

**Madison County Zoning Board of Appeals Meeting Minutes**  
**Tuesday, September 22, 2020 at 5:00 p.m.**  
**Virtual Meeting via GoToMeeting & In-Person in the County Board Room**

**Members Present:** Don Metzler, Sharon Sherrill, Nicholas Cohan, George Ellis, Mary Goode

**Members Absent:** Thomas Ambrose, Tyrone Echols

**A. Call to Order**

Don Metzler called the meeting to order at 5:00 p.m. and conducted roll call.

**B. Approval of Minutes**

Chairman Metzler asked for a voice vote on the meeting minutes from August 25, 2020. All ayes. Motion approved.

**C. Overview of Zoning Petitions and Staff Review**

Noelle Maxey, Madison County Planning and Development, gave a brief overview of the four zoning petitions and provided staff review.

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

Don 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 hearings on four 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 Z20-0035 – Petition of Tyrel and Ronie Henkhaus, owners of record, requesting a variance as per §93.023, Section C, Item 3, Subsection (b) of the Madison County Zoning Ordinance in order to construct a pond that will be less than 250 feet from a dwelling on an adjacent property. This is located in an “A” Agricultural District in Hamel Township at 7871 Jerusalem Road, Edwardsville, Illinois, County Board District #3, PIN# 11-2-10-20-00-000-022. A **motion** was made by Mary Goode and **seconded** by George Ellis that the petition of Tyrel and Ronie Henkhaus be as follows: **Approved**. Roll-call vote. Ayes to the motion: Sharon Sherrill, Nicholas Cohan, George Ellis, Mary Goode. Nays to the motion: None. Motion passes.
2. Hearing Z20-0037 – Petition of Thomas Kappler, applicant on behalf of Carl McGaughey, owner of record, requesting a Special Use Permit as per §93.025, Section G, Item 20 of the Madison County Zoning Ordinance to have chickens on site; a variance as per §93.100, Section B, Item 2 of the Zoning Ordinance in order to have 6 chickens instead of 5; and a variance as per §93.100, Section B, Item 5 of the Zoning Ordinance in order to have the chicken coop and run 5 feet from the west property line instead of the required 20 feet. This is located in an “R-3” Single-Family Residential District in Fort Russell Township at 304 East Roosevelt Drive, Moro, Illinois, County Board District #14, PIN# 15-2-09-08-02-209-002. A **motion** was made by Mary Goode and **seconded** by George Ellis that the petition of Thomas Kappler, on behalf of Carl McGaughey, be as follows: **Approved with Conditions**. Roll-call vote. Ayes to the motion: Sharon Sherrill, George Ellis, Nicholas Cohan, Mary Goode. Nays to the motion: None. Motion passes.

3. Hearing Z20-0040 – Petition of Megan Zanger, owner of record along with Michael Zanger, requesting a Special Use Permit as per §93.023, Section D, Item 12 of the Madison County Zoning Ordinance in order to have a family cemetery on site. This is located in an “A” Agricultural District in Hamel Township at 5319 3 Lake Estates Lane, Edwardsville, Illinois, County Board District #3, PIN# 11-1-10-30-00-000-007.013. A **motion** was made by George Ellis and **seconded** by Mary Goode that the petition of Megan Zanger be as follows: **Denied**. Roll-call vote. Ayes to the motion: Sharon Sherrill, Nicholas Cohan, George Ellis, Mary Goode. Nays to the motion: None. Motion passes.
4. Hearing Z20-0044 – Petition of Kevin and Gaye Pruett, owners of record, requesting a zoning map amendment to rezone an approximately 1.34 acre tract of land from “R-3” Single-Family Residential District to “B-5” Planned Business District in order to continue operating a construction business on site. This is located in Wood River Township at 762 Ridge Lane, East Alton, Illinois, County Board District #13, PIN# 19-2-08-11-19-401-005. A **motion** was made by Sharon Sherrill and **seconded** by Mary Goode that the petition of Kevin and Gaye Pruett be as follows: **Approved with “Appendix A”**. Roll-call vote. Ayes to the motion: Sharon Sherrill, Nicholas Cohan, George Ellis, Mary Goode. Nays to the motion: None. Motion passes.

