

**KENDALL COUNTY**  
**ZONING BOARD OF APPEALS SPECIAL MEETING**  
111 WEST FOX STREET, Room 209 and 210  
YORKVILLE, IL 60560  
**July 10, 2017 – 7:30 p.m.**

**CALL TO ORDER**

At 8:15 p.m., Chair Randy Mohr called the Zoning Board of Appeals meeting to order.

**ROLL CALL**

Members Present: Randy Mohr, Scott Cherry, Karen Clementi, Tom LeCuyer, Donna McKay, Dick Thompson and Dick Whitfield

Members Absent: None

Staff Present: Matthew Asselmeier, AICP, Senior Planner

Public: Bob Davidson, PBZ Committee Chairman

**MINUTES**

Mr. Whitfield, seconded by Ms. Clementi, moved to approve the June 5, 2017 meeting minutes. With a voice vote of all ayes, the motion was approved.

**PETITION**

**17-12**

**Gerald Clancy**

Request: Variance to Section 7.01.G.2.b of the Zoning Ordinance

Location: 9517 Finnie Road, Newark (Approximately 0.5 Miles Northeast of the Intersection of Finnie Road and Millington Road), Fox Township

PIN(s): 04-19-100-002

Purpose: Request to Reduce the Front Yard Setback from 150 Feet to Approximately 60 Feet in Order to Construct an Accessory Structure (Garage); Property is Zoned A-1

Mr. Asselmeier reported that the petitioner amended his application by moving the proposed accessory structure west to line up with the west end of the house. The new variance request was for thirty-seven feet (37'); the garage would be setback one hundred thirteen feet (113') from the center line of Finnie Road.

Fox Township reviewed the original petition and expressed no objections provided that the garage was not placed closer to Finnie Road than the existing house, the vehicle doors faced east and the existing driveway was vacated upon completion of the proposed accessory structure. The Fox Township Supervisor sent an email expressing no opposition to the proposed change.

Chairman Mohr presented the following Findings of Fact per § 13.04.A.3 of the Zoning Ordinance as proposed by Staff.

*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. **Given the current layout of buildings on the property and the location of the well, septic tank and septic field, the petitioner could not construct a garage near the***

**house on the north side of the house. If the petitioner constructed the garage to the south of the house outside of the setback, the petitioner would have to reconfigure the privacy fence.**

*That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. This statement is partially true. The existing house was constructed prior to modern zoning which impacts the location of the proposed garage. However, other agriculturally zoned properties could have farm houses constructed prior to modern zoning regulations and could request a similar variance.*

*That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. True, the current owner was not involved with the platting of the existing parcels, the construction of the existing home, or the installation of the well and septic system.*

*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 granting of the variation will not be detrimental to the public welfare. Finnie Road is a straight road on slightly rolling topography in this area. The proposed garage will not negatively impact motorists on Finnie Road. If constructed as proposed, the proposed garage will not be injurious to other properties 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 property to the east is heavily wooded, with tall trees. The proposed garage will not block an adequate supply of light and air from reaching adjacent properties. The proposed garage is planned for residential use only, not a commercial use. Accordingly, the proposed garage will not cause additional traffic on Finnie Road. If constructed as proposed, the proposed garage will not increase the danger of fire in the area. The proposed garage will not block lines-of-sight for motorists. The proposed garage will not diminish or impair property values in the area.*

Mr. LeCuyer, seconded by Mr. Whitfield, made a motion to approve the findings of fact as presented. By a voice vote, the motion was approved unanimously.

Mr. LeCuyer, seconded by Ms. Whitfield, made a motion to approve a variance to allow the construction of one (1) 576 square foot accessory structure (2 car garage) that will be located at its closest point one hundred thirteen feet (113.0') from the center line of Finnie Road, requiring a thirty-seven foot (37.0') variance; in accordance with the submitted Zoning Sketch included as "Exhibit A" attached hereto and incorporated herein subject to the following conditions:

1. The driveway in existence on the date of the approval of this variance shall be abandoned upon completion of the construction of the accessory structure mentioned in this ordinance.
2. The accessory structure allowed by this ordinance shall have the vehicle doors facing Finnie Road.

The votes were as follows:

Ayes (7): Mohr, Cherry, Clementi, LeCuyer, McKay, Thompson and Whitfield  
Nays (0): None  
Absent (0): None

The motion passed.

