

**(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 Monday, April 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, Duane Lessen, Loren Toevs, Robert Vogelsang, and Ken Zimmerman

ABSENT: None

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, Terry Hillemonds, Darrell Meisinger, Rosemary Palmer, Mel Stanford, Sue Sundell

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Lessen, seconded by Toevs, to approve the Minutes of the March 1, 2011 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

CASE NO. 11-07-S: The petition of Robert D. Morgan for a Special Use to allow for the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District.

The Tazewell County Land Use Planner submitted a report identifying 11 Positive Findings of Fact and 3 Negative 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 recommending approval 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 with restrictions regarding the proposed Special Use request.

Terry Lohnes, Elm Grove Township Road Commissioner made no comment regarding the proposed Special Use request however, an entrance permit has been issued for the property as of February 13, 2011.

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

School Districts 98 and 303 made no comment regarding the proposed Special Use request.

Robert Morgan appeared to testify on behalf of the proposed Special Use request. Mr. Morgan stated he would like to build a new dwelling on land deeded to him from his parents. Mr. Morgan said there was an existing concrete crossing currently used for large equipment and he would construct a bridge/culvert to cross Lost Creek.

Following all Public Hearings, moved by Vogelsang, seconded by Baum, to approve **Case No. 11-07-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. *That 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. Special Uses when combined with Variances for this same property shall be considered compliant for the purposes of this section.*

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 proposed Special Use is consistent with the following County Comprehensive Land Use Plan objective: "Permit rural non-farm residential growth in areas of non-prime farmland at densities that protect the rural character and the quality of surface and ground water resources."

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 set within wooded areas to the north, west and south and wooded land to the east. The proposed Special Use will be a single-family dwelling set within a wooded area, so it will be compatible with the uses on the adjacent properties. Therefore, adverse effects 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. As the Special Use is consistent with the surrounding uses it will not be detrimental to or endanger the public health, safety, morals, comfort or welfare of the neighborhood.

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 either used for residential purposes or is undeveloped. The proposed Special Use will be a residential use very similar in nature to the existing residential uses, so it will not create impacts that will be harmful to the existing residential uses. Therefore, the proposed Special Use will not be injurious to the use and enjoyment of other property.

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

POSITIVE. The general area consists of large-lot single-family dwellings set within wooded areas, some agricultural land, and undeveloped wooded areas. The proposed Special Use will be a large-lot single-family dwelling within a wooded area, so it will be very similar to existing uses and will not cause substantial change in the general area. Therefore, the proposed Special Use will not substantially impair property values.

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

POSITIVE. Written verification of the road commissioner was received granting the applicant an entrance permit to the proposed site and all other necessary facilities will be provided for.

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. Written verification of the road commissioner was received granting the applicant an entrance permit to the proposed site.

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 proposed Special Use will be located on a parcel that has already been divided from an existing residential property, so it will not affect the division of any other properties. In addition, the general area already contains multiple single-family dwellings set within wooded areas, so the proposed Special Use will not exert development pressure to an extent that will result in a significant increase in population density. Therefore, the proposed Special Use will not hinder the operation or expansion of any nearby livestock feeding operations.

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 proposed Special Use is a new dwelling to be located in an area that already contains several single-family dwellings, so it will not exert development pressure to an extent that will result in land use changes occurring greater than one-half mile away. Therefore, the proposed Special Use will not hinder the operation or expansion of any livestock feeding operations located greater than one-half mile away.

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

POSITIVE. The site is primarily wooded with steep slopes. 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 large-lot single family dwellings set within wooded areas, undeveloped wooded areas, and agricultural land. The proposed Special Use is a large-lot single-family dwelling set within a wooded area, so it will be 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.

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

On roll call to approve **Case No. 11-07-S** the vote was:

Ayes: 7 – Baum, Connett, Lessen, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Motion declared carried.

CASE NO. 11-08-S: The petition of David & Kora Kirgan as Trustees of the Kirgan Family Trust for a Special Use to allow creation of one new dwelling site in an A-1 Agriculture Preservation 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 recommending approval regarding the proposed Special Use request.

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

Village of South Pekin made no comment regarding the proposed Special Use request.

Ron Hawkins, Cincinnati Township Road Commissioner submitted a report regarding the proposed Special Use request stating the driveway location would be determined at the time an entrance permit would be issued.

John Anderson, Tazewell County Highway Engineer submitted a report regarding the proposed Special Use request stating the driveway location should be discussed with the Township Road Commissioner.

School Districts 98 and 303 made no comment regarding the proposed Special Use request.

