

MINUTES
Zoning Board of Appeals
Linda O'Brien, Chairperson
August 10, 2023

A meeting of the Peoria County Zoning Board of Appeals was held on August 10, 2023, in Room 403 of the Peoria County Courthouse, 324 Main Street, Peoria, Illinois. The meeting was called to order by Vice Chairperson J. Greg Fletcher, at 9:00 a.m.

PRESENT: J. Greg Fletcher – Vice Chairperson, Greg Happ, Rob Asbell, Chris Duncan, LaVonne Sammis, Richard Burns

ABSENT: Linda O'Brien – Chairperson, Stephen Pollack, Justin Brown

STAFF: Andrew Braun – Assistant Director
Taylor Armbruster – Planner II
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 July 13, 2023, hearing and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (5-0)

Ms. Sammis joined the meeting.

Case No. **ZBA-2023-030** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **RONALD PORTER AND SUE GRAVES, acting on their own behalf, a REZONING** request from "R-2" Medium Density Residential to "R-R" Rural Residential. The petitioner proposes to rezone 1.467 acres in order to combine a portion with the property to the east.

Andrew Braun opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on July 19, 2023. Ms. Armbruster gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Urban). The site plan and two videos of the property were shown. The property is zoned "R-2".

Sue Graves and Ronald Porter of 4609 W. Nagel Rd., Peoria, IL were sworn in. Mr. Porter stated that they are selling the home on the subject property to their grandson. They would like to take .44 acres from the subject property and add it to the adjacent property that contains their residence. Mr. Porter also stated that he believes it will make easier to sell his home when the time comes.

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

Mr. Fletcher 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. Duncan. A vote was taken, and the motion passed; (6-0)

Case No. **ZBA-2023-031** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **NELSON A. TOWERY, acting on his own behalf, a VARIANCE** request from Section 20-6.6.2.2.c.1 of the Unified Development Ordinance, which requires a side setback of fifteen (15) feet in the “R-2” Medium Density Residential Zoning District. The petitioner proposes to construct an addition to an attached garage at a distance of 8 ft. from the southern side setback, resulting in a variance request of 7 ft.

Andrew Braun opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on July 19, 2023. Ms. Armbruster 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-2”.

Nelson A. Towery of 5010 S. Lake Camelot Dr., Mapleton, IL was sworn in. Mr. Towery stated that he received approval to build the garage addition from the Lake Camelot Board but hadn’t realized he needed approval from the County. Mr. Towery stated that he needs a larger garage for boats, cars, etc.

Mr. Fletcher asked how big the garage is. Mr. Towery stated that it is currently 22’ x 22’. Mr. Towery stated that many of the houses on the street have garages that stick out farther than the house.

Mr. Happ asked if he was doing the work himself. Mr. Towery stated that he was.

Mr. Fletcher asked if there were any other questions.

Mr. Fletcher 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. Burns. 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 owner has requested a variance to add a 15’ x 22’ extension on the front of the garage. There is no room to add the garage addition to the side of the property.
2. That the variation, if granted, will not alter the essential character of the locality;

- If the variance is granted, it will allow the owners to store trailers, boats, and other equipment under roof, not in an open area not on the driveway or on the property. This will not alter the character of the locality. There are other homes in the area with similar additions.
3. That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out;
 - If the variance were to be denied, the petitioner would have trailers, boats, and equipment in the driveway or in an open area. The owners prefer to have the equipment covered, and not in an open area.
 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 current garage is too small for cars, boats, and equipment. The property line on the garage side is so close to the garage it cannot be added on to on the side. Properties in the neighborhood have similar extensions.
 5. That the granting of the variation will not be detrimental to the public health, safety, comfort, morals, and welfare, or injurious to other property or improvements in the neighborhood in which the property is located, or otherwise be inconsistent with any officially adopted County plan or these regulations;
 - Granting the variance would not be detrimental to the public health, safety, comfort, morals, and welfare of the neighborhood. It would not be injurious to other properties or neighborhood improvements. By granting the variance it 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 impair the adequate supply of light or 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.
 7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - Granting the variance will be the minimum necessary needed to use the land.
 8. That aforesaid circumstances or conditions are such that the strict application of the provisions of this Section would deprive the applicant of reasonable use of his or her land.
 - With the approval of the variance, the owner's trailers, boats, cars, and equipment will be stored out of the weather and out of the yard.