**I. Planning Coordinator’s Report**

None.

**J. Adjournment**

George Ellis made a motion to adjourn the meeting. Seconded by Nicholas Cohan. Voice-vote. All ayes. Motion approved. Meeting adjourned.

**Madison County Zoning Board of Appeals**  
**September 22, 2020 Findings of Fact and Recommendations**

Don Metzler, Chairman, called the meeting to order at 5:00 p.m. on GoToMeeting Virtual Meeting & Madison County Board Room

**Members Present:** Don Metzler, Sharon Sherrill, Nicholas Cohan, George Ellis, Mary Goode

**Members Absent:** Thomas Ambrose, Tyrone Echols

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 and revisions thereto does hereby submit the Reports and Recommendations on the following:

**File Z20-0035** – Petition of Tyrel and Ronie Henkhaus (Hamel Township)

**File Z20-0037** – Petition of Thomas Kappler, on behalf of Carl McGaughey (Fort Russell Township)

**File Z20-0040** – Petition of Megan Zanger (Hamel Township)

**File Z20-0044** – Petition of Kevin and Gaye Pruett (Wood River Township)

## **Finding of Fact and Recommendations**

### **Hearing File Z20-0035**

Petition of Tyrel and Ronie Henkhaus, owners of record, requesting a variance as per §93.023, Section C, Item 3, Subsection (b) of the Madison County Zoning Ordinance in order to construct a pond that will be less than 250 feet from a dwelling on an adjacent property. This is located in an "A" Agricultural District in Hamel Township at 7871 Jerusalem Road, Edwardsville, Illinois, County Board District #3, PIN# 11-2-10-20-00-000-022

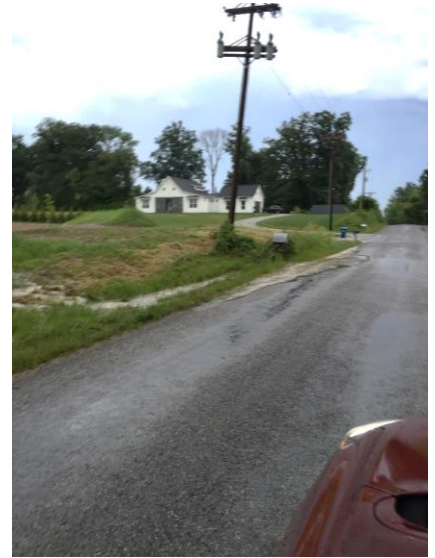
**Members Present:** Don Metzler, Sharon Sherrill, Nicholas Cohan, George Ellis, Mary Goode

**Members Absent:** Thomas Ambrose, Tyrone Echols

A **motion** was made by Mary Goode and **seconded** by George Ellis that the petition of Tyrel and Ronie Henkhaus be as follows: **Approved.**

