

WOODFORD COUNTY ZONING BOARD OF APPEALS

Woodford County Board Room
1837 S. Main St. Eureka, IL
6:00 P. M. Tuesday, October 25, 2022

- Call to Order:

Mr. Pille called the meeting to order at 6:00 pm

- Roll Call: Teresa Gauger, Karen Krug, John Obery, Terry Pille, and Marty Clinch were present.

Mr. Pille declared a quorum present.

Others present: Erik Gibson and Lisa Jording

- Approval of minutes.

August 23, 2022

Motion to approve minutes made by Gauger, seconded by Clinch. *Motion Carried.*

- Swearing in/ Affirmation – Completed for each petitioner.

- Presentation of Petitions

#2022-17-V filed September 9, 2022, by Robyn Rocke for a Variance in rear yard setback to place a shed 2.5 ft from the property line, a reduction of 2.5 ft. in the Residential Single Family (R-1) District on .33 acres, commonly described as 110 Edgewood Rd. Eureka, Illinois.

Mr. Robyn Rocke was affirmed.

Mr. Rocke explained that the variance is for placement of a 10 x 16 garden shed 2.5 ft. from the rear property line. He discussed that the property is the lowest portion of the road, based on the slope, water runoff, and erosion this is the only location that is suitable for the placement of the shed. It will be placed next to the dog kennel which is only three ft. from the side yard and has been there for over forty years. He has discussed the placement with the neighbors, and none have any concerns. Mr. Clinch asked if erosion controls are in place. Mr. Rocke noted that they are in place. It was discussed that this will be used for storage of yard and garden tools, there will be electric to the shed.

The testimony portion of the hearing was closed.

Findings by the Zoning Board of Appeals for Petition 2022-17-V:

- A. Non-conforming uses in the same district and permitted uses in other districts shall not be considered grounds for issuance of a Variance.** Sheds are permitted in the district, there are no issues with the structure or it's placement.
- B. The granting of the Variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands or structures in the same district.** The petition is asking for a minimal request of 2.5 ft., he is trying to be a good steward of the land as it related to water runoff and erosion control.
- C. The ZBA has found that the reasons set forth in the application justify the granting of the Variance.** Placement at the back of the garden to protect the shed from water and erosion concerns justify the granting of the ordinance.
- D. The ZBA finds that the granting of the Variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.** Neighbors voiced no concerns with regard to the placement.
- E. The Variance requested is the least amount of Variance required to allow the proposed structure on the existing lot, without regard to aesthetics or personal inconvenience to the property owner.** The petitioner is trying to be a good steward of the land with relation to erosion. The placement is in the most practical and productive portion of the property.

Motion to approve petition 2022-17-V for a variance reducing the rear yard setback to 2.5 ft. on .33 acres in the Residential district at 110 Edgewood Rd. Eureka made by Gauger, seconded by Krug.

Roll call vote: Karen Krug – Yes, Teresa Gauger – Yes, Terry Pille – Yes, John Obery – Yes. Marty Clinch – Yes.
Motion Carried.

#2022-18-V filed September 20, 2022, by Matthew Shane for a Variance to reduce the road setback to construct a shed 33 ft. from the centerline of the road, a reduction of 32 ft. in the Residential Single Family (R-1) District on 1.50 acres, commonly described as 1253 N. Wayhi Cr. East Peoria, Illinois.

Mr. Matthew Shane was affirmed.

Mr. Shane presented that he is requesting a variance for placement of a 10 x 16 garden shed. Mr. Shane noted that there are only two flat spots on the property and that one of those locations is where the septic is located. The area that could be used slopes down if the normal setback is used. Mr. Shane noted that none of the neighbors had any concerns. Ms. Jording noted that no interested party forms were filed. It was noted that there will be no utilities to the shed, but it will be placed on a concrete slab. Mr. Pille asked about traffic flow and visibility. Ms. Jording explained that this is a court, there are three houses and driveways accessing on the court. It is not a main street. Mr. Shane noted that a previous owner tried to place a shed with stilts in the back, but it collapsed into the ravine. Mr. Shane was asked if other properties have similar sheds. He noted that other properties have had shed.

The testimony portion of the hearing was closed.

