

EDWARDSVILLE ZONING BOARD OF APPEALS
Meeting Minutes
3/22/21
7:00 PM

Approved: Robert D. Hotz 4/26/2021

I. ROLL CALL:

Present

B. Hotz, Chairman
A. Robertson, Vice Chairman
M. Pierceall
C. McCaskill
J. Krebs
T. Butts
E. Fultz, Staff
C. Miller, Staff
E. Sutter, Staff
J. Cunningham, Staff
J. Stack
B. Pilla
J. Bouler
A. Neuendank
T. Neuendank
A. Gauch

Absent

J. Zimmerman

II. PUBLIC COMMENT: Emily Fultz stated that as a government facility, we are abiding by the IDPH mask and social distancing mandate and please keep your mask on at all times.

III. APPROVAL OF MINUTES

Minutes of the regular meeting for February 22, 2021 are hereby approved and passed.

IV. ZONING CASES

A. Case 2021-12A – Special Use Permit

Midwest Solar Solution has petitioned the City of Edwardsville for a special use permit to allow a free standing solar energy system at 7191 Marine Road. Midwest Solar Solution has also, petitioned the City of Edwardsville for a zoning variance to allow a freestanding solar installation to be 12 feet tall, rather than the maximum height of 6 feet for free standing solar energy systems. The property is more specifically identified as 14-1-15-12-04-402-012.003 and is zoned R-1 Single Family Residence District.

Applicant: Midwest Solar Solution

Location: 7191 Marine Road

Area Land Use & Zoning: The subject site is zoned R-1 Single Family Residence District

Comprehensive Plan Future Land Use Designation: The 2010 Comprehensive Plan shows this property as Neighborhood. The existing zoning is in agreement with the Comprehensive Plan.

ZONING BOARD OF APPEALS STANDARDS FOR SPECIAL USE PERMIT:

- 1) Existing uses and zoning of nearby property and relationship to Edwardsville's adopted comprehensive plan.

Direction	Zoning Designation	Existing Land Use
North	R-1 Single Family Residence District	Single-Family Residence
South	B-2 Commercial/Business District	Vacant Lot
East	R-1 Single Family Residence District	Vacant Lot
West	B-2 Commercial/Business District	Commercial & Single-Family Residence

- 2) Extent to which property value diminishes adjacent to the zoned parcels. Value decrease to be supplied by the petitioner and made by professional appraiser.
- No property value information provided by petitioner. Staff anticipates no change to nearby property values as a result of issuing a special use permit for this property.
- 3) Extent to which the proposed change alters or promotes the public health, safety morals or general welfare.
- The proposed use will neither alter nor promote the public health, safety, morals, or general welfare of the community.
- 4) The relative gain to the public as compared to the hardship imposed upon the property owners, and there is a need for the proposed special use.
- The Special Use Permit would allow a freestanding solar panel array. This use is aligned with the Comprehensive Plan and allows the continued stability of the area in addition to the trend of the development in the area.
- 5) The suitability of the subject property for the zoned purposes indicated by ordinance.
- The property is suitable for the proposed freestanding solar panel array.

Conditions: The Board may provide such conditions or restrictions upon the construction, location and operations for a special use, including, but not limited to: provisions for the protection of adjacent property, the expiration of such special use after a specified period of time, off-street parking and loading, as may be deemed necessary to secure the general objectives of this Zoning Code, and to reduce injury to the value of the property in the neighborhood.

Expiration: In the event the Board establishes no time limitation within which the proposed use is to be exercised, then the permit shall expire in one year. Nothing shall preclude an applicant from reapplying for the same special use permit upon expiration.

STAFF DISCUSSION:

- SUP required to ensure potential nuisances are mitigated
- Potential Nuisances / Concerns include:
 - Glare
 - Noise from transformers
 - Aesthetic considerations
 - Safety concerns

- Proposed array:
 - Approx. 175 feet from the single family home to the north and
 - Approx. 20' from the single family home to the west
 - The location of the solar panel array will utilize existing trees for screening

Nic Demetrulias stated that this is good for himself and the environment. He also stated that he hopes other residents in town are allowed to have ground mount solar arrays in the future.

STAFF RECOMMENDATION:

- Staff recommends approval of the Special Use Permit for the freestanding solar panel array.

Motion to approve as presented (Pierceall), seconded (Robertson).

VOICE ROLL CALL: 6 Ayes, 0 Nays, 0 Abstain.

LIMITATIONS OF VARIATIONS:

1244.02.3 (c) Limitations of Variances

- 9) To permit a solar panel and supporting framework to extend more than six feet above the existing grade.

