Ogle County Zoning Board of Appeals

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COPY

FINDINGS OF FACT AND RECOMMENDATION
OF THE OGLE COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the Ogle County Zoning Board of Appeals concerning an application of Jeannette Richmond Trust #92 c/o Jeannette Richmond, Trustee, 1469 Farington Dr., Naperville, IL and Brian Harms, 2830 Lynnville Ct., Lindenwood, IL, in case #08-10SU. The applicants are requesting a Special Use Permit to permit Single-Family Dwelling in the AG-1 Agricultural District on part of Parcel Identification No. 19-26-400-001, a 3.0 acre parcel which is part of Section 26, Township 41N, Range 2E of the 3rd Principal Meridian and is located in Lynnville Township at 1612 S. Woodlawn Road.

After due notice, as required by law, the Zoning Board of Appeals held a public hearing in this case on October 28, 2010 in the County Board Room, 3rd Floor, Ogle County Courthouse, Oregon, Illinois and hereby report their findings of fact and their recommendation as follows:

SITE INFORMATION: See Staff Report (attached herewith).

ANALYSIS OF SEVEN STANDARDS: After considering all the evidence and testimony presented at the public hearing, this Board makes the following analysis of the six standards listed in Section 9.08© (Standards for Special Use Permits) of the *Ogle County Amendatory Zoning Ordinance* that must all be found in the affirmative prior to recommending granting of the petition.

1. That the proposed special use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or the public health, safety, morals, comfort or general welfare at large. **The proposed special use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or the public health, safety, morals, comfort or general welfare at large due to the nature of the use (being a dwelling on a site that is a former farmstead and not farm land). STANDARD MET.**

2. That the location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to:

   a. The location, nature and height of building, structures, walls and fences on the site; and,

   b. The nature and extent of proposed landscaping and screening on the proposed site.

   The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to

prevent development and use of neighboring property in accordance with the AG-1 zoning district regulations, as the site is a former farmstead and would place a house where a house formerly existed. STANDARD MET.

3. That off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations. **The site is large enough so that adequate off-street parking and loading areas can be provided. STANDARD MET.**

4. That adequate utilities, ingress/egress to the site, access roads, drainage and other such necessary facilities have been or will be provided. **Adequate utilities, ingress/egress to the site from S. Lynnville Road, access roads, drainage and other such necessary facilities have been or will be provided. STANDARD MET.**

5. That the proposed use can be operated in a manner that is not detrimental to the permitted developments and uses in the zoning district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and is deemed essential or desirable to preserve and promote the public health, safety and general welfare of Ogle County. **The proposed use of a single-family dwelling can be operated in a manner that is not detrimental to the permitted developments and uses in the AG-1 zoning district. STANDARD MET.**

6. That the proposed special use complies with all provisions of the applicable district regulations. **The proposed special use appears to comply with all provisions of the AG-1 district regulations. STANDARD MET.**

RECOMMENDATION: After considering all the evidence and testimony presented, this Board finds that the application meets all the standards as found in Section 9.08© of the *Ogle County Amendatory Zoning Ordinance.*

Therefore, the Zoning Board of Appeals hereby recommends that a Special Use Permit be granted to allow Single-Family Dwelling in the AG-1 Agricultural District.

ROLL CALL VOTE: The roll call vote was 4 members for the motion to recommend granting, 0 opposed.

Respectfully submitted this 28th day of October 2010 by the Ogle County Zoning Board of Appeals.

Maurice Bronkema, Vice Chairman
Jason Sword
Maynard Stivers
John Finfrock

Maurice Bronkema, Vice Chairman

ATTEST:

Michael Reibel

Michael Reibel, Secretary

STATE OF ILLINOIS)
)SS
COUNTY OF OGLE)

In the Matter of the Petition
of
Jeannette Richmond #92 % Jeannette Richmond,
Trustee, Lynnville Township
Ogle County, Illinois

Testimony of Witnesses
Produced, Sworn and
Examined on this 28th day
of October 2010
before the Ogle County
Zoning Board of Appeals

Present:
John Finfrock
Maynard Stivers
Jason Sword
Maurice Bronkema, Chairman

Michael Reibel, Zoning Administrator

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MR. BRONKEMA: The meeting is called to order. We'll have the roll call.

(Roll call was taken and Bronkema, Sword, Finfrock and Stivers were present.)

MR. BRONKEMA: Okay. We'll have the Pledge of Allegiance.

(WHEREUPON the Pledge of Allegiance was recited.)

