

## Piatt County Zoning Board of Appeals

November 16, 2017

### Minutes

The Piatt County Zoning Board of Appeals met at 1:00 p.m. on Thursday, November 16, 2017 in Room 104 of the Courthouse. Chairman Loyd Wax called the meeting to order at 1:00 p.m. The roll was read and Nusbaum announced there was a quorum. Attending were: Loyd Wax, Jerry Edwards, Jim Harrington, Dan Larson and Keri Nusbaum. Zoning Board of Appeals member not in attendance was: Alice Boylan.

County Board members in attendance were: Ray Spencer, Bob Murrell, Randy Shumard, Renee Freundt, and Randy Keith.

**MOTION:** Dan Larson made motion, seconded by Jerry Edwards to approve the minutes from October 26 and November 1, 2017 as written. On voice vote, all in favor, motion carried.

### **New Business:**

Nusbaum read the zoning request dated October 11, 2017. Ronald and Laurie Chaplin applied to a zoning classification amendment for a parcel of RS land located at 104 Front Street Laplace. They request it be zoned B-1 general business. They wish to open a truck repair business. They also request a setback variation to allow for construction of a 42' x 70' addition to the existing brick building for 2 garage bays. Piatt County Zoning Ordinance allows for a Commercial garage, automobile repair shop, or an automobile service station in B-1 zoning. Ronald Chaplin was sworn in. He explained that he and his wife live next door, and they have purchased the lot adjacent as well. The board discussed the zoning factors.

### **VARIATION ZONING FACTORS –Chaplin**

1. The existing uses and zoning of nearby property.  
The elevator is across the street, and there are other businesses nearby, as well as the post office. There is an area of B-1 zoning to the West, and the elevator is zoned I-1.
2. The extent to which property values are diminished by the zoning restrictions imposed.  
The ZBA agreed that the property values would not be diminished.  
The existing building will be repaired, and a new building will add to the value.
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 agreed there will be no reduction in property values.
4. The relative gain to the public as compared to the hardship imposed upon the Applicant and/or adjoining landowners.  
The ZBA agreed that there will be a net gain to the public with the addition of another business.
5. The suitability of the Applicant's property for the zoned purpose.  
The property was formerly used as a bank and a hardware store was next door.
6. The length of time the Applicant's property has been vacant as presently zoned.  
The property has been vacant and unused for a long time.

**MOTION:** Jerry Edwards made motion, seconded by Jim Harrington, to recommend to the County Board to make the requested zoning classification change to B-1. Roll was called; Ayes – Edwards, Harrington, Larson, Wax. No- none. The motion passed.

The board discussed the variation factors.

### **VARIATION ZONING FACTORS**

1. Will the proposed use compete with the current use of the land?  
No. The ZBA agreed unanimously (4-0) that the proposed use will not compete with the current use.
2. Will the proposed use diminish property values in surrounding areas?  
No. The ZBA agreed unanimously (4-0) that there is no evidence that property in the surrounding areas would be diminished in value.
3. Would a denial of the variance promote the health, safety and general welfare of the public?  
No. The ZBA agreed unanimously (4-0) that a denial would not promote the health, safety or general welfare of the public.
4. Would denying the variance create a hardship for the landowner?  
Yes. The ZBA agreed unanimously (4-0) that a hardship would be created. The landowner purchased the property for this purpose.
5. Would granting the variance create a hardship for the surrounding property owners?  
No. The ZBA agreed unanimously (4-0) that there is no evidence that a hardship would be created for surrounding property owners. The petitioner owns most of the surrounding property.
6. Is the property suitable for its current use?  
Yes. The ZBA agreed unanimously (4-0) that the property is suitable for the current use.
7. Is the property suitable for the proposed use?  
Yes. The ZBA agreed unanimously (4-0) that the property is suitable for the proposed use.
8. Is there a community need to deny the variance?  
No. The ZBA agreed unanimously (4-0) that there is no evidence of that need.
9. Is the subject property non-productive with its current use?  
Yes. The ZBA agreed unanimously (4-0) that the property is not in use at this time.
10. Would a granting of this variance compete with the Piatt County Comprehensive Plan?  
No. The ZBA agreed unanimously (4-0) that the variance would not compete with the spirit of the Comprehensive plan.

Jim Harrington noted that there is a precedent for the setback variation, as there are other existing non-conforming buildings on the street.

**MOTION:** Jim Harrington made motion, seconded by Dan Larson, to recommend the setback variation to the County Board. Roll was called. Ayes- Harrington, Larson, Edwards, Wax. No-none. The motion passed.

Nusbaum read a zoning request dated October 19, 2017. Edward Chin, Trustee and successor trustee of the Edward Chin Declaration of Trust applied for an amendment of zoning classification for a .9 acre parcel of A1 land located at 1277 E Old Highway 47, White Heath to be amended to RS Residential Suburban for the purpose of constructing a pole barn for residential use. Mr. Chin is also requesting a setback variation to allow for placement of the building, and a variation for lot size. Piatt County Zoning Ordinance allows for a Single family dwelling to be placed on a one acre lot in RS zoning.

