

COUNTY OF MENARD)
) SS.
STATE OF ILLINOIS)

The Menard County Zoning Board of Appeals (ZBA) met on September 1, 2011 at 7:00 p.m., at the Menard County Courthouse, Petersburg, Illinois. Zoning Board of Appeals members Tom Eldridge, Karen Stott, Barry Bass, Steve Ozella and Steve Wilken were present. A quorum was present. Zoning Administrator Steve Duncan was also present.

Chairperson Eldridge called the meeting to order at 7:00 p.m.

Minutes from the August 10, 2011 meeting were presented for approval. ZBA member Ozella moved to approve the minutes, as presented. ZBA member Bass seconded the motion. The motion carried unanimously.

NEW BUSINESS

ADMINISTRATIVE PUBLIC HEARING: (Case number 11-05V) PETERSBURG PLUMBING & HEATING, INC., CORPORATE OFFICERS MILO H. VOGT (16788 OAKLAND HILL, PETERSBURG, IL), MILO F. VOGT III (16788 OAKLAND CEMETERY ST. PETERSBURG, IL), JODY R. ALDERMAN (19470 ALDERMAN LANE, PETERSBURG, IL), WITH MILO H. VOGT & MILO F. VOGT III OWNING 20% OR MORE OF ALL OUTSTANDING STOCK, ACTING ON THEIR OWN BEHALF OR WITH LEGAL REPRESENTATION, APPLICATION TO SEE A VARIANCE FROM THE FOLLOWING: ARTICLE VI, SECTION 6.03(D)(2) OF THE MENARD COUNTY ZONING ORDINANCE, REQUIRING A MINIMUM LOT WIDTH OF 200 FEET EXTENDING TO A DISTANCE EQUAL TO ANY FRONT SETBACK REQUIREMENT WITH 200 FEET OF FRONTAGE ON A PUBLIC ROAD MEASURED AT THE FRONT SETBACK LINE. THE VARIANCE REQUEST SEEKS A 55.76 FEET MINIMUM LOT WIDTH/PUBLIC ROAD FRONTAGE REQUIREMENT. THE BRIEF LEGAL DESCRIPTION FOR THE PROPERTIES AFFECTED IS AS FOLLOWS: PART OF THE SE ¼, S36, T19N; AND PART OF S1 AND THE WEST HALF OF S12, T18N; ALL IN R7 WEST, 3RD P.M., CONTAINING 219.552 ACRES, MORE OR LESS. THE PROPERTIES ARE LOCATED AT THE NORTH END OF CLARY ST., PETERSBURG, IL.

Chairperson Eldridge opened the public hearing at 7:01 p.m. to give consideration to a variance request from Petersburg Plumbing & Heating, Inc.

Chairperson Eldridge swore-in Mark Beck, representing Petersburg Plumbing & Heating, Inc., who provided an overview of the variance request. He informed that the proposed parcel (parcel #1 on the plat of survey) needing the variance would be put into a permanent conservation easement with the “FSA office” and State of Illinois that would require that the property would be used for recreational uses in perpetuity with no fences, structures, grazing or crops.

Chairperson Eldridge asked for confirmation that there were no plans for any building or structures on the proposed parcel. Mr. Beck informed that the only area of the property that was not in the permanent conservation easement was the area where an existing barn was located.

Chairperson Eldridge asked how long the conservation easement would be in effect. Mr. Beck informed that the easement with the “Federal side” was fifteen years but the State of Illinois conservation easement was into perpetuity.

Chairperson Eldridge asked if an easement would be created on parcel #1 that would be used by the future owner of parcel #2. Mr. Beck informed there were no plans for such an easement.

As there were no other public comments, ZBA Member Ozella moved to adjourn the public hearing at 7:11 p.m. ZBA Member Stott seconded the motion. The motion carried unanimously.

ZBA Member Bass moved to approve the finding of facts and the variance request, as proposed. ZBA Member Ozella seconded the motion. The motion carried with four “ayes”, no “nays” and one “abstain” (Wilken).

ADMINISTRATIVE PUBLIC HEARING: (Case number 11-06V) DENNIS & LOIS HARRISON, ACTING ON THEIR OWN BEHALF OR WITH LEGAL REPRESENTATION OR BOTH, HAVE APPLICATION TO SEEK A VARIANCE FROM THE FOLLOWING: ARTICLE IX, SECTION 9.01(B)(4) OF THE MENARD COUNTY ZONING ORDINANCE, REQUIRING THAT WHEN A NON-CONFORMING USE OF A STRUCTURE, OR STRUCTURE AND LAND IN COMBINATION, CEASES FOR 18 CONSECUTIVE MONTHS OR FOR 18 MONTHS DURING ANY 3 YEAR PERIOD THE STRUCTURE, OR STRUCTURE AND LAND IN COMBINATION, SHALL NOT THEREAFTER BE USED EXCEPT IN CONFORMITY WITH THE REGULATIONS OF THE DISTRICT IN WHICH IT IS LOCATED. THIS 18 MONTH TIME LIMITATION IS CONSIDERED A BULK REGULATION AND THEREFORE QUALIFIES FOR A VARIANCE REQUEST FROM THE STATED TIMEFRAME. THE VARIANCE REQUEST SEEKS AN 18 MONTH EXTENSION FROM SEPTEMBER 1, 2011. THE BRIEF LEGAL DESCRIPTION FOR THE PROPERTIES AFFECTED ARE AS FOLLOWS: S26 T18 R7 NORTH PARK SUB-DIV LOT 1 & S26 T18 R7 SE COR E ½ NE ¼. (Aka “Warburton’s property”) THE PROPERTY IDENTIFICATION NUMBERS ARE 11-26-206-001 & 11-26-200-007. THE ADDRESS IS 18190 STATE PARK ROAD, PETERSBURG, IL.