MR. BRONKEMA: The verbatim transcripts serving as the minutes from the last meeting is on file and will not be read at this time. I'll entertain a motion to approve the minutes of the last ZBA meeting.

MR. SWORD: I'll so move.

MR. BRONKEMA: Do we have a second?

MR. FINFROCK: Second.

MR. BRONKEMA: All in favor say aye.

(All those simultaneously responded.)

MR. BRONKEMA: All testimony will be taken under oath. Please come forward to testify, state your name and address to the recording secretary and please spell your last name. When

testifying please speak clearly and loud enough to be heard. This hearing is the only opportunity to place testimony and evidence on the record. There will not be another opportunity beyond tonight's hearing to submit additional evidence or testimony for consideration.

Please turn off all cell phones and pagers. The procedure of hearings that will be followed tonight is as found in the ZBA Rules of Procedure or the Citizen's Guide to the Zoning Board of Appeals which are available on the desk in the front of the room. If anyone has trouble hearing please let us know.

Mr. Reibel, what is the first order of business?

MR. REIBEL: The first order of business is to consider the request filed September 17th, 2010 of Jeannette Richmond Trust #92, % Jeannette Richmond, Trustee, 1469 Farington Dr., Naperville, IL and Brian Harms, 2830 Lynnville Ct., Lindenwood, IL for a Special Use Permit to allow a Single-Family Dwelling in the AG-1 Agricultural District on property described as

follows, owned by Jeannette Richmond Trust #92 and being purchased by Brian Harms:

Part of the NE1/4 of the SE1/4 of Section 26 Lynnville Township 41N, R2E of the 3rd P.M., Ogle County, IL, 3.0 acres, more or less. Part of Property Identification Number: 19-26-400-001. Common Location: 1612 S. Woodlawn Road.

For the record, all adjoining property owners to the petition have been notified by certified mail of the hearing this evening and the specifics of the petition. A legal notice was published in the Monday, October 4th issue of the Ogle County Life, again, notifying the public of the hearing and the specifics of the petition. And a sign was posted along the frontage of the premises to notify the public of the zoning action on the property.

Under the staff report, a copy of which is on file and the Board members have received, I will point out under general information the site is located on the west side of South Woodlawn Road beginning approximately seven-tenths of a mile south of Illinois Route 64 and approximately three-tenths of a mile north of East Welty Road. The size is 3 acres.

It's 330 feet by 396 feet. Existing Land Use: The site is a former farmstead; the house was destroyed by fire several years ago. The site is zoned AG-1 Agricultural District. Surrounding Land Use and Zoning: All surrounding land is in agricultural use and is zoned AG-1 Agricultural District. No previous zoning history on the site. Special Information, Public Utilities: None. Transportation: South Lynnville Road is a hot mix surface road under the jurisdiction of Lynnville Township. Physical Characteristics: The site is part of a convex side slope system within an area of generally level to gently rolling topography. The site ranges from moderately well drained to poorly drained. There are no mapped wetlands or floodplain on the site; approximately 10 percent of the total site area is subject to occasional flooding. Approximately 90 percent of the soils identified on-site are classified as "Prime"; the remainder are "Farmland of statewide importance". 100 percent of the soils identified on-site are classified as "Very limited" for septic fields

due to depth to saturated zone, slow water movement and ponding.

The LESA score of 217.3 indicates a High rating for protection. Land Evaluation 92.3. Site Assessment 125.

The AG-1 Agricultural District provides issuance of a special use permit for a single-family home when one of the four criteria are met and in this instance Criteria No. 1 appears to be met by the existence of man-made or natural physical features which serve as barriers to agricultural use on a majority of the property.

At the October 21st, 2010 meeting of the Ogle County Regional Planning Commission, Mr. Smith made a motion to approve Petition No. 8-10SU. Motion was seconded by Mr. Conn. The motion carried unanimously by roll call vote.

Mr. Funk is hearing this evening from the Regional Planning Commission if there are any questions of the Planning Commission action.

The Illinois Department of Natural Resources Natural Heritage Database contains no

record of state-listed, threatened or endangered species, etcetera, in the vicinity of the project location and the consultation process with IDNR is terminated.

That's all I have.

MR. BRONKEMA: Will the first Petitioner come forward, please.

MR. HARMS: Brian Harms, H-A-R-M-S.

MR. KELLER: And my name is Bruce Keller. I'm an attorney from Dixon. I'm here on behalf of Jeannette Richmond.

MR. BRONKEMA: Okay, so you want to raise your right hand and I'll swear you in.

BRIAN HARMS and BRUCE KELLER, being first duly sworn, testified as follows:

MR. BRONKEMA: State your case.

