

MACON COUNTY ZONING BOARD OF APPEALS

HEARING MINUTES – June 27, 2018

MEMBERS PRESENT

Barb Lamont, Chairman
Bill Koretke, Vice Chair
Blake Noland, Member
Dennis Hughes, Alternate Member

COUNTY PERSONNEL PRESENT

Jennifer Gunter, Planning & Zoning Director
Tracy Sumpter, Planning & Zoning
Michael Baggett, States Attorney’s Office
Kathy Wade, Macon County Health Dept.
Debra Kraft, County Board Member

MEMBERS ABSENT

Andy Freeland, Member
Ed Leonard, Alternate Member

Chair Lamont called the meeting to order at 8:30.

MINUTES

Bill Koretke made the motion to approve the June 6, 2018 minutes, seconded by Blake Noland. All members present answering, Aye. Motion Carried (4-0).

OLD BUSINESS:

- 4.1 V-01-06-18 a petition filed by Dan & Pam Jarboe requesting the required minimum lot size be changed from 10 acres to 2.23 acres (A-1) Agricultural Zoning. This property is commonly known as 7313 Sawyer Road, Forsyth, IL 62535.

PIN 07-07-11-400-003

Mrs. Gunter stated this was approved by ZBA on June 6, 2018.

- 4.2 V-02-06-18 a petition filed by Kathleen Montgomery requesting the required minimum lot size be changed from 10 acres to 1.39 acres in (A-1) Agricultural Zoning. This property is located on Janvrin Road, Maroa, IL.

PIN 10-02-05-400-017

Mrs. Gunter stated this was approved by ZBA on June 6, 2018.

- 4.3 V-03-06-18 a petition filed by Dan Janvrin requesting the required front setback be changed from 35 feet to 15 feet in (R-1) Single Family Residential Zoning. The property is commonly known as 3194 Sandcreek Road, Decatur, IL 62521.

PIN 17-12-36-151-002

Mrs. Gunter stated this was approved by ZBA on June 6, 2018.

- 4.4 R-04-06-18 a petition filed by Trent Deines for rezoning approximately 9.99 acres from (R-1) Single Family Residential Zoning to (RE-5) Single Family Estate Zoning. The property is commonly known as 4580 Forest Parkway, Decatur, IL 62521.
PIN 18-08-28-126-001

Mrs. Gunter stated this was approved by ZBA on June 6, 2018, it goes to EEHW June 28th, and the County Board will vote on it July 12, 2018.

- 4.5 V-05-06-18 a petition filed by Patsy Warnick requesting the required setback from a residence to an accessory building be changed from 10 feet to 5 feet in (A-1) Agricultural Zoning. The property is commonly known as 5009 W Andrews St. Road, Macon, IL 62544
PIN 15-15-36-100-005

Mrs. Gunter stated this was approved by ZBA on June 6, 2018.

NEW BUSINESS:

- 5.1 S-03-05-18 a petition filed by Lisa Smith requesting a Special Use Permit to operate a coffee house and beauty salon in (A-1) Agricultural Zoning. The property is commonly known as 8791 Bethel Road, Blue Mound, IL 62513.
PIN 15-15-28-100-010

Mrs. Gunter stated the petition was first heard by Zoning Board of Appeals May 2, 2018 and was approved (3-0) vote. On May 24, 2018 EEHW voted to table the petition because the board members wanted more questions answered about the parking and septic situation on the property. Since these issues will present new evidence, the petitioner has to present these to the Zoning Board of Appeals according to the state statutes. This is why we are here today to hear the new evidence and answer the board's questions.

Chair Lamont asked for any persons wishing to speak today to please stand so she could swear them in.

Lisa Smith
1550 E 2500 N Road
Blue Mound, IL

Mrs. Smith stated she is here again and has some handouts for the board members. She stated the last time they were here, they did not have the engineers report, the health department paperwork, there are some drawing in the handout for the floorplan which the health department is reviewing. She stated they could make changes to any of that because right now it is just a

blank slate. They can move things around if needed. She did send the answers to Kathy Wade's questions over to the health department. She stated there is a signed paper from the cemetery trustees, who are present today. They have had the septic people out. They had dirt samples done and they had the area looked at for adequate space for a new septic system to which they said should not be a problem on the East side of the building. She stated there is a letter from the septic company in the packet she handed out. She stated the only thing is, they might need a little more parking. She does not know what the stipulations are on that right now. She stated you can see on the engineers plan how many parking spaces they have allotted. She does not know what the board specifies she needs. She stated they want a coffee house on the main level and a kitchen in the basement and then half of the basement will be a beauty salon. They will have handicapped accessible bathrooms on the main level and there is already one in the basement.