David Kirgan appeared to testify on behalf of the proposed Special Use request. Mr. Kirgan stated he was informed by the Community Development Department he needed approval from the Zoning Board prior to constructing a new dwelling on his property. Mr. Kirgan said he had no immediate plan for construction. Mr. Kirgan added he and his wife purchased the property ‘as is’ with the intention of possibly constructing a dwelling upon their retirement.

Following all Public Hearings, moved by Zimmerman, seconded by Connett, to approve **Case No. 11-08-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. *That 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. Special Uses when combined with Variances for this same property shall be considered compliant for the purposes of this section.*

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 proposed Special Use is consistent with the following County Comprehensive Land Use Plan objective: "Permit rural non-farm residential growth in areas of non-prime farmland at densities that protect the rural character and the quality of surface and ground water resources."

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 a large-lot single-family dwelling to the north, farmland to the west, a farmstead to the south, and wooded land to the east. A large-lot single-family dwelling will be compatible with the existing residential, agricultural and open space uses, so adverse effects of the proposed 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 large-lot single family dwellings set within wooded areas, undeveloped wooded areas, and agricultural land. A large-lot single-family dwelling will be compatible with these existing uses in the neighboring vicinity, so the proposed Special Use will not endanger the public health, safety, morals, comfort or general welfare.

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 residential and agricultural uses; other property is undeveloped. The addition of a large-lot single-family dwelling will be in keeping with the character of the area and will be compatible with the existing residential and agricultural uses. Therefore, the proposed Special Use will not be injurious to the use of 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 residential and agricultural uses, and the addition of a large-lot single-family dwelling will be similar to the existing residential uses in the general area. Therefore, the proposed Special Use will not bring substantial change to the general area, so it will not substantially impair property values within the general area.

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

POSITIVE. The applicant indicates that all necessary facilities will be provided.

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 will be accessed via a driveway off of 14th Street. The addition of one single-family dwelling at this location will not generate a substantial number of vehicle trips, and it appears that the driveway will have adequate sight distances, so the proposed Special Use will not lead to traffic congestion or hazard on the public streets.

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 general area already consists of several large-lot single-family dwellings, so the addition of one new dwelling will not exert substantial development pressure in the general area. Therefore, the proposed Special Use will not increase the population density of the general area to a level that would hinder the operation or expansion of any nearby livestock feeding operations.

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 proposed Special Use is for a large-lot single-family dwelling in an area that already contains several large-lot single-family dwellings. Therefore, it will not exert development pressure to an extent that would lead to land use changes more than one-half mile away, so the proposed Special Use will not hinder the operation or expansion of any livestock feeding operations located more than one-half mile away.

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

POSITIVE. The site has rolling terrain and is wooded; it is not used for agriculture. 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 large-lot single-family dwellings set within wooded areas, agricultural uses, and undeveloped wooded areas. The proposed Special Use will be consistent with the existing residential uses and will not adversely affect the existing agricultural uses due to its large-lot nature. Therefore, the proposed Special Use will be consistent with the 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.

Moved by Lessen, 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 **Case No. 11-07-S** the vote was:

Ayes: 7 – Baum, Connett, Lessen, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Motion declared carried.

CASE NO. 11-09-S: The petition of Rick Lord for a Special Use to allow the construction of an Accessory Structure (Pole Building) to be 2,400 square feet, which will bring the total square footage of all accessory structures to 3360 square feet, which is 1,509 square feet larger than allowed in an R-1 Low Density Residential 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 regarding the proposed Special Use request stating the case may have an impact on Agriculture and recommended approval.

Village of South Pekin made no comment regarding the proposed Special Use request.

John Anderson, Tazewell County Highway Engineer submitted a report regarding the proposed Special Use request stating no issue.

School Districts 98 and 303 made no comment regarding the proposed Special Use request. Rick Lord appeared to testify on behalf of the proposed Special Use request. Mr. Lord stated he would like to construct a Pole Building for additional storage. Mr. Lord said the structure would be for personal storage only and would be 60' x 40'.

Following all Public Hearings, moved by Baum, seconded by Vogelsang, to approve **Case No. 11-09-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. *That 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. Special Uses when combined with Variances for this same property shall be considered compliant for the purposes of this section.*

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 discuss accessory structures. However, the proposed accessory structure will be compatible with the existing residential character of the area and will not cause negative impacts for nearby properties. Therefore, the proposed Special Use is judged 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 vacant land to the north, farmland to the south, and a single-family dwelling to the east and west. The proposed accessory structure will be screened to the east by an existing stand of evergreen trees and is similar in size to an existing accessory structure on the property to the west. The accessory structure will be used for personal storage and will be compatible with the surrounding residential properties, so any adverse effects on adjacent properties 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 proposed accessory structure will meet all applicable setbacks, will not restrict a sufficient quantity of light and air from reaching adjacent properties, and will be compatible with the existing residential properties. Therefore, the establishment of this Special Use will not be detrimental to the public health, safety, morals, comfort or general welfare.