Fox Township will be informed and given fifteen (15) days to file a formal objection.

**PETITION**

**17-14 Kendall County Zoning Board of Appeals**

Request: Text Amendment to Section 13.01.B.9 of the Kendall County Zoning Ordinance  
Purpose: Amendment Would Set Guidelines for the Call of Meetings on Items that Require a Public Hearing and for the Calling of Meetings on Items that do not Require a Public Hearing as Defined by State Law

Mr. Asselmeier summarized the petition. If approved, the Chairman of the Zoning Board of Appeals could call meetings on items that do not require a public hearing no later than forty-eight hours prior to the start of the meeting provided the rules of the Illinois Open Meetings Act were followed. The certificate of publication is on file in the Planning, Building and Zoning Department.

Chairman Mohr opened the public hearing at 8:20 p.m.

Chairman Mohr closed the public hearing at 8:21 p.m.

Ms. McKay, seconded by Mr. Whitfield, made a motion to approve the text amendment as requested. The votes were as follows:

Ayes (7): Mohr, Cherry, Clementi, LeCuyer, McKay, Thompson and Whitfield  
Nays (0): None  
Absent (0): None

The motion passed.

All nine (9) townships will be informed and given thirty (30) days to file a formal objection.

**PETITION**

**17-15 Kendall County Zoning Board of Appeals**

Request: Text Amendment to Section 13.01.B.11 of the Kendall County Zoning Ordinance  
Purpose: Amendment Would Reduce the Number of Votes Required for the Zoning Board of Appeals to Reverse any Order, Requirements, Decision or Determination of the Zoning Administrator, or to Decide in Favor of the Applicant any Matter upon which It Is Authorized by the Ordinance to Render Decisions from Four to Three on Boards Consisting of Five Members and from Five to Four on Boards Consisting of Seven Members

Mr. Asselmeier summarized the petition. If approved, the Zoning Board of Appeals could approve the reversal of any order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by the ordinance to render decisions by a vote of three on boards consisting of five members and a vote of four on boards consisting of seven members. The certificate of publication is on file in the Planning, Building and Zoning Department.

Chairman Mohr opened the public hearing at 8:23 p.m.

Chairman Mohr closed the public hearing at 8:24 p.m.

Mr. LeCuyer, seconded by Mr. Thompson, made a motion to approve the text amendment as requested. The votes were as follows:

Ayes (7):           Mohr, Cherry, Clementi, LeCuyer, McKay, Thompson and Whitfield  
Nays (0):           None  
Absent (0):       None

The motion passed.

All nine (9) townships will be informed and given thirty (30) days to file a formal objection.

**PETITION**

**17-16**

**Kendall County Zoning Board of Appeals**

Request:       Text Amendment to Section 13.06.D of the Kendall County Zoning Ordinance  
Purpose:        Amendment Would Reduce the Number of Votes Required for the Zoning Board of Appeals to Reverse or Affirm, Wholly or Partly, or May Modify the Order, Requirement, Decision, or Determination of the Zoning Administrator from Four to Three on Boards Consisting of Five Members and from Five to Four on Boards Consisting of Seven Members.

Mr. Asselmeier summarized the petition. If approved, the text amendment would allow the Zoning Board of Appeals to reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Zoning Administrator by a vote of three on boards consisting of five members and a vote of four on boards consisting of seven members. The certificate of publication is on file in the Planning, Building and Zoning Department.

Chairman Mohr opened the public hearing at 8:26 p.m.

Chairman Mohr closed the public hearing at 8:27 p.m.

Ms. Clementi, seconded by Mr. Cherry, made a motion to approve the text amendment as requested. The votes were as follows:

Ayes (7):           Mohr, Cherry, Clementi, LeCuyer, McKay, Thompson and Whitfield  
Nays (0):           None  
Absent (0):       None

The motion passed.

All nine (9) townships will be informed and given thirty (30) days to file a formal objection.

**PUBLIC COMMENT**

None

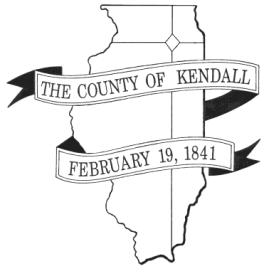
**ADJOURNMENT OF THE ZONING BOARD OF APPEALS**

Mr. Cherry, seconded by Ms. McKay made a motion to adjourn. By voice vote, the motion passed unanimously. The Zoning Board of Appeals meeting adjourned at 8:29 p.m.