**The Finding of Fact of the Board of Appeals:** **I.** The zoning file, Comprehensive Plan, 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.** Tyrel Henkhaus, applicant, stated that he was unaware of setback requirement when he constructed the pond. Mr. Henkhaus stated they have a lot of water that runs through the yard so he built this pond to hold some of it. Mr. Henkhaus stated that he does not believe any of the neighbors have a problem with the pond; **VI.** Ronie Henkhaus, applicant, stated they were unaware of the tall grass violation on the property, but it has been taken care of and has been cut; **VII.** Gary Smith, nearby property owner, spoke in opposition of the request. Mr. Smith stated that when there is a substantial amount of rain, the pond overflows over a third of the roadway. Mr. Smith stated he is concerned that the pond will overflow in the winter and freeze and create a road hazard; **VIII.** Sally Bentley, nearby property owner, stated she has lived out there 30 years, and the water goes over the pond onto the road when there's a large rain. Ms. Bentley stated the pond across the street gets a lot of mud from the field. Ms. Bentley stated in the years she has lived out there, there haven't been problems with ice on the road. Ms. Bentley stated there need to be better ditches out there; **IX.** Mary Goode, ZBA member, stated that it seems like a detention pond, and it would probably be worse out there without it, and it doesn't rain much in the winter so she doesn't believe overflowing and freezing on the road would be an issue; **X.** Mrs. Henkhaus stated that there are multiple places in the area where there is bad erosion and ditches that are filled in, so it's not just from their pond. Mrs. Henkhaus stated that they could dig out the ditch in front of their house; **XI.** Mr. Smith stated he has never seen water on the road until after they put in this pond; **XII.** Mr. Henkhaus stated that their neighbor across the street has experienced water going over the road and into his front yard in the past. Mr. Henkhaus stated that water has come over the road and over his driveway many times before installing the pond. Mr. Henkhaus stated he has an eight foot spillway by the road, and there's always a lot of water coming in and going out. Mr. Henkhaus stated the ditches in the area are overgrown, filled in, and full of leaves from large trees. Mr. Henkhaus stated that the township needs to come clean out the ditches, or he could do it himself, and that would fix most of the issue, but during a heavy downpour, it's going over the road anyways; **XIII.** Sharon Sherrill, ZBA member, asked where the overflow is on the pond, to which Mr. Henkhaus stated it's towards one end of the pond near the road where there is an eight foot low spot. Mr. Henkhaus stated he was planning to put in riprap at that end, but then he received the violation and didn't want to put it in if they wouldn't be able to have the pond there. Mr. Henkhaus stated they had 12 inches of rain in July, and that didn't wash out the spillway, even without the riprap. Sharon Sherrill asked where it is overflowing to, to which Mr. Henkhaus stated that it goes out to the ditch, runs down about 150 feet, and then goes through a culvert under the road. Mr. Henkhaus stated the water still leaves his property in the same place it does now, and the spillway is the same elevation it was before, but they built up dams around it. Sharon Sherrill asked if the culvert is clogged, to which Mr. Henkhaus stated that the culvert isn't filled in; the problem is that the ditch before it gets to the culvert is filled in and overgrown, but if it was cleaned out, the water would have no problem running down to the culvert. Sharon Sherrill asked if they or anyone else has notified the township about the ditches, to which Mr. Henkhaus stated they had not; **XIV.** Nicholas Cohan, ZBA member, asked if the township routinely cleans out the ditches, to which Mr. Henkhaus stated they have lived there five years, and they have never cleaned the ditch out. Nicholas Cohan asked if it would help if the ditches were routinely cleaned out, to which Mr. Henkhaus stated there's about 75 feet that is really the problem, then there is a washed out area after that that leads down to the culvert. Mr. Henkhaus stated that the water runs over the road in a very large rain regardless; **XV.** Karen Luster, adjacent property owner, submitted the following letter of support via email prior to the ZBA

meeting: Dear Madison County Board Members: My name is Karen Luster. My husband, Robert and I are the property owners adjoining Tyrel's parcel to the East. Our address is 7876 Jerusalem Road, Edwardsville IL 62025. This letter is to confirm that we have no issue or cause for concern for the pond located in the front southern most section of the applicant's property. While we are not able to attend, we will be available by phone (618-920-2348). If you have any further questions regarding this matter, please feel free to contact us. Thank you for your notification and we hope that you will grant Tyrel his variance. Sincerely, Karen Luster; Gary Smith submitted the following via email prior to the ZBA meeting: My name is Gary Smith residing at 7725 Jerusalem Road, Edwardsville, IL which is down the road from the Henkhouse property. On July 21, 2020 I took pictures of the pond in question as it overflowed it's banks after s rain storm. See below. I think that pond is a dangerous condition for the many drivers who travel Jerusalem Road. I think it could be extremely dangerous if it overflows in the winter and freezes.



Roll-call vote.

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

**Nays to the motion:** None

Whereupon the Chairman declared the motion duly adopted.

---

Chairman, Madison County Zoning Board of Appeals

---

Secretary, Zoning Administrator

## Finding of Fact and Recommendations

### Hearing File Z20-0037

Petition of Thomas Kappler, applicant on behalf of Carl McGaughey, owner of record, requesting a Special Use Permit as per §93.025, Section G, Item 20 of the Madison County Zoning Ordinance to have chickens on site; a variance as per §93.100, Section B, Item 2 of the Zoning Ordinance in order to have 6 chickens instead of 5; and a variance as per §93.100, Section B, Item 5 of the Zoning Ordinance in order to have the chicken coop and run 5 feet from the west property line instead of the required 20 feet. This is located in an "R-3" Single-Family Residential District in Fort Russell Township at 304 East Roosevelt Drive, Moro, Illinois, County Board District #14, PIN# 15-2-09-08-02-209-002

