

**MINUTES
LAND USE COMMITTEE
JANUARY 23, 2023 @ 4:00 P.M.
ROOM 403**

MEMBERS PRESENT: Paul Rosenbohm - Chairperson; Linda Daley – Vice Chairperson; Eden Blair, James Dillon, Terry Ruhland, Sharon Williams (via teleconference), Matt Windish

MEMBERS ABSENT: Daniel Kelch

OTHERS PRESENT: Jennie Cordis Boswell - State's Attorney's Office; Scott Sorrel, Shauna Musselman, Nick Ruyabald, - County Administration, Andrew Braun - Planning & Zoning

Call to Order:

Mr. Rosenbohm called the meeting to order at 4:10 p.m.

Ms. Daley made a motion to allow Ms. Williams to participate via teleconference and was seconded by Dr. Blair. A vote was taken on the motion and carried (6-0).

Approval of Minutes:

A motion to approve the Land Use Committee minutes from January 3, 2023, was made by Ms. Daley and seconded by Mr. Windish. A vote was taken on the motion and carried. (7-0)

Reports/ Other Minutes/Updates:

Tri-County Regional Planning Commission Minutes: No questions or comments.

Unsafe Structures: Mr. Braun provided a brief report summary.

Development Summary: Mr. Braun provided a brief report summary.

Mr. Rosenbohm motioned to receive and file the reports.

Zoning Cases:

ZBA-2023-004, Petition of Doug Huff

Dr. Blair made a motion to approve the special use request and was seconded by Mr. Dillon.

Mr. Braun summarized the case. A Special Use request from Section 20-5.2.2.2.f which allows for Overnight Accommodations in the “A-2” Agriculture district, 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 offer an entire single-family dwelling for rent on a short-term basis through vacation rental websites. The 75-acre subject parcel consists of a 4 bedroom, 3,007-square-foot single-family dwelling, with an attached garage, an outbuilding, a private lake, approximately 4 - acres of agricultural field, and roughly 67 acres of timber. The subject dwelling is completely screened from neighboring properties by the parcel’s timber, and the dwelling is approximately 1,260 feet from the nearest dwelling. The parcel is located at 16829 N. Staab Rd. in Hallock Township.

There are 0 consents and 35 objections on file. Eight of the objectors spoke at the Zoning Board of Appeals hearing. The primary objections were concerns of safety, trespassing, ATV use, hunting, and other various issues.

The Zoning Board of Appeals recommended approval by a vote of 4-1 with the restrictions included in the staff report and added two additional restrictions to address objectors' concerns regarding hunting and ATV use by short-term rental guests. The restrictions do not apply to the owner of the property and his personal guests. The restrictions are as follows:

1. The Special Use is null and void in the event that the subject parcel is no longer owned by Doug Huff or any entity solely controlled by Doug Huff.
2. No more than eight (8) overnight guests may be present at the subject parcel at any one time.
3. The operator shall keep a log identifying the name, address, and telephone number of all guests. This log must be provided to the Zoning Administrator upon request.
4. The operator shall notify all adjacent property owners that Overnight Accommodations will be offered at the subject property by sending a letter through Certified Mail. This letter shall include the contact information of the operator. The operator must provide the Zoning Administrator with a copy of the letters sent and a verification receipt showing that each letter was delivered or that a delivery attempt was made.
5. Overnight accommodations may not be offered at the subject property until a Certificate of Occupancy has been issued by the Department of Planning and Zoning, per Section 20-7.8, "Overnight Accommodations," of the Peoria County Unified Development Ordinance.
6. Overnight guests cannot hunt or use firearms. The property owner and his personal guests are not subject to this requirement.
7. Overnight guests cannot use ATV's, recreational vehicles, and similar such vehicles. The property owner and his personal guests are not subject to this requirement.
8. The Special Use Permit may be terminated by the Zoning Administrator upon violation of the above restrictions, per Section 20-3.5.9 of the Peoria County Unified Development Ordinance.

Ms. Cordis Boswell stated that she had a few housekeeping matters as some of the committee members are new to Land Use. The ZBA is the finder of fact in these cases. The testimony was received at the ZBA hearing and Land Use is a reviewing body and determines if the facts found by ZBA support its ultimate conclusion. Similarly, this happens when it moves on to the full County Board as well. The Land Use Committee does not get to receive new testimony, so anyone that speaks, it is simply public comment. Mr. Ruhland is abstaining from the discussion because he was a participant in the underlying case at the ZBA level.

Mr. Rosenbohm asked if any committee members had questions for Mr. Braun before opening to public comment.

