



MINUTES
PUBLISHED BY THE AUTHORITY OF THE ZONING BOARD OF APPEALS
REGULAR MEETING
GOVERNMENT CENTER CHAMBERS, 4TH FLOOR, ROOM #400
115 E. WASHINGTON STREET, BLOOMINGTON, IL 61701
WEDNESDAY, SEPTEMBER 21, 2022 4:00 P.M.

The Zoning Board of Appeals convened in Regular Session in-person in the Government Center Chambers on the 4th floor, Room #400, Wednesday, September 21, 2022, with the following physically present staff members: Mr. Jon Branham, City Planner; Mr. Glen Wetterow, City Planner; Ms. Alissa Pemberton, Assistant City Planner; Ms. Kimberly Smith, Assistant Economic & Community Development Director; Mr. George Boyle, Assistant City Attorney.

The meeting was called to order by Staff Liaison, Ms. Pemberton, at 4:25 pm.

ROLL CALL

Attendee Name	Title	Status
Mr. Terry Ballantini	Commissioner	Present
Ms. Victoria Harris	Commissioner	Present
Mr. Michael Straza	Commissioner	Present
Mr. Tyler Noonan	Commissioner	Absent
Ms. Nikki Williams	Commissioner	Present
Mr. Zach Zwaga	Commissioner	Present
Ms. Alissa Pemberton	Assistant City Planner	Present
Ms. Kimberly Smith	Assistant Economic & Community Development Director	Present
Mr. Glen Wetterow	City Planner	Present
Mr. Jon Branham	City Planner	Present
Mr. George Boyle	Assistant City Attorney	Present

Ms. Pemberton called the roll. Ms. Harris - Present, Mr. Straza - Present, Ms. Williams - Present, Mr. Zwaga - Present, Chair Ballantini. (5-0). A quorum was present.

PUBLIC COMMENT

Chair Ballantini opened the floor for public comment, reminding attendees that public comment is typically reserved for items not on the regular agenda.

There was no public comment.

MINUTES

Commissioner Harris motioned to approve the minutes from the August 17, 2022, regular Zoning Board of Appeals meeting. Commissioner Zwaga seconded.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

REGULAR AGENDA

SP-13-22 Public hearing, review, and action on a petition submitted by Brein Stinson for approval of a Special Use Permit for Chicken-Keeping in the R-1C (Single-Family Residence) District, for the property located at 1035 E. Front Street. PIN: 21-03-307-019.

Ms. Pemberton stated that she recused herself from this case due to potential conflict of interest, and that Mr. Wetterow has been the staff member in charge and will present.

Mr. Wetterow presented the staff report with a recommendation to approve the Special Use Permit. Mr. Wetterow noted the location of the coop results in it being entirely screened from neighboring properties. Mr. Wetterow identified the additional fencing provided by the petitioner. Mr. Wetterow noted that this was another case related to an enforcement complaint. Mr. Wetterow noted the petitioner only has the allowed number of hens per code. Mr. Wetterow emphasized the petitioner was extremely apologetic for not obtaining the Special Use before obtaining the chickens, as they had read the Code related to Chicken-Keeping but did not realize it required a Special Use.

The Board did not have any questions for staff.

Chair Ballantini opened the public hearing.

Petitioner, Brein Stinson (1035 E. Front Street) stated they obtained the chickens without realizing a Special Use permit was required and apologized for doing so. Ms. Stinson noted that when they purchased the chicks, they were not aware that one of them was a male. Once they realized the chick was a male, they immediately attempted to find him a new home as they did not want to cull him. They were able to find the rooster a new home in Danvers, IL so noise should no longer be an issue. Ms. Stinson emphasized there should no longer be any issues associated with the rooster or keeping the hens.

Chair Ballantini asked the Petitioner how long they have had the chickens. Ms. Stinson stated they have had the chickens for about a year. Ms. Stinson noted that the rooster was a recent addition; two of their original group of chickens were killed and when they bought chicks to replace them is then they accidentally purchased the rooster. Chair Ballantini asked her to clarify what she meant by killed. Ms. Stinson stated they have foxes in the neighborhood, and they believe foxes killed them. Chair Ballantini asked if the new fencing helped in repelling the

foxes. Ms. Stinson replied she believed it did as that was the only recent change they have made. However, she is not sure exactly how they got in the enclosure in the first place. Chair Ballantini asked if there have been any issues since the installation of the additional fencing. Ms. Stinson stated they have not had any issues since.

Chair Ballantini asked the number of chickens they have presently. Ms. Stinson stated they have the four permitted by the code.

Chair Ballantini asked for confirmation that the rooster has been relocated. Ms. Stinson stated that is correct.

