CALL TO ORDER – ZONING BOARD OF APPEALS

ROLL CALL for the Zoning Board of Appeals: Randy Mohr (Chair); Scott Cherry, Karen Clementi, Tom LeCuyer, Donna McKay, Dick Thompson and Dick Whitfield

MINUTES: Approval of minutes from the September 29, 2014 Zoning Board of Appeals meeting

PETITIONS:

1. 14-31 Catherine & David Katz
   Request Variances
   Location 29 Oak Hill Road, Yorkville
   Purpose Request for variances to fix a violation and issue that has been going on for a while. Request for variances for a home that was built in 1959 to be located 66’ from the front property line, 6.07’ from the side property line, 22’ from the rear property line and the deck to encroach into the 15’ easement by 4’. The setbacks are 67’ from the front property line, 17.8’ (10% of the lot width) from the side property line and 50’ from the rear lot line.

2. 14-32 Bryan & Lindsey Harl
   Request Variance
   Location 3416 Route 47, Yorkville
   Purpose Request for a variance to construct an accessory structure that will be located in the 150’ setback to the centerline of the roadway. The structure will be located 108’ from the current centerline of the roadway, requesting a 32’ variance (68’ from the property line).

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD- None

NEW BUSINESS/ OLD BUSINESS

PUBLIC COMMENT

ADJOURN ZONING BOARD OF APPEALS- Next meeting on December 8, 2014
KENDALL COUNTY
ZONING BOARD OF APPEALS MEETING & SPECIAL USE HEARING OFFICER
111 WEST FOX STREET, Room 209 and 210
YORKVILLE, IL 60560
September 29, 2014 – 7:02 p.m.

CALL TO ORDER- ZONING BOARD OF APPEALS TO BE HELD JOINTLY WITH THE SPECIAL USE HEARING OFFICER
At 7:00 p.m., Chairman Wally Werderich called the Special Use Hearing Officer meeting to order.
At 7:00 p.m., Member Tom Lecuyer called the Zoning Board of Appeals meeting to order.

ROLL CALL FOR THE SPECIAL USE HEARING OFFICER
Members present: Walter Werderich

ROLL CALL FOR THE ZONING BOARD OF APPEALS
Members present: Scott Cherry, Karen Clementi, Tom LeCuyer, Dick Thompson and Dick Whitfield
Also present was: Planning & Zoning Manager- Angela Zubko
Absent: Donna McKay & Randy Mohr (Chairman)

A quorum was present to conduct business.

Planner Zubko stated we will have the special use hearing officer go first so petitions 14-23 and 14-26 and then get to the variances.

MINUTES for the SPECIAL USE HEARING OFFICER
Wally Werderich motioned to approve the September 29, 2014 Special Use Hearing Officer Meeting minutes as written.

Chairman Werderich explained how the meeting works and swore in all members of the audience.

PETITIONS
#14-23 DTG Investments LLC
Planner Angela Zubko stated this was discussed last month but due to an error in the public notice mailing we had to hold another public hearing. Everything stayed the same including the 5 conditions placed on the ordinance.

Mr. Werderich asked the petitioner, Greg Dady if he had anything to add. Mr. Dady stated not at this time.

Walter Werderich opened the meeting for the public hearing. With no testimony Walter Werderich closed the public hearing.
§ 13.08.J of the Zoning Ordinance outlines findings that the Hearing Officer must make in order to grant a special use. Staff has answered as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The property was previously used for a landscaping business and this new use will be less noticeable as everything takes place inside the buildings including storage of the vehicles.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The site will not be modified in any way and is surrounded by farmland and a special use for ag implement sales next door to the east.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. Nothing is being modified on this site and access already exists.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Hearing Officer. Assuming the text amendment passes to allow this type of use in the A-1 district it will conform to all applicable regulations.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The special use is consistent with the LRMP.

Wally Werderich made a favorable recommendation with the same findings of fact from the last meeting and staff’s 5 conditions as listed in the report.

#14-26 Critter Care
Planner Angela Zubko did an overview of the request stating the property is located at 4287 Eldomain Road on the west side of Eldomain Road about 0.45 miles south of Route 34. The property is about 3.9 acres and the petitioner is requesting an A-1 Special use to operate a veterinary establishment, but not including the boarding of animals except for overnight stays for medical treatment and observation. The petitioner would like to do boarding in the future but a variance cannot be requested for a use so they would need to rezone to commercial. The veterinary clinic has been running at this site for some time and would like to become legal since they are becoming larger. The petitioner has stated there are 2 employees. Staff is waiting to hear how large the building is to calculate parking. The ratio would be one (1) parking space shall be provided for each two hundred and fifty (250) square feet of floor area. Looking at an aerial there seems to be 26 parking stalls provided including 1 handicapped parking stall but staff is not sure the size of the stalls. A plat of survey is requested. The property currently has an access point off of Eldomain Road and also access through the property to the north, which is where Kim, the petitioner/owner lives. The Village of Plano has no objection to the special use and the Little Rock Township Board had not objections either. The building inspector had a few
comments and stated that a change of occupancy permit will be required for all structures that will be used for the proposed special use. Since there are no proposed improvements a stormwater permit and storm water detention is not required.