**Members Present:** Don Metzler, Sharon Sherrill, Nicholas Cohan, George Ellis, Mary Goode

**Members Absent:** Thomas Ambrose, Tyrone Echols

A **motion** was made by Mary Goode and **seconded** by George Ellis that the petition of Thomas Kappler, on behalf of Carl McGaughey, be as follows: **Approved with Conditions.**

1. This Special Use Permit is granted for the sole usage of Thomas Kappler and family. Any change of tenant or ownership will void the Special Use Permit.
2. The owner/applicant shall keep the property in compliance with all Madison County Ordinances, including but not limited to §93.100 Domestic Farm Animals.
3. The applicant is permitted to have a maximum of 6 hens on the property. The owner/applicant shall apply for an amendment to this Special Use Permit for any future alterations, modifications, or expansions of the use.
4. The owner's/applicant's failure to adhere to the conditions of the Special Use Permit will cause revocation of the same, and require immediate removal of the chickens, chicken coop, and chicken run.

**The Finding of Fact of the Board of Appeals:** **I.** The zoning file, Comprehensive Plan, 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.** Thomas Kappler, applicant, stated that his sister bought the chickens for his children for Easter when they were still living in Alton and all they had to do was pay a fee to have the chickens. Mr. Kappler and his family started renting this house while looking for a larger house since they're having another child and brought the chickens along. Mr. Kappler stated the lot to the west is vacant, and there's a large tree on that side that provides shade and protection for the chickens, which is why the chicken coop is only five feet from the property line; **VI.** Mary Goode, ZBA member, asked if the coop is movable or permanent, to which Mr. Kappler stated it's movable, and he brought it from their last house. Mary Goode asked if any neighbors have complained, to which Mr. Kappler stated there are other properties nearby that have chickens and ducks, and no one has complained to him directly. Mr. Kappler stated the house next door had burned down, and he thinks that an inspector saw the chickens on their property when they came to tear the house down, and that's when he got the violation.

Roll-call vote.

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

**Nays to the motion:** None

Whereupon the Chairman declared the motion duly adopted.

---

Chairman, Madison County Zoning Board of Appeals

---

Secretary, Zoning Administrator

## **Finding of Fact and Recommendations**

### **Hearing File Z20-0040**

Petition of Megan Zanger, owner of record along with Michael Zanger, requesting a Special Use Permit as per §93.023, Section D, Item 12 of the Madison County Zoning Ordinance in order to have a family cemetery on site. This is located in an "A" Agricultural District in Hamel Township at 5319 3 Lake Estates Lane, Edwardsville, Illinois, County Board District #3, PIN# 11-1-10-30-00-000-007.013

**Members Present:** Don Metzler, Sharon Sherrill, Nicholas Cohan, George Ellis, Mary Goode

**Members Absent:** Thomas Ambrose, Tyrone Echols

A **motion** was made by George Ellis and **seconded** by Mary Goode that the petition of Megan Zanger be as follows: **Denied**.