Respectfully submitted by,  
Matthew H. Asselmeier, AICP  
Senior Planner

Exhibits

1. Staff Report on Petition 17-14 Dated June 29, 2017
2. Staff Report on Petitions 17-15 and -16 Dated June 29, 2017



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## DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204

Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

### MEMORANDUM

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To: Kendall County Zoning Board of Appeals  
From: Matthew H. Asselmeier, AICP, Senior Planner  
Date: June 29, 2017  
Re: 17-14 Proposed Amendment to Section 13.01.B.9 Pertaining to Call of Meetings

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At their May 1, 2017, the Kendall County Zoning Board of Appeals authorized Staff to submit an application for a text amendment to the following section of the Kendall County Zoning Ordinance.

Section 13.01.B.9 of the Zoning Ordinance currently states:

**“All meetings** (emphasis added) of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. There shall be at least fifteen days but not more than thirty days notice of the time and place of such meetings published in a paper of general circulation in Kendall County; said notice to contain a statement of the particular purpose of such meeting and a legal description of the location of the property or properties under consideration at such meeting. All meetings of the Board shall be open to the public.”

55 ILCS 5/5-12 states that when a hearing is required before the Zoning Board of Appeals, notice must given at least fifteen days to thirty days by publication in a newspaper of general circulation.

An occasion may arise when the Zoning Board of Appeals may wish to meet on a matter when a public hearing is not necessary. For example, the Zoning Board of Appeals may want to hold a joint meeting with the Regional Planning Commission to discuss an issue. This joint meeting would not necessitate a public hearing.

A text amendment to the Zoning Ordinance could more clearly separate the meeting notification requirements of public hearings from other meetings. Matters requiring a public hearing would have to meet the fifteen to thirty day notice requirements while matters not requiring a public hearing would have to meet the requirement of the Open Meetings Act (posting notice and agenda forty-eight hours in advance).

ZPAC reviewed this proposal at their June 6, 2017 meeting and unanimously recommended approval of the proposed amendment.

The Kendall County Regional Planning Commission reviewed this proposal at their June 28, 2017 meeting and unanimously recommended approval of the proposed amendment.

A copy of a draft text amendment is enclosed.

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**ORDINANCE # 2017-\_\_\_\_\_**

**AMENDMENT TO SECTION 13.01.B.9 OF THE KENDALL COUNTY ZONING ORDINANCE  
PERTAINING TO THE CALL OF MEETINGS OF THE KENDALL COUNTY ZONING BOARD OF  
APPEALS**

WHEREAS, the Kendall County Zoning Board of Appeals requested an amendment to Section 13.01.B.9 of the Kendall County Zoning Ordinance related to the calling of meetings; and

WHEREAS, the Kendall County Board amends these ordinances from time to time in the public interest; and

WHEREAS, 55 ILCS 5/5-12009 defines the notification requirements for hearings of Zoning Boards of Appeal on variance applications; and

WHEREAS, 55 ILCS 5/5-12009.5 defines the notification requirements for hearings of Zoning Boards of Appeal on special use applications; and

WHEREAS, 55 ILCS 5/5-12011 defines the notification requirements for hearings of Zoning Boards of Appeal on any order, requirement, decision or determination made by an administrative official charged with the enforcement of a zoning ordinance; and

WHEREAS, 55 ILCS 5/5-12014 defines the notification requirements for hearings of Zoning Boards of Appeal on text amendment and map amendment applications; and

WHEREAS, 5 ILCS 120 defines the notification requirements for meetings of public bodies within the State of Illinois; and

WHEREAS, all administrative procedures required prior to passing amendments to the Kendall County Zoning Ordinance have been followed, including holding a public hearing, before the Kendall County Zoning Board of Appeals, which occurred on XXXX X, 2017; and

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Section 13.01.B.9 of the Kendall County Zoning Ordinance by deleting the existing language and replacing it with the following:

“13.01.B.9 a. All meetings of the Board of Appeals on matters requiring a public hearing as defined by State law shall be held at the call of the Chairman and at such other times as the Board may determine. There shall be at least fifteen days but not more than thirty days notice of the time and place of such meetings published in a paper of general circulation in Kendall County; said notice to contain a statement of the particular purpose of such meeting and a legal description of the location of the property or properties under consideration at such meeting.

