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 April 28, 2014 Zoning Board of Appeals meeting

PETITIONS:

1. 14-16 Paul Kellogg
   Request Variances
   Location 107 Tealwood Road, Montgomery
   Purpose Request for a variance to construct a driveway that will be 2.7' from the westerly lot line, closer than the 5’ minimum to the lot line and an attached garage/addition that will be 27’ from the rear property line, the minimum is 30’ from the rear 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 July 28, 2014
CALL TO ORDER
At 7:03 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, Donna McKay and Dick Thompson.
Also present was: Planning & Zoning Manager- Angela Zubko
Absent: Dick Whitfield
In the audience: Scott & Jenny Cosentino, Dan Kittilsen (DJK Custom Homes), Kirk Zaranti, Paul & Betty Ivemeyer, Kimberly Burkhart & Tom and Linda Kopacz.

A quorum was present to conduct business.

MINUTES
Donna McKay motioned to approve the March 31, 2014 ZBA meeting minutes. Karen Clementi seconded the motion. All were in favor and minutes were approved.

PETITIONS
#14-05 – Scott Cosentino- Variances
Planner Zubko stated the property is located at 2490 Creek Road, Plano about 0.75 miles north of Frazier Road on the east side of Creek Road. The petitioners are requesting a variance to build two additions that will be located 28’ from the side property line and 83’ from the centerline of Creek Road to match the existing home front elevation. The petitioner is seeking a 22’ variance and 67’ variance respectively.

The hardship in this case is the floodway. The Little Rock Creek has not been studied, therefore it is considered Zone A and FEMA is not quite sure where it floods. It has been determined on this property the 100 year base flood elevation (BFE) is 660.6’ based on a previous Letter of Map Amendment submitted in 2008. The top of foundation for this house is 662.59’, about 2’ above the 100 year BFE. The proposed addition will not be in the floodway as well.

Creek Road is classified as a scenic route which typically requires a 150’ setback from the centerline of the roadway, since this house already exist and the proposed additions to not encroach into the setback any further staff recommends the variance to the front yard setback. A trail is shown on the east side of Creek Road. A trail easement will not be requested at this time as it would be hard to get an easement from other properties on the east side of the roadway due to the homes already being close to the front property line.

Our engineer has one remaining comment with regards to the contours and drainage route: There is an existing drainage route going through the footprint of the proposed addition. Minor regarding can be
depicted with contour modifications as indicated on the markup from our engineer. The petitioner will be making this change.

Staff would recommend approval of the variances to build two additions that will be located 28’ from the side property line and 83’ from the centerline of Creek Road to match the existing home front elevation with the following condition:
1. The plat be revised to match the engineer’s comments.

Chairman Mohr swore in anyone interested in talking about this petition.

Chairman Mohr opened the meeting for public testimony.

With no testimony made, Chairman Mohr closed the testimony.

Ms. McKay asked the reason for the variances and the petitioner, Scott Cosentino, stated they are looking to add a master bedroom and bathroom as the current bathroom is quite small and to make the house larger to have a family. Also mentioned from Scott is they received a letter from the closest neighbor and also part of the report and packet.

The Findings of Fact were reviewed 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 do not want to build in a floodway.

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 this property might have the same type of variance request in the future but only in this small section of the County.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The petitioners did not build the house and currently are out of the floodway.

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 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 locations of the additions will not impair an adequate supply of light and air to adjacent properties and will not increase congestion on the roadways.

With no further discussion Tom LeCuyer made a motion, seconded by Karen Clementi to approve the findings of fact as written. All were in favor and the findings of fact were approved.
Donna McKay made a motion to approve the variances with the condition the plat be revised to reflect the engineer's comments. Tom LeCuyer seconded the motion, with a roll call vote all were in favor and the variances were passed.

**#14-08 – Zaranti/DJK Custom Homes- Variances**

Planner Zubko stated the property is located at what is formally 2566 Wolf Road at the southwest corner of Douglas and Wolf Road, across from the church. Request for a variance build a barn/farm stand that will exceed the 600 square feet that is permitted. The petitioners propose to have a 3,600 square foot building including two lean-tos. The building will be 2,160 square feet and there will be two 720 square lean-tos. The inside of the building will mostly be used for storage. They are also seeking to have parking in the front yard setback to consist of gravel.

Section 7.01.C.16 states: Roadside stands, with not more than six hundred (600) square feet of gross floor area, including outdoor display, and set back at least ninety (90) feet from the center line of all adjacent roads, and with off-street parking for a minimum of five (5) cars, or one space for each fifty (50) square feet of structure, whichever is greater. Sales shall be limited to only those products grown or produced on the premises. Sales only permitted from March 15 through November 15.