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

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

Case No. **ZBA-2023-032** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **CHARLES E. MCCULLOUGH, acting on his own behalf, a VARIANCE** request from Section 20-5.13.3.4 of the Unified Development Ordinance, which requires that for lots and parcels in platted subdivisions not created by tract surveys or in residentially zoned districts, the total floor area of all accessory buildings, attached or detached, shall not exceed the footprint of the principal structure or 1,300 square feet, whichever is less, plus 750 square feet for a private garage. No building shall be larger than the footprint of the principal structure, which includes any attached garage. The petitioner proposes to construct a 1728 square feet accessory structure in the “R-2” Medium Density Residential Zoning District, which would exceed the allowable total floor area of 902 square feet, as well as the footprint of the principal structure, resulting in a variance request of 826 square feet.

Mr. Braun opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* and *The Limestone Independent News* on July 19, 2023. Taylor Armbruster gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Rural and Environmental Corridor). The site plan and two videos of the property were shown. The property is zoned “R-2”.

Mr. Fletcher stated that the petitioner was not present.

Mr. Happ made a motion to continue the case to the October 12, 2023, ZBA hearing and was seconded by Mr. Asbell. A vote was taken, and the motion passed; (6-0)

Case No. **ZBA-2023-034** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **ELIZABETH FALCON, acting on her own behalf, a VARIANCE** request from Section 20-7.4.6.1 of the Unified Development Ordinance, which requires that no fence in a residential district may exceed six (6) feet in height. The petitioner proposes to construct a fence with a maximum height of seven (7) feet in the “R-R” Rural Residential Zoning District, resulting in a variance request of 1 ft. Also, a Variance request from Section 20-7.4.6.3 of the Unified Development Ordinance, which requires that an open fence erected on a premises located in the front setback past the building line shall not exceed four (4) feet. The petitioner proposes to construct an open fence with a maximum height of seven (7) feet in the front setback past the building line, resulting in a variance request of 3 ft.

Taylor Armbruster opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on June 21, 2023. Taylor Armbruster gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Environmental Corridor). The site plan and two videos of the property were shown. The property is zoned “R-R”.

Elizabeth Falcon of 1304 W. Cedar Hills Dr., Dunlap, IL was sworn in.
Jeff Evans 12917 W. Court St., Hanna City, IL was sworn in.

Ms. Falcon stated that her property is located at the top of the hill on Cedar Hills Drive, and because of the location, people use the driveway to turn around and will also park beside the shed that is in front of

her house. She stated that she is concerned about her children's safety. Ms. Falcon also stated that only the gate will reach 7 feet at the highest point.

Mr. Asbell asked how far the gate would be from the road. Mr. Evans stated that it would be 30 feet from the road.

Mr. Fletcher stated that he had the same concern that a vehicle or a delivery truck would not have room to pull in without blocking the road. Ms. Falcon stated that there is enough space to avoid blocking the road. Mr. Fletcher asked if the fence would be across the entire front of the property. Mr. Evans stated that the fence will go across the entire front of the property.

Mr. Fletcher asked if Ms. Falcon had spoken to public safety or first responders about accessing the property if necessary. Ms. Falcon stated that there is a code that is connected to her phone. She also stated that the gate can be controlled manually.

Mr. Happ asked what kind of fence would be on each side of the gate. Mr. Evans stated that it was wrought iron and would be more than 90% visible. Ms. Falcon stated that the gate is also more than 90% visible.

Mr. Fletcher 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 Ms. Sammis. A vote was taken, and the motion passed; (6-0)

Mr. Asbell stated that he has never heard of people pulling into people's driveway and just parking. Mr. Fletcher stated that it is a very wide driveway and looks like it could be a street.

