

MACON COUNTY ZONING BOARD OF APPEALS

HEARING MINUTES – May 3, 2017

MEMBERS PRESENT

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

COUNTY PERSONNEL PRESENT

Jennifer Hoffman, Planning & Zoning Director
Tracy Sumpter, Planning & Zoning
Michael Baggett, Assistant States Attorney

MEMBERS ABSENT

Donald Wilson
Ed Leonard, Alternate Member

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

MINUTES

Bill Koretke made the motion to approve the April 5, 2017 minutes, seconded by Blake Noland. All members present answering, Aye. Motion Carried (5-0).

OLD BUSINESS:

- 4.1** V-01-04-17 a petition filed by Randy Meyer requesting the required minimum lot size be changed from 10 acres to 2 acres in (A-1) Agricultural Zoning. This property is commonly known as 5865 E. Crosson Rd, Macon, IL 62544 in Mt. Zion Township
PIN 11-21-15-200-008.

Ms. Hoffman stated this petition was approved by ZBA on April 5, 2017.

- 4.2** S-02-04-17 a petition filed by C. Deadrick Development requesting the renewal of a Special Use Permit to use the property as a venue for personal and corporate celebrations. This property is commonly known as 4202 W Route 36, Decatur, IL 62521 in Decatur Township.
PIN 04-12-07-300-006

Ms. Hoffman stated this petition was approved by ZBA on April 5, 2017. EEHW approved on April 27th and it goes to the County Board May 11, 2017 for a vote.

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

NEW BUSINESS:

- 5.1 V-01-05-17 a petition filed by Norman & Deborah Burrow requesting the required front setback be changed from 35 feet to 19 ½ feet and the required side setback be changed from 10 feet to 7 feet in (R-1) Single Family Residential Zoning. This property is commonly known as 3737 W Catherine St, Decatur, IL 62526 in Decatur Township
PIN 04-12-06-427-003

Norman Burrow
3737 W Catherine St
Decatur, IL 62526

Mr. Burrow stated he wants the variance for the construction of a garage. He pointed the location out on the map and explained this is the only place on his lot he can put the garage. On the East side of his lot, he has an old foundation that is deteriorating along with a natural waterway. He stated the garage would be a little over 10 feet from the house.

Mr. Koretke asked how far back off the road is his neighbor's garage (to the East), how will his new garage line up to the neighbor's garage? Is it set back about the same distance?

Mr. Burrow stated no, the neighbor's garage is set legally according to the ordinance. He stated he would be about 19.5 feet from the front property line and about 7 from the West line. He stated he might be able to get within the setbacks from the West line, but the problem is a gas line that runs through there.

Ms. Hoffman stated she went to the site, and explained to the board members exactly where the new garage would sit.

Mr. Koretke asked why he would not want to build where the old foundation is.

Mr. Burrow stated it is deteriorated, and with the natural waterway location, he wouldn't be able to get across in the spring or with heavy rains.

Mr. Koretke stated he could not find Catherine Street, he asked if this is a mobile home.

Mr. Burrow stated no, it is a ranch.

Chair Lamont stated we did received one letter of opposition on this petition.

Ms. Hoffman was called on to present her finding of facts.

Petition: For a Variance requesting the required front setback be changed from 35 feet to 19 ½ feet and the required side setback be changed from 10 feet to 7 feet in (R-1) Single Family Residential Zoning.

Parcel Number: 04-12-06-427-003
Location: This property is commonly known as 3737 W. Catherine St in Decatur Township.
Zoning: R-1 Single Family Residential
Acreage: .50 Acres

Finding of Facts

- Petitioner wants to build a shed with a setback of 19 ½ feet off the front setback and seven feet off the side setback.
- The variance is needed to allow the shed to be built closer to the front and side property lines. Under the Macon County Zoning Ordinance, Section 155.183 states the front setback shall be 35 feet from the front property line and 10 feet from the side property line in R-1 Single Family Residential Zoning.
- We 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: 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 for the front setback to be changed from 35 feet to 19 ½ feet and the required side setback be changed from 10 feet to 7 feet in (R-1) Single Family Residential Zoning.

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

5.2 S-02-05-17 a petition filed by Brett Thompson requesting a Special Use Permit for the installation of a certified kitchen for the production of pepper sauces, jellies and salsas for potential market sale in (A-1) Agricultural Zoning. This property is commonly known as 4485 N Oakley Rd, Oakley, IL 62501 in Oakley Township.

