

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

A meeting of the Peoria County Zoning Board of Appeals was held on Thursday, October 13, 2022, 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, Stephen Pollack, Randy Weber, Greg Happ, Chris Duncan

ABSENT: Linda O'Brien – Chairperson, Rob Asbell, LaVonne Sammis, Justin Brown

STAFF: 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 September 8, 2022, hearing and was seconded by Mr. Pollack. A vote was taken, and the motion passed; (5-0)

Case No. **ZBA-2022-041** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **JAMES L. HEIN, acting on behalf of JAMES L. HEIN AND BERYL B. HEIN JOINT LIVING TRUST (owner)**, a **VARIANCE** request from Section 20-6.3.2.3.d.1 of the Unified Development Ordinance, which requires a rear setback of 30 feet for a principal structure in the "A-2" Agriculture Zoning District. The petitioner proposes to construct a new single-family dwelling at a distance of 18 ft. from the rear (western) property line, resulting in a variance request of 12 ft.

Mr. Braun opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on September 22, 2022, and *The Weekly Post* on September 22, 2022. The County Highway Department deferred to the Kickapoo Township Road Commissioner. The PCCHD initially recommended denial, however, a second review was completed and they determined that no conditions were found to recommend denial of the request, with a contingency that some conditions are met. The current on-site wastewater treatment system must be inspected and be determined operational by a licensed and registered septic installer. The installer must also assess the size of the system. A determination must be made of whether or not the current system has the capability to service the proposed number of bedrooms within the dwelling and existence or nonexistence of a garbage grinder. If either of these determinations are not met, a permit for a new on-site wastewater system must be approved by this department before installation of a new system can occur on the property. Jack Weindel gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Agriculture). The site plan and two videos of the property were shown. The property is zoned "A-2".

James L. Hein of 3124 W. Glen Ave, Peoria, IL was sworn in. Mr. Hein stated that he put everything in the application for the variance. In response to the Health Department's denial letter, he prepared a letter. He stated that he doesn't have a lot of options on how to footprint the new home. The orientation can't be changed because then he won't be able to get a larger RV or trailer into the structure. Mr. Hein stated that he plans on making the building all solar so he will need the south exposure, which is the back side. The solar will be roof mounted. There is a steep ravine on the east and that would require a large retaining wall or driven sheet pile to stabilize the bank. If he can get the variance, he can do some major erosion control that allows him to get it out of the ravine. The original building was in about the same position.

Mr. Happ asked if there was a house on the site when he purchased it. Mr. Hein stated that the previous owner had demolished the house that was there and had planned to build there but it didn't work out. Mr. Happ asked about the metal building that was there. Mr. Hein stated that they had used that for a garage for the previous home and he would like to keep it there to use during construction.

Mr. Fletcher asked if the farm fields started on the western edge of the property line. Mr. Hein stated that they did. Mr. Fletcher asked if the fields were normally planted with beans or corn. Mr. Hein stated that the fields had been planted with beans or corn since he had purchased it. He stated that there was a grassed waterway between his property and the fields.

Mr. Fletcher asked if the building footprint could be moved south or if there was a ravine there. Mr. Hein stated that the south is where the septic field is, and he can't move it south without interfering with the septic system.

Mr. Fletcher asked if there were any other questions or comments and there were none.

Mr. Fletcher asked if there was anyone that would like 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. Duncan. A vote was taken, and the motion passed; (5-0)

FINDINGS OF FACT FOR VARIANCES

Section 20-3.7.3

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

1. That the plight of the owner is due to unique circumstances;
 - The property had a previous farmhouse. A ravine runs through the middle of the property. To move the home, garage, and septic area would result in placement near the slopes of the ravine. The western lot line is currently a waterway from the edge of the farm field.
2. That the variation, if granted, will not alter the essential character of the locality;

