

**Zoning Board of Appeals Meeting Minutes  
Tuesday September 26, 2017 at 8:30 a.m.  
157 N. Main Street, Suite 254, Edwardsville, IL**

**Present** were Misters Sedlacek, Koeller, Janek, and Metzler. Mr. Campbell attended the first on-site hearing, the petition of Spencer Homes LLC, via cellular telephone.

**Absent** were Misters Davis and St. Peters.

**1. Call to Order**

- a. Chairman Mike Campbell called the meeting to order at 8:30 a.m.

**2. On-Site Hearings and Public Comment**

- a. The ZBA conducted on-site public hearings at the times and locations indicated in the agenda schedule. The ZBA reconvened in the Planning and Development Department Conference Room at 1:20 p.m. to complete motions and votes. Please see the Findings of Fact for the hearing summaries and public comment.

**3. Approval of Minutes**

- a. John Janek made a motion to approve the minutes from August 22, 2017. Seconded by Don Metzler. Voice vote. All Ayes. Motion approved.

**4. Unfinished Business**

- a. Text Amendment – Petition requesting a text amendment to Chapter 93 of the Madison County Code of Ordinances. The petition remained tabled, and no action was taken.
- b. Z17-0040 – Petition of Kevin Kahrig. John Janek made a motion to approve the request. Seconded by Don Metzler. Voice vote. All ayes. Motion approved.

**5. New Business**

- a. Z17-0050 – Petition of Spencer Homes LLC. Don Metzler made a motion to approve the request. The motion was not seconded. Motion failed. John Janek made a motion to deny the request. Seconded by Don Metzler. Roll-call vote. All ayes. Motion approved.
- b. Z17-0045 – Petition of Jeremy and Angela Anderson. John Janek made a motion to approve the request. Seconded by Don Metzler. Voice vote. All ayes. Motion approved.
- c. Z17-0042 – Petition of Domingo Del Rio Perez. Don Metzler made a motion to deny the request. Seconded by John Janek. Voice vote. All ayes. Motion approved.
- d. Z17-0049 – Petition of Homer and Linda Wyatt. John Janek made a motion to approve the request. Seconded by Don Metzler. Voice vote. All ayes. Motion approved.
- e. Z17-0048 – Petition of Nicholas Frey. Steve Koeller made a motion to deny the request. Seconded by John Janek. Voice vote. All ayes. Motion approved.

**6. Planning Coordinator's Report**

- a. Andi Yancey informed the Zoning Board of Appeals that the October 10, 2017 hearing will be canceled due to a lack of agenda items at the notification deadline, and the next meeting will likely be October 24, 2017.

**7. Adjournment**

- a. John Janek made a motion to adjourn. Seconded by Steve Koeller. Voice vote. All ayes. Motion approved.

**September 26, 2017**

**Findings of Fact and Recommendations**

Mr. John Sedlacek, Chairman pro tem, called the meeting to order at 8:30 a.m. in the office of the Madison County Planning and Development Department.

**Present were Misters, Sedlacek, Janek, Metzler, and Koeller. Mr. Koeller was not able to attend the first meeting. Mr. Campbell attended the hearing for zoning petition file Z17-0050, the first on-site hearing of the day, via cellular telephone. Absent were Misters Davis and St. Peters.**

The Board of Appeals, established by the Chairman and the Board of Supervisors and provided for under the terms of the Madison County Zoning Ordinance, 1963 and all subsequent amendments/revisions thereto does hereby submit the Reports and Recommendations on the following:

<b>File Z17-0040 – Petition of Kevin Kahrig</b>	<b>(Pin Oak Township)</b>
<b>File Z17-0050 – Petition of Spencer Homes, LLC</b>	<b>(Hamel Township)</b>
<b>File Z17-0045 – Petition of Jeremy and Angela Anderson</b>	<b>(Wood River Township)</b>
<b>File Z17-0042 – Petition of Domingo Del Rio Perez</b>	<b>(Nameoki Township)</b>
<b>File Z17-0049 – Petition of Homer and Linda Wyatt</b>	<b>(Saline Township)</b>
<b>File Z17-0048 – Petition of Nicholas Frey</b>	<b>(St. Jacob Township)</b>

## **Finding of Fact and Recommendation**

**August 22, 2017**

**Z17-0040** - Petition of Kevin Kahrig, applicant, on behalf of Rick Kahrig, owner of record, requesting a zoning map amendment to rezone a 2.5-acre tract of land from "R-1" Single-Family Residential District to "B-2" General Business District in order to operate an office building and storage facility on site. This is located in Fort Russell Township, at the corner of State Route 143 and Indian Hills Road, Edwardsville, Illinois. PPN 15-1-09-32-00-000-023 (24)

Present were Misters Campbell, Davis, Sedlacek, Janek, and Metzler.