B. Case 2021-12B – Variance

Midwest Solar Solution has petitioned the City of Edwardsville for a special use permit to allow a free standing solar energy system at 7191 Marine Road. Midwest Solar Solution has also, petitioned the City of Edwardsville for a zoning variance to allow a freestanding solar installation to be 12 feet tall, rather than the maximum height of 6 feet for free standing solar energy systems. The property is more specifically identified as 14-1-15-12-04-402-012.003 and is zoned R-1 Single Family Residence District.

Applicant: Midwest Solar Solution

Location: 7191 Marine Road

Area Land Use & Zoning: The subject site is zoned R-1 Single Family Residence District

Direction	Zoning Designation	Existing Land Use
North	R-1 Single Family Residence District	Single-Family Residence
South	B-2 Commercial/Business District	Vacant Lot
East	R-1 Single Family Residence District	Vacant Lot
West	B-2 Commercial/Business District	Commercial & Single-Family Residence

ZONING BOARD OF APPEALS STANDARDS FOR VARIANCE:

- 1) The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or loss of revenue, if the strict letter of the regulations were carried out.

- The vegetation on this lot (and on surrounding lots) requires the solar panels to be placed at a certain height off the ground to get the maximum amount of sunlight. Furthermore, the solar panels in this particular solar array measure 162" (14.8') in height, so when tilted 30 degrees, they require support structures that measure 8 feet in height, resulting in an overall height of 12 feet.
- 2) The condition upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classification.
 - The proposed location of the freestanding solar panel array is on a lot approximately 1.9 acres in size. The freestanding solar panel array will be located over 150 feet away from the closest dwelling unit and over 700 feet from right-of-way. The conditions of the subject property are different than that of most other properties zoned R-1 in the City of Edwardsville, in that this lot is large in area and is setback a significant distance from the roadway.
 - 3) The alleged difficulty or hardship has not been created by any person presently having an interest in the property.
 - The alleged difficulty or hardship has been created by the property owner, and is not a result of any other interest in the property.
 - 4) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - The requested maximum height of 12 feet from grade for the freestanding solar panel array would not be detrimental to the public welfare or injurious to other properties within the area, as the angle of the array will be tilted toward the principal structure on the property and will not result in glare on adjacent residential properties.
 - 5) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase 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 variance would not.
 - 6) The proposed variance complies with the spirit and intent of the restrictions imposed by this Code.
 - The requested variance does not comply with the spirit and intent of the restrictions imposed by this code.
 - 7) There is no self-imposed hardship.
 - This may be considered a self-imposed hardship because the applicant was aware of the height restriction for freestanding solar panel array at the time the project was initiated.

STAFF DISCUSSION

- Allowing a height of 12 feet from grade will allow close to a 100% energy offset, maximizing the energy production of the free standing solar array.
- The site is located within an area that consists of commercial businesses and two single family dwellings in the immediate vicinity. The proposed location will be more than 150 feet away from the closest single family dwelling and the solar array will use natural screening to conceal any glare caused by the panels.
- The only other freestanding solar array in the City is located at the Township Park, and its tallest point is 15 feet from grade.

Mike Pierceall has asked if there were any objections filed in regards to the variance. Emily Fultz stated that there was no communication received.

Joe Bouler asked when the permit could be pulled for the project. Emily Fultz stated that the permit could be issued after the City Council meeting. It would go to Administrative and Community Services on Thursday, April 1st. It would be issued after the City Council meeting on Tuesday April 6th.

STAFF RECOMMENDATION:

- Although the variance request may be considered self-imposed; staff do not object to approval of the request, given the nature of the subject property and distances of the existing, surrounding single family homes.

Motion to approve as presented (Butts), seconded (McCaskill).

VOICE ROLL CALL: 6 Ayes, 0 Nays, 0 Abstain.

NEXT STEPS:

- Administrative & Community Services Committee Meeting – Thursday, April 1, 2021 at 5:30 PM
- City Council Meeting – Tuesday, April 6, 2021 at 7:00 PM

C. Case 2021-13 – Variance

Eagle Home Improvement has petitioned the City of Edwardsville for a zoning variance to allow a rear yard setback of 20 feet, rather than the required 30 feet at 944 University Drive. The property is more specifically identified as PID 14-2-15-15-12-201-031. The property is currently zoned R-1 Single Family Residence District.

Applicant: Eagle Home Improvement

Location: 944 University Drive

Area Land Use & Zoning: The subject site is zoned R-1 Single Family Residence District and is wholly surrounded by single-family homes zoned R-1.

Applicable Planning Considerations:

The Comprehensive Plan shows this property as Neighborhood District. The existing zoning is in agreement with the Comprehensive Plan.