Brett Thompson
4485 N Oakley Rd
Oakley, IL

Mr. Thompson stated they would like to put up a small building, 10 feet from their existing building for a certified kitchen. They wanted to do this in their home under the cottage law, but it is not allowed, so they will build their own kitchen to make salsas and hot sauces from their farm. He pointed out locations on the map. He stated they would like to put the new building just 10 feet from their existing building, right in line with it. The rest of the property will be farm. It is to keep it close for utilities, power, water and septic. He stated there would not be any traffic. It is only for their personal use. It is to have a clean, proper kitchen to make this product and eventually sell it at market. He stated they would deliver the goods to market, not anyone coming to their property. It is more or less a private building.

Mr. Koretke asked about the well and if they had good well water.

Mr. Thompson stated yes they do and they will have it tested and have an extremely good filtration system once they get approval. They have been in contact with the health department and are following all of the regulations. He stated it would be no different from a restaurant except that no public people will be allowed in it besides them.

Mr. Koretke asked about employees.

Mr. Thompson stated it would be himself and his wife for now, his daughter may help as well. He would like it to be a family business. His son will be doing most of the farming. It is more or less a small family business. If it were to get bigger, they would go elsewhere with it because it would be too large to be on their property.

Mr. Koretke asked if they were already doing this.

Mr. Thompson stated no.

Mr. Koretke stated so they really do not know what their sales would be.

Mr. Thompson stated they have had many friends and family sample, it is really popular, it is a very unique sauce. It is not something on the market right now. It is done a little differently. He stated it is going to cost them some money up front for a risk, but it is worth taking. If you do not take risks, you do not get rewards.

Ms. Hoffman was called on to present her finding of facts.

Petition: For a Special Use permit for the installation of a certified kitchen for the production of pepper sauces, jellies, and salsas for potential market sale.

Parcel Number: 14-08-25-200-021
Location: This property is commonly known as 4485 N. Oakley Road, Oakley, IL 62501 in Oakley Township.
Acreage: 13.04 Acres
Zoning: A-1 Agricultural Zoning

Finding of Facts

- The current owners of this property want to install a certified kitchen for the production of pepper sauces, jellies, and salsas for potential market sale.
- A special use permit is needed because the Macon County Zoning Ordinance (Section 155.008) defines a special use as a use, either private or public, which, because of its unique characteristics, cannot be properly classified as a permitted use in any particular district or districts. Therefor the Special Use Permit was needed because this property is zoned A-1 Agricultural Zoning.
- The Oakley Planning Commission met on April 17, 2017 and recommended approval of the Special Use Permit.

EFFECTS ON GENERAL WELFARE: The establishment, maintenance, or operation of this Special Use will not be detrimental to or endanger the public health, safety, welfare, and morals.

EFFECTS ON NEARBY PROPERTY: The Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish and impair property values with the neighborhood.

EFFECT ON DEVELOPMENT OF SURROUNDING PROPERTY:
The establishment of the Special Use Permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

ADEQUACY OF UTILITIES & FACILITIES: No known problems with required utilities and facilities.

INGRESS & EGRESS: No known problems with ingress and egress.

CONFORMITY TO REGULATIONS: With the passage of the Special Use Permit by the Macon County Board the property will conform.

STAFF RECOMMENDATION: You may vote to approve or deny this petition, or amend as appropriate. Staff has inspected the property and staff recommends **approval** with the following stipulations:

Stipulations:

1. This Special Use Permit constitutes a license issued to the named Petitioners only. This special use permit is not property nor does it convey any property right. This special use permit is, therefore, not assignable or transferable.
2. Employees shall be family members only.
3. Advertising sign regulations on the subject property shall comply with Macon County Zoning Ordinance.
4. Building permits shall be obtained as required.
5. An approved private sewage disposal system specifically for the commercial kitchen permitted and installed. This system must be installed prior to the opening inspection of the commercial kitchen
6. Prior to the opening inspection of the commercial kitchen, all private water systems will need to be properly constructed, and tested yearly, to ensure the supply is potable.
7. An approved plan review of the commercial kitchen will be required prior to any construction commencing.
8. Contact Illinois Department of Public Health regarding a wholesale license, and meet those requirements.
9. Said property and all operations shall remain subject to all other applicable local, county, state, and federal regulations. Failure to do so will result in revocation of this special use permit and it will be effective immediately.
10. Hours of operation for the business is 8:00 a.m. to 11 p.m. for 7 days a week.
11. This special use permit shall be for a 2 year period beginning June 8, 2017 and ending June 13, 2019.