Absent were Misters Koeller and St. Peters.

A motion was made by Mr. Sedlacek and seconded by Mr. Janek that the petition of Kevin Kahrig be as follows: Denied.

Roll-call vote.

Ayes to the motion: Misters Davis, Sedlacek, Janek, and Metzler.

Nays to the motion: None.

Absent: Misters Koeller and St. Peters.

## **September 26, 2017**

The applicant amended his petition to request a map amendment to "B-2" General Business District, as follows:

**Z17-0040** - Petition of Kevin Kahrig, applicant, on behalf of Rick Kahrig, owner of record, requesting a zoning map amendment to rezone a 2.5-acre tract of land from "R-1" Single-Family Residential District to "B-4" Wholesale Business District "B-2" General Business District in order to operate an office building and storage facility on site. This is located in Fort Russell Township, at the corner of State Route 143 and Indian Hills Road, Edwardsville, Illinois. PPN 15-1-09-32-00-000-023 (24)

**Present were Misters, Sedlacek, Janek, Metzler, and Koeller.**

**Absent were Misters Davis, Campbell, and St. Peters.**

A **motion** was made by Mr. Janek and **seconded** by Mr. Metzler that the petition of Kevin Kahrig be as follows: **Approved.**

Voice vote.

**The Finding of Fact of the Board of Appeals:** I. The notice of public hearing was posted on the property in accordance with the terms of the ordinance; II. The legal notice appeared in the newspaper and meets the requirements of the ordinance for publication; III. The adjoining property owners were notified by mail of the time and date of the public hearing and several were in attendance; IV. Kevin Kahrig, applicant, stated that the main thing is the office building, explaining that everyone seemed to have an issue with storage; V. Michael Campbell, Chairman of the Zoning Board of Appeals, stated for the record that the storage facility was part of the request; VI. Mr. Kahrig, applicant, stated that that was correct and that he just wanted to say that he understands where the concerns would come in given what's located down the street. Mr. Kahrig stated that he plans to far exceed whatever else is down the street, because everything in his opinion is trash. Mr. Kahrig stated that he is trying to change that and the he knows another gentleman down the street who is also trying to change that and that their goal is to make it more like what's on the other side of town so that it's not junk. Mr. Kahrig said he feels that if they start building nicer buildings, everyone else will follow suit, and property values should rise. Mr. Kahrig stated that the office building he is planning will be marketed toward attorneys due to its proximity to the courthouse and will be more upscale than the surrounding area. Mr. Kahrig stated that the same principle applies to the storage facility in that it will be nicer than what's down the street; VII. Michael Campbell, ZBA Chairman, clarified for the record that the storage facility was still part of the request; VIII. Mike Pearman, 4956 Indian Hills Drive, stated that he has concerns about stormwater drainage. Mr. Pearman stated that water runs over the property in two or three places, and that the subject property floods so badly he doesn't understand how anything could be built on the site. Mr. Pearman