The applicants, Mr. and Mrs. Harrison were not in attendance. Zoning Administrator Duncan placed a call and informed the Zoning Board of Appeals that he spoke to Mr. Harrison who informed him that he was not aware of the meeting date and would not be able to attend.

Chairperson Eldridge opened the public hearing at 7:18 p.m. to give consideration to the Harrison’s application and hear any public comments.

Chairperson Eldridge swore-in William Winchester, 15627 N. Park Place, Menard County, Illinois. Mr. Winchester indicated that the existing building was built around 1989 by Mr. Brauer. He said that in 1994 it was sold and operated for around a year. He said he doesn’t recall it opening again under that ownership. Then it was sold around 2000 and during that time period it was open from roughly January 2007 to September 2008.

Zoning Administrator Duncan informed that this was the third hearing that Menard County had held to extend the legal nonconforming use of the property as a restaurant/bar use. Zoning Administrator Duncan informed that the public record indicated a “use” variance was given at one time, prior to the new zoning regulations being adopted in 1999. He informed that a re-zoning was sought to establish commercial zoning on the property. He informed that re-zoning failed but that Section 9.01(B)(4) was used to provide for the restaurant/bar use to be extended.

Mr. Winchester informed that they did mow the property. He expressed sentiments that they needed to ask for less if they wanted to move the property. He discussed how long the restaurant building had been sitting empty in New Salem State Park.

ZBA Member Bass asked Mr. Winchester if he was speaking in opposition to the variance request, as proposed. Mr. Winchester stated, “Yes, in a way.” He said that he is opposed to a liquor license being approved and liquor sales. He said that it could not be predicted what kind of issues liquor sales would create on the property.

Zoning Administrator Duncan advised the Zoning Board of Appeals that they may want to table the issue until such time that the applicant could attend, if they were considering not approving the variance, as requested. There was discussion about tabling the meeting. Zoning Administrator Duncan called Mr. Harrison to see when he would be available to be in attendance.

ZBA Member Bass asked if the application was for both a restaurant/bar. Zoning Administrator Duncan informed that was how the property was used before it last closed so he believed the request was to provide for a restaurant use that could also have a bar.

Mr. Winchester stated that he believed the County required that they were supposed to chip and oil the parking lot. Zoning Administrator Duncan indicated that there was no evidence of that requirement being placed on the Harrison's.

As there were no other public comments at this time, ZBA Member Bass moved to adjourn the public hearing at 7:38 p.m. ZBA Member Wilken seconded the motion. The motion carried unanimously.

Zoning Administrator Duncan informed that Mr. Harrison led him to believe that he might be close to having a buyer for the property. Mr. Duncan was asked to look into how much was being paid in real estate taxes on the property.

ZBA Member Bass asked that, if the variance request and use were not extended, what would happen. Zoning Administrator Duncan informed that the property could only be used in accordance with the regulations of the R-1 single-family zoning district, which did not provide for duplexes.

ZBA Member Ozella said that the City of Petersburg would like to see new restaurants. He said the Harrison's were keeping the property up and property tax revenues were being collected. He said that if parking occurred on the street in the adjacent subdivision that perhaps a no parking sign needed to be erected.

ZBA Member Bass questioned whether they could open it up as a tavern instead of a restaurant. Zoning Administrator Duncan indicated that the public record referred to the restaurant use being extended but not as a tavern.

Zoning Administrator Duncan informed that a lot was sold from the subdivision that became part of the commercial use of the property. He questioned if covenants existed that allowed that and, if they did, why no opposition was raised by lot owners in the subdivision.

Mr. Winchester was asked if he knew who developed the subdivision. He informed that his step father was the developer. He informed that there were no covenants set up.

ZBA Member Ozella informed that he would not be able to attend the next meeting but would look at providing a 12 month extension.

Zoning Administrator Duncan informed that the extension of a legal non-conforming use, after it had been discontinued, was not a provision that he had ever seen in a zoning ordinance. He surmised that it was created to provide for the extension of the restaurant use without re-zoning the property to a commercial zoning classification that would provide for any number of commercial uses to be located on the property.

After discussion, ZBA Member Bass moved to table the matter and re-convene on September 7, 2011 at 7:30 p.m. ZBA Member Wilken seconded the motion. The motion carried unanimously.

Unscheduled Public Comments/Requests

There were no unscheduled public comments/requests.

Zoning Administrator's Report

There was no Zoning Administrator's report.

Individual ZBA Member Comments/Requests

There were no additional ZBA member comments/requests.

Adjournment

As no other business was brought before the Zoning Board of Appeals, ZBA member Ozella moved to adjourn the meeting at 7:52 p.m. ZBA member Wilken seconded the motion. The motion carried unanimously.