

**MINUTES
LAND USE COMMITTEE
FEBRUARY 25, 2020
4:00 P.M.
ROOM 402**

MEMBERS PRESENT: James Dillon – Chairman; Matt Windish, Sharon Williams, Brian Elsasser

MEMBERS ABSENT: Kate Pastucha, Barry Robinson

OTHERS PRESENT: Larry Evans - State's Attorney's Office; Scott Sorrel & Shauna Musselman - County Administration; Andrew Braun, Keith Miller - Planning & Zoning; Mike Howley – representative from Lendlease Towers, petitioner; Tim Woods – representative for zoning case petitioner; Jenny Park – representative from SBA Communications, zoning case objector

Call to Order:

Mr. Dillon called the meeting to order at 4:19 p.m.

Approval of Minutes:

A motion to approve the Land Use Committee minutes from December 18, 2019 was made by Ms. Williams and seconded by Mr. Windish. A vote was taken on the motion and carried. (4-0) (Mr. Robinson & Ms. Pastucha absent.)

Reports/ Other Minutes/Updates:

Tri-County Regional Planning Commission Minutes: No questions or comments.

Unsafe Structures: No questions or comments.

Development Summary: No questions or comments.

Mr. Dillon made a motion to receive and file the reports.

Zoning Cases:

002-20-V, Petition of Insite RE, Inc. as agent for Lendlease Towers III, LLC:

Mr. Elsasser made a motion to approve the telecommunications variance and was seconded by Ms. Williams.

Mr. Braun summarized the case. A Variance request from Section 20-7.1.1.2 of the Unified Development Ordinance, which requires that the height of a telecommunication facility shall not exceed 200 feet, if located in a non-residential zoning district. The petitioner proposes to construct a telecommunications tower at a height of 255 feet in the "A-2" Agriculture Zoning District, resulting in a variance request of 55 feet. This property is located in Hallock Township on W. Truitt Road. There are 0 consents and 2 objections. The County Highway Department

had no objection. Staff does not make a recommendation on this type of case; however, the Zoning Board of Appeals did approve the case unanimously.

Mike Howley, representative from Lendlease Towers, stated that he did not have anything to add, but hoped that the committee would recommend approval of the request.

Ms. Williams asked who the objections were from, and Mr. Braun responded that one was from a nearby resident who felt there was no need for another tower since there is already one approximately one quarter mile from this location. Mr. Braun added that the other objection was from SBA Communications, which is the owner of the other tower nearby.

Jenny Park, attorney representing SBA Communications, stated that her client owns an existing tower approximately 500 feet from this proposed site. Ms. Park stated that AT&T is currently located on SBA's tower but will be relocating to this tower. Ms. Park stated that her client does not believe that another tower that close is necessary and that AT&T is only doing this for their financial benefit. Ms. Park added that AT&T has never approached SBA with dissatisfaction.

Mr. Howley added that AT&T does intend to locate on the new tower because it is his understanding that they have been negotiating a fair lease price with SBA for over 2 years and have not been able to reach an agreement. Mr. Howley added that the use of a cell tower is permitted in this zoning district and it is only the height that requires the variance. Additionally, Mr. Howley stated that Peoria County and the state do not require a distance of separation between towers and they will also comply with all other regulations set forth by county and state. Mr. Howley stated that the extra height was necessary due to the topography of the area and being able to reach the proper service radius without interfering with the existing tower.

Mr. Dillon reminded the board that the variance was for the height of the tower only. Mr. Elsasser asked if the portion of the property to be leased was on Arrowhead Country Club's property, and Mr. Howley confirmed that this was correct.

A vote was taken on the motion and carried. (4-0) (Mr. Robinson & Ms. Pastucha absent.)

008-20-U, Petition of the Estate of Doneita M. Werry, Deceased & the Glenn A. Werry, Sr. Estate, Deceased:

Mr. Elsasser made a motion to approve the special use and was seconded by Ms. Williams.

Mr. Braun summarized the case. A Special Use request from Section 20-6.2.1.1.b of the Unified Development Ordinance. This section allows for a special use when a proposed land split does not meet the 40 acre minimum lot size in the A-1 Agricultural Preservation Zoning District. The petitioner proposes to divide an existing 11.44 acre parcel into two parcels of 5.28 acres and 6.16 acres in order to separate the residence from the agricultural use. The 5.28 acres will contain the existing dwelling while the 6.16 acres will include an existing horse barn, machine shed, and pasture. There are 0 consents and 0 objections. The parcel has a medium rating for agricultural protection; however, no portion of the parcel is currently being used for crop production. The Health Department had no objections and there was no comment from the Trivoli Township Road Commissioner. The request is consistent with the Peoria County Comprehensive Land Use Plan and also the Peoria County Rural Areas Growth Strategies. Staff recommended approval and the Zoning Board of Appeals concurred.

Tim Woods, representative for the case, stated that there was a buyer interested in purchasing the home pending the land split and asked that the board approve the request so that the estates could be settled.

A vote was taken on the motion and carried. (4-0) (Mr. Robinson & Ms. Pastucha absent.)