MR. HARMS: I'm trying to purchase the property from Jeannette Richmond and build a Single-Family dwelling and live on the property. I'll use the existing buildings on part of the property and live there.

MR. BRONKEMA: I guess my first question is I was out there and looked at it and are you going to have enough room to be back far enough

1 off the road without removing the old garage?
2 MR. HARMS: The old garage will probably
3 have to come down because it's leaning -- the
4 first one, it's leaning.
5 MR. BRONKEMA: I notice there was a well
6 pump there and of course, it's part of the old
7 basement evidently.
8 MR. HARMS: Yes. Right now with the --
9 the design -- we haven't picked out the design
10 of the house yet. We have to see if that will
11 fit with the well there. If it does work, she's
12 had it certified and she's getting papers for
13 that.
14 MR. BRONKEMA: But the single garage will
15 have to be removed, right?
16 MR. HARMS: Yes.
17 MR. BRONKEMA: I'm sure there was probably
18 a farmhouse there.
19 MR. HARMS: They had one there, but it was
20 back and it was a smaller house and I think she
21 said it was a limestone basement at that time
22 from the old farmhouse, but yes, we will follow
23 the code with being from the easement.
24 MR. BRONKEMA: You know, you're moving out

1 in the country with the farmers so you should be
2 aware of that I guess. We don't want to make
3 any problems for the farmers out there. You
4 have the utilities that are pretty much there,
5 driveway is there, the water, electricity. I
6 guess another question I have is you're not
7 buying this just to turn it over to make a buck,
8 are you?
9 MR. HARMS: No, we plan on living there.
10 This was our goal is to try to find a farmette
11 and this was a unique one because it doesn't
12 have an existing house on it. I mean, the house
13 is gone so you have the opportunity to build a
14 newer home and take the existing buildings and
15 have an updated farmette. That was our goal.
16 MR. BRONKEMA: Does anybody else have a
17 question.
18 MR. FINFROCK: How soon do you plan to
19 build?
20 MR. HARMS: We're going to try to start --
21 next year we'll be starting.
22 MR. BRONKEMA: There's plenty of space in
23 there. One of the things is adequate space and
24 you got plenty of parking and area to move

1 around. I think it was 3 acres, so I'm sure --
2 the area where you're talking about your septic
3 tank it looks like there's plenty of area for
4 that, so --
5 MR. HARMS: I believe it's an ideal spot
6 to set something up.
7 MR. BRONKEMA: Anybody got any questions?
8 MR. SWORD: Nope.
9 MR. BRONKEMA: Okay. You may be seated.
10 Anybody else in favor of this petition? Do we
11 have anybody opposed to it? If not, we'll go
12 through the findings of facts.
13 MR. REIBEL: Special Use Standard No. 1)
14 That the proposed special use will not be
15 unreasonably detrimental to the value of other
16 property in the neighborhood in which it is to
17 be located or the public health, safety, morals,
18 comfort or general welfare at large.
19 MR. SWORD: The proposed special use will
20 not be unreasonably detrimental to the value of
21 other property in the neighborhood in which it
22 is to be located or the public health, safety,
23 morals, comfort or general welfare at large due
24 to the nature of the use being a dwelling on a

1 site that is a former farmstead and not
2 farmland. I feel that standard is met.
3 (All those agreed.)
4 MR. REIBEL: Standard 2) That the
5 location and size of the special use, the nature
6 and intensity of the operation involved in it or
7 conducted in connection with it and the location
8 of the site with respect to streets giving
9 access to it are such that the special use will
10 not dominate the immediate neighborhood so as to
11 prevent development and use of neighboring
12 property in accordance with the applicable
13 zoning district regulations. In determining
14 whether the special use will so dominate the
15 immediate neighborhood, consideration shall be
16 given to: A) The location, nature and height
17 of buildings, structures, walls and fences on
18 the site. And B) The nature and extent of
19 proposed landscaping and screening on the site.
20 MR. FINFROCK: The location and size of
21 the special use, the nature and intensity of the
22 operation involved in or conducted in connection
23 with it and the location of the site with
24 respect to streets giving access to it are such

that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the AG-1 zoning district regulations, as the site is a former farmstead and would place a house where a house formerly existed. I believe that standard is met.

(All those agreed.)

MR. REIBEL: Standard 3) That off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations.

MR. BRONKEMA: The site is large enough so that adequate off-street parking and loading areas can be provided and he also testified there was too, so I feel the standard is met.

(All those agreed.)

