

**(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, August 2, 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; Nicholas Hayward, Land Use Planner; Melissa Kreiter, Administrative Assistant; and Land Use Members: Chairman Carroll Imig, Joyce Antonini, Paul Hahn, Darrell Meisinger, Rosemary Palmer, and Sue Sundell

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Toevs, seconded by Baum, to approve the Minutes of the June 7, 2011 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued at the July 6, 2011 ZBA Public Hearing)

CASE NO. 11-32-S: The petition of Steve Lowery, d/b/a Lowery Excavating Inc. for an Expansion to an existing Special Use (Case No. 07-13-S) to expand the operations of mining sand and gravel in an A-1 Agriculture Preservation District

and

(Continued at the July 6, 2011 ZBA Public Hearing)

(Upon approval of Case No. 11-32-S by the Zoning Board of Appeals)

CASE NO. 11-33-V: The petition of Steve Lowery, d/b/a Lowery Excavation Inc. for a Variance to waive **in its entirety** the requirements of 7TCC1-25(f)(12)(v)(1) and (2) to allow the mining and excavations of sand and gravel to be located closer to an existing dwelling and existing out buildings without the homeowners written permission. Mining, excavations and stockpiling of over burden are proposed to be within 50' of the adjacent property owner's property line. Said property located in an A-1 Agriculture Preservation Zoning District.

Moved by Connett, seconded by Baum to continue **Case No. 11-32-S** and **Case No. 11-33-V** to the September 7, 2011 ZBA Public Hearing.

Motion carried by voice vote.

CASE NO. 11-37-Z: The Petition of Dave Eagan, Vice President of Manufacturing of Excel Foundry and Machine, a subsidiary of FLSmidth Salt Lake City, Inc. for a Map Amendment to the Official Cincinnati Township Zoning Map of Tazewell County to change the zoning classification of property from an A-1 Agriculture Preservation Zoning District to an I-2 Heavy Industrial Zoning District

and

CASE NO. 11-38-Z: The Petition of Dave Eagan, Vice President of Manufacturing of Excel Foundry and Machine, a subsidiary of FLSmidth Salt Lake City, Inc. and on behalf of the Marine Corps League for a Map Amendment to the Official Cincinnati Township Zoning Map of Tazewell County to change the zoning classification of property from an I-2 Heavy Industrial Zoning District to an A-1 Agriculture Preservation Zoning District

and

CASE NO. 11-39-S: The Petition of Dave Eagan, Vice President of Manufacturing of Excel Foundry and Machine, a subsidiary of FLSmidth Salt Lake City, Inc.. on behalf of the Marine Corps League for a Special Use to allow the construction of a club house for the operation of a private club to include the sales of liquor holding special benefits and fund raisers in an A-1 Agriculture Preservation Zoning District

Moved by Connett, seconded by Baum to continue **Case No. 11-37-Z**, **Case No. 38-Z** and **Case No. 11-39-S** to the September 7, 2011 ZBA Public Hearing.

Motion carried by voice vote.

(Continued at the July 6, 2011 ZBA Public Hearing)

CASE NO. 11-34-S: The petition of Delavan Township Road District for a Special Use to allow for the operation of a Governmental Non Essential Use from 2 existing structures on an existing zoning lot of record for storage of Township equipment and outside gravel storage in an I-2 Heavy Industrial Zoning District.

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

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

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

Tazewell County Farm Bureau submitted a report recommending approval regarding the proposed Special Use request.

Village of Delavan submitted a letter stating the Village had no concerns regarding the proposed Special Use request.

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

Lee White, Illinois Department of Transportation submitted a letter stating no objection regarding the proposed Special Use request.

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

John Larimore, Delavan Township Road Commissioner appeared to testify on behalf of the proposed Special Use request. Mr. Larimore stated the proposed new facility was located behind a small martial arts business and would be landscaped so as to block any view of the gravel or outdoor storage. Mr. Larimore said the property would be fixed up from its present appearance.