Subdivision Waivers:

W03-20, Petition of Paige Ziegler:

Mr. Elsasser made a motion to approve the subdivision waiver and was seconded by Mr. Windish.

Mr. Braun summarized the case. A waiver from Section 20-8.3.4.1.b.2.a of the Unified Development Ordinance. This section requires a new minor subdivision to have public water supply. The property is located in Hallock Township. The petitioner is proposing to serve a 1 lot subdivision with a private well. There is an existing well on the property that has a production rate of 10 gallons per minute, which exceeds the county requirement of 3 gallons per minute. The petitioner is proposing to divide a 1.84 acre tract including a house in order to sell the remaining tillable acreage. The closest public water supply is the City of Chillicothe, which is approximately 0.62 miles to the east. Staff is recommending approval.

A vote was taken on the motion and carried. (4-0) (Mr. Robinson & Ms. Pastucha absent.)

Discussion:

2019 Permit Counts:

Mr. Braun explained that there were some reports in the packet which outlined New Residential and New Commercial/Industrial permit counts for Peoria County Planning and Zoning from 2015-2019 in comparison to other jurisdictions within Peoria County in addition to some jurisdictions in Tazewell and Woodford Counties. Mr. Braun stated that Peoria County Planning and Zoning's permit numbers in these categories have remained steady over the course of the past three years.

Mr. Elsasser asked if the residential permit number included additions, and Mr. Braun responded that the list only included new construction; however, Mr. Braun added that in 2019 the department had issued 382 electrical permits, 70 plumbing permits, 67 HVAC permits, and 467 building permits.

Miscellaneous:

Mr. Elsasser stated that he wanted to speak about an issue a citizen had with buying solar panels from a bankrupt company and found they were not able to get a permit for a solar project because of the panels. Mr. Dillon explained that the problem is that the panels do not meet or do not have ASME codes and cannot be validated. Mr. Dillon added that he had been reading about the product and the company in question, which had problems with their products malfunctioning which caused many lawsuits and eventually bankruptcy of the company. Mr. Dillon stated that the company then sold their assets at a reduced rate, which is when the contractor purchased them. Mr. Miller added that inverter and racking system companies will also not approve this particular product to be used with their systems because there is no way to validate the product. Mr. Dillon stated that any jurisdiction that upheld a building code would

not allow the use of the solar panels because the product cannot be validated according to those building codes.

Mr. Elsasser stated that the owner was willing to sign an indemnification agreement that the county would not be liable for any damages if the systems failed. Mr. Dillon responded that Mr. Miller had brought up a point that even if the panels were allowed to be used, there are no inverter or racking system companies that would be willing to hook their product up to the panels in order to create a working system. Mr. Elsasser stated that the owner is ICC approved to install solar panel systems, Ameren was willing to sign off on the project, and that SRECs had a system in place to be sure that systems installed would be held accountable if they malfunction. Mr. Dillon stated that although the owner was certified to install solar systems, it did not mean that the product he was trying to install would meet the requirements set forth by the building code. Mr. Dillon added that Ameren and SRECSs are also not endorsing the product by being willing to sign off on it. Mr. Elsasser stated that Ameren would do a field site inspection, and Mr. Dillon responded that he did not believe they conducted inspections of that kind. Mr. Dillon added that Ameren is only concerned about the interconnection. Mr. Dillon stated that he did feel sympathetic to the owner, but he was not willing to change the established codes and rules for one person. Mr. Elsasser restated that the owner was willing to sign an indemnification agreement, and Mr. Dillon and Ms. Williams both agreed that that was not the right course of action for the county to take.

Mr. Windish asked if there was rule book that stated these panels could not be used, and Mr. Dillon responded that many of the requirements come from building and electrical codes that the county has adopted to enforce. Mr. Miller stated that he had researched the information he was presented for this project and had found no inverters or racking systems that would be compatible with these panels. Mr. Windish asked who gets to determine the standards for these products, and Mr. Braun responded that the Illinois Commerce Commission issues a state certification which the owner has obtained. Mr. Braun continued to explained that with that certification, the installer is certifying that they are complying with the manufacturer's installation instructions. As part of the requirements for a solar permit in Peoria County, information must be supplied on how the system is to be installed. Mr. Braun continued by stating that no one has been able to sign off on these panels because they are not compatible with any current racking system or inverter system on the market. Mr. Braun stated that the contractor is not able to meet this requirement and additionally has not been able to submit information required for building code compliance. Mr. Windish asked if there was an option for an engineer to produce information and sign off on it, and Mr. Braun responded that staff had given the contractor the option to have an engineer sign off on the project and the contractor declined to do so. Mr. Braun further added that the department had issued 79 solar permits to 28 different companies over the last 2 years and the process for getting the permit was the same for everyone. Mr. Dillon stated that he felt this was a key point to prove that it is not impossible to get a solar permit in Peoria County.

Adjournment: Mr. Dillon adjourned the meeting at 4:53 p.m.

Recorded by: Ellen Hanks, ZBA Administrative Assistant

Approved 4/7/2020