MR. REIBEL: Standard 4) That adequate utilities, ingress/egress to the site, access roads, drainage and other such necessary facilities have been or will be provided.

MR. McKINNEY: Adequate utilities, ingress/egress to the site from S. Lynnville Road, access roads, drainage and other such

necessary facilities have been or will be provided. Standard met I feel.

(All those agreed.)

MR. REIBEL: Standard 5) That the proposed use can be operated in a manner that is not detrimental to the permitted developments and uses in the zoning district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and is deemed essential or desirable to preserve and promote the public health, safety and general welfare of Ogle County.

MR. SWORD: The proposed use of a single-family dwelling can be operated in a manner that is not detrimental to the permitted developments and uses in the AG-1 zoning district. I feel the standard is met. It's a -- a former house site as it is, I think it's good use of the area.

(All those agreed.)

MR. REIBEL: Standard 6) That the proposed special use appears to comply with all provisions of the AG-1 district regulations.

MR. FINFROCK: The proposed special use appears to comply with all provisions of the AG-1 district regulations. I feel that standard is met.

(All those agreed.)

MR. BRONKEMA: Roll call -- oh, a motion for a -- motion for a -- special use motion?

MR. SWORD: I'll make a motion that we recommend to the County Board to approve the Jeannette Richmond Trust 92 in care of Jeannette Richmond being purchased by Brian Harms, 08-10SU.

MR. FINFROCK: Second.

MR. BRONKEMA: Motion and a second. We'll have the roll call.

MR. REIBEL: Stivers?

MR. STIVERS: Yes.

MR. REIBEL: Finfrock?

MR. FINFROCK: Yes.

MR. REIBEL: Sword?

MR. SWORD: Yes.

MR. REIBEL: Bronkema?

MR. BRONKEMA: Yes.

(By voice vote four ayes.)

MR. REIBEL: Four voted yes. The motion carried. This will go on to the Planning and Zoning Committee on November 10th at 1 o'clock in the afternoon in this room and to the County Board for a decision on November 16th at 5:30 in the evening also right here in this room.

1 Now on this 28th day of October 2010, I do
2 signify that the foregoing testimony was given
3 before the Ogle County Zoning Board of Appeals.
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Maurice Bronkema, Chairman
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Michael Reibel,
13 Zoning Administrator
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Julie K. Edeus
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Ogle County Planning & Zoning Department

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COPY

STAFF REPORT

To:	**Zoning Board of Appeals**	**File #08-10SU**
Date:	**October 15, 2010**	**Prepared By: Michael Reibel**

GENERAL INFORMATION:

Applicant:	Jeannette Richmond Trust #92 c/o Jeannette Richmond, Trustee, 1469 Farington Dr., Naperville, IL and Brian Harms, 2830 Lynnville Ct., Lindenwood, IL
Status of Applicant:	Jeannette Richmond Trust #92 = Owner Brian Harms = Contractual Purchaser
Requested Action:	Special Use Permit in the AG-1 Agricultural District
Purpose:	Single-family dwelling
Location:	Part of the NE 1/4 SE 1/4 Section 26 Lynnville Township 41N, R2E of the 3rd P.M., Ogle County, IL (located on the west side of S. Woodlawn Road beginning approximately 0.7 mile south of IL Route 64 and approximately 0.3 mile north of E. Welty Road). Common Location: 1612 S. Woodlawn Road
Size:	3.0 acres (330' x 396')
Existing Land Use:	The site is a former farmstead; the house was destroyed by fire several years ago. The site is zoned AG-1 Agricultural District.
Surrounding Land Use and Zoning:	All surrounding land is in agricultural use and is zoned AG-1 Agricultural District.
Comprehensive Plan:	The site is not located within 1.5 miles of an incorporated city or village; Lynnville Township has a township planning commission. The Ogle County Amendatory Comprehensive Plan and the Lynnville Township General Development Plan designate the site and surrounding area for continued agricultural and agriculturally-related uses; only limited residential uses should be permitted.
Zoning History:	None.

