

MINUTES
Zoning Board of Appeals
Linda O'Brien, Chairperson
March 10, 2022

A meeting of the Peoria County Zoning Board of Appeals was held on Thursday, March 10, 2022, in Room 403 of the Peoria County Courthouse, 324 Main Street, Peoria, Illinois. The meeting was called to order by Chairperson Linda O'Brien, at 9:00 a.m.

PRESENT: Linda O'Brien – Chairperson, Greg Happ, Jim Bateman, J. Greg Fletcher, Robert Asbell, Chris Duncan

ABSENT: Andrew Keyt – Vice Chairperson, Justin Brown, John Harms

STAFF: Kathi Urban – Director
Jack Weindel – Planner I
Jennie Cordis Boswell – Chief Civil Assistant State's Attorney
Sharon Williams – Peoria County Board Member
Sarah Cox – ZBA Administrative Assistant

Mr. Happ made a motion to approve the minutes from the February 10, 2022, hearing and was seconded by Mr. Fletcher. A vote was taken, and the motion passed; (6-0)

Case No. **ZBA-2022-000017** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **KATHLEEN L. CLARK, acting on her own behalf, a SPECIAL USE** request from Section 20-5.5.2.2.C 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 "R-2" Medium Density Residential Zoning District.

Ms. Urban opened the case. There are 0 consents and 14 objections on file. The case was published in *The Limestone Independent News* on February 16, 2022, and *The Peoria Journal Star* on February 21, 2022. Jack Weindel gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Rural). The site plan and three videos of the property were shown. The property is zoned "R-2".

Kathleen Clark of 15 Summerset Dr., Mackinaw, IL was sworn in. Ms. Clark stated that the home was her previous residence, and she would like to use it for an Airbnb. She stated that approximately 97% of her rentals are from 3:00 p.m. on Friday to 11:00 a.m. on Sunday. Guests come for events at the Civic Center and sporting events, etc. Ms. Clark stated that guests must indicate why they are coming for the stay. Airbnb does background checks, and she is able to view all reviews on guests from previous hosts and can decline any reservation she would like. Guests like to stay in a home rather than just a hotel

room. Ms. Clark also stated that she is pet friendly. Ms. Clark added that she removed her listing as soon as she was made aware that she needed the special use permit. Mostly the home is rented to families, but occasionally a few friends will be staying at the property. Ms. Clark stated that she has never had anyone request to stay longer than 14 days and wouldn't want anyone to stay that long.

Ms. O'Brien asked if there would be any on-street parking. Ms. Clark stated that there would not be on-street parking, and this is stated in her Airbnb listing.

Mr. Happ asked how long Ms. Clark had been operating the Airbnb. Ms. Clark stated that she has been operating since November 2021. She stated that she researched to see if she needed a permit for an Airbnb and only saw requirements for the City of Peoria, so she didn't think the County required a permit. Ms. Clark also stated that she took down her listing as soon as she received notification of the violation. Mr. Happ asked how many rentals she had since November. Ms. Clark stated it had been rented 7 or 8 times. Mr. Happ asked if she had had any issues. Ms. Clark stated that one group left her house messy, and she gave them a poor review and indicated that she would never rent to them again. Every other guest has not been a problem. Ms. O'Brien asked if the neighbors knew she was renting the house as an Airbnb. Ms. Clark stated that she notified the neighbors when she bought her new home. Mr. Fletcher asked how long Ms. Clark had owned the home. Ms. Clark stated that she purchased the home in 2013. It had been abandoned for 8 years and she completely remodeled the home. Mr. Fletcher asked if Ms. Clark had lived in the home. Ms. Clark stated that she lived there until she purchased her home in Mackinaw last year. Mr. Fletcher asked how many other Airbnbs she owned. Ms. Clark stated that this is the only one, and she doesn't intend to acquire more. Ms. Clark stated that she has cameras on the outside of the home and plans to purchase more if she is granted the special use.

Mr. Fletcher asked to see the video again.

Ms. Clark stated that there is a privacy fence from the driveway all the way back. Mr. Fletcher asked if she was pet friendly. Ms. Clark stated that she is, but they need to be trained and not aggressive.

Mr. Fletcher asked about the other building on the property. Ms. Clark stated that it was just a small shed.

