

MACON COUNTY ZONING BOARD OF APPEALS

HEARING MINUTES – December 5, 2018

MEMBERS PRESENT

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

COUNTY PERSONNEL PRESENT

Jennifer Gunter, Planning & Zoning Director
Tracy Sumpster, Planning & Zoning
Debra Kraft, Vice Chair County Board

MEMBERS ABSENT

Andy Freeland
Ed Leonard, Alternate Member

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

MINUTES

Bill Koretke made the motion to approve November 7, 2018 minutes, seconded by Blake Noland. All members present answering, Aye. Motion Carried (5-0).

OLD BUSINESS:

4.1 AMENDED PETITION:

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 Zoning Board Appeals heard additional information at the November 7, 2018 hearing. EEHW on November 15, 2018 voted to deny the petition and it goes to the full County Board December 13, 2018.

4.2 S-01-11-18 a petition filed by Kenny Ferguson requesting a Special Use Permit to store construction and excavation equipment on the property when not in use in (A-1) Agricultural Zoning. The property is commonly located at 2640 Sangamon Road, Decatur, IL 62521. PIN 14-13-03-176-013

Mrs. Gunter stated Zoning Board of Appeals voted to deny the petition on November 7, 2018, EEHW approved the petition November 15, 2018 and it goes to full County Board December 13, 2018.

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

NEW BUSINESS:

- 5.1** R-02-11-18 a petition filed by Douglas Henderson for rezoning approximately 5.11 acres from (R-4) Single Family Residential Zoning to (RE-5) Single Family Estate Zoning. The property is commonly located at 4129 N Prairie View Road, Oakley, IL 62501.
PIN 14-08-26-428-004

Christine Henderson
4129 N Prairie View Road
Oakley, IL 62501

Mrs. Henderson first provided a handout to the board members, which included some letters of support, one from their realtor, and then a couple from previous neighbors. She stated they are new to the area they are in and when they purchased the property, they were not aware it was zoned R-4. She stated this has been a really difficult process, they also had a fire this year and this has brought some unexpected difficulties. She explained that the map she provided in her packet is color-coded, the blue shows all of the ag zoned areas around their property and she pointed out where their property is located on that map. She stated they are already surrounded by a lot of ag zoned properties and estate-zoned properties. She stated they are not requesting something out of the ordinary, they live in a rural area and are currently surrounded on all of the sides by agriculturally zoned properties. There are other neighbors in her area that have poultry and livestock and their request is so that they can have that opportunity for their family and property. She stated she did the color-coding of the map to just kind of indicate; she stated when you look at just their property, you might think this is a residential area but the property they are included in is surrounded by farm ground and some estate zoned areas as well. She just wanted to kind of show that because it is kind of hard to see when just looking at their property on the parcel viewer. They included the letters from their neighbors just because they are new to the area. She stated they had to go through the Oakley Township and it was literally every single neighbor they have because they have all lived there for a significant amount of time. She stated they are the newest; there is another set of neighbors close to them that have not been there much longer than they have and then seven years is the newest. She stated it is a permanent house, they bought this as a forever house. She stated you cannot foretell the future just like neighbors do not know if they will sell their property, she stated they do not have that intention, they will have a brand new house on this property and do not have any intention of going anywhere and they want to have the opportunity that others have in their community to have to make decisions for their property. She point out on the map that they do not have any outbuildings on their property and no plans for any kind of commercial farming. They just want to have the opportunity to make those decisions as they move forward in the future. She pointed out on the map where there is a little chicken house and bunny hutch, and that is kind of what their intention is, is just 4-H animals for the kids and more homestead lifestyle.

Bill Koretke asked her to point out on the map where the chicken coop is located. (Northwest corner of the property). She stated neither of the structures are permanent, they are both mobile. She stated when they placed them, they were not aware that they needed to be 75 feet from the property line and so they wanted to make sure they were portable in case they needed to move them.

Bill Koretke asked if they are still there.

Mrs. Henderson stated they are, but they do not have any animals in them; they are empty. She stated the reason for their petition is, after they had just bought some chicks, the day before their fire happened and they happened to survive the fire. She stated her in-laws kept them in Cerro Gordo but they got too big for the enclosure so they moved the chicken house to their house and put the chickens on their property. She stated they had a neighbor complain. She stated they did send letters to all of the neighbors just with their contact information because they were getting ready to start reconstruction of their home. She stated nobody contacted them complaining but they did have other neighbors contact them and say they did not have a problem with the chickens. She stated because the person that did not contact them didn't come forward, they wanted to make sure they were moving ahead so that in the future, if they decided they wanted to have chickens, it wouldn't be an issue and they were following all of the proper legal steps they needed to in order to have that opportunity.

Bill Koretke asked if she knew which neighbor.