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 residential and agricultural purposes. The proposed accessory structure will have no impact on the nearby agricultural use and it will be compatible with the nearby residential uses because it will be used for personal storage and other accessory structures are located on nearby residential properties. Therefore, the proposed Special Use will not be injurious to the use 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 residential and agricultural uses, and accessory structures similar in size to the proposed Special Use exist on nearby residential properties. Therefore, the proposed Special Use will not cause substantial change in the general area, so it will not substantially impair property values in the general area.

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

POSITIVE. Adequate utilities exist on site and the existing access drive will be used to access the accessory structure, so all necessary facilities will be provided.

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 proposed accessory structure will be accessed via the existing driveway onto Townline Road, and an accessory structure used for personal storage will not generate additional vehicular trips. Therefore, 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. This finding is not applicable for this particular request.

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 proposed Special Use is an accessory structure, and by its nature, it will not generate any development pressure that would lead to an increase in population density in the general area. Therefore, the proposed accessory structure will not hinder the operation or expansion of any livestock feeding operation located greater than one-half mile away.

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

POSITIVE. The site is occupied by a residential use and is not used for agriculture. 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 single-family residential uses and agricultural land. Nearby single-family residential uses have accessory structures, and the proposed accessory structure will not cause negative impacts or nearby properties. Therefore, the proposed Special Use will be consistent with the 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.

Moved by Toevs, seconded by Connett, to accept the findings of fact of the Land Use Planner as written.

Motion carried by voice vote.

On roll call to approve **Case No. 11-09-S** the vote was:

Ayes: 7 – Baum, Connett, Lessen, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Motion declared carried.

CASE NO. 11-10-S: The petition of Bobby and Christal Hackney for a Special Use to allow the construction of an 8' x 24' Addition to Accessory Structure (Covered Porch on an Unattached Garage) to be 192 square feet, which will bring the total square footage of all accessory structures to be 960 square feet, which is 108 square feet larger than allowed in an R-1 Low Density Residential 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 regarding the proposed Special Use request having no comment.

Tazewell County Farm Bureau submitted a report stating this case had no impact on Agriculture and made no recommendation regarding the proposed Special Use request.

Butch Knaak, Spring Lake Township Road Commissioner made no comment regarding the proposed Special Use request.

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

School District 191 made no comment regarding the proposed Special Use request.

Bobby Hackney appeared to testify on behalf of the proposed Special Use request. Mr. Hackney stated he would like to construct a roof over a patio area attached to his unattached garage. Mr. Hackney said the proposed roof area would be to keep out of the elements while grilling or having get togethers.

Following all Public Hearings, moved by Baum, seconded by Connett, to approve **Case No. 11-10-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. *That 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. Special Uses when combined with Variances for this same property shall be considered compliant for the purposes of this section.*

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 discuss accessory structures. However, the proposed addition to an accessory structure will be compatible with the existing residential character of the area and will not cause negative impacts for nearby properties. Therefore, the proposed Special Use is judged 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. The site is located in a single-family residential neighborhood. It is a corner lot bounded by Norwood Drive to the north and northwest and Evergreen Drive to the east. Single-family dwellings are located to the north, northwest, east and south, and a parcel with an accessory structure is located to the southwest. The covered porch addition will meet the applicable setback and will not detract from the residential character of the area, so adverse effects 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 proposed covered porch addition will not restrict a sufficient quantity of light and air from reaching the adjacent properties to the south and southwest, and it will be compatible with the existing residential properties and accessory structures. Therefore, the establishment of this Special Use will not be detrimental to the public health, safety, morals, comfort or general welfare.

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 residential purposes. The proposed covered porch addition will be compatible with the nearby residential uses because other accessory structures are located on nearby residential properties. Therefore, the proposed Special Use will not be injurious to the use 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 is a single-family residential neighborhood, and accessory structures similar in nature to the proposed Special Use exist on nearby residential properties. Therefore, the proposed Special Use will not cause substantial change in the general area, so it will not substantially impair property values in the general area.

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

POSITIVE. Adequate utilities exist on site, so all necessary facilities for the covered porch addition will be provided.

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 garage to be built will have sufficient access via two access drives, and the covered porch addition will not impact vehicular traffic circulation. Therefore, 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. This finding does not apply to this particular request.

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 proposed Special Use is an addition to an accessory structure located in a fully-developed residential neighborhood away from agricultural uses. Therefore, the proposed Special Use will not hinder the operation or expansion of any livestock feeding operations.