Following all Public Hearings, moved by Lessen, seconded by Vogelsang, to approve **Case No. 11-34-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 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 will be consistent with the following County Comprehensive Land Use Plan implementation strategy: "Locate intensive land uses in appropriate areas where their impacts do not harm other land uses." The subject property is located just west of the City of Delavan but the City does not have a comprehensive 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 farmland, a large-lot dwelling, and an agricultural business to the north, a martial arts academy and single-family dwellings to the west, farmland to the south, and a contractor business to the east. The property was formerly used for a woodworking business, and it is located just west of the edge of Delavan next to a railroad. Due to its location and its proximity to the nearby agricultural business and contractor business, the

site is suitable for a use of this nature, and adverse visual impacts and noise impacts of equipment maintenance and equipment/material storage on the nearby residential uses 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 operation of the Special Use will involve maintaining township equipment and storing township equipment and materials. The screening of outdoor storage areas from the adjacent residential property will minimize adverse visual impacts, and maintenance and storage activities will generate a minimal amount of noise. Therefore, the Special Use will not endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. Property in the immediate vicinity is used for agriculture, residential uses, and commercial, agricultural, and industrial business uses. The Special Use will generate a minimal amount of noise and involve outdoor storage of gravel and rock material. Noise and outdoor storage will not impact the agricultural, agricultural business, commercial business and industrial business uses, the outdoor storage area can be screened from the adjacent residential use, and the noise that will be generated will not adversely affect the adjacent residential use. Therefore, the Special Use will not be injurious to the use of property for the purposes already permitted.

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

POSITIVE. The site is already developed for industrial use, formerly housed a woodworking business, and is located within a cluster of business uses next to a railroad. The nearby agricultural, residential, and business uses are already established. Thus, 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. The site contains adequate access to Illinois Route 122 and is already developed; it formerly housed a woodworking business. Therefore, all necessary facilities are 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 site contains adequate access to Illinois Route 122 and is located just west of the edge of the City of Delavan; traffic speed on this portion of the highway is relatively low. Also, the equipment maintenance and material storage uses proposed for the site are not intensive uses, so the number of trips the site will generate will be relatively low and will not lead to traffic congestion and hazard. Therefore, traffic congestion and hazard will be minimized.

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

POSITIVE. The proposal is for an industrial use to be located on a developed parcel just west of Delavan, so the proposed Special Use will not generate residential development pressure and will not occupy land that is suitable for the expansion of livestock agriculture operations. Therefore, the proposed Special Use will not hinder the operation or expansion of any livestock feeding operations located within one-half mile.

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 proposal is for an industrial use to be located on a developed parcel just west of Delavan, so the proposed Special Use will not generate substantial development pressure and will not occupy land that is suitable for the expansion of livestock agriculture operations.

Therefore, 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 is developed and contains two buildings for warehouse and storage use; it is not used for agriculture. Therefore, the proposed Special Use will not remove any land from agricultural production.

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 agriculture, residential uses, and commercial, agricultural, and industrial business uses. The site is located within a cluster of business uses next to a railroad, and the proposed Special Use will consist of equipment maintenance and equipment/material storage activities. The Special Use is similar in nature to existing nearby businesses, so it is 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 Zimmerman, 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. 11-34-S** the vote was:

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

Nays: 0

Motion declared carried.

(Continued at the July 6, 2011 ZBA Public Hearing)

CASE NO. 11-35-V: The petition of Darren Greenlee for a Variance to waive the requirements of 7TCC1-7(f) to allow the creation of one new zoning lot of record to have 60' of frontage along King Road, which is 140' 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 having no comment regarding the proposed Variance request.

Tazewell County Farm Bureau submitted a report recommending approval with reservations.

Mike Rankin, Mackinaw 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 District 702 made no comment regarding the proposed Variance request.