Bill Koretke asked her to point out the location of the new septic on the map.

Mrs. Smith pointed this out and stated it will be on the East side of the building, it doesn't look very big, but it is big enough to put in a septic tank and the laterals. She isn't sure where the laterals will be but the contractor knows where they are putting their parking. She stated right now, the septic tank is on the West side. It was put in a long time ago and is below the basement because it is gravity flow.

Mr. Koretke asked if the old septic system would be disconnected.

Mrs. Smith stated she does not know what he is going to do, but whatever they need to do, that is what will be done. She does not know what has to be done with the old...

Mr. Koretke stated this is one of the questions that was raised is that can you have a parking area over a septic field and lateral lines.

Mr. Smith stated they do not know exactly, they think it is on the West side.

Mrs. Smith asked if they have to do something to it, they are not going to use it. It will be disconnected and not used.

Mr. Baggett reminded Chair Lamont that if there is going to be anyone else testifying, he will need to be sworn in and come up to the microphone to speak so that we can record it for the purposes of the evidence in the hearing.

Chair Lamont swore Mr. Smith in at this time.

Mrs. Wade from the Health Department stated the old system, the tank will have to be crushed and filled. As far as the field tile, they are not going to do anything with that because that could affect somebody down line from the field tile but the tank itself will need to be crushed and filled.

Mr. Koretke asked so there are no laterals.

Mrs. Wade stated no, from what she understands it is a straight field tile, it is an illegal system currently.

Mr. Koretke stated so it will have to be remedied one way or another.

Mrs. Wade stated that is correct.

Mr. Koretke asked if we are specifying.

Mrs. Wade stated we could when it comes to the septic application being turned in from the contractor, we can make sure that we put on there as a contingency that they must take care of the tank.

Mr. Noland asked once it is crushed and filled will it be fine to be driven over.

Mrs. Wade stated that is correct, but with the field tile that is over there, you may be crushing the field tile by putting the weight of vehicles on it which could affect somebody down the road also. Depending how deep the field tile is.

Mr. Koretke asked if we even know which way the field tiles run.

Mrs. Wade stated she does not, and she did not ask the contractor yesterday about that.

Mr. Baggett stated he wanted to make sure we are clear, as far as any stipulations; the board does not have to stipulate this on the special use permit. The special use permit includes a condition or stipulation that they comply with any and all federal, state, local ordinances and regulations, which would include our septic ordinance. Mr. Baggett stated he thinks it is a bit overkill and duplicative for the ZBA to impose that as a condition on the special use when he thinks it is already taken care of.

Mr. Smith asked if the tile itself would need to be plugged.

Mrs. Wade stated she would leave that up to the contractor to decide based on what he sees once he gets things uncovered. She stated she could not answer that right now.

Mrs. Gunter stated from the sketch they provided, it looks like they will be going out and purchasing the land to the...where is the cutoff where the existing land lays and what they will be purchasing extra.

Mrs. Smith pointed some areas out on the map for Mrs. Gunter.

Mrs. Gunter asked if they are proposing to purchase all the way over to the lane.

Mrs. Smith stated yes, purchase or lease the land.

Mrs. Gunter stated all of their parking needs to be on their parcel.

Mr. Smith asked even if they lease the land.

Mrs. Gunter stated the ordinance says all of your parking has to be on your own parcel.

Mrs. Smith asked, so you cannot lease land to park on.

Mrs. Gunter stated not for a commercial business, this is what was discussed at the last meeting.

Mr. Smith asked then how is it done here, all of these businesses downtown.

Mrs. Gunter stated that is all City of Decatur parking.