Mrs. Henderson stated they found out it was not actually any of the neighbors around their property. She stated it was a neighbor further west, the neighbor saw the chickens when she was driving down the road and knew that it was not allowed and so she complained.

Bill Koretke asked if the chickens were running loose.

Mrs. Henderson stated no, they were in an enclosure, she just saw the chicken house enclosure from the road (Star Route Road) when she was driving around and so she complained. Mrs. Henderson stated she had heard that from another neighbor at the Oakley Township meeting.

Bill Koretke asked what the Oakley Board decided.

Mrs. Henderson stated they voted no but they said they would recommend a special use permit. She stated the reason they didn't request that is because their understanding was that had to be renewed and could be revoked upon complaints from neighbors so they did not want to apply for something that still was relying on neighbors that have already proved that they are not able or willing to communicate with them if there is a difficulty. She stated they plan to be great neighbors, they have been great neighbors in the past and that is why she provided the letters to the board. She stated they felt like if they are already in a situation where the neighbors are showing unwillingness to communicate, then she and her family do not want to give them that opportunity in the future.

Mrs. Gunter stated to clarify, if the Henderson's had come in for a Special Use permit, the Oakley Planning Commission does not always follow and go with the rules of Macon County Zoning Ordinance. She stated we normally do not give a Special Use permits for the keeping of livestock, normally our special use permits pertain more to running a business on the property, that kind of thing. She stated if they had come in, she would have been the mean one and said no, we would go for the rezoning on this because it is a use on the property.

Mrs. Henderson stated a lot of the meeting, it is new, the Oakley Township Zoning is new, and they are still getting their feet underneath them and learning.

Mrs. Gunter stated no, they have been there for a long time.

Mrs. Henderson stated they said they are new to using it as a means to....at least that is what they were told.

Bill Koretke stated they have five or six adjacent properties, out of those, did they get any letters of support.

Mrs. Henderson stated they did not ask because they are still neighbors and they did not want it to be a negative thing. They did not ask for letters of support from their neighbors. She stated they do know that they had two neighbors opposing; the neighbor that complained and the neighbor directly to the north (Debbie Greenwood).

Bill Koretke stated Ms. Greenwood defined the problem because if you rezone the property, then the next owner ten years from now can put a horse or several horses out there and that would create a real problem.

Mrs. Henderson stated it would, earlier this year, she thinks in September, they had a horse loose on Prairie View Road, which is the road they live on, that their neighbors were running into. She stated all of those houses are zoned for residential zoning so, she stated they are in a rule area and those kind of things are still happening that are not specific to the zoning of the property.

Bill Koretke stated the problem is that it remains, in other words, the next owner will have the right to have any kind of livestock. He stated the board could not restrict what type of livestock. He stated he would be all for them having a bunny pen and a chicken coop if they kept the animals away from their northern property owners. He stated that would be great, but the board cannot control what the Henderson's do with the rezoning.

Mrs. Henderson stated that is correct, as far as keeping any animals away, the way their property sits, is if they were to put a livestock building on the property they would not be able to put it anywhere near that property line. It would have to be on the southern part of their property and it would not be close to any of the residences.

Bill Koretke stated it would be within 75 feet of their back property lines.

Mrs. Gunter stated the Henderson's property is 353 feet wide.

Bill Koretke asked Mrs. Henderson how many of her neighbors have dogs.

Mrs. Henderson stated she knows of two of the property owners that have dogs, one of them uses their property to walk her dog and then they have many dogs that are loose in the area; it is rural so people kind of just leave them outside.

Bill Koretke stated he has chickens, dogs and chickens can be a problem.

Mrs. Henderson stated she agrees with that but that is their right to have the dog just as she would like it to be their opportunity to have the chickens.

Blake Noland stated he had a question about the Oakley Township side of things. He asked Mrs. Gunter if the agricultural places were on the outside because Oakley Township is pretty good size. He asked if it is homeowner's association that is saying you cannot....

Mrs. Gunter stated no, Oakley Township is the only township in Macon County that has a planning commission so anything that goes on in Oakley Township has to be approved by their planning commission and then goes to Oakley Township Board. She stated it is the only township in the county that has that.

Blake Noland stated so it designed like as if it was a town, if you have to get a rezoning to get a porch put back on, is that the same.

Mrs. Gunter stated they do not have to go through them for permits, it is just if you are wanting to change anything like a rezoning, variance or special use permit, anything that comes to the Zoning Board of Appeals would need to go through the Oakley Township Planning Commission, not building permits. She stated that is how it is designed; it is just an extra hoop you have to jump through.

Mrs. Henderson stated the board was nice enough to call them, but they did not know that was a thing.

Mrs. Gunter stated yes, that is the only township that has it in Macon County.

Blake Noland stated okay so the whole township is in, it is not like it is a curved out HOA situation?

Mrs. Gunter stated no, it is just the township.

Mrs. Gunter was called on to present her finding of facts.