There is more than enough parking provided and staff is comfortable with the request for the parking lot to be gravel and in the front yard setback. The parking lot is proposed to be 105' from the centerline of the roadway, the regulations are 90' from the centerline of the roadway. Last Friday staff and the petitioner received news that the township will be seeking 80' total from the centerline of the roadway, 60' for ROW and 20' for a trail easement. Due to this information the petitioner redrew the site plan today which was handed out before the meeting. Also due to the amount of ROW they would still request the parking lot variance as it will be in the front yard in the future. The petitioner is already aware there are drainage issues in this area and also in the report the township will be discussing this item at their May 13th meeting so staff recommends approval pending the townships approval. Also since this side of the property is zoned agricultural staff is of the opinion an organic farm stand would be great for this area.

The reason the petitioners would like the variances is to have the option to move the farm stand inside if need be and also the parking in the front yard setback will give them more room in the back to grow produce and also market the farm stand a little. Also noted on the site plan is the location of the proposed home, the driveway used to be off Wolf Road but they are proposing an entrance off Douglas Road to minimize another driveway off Wolf. The new barn and farm stand will be utilizing the existing access road for the previous barn that was there.

Mr. LeCuyer asked about the location of the two lean-tos. Mr. Dan Kittilsen stated the lean-tos will be on the north and south side of the barn shown inside the footprint of the barn. The total square footage of the building will be 2,160 square feet.

Chairman Mohr swore in anyone interested in talking about this petition.

Betty Ivemeyer lives 5 houses south of this property at 2415 Douglas road. Ms. Ivemeyer has two concerns, the traffic on Wolf and Douglas and this property floods. The water flows east across to the church and across
Wolf Road, she is worried her property may get more water and they already run two sump pumps 24 hours a day.

Ms. Clementi agrees this intersection is a huge problem but if this eventually widens to 4 lanes this traffic will exist with our without the farm stand.

Ms. McKay also has concerns on traffic and asked if this is a new road-cut or an existing road-cut on Wolf Road. Mr. Kittilsen stated it already exists. Ms. McKay asked how they are going to handle the traffic. Mr. Kittilsen stated he is of the opinion the people stopping at the farm stand are the current cars traveling the roadway. He also mentioned the petitioners will have 21 parking spots of gravel which exceed the 5 parking stalls required. Planner Zubko stated the access off Wolf Road will be granted from the township.

There was some discussion on the flooding and they will try to help drainage in the area as they do not want the property to flood either. Mr. Zaranti stated the intent is to put the property back to the original use which is a house and barn on the property. There was also discussion on the type of vegetables that will be sold at the farm stand.

Mr. Mohr stated he wanted everyone to keep in mind the petitioner is building a barn that is permitted and the only reason they are before us today is they are looking to have a farm stand bigger than 600 square feet, so if the variance is denied the petitioner by right can built a farm stand that is 600 square feet in size and the barn.

Ms. McKay is very concerned with the traffic and people turning off Wolf Road or turning left into the property. Ms. Clementi stated the Anderson farm stand in unincorporated Montgomery is on a busy road with gravel parking and it works. The consensus is people will get used to it. Ms. Clementi asked if flooding is the jurisdiction of the ZBA. Planner Zubko stated if we make the petitioners aware of the flooding I think we are covered and also Planner Zubko has been looking at drainage concerns on the north side of Wolf Road so will start researching south of Wolf Road as well and ask the township about it as well along with a culvert under Douglas Road.

Chairman Mohr opened the meeting for public testimony.

Betty Ivmeyer gave some history about the water issues. Mr. Mohr asked Betty if she is of the opinion this property is causing the flooding? Ms. Ivmeyer is not sure. The petitioners stated they actually will be using the rain water from the barn and the house.

Mr. Mohr recommends anyone in the audience to attend the May 13th township meeting to discuss drainage issues in the area.

Kimberly Burkhart also gave some history of drainage in the area. Ms. Burkhart would like to know if they will be trucking in vegetables and if so how late at night. Previously the owner had salt behind the barn and the trucks would come at all hours of the night and the lights shined in her bedroom, she would not like that to happen again.
Linda & Tom Kopacz stated this area has had a huge water problem forever and when Churchill Club was built the water issues have increased. She also mentioned the article in the Ledger about the possibly widening on Wolf due to 3 schools on Wolf and fire trucks traveling on Wolf. Ms. Kopacz stated anything that would add more traffic is a concern. Tom Kopacz gave some history of the flooding and was wondering how 3 acres could produce enough produce for a farm stand.

Paul Ivenmeyer gave his history of the water issues in the area and talked about a hand dug tile along Douglas Road. Mr. Mohr asked if the petitioners did nothing with the property the water issues will still exist and Mr. Ivenmeyer agreed.

The petitioners responded to the questions by saying only produce grown on the site will be sold so no trucks will be coming in and out of the property delivering produce. The salt was from a construction company that rented some of the land in the past and they are no longer leasing this property. Also the petitioner stated if any drain tiles are discovered and are broke the petitioners will fix them.

