

MINUTES
Zoning Board of Appeals
Linda O'Brien, Chairperson
July 14, 2022

A meeting of the Peoria County Zoning Board of Appeals was held on Thursday, July 14, 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 8:55 a.m.

PRESENT: Linda O'Brien – Chairperson, J. Greg Fletcher, Greg Happ, Rob Asbell, Chris Duncan, Stephen Pollack

ABSENT: Randy Weber, Justin Brown, LaVonne Sammis

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 June 9, 2022, hearing and was seconded by Mr. Fletcher. A vote was taken, and the motion passed; (5-0)

Mr. Duncan joined the meeting at 9:01 a.m.

Case No. **ZBA-2022-029** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **JASON TALLY, acting on behalf of MONICA ELEVATOR (owner), a REZONING** request from "I-1" Heavy Industrial to "R-2" Medium Density Residential. The petitioner proposes to rezone 0.60 acres in order to combine additional property with his existing parcels.

Ms. Urban opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on June 21, 2022, and *The Weekly Post* on June 23, 2022. Taylor Armbruster gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Unincorporated Center). The site plan and two videos of the property were shown. The property is zoned "I-1".

Debra Ann Talley of 19125 N. Daily Rd., Princeville, IL was sworn in. Ms. Talley stated that they would like to connect their two parcels and they need the portion being rezoned to join the parcels. The portion that is being rezoned is currently owned by Monica Elevator, and they no longer use it.

Ms. O'Brien asked if Ms. Talley was Jason's wife. Ms. Talley stated that she is.

Mr. Fletcher wanted to clarify which parcels are currently owned by the petitioner.

Ms. O'Brien asked if there was anyone that wanted to speak for or against the petition. 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)

Case No. **ZBA-2022-033** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **JORDAN KRUSA, acting on behalf of JORDAN AND MEGHAN KRUSA (owners), a VARIANCE** request from Section 20-5.13.3.3 of the Unified Development Ordinance, which requires that for lots and parcels used for residential purposes in the A-1 or A-2 Agricultural Districts which are five (5) acres or less and which are not in platted subdivisions, the total floor area of any accessory building shall not exceed one thousand three hundred (1,300) square feet, plus three hundred (300) square feet per acre. The petitioner proposes to construct a 1,944 square feet accessory structure in the "A-1" Agriculture Preservation District, which would exceed the allowable total floor area of 1600 square feet, resulting in a variance request of 344 square 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 June 21, 2022 and *The Weekly Post* on June 23, 2022. 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 two videos of the property were shown. The property is zoned "A-1".

Jordan Krusa of 1319 N. Texas Rd., Trivoli, IL was sworn in. Mr. Krusa stated that they had originally planned to build a building with as much space as possible while still being able to meet setbacks. When they applied for the building permit, they were advised of the size restriction of 1,600 square feet.

Ms. O'Brien asked what the building would be used for. Mr. Krusa stated that it would be used for vehicles, skid loaders, tractors, etc., and eventually goats or chickens.

Mr. Fletcher asked if the building would be on the bottom strip of land shown in the presentation. Mr. Krusa explained that the bottom strip was an easement for access to the farmland to the west. Mr. Fletcher asked if the building would be to the back north or back south. Mr. Krusa stated that it would be in the southwest corner of the property.

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)

Ms. O'Brien asked if there was any discussion from the Board, and there was none.

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 1,944 square foot accessory structure in the "A-1" Agricultural Preservation District, which would exceed the allowable total floor area of 1,600 square feet, resulting in a variance request of 344 square feet. The petitioner has stated the pole building is much-needed to store vehicles, several dirt bikes, a side by side, a mower and other equipment. Some of these items are currently being stored off-property and at a storage rental unit.
2. That the variation, if granted, will not alter the essential character of the locality;
 - The subject parcel is 1.02 acres and is zoned "A-1" Agricultural District. It is not located in a neighborhood nor sub-division and sets far off Texas Road. If granted, the variation will not alter the essential 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;
 - Denial of the variance would create a hardship for the property owner. Refer to #1.
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 subject parcel is 1.02 acres and is zoned "A-1" Agricultural District. It is not located in a neighborhood nor sub-division and sets far off Texas Road, making the conditions upon which the petition for a variance is based unique to 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;
 - Granting of the variance will not be detrimental to the public health, safety, comfort, morals and welfare of the neighborhood, nor be injurious to other property or improvements in the neighborhood. Granting of the variance would not be inconsistent with any 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;
 - 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. Property values in the area would not be affected.