stated that the proposal would cause stormwater to back up even worse. Mr. Pearman also stated that he doesn't understand Mr. Kahrig's initial comments since it's clear that he still intends to build the storage buildings. Mr. Pearman stated that he also has concerns with traffic in the area. IX. Michael Campbell, ZBA Chairman, stated that any development would be reviewed by the department's Stormwater Coordinator, and that the applicant would not be allowed to increase stormwater runoff from the property; X. Sandra Phillips, 4843 Indian Hills Road, stated that her property already floods and that she is concerned about the impact the proposal would have on stormwater drainage; XI. Denise Maxwell, 4873 Indian Hills Drive, stated that she researched the differences between the various Business Zoning Classifications and the she and other property owners are concerned about traffic turning in off of IL Route 143 since there is no left turn lane in or out, the narrowness of Indian Hills Drive, and the heavy traffic in the surrounding area. Ms. Maxwell stated that, depending on where the applicant is proposing to locate the ingress and egress, there will likely be issues turning in and out. Ms. Maxwell stated that there were some Ag-related businesses currently located along Indian Hills Drive, and that type of business activity fits the character of the area. Ms. Maxwell stated that she also has concerns surround the drainage of the property explaining that the water has to go somewhere. Ms. Maxwell concluded by stating the nearby property owners had submitted a list of concerns; XII. Floyd Rulo, 4847 Indian Hills Road, stated that his concern is water problems and that no one seems to want to do anything about it. Mr. Rulo stated that the subject property is the biggest back-up of water in the County and that nobody seems to care about it. Mr. Rulo said that he cares about it because it's been in his house several times, and that if the applicant builds something that causes his house to flood again, there are going to be problems around here. Mr. Rulo stated that whoever buys the subject property better know what they're doing and better look at some of the records of the flooding in the surrounding areas and drainage ways. Mr. Rulo stated that he is all for improving property around here, but that he is not for somebody building something that backs water up into his yard and house; XIII. Nina Limbaugh, 4842 Indian Hills Drive, stated that she has owned her property for 26 years and she knows what her neighbors are talking about with the water, stating that while it has yet to get into their house it has come within a few feet. Mrs. Limbaugh explained that she and her husband were in the construction business for 23 years, and she knows what construction is all about. Mrs. Limbaugh went on to say that she doesn't know what he plans to do, but that she does not want a construction business across the road from her.; XIV. Art Lippoldt, 5022 Indian Hills Drive, stated that he has two concerns and water is one of them, stating he'd like to see a plan as to how the water will be addressed. Mr. Lippoldt stated that if anything is done on the property that restricts the flow of water through there, it will create a worse situation than there already is. Mr. Lippoldt stated that his second concerns is how traffic will be directed, explaining that traffic flow will be important. Mr. Lippoldt stated that the existing traffic situation was already touchy given the fact that IL Route 143 merges from four lanes down to two right at their intersection and that accommodating the traffic flow with the additional entrances will be important; XV. Michael Kluthe, 3912 Cherokee Trail, also expressed stormwater concerns. Mr. Kluthe stated that with just a few inches of rain the water back up into his yard and starts to come over the top of Indian Hills Drive. Mr. Kluthe stated that, while it's not reached his house yet, he is concerned that the proposed development on the property will compound the existing drainage problems and cause his home to flood. Mr. Kluthe said that he is also concerned about the proposed ingress and egress locations for the property given the existing traffic issues with the IL Route 143 and Indian Hills Drive intersection; XVI. Clifford Forsythe, 5005 Indian Hills Drive, stated that the IL Route 143 and Indian Hills Drive intersection is a very bad intersection, and that there are not turn lanes to ease the traffic. Mr. Forsythe stated that two cars could barely pass on Indian Hills Drive, explaining that he was not sure the roadway could accommodate the proposal. Mr. Forsyth stated that he is also concerned with stormwater drainage, explaining that his basement had flooded three times in the span of a year; XVII. Linda Lippoldt, 5022 Indian Hills Drive, expressed concerns with how the proposal would impact residential property values in the surrounding area. Mrs. Lippoldt stated that Indian Hills Drive is a country road through a country neighborhood and that they'd like to keep it that way; XVIII. Richard Sones, 5059 Indian Hills Drive, asked what could be developed on the property should the applicant decide to sell it without building anything once the map amendment is approved. Mr. Sones was provided with a list of permitted uses within the "B-4" Wholesale Business District. XIX. Sandra Phillips, 4843 Indian Hills Road, stated that she is also concerned with the impact the map amendment would have on property values and inquired what the applicant would be doing about sewers; XX. Michael Kluthe, 3912 Cherokee Trail, stated that the five out of six of his neighbors also expressed concerns with stormwater drainage; XXI. Denise Maxwell, 4873 Indian Hills Drive, stated that she had researched the uses in the "B-4" District and that it allows for outdoor storage. Ms. Maxwell stated that she believes there is little the County can do to police the outdoor storage since it's perpetually complaint-driven. Ms. Maxwell stated that it is difficult for her and the other owners to grasp the constructions issues with the existing drainage ways, the high-pressure gas lines, and the process of getting an entrance permit granted through IDOT for IL Route 143; XXII. Kevin Kahrig, applicant, stated that the plans is to have an entrance/exit off of IL Route 143 and an entrance/exit off of Indian Hills Drive. Mr. Kahrig stated