- The new home will be in a similar location as the old farmhouse. This is a rural location and not in a subdivision. The site has ag fields to the west and vacant land used to enter the farm field to the south.
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 lay of the land, site, size, and topography make this location the best spot to build the primary residence, to have the driveway, garage and house. With the ravine toward the east and driveway access on the northern edge of the farm field to the west, this location allows for less excavation and fill to be moved.
 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;
 - See Number 1 and Number 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;
 - The home will be similar to other homes in the area. It should not be detrimental to public health, safety, comfort, morals, and welfare, or injurious to other property or improvements in the neighborhood. It appears to be consistent with the officially 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;
 - This should not impair light or air and will not increase traffic, as there are other homes on the same road. This should not increase the potential of fire or endanger the public safety and would increase property values in the neighborhood.
 7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - Due to the site size, layout, and topography, this would appear to be the minimum adjustment necessary.
 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.
 - As in Numbers 1, 2, and 7, construction of the new home in a different area would have an increase in cost and excavation and would not be suitable.

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

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

Case No. **ZBA-2022-043** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **JOHN PAPENHAUSE, acting on behalf of AG-LAND FS, INC. (owner), a VARIANCE** request from Section 20-6.11.3.2.d.2 of the Unified Development Ordinance, which requires a side setback of 15 feet for accessory structures in the “I-1” Light Industrial Zoning District. The petitioner proposes to construct a carport at a distance of 6 feet from the northern side setback, resulting in a variance request of 9 feet.

Mr. Braun opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on September 22, 2022, and *The Weekly Post* on September 22, 2022. The County Highway had no objections. The PCCHD found no conditions to recommend denial. Jack Weindel gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Agriculture). The site plan and two videos of the property were shown. The property is zoned “I-1”.

John Papenhouse of 1505 Valle Vista Blvd., Pekin, IL was sworn in. Mr. Papenhouse stated that they were trying to put up a building to keep drivers out of the weather when they fill up their fuel truck. Where they load the trucks is too close to the property line. Mr. Happ asked if the building would just be a canopy. Mr. Papenhouse stated that the structure would have sides on it, but not all the way down. Mr. Fletcher asked if the building would be open front to back. Mr. Papenhouse stated that there would be a doorway on the front and back and would basically be a drive through. Mr. Fletcher asked if the vehicles would be semis or tankers. Mr. Papenhouse stated that they would be small local trucks.

Mr. Fletcher asked if there were any other questions, and there were none.

Mr. Braun stated that there was a consent from Shane Land Trust that had come in the day before that had not been read into the record. Mr. Papenhouse stated that they own the strip of land to the north.

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

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

FINDINGS OF FACT FOR VARIANCES

Section 20-3.7.3

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

1. That the plight of the owner is due to unique circumstances;
 - The location of the underground tanks, the pumps, and electrical equipment already on the property make the site the ideal place to have the covered loading and unloading area.

2. That the variation, if granted, will not alter the essential character of the locality;
 - The area is a mix of commercial and farm fields. The site has agricultural fields to the east and vacant land used to enter the farm field to the north. The northern property owner has given consent.
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 lay of the land, the site, size, and topography make this location to build a carport ideal. With the electrical building and underground fuel tanks, this would be a primary place to have a carport for trucks as the bulk fuel tanks could not get in.
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;
 - See the descriptions and comments in Numbers 1 and 2 concerning the buildings and equipment already on site.
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 carport will not be detrimental to the area as there are other commercial properties in the area. It should not be detrimental to the public health, safety, comfort, morals, and welfare, or injurious to other property or improvements in the neighborhood. It appears to be consistent with the officially 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;
 - This should not impair light or air. It would increase traffic very little as this is already a commercial site with other similar businesses in the immediate area. It should not increase potential for fire or endanger public safety. It would not decrease property values in the are.
7. That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and
 - Due to the site size, layout, and topography, this would appear to be the minimum. The petitioner has explained the use of the carport, and the underground tanks cannot be moved.
8. That aforesaid circumstances or conditions are such that the strict application of the provisions of this Section would deprive the applicant of reasonable use of his or her land.
 - If the variance is not granted, they will not be able to construct the building close enough to the work area in order to keep employees out of weather conditions.