Ms. O'Brien asked if there were any other questions from the Board. There were none. Ms. O'Brien asked if there was anyone that wanted to speak in favor of the request and there was no one. Ms. O'Brien asked if there was anyone that was opposed to the request.

Angela Lane of 1209 S Mesa Dr, Peoria, IL was sworn in. Ms. Lane stated that her house is the one with the pool behind Ms. Clark's house. She stated that Ms. Clark has been operating the Airbnb since November 2021, and the kind of people that stay at the home are not people that would live in a neighborhood like this. Ms. Lane continued that she has lived in the neighborhood since she was a baby and purchased her home in 2007. She further stated that she has 2 children, and they no longer feel safe in their home after seeing the types of people that have stayed in the Airbnb. Ms. Lane reiterated that the guests that have stayed in Ms. Clark's home are people that could not afford to live in her neighborhood. Ms. Lane stated that she doesn't feel safe as well. She has witnessed guests smoking drugs and drinking outside the home. She stated that her son will no longer sleep in his room because it is in the back of the house, closest to Ms. Clark's property. Ms. Lane stated that there is no guarantee who Airbnb

background checks. Ms. Lane stated that most of the neighbors are older, or people starting families. She stated that if she had had the time, she would have gone to every home in the neighborhood and had them sign the petition opposing the Airbnb. Ms. Lane stated that the privacy fence in the back yard was hers, and that she could remove it and Ms. Clark could buy her own fence. She said that the picture on the Airbnb listing showed her vehicle with her license plates. Ms. Lane stated that she had contacted the County to determine if a permit was needed for an Airbnb. Ms. Lane further stated that this is a residential neighborhood and there should be neighbors, not a hotel.

Mr. Fletcher asked Ms. Lane when she last saw guests at the house. Ms. Lane stated that guests had left yesterday that had been there for 5 days.

Ms. O'Brien asked if there were any other questions and there were none. Ms. O'Brien asked if there was anyone else that opposed the request and there was no one. Ms. O'Brien asked if Ms. Clark wanted to respond to Ms. Lane's concerns.

Ms. Clark stated that the photos for the Airbnb listing were professionally done, and she didn't recall Ms. Lane's vehicle being in them. Additionally, she stated that marijuana was legal, and there was nothing that could be done about it. Ms. Clark stated that the crime rate has not gone up in the neighborhood, and the guests are not as sketchy as Ms. Lane makes them sound. She added that she spoke to Ms. Lane's son and told him that if there was anyone there that scared him, that he could call her. Ms. Clark stated that the guests that had just left had been in Peoria to close on rental properties they had just purchased.

Ms. O'Brien clarified that the fence does not belong to Ms. Clark. Ms. Clark stated that it was not her fence, but it was there when she moved in. Ms. Clark added, that if Ms. Lane wanted to take down the fence, she would put one up.

Mr. Fletcher asked when was the last time the home was rented. Ms. Clark stated that guests had just left yesterday. Mr. Fletcher asked if she was aware that she was supposed to have a special use permit. Ms. Clark stated that when she received the violation letter, she was told that any current rentals would not need to be canceled, but the listing should be removed. Mr. Fletcher asked if Ms. Clark was aware of the Limestone Township Road Commissioner's concerns about parking on the street. Ms. Clark stated that there is a two car garage and a driveway that will hold 4 cars. Ms. O'Brien asked if the driveway would hold 4 cars without blocking the sidewalk. Ms. Clark stated there was no sidewalk.

Ms. O'Brien asked if there were any other questions or comments and there was none.

Mr. Happ made a motion to close and deliberate and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (6-0)

Case No. **ZBA-2022-000014** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **SPENCER J. ERBY, acting on behalf of SPENCER J. ERBY AND REBECCA A. ERBY (owners)**, a **VARIANCE** request from Section 20-5.13.3.4 of the Unified Development Ordinance, which requires that for lots and parcels 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 2880 square feet accessory structure in the "R-R" Rural Residential Zoning District, which would exceed the allowable cumulative square footage of 55 square feet, resulting in a variance request of 2,825 square feet. Also, a Variance request from Section 20-6.4.2.2.c.2.b of the Unified Development Ordinance, which requires a side setback of 30 feet for accessory structures two thousand (2,000) square feet or larger. The petitioner proposes to construct a 2,880 sq. ft. structure at a distance of 16 feet from the eastern side setback, resulting in a variance request of 14 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 February 21, 2022. Jack Weindel gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Rural). The site plan and two videos of the property were shown. The property is zoned "R-R".

