



Legislation Details (With Text)

**File #:** DC-O-0055-24      **Version:** 1

**Type:** Development Ordinance      **Status:** Adopted

**File created:** 8/13/2024      **In control:** Development Committee

**On agenda:** 8/20/2024      **Final action:** 8/27/2024

**Title:** ZONING-24-000056 – ORDINANCE – McElligott: To approve the following zoning relief: Conditional Use to allow an existing shed to remain less than 3 feet from the interior side property line (approximately 0.2 feet), where it has existed for at least 5 years. (Milton/ District 4)  
ZHO Recommendation to Approve  
Development Committee VOTE (to Approve): 4 Ayes, 0 Nays, 2 Absent

**Attachments:** 1. Z-24-000056 McElligott CTY BD (08-27-2024).pdf

Date	Ver.	Action By	Action	Result
8/27/2024	1	DuPage County Board	Approved	Pass
8/20/2024	1	Development Committee	Approved at committee	Pass

**Zoning Petition ZONING-24-000056 McElligott**

WHEREAS, a public hearing was held on July 31, 2024, in the DuPage County Administration Building, 421 North County Farm Road, Wheaton, Illinois at 2:30 P.M. before the DuPage County Zoning Hearing Officer and notice of said hearing was duly given; and

WHEREAS, a petition was presented at this hearing requesting the following zoning relief:

Conditional Use to allow an existing shed to remain less than 3 feet from the interior side property line (approximately 0.2 feet), where it has existed for at least 5 years, on the property hereinafter described:

LOT 15 IN BLOCK 5 IN ARTHUR T. MCINTOSH AND COMPANY’S VALLEY VIEW UNIT NO. 3, BEING A SUBDIVISION OF PART OF THE SOUTH HALF OF SECTION 26 AND THE NORTH HALF OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBERUARY 25, 1957 AS DOCUMENT 833354, IN DUPAGE COUNTY, ILLINOIS; and

WHEREAS, the Zoning Hearing Officer, having considered in relation to the above requested zoning petition presented at the above hearing and at the recommendation meeting held on July 31, 2024, does find as follows:

**FINDINGS OF FACT:**

A. That petitioner testified that the subject zoning relief is to allow an existing shed to remain less than 3 feet from the interior side property line (approximately 0.2 feet), where it has existed for at least 5 years.

- B. That petitioner testified that he has lived at the subject property since October 2023 and that the existing shed has been on the subject property long before he purchased the home.
- C. That petitioner testified that the subject shed is used to store his lawnmower and gardening/house accessory equipment.
- D. That petitioner testified that the subject shed is made of wood with a wooden base, and that he cannot move the shed without destroying it. Furthermore, that petitioner testified that the subject shed is “locked” into its location with older trees and landscaping surrounding it.
- E. That the Zoning Hearing Officer finds that petitioner has demonstrated that the subject zoning relief to allow an existing shed to remain less than 3 feet from the interior side property line (approximately 0.2 feet), where it has existed for at least 5 years does not have any impact on adjacent properties and roadways, does not impact on drainage, and does not impede ventilation and light to the subject property or adjacent properties.

**STANDARDS FOR CONDITIONAL USES:**

- 1. That the Zoning Hearing Officer finds that petitioner **has demonstrated** that the granting of the Conditional Use is in harmony with the general purpose and intent of the Zoning Ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the County’s comprehensive plan for development; and specifically, that the granting of the Conditional Use will not:
  - a. Impair an adequate supply of light and air to the adjacent property as petitioner **has demonstrated** that the existing shed does not impact or impair the supply of light and air to adjacent properties.
  - b. Increase the hazard from fire or other dangers to said property as petitioner **has demonstrated** that they will receive a building permit from the County for the existing shed and that it was built pursuant to the current DuPage County building codes.
  - c. Diminish the value of land and buildings throughout the County as petitioner **has demonstrated** that the existing shed does not diminish the value of land throughout the County.
  - d. Unduly increase traffic congestion in the public streets and highways as petitioner **has demonstrated** that the existing shed is located behind the front wall of the home and does not impact traffic congestion in the public streets and highways.
  - e. Increase the potential for flood damages to adjacent property as petitioner **has demonstrated** that that the existing shed has not increased the potential for flood damages to the adjacent property.
  - f. Incur additional public expense for flood protection, rescue or relief as petitioner **has demonstrated** that the existing shed does not incur additional public expense for flood protection, rescue, or relief.
  - g. Otherwise impair the public health, safety, comfort, morals, or general welfare of the inhabitants of DuPage County as petitioner **has demonstrated** that the existing shed does not have any impact on adjacent properties

and roadways, does not impact on drainage, and does not impede ventilation and light to the subject property or adjacent properties.