Findings by the Zoning Board of Appeals for Petition 2022-18-V:

- A. Non-conforming uses in the same district and permitted uses in other districts shall not be considered grounds for issuance of a Variance.** This is a conforming structure, there are other similar sheds in the area.
- B. The granting of the Variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands or structures in the same district.** This is the only place on the property suitable for placement of a small building. There are other similar structures in the area.
- C. The ZBA has found that the reasons set forth in the application justify the granting of the Variance.** This is not a main road and there is no concern about blocking sight lines.
- D. The ZBA finds that the granting of the Variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.** This is on a private circle drive. This will not be injurious to the area.
- E. The Variance requested is the least amount of Variance required to allow the proposed structure on the existing lot, without regard to aesthetics or personal inconvenience to the property owner.** The documentation submitted shows the shed will be appropriate for the area and that this is the only suitable location based on the lay of the lot. This is the best possible location for the building.

Motion to approve petition 2022-18-V by Matthew Shane for a Variance to reduce the road setback to construct a shed 33 ft. from the centerline of the road, a reduction of 32 ft. at 1253 N. Wayhi Cr. East Peoria, Illinois made by Gauger, seconded by Krug.

Roll call vote: Teresa Gauger – Yes, Terry Pille – Yes, John Obery – Yes. Marty Clinch – Yes, Karen Krug – Yes.
Motion Carried.

#2022-19-Z filed September 20, 2022, by Versa Press Inc. for a Map Amendment from Agriculture District (AG) to Heavy Industrial District (I-2) on 25.13 acres, commonly described as 1453 Spring Bay Rd. East Peoria, Illinois and the vacant farm ground surrounding Versa Press, Inc. 1465 Spring Bay Rd. East Peoria, Illinois.

Mr. Steve Kennel and Mr. Robert Culp were affirmed in.

Mr. Kennel explained that the business is land locked and the neighboring property has been placed for sale. They have made an offer to the landowner contingent on the map amendment. At this time, they are looking to re-zone just 5 acres, they initially applied for 25.13 acres but they plan to expand in phases and wish to farm the ground in the interim and agriculture is not permitted in Heavy Industrial. As a result they would like to formally amend the petition to the five acres immediately west of Spring Bay Rd. The reason for the map amendment is to allow for expansion of the current facility. Mr. Pille asked about drainage requirements, Ms. Jording noted that they would be looked at depending on the addition size in relation to the existing stormwater controls in place.

The testimony portion of the hearing was closed.

Findings by the Zoning Board of Appeals for Petition 2022-19-Z:

- A. Whether the proposed zoning district classification is consistent with the Woodford County Comprehensive Land Use Plan;** Once the ground is re-zoned it cannot be farmed so the petitioner is reducing the request to best use the land and be able to continue to farm the back portion of the land.
- B. Whether there are any changed or changing conditions in the area affected that make the proposed rezoning necessary;** It must be zoned as Heavy Industrial to expand the business. The amended amount of five acres is necessary to allow the required use.
- C. Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on the other properties in the immediate vicinity;** The adjoining property is like zoned, the preference is to re-zone along major routes and by like zoning, this is consistent with that plan.
- D. Whether adequate infrastructure exists or can be provided to serve the uses that would be permitted on the property if it were rezoned;** This will be new construction added to the existing building there will be sufficient infrastructure.
- E. The impact the uses, which would be permitted if the property were rezoned, will have upon the volume of vehicular traffic in the vicinity;** Based on the information provided there should not be a significant increase in traffic.
- F. Whether a reasonably viable economic use of the subject property will be denied if the proposed rezoning is not approved;** The re-zoning will allow the creation of more jobs and will have an over positive economic impact on the area.
- G. Information submitted at the public hearing.** The petition was amended to five acres. This is a prosperous business in the county and expansion will support more jobs in the county.

Motion to approve petition 2022-19-Z for Versa Press Inc. for a Map Amendment from Agriculture District (AG) to Heavy Industrial District (I-2) on the amended amount of 5 acres, commonly described as 1453 Spring Bay Rd. East Peoria, Illinois made by Gauger, seconded by Krug.

Roll call vote: Terry Pille – Yes, John Obery – Yes. Marty Clinch – Yes, Karen Krug – Yes, Teresa Gauger – Yes.
Motion Carried.

#2022-20-Z filed September 21, 2022, by Joshua Durham for a Map Amendment from Residential Single Family (R-1) District to Residential Multi Family (R-2) District on 1.14 acres, commonly described as 1316 N. Paradise Dr. Metamora, Illinois.

Mr. Joshua Durham was sworn in.

