

**(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 Wednesday, September 7, 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; and Land Use Members: Chairman Carroll Imig, Joyce Antonini, Paul Hahn, Terry Hillemonds, Darrell Meisinger, Rosemary Palmer, Mel Stanford and Sue Sundell

OTHERS

PRESENT: Petitioners

MINUTES: Moved by Baum, seconded by Vogelsang, to approve the Minutes of the August 2, 2011 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

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

CASE NO. 11-23-S: The petition of Ronald Springer for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation District

and

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

(Subject to Approval of the Subdivision Modification by the Land Use Committee)

CASE NO. 11-24-V: The petition of Ronald Springer for a Variance to waive the requirements of 7TCC1-7(f) for the creation of a New Zoning Lot of record having no frontage on a public road but will have access via a express ingress and egress easement in an A-1 Agriculture Preservation District.

No action was taken on these items, as they were inadvertently left off of the ZBA Agenda.

However as an added note the petitioner had requested that the above cases be continued to the November ZBA Hearings and will therefore be placed on the November Agenda upon proper notice to all interested parties.

Chairman Newman announced that following cases were to be continued to the October Hearings: **Case No. 11-32-S** and, **Case No. 11-33-V** - (Steve Lowery); **Case No. 11-37-Z**, **Case No. 11-38-Z** and **Case No. 11-39-S** - (Excel Foundry and Machine); and **Case No. 11-45-S** and **Case No. 11-46-V** - (Joseph Lahood)

Moved by Baum, seconded by Zimmerman to continue **Case No. 11-32-S** and, **Case No. 11-33-V** - (Steve Lowery); **Case No. 11-37-Z**, **Case No. 11-38-Z** and **Case No. 11-39-S** - (Excel Foundry and Machine); and **Case No. 11-45-S** and **Case No. 11-46-V** - (Joseph Lahood) to the October Hearings.

Motion carried by voice vote.

CASE NO. 11-51-A: Proposed Amendment No. 38 to Title 7, Chapter 1, Zoning Code of Tazewell County referred for hearing by the Tazewell County Land Use Committee for the purpose of adding or deleting text specifically to Sections; Article 5, District Regulations, 7 TCC 1-5 (o) Fencing; Article 25, Special Use, 7TCC 1-25(f) Requirements for Particular Special Uses. (The proposed amendment can be viewed in its entirety at the Tazewell County Community Development Department)

Chairman Newman announced **Case No. 11-51-A** had been withdrawn.

CASE NO. 11-47-V: The Petition of David Turner for a Variance to waive the requirements of 7TCC1-10(f)(iii) to allow the construction of an Accessory Structure (Above Ground Pool) to be 38' from the Centerline of Norman Drive, which is 12' closer than allowed and to waive the requirements of 7TCC1-10(f)(2)(ii) to too the same Accessory Structure to be 4' 6" from the Side Property line, which is 6" 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.

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

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

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

District 108 and 303 Schools were notified and made no comment regarding the proposed Variance request.

David Turner appeared to testify on behalf of the proposed Variance request. Mr. Turner stated due to having a corner lot and the location of the house, the septic system and the field bed he was limited to location to place a pool for his grandkids. Mr. Turner said the pool would be 38' from the center of Norman Drive and would be located inside the chain link fence on the property.

Following all Public Hearings, moved by Connett, seconded by Baum, to approve **Case No. 11-47-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 septic system, field bed and the property being a corner lot the petitioner is limited in area for location of the new pool.

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 septic system, field bed and the property being a corner lot the petitioner is limited in area for location of the new pool.

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 pool will not impair site distance as it will not extend beyond the existing dwelling and will not be injurious to other 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. The pool will not impair site distance as it will not extend beyond the existing dwelling and will not be injurious to other improvements in the area.

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

POSITIVE.

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 location of the septic system, field bed and the property being a corner lot the petitioner is limited in area for location of the new pool.

