mr. Braun stated that the amendments clarified the decisions available to the Zoning Board of Appeals, as well as establishing protections for the County from the continuous costs of land use regulations associated with development approvals. The amendments increase the amount of information required to file an application, which aides, the Department of Planning & Zoning, the Zoning Board of Appeals, and the Peoria County Board, in the Special Use Permit decision making process. Additional requirements include bats being specifically named in the avian study requirement, location of emergency signage & contact information must be identified on the site plan, noise level certification is required, and increased liability insurance. These amendments ensure that the County and its citizens are adequately protected from end of project life or facility abandonment, both financially and structurally. The amendments outline detailed requirements for decommissioning plan, defines "turbine abandonment", describes conditions for financial security, and requires decommissioning agreement to be approved by resolution of the County Board. The new definitions Establish which properties are subject to certain setback regulations for WECS, and which properties are included in Special Use filing fees. Staff had discussions with 23 Illinois counties containing wind energy generation facilities. There were discussions with planners, building officials, road officials, fire departments, & attorneys about application requirements, restrictions, road use agreements, decommissioning plans, special use project area description, and fees.

Ms. Urban stated that as she was opening the case, the case summary did not include the fees section of the ordinance. The publication notice did not include the fees and it will need to be published, so today the board will not be voting on the fees portion of the amendment.

Mr. Bateman asked if a wind turbine or group of turbines reach their end of life, can they be replaced, or would they need to go through other processes. Mr. Braun stated that unless the special use is restricted to a timeline, they would have the opportunity to replace the turbines. The focus with the decommissioning plan is protecting the County should the developer walk away from a project.

Mr. Fletcher asked about the fees not being included in the publication and if it would be necessary to republish since the fees are included in the amendment. Ms. Cordis Boswell stated that the publication gave the public notice that there was a proposed amendment to the special use section and the definition section of the ordinance but failed to include the fee section. The Board would vote today would allow the amendments for the first two sections, and the fee section would be done next month.

Mr. Fletcher asked about the financial securities required and asked what the means of security would be. Mr. Braun stated that the amendment clarifies the appropriate means of financial security that may be accepted: Irrevocable letter of credit, continuous surety bond, cash escrow account, or any other means deemed acceptable by the Zoning Administrator.

Mr. Keyt asked if there was anyone that wanted to speak for or against the proposal. There was no one.

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

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

Meeting adjourned at 11:08 a.m.

Respectfully submitted,

Sarah Cox
ZBA Administrative Assistant