

## WOODFORD COUNTY ZONING BOARD OF APPEALS

Woodford County Board Room  
6:00 P. M. Tuesday, April 27, 2021  
**Minutes**

- Call to Order:

Ms. Holmes called the meeting to order at 6:00 pm

- Roll Call: Kim Holmes, Teresa Gauger, Jerry Lay, Karen Krug, and Marty Clinch were present.  
Ms. Holmes declared a quorum present.  
Others present: Erik Gibson

- Approval of minutes.

Motion to approve minutes as amended made by Lay, seconded by Clinch. *Motion Carried.*

- Permit/Petition Extensions
- Swearing in and/or affirmation- completed for each petition.
- Petitions Submitted for Review:

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**#2021-05-S Worth Township** filed, March 15, 2021, by Dennis Tipsword for an Ammunition Manufacturing business with no retail location, located in the Residential Single Family (R-1) District on a .918 acre parcel, described as Lot 9 Oak Grove Estates, Section 10 T27N-R3W of the 3<sup>rd</sup> P.M. Woodford County, Illinois, and more commonly described as 1520 Grove Lane, Metamora, Illinois.

- Swearing in and/or Affirmation: was completed for petition **2021-05-S**

Mr. Tipsword and Ms. Jording were sworn in.

Mr. Tipsword presented that he would like to set up his ammunition remanufacturing business at his home. He previously operated out of a commercial property in the Village of Spring Bay and he would like to move the operation to his home as he sold the commercial property. He noted that all his sales are through other retailers or at gun shows. No customers come to the home. Deliveries arrive on standard delivery trucks. It was discussed that typically he keeps a couple 22 lb kegs of powder on hand for production. Typically there is around 1500-2000 rounds on hand ready to go out to retailers or shows. He noted he mostly deals with hand gun ammunition and maybe some rifle ammo in the future. He discussed this request with several of the neighbors and heard no concerns. The products and components are stored in a locked garage. Ms. Jording noted she received no phone calls or interested party forms.

### **Findings by the Zoning Board of Appeals for Petition 2020-05-S:**

- A. Will not be detrimental to the public health, safety, and welfare;** (Affirmative)  
The location is well cared for regarding storage and security of the product.
- B. Will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted. The applicant need not demonstrate complete compatibility, but the applicant shall demonstrate reasonable efforts to minimize incompatibility;** (Affirmative) Neighbor notices were sent, no complaints received. Parking is not a concern with no retail location.

- C. Will not be injurious to the district in which it shall be located;** (Affirmative) This will not be detrimental to the district, it is a small scale operation.
- D. Will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the districts;** (Affirmative) This operation is contained entirely within the garage.
- E. That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided;** (Affirmative) No impact to traffic, the operation is going into an existing structure.
- F. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public roads;** (Affirmative) No traffic problems are expected.
- G. Is consistent with the Woodford County Comprehensive Land Use Plan.** (Affirmative) Protecting Agriculture and encouraging small business is consistent with the plan, this proposed use will not take land out of agriculture.

Motion to approve petition 2021-05-S for a Special Use to operate an Ammunition Manufacturing business with no retail location in the residential single family district made by Gauger, seconded by Lay.

Roll call vote: Teresa Gauger – *Yes*, Kim Holmes – *Yes*, Jerry Lay – *Yes*, Karen Krug – *Yes*, Marty Clinch – *Yes. Motion Carried.*

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**#2021-06-V Montgomery Township** filed, March 16, 2021, by Mark Rocke for a Shed size variance to allow the existing shed to be split onto its own lot without a Dwelling, located in the Conservation District on a proposed 5 acre parcel, described as E ½ SW ¼ SW ¼ Section 1 and Part of W ½ NE ¼ SW ¼ Section 1 T25 N-R1W of the 3<sup>rd</sup> P.M. Woodford County, Illinois, and more commonly described as the property between 1896 County Road 400 N and 1922 County Road 400 N. Congerville, Illinois.

- Swearing in and/or Affirmation: was completed for petition **2021-06-V** Mr. Mark Rocke was sworn in.

Mr. Rocke presented that this shed was built on property that adjoined his sons home which is what allowed construction at the time. He and his children would like to separate the shed onto its own property to be owned in trust by the whole family. The property is used for recreation and the shed stores both lot maintenance equipment and recreation equipment. The board discussed that this is an existing shed and the variance will allow it to be separated onto its own parcel. The neighboring owners are mostly family members who would have ownership in the property.

**Findings by the Zoning Board of Appeals for Petition 2021-06-V:**

- A. Non-conforming uses in the same district and permitted uses in other districts shall not be considered grounds for issuance of a Variance** (Neutral)
- B. The granting of the Variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same**

**district.** (Affirmative) This would be a five acre lot with a 3200 sq. ft. building. The property is in CRP and Forestry. No special privilege is granted as other neighbors have shed.

