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 January 27, 2014 Zoning Board of Appeals meeting

PETITIONS:

1. 14-04 John Enlow
   Request Variance
   Location 208 Tuma Road, Yorkville
   Purpose Request a variance to allow a detached garage to encroach into the front yard setback by 10’

REVIEW OF PETITIONS THAT WENT TO COUNTY BOARD- None

NEW BUSINESS

OLD BUSINESS
   Vote on changes to the By-laws regarding the notification process

PUBLIC COMMENT

ADJOURN ZONING BOARD OF APPEALS- Next meeting on April 28, 2014
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, Tom LeCuyer, and Dick Whitfield
Also present was: Planning & Zoning Manager- Angela Zubko
Absent: Donna McKay & Dick Thompson
In the audience: James & Susan Smith, Brandon and Julie Leggett and Anna Jaruszewski

A quorum was present to conduct business.

MINUTES
Karen Clementi motioned to approve the December 9, 2013 ZBA meeting minutes. Dick Whitfield seconded the motion. All were in favor and minutes were approved.

Due to weather old business will be moved to next month.

PETITIONS
#13-33 Brandon Leggett – Variances
Planner Zubko stated the property is located on the south side of Hughes Road 0.6 miles west of Helmar Road. The petitioner is requesting three variances to allow a single family home to be located 115’ from the Centerline of Hughes Road and 30’ from the east property line. The current standard is 150’ from the centerline of the roadway and 50’ from all other property lines. The petitioner is requesting a 35’ variance and 20’ variance respectively. The petitioner is also seeking a variance from Section 7.01.H.1 of the Kendall County Zoning Ordinance to allow a new single family home lot that was subdivided from a larger agricultural parcel be 87,120 square feet, seeking a variance of 42,880 square feet.

The petitioners have already submitted for an agriculturally exempt building permit and are permitted to build a home due to Allocation #15 registered in 2000.

This parcel was created in 1999 from a 40 acre tract.

The reason the petitioners would like the variances is that the property will remain agriculture and they would like to put some type of farm animals on the property. Putting the home in this location will best utilize the smaller property for adequate pasture room. If they were to meet the setbacks the house would be in the middle of the lot making it harder to have pastures on the side of the home. Planner Zubko stated she received one call with regards to this variance and she was going to be in attendance tonight. She was seeking more information.
Chairman Mohr opened the meeting for public testimony. Chairman Mohr swore in all petitioners.

The petitioner, Brandon stated the lot pitches 7’ total from front to the back and confirmed the variance requests. The home will be the highest part on the property.

With no testimony made, Chairman Mohr closed the testimony and reviewed the Findings of Fact for a variance, they were approved 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 petitioners did not create this 2 acre lot and without the variations for the house it would be set directly in the middle of the lot making it harder to use for agricultural uses.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. Most properties are created to meet the minimum standards and the variations with regards to setbacks most likely would not be requested due to the size of most agriculturally zoned properties.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The size of the property was not created by the petitioner. There really is no hardship to the location of the house except to utilize the property for agricultural uses more efficiently.

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 requested variances should not affect any of the neighbors nor be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

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. There is only one adjacent single family home and these variations being requested is to locate the home further from the adjacent home.

With no further suggestions or changes Tom LeCuyer made a motion, seconded by Dick Whitfield to approve the variances with staff’s findings of fact. With a roll call vote all were in favor and the variances were passed.

#13-34 James & Susan Smith – Variance
Planner Zubko stated the property is located at 16031 Burr Oak Road on the north side of Burr Oak Road about 0.85 miles east of the intersection of Griswold Springs Road and Burr Oak Road. The petitioner is requesting a variance to allow an addition to encroach into the side yard setback by 7.5’. Making the addition 17.5’ from the west lot line.

This home was built in the 1850’s and existed before the subdivision was created. This home is mentioned in the subdivision approval but it was unclear at the time if the home was to remain or be demolished.
The home is entirely in the front yard setback as mentioned during the subdivision approval. Building the addition to the west is the best feasible option due to the layout of the historic home. The far north section of the addition will be a 2 car garage. In the report there is a 1939 aerial showing most structures still exist on this property including a barn on the property to the east which was converted into a single family home.