Clay Moushon, Attorney at Law appeared to testify on behalf of the proposed Variance request. Mr. Moushon stated his client had tried to sell the property as an entire parcel, however, it would be more marketable if the land were divided. Mr. Moushon said the existing dirt road on the property was used to access the rear of the property and if the property were to be divided with the 200' of required frontage, then the property line would run right through the center of the pond. Mr. Moushon added his client would like to keep the pond solely on the 10 acre parcel that would be sold with the existing dwelling. Mr. Moushon stated 60' of frontage allowed for adequate access to the back of the property and the dirt road would eventually have gravel added to it. Mr. Moushon said his client purchased the land 5 years ago with his brother-in-law and began working on a road to access the rear of the property at that time. Mr. Moushon added the variance won't affect the ability to build upon the property as his client would have the required acreage. Mr. Moushon stated an easement across the property was not an option as ownership to the road was required. Mr. Moushon said the land could be divided if he had the 200' of frontage without any further approval from the Zoning Board. Mr. Moushon added the 60' of frontage was created in order to avoid odd angles to divide the property around the pond. Ms. Moushon stated there was no existing road to the rear of the property, there was a trail only and there was no other

location to place access to the rear of the property due to the terrain and large, deep ravines. Mr. Moushon added the land did not have the topography to access the rear of the property and the proposed location was the best location. Mr. Moushon stated the land could be divided off without a Variance if they chose to allow the 200' of frontage and divide the pond, however the house would then be parceled off on a large narrow 10 acre tract and the proposed Variance allowed for a more aesthetically pleasing appearance from a Zoning standpoint. Mr. Moushon said if the land were ever to be further subdivided, his client would have to come back before the ZBA for further approval. Mr. Moushon added the property was owned by a LLC which was Mr. Greenlee and his brother-in-law. Mr. Moushon stated his client had a definite hardship due to the topography of the land.

Jacque Grant appeared to testify against the proposed Variance request. Mrs. Grant stated she was appearing on behalf of her father who owns adjacent land and will inherit the property. Mrs. Grant said there was a livestock feeding operation in the area and there was also a creek running through the property designating an area of flood concern. Mrs. Grant added other land divisions in the area have created problems with fencing and agricultural use of land. Mrs. Grant read a letter written by her father voicing his concerns with the proposed request. Mrs. Grant stated emergency vehicles would not be able to access the property from any lane that would be created.

Patrick Lindsey appeared to testify against the proposed Variance request. Mr. Lindsey stated he owned the land to the South of the property and was concerned of a roadway being built right up to his property line. Mr. Lindsey said the property line had a fence on it and the land was eroding and the fence was falling down. Mr. Lindsey added he would like to see ditches installed to stop the erosion. Mr. Lindsey stated he had concerns regarding the fact that the property was owned by an LLC, and was told that the 49 acres of land to be divided off was going to be turned into a hunt preserve. Mr. Lindsey said that when the petitioner purchased the property he had begun construction of a roadway to the back acreage without the proper permits.

Pamela Lindsey appeared to testify against the proposed Variance request. Mrs. Lindsey said she was objecting to anything less than the 200' of required frontage. Mrs. Lindsey said the road to the back acreage was built on her North property line and she was told by the Petitioner he was building a logging road. Mrs. Lindsey added she had originally complained about the Petitioner building a road in 2009 and was told an inspector was to be sent to the site. Mrs. Lindsey stated the only reason for the division of the land was solely for monetary gain. Mrs. Lindsey supplied the ZBA with photos of the land erosion and large culvert pipes that were brought in to the property, from both past and present. Mrs. Lindsey added prior to constructing the current road to the back acreage, there was another access to the rear of the property that was no longer used.

Following all Public Hearings, moved by Vogelsang, seconded by Connett, to approve **Case No. 11-35-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. A deep ravine located on the property makes access to the back of the property impossible and location of the existing pond on the property makes it impractical to allow for 200' of road frontage, therefore the proposed location of the frontage makes the most practical solution.