Staff would recommend approval and the following condition be placed on the special use, if approved:

1. A recent plat of survey be drawn showing the parking lot with dimensions.

The ZPAC Committee recommended approval and the Health Department had a comment that they will need to protect the septic system to ensure that it is protected from animal/vehicle traffic.

The Plan Commission recommended approval of the special use with the recommendation in lieu of stamped drawings the petitioner would be permitted to acquire a building inspection stating the building is structurally sound and no life safety issues exist. Planner Zubko stated she is of the opinion this would not qualify as ag exempt.

Attorney Daniel Kramer is in attendance for questions or comments. Mr. Kramer introduced himself and stated she pretty much has been running this as a home occupation but thinking of bringing on another veterinarian would require a special use at this time.

Mr. Werderich asked about plans to get larger. Mr. Kramer stated the building would not change; it’s adequate but simply broader coverage to have another vet to allow time off. With regards to the survey there is more acreage so a surveyor will be redrawing the special use area. The stalls are 12’ x19’ currently. Mr. Werderich asked from the Plan Commission meeting about the building code. Planner Zubko explained the thoughts of Plan Commission. Mr. Werderich asked if the petitioner would like to rezone this property to commercial. Mr. Kramer stated she already owns an overnight kennel which seems to serve the community so not at this time. Mr. Kramer stated there has been no feedback from neighbors.

Walter Werderich opened the meeting for the public hearing. With no testimony Walter Werderich closed the public hearing.

§ 13.08.J of the Zoning Ordinance outlines findings that the Hearing Officer must make in order to grant a special use. The petitioner answered as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The proposed special use for continuation of the veterinary office and clinic that is currently located on Eldomain Road continues a long agricultural use. It presents no change in the character f the neighborhood or use of the property and is beneficial to the large residential population needing critical animal care surrounding the area and potential boarding of animal.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and
other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. There is adequate distance between the existing special use and the expansion thereof and surrounding properties. As is pointed out in the current LRMP of Kendall County in its Agricultural Easement Kendall County has a long and rich history in agriculture and it is a primary objective of the Kendall County LRMP to encourage and continue the expansion of agriculture and agricultural related uses.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. There are no public utility or development needs that in any way place a burden on local taxing districts or bodies or surrounding property owners. The subject property is served by Eldamain Road which is designated as a major collector and likely to be improved with a bridge over the Fox River in the near term. The business of the veterinary clinic as a destination business which is served well by being on a major artery such as Eldamain Road. There are adequate utilities on site, drainage is no problem given the large site and there are no new facilities that needed.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Hearing Officer. The Special use conforms to all regulations of the Kendall County Agricultural Ordinance.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The Special use requested is consistent with the LRMP, Agricultural Special use Ordinance and the trend in development along major corridors such as Eldamain Road in the area. The provision of quality veterinary care is as an asset to the agricultural and residential community in Kendall County. It encourages development by offering qualified veterinary services.

Wally Werderich made a favorable recommendation with the petitioner’s findings of fact and staff’s 1 condition as listed in the report.

REVIEW PBZ APPROVALS BY COUNTY BOARD & CHANGES- ZBA
14-12 Central Limestone Company, Inc.- Approved by County Board on 9.16.14
14-24 Divyesh Patel/ Council Court Motel- Approved by County Board on 9.16.14

NEW BUSINESS/ OLD BUSINESS- None

PUBLIC COMMENT- There were no members in the audience that wanted to comment.

ADJOUR SPECIAL USE HEARING OFFICER- Next meeting will be on October 27, 2014. Chairman Werderich adjourned the Special Use Hearing Officer meeting at 7:15 p.m.
CONTINUE ZONING BOARD OF APPEALS

MINUTES for the ZONING BOARD OF APPEALS
Karen Clementi motioned to approve the September 29, 2014 meeting minutes. Scott Cherry seconded the motion. All were in favor and minutes were approved.