Mr. Baggett stated he thinks what Mrs. Gunter is getting at is there are different regulations that work within the City then there are within the County. The County's ordinance applies outside the incorporated limits of the City of Decatur, but the City has its own rules. They can do whatever they want and they do not have to be anything similar to what the County does. He stated in their situation in Blue Mound, they have to follow the County's rules.

Mr. Smith said ok, so we have to own the property.

Mrs. Gunter stated yes, on 155.200 Sec. H, all parking spaces required to serve building or uses erected or established after the effective date of this chapter shall be located on the same lot as a building or use served.

Mr. Smith said ok.

Mr. Noland asked if there is a minimum amount of parking they would need to have and then they can have additional auxiliary lot.

Mrs. Gunter stated in the ordinance it states the different uses of the land, this does not fall under any of the uses, the commercial uses that the ordinance says. All it says is parking spaces for permitted uses or special use is not listed above, shall be provided in accordance with requirements designated by the board. She stated at the last meeting they mentioned having around seven employees at one time, that is seven parking spots right there and that does not include your customers yet.

Chair Lamont asked Mrs. Smith if they said seven employees at one time or is that total.

Mrs. Smith stated that was total.

Mr. Noland asked how many would be staffed at one time.

Mrs. Smith stated she was thinking five, counting the person in the salon.

Mrs. Wade stated when she talked to the septic contractor this morning, they are basing their septic system on 25 customers and that is the number they are going by.

Mr. Noland asked if that is 25 per day, not 25 at once right because customer parking wouldn't have to be based on the septic use at one time, it's per day that you could have 25 people coming individually at different hours.

Mrs. Wade stated that is correct.

Mr. Noland stated so the ordinance is saying if you are going to have five employees, you have to have a minimum of five parking spaces and then at least one additional parking space for a customer.

Mrs. Gunter stated the designation is up to the board.

Mr. Koretke asked Mrs. Smith to go over her sketch and point out the handicapped spots and the additional parking.

Mr. Koretke asked if part of the parking is off their property.

Mr. Smith stated yes, when they talked to cemetery board, they talked about using an area, and the cemetery board had no problem at the time, but now it is being said they have to own it. He stated they would need to discuss that and see if it is even possible. They thought maybe they could put a long-term lease on it and use it, that way they are not selling it. He does not even know if they can sell it.

Debra Kraft stated she is on both the EEHW committee and the County Board. She would like to ask what the current property is with the purchase of the building.

Chair Lamont stated it is the portion on the map outlined in red.

Mrs. Kraft asked Mrs. Smith to point out how much farther are they planning on going to west from their property line.

Mrs. Smith pointed this area out on the map.

Mr. Koretke asked how many burial plots is that. They had previously stated they could purchase the burial plots.

Mrs. Smith stated if that is how they want to sell it. She does not know how they want to do it.

Mrs. Kraft asked so the new septic system will have to go out to the East where there are current gravesites.

Mrs. Smith stated there are no graves there. She stated they have to move the septic system because you cannot drive over it plus the septic system is just outdated.

Mr. Koretke asked where the building runoff is, how do the gutters drain.

Mrs. Smith stated she is not sure.

Mr. Koretke said the only reason he is asking is that their lateral lines are close to the building.

Chair Lamont asked Mr. Smith how many burial plots are in the area they are talking about.

Mr. Smith brought a map of the cemetery lots to show. He stated there is an area already designated as a parking lot and he pointed all of this out on the cemetery map. He stated 74x92 is what they are looking at.

At this time, the board members and Mr. Smith went over the cemetery map.

Mr. Noland asked if all the parcels they own need to be connected. He stated there are open burial sites...could they purchase to meet the minimum they need for parking.

Mr. Noland discussed this with Mr. Baggett referring to the cemetery map.

Mr. Baggett stated we might have an alternative solution to the parking. Looking at our zoning ordinance, Section 155.027 part C gives the Zoning Board of Appeals the authority to grant a variance, which would allow for parking to occur off-site. He stated the board is allowed to grant variances in certain situations which where they find there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations. The strict letter of the regulation here under 155.200 is that all parking spaces required to serve buildings or uses have to be located on the same lot as the building or use served. Well this lot is too small to allow for parking spaces. If the County Board were to approve the special use permit allowing the business, which would require the parking spaces, it would be impractical and in fact impossible given the size of the lot for that to occur. The Zoning Board of Appeals could grant a variance under .027 which would allow for the use of an alternative lot, again he thinks it would need to be adjacent, but an alternative lot for the parking. Obviously, we would need the owners of the other lot to sign off on it at the least; they probably should be included in the petition for the variance. He stated he is not going to get between the parties and determine who pays for the application for variance; he will let them work that out amongst themselves.