13.01.B.9.b All meetings of the Board of Appeals on matters not requiring a public hearing as defined by State law shall be held at the call of the Chairman and at such other times as the Board may determine provided that the requirements of the Illinois Open Meetings Act are fulfilled prior to the start of the meeting.

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June 29, 2017

13.01.B.9.c All meetings of the Board of Appeals, regardless of the topic of the meeting, shall be open to the public.”

IN WITNESS OF, this amendment to the Zoning Ordinance has been enacted by a majority vote of the Kendall County Board this XX<sup>th</sup> day of XXXX, 2017.

Attest:

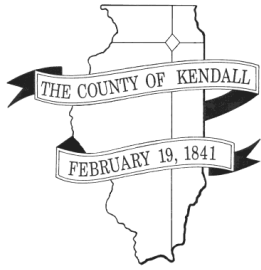
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Kendall County Clerk  
Debbie Gillette

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Kendall County Board Chairman  
Scott R. Gryder





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## DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204

Yorkville, IL • 60560

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### MEMORANDUM

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To: Kendall County Zoning Board of Appeals

From: Matthew H. Asselmeier, AICP, Senior Planner

Date: June 29, 2017

Re: 17-15 and 17-16 Proposed Amendment to Section 13.01.B.11 and Section 13.06.D Pertaining to Voting of the Zoning Board of Appeals

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At their May 1, 2017, the Kendall County Zoning Board of Appeals authorized Staff to submit an application for text amendments to the following section of the Kendall County Zoning Ordinance pertaining to votes by the Zoning Board of Appeals:

Section 13.01.B.11 of the Zoning Ordinance currently states:

“The concurring vote of four members of a Board consisting of five members or **the concurring vote of five members of a board consisting of seven members is necessary to reverse any order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by this amended ordinance to render decisions** (emphasis added).”

Section 13.06.D of the Zoning Ordinance restates the vote related to reversing orders:

“In exercising its powers, the Zoning Board of Appeals may, upon the concurring vote of four members of a five member Board or **five members of a seven member Board, reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination appealed from as in its opinion ought to be done in the premises, and to that end have all the powers of the Zoning Administrator** (emphasis added).”

Public Act 92-128, adopted in 2001, amended 55 ILCS 5/5-12011 and lowered the vote requirements necessary for the Zoning Board of Appeals to take certain actions. The current law states:

“The concurring vote of 3 members of a board consisting of 5 members or **the concurring vote of 4 members of a board consisting of 7 members is necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance or resolution, or to effect any variation in such ordinance or resolution, or to recommend any variation or modification in such ordinance or resolution to the county board** (emphasis added).”

Section 13.01.B.4 of the Zoning Ordinance defines a quorum as “a majority of the members of the Zoning Board of Appeals.”

A situation could arise where a quorum of the Board is present, but final action could not occur because a fifth member is unavailable. A proposed amendment may be desirable to remove the difference between the Kendall County Zoning Ordinance and State law and to allow a quorum of

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members to decide certain matters before the Board. Accordingly, the Kendall County Zoning Board of Appeals requested text amendments to these sections of the Zoning Ordinance.

At their June 6, 2017 meeting, ZPAC unanimously recommended approval of both proposed amendments.

At their June 28, 2017 meeting, the Kendall County Regional Planning Commission unanimously recommended approval of both proposed amendments.

Copies of draft text amendments are enclosed.