PETITIONS
#14-29 Paul Cervenko- Variance
Planner Zubko stated the property is located at 16155 Burr Oak Road on the north side of Burr Oak Road about 0.7 miles southeast of the intersection of Griswold Springs and Burr Oak Road, directly west of the Deer Ridge PUD Subdivision. The parcel is 3.04 Acres and zoned A-1 Agricultural with a variance for the pool in 1998. The petitioner is requesting a variance to construct an accessory structure that will be closer than the 150’ minimum to the centerline of the roadway. The accessory structure will be located 42’ from the centerline of the roadway (about 2’ off the current right-of-way). To help put it in perspective it will be 14’ from the current roadway. There is a bike path shown on the north side of Burr Oak Road which typically we would request about 20’-30’ from the right of way line. This property was granted a variance for the pool back in 1998 for the pool to be located in a side yard. Pools were only permitted in the rear yards. The petition for the pool stated the pool will be about 30’ from the west property line and about 90’ from the road right-of-way. Looking at the plat of survey the pool is 20’ from the west property line (concrete surround) and 77’ from the centerline of the roadway which is 33’ from the ROW. This property is large but about 2.05 acres of the property is in floodplain leaving the small area (@ 0.8 acres) shown remaining for buildings and the septic field. The septic area is northeast of the house and the well is in the front yard not too far off the southwest corner of the garage. The current ROW line is about 40’ from the centerline of the roadway and the petitioner proposes to put the detached garage at an angle to match the pool so only the southeast corner of the garage would be about 42’ from the centerline of the roadway. Due to the opposition the petitioner has stated they will no longer request a new curb cut therefore leaving all the existing lilacs that are about 8’ tall. In the packet of information is a letter from the township Plan Commission and township supervisor, and 3 letters opposing the petition from Jim & Doris Carpenter, Richard & Kris Christie, Craig & Linda Stevenson and a petition opposing signed by 25 people owning 17 properties nearby. Planner Zubko also stated she also passed out two letters today opposing the petition by Beverly Anderson and Robert O’Brien. She would like to reiterate there will be no curb cut and if the Board would like to approve the variance she recommends putting the following conditions on the variance:

1. No new curb cuts will be permitted along Burr Oak Road.
2. The height will be restricted to 20’.
3. Must preserve the lilacs/landscaping to a height of 8’ while this building exists and replace other screening shrubbery.
4. IF a bike trail is ever proposed the owner of the property (at their own expense) must relocate or demolish the accessory structure.

Planner Zubko stated the bike trail most likely will not happen in our lifetime or possibly be on the south side of Burr Oak Road due to the lack of development. Planner Zubko passed around a map showing which residents have written letters opposing and also who signed the petition.

Zoning Board of Appeals & SUHO 9.29.14 Page 5
Ms. Clementi stated this is the first time a recommendation from Planner Zubko has not been made. Planner Zubko stated she wanted to hear the testimony first before stating a recommendation but still recommend some conditions if approved. Ms. Clementi stated she would like to hear Planner Zubko’s recommendation after all the testimony.

Attorney Kelly Helland introduced herself and explained that the petitioner is the contract purchaser of the subject property. Due to the conditions of the property, the wooded area and floodplain her clients have a boat they are proposing to put in the accessory structure and use it as a pool house. Due to the amount of screening and landscape in the area this proposed building should not impact the neighbors or property values. Also Ms. Helland noted this is the only lot not part of a subdivision as Deer Ridge PUD is to the east and Deer Acres subdivision to the west with 1 vacant flag lot property in between that cannot be built on. It would be an agricultural type building, not a barn that will match the house with materials and look. She discussed the setbacks for this lot is much greater than all the other lots since this lot is zoned agricultural. Ms. Helland also stated her clients are willing to scale down the building if need be. The builder and petitioners are present for any other questions.

Ms. Clementi asked if there were any pictures from winter as she saw the lilac pictures but know the lilacs will drop their leaves in the winter so trying to see what can be done, maybe some evergreen screening to this building. Ms. Helland stated there are some spruces on the east and west side of the property but not on the south facing the roadway.

Current house owner Joel Gamble introduced himself and explained how visible this will be in the winter/fall.

Petitioner Paul Cervenka introduced himself and stated they want to be good neighbors and just want to do the right thing. They are moving from a house with a basement to this house with no basement and don’t want to put the boat in the yard. It would be heavily landscaped, shingled roof and materials to match the house. They just need a little more storage. There is no other location to build this due to the contours of the property. From this area you cannot even see the neighbor’s homes in the summertime. There was brief discussion on the slopes of the property.