Chair Lamont asked since that is an alternative would the board need to have another hearing for the variance.

Mr. Baggett stated that is correct, his suggestion would be that the special use permit application be tabled at this time, in fact he is not even sure they necessarily have to do that considering it is on remand right now from the County Board but take no action today, allow the petitioners to file a petition or a request for a variance and then take them up at the same time. The Zoning Board of Appeals has the primary authority to grant a variance. The ZBA would make the decision on the variance before the special use permit goes to the board that way if the variance

is allowed then the board will know at the time it votes on the special use permit that the parking situation has been accounted for. He asked if anyone had any questions or concerns.

Mrs. Smith stated this sounded wonderful and she is in total agreement.

Mr. Baggett asked Mr. Noland if this addressed his concerns.

Mr. Noland stated yes it did.

Mrs. Wade wanted to point out some of the areas that have been discussed with the septic contractor and then her concern with the well and the drive through. She pointed out on the map where the septic contractor believes he will be able to fit the septic system and what is needed. It will be a 1000 gallon tank, approximately her best guess is anywhere from 120-150 linear feet. She will request that the cemetery board okay this because she knows the standard is most gravesites go to the East but she does not want to get into a situation that as they are digging to install a septic system and they come across a casket. She does not want to go through that so she does make sure with the cemetery board that everything is going to the East. The other thing is, she pointed out where the well is located and that the driveway is right over it. Her concern is someone driving over the well, uncapping it, they will have to be part of the non-community public water supply with the State of Illinois, Illinois Department of Public Health, those have their own requirements too that requires testing with them. She stated these are the two big concerns. She stated hopefully they could fit it in; it is going to be very very tight. You figure you've got five feet away from a building, 5 feet from the property line, 9-foot centers; it is going to be tight to get that in. She stated in fact, the contractor is thinking he will need to curve it so it will not be a straight line as most laterals are. It will kind of have a curve to it just to be able to get it to fit.

Mr. Koretke asked about roof run off because you cannot have the lateral lines....

Mrs. Wade stated they would have to come up with something, a resolution to that themselves.

Mr. Koretke asked if she is saying the well has to be protected.

Mrs. Wade stated they would ask that the well be protected simply because it is right there next to the drive through. She stated this is located out in the country, the roads don't get cleaned as quickly in the winter time as the main roads so it could be very easy that somebody just accidentally runs right over the well and at that point in time, the water is now at jeopardy so they would have to close the entire facility down until it is repaired. You cannot have an open well serving at a restaurant.

Mr. Koretke asked if there has been any testing on the well.

Mrs. Smith stated not yet, she has a form from the health department that she needs to fill out and send to the state and then they will come out and test it. The well is not extremely old or anything, it is a fairly new well so she thinks...

Mrs. Wade stated she looked in her records, which go back to 1991, and she does not have any records for a well.

Mr. Koretke asked if they knew whether it is tile or tubular...

Mrs. Wade stated she has no idea about that well, she has no records. For all she knows, it could be a hand-dug brick well.

Mr. Smith stated the surface casing is standard drilled well casing, he does not know what is below it. Just taking the lid off is all he would have to do. He stated it is already protected with I-beams around it. What they can do is make that stronger, but it has been there for a long time and has never been hit to this point and there is traffic now. When they had church there, he is pretty sure they parked over in the area.

Mrs. Smith stated she was thinking about putting concrete pillars around it.

Mr. Smith told her she wanted metal, not concrete.

Mrs. Smith said whatever she needs. She does not want anyone running into it so she was going to put something bright around it. She said they would do whatever they are needed to do.

At this time, Chair Lamont swore a person in who wished to speak.

Robert Funk
President of the Cemetery

Mr. Funk stated his concerns; they have already talked to the Smith's about buying some property. The concern today is the septic system and where it will be located. According to what has been said, it will be located on the East side on the Northeast corner...