Chair Ballantini asked about the storage of the food. Ms. Stinson stated the food is stored in sealed containers in their garage.

Chair Ballantini inquired why the petitioner wanted chickens. Ms. Stinson stated they have a large family with six children, so part of the reasoning is economical and the other is to serve as a learning experience to the children. Chicken-Keeping teaches the children where their food comes from and a sense of responsibility in caring for the chickens.

Chair Ballantini asked the petitioner if they were aware of the complaint mentioned by staff. Ms. Stinson stated she was aware and assumed it was because of the rooster; she thought the matter should be addressed since the rooster has been relocated.

Chair Ballantini asked the petitioner if she had talked with their neighbors about keeping the chickens. The petitioner stated they had not.

There were no additional questions for the petitioner from the Board.

No additional testimony was provided.

Chair Ballantini closed the public hearing.

No Board discussion was held.

Commissioner Harris made a motion to establish findings of fact that all standards of approval for a Special Use Permit are met. Commissioner Zwaga seconded.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

Commissioner Zwaga made a motion to recommend approval of the petition submitted by Brein Stinson for approval of a Special Use Permit for Chicken-Keeping in the R-1C (Single-Family Residence) District, for the property located at 1035 E. Front Street. Commissioner Harris seconded.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

Mr. Wetterow noted that this item will go before Council for final approval on October 24, 2022.

V-07-22 Public hearing, review, and action on a petition submitted by Cell Electric for a Variance from § 44-1031E(2)(b) of the Zoning Code, to allow a solar array in the front yard in the M-1 (Restricted Manufacturing) District, for the property located at 1004 E. Oakland Avenue. PIN: 21-04-486-013.

Ms. Pemberton presented the staff report with a recommendation to approve the Variance. She noted that this is the second of this type of Variance within the year, and text amendments are moving forward to clarify the siting requirements for arrays in non-residential districts.

Chair Ballantini asked for clarification as to whether the array would be visible from the street since it would be located behind a fence. Ms. Pemberton confirmed that the location would be hidden from view.

Chair Ballantini opened the public hearing.

Petitioner, Ron Spencer of Cell Electric (1004 E. Oakland Avenue) stated that Cell Electric is a solar and electrical contractor and would like to install a solar array to promote their business and reduce their electric use. The part of the property proposed for installation is the best location.

Chair Ballantini clarified that Cell Electric is not the owner of the property. Mr. Spencer verified that Cell Electric rents the property but has the property owner's approval to install the array which will be owned by Cell Electric.

Commissioner Harris inquired as to the efficiency of ground-mounted solar, as compared to rooftop. Mr. Spencer stated that there is little difference, as long as they are facing south.

Commissioner Zwaga inquired as to whether there would be any potential for glare or from the array onto the adjacent roadway. Mr. Spencer stated that angle and elevation should keep there from being any glare or distraction to motorists on Oakland.

No additional testimony was provided.

Chair Ballantini closed the public hearing.

No Board discussion was held.

Ms. Pemberton informed the Board that it is acceptable for motions to be combined for efficiency, as long as both requirements are included in the motion (finding of facts or meeting of criteria AND recommendation or decision on the case.)

Commissioner Harris made a motion to establish findings of fact that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to approve the petition as submitted. Commissioner Zwaga seconded.

Roll call vote: Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, and Mr. Ballantini - Yes. (5-0). Motion was approved.

V-08-22 Public hearing, review, and action on a petition submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 2 Megan Court. PIN: 21-19-202-031. (Ward 2). *Tabled to the October 19, 2022, Regular Meeting.*

Chair Ballantini explained that this case will be tabled until the next meeting. Ms. Pemberton noted that the need to table was due to a lack of publication of notice by The Pantagraph and not due to any insufficiency or inability on the part of the Petitioner.

V-09-22 through V-14-22 Public hearing, review, and action on a petition submitted by BP Homes, LLC for Variances from § 44-403 of the Zoning Code, to allow reduced Front, Side, and Rear Yards in the R-2 (Mixed Residence) District, for the property located at 4, 6, 8, 10, 12, and 14 Megan Court. PINs: 21-19-202-030, 21-19-202-029, 21-19-202-028, 21-19-202-026, 21-19-202-027, and 21-19-202-025.

Commissioner Ballantini stated the Board preference to review all of these cases together and asked the Petitioner whether this was acceptable. The Petitioner stated this was acceptable. Chair Ballantini asked if anyone on the Board or in attendance was opposed to reviewing the cases concurrently. No objection was made.

Ms. Pemberton presented the staff reports with recommendations to approve the Variances, with a Condition similar to the provision that was present in the prior Code for the planned zero lot line type of development. She noted that text amendments are moving forward to address the unintentional exclusion of similar development during the last Code update.