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. A deep ravine located on the property makes access to the back of the property impossible and location of the existing pond on the property makes it impractical to allow for 200' of road frontage, therefore the proposed location of the frontage makes the most practical solution.

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 reduction of the road frontage will not be detrimental to the public welfare or other improvements or property 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. Although the applicant may choose to sell the home currently located on the property, separation of the dwelling from the existing site is allowable by the Zoning Code as the remaining acreage will be over 40 acres. A deep ravine located on the property makes access to the back of the property impossible and location of the existing pond on the property makes it impractical to allow for 200' of road frontage, therefore the proposed location of the frontage makes the most practical solution.

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. Although the applicant may choose to sell the home currently located on the property, separation of the dwelling from the existing site is allowable by the Zoning Code as the remaining acreage will be over 40 acres. A deep ravine located on the property makes access to the back of the property impossible and location of the existing pond on the property makes it impractical to allow for 200' of road frontage, therefore the proposed location of the frontage makes the most practical solution.

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

POSITIVE. Although the applicant may choose to sell the home currently located on the property, separation of the dwelling from the existing site is allowable by the Zoning Code as the remaining acreage will be over 40 acres. A deep ravine located on the property makes access to the back of the property impossible and location of the existing pond on the property makes it impractical to allow for 200' of road frontage, therefore the proposed location of the frontage makes the most practical solution.

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

On roll call to approve **Case No. 11-35-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-40-S: The petition of Bryan Collier for a Special Use to allow the 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 had 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 as no farmland would be taken from production.

Tazewell County Farm Bureau submitted a report recommending disapproval regarding the proposed Special Use request

Terry Lohnes, Elm Grove Township Road Commissioner had no comment regarding the proposed Special Use request, however Mr. Lohnes had signed and approved and Entrance Permit to the property.

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

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

Bryan Collier appeared to testify on behalf of the proposed Special Use request. Mr. Collier stated he would like to build a new dwelling on the property. Mr. Collier said about one-half acre of the land was being farmed and would remain as such. Mr. Collier added the Road Commissioner gave a permit for a culvert install at the entrance and a second culvert would be installed to allow the runoff to continue from the adjacent farm field. Mr. Collier stated there would be no water backup, that is why the second culvert would be installed. Mr. Collier said his father owns the front dwelling and he wanted to live near his father to help him with the land he purchased. Mr. Collier added he would probably not join into the well agreement as the well was over 350' away and added that he would pay for any repairs to the well if he were to actually join the well agreement. Mr. Collier stated there were a number of trees on the property that blocked the view of the neighboring property and he would also be willing to construct a privacy fence if needed. Mr. Collier said his family was aware of hunting practices by the neighbor. Mr. Collier added his father was only 64 years old and was in good health now. Mr. Collier stated his father purchased the dwelling first, otherwise he and his wife were going to purchase the dwelling and his father would have requested to build a new dwelling. Mr. Collier said his father's home sold before the Collier home, so he purchased the home first.

Daniel Arterberry appeared to testify against the proposed Special Use request. Mr. Arterberry stated he owned the property to the East of the proposed site. Mr. Arterberry said there was a ditch/gully on the property that drained to the Orr pond and was concerned the construction of the driveway would back water up onto his property. Mr. Arterberry added if the Petitioner were to join the well agreement, a new pump may need to be installed. Mr. Arterberry also stated the existing well line runs under the location of the proposed driveway.

Shawn Orr appeared to testify against the proposed Special Use request. Mrs. Orr stated she owned and lived on the property directly to the West of the proposed site. Mrs. Orr said there were approximately a dozen homes located at 100' from the road and construction of a new dwelling further back would break the visual consistency. Mrs. Orr added the proposed request would create the only flag lot in the area and a flag lot would create a city like environment placing a dwelling within view of the rear of her dwelling and her various decks. Mrs. Orr stated the petitioner would be invading her privacy while swimming in her pond and the petitioner would be basically stealing a view. Mrs. Orr read a letter from a local realtor, Mary Ann Vance stating the Orr's property value would be decreased with the construction of an additional dwelling. Mrs. Orr said she had her pond dredged in 1995 at a cost of \$25,000 and the runoff into her pond from the disturbed area of the a new dwelling site could increase sediment into the pond. Mrs. Orr submitted a petition from area home and farm owners and read letters making points for denial. Mrs. Orr further read her findings of fact detailing reasons for denial.