LIMITATIONS OF VARIATIONS:

1244.02.3 (c) Limitations of Variances

- 2) To permit any yard of less dimension than the minimum as stated by the applicable standard

ZONING BOARD OF APPEALS STANDARDS FOR VARIANCE:

- 1) The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or loss of revenue, if the strict letter of the regulations were carried out.
 - The subject property is Lot 17 of a subdivision known as “The Resubdivision of Lots 58 & 59 of Esic II Subdivision” and contains approximately 9,400 sq. ft.

Required setbacks in an R-1 Single Family Residence District are:

- 25 ft. front setback
 - 10 ft. side setback
 - 30 ft. rear setback
- As there are no particular concerns about the physical surroundings, lot shape, or topographical conditions with this property.
- 2) The condition upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classification.
 - This lot is slightly irregular measuring 106.68' wide with a depth of 90' on the west side and 70' on the east side. The lot contains ±9,300 square feet in area and was platted in 1978.
 - The proposed 20' rear yard setback is not consistent with other homes in the Esic neighborhood.\
 - 3) The alleged difficulty or hardship has not been created by any person presently having an interest in the property.
 - This home was constructed in the late 1980's and Madison County records indicate that the current owners have lived in the home since 2010.
 - 4) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - The distance between the structure on the subject tract and the adjoining property to the south (1405 Lantz Court) will be reduced as a result of the proposed variance.
 - 5) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase 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 variance would not.
 - 6) The proposed variance complies with the spirit and intent of the restrictions imposed by this Code.
 - Staff's opinion is that the variance request does not comply with the spirit and intent of the restrictions imposed by this code.
 - 7) There is no self-imposed hardship.
 - This request is considered a self-imposed hardship because the applicant was aware of the size and configuration of the structure on the lot at the time the property was acquired. Further, the City's bulk standards for setbacks have not changed since 2010, the year the current owners purchased the home.

STAFF DISCUSSION

- The applicant has requested the variance to reduce the required setback of the rear yard in order to construct an addition to the existing residence. The existing residence is currently setback 32-feet from the rear property line, while the proposed 240 square foot addition would result in a rear setback of only 20 feet. This request results in a self-created hardship.

Thomas Neuendank was present to state his case to the board. He stated that he realizes each case is different and has requested to use a sparingly used variance. He presented letters from six families near their address with no objections to the variance request.

Mike Pierceall asked if there were any similar variances in the area that have been presented and approved in the last few years. Emily Fultz stated that there was nothing in the last three to four years that she is aware of.

Mike Pierceall stated that properties within the immediate area comply with the setback requirements. He asked about a patio uncovered within the rear yard, but anything that is covered by a roof line would require compliance with the zoning code? Emily Fultz stated that is correct.

Tom Butts asked about the setback requirement in 1985 when the home was built. Emily Fultz stated that it was 30 feet as well.

Tom Butts asked if there was a letter received from 946 University as they would be the most impacted. Emily Fultz stated that there was a letter from the address and that they do not object.

Tom Butts asked if there were any easements. Emily Fultz stated that there were no easements on the property.

Bob Hotz asked if a letter was received from the closest house on Lantz Court. Emily Fultz stated that a letter from 1405 Lantz Court was also received. She showed the board the letters saying that neighbors do not object to the addition.

Janet Stack stated that they could put a deck in the place of the addition and it would be fine. She stated that because it has a roof it is something that should be looked at in the ordinance to change.

STAFF RECOMMENDATION:

- It is Planning staff's opinion the variance request does not meet the Zoning Board of Appeals "Standards of Variance" as noted above. Therefore, staff recommend denial of the variance request.

Motion to approve as presented (McCaskill), seconded (Hotz).

VOICE ROLL CALL: 1 Ayes, 5 Nays, 0 Abstain.

D. Case 2021-14 – Special Use Permit

Civil Engineering Design Consultants, Inc. has filed a petition for a special use permit to allow a freestanding car wash using mechanical, blowers, or other conveyance means at 1200 S. State Route 157. The subject property has a principal building currently under construction. The property is more specifically identified as PID 14-2-15-22-00-000-043 and is currently zoned B-2 Commercial Business District.

Applicant: Civil Engineering Design Consultants, Inc.

Location: 1200 S State Route 157

Area Land Use & Zoning: The subject site is zoned B-2 Commercial / Business District

COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION:

The Comprehensive Plan identifies the future land use for this property as Commercial. The existing zoning is in agreement with the Comprehensive Plan and approval of the proposed Special Use Permit would be aligned with the Comprehensive Plan.

ZONING BOARD OF APPEALS STANDARDS FOR SPECIAL USE PERMIT:

- 1) Existing uses and zoning of nearby property and relationship to Edwardsville's adopted comprehensive plan.