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

POSITIVE.

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

POSITIVE. Due to the location of the septic system, field bed and the property being a corner lot the petitioner is limited in area for location of the new pool.

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

On roll call to approve **Case No. 11-47-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-48-V: The Petition of Bill Embry d/b/a Henderson-Wier Agency for a Variance to waive the requirements of 7TCC1-7(f) to allow the creation of one new zoning lot of record to have 65’ of frontage along Lilly Road, which is 135’ 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 regarding the proposed Variance request recommending approval.

Mike Rankin, Mackinaw Township Road Commissioner made no comment regarding the proposed Variance request.

John Anderson, Tazewell County Highway Engineer submitted a report regarding the proposed Variance request stating any new entrances would require a Highway Permit.

District 701 Schools were notified and made no comment regarding the proposed Variance request.

Bill Embry appeared to testify on behalf of the proposed Variance request. Mr. Embry stated he was the realtor for the Petitioner and the dwelling on the property was listed as a historic homesite as Abe Lincoln had slept at the home. Mr. Embry said the home had fallen into disrepair and the owner was wanting to sell the property to someone who was willing to restore the home to its historic state. Mr. Embry added there was a family cemetery along the road that can not be sold and the land was surrounded by farmland on all other sides. Mr. Embry stated giving the property the 200’ of required frontage would require them to sell the cemetery or sell off tillable acreage. Mr. Embry said the grain bins and smaller sheds on the property would be removed and the new owner would be purchasing the larger pole building on the property. Mr. Embry added actual frontage would be 84’, not the 65’ as originally thought.

Following all Public Hearings, moved by Vogelsang, seconded by Toevs, to approve **Case No. 11-48-V** with the amendment that the road frontage be increased to 84 feet along Lilly Road.

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 existing cemetery located on the property and the area surrounding the request is tillable farmland it is not feasible or practical to require to the 200 feet of road frontage in this particular situation.

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 existing cemetery located on the property and the area surrounding the request is tillable farmland it is not feasible or practical to require to the 200 feet of road frontage in this particular situation.

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. Reducing the frontage requirement will not be injurious to the 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. Although the site will be sold it is due to unforeseen reasons and due to the cemetery being a family cemetery it is obvious that the owners wish to retain ownership.

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 cemetery located on the property and the area surrounding the request is tillable farmland it is not feasible or practical to require to the 200 feet of road frontage in this particular situation.

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

POSITIVE.

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

POSITIVE. Due to the existing cemetery located on the property and the area surrounding the request is tillable farmland it is not feasible or practical to require to the 200 feet of road frontage in this particular situation.

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. 11-48-V as amended** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-49-V: The Petition of James Classen for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow the creation of a new Zoning lot of record with an Accessory Structure to be 4' from the newly created Side Property Line, which is 11' 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 regarding the proposed Variance request recommending approval.

Kenneth Siegrist, Dillon Township Road Commissioner submitted a report regarding the proposed Variance request stating the proposed access is adequate.

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

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

James Classen appeared to testify on behalf of the proposed Variance request. Mr. Classen stated he would like to sell the farm dwelling to his grandson, and the most feasible location for a new property line would be in between a shed and garage. Mr. Classen said his grandson would own the driveway and he would retain an easement across the driveway to use the driveway for farming practices.

Following all Public Hearings, moved by Toevs, seconded by Vogelsang, to approve **Case No. 11-49-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 driveway and the light pole and meter the new property line as proposed is the most feasible location. Further the two buildings are only 21 feet apart and the owner wishes to retain the storage shed located on the remaining property for farming purposes and if the required setback were to be met a gravel driveway would have to be moved.

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 driveway and the light pole and meter the new property line as proposed is the most feasible location. Further the two buildings are only 21 feet apart and the owner wishes to retain the storage shed located on the remaining property for farming purposes and if the required setback were to be met a gravel driveway would have to be moved.