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

POSITIVE. The site is occupied by a residential use and is not used for agriculture. 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 single-family residential uses. Nearby single-family residential uses have accessory structures, and the proposed covered porch addition will not cause negative impacts for nearby properties. Therefore, the proposed Special Use will be consistent with the 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.

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

On roll call to approve **Case No. 11-10-S** the vote was:

Ayes: 7 – Baum, Connett, Lessen, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Motion declared carried.

CASE NO. 11-11-V: The petition of Billy J. Allman for a Variance to waive the requirements of 7TCC1-7(f) for an existing Non-Conforming Zoning Lot of record having no frontage on a public road and to allow access via a express ingress and egress easement 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 regarding the proposed Variance request stating this case has a direct impact on Agriculture and recommended disapproval.

Ron Sieh, City of Pekin made no comment regarding the proposed Variance request.

Village of Marquette Heights made no comment regarding the proposed Variance request.

Dave Risinger, Groveland Township Road Commissioner submitted a letter having no objection regarding the proposed Variance request.

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

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

NOTE – THE FOLLOWING TESTIMONY INCLUDES TESTIMONY CONDUCTED FOR CASE 11-12-S AND 11-13-V.

Scott Allman appeared to testify on behalf of the proposed Variance and Special Use requests. Mr. Allman said he was the son of Billy Allman the petitioner, and the owner and operator of the proposed business. Mr. Allman stated the property was purchased with intent to locate the business on the site and to make improvements to the building and property, so therefore in the interim there may be more traffic up and down the road. Mr. Allman said on a normal basis there would be in and out traffic once or twice a day related to the business, if that. Mr. Allman added his equipment is normally stored at the current jobsite and then is transferred directly to the next jobsite. Mr. Allman stated the equipment would be brought back to the proposed site for lapse between jobs or when maintenance is needed to be performed. Mr. Allman said he would maintain the roadway if there were any damage generated. Mr. Allman added he was a small operation and had 3 to 4 employees and that was as many as he could handle. Mr. Allman stated he would add onto the building in order to get his larger equipment inside and out of the weather elements and for repair. Mr. Allman submitted pictures of other contractor/construction type businesses in the area. Mr. Allman said his equipment was half of the size of most equipment used in Agriculture and he would have lesser impact on the road than the Agriculture equipment. Mr. Allman added he guessed at a number of parking spaces on his application and the number he utilized did not reflect the number of spaces he needed. Mr. Allman stated he would not paved a parking area. Mr. Allman said his business installed concrete, sewer and septic systems, handles residential properties and some small scale commercial business, such as waterlines. Mr. Allman added no fill dirt or waste would be brought to the site and he would work with the Stuckey family on the maintenance of the roadway. Mr. Allman said his business was not in operation year round and was dependent on the weather conditions. Mr. Allman added there would be no employees based at the proposed site permanently and there would be fuel storage at the site in a suitable container, no different than what a farm operation would have. Mr. Allman stated he had been in the construction business for years and found the property and closed on it within a week due for fear that he may lose the property to another prospective buyer. Mr. Allman said he did have knowledge of the easement agreement at the time of closing.

Attorney Wayne Carmichael appeared representing Mr. Allman. Mr. Carmichael propounded questions to Mr. Allman regarding the proposed Variance and Special Use requests. Mr. Carmichael submitted a picture and a 1978 Plat of Survey. Mr. Carmichael said the road was not new and it had been there for at least 75 years. Mr. Carmichael added he once represented the former owner, Gamble, who had used the road for years. Mr. Carmichael referenced a memo regarding the access and said he only drafted the easement after a disagreement with the Community Development Department as his client did not want to wait 6 months or more to resolve the dispute. Mr. Carmichael stated the road became public through a Common Law dedication. Mr. Carmichael said if the road were not public, then the respectable land surveyor would not have shown it as a public road in 1978. Mr. Carmichael added there was a written agreement regarding the maintenance of the public road. Mr. Carmichael stated the Community Development Administrator was wrong in stating the proposed property had no road frontage and was landlocked. Mr. Carmichael said his client was only proceeding with an easement agreement to appease the Zoning Code and save time. Mr. Carmichael added an owner by the name of Strickfaden once owned all of the land in the area and they had requested a survey plat in 1978 and had intended the lane in question to be a "Public Road" and the plat stated it as such. Mr. Carmichael stated he appealed to the ZBA's common sense on what Strickfaden had intended. Mr. Carmichael again read from a memorandum submitted to the Community Development Department and said if the property were landlocked it would not have passed through Title Companies and various attorneys.

