

**(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, October 4, 2011, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Monica Connett, Duane Lessen, Loren Toevs, Robert Vogelsang and Ken Zimmerman

ABSENT: None

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

OTHERS

PRESENT: Petitioners

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

(Continued at the September 7, 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 September 7, 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 Lessen, seconded by Zimmerman to continue **Case No. 11-32-S** and, **Case No. 11-33-V** to the November Hearings.

Motion carried by voice vote.

(Continued from the September 7, 2011 ZBA Public Hearing)

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.

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

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

Tazewell County Soil & Water Conservation District submitted a report regarding the proposed Rezoning request recommending approval.

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

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

Ron Hawkins, Cincinnati Township Road Commissioner submitted a report having no objection regarding the proposed Rezoning request and further stated that the project has his full support.

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

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

Dave Eagan, Vice President of Manufacturing appeared to testify on behalf of the proposed Rezoning request. Mr. Eagan stated the company was looking to expand the parking area and storage area. Mr. Eagan said there would be future growth of the company that would create additional jobs. Mr. Eagan added some of the property would be donated for improvements to Shady Lane.

Following all Public Hearings, moved by Zimmerman, seconded by Vogelsang, to recommend approval of **Case No. 11-37-Z**.

After considering all the evidence and testimony presented, the ZBA discussed the findings of fact and reviewed the Report of the Land Use Planner and arrived at the following findings of fact:

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

POSITIVE. The existing property contains a private club operated by the Marine Corps League. Wooded land is located to the north and west, the Excel Foundry and Machine property is located to the south, and a gravel pit is located to the east. Manufacturing, assembly, foundry work, and parts distribution occur on the Excel Foundry and Machine property. The immediate area is an established industrial area, so the expansion of Excel's operation onto this property is appropriate. It will not be detrimental to the orderly development of Tazewell County.

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

POSITIVE. Manufacturing, assembly, foundry work and parts distribution are the activities that occur on the Excel property, and the rezoning will enable Excel to expand its existing operations; no new activities will be performed as a result of the expansion. All of these activities are appropriate industrial uses, and this property is suitable for heavy industrial activities due to its location within an established industrial area. Although roads in the area are in need of improvements due to the truck traffic that accesses this area, there is work being done to address this situation. Therefore, the proposed amendment will not be detrimental to the public health, safety, morals, or general welfare of Tazewell County.

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

POSITIVE. Existing uses of property within the general area consist of wooded land to the north and west, heavy industry to the south, and gravel mining to the east. Rezoning this property for heavy industrial use will be consistent with the existing nearby industrial uses, so the request is consistent with existing uses of property within the general area.

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

POSITIVE. Adjacent property to the east and south is zoned I-2, and adjacent property to the north and west is zoned Conservation. Therefore, the request is consistent with the zoning classifications of property within the general area.

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

POSITIVE. The property is currently zoned A-1, but it is approximately 3 acres in size, and it is adjacent to property within the I-2 and Conservation zoning districts, so it is not suitable for the practice of agriculture. Therefore, the property is not suitable for uses permitted under the existing zoning ordinance.

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

POSITIVE. The proposed zoning classification is I-2 for heavy industrial uses. The property is adjacent to a manufacturing facility and a gravel pit, both of which are within the I-2 zoning district. Therefore, the property is suitable for the uses permitted under the proposed zoning classification.

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

POSITIVE. The trend of development has been toward industrial use; the adjacent gravel pit began operations in 2007, adding to the industrial character of the area. Therefore, the trend of development supports the proposed rezoning.

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

POSITIVE. The property is not vacant; it is occupied by a private club operated by the Marine Corps League. However, the immediate area is industrial in nature and is occupied by a manufacturing facility and a gravel pit. Therefore, the proposed rezoning is suitable.

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

POSITIVE. The proposed map amendment is within one-and-one-half miles of the City of Pekin, and the Pekin Comprehensive Plan identifies this property for Conservation uses. However, the property is actively used and is adjacent to heavy industrial uses, so the proposed map amendment is judged to be suitable.

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

POSITIVE. The gain to the public is an orderly development pattern and the expansion of an existing business. The hardship is greater difficulty in expanding the existing business without having a detrimental impact on nearby uses. Therefore, the proposed rezoning is suitable.

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

POSITIVE. The proposed amendment is consistent with the following Tazewell County Comprehensive Plan principle: "New and existing businesses and industries are willing and able to establish and maintain operations."