**The Finding of Fact of the Board of Appeals:** **I.** The zoning file, Comprehensive Plan, 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.** Megan Zanger, applicant, stated they want to put in a family cemetery, and they have almost 11 acres, and the cemetery would be an area of about an acre. Mrs. Zanger stated that you can't see the area from the lane that goes into the neighborhood. Mrs. Zanger stated so far they only have two people who want to be buried there, so they probably won't get anywhere near 50 burial plots, but those were the guidelines for cemeteries that she was going off of. Mrs. Zanger stated that it will not be a public cemetery. Mrs. Zanger stated that she knows there was opposition to this request, and in regards to the concerns of property values, she said that an article stated that cemeteries don't lower property values, but actually increase them due to the greenery and the fact that people know the property won't later be developed. Mrs. Zanger stated that they have a sculpture or tree that they would be putting up, so it won't be demarcated with a large sign or be advertised; **VI.** Larry Weil, property owner within the subdivision, spoke in opposition to the request. Mr. Weil stated that one member of the Homeowners Association for the subdivision wasn't able to sign the opposition letter due to an emergency, but he stated he would sign it when he can. Mr. Weil read the letter that was provided by the HOA in opposition to the request that was provided to staff via email prior to the ZBA meeting (see full letter below). Mr. Weil stated the other homeowners in the subdivision are concerned about what will happen to the property; **VII.** Neil Podoba, property owner within the subdivision, stated he was also against this request; **VIII.** Mary Goode, ZBA member, stated her family owns some family cemeteries also, and asked Mrs. Zanger if they have anything set up like a long-term trust to maintain the cemetery over time, to which Mrs. Zanger responded that have not. Mrs. Zanger responded that the cemetery idea came up rather suddenly, and it won't be like a typical cemetery; there will not be markers, but the remains will be recorded with GPS. Mary Goode stated that she thinks that if they were to move and someone else bought the property, they would be able to change the structure of the cemetery. Mrs. Zanger stated that the Illinois state law says you can place ashes anywhere with the property owner's consent, so she doesn't see the difference between that and her request and said that it will be more like a park; **VIX.** Noelle Maxey, Assistant Planner, and Chris Doucleff, Department Administrator, read aloud public comment that was sent to staff via email for those who did not attend the meeting in person; **XV.** Sean and Windy Schwagler, property owners within the subdivision, submitted the following via email prior to the ZBA meeting: Hello, We are Sean and Windy Schwagler and we live at 5318 3 Lake Estates Ln, Edwardsville, IL 62025. We are responding to this petition via email as we can not attend in person on Tuesday 9/22/2020. Based off the information some of our neighbors have gathered about the location, size and number of plots these are the concerns and questions we have. Our road is privately owned and maintained by the homeowners. This cemetery will increase the amount of traffic on our road which means increased maintenance cost to all homeowners. If heavy equipment is brought up to excavate for burial this will also lead to road breakdown and increased maintenance costs. If the county is going to allow this, will the county take over maintaining this road? If not taken over by the county and the Zanger family sells, will they still be responsible for neighborhood dues (which pay for the road upkeep)? If the county is going to allow this, will this affect our property value? If so, will the county reduce our property taxes? Is the Zanger Family maintaining the cemetery? If the Zanger Family ever decide to sell, who is responsible for the maintenance? At this time we are NOT for this proposal. The Schwagler's; **XVI.** Kim Davis, property owner within the subdivision, submitted the following via email prior to the ZBA meeting: I am writing in OBJECTION to this request for the Special Use Permit for the family cemetery on site as a resident of this neighborhood. My concern is this would affect future property values amongst other concerns too. Kim Davis, 5300 Three Lake Estates Lane, Edwardsville, IL 62025; **XVII.** Larry and Jackie Weil, property owners within

