

Madison County Zoning Board of Appeals Meeting Minutes
Tuesday, May 23, 2023 at 5:00 p.m.
County Board Room

Members Present: Don Metzler, Thomas Ambrose, Nicholas Cohan, George Ellis, Mary Goode, Cedric Irby, Sharon Sherrill

Members Absent: None

A. Call to Order

Don Metzler, Chairman, called the meeting to order at 5:00 p.m. and conducted roll call. Chairman Metzler asked for a motion to allow Sharon Sherrill to attend the meeting via call-in. Mary Goode made a motion to approve. Seconded by George Ellis. Voice vote. All ayes. Motion approved, Ms. Sherrill will attend the meeting via call-in.

B. Approval of Minutes

Chairman Metzler asked for a motion to approve the meeting minutes from April 25, 2023 and April 27, 2023. Thomas Ambrose made a motion to approve. Seconded by George Ellis. Voice-vote. All ayes. Motion approved.

C. Overview of Zoning Petitions and Staff Review

Jen Hurley, Zoning Coordinator, gave a brief overview of the three zoning petitions and provided staff review.

D. Explanation of Zoning Hearing Procedures and Swearing in of All Parties

Chairman Metzler explained hearing procedures to meeting attendees and swore in staff members and all parties wishing to address the Board.

E. Zoning Hearings

The Zoning Board of Appeals conducted the zoning hearing on the three agenda items.
Please see the attached Findings of Facts for a summary of each zoning hearing and public comment.

F. Citizens Wishing to Address the Zoning Board of Appeals

Please see the attached Findings of Facts for a summary of each zoning hearing and public comment.

G. Unfinished Business

None

H. New Business

1. **Hearing Z23-0030** – Petition of Fata Celebic, owner 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 mobile home on site for the occupancy of Gaspar Tapia and family for a period not to exceed 5 years. This is located in an "A" Agricultural District in Leef Township at **13712 Meffert Road, Pocahontas**, Illinois, County Board District #3, PIN# 03-1-12-23-00-000-002.006. A **motion** was made by Mary Goode and **seconded** by Sharon Sherrill that the petition of Fata Celebic be as follows: **Approved with Conditions.** Roll-call vote. Ayes: Nicholas Cohan, George Ellis, Mary Goode, Sharon Sherrill. Nays: Thomas Ambrose, Cedric Irby. **Motion passes.**

2. **Hearing Z23-0031** – Petition of Todd Harman, owner of record with Lisa Harman, requesting a variance as per §93.051, Section A, Item 3, Subsection (b) of the Madison County Zoning Ordinance in order to construct an accessory building that would be 4 feet from the west property line instead of the required 15 feet. This is located in an "A" Agricultural District in Marine Township at **9695 4 Corners Lane, St. Jacob**, Illinois, County Board District #4, PIN# 06-1-17-31-00-000-009.006. A **motion** was made by Cedric Irby and **seconded** by George Ellis that the petition of Todd Harman be as follows: **Approved.** Roll-call vote. Nicholas Cohan abstained. All nays. **Motion fails.**

3. **Hearing Z23-0033** – Petition of Nicholas Sparlin, owner of record, requesting a Special Use Permit as per §93.023, Section D, Item 35 of the Madison County Zoning Ordinance in order to have a Type “B” Home Occupation to operate a plumbing business from the home on site. This is located in an “A” Agricultural District in Helvetia Township at **13162 Michael Road, Highland**, Illinois, County Board District #1, PIN# 01-1-24-04-00-000-001.012. A **motion** was made by Mary Goode and **seconded** by Cedric Irby that the petition of Nicholas Sparlin be as follows: **Approved with Conditions.** Roll-call vote. All ayes. **Motion passes.**

I. Zoning Coordinator’s Report

Jen Hurley, Zoning Coordinator, informed all applicants of the upcoming Building & Zoning Committee meeting, where their requests will be heard next.

J. Adjournment

Mary Goode made a motion to adjourn the meeting. Seconded by Cedric Irby. Voice-vote. All ayes. Motion passes. Meeting adjourned.