FINDINGS OF FACT FOR VARIANCES

Section 20-3.7.3

The findings of the ZBA or the Zoning Administrator shall be based on data submitted pertaining to each standard in this Subsection as it relates to the development. A variance shall be granted only if the applicant demonstrates:

1. That the plight of the owner is due to unique circumstances;
 - The owner is requesting a variance to install a fence and gate with a height of 7 feet on the front of their driveway. This is needed due to the abundance of vehicles using the driveway to turn around.
2. That the variation, if granted, will not alter the essential character of the locality;
 - If the variance is granted, the fence and gate will not be intrusive to the surrounding properties. It would be of good quality and not have a detrimental appearance to the neighborhood. The height of the fence would not be intrusive to surrounding properties and this will not alter 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;
 - Due to the location of the subject, if the variance were to be denied, the petitioner would have vehicles using the driveway as a turnaround spot. If the variance is granted, it will allow the owners to use the front of the driveway safely, and not have to worry about unknown vehicles entering 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 property location is such, that if cars do not want to go down the hill, it is easy access to the wide driveway entrance, which also has blacktop or asphalt, and is located at the crest of a large hill on Cedar Hills Drive. The owners have seen cars frequently use the driveway to turn around.
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 setback requirements would be adhered to for the fence and gate. The location of the fence and gate would ensure that no cars would be blocking Cedar Hills Drive when they are entering the driveway and waiting for the gate to open. Granting of the variance would not be detrimental to public health, safety, comfort, morals, and welfare of the neighborhood. It would not be injurious to other properties or neighborhood improvements. By granting the variance it would not be inconsistent with the adopted County plan or regulations.
6. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood;
 - The front gate would be set back from the road far enough to allow safe access but would deter drivers from entering the property. Granting the variance does 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.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - Granting the variance will be the minimum necessary to allow fence and gate.
8. That aforesaid circumstances or conditions are such that the strict application of the provisions of this Section would deprive the applicant of reasonable use of his or her land.
 - With approval of the variance, the subject gate and fence would deter unknown vehicles from entering the property.

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

Case No. **ZBA-2023-032** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **CHARLES E. MCCULLOUGH, acting on his own behalf, a VARIANCE** request from Section 20-5.13.3.4 of the Unified Development Ordinance, which requires that for lots and parcels in platted subdivisions not created by tract surveys or in residentially zoned districts, the total floor area of all accessory buildings, attached or detached, shall not exceed the footprint of the principal structure or 1,300 square feet, whichever is less, plus 750 square feet for a private garage. No building shall be larger than the footprint of the principal structure, which includes any attached garage. The petitioner proposes to construct a 1728 square feet accessory structure in the “R-2” Medium Density Residential Zoning District, which would exceed the allowable total floor area of 902 square feet, as well as the footprint of the principal structure, resulting in a variance request of 826 square feet.

Ms. Sammis made a motion to hear the previously continued case was seconded by Mr. Asbell. A vote was taken, and the motion passed; (6-0)

Mr. Fletcher stated that since the case was previously opened, the Board would incorporate the previous introduction and presentation.

Charles E. McCullough of 6029 W. Farmington Rd., Peoria, IL was sworn in. Mr. McCullough stated that he would like to put up a pole barn to house his boats, equipment, etc.

Mr. Asbell asked if he was tearing down an old building first. Mr. McCullough stated that it would, and the new building would be put in its place.

Mr. Fletcher asked about the driveway slope and runoff. Mr. McCullough stated that the new building will be higher, and this will eliminate the runoff.

Mr. Happ asked what would be stored in the building. Mr. McCullough stated that he would store his vehicles and his boat. Mr. Happ asked if it would have power, heat, and water. Mr. McCullough stated that it would have power but no water.

Mr. Fletcher asked if the building would be frame or metal. Mr. McCullough stated that it would be frame, a kit from Menard's.

Mr. Fletcher 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. Burns. 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 owner is requesting a variance to add a pole barn on the property. The building will be used to store vehicles and equipment.
2. That the variation, if granted, will not alter the essential character of the locality;
 - If the variance is granted it will allow the owners to store vehicles and other equipment under roof and not in open areas or in the driveway. This will not alter the character of the locality. There are similar outbuildings in the area, and the building will be located back off the 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;
 - If the variance were to be denied, the petitioner would have vehicles, boats, and equipment in the driveway. The owners prefer to have the equipment covered and not in the open. The block garage will be removed.
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 current garage is too small, and there is a slope in the driveway. Building will be at a height that would eliminate the current runoff.
5. That the granting of the variation will not be detrimental to the public health, safety, comfort, morals, and welfare, or injurious to other property or improvements in the neighborhood in which the property is located, or otherwise be inconsistent with any officially adopted County plan or these regulations;
 - Granting the variance would not be detrimental to the public health, safety, comfort, morals, and welfare of the neighborhood. It would not be injurious to other properties or neighborhood improvements. By granting the variance, it would not be inconsistent with any adopted County plan or regulation.
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 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 building will be back away from the roadway, and from the neighbors.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - Granting the variance will be the minimum necessary to store vehicles, boats, and 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.
 - With the approval of the variance, the owner's trailers, boats, cars, and equipment will be stored out of the weather and out of the yard. Limestone Township approved the variance.

