

COUNTY OF MENARD        )  
  ) SS.  
STATE OF ILLINOIS        )

The Menard County Zoning Board of Appeals (ZBA) met on April 27, 2023 at 6:30 p.m., at the Menard County Courthouse, Petersburg, Illinois. Zoning Board of Appeals members Tom Eldridge, Karen Stott, Dan Robertson and Steve Wilken were present. ZBA member Steve Ozella was absent when role was taken, he arrived later in the meeting. Assistant States Attorney and Zoning Administrator Gwen Thomas and Zoning Officer Joe Crowe were also present.

Chairperson Tom Eldridge called the meeting to order at 6:01 p.m.

The Pledge of Allegiance was recited

Chairperson Tom Eldridge called the roll of members present.

Minutes from the March 30, 2023 meeting were presented for approval. ZBA member Wilken moved to approve the minutes. ZBA member Robertson seconded the motion. The motion carried unanimously.

**NEW BUSINESS**

**ADMINISTRATIVE PUBLIC HEARING: (Case number 23-02V) MS. LISA GARBER APPLICATION SEEKING A VARIANCE FROM THE FOLLOWING:**

**Article VI, Section 6.03(D)(1)(c)(1) Of the Menard County Zoning Ordinance, Requiring One (1) dwelling unit per thirty (30) acres on soils with a predominant soil productivity index of more than 110.**

**The Variance request seeks a +/- 5.010-acre parcel to be exempted from the larger 32.75-acre parcel**

**This property is located in the A-1 Agriculture Zoning District. The brief legal description for the properties affected are as follows: S2 T18 R7 MID PT NE 1/2 NW 1/4 +/- 31.39 AC.**

**This property is located at 19812 Fairgrounds Road, Petersburg Illinois. The property identification numbers are 11-02-100-009.**

Chairman Eldridge called the public hearing open to give consideration and receive any comments concerning a variance application from Ms. Lisa Garber. Chairman Eldridge introduced the variance request information.

Chairman Eldridge swore-in Ms. Garber to give testimony on the application. Ms. Garber stated that her plan is to cut out these five acres and possibly build a barndominium. So it would be, storage plus living quarters.

Chairman Eldridge questioned that this would be conveyance would be taken from the family estate and the remaining ownership to be placed in a family trust. Chairman Eldridge went on to discuss the various parcels listed in the staff report and their relationship to the case. Chairman Eldridge pointed out that two of the parcels were built on prior to the Menard County zoning ordinance.

Chairman Eldridge then directed the members attention to the Menard County Zoning Ordinance sections 6.03(D)(1)(c)(1) and 6.03(D)(1)(c)(2)(a)(b). Once all members reviewed the sections, Chairman Eldridge explained the soil productivity index as listed in the staff report as falling below the 110-productivity index and as such, with ownership of the 30-acre parcel being of a common nature and negating the 30 – acre rule, was a variance necessary in this case? Chairman Eldridge felt that this could be simply recorded and

the minimum 3 acres could be conveyed from the larger parcel without a variance. Chairman Eldridge asked to move to close the public hearing.

Zoning Administrator Gwen Thomas introduced the full Zoning staff report and a letter from Dale Holiday to be placed into the public record. Zoning Administrator Thomas then read into the record Mr. Holiday's letter describing his objections to this variance request. He explained that there were already two residences on the parcels and that if the owners decided to move or sell that it would be a revolving door of renters and owners that would reduce his property values.

Zoning Administrator Thomas then explained that the language in the current zoning ordinance regarding the 30-acre rule is unclear, and that previous discussions about the interpretation of that 30-acre rule, she felt that there's a potential interpretation issue, Zoning Administrator Thomas argued that it would be more appropriate to grant a variance so that as a Zoning Board they are not opening up the door in other instances when people are wanting to carve out a section.

Chairman Eldridge then gave a brief history of the 30-acre rules and associated ag section ordinances. He also explained the establishment of the soil productivity index numbering as a baseline number to work from.

Zoning Administrator Thomas explained that the ownership of the 30-acres is not clear at this point and the section of the Menard County Ordinance language being addressed is unclear as well, those two points are why the Zoning office presented this case as a variance to the ZBA. She explained that with the interpretation questions she felt that a variance is proper and would avoid any legal jeopardy in future hearings.

ZBA member Wilken addressed the point raised in the letter Mr. Holliday sent in objection to the variance request. He felt that Mr. Holliday had a similar situation on his property and that future possibilities are an argument without merit at this point. ZBA member Wilken then asked about the City Water and verified that in fact there is availability.

Zoning officer Crowe acknowledged that this was noted after packet went out and the LESA scoring on the staff paperwork was not drastically affected by the discrepancy.

As there were no other public comments, ZBA member Robertson made a motion to close the public hearing at 6:25 p.m. ZBA member Stott seconded the motion. The motion carried unanimously.

Deliberations began with ZBA member Ozella discussing the arguments for and against the 30-acre rules in regards for and against a variance in this case. Chairman Eldridge also added to the discussion by explaining the language in the Menard County Ordinance and how it could be questioned in this case. It was pointed out that by granting the variance, potential legal issues could be avoided in the future regarding this decision. ZBA member Ozella expressed that the variance process would be the proper route.

Chairman Eldridge questioned if all members had read the staff Finding of Fact? If all were in agreement with updates made to the staff report and the Finding of Fact, a motion would be needed to grant the variance request identified in the application.

ZBA member Robertson made the motion to grant the variance request with updated language in the staff report and accepting the Findings of Fact as reported. ZBA member Wilken seconded the motion. The motion carried unanimously.

Mark Fricke briefly addressed the members and thanked all for their service and time that they spend with the board activities.

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

There were no unscheduled public comments.

As there were no further cases on the agenda, a brief discussion ensued among the members and the zoning staff regarding Rural Residential zoning and Agriculture zoning in regards to residential development in those areas.

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

Zoning Administrator Gwen Thomas and Zoning Officer Crowe provided a brief outline of the Ordinance committees activities regarding the Wind/Solar ordinance portion of the Menard County Ordinance. Brief discussion was held by the members on lease agreements, decommissioning and language in the new ordinance where more stringent enforcement can be added. The discussion continued regarding the catastrophic collapse of the wind turbine at the Porta high school and taxpayers' responsibility regarding the cleanup. The conversation then turned to residential solar and the decommissioning side of that being very problematic much like the commercial decommissioning.

### **Individual ZBA Member Comments**

There were no further comments from the members.

### **Adjournment**

As no other business was brought before the Zoning Board of Appeals, Chairman Eldridge moved to adjourn the meeting at 6:47 p.m. ZBA members were polled and the motion carried unanimously.