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

Motion carried by voice vote.

On roll call to recommend approval of **Case No. 11-37-Z** the vote was:

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

Nays: 0

Motion declared carried.

(Continued from the September 7, 2011 ZBA Public Hearing)

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.

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

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

Tazewell County Soil & Water Conservation District submitted a report regarding the proposed Rezoning request recommending approval.

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

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

Ron Hawkins, Cincinnati Township Road Commissioner submitted a report having no objection regarding the proposed Rezoning request and further stated that the project has his full support.

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

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

Dave Eagan, Vice President of Manufacturing appeared to testify on behalf of the proposed Rezoning request. Mr. Eagan stated Excel would like to swap land with the Marine Corp League. Mr. Eagan said Excel would provide funds for the construction of a building for the Marine Corp League in a better location that was more accessible.

Following all Public Hearings, moved by Connett, seconded by Baum, to recommend approval of **Case No. 11-38-Z**.

After considering all the evidence and testimony presented, the ZBA discussed the findings of fact and reviewed the Report of the Land Use Planner and arrived at the following findings of fact:

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

POSITIVE. The proposed amendment is for this property to be placed within the A-1 Agricultural Preservation Zoning District. The existing property is currently used for row crop production, and all surrounding land is used for row crop production. The nearest business is the Tremont Grain Co-Op facility located to the northeast along Wagonseller Road. Therefore, since all nearby uses are agricultural, the proposed amendment will not be detrimental to the orderly development of Tazewell County.

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

POSITIVE. The proposed amendment is for this property to be placed within the A-1 Agricultural Preservation Zoning District, and the subject property and all surrounding land is currently used for row crop production or other agricultural uses. Therefore, the proposed amendment will not be detrimental to the public health, safety, morals or general welfare of Tazewell County.

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

POSITIVE. All surrounding property is used for row crop production, and the nearest business is the Tremont Grain Co-Op facility located south of the Excel property on Wagonseller Road. Therefore, the request is consistent with existing uses of property within the general area.

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

POSITIVE. Adjacent property to the west and south is zoned A-1 and adjacent property to the north and east is zoned I-2. Therefore, the request is consistent with the zoning classifications of property within the general area.

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

POSITIVE. The existing zoning classification allows for heavy industrial uses, but the subject property and all surrounding land is currently used for row crop production. Therefore, the property is not suitable for uses permitted under the existing zoning classification.

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

POSITIVE. The proposed zoning classification allows for agriculture, and the subject property and all surrounding land is currently used for row crop production. Therefore, the property is suitable for uses permitted under the proposed zoning classification.

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

POSITIVE. There has been no trend of development in the immediate area; agriculture remains the predominant use. Although the specific piece of property under consideration is zoned for industrial use, it is used for agriculture. Therefore, since there has been no trend of development, the proposed rezoning is suitable.

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

POSITIVE. The property is vacant as zoned because although it is zoned for heavy industrial use, it is used for agriculture. Land to the north along Wagonseller Road has been developed for industrial uses, but the immediate area under consideration is used for agriculture. Therefore, the proposed rezoning is suitable.

9. *The proposed map amendment is within one and one half (1 1/2) miles of a municipality and consistent with an adopted Comprehensive Plan.*

POSITIVE. The proposed map amendment is not within one-and-one-half miles of a municipality. It is located just outside of Pekin's planning area. The nearest land within Pekin's planning area is planned to be used for Conservation, so the rezoning for agricultural uses is suitable.

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

POSITIVE. When coupled with the Special Use (11-39-S), the gain to the public is the expansion of an industrial use and the continued operation of the Marine Corps League private club. The hardship is greater difficulty in expanding an industrial use without having a detrimental impact on nearby uses. Therefore, the proposed rezoning is suitable.

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

POSITIVE. The proposed amendment is consistent with the following Tazewell County Comprehensive Plan implementation strategy: "Minimize conflict between land uses."

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

Motion carried by voice vote.

On roll call to recommend approval of **Case No. 11-38-Z** the vote was:

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

Nays: 0

Motion declared carried.

(Continued from the September 7, 2011 ZBA Public Hearing)

(Upon approval of Case No. 11-38-Z by the Tazewell County Board)

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.

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

Tazewell County Health Department submitted a report regarding the proposed Special Use request stating they are working with the Marine Corp League regarding construction of a new building.