Planner Zubko stated she did receive a phone call from the neighbor to the west, Stan Staszewski who is in support of the addition and hopes the petitioners are careful to not damage the tree roots.

Chairman Mohr opened the meeting for public testimony.

Ms. Karen Clementi asked about the size of the addition and why they need to encroach into the setback. Mr. Jim Smith stated this addition will add living space for his 81 year old mother. Also Mr. Smith stated to the northeast is a screened in porch and the northeast is where the current kitchen is. Mr. Mohr asked about the trees, Mr. Smith stated he’s losing 2 oak trees and there are plenty of pine trees on the west property lines.

With no testimony made, Chairman Mohr closed the testimony and reviewed the Findings of Fact for a variance, they were approved 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. This home has existed since the 1850’s and building a subdivision around this lot created the hardships.*

*That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. This home is unique in the fact that it is a historic home and so is the home to the east.*

*That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The lot was not created by the petitioner and would like to keep the original layout of the home and screened in porch on the east side of the home.*

*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 requested variance should not affect any of the neighbors nor be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.*

*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 variation will not impair an adequate supply of light and air to adjacent properties nor create any congestion in the public streets.*

With no further suggestions or changes Dick Whitfield made a motion, seconded by Scott Cherry to approve the variance with staff’s findings of fact. With a roll call vote all were in favor and the variance passed.
REVIEW PBZ APPROVALS BY COUNTY BOARD & CHANGES - None

NEW BUSINESS

OLD BUSINESS
Vote on changes to the By-laws regarding the notification process - tabled to next meeting, Mr. Mohr would like to modify the by-laws to include wording that if there is a lack of quorum and it is not the petitioners fault, the County would pay to republish and notify the neighbors.

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

ADJOURNMENT OF THE ZONING BOARD OF APPEALS - Next meeting will be on March 3, 2014
Karen Clementi made a motion to adjourn the ZBA meeting, Tom LeCuyer seconded the motion. Chairman Randy Mohr adjourned the Zoning Board of Appeals meeting at 7:21 p.m.
SITE INFORMATION
PETITIONER  John Enlow
ADDRESS  208 Tuma Road, Yorkville
LOCATION  About 0.78 miles south of Veteran's Parkway (Route 34)
TOWNSHIP  Bristol
PARCEL #  02-27-376-003
LOT SIZE  1.29 acres (56,018 square feet)

EXITING LAND USE  Single Family Home
ZONING  R-3 Single Family Residential- Fox River Gardens Subdivision (Platted in 1927 and rezoned R-3 after 1974 Countywide Zoning)

LRMP
<table>
<thead>
<tr>
<th>Land Use</th>
<th>County: Suburban Residential</th>
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</thead>
<tbody>
<tr>
<td>Roads</td>
<td>Tuma Road is classified as a local street</td>
</tr>
<tr>
<td>Trails</td>
<td>None</td>
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</tbody>
</table>

REQUESTED ACTION  Request for a variance to build an accessory structure (detached garage) that will be in the front yard setback. The regulation is a minimum of 50' front yard setback in the R-3 District and the petitioners will be at 40', requesting a 10' variance.

APPLICABLE REGULATIONS  §8.08.E.1 (R-3 Setbacks: Front yard)  §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 1/2 Mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Residential</td>
<td>R-3</td>
<td>Suburban Residential</td>
<td>R-3 &amp; A-1</td>
</tr>
<tr>
<td>South</td>
<td>Residential</td>
<td>R-3</td>
<td>Suburban Residential</td>
<td>R-3, A-1 &amp; Fox River</td>
</tr>
<tr>
<td>East</td>
<td>Residential</td>
<td>R-3</td>
<td>Suburban Residential</td>
<td>R-3 &amp; A-1SU (Hideaway Lakes)</td>
</tr>
<tr>
<td>West</td>
<td>Residential</td>
<td>Yorkville</td>
<td>Urban Area</td>
<td>Yorkville; R-3</td>
</tr>
</tbody>
</table>

REQUESTED ACTION  GENERAL  Request for a variance to build an accessory structure (detached garage) that will be in the front yard setback. The regulation is a minimum of 50' front yard setback in the R-3 District and the petitioners will be at 40', requesting a 10' variance. The petitioner will
meet the 20’ height requirement and be 5’ from the south property line.