Spencer Erby of 10304 W. Riekona Rd., Mapleton, IL was sworn in. Mr. Erby stated that he will be retiring in a couple years. Approximately 5 of the 7 acres behind his house is tillable, also he owns property with his father, west of Glasford, which is approximately 106 acres. He plans on farming it when he retires, and would like to put up a machine shed to store farming equipment.

Ms. O'Brien asked if he currently farms the acreage behind his house. Mr. Erby stated that he does. Ms. O'Brien asked where his farming equipment was kept currently. Mr. Erby stated that he is going to start farming after he retires.

Ms. O'Brien asked if there was anyone that wanted to speak for or against the petition and there was no one.

Mr. Asbell made a motion to close and deliberate and was seconded by Mr. Fletcher. A vote was taken, and the motion passed; (6-0)

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 petitioner is proposing to construct a 2,880 ft accessory structure in the ("R-R") Rural Residential Zoning District which would exceed the allowable cumulative square footage of 55 square feet resulting in a variance request of 2,825 square feet. In addition, the petitioner is requesting a variance of 14 feet for the eastern side setback of the proposed 2,880 sq ft accessory structure. The size of the proposed structure is needed in order to house large, essential farming equipment, and the eastern side setback request is due to the placement of the existing septic system and well.
2. That the variation, if granted, will not alter the essential character of the locality;
 - If granted, the variance will not alter the essential character of the area. The parcel consists of 7.12 acres and is zoned "R-R", Rural Residential.

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 petitioner has stated that due to the location of the existing septic system and well located on the west side of the property, both variances are much needed in order to farm on the property, as well as off-property, acreage. Denial of the request would result in a hardship to the owner.
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;
 - Refer to #3.
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;
 - If granted, the variance will not be detrimental to the public health, safety, comfort, morals and welfare, nor injurious to other property in the neighborhood. Granting of the variance will not be inconsistent with any 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;
 - The proposed variation will not affect light and air supply to the adjacent property, will cause no congestion in the streets, and will not increase the danger of fire or endanger public safety.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - The petitioner has indicated that the variance requests are the minimum adjustment necessary for location and storage of large farm equipment.
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.
 - Denial of the variances would deprive the petitioner reasonable use of his land.

Mr. Bateman made a motion to approve the findings of fact and was seconded by Mr. Duncan. A vote was taken, and the motion passed; (6-0)

Mr. Fletcher made a motion to approve the request and was seconded by Mr. Bateman. A vote was taken, and the motion passed; (6-0)

Case No. **ZBA-2022-000018** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **ILLINOIS-AMERICAN WATER COMPANY (A Corporation – Justin Ladner, President of 100 N Water Works Dr, Belleville, IL 62223, Kenneth Jones – Secretary of 100 N Water Works Dr, Belleville, IL 62223)**, acting on its own behalf, a **VARIANCE** request from Section 20-5.5.1.4.d.1 of the Unified Development Ordinance, which requires that for non-exempt public utility structures, no building is located within twenty-five (25) feet of a side lot line in the “R-2” Medium Density Residential Zoning District. The petitioner proposes to construct a booster station at a distance of 8 feet from the western side setback, resulting in a variance request of 17 feet. Also, a Variance request from Section 20-6.6.2.1.d.2 of the Unified Development Ordinance, which requires a road setback of one hundred ten (110) feet from the center of the right-of-way. The petitioner proposes to reduce the front setback to 60 feet from the center of the right-of-way, resulting in a variance request of 50 feet.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Limestone Independent News* on February 16, 2022, and *The Peoria Journal Star* on February 21, 2022. Jack Weindel gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Environmental Corridor and Rural). The site plan and two videos of the property were shown. The property is zoned “R-2”.