- C. The ZBA has found that the reasons set forth in the application justify the granting of the Variance.** (Affirmative) Family owns the contiguous property, separating into its own parcel would be a positive.
- D. The ZBA finds that the granting of the Variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.** (Affirmative) No concerns, this is a family property.
- E. The Variance requested is the least amount of Variance required to allow the proposed structure on the existing lot, without regard to aesthetics or personal inconvenience to the property owner.** (Affirmative) All same owners on surrounding property are in agreement.. The structure is already on site so this is the least amount of variance requires.

Motion to approve petition 2021-06-V for an increase in shed size to allow the structure to be split from the dwelling made by Gauger, seconded by Lay.

Roll call vote: Kim Holmes – *Yes*, Jerry Lay – *Yes*, Karen Krug – *Yes*, Marty Clinch – *Yes*, Teresa Gauger – *Yes*. *Motion Carried.*

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**#2021-08-Z Cazenovia Township** filed, March 18, 2021, by Yoder Oil Inc. for a Map Amendment to Heavy Industrial (I-2) District, located in the Commercial District on an approximately 4 acre parcel owned by Lorraine Durst, described as Part of the SE ¼ SE ¼ Block N T28N-R2W Section 28 of the 3<sup>rd</sup> P.M. Woodford County, Illinois, and more commonly described as vacant ground Northeast of the intersection of State Route 89 and County Highway 18, Cazenovia, Illinois.

- Swearing in and/or Affirmation: was completed for petition **2021-08-Z**

Mr. Josh Yoder was sworn in.

Mr. Yoder presented that they are looking to re-zone this parcel to allow for placement of a propane distribution facility much like the one they have on US 24 outside of Secor. The property is currently zoned commercial and is old railroad property. He noted they are required by fire code to be 50 ft. from property lines and roads. They are required to have the plans approved and an inspection conducted by the Fire Marshall. Mr. Yoder discussed that he spoke to the Bramans on the neighboring property and had some discussion on fencing. Ms. Jording noted that the ordinance requires that screening to be erected between residential properties and commercial or industrial zoned properties. Mr. Yoder discussed that they are looking at this location because their customer base is expanding in the area. The location off a State and County highway is also beneficial. He noted they would have typically one semi per day and 4-5 loads in the service trucks per day. There is sufficient space for the storage tank and the semis to turn around on the property.

**Findings by the Zoning Board of Appeals for Petition 2021-08-Z:**

- A. Whether the proposed zoning district classification is consistent with the Woodford County Comprehensive Land Use Plan;** (Affirmative) While this is not Ag use it does service Ag use properties.
- B. Whether there are any changed or changing conditions in the area affected that make the proposed rezoning necessary;** (Affirmative) This property is no longer utilized for railroad purposes.
- C. Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on the other properties in the immediate vicinity;** (Affirmative) The property is contiguous with other Heavy Industrial zoned properties.
- D. Whether adequate infrastructure exists or can be provided to serve the uses that would be permitted on the property if it were rezoned;** (Affirmative) There will be truck traffic only, approximately 6 vehicles per day, adequate roads exist to support the truck weights.
- E. The impact the uses, which would be permitted if the property were rezoned, will have upon the volume of vehicular traffic in the vicinity;** (Affirmative) One semi per day and 4-5 delivery vehicles per day. Accessing off County Highway 18 directly to State Route 89, no concern about roadway access.
- F. Whether a reasonably viable economic use of the subject property will be denied if the proposed rezoning is not approved;** (Affirmative) Development would improve the area and is a good use of the property.
- G. Information submitted at the public hearing.** (Affirmative) Petitioner noted regulations required by State Fire Marshall. Screening is required by the ordinance.

Motion to approve petition 2021-08-Z for a Map Amendment from Commercial District to Heavy Industrial District the parcel owned by Lorraine Durst made by Lay, seconded by Clinch. Roll call vote: Jerry Lay – *Yes* Karen Krug – *Yes*, Marty Clinch – *Yes*, Teresa Gauger – *Yes*, Kim Holmes – *Yes*, *Motion Carried*.

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**#2021-11-A Metamora Township** Appeal of the decision that the 1.82 acre lot at 1461 County Highway 1 is a non-buildable and non-variable lot.

Mr. Omiotek was sworn in.

Mr. Omiotek discussed that he purchased the property about two years ago. When it was purchased it was in disarray as it had been hit by the tornado in 2013. He noted they spent time cleaning the property and disposing of junk. He stated they disposed of used oil and old tires that had been left on the property. He noted that about 90% of the property is cleared and they wanted to build a building to store mowers and equipment to maintain the lot, the goal in the future is to build a house on the property. He noted that unbeknownst to them the lot being under two acres makes it unbuildable. He noted he assumed it was buildable because there had been a mobile home on it. He discussed that in 1991 it was platted as a two acre property. In 2008 the County Highway department purchased the front portion for County Highway 1 Right-of-Way. Mr. Bob Cherveney at the County Highway department informed him that they did not realize at the time that the purchase made the lot nonconforming. Mr. Omiotek stated he looked up the Right-of-Way deed

and the County purchased the land for \$300.00 from the landowner. This took a property that was worth about \$20,000 - \$30,000 and made it almost worthless because if it is not buildable it is not really good for anything. He noted he contacted the Zoning Administrator and she sent him a letter stating it is non-conforming which he agrees with but she also stated he cannot file for a variance. He was hoping to apply for a variance as they would like to build a shed and eventually a house on the lot in the future. He was hoping to get a variance to make it a buildable lot not only for himself but in the event they sold the property in the future that the next person can build on it in the future.

