

**(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, May 3, 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, Alternate May, Loren Toevs, Alternate Webb, and Ken Zimmerman

**ABSENT:** JoAn Baum, Robert Vogelsang

**STAFF:** Kristal Deininger, Community Development Administrator; Matt Drake, Assistant States Attorney; Melissa Kreiter, Administrative Assistant; and Land Use Members: Chairman Carroll Imig, Joyce Antonini, Russ Crawford, Darrell Meisinger, Rosemary Palmer, Mel Stanford, Sue Sundell

**OTHERS**

**PRESENT:** Petitioners and Objectors

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

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**CASE NO. 11-17-V:** The petition of Attorney Thad Kuhfuss, representing Elaine H. Spracklen, for a Variance to waive the requirements of 7TCC1-7(f) to allow the creation of a new zoning lot of record to have 55' of frontage along a public road, which is 145' less 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 making 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.

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

Ron Sieh, City of Pekin submitted a letter regarding the proposed Variance request stating if the proposed site is within 1 ½ miles of the corporate limits of the City of Pekin, then the petitioner must follow the Subdivision Code.

Ron Hawkins, Cincinnati Township Road Commissioner submitted a letter stating no objection regarding the proposed Variance request.

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

District 98 and 303 Schools were notified and made no comment regarding the proposed Variance request.

Attorney Thad Kuhfuss appeared to testify on behalf of the proposed Variance request. Mr. Kuhfuss stated his client would like to separate the dwelling site from the tillable acreage. Mr. Kuhfuss said his client's husband had passed and his clients' health was deteriorating and they are preparing to sell the dwelling. Mr. Kuhfuss added a 55' strip of land would be retained in order for Ag equipment to access the tillable acreage. Mr. Kuhfuss stated there would be no change to the use of the property

Following all Public Hearings, moved by May, seconded by Toevs, to approve **Case No. 11-17-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.** Requiring the proper road frontage would only add non-tillable ground to the proposed site, which is currently utilized as part of the lot surrounding the existing dwelling on the property. The owner wishes to keep the tillable farmland separate from the existing home which is to be sold.

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. Requiring the proper road frontage would only add non-tillable ground to the proposed site, which is currently utilized as part of the lot surrounding the existing dwelling on the property. The owner wishes to keep the tillable farmland separate from the existing home which is to be sold.

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. No physical changes will occur to the property.

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. No physical changes will occur to 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. Although the applicant is wishing to sell the existing home, it is practicable to keep the existing site the way it is currently being utilized.

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.

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. Requiring the proper road frontage would only add non-tillable ground to the proposed land, which is currently utilized as part of the lot surrounding the existing dwelling on the property and is better situated as such due to the slope of the land and the number of mature trees located upon it.

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

POSITIVE. Requiring the proper road frontage would only add non-tillable ground to the proposed site, which is currently utilized as part of the lot surrounding the existing dwelling on the property. The owner wishes to keep the tillable farmland separate from the existing home which is to be sold.

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

On roll call to approve of **Case No. 11-17-V** the vote was:

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

Nays: 0

Absent: 2 – Baum, Vogelsang

**Motion declared carried.**

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**CASE NO. 11-18-V:** The petition of Mark Grimm for a Variance to allow the reconstruction of a dwelling and waive the requirements of 7TCC1-10(f)(1)(iii) to be 30' from the centerline of the Right of Way of Whispering Oaks Drive, which is 20' closer than allowed, to waive 7TCC1-10(f)(2)(i) to be 8' from the Side property line, which is 2' closer than allowed, and to waive 7TCC1-10(3)(i) to be 4' from the rear property line, which is 16' 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 direct impact on agriculture and made no recommendation regarding the proposed Variance request.

Roger Spangler, Village of Morton submitted a letter stating having no objection 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.

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

Mark Grimm appeared to testify on behalf of the proposed Variance request. Mr. Grimm stated there was a tree compromising the foundation of the existing dwelling. Mr. Grimm said it would be easiest to just replace the entire dwelling. Mr. Grimm added the existing garage on the property would remain as it was just constructed a few years prior. Mr. Grimm said the existing garage was 19' from the centerline of the right of way and the porch will be even farther than that. Mr. Grimm added the existing dwelling currently had a partial basement and it would be expanded into a full basement. Mr. Grimm stated the portion of road he lived on was a dead-end therefore only about 29 homeowners pass his driveway, which is located on a private portion of Whispering Oaks Drive.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 11-18-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 odd shaped lot, location of the lake and slope of the property, reconstruction of dwelling in the proposed location is the most feasible option for the applicant.

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

POSITIVE. Due to the odd shaped lot, location of the lake and slope of the property, reconstruction of dwelling in the proposed location is the most feasible option for the applicant.

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

POSITIVE. There are numerous other dwellings in the area which are of the same distance from the road and property lines. Allowing the Variance will not be detrimental to the area.

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

POSITIVE. The portion of road the proposed property fronts is "Private", however the Groveland Township Road Commissioner was notified and made no comment regarding the request.

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

POSITIVE. The applicant simply wishes to reconstruct the dwelling due to a compromised foundation.

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

POSITIVE. There are other similar dwelling structures in the area which are of the same distance from the road which have been granted Variances due to lot size.

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 Ordinance does not address situation of this nature.

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

POSITIVE. Due to the odd shaped lot, location of the lake and slope of the property, reconstruction of dwelling in the proposed location is the most feasible option for the applicant.

Moved by Lessen, 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. 11-18-V** the vote was:

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

Nays: 0

Absent: Baum, Vogelsang

**Motion declared carried.**

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#### **NEXT MEETING**

The next meeting of the Zoning Board of Appeals will be **Tuesday, June 7, 2011** at 6:00 p.m. in the Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois.

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#### **ADJOURNMENT**

There being no further business, moved by Baum, seconded by Connett, to adjourn the Zoning Board of Appeals Public Hearing at 6:25 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.