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

Case No. **ZBA-2023-033** at 10:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **THERESA HOLSHOUSER, acting on behalf of ROBERT COX ESTATE (Theresa Holshouser, Executor) (owner), 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 an existing 17.956 acre tract into three tracts consisting of 5 acres, 5 acres, and 7.956 acres.

Andrew Braun opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on July 19, 2023. Taylor Armbruster 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 two videos of the property were shown. The property is zoned "A-1".

Theresa Holshouser of 14805 N. Evans Mill Rd., Princeville, IL was sworn in. Ms. Holshouser stated that there are approximately 18 acres that were attached to her recently deceased parents' house. Her house is adjacent, and the 18 acres will be split between her brother, son, and herself. Ms. Holshouser stated that her brother will continue to farm the land and they don't anticipate any changes in the future.

Mr. Asbell asked about the L-shaped 5 acres in the center. Ms. Holshouser stated that she was originally doing 2 acres with the home, but she believed that would require different zoning because it would be considered a subdivision. Because the property is staying in the family, this was the quickest and easiest way to split the land. Mr. Fletcher asked if there were any plans for a future roadway or driveway to the L-shaped parcel. Ms. Holshouser stated that there were no plans.

Mr. Fletcher 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. Happ. A vote was taken, and the motion passed; (6-0)

Case No. **ZBA-2023-035** 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 behalf, a TEXT AMENDMENT** to amend Chapter 20, Article 5, Sections 5.2 ("A-2" Agricultural District), 5.10 ("I-1" Light Industrial District), and 5.11 ("I-2" Heavy Industrial District"); Article 6, Sections 6.3 ("A-2" Agricultural District), 6.11 ("I-1" Light Industrial District), and 6.12 ("I-2" Heavy Industrial District"); Article 7, Sections 7.4 ("Fences") and 7.19 ("Battery Energy Storage Systems"); and Article 11, Section 11.1 ("Definitions") of the Peoria County Code.

Andrew Braun opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on July 19, 2023. Mr. Braun stated that a letter was received at approximately 8:24 a.m. from an attorney representing Vistra Corporation.

Mr. Fletcher asked what the subject of the letter was. Mr. Braun stated that the attorneys received a copy of the proposed ordinance but hadn't had adequate time to review and provide comment and they requested that the case be continued. Mr. Braun stated that Vistra Corporation received a draft of this ordinance on June 1, 2023, and that others in the development community had been invited to make sure that this was a development friendly ordinance.

Andrew Braun of 324 Main St., Peoria, IL was sworn in. Mr. Braun gave a presentation consisting of an overview of Battery Energy Storage Systems (BESS) and the amended sections affected or added to the ordinance. Discussion included Definitions, Bulk Regulations (setbacks, distances from occupied dwellings and community buildings), and the addition of Section 7.19 to General Development Standards. Points of emphasis included combustible vegetation, security fencing, and required submittals including utility connection letter, fire safety, road use agreements, EcoCAT reports, as well as decommissioning plan requirements.

Mr. Braun stated, that when creating these amendments, staff spoke with other communities in the state that have a BESS ordinance, as well as reviewing the New York State Battery Energy Storage System Guidebook.

Mr. Braun asked if there were any questions.

Mr. Asbell asked if most of these facilities will be located next to an existing station. Mr. Braun stated that most likely companies will want to be as close as possible to a substation to cut down on costs. Mr. Asbell clarified that if a special use had previously been granted for a solar farm the BESS would not need an additional special use. Mr. Braun stated this was correct, as it would be considered accessory to the solar farm. This ordinance will strictly address standalone battery storage facilities as a stand-alone property.

Mr. Fletcher asked if there was anyone that wanted to speak for or against the petition, and there was no one.

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)

Adjournment

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 10:50 a.m.

Respectfully submitted,

Sarah Cox

APPROVED 09/14/2023

ZBA Administrative Assistant