Attorney Kenneth Eathington appeared to represent Norma Stuckey. Mr. Eathington stated he had been retained by Norma Stuckey, who currently owned the adjacent land and the access road in question. Mr. Eathington asked Mr. Allman a series of questions regarding the Easement Agreement and said it was important the ZBA understood the Easement Agreement was not written for commercial purposes. Mr. Eathington questioned Mr. Allman about his business and if the other businesses he had detailed in his testimony were located along a public road. Mr. Eathington said the issue was not whether there was ingress or egress for the proposed property but that the ingress and egress easement was not to be used for commercial. Mr. Eathington further questioned Norma Stuckey and Harold Mooberry regarding the proposed easement. Mr. Eathington added the lane was never dedicated as a public road and it was a private lane therefore the land owner of the lane could restrict the use of the lane. Mr. Eathington stated the Petitioner new of the easement agreement stipulations at the time of his purchase. Mr. Eathington said the 1978 Plat was not a common-law dedication, but simply a mistake by a Land Surveyor.

Norma Stuckey appeared to testify against the proposed Variance and Special Use requests. Mrs. Stuckey stated she has owned the farm since 1995 but it had been in the family since 1959. Mrs. Stuckey said her property was adjacent to the East of the proposed site and she also owned the land to the North and the South of the lane. Mrs. Stuckey added the lane was never a public road and she had obtained an Affidavit from the Groveland Township Road Commissioner stating it was not a public road. Mrs. Stuckey did not dedicate the lane for public use and Groveland did not accept the road as a public road. Mrs. Stuckey stated her brother took care of the snow removal and he was the one who actually maintains the road. Mrs. Stuckey said the lane was just a cow path for many years and was used by area farmers to access the next field. Mrs. Stuckey added the proposed 2 acre parcel was once part of a larger farm and did not know it had been separated until the prior owner listed the property for sale. Mrs. Stuckey stated she had called the sheriff many times for improper use of the private land and she was concerned if an individual would buy Mr. Allman's business and then expand the business, they may have more problems regarding traffic up and down the easement. Mrs. Stuckey said she had concerns regarding added work for upkeep on the easement and that is why the Easement Agreement stated Ag or Residential Use only. Mrs. Stuckey added she did not reside in the area but her brother operated the farm and was there often. The existing home on her is property is currently rental property.

Harold Mooberry appeared to testify against the proposed Variance and Special Use request. Mr. Mooberry stated he was present at the purchase of land from the Strickfaden family in 1959. Mr. Mooberry said he increased the operations of the farm to increase the cattle and to increase to 40 thousand bushel of corn. Mr. Mooberry added the road was originally a cow path and he had improved the road in 1978 for his own personal use. Mr. Mooberry stated in 1978 the Farm was Mooberry Family Farms when the plat was created and he had no knowledge why the lane was referred to as public. Mr. Mooberry said the proposed site was not situated for commercial and some days the lane needed to be gated in order to move cattle.

Keith Stuckey appeared to testify against the proposed Variance and Special Use requests. Mr. Stuckey stated he was married to Norma Stuckey and he concurred with the testimony given during the meeting and added that the site was not situated for a commercial business and the lane was not a public road.

Other individuals also signed into speak against the request, but following testimony of others choose not to speak and only concurred with the objecting concerns.

Following all Public Hearings, moved by Connett, seconded by Baum, to approve **Case No. 11-11-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. This property is located approximately one quarter of a mile from Cole Hollow Road and was originally part of larger parcel of ground until 1978 when it was created by an inaccurate plat of survey. There is no other feasible way to obtain road frontage due to the property's location from Cole Hollow Road.

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 property is located approximately one quarter of a mile from Cole Hollow Road and was originally part of larger parcel of ground until 1978 when it was created by an inaccurate plat of survey. There is no other feasible way to obtain road frontage due to the property's location from Cole Hollow Road.

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 applicant is simply requesting to allow access to the property via a prescriptive easement to prevent a landlocked parcel of ground. Granting the Variance would allow the current or future land owners to conduct uses on the property which may be permitted uses by the Zoning Code. Under the easement agreement, signed and recorded in January of 2011 with the adjacent property owner, the easement agreement allows access for agricultural, recreational and for no more than one single family residence, therefore the Variance will not be detrimental to the public welfare or to property or improvements 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. Waiving the road frontage requirements will not increase congestion, impair light to adjacent property or endanger the public safety or diminish property values. Under the easement agreement signed and recorded in January of 2011 with the adjacent property owner, the easement agreement allows access for agricultural, recreational and for no more than one single family residence.

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

POSITIVE. Waiving the road frontage requirements is not for monetary gain, but to deviate from the requirements as there is no other feasible way to obtain road frontage due to the property's location from Cole Hollow Road.