Mr. Durham explained that he purchased the property at 1316 N. Paradise Dr. thinking it was a duplex, he rented it as a duplex for several years before the County identified that it was in Single family and told him to discontinue the multi family use. Ms. Krug asked about the septic and if the Health Department identified that it was a duplex. Ms. Jording noted that the Health Department is concerned with the septic and does not check the zoning. Mr. Durham explained the information he submitted to the board, noting that he purchased the property in 2018 with the help of a relator and attorney with the intent of it being a duplex rental property. He noted the previous owner converted the property in the 90's and had been operating if as a duplex ever since without re-zoning the property. Once he was informed that it was single family, he stopped renting the second property. He discussed that he had a bad renter which caused significant issues in the area and that is likely how the neighbors discovered that it was an improperly zoned.

Mr. Clinch asked about the electrical work. Mr. Durham noted he had a contractor come in to inspect all the electrical and make sure it was up to code.

Mr. Durham discussed the other multi-family or duplex properties in the area nearby. He noted that the closest multi family is 1.2 miles away. The nearest single-family rental is .2 miles away. Ameren shows two electrical services going back to 1998.

Mr. Clinch asked about the garage. Mr. Durham noted there is a single attached garage used by one of the units. The other unit uses the double wide driveway. All utilities are separate except the water which is provided in the rent.

Mr. Pille asked how many residents there could possibly be in the property. Mr. Durham noted he restricts his lease to one person per bedroom, so he would have up to 5 people in the property. The only reason there would be more people in the units would be if there were young children.

Mr. Clinch asked about the rental applicant screening process. Mr. Durham noted that he had a bad renter that caused significant issues for himself and the neighbors. This issue is what has likely brought the duplex to the attention of the neighbors and county.

The Driveway is wide enough of two cars and deep enough for three-four cars. He notes that he does not allow the tenants to park in the road. Mr. Durham noted he is unsure what will happen to the property if this is not approved as he is unable to afford the property without two rental units. He noted that his realtor has expressed concerns over the ability to sell the property as anything other than a duplex.

Questions from Interested Parties

Mr. Dale Wilke was affirmed.

Mr. Wilke asked the size of the septic system. Mr. Durham noted that he hired a licensed septic contractor to bring they system up to code.

Mr. Cole Hoelscher was sworn.

Mr. Hoelscher asked if he ever lived in the residence. Mr. Durham said he had not. Mr. Hoelscher noted that the taxes show he is receiving an owner-occupied exemption. Mr. Hoelscher stated that he does not believe he is receiving those exemptions. Mr. Hoelscher asked if Mr. Durham was now familiar with the county website to be able to look up zoning regulations. Mr. Durham noted he is now familiar with the website.

Testimony from Interested Parties

Mr. Dale Wilke presented a packet to the board. Mr. Wilke stated he has lived on this road since 1987. He discussed the Road safety; he explained that there is a driveway and single stall garage. He has seen 6 cars in the driveway trying to back out. He discussed that the road is narrow and if people park along the shoulder, then the road is very narrow. The ditched are steep and soft. He noted that the road surface is only 17 ft wide, this causes problems with the plow

trucks getting down the road and garbage trucks traveling the road twice a week. Mr. Durham discussed that the road can be treacherous in the winter and cars can slide back down the hill when it is steep. Mr. Durham explained that he frequently has people pulling into his driveway in the winter and getting stuck.

Mr. Durham noted he has had break-ins and trees cut and removed by previous tenants, cars broken into, etc. He presented an incident report from the Sheriff's department. He showed there had been 83 incident calls in the 20 years he has lived there, 50 of those are in the last 10 years.

Mr. Wilke discussed that they didn't have two doors the whole time. The entire area around this property is zoned as single family and the houses are all single family. He stated that while you can fit four cars in the driveway if you get more it is very difficult to get them out of the driveway.

Questions to Mr. Wilke

Ms. Krug asked if he had ever contacted the owner about issues. Mr. Wilke stated that he discussed the issues with the previous owner. Mr. Durham noted he had numerous trees cut down in the past by former tenants and past tenants trespassing on his property. he was asked about cars parking along the road. Mr. Wilke noted that there have been cars parked along the road frequently. Mr. Obery asked if he ever spoke to the township about parking restriction signs. Mr. Wilke stated he has spoken to the township, and they have no parking restrictions. Mr. Wilke stated there are five houses on that road.