PETITIONER’S DEVELOPMENT FACT SHEET

<b>CASE #/PETITIONER</b>	<b>ZONING-24-000056 McElligott</b>	
<b>ZONING REQUEST</b>	Conditional Use to allow an existing shed to remain less than 3 feet from the interior side property line (approximately 0.2 feet), where it has existed for at least 5 years.	
<b>OWNER</b>	MARY C. MILLER AND JOSEPH MCELLIGOTT, 22W305 HACKBERRY DRIVE, GLEN ELLYN, IL 60137	
<b>ADDRESS/LOCATION</b>	22W305 HACKBERRY DRIVE, GLEN ELLYN, IL 60137	
<b>PIN</b>	05-35-204-002	
<b>TWSP./CTY. BD. DIST.</b>	MILTON	DISTRICT 4
<b>ZONING/LUP</b>	R-4 SF RES	0-5 DU AC
<b>AREA</b>	0.26 ACRES (11,325 SQ. FT.)	
<b>UTILITIES</b>	WATER / SEWER	
<b>PUBLICATION DATE</b>	Daily Herald: JULY 16, 2024	
<b>PUBLIC HEARING</b>	WEDNESDAY, JULY 31, 2024	
<b><u>ADDITIONAL INFORMATION:</u></b>		
Building:	No Objection with the concept of the petition. Additional information may be required at time of permit application. “If the shed is within ten feet (10’) of the house it will require a 1-hour drywall rating on the interior.”	
DUDOT:	Our office has no jurisdiction in this matter.	
Health:	Our office has no jurisdiction in this matter.	
Stormwater:	<i>No Comments Received.</i>	
Public Works:	“DPC PW doesn’t own any sewer or water in this area, they are located in the Glenbard Sanitary District and the lines are owned by Illinois American Water Company.”	
<b>EXTERNAL:</b>		
Village of Glen Ellyn:	<i>No Comments Received.</i>	
City of Wheaton:	<i>No Comments Received.</i>	
Village of Downers Grove:	“The Village of Downers Grove has no comments.”	
Milton Township:	<i>No Comments Received.</i>	
Township Highway:	No Objection with the concept of the petition. Additional information may be required at time of permit application.	
Lisle-Woodridge Fire Dist.:	“N/A”	
Sch. Dist. 89:	<i>No Comments Received.</i>	

Sch. Dist. 87:	<i>No Comments Received.</i>
Forest Preserve:	“The Forest Preserve District of DuPage County staff have reviewed the information provided in this notice and do not have any specific comments. Thank you.”

**GENERAL BULK REQUIREMENTS:**

REQUIREMENTS:	REQUIRED	EXISTING	PROPOSED
Int. Side Yard:	3’	APPROX. 0.2’	APPROX. 0.2’

**LAND USE**

Location	Zoning	Existing Use	LUP
Subject	R-4 SF	HOUSE	0-5 DU AC
North	HACKBERRY DRIVE AND BEYOND R-4 SF	HOUSE	0-5 DU AC
South	R-4 SF	HOUSE	0-5 DU AC
East	R-4 SF	HOUSE	0-5 DU AC
West	R-4 SF	HOUSE	0-5 DU AC

WHEREAS, the Zoning Hearing Officer, having considered in relation to the above and at the recommendation meeting held on July 31, 2024, recommends to approve the following zoning relief:

Conditional Use to allow an existing shed to remain less than 3 feet from the interior side property line (approximately 0.2 feet), where it has existed for at least 5 years.