Ms. Daley stated that she was interested in adding an additional restriction. The restriction would be to establish a requirement that every two years there be a life safety inspection by County Zoning, paid for by the applicant. The inspection would address smoke and carbon monoxide detectors, decks and handrails, egress, etc.

Ms. Daley made a motion to add a restriction requiring a safety inspection every two years and was seconded by Ms. Williams.

Mr. Rosenbohm asked Mr. Braun what the County currently requires as far as inspections.

Mr. Braun stated that currently, the Department of Planning and Zoning is responsible for issuing building permits and subsequently, certificates of occupancy. Through these inspections, life safety

inspections are being done. It would ultimately be up to Mr. Huff to allow entry into the property for such inspections. If Mr. Huff is willing to take on that additional restriction that is something that the department can accommodate. There are various permits or processes through the Department of Planning and Zoning where annual, or more frequent, inspections are being done. Currently, overnight accommodations is not one of them. There are various special use cases that have property site inspections. There are home occupations that are having annual renewals. There are non-conforming uses that are having annual on-site inspections. Mr. Braun stated that he believed it would be the responsibility of the property owner to contact Planning and Zoning to schedule any such inspection, and that staff would be happy to accommodate the Board in that restriction as best as they can.

Mr. Rosenbohm asked Ms. Cordis Boswell what would be required to make this part of the ordinance.

Ms. Cordis Boswell stated that there's a separate process for amending the ordinance to include this as a restriction on all short-term overnight accommodations. Planning and Zoning would work on some proposed amendments to the ordinance and bring that to the same committee and then to the Board to make that a requirement on short-term rentals going forward. Ms. Cordis Boswell added that "life safety inspection" is not a defined term in the ordinance. She stated that Mr. Braun had said that the certificate of occupancy might look similar. Ms. Cordis Boswell stated that she would like some clarification on the restriction if it's going to be worded as a "life safety inspection." Ms. Cordis Boswell asked if Mr. Braun had any language to propose for the restriction that would clarify the definition.

Mr. Braun stated that at this time, he did not have language to propose. He stated that the department could work with its Inspections Coordinator and perhaps even some contacts at the International Code Council. Mr. Braun stated that if there are specific items such as those that Ms. Daley listed, staff can be sure to include them in the future, however, he would not be able to provide that exact list to the committee today.

Ms. Daley asked if it would help if the motion were amended to say that the occupancy inspection would be done and take out the word life safety. Mr. Braun stated that the department can have a list of life safety items for the board at the next meeting but could not commit to specific items today.

Mr. Windish inquired about the inspection done for the certificate of occupancy and if it is only done once. Mr. Windish continued that performing yearly inspections could make the County more responsible if something were to happen. Individual's homes aren't inspected every year.

Mr. Braun stated that when you purchase a home, that home is inspected. In terms of the certificates of occupancy that are currently issued, they are being issued based on the restrictions being met. Mr. Windish asked if there was a walk-through inspection. Mr. Braun stated that there has been, but not for every certificate of occupancy issued. Mr. Windish stated that an annual inspection might make the county more liable if the inspection isn't completed. Ms. Cordis Boswell stated that she would like time to research this specifically, but her understanding is that the County has indemnity for the inspections done, and they are for the County's purpose of issuing permits or certificates of occupancy but can't be relied upon by owners.

Mr. Dillon asked if this even needed to be added as a restriction. If the ordinance were to be updated, would then all previously issued special use permits, for short term rentals, be covered under the

updated ordinance. Mr. Braun stated that previously approved uses do not need to comply with amendments to the ordinance.

Mr. Rosenbohm asked if the County could require a licensed home inspector to do the inspection and turn the information into the County, rather than putting more burden on the Department of Planning and Zoning. Mr. Braun stated that this suggestion might address Mr. Windish's concerns and said he would allow him to respond.

Mr. Rosenbohm asked Ms. Daley if this would be acceptable. Ms. Daley asked if local fire protection districts have inspection services available, since they are trained by the Office of the State Fire Marshal. Mr. Rosenbohm stated that he didn't want to put a burden on the volunteer fire departments and felt inspections could be done through the County or an independent home inspector.

Mr. Windish stated that he thinks that adding additional inspections is pointless and gives the Department more unnecessary work. He feels a first inspection is acceptable and then the burden is on the owner.

Ms. Daley stated that the reason she disagrees is because when people go to a hotel or motel, they have confidence that when they are staying there that the facilities have been inspected and doesn't feel that every two years is an onerous requirement.

Mr. Rosenbohm asked what the approximate cost of a home inspection by an independent home inspector would be. Mr. Braun stated that he doesn't have a good estimate of the cost, as it would depend on the length of the inspection and detail of the report required.