Mr. Koretke stated they have to build the structure first which means they probably would not be operating for at least 6 months. He stated if that is the case, the special use would only be for about a year to year and a half of actual business. Mr. Koretke suggested three years.

Ms. Hoffman stated the board could amend it. She just did it for 2 years because that is what is normally done on the special use permits.

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

5.3 V-03-05-17 a petition filed by Larry Collins requesting the required side setback be changed from 50 feet to 38 feet in (A-1) Agricultural Zoning. This property is commonly known as 10980 Cemetery Rd, Argenta, IL 62501 in Friends Creek Township. PIN 05-04-30-300-001

Larry Collins
10980 Cemetery Rd
Argenta, IL 62501

Mr. Collins stated he is asking for a side setback on the south side of the property to be changed from 50 feet to 38 feet since he is too close to the front line for construction of a building to be used for storage. He stated he is allowed 50 feet from all property lines, or 60 feet from front property line to which he could be as close as 3 feet from the side. He is under 60 feet from the front, so he is will be 50 feet from the front and is asking for a variance on the south end of the property.

Mr. Koretke confirmed that the petitioner is adding a new building.

Mr. Collins stated yes. He stated they are going right next to the small building on the property, rather than trying to cut concrete and move foundations.

Chair Lamont asked if right behind the building is where the land drops off.

Mr. Collins stated yes, it has all been backfilled and grade brought up. Everything is level.

Chair Lamont stated she had been to the property and noticed that.

Mr. Collins stated they stumbled into the dirt when they did the Argenta sewer district.

Ms. Hoffman was called on to present her finding of facts.

Petition: For a Variance, requesting the required side setback be changed from 50 feet to 38 feet in (A-1) Agricultural Zoning.

Parcel Number: 05-04-30-300-001

Location: This property is commonly known as 10980 Cemetery Road in Friends Creek Township.

Zoning: A-1 Agricultural Zoning

Acreage: 1.94 Acres

Finding of Facts

- Petitioner wants to build a shed with a setback of 38 feet off the side property line.
- The variance is needed to allow the shed to be built closer to the side property lines. Under the Macon County Zoning Ordinance, Section 155.183 states the front setback shall be 50 feet from the front property line and 50 feet from the side property line in A-1 Agricultural Zoning.
- The Macon County Zoning Ordinance Section 155.051(4)(d) states that if an accessory building is not used as a residence or to store livestock and is to be set back at least 60 feet from the front property line, then the side setback may be reduced to three (3) feet. This does not apply to this property because he is only 58 feet off his front property line.
- Therefore, the variance is needed to be less than 50 feet from the side property line for (A-1) Agricultural Zoning.

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 the required side setback be changed from 50 feet to 38 feet in (A-1) Agricultural Zoning.

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

5.4 V-04-05-17 a petition filed by Jeff & Rachel Harris requesting the required minimum lot size be changed from 10 acres to 3 acres in (A-1) Agricultural Zoning. This property is commonly known as 8815 Caleb Rd, Argenta, IL 62501 in Whitmore Township. PIN 18-08-13-451-004

Jeff Harris
8815 Caleb Rd
Argenta, IL

Mr. Harris pointed out his property on the map and stated he would like to sell three acres to his kids to build a house. He stated they currently have 50 acres.

Ms. Hoffman stated the parcel they want to divide off is 20 acres.

Mr. Harris agreed.

Mr. Koretke asked if she could explain again.

Ms. Hoffman pointed out on the map the parcel that is pertaining to this petition. She stated he has two parcels, one is 30 acres and one is 20 acres. He wants to split 3 acres from the 20-acre tract.

It will be the Northeast corner of the 20-acre tract.

Mr. Koretke asked if they would have access from the current lane.

Mr. Harris stated yes. It will be for his daughter and son in law.

Ms. Hoffman was called on to present her finding of facts.

Petition: For a Variance, requesting for a minimum lot size be changed from 10 acres to 3 acres in (A-1) Agricultural Zoning.

Parcel Number: 18-08-13-451-004

Location: This property is commonly known as 8815 Caleb Road in Whitmore Township.