7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - The petitioner has stated that the requested variance is the minimum adjustment necessary for the reasonable use of his 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.
 - Taking into consideration the aforementioned circumstances, denial of the variance would deprive the petitioner reasonable use of his land.

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; (6-0)

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

Case No. **ZBA-2022-030** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **MICHAEL DELONG, acting on behalf of MICHAEL AND TINA DELONG (owners), a VARIANCE** request from Section 20-6.2.2.2.d.2.a of the Unified Development Ordinance, which requires a side setback of 15 feet for accessory structures less than two thousand (2,000) square feet in the “A-1” Agricultural Preservation Zoning District. The petitioner has constructed an above-ground swimming pool at a distance of 5 foot from the northern side setback, resulting in a variance request of 10 feet. Also, a Variance request from Section 20-6.2.2.3.d.2.a of the Unified Development Ordinance, which requires a rear setback of 15 feet for accessory structures less than two thousand (2,000) square feet in the “A-1” Agricultural Preservation Zoning District. The petitioner has constructed an above-ground swimming pool at a distance of 5 feet from the eastern property line, resulting in a variance request of 10 feet. Also, a 2nd Variance request from Section 20-6.2.2.3.d.2.a of the Unified Development Ordinance, which requires a rear setback of 15 feet for accessory structures less than two thousand (2,000) square feet in the “A-1” Agricultural Preservation Zoning District. The petitioner has a gazebo at a distance of 0 feet from the northern side setback, resulting in a variance request of 15 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 June 21, 2022 and *The Glasford Gazette* on June 23, 2022. The Peoria City/County Health Department recommended denial of the request regarding the swimming pool. 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 two videos of the property were shown. The property is zoned “A-1”.

Michael DeLong of 8721 S. Glasford Rd., Glasford, IL was sworn in. Mr. DeLong stated that he was unaware that he needed permits for an above ground pool. Mr. DeLong stated that, in regard to the denial by the Health Department, that he has had no issues with the septic bed. He stated that he has no close neighbors, and if there are any issues, he would be responsible for fixing it.

Ms. O’Brien asked if Mr. DeLong had read the PCCHD’s comments. Mr. DeLong stated that he never received the letter from the Health Department at his address in Marquette Heights. Ms. Urban stated

that it would have been mailed to the address on the petition on Glasford Rd. Mr. DeLong stated that he never received anything but knew there was a denial after speaking to Mr. Weindel, and that he needed to know where to go from here.

Ms. O'Brien stated that there are two issues, the gazebo and the pool, and that there would be two sets of findings of fact.

Mr. Duncan stated that he hadn't heard any recommendations regarding the gazebo, only the denial regarding the pool. Ms. Urban stated that the Health Department had sent a recommendation of denial because the pool is on top of the septic field. Mr. Duncan asked how the petitioner could correct it. Ms. Cordis Boswell stated that currently the Board was not in deliberations, and that it was the point where the Board could ask the petitioner questions.

Mr. Fletcher asked when the pool was put up. Mr. DeLong stated that he started putting the pool up last June and a big storm tore everything out. Ms. O'Brien asked when Mr. DeLong came to the zoning dept for a permit. Mr. DeLong stated that code enforcement noticed when he was rebuilding the fence after the storm and that's when he notified that a permit was needed.

Kristen DeLong of 8721 S Glasford Rd, Glasford, IL was sworn in.

Mr. Fletcher asked about Mr. DeLong's other address. Mr. DeLong stated that his daughter rents the house from him, and he lives at 1006 Lincoln Rd, Marquette Heights, IL. Mr. Fletcher asked when the fence was put up. Ms. DeLong stated that it was put up in 2015. Mr. DeLong stated that the wind had torn the fence down and he rebuilt it prior to receiving a letter from Planning and Zoning.

Mr. Fletcher asked if Mr. DeLong knew that the pool was built over the septic field. Mr. DeLong stated that he didn't know exactly where the septic field was located when he put up the pool.

Mr. Happ asked where the actual septic tank was. Mr. DeLong stated that it was closer to the house.

Ms. O'Brien asked if there were any questions regarding the gazebo. Mr. Fletcher asked if there were pictures showing where the gazebo was located. Mr. DeLong stated that it could be seen in one of the videos.

Ms. O'Brien asked if there were any other questions for the petitioner 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.