Applicant:	Jeannette Richmond Trust #92 c/o Jeannette Richmond, Trustee, 1469 Farington Dr., Naperville, IL and Brian Harms, 2830 Lynnville Ct., Lindenwood, IL
Applicable Regulations:	The AG-1 Agricultural District provides for the following Special Use: Single-family dwelling, when constructed on a lot divided and set aside from a farm as defined herein. Lot area shall be not less than one (1) acre and the lot width shall be not less than one hundred fifty (150) feet. At least one of the following criteria must be met prior to issuance of a special use permit for a single-family dwelling in an AG-1 Agricultural District: 1. <u>Existence of man-made or natural physical features which serve as barriers to agricultural use on a majority of the property;</u> 2. Tree cover (mature), either covering the majority of the property or the location of which serves as the barrier to agricultural use on the property; 3. Topography and slope unconducive to agricultural use even under conservation practices. 4. Such single-family dwelling is initially intended for and occupied by a son or daughter, parent or spouse of the owner of the original agricultural tract from which such lot is set aside for residential purposes. In addition to the above, all applicants requesting a special use permit for a single-family dwelling must certify by affidavit (see Appendix III) that they have read the preamble to the AG-1 Agricultural District regulations, and if said application is approved by the County Board, record with the property deed said affidavit. Proof of recordation will be required prior to a zoning certificate being issued by the Zoning Administrator.

SPECIAL INFORMATION:

Public Utilities:	None.
Transportation:	S. Lynnville Road is a hot mix surface road under the jurisdiction of Lynnville Township.
Physical Characteristics:	The site is part of a convex side slope system within an area of generally level to gently rolling topography. The site ranges from moderately well drained to poorly drained. There are no mapped wetlands or floodplain on the site; approximately 10% of the total site area is subject to occasional flooding. Approximately 90% of the soils identified on site are classified as "Prime"; the remainder are "Farmland of statewide importance". 100% of the soils identified on site are classified as "Very limited" for septic fields due to depth to saturated zone, slow water movement and ponding.
LESA:	The LESA score of 217.3 indicates a HIGH RATING FOR PROTECTION (LE = 92.3; SA = 125).

ATTACHMENTS:

LESA Summary Sheet

SITE ASSESSMENT WORK SHEET - OGLE COUNTY, ILLINOIS "L.E.S.A."

Site Assessment Factors	Maximum Points per Factor	Score Assigned
Agricultural Land Use		
1. Percent of land in agriculture within 1.5 mile of site	16	16
2. Percent of land in agriculture adjacent to site	16	16
3. Percent of site suitable for agricultural use	16	0
Zoning		
4. Number of non-farm dwellings within 0.5 mile of site 3	12	10
5. Percent of land zoned AG-1 within 1.5 miles of site	16	16
6. Availability of zoned land for proposed use	10	5
7. Number of similar map amendments and/or special use permits approved within 1.5 miles of site within last ten years	12	12
Compatibility/Impact of Use(s)		
8. Distance from fire/ambulance protection	11	5
9. Distance from school (high school)	11	11
10. Impact on the environment and unique historical/cultural factors	10	0
11. Compatibility with surrounding area	10	4
Urban Infrastructure		
12. Degree to which the affected transportation routes can bear the traffic that the proposed use may generate	10	4
13. Availability of central sewer	8	8
14. availability of public water	8	8
Land Use Feasibility		
15. Soil suitability for on-site disposal 10% CAT 4, 90% CAT 2	10	0
16. Size of site 3.0	10	0
17. Future need for more land	5	5
Adopted Plans		
18. a) Consistency with County "Comprehensive Plan"; or b) consistency with city/village plan if within 1.5 miles of city/village limits	9	5
SITE ASSESSMENT SUB-TOTAL		125

LAND EVALUATION WORK SHEET AND SUMMARY SHEET - OGLE COUNTY, ILLINOIS "L.E.S.A."

	1 Soil Type	2 Agricultural Group	3 Relative Value	4 Acres	5 Product (Relative Value x Acres)
2	145C2	6	74	0.3	22.2
4	152A	2	98	0.3	29.4
2	154A	1	100	0	0
2	171B	2	98	2.3	225.4
	TOTAL	-----	-----	3.0	277

Note:

- "Agricultural Group" is obtained from Table 1.
- "Relative Value" is obtained from Table 2.
- To calculate # acres, use a planimeter or dot grid on a soil survey map or consult with the Ogle county Soil and Water Conservation District or Ogle County Planning & Zoning Department.

277 / 3.0 = 92.3 MM

Total of Column 5 / Total of Column 4 = Land Evaluation Sub-Total (Maximum 100 pts. Possible)

Site Assessment Sub-Total (Max. 200 pts.) = 125

Total Points Accrued (Max. 300 pts.) = 217.3 (L.E.S.A. Score)

In most cases, the site should be protected for agriculture when the points exceed 200. The following point scale should be observed:

0 - 199 = Low rating for protection
200 - 210 = Medium rating for protection
211 - 300 = High rating for protection

Petitioner: RICHMOND / HARMS

File No.: 8-10SU

Date: 10-12-10 Prepared By: MM