

**(DRAFT COPY – SUBJECT TO APPROVAL BY THE ZONING BOARD OF APPEALS)
MINUTES OF A PUBLIC HEARING AND THE DELIBERATIONS OF THE TAZEWELL
COUNTY ZONING BOARD OF APPEALS**

A Public Hearing of the Tazewell County Zoning Board of Appeals was held at 6:00 P.M. on Tuesday, January 4, 2011, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Monica Connett, Robert Vogelsang, Loren Toevs and Ken Zimmerman

ABSENT: Duane Lessen

STAFF: Kristal Deininger, Community Development Administrator; Matt Drake, Assistant States Attorney; Melissa Kreiter, Administrative Assistant; Maggie Martino, Land Use Planner and Land Use Members: Joyce Antonini, Darrell Meisinger, Rosemary Palmer, Mel Stanford, Sue Sundell

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Toevs, seconded by Vogelsang, to approve the Minutes of the November 1, 2010 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

CASE NO. 11-01-S: The petition of Paul Myers for a Special Use to allow a Private Stable in an R-1 Low Density Residential Zoning District

The Tazewell County Land Use Planner submitted a report identifying 14 Positive Findings of Fact.

Tazewell County Health Department made no comment regarding the proposed Special Use request.

Tazewell County Soil & Water Conservation District submitted a report having no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau submitted a report stating this case may have an impact on agriculture and recommended approval regarding the proposed Special Use request.

John Anderson, Tazewell County Highway Department made no comment regarding the proposed Special Use request.

City of Pekin submitted a letter and had no concerns regarding the proposed Special Use request.

Illinois Department of Transportation made no comment regarding the proposed Special Use request.

School Districts 108 and 303 made no comment regarding the proposed Special Use request.

Darla Armbrust, Realtor with Allen and Associates, appeared representing Mr. Myers and testified on behalf of the proposed Special Use request. Mrs. Armbrust said there was an interested buyer in the property that would like to have their personal horses on the proposed site. Mrs. Armbrust added that although the exact location of any stable or pasture for the horses was unknown at this time, it was likely the Southwest portion of the land would be the area utilized.

Ed Mulvey appeared with questions and concerns regarding the proposed Special Use request. Mr. Mulvey stated he was curious as to the location of the stable on the property and what style of fence would be constructed. Mr. Mulvey said he wanted to make sure the manure was removed of properly and efficiently. Mr. Mulvey added he hoped none of the existing trees on the property were removed as they had created a natural barrier from the traffic and noise of nearby Route 98.

Following all Public Hearings, moved by Zimmerman, seconded by Vogelsang, to approve **Case No. 11-01-S.**

After considering all the evidence and testimony presented, the ZBA discussed the findings of fact and reviewed the Report of the Land Use Planner and arrived at the following findings of fact:

1. *The Special Use shall, in all other respects, conform to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Ordinance to be enforced by the Community Development Administrator.

2. *The Special Use will be consistent with the purposes, goals, objectives, and standards of the officially adopted County Comprehensive Land Use Plan and these regulations, or of any officially adopted Comprehensive Plan of a municipality with a 1.5 mile planning jurisdiction.*

POSITIVE. The County Comprehensive Land Use Plan does not specifically address private stables on residential property, but the proposal will not be contrary to the Plan's primary goals of achieving an orderly development pattern and conserving farmland, so the Special Use is deemed to be consistent with the County Comprehensive Land Use Plan.

3. *The petitioner has met the requirements of Article 25 of the Tazewell County Zoning Code.*

POSITIVE. All requirements have been met.

4. *The Site shall be so situated as to minimize adverse effects, including visual impacts on adjacent properties.*

POSITIVE. Adjacent properties consist of single-family dwellings to the north, a farmstead with a stable to the east, open space and single family dwellings to the south, and wooded land to the east. Horses are kept on the farmstead to the east, a creek/wooded area borders the rear of the property from the single family dwellings to the south, and the general area is rural in nature. Therefore, the keeping of horses on this property is suitable and will not cause substantial adverse visual impacts. Adverse effects of the Special Use will be minimized.

5. *The establishment, maintenance or operation of the Special Use shall not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.*

POSITIVE. The neighboring vicinity consists of single-family dwellings, open space, and wooded areas. The general area is rural in nature but has experienced recent residential development. The subject parcel is rather large, horses are kept on the farmstead adjacent to the east, and nearby residential development is not very dense, so the keeping of horses on this property is suitable and will not endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

6. *The Special Use shall not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.*

POSITIVE. Property in the immediate vicinity is used for agricultural and residential uses. The keeping of horses on this property is compatible with the agricultural uses and will not harm the nearby residential uses due to the rather large size of the property, the limited number of dwellings, and the rural nature of the general area. Therefore, the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity.

7. *The Special Use shall not substantially diminish and impair property values within the neighborhood.*

POSITIVE. The general area consists of agricultural uses and residential uses. The subject property is rather large, located in a rural area, and adjacent to an agricultural property where horses are kept. Therefore, the keeping of horses on the subject property will not bring substantial change to the area, so the Special Use will not substantially impair property values within the neighborhood.

8. *That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.*

POSITIVE. The property contains a single-family dwelling, so all necessary facilities are provided. The Zoning Code will require a fence, pen, shelter, corral or similar enclosure to be built to keep horses on the property.

9. *Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard on the public streets.*

POSITIVE. The subject property is accessed via Route 98, but the addition of a private stable will not generate a quantity of trips that will negatively impact traffic circulation, so traffic congestion and hazard on the public streets will be minimized.