Larry Orr also appeared to testify against the proposed Special Use request with objectors to allow the creation of the new site.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 11-40-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 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 will be consistent with the following County Comprehensive Land Use Plan implementation strategy: "Locate new residential development near roadways and contiguous to existing development to preserve agricultural land."

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 farmland to the north and south and single family dwellings to the east and west. The proposed site is located among a strip of dwellings surrounded by farmland on Lake Knolls Road. The proposed dwelling will be compatible with the existing residential and agricultural uses, so adverse effects of the Special Use will be minimized.

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

POSITIVE. The neighboring vicinity consists of residential and agricultural uses. The proposed dwelling will be similar to the existing dwellings located in the immediate area, and the proposed dwelling will not generate impacts that will harm nearby agricultural uses. Therefore, the establishment of the Special Use will not be detrimental to the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. Property in the immediate vicinity is used for residential and agricultural purposes. The proposed dwelling will be similar to the existing dwellings located in the immediate area, and the proposed dwelling will not generate impacts that will harm nearby agricultural uses. Therefore, the Special Use will not be injurious to the use of property in the immediate vicinity for the purposes already permitted.

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

POSITIVE. The existing neighborhood consists of a strip of several single family dwellings on the north side of Lake Knolls Road surrounded by farmland. The addition of one more dwelling to the existing strip of dwellings will not cause substantial change in the neighborhood, so it will not substantially impair property values within the neighborhood.

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

POSITIVE. Because this is an existing residential area, all necessary utilities will be able to be provided. A new access drive is proposed off of Lake Knolls Road, and because the building site is behind an existing dwelling, the proposed access drive will be approximately 350 feet long within a flag lot. However, the proposed access drive is located a suitable distance away from neighboring access drives, and the flag lot arrangement enables a dwelling to be built without removing farmland, so the access arrangement is judged to be sufficient. 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. Lake Knolls Road is not a heavily traveled road, and the addition of one single family dwelling will not generate a substantial increase in trips to and from the area. Therefore, traffic congestion and hazard will be minimized.

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

POSITIVE. The proposed dwelling will be located on a new parcel to be split off from an existing residential parcel, so the proposed dwelling will not infringe on agricultural land that will impact any nearby livestock feeding operations. Also, the dwelling will be located within an existing strip of single family dwellings, so it will not generate much additional residential development pressure. Therefore, the 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 dwelling will be located within an existing strip of several single family dwellings that are located near wooded areas surrounded by farmland, so the Special Use will not generate development pressure that will impact land development greater than one-half mile away. Therefore, the 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 productivity index of soils on site is 125. The approximate ½ acre of farmland is located northeast of the wooded area, and the house and garage will be built south of the wooded area. Therefore, no farmland will be removed from production, so the proposed Special Use will not negatively impact agriculture on site.

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 dwellings and agricultural uses (row crop production). The proposed Special Use will be a single family dwelling that will not harm existing agricultural operations, 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 Baum, 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. 11-40-S** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-41-V: The petition of Fred Eertmoed for a Variance to waive the requirements of 7TCC1-7(g)(2)(i) to allow the construction of an Addition to Dwelling (Attached Garage) to be 20' from the side property line, which is 10' 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 recommending approval regarding the proposed Variance request.

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

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

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

School District 98 and 303 made no comment regarding the proposed Variance request.

Fred Eertmoed appeared to testify on behalf of the proposed Variance request. Mr. Eertmoed stated he needed to improve the 150 year old dwelling and make the dwelling more accommodating. Mr. Eertmoed said he owned the adjacent dwelling and both properties were for sale. Mr. Eertmoed added each property owned half of the driveway and there would be no property line change if the dwelling were to be sold. Mr. Eertmoed stated he was trying to plan for the future.