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

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

Case No. **ZBA-2022-044** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **RYAN P. MCINTYRE, acting on his own behalf, a SPECIAL USE** request from Section 20-5.2.2.1.e of the Unified Development Ordinance. This section allows for a special use for a mobile home in the "A-2" Agriculture Zoning District, when all towing apparatus, wheels, tongue and hitch are permanently removed and the structure is attached to a permanent foundation and assessed as real property.

Mr. Braun opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on September 22, 2022, and *The Weekly Post* on September 22, 2022. The County Highway Department deferred to the Rosefield Township Road Commissioner. The PCCHD found no conditions to recommend denial. Jack Weindel gave a brief presentation of the countywide map, aerial view of the property, surrounding zoning, and future land use plan designation (Agriculture). The site plan and two videos of the property were shown. The property is zoned "A-2".

Ryan P. McIntyre of 7202 N. McIntyre Rd., Brimfield, IL was sworn in. Mr. McIntyre stated that he owns 25-acres on McIntyre Road. Family has owned the land for over 150 years. The land he wants to build on is a 2-acre plot he purchased from an aunt and uncle 5 years ago. When his mother died three years ago, he inherited 23-acres. Mr. McIntyre stated that he grows hay to sell to local farmers. He is planning on selling his mother's home and wants to put a mobile home on his property. He is a bachelor, and he intends to die there.

Mr. Fletcher asked if it would be a modular or manufactured home. Mr. McIntyre stated that it would be a manufactured home. He is trying to find one in the 700-800 square foot category to meet County requirements. There is a well on the property, but he plans on drilling a new well and installing a new septic tank. He wants to establish a site he can grow old in. he is going to put it on a concrete foundation and spruce it up.

Mr. Fletcher asked if the home would be FHA certified. Mr. McIntyre stated that it would be 700-800 square feet and he would take off all tows and hitches and would make it look like a permanent home. Mr. Fletcher asked if it would be poured concrete or concrete block wall foundation. Mr. McIntyre said it would be poured concrete.

Mr. Weber asked if there were any other plans for the property. Mr. McIntyre stated that there would be some agricultural activity. He would still be growing hay and there is a Morton building on the property that an uncle keeps some farm equipment in.

Mr. Fletcher asked if there had been a house on the property. Mr. McIntyre stated that there had been a house that he demolished.

Mr. Fletcher asked if there were two buildings on the property. Mr. McIntyre stated there was the Morton building and a building that his dad referred to as the corn crib.

Mr. Fletcher asked if there was anyone that would like 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. Duncan. A vote was taken, and the motion passed; (5-0)

Case No. **ZBA-2022-042** at 9:00 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **LISA ROGERS, 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.

Mr. Braun opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on September 22, 2022. The PCCHD found no conditions to recommend denial. The Highway Department deferred to the Medina Township Road Commissioner. The Medina Township Planning Commission recommends approval. Staff recommends approval with restrictions. 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 and River Freight). The site plan and two videos of the property were shown. The property is zoned “R-2”.

Lisa Rogers of 13228 N. River Beach Dr., Chillicothe, IL was sworn in. Ms. Rogers stated that she would like to rent the property as a short-term rental through Airbnb or VRBO in order to have additional income. The home is her primary residence, and it will continue to be. Ms. Rogers stated that her husband passed away a year ago and her finances changed.

Mr. Fletcher asked Ms. Rogers if she would stay in the Chillicothe area while the home is rented. Ms. Rogers stated that her parents recently moved to Iowa and she decided to keep their home. She will stay there when her main home is being rented. Mr. Fletcher asked if Ms. Rogers owned any other rental properties. Ms. Rogers stated that she does not currently.

