

COUNTY OF MENARD        )  
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STATE OF ILLINOIS        )

The Menard County Zoning Board of Appeals (ZBA) met on Monday, November 18, 2013, at 7:06 p.m., at the Menard County Courthouse in Petersburg, Illinois.

Chairperson Tom Eldridge called the meeting to order and took the roll call with the following ZBA members in attendance: Tom Eldridge, Barry Bass, Karen Stott, Steve Wilken and Steve Ozella. A quorum was present. Zoning Administrator Steve Duncan was in attendance and took the minutes.

Minutes from the September 16, 2013 meeting were presented for approval. ZBA member Ozella moved to approve the minutes, as presented. ZBA member Bass seconded the motion. The motion carried with four “ayes” no “nays” and one “abstain” (Chairperson Eldridge abstained as he was not in attendance at that meeting).

**NEW BUSINESS**

**ADMINISTRATIVE PUBLIC HEARING: (Case number 13-02V) APPLICATION FROM RYAN WILLIS, ACTING ON HIS OWN BEHALF OR WITH LEGAL REPRESENTATION OR BOTH, SEEKING A VARIANCE FROM ARTICLE VI, SECTION 6.03(D)(3)(A) OF THE MENARD COUNTY ZONING ORDINANCE, REQUIRING A MINIMUM, FRONT YARD SETBACK OF ONE HUNDRED (100) FEET (FROM CENTER OF SWEETWATER AVE.) IN THE A-AGRICULTURE ZONING DISTRICT. THE VARIANCE REQUEST SEEKS AN EIGHTY-SIX (86) FEET FRONT YARD SETBACK FOR BUILDING CONSTRUCTION. THE BRIEF LEGAL DESCRIPTION FOR THE PROPERTY AFFECTED IS AS FOLLOWS: Section 34, Township 19, Range 5, Southeast Quarter of Section 34. THE PROPERTY IDENTIFICATION NUMBER IS 08-34-400-003. THE ADDRESS IS 28679 SWEETWATER AVE., GREENVIEW, IL.**

Chairperson Eldridge opened the public hearing at 7:07 p.m. to give consideration to case number 13-02V.

Chairperson Eldridge swore-in Ryan Willis gave an overview of an application to receive a variance from Article VI, Section 6.03(D)(3)(A) requiring a minimum, front yard setback of one hundred (100) feet from center of Sweetwater Avenue in the A-Agriculture zoning district. The variance request sought an eighty-six feet front yard setback for building construction. He informed that the home addition needed to be placed on the front of the house and toward the road because to the west is an existing propane tank, air conditioner and septic tank; to the east is an existing, large front porch and the main entrance to house; and to the south is a well and cistern and also a back porch and basement door entrance.

Zoning Administrator Steve Duncan informed there had been no expressions of opposition against the proposal.

As there were no other public comments, ZBA member Wilken moved to close the public hearing at 7:11 p.m. ZBA member Ozella seconded the motion. The motion carried unanimously.

ZBA member Wilken moved to approve the findings of fact and approve the variance, as requested. ZBA member Ozella seconded the motion. The motion carried unanimously.

**ADMINISTRATIVE PUBLIC HEARING: (Case number 13-03SUP) APPLICATION FROM PAUL & DANA INGLE, DBA BRIGHT STAR EQUESTRIAN CENTRE, SEEKING A SPECIAL USE PERMIT FOR THE PURPOSE OF ESTABLISHING AN AGRI-BUSINESS (PUBLIC RIDING STABLE), AS AN ALLOWABLE ACCESORY USE TO A FARM, IN THE RURAL RESIDENTIAL ZONING DISTRICT. THE PROPERTY IS LOCATED AT 13922 STATE HWY. 97, PETERSBURG, IL. A BRIEF LEGAL DESCRIPTION FOR THE SUBJECT PARCELS ARE AS FOLLOWS: Section 1, Township 17, Range 7, Northwest Quarter of Section 1. THE TWO, ADJACENT PARCELS PROPERTY IDENTIFICATION NUMBERS ARE 16-01-100-005 & 16-01-100-006.**

Chairperson Eldridge opened the public hearing at 7:13 p.m. to give consideration to case number 13-03SUP. He informed the public in attendance that he would try to limit public comments to three minutes, per adopted County rules, due to so many in attendance wishing to speak to the matter.

Chairperson Eldridge swore-in Dana Ingle who gave an overview of her application to establish an agri-business (public riding stable). She informed that the primary goal was to serve autistic children through horsemanship with certified instruction. She informed that there were plans to construct an indoor riding arena to provide instruction.