the subdivision, submitted the following via email prior to the ZBA meeting: Some highlights from the HOA Covenants for Three Lakes Estates Subdivision: No tract shall be used EXCEPT for residential purposes. Home owners pay to the maintain the private road. 3 Lakes Estates is a small subdivision of 10 lots. Homeowners were not notified of the request for a cemetery until the zoning sign was posted 10 days ago. The location of the cemetery shown on the layout is very close to the property line of the resident next door. It also would be in the line-of-sight from the resident directly across the street. As residents and visitors access the subdivision the cemetery will be in sight. Concerns over added access on residential private road. Residents are very concerned that property values will also go down. An opposition memo with resident's signatures will also be submitted. Thank you, Larry & Jackie Weil; **XVIII.** Bill and Susan Williams, property owners within the subdivision, submitted the following via email prior to the ZBA meeting: TO WHOM IT MAY CONCERN: We (Bill and Susan Williams) are opposed to the rezoning of our neighborhood per the proposed request. Our address is 5307 3 Lake Estates Lane, Edwardsville, IL 62025. We have lived at this address for 26 years. There are 10 lots in this neighborhood with 1 house built on each lot. In appearance, this neighborhood is residential with children and families. There is one main road that leads to each residence, which our homeowner's association maintains. In our opinion, this new re-zoning would decrease property values in our neighborhood. It would also make it difficult to buy or sell property in our neighborhood. It is our understanding that the request is for 50 grave sites in the front yard and visible from the main road. This cemetery is totally unacceptable and shocking to many residents in this neighborhood. Please deny this re-zoning request. Thank you, Bill & Susan Williams, 5307 3 Lake Estates Lane, Edwardsville, IL 62025; **XIX.** Robert and April Brandon, property owners within the subdivision, submitted the following via email prior to the ZBA meeting: Dear Madison County Board Members, This letter is submitted by Robert and April Brandon, as property owners of 5308 3 Lake Estates Lane, Edwardsville, Illinois. We strongly **OPPOSE** the Zanger's Special Use Permit (SUP) request for family cemetery and request a full and complete denial at this board meeting. Approving a "private" family cemetery in our residential neighborhood with such proximity, is in poor taste, offensive to the neighborhood, and detrimental to the essential character of the community. In this day and age, this type of SUP is obviously not common place as highlighted with only 1 other private/family cemetery request being levied in the past 13 years. We are positive a family cemetery in a residential neighborhood in the middle of town is not commonplace, nor should it be in a residential neighborhood that is out of town. Although zoned agricultural, the Three Lakes Estates community, which was established October 9<sup>th</sup>, 1986 within Madison County, is comprised of multi-acre parcels with single family residential homes where multiple school-aged children reside in the subdivision. There is a single access road, which is privately maintained by the residents within the community. The Zanger's property is the first parcel on our access road and is both passed by and visible daily by all residents and visitors of the eleven families on the road. Our school-aged children must pass this property on their way to and from the bus stop, which is located at 3 Lake Estates Lane and Grove Road. Having a cemetery in our neighborhood with such proximity, has the potential to cause recurring emotional distress and sustained mental welfare impacts upon our children. Our single lane road will deteriorate at a faster rate with the additional traffic due to mourners as well as burial assistants and equipment, which may result in unknown access and financial impacts. Overall property values and neighborhood appearance will undoubtedly diminish with a cemetery in our community. Additionally, we have concerns with the ability for all property owners within the community to successful sell their property at fair market value should a cemetery be placed in our neighborhood. There are not too many people looking to purchase land with a family cemetery, especially one that is not their own. The Zanger's have no cemetery maintenance experience that we are aware. Upkeep and maintenance of the cemetery leads us to the additional concerns of how burials will take place, along with oversight, as well as the overall maintenance and appearance of the cemetery. Sincerely, Robert & April Brandon, 5308 3 Lake Estates Lane, Edwardsville, IL 62025; **XX.** The Homeowners Association of the subdivision submitted the following via email prior to the ZBA meeting: Dear Madison County Board Members, This document serves to provide the Madison County Zoning Board of Appeals notice that, collectively, the undersigned homeowners' of the "Three Lakes Estates" community **OPPOSE** the Zanger's request for a Special Use Permit for purposes of a family cemetery and request a full and complete denial at this board meeting. The Covenants and Restrictions of Part of the North Half of the Southwest Quarter of Section 30-5-7 West of the Third Principal Meridian also known as Three Lakes Estates along with any amendments is attached for reference. Below are key reference points in regards to the Covenants and Restrictions of the "Three Lakes Estates." As per section three under "Land Use," it is stated "No tract shall be used except for residential purposes." As per section twelve under "Nuisances," it is stated "No owner, renter, lessee, or occupant of any tract will carry on or permit any matter or thing which shall be considered noxious or offensive activity or an annoyance or nuisance, unwholesome or offensive to the neighborhood or neighbors, upon any of said tracts." As per section twenty-two under "Enforcement," it is stated "The developers, their heirs or assigns or any owner of a tract or tracts in said estates may institute and prosecute any proceedings at law or in equity against any person or persons violating or threatening to