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 circumstances in this request are very unique. This property is located approximately one quarter of a mile from Cole Hollow Road and was originally part of larger parcel of ground until 1978 when it was created by in an inaccurate plat of survey. The plat in 1978 incorrectly identified the existing ingress and egress easement of access to the property as an "Existing Public Road" thereby resulting in the plat of survey for said Tract 1 to be created and recorded without the proper road frontage creating a non-conforming lot of record.

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 property is located approximately one quarter of a mile from Cole Hollow Road and was originally part of larger parcel of ground until 1978 when it was created by in an inaccurate plat of survey. The plat in 1978 incorrectly identified the existing ingress and egress easement of access to the property as an "Existing Public Road" thereby resulting in the plat of survey for said Tract 1 to be created and recorded without the proper road frontage creating a non-conforming lot of record.

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

POSITIVE. This property is located approximately one quarter of a mile from Cole Hollow Road and was originally part of larger parcel of ground until 1978 when it was created by in an inaccurate plat of survey. The of 1978 incorrectly identified the existing ingress and egress easement of access to the property as an "Existing Public Road" thereby resulting in the plat of survey for said Tract 1 to be created and recorded without the proper road frontage creating a non-conforming lot of record. There is no other feasible way to obtain rod frontage due to the sites location from Cole Hollow Road.

Moved by Lessen, seconded by Connett, to accept the findings of fact as discussed.

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

Ayes: 7 – Baum, Connett, Lessen, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Motion declared carried.

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

Ayes: 7 – Baum, Connett, Lessen, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Motion declared carried.

CASE NO. 11-12-S: The petition of Billy J. Allman for a Special Use to allow the operation of a Contractor/Construction business in an A-1 Agriculture Preservation Zoning District.

The Tazewell County Land Use Planner submitted a report identifying 12 Positive Findings of Fact and 2 Negative 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 regarding the proposed Special Use request stating this case has a direct impact on Agriculture and recommended disapproval.

Ron Sieh, City of Pekin made no comment regarding the proposed Special Use request.

Village of Marquette Heights made no comment regarding the proposed Special request.

Dave Risinger, Groveland Township Road Commissioner submitted a letter having no objection regarding the proposed Special Use request.

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

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

NOTE – THE TESTIMONY FOR CASE 11-12-S WAS INCLUDED IN THE TESTIMONY LISTED ABOVE IN CASE 11-11-V.

Following all Public Hearings, moved by Baum, seconded by Connett, to approve **Case No. 11-12-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. Special Uses when combined with Variances for the same property shall be considered compliant for the purposes of this section.*

NEGATIVE. Although the Special Use is proposed to conform to all applicable regulations of the Tazewell County Zoning Ordinance subject to approval of the variances in cases 11-11-V and 11-13-V the purpose of the Special Use is to allow uses where the public benefit of such uses outweighs the potential harm. In this case due to the access to the property which is via an easement no there is no benefit to the public and could potentially create harm to the surrounding area due to the commercial nature of the proposed use.

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.*

NEGATIVE. The proposed Special Use will not be consistent with the following County Comprehensive Land Use Plan objective: “Minimize conflicts and incompatibilities between agriculture and other land uses.” The proposed use will generate additional traffic on a easement which is not conducive for this particular use.

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

NEGATIVE. Although all requirements have been met with exception to the purpose of the Special Use which is to allow uses where the public benefit of such uses outweighs the potential harm. In this case due to the access to the property which is via the easement there is no benefit to the public and could potentially create harm to the surrounding area.

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

NEGATIVE. Adjacent properties consist of agricultural uses; agricultural land is located to the north and south, a farmstead is located approximately 860 feet to the west between property lines, and a farmstead is located to the east, with approximately 510 feet between the proposed storage building addition and the farmstead dwelling. Allowing this type of use will not minimize adverse effects and could create potential visual impacts on adjacent properties due to the equipment and materials that are to be stored on site and the additional traffic that will be generated along the ingress and egress easement could create dust and damage and therefore could cause negative impacts on the existing easement.

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.*

NEGATIVE. The neighboring vicinity consists of agricultural land and two farmsteads. The site is accessed via a private ingress and egress easement and does not front along a public road. As a result of these attributes, the proposed Special Use will create adverse effects that will negatively impact the nearby agricultural and residential uses, and could 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.*

NEGATIVE. Property in the immediate vicinity is used for agricultural and residential purposes. The proposed Special Use will create adverse effects that will negatively impact the agricultural and residential uses, and the traffic that would access the site via a private ingress and egress easement will be injurious to the use and enjoyment of other property in the immediate vicinity due to the potential of additional dust along the easement and damage to the easement.