Finding of Fact and Recommendations

Hearing Z23-0030

Petition of Fata Celebic, owner 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 mobile home on site for the occupancy of Gaspar Tapia and family for a period not to exceed 5 years. This is located in an "A" Agricultural District in Leef Township at **13712 Meffert Road, Pocahontas, Illinois, County Board District #3, PIN# 03-1-12-23-00-000-002.006**

Members Present: Don Metzler, Thomas Ambrose, Nicholas Cohan, George Ellis, Mary Goode, Cedric Irby, Sharon Sherrill

Members Absent: None

A **motion** was made by Mary Goode and **seconded** by Sharon Sherrill that the petition of Fata Celebic be **Approved with Conditions** as follows:

1. This Special Use Permit is granted for the sole usage of Gaspar Tapia 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 Gaspar Tapia and family occupy the structure, notwithstanding any violations, nuisance, or change in occupancy. The owner shall remove the mobile home from the site or apply for a new Special Use Permit once Gaspar Tapia and family vacate the structure.

The Finding of Fact of the Board of Appeals: **I.** The zoning file, staff report, and Madison County Code of Ordinances were submitted for the record; **II.** The notice of public hearing was posted on the property in accordance with the terms of the ordinance; **III.** The legal notice appeared in the newspaper and meets the requirements of the ordinance for publication; **IV.** The adjoining property owners were notified by mail of the time, date, and location of the public hearing; **V.** Michael Hertz, attorney representing applicant Fata Celebic, said they are seeking to renew the permit for the mobile home on the property. He said the mobile home was there when they purchased the property, and they did not realize that they needed to get a new permit. Mr. Hertz said this was included in their previous proposal for a Planned Development on the property, which the Zoning Board of Appeals approved but the County Board subsequently did not approve. He said that is currently on appeal with the Circuit Court. Mr. Hertz said the applicant just wants to make things right with the County, so they have paid some fines and are now trying to get this Special Use Permit updated; **VI.** Alan Merdzic, applicant's husband, said they have never owned a mobile home before, and when they bought this property the mobile home was there. He said they thought they had to pay taxes and that was it, and then the Building and Zoning Department asked if they had the proper permits for the mobile home. Mr. Merdzic said that was the first time he heard that they needed a permit for the mobile home; **VII.** Nicholas Cohan, ZBA Member, asked Mr. Merdzic how long they have lived there. Mr. Merdzic said they purchased the property in 2016 or 2017. He said he lived there until about 2019. Mr. Merdzic said he has a business in St. Louis, and that was more like a weekend home for them. He said in 2000, they had a Mexican family that started living there. Mr. Merdzic said someone complained about their music, and they had all the paperwork through Springfield, IL from the USDA Department and that's how everything started. He said they didn't know they needed permits through Madison County for the slaughterhouse. Mr. Merdzic said he was slaughtering for 4 or 5 years and never had a complaint until the music. He said the County inspector came out and asked if they were slaughtering. Mr. Merdzic said yes, he wasn't hiding anything. He said they have a meat shop in St. Louis and have to have the USDA so his meat can cross the river; **VIII.** Mr. Cohan asked if they have a permanent address in St. Louis. Mr. Merdzic said yes, it was more like a weekend thing there to take the kids to the farm. Mr. Cohan asked if he has had the property since 2016 and said that's a long time to just now catch this. Mr. Merdzic said he didn't realize he needed to get any permits, and thought all he needed to do was pay the taxes; **IX.** Mary Goode, ZBA Member, asked Mr. Merdzic if he lived in the mobile home for 3 years. Mr. Merdzic said no, they just used it on the weekends. Ms. Goode asked if it was empty then, and if they just went back and forth to St. Louis. Mr. Merdzic said yes. Ms. Goode asked if it is empty now or if they are renting it out. Mr. Merdzic said no, the people work for him and live there. He said they take care of the farm and stuff like that. He said they used to be working in the slaughterhouse, but now that they have shut down, they don't work over there anymore. Ms. Goode clarified that the family lives there and pays no rent. Mr. Merdzic said they work for him. He said he has a ranch in Missouri. Mr. Hertz said they work for him on that property in Pocahontas. Ms. Goode said Mr. Merdzic said they work for him in St. Louis because that property isn't producing anything. Mr. Merdzic said they take care of the farm in Pocahontas and she just had a newborn baby, so she stays with the kids and the kids go

