

# Menard County Zoning Board of Appeals

## MINUTES February 29, 2024

A regular meeting of the Menard County Zoning Board of Appeals was held on Thursday, February 29, 2024 at 6:00 p.m., at the Menard County Courthouse, Petersburg, Illinois. The meeting was called to order at 6 p.m. by Dan Robertson, Chair.

**A. THE PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

MEMBERS PRESENT: Karen Stott, Dan Robertson, Steve Wilken, Tom Eldridge

MEMBERS ABSENT (note if excused): Steve Ozella absent.

OTHERS PRESENT: Assistant States Attorney and Zoning Administrator Gwen Thomas and Zoning Officer Joseph Crowe.

**C. MINUTES**

Minutes from the Monday, October 23, 2023 meeting were presented for approval.

MOTION: To approve the minutes as presented. ZBA Member Eldridge motion, ZBA Member Stott second.

ROLL CALL

  4   in Favor: Karen Stott, Dan Robertson, Steve Wilken, Tom Eldridge

  0   Opposed:

MOTION CARRIED

**D. PUBLIC COMMENT** – There was no additional public comment.

**E. OLD BUSINESS** – There was no old business to be discussed.

**F. NEW BUSINESS** – There was no new business to be discussed.

**G. ADMINISTRATIVE HEARING**

Zoning officer Crowe introduced the case by stating:

**LOREN AND VICKIE BAXLEY SUBMITTED APPLICATION ON THEIR OWN BEHALF OR WITH COUNSEL SEEKING A VARIANCE FOR THE FOLLOWING:**

**That 6.03 A-Agriculture District Regulation (D)(2) (a & b)**

**“One (1) dwelling unit upon three (3) acres or more, on soils with a predominant soil productivity index of 110 and lower, per 30 acres of common ownership”.**

**a. Soil productivity is determined by the “Average Crop, Pasture, and Forestry Productivity Ratings for Illinois Soils” bulletin 810, which is managed by the University of Illinois. Soil classifications will be determined by the current approved USDA/NRCS Menard County Soil Survey.**

**b. Prior to the property being split, the owner must establish the boundaries of the thirty (30) acre property. Record of these splits will be maintained within the zoning and/or assessment office.**

**9.01 NON-CONFORMITIES (B)(1)**

**No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land or greater portion of any building than was occupied at the effective date of adoption or amendment of this code.**

**Petitioner is requesting a +/- .31-acre parcel to be annexed to the larger .5-acre non-conforming parcel. All parcels to remain in Ag zoning.**

**Public Hearing Opened**

Chairman Robertson swore in the parties to the case and began with Mr. Greg Rebbes' comments. He explained “that as one of the owners of the ground around it, the family, we have no reason to object to it whatsoever. Okay. Yeah. I mean, they kind of had this lined up with dad long before he passed away, so no reason to do anything any different”, and he finished his testimony.

Chairman Robertson recognized a couple of individuals regarding expansion on Curtis Blacktop, he explained that case would not be heard during the proceedings. Chairman Robertson called Mrs. Vickie Baxley, she testified that she “asked my father if we could purchase a little bit of the property around our house to make it up to date. To expand a little bit, uh, his comment was, no, but I will give it to you.” She explained, there's others involved besides me and I said, “I will buy it from you. And he said, That's, that will be fine”. He quoted me a price. I wrote him a check. We had it surveyed. She explained, “being young and dumb, we did not finish the process. I, I assume that is why we are having issues here is we just did not, we thought having it surveyed was what we needed to do”. Mrs. Baxley finished her testimony.

Chairman Robertson called Mr. Loren Baxley, he reiterated his wife's testimony and added “Well, this last year in 2023, our lawyer came up with, we're doing some estate planning and he gets to checking into it and he goes, um, that, that's not even your ground”. I mean, you know, we thought it was, but it was not. Mr. Baxley went on, so then he said we could do a quick deed, maybe, I did not even know what that was, but he worked into that, and we got the okay from everybody in the family involved to go ahead with that. But then we found out that that was not the case either. So, you know, we just went into the position where, you know, we have thought that was our yard the last 17 years.