Direction	Zoning Designation	Existing Land Use
North	B-2 Commercial/Business District	Medical Building (HSHS Medical Group)
South	B-2 Commercial/Business District	Commercial Use (Bagley's Meat Market)
East	R-1 Single Family Residence District	EHS Athletic Fields
West	B-2 Commercial/Business District	Commercial Use (offices)

- 2) Extent to which property value diminishes adjacent to the zoned parcels. Value decrease to be supplied by the petitioner and made by professional appraiser..
 - No property value information provided by petitioner. Staff anticipates no change to nearby property values as a result of issuing a special use permit for this property to the new owner in this instance.
- 3) Extent to which the proposed change alters or promotes the public health, safety morals or general welfare.
 - The proposed use will neither alter nor promote the public health, safety, morals, or general welfare of the community.
- 4) The relative gain to the public as compared to the hardship imposed upon the property owners, and there is a need for the proposed special use.
 - The Special Use Permit would allow a car wash using mechanical, blowers, or other conveyance means. This use is aligned with the Comprehensive Plan and allows for the continued growth of an business in the B-2 Commercial District.
- 5) The suitability of the subject property for the zoned purposes indicated by ordinance.
 - The property is suitable for the proposed use as a car wash.

Conditions: The Board may provide such conditions or restrictions upon the construction, location and operations for a special use, including, but not limited to: provisions for the protection of adjacent property, the expiration of such special use after a specified period of time, off-street parking and loading, as may be deemed necessary to secure the general objectives of this Zoning Code, and to reduce injury to the value of the property in the neighborhood.

Expiration: In the event the Board establishes no time limitation within which the proposed use is to be exercised, then the permit shall expire in one year. Nothing shall preclude an applicant from reapplying for the same special use permit upon expiration.

Transfer of Special Use Permit: A special use permit is issued for a specified zoning lot or lots and shall only be allowed to transfer from that location, or to another occupant or owner, as follows:

(1) All requests for transfers must be filed on an application form available through the public works department.

(2) Substantial transfers—All substantial transfers shall be subject to review and approval by the zoning board of appeals under the terms of section 1244.02. Substantial transfers include, but are not limited to:

- a. A transfer involving a more intensive use on the subject property;

b. Other changes deemed to represent a substantial change by the zoning administrator and public works director.

c. The trend of development in the area surrounding the subject property necessitates further review of the proposed special use.

(3) Unsubstantial transfers—Unsubstantial transfers will be subject to review and approval by the city planner and public works director. Unsubstantial transfers represent minor changes from the provisions of the originally approved special use permit and may include:

a. Transfer of ownership not effecting the intensity of the use:

b. Other changes deemed to represent an unsubstantial change by the zoning administrator and public works director.

Alison Gauch was present and stated that she had nothing to add but was available for any questions.

Mike Pierceall stated that this area was zoned business and has the high school athletic field behind it. He asked if this was a 24-7 operation and asked if it was open regardless of the Dobb's facility. He also asked if the lighting directed on to the site would transfer over to the adjoining property.

Alison Gauch stated that she did not think it would be tied to the Dobb's location but was unsure about having it open 24 hours. She stated that she preferred to have no restrictions.

Mike Pierceall asked if the facility was staffed. Alison Gauch stated that was correct. He stated that he assumed it would be a 24 hour operation. Alison Gauch stated that they would like that option. Mike Pierceall asked again about the lighting across the property.

Emily Fultz stated that there is a zero spillover policy and that would be looked at during the site plan review.

Tom Butts asked if there was traffic or car counts taken in consideration. Emily Fultz stated a traffic study was done before the three lots were subdivided. Tom Butts also asked if the traffic would be a burden on Route 157. Emily Fultz stated that they feel comfortable with it not being a problem.

Bob Hotz asked about potential noise levels into the evening and overnight. Alison Gauch stated that the location was surrounded by commercial properties and residential properties would not be disturbed by the noise.

Emily Fultz stated there were multi-family across Route 157 and in the Ginger Creek Subdivision.

Ann Robertson asked how big the lots were. Emily Fultz stated that this lot was roughly 300 by 350 feet. Ann Robertson stated that 350 feet is a long way and it is an adequate distance for residents to not hear the noise. Tom Butts agreed with Ann Robertson's statement.

Mike Pierceall stated that he did not see a vacuum area in the site plan. Emily Fultz stated that there were two vacuum stalls at the exit facing Route 157.

STAFF RECOMMENDATION:

- Staff recommends approval of the Special Use Permit.

Motion to approve as presented (Butts), seconded (Robertson).

VOICE ROLL CALL: 4 Ayes, 2 Nays, 0 Abstain.

- V. OLD BUSINESS:** None
- VI. NEW BUSINESS:** Emily Fultz stated the next meeting will be April 26th and there is one case to present.
- VII. ADJOURNMENT:** Motion to adjourn (Butts), seconded (Pierceall).