Ms. Krug asked how long Mr. Durham has lived in the property. Mr. Durham stated he moved in in 1987. Ms. Krug asked why he started asking questions now. He noted it was a duplex when he moved in and if he had issues, he called the neighbors or Woodford County.

Questions to the Interested Party

Mr. Durham asked what year it was when there were six cars in the driveway.

Mr. Wilke stated it has been several years, it has not happened in the last year.

Testimony for Interested Parties

Mr. Hoelscher stated he was speaking on behalf of himself, his wife and his neighbors Randy and Laura Sheets.

Mr. Hoelscher explained that he and his wife purchased his house in 2020. He discussed that all the surrounding properties are zoned Single family, including this property. He noted that it doesn't matter that the structure has been modified to be multi family, it is zoned single family. It is also irrelevant that the owner did not check on the legality of the duplex before he purchased it. When Mr. Hoelscher purchased his property, he checked with the Township and Zoning on the zoning of the property and his ability to build a shed in the future. Mr. Hoelscher discussed that the properties referenced by Mr. Durham as nearby multi family are in an area of transition that changed from commercial to multifamily then to single family which it remains all the way up to this property.

His next point is safety, he has a young family and safety is paramount. Mr. Hoelscher counted 76 incident reports, 1 shooting, 9 thefts or break-ins, 15 paper services, 9 warrants or wanted served at that address. Since Mr. Durham has owned the property 1 shooting, 4 thefts or break-ins, and 6 paper services. Mr. Hoelscher noted there is a second tenant that moved in three weeks ago, that tenant has a dog that got out and unprovoked attacked the neighbor (Mr. Sheets) and bit him, Animal Control was contacted. Mr. Hoelscher has been so concerned that he has put up security cameras on his property. The other major incident was a reported shooting in April 2021, there was significant police presence in relation to that incident and three individuals were arrested in conjunction to a car theft ring in the Germantown Hills/Metamora area. There is also a substantial increase in traffic especially apparent in the winter of 2020/2021. There were cars coming and going every 20-30 minutes even in inclement weather.

Questions to the Interested Party

Ms. Krug asked if Mr. Hoelscher had contacted the owner about issues. Mr. Hoelscher noted he did not realize it was a duplex until the April 2021 incident. Mr. Hoelscher noted three of the five properties on the dead-end road are in opposition to the re-zoning. Ms. Krug asked how he found out it was improperly zoned for duplex. He noted it was after the arrest incident in 2021 when he realized there were still individuals living in the unit after the arrest. Mr. Obery asked if he was sure there were two tenants. Mr. Hoelscher stated he was not sure, but one individual informed both him and Animal Control that she was going to be moving in upstairs, he is unsure if that is the case.

Mr. Clinch asked if the dog is still on the property. Mr. Hoelscher stated that the dog is still on site and was loose yesterday.

Mr. Hoelscher notified Animal Control of the incident yesterday.

Mr. Durham asked when Mr. Hoelscher moved in. Mr. Hoelscher stated he moved in June 2020; he bought it zero days on the market. Mr. Durham asked if he drove past the house before he purchased it. Mr. Hoelscher stated that they did drive by the property, but he did not pay attention to the houses he was not purchasing, he did not notice the "A" and "B" on the door. He stated he did check that it was single family zoning.

Ms. Jording noted that the other interested party Randy & Laura Sheets signed up and indicated Mr. Hoelscher would testify on their behalf, they provided a letter which is attached to Mr. Hoelscher's packet.

Rebuttal Evidence

Mr. Durham stated that Mr. Wilke is correct there is no shoulder, that is why he does not allow parking on the road. He has never had more than three vehicles owned by his tenants. He noted that contractors typically do park on the street if they are doing work. He noted that the renters may occasionally have parties and people park on the street. Mr. Durham noted that there is not a wood burning fireplace or stove in the property and there are numerous trees on the property as well for firewood. Mr. Durham noted that the property was multi-family when both the individuals moved in. He noted he gets the impression that the insinuation is multi-family renters are criminals, that is not the case. He did have a bad renter that caused him significant issues.

He noted that none of the neighbors have contacted him in relation to the property. He was contacted one time by the police when an arrest was made. Mr. Durham noted that he used a real-estate agent and a real-estate attorney when he purchased the property, he did not realize something could be operating as multi family in the single-family district. Mr. Durham stated he was indicating the area in general is a rental area. Regarding the shooting, the police were unable to find any evidence that there was a shot fired. He also stated he did not know a mailbox was hit, had he known he would have repaired it himself. He discussed that he does not have tenants in both halves. he is screening an individual for the upstairs unit; she is staying with her friend in the downstairs unit. As a result of the dog incident, he will not be approving the renter.

