

**(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, March 1, 2011, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, Monica Connett, Duane Lessen, Loren Toevs, Robert Vogelsang, Alternate Phil Webb and Ken Zimmerman

ABSENT: JoAn Baum

STAFF: Kristal Deininger, Community Development Administrator; Matt Drake, Assistant States Attorney; Melissa Kreiter, Administrative Assistant; Nick Hayward, Land Use Planner and Land Use Members: Chairman Carroll Imig, Joyce Antonini, K. Russell Crawford, Rosemary Palmer, Mel Stanford, Sue Sundell

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Vogelsang, seconded by Toevs, to approve the Minutes of the January 4, 2011 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

CASE NO. 11-04-Z: The petition of Michael Tibbs for a Map Amendment to the Official Groveland Township Zoning Map of Tazewell County to change the zoning classification of property from a R-1 Low Density Residential Zoning District to a R-R Rural Residential Zoning District

The Tazewell County Land Use Planner submitted a report identifying 11 Negative Findings of Fact.

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

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

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

Ron Sieh, City of Pekin submitted a report stating the proposed Rezoning request would not be a problem with the City of Pekin.

Dave Risinger, Groveland Township Road Commissioner made no comment regarding the proposed Rezoning request.

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

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

Michael Tibbs appeared to testify on behalf of the proposed Rezoning request. Mr. Tibbs provided each of the ZBA members with a handout of Zoning Maps, a copy of the Findings of Fact he had proposed as Positive and photos of the property and other properties in the general vicinity. Mr. Tibbs referred to a Zoning Map of the area pointing out areas where a Horse Boarding facility was located and where a new dwelling had been constructed. Mr. Tibbs stated he had lived in the area for 29 years now and was very knowledgeable of the development trends. Mr. Tibbs said horses and cattle are raised in the area where there are fairly substantial homes constructed. Mr. Tibbs noted how much of the area surrounding his property was Zoned for Agriculture and stated he felt Agriculture was more intrusive to Residential than a Rural Residential classification would be. Mr. Tibbs added the only area suitable for any type of agriculture on his property would be behind where his dwelling was located, which was at least 400' from any other dwelling in the area. Mr. Tibbs stated if further subdividing of land were to be done in the area, only the front portions of the land, closer to the road would be suitable due to the large amount of slopes and trees located on the land. Mr. Tibbs then discussed each of the 11 Findings of Fact explaining how he came to the conclusion each Finding should be Positive. Mr. Tibbs said he only wanted to raise pheasant and quail, in cages, as a recreational hobby for himself. Mr. Tibbs added he would not be selling the game he raised. Mr. Tibbs stated he would utilize a covered area on the back of an existing building to shelter the pheasant and quail. Mr. Tibbs said he felt Rural Residential gave more control over Agriculture than rezoning to Agriculture. Mr. Tibbs added he only wanted around 20 to 25 of the pheasant and quail. Mr. Tibbs state he understood the concern of Rezoning the land and Rural Residential would be the most suitable for the area given the existing uses of land in the area.

Following all Public Hearings, moved by Toevs, seconded by Vogelsang, to recommend approval of **Case No. 11-03-Z**.

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 proposed amendment shall not be detrimental to the orderly development of Tazewell County.*

NEGATIVE. The proposed amendment will be detrimental to the orderly development of Tazewell County because the subject property is located within one mile of the municipalities of Creve Coeur, East Peoria, Marquette Heights and Pekin. Therefore, the general area is suitable for future community growth, and rezoning the subject property to RR will compromise the general area's current status as a location for future community growth.

2. *The proposed amendment shall not be detrimental to or endanger the public health, safety, morals or general welfare of Tazewell County.*

NEGATIVE. The proposed amendment will be detrimental to the general welfare of Tazewell County because the rezoning will allow for up to 8 farm animals to be maintained on the subject property. The subject property is adjacent to two single-family dwellings located on lots slightly larger than one-half acre and one acre; the subject property also is located across Zion Oaks Road from the Oakcrest subdivision that contains multiple single-family dwellings approximately one-half acre in size. The raising of farm animals is not compatible with the nearby single-family residential development, so the proposed amendment will be detrimental to the general welfare.