Commissioner Harris asked for clarification that the fire wall is required on the zero-setback side of the buildings due to how close the buildings are to each other. Ms. Pemberton noted that Building Code—not Zoning Code—requires the firewall due to the possibility of construction on the adjacent lot.

Chair Ballantini inquired as to whether the homes on the other side of the street are already constructed this way and with the same conditions as Staff has proposed for these Variances. Ms. Pemberton verified that by being built under the prior Zoning Code they would have been required to provide drainage and access easements that were conveyed with the property. Chair Ballantini clarified that granting the two Variances with the Condition would essentially

provide the same situation for the continued development as was the case for the existing development.

Petitioner, Mark Fetzer of B.P. Homes (1305 Winterberry Circle) stated that they are trying to complete the development that has been planned for the subdivision all along. Alternatives have been reviewed, including replating and restructuring lots, but with the existing easements and utilities in place there are few options to be able to move forward with completing the subdivision. Prior to the Zoning Code change these lots would have been ready for construction with just a building permit, but they had not been ready to proceed due to the housing market at that time.

Chair Ballantini asked about the timeline for beginning work. Mr. Fetzer stated that they plan to begin work within 30 days of receiving approval for the Variances; plans are progressing through the Building Safety Division but will begin work as soon as permits can be acquired. They plan to construct all seven at once, if possible.

Chair Ballantini asked if they were the same firm that constructed the other homes on the street. Mr. Fetzer answered in the affirmative.

Chair Ballantini asked if they have had any complaints or problems with the existing units. Mr. Fetzer answered in the negative, stating the construction type is a fairly common one for the age, having a number of other developments of the same type in town. He stated his belief that zero-lot and duplex-type development is needed and his hope that changes can be made to the R-2 zoning to re-allow some of the housing types that have been disallowed.

No additional testimony was received.

Ms. Pemberton asked that the Board vote on each case separately, for the record.

Commissioner Harris made a motion, related to **case V-09-22**, to establish **findings of fact**, as presented by Staff, that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner. Commissioner Zwaga seconded.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

Commissioner Straza made a motion, related to **case V-09-22**, to **approve the Petition** for both Variances to § 44-403B, **with the Condition** that no portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall. Commissioner Harris seconded.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

Mr. Boyle clarified that each property must be taken separately, but the motion for each property may be compound to include the findings of fact and the approval of the Variances.

Commissioner Zwaga made a motion, related to **case V-10-22**, to establish **findings of fact**, as presented by Staff, that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to **approve the Petition** for both Variances to § 44-403B, **with the Condition** that no portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall. Commissioner Straza seconded.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

Commissioner Zwaga made a motion, related to **case V-11-22**, to establish **findings of fact**, as presented by Staff, that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to **approve the Petition** for both Variances to § 44-403B, **with the Condition** that no portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall. Commissioner Harris seconded.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

Commissioner Harris made a motion, related to **case V-12-22**, to establish **findings of fact**, as presented by Staff, that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to **approve the Petition** for both Variances to § 44-403B, **with the Condition** that no portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall. Commissioner Straza seconded.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

Commissioner Harris made a motion, related to **case V-13-22**, to establish **findings of fact**, as presented by Staff, that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to **approve the Petition** for both Variances to § 44-403B, **with the Condition** that no portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall. Commissioner Zwaga seconded.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

Commissioner Harris made a motion, related to **case V-14-22**, to establish **findings of fact**, as presented by Staff, that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to **approve the Petition** for both Variances to § 44-403B, **with the Condition** that no portion of any structure shall encroach onto an adjacent property without an agreement approving of such, including but not limited to: eaves and gutters, chimneys, air conditioning compressors, and other functional or architectural features which may extend beyond the principal building wall. Commissioner Zwaga seconded.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

OLD BUSINESS - Elections for Chair and Vice-Chair

Ms. Pemberton explained the process of nominating and voting for Chair and Vice-Chair.

Commissioner Harris nominated Commissioner Straza as Chair. Seconded by Commissioner Ballantini. Commissioner Straza accepted the nomination.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

Commissioner Straza nominated Commissioner Ballantini as Vice-Chair. Seconded by Commissioner Harris. Commissioner Ballantini accepted.

Ms. Harris - Yes, Mr. Straza - Yes, Ms. Williams - Yes, Mr. Zwaga - Yes, Chair Ballantini - Yes. (5-0). Motion was approved.

NEW BUSINESS - None

ADJOURNMENT

Commissioner Harris made the motion to adjourn. Commissioner Straza seconded. Voice vote was held. All were in favor. (5-0)

The meeting was adjourned at 5:35 p.m.