Closing statements

Mr. Wilke stated he would like the property to stay a single-family rental. It will be easier to control the traffic and renters.

Mr. Hoelscher stated that Mr. Durham had a rental in 2015 so he is not new to renting. He stated that he was looking for a quiet property. If you have a multi family unit you have twice the possibility of bad tenants. In the interest of safety this should remain single family.

Mr. Durham stated he purchased the property in 2018 and has residents since 2019. He has had one bad tenant and it was bad for everyone, he does not want that to happen again. He stated he bought his first rental property in 2018. He stated he will only allow four cars and they must park in the driveway. He also noted that he has quiet hours from 10 pm – 8 am. If those are violated, he will evict. He stated he checks the properties weekly. He feels there is room for a good quiet multi family rental. It has been operating as a duplex since the 1990's or earlier and should be allowed to continue.

The testimony portion of the hearing was closed.

Findings by the Zoning Board of Appeals for Petition 2022-20-Z:

- A. Whether the proposed zoning district classification is consistent with the Woodford County Comprehensive Land Use Plan;** The land use plan describes the different levels of zoning. The plan discussed making sure that a high quality of life exists, and that people are protected. There is a pattern that shows the zoning progresses from Heavy industry through multi-family and into single family.
- B. Whether there are any changed or changing conditions in the area affected that make the proposed rezoning necessary;** While this changed to a multi-family unit years ago without the proper zoning. There is no new growth in the area that would require the re-zoning to multi-family.
- C. Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on the other properties in the immediate vicinity;** While immediate is not

defined it could be considered properties within a mile. Immediate may also be considered immediately adjacent properties. This is a dead-end road. There is a pattern showing a progression from industrial and commercial zoning through multi-family and on to single family. The multi-family zoning is not compatible with the other properties on the street

D. Whether adequate infrastructure exists or can be provided to serve the uses that would be permitted on the property if it were rezoned; Infrastructure would include the road, which is narrow, there is only a single narrow entrance and a single car garage. The property is set up for a single-family dwelling. Based on pictures of the roadway and the vehicles parked on the road and the photos of the entrance and driveway it appears the vehicles are parking in the grass.

E. The impact the uses, which would be permitted if the property were rezoned, will have upon the volume of vehicular traffic in the vicinity; Based on the size and topography of the road there are issues. While the current owner states he restricts parking on the road that is difficult to enforce. Based on pictures presented; the driveway entrance is very narrow; the roadway is narrow. There is restrictive parking. As a single-family dwelling there is still the potential for more than four vehicles, with guests that number could be higher. Parking could be an issue even as a single-family residence, however multi-family has a potential for even higher numbers.

F. Whether a reasonably viable economic use of the subject property will be denied if the proposed rezoning is not approved; Current owner stated that he would be denied a viable economic use if this is denied for him personally, however the home could be returned to single family use and the economic use could remain and the property would be in compliance.

G. Information submitted at the public hearing. The evidence presented was submitted into evidence, the burden falls on the petitioner to determine if the property is legal and valid when purchasing a property.

Motion to approve petition #2022-20-Z filed September 21, 2022, by Joshua Durham for a Map Amendment from Residential Single Family (R-1) District to Residential Multi Family (R-2) District on 1.14 acres, commonly described as 1316 N. Paradise Dr. Metamora, Illinois made by Gauger, seconded by Clinch.

Roll call vote: John Obery – No, Marty Clinch – No, Karen Krug – No, Teresa Gauger – No, Terry Pille – No. *Motion Failed.*

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- Other Business to Come Before the Board:
 - Update on previous months petition/s: None
 - Update on next month petition/s: Ms. Jording noted there are two petitions for November
 - Review of Executive session minutes
 - January 24, 2017 Release or Keep Confidential
 - September 23, 2014 Release or Keep Confidential

Motion to Keep confidential for both dates made by Gauger, seconded by Krug. *Motion Carried.*

- Public Input – None
- Executive Session – None
- Adjournment

Mr. Clinch made the motion to adjourn at 8:45, 2nd by Mr. Obery. *Motion Carried.*

Lisa Jording, Secretary

Terry Pille, Acting Chairman

Date