Mr. Weber asked if there were any plans for the two adjacent lots. Ms. Rogers stated that she has a garden on one of the lots, and the other lot she just maintains.

Mr. Fletcher asked if the home had ever flooded. Ms. Rogers stated that it has never flooded as they worked with Mr. Braun and the architect to make sure it was designed specifically to avoid flooding.

Mr. Fletcher asked if the garage was a three-car garage and if the driveway was shared with the neighbor. Ms. Rogers stated that there is a row of vegetation in the drive that divides the two properties. She also stated that the driveway can easily fit four cars.

Mr. Fletcher asked if guests would be able to use the garage. Ms. Rogers stated that they would not.

Mr. Fletcher asked about security cameras. Ms. Rogers stated that there is a Ring doorbell that has been installed.

Mr. Fletcher asked how many bedrooms the home has. Ms. Rogers stated that there are five bedrooms but understands there is a maximum of eight guests allowed with a maximum stay of 14 days. She also stated that she believes most rentals will be for weekends and does not foresee that guests will want to stay for the 14 days.

Ms. Rogers stated that there are currently five other short-term rental homes on River Beach Drive. She plans to use Airbnb or VRBO to advertise. Mr. Weber asked if the owner loses some control over who rents the home when using VRBO or Airbnb. Ms. Rogers stated that she hasn't used either service yet, but she doesn't believe so since she is the owner and will be supervising.

Mr. Fletcher asked if Ms. Rogers had inquired about the rules and guidelines with Airbnb and VRBO. Ms. Rogers stated that she had reviewed everything up to the point of creating an account.

Mr. Fletcher asked if Ms. Rogers had spoken to her neighbors about her plans to rent the home. Ms. Rogers stated that she had spoken to her neighbors and many of them are enthusiastic about it.

Mr. Weber asked what type of outdoor entertainment area was available at the home. Ms. Rogers stated that there is a beach area, two decks, and an area under the house.

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. Duncan. A vote was taken, and the motion passed; (5-0)

The Board took a break from 10:10 a.m. to 10:30 a.m.

Case No. **ZBA-2022-040** at 10:30 a.m. Hearing to be held in Room 403, of the Peoria County Courthouse, Peoria, Illinois.

Petition of **EDPRNA DG ILLINOIS DEVELOPMENT, LLC** (A *limited liability company*, *Gustavo Monteiro - CEO, of Lisbon, Portugal, Nuno Goncalves – CFO and Meredith Berger Chambers – Secretary, of 1501 McKinney St., Suite 1300, Houston, TX 77010, Richard Dovere – CIO and Candice Michalowicz – COO, of 100 Park Ave, Floor 24, New York, NY 10017*), acting on behalf of **STEVEN T. AND ROBERTA J. MILLER (owners)**, a **SPECIAL USE** request from Section 20-5.2.2.2.h of the Unified Development Ordinance. This section allows for a special use in the "A-2" Agriculture Zoning District for a Solar Energy Generation Facility, provided that the conditions in Section 7.17 ("Ground Mounted Solar Energy Equipment"), of these regulations are met.

Mr. Braun opened the case. There are 0 consents and 0 objections on file. The case was published in *The Peoria Journal Star* on September 22, 2022. The County Highway Department had no objections, however, before access is granted, the petitioner would need to meet with the Highway Department

regarding access permits and road use agreements. The Medina Township Road District commented that they have no objections but commented that they preferred that Wayne Road not be used for construction access or material delivery. The PCCHD found no conditions to recommend denial. The Medina Township Planning Commission stated that they have no objections to the proposal. Staff recommends approval with restrictions. 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 Agriculture). The site plan and two videos of the property were shown. The property is zoned "A-2".

Sammy Brainard of 100 Parke Ave., 24th Floor, New York, NY was sworn in. Ms. Brainard stated that she was proposing a 4.95 MW solar project on behalf of Steve Miller, the property owner. She further stated that they will be working with the County, the landowner, and the neighbors in order to conform to the County Ordinance, as well as the stakeholders, for the project.