ZBA member Bass asked about how many acres were available. Ms. Ingle informed that there was around 7 acres total with 5 acres for horse activity.

ZBA member Ozella asked where the indoor riding arena would be located. Ms. Ingle informed that it would be behind the existing barn.

Chairperson Eldridge asked if Ms. Ingle would receive PATH (Professional Association of Therapeutic Horsemanship) certification and be a certified PATH instructor. She informed she would receive such certification and that she had recently returned from a PATH conference.

Chairperson Eldridge asked if Ms. Ingle would follow the State of Illinois public building certification program. She informed that she had not yet but that she would. Chairperson Eldridge asked how long Ms. Ingle had been working with horses. She informed "all her life" and highlighted some of her experiences with horse ownership.

Zoning Administrator Duncan, as a point of clarification, informed that in the application was a request for a variance to establish only 16 parking spaces. Zoning Administrator Duncan also informed that in the application that the applicant had represented that they would comply with Menard County zoning regulations related to building setbacks. There was no dispute of these issues by the applicant.

Ms. Ingle informed that the EPA had visited their property and the EPA had found no issues during that inspection. Ms. Ingle informed that she had four stalls for possible boarding but informed that two were for ponies and only two stalls were available for potential boarding. She informed it was her goal to not have more than one boarder.

Chairperson Eldridge asked how many students/clients they could handle at a given time. She informed a lesson would be around one hour with around 2 students/clients. She informed they currently had around 6 to 8 students/clients. Chairperson Eldridge asked Ms. Ingle if she had conversations with others who ran similar facilities. She informed "yes".

ZBA member Bass asked if there were plans for a residence on the property. Ms. Ingle informed that the planned dwelling space would be for her father-in-law.

Chairperson Eldridge swore-in Trisha Nichols, 15130 Sunset Street, who spoke in support of the application. She informed that she was a volunteer at Bright Star Equestrian Centre and gave an overview of her child's and other children's experience being around the horses.

Zoning Administrator Duncan asked Ms. Nichols, for clarification, if she was the business manager for Bright Star Equestrian Centre. She informed that she was the volunteer business manager.

Chairperson Eldridge swore-in Ericka Lee who spoke in support of the application. She informed she was a veterinarian at Petersburg Veterinary that cared for the Ingles' horses and that the Ingles' had done the proper research on facilities, feeding and care for the horses.

Chairperson Eldridge swore-in Bill Smith, 19493 State Highway 123, who spoke in support of the application. He informed that he had kept many horses on property near a developed area and had never had a complaint.

Chairperson Eldridge swore-in Molly Booher, 17622 Shady Lane-Apt. 4, who spoke in support of the application. She highlighted the value of having such a facility near area residents who might have children that could take advantage of it.

Chairperson Eldridge swore-in Craig Conrady, 15263 Hilltop Street, who spoke in support of the application.

Chairperson Eldridge swore-in Orville Venable, 20834 Colson Loop Road, who spoke in support of the application. He highlighted his view of the therapeutic value of horses.

Chairperson Eldridge swore-in Max Bumgardner, 624 South 11<sup>th</sup>, who spoke in support of the application. He highlighted his view of the good works and character of Paul and Dana Ingle including creating a company in the area and revitalizing buildings into attractive assets for the area.

Chairperson Eldridge swore-in Nicole Pieper, 14393 Boy Scout Trail, who spoke in support of the application. She highlighted the value of having such a therapeutic horsemanship program for autistic children.

Chairperson Eldridge swore-in Ann Worthington, 1115 N. 5<sup>th</sup>, who spoke in support of the application. She identified herself as a volunteer at Bright Star Equestrian Centre. She also highlighted the value of having such a therapeutic horsemanship program for autistic children.

Chairperson Eldridge swore-in Ellis Warren, 15130 Sunset Street, who spoke in support of the application. . He also highlighted the value of having such a therapeutic horsemanship program for autistic children.

Chairperson Eldridge swore-in Donna Cohrs, 940 N. 5<sup>th</sup>, who spoke in support of the application. She also highlighted the value of having such a therapeutic horsemanship program for autistic children.

Chairperson Eldridge swore-in Robin Sullivan, 19957 Trotter Lane, who spoke in support of the application. She also highlighted the value of having such a therapeutic horsemanship program for autistic children.

Chairperson Eldridge swore-in Tom Baird, 20817 Jellystone, who spoke in support of the application. He highlighted other farms with farm animals adjacent to developed areas. He also spoke to the therapeutic value of horses.