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 petitioners are trying to preserve two 100++ year old oak trees.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. Other properties surrounding him already exceed the standard regulations but were built before the regulations existed.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The petitioners did not plant those trees.

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 requested variance should not affect any of the neighbors nor be detrimental to the public welfare or injurious to other property or improvements in the neighborhood as they are similar.

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 location of the accessory structure will not impair an adequate supply of light and air to adjacent properties and will not increase congestion on the roadways.

RECOMMENDATION

Staff would recommend approval of the variance to build an accessory structure 40’ from the front property line, requesting a 10’ variance.

ATTACHMENTS

1. Plat of Survey
KENDALL COUNTY ZONING BOARD OF APPEALS AND
SPECIAL USE HEARING OFFICER
GENERAL RULES AND BY-LAWS

Article I Definitions
Section 1. "Board", "Zoning Board" shall mean the Kendall County Zoning Board of Appeals.

Section 2. "County Board," "Appointing Authority," or "Governing Body" shall mean the County Board of Kendall County, Illinois.

Section 3. "Hearing Officer" shall mean the Special Use Hearing Officer

Article II General Provisions
Section 1. These rules are supplementary to the provisions of the Zoning Ordinance of the County of Kendall, Illinois as they relate to procedures of the Board of Appeals and the Hearing Officer.

Section 2. Any member who has any direct interest in a matter before the Board shall not vote thereon and shall not participate as a board member.

Section 3. Nothing herein shall be construed to give or grant to the Board the power or authority to alter or change the zoning ordinance including the zoning map, which authority is reserved to the governing body.

Section 4. The State's Attorney shall be consulted in cases where the powers of the Board are not clearly defined.

Section 5. The Office of the Board shall be located at Kendall County Planning, Building and Zoning Office, 111 West Fox Street-Room 316, Yorkville, Illinois, 60560.

Section 6. Each Zoning Board of Appeals member shall strive to attend each meeting of the Zoning Board of Appeals. Each member shall contact the Chairman, Zoning Administrator or Zoning Administrator Deputies, whenever he or she knows in advance that they will not be attending a Zoning Board meeting. Failure to attend three (3) or more meetings in a twelve (12) month period may be cited as a basis for removing the member from the Zoning Board.

Section 7. All members of the Zoning Board shall be residents of different townships.

Article III Officers and Duties
Section 1. The officers of the Board shall be a Chairman, an Acting Chairman, and a Secretary.

Section 2. The County Board shall appoint the Chairman of the Board. The Zoning Board shall elect from amongst its members the Acting Chairman when the Chairman is absent. The Zoning Board shall designate the Secretary who may, or may not, be a member of the Board.

Section 3. The Chairman shall supervise the affairs of the Board of Appeals. He shall preside at all meetings of the Board, shall appoint such committees and sub-committees as may be necessary to carry out the purposes of the Board, and shall provide for the oath to be administered to all witnesses in cases before the Board. The Chairman shall be an ex-officio member of all committees and sub-committees so appointed.

Section 4. The Acting Chairman, in the absence or disability of the Chairman, shall perform all the duties and exercise all the powers of the Chairman.

Section 5. The Secretary shall record and maintain permanent minutes of the Board's proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact; shall keep records of its examinations and other official actions; shall summarize accurately the testimony of those appearing before the Board or keep a verbatim transcript of all hearings; shall record the names and addresses of all persons appearing before the Board; Shall, subject to the Board and Chairman, conduct the correspondence of the Board and have published in a local newspaper public notices of meetings or hearings as required by law and these rules of procedures; shall file said minutes and records in the office of the Board which minutes and records shall be a public record, and shall be the custodian of the files of this Board and keep all records.