Petition: For rezoning, approximate 5.11 acres from (R-4) Single Family Residential Zoning to (RE-5) Single Family Estate Zoning.

Parcel Number: 14-08-26-428-004

Location: This property is located at 4129 N. Prairie View Road in Oakley Township.

Acreage: 5.11 Acres

Zoning: R-4 Single Family Residential

Finding of Facts

- This is a rezoning from (R-4) Single Family Residential Zoning to (RE-5) Single Family Estate Zoning.
- The rezoning is needed because the landowner wants to keep small animals such as chickens and bunnies. The Macon County Zoning Ordinance Section 155.118 (C)(1)(b) states:
The keeping of livestock or poultry, providing that any structure, excluding fences for their shelter, shall be located not less than 75 feet from any street or lot line.
- The surrounding properties are zoned: (R-4) Single Family Residential to the east, west, south, and north.
- There is no floodplain located on the property.
- The Oakley Planning Commission and the Oakley Township Board met on October 22, 2018 and recommended denial of the rezoning petition.

Mrs. Gunter added they did not give any reason for the denial.

- There were three letters of support submitted with the petition.
- Our office received one letter of opposition for the petition.

EFFECTS ON GENERAL WELFARE: None

EFFECTS ON NEARBY PROPERTY: None

EFFECT ON DEVELOPMENT OF SURROUNDING PROPERTY: None

ADEQUACY OF UTILITIES & FACILITIES: Shall conform to Macon County Ordinance Rules and Regulations.

INGRESS & EGRESS: Adequate if used properly.

CONFORMITY TO REGULATIONS: With the passage of the rezoning by the Macon County Board, the property will conform.

STAFF RECOMMENDATION: While you may vote to recommend approval or denial of this petition, staff has inspected the property and staff recommends **approval** of rezoning approximate 5.11 acres from (R-4) Single Family Residential Zoning to (RE-5) Single Family Estate Zoning.

Bill Koretke asked Mrs. Gunter why she is recommending approval; in other words, does she think there is enough room there.

Mrs. Gunter stated she thinks there is enough room on the southern portion of the property. She point this out on the map and added this property is 5 acres. She stated there are animals that are all around the area. There are other places that have these that are not zoned for it. She stated she understands that if the board does rezone this, they can have a horse or whatever, but they cannot have 30 horses on the property. That goes through the Department of Ag, if someone moves in there and puts 30 head on there, that is the Department of Ag that enforces how many horses they can have per acre.

Bill Koretke asked if the board could add any stipulations as to fencing or anything.

Mrs. Gunter stated not for rezoning. Their fencing can be up on the property lines and with it being RE-5, it can be the electrical fence if they do choose to have a horse later on.

Chair Lamont asked if Timmerman's property to the west is zoned R-4 also.

Mrs. Gunter stated yes.

Chair Lamont stated well consider what he has across the street.

Blake Noland made the motion to approve the petition, seconded by Ron Grider. All members present voting, Aye. Motion carried (5-0).

At this time, Chair Lamont gave Mrs. Henderson her process letter, which explains the next steps in the process.

Mrs. Gunter explained this is the first step, it will go to the EEHW meeting on December 27th @ 5:30 and then to the Macon County Board meeting on January 10, 2019. She stated Macon County Board has the final vote on the rezoning. She stated it is not mandatory for them to attend the next meetings but she highly suggests for them to be there in case there are any questions that need to be answered.

5.2 R-01-12-18 a petition filed by Michael & Linda Mathis for rezoning approximately 5.01 acres from (A-1) Agricultural Zoning to (RE-5) Single Family Estate Zoning.

PIN 06-11-13-476-009

- 5.3** V-02-12-18 a petition filed by Michael Mathis requesting the required road frontage be changed from 60 feet to 57 feet in (R-1) Single Family Residential Zoning. The property is commonly located at Wyckles Road, Decatur, IL 62522.
PIN 06-11-13-476-007

Michael Mathis
445 S Wyckles Rd
Decatur, IL

Mr. Mathis stated he is here today seeking reclassification/rezoning/variance on two lots. He pointed these properties out on the map. He stated the lot he is seeking a variance for is 2 feet short on road frontage and it will serve as ingress and egress to the 5-acre lot. He stated since the 5-acre lot is zoned (A-1) he understands he cannot build on it because it would need to be at least 10 acres. He wants to make it a building site.

Bill Koretke asked what he plans to build.

Mr. Mathis stated if he builds, it would be a residential home. He stated it has an excellent area to create a 2-acre pond and would make a nice building site. He stated the smaller lot is 265 feet and the only lot that actually juts back into the 5 acres. He stated it is almost like it was made to be a driveway for those 5 acres. He pointed out on the map the only access he has right now. He stated he is looking to get a variance on the smaller lot because he is 2.6 feet short and then rezone from (A-1) to (RE-5) on the 5 acre lot where a home can be built. He stated he does not know that he will build the home or if a family member will build or may be actually sold to build a home. He stated a lot of that has just not been decided yet.