The Builder, Joe Wisniewski, owner of Wise Builders and have been building in Kendall County for 38 years. He was asked by Mr. Cervenka to help find a location to put an accessory structure on the lot. 26’ from the back of the pool there is a huge drop in elevation. There is no place to put that size of a building anywhere. Also thinking about water drainage this is the best location, otherwise they’d have to put it directly in front of the house. The hardship is there is no other location to locate that size of a building. Mr. Cervenka also clarified there will be no bathroom or water in the building.

Member LeCuyer swore in anyone interested in talking about this petition and opened the meeting for public testimony.

Robert Carpenter introduced himself and discussed how he built the area and his wife grew up on Burr Oak Road. He talked about the beauty and integrity of the area and views from the Stevenson’s property. He is against this property building so close to the roadway.
Chris Carpenter introduced himself, Bob Carpenter’s son and lives west of this property. He grew up on Burr Oak Road. He does not feel a structure this close to the roadway is appropriate.

Ms. Clementi asked the Carpenter’s if there is anything the petitioner can do to compromise? Mr. Bob Carpenter stated he thinks he could offer a suggestion for storage. This home is a slab on grade and what can be done is extending the garage west which would offer more storage area and extend the roofline and would fall within the requirements of the county. Ms. Clementi asked if the petitioner provides screening if that would be sufficient. Bob Carpenter stated screening would not help especially during the winter months. He also stated from the 2nd story of the Stevenson’s house this structure would be in the view no matter the amount of trees. It does not fit the integrity of Burr Oak Road of what’s been done to date.

Mr. Wisniewski wanted to address the question of extending the house and stated the garage is straight down hill so if the garage was extended there would be a water issue and would be blocking windows; that’s not really a feasible solution. There was some discussion of the architecture and materials of the proposed building.

Bob Carpenter stated when the house was built the garage enlargement was thought about but decided not to build it at that time, but it would be part of the building. It was an expense they did not want to spend at that time.

Joel Gamble stating he’s owned the home over 18 years and the pool location was discussed and how long the home has been for sale.

Ms. Clementi asked Mr. Cervenka if this is denied tonight what will happen with the sale. Mr. Cervenka stated he and his wife would have to discuss it and decide if they still would like to purchase this property, currently the sale is contingent upon the variance.

Joe Wisniewski asked if Paul would accept a smaller building and exactly what size? 28’ x 40’? Mr. Cervenka stated that would be fine.

Bob Carpenter got back up and stated the only thing acceptable would to not construct this building, there really is no compromise in his opinion.

Chris Carpenter was requested back up and Ms. Clementi asked if there is some type of compromise? Mr. Carpenter stated the idea of having buildings that close to the wrong would be a downgrading of the area in his opinion. He does not want to see a building south of the existing home.

There was brief discussion on the variance we previously approved down the street for Sue Smith and that was the original farmhouse and 20’ from the right-of-way line. There was no opposition for that variance. There was also brief discussion on changing the size would change the setback a little.

Quendred Carpenter spoke and stated she would like everyone to reconsider what her husband stated about extending the garage, she feels there is no compromising.
Ms. Clementi asked the petitioner’s attorney with regards to cost to changing location and size. Attorney Helland talked about the property to the west being screened significantly. Pictures were passed around to help explain the location and views. There was discussion that this is a tough variance since there is so much opposition.

Member LeCuyer closed the testimony. There were brief discussions on everyone’s thoughts on the Committee and the height of the building.

With no further discussion Karen Clementi made a motion to approve the variance with 6 conditions:
1. No new curb cuts will be permitted along Burr Oak Road.
2. The height will be restricted to 17’.
3. Must preserve the lilacs/landscaping to a height of 8’ while this building exists and replace other screening shrubbery.
4. Match existing home architecturally and with like materials.
5. If a bike trail is ever proposed the owner of the property (at their own expense) must relocate or demolish the accessory structure.
6. Building a maximum size of 28’ x 40’.

Dick Whitfield seconded the motion. With a roll call vote of 2-3 the variance was denied.

#14-30 Michael Rutkas
Planner Zubko stated the property is located 14633 Big Grove Road, Newark. It is located on the northwest side of Big Grove Road about 0.2 miles southwest of Bushnell School Road. The property is 5.74 acres and zoned A-1 Agricultural. The petitioner is requesting a variance to construct an addition/front porch to the home that will be closer than the 150’ minimum to the centerline of the roadway. The addition will be located 63’ from the centerline of the roadway. The home currently is 79.9’ from the centerline of the roadway. This property was built in 1910 and the entire home is located in the front yard setback. Staff would recommend approval of the variance to construct an addition/front porch that will be located 63’ from the centerline of the roadway as it would be consistent with homes built in that period.