that the main thing with the water issue is that there's a problem regardless and that the ditches through the property need cleaned out. Mr. Kahrig stated that there needed to be ditched along either side of Indian Hills Road. Mr. Kahrig stated that he would be willing to locate a retention pond toward the back of the property or enlarge the creek if required by the County. Mr. Kahrig stated that the high-pressure gas lines are deep and under the creek, so they will not cause an issue. Mr. Kahrig stated that he plans to build his house on the property directly north of the subject property, explaining that he would not do something to decrease property values when he's potentially going to build a \$400K house next door. Mr. Kahrig stated that he already has house plans if anyone wanted to take a look. Mr. Kahrig stated that he has not been all the way down Indian Hills Drive, but that he thinks a \$400k house would be more than sufficient for the area. Mr. Kahrig stated that there would be no outdoor storage on the property, and that he intends to keep the property nice; XXIII. On September 26, 2017, The Board of Appeals was notified Mr. Kahrig had amended his request from "B-4" Wholesale Business District down to "B-2" General Business District and that the storage facility was no longer part of the request. XXIV. The Board of Appeals notes for the record that that most of the opposition to the request by nearby property owners was due to the storage facilities and other potential "B-4" District uses; XXV. The Board of Appeals notes for the record that the proposal for a multi-tenant office building is compatible with the character of the surrounding area; XXVI. The Board of Appeals notes that the Comprehensive Plan, Madison County Zoning Ordinance, and the zoning file were taken into consideration.

Ayes to the motion: Misters Sedlacek, Janek, Koeller, and Metzler.

Nays to the motion: None.

Absent: Misters Campbell, Davis, and St. Peters.

Where upon the Chairman declared the motion duly adopted.

## Finding of Fact and Recommendations

**Z17-0050** - Petition of Spencer Homes LLC, applicant, on behalf of Ralph and Christin Handshy, owners of record, requesting a zoning map amendment to rezone 52.62 acres from "A" Agriculture District to "R-1" Single-Family Residential District in order to develop a 36-lot subdivision. This is located in Hamel Township, at **5041 State Route 157**, Edwardsville, Illinois PPN#11-1-10-32-00-000-002 **(03)**

A motion was made by Mr. Metzler to approve the request. The motion did not receive a second. Motion failed.

A **motion** was made by Mr. Janek and **seconded** by Mr. Metzler that the petition of Spencer Homes LLC be as follows: **Denied.**

**The Finding of Fact of the Board of Appeals:** I. The notice of public hearing was posted on the property in accordance with the terms of the ordinance; II. The legal notice appeared in the newspaper and meets the requirements of the ordinance for publication; III. The adjoining property owners were notified by mail of the time and date of the public hearing and several were in attendance; IV. Mike Rathgeb, speaker on behalf of the applicant, stated that he resides at 4819 Hazel Road, just down the street from the request. Mr. Rathgeb stated that he is seeking to rezone a 50+/- acre lot to "R-1" Single-Family Residential District. V. Mark Kruckeberg, 5041 Hazel Road, spoke in opposition to the request. Mr. Kruckeberg stated that he is a volunteer fire fighter for the Hamel Fire Department. Mr. Kruckeberg submitted a letter of opposition for the record, which he read to the crowd. Mr. Kruckeberg spoke about soil quality at the site and expressed concerns with the suitability of the property for the required private sewage systems as well as concerns with stormwater runoff once the property is developed. Mr. Kruckeberg also expressed concerns regarding an underground pipe line that runs through the subject property; VI. Thomas Wille, 5210 Hazel Road, submitted elevation maps and copies of the Madison County Private Sewage Ordinance for the record. Mr. Wille stated that the subject property drained through Mr. Kirbach's and Mr. Kruckeberg's properties, and then through his property. Mr. Wille stated that he too has concerns with several private sewage systems being installed on the property because the soils are not suitable for subsurface lateral fields, so many homeowners would likely need aeration systems which require regular maintenance. Mr. Wille stated that if the aeration systems are not properly maintained it will contaminate the stormwater runoff from the subject property. Mr. Wille expressed concerns about whether the proposed subdivision would be able to satisfy the requirements of the Madison County Private Sewage Ordinance; VII. Rodney Couick, 5208 Hazel Rd., stated that according to the concept plan, the rear cul-de-sac of the development would come within 200 ft. of his property line. Mr. Couick stated that there is a drainage gully in that corner and some erosion. Mr. Couick stated that the soils do not drain well, so there is severe runoff following every rainfall. Mr. Couick stated that he shares the drainage and stormwater runoff concerns expressed by others. Mr. Couick stated that he and his wife were drawn to the rural character of the area, and that a subdivision of this magnitude would alter that aesthetic; VIII. Jerry Kane, managing director of Madison County Transit, stated that MCT created the bikeway system and explained that much of the bikeway sits on rail-banked property. Mr. Kane stated that rail-banked property is protected by a federal law called The Rail Banking Act. Mr. Kane explained that at any point in the future, the railroad may reactivate service along a rail-bank corridor, as a condition of the federal law. Mr. Kane stated that he just wanted to make the ZBA and Spencer Homes were aware of this and stated that any future property owners should be notified of the rail-bank interest of that corridor; IX. Duane Meyer, 6223 Staunton Rd., stated that he is the Hamel Township Supervisor and that he is concerned about the pipeline that passes underneath the subject property and how it will be accommodated. Mr. Meyer stated that as per state law the township would take ownership of the roadways within the subdivision and that they need more information. Mr. Meyer also expressed concerns with drainage, stating that the township would want curbs or ditches to help direct the flow of water; X. Ralph Handshy, Roxanna Illinois, stated that he is one of the owners of the property and discussed the pipe line that runs through the property. Mr. Handshy stated that there is a 50-foot easement over the pipeline and it's registered at the County; XI. Josh Kirbach, 7845 Handshy Ln., stated that he agreed with the previous comments made by those in attendance. Mr. Kirbach stated that everyone at the hearing had a minimum of 2 acres. Mr. Kirbach expressed concerns whether the proposed subdivision could satisfy the private sewage code. Mr. Kirbach stated that there would now be 36 septic systems upstream from the property he just purchased as well as many of his neighbors. Mr. Kirbach expressed concerns with additional stormwater runoff, concluding that 1-acre lots and the proposed infrastructure were not correct for what they're trying to do out there; XII. Lori Kruckeberg, 5741 Hazel Rd., submitted three letters of opposition to the request from nearby owners who could not attend the hearing; XIII. Dana Kirbach, 7845 Handshy Lane, also spoke in opposition to the request. Mrs. Kirbach stated