Mr. Rosenbohm asked Ms. Cordis Boswell if the committee should have another meeting before the full board meeting to discuss options. Ms. Cordis Boswell stated that she is hearing three different routes, a certificate of occupancy inspection, to require the property owner to supply a home inspection report from a neutral third party, or something more specific like a life safety inspection, but this hasn't been defined. Depending on which way the committee is leaning, it could be decided today, but if a life safety inspection checklist is required, then a subsequent meeting might be best.

Ms. Daley stated that she is fine with waiting to get the answers before the case is finalized. Mr. Rosenbohm asked Ms. Daley if she would like Mr. Braun to provide information on all three options. Mr. Rosenbohm asked Mr. Windish if the subsequent meeting would be ok with him. Mr. Windish stated that he doesn't want to affect the outcome of the case. Mr. Rosenbohm asked Ms. Cordis Boswell how that would work. Ms. Cordis Boswell stated that they will continue today, first vote on the amendment to add the restriction, then vote to either approve with or without the additional restriction, or make another motion to continue to a different date, which would be a superseding motion. Mr. Windish stated that this does need to be a discussion at some point, but it needs to be left alone for today. Mr. Windish stated that he would vote no to the additional restriction but wouldn't necessarily vote no in the future if he had more information. Mr. Rosenbohm asked Ms. Cordis Boswell if they needed to discuss with Mr. Huff if he would agree to the restriction. Ms. Cordis Boswell stated that it is the committee's decision what restrictions are added. Mr. Dillon asked if the motion was still out there or if it had been rescinded. Ms. Daley stated she had not rescinded anything.

48:00

Mr. Dillon stated that his thoughts are, he isn't opposed to the restriction, but he would like to see a clearer definition of what the ZBA and State's Attorney's Office had to say. He doesn't feel like he

knows what he is voting on at the moment and is leaning towards a no for today for the restriction, a yes for the case and if there was an amendment at the February meeting where it was more defined.

Ms. Daley stated that the only reason she would want to go forward, if the restriction isn't added now, is if there was more discussion. If the restriction isn't added now, this one can't be added.

Mr. Dillon stated that the ordinance could be changed and then this wouldn't need to be added as a restriction, then this restriction could be more clearly defined to add. Ms. Cordis Boswell stated that what Chairman Dillon was saying is that the ordinance could be amended for cases going forward, and for this case, the committee would vote on the additional restriction, and it is voted down because it is unclear, at the all board meeting someone could motion to add the restriction that is more clearly defined, or there could be a special Land Use Committee meeting to clarify and vote on the additional restriction.

Mr. Rosenbohm asked, if the board wanted to have a special meeting, how would they go about doing that. Ms. Cordis Boswell stated that they would vote on the motion to add the restriction and if it was voted down, you would be back to the 8 that the ZBA brought, then if there is a special Land Use Committee meeting, the ninth restriction could be added once it is clear. Mr. Sorrel stated that this could also be done at the full meeting. Ms. Cordis Boswell stated that it would be the preference of the Chair.

Mr. Dillon left the meeting at 4:51 p.m.

Mr. Windish asked if there were any reason on this case to make it a priority. Mr. Rosenbohm stated that because of the number of objectors, he would like to make sure that the committee does its due diligence.

Ms. Daley stated that she would be willing to rescind her motion as long as the issue is taken up prior to the County Board meeting. Mr. Rosenbohm confirmed that everyone was in agreement.

Mr. Ruhland stated that a lot of the people in the audience were part of the objectors and didn't know if they could be allowed to speak prior to the vote. Mr. Sorrel stated that it was possible and as long as they had testified at the ZBA hearing and they can only restate their original testimony. The ZBA is the public hearing fact finding body and only what is in the original record can be heard, no new record can be created.

Mr. Rosenbohm confirmed the committee members wanted to open to public comment prior to the vote. Mr. Rosenbohm asked if Ms. Daley had withdrawn her motion. Ms. Daley stated that she had.

Mr. Rosenbohm stated that he was going to open up to public comment.

Bruce Thiemann stated that he owns adjacent property to the west and southwest of the subject property. Mr. Thiemann continued that the application for special use was deficient and should have been rejected because the application minimum standards were not met.

Theresa Heath of 9930 W. Guinivere Dr., Mapleton, IL: Ms. Heath stated that she is for the restrictions but doesn't think it is possible to enforce them. She also stated that she was concerned about the potential of fire from bonfires. Ms. Heath stated that Mr. Huff had mentioned that there are no places to see wildlife in the area, but Wildlife Prairie Park offers cabins, and they are able to

enforce the no hunting and no ATV rules. She also stated that she has concerns about the septic system being able to handle the number of guests.