Member LeCuyer swore in anyone interested in talking about this petition.

Michael Rutkas, the petitioner introduced himself and discussed why her purchased this house and would like to add a front porch. Mr. Rutkas passed around an elevation of the home and stated the house would have a Frank Lloyd right feel to it.

Member LeCuyer opened the meeting for public testimony.

Dick Thompson stated he's familiar with this house as he grew up in the house and in support of the variance.

Gene Fletcher (neighbor south and east) introduced herself and expressed her happiness and support for this variance.

With no further testimony made, Member LeCuyer closed the testimony.

The Findings of Fact were reviewed for a variance, they were approved as follows:
§ 13.04.2 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to grant variations. They are as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. The property has a house that was constructed in 1910. It is legally non-conforming and was built well before any zoning or setback laws were put into place. In try to improve livability and utilize the property in the best possible way the petitioner would like to put a 16’ deep by 26’ wide front porch. Architecturally it would be built in a prairie/mission style to help compliment the surrounding property and tie into the existing 1910 home. It was common practice for that style house to have a front porch.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. Countless older farm homes in Kendall and surrounding counties have front porches. It’s the quintessential must have if you live in the county.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The house was built and positioned in 1910 well before the petitioners’ ownership.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. This will be improving the front of their house and upping the curb appeal, it will only increase property value. No impact on air, water, blocking of views, or interfering with public or private works will take place to do this project.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. This is a simple open air covered porch. All adjacent properties are far enough away it would not block light, air, or put any impact or hardship on them. It would not block any views and would not interfere with any public streets.

With no further discussion Scott Cherry made a motion, seconded by Dick Whitefield to approve the findings of fact as written. All were in favor and the findings of fact were approved.

Scott Cherry made a motion to approve the variance, Karen Clementi seconded the motion, with a roll call vote all were in favor and the variance was passed.

REVIEW PBZ APPROVALS BY COUNTY BOARD & CHANGES- ZBA
14-12 Central Limestone Company, Inc.- Approved by County Board on 9.16.14
14-17 Medical Cannabis Cultivation Center- Approved by County Board on 9.16.14
14-22 Clean-up and Restoration Services- Approved by County Board on 9.16.14
14-24 Divyesh Patel/ Council Court Motel- Approved by County Board on 9.16.14
14-25 Medical Cannabis Distribution Center- Oh hold for SAO to review

NEW BUSINESS/ OLD BUSINESS- None
PUBLIC COMMENT - There were no members in the audience that wanted to comment.

ADJOUR ZONING BOARD OF APPEALS - Next meeting will be on October 27, 2014. Karen Clementi made a motion to adjourn the ZBA meeting, Dick Whitfield seconded the motion. The Zoning Board of Appeals meeting was adjourned at 8:40 p.m.

Respectfully Submitted,

Angela L. Zubko
Planning & Zoning Manager & Recording Secretary
DEPARTMENT OF PLANNING, BUILDING & ZONING
111 West Fox Street • Room 203
Yorkville, IL • 60560
(630) 553-4141 Fax (630) 553-4179

14-31
Catherine & David Katz
VARIANCES- Front, Side & Rear Yard Setbacks

SITE INFORMATION
PETITIONER Right Rail LLC- Series 29 (Catherine & David Katz)

ADDRESS 29 Oak Hill Drive, Oswego

LOCATION East side of Oak Hill Drive about 0.09 miles south of Pleasantview Drive

TOWNSHIP Bristol

PARCEL # 02-24-226-001

LOT SIZE 35,668 square feet

EXITING LAND USE Single Family Home

ZONING R-3 Single Family Residential (1974 Countywide Zoning)

LRMP
<table>
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<tr>
<th>Land Use</th>
<th>County: Suburban Residential</th>
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<tr>
<td>Roads</td>
<td>Oak Hill Drive is classified as a local road.</td>
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<tr>
<td>Trails</td>
<td>There are no proposed trails.</td>
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REQUESTED ACTION Request for variances to fix a violation and issue that has been going on for a while. Request for variances for a home that was built in 1959 to be located 66' from the front property line, 6.07' from the side property line, 22' from the rear property line and the deck to encroach into the 15' easement by 4'. The setbacks are 67' from the front property line, 17.8' (10% of the lot width) from the side property line and 50' from the rear lot line.
APPLICABLE §8.08.E.2 (R-3 Setbacks: Yard Areas)
REGULATIONS §13.04 (Variations)