Anthony Piro appeared to testify against the proposed Variance request. Mr. Piro stated he owned the land to the Southeast and stated both dwellings were for sale. Mr. Piro said he was concerned that the sale of the property would change the property lines.

Following all Public Hearings, moved by Lessen, seconded by Zimmerman, to approve **Case No. 11-41-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 home does not currently have an attached garage, and the home which was originally a farm residence has been in existence prior to Zoning. The proposed location of the attached garage is the most practical location due to the layout of the home.

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 home does not currently have an attached garage, and the home which was originally a farm residence has been in existence prior to Zoning. The proposed location of the attached garage is the most practical location due to the layout of the home.

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.

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 make upgrades to the home for aesthetic 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. The existing home does not currently have an attached garage, and the home which was originally a farm residence has been in existence prior to Zoning. The proposed location of the attached garage is the most practical location due to the layout of the home.

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 home does not currently have an attached garage, and the home which was originally a farm residence has been in existence prior to Zoning. The proposed location of the attached garage is the most practical location due to the layout of the home.

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

POSITIVE. The existing home does not currently have an attached garage, and the home which was originally a farm residence has been in existence prior to Zoning. The proposed location of the attached garage is the most practical location due to the layout of the home.

Moved by Zimmerman, 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. 11-41-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-42-V: The petition of Robert Anderson for a Variance to waive the requirements of 7TCC1-7(g)(3)(i) to allow the construction of an Addition to Dwelling (Living Space and Attached Garage) to be 30' from the rear property line, which is 20' 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 recommending approval regarding the proposed Variance request.

Bill Dailey, Hopedale 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 District 16 made no comment regarding the proposed Variance request.

Robert Anderson appeared to testify on behalf of the proposed Variance request. Mr. Anderson stated he wanted to construct an attached garage and was limited due to the narrow lot and location of septic system and geothermal system.

Following all Public Hearings, moved by Zimmerman, seconded by Baum, to approve **Case No. 11-42-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 shape of the existing lot, location of the septic and large trees on the property, this is the most practical location for the addition.

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 shape of the existing lot, location of the septic and large trees on the property, this is the most practical location for the addition.

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 property is bounded on three sides by farm ground and no evidence was given that allowing the variance would be detrimental to the public welfare or to other 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.

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 expand living space and an attached garage which he does not have at this time.

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 odd shape of the existing lot, location of the septic and large trees on the property, this is the most practical location for the addition. Similar Variances of this nature have been granted in similar circumstances.

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 odd shape of the existing lot, location of the septic and large trees on the property, this is the most practical location for the addition and the ordinance does not address circumstances of this nature.

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

POSITIVE. Due to the odd shape of the existing lot, location of the septic and large trees on the property, this is the most practical location for the addition.

Moved by Vogelsang, 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. 11-42-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-43-V: The petition of Patricia McCanns for a Variance to waive the requirement of 7TCC1-10(f)(2)(i) to allow the construction of an Addition to Dwelling (Attached Garage) to be 1' from the Side Property Line (from the Overhang), which is 9' closer than allowed in an 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 having no recommendation regarding the proposed Variance request.

Roger Spangler, Village of Morton submitted a report stating the Village was neither opposed to or in support of 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 District 709 made no comment regarding the proposed Variance request.

Patricia McCanns appeared to testify on behalf of the proposed Variance request. Ms. McCanns stated she would like to construct an attached garage and was limited due to the entryway door on the dwelling and the natural drainage. Ms. McCanns said her brother lived in the front dwelling and was in support of the Variance. Ms. McCanns said the eve of the garage would be 1' from the property line.

Following all Public Hearings, moved by Connett, seconded by Baum, to approve **Case No. 11-43-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 natural drainage on the property, location of the existing septic system, the proposed location of the addition is the most conducive for this 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. Due to natural drainage on the property, location of the existing septic system, the proposed location of the addition is the most conducive for this property.