to school, but the dad goes over to Missouri five days a week and works on his ranch. Ms. Goode asked how big the ranch is, and Mr. Merdzic said about 200 acres, with about 8 in Pocahontas. Ms. Goode said most of the time, when people renew these permits, they are owner-occupied, so she was just concerned about that; **X.** Thomas Ambrose, ZBA Member, said there are stipulations with a mobile home about noise, and said the County has had some problems with people that own mobile homes. Mr. Merdzic said his closest house is across the street, and the other houses are about a quarter mile away; **XI.** Jen Hurley, Zoning Coordinator, read aloud the following letters of opposition that were submitted for the record: (1) "My name is Betty Steiner, owner of the 43+ acres of adjoining land to the south side of the Fata Celebic property located at 13712 Meffert Road, Pocahontas. Fata Celebic, owner of record is requesting a Special Use Permit to continue placement of a mobile home on site for a period not to exceed 5 years. The mobile home is located in an "A" Agricultural District. The home has already been on site ten years. Mobile homes are not adequate housing in rural areas. Therefore, I must refuse permission for another 5 year permit. I must say "no" to the request and respectfully request the Board deny the request. Thank you for the notification of this request prior to the hearing, May 23. Betty Steiner." (2) "To Madison County Zoning Board/Madison County Administration: I am strongly opposed to the recommended approval on the trailer situation because the "supposed facts" stated in the document regarding the previous 3 hearings on this non-compliant slaughterhouse are simply not truth. The applicant has not ceased slaughterhouse operations, rather is operating behind closed doors. The USA Halal Meat Truck still appears on site on certain days/times. Animals still appear, then disappear. The dumpster still is out for pickup on certain days. Please do not act on the referenced trailer approval/disapproval vote, until the initial non-compliant slaughterhouse has indeed ceased operation. Thank you, Beth Steiner."; **XII.** Mr. Merdzic said that USA Halal is the meat shop and company in St. Louis. He said he gave the car to the Mexican guy so he can drive the car for now. Mr. Merdzic said the County could send an inspector every day and night there, but they have stopped slaughtering. He said everybody has a dumpster. He said he does bring animals there because he buys animals in Greenville; **XIII.** Chris Doucleff, Madison County Building and Zoning Administrator, said that the County has never accused Mr. Merdzic of slaughtering after the Planned Development was denied. He said the Department only responds to complaints, and that's why the inspector has gone out there. Mr. Doucleff said the inspector has seen no sign of current slaughtering. He said he spoke with Fata earlier in the day, and she gave the inspector full access. Mr. Doucleff said the doors were locked, but the inspector had access to the property and came back and spoke with him about it, and said there were no signs of any slaughtering going on; **XIV.** Mr. Merdzic said he really likes his neighbors, waves at them, and has offered them any option they want, but he said they still don't like him and he doesn't know why; **XV.** Mr. Hertz said that there are other mobile homes in the surrounding area, including one right across the street.

Roll-call vote.

Ayes to the motion: Nicholas Cohan, George Ellis, Mary Goode, Sharon Sherrill

Nays to the motion: Thomas Ambrose, Cedric Irby

Whereupon the Chairman declared the motion duly adopted.

Chairman, Madison County Zoning Board of Appeals

Secretary, Zoning Administrator

Finding of Fact and Recommendations

Hearing Z23-0031

Petition of Todd Harman, owner of record with Lisa Harman, requesting a variance as per §93.051, Section A, Item 3, Subsection (b) of the Madison County Zoning Ordinance in order to construct an accessory building that would be 4 feet from the west property line instead of the required 15 feet. This is located in an "A" Agricultural District in Marine Township at **9695 4 Corners Lane, St. Jacob**, Illinois, County Board District #4, PIN# 06-1-17-31-00-000-009.006

Members Present: Don Metzler, Thomas Ambrose, Nicholas Cohan, George Ellis, Mary Goode, Cedric Irby, Sharon Sherrill

Members Absent: None

A **motion** was made by Cedric Irby and **seconded** by George Ellis that the petition of Todd Harman be as follows:
Approved.