Section 6. The County Board shall appoint the Special Use Hearing Officer who may or may not be a member of the Zoning Board.

Article IV Order of Business
Section 1. All meetings of the Board shall proceed as follows:
   a. Roll call
   b. Approval of Treasurer's Report
   c. Approval of Minutes
   d. Petitions on agenda and requests for continuances. Continuances may be granted at the discretion of the Board in any case for good cause shown and to any interested party who has entered his appearance.
   f. Hearing of petitions on agenda.
g. New Business
h. Old Business
i. Public Comment
i. Adjournment

Article V Procedure for Types of Applications
Section 1. All requests for Zoning map amendments, special uses, appeals and variations shall be submitted on forms prescribed by the Board to the secretary. Upon receipt of the properly filed application and proof of receipt of fee, the secretary of the Board shall assign a case number. Applications shall be assigned for a hearing by the chairman of the Zoning Board.

Article VI Notice for Hearings
Section 1. In instances which Kendall County Board is the petitioner, the Secretary of the Board shall provide for a public notice to be published at least once in a newspaper published in the County not more than thirty (30) days nor less than fifteen (15) days before the hearing. Said notice shall provide a brief statement of the nature of the petition and all other information as required by State Statute. Said notice shall be delivered to all parties, if any, as required by State Statute.

Section 2. In instances in which the property petitioned is located in an Agricultural District, the petitioner shall notify all property owners, as determined by County tax records, within five hundred (500) feet of the overall parent parcel. The petitioner shall provide proof of notification of said property owners to the Secretary.

Section 3. In all other instances, the petitioner shall provide proof of notification and publication as required by Kendall County Ordinance and State Statute to the Secretary.

Article VII Procedures on Hearings
Section 1. At the time of the hearing, the applicant may appear in his own behalf or be represented by counsel or agent.

Section 2. All witnesses shall testify under oath.

Section 3. Evidence shall be presented in the following order:
   a) The applicant or his representative may make a statement outlining the nature of his request prior to introducing evidence.
   b) Board and/or objectors cross-examine applicant's witnesses.
   c) Objectors present evidence.
   d) Board and/or applicant cross-examine objector's evidence.
e) Rebuttal by applicant.

f) Evidence solicited by Board.

Section 4. The Board shall not be bound by the strict rules of evidence, but it may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or other evidence.

Section 5. An applicant or objector, or his agent or attorney, may submit a list of the persons favoring or opposing the application. Such list will be accepted as an exhibit if it contains nothing more than a brief statement of the position of the persons favoring or opposing the appeal or application, together with the signature of the persons subscribing to such statement.

Section 6. The Chairman shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the Board.

Section 7. Upon approval of a majority of the Board, a joint hearing of the Zoning Board of Appeals and the Special Use Hearing Officer may convene.

Section 8. Failure of Applicant to Appear

(1) The Chairman may entertain a motion from the Board to dismiss the case for want of prosecution. In the absence of a motion by the Board, the chair shall rule.

(2) In cases which are dismissed for want of prosecution, the applicant will be furnished written notice by the Zoning Administrator or Zoning Administrator Deputies.

(3) The applicant shall have seven (7) days from date of notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file written request with the Secretary for reinstatement. Reinstatement shall be at the discretion of the Chairman for good cause shown, and upon payment of a minimum fee of $150 dollars, plus court reporter fees.

(4) In all cases reinstated in above described manner, the case will be docketed and re-advertised in the usual manner prescribed for new cases.

Section 9. Failure of a quorum of the Board. In the event the Zoning Board of Appeals fails to have a quorum for any reason, resulting in the rescheduling of the petition, any expenses regarding public notices (in the paper and neighbors) will be at the expense of the County.