3. *The request is consistent with existing uses of property within the general area of the property in question.*

NEGATIVE. The general area is somewhat rural because portions of the general area are wooded and there are some agricultural parcels in the area. However, the immediate area consists of single-family dwellings and wooded areas, and the proposed rezoning will allow for agricultural uses. Agricultural uses would conflict with the existing residential uses, so the request is not consistent with existing uses of property.

4. *The request is consistent with the zoning classifications of property within the general area of the property in question.*

NEGATIVE. A substantial portion of property within the general area is zoned R-1 for low-density residential uses. Some property within the general area is zoned A-1 for agricultural uses, but land immediately surrounding the subject property is zoned R-1. Therefore, the request is not consistent with the existing zoning classifications of property.

5. *The suitability of the property in question for the uses permitted under the existing zoning classification.*

NEGATIVE. The existing zoning classification is R-1, and the property is suitable for single-family residences because it is adjacent to other single-family residences and located in close proximity to Creve Coeur, East Peoria, Marquette Heights and Pekin.

6. *The suitability of the property in question for the uses permitted under the proposed zoning classification.*

NEGATIVE. The proposed RR zoning classification permits agricultural uses. Although the subject property is rather large and adjacent to wooded open space, it is also adjacent to single-family residences and located across Zion Oaks Road from a residential subdivision that contains multiple dwellings on lots approximately one-half acre in size. Therefore, the property is not suitable for agricultural uses, so the property is not suitable for the proposed zoning classification.

7. *The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the property in question was placed in its present zoning classification.*

NEGATIVE. The trend of development has been toward single-family residential development as evidenced by the development of the Oakcrest subdivision across Zion Oaks Road from the

subject property. The proposed rezoning to RR would run counter to this development trend, so the proposed rezoning is not suitable.

8. *The length of time the property has been vacant as zoned, considered in the context of the land development in the area surrounding the subject property.*

NEGATIVE. The property is not vacant; it contains an occupied single-family dwelling. Therefore, a rezoning is not needed to enable the property to be occupied.

9. *The proposed map amendment is within one and one half (1 ½) miles of a municipality and consistent with an adopted Comprehensive Plan.*

NEGATIVE. The subject property is within one-and-one-half miles of Marquette Heights and is mapped on its Comprehensive Plan. The property is identified as targeted for low density residential uses according to the Comprehensive Plan. Therefore, the proposed map amendment is not consistent with an adopted Comprehensive Plan.

10. *The relative gain to the public as compared to the hardship imposed upon the individual property owner.*

NEGATIVE. The rezoning will not result in a gain to the public and could be detrimental to orderly development if agricultural uses are developed that conflict with the nearby single-family residences. The rezoning does not impose a reasonable hardship on the individual property owner because the property can still be used for a viable use. Therefore, the proposed rezoning is not suitable.

11. *The proposed amendment is consistent with the goals, objectives, and policies of the Tazewell County Comprehensive Plan.*

NEGATIVE. The proposed amendment is not consistent with the following Tazewell County Comprehensive Plan objective: "Minimize conflicts and incompatibilities between agriculture and other land uses."

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

On roll call to recommend approval of **Case No. 11-03-Z** the vote was:

Ayes: 0

Nays: 7 – Connett, Lessen, Toevs, Vogelsang, Alt. Webb, Zimmerman and Chairman Newman

Absent: 1 – Baum

Motion Failed.

The Zoning Board of Appeals further directed the Administrator to draft an Amendment to the Zoning Code to be presented for consideration to the Land Use Committee, allowing for certain uses such quail, pheasant, and potentially other similar uses under strict regulation in a R-1 Low Density District.

CASE NO. 11-04-V: The petition of Jason Proehl for a Variance to waive the requirements of 7TCC 1-7 (c) to allow the creation of two (2) new zoning lots of record which will not have road frontage along a public road in an A-1 Agriculture Preservation Zoning 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 has a direct impact on agriculture and recommended approval regarding the proposed Variance request.

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

Butch Knaak, Spring Lake Township Road Commissioner submitted a report having no objection regarding the proposed Variance request.

District 191 Schools were notified and made no comment regarding the proposed Variance request.

Jason Proehl appeared to testify on behalf of the proposed Variance request. Mr. Proehl stated he and a family member purchased the farm land and wanted to divide the land to reflect the ownership. Mr.