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

NEGATIVE. The general area is agricultural and contains two farmsteads. The uses that will occur as part of the proposed Special Use have the potential to be intensive and will not be compatible with existing agricultural operations. Therefore, the proposed Special Use will cause a substantial change in the general area, that could substantially impair property values in the general area.

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

NEGATIVE. The easement to the site is a narrow gravel lane. The traffic that would access the site via the easement would generate additional dust and potential damage to the easement and a commercial use of this nature is more appropriate if fronting on a public roadway.

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.*

NEGATIVE. The ingress and egress easement road is a narrow gravel lane. A use of this nature would be best located fronting on a public roadway.

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.*

NOT APPLICABLE. This finding does not apply to this type of use.

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.*

NOT APPLICABLE. This finding does not apply to this type of use.

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

POSITIVE: 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.*

NEGATIVE. Existing uses of property within the general area consist of residential and agricultural uses; there is agricultural land to the north and south and a farmstead located to the east and west. The proposed Special Use will be an intensive use and not consistent with the surrounding area.

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

NEGATIVE. The property is not suitable for the Special Use as proposed due to the current access to the site which is via a private ingress and egress easement which is not adequate for a use of this nature. This use would be best located fronting on a public roadway.

Moved by Connett, seconded by Baum, to change Findings 1, 2, 3, 4, 5, 6, 7, 13, and 14 to negative and Findings 10 and 11 to Not Applicable and modify the verbiage in Finding 12, of the report written by the Land Use Planner

On roll call the vote was:

Ayes: 6 – Baum, Connett, Lessen, Toevs, Vogelsang, and Zimmerman

Nays: 1 - Chairman Newman

Motion declared carried.

Moved by Connett, seconded by Baum, to accept the findings of fact of the Land Use Planner as modified.

On roll call to approve the Findings of Fact for **Case No. 11-12-S** the vote was:

Ayes: 6 – Baum, Connett, Lessen, Toevs, Vogelsang, and Zimmerman

Nays: 1 - Chairman Newman

Motion declared carried.

On roll call to approve **Case No. 11-12-S** the vote was:

Ayes: 1 - Chairman Newman

Nays: 6 – Baum, Connett, Lessen, Toevs, Vogelsang, and Zimmerman

Motion failed.

CASE NO. 11-13-V: The petition of Billy J. Allman for a Variance to waive the requirements of 7TCC1-7(c)(12) allow a 2,160 square foot addition to an existing 1,680 square foot structure, bringing the total floor area to be 3,840 square feet, which is 1,440 square feet larger than allowed located 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 making no comment regarding the proposed Variance request.

Tazewell County Farm Bureau submitted a report regarding the proposed Variance request stating this case has a direct impact on Agriculture and recommends disapproval.

Ron Sieh, City of Pekin made no comment regarding the proposed Variance request.

Village of Marquette Heights made no comment regarding the proposed Variance request.

Dave Risinger, Groveland Township Road Commissioner submitted a letter making no objection regarding the proposed Variance request.

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

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

NOTE – THE TESTIMONY FOR CASE 11-13-V WAS INCLUDED IN THE TESTIMONY LISTED ABOVE IN CASE 11-11-V.

The Zoning Board of Appeals did not arrive at a findings of fact due to the denial of Case No. 11-12-S therefore making this request null and void.

A decision or vote was not taken on this request due to the denial of Case No. 11-12-S therefore making this request null and void.

CASE NO. 11-14-V: The petition of Michael Tibbs for a Variance to waive the lot size requirements of 7TCC1-10(b)(3) to allow for Agriculture (the raising of only Pheasants and Quail as a personal hobby) on an 8.3 acre parcel, which is 11.7 acres less than allowed in a R-1 Low Density Residential 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 may have an impact on agriculture and recommended approval regarding the proposed Variance request.

Ron Sieh, City of Pekin made no comment regarding the proposed Variance request.

Village of Marquette Heights made no comment regarding the proposed Variance request.

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

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

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

Michael Tibbs appeared to testify on behalf of the proposed Variance request. Mr. Tibbs stated he had 8.4 acres of land surrounded by timber. Mr. Tibbs said he would like raise pheasant and quail as a hobby only. Mr. Tibbs added what he raised would be housed in a 12 x 15 flight cage to keep them safe from the coyotes. Mr. Tibbs stated the birds would be tame raised and would never survive in the wild.

Following all Public Hearings, moved by Lessen, seconded by Vogelsang, to approve **Case No. 11-14-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 surrounding area is zoned R-1 which does not allow for agricultural uses on properties of less than 20 acres. The petitioner has 8.4 acres which in this particular circumstance is an appropriate size to allow for the animals he is wishing to raise on the property.