The Finding of Fact of the Board of Appeals: **I.** The zoning file, staff report, and Madison County Code of Ordinances were submitted for the record; **II.** The notice of public hearing was posted on the property in accordance with the terms of the ordinance; **III.** The legal notice appeared in the newspaper and meets the requirements of the ordinance for publication; **IV.** The adjoining property owners were notified by mail of the time, date, and location of the public hearing; **V.** Todd Harman, applicant, stated that he is wanting to build a pole barn on the left side of his house, and he wants to put it 4 or 5 feet off the property line. He said he has two 29-year old oak trees that he planted there years ago, and for him to get a straight driveway and have the garage centered to get into it, he doesn't want to lose the trees and cut them down. Mr. Harman said before he started this whole process, he asked his neighbor, and she said that she was fine with it before he paid for a survey and before he paid for the hearing. He said it is going to be a nice building. He said there is another small utility shed there on a concrete pad behind the house, and if he doesn't get the zoning variance, he will have to cut down both the trees and move the building to be able to put up the garage that he needs. Mr. Harman said he has his irrigation system going further back there on the right, so he can't put it there. He said he can't put it up behind the other existing garage there, and that he doesn't have the room; **VI.** Mary Goode, ZBA Member, said that looking at the plat, she is confused that he doesn't have room; **VII.** Jen Hurley, Zoning Coordinator, read aloud the following letters of opposition that were submitted for the record: (1) "My name is Linda Kerwin, I live at 9685 4 Corners Lane in St. Jacob. My property is adjoining Mr. Harman's. I am totally against having Mr. Harman's pole barn 4 feet from my property. 29 years ago, when my husband and I were looking for property, we found this land. The lots were long and narrow. We purchased two so we would be able to build the house we wanted and not have neighbors close. The houses started being built and we saw how close they were, so we purchased a third lot. We wanted to make sure our neighbors were not close to us. Paul and I wanted to be able to keep our children close to us, and also as an investment. I have a daughter that was in an accident 8 years ago and has a severe traumatic brain injury. She will always have to live with me. My husband Paul passed away six years ago. This land is for my children's inheritance since I am a caregiver to my daughter and only can work part time when she works as a dishwasher. I plan to build a house on the lot next to Harman's for her and I. My other daughter will take over my house at 9685. When I build that new house, I will have to stay the required 50 feet from Mr. Harman's line. However, if this passes, I will be looking at a pole barn right on my line with an acre in back totally empty. If the Harman's decide to sell in a few years, how do I know the new neighbors will not have machinery or cars sitting right on the line in my backyard since the pole barn is only 4 feet away. If he utilizes his full two acres, there would be plenty of room for all his toys. If you look at Mr. Harman's property, you will notice he only uses the front half. The back is totally empty. He told me he doesn't want to use the back part of his property because it's a flood plain. That is a fabrication. It does not flood. He has even bragged that he has the highest lot out here. He just needs to bring in a couple loads of dirt. Mr. Harman built a detached garage about 12 years ago and told me he has a variance for that also. It is only 10 feet from the neighbor's line. How is it that you buy a lot 28 years ago knowing that it is long and narrow with restrictions and then start intruding closer and closer to your neighbors. He should have thought about where to put things so he could utilize his full property or bought two lots. Please consider my investment and inheritance for my family before letting Mr. Harman build so close to the line. I am not asking for anything special, just what is the law. Fifteen feet from the line. Thank you, Linda Kerwin 9685 4 Corners Lane, St. Jacob." (2) "We understand the variance of an out building is 15 feet from the neighbor's property line. We disagree with it being changed to 4 feet. We are in agreement with Linda Kerwin to keep it 15 feet. Jeff and Donna Moody." (3) "We would like to express our concerns and disagreement with the variance of 4 feet instead of the required 15 feet from the individual's property line. Nothing against the individuals, we

