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 August 31, 2015 Zoning Board of Appeals meeting

PETITIONS:

1. 15-15 Peter and Mary Bielby
    Request: Variance from required setback distance of a proposed dog kennel structure
    Location: 8573 Fox River Drive, Fox Township
    Purpose: To use an existing 2,900 square foot structure as dog kennel that does not meet the require setback distance required for a dog kennel as part of a future A-1 Special Use application.

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD

NEW BUSINESS/ OLD BUSINESS
2016 ZBA Schedule

PUBLIC COMMENT

ADJOURN ZONING BOARD OF APPEALS- Next meeting on December 7, 2015
CALL TO ORDER
At 7:00 p.m., Chairman Randy Mohr called the Zoning Board of Appeals meeting to order.

ROLL CALL
Members present: Randy Mohr (Chairman), Scott Cherry, Karen Clementi, Donna McKay (Vice-Chair), Tom LeCuyer, and Dick Thompson
Members absent:
Also present was: Mike Hoffman-Teska Associates, Inc.
In the audience:

MINUTES
Motion to approve July 27, 2015 corrected minutes by Mr. Cherry, seconded by Mr. Whitfield.
Approved 6-0.

PETITIONS

1. 15-13 Gary Kritzberg
Request: Variance from front yard setback for a garage
Location: 1211 Game Farm Road, Yorkville
Purpose: To construct a garage in the front yard

Mr. Hoffman stated that since the previous meeting he had been out to walk the property with Brian Holdiman, the County Code Official. Also since the previous meeting the petitioner has proposed a new spot for the garage, labeled D it the packet, for the garage. This would be a 33 feet setback, meaning only a 17 feet variance. Mr. Hoffman stated that there is a good buffer of trees and landscaping to hide the garage.

The hearing was continued from the previous meeting to give the United City of Yorkville (which surrounds the property) time to examine the variance request. Their recommendations after examining the variance are consistent with the staff recommendations.

The only outstanding issue is the request for another curb cut. Petitioner currently has two as the property has a circular driveway. He is requesting another. Yorkville is recommending denial as their code limits curb cuts per property to two.

Chairman Randy Mohr opened the meeting for public hearing at 7:14 p.m. Seeing none, he closed the public hearing.
Ms. Clementi made a motion to approve the findings of fact along with the conditions recommended by staff. Mr. Whitfield seconded. The findings of fact and recommendations are 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 listed below in italics. Staff has provided some preliminary findings in bold below based on our recommendation to modify the request to relocate the proposed garage to location “D” as shown on page 4 of this report and grant a 17’ variation from the required 50’ front yard setback. Depending on additional evidence provided at the public hearing and input from the City of Yorkville, these draft findings may need to be modified.

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 topography of this property limits potential locations of any structure on this property. However, the proposed provides an alternative that considers the unique character of the property and minimizes the required variation.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. This is a unique property within the County’s A-1 Zoning District, as it is generally surrounded by the City of Yorkville. This location, plus the unique topographic conditions of the property do not exist on most other A-1 zoned property in the County.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. Recent right-of-way acquisition by the City of Yorkville which increased the setback from the original property line (center of the road) was not a hardship created by the owner. Likewise, the current owner had no influence over the unique topography of the site or the placement of the home on the property, both of which limit potential garage locations.

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 proposed garage location will have a significant landscape buffer from both the adjacent home to the south and from Game Farm Road. The proposed variation and resulting garage setback will generally be consistent with other such structures in the area.

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 variation will not impact the supply of light or air to adjacent property. This proposed garage will have no impact on traffic, as it is for a car that is currently stored outdoors on the property. Given the existing landscape buffering and proposed
construction materials that will match the existing home, the improvements should not diminish or impair neighboring property values.

RECOMMENDATION  Given the extensive landscaping on the site and screening offered by the proposed location, coupled with the pattern of development in the area, County staff is supportive of the proposed 17’ front yard setback variance to allow for the proposed garage. Staff understands the applicant’s desire for a garage, and the selection of the proposed location given site topography and other site constraints. We would suggest the following conditions:

A. If a driveway is to be installed, written evidence shall be provided to the PBZ Department that a curb cut onto Game Farm Road in the proposed location will be allowed by the United City of Yorkville.

B. That the Evergreen Tree buffer along the south edge of the property be maintained, including replacement of trees in the future as needed.

Chairman Mohr called for a vote. Approved 5-0; Chairman Mohr abstaining.

REVIEW PBZ APPROVALS BY COUNTY BOARD & CHANGES  – No changes

NEW BUSINESS/OLD BUSINESS  –

PUBLIC COMMENT  - There were no additional comments by members in the audience.

ADJOURNMENT OF THE ZONING BOARD OF APPEALS  - Next meeting will be on September 28, 2015.

Ms. McKay made a motion to adjourn the Zoning Board of Appeals meeting, Mr. Cherry seconded the motion. Chairman Randy Mohr adjourned the Zoning Board of Appeals meeting at 7:16 p.m.

Respectfully Submitted,

Andrez P. Beltran
Economic Development and Special Projects Coordinator
SITE INFORMATION

PETITIONER: Peter and Mary Bielby

ADDRESS: 8573 Fox River Drive

LOCATION: Northwest side of Fox River Drive; ½ Mile South of Millbrook Road

TOWNSHIP: Fox

PARCEL #: 04-16-151-005; 04-16-300-001

LOT SIZE: 4.05 acres

EXITING LAND USE: Single Family Residence

ZONING: A-1 Agricultural District

<table>
<thead>
<tr>
<th>LRMP</th>
<th>Land Use</th>
<th>Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roads</td>
<td>Fox River Drive is a county road classified as a Major Collector Road</td>
<td></td>
</tr>
<tr>
<td>Trails</td>
<td>A trail system exists on the southeast side of Fox River Drive. No trails are planned on the northwest side of Fox River Drive.</td>
<td></td>
</tr>
</tbody>
</table>
REQUESTED ACTION
Request for a variance to an existing 2,900 square foot accessory storage structure to be converted to a dog kennel structure as part of a future A-1 Special Use application. The existing structure is located 25’ from the west property line and 195’ from the east property line, requesting a variance of 125’ and 55’, respectively.