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<thead>
<tr>
<th>Location</th>
<th>Adjacent Land Use</th>
<th>Adjacent Zoning</th>
<th>LRMP</th>
<th>Zoning within ½ Mile</th>
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<tbody>
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<td>Single Family Home</td>
<td>R-3</td>
<td>Suburban Residential</td>
<td>R-3; A-1; Oswego</td>
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<tr>
<td>South</td>
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<td>R-3</td>
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<td>R-3; A-1; R-1</td>
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REQUESTED ACTION

GENERAL

Request for variances to fix a violation and issue that has been going on for a while. Request for variances for a home that was built in 1959 to be located 66' from the front property line, 6.07' from the side property line, 22' from the rear property line and the deck to encroach into the 15' easement by 4'. The setbacks are 67' from the front property line, 17.8' (10% of the lot width) from the side property line and 50' from the rear lot line.

The Oak Hills subdivision was platted in 1956 and River View Heights directly east of this property was also platted in 1956.

Apparently this subdivision has been incorrect since it was built. There are so many iron pipes due to the many lot lines and the surveyors starting at different locations it was not realized till 2006. That is when the neighbor at 23 Oak Hill Drive complained a deck was built on 29 Oak Hill that encroached onto their lot line. It became a civil matter between the two neighbors. Since then Catherine & David Katz have acquired 23 Oak Hill and would like to resolve the issue. They have drawn up a new plat showing the new lot line change and requesting variances to get everything cleaned up.
FINDINGS OF FACT  § 13.04.2 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to grant variations. They are as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. The property has a house that was constructed in the 1950's. Once the house built a deck that put the deck onto the northern property line. It took years for the current owners to own both pieces of property to fix this issue.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. To date no issues like this have ever come up.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The surveyors messed up the pins back in the 50's.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. This will fix a violation that has been ongoing. The only people it would affect is the property to the north which the same petitioners own.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. This variation will not impair an adequate supply of light or air to adjacent properties as everything is already constructed. It will also not increase the congestion in the public streets or increase the danger of fire or public safety.

RECOMMENDATION  Staff would recommend approval of the variances to correct this issue and violation.

ATTACHMENTS
1. PBZ Meeting minutes on 3.9.09
2. Memo from Jerry Dudgeon from March 2, 2009
3. Old Plat of survey for 23 Oak Hill Drive
4. Old Plat of survey for 29 Oak Hill Drive
5. New Plat of Survey for 29 Oak Hill Drive
KENDALL COUNTY
PLANNING, BUILDING & ZONING COMMITTEE
Kendall County Office Building
Rooms 209 & 210
111 W. Fox Street, Yorkville, Illinois

Meeting Minutes of March 9, 2009
(APPROVED APRIL 13, 2009)

CALL TO ORDER
The meeting was called to order by Chairman Nancy Martin at 6:30 p.m.

ROLL CALL
Present were: Chairman Nancy Martin, John Shaw, Bob Davidson, Jeff Wehrli, and John Purcell (late)
Also present were: ASA Brian LaBardi, Director Jerry Dudgeon, Senior Planner Angela Zubko, Associate Planner John Sterrett, Brian Holdiman, Attorney Daniel J Kramer, Attorney Boyd Ingemunson, and Brian Watkins (#09-04 Montessori), Attorney Melissa Barnhart, David and Catherine Katz

29 Oak Hill Drive
Encroachment Issues

Jerry Dudgeon gave a brief description on this matter stating that the house that Mr and Mrs Katz own. When they purchased the house, the survey they received showed no encroachment of their house over the lot line. In 2006, however, a new survey showed that the Katz’ house encroaches the neighbor’s lot line by 3.17 feet. The adjoining property owner came to PBZ Committee with a complaint about the deck being over the lot line. Jeff Wehrli stated that the subdivision was platted from the north to a certain point and then from the south back to that point so there is a 5 foot discrepancy between the two surveys. The Katz’ have had numerous problems with this neighbor. They have offered to purchase this piece of property from the neighbor, but have not gotten an answer. After some discussion, it was decided that this committee cannot do anything at this time. The petitioner was told to take the neighbor to court to get this resolved. Once the court case is over and if the petitioner wins, this committee can walk them through the changes and approve any variances needed.
To: Planning, Building and Zoning Committee

From: Jerry A. Dudgeon, Director

Date: March 2, 2009

Re: 29 Oak Hill Drive – Encroachment Issues

In February of 2007 we were contacted by the owner of 23 Oak Hill Drive who supplied us with a copy of a plat of survey that indicating a home and deck located at 29 Oak Hill Drive (Lot 6 of the Oak Hills Subdivision) were encroaching onto his property (Lot 5). The survey showed the house encroaching roughly 3.17 feet and an attached deck that encroached 4.57 feet. The recorded plat of survey for the Oak Hills Subdivision further indicated the original dimensions of Lots 4 through 7 were platted as 160’ wide by 200’ deep. Based on the area identified as “Line of Occupation” on the attached survey, it appeared the encroachment had effectively reduced the width of Lot 5 to only 150 feet across the rear lot line.