Charles Barton of 15122 W Bittersweet Ct, Brimfield, IL was sworn in. Mr. Barton stated that he was representing Illinois American Water. Mr. Barton stated that he and Josh are in the engineering department. Mr. Barton stated that there is currently an underground pump station at this parcel, but it is at the end of its useful life and there are also safety concerns regarding access. They would like to bring the station above ground. This station separates two pressure zones and has a sister pump station on Plank Road. Mr. Barton stated that they are trying to be good neighbors and the proposed front setback is the average of the setback of the two adjacent homes. The request for the side setback variance is to accommodate the current pump station. The new station will be made to fit in with the aesthetic of the neighborhood. Mr. Barton stated that he and Josh Harkin were available to answer questions.

Ms. O’Brien asked if the neighbors were aware of what was going on. Mr. Barton stated that they had not contacted the neighbors other than what was sent out by the County as part of the variance application process. Mr. Barton stated that the building is in the initial stage, and they will contact the neighbors for input on design. Mr. Barton stated that there is no other location for this building, and they are tied to this geographic location.

Mr. Happ inquired about the noise levels from the station, and whether it would be running 24/7. Mr. Barton stated that the pumps run intermittently, and there would be a generator that would only run in the event of a power loss and a weekly test.

Mr. Bateman asked what the size of the building, including height, would be. Mr. Barton stated that the building would be approximately 12’ wide, 40’ long, and 14’ high at the peak. Mr. Bateman asked if it would look like a house. Mr. Barton stated that it would, and they would get input from the neighbors regarding siding, fascia, etc.

Mr. Fletcher asked if the station could be moved back. Mr. Barton stated that the building would be at the back of the existing parking area, which is adjacent to the existing pump station. If they moved it farther back, they would run into the ravine.

Ms. O'Brien asked if there were any other questions from the Board and there were none. Ms. O'Brien asked if there was anyone that wanted to speak for or against the petition and there was no one. Ms. O'Brien stated that Mr. Duncan would be abstaining, as he has a family member that works for Illinois American Water Company.

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

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 petitioner proposes to construct a booster station at a distance of 8 ft. from the western side setback, instead of the required 25 feet, resulting in a variance request of 17 feet. In addition, the petitioner proposes to reduce the front road setback from the required 110 ft. from the center of the right-of-way to 60 feet from the center of the right-of-way, resulting in a variance request of 50 ft. The situation is unique in the fact that without the variance, installation of the booster station would be quite costly and difficult. Deep pile foundations and extensive fill would significantly increase the cost of the project. In addition, access for maintaining the pumps and fueling the generator would be more difficult.
2. That the variation, if granted, will not alter the essential character of the locality;
 - Existing homes in the area are constructed with brick and/or vinyl siding. The petitioner has stated that the booster station will be constructed with brick and vinyl siding, and the proposed setback will be similar to that of the surrounding homes. The proposed booster station will blend well with the surrounding 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;
 - The front-to-rear downward sloping topography of the parcel would make construction of the proposed booster station extremely difficult and costly were the variances denied. Pile foundations for the building, sheet piling to prevent erosion, and removal of several well-established trees would be required to meet the current setback requirements. Additional pavement would also be required in order to maintain the booster station, and in turn would increase runoff from the property.
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, upon which the petition for the variance are based, are unique to this property. The lot is narrow (80feet wide). Also refer to #3

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;
 - If granted, the variance request will allow for new pumps with current technological features that will improve the water supply to the area. Granting of the variance will not be detrimental to the public health, safety, comfort, morals and welfare of the neighborhood.
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;
 - If granted, the variance will not affect the supply of light and air to adjacent properties. It will not increase congestion on Middle Road or other public streets. It will not increase the danger of fire and will not endanger public safety. The project is not expected to diminish or impair property values in the neighborhood.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - If granted, the variance requested is the minimum adjustment necessary for the reasonable use of the land. Refer to #3 and #4
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.
 - Taking into consideration the aforesaid circumstances and conditions, if the variances were denied, the applicant would be denied reasonable use of his land.

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

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) (Mr. Duncan abstained)

Mr. Happ made a motion to adjourn and was seconded by Mr. Fletcher. A vote was taken, and the motion passed; (6-0)

Meeting adjourned at 9:57 a.m.

Respectfully submitted,

Sarah Cox
ZBA Administrative Assistant