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 surrounding area is zoned R-1 which does not allow for agricultural uses on properties of less than 20 acres. The petitioner has 8.4 acres which in this particular circumstance is an appropriate size to allow for the animals he is wishing to raise on the property and is not the typical lot size in an 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. Waiving the lot size requirement to allow for agricultural will not be detrimental to the surrounding area, although properties in the area have non-conforming uses of similar nature, allowing a smaller lot size will be less intrusive than the current existing uses.

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. Allowing a waiver of the lot size will not have any negative affect on the area or diminish property values in the area as there are other lot sizes of similar nature in the immediate vicinity.

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

POSITIVE. The request is not for monetary gain.

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.*

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 parcel is not a typical lot size in an R-1 Zoning District therefore the Zoning Code does not address particular circumstances of this nature.

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

POSITIVE. The parcel is not a typical lot size in an R-1 Zoning District and is similar to other lot sizes in the area with agricultural uses.

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

On roll call to approve **Case No. 11-14-V** the vote was:

Ayes: 7 – Baum, Connett, Lessen, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Motion declared carried.

CASE NO. 11-15-V: The petition of Steve Borton for a Variance to waive the requirements of 7TCC1-7(g)(1)(i) to allow the construction of an Addition to an existing Dwelling (Covered Front Porch) to be 89’ from the centerline of Illinois Route 122, which is 61’ closer than allowed 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 may have an 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.

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

School Districts 703 made no comment regarding the proposed Special Use request.

Steve Borton appeared to testify on behalf of the proposed Variance request. Mr. Borton stated he would like to replace an existing front porch with a covered porch. Mr. Borton said the dwelling currently does not meet setbacks from the centerline of the road.

Following all Public Hearings, moved by Baum, seconded by Zimmerman, to approve **Case No. 11-15-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 applicant is limited for placement of the addition as the existing dwelling is non-conforming and does not meet the required setbacks.

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 applicant is limited for placement of the addition and the existing dwelling is non-conforming and does not meet the required setbacks.

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.

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. There were no negative comments received from the Highway Department regarding construction of the new porch.

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 only seeking to improve the front of the house and provide protection from the rain.

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 existing dwelling being non-conforming and not meeting the setback requirements the applicant is limited for placement of the new porch.

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 dwelling is non-conforming and does not meet the required setbacks therefore the applicant is limited in placement of the new addition and has no other alternatives.

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

POSITIVE. The existing dwelling is non-conforming and does not meet the required setbacks therefore the applicant is limited in placement of the new addition and has no other alternatives.

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

On roll call to approve **Case No. 11-15-V** the vote was:

Ayes: 7 – Baum, Connett, Lessen, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Motion declared carried.

CASE NO. 11-16-V: The petition of Mike Hamann for a Variance to waive the requirements of 7TCC1-10(f)(2)(ii) to allow the construction of an Accessory Structure (Carport) to be 1' from the side property line, which is 4' closer than allowed in a R-1 Low Density Residential 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 impact on Agriculture and made no recommendation regarding the proposed Variance request.

Village of South Pekin made no comment regarding the proposed Variance request.

Ron Hawkins, Cincinnati Township Road Commissioner made no comment regarding the proposed Variance request.

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

School Districts 137 and 303 made no comment regarding the proposed Special Use request.

Mike Hamann appeared to testify on behalf of the proposed Variance request. Mr. Hamann stated he would like to construct a metal carport structure over his driveway where his vehicle was parked. Mr. Hamann said the fence represented the lot line and the proposed structure would be 1' from the fence line. Mr. Hamann added the proposed structure would be anchored to the ground by concrete.

Following all Public Hearings, moved by Lessen, seconded by Baum, to approve **Case No. 11-16-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 location of the existing septic system on the property and existing home the proposed location is the most practical area for placement of the carport.

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 location of the existing septic system on the property and existing home the proposed location is the most practical area for placement of the carport.

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 carport to be placed in the proposed location will not be detrimental to the public or properties in the neighborhood.

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.

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 seeking to place the carport on the property for needed cover for his vehicle as he does not have any similar structure for those purposes.

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. Other Variances of similar nature have been allowed in this same area due to the small lot sizes and other appurtenances.

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. Due to the location of the existing septic system and home the applicant has no other alternative for location of the carport.

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

POSITIVE. Due to the location of the existing septic system on the property and existing home the proposed location is the most practical area for placement of the carport.

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

On roll call to approve **Case No. 11-16-V** the vote was:

Ayes: 7 – Baum, Connett, Lessen, Toevs, Vogelsang, Zimmerman and Chairman Newman

Nays: 0

Motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, May 3, 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 Baum, seconded by Connett, to adjourn the Zoning Board of Appeals Public Hearing at 9:45 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.