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

Ms. O'Brien stated that she had no problem with the gazebo, but since the Peoria County Health Department denied the pool, she does have a problem with that. Mr. Asbell asked if, concerning the septic field, there was a law that was being violated. Ms. O'Brien stated that it is code.

Mr. Duncan asked if the pool could be moved. Ms. O'Brien stated that they didn't discuss it with the petitioner prior to entering deliberations.

Mr. Fletcher stated that he agreed with Ms. O'Brien concerning the pool and the septic bed.

Ms. O'Brien stated that she would go over the findings of fact for the gazebo.

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;
 - A 12ft x 10ft gazebo is located on the property of the petitioner at a distance of 0 feet from the northern side setback, resulting in a variance request of 15ft. The .66-acre property is zoned "A-1" Agricultural Preservation and is surrounded by farm fields, making this a unique situation.
2. That the variation, if granted, will not alter the essential character of the locality;
 - If granted, the variation will not alter the essential character of the locality as the property is in a rural setting and surrounded by farm fields.
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 gazebo is located on rural property surrounded by farm fields. If the variance were denied the gazebo would likely have to be torn down, which 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 #1 and #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;
 - Granting of the variance will not be detrimental to the public health, safety, comfort, morals and welfare of the neighborhood, nor be injurious to other property or improvements in the neighborhood. Granting of the variance would not be inconsistent with any 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 of the variance will not affect the supply of light and air to adjacent properties, will not increase congestion in the public streets, and will not increase the danger of fire or endanger public safety. Granting of the variance would not diminish or impair property values within the neighborhood.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - The petitioner has stated the proposed variance is the minimum adjustment necessary for the reasonable use of his 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.
 - Taking into consideration the aforementioned circumstances and conditions, denial of the variance would deprive the applicant reasonable use of his land.

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

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

Ms. O'Brien stated that she would go over the findings of fact for the pool.

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 has constructed an above-ground swimming pool at a distance of five feet from the northern side setback, resulting in a variance request of 10 feet. The petitioner is also requesting a variance of 10 feet from the eastern property line. However, the Peoria County/City Health Department conducted an on-site visit June 13th and determined the swimming pool was built on a seepage field, which is in violation of the Illinois Private sewage Disposal Code section 905.20(j)(3). This does not qualify as a unique circumstance.
2. That the variation, if granted, will not alter the essential character of the locality;
 - If granted the variation would alter the essential character of the locality as the Illinois Private Sewage Disposal Code section 905.20(j)(3) states that a private sewage disposal system shall be selected and maintained so that it is free from encroachment by any structure (including a swimming pool) that limits free access to the system for maintenance, servicing or proper operation.

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 owner constructed a swimming pool on a seepage field prior to applying for a permit.
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 this variation, are based, are not unique to this property, as the swimming pool has been built on a seepage field. Refer also to #2.
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 of the variances could possibly be detrimental to the public health, safety, comfort, morals and welfare of the neighborhood, and possibly injurious to other property or improvements in the neighborhood. Granting of the variance would be inconsistent with the Illinois Private Sewage Disposal Code section 905.20(j)(3).
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 of the variance will not affect the supply of light and air to adjacent properties, will not increase congestion in the public streets, and will not increase the danger of fire or endanger public safety. Granting of the variance may not diminish or impair property values within the neighborhood, however granting of the variance would most likely impair the owner's property value.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - In light of the June 13th findings of the Peoria City/County Health Department, the variance requests are not the minimum adjustment necessary for the reasonable use of the owner's land. Refer also to #2.
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 aforementioned circumstances and conditions, the requested variances do not qualify as reasonable use of his or her land.

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

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

Case No. **ZBA-2022-034** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **CHERYL A. PERRILLES, acting on her own behalf, a VARIANCE** request from Section 20-3.2.14 of the Unified Development Ordinance, which requires a maximum of 2 permits for the same construction project for a single structure. The petitioner is requesting a 3rd permit to complete construction of a single-family residential dwelling in the “A-2” Agriculture Zoning District.

Ms. O’Brien stated that a motion was needed to move the case to the August 11, hearing.

Mr. Asbell made a motion to continue ZBA-2022-034 to the August 11, 2022 hearing and was seconded by Mr. Happ. A vote was taken, and the motion passed; (6-0)

Mr. Happ asked if the date of 2007 was correct. Mr. Fletcher stated that there was an error on the application, and the petitioner was actually on their fourth permit.

Ms. O’Brien asked if there was any other business.

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

Meeting adjourned at 9:53 a.m.

Respectfully submitted,

Sarah Cox
ZBA Administrative Assistant