Jeff Dunbar of 222 E. Hallock Hollow Rd., Edelstein, IL. Mr. Dunbar states that there is a Park District preserve that is adjacent to the subject property and he is on the other side of that preserve. He is concerned that guests will come and stay for a week or two and they will do whatever they want because there is no one to stop them. It is easy for people staying at the property to wander the property and end up where they aren't supposed to be.

Marcus Horan of 612 S. Stillwater Dr., Chillicothe, IL. Mr. Horan stated that his father passed away the day they received the notice about the hearing. He will likely be a resident in the near future. Mr. Horan stated that he visits the family farm daily and they have dealt with individuals trespassing and shooting on his property. He stated that the land was to be preserved for agriculture and not hotel management. Mr. Horan also stated that Mr. Huff should have a business plan and that it seems like he has other intentions.

Kari Dill of 16905 N. Staab Rd., Chillicothe, IL. Ms. Dill stated that she lives next door to the subject property with her husband and three children. She continued that she is concerned for safety since there is no way of knowing if sex offenders are staying at the house. Ms. Dill stated that they have had issues with trespassers. She stated that her husband is a firefighter and he is gone overnight and she is alone with her children. Ms. Dill stated that she is concerned that the school bus will no longer pick up her children because of the increase in traffic. Ms. Dill also mentioned that she is concerned about the aquifer and that eight guests will use too much water.

Mark Walton, of Miller, Hall and Triggs, 416 Main St., Peoria, IL. Mr. Walton stated that he appreciates the neighbors' concerns and understands the speculation, but that is the point of the restrictions. Mr. Walton stated that every argument heard against granting the special use permit is an argument against allowing short term rentals in the A-2 district. He continued that that is not why the Land Use Committee is meeting, they are here to consider whether this particular property is appropriate for a special use. The ordinance already states that short-term rentals are appropriate in the A-2 district. As it comes to the need, there are other alternatives for short-term rentals in other agriculture property, however, what makes this property unique is that it is a single family home, that can be rented by a family, in a secluded environment and the restrictions proposed address all of the legitimate concerns presented.

Mr. Rosenbohm asked if there was anyone else that wanted to speak, and there was no one.

Mr. Windish asked Mr. Braun if there were any restrictions on outfitters or people hunting or fishing in the County. Mr. Braun stated that the Department of Planning and Zoning does not have any restrictions of that sort, but that is not to say that the Land Use Committee or the County Board could not impose those restrictions on this property. Mr. Windish asked if guests could use the entire 75 acres of the property. There is no clear cut distinguishment from an outfitter type use. Mr. Braun stated that there is a specific use for a sportsman's club, but that is not what is being requested. The petitioner is requesting a special use for overnight accommodations, and there have been restrictions added by the ZBA that prohibit hunting and the use of ATV and recreational vehicles by the renters of the property. Mr. Windish asked if that was what Mr. Huff wanted the use of the property to be. Mr. Braun stated that it was not defined within the initial application, but there was testimony at the ZBA hearing by Mr. Huff that he was acceptable to those conditions. Mr. Braun stated that Mr. Huff's words were that he had no intentions for guests to hunt or use ATVs.

Mr. Rosenbohm asked Mr. Braun to explain what happens if the special use was voted down, what is required to vote it down and what must be proven. Mr. Braun stated that the ordinance has standards for approval, or findings of fact, that when the ZBA makes a recommendation they are looking at the findings of fact and determining how they are being met. Since the ZBA recommended approval, if the Land Use Committee would like to recommend denial, they would have to have findings of fact that support the denial. Mr. Rosenbohm stated that as long as there are findings of fact that state that the requirements meet the standards of approval, the County could be in litigation if it is denied. Ms. Cordis Boswell stated that on each factor of approval, the Land Use Committee would have to show that each fact doesn't support approval.

Dr. Blair asked if the committee was able to call the question as they were ready to vote.

A vote was taken on the motion and carried (5-0) (Mr. Ruhland abstained) (Mr. Dillon was absent for the vote)

Miscellaneous:

Mr. Rosenbohm asked if there was anything for miscellaneous.

Mr. Ruhland stated that he wanted to explain to the dissenters that because he testified at the ZBA hearing, he could not sit in judgement of this case. He continued that, the presence of the objectors pointed out the need for a comprehensive grip on a County wide ordinance for Bed and Breakfasts, Airbnbs, and short-term rentals. Mr. Ruhland stated that he didn't think that the increasing popularity of these types of properties was necessarily a good or bad thing, as long as it is taking into account the safety of the people who stay there, the peace of mind of the neighbors who live there, and respects the rights of people like Mr. Huff who want to invest in a business. The County has to do its part.

Adjournment: Mr. Rosenbohm adjourned the meeting at 5:24 p.m.