Proehl said the land would be divided into 2 tracts by the tillable acreage. Mr. Proehl added the land had been accessed by a private easement for over 50 years. Mr. Proehl stated there is now a recorded Easement in place and there was no chance of ever having any road frontage. Mr. Proehl said the land was for farming only and there were no plans of building any dwellings as the land was subject to flooding as it was located along Spring Lake.

Following all Public Hearings, moved by Zimmerman, seconded by Webb, to approve **Case No. 11-04-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. The existing lot has always been accessed by an implied easement and there is no other alternative to gain the required road frontage for either lot.

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. The existing lot has always been accessed by an implied easement and there is no other alternative to gain the required road frontage for either lot.

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. The existing lot has always been accessed by an implied easement and there is no other alternative to gain the required road frontage for either lot.

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 existing lot has always been accessed by an implied easement and there is no other alternative to gain the required road frontage for either lot and there will be no other changes to the character of the property.

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

POSITIVE. Allow this is a purchase of land, there is no other alternative for access to either property and the existing lot has always been accessed by an implied easement. Granting the Variance will allow the property to be accessed via an agricultural easement and alleviates the properties from being fully landlocked by having proper zoning approval and recorded easements.

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. The existing lot has always been accessed by an implied easement and there is no other alternative to gain the required road frontage for either lot and there will be no other changes to the character of the property.

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. The existing lot has always been accessed by an implied easement and there is no other alternative to gain the required road frontage for either lot and there will be no other changes to the character of the property.

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

POSITIVE. The existing lot has always been accessed by an implied easement and there is no

other alternative to gain the required road frontage for either lot and there will be no other changes to the character of the property.

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

On roll call to approve of **Case No. 11-04-V** the vote was:

Ayes: 7 – Connett, Lessen, Toevs, Vogelsang, Alt. Webb, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 – Baum

Motion declared carried.

CASE NO. 11-05-V: The petition of Dustin Seaton for a Variance to waive the requirements of 7TCC1-7(g)(1)(iii) to allow construction of an unattached garage to be 79' from the Centerline of Woodview Court, which is 21' 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 has no direct impact on agriculture and recommended approval regarding the proposed Variance request.

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

Kenneth Siegrist, Dillon Township Road Commissioner submitted a report having no objection regarding the proposed Variance request.

District 703 Schools were notified and made no comment regarding the proposed Variance request.

Dustin Seaton appeared to testify on behalf of the proposed Variance request. Mr. Seaton stated he built a house on the property in 2002 and had accumulated more items than he had storage for. Mr. Seaton said he had 2 acres of land and there was plenty of room for a garage, however due to the slopes of the land there was a limit on level terrain. Mr. Seaton added he chose the location due to the levelness and the location of the driveway.

Following all Public Hearings, moved by Vogelsang, seconded by Connett, to approve **Case No. 11-05-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 elevation of the property, location of the existing well and septic, the applicant has no other alternative for placement of the new garage.

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. This area is a designated subdivision, but remains zoned as A-1, if the proposed site was zoned R-1 which is a more compatible zoning for the area, the applicant would meet the required setbacks for the R-1 Zoning District.

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. Allowing the Variance will not be detrimental to the public welfare, or other property in 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 proposed location of the new structure will not impair supply of light or create congestion in the public streets.

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 is simply requesting to construct the new building for needed 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. Due to the elevation of the property, location of the existing well and septic, the applicant has no other alternative for placement of the new garage. Further this area is a designated subdivision, but remains zoned as A-1, if the proposed site was zoned R-1 which is a more compatible zoning for the area, the applicant would meet the required setbacks for the R-1 Zoning District.

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. This area is a designated subdivision, but remains zoned as A-1, if the proposed site was zoned R-1 which is a more compatible zoning for the area, the applicant would meet the required setbacks for the R-1 Zoning District.

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

POSITIVE. Due to the elevation of the property, location of the existing well and septic, the applicant has no other alternative for placement of the new garage. Further, this area is a designated subdivision, but remains zoned as A-1, if the proposed site was zoned R-1 which is a more compatible zoning for the area, the applicant would meet the required setbacks for the R-1 Zoning District.