Ms. Holmes asked if the buildings being destroyed in the tornado would allow them to be re-constructed in the exact footprint since it was an act of god.

Ms. Jording noted the property was hit by the 2013 tornado, for the subsequent three years the taxes were not paid and the property went to tax sale. It was purchased at sealed bid sale as a 1.82 acre lot so that is not available.

Mr. Gibson noted that the Board is reviewing the Zoning Administrator decision that the lot is not buildable and that the lot is not variable. Ms. Holmes noted that the response from Mr. Cherveney indicates that there is the possibility that the County could sell the land back and take a dedication of Right-of-Way. Mr. Omiotek stated that would bring ownership back to them, they currently own and care for the full two acres. Ms. Gauger questioned why we wouldn't prefer to go back to a conforming property. Ms. Holmes requested Ms. Jording read Mr. Cherveney's response in an email dated April 19, 2021.

*If all else fails on behalf of the property owner it may be possible for the County to Quit Claim the 0.186 acres back to the property in exchange for a very specific purposed dedication of right of way. That would give the County the several rights needed to have the needed controls over the property, but allow the underlying ownership to remain with the property owner. Most of our older rights of way, those acquired prior to the late 1960's, were acquired by purposed dedication. In this case we would add to the list of "purposes" just a bit and end up with the required controls. We would have to have a Board action authorizing the Chairman to sign the Quit Claim deed, which we would prepare. We would also prepare the Dedication form.*

*A variance would be the preferred action.*

Mr. Clinch asked about utilities. Mr. Omiotek noted that they are not currently active but power could be run if requested. No natural gas is available. He believes the well is functional if power is applied. Mr. Lay noted that there was power in the past. Mr. Omiotek noted that in the past there was structures and a mobile home. Mr. Gibson stated that he feels Ms. Jording decision is correct, we are bound by the ordinance that we have in front of us. As the County ZBA his legal opinion is that they should not vary from what has been put into the black letter and that there are other decisions that can be made. He noted that Mr. Omiotek purchased this property at sealed bid sale at a pretty significant discount from what acreage is going for, partially due to the condition of the property but there is also an inference there that other people did their homework and knew this was under the required lot size to be buildable. Mr. Gibson noted that the packet provided includes the literature from the sealed bid sale which clearly says:

*Some properties-offered for sale may-be hazardous or condemned by local authorities. Additionally, building demolition may have occurred or may be imminent on some of the parcels offered. The County does not guarantee availability of building or repair permits, or freedom from demolition or other municipal liens or code enforcement proceedings. We urge you to investigate the property and contact the appropriate governmental authorities Before Bidding.*

Mr. Gibson further noted that in the sale contract it states the properties are sold in “as is” condition and no guarantees by the seller as to the size of the property and for what they can be utilized for under the county ordinances. He sympathized with Mr. Omiotek but there is due diligence when purchasing in a sealed bid sale. He noted he had this same conversation with both Ms. Jording and Mr. Cherveney. Mr. Gibson further stated there are other options available to Mr. Omiotek whether that be attempting to purchase the right of way back from the county or purchasing a portion of land from the neighboring landowner. Mr. Gibson was hesitant to set precedent on this, as we do not know how frequently this could come up and the precedent set would be that we are willing to violate the ordinance and allow building if someone didn’t do their homework. Mr. Gibson stated that Mr. Jording’s decision was based on the ordinance in place.

Motion to affirm the Zoning Administrators decision for Steven Omiotek on the property listed in case 2021-11-A made by Gauger, seconded by Krug.

Roll call vote: Karen Krug – *Yes*, Marty Clinch – *No*, Teresa Gauger – *Yes*, Kim Holmes – *Yes*, Jerry Lay – *Yes*. *Motion Carried.*

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- Other Business to Come Before the Board:
    - Update on previous months petition/s  
All the petitions submitted to the County Board were approved.
    - Update on next month petition/s: Ms. Jording noted there are two petitions for next month.  
One Variance and one Special Use.
    - Public Input - None
    - Executive Session – None
    - Adjournment

Mr. Lay made the motion to adjourn at 7:12, 2<sup>nd</sup> by Mr. Clinch. *Motion Carried.*

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Lisa Jording, Secretary

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Kim Holmes, Chairman

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Date