Edward Chin was sworn in, and explained he wishes to build a house there. He showed the committee members on the aerial view where he hopes to place the building. Larson asked the size of the existing building. He said he plans to petition the state for the return to him of the land in the easement/right of way. That would make his parcel an acre. Wax asked if he had approached the health department regarding the placement of the well and septic. There is already a well on the property. There is no septic. He had someone look at it, and he was told it can be done. He said he understands that approval from Dewitt Piatt Health Department is required for a building permit to be issued. Mr. Chin said he has had some work done to even the elevation of the property. Mr. Chin said they are willing to downsize the building to be able to fit it on the property.

Clarence Vogelzang was sworn in. He has a concern about visibility. He farms the field next to the property and he said when you come off of 1275 East, the existing fence causes problems, and he is concerned that if there is another structure it will be a safety issue. Dan Larson said he has traveled that area and agrees that visibility is an issue.

He said you have to pull out onto Hwy 47 to see oncoming traffic. Nusbaum clarified that there is a 50' setback from the front in any zoning classification. The board considered the change in zoning.

#### **VARIATION ZONING FACTORS-Chin**

1. The existing uses and zoning of nearby property.  
The ZBA agreed that the nearby property uses will not be affected. There are farms and an elevator nearby, and the village of White Heath close by.
2. The extent to which property values are diminished by the zoning restrictions imposed.  
The ZBA agreed that property values were not diminished by the zoning restrictions now, or the proposed zoning.
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 agreed that this is not applicable.
4. The relative gain to the public as compared to the hardship imposed upon the Applicant and/or adjoining landowners.  
The ZBA agreed that there will be no public gain, but also no hardship upon the adjoining landowners.
5. The suitability of the Applicant's property for the zoned purpose.  
There is residential suburban property not far from this property. The ground has not been farmed in many years if ever so the Agriculture zoning was not applicable.
6. The length of time the Applicant's property has been vacant as presently zoned.  
The property has not been in use for many years.

**Motion:** Dan Larson made motion, seconded by Jim Harrington, to change the zoning classification from A1 to RS. Roll was called; Ayes – Larson, Harrington, Edwards, Wax. Nos- none  
The motion passed.

The board discussed the other concerns. Jim Harrington said the intersection is highly travelled, and the visibility is a definite concern. The setback from the front would impact the visibility. Edwards said if the new building was set back closer to the present building, it would be less of a factor in the visibility. Chin said the front of the proposed building would face 1275. Mr Chin commented that the new building would be much shorter than the existing building. Mr. Larson asked Mr. Chin to approach and show on the parcel outline where he would place the proposed building. Mr. Chin indicated he could move it further North, to the back of the parcel.

Mr. Murrell and Mrs. Fruendt left the meeting at this time.

### **VARIATION ZONING FACTORS-Chin**

1. Will the proposed use compete with the current use of the land?  
No. The ZBA agreed (4-0) that it would not.
2. Will the proposed use diminish property values in surrounding areas?  
NO. The ZBA agreed (4-0) that there was no evidence that property values would be effected.
3. Would a denial of the variance promote the health, safety and general welfare of the public?  
The ZBA agreed (4-0) that if the building is correctly placed to avoid sightline problems the denial of the variance would not promote the health, safety and general welfare of the public.
4. Would denying the variance create a hardship for the landowner?  
The ZBA agreed (4-0) that denial would create a hardship in that he would not be able to use the property for the desired use.
5. Would granting the variance create a hardship for the surrounding property owners?  
No. The ZBA agreed (4-0) that there is no evidence that granting the variance would create a hardship for surrounding property owners.
6. Is the property suitable for its current use?  
Yes. The ZBA agreed (4-0) that the property is currently not used.
7. Is the property suitable for the proposed use?  
Yes. The ZBA agreed (4-0) that if the new structure is laid out correctly, it would be suitable.
8. Is there a community need to deny the variance?  
No. The ZBA agreed (4-0) that there is no evidence of a community need to deny the variance.
9. Is the subject property non-productive with its current use?  
Yes. The ZBA agreed (4-0) that the property is currently non-productive.

10. Would a granting of this variance compete with the Piatt County Comprehensive Plan?

No. The ZBA agreed (4-0) that because there is already a building there, and the property is not being used at all, it would not compete.

**Motion:** Jim Harrington made motion, to grant the variance of the back (30') setback. He recommended a back (North) setback variation to 15'. Seconded by Jerry Edwards. Roll was taken.

Ayes – Harrington, Edwards, Larson, and Wax. No- None.

The front setback off of Highway 47 will remain at 50'.

The County Board will hear these zoning matters at its regular meeting on December 13, 2017 at 9 a.m.

The Zoning Board considered the 2018 Meeting Schedule. The schedule will remain the 4<sup>th</sup> Thursday, other than holidays, and the meetings will take place at 1 p.m. except the two spring meetings and two fall meetings.

**Motion:** Jerry Edwards made motion, seconded by Dan Larson to accept the 2018 meeting schedule. All in favor, and the motion carried.

**Public Comments** – None

**MOTION:** Jim Harrington made motion, seconded by Jerry Edwards to adjourn. Voice vote; all in favor. The meeting was adjourned at 2:14 p.m.

Respectfully submitted,

Keri Nusbaum  
Piatt County Zoning Officer