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Approved with changes: _____

Effingham Zoning Board of Adjustment Meeting Minutes May 4, 2022

Board Members Present: Jim Pittman (chair), Tim White (vice chair), Lawrence Edwards, Mike Cahalane, Alan Taylor.

Others Present: Nate Fogg, Bryan Berling, Land Technical Service Corp., Thomas Townsend, Janis Townsend

Call to order at 7:05 pm

Review of minutes of April 6, 2022. Mr. Cahalane noted in first paragraph that the motion was seconded by Mr. Edwards, not Mr. Taylor. However, Mr. Taylor confirmed that he had in fact seconded the motion. Mr. White noted that Mr. Edwards was incorrectly referred to as Mr. Lawrence. Mr. Edwards noted that he was erroneously identified in two places.

Motion to accept the minutes, with the corrections, made by Mr. White, seconded by Mr. Taylor. The motion was unanimously approved.

Agenda Review. No additions to the agenda were put forth.

The Chair queried the Board to ask if anyone had seen the online ODP educational series. No other members beside the Chair had seen them. He gave a brief review and stated he would send the link of the recorded presentations for Board members' review.

Hearing of Variance Application # 100. The hearing began at 7:15 pm

The Chair recognized that the hearing had been properly posted and stated the basic rules and procedures for the conduct of the hearing.

The Wright variance application for lot line adjustment on Remick Road was presented by Mr. Berling who represented the applicants, Steven, and Dely Wright, who were not present. Thomas and Janis Townsend are the abutters, whose property would receive the additional footage sought in the application by moving the property line fifty feet. The Townsends were present for the hearing and were represented by Mr. Berling as well.

The motivation for the adjustment is to allow the Townsends to install a septic system to replace the holding tank currently on their property.

It was noted that both lots are currently non-conforming, and the adjustment could not be achieved without granting a variance. Mr. Berling informed the Board that the ZBA had granted a similar variance to the Wrights in 2004 in relation to moving a boundary line with another abutting property.

Mr. Berling addressed the reasons why each of the five criteria would be satisfied. Regarding the Fifth Criteria, related to Hardship, Mr. Berling maintained that the Ordinance itself was the source of the hardship as it was too restrictive.

Mr. Berling offered that, should the variance be granted, the next step would be to go to the Planning Board and then seek Environmental permits for both shoreline impact and the new septic system. The septic system had

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not yet been engineered nor improved. Mr. Berlind offered that he was a septic system designer and was confident that the proposed system would be acceptable.

Mr. Cahalane verified that the lots were now fully surveyed with Mr. Berlind. Mr. Cahalane observed that the lot sizes varied somewhat from the tax maps, and it was mutually accepted that the survey maps would be considered the most accurate.

Mr. Cahalane also questioned whether consideration had been given to asking Mr. Remick for additional property across Remick Road as an alternative to the requested lot line adjustment. Mr. White added that it might also be a way to acquire enough property to make the total lot size conforming. Mr. Berlind stated that it had not been considered or pursued as conversations with Mr. Remick several years ago revealed that he had no interest in selling any of his property. Mr. Edwards observed that we should focus on the plan currently before the Board.

The Chair queried as to whether there were mortgages or liens that would be affected by the redistribution of property. Mr. Berlind stated there were no such obligations for either property owners.

Mr. Berlind closed by commenting that he believed the benefit of granting the variance would be enjoyed by everyone in the area, which he characterized as a growing neighborhood.

The Public Hearing was closed at 7:35 and the Board went into deliberations.

Deliberations: Mr. Edwards asked, and it was confirmed, that we had received all the return cards from the abutter list.

The Chair confirmed that there were Letters of Agency in the application for both parties that were represented by Mr. Berlind.

The Chair noted the application's reference to section 402 defining lot requirements, but suggested section 602 regarding lot reduction might also be applicable. Mr. Cahalane agreed this might be referenced if the variance was approved.

Mr. White recommended section 707 on non-conforming lots might also be considered applicable.

Mr. Cahalane speculated there might be a specific lot line reference in the RSA's that could be relevant, but felt it was covered by the ordinance.

Mr. White and Mr. Cahalane suggested we review each of the five criteria. The Chair offered that the first four criteria were, in his opinion, straightforward and acceptable. There were no objections to this opinion. He further opined that the true hardship of the property was the small size of the lot with no other options within the confines of the property to achieve the needs of the owners. Mr. Cahalane further expanded the discussion that he was aware small lot size can be a hardship, particularly in a case where the small property size is the result of grandfathered parcels that predate the ordinance.

Mr. Cahalane noted that criteria four, the diminishment of surrounding properties, was not applicable as the neighboring lot that was reduced in size was being done voluntarily by the applicants themselves.

Mr. Edwards observed that he was not in favor of creating a more nonconforming lot but felt there was no other solution.

Mr. Taylor asked that we move to vote.

Mr. White moved that we "Approve the variance as applied for from Article 4, Section 402 and Article 6, Section 602 regarding lot line adjustment".

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The Chair directed that our method is to vote based on the five criteria together as a group, not by individual criteria, as has been our consistent method. Mr. White noted that if anyone voted against the motion then they would need to state their reasons, while voting in the affirmative had no such requirement. Mr. Edwards seconded the motion.

A role call vote was taken with a unanimous vote in favor of granting the variance.

The Chair informed the applicant that the Notice of Decision would be rendered within the next five business days.

Mr. Cahalane recommended that Article 7, Section 707 should also be referenced in the Notice of Decision.

Other Business:

The next meeting was set for June 1, 2022, at 7:00.

The Chair asked if the Board was in favor of suspending meetings in the months of July and August if there were no applications or other business to consider. Further discussion will be a June agenda item.

The Chair suggested that we should review our procedures to see if we were still in compliance. This could be an action item for a future meeting where no other business was before the Board.

A discussion ensued on how we could hire someone for minute taking. Mr. Cahalane observed that the Planning Board was doing the same and we might want to work together. He also observed that an applicant would need some land use knowledge and not just be a good typist.

Meeting adjourned at 8:10 PM. A motion to adjourn was made by Mr. Cahalane and seconded by Mr. White.

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