

## Piatt County Zoning Board of Appeals

March 26, 2015

### Minutes

The Piatt County Zoning Board of Appeals met at 1:00 p.m. on Thursday, March 26, 2015, in Room 104 of the Courthouse. Vice-Chairman John McRae called the meeting to order at 1:00pm. Attending were: John McRae, Alice Boylan, Jerry Edwards, Dan Larson and Trish Gale. States Attorney Dana Rhoades and Loyd Wax were absent. Trish announced there is a quorum. County Board members in attendance were: Randy Keith, Al Manint, Randy Shumard, and Ray Spencer.

MOTION: Jerry Edwards moved to approve the January 22, 2015 minutes, seconded by Larson. All in favor, motion carried.

MOTION: Jerry Edwards moved to approve the February 26, 2015 minutes, seconded by Boylan. All in favor, motion carried.

#### **New Business - Fred and Eleanor Doty Variation:**

Trish read the request dated January 26, 2015, from Eleanor and Fred Doty for a variation to allow construction of a new single family dwelling on 2.41 acres of A-1 Agriculture and I-1 Industrial land. Fred Doty was sworn in by John McRae and proceeded to explain to the Board they own the ground, and it has been in the family since 1935. This particular area has never been farmed, but it has been pastured. They plan to sell their current home to their grandson and his wife and Fred and Eleanor would like to build a smaller, new home on the remainder of the property with a new well and septic. Trish read the five points for Doty's desire to split the parcel:

1. Tract has never been used as crop land, only pasture and/or lawn.
2. It has an existing entrance (at very peak of hill) off of County Rt 4 (Ridge Road).
3. The current owners, Fred and Eleanor Doty wish to build a single story family dwelling with new well, septic system and buried electrical power. The new dwelling will be approximately 1600 square feet, with attached 2-car garage.
4. The existing Tract 1, where we now live, will be sold to our grandson, Jake and his wife, Lexie. It will be their full time residence.
5. The existing homestead was purchased in 1935 by Fred's grandparents, Fred and Bertha Widener. We would like very much to keep it in the family. An added benefit would be in knowing Jake and Lexie would be available if their assistance was needed in the future.

Trish stated there was no need for a LESA/NRI study since there are currently buildings on this parcel of land. The Board discussed the following zoning factors.

1. Will the proposed use compete with the current use of the land? The ZBA unanimously agreed the proposed use would not compete with current use.
2. Will the proposed use diminish property values in surrounding areas? The ZBA unanimously agreed the proposed use would not diminish property values; it will add.
3. Would a denial of the variance promote the health, safety and general welfare of the public? The ZBA unanimously agreed denying the variance would not apply to this particular case.
4. Would denying the variance create a hardship for the landowner? The ZBA unanimously agreed denying the variance would create a hardship for the landowner.
5. Would granting the variance create a hardship for the surrounding property owners? The ZBA unanimously agreed that granting the variance would not create a hardship for surrounding property owners.

6. Is the property suitable for its current use? The ZBA unanimously agreed the property is suitable for its current use.
7. Is the property suitable for the proposed use? The ZBA unanimously agreed the property is suitable for a new single family dwelling.
8. Is there a community need to deny the variance? The ZBA unanimously agreed there is no community need to deny the variance.
9. Is the subject property non-productive with its current use? The ZBA unanimously agreed the property is non-productive because it is being mowed and maintained.
10. Would a granting of this variance compete with the Piatt County Comprehensive Plan? The ZBA unanimously agreed granting of the variance would not compete with the Comprehensive Plan.

MOTION: Alice Boylan moved to recommend to the County Board the request for a variation from Fred and Eleanor Doty, and Jerry Edwards seconded. Trish read the roll call, and all were in favor, motion carried.

Trish announced this will go to the County Board on Wednesday, April 8, 2015, at 9:00am.

**New Business: Joel Ripper Special Use Permit:**

Trish read the SUP request dated January 30, 2015, from 3 Dog Defense, LLC, Joel Ripper, Manager requesting a home occupation retail sales of guns and ammo on 2 acres of A-1 Agriculture land. Joel was sworn in by John McRae and explained he is applying for an FFL to sell guns and ammo from his home and needs zoning approval. Joel would order firearms by appointment only from his home. Jerry asked Joel if he was going to use the new garage for the business, and Joel replied it is not insulated or heated and cooled.

The Board discussed the zoning factors:

1. The existing uses and zoning of nearby property.  
The ZBA unanimously agreed the existing uses and zoning of nearby property is agriculture and a few scattered houses.
  2. The extent to which property values are diminished by the zoning restrictions imposed.  
The ZBA unanimously agreed property values would NOT be diminished
  3. The extent to which the reduction of property values of Applicant or other landowners promotes the health, safety, morals or general welfare of the public.  
The ZBA unanimously agreed the property values would not be diminished, nor would affect the health, safety, morals or general welfare of the public.
  4. The relative gain to the public as compared to the hardship imposed upon the Applicant and/or adjoining landowners.  
The ZBA unanimously agreed there is a need for small businesses.
  5. The suitability of the Applicant's property for the zoned purpose.  
The ZBA unanimously agreed the applicant's property is suitable as a single family dwelling.
  6. The length of time the Applicant's property has been vacant as presently zoned.  
The ZBA unanimously agreed this is not applicable, property has not been vacant for years.
1. Will granting the SUP be detrimental to the safety, comfort, or general welfare of the community?

The ZBA unanimously agreed granting the SUP would NOT be detrimental to the safety, comfort, or general welfare.