that her biggest issue with the request was that she was required to satisfy the two-acre lot size minimum a few months ago when she and her husband went through the development process. Mrs. Kirbach stated that she does not think it's fair to allow 1-acre lots 4 months later; XIV. Richard Donner, 5206 Hazel Rd., also spoke in opposition to the request. Mr. Donner stated that he agreed with the previous comments regarding private sewage, explaining that he had concerns with contamination and pollution. Mr. Donner stated that he has 4 children who play in the creek that runs through their property. Mr. Donner stated that the proposed lot sizes were too small and that he is opposed to an additional crossing along the MCT bikeway; XV. Terry Swan, 7807 Sun Ridge Ct., also spoke in opposition to the request. Mr. Swan echoed concerns with stormwater, flooding, and smaller lot sizes. Mr. Swan also expressed concerns with the additional traffic the proposed homes would bring. Mr. Swan stated that he is concerned with the possibility for more accidents along State Rte. 157; XVI. Laughton Armes, 4981 Hazel Rd., stated that he is on a well and that the water table in the area is very high. Mr. Armes stated that he is concerned that the additional private sewage systems could contaminate his well water; XVII. Mike Rathgeb provided closing comments on behalf of the applicant. Mr. Rathgeb stated that he lives on Hazel Rd. and that he gets runoff from the field across the road from him. Mr. Rathgeb stated that he understands the concerns about drainage, but given the fact that he lives down the road and has for 15 years, he would take all necessary actions to improve the drainage situation on the property. Mr. Rathgeb explained that the plan the adjoining property owners had seen was merely a concept plan for zoning review. Mr. Rathgeb stated that he is requesting a zoning designation of "R-1" Single-Family Residential. Mr. Rathgeb stated that there is a lot of planning that goes into a development of this size, and that this was the beginning of the process. Mr. Rathgeb stated that he has had conversation with MCT, utility providers, and Clay at Hamel Township. Mr. Rathgeb stated that he's started conversations with several parties who will be impacted by or contribute to the development process. Mr. Rathgeb stated that the purpose of the hearing was so that others, such as those in attendance, who may be affected by the proposal can express their concerns. Mr. Rathgeb stated that he takes all of their concerns into consideration. Mr. Rathgeb stated that he intends to abide by the "R-1" Residential Code and that he will do the same thing when it comes to private sewage. Mr. Rathgeb stated that there will be a plan provided for the drainage and private sewage components of the development. Mr. Rathgeb spoke about developments he's had in the past that have improved the drainage of the property. Mr. Rathgeb stated that through planning and design, the drainage situation can be maintained and even improved. Mr. Rathgeb stated that he had been in touch with the pipeline folks. Mr. Rathgeb stated that the updated plan had fewer proposed lots and accommodated the presumed location of the pipeline. Mr. Rathgeb stated that the concerns expressed by adjoining property owners would be addressed through planning and engineering. Mr. Rathgeb stated that AT&T had committed to bring their fiber optic internet service to the site if 30 or more homes are developed. Mr. Rathgeb stated that he would make himself available for questions following the hearing; XVIII. The Board of Appeals notes for the record that the proposal is not compatible with the existing character of the surrounding area and would cause a detrimental effect on surrounding properties; XIX. The Board of Appeals notes that the Comprehensive Plan, Madison County Zoning Ordinance, and the zoning file were taken into consideration.