asked ourselves if we would like a building going up 4 feet from our property line and our response, without hesitation, is no. Thank you for your time and consideration, Rafael and JoAnn Ruiz, 9615 4 Corners Lane, St. Jacob.” (4) “For the public hearing requesting a setback that we are totally against allowing this variance because the petitioner has plenty of property to maintain the zoning ordinance guidelines. And not jeopardize trespassing on the neighbor’s property for maintaining the ground and building by allowing only a 4 foot setback. Sincerely, Mike Maedge.” (5) “As owner of adjoining property, I am concerned about a structure only being 4 feet away from the property line instead of the required 15 feet. The adjoining property is farmland with operations using larger equipment, some of which is contracted out to local co-ops. While I am sure they all try to be careful in their operations, this building being that close to the property line could be a risk to all involved. I am sure that when Madison County decided that buildings needed to be the required 15 feet there were valid reasons, and I hope that is taken into consideration. Thank you for your time in considering our thoughts about this request. Darlene Nagel.”; **VIII.** Ms. Goode said that it does appear to her that Mr. Harman has a lot of property there, and she understands that he has an irrigation system, but that’s not impossible to move. She asked Mr. Harman if he has considered where he could put the building otherwise; **IX.** Mr. Harman said to get a driveway back there, the back does collect a lot of water. He said that’s why it’s not always mowed, and he can usually only get in there and brush hog maybe 2-3 times a summer and that is it. He said the aerator goes off to the side there in the back. He said before he started this process, he asked the neighbor and she had no problems with it; **X.** Ms. Goode pointed out that there are several people against this, not just one person. Mr. Harman said he agrees with that, but one of the other people is Mike Maedge who owns 50 acres across the front of him. He said he has never got along with him for issues over drainage coming back toward him and they have had to take culverts out of the road because they flooded the road years ago. Mr. Harman said he has never talked to the Nagels, but they are probably 100 yards through the field. He said the only person this is affecting would be Ms. Kerwin. He said they have been friends for 30 years, he takes care of all her machinery since her husband passed, and he was good friends with him. Mr. Harman said he asked her this before he even started and she told Mr. Harman that he keeps his house very nice, but what if somebody else buys it. Mr. Harman said he doesn’t plan on moving for a long time, and said he made his house handicap accessible when it was built. He said Ms. Kerwin is worried that someone might put stuff on the side. He said he told her that without a variance, he could do the building, but he would lose the two 30-foot oak trees and would have to move another building in the process. He said he doesn’t plan on selling it, but if he were to sell, there might be 15 feet of junk on the side if that’s the person that bought the house. Mr. Harman said that small building back there is on a concrete pad and would have to be moved and the aeration is right there behind it, so he can’t go farther back. He said before he started the process and before he spent the money, he never had one bit of opposition. He said he didn’t talk to Mike Maedge about it because they haven’t talked ever since the road incident years ago; **XI.** Thomas Ambrose, ZBA Member, asked if Mr. Harman has the building there now. Mr. Harman said no, he’s wanting to put one up on the left. Mr. Ambrose asked if he could put the building there by his other shed. Mr. Harman said no, he has to be within 5 feet, so he would have to move the shed and he would have to cut down two 30-year old oak trees that he planted when he built the house; **XII.** Nicholas Cohan, ZBA Member, said Mr. Harman is one of his customers, so he would abstain from voting.

Roll-call vote.

Ayes to the motion: None

Nays to the motion: Thomas Ambrose, George Ellis, Mary Goode, Cedric Irby, Sharon Sherrill

Whereupon the Chairman declared the motion to approve failed.