You know, we planted trees and portable storage shed and some other things around and, uh, then we find out that is not the case. So, we are trying to get it resolved. Get it right.

Chairman Robertson called Mr. Lacy Rebbe, he explained that he was here for to support my brother-in-law and sister and, and I have no problem with letting them have it. He expressed that he thought it was all a done deal and then this came up.

Members of the Board then asked various questions regarding the parcel being landscaped and the accessory structures that have been placed on the parcel. Additional questions were asked concerning the deed of the parcel and it was explained that there was not one at the time of transfer. It was a handshake deal.

Chairman Robertson then closed the public discussion.

MOTION: To close the public hearing for debate among members. ZBA Member Stott motion, ZBA Member Wilken second

#### ROLL CALL

  4   in Favor: Karen Stott, Dan Robertson, Steve Wilken, Tom Eldridge

  0   Opposed:

#### MOTION CARRIED

#### Menard County Zoning Board of Appeals Deliberation

Deliberation of case by members.

#### **H. DETERMINATION OF ZONING BOARD OF APPEALS**

Menard County Zoning Board of Appeals members determined the following and published their findings.

MOTION: The Menard County Zoning Board of Appeals recommends to approve this application (24-01V) for variance as amended in a public hearing held on Thursday February 29, 2024, for Loren and Vickie Baxley allowing:

§6.03 A-Agriculture District Regulation (D)(2) (a & b) “One (1) dwelling unit upon three (3) acres or more, on soils with a predominant soil productivity index of 110 and lower, per 30 acres of common ownership”.

a. Soil productivity is determined by the “Average Crop, Pasture, and Forestry Productivity Ratings for Illinois Soils” bulletin 810, which is managed by the University of Illinois. Soil classifications will be determined by the current approved USDA/NRCS Menard County Soil Survey.

b. Prior to the property being split, the owner must establish the boundaries of the thirty (30) acre property. Record of these splits will be maintained within the zoning and/or assessment office.

#### 9.01 NON-CONFORMITIES (B)(1)

No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land or greater portion of any building than was occupied at the effective date of adoption or amendment of this code.

Petitioner is requesting a +/- .31-acre parcel to be annexed to the larger .5-acre non-conforming parcel. All parcels to remain in Ag zoning.

Member Stott motion, Member Wilken second.

ROLL CALL

  2   in Favor: Karen Stott, Steve Wilken

  0   Opposed: none

  1   Abstain: none

MOTION CARRIED

**I. DETERMINATION OF FINDINGS OF FACT**

Menard County Zoning Board of Appeals members determined the following and published their findings.

- (i) The granting of the variation will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

The Menard County Zoning Board of Appeals found that this petition is not in harmony with the Menard County Ordinance, but will not be injurious to the neighborhood or otherwise detrimental and will thus satisfy the benchmark of determination.

- (ii) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the bulk, sign, or off-street parking regulations of the zoning classification of the property in question.

The Menard County Zoning Board of Appeals found that this petition cannot yield a reasonable return by the bulk regulations in its current state and would need to be possibly varied by a future owner. The board feels this will meet the criteria, and should be allowed.

- (iii) The plight of the owner is due to special circumstances.

The Menard County Zoning Board of Appeals found that this petition does meet Special circumstances with the family history with the ground and will satisfy the ordinance criteria regarding this point.

Member Eldridge motion, Member Wilken second.

ROLL CALL

3   in Favor: Karen Stott, Tom Eldridge, Steve Wilken

  0   Opposed: none

MOTION CARRIED

**J.     ZONING BOARD OF APPEALS COMMENTS/COMMUNICATIONS**

Chairperson's Comments - none

**K.     ADJOURNMENT**

There being no further business, the meeting was adjourned at  6:35  p.m.