violate any of the provisions shall in no way effect any of the other provisions, restrictions, or covenants and the same shall remain in full force and effect. All costs of litigation, including reasonable attorney fees, brought by the developers, their heirs or assigns, or any owner in attempt to enforce these covenants, conditions, restrictions shall be paid by the defending party." "Three Lakes Estates" is comprised of ten tracts of land, whereby Megan and Michael Zanger's property is located on Tract 2. No prior notification of the proposed family cemetery was made by either property owner to other property owners in the community. A request was initially made by Megan Zanger on June 6, 2020, with Madison County Planning & Development, which detailed their intent for a family cemetery. Unfortunately, the same care and due diligence was not provided by either Megan or Michael Zanger to the other property owners within the "Three Lakes Estates" community. The notifications posted by Madison County ultimately served as the neighborhood notice for intent of the family cemetery. A semi-yearly homeowners' association meeting was held on June 28, 2020, the Zangers' were not in attendance nor did they notify the association of their intent. The "Three Lakes Estates" community has a number of concerns with the placement of a family cemetery within the residential neighborhood. Our single access road into the neighborhood is "3 Lakes Estates Lane," which is privately maintained by the property owners and will sustain increased degradation due to the mourners as well as burial assistants and heavy equipment. The homeowners within "Three Lakes Estates" are responsible for the financial impacts of road maintenance along with liability for usage. Increased traffic pattern for a "private" cemetery to accommodate visitations, funeral processions, and burials would result in increased road maintenance and costs and liability for all homeowners. Additionally, a family cemetery would be a "nonconforming use" within the established residential neighborhood and is not compatible with the surrounding of the community as a whole. The establishment of a family cemetery on subject property would be detrimental to the essential character of the neighborhood, and would henceforth cause injury to property values within the community. Not only would it be a deterrent to many potential buyers for surrounding neighborhood properties, it may also introduce unforeseen future implications regarding the subject property as a whole as related to the Special Use Permit transferability or lack thereof and may lead to additional property owner implications throughout the community. Our communities' public health, safety, and welfare is of concern with the proposed family cemetery as to our knowledge neither Megan nor Michael Zanger have any previous experience with cemetery management. As such, we have concerns over human remain burial procedures on the property, along with overall cemetery upkeep, maintenance, and operation responsibilities, for which if left neglected would be detrimental to the neighborhood. Signed, Sean and Windy Schwagler, Brent Guttmann, April and Robert Brandon, Larry and Jackie Weil, Susan and Bill Williams, Justin Cline, Neil Podoba, and Kim Davis; **XXI**. Neil Podoba, property owner within the subdivision, submitted the following via email prior to the ZBA meeting: Dear Ms Maxey, Several years ago, I purchased the property known as 5302 Three Lakes Estates Lane. Prior to my purchase, I exercised due diligence while observing the subdivision as a whole, meeting potential neighbors, and reading the applicable Covenants and Restrictions. I was impressed with the pride most of the homeowners took in their properties, with neat well-tended lawns and well-maintained homes. I was not wrong, and my intent is to remain here permanently. Now I find that our close community, even our property values, are under threat by the possible establishment of a private family cemetery in our subdivision. The Zangers did not inform me of their intent, or ask for my input. The entire character of the subdivision is at risk. In addition, like the other homeowners, I pay into a fund to maintain our private road, which would inevitably be degraded by increased traffic. The Zangers have no background in cemetery maintenance, and the existence of a family cemetery would almost certainly be a barrier to any future transfer of their property. I am asking the Zoning Board to deny this request for the establishment of a family cemetery. Neil G Podoba

Roll-call vote.

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

**Nays to the motion:** None

Whereupon the Chairman declared the motion duly adopted.

---

Chairman, Madison County Zoning Board of Appeals

---

Secretary, Zoning Administrator

## **Finding of Fact and Recommendations**

### **Hearing File Z20-0044**

Petition of Kevin and Gaye Pruett, owners of record, requesting a zoning map amendment to rezone an approximately 1.34 acre tract of land from "R-3" Single-Family Residential District to "B-5" Planned Business District in order to continue operating a construction business on site. This is located in Wood River Township at 762 Ridge Lane, East Alton, Illinois, County Board District #13, PIN# 19-2-08-11-19-401-005

**Members Present:** Don Metzler, Sharon Sherrill, Nicholas Cohan, George Ellis, Mary Goode

**Members Absent:** Thomas Ambrose, Tyrone Echols

A **motion** was made by Sharon Sherrill and **seconded** by Mary Goode that the petition of Kevin and Gaye Pruett be as follows: **Approved with "Appendix A"**.