Mr. Fletcher asked if EDPRNA does a lot of these types of projects. Ms. Brainard stated that they have solar projects of this scale, mostly rooftop, throughout Illinois.

Mr. Happ stated that the northern third of the property would be used for solar and asked what the remaining land would be used for. Ms. Brainard stated that 35 acres would be used for solar, and Mr. Miller intends to farm the rest.

Mr. Fletcher confirmed that the project would be a community solar project. Ms. Brainard stated that the project would be submitted to the state as a community solar project in which community stakeholders could subscribe to the project to receive credits on their utility bill.

Ms. Brainard gave a presentation including the history of EDPRNA, location of the proposed project, setbacks, electrical drawings, and location of access road. The interconnection application has been submitted to Ameren to interconnect to the Hallock substation located 3.25 miles from the site. There is an existing three-phase line on North Wayne Road so there will be no additional line build required.

Ms. Brainard stated that EDPRNA has selected modules with an anti-reflective coating to minimize glare. There will be a gravel access road running South from Rome W Road. Installation of a farm fence and landscape screening will be coordinated with the landowner, neighbors, and the County during the building permit process. The site is designed to allow farming to continue on the remaining 40+ acres of land. To improve the soil health of the site, EDPR plans to install native shade-tolerant grass and pollinator-friendly vegetation. Noxious weed control will be implemented at the landowner's request. EDPR will execute a Road Use Agreement with Commissioner Frank Sturm to account for construction and operation impacts. There is no drainage tile present on the site.

Ms. Brainard further explained that local constituents from the community can opt in to be subscribers of the renewable energy produced from this solar project, risk-free. Subscribers will be getting locally sourced power and will receive a savings on their electric bill. Operation of this project will increase the local tax base by \$20,000 - \$30,000 annually, depending on project size.

Mr. Happ asked about the lottery for solar projects in Illinois and if it still works the same. Ms. Brainard stated that the lottery started in 2018, and now there is a new plan starting on November 1, 2022. EDPRNA will be submitting this project and will most likely be wait listed because the number of

projects that are anticipated to be submitted will most likely exceed capacity. Ms. Brainard explained that the waitlist is a lottery in that sense and is not guaranteed.

Mr. Weber inquired about the life of one of these projects. Ms. Brainard stated that it was 25-30 years. Mr. Weber asked what happened at that point. Ms. Brainard stated that they would either decommission the project or work with the landowner and the County to reinstall the project. Mr. Weber asked what happens with the panels now that are discontinued. Ms. Brainard stated that they can be resold.

Mr. Fletcher asked if they were looking to get into the state lottery before the project starts, or is the project was guaranteed to start. Ms. Brainard stated that they will need to obtain County Board approval then building permit approval prior to submitting the application to the lottery. Mr. Fletcher asked if there had been a previous solar project approved for this property. Mr. Braun stated that there had been a request in 2018 by a different developer to build two co-located 2 MW solar generation facilities on this parcel. In December of 2020 the lease agreement between that developer and the property owners were terminated. Because the new project exceeded the size of the previously approved project, approval for a new special use would be required.

Mr. Happ asked if they planned on using local labor. Ms. Brainard stated that there have not been any arrangements with local labor groups yet, but the plan is to use local labor.

Mr. Fletcher stated that the interconnect was quite a distance from the interconnect. Ms. Brainard stated that 2-3 miles is a typical distance in these types of projects. The benefit of this project is that there is an existing 3 phase line so there is no additional line build.

Mr. Fletcher asked if there were any additional questions or comments.

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. Duncan. A vote was taken, and the motion passed; (5-0)

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

Meeting adjourned at 11:00 a.m.

Respectfully submitted,

Sarah Cox
ZBA Administrative Assistant