

COUNTY OF MENARD     )  
  ) SS.  
STATE OF ILLINOIS     )

The Menard County Zoning Board of Appeals (ZBA) met on September 7, 2011 at 7:00 p.m., at the Menard County Courthouse, Petersburg, Illinois. The Zoning Board of Appeals re-convened to give consideration to a matter tabled at their September 1, 2011 meeting. Zoning Board of Appeals members Tom Eldridge, Karen Stott, Barry Bass and Steve Wilken were present. ZBA member Steve Ozella was not in attendance. A quorum was present. Zoning Administrator Steve Duncan was also present.

Chairperson Eldridge called the meeting to order at 7:30 p.m. Minutes from the September 1, 2011 meeting were presented for approval. ZBA member Bass moved to approve the minutes, as presented. ZBA member Wilken seconded the motion. The motion carried with four “ayes”, no “nays” and one “absent”.

**OLD BUSINESS**

**ADMINISTRATIVE PUBLIC HEARING: (Case number 11-06V) DENNIS & LOIS HARRISON, ACTING ON THEIR OWN BEHALF OR WITH LEGAL REPRESENTATION OR BOTH, HAVE APPLICATION TO SEEK A VARIANCE FROM THE FOLLOWING: ARTICLE IX, SECTION 9.01(B)(4) OF THE MENARD COUNTY ZONING ORDINANCE, REQUIRING THAT WHEN A NON-CONFORMING USE OF A STRUCTURE, OR STRUCTURE AND LAND IN COMBINATION, CEASES FOR 18 CONSECUTIVE MONTHS OR FOR 18 MONTHS DURING ANY 3 YEAR PERIOD THE STRUCTURE, OR STRUCTURE AND LAND IN COMBINATION, SHALL NOT THEREAFTER BE USED EXCEPT IN CONFORMITY WITH THE REGULATIONS OF THE DISTRICT IN WHICH IT IS LOCATED. THIS 18 MONTH TIME LIMITATION IS CONSIDERED A BULK REGULATION AND THEREFORE QUALIFIES FOR A VARIANCE REQUEST FROM THE STATED TIMEFRAME. THE VARIANCE REQUEST SEEKS AN 18 MONTH EXTENSION FROM SEPTEMBER 1, 2011. THE BRIEF LEGAL DESCRIPTION FOR THE PROPERTIES AFFECTED ARE AS FOLLOWS: S26 T18 R7 NORTH PARK SUB-DIV LOT 1 & S26 T18 R7 SE COR E ½ NE ¼. (Aka “Warburton’s property”) THE PROPERTY IDENTIFICATION NUMBERS ARE 11-26-206-001 & 11-26-200-007. THE ADDRESS IS 18190 STATE PARK ROAD, PETERSBURG, IL.**

Chairperson Eldridge re-opened the public hearing at 7:32 p.m. to give consideration to the Harrison’s application and hear any public comments.

Chairperson Eldridge swore-in Dennis Harrison, 221B Cherry Point, Petersburg, Illinois to provide an overview of their variance request. He informed that they were trying to market the property but the market was not conducive to selling.

ZBA Member Bass asked if their marketing effort was directed at selling it as a restaurant, a tavern or a combination of both. Mr. Harrison informed that they were marketing it as a restaurant/bar.

Chairperson Eldridge swore-in Lois Harrison, 221B Cherry Point, Petersburg, Illinois. She reiterated the difficulty in trying to sell a restaurant with the current economic conditions. She informed that it was being actively marketed.

ZBA Member Bass asked if the property could be marketed as a residence. Zoning Administrator Duncan informed that the zoning district the property was located in allowed for a single-family dwelling. Ms. Harrison informed that the building had been renovated and designed to be a restaurant/bar.

ZBA Member Stott asked if they would sell it to just be a bar. Ms. Harrison stated that she understood that it couldn’t just be a bar. Zoning Administrator Duncan informed that in his view the history of the property required it to be a restaurant as defined by the Menard County zoning ordinance. He informed that definition did allow for alcohol sales.

Zoning Administrator Duncan informed that minutes from the June 29, 2004 Menard County Board of Commissioners indicated that Dennis Harrison had applied for a map amendment (re-zoning) to take the property from R-1 to B-2 (a commercial district) but that had been rejected.

ZBA Member Bass asked if the building was still equipped to be a restaurant. Ms. Harrison informed it was equipped to be a restaurant and that there had been no changes to the building from the day it closed. She informed that they had lowered their asking price. She informed it was listed at \$275,000. Zoning Administrator Duncan informed that the Assessor's office had it valued at \$205,642.

ZBA Member Bass asked if what defined a use as a restaurant was based off gross sales receipts. Zoning Administrator Duncan referred to the zoning ordinance definition of restaurant which it did not mention gross sales receipts. Zoning Administrator Duncan informed that the definition was very loose in what could be interpreted as a restaurant.

Chairperson Eldridge swore-in William Winchester, 15627 N. Park Place, Petersburg, Illinois. Mr. Winchester informed that the oil and chipping of the parking lot was back when Brauer's owned the property.

ZBA Member Bass asked for confirmation that Mr. Winchester's primary concern was with alcohol sales on the premises. Mr. Winchester confirmed that was his concern.

ZBA Member Bass asked for confirmation that Mr. Winchester's objected to it being a restaurant and bar. Mr. Winchester informed that he did not want to see a tavern or alcohol sales. He informed that he did not have an issue with the Harrison's.

ZBA Member Bass stated that his recollection of the last meeting that this matter came before the Zoning Board of Appeals, was that the Winchester's did not object to the restaurant with a bar. Mr. Winchester informed that he was concerned with what a future property owner may do with the property.

ZBA Member Stott asked if someone could apply to get the restaurant use approved if the Zoning Board of Appeals didn't extend the restaurant use. Zoning Administrator Duncan informed that, without extending the restaurant use as provided for here, the County would need to provide for restaurants either through the map or text amendment process in the future, if it wanted to provide for a restaurant use on the subject property.

ZBA Member Stott expressed concerns about the building deteriorating over time.

As there were no other public comments at this time, ZBA Member Stott moved to adjourn the public hearing at 7:58 p.m. ZBA Member Wilken seconded the motion. The motion carried with four "ayes", no "nays" and one "absent".

ZBA Member Wilken moved to approve the findings of fact, as written. ZBA Member Bass seconded the motion. The motion carried with four "ayes", no "nays" and one "absent".

There was discussion about extending the restaurant use for less than 18 months.

ZBA Member Bass moved to approve the variance, and extend the restaurant use for a period of 18 months, from September 1, 2011, conditioned upon the property being maintained at a standard consistent with its current condition and the property remaining workable and sellable as a restaurant. ZBA Member Wilken seconded the motion. The motion carried with four "ayes", no "nays" and one "absent".

### **Unscheduled Public Comments/Requests**

There were no unscheduled public comments/requests.

### **Zoning Administrator's Report**

There was no Zoning Administrator's report.

### **Individual ZBA Member Comments/Requests**

There were no additional ZBA member comments/requests.

### **Adjournment**

As no other business was brought before the Zoning Board of Appeals, ZBA Member Bass moved to adjourn the meeting at 8:09 p.m. ZBA Member Stott seconded the motion. The motion carried with four "ayes", no "nays" and one "absent".