Mrs. Smith pointed on the map where it would be located.

Mrs. Wade stated it would possibly curve around.

Mr. Funk stated he does not know where the laterals will be but according to the survey property lines when the church was separated from the cemetery, there is probably only about fifteen feet on the East side of the church that belongs to the church property. There are graves within about twenty feet of that property line. As far as purchasing additional land, when the church was separated from the cemetery, that area is marked for graves and the property line now takes out part of them, not all of it. He stated they did talk to the Smith's and they agreed to consider selling them some more property on the West side where the parking lot is. Currently there are no gravesites sold in that area but due to respect of the cemetery, the people that are buried there and their families, they want to do the right thing for them and they would also like to help the Smiths.

Mr. Koretke stated Mr. Funk has not answered anything, he kind of waffled there.

Mr. Funk stated he knows.

Mr. Koretke asked if the cemetery is willing to sell more property to the Smiths...

Mr. Funk stated it would be on the West side, not the East side because that area is close to the graves. He stated they did not discuss anything on the East side. He stated the West side is marked for graves but currently nobody has purchased a lot or grave in that area.

Mr. Koretke asked if they are allowed to sell property to them. Right now, it is just a verbal agreement.

Mr. Funk stated yes, they have not signed anything saying they would absolutely sell them property. It was considered, and they talked about it.

Mr. Koretke asked if he is a member of the cemetery board.

Mr. Funk stated he is President of the cemetery board.

Mrs. Gunter asked Mr. Funk if they would consider doing the variance that was discussed earlier.

Mrs. Smith told Mr. Funk it would be leasing some of that land to park on.

Mr. Baggett stated it may be pre-mature to take this to the County Board or to EEHW as far as a resolution. He stated it could certainly be discussed. He will leave that up to the board members whether they want to discuss or have her discuss what happened here today at the EEHW meeting tomorrow. That is perfectly fine but of course there would be no need for them to take action at EEHW's meeting tomorrow.

Mrs. Gunter stated okay.

Mrs. Wade stated according to code, the laterals have to be five feet away from the building and five feet away from the property line. There have to be nine-foot separate between the lateral runs and that is not taking into account the width of the laterals themselves. She stated right there, they are at nineteen feet.

Mr. Koretke asked what is the distance on the East side from the building to the property line.

Mrs. Smith stated she assumed Park's Sewer Service knew the regulations for Macon County when they went out and measured.

Mrs. Wade stated Park's does know, they are a licensed septic contractor in the State of Illinois. She thinks the question is probably exactly where is the lot line for sure instead of guesstimating it, they probably need to get out there and measure it and mark it properly so that they know. Just going off the five and five and the nine, that is nineteen feet right there and that is not

including any of the laterals. They are normally two feet each, they will have two runs, and that is an additional four-foot minimum.

Chair Lamont stated the board really needs to wait to see if there is enough room.

Mr. Smith stated they would get it; he will get it laid out for Parks to make sure it will fit.

Mrs. Wade stated she is looking in the state code to see if there is any variance to where they do not need a nine feet separation between lateral runs but she has not found it yet.

Chair Lamont stated the board is going to hold off on doing anything with this until they can get the variance application filed too and they will take care of it at a later date, which would be...

Mrs. Gunter stated the deadline, if they apply for a variance, the deadline to submit would be July 3rd, and then it would go for August 1st Zoning Board of Appeals hearing.

Mr. Koretke stated we are continuing to table.

Chair Lamont agreed and asked Mr. Baggett if they were correct.

Mr. Baggett stated there is no need to necessarily table it, there is not a motion on the floor to vote so we can adjourn the hearing and it will come back as old business but on the August agenda.

Chair Lamont announced everything is continuing until the rest of the paper work is filed and we have a hearing August 1, 2018. The deadline for filing the application is July 3, 2018.

Mrs. Gunter thanked the board for attending the special meeting and stated we have two hearings for the July 11th meeting.

ADJOURNMENT: Bill Koretke made the motion to adjourn; Blake Noland seconded. All members present voting, Aye. Motion Carried. (4-0). Meeting adjourned at approximately 9:13 A.M.

Minutes submitted by Tracy Sumpter, Macon County Planning and Zoning Dept.