**The Finding of Fact of the Board of Appeals:** **I.** The zoning file, Comprehensive Plan, 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.** Kevin Pruett, applicant, stated he had purchased land from the state to build a pole barn near the back of the property for his business. Mr. Pruett stated he runs a small construction business from his home, but he doesn't work out of his house. Mr. Pruett stated the pole barn was going to be for storing equipment, but now that he has to go through this whole process anyways, he's also putting in a small office and bathroom in the pole barn. Mr. Pruett stated he meets with his subcontractors at his house in the morning, they all leave to go work, and meet back at the house at the end of the day. Mr. Pruett stated he's been running the business from his house for about 10 years, and didn't know he couldn't do that until this started; **VI.** Noelle Maxey, Assistant Planner, read aloud public comment that was sent to staff via email for those who did not attend the meeting in person; **VII.** Mr. Pruett stated he has lived here for over 30 years and grew up just a street over, and he always keeps his property up. Mr. Pruett stated he wants to build the pole barn to store equipment inside, and they wouldn't have customers coming to the property; **VIII.** Michael Dudley, adjacent property owner, submitted the following letter of support via email prior to the ZBA meeting: Dear Zoning Board: This is a letter of recommendation to allow Kevin and Gaye Pruett to build a building to continue to run his construction business. The Pruett's have always maintained their property to the highest standard for as long as I can remember. This building will be nothing more than to store and secure his hard-earned equipment that he uses daily. Kevin running his construction business out of his house is no different than someone working from home on their computer. I would hope you as a board would be more than willing to help a small business like this. Especially during these difficult times small businesses are dealing with during the covid crises. You as a board should do everything in your power to help businesses grow and prosper in Madison county. If you have any questions you can call my cell 618-806-6341. Sincerely, Michael Dudley, Owner of 763 Ridge Ln. East Alton, IL

Roll-call vote.

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

**Nays to the motion:** None

Whereupon the Chairman declared the motion duly adopted.

---

Chairman, Madison County Zoning Board of Appeals

---

Secretary, Zoning Administrator

## Appendix "A"

**(A)** The applicant will be required to adhere to all district conditions and use requirements below. Should the applicant submit plans with substantive differences than the proposed use and accompanying site plan, the applicant will be required to return to the Planning & Development Committee for review upon a recommendation from the Zoning Board of Appeals.

### **(B) Conditions of Use**

1. Yard areas. No building related to the construction business shall be erected or enlarged unless the following yards are provided and maintained in connection with the building:
  - a. Front Yard. A front yard setback of at least 50 feet shall be provided.
  - b. Side Yard. A side yard setback of at least 10 feet from the east property line and 30 feet from the west property line shall be provided.
  - c. Rear Yard. A rear yard setback of at least 15 feet shall be provided.
2. All buildings related to the construction business must be located behind the single-family dwelling on the property.
3. The existing single-family dwelling and any future single-family dwelling, should the existing dwelling be demolished or destroyed, must meet "R-3" Single-Family Residential District setback requirements.

### **(C) Permitted Uses.**

1. Contractors' offices and shops, where no fabricating is done on premises and where storage of materials and equipment is permitted on the outside of the building, provided they are kept in a neat and orderly condition, and not permitted to create a health hazard and an eye-sore to the general area.
2. Single-Family Dwelling.

**(D) Special Uses.** The following uses may be allowed by special uses permit in accordance with provisions of §93.162 & §93.178.

1. Utilities, electrical substations, other public utility distribution facilities.

**(E) Accessory uses.** Accessory uses that are clearly associated with and supplementary to the principal uses of the lot or tract of land.

1. Off-street parking and loading.
2. Accessory structures.

### **(F) Prohibited uses.**

1. The following uses shall not be permitted: Boarding and rooming houses; dormitories, fraternity and sorority houses; apartment hotels; manufactured homes or manufactured home parks; and any uses for living quarters not specifically provided for in this section.
2. Neither junkyards, the dismantling of vehicles or the storage of dismantled vehicles, petroleum bulk plants, or outside storage of inflammable liquids or explosives, shall be permitted in this district.
3. Vehicles, such as automobiles, buses, and trucks that do not bear a current set of license plates; or are not in running condition; or are in such a condition that they are inoperable on public streets shall not be permitted. Restaurants or bars that feature nude dancing in any form