Bill Koretke asked if he had city water out there.

Mr. Mathis stated he has city water at his residence, which is the Village of Harristown, but the lots would be wells.

Chair Lamont asked about the southern edge of the 5 acres, she wondered if it had been excavated. She stated it looked like it had been cleared a little bit.

Mr. Mathis stated it is just the way the timberline goes.

Mrs. Gunter was called on to present her finding of facts. She stated she would start with the rezoning.

Petition: For rezoning, approximate 5.01 acres from (A-1) Agricultural Zoning to (RE-5) Single Family Estate Zoning.

Parcel Number: 06-11-13-476-009

Location: This property is located on Wyckles Road in Harristown Township.
Acreage: 5.01 Acres
Zoning: A-1 Agricultural Zoning

Finding of Facts

- This is a rezoning from (A-1) Agricultural Zoning to (RE-5) Single Family Estate Zoning.
- This 5.01-acre lot is a non-conforming lot, which cannot be built on due to lot size and road access.
- The rezoning is requested because the landowner wants to sell this property for a future home to be built on the property and to be able to have livestock if desired.
- The surrounding properties are zoned: Municipal (Village of Harristown) to the north, (A-1) Agricultural to the west, (M-1) Light Industrial to the south, and (R-1) Single Family Residential to the east.
- A LESA score was calculated by the Director of Planning & Zoning. This is needed when a property is being zoned from an Agriculture zoning classification. The score for this property totaled 129.5 points, which suggests the properties suitability shall be deemed acceptable for non-agricultural development.
- There is no floodplain located on the property.

EFFECTS ON GENERAL WELFARE: None

EFFECTS ON NEARBY PROPERTY: None

EFFECT ON DEVELOPMENT OF SURROUNDING PROPERTY: None

ADEQUACY OF UTILITIES & FACILITIES: Shall conform to Macon County Ordinance Rules and Regulations.

INGRESS & EGRESS: Adequate if used properly.

CONFORMITY TO REGULATIONS: With the passage of the rezoning by the Macon County Board, the property will conform.

STAFF RECOMMENDATION: While you may vote to recommend approval or denial of this petition, staff has inspected the property and staff recommends **approval**

of rezoning approximate 5.01 acres from (A-1) Agricultural Zoning to (RE-5) Single Family Estate Zoning.

Dennis Hughes asked Mrs. Gunter if there is any way to attach the properties as one.

Mrs. Gunter stated you could do that through a parcel combination.

Blake Noland made the motion to approve the petition, seconded by Bill Koretke. All members present voting, Aye. Motion carried (5-0).

Mrs. Gunter was now called on to present her finding of facts on the variance petition.

Petition: For a Variance, requesting the required road frontage be changed from 60 feet to 57 feet in (R-1) Single Family Residential Zoning.

Parcel Number: 06-11-13-476-007

Location: This property is commonly located on Wyckles Road in Harristown Township.

Zoning: R-1 Single Family Residential

Acreage: 1.0 Acre

Finding of Facts

- Petitioner wants to build a driveway to get to other property.
- The variance is needed to allow road frontage access to the adjoining property the landowner owns. Under the Macon County Zoning Ordinance, Section 155.183 states the minimum lot width shall be 100 feet. However, in the Macon County Zoning Ordinance, under definition of a lot states for residential purposes, the lot shall abut on a street or place for at least 60% of the lot width.
- There is no floodplain on the property.

EFFECTS ON GENERAL WELFARE: None

EFFECTS ON NEARBY PROPERTY: None

EFFECT ON DEVELOPMENT OF SURROUNDING PROPERTY: None

ADEQUACY OF UTILITIES & FACILITIES: Correct

INGRESS & EGRESS: Already existing.

CONFORMITY TO REGULATIONS: With the passage of the Variance, the property will conform.

STAFF RECOMMENDATION: You may vote to approve or deny this petition, or amend as appropriate. Staff has been on site and Staff recommends approval for a variance requesting for the required road frontage be changed from 60 feet to 57 feet in (R-1) Single Family Residential Zoning.

Blake Noland made the motion to approve the petition, seconded by Ron Grider. All members present voting, Aye. Motion carried (5-0).

At this time, Chair Lamont gave Mr. Mathis his process letter, which explains the next steps in the process.

CITIZENS COMMENTS: None.

Chair Lamont asked Mrs. Gunter if the board has anything for next month.

Mrs. Gunter stated we have two petitions for next month.

ADJOURNMENT: Bill Koretke made the motion to adjourn; Blake Noland seconded. All members present voting, Aye. Motion Carried. (5-0). Meeting adjourned at approximately 9:00 A.M.

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