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

On roll call to approve of **Case No. 11-05-V** the vote was:

Ayes: 7 – Connett, Lessen, Toevs, Vogelsang, Alt. Webb, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 – Baum

Motion declared carried.

CASE NO. 11-06-A: Proposed Amendment No. 36 to the Tazewell County Zoning Code referred for hearing by the Tazewell County Land Use Committee.

SECTION 1.

ARTICLE 20

SIGNS

Add the new verbiage as italicized and underlined:

7 TCC 1-20 (l) Off Premises Signs and Billboards. Off-premises signs, such as but not limited to billboards, may be permitted as special uses in the C-2 zoning district along **primary and** interstate highways, and the I-1, and I-2 zoning districts in accordance with the procedures and standards as set forth in Article 25 (Special Uses), provided the following requirements are also met:

- (1) Signs shall be constructed of steel with mono-pole and shall not be stacked;
- (2) Signs shall not exceed three hundred (300) square feet per sign face;
- (3) No sign shall exceed thirty (30) feet in height;
- (4) Signs shall be separated by one-quarter (1/4) mile along the same road frontage; and

- (5) Wherever applicable, signs shall comply with the standards of the Illinois Outdoor Advertising Control Act of 1971, as amended (225 ILCS 440/1 et.seq.).

SECTION 2. This amendatory ordinance shall take effect upon passage as provided by law.

Tazewell County Health Department made no comment regarding the proposed Amendment.

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

The Tazewell County Farm Bureau submitted a report stating this case may have an impact on Agriculture and recommended approval regarding the proposed Amendment.

Ron Sieh, City of Pekin, submitted a letter stating the proposed Amendment would not be a problem with the City of Pekin and that the City recently revised its' City Code to be in line with the State Code regarding Billboards.

Jon Oliphant, City of Washington, submitted a letter stating the proposed Amendment was supported by the City of Washington.

Roger Spangler with the Village of Morton submitted a letter stating the Village had no concerns regarding the proposed Amendment.

Community Development Administrator Deininger reviewed the proposed Amendment and explained to the ZBA the reason for the changes. Ms. Deininger stated a request of this Amendment was proposed in June of 2010 to the Land Use Committee at which time they did not recommend it be brought before the ZBA for a public hearing. Ms. Deininger said she was recently approached by an individual requesting reconsideration be given to allow billboard signs a state highway in a C-2 Zoning District by Special Use. Ms. Deininger added when the Zoning Code was written, the original intent was to allow signs of this nature along state highways, however, the wording was inadvertently left out. Ms. Deininger stated the proposed Amendment should be worded to read "State Highway" in order to rule out the possibility of constructing signs along county highways.

Robert Burress appeared to testify on behalf of the proposed Amendment. Mr. Burress stated he had an interest in signage constructed along state highways. Mr. Burress said the sign would be located in a business district only and he would bring in site plans to the County for areas to be approved. Mr. Burress added he was in the advertising business with other associates. Mr. Burress stated the proposed Amendment was not uncharacteristic as other Counties and Municipalities in the Tri-County area allow for such signs.

Following all Public Hearings, moved by Toevs, seconded by Webb, to recommend approval of **Case No. 11-06-A** to the Tazewell County Board.

Following discussion, moved by Lessen, seconded by Connett to Amend the Main Motion so that the Amendment shall read:

*Strike areas as originally proposed and insert new language as underlined and in bold:

7 TCC 1-20 (l) Off Premises Signs and Billboards. Off-premises signs, such as but not limited to billboards, may be permitted as special uses in the C-2 zoning district along ~~primary~~ state, U.S. designated highways, and interstate highways, and the I-1, and I-2 zoning districts in accordance with the procedures and standards as set forth in Article 25 (Special Uses), provided the following requirements are also met:

Motion carried by voice vote for the amendment.

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

1. *The proposed amendment shall not be detrimental to the orderly development of Tazewell County.*
2. *The proposed amendment shall not be detrimental to or endanger the public health, safety, morals or general welfare of Tazewell County.*

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

On roll call to recommend approval of **Case No. 11-06-A as amended** the vote was:

Ayes: 7 – Connett, Lessen, Toevs, Vogelsang, Alt. Webb, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 – Baum

Motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Monday, April 4, 2011** 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 7:50 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.