With no further 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. There really is no hardship except for the size of the farm stand it would create a more efficient environment for planting produce.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. Other agricultural properties might want to have a larger farm stand but to date this has been the only requested variance.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. There really is no hardship except that 600 square feet is quite small for a farm stand and they prefer to have parking in the front to maximize the yard behind the barn for plants.

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. They might help the neighborhood by bringing in organic produce into 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 farm stand will not impair an adequate supply of light and air to adjacent properties. It will increase the congestion on Wolf Road but the petitioner has adequate room for parking so no one will be on the ROW. This driveway is similar to others on Wolf Road.
With no further suggestions or changes Karen Clementi made a motion, seconded by Donna McKay to approve the findings of fact.

Ms. Clementi stated she is sympathetic with the neighbors concerns but the ZBA is here to approve a variance for a parking lot and farm stand, not if the petitioner’s will be profitable or flooding issues. She would like to leave the drainage and traffic issues for the township to address.

The Zoning Board of Appeals wanted to add a condition that a maximum of 1,000 square will be permitted for retail of the farm stand and request the township look at the traffic concern on Wolf Road and discussion on drainage issues in the area. The petitioner agreed to this condition.

With no further suggestions or changes Karen Clementi made a motion, seconded by Donna McKay to approve the variance with the condition that the township approve the variances as well and a maximum of 1,000 square feet will be permitted for retail for the farm stand and request the township look at the traffic concern on Wolf Road and discussion on drainage issues in the area. With a roll call vote all were in favor and the variances were passed with conditions.

**REVIEW PBZ APPROVALS BY COUNTY BOARD & CHANGES**- None

**NEW BUSINESS**
Presentation of the Groundwater Study for Water Supply Planning in Kendall County, Illinois- Presentation on May 27th from 2-4pm in the Village of Oswego Board Room- Planner Zubko stated in the packet and emailed out was the presentation for the Kendall County Groundwater Study.

**OLD BUSINESS**
Vote on changes to the By-laws- last month made the motion to vote this month- Planner Zubko stated we just need a vote this month on the by-law changes. With a roll call vote of the six members present all voted in favor of the amended by-laws.

Randy Mohr wanted Planner Zubko to send out an email to the Plan Commission stating that Don Martin has passed away. He was on the Kendall County Plan Commission for about 5 years. Visitation will be held at Healy Chapel on Tuesday April 29th.

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

**ADJOURNMENT OF THE ZONING BOARD OF APPEALS**- Next meeting will be on June 2, 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 8:22 p.m.
SITE INFORMATION

PETITIONER: Paul Kellogg

ADDRESS: 107 Tealwood Road, Montgomery

LOCATION: Lot 55, Boulder Hill Unit 27; About 0.05 miles east of Winrock Road

TOWNSHIP: Oswego

PARCEL #: 03-04-406-015

LOT SIZE: 8,022 square feet

EXITING LAND USE: Single Family Home

ZONING: R-7 General Residence District- Boulder Hill Subdivision Unit 27 (Platted in 1972)

LRMP

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REQUESTED ACTION: Request for a variance to construct a driveway that will be closer than the 5’ minimum to the lot line and an attached garage/addition that will be 27’ from the rear property line, the minimum is 30’ from the rear property line. The driveway will be located 2.7’ from the westerly lot line.

APPLICABLE REGULATIONS:

§8.12.G (R-7 Setbacks: Rear yard)

§11.02.F.7. (Driveway Standards: Driveway side yard setbacks)

§13.04 (Variations)

SURROUNDING LAND USE

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REQUESTED ACTION GENERAL: Request for a variance to construct a driveway that will be closer than the 5’ minimum to the lot line and an attached garage/addition that will be 27’ from the rear property line, the minimum is 30’ from the rear property line. The driveway will be located 2.7’ from the westerly lot line.
Staff would just like to note this property does meet the 40% impervious area as well as the stone patio is actually considered pervious and not impervious due to water being able to penetrate through. The total impervious area with the new garage and new driveway will be 3,114 square feet, 3,209 would be at 40%. No other buildings or impervious area will be permitted on this property at this time.

The petitioner has stated they will not really use this garage or driveway all the time as it will store items like an antique car and items not used daily so the snow removal and closeness to the neighbor should not be impacted too much.

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 subdivision was platted before setbacks existed so most of the properties already to not meet today’s setbacks or are close to the property lines, like the house to the west.

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 do not meet 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 driveway already does not meet the 5’ minimum that was created after the home was built and the petitioners are trying to add value to their home by adding on another garage.

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. The neighbor to the west would be most impacted and they have not
voiced any concerns to date.

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 attached 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 variances to construct a driveway that will be 2.7' from the westerly property and an addition that will be 27' from the rear property line.

ATTACHMENTS
1. Plat of Survey