Based upon the survey supplied to us for Lot 5, it appeared that the SW corner of Lot 118 in the adjoining Riverview Heights Subdivision was erroneously identified as the NE Corner of Lot 4 when the home was originally constructed accounting for the ten foot discrepancy. As a result, the home and the deck are illegally occupying a portion of Lot 5 and violate the required setbacks for the underlying R-3 Residential Zoning District. It also appears the deck encroaches into the 15 foot rear yard public utility and drainage easement as well as the required 50 foot rear building setback line and was constructed without benefit of a building permit.

In providing assistance to the two property owners to develop a remedy to the situation, we had suggested that they work together with a land Surveyor and consider doing a deed transfer of an equal amount of land from each lot to eliminate the encroachment across lot lines and that upon completion of the transaction, the owner of 29 Oak Hill apply for a variance to address the reduced setbacks for the home and deck to address future title issues. Discussions between the two owners had been progressing until recently at which point negotiations ceased. The owner of Lot 29 is seeking the County’s assistance in attempting to resolve the matter so that they can obtain clear title and sell their property. Accordingly staff was directed to place this matter on the PBZ agenda for discussion at the March meeting.

At this stage, staff believes we have provided all the assistance and direction we can and that this is a civil matter to be resolved between the property owners, surveyors and title companies involved. As requested however, we have placed this matter on this evening’s agenda for discussion and await the input of the committee members.

JAD
Attachments
1. Aerial Photo
2. Survey of Lot 5 dated March 31, 2006
PLAT OF SURVEY OF LOT 6 OF OAK HILLS, IN THE TOWNSHIP OF BRISTOL, KENDALL COUNTY, ILLINOIS.

Commonly known as 29 Oak Hill Drive.

STATE OF ILLINOIS) 
COUNTY OF KANE } SS

I, THOMAS J. TUD, ILLINOIS REGISTERED LAND SURVEYOR NO. 2467, DO HEREBY CERTIFY THAT THE PLAT SHOWN HERETO IS A CORRECT REPRESENTATION OF A SURVEY PERFORMED AT AND UNDER MY DIRECTION.
DATED AT AURORA, ILLINOIS, NOVEMBER 11, 1985.

PLAT OF SURVEY

OF

THE SOUTHERLY 9.34 FEET OF LOT 5 AND ALL
OF LOT 6 OF OAK HILLS, IN THE TOWNSHIP
OF BRISTOL, KENDALL COUNTY, ILLINOIS.

ORDERED BY:

DAVE KATZ

STATE OF ILLINOIS
COUNTY OF KENDALL

I, DAVE KATZ, being sworn, do declare and publish, that the Plat of Survey, dated this 14th day of September, 2014, of the property described above, has been surveyed, recorded, and recorded in the public record books and records of the county of Kendall, Illinois.

I, WILLIAM M. WINGSTEDT, Illinois Professional Land Surveyor, hereby certify that the Plat of Survey, dated this 14th day of September, 2014, of the property described above, has been surveyed, recorded, and recorded in the public record books and records of the county of Kendall, Illinois.

WILLIAM M. WINGSTEDT
ILLINOIS PROFESSIONAL LAND SURVEYOR
329 WHITE PINES CT., OSWEGO, ILLINOIS 60543
PHONE (630) 554-8209 FAX (630) 551-1207

FIELD WORK COMPLETED, BUILDINGS AND OTHER
IMPROVEMENTS LOCATED AS SHOWN ON THE OBDU
OF SEPT 14, 2014.