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.

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 make upgrades the home and does not currently have an attached garage.

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.

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

POSITIVE. Due to natural drainage on the property, location of the existing septic system, the proposed location of the addition is the most conducive for this property.

Moved by Baum, 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. 11-43-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-44-V: The petition of Faith Christian Centre for a Variance to waive the requirements of 7TCC1-20(f)(5)(i) to allow the placement of a 4' Halo Image Backlit Metal Lettered Wall Sign to be approximately 98 square feet, bringing the total Sign Face on the property to 195 square feet, which is 163 square feet larger 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 having no recommendation regarding the proposed Variance request.

Ty Livingston, City of East Peoria made no comment regarding the proposed Variance request.

Dave Weaver, Washington 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 District 51 and 308 made no comment regarding the proposed Variance request.

Rich Joupperi, appeared to testify on behalf of the proposed Variance request. Mr. Joupperi stated he was the contractor hired by the church to install the lighted letters on the exterior wall of the Church facing Route 24. Mr. Joupperi said the church purchased the letters not realizing they would require a permit, let alone a Variance. Mr. Joupperi added the letters were backlit with a halo low voltage effect and the letters would only omit 1 foot of light surrounding the letter. Mr. Joupperi stated the wall letters would not project as much light as a pole sign.

Jennifer Freeman appeared to testify against the proposed Variance request. Mrs. Freeman stated she owned the house to the West of the proposed site and was concerned of the total amount of signage for the church. Mrs. Freeman said the petition made reference to additional signage due to a wooded area, which was not the case at all. Mrs. Freeman added the current sign on the property was 3 times the allowable signage for a Residential area. Mrs. Freeman stated the new sign would bring the total signage to 6 times the allowable limit. Mrs. Freeman said the halo effect would only be seen from the Route 24 side of the property and she would see the back of the sign with direct view of the light. Mrs. Freeman added if they church wanted a new sign perhaps they should take down the existing signage first that had been up since 1986. Mrs. Freeman stated she lived at her property for 3 years.

Following all Public Hearings, moved by Connett, seconded by Baum, to approve **Case No. 11-44-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. There are no actual topographical conditions in this particular request, due to the nature of the request. However, the proposed location for the wall sign is the most practical and the Zoning Code is very restrictive with regards to sign size in the Residential Districts and does not accommodate for such signs with regards to Churches and other commercial uses. Signs of this nature are common for identification and in combination with a normal off premise sign.

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. There are no actual topographical conditions in this particular request, due to the nature of the request. However, the proposed location for the wall sign is the most practical and the Zoning Code is very restrictive with regards to sign size in the Residential Districts and does not accommodate for such signs with regards to Churches and other commercial uses. Signs of this nature are common for identification and in combination with a normal off premise sign.

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 location of the sign will be blocked from the neighboring property by the existing canopy located on the front of the Church. Further the existing dwelling sits further behind the Church and the sign will not be visible due to its location on the front of the Church.

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 sign is only for identification purposes and aesthetic appearance.

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. There are no actual topographical conditions in this particular request, due to the nature of the request. However, the proposed location for the wall sign is the most practical and the Zoning Code is very restrictive with regards to sign size in the Residential Districts and does not accommodate for such signs with regards to Churches and other commercial uses. Signs of this nature are common for identification and in combination with a normal off premise sign.

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

POSITIVE. There are no actual topographical conditions in this particular request, due to the nature of the request. However, the proposed location for the wall sign is the most practical and the Zoning Code is very restrictive with regards to sign size in the Residential Districts and does not accommodate for such signs with regards to Churches and other commercial uses. Signs of this nature are common for identification and in combination with a normal off premise sign.

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

On roll call to approve **Case No. 11-44-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 **Wednesday, September 7, 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 Baum, to adjourn the Zoning Board of Appeals Public Hearing at 9:03 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.