Chairman, Madison County Zoning Board of Appeals

Secretary, Zoning Administrator

Finding of Fact and Recommendations

Hearing Z23-0033

Petition of Nicholas Sparlin, owner of record, requesting a Special Use Permit as per §93.023, Section D, Item 35 of the Madison County Zoning Ordinance in order to have a Type "B" Home Occupation to operate a plumbing business from the home on site. This is located in an "A" Agricultural District in Helvetia Township at **13162 Michael Road, Highland, Illinois, County Board District #1, PIN# 01-1-24-04-00-000-001.012**

Members Present: Don Metzler, Thomas Ambrose, Nicholas Cohan, George Ellis, Mary Goode, Cedric Irby, Sharon Sherrill

Members Absent: None

A **motion** was made by Mary Goode and **seconded** by Cedric Irby that the petition of Nicholas Sparlin be **Approved with Conditions** as follows:

1. The Special Use Permit is granted for the sole usage of Nicholas Sparlin. Any change of ownership/tenant will require a new Special Use Permit to operate the same type of business on site.
2. Any change or expansion of the Type "B" Home Occupation shall be subject to further review, and another zoning hearing to amend this Special Use Permit may be required.
3. The Type "B" Home Occupation shall adhere to all Madison County Ordinances, including but not limited to the Madison County Zoning Ordinance, particularly §93.083 Home Occupations.
4. Failure to comply with the conditions of the Special Use Permit will cause revocation, and immediate removal of the use will be required.

The Finding of Fact of the Board of Appeals: **I.** The zoning file, staff report, and Madison County Code of Ordinances were submitted for the record; **II.** The notice of public hearing was posted on the property in accordance with the terms of the ordinance; **III.** The legal notice appeared in the newspaper and meets the requirements of the ordinance for publication; **IV.** The adjoining property owners were notified by mail of the time, date, and location of the public hearing; **V.** Nick Sparlin, applicant, stated that he is requesting a Special Use Permit, Type B, to keep his plumbing business at his house. He said he doesn't have any customers coming there, and that it's just him and one other guy that works for him. He said they meet there in the morning and leave. Mr. Sparlin said they don't do any work there. He said he's new to business, so he's not quite ready to go and buy a commercial building. Mr. Sparlin said he does have letters from all of his adjoining property neighbors saying they are good with him having his business there. He said they don't leave materials outside, and they keep the place clean; **VI.** Mary Goode, ZBA Member, asked Mr. Sparlin if he was given a violation prior to applying for this Special Use Permit. Mr. Sparlin said yes, and said he had no idea he had to have something; **VII.** Nicholas Cohan, ZBA Member, said if he's just going to have a home office and store his truck there, he should have been offered a Type A Home Occupation. Chris Doucleff, Madison County Building and Zoning Department Administrator, said that it has to be a Type B since Mr. Sparlin has an employee. Mr. Sparlin added that his employee doesn't work there, but they just meet there in the mornings; **VIII.** Cedric Irby, ZBA Member, asked Mr. Sparlin to describe what he's going to be doing out of his house. Mr. Sparlin said he has his plumbing trucks, he stores a little bit of material, and does his office work at their kitchen table; **IX.** Bernie Rittenhouse, neighbor from about 5 doors down, said that Mr. Sparlin is a great plumber and does great work. He said that section of Michael Road has about 9 or 10 homes, all on the same side of the street, all about 2 acres, and valued at around \$300,000. He said they have been there ten years, and what attracted them to the neighborhood were the estates, the lawns were kept well, the uniform property, the nice setbacks, and just the beautiful establishment. Mr. Rittenhouse said when you come in and start punctuating that street with commercial signs, commercial trucks, and materials stored there, it changes the fabric of the neighborhood. Mr. Doucleff said to clarify, no signage is allowed in Type B Home Occupations. Mr. Rittenhouse said there is a parking area, and additional shed, and it detracts from the neighborhood that it's in and will have an adverse effect on the home values. He said he invested in that neighborhood for what it was, and he understands the infancy of business, but he doesn't see where he should be asked to sacrifice home value so that they can continue to run their business in a residential neighborhood. He said that's a lot to ask of other people in that area. Mr. Rittenhouse said he is asking respectfully that the Board denies this request and keep the integrity of the neighborhood the way it is.

Roll-call vote.

Ayes to the motion: Thomas Ambrose, Nicholas Cohan, George Ellis, Mary Goode, Cedric Irby, Sharon Sherrill
Nays to the motion: None

Whereupon the Chairman declared the motion duly adopted.

Chairman, Madison County Zoning Board of Appeals

Secretary, Zoning Administrator