Chairperson Eldridge swore-in Paul Ingle, applicant, who provided his view of the value of his business and the therapeutic horsemanship program to the community. He provided his view that it was clear that horses could be located on the property regardless of the application at hand and, therefore, the only thing that could be derailed by denying the application would be the establishment of the therapeutic horsemanship program for autistic children.

ZBA member Ozella asked about traffic flow. Mr. Ingle informed that they believed that there were no issues with traffic flow and there would be more than enough parking to accommodate their plans.

Chairperson Eldridge swore-in Beth Kiningham, 13806 State Highway 97, who spoke of her concerns with the application. She introduced Ben Kiningham, her spouse, and the Williams (other neighboring property owners). She informed that she was not trying to stop the construction of the indoor arena or the therapeutic horsemanship program. She informed that they were trying to protect the environment that they live around. She highlighted a pond adjacent to the property. She informed that they did not deny the improvements to the property. She informed that Mr. Ingle had removed, without permission, approximately 500 feet of boundary line fence on the rear of the property including a property marking pin. She informed that the issue had resulted in there having to have survey work done and that Mr. Ingle had built a new fence without really knowing where the property line is located. She informed that this fence was built on their property. She informed that they were working with Dana Ingle but that the issue was currently un-resolved. She highlighted large manure piles that were concerns. She informed that they had called the EPA and that they had come out when the piles of manure were not as large. She expressed concerns with runoff into the pond and creek. She expressed concerns with odors and that the tree buffer, as highlighted in the Ingle's application, was a visible buffer but didn't block odors. She said there needs to be a better manure management plan and that they hoped that it could be removed more often.

Ms. Kiningham showed some pictures in reaction to a question from ZBA member Stott about where there house was in relation to the Ingle's property and manure pile.

ZBA member Bass asked if the Kiningham's shared the pond with the Williams' only. Ms. Kiningham informed that was correct.

ZBA member Ozella asked Ms. Kiningham if she had noticed any runoff. She informed they had not but were thankful that the horses were not on the property when 9 inches of rain were received in May.

Chairperson Eldridge swore-in Ben Kiningham, 13806 State Highway 97, who spoke of his concerns with the application. Mr. Kiningham informed that the Ingles had been most courteous neighbors in helping to return the Kiningham's dog on occasion. He informed that a fence cannot be erected to keep the dogs off the Ingle's property until the property line issue was resolved. He expressed his view that the dogs could be a safety issue for the children riding the horses. He expressed concerns with there being two addresses for the property but only one on the application.

ZBA member Stott asked Mr. Kiningham if the issues of concern were resolved would he be opposed to the application. He informed that he was not opposed to the proposed therapeutic horsemanship program. He expressed concerns with the manure odors and property line issues.

Chairperson Eldridge swore-in Pam Williams, 14002 State Highway 97, who spoke of her concerns with the application. She informed that she concurred with Beth Kiningham's statements. She provided her view that the property may be too small to accommodate the various existing and proposed uses on the property. She highlighted that the therapeutic horsemanship program looks to have been begun before the special use permit was approved.

ZBA Administrator Duncan informed that the two parcels in question (per assigned parcel identification numbers) had been purchased at different times and then brought into common ownership. He informed that his interpretation of the property, and the fact that it had been brought into common ownership, was that the Ingle's had a grandfathered (legal non-conforming) office use with the ability to establish a farm as the principal, permitted use, with allowable accessory uses to said farm, including establishment of an agri-business/public riding stable as an accessory use to the farm.

Chairperson Eldridge swore-in Denise Barr, legal counsel for the Williams' and Kiningham's, who provided a summation of their concerns. She informed of several concerns with the application (e.g. issues like ingress/egress related to the proposed fund-raising events and how many events would be held, how many would attend and whether they would have unlimited permission to use the Heubner's Tire Service business for parking for such events).

ZBA member Bass asked if there were conflicting boundary surveys. Ms. Barr informed that there were conflicting surveys and there were on-going discussions between the property owners.

ZBA Administrator Duncan informed that language in the zoning ordinance informed that a variance request could be considered as part of the special use permit application. Ms. Barr had questioned if the variance request should be a separate process.

Chairperson Eldridge allowed the Ingle's, as the applicants, to respond to some of the concerns raised. Dana Ingle informed that the removal of the manure could be addressed to alleviate the neighbors concerns.

Tricia Nichols, as the volunteer business manager of the Bright Start Equestrian Centre, informed that the EPA had indicated that manure piles didn't have to be removed every few months, but moved every few months. Ms. Ingle discussed keeping the area in grass to assist in filtration of any possible runoff.

Paul Ingle informed that the EPA had found their practices to be in compliance with the EPA's objective criteria.