Article VIII Decisions on Variations and Appeals

Section 1. The Board shall conduct its vote in public session at the meeting in which evidence is concluded, unless the Board considers additional time for
deliberation necessary, in which case final decisions or recommendations shall be made within 30 days from the date of the hearing at a public session.

Section 2. A concurring vote of four (4) members of a five (5) member board, or five (5) members of a seven (7) member Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or Zoning Administrator Deputies, or to grant any variation in the ordinance or to recommend any variation or modification in the ordinance to the County Board.

Section 3. All decisions of the board shall be made at a public hearing by motion made, seconded, and the Secretary polling the membership by a roll call vote. The motion which decides the issue shall be in the form of findings of fact and shall state the reasons for the findings by the Board. If conditions are imposed in the granting of a variation such conditions shall be included in the motion.

Section 4. The transcript of the case shall be acknowledged as to accuracy by the Chairman and the Secretary and shall be a part of the public record of the Board.

Section 5. Notice of the decision of the Board shall be given to the applicant, the Zoning Administrator or Zoning Administrator Deputies, and other interested parties as soon as possible after the decision is reached.

Section 6. After all present members cast a vote, any member casting a dissenting vote shall have an opportunity to state the reason for such vote for the record.

Article IX Recommendations on Zoning Map Amendments and Text Amendments

Section 1. The Board shall conduct its vote in public session at the meeting in which evidence is concluded, unless the Board considers additional time for deliberation necessary, in which case final decisions or recommendations shall be made within 30 days from the date of the hearing at a public session.

Section 2. A majority vote of the Board shall be necessary to recommend approval of any zoning map amendment or text amendment to the County Board.

Section 3. All recommendations of the board shall be made at a public hearing by motion made, seconded, and the Secretary polling the membership by a roll call vote. The motion which recommends a decision of the issue shall be in the form of findings of fact and shall state the reasons for the findings by the Board.
Section 4. The transcript of the case shall be acknowledged as to accuracy by the Chairman and the Secretary and shall be a part of the public record of the Board.

Section 5. Notice of the recommendation of the Board shall be given to the applicant, the Zoning Administrator or Zoning Administrator Deputies, and other interested parties as soon as possible after the decision is reached.

Section 6. After all present members cast a vote, any member casting a dissenting vote shall have an opportunity to state the reason for such vote for the record. Such recorded statements will be for the benefit of the County Board when a case is discussed by the County Board.

Article X Recommendations on Special Uses
Section 1. The Hearing Officer shall conduct his/her findings of fact in public session at the meeting in which evidence is concluded, unless the Hearing Officer considers additional time for deliberation necessary, in which case final decisions or recommendations shall be made within 30 days from the date of the hearing at a public session.

Section 2. All recommendations of the hearing officer shall be made at a public hearing. The motion which recommends a decision of the issue shall be in the form of findings of fact and shall state the reasons for the findings by the Board.

Section 3. The transcript of the case shall be acknowledged as to accuracy by the Chairman and the Secretary and shall be a part of the public record of the Board.

Section 4. Notice of the findings of fact made by the Hearing Officer and any recommendations of the Hearing Officer shall be given to the applicant, the Zoning Administrator or Zoning Administrator Deputies, and other interested parties as soon as possible.

Article X Records
Section 1. A file of materials and decisions relating to each case shall be kept by the secretary as part of the records of the Board.

Section 2. All records of the Board shall be a public record.

Article XI Amendment of Rules
Section 1. These rules may be amended by an affirmative majority vote of all members of the Board.
Section 2. The proposed amendment must be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.

Having been presented at a public hearing on March 31, 2014, the foregoing rules and regulations are hereby adopted by the Board of Appeals of Kendall County on Monday, December 5, 2014.

______________________________
Randy Mohr, Chairman

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Dick Thompson, Member

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Tom LeCuyer, Member

______________________________
Donna McKay, Member

______________________________
Scott Cherry, Member

______________________________
Karen Clementi, Member

______________________________
Dick Whitfield, Member