Zoning: A-1 Agricultural Zoning

Acreage: 20 Acres

Finding of Facts

- Petitioner wants to separate 3 acres from the existing 20 acres for the construction of a new residence. The remaining 17 acres will be left in woods.
- The variance is needed to allow the minimum lot size to be reduced from 10 acres to 3 acres. Under the Macon County Zoning Ordinance, Section 155.183 states the minimum lot size for Agriculture is 10 acres.

- The property that is proposed to be built on is not in the floodplain.

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 the minimum lot size be changed from 10 acres to 3 acres in (A-1) Agricultural Zoning.

Ms. Hoffman stated she would expand on her comment after the board votes.

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

5.5 V-05-05-17 a petition filed by Jeff & Rachel Harris requesting to change the front lot line requirement from 66 feet to 50 feet in (A-1) Agricultural Zoning. This property is commonly known as 8815 Caleb Rd, Argenta, IL 62501 in Whitmore Township. PIN 18-08-13-451-004

Ms. Hoffman stated the second variance is need for access. This is why we had to divided these up into two different variances, for the easement to get back to the property.

Mr. Freeland asked if they would be using the same easement.

Ms. Hoffman confirmed. There is already a current easement for Jeff Harris to get back to his property, they are needing to change the front lot line requirement from 66 to 50 feet for the access to get back there.

Mr. Koretke and Chair Lamont stated they did not understand.

Mr. Harris stated they already have a 50 feet easement and he understands they need the 66 feet now....

Mr. Koretke asked so the width of the roadway?

Mr. Harris confirmed. He stated they built the house about 11 years ago, back then 50 feet was ok but now it has changed.

Ms. Hoffman stated she thinks when the Harris building permit was written, nobody caught it. On the map it is drawn differently than what the deed says, so we have mapped out the deed and it is only 50 feet. There has been a lot of dividing of ground out in that area, for some reason it is drawn a different way on the map, but we go by what the actual deed states.

Mr. Koretke asked so we are just correcting...

Ms. Hoffman stated yes, he is already back there, he has gotten his permit and it is in the past but to make this one legal, it needs 66 feet of road frontage up by the road and it only has 50. The variance is to go from 66 feet to 50 feet.

Mr. Koretke asked for the whole length.

Ms. Hoffman stated we are looking at just what the road frontage is. They already have the easement written in the deed.

Ms. Hoffman was called on to present her finding of facts.

Petition: For a Variance requesting to change the front lot line requirement from 66 feet to 50 feet in (A-1) Agricultural Zoning.

Parcel Number: 18-08-13-451-004

Location: This property is commonly known as 8815 Caleb Road in Whitmore Township.

Zoning: A-1 Agricultural Zoning

Acreage: 20 Acres

Finding of Facts

- Petitioner wants to build a house but will access the property through an existing easement of 50 feet wide.
- The Macon County Zoning Ordinance Section 155.008 states in the definition the following:
Front Lot Line- The boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along a public way, where the public way is not a dedicated street, the right-of-way of the public way shall be deemed to be 66 feet, unless otherwise provided.

Public Way: A sidewalk, street, alley, highway, or other public thoroughfare whether built, dedicated, or merely an easement for road purposes.

- The variance is needed to change the front lot line requirement from 66 feet to 50 feet in (A-1) Agricultural Zoning.

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 the requesting to change the front lot line requirement from 66 feet to 50 feet in (A-1) Agricultural Zoning.

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

5.6 Discuss changing July 5, 2017 hearing date.

Chair Lamont stated Ms. Hoffman would not be able to attend the July 5th meeting, as she will be on vacation. We would like to change the date to July 12, 2017.

At this time, we do not know if we will have anything on the agenda.

Ms. Hoffman stated right now for next month we have a special use renewal. We might not even have any hearings for July.

Chair Lamont asked Mr. Baggett if we needed a motion for this.

Mr. Baggett stated the board can vote on it if they want to, it is on the agenda, just to be safe go ahead and vote on it.

Bill Koretke made the motion to approve changing the July meeting date, seconded by Dennis Hughes. All members present voting, Aye. Motion carried (5-0).

ADJOURNMENT: Andy Freeland made the motion to adjourn; Blake Noland seconded. All members present voting, Aye. Motion Carried. (5-0). Meeting adjourned at approximately 9:03 A.M.

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