ZBA Administrator Duncan informed that the issue of the property line dispute would come into play when the Ingle's applied for building permits as they would have to represent that they complied with a 10 feet setback from nearest building line to property line. He informed that he would think the Ingle's would want to get the property line established to avoid the possibility for neighbors providing proof of violating the permit and running the risk of an expensive structure having to be removed. Ms. Ingle informed that they would continue to work on establishing the property line.

Chairperson Eldridge expressed concerns with approving the application in lieu of not knowing the exact size of the building and how that equates to parking space requirements. Ms. Nichols informed that they desired an 80 ft. by 140 ft. indoor riding arena but may have to go smaller depending on the property line location. She informed that the Ingle's were requesting what they believed to be needed for parking regardless of that issue.

ZBA Administrator Duncan, from a staff perspective, didn't have a problem with going forward with the application and variance request on the number of parking spaces based on how the building was to be used. Tricia Nichols pointed out that the size of the parking spaces exceeds the County's written standard.

ZBA member Ozella asked about impacts on the septic system. Dana Ingle indicated no issues. ZBA member Ozella discussed creating a 3-sided structure to store manure.

ZBA Administrator Duncan asked if it was correct that the therapeutic horsemanship program would be held outside the software business hours, thus making parking spaces available. Ms. Ingle indicated that was correct. However, there was concern expressed about summer month lessons. Ms. Ingle indicated that was a good point and would have to be worked out. There was additional discussion about parking.

As there were no other public comments, ZBA member Ozella moved to close the public hearing at 9:12 p.m. ZBA member Stott seconded the motion. The motion carried unanimously.

The Zoning Board of Appeals spent time deliberating the application and consideration of the Findings of Facts.

Chairperson Eldridge discussed that attaining PATH (Professional Association of Therapeutic Horsemanship) certification would not be easily obtained. He expressed concerns about the structure being built to standards set forth in State of Illinois law. Zoning Administrator Duncan informed that he believed the law was subject to interpretation as agriculture buildings were exempt from this law and that if there wasn't the "public" offering of the therapeutic horsemanship program and boarding of horses, this entire process would not have been required and the same indoor horse riding arena would have been treated as an agriculture exempt structure by his office (in relation to the question State of Illinois building requirements).

ZBA member Ozella informed that he didn't think there was anyone who questioned the value of the therapeutic horsemanship program or the improvement to the property and he believed the property line issue could be resolved. He did express concern about the manure.

ZBA member Wilken informed that he acknowledged the improvement to the property. He expressed that he believed the property line issue needed to be resolved before proceeding with the proposal.

ZBA Administrator Duncan informed that he believed there could be legal concerns, if the Zoning Board wished to recommend denying the application over the property line issue, in consideration that the applicant's had informed in the application that they would comply with the required setback standard.

Chairperson Eldridge recognized the through the public testimony it appeared the Ingle's were already operating without the special use permit. He informed that he didn't think the approval of the special use permit had to have the setback issue resolved but that it should probably be resolved in applying for the building permit application.

ZBA member Stott expressed thoughts about purchasing property if you want to control it and the Zoning Board not overstepping its boundaries.

Chairperson Eldridge expressed hope that the Ingle's and neighbors could work together to resolve issues related to manure concerns.

After discussion, ZBA member Bass moved to approve the findings of fact and recommend approval of the special use permit application, with approval of the variance request for the number of parking stalls, as presented (16 parking stalls), contingent upon consensus on the removal of waste (manure) and on consensus of resolution of the property line issue. After discussion, including concerns about defining consensus, motion died for lack of a second. During that discussion, Zoning Administrator Duncan informed that he had concerns that Menard County did not have objective regulations to address manure or runoff concerns and, that being said, he believed such concerns were better addressed by entities that had more objective regulations and expertise with such issues like the EPA.

After working on the Findings of Fact, ZBA member Bass moved to approve the findings of fact and recommend approval of the special use permit application, with approval of the variance request for the number of parking stalls, as presented (16 parking stalls). ZBA member Stott seconded the motion. The motion carried with three "ayes" (Eldridge, Bass, Stott); one "nay" (Wilken); and one "abstain" (Ozella, who expressed that the property line dispute should be resolved before voting).

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

No additional public comments were made at the meeting.

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

There was no zoning administrator's report

### **Individual ZBA Member Comments**

There were no ZBA member comments.

## **Adjournment**

As no other business was brought before the Zoning Board of Appeals, ZBA member Ozella moved to adjourn the meeting at 9:56 p.m. ZBA member Wilken seconded the motion. The motion carried unanimously.