23 OAK HILL DRIVE
\ = found iron stake
G = set iron stake

LICENSE NUMBER 2675
LICENSE SUBJECT TO RENEWAL AND EXPIRES 11/30/2014
REFERR TO DEED OR GUARANTEE POLICY FOR RESTRICTIONS NOT SHOWN ON SURVEY.
ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
LINE DIRECTIONS AND Bearings, WHERE SHOWN, ARE BASED ON A RECORD DATUM LINE
PLEASE COMPARE ALL POINTS BEFORE BUILDING AND REPORT ANY APPARENT DISPARITIES.
DEPARTMENT OF PLANNING, BUILDING & ZONING
111 West Fox Street • Room 203
Yorkville, IL • 60560
(630) 553-4141	Fax (630) 553-4179

14-32
BRYAN & LINDSEY HARL
VARIANCE- Front Yard Setback

SITE INFORMATION

PETITIONERS Bryan & Lindsey Harl

ADDRESS 3416 Route 47, Yorkville

LOCATION On the east side of Route 47 about 0.1 miles north of Kennedy Road

TOWNSHIP Bristol

PARCEL # 02-21-178-001

LOT SIZE 2.15 Acres

EXITING LAND USE Single Family Home

ZONING A-1 Agricultural

<table>
<thead>
<tr>
<th>LRMP</th>
<th>Land Use</th>
<th>County: Suburban Residential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roads</td>
<td>Route 47 is classified as an arterial roadway.</td>
<td></td>
</tr>
<tr>
<td>Trails</td>
<td>There is a proposed trail on the west side of Route 47.</td>
<td></td>
</tr>
</tbody>
</table>

REQUESTED ACTION Request for a variance to construct an accessory structure that will be located in the 150' setback to the centerline of the roadway. The structure will be located 108' from the current centerline of the roadway, requesting a 32' variance (68' from the property line).

APPLICABLE §7.01.G.2.b (A-1 Setbacks: Accessory Structures)

REGULATIONS §13.04 (Variations)
SURROUNDING LAND USE

<table>
<thead>
<tr>
<th>Location</th>
<th>Adjacent Land Use</th>
<th>Adjacent Zoning</th>
<th>LRMP</th>
<th>Zoning within ½ Mile</th>
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</thead>
<tbody>
<tr>
<td>North</td>
<td>Blackberry Creek</td>
<td>A-1</td>
<td>Suburban Residential</td>
<td>A-1; Yorkville</td>
</tr>
<tr>
<td>South</td>
<td>Residential</td>
<td>R-3</td>
<td>Suburban Residential</td>
<td>Yorkville</td>
</tr>
<tr>
<td>East</td>
<td>Residential</td>
<td>R-3</td>
<td>Suburban Residential</td>
<td>R-3; Yorkville, R-1; A-1</td>
</tr>
<tr>
<td>West</td>
<td>Farmland</td>
<td>A-1</td>
<td>Commercial</td>
<td>A-1; R-1; Yorkville</td>
</tr>
</tbody>
</table>

REQUESTED ACTION

GENERAL Request for a variance to construct an accessory structure that will be located in the 150’ setback to the centerline of the roadway. The structure will be located 108’ from the current centerline of the roadway, requesting a 32’ variance (68’ from the property line).

This property is very unique in its pie shape so really only have 3 sides. To the west is Route 47 which is being evaluated to be widened. The plans have been assessed and the house will remain if the road is widened. To the north is the Blackberry Creek and to the east is a subdivision but it is heavily wooded along the property line. The petitioner is also trying to preserve as many trees as possible and utilize the existing driveway.

FINDINGS OF FACT § 13.04.2 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to grant variations. They are as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. The shape of the property is such that the proposed area is the most feasible and visually appealing area for the proposed building. The area to the east of the main structure is exceptionally narrow, making placement unfeasible. Further north on the property is a flood plain area, is low lying, and offers no access via a driveway to access the structure. A gravel or paved drive through the
east or west side of the main structure to access the building if it were placed to the north would also subtract from the visual appeal of the property.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. Many A-1 zoned properties have a more rectangular shape, making a building as proposed more feasible in more than one area of the property. The shape of the property, the location of the low lying areas prone to flooding, and the aesthetics of the property deem placement of the proposed building best suited to the proposed location.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The property was purchased on August 25th, 2014 long after the house was built (1978).

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The approval of the variance will not be detrimental to the public welfare, or substantially injurious to the neighborhood. The property is heavily wooded and special use has been taken to ensure the majority of the trees remain, which will surround the proposed building.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. The proposed building is a tasteful, aesthetically pleasing building designed to increase the functionality of the property. The building will be used to store vehicles, and a boat, which would otherwise be parked on the property. Careful planning has been completed to place the proposed building in an area where mature trees will surround the building. Light and air supply will not be impaired to adjacent properties. Entries and exits to all surrounding properties, including the property in question, will be unaffected. Public streets and traffic will not be affected.

**RECOMMENDATION**

Staff would recommend approval of the variance to construct an accessory structure that will be located in the 150’ setback to the centerline of the roadway. The structure will be located 108’ from the current centerline of the roadway, requesting a 32’ variance (68’ from the property line).

**ATTACHMENTS**

1. Plat of Survey