2. Will granting the SUP not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood?  
The ZBA unanimously agreed the business will take place inside the home and will not be injurious to others or impair property values.
3. Will granting the SUP not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoned district?  
The ZBA unanimously agreed granting the SUP will NOT impede development and improvement of surrounding properties.
4. Are there adequate utilities, access roads, drainage, and other facilities if the SUP is granted?  
The ZBA unanimously agreed there are adequate utilities, roads, etc.
5. Are there adequate measures to provide ingress and egress to minimize traffic congestion in the public streets if the SUP is granted?  
The ZBA unanimously agreed there will be minimal traffic, and parking will not be a problem.
6. Does the SUP conform to the regulations of the zoned district?  
The ZBA unanimously agreed this is a home based business.
7. Does the SUP in all other respects conform to the regulations of the zoned district and the Zoning Board must find that there is a public necessity for the special use.  
The ZBA unanimously agreed there is a public need for retail sales of guns and ammo, especially with the concealed training classes.
8. Does the SUP not compete with the Piatt County Comprehensive Plan, and is it in harmony with the goals of the Piatt County Comprehensive Plan?  
The ZBA unanimously agreed the SUP will not compete with the Comprehensive Plan and is in harmony with the goals. We should encourage new business in the county.

MOTION: Jerry Edwards moved, seconded by Alice Boylan to recommend to the County Board the approval of Joel Ripper's request for a home occupation to sell guns and ammo. Trish read the roll call, and all were in favor.

Trish announced this will go to the County Board on Wednesday, April 8, 2015, at 9:00am.

**Notice of Appeal – Chestnut vs Topflight Grain Cooperative, Inc., Milmine, IL:**

Trish stated a notice of appeal was filed with the Piatt County Zoning office on February 19, 2015, by Joshua Dubbelde on behalf of Richard and Debra Chestnut concerning a building permit issued on February 6, 2015, to Topflight Grain for a 90' diameter grain storage bin at the Milmine grain elevator facility.

Joshua Dubbelde spoke on behalf of the Chestnuts. The building permit is for a 90' diameter grain bin but no height is indicated, and the County's height restriction is 45'. Topflight's special use permit in 2006 allows them to build grain bins, then in 2007 they applied for a variance to build a grain bin 81.5' tall. The building permit requests building the 90' diameter grain bin within 25' of Chestnut's property. We consider the east line is the front yard which requires a 50' setback. The Chestnut's moved into their property in the late 80's and the elevator's capacity was 600,000 bushels of grain, and today it is in excess of 5,000,000 bushels. The zoning ordinance protects established interest of the adjacent property owners, but the Chestnut's property value is declining because of the numerous grain bins built. Topflight has purchased all the adjacent homes except for the Chestnut's.

Brad Peterson spoke on behalf of Topflight, and he provided a couple of exhibits for the Board's reference. The Board previously issued a special use permit allowing grain bins to be constructed on Topflight's property. There is no proof that Chestnut's property is decreasing, because there is no appraisal. The Board issued a variation dated November 18, 2005, approving a height restriction of 115' and within 10' of the property line. The 2007 variation was sought because the grain bin was within 9' of the property line.

Joshua responded the 2005 variation states it is for a grain bin, not grain bins. The SUP height limit of 115' and 10' setback does not give permission for continual construction of grain bins. The Ordinance says the height restriction is 45' so that applies to future grain bins.

John McRae stated we are without our attorney today, so he asked the board members for their comments. Alice Boylan had no comments. Jerry Edwards said future expansion of possibly three 90' grain bins constructed where the Quonset buildings were located would definitely block the sunlight. John McRae said he is concerned with the points brought up regarding grain bin, grain bins, etc., and we do not have legal counsel today. We do not want to jump to conclusions, but we want to make sure we are handling this correctly. Dan agrees with the bin vs bins. Since the late 80's there has been a lot of growth and the Quonsets were already constructed in the same location. Outside grain storage would cause more vermin than a sealed grain bin.

Richard Chestnut expressed concerns about the noise generated from the grain bins, and the fact that it took three weeks to get silencers for the bins.

Scott Docherty spoke regarding the construction of the grain bins. Scott said there are multiple projects planned for 2015, and the projects are usually started in the spring to be finished before harvest. All locations have grown because of the soils and good weather. It takes six weeks to prepare the site and have a foundation in place. It usually takes two weeks to construct the bin. All the tanks have silencers ordered for them for the last 4-5 years, because we understand the top fans are noisy. John McRae asked if there was an alternate plan to relocate the bin to another location on the property. Scott said the last harvest was record breaking for corn and soybeans, and we are trying to keep soybeans and corn separated. Jerry Edwards stated he is not comfortable trying to overturn a special use permit that was issued in 2006. Joshua stated they are not asking for the special use permit to be overturned, but he asks that we revoke the building permit for the 90' diameter grain bin. Joshua stated the Board should vote to determine whether or not to revoke the building permit issued by Trish on February 6, 2015.

The Board discussed how to proceed without legal counsel. John asked for a motion to revoke the building permit.

MOTION: Jerry Edwards moved to revoke or deny the building permit issued to Topflight for a 90' diameter grain bin on February 6, 2015, seconded by Dan Larson. Trish read the roll call, and the vote was 0-4, with four nays, and Topflight's building permit stands. Motion carried.

**Comments:**

There were no comments.

MOTION: Alice Boylan moved to adjourn, seconded by Dan Larson. All in favor, motion carried.

The meeting was adjourned at 2:16pm.

Respectfully submitted,

Trish Gale  
Piatt County Zoning Officer