Roll-call vote.

Ayes to the motion: Misters Sedlacek, Campbell, Janek, and Metzler.

Nays to the motion: None.

Absent: Misters Koeller, Davis, and St. Peters.

Where upon the Chairman declared the motion duly adopted.

## Finding of Fact and Recommendations

**Z17-0045** - Petition of Jeremy and Angela Anderson, owners of record, requesting a special use permit as per §93.025, Section G, Item 9 in order to continue the placement of a double-wide manufactured home on site for the occupancy of the new owners, Jeremy Anderson and family, for a period not to exceed five years. This is located in an "R-3" Single-Family Residential District in Wood River Township, at **501 West Dr., Cottage Hills, Illinois** PPN# 19-2-08-03-04-408-013 & 014 **(13)**

A **motion** was made by Mr. Janek and **seconded** by Mr. Metzler that the petition of Jeremy and Angela Anderson be as follows: I. This special use permit is granted for the sole usage of Jeremy Anderson and family for a period not to exceed five (5) years but may be extended either through an amendment to this special use permit or through an administrative review process, if qualified, as long as Jeremy Anderson occupies the structure, notwithstanding any violations, nuisance, change in ownership, or change in occupancy. The owner shall remove the mobile home from the site or apply for a new special use permit when Jeremy Anderson vacates the structure;

**The Finding of Fact of the Board of Appeals:** I. The notice of public hearing was posted on the property in accordance with the terms of the ordinance; II. The legal notice appeared in the newspaper and meets the requirements of the ordinance for publication; III. The adjoining property owners were notified by mail of the time and date of the public hearing and none were in attendance; IV. Jeremy Anderson, applicant and proposed occupant of the mobile home, stated that he is seeking a special use permit in order to continue the placement of a double-wide mobile home on the site to continue living there with his family; V. The Board of Appeals notes for the record that the proposed special use is compatible with the surrounding area; VI. The Board of Appeals feels that to allow this request would not cause a detrimental effect on adjoining properties; VII. The Board of Appeals notes for the record that there was not opposition to the request; VIII. The Board of Appeals notes that the Comprehensive Plan, Madison County Zoning Ordinance, and the zoning file were taken into consideration.

Voice vote.

Ayes to the motion: Misters Sedlacek, Koeller, Janek, and Metzler.

Nays to the motion: None.

Absent: Misters Campbell, Davis, and St. Peters.

Where upon the Chairman declared the motion duly adopted.



**Z17-0042** - Petition of Domingo Del Rio Perez, owner of record, requesting variances as per §93.025, Section H, Item 3 of the Madison County Zoning Ordinance in order to have a horse on a tract of land that is .64 acres instead of the required one acre and an accessory building used to house the horse that is 5 feet from the side property line instead of the required 50 feet. This is located in an Agricultural District in Nameoki Township, at **8403 Fairway Blvd, Collinsville, Illinois PPN#17-2-20-36-03-301-021 (23)**

A **motion** was made by Mr. Metzler and **seconded** by Mr. Janek that the petition of Doming Del Rio Perez be as follows:  
**Denied**

**The Finding of Fact of the Board of Appeals:** I. The notice of public hearing was posted on the property in accordance with the terms of the ordinance; II. The legal notice appeared in the newspaper and meets the requirements of the ordinance for publication; III. The adjoining property owners were notified by mail of the time and date of the public hearing and none were in attendance; IV. Domingo Del Rio Perez, applicant and property owner, stated that he is seeking permission to keep his horse and needs the requested variances. Mr. Perez stated that the building for the horse is already built; V. Randy Presswood, Nameoki Township Supervisor, spoke in opposition to the requested variances. Mr. Presswood stated that the County had been to the area issuing zoning citations in an effort to get the area cleaned up. Mr. Presswood stated that Mr. Perez is not required by law to do what he is doing and stated that he is looking at a dog with fleas right now. Mr. Presswood stated that he is against having a horse unless there is an acre of ground. Mr. Presswood stated that the whole block is a mess and he doesn't want to see it. Mr. Presswood told Mr. Perez that if he wants a horse, he needs to buy an acre of land, not have a zoning hearing; VI. Domingo Del Rio Perez, applicant, stated that he does not have an acres of ground and that when he spoke to officials at the County, he was told he could request to keep the horse at his house; VII. The Board of Appeals notes for the record that the township supervisor is opposed to the request and that there is an effort underway to clean up the neighborhood; VIII. The Board of Appeals notes for the record that the request is not compatible with the surrounding area; IX. The Board of Appeals notes that the Comprehensive Plan, Madison County Zoning Ordinance, and the zoning file were taken into consideration.