10. *The evidence establishes that granting the use, which is located one-half mile or less from a livestock feeding operation, will not increase the population density around the livestock feeding operation to such levels as would hinder the operation or expansion of such operation.*

POSITIVE. The Special Use is for the construction of a private stable on an existing property. Therefore, it will have no impact on population growth in the immediate area, so it will not increase the nearby population density to a level that will hinder the operation or expansion of any nearby livestock feeding operation.

11. *Evidence presented establishes that granting the use, which is located more than one-half mile from a livestock feeding operation, will not hinder the operation or expansion of such operation.*

POSITIVE. The Special Use is for the construction of a private stable on an existing residential property. The construction of a private stable on an existing residential property will not cause any impacts that will hinder any livestock feeding operations located greater than one-half mile away. Therefore, the Special Use will not hinder any such operations.

12. *Seventy-five percent (75%) of the site contains soils having a productivity index of less than 125.*

POSITIVE. The property is not used for agriculture; it contains a single-family dwelling, a creek, wooded areas and pasture areas. Therefore, the granting of the Special Use will not result in the removal of any prime farmland.

13. *The Special Use is consistent with the existing uses of property within the general area of the property in question.*

POSITIVE. Existing uses of property within the general area consist of agricultural uses and single-family dwellings. The agricultural use located adjacent to the east contains a stable, and the single-family dwellings are not of a high density. Also, the subject property is rather large, which will enable horses to be kept on the property without causing adverse effects for nearby residential properties. Therefore, the Special Use is consistent with existing uses of property within the general area.

14. *The property is suitable for the Special Use as proposed.*

POSITIVE. The property is suitable for the Special Use as proposed based on the findings as a whole. The specific location of the stable and the area where horses will be kept has not been specified, but the stable will not cause adverse effects for nearby properties. The Zoning Code mandates that a fence or similar enclosure be provided to keep the horses on the property.

Moved by Vogelsang , seconded by Toevs, to accept the findings of fact of the Land Use Planner as written. **Motion carried by voice vote.**

On roll call to approve of **Case No. 11-01-S** the vote was:

Ayes: 6 – Baum, Connett, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 – Lessen

Motion declared carried.

CASE NO. 11-02-V: The petition of Anthony Mohns for a Variance to waive the requirements of 7TCC1-7(g)(1)(ii) to allow the construction of an Accessory Structure (Unattached Garage) to be 60 feet from the centerline of Lakeland Road, which is 40 feet closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department made no comment regarding the proposed Variance request.

Tazewell County Soil & Water Conservation District submitted a report having no comment regarding the proposed Variance request.

Tazewell County Farm Bureau submitted a report stating this case had no direct impact on agriculture and made no recommendation regarding the proposed Variance request.

John Anderson, Tazewell County Highway Engineer made no comment regarding the proposed Variance request.

Roger Spangler, Village of Morton submitted a letter stating no objection regarding the proposed Variance request.

Greg Menold, Morton Township Road Commissioner submitted a report stating no objection regarding the proposed Variance request.

District 709 Schools were notified and made no comment regarding the proposed Variance request.

Anthony Mohns appeared to testify on behalf of the proposed Variance request. Mr. Mohns stated he would like to build a garage in the area his current shed was located. Mr. Mohns said where he had proposed the garage was the only flat area of the property to build upon and was located at the end of his driveway. Mr. Mohns added the existing shed would be removed from the property and the proposed garage would be located no closer to the road than what the existing shed was at. Mr. Mohns stated the proposed garage would be at least 250' from both the geothermal well and the septic system on the property.

Following all Public Hearings, moved by Toevs, seconded by Vogelsang, to approve **Case No. 11-02-V**.

After considering all the evidence and testimony presented, the ZBA discussed and arrived at the following findings of fact:

1. *The particular surroundings and topographical conditions of the property upon which a petition for a variance are based are unique to the property for which the variance is sought and are not applicable, generally, to other property with the same zoning classification.*

POSITIVE. Due to the slope of the property, location of the geothermal wells and septic, locating the new garage in the proposed location is the most feasible option for the applicant.

2. *The conditions upon which a petition for a variance are based are unique to the property for which the variance is sought and are not applicable, generally, to other property with the same zoning classification.*

POSITIVE. Due to the slope of the property, location of the geothermal wells and septic, locating the new garage in the proposed location is the most feasible option for the applicant.

3. *Granting the variance will not be detrimental to the public welfare, nor injurious to other property or improvements in the neighborhood in which the property is located.*

POSITIVE. There are other similar structures in the area which are of the same distance from the road. Allowing the Variance will not be detrimental to the area.

4. *The proposed variance will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion in public streets or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

POSITIVE. The Morton Township Road Commissioner had no objections to the request.

5. *The purpose of the variance is not based exclusively upon a desire to increase the monetary gain realized from the property.*

POSITIVE. The applicant simply wishes to use the new garage for additional storage.

6. *Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district.*

POSITIVE. There are other similar structures in the area which are of the same distance from the road.

7. *The alleged difficulty or hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property.*

POSITIVE.

8. *The plight of the owner is due to unique circumstances.*

POSITIVE. Due to the slope of the property, location of the geothermal wells and septic, locating the new garage in the proposed location is the most feasible option for the applicant.

Moved by Connett, seconded by Zimmerman, to accept the findings of fact as discussed. **Motion carried by voice vote.**

On roll call to approve of **Case No. 11-02-V** the vote was:

Ayes: 6 – Baum, Connett, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 – Lessen

Motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, February 8, 2011, (Meeting Canceled as no Zoning Cases were filed for Hearing)** at 6:00 p.m. in the Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois.

ADJOURNMENT

There being no further business, moved by Connett, seconded by Zimmerman, to adjourn the Zoning Board of Appeals Public Hearing at 6:35 p.m.

Kristal Deininger, Secretary

Secretary's Note: For further information regarding the discussion and testimony during the Public Hearing, please contact the Community Development Department for copies of the transcripts.