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**ORDINANCE # 2017-\_\_\_\_\_**

**AMENDMENT TO SECTION 13.01.B.11 OF THE KENDALL COUNTY ZONING ORDINANCE  
REDUCING THE NUMBER OF VOTES NECESSARY FOR THE ZONING BOARD OF APPEALS  
TO REVERSE ANY ORDER, REQUIREMENTS OR DETERMINATION OF THE ZONING  
ADMINISTRATOR, OR TO DECIDE IN FAVOR OF THE APPLICANT ANY MATTER UPON  
WHICH THE ZONING BOARD OF APPEALS IS AUTHORIZED TO RENDER DECISIONS FROM  
FOUR TO THREE ON BOARDS CONSISTING OF FIVE MEMBERS AND FROM FIVE TO FOUR  
ON BOARDS CONSISTING OF SEVEN MEMBERS**

*WHEREAS*, the Kendall County Zoning Board of Appeals requested an amendment to Section 13.01.B.11 of the Kendall County Zoning Ordinance related to voting requirements of the Zoning Board of Appeals in order to have the Kendall County Zoning Ordinance correspond to State law; and

*WHEREAS*, Public Act 92-128 amended 55 ILCS 5/5-12011 by reducing the number of votes required by a Zoning Board of Appeals to reverse any order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized to render decisions; and

*WHEREAS*, the Kendall County Board amends these ordinances from time to time in the public interest; and

*WHEREAS*, all administrative procedures required prior to passing amendments to the Kendall County Zoning Ordinance have been followed, including holding a public hearing, before the Kendall County Zoning Board of Appeals, which occurred on XXXX X, 2017; and

*NOW, THEREFORE, BE IT ORDAINED*, the Kendall County Board hereby amends Section 13.01.B.11 of the Kendall County Zoning Ordinance by deleting the existing language in the first paragraph of this section and replacing it with the following:

“13.01.B.11 Jurisdiction The concurring vote of three (3) members of a board consisting of five (5) members or the concurring vote of four (4) members of a board consisting of seven (7) members is necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant any matter any matter upon which it is authorized by the Kendall County Zoning Ordinance to render decisions.

*IN WITNESS OF*, this amendment to the Zoning Ordinance has been enacted by a majority vote of the Kendall County Board this XX<sup>th</sup> day of XXXX, 2017.

Attest:

\_\_\_\_\_  
Kendall County Clerk  
Debbie Gillette

\_\_\_\_\_  
Kendall County Board Chairman  
Scott R. Gryder

ZBA Memo  
June 29, 2017

State of Illinois  
County of Kendall

Petition #17-16

**ORDINANCE # 2017-\_\_\_\_\_**

**AMENDMENT TO SECTION 13.06.D OF THE KENDALL COUNTY ZONING ORDINANCE  
REDUCING THE NUMBER OF VOTES NECESSARY FOR THE ZONING BOARD OF APPEALS  
TO REVERSE OR AFFIRM, WHOLLY OR PARTLY, OR MODIFY THE ORDER, REQUIREMENT,  
DECISION OR DETERMINATION OF THE ZONING ADMINISTRATOR, FROM FOUR TO  
THREE ON BOARDS CONSISTING OF FIVE MEMBERS AND FROM FIVE TO FOUR ON  
BOARDS CONSISTING OF SEVEN MEMBERS**

WHEREAS, the Kendall County Zoning Board of Appeals requested an amendment to Section 13.06.D of the Kendall County Zoning Ordinance related to voting requirements of the Zoning Board of Appeals in order to have the Kendall County Zoning Ordinance correspond to State law; and

WHEREAS, Public Act 92-128 amended 55 ILCS 5/5-12011 by reducing the number of votes required by a Zoning Board of Appeals to reverse any order, requirements, decision or determination of the Zoning Administrator; and

WHEREAS, the Kendall County Board amends these ordinances from time to time in the public interest; and

WHEREAS, all administrative procedures required prior to passing amendments to the Kendall County Zoning Ordinance have been followed, including holding a public hearing, before the Kendall County Zoning Board of Appeals, which occurred on XXXX X, 2017; and

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Section 13.06.D of the Kendall County Zoning Ordinance by deleting the existing language and replacing it with the following:

“13.06.D. DECISION ON APPEAL. In exercising its powers, the Zoning Board of Appeals may, upon the concurring vote of three (3) members of a five (5) member Board or four (4) members of a seven (7) member Board, reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination appealed from as in its opinion ought to be done in the premises, and to that end have all the powers of the Zoning Administrator.”

IN WITNESS OF, this amendment to the Zoning Ordinance has been enacted by a majority vote of the Kendall County Board this XX<sup>th</sup> day of XXXX, 2017.

Attest:

\_\_\_\_\_  
Kendall County Clerk  
Debbie Gillette

\_\_\_\_\_  
Kendall County Board Chairman  
Scott R. Gryder