Voice vote.

Ayes to the motion: Misters Sedlacek, Koeller, Janek, and Metzler.

Nays to the motion: None.

Absent: Misters Campbell, Davis, and St. Peters.

Where upon the Chairman declared the motion duly adopted.

## **Finding of Fact and Recommendations**

**Z17-0049** - Petition of Homer and Linda Wyatt, owners of record, requesting a special use permit as per § 93.023, Section D, Item 20 of the Madison County Zoning Ordinance in order to continue placement of a single-wide manufactured home on site for the occupancy of Homer and Linda Wyatt for a period not to exceed five years. This is located in an Agricultural District in Saline Township, at **13703 Timberline Road, Highland, Illinois PPN#02-1-18-27-00-000-013 (03)**

A **motion** was made by Mr. Janek and **seconded** by Mr. Metzler that the petition of Homer and Linda Wyatt be as follows:  
I. This special use permit is granted for the sole usage of Homer and Linda Wyatt for a period not to exceed five (5) years but may be extended either through an amendment to this special use permit or through an administrative review process, if qualified, as long as Homer and Linda Wyatt occupy the structure, notwithstanding any violations, nuisance, change in ownership, or change in occupancy. The owner shall remove the mobile home from the site or apply for a new special use permit when Homer and Linda Wyatt vacate the structure;

**The Finding of Fact of the Board of Appeals:** I. The notice of public hearing was posted on the property in accordance with the terms of the ordinance; II. The legal notice appeared in the newspaper and meets the requirements of the ordinance for publication; III. The adjoining property owners were notified by mail of the time and date of the public hearing and none were in attendance; IV. Homer Wyatt, applicant and property owner, stated that he is seeking a special use permit in order to continue the placement of a single-wide mobile home on the site to continue living there with his wife; V. The Board of Appeals notes for the record that the proposed special use is compatible with the surrounding area; VI. The Board of Appeals feels that to allow this request would not cause a detrimental effect on adjoining properties; VII. The Board of Appeals notes for the record that there was not opposition to the request; VIII. The Board of Appeals notes that the Comprehensive Plan, Madison County Zoning Ordinance, and the zoning file were taken into consideration.

Voice vote.

Ayes to the motion: Mistery Sedlacek, Koeller, Janek, and Metzler.

Nays to the motion: None.

Absent: Mistery Campbell, Davis, and St. Peters.

Where upon the Chairman declared the motion duly adopted.

## Finding of Fact and Recommendations

**217-0048-** Petition of Nicholas Frey, owner of record, requesting a variance as per §93.080, Item E of the Madison County Zoning Ordinance in order to have a 6-foot fence and gate in the front yard setback area instead of the allowable height of 4 feet. This is located in an Agricultural District in St. Jacob Township, at **10818 Lake Road, Highland, Illinois PPN#05-1-23-10-00-000-001 (04)**

A **motion** was made by Mr. Koeller and **seconded** by Mr. Janek that the petition of Nic Frey be as follows: **Denied.**