APPLICABLE REGULATIONS
Section 7.015 D.27 – A-1 Special Uses – Permits Dog Kennels to be located in the A-1 District with approval of a Special Use provided that the kennel facility is located at least 250’ from residually zoned properties and properties identified on the LRMP as residential and located at least 150’ from non-residentially zoned properties and properties identified on the LRMP as non-residential.

Section 13.04 – Variation procedures and requirements

SURROUNDING LAND USE

<table>
<thead>
<tr>
<th>Location</th>
<th>Adjacent Land Use</th>
<th>Adjacent Zoning</th>
<th>LRMP</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Illinois Railway/Millbrook South Forest</td>
<td>A-1</td>
<td>Public Recreation/Parks</td>
</tr>
<tr>
<td></td>
<td>Preserve</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>Single Family Residential (Estates of</td>
<td>R-3 PUD</td>
<td>Planned Rural Residential/Open</td>
</tr>
<tr>
<td></td>
<td>Millbrook)</td>
<td></td>
<td>Space</td>
</tr>
<tr>
<td>East</td>
<td>Fox Township Building</td>
<td>A-1 Special Use</td>
<td>Suburban Residential</td>
</tr>
<tr>
<td>West</td>
<td>Millbrook South Forest Preserve</td>
<td>A-1</td>
<td>Public Recreation/Parks</td>
</tr>
</tbody>
</table>

GENERAL
The petitioners, Peter and Mary Bielby, are interested in operating a dog kennel at the subject property and using an existing 2,900 square foot structure to keep the dogs contained in. This type of use is permitted with a special use on an A-1 property with the condition that the kennel facility be located at least 250’ from residually zoned properties and properties identified on the LRMP as residential and located at least 150’ from non-residentially zoned properties and properties identified on the LRMP as non-residential. The petitioners intend to seek approval for a special use to operate a dog kennel; however, current conditions on the property do not meet this requirement.

The existing structure is located 25’ from the property to the west, which is zoned as A-1 Agricultural and depicted as non-residential on the LRMP, thus encroaching into the required setback by 125’. The structure is located 195’ from the east property line, zoned as A-1 Agricultural and depicted as suburban residential on the LRMP thus encroaching into the required setback by 55’. It was the preference of the petitioners to seek approval of the variance request for the separation distance of the kennel prior to filing an application for an A-1 Special Use for a dog kennel operation. If approved, the petitioners will be required to apply for a special use subject to a public meeting and public hearing in front of the Plan Commission and the Hearing Officer, respectively.

FOX TWP.
Staff has not received a response from Fox Township. State Statute provides the affected Township 15 days to submit an objection to the proposed request from the date of the public hearing.

MILLBROOK
Comments from a municipality are not statutorily required for a variance. A copy of the application and requested action were sent to the Village of Millbrook. No comments have been received. Formal notification of the Special Use application to the Village will be required.

CONCLUSION
While the County’s LRMP identifies the property to the north as future residential and requires a kennel structure to be setback a distance of 250’, the current use is considered governmental as it is the Fox Township building. An extensive amount of wooded areas exist between the proposed kennel structure and the property to the north thus limiting potential impact the distance the kennel structure has on the property. The property to the south is part of the Millbrook South Forest Preserve and is currently being used as
farmland. Residential zoning would not be permitted to the immediate west of the subject property since the LRMP does not currently call for residential.

**RECOMMENDATION**  
Staff recommends approval of the variance request with the understanding that the petitioner must apply for an A-1 Special Use and that approval of the special use is required prior to the converting the structure into a kennel. If the variance request is approved by the ZBA, staff recommends a condition be placed on the approval requiring the petitioner to submit an application for an A-1 Special Use to operate a kennel within ninety (90) of the date of approval.

If ZBA concurs with Staff’s findings, they may:

- Approve the requested variance with the recommended condition; or
- Defer a decision and table the item until such special use is heard concurrently with the Special Use Hearing Officer

**ATTACHMENTS**
1. Findings of Fact
2. Plat of Survey
**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 listed below in *italics*. Staff has provided some preliminary findings in **bold** below based on the recommendation:

*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 lot has a narrow width of 265’ thus prohibits a new structure from being able to meet the required setback distances to the north and south lot lines.

*That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.* The lot size and dimensions of this parcel are not necessarily atypical of other lots zoned as agricultural.

*That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.* The property was not platted by the petitioner and the existing structure.

*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 existing structure, as accessory to the property, does still meet the required setbacks of an agricultural accessory building and should not have a detrimental effect on other properties.

*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.* It does not appear that the existing structure itself currently impairs an adequate supply of light and air to the adjacent property. The proposed variation, along with the change in use of the structure to a dog kennel, will not have any additional impact on the existing structures impairment of the supply of light or air to adjacent property. As part of a special use, the conversion of the structure from storage to a commercial kennel is required to comply with all applicable building codes.
2016 Zoning Board of Appeals Meeting Dates

All meetings occur at 7:00pm

January 4th
February 1st
February 29th
March 28th
May 2nd
May 31st (Tuesday)
June 27th
August 1st
August 29th
October 3rd
October 31st
December 5th