**Subject to the following conditions:**

1. That the property be developed in accordance with the petitioner’s site plan made part of Zoning Petition #ZONING-24-000056 McElligott dated July 31, 2024.
2. That the Conditional Use zoning relief shall expire after ten (10) years from the date of approval of the subject zoning relief by the DuPage County Board or upon one of the following circumstances, whichever shall come first:
  - a. The structure or use is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration for the above ground portion of the building, structure, or use to the condition it was prior to the destruction or damage exceeds fifty percent (50%) or more of its replacement value.
  - b. The structure is voluntarily removed.
3. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
4. That petitioner maintains the existing landscaping around the perimeter of the subject property.

5. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

**ZHO Recommendation to Approve**

WHEREAS, the County Board Development Committee on August 20, 2024, considered the above findings and recommendations of the Zoning Hearing Officer and recommends to concur with the findings and recommends to approve the following zoning relief:

Conditional Use to allow an existing shed to remain less than 3 feet from the interior side property line (approximately 0.2 feet), where it has existed for at least 5 years.

**Subject to the following conditions:**

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition #ZONING-24-000056 McElligott dated July 31, 2024.
2. That the Conditional Use zoning relief shall expire after ten (10) years from the date of approval of the subject zoning relief by the DuPage County Board or upon one of the following circumstances, whichever shall come first:
  - a. The structure or use is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration for the above ground portion of the building, structure, or use to the condition it was prior to the destruction or damage exceeds fifty percent (50%) or more of its replacement value.
  - b. The structure is voluntarily removed.
3. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
4. That petitioner maintains the existing landscaping around the perimeter of the subject property.
5. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

**Development Committee VOTE (to Approve): 4 Ayes, 0 Nays, 2 Absent**

NOW, THEREFORE, BE IT ORDAINED by the County Board of DuPage County, Illinois that the following zoning relief be granted:

Conditional Use to allow an existing shed to remain less than 3 feet from the interior side property line (approximately 0.2 feet), where it has existed for at least 5 years, on the property hereinafter described:

LOT 15 IN BLOCK 5 IN ARTHUR T. MCINTOSH AND COMPANY'S VALLEY VIEW UNIT NO. 3, BEING A SUBDIVISION OF PART OF THE SOUTH HALF OF SECTION 26 AND THE NORTH HALF OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBERUARY 25, 1957 AS DOCUMENT 833354, IN DUPAGE COUNTY, ILLINOIS; and

**The Zoning Relief is subject to the following conditions:**

1. That the property be developed in accordance with the petitioner's site plan made part of Zoning Petition #ZONING-24-000056 McElligott dated July 31, 2024.
2. That the Conditional Use zoning relief shall expire after ten (10) years from the date of approval of the subject zoning relief by the DuPage County Board or upon one of the following circumstances, whichever shall come first:
  - a. The structure or use is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration for the above ground portion of the building, structure, or use to the condition it was prior to the destruction or damage exceeds fifty percent (50%) or more of its replacement value.
  - b. The structure is voluntarily removed.
3. That the owner/developer is to apply for and receive a Building Permit for all construction and/or excavation that occurs on the property.
4. That petitioner maintains the existing landscaping around the perimeter of the subject property.
5. That the property be developed in accordance with all other codes and Ordinances of DuPage County.

BE IT FURTHER ORDAINED by the County Board of DuPage County, Illinois that should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid; and

BE IT FURTHER ORDAINED that a certified copy of this Ordinance be transmitted by the County Clerk to the DuPage County Finance Department; DuPage County Auditor; DuPage County Treasurer; Paul J. Hoss, Zoning; State's Attorney's Office; DuPage County Health Department; DuPage County Division of Transportation; MARY C. MILLER AND JOSEPH MCELLIGOTT, 22W305 HACKBERRY DRIVE, GLEN ELLYN, IL 60137; and Township Assessor, Milton Township, 1492 N. Main Street, Wheaton, IL 60187.

Enacted and approved this 27<sup>th</sup> day of August, 2024 at Wheaton, Illinois.

DEBORAH A. CONROY, CHAIR  
DU PAGE COUNTY BOARD

Attest: \_\_\_\_\_

JEAN KACZMAREK, COUNTY CLERK