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 granting of the Variance will have no negative effect on 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. The nature of the Variance has no effect on the supply of light and will not diminish property values.

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

POSITIVE.

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 location of the existing driveway and the light pole and meter the new property line as proposed is the most feasible location. Further the two buildings are only 21 feet apart and the owner wishes to retain the storage shed located on the remaining property for farming purposes and if the required setback were to be met a gravel driveway would have to be moved.

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

POSITIVE.

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

POSITIVE. Due to the location of the existing driveway and the light pole and meter the new property line as proposed is the most feasible location. Further the two buildings are only 21 feet apart and the owner wishes to retain the storage shed located on the remaining property for farming purposes and if the required setback were to be met a gravel driveway would have to be moved.

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

On roll call to approve **Case No. 11-49-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-50-V: The Petition of Richard and Teresa DeGrave for a Variance to waive the requirements of 7TCC1-7(1)(ii) for a Variance to allow the reconstruction of an Addition to Dwelling (Covered Front Porch) to be 67' from the centerline of Dee Mack Road (County Highway 6), which is 33' 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 regarding the proposed Variance request having no comment.

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

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

District 701 Schools were notified and made no comment regarding the proposed Variance request.

Richard DeGrave appeared to testify on behalf of the proposed Variance request. Mr. DeGrave stated the home was built in 1846 and due to safety reasons the front porch had to be completely removed in order to do tuck pointing. Mr. DeGrave said he would like to reconstruct the porch at the same size of the original porch, however he would like to wrap the porch around the side of the dwelling to step down to the driveway. Mr. DeGrave added he would try to keep with the original design of the original porch and it would have a roof area.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to approve **Case No. 11-50-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 dwelling has been located on this property since the 1800's predating Zoning and does not meet the required setbacks. The proposed porch is replacing an existing porch which had become dilapidated and unsafe, further the new porch will be constructed in the same location and will be the same dimensions as the original porch.

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 dwelling has been located on this property since the 1800's predating Zoning and does not meet the required setbacks. The proposed porch is replacing an existing porch which had become dilapidated and unsafe, further the new porch will be constructed in the same location and will be the same dimensions as the original porch.

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

POSITIVE. The existing dwelling has been located on this property since the 1800's predating Zoning and does not meet the required setbacks. The proposed porch is replacing an existing porch which had become dilapidated and unsafe, further the new porch will be constructed in the same location and will be the same dimensions as the original porch.

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

POSITIVE. The existing dwelling has been located on this property since the 1800's predating Zoning and does not meet the required setbacks. The proposed porch is replacing an existing porch which had become dilapidated and unsafe, further the new porch will be constructed in the same location and will be the same dimensions as the original 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 Variance is not for monetary gain as the proposed porch is replacing an existing porch which had become dilapidated and unsafe, further the new porch will be constructed in the same location and will be the same dimensions as the original porch.

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 dwelling has been located on this property since the 1800's predating Zoning and does not meet the required setbacks. The proposed porch is replacing an existing porch which had become dilapidated and unsafe, further the new porch will be constructed in the same location and will be the same dimensions as the original 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 has been located on this property since the 1800's predating Zoning and does not meet the required setbacks. The proposed porch is replacing an existing porch which had become dilapidated and unsafe, further the new porch will be constructed in the same location and will be the same dimensions as the original porch.

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

POSITIVE. The existing dwelling has been located on this property since the 1800's predating Zoning and does not meet the required setbacks. The proposed porch is replacing an existing porch which had become dilapidated and unsafe, further the new porch will be constructed in the same location and will be the same dimensions as the original porch.

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

On roll call to approve **Case No. 11-50-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, October 4, 2011** at 6:00 p.m. in the Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois.

ADJOURNMENT

There being no further business, moved by Baum, seconded by Zimmerman, to adjourn the Zoning Board of Appeals Public Hearing at 6:46 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.