**The Finding of Fact of the Board of Appeals:** I. The notice of public hearing was posted on the property in accordance with the terms of the ordinance; II. The legal notice appeared in the newspaper and meets the requirements of the ordinance for publication; III. The adjoining property owners were notified by mail of the time and date of the public hearing and several were in attendance; IV. Nicholas Frey, 10829 Lake Rd. and owner of record, stated that he is requesting to have a 6-foot fence that is preexisting in his front yard instead of a 4-foot fence; V. Everett Hubbard, 10850 Lake Road, stated that as a homeowner with contiguous property he could only think of three reasons why an agricultural use might require a fence. The first is to contain livestock, which the applicant does not have. Mr. Hubbard stated that even if Mr. Frey plans to keep livestock in the future, a 6-foot fence would not be necessary unless he intends to keep exotic animals, which is not allowed by the Zoning Ordinance. Mr. Hubbard stated that the second reason is to prevent entry into the property for either public safety or to protect a valuable crop. Mr. Hubbard stated that there is currently no evidence that the safety of the public is an issue at the subject property and no such fence is needed on any agricultural ground in the country. Mr. Hubbard went on to say that the owner grows no crops on the land, so protection of his investment is not an issue either. Mr. Hubbard stated that the third reason the applicant would ask for a 6-foot fence is because he is seeking to hide his activity on the property. Mr. Hubbard stated that chain-link fence can be treated with sight-proof screening, thus creating a 6-foot barrier to conceal the activities ongoing behind the fence. Mr. Hubbard stated that, with the owner's continued unlawful use of the property, the third reason is the most plausible. Mr. Hubbard stated that a 6-foot high fence would not be consistent with local regulations and would serve only to exacerbate the continued inconsistent usage of the property, despite all efforts to date to enforce regulations for the benefit of nearby land owners. Mr. Hubbard stated that the fence would further limit the County's ability to enforce regulations. Mr. Hubbard concluded that a deviation from the existing rules is neither required for a valid usage, nor is it prudent given the long history of blatant disregard for County regulations on this property with this owner. Mr. Hubbard submitted a letter for the record; VI. Harlan Villers, 10854 Lake Rd., concurred with Mr. Hubbard's statements and submitted additional items for the record. Mr. Villers submitted photo evidence of various horse fences throughout the county, each of which was 4 feet or shorter in height. VII. Cathleen Lutz, 10871 Lake Rd., also spoke in opposition to the request. Mrs. Lutz concurred with the previous statements of objection and stated that, given the agricultural zoning designation of the subject property, there seems to be absolutely no reason for a fence that is taller than 4-feet in height. VIII. Richard Schiefer, Mayor of St. Jacob, spoke in opposition to the request. Mayor Schiefer stated that the Village is opposed the variance request and expressed concerns that the fence may have been erected in Village right-of-way. Mayor Schiefer stated that he objects to the condition of the property and the way it's been handled. Mayor Schiefer stated that the Village hopes to eventually annex the property, as it abuts the property on 3 sides. Mayor Schiefer stated that they hope the area will remain agricultural and not be fenced in and all the other stuff that is taking place at the subject property; IX. Barry Crenshaw, 65 Stonebrook Dr., stated that Mr. Frey erected the fence without permission and that he does whatever he wants to do without regard for the opinions or concerns of others; X. Gary Frutiger, 10837 Lake Rd., stated that he does not need a 6-foot fence to hold cattle or livestock. Mr. Frutiger stated that he had maintained 32-head of cattle with a 3-foot fence without incident. Mr. Frutiger stated that it should go back to 4-feet. XI. Gary Hirsch, 1860 Marine Rd., concurred with previous comments and stated that he does not see any reason for a 6-foot fence. Mr. Hirsch stated that, considering what is happening on the subject property, it would enable unlawful uses to continue. Mr. Hirsch asked what the property was being used for, explaining that surrounding neighbors have heard shooting and explosions and that there was a go cart track on the property at one point. Mr. Hirsch asked if the property was being used for a trucking company. Mr. Hirsch stated that the fence would simply enable a person who has shown absolutely no regard for surrounding neighbors. Mr. Hirsch stated that it was his understanding that it is typical to request a variance prior to moving forward with construction illegally, asking why that was not done in this case. XII. Cathleen Lutz, 10901 Lake Rd., stated that the property is zoned Agriculture and there are rules made and in place. Mrs. Lutz stated that everyone else follows the rules, or they apply for a variance and follow the direct routes, which is all they've requested that Mr. Frey do all along and which has not happened with anything that has transpired on the

property. Mrs. Lutz stated that her children come through the area and see the disaster on the site and the middle fingers up on the sign, stating that this area is her home and she has to raise her children around it. Mrs. Lutz stated that she agrees the fence will only further enable Mr. Frey's activities, which is not appropriate for a tract of ground zoned Agriculture; XIII. Nicholas Frey, applicant and property owner, stated that he called the County to see where his fence had to be located and that he placed in 5 feet further than it had to be. Mr. Frey asked who would be responsible if he puts up a 4-foot fence and a horse jumps it, runs in front of a minivan full of kids, and kills them. Mr. Frey concluded by asking who would hold that lawsuit; XIV. The Board of Appeals notes for the record that the mayor of St. Jacob was present at the hearing and spoke in opposition; XV. The Board of Appeals notes for the record that the requested variance would not be compatible with the surrounding area and could cause a detrimental effect on adjoining properties; XVI. The Board of Appeals notes that the Comprehensive Plan, Madison County Zoning Ordinance, and the zoning file were taken into consideration.

Voice vote.

Ayes to the motion: Mistery Sedlacek, Koeller, Janek, and Metzler.

Nays to the motion: None.

Absent: Mistery Campbell, Davis, and St. Peters.

Where upon the Chairman declared the motion duly adopted.