Tazewell County Soil & Water Conservation District submitted a report regarding the proposed Special Use request recommending approval.

Tazewell County Farm Bureau submitted a report stating this case has a direct impact on agriculture but approved with reservations.

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

Ron Hawkins, Cincinnati Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request and further stated that this project has his full support.

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

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

Dave Eagan, Vice President of Manufacturing appeared to testify on behalf of the proposed Special Use request. Mr. Eagan stated Excel would like to swap land with the Marine Corp League. Mr. Eagan said Excel would provide funds for the construction of a building for the Marine Corp League in a better location that was more accessible.

Following all Public Hearings, moved by Connett, seconded by Toevs, to approve **Case No. 11-39-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: "Minimize conflict between land uses."

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 in all directions are used for row crop production. A Tremont Grain Co-Op facility is located farther to the northeast along Wagonseller Road and Excel Foundry and Machine, the Carri Scharf gravel mining operation, and a sandblasting business are located farther to the north along Wagonseller Road. The proposed private club will be similar to a tavern and restaurant and will not be an intensive use, so it will have little impact on the nearby agricultural uses. Therefore, adverse effects will be minimized.

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

POSITIVE. The neighboring vicinity consists of agricultural uses – row crops and the Tremont Grain Co-Op facility – with a manufacturing facility, gravel pit and sandblasting business located farther to the north. The proposed private club will be similar to a tavern and restaurant; it will not be an intensive use and it will not create substantial adverse effects that will harm the nearby agricultural uses. Therefore, the establishment of 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. Other property in the immediate vicinity is used for agriculture; row crops surround the site and a Tremont Grain Co-Op facility is located farther to the northeast. The proposed private club will be similar to a tavern and restaurant and will not be an intensive use, so it will not be injurious to the agricultural uses in the immediate vicinity.

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

POSITIVE. The general area consists of agricultural properties. The proposed private club will be similar to a tavern and restaurant and will not create substantial adverse effects that will be detrimental to the pursuit of agriculture, so it will not cause substantial change in the general area. Therefore, the Special Use will not substantially impair property values within the general area.

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

POSITIVE. The proposed access off of Garman Road should be suitable and the proposed parking appears to be adequate. The applicant indicates that necessary utilities will be provided. Therefore, all necessary facilities will be provided.

9. *Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard on the public streets.*

POSITIVE. The Special Use will be accessed off of Garman Road. Garman Road is not heavily travelled, and while at times the Special Use could generate a substantial quantity of trips for special events, Garman Road and the surrounding road network should be able to accommodate this traffic. 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 Special Use is a private club that will be similar to a tavern and restaurant, so it will not generate residential development pressure in this immediate area. Therefore, it will not increase the population density, so it 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 proposed Special Use is a private club located in an agricultural area near heavy industrial uses, so it will not exert pressure for new development in the immediate area. Therefore, it will not affect land use greater than one-half mile away, so it 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 property has soil productivity indices of 60, 110, and 125, and the property mostly has a productivity index of 60. The specific piece of property under consideration is actively enrolled in row crop production. However, if this property is preserved, Excel cannot complete the desired expansion, and by developing this piece of property, Excel's operation can expand and operation of the Marine Corps League's private club can continue. Therefore, the loss of 4 acres of farmland is judged to be acceptable.

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 agricultural uses and industrial uses. While the proposed private club is similar to a tavern and restaurant, it will not be an intensive use and will not cause substantial adverse effects that will negatively impact the existing agricultural activities. Therefore, the proposed Special Use is judged to be consistent with the existing uses of property within the general area.

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

POSITIVE. The property is suitable for the Special Use as proposed based on the findings as a whole.

Moved by Lessen, seconded by Baum, 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. 11-39-S** the vote was:

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

Nays: 0

Motion declared carried.

(Continued from the September 7, 2011 ZBA Public Hearing)

CASE NO. 11-45-S: The petition of Joseph LaHood for a Special Use to allow the construction of an Accessory Structure prior to a Principal Dwelling in an A-1 Agriculture Preservation 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 recommending approval regarding the proposed Special Use request.

Tazewell County Farm Bureau submitted a report stating this case has a direct impact on Agriculture but recommended approval regarding the proposed Special Use request.

Jon Oliphant, City of Washington submitted a report stating the City was in support of the proposed Special Use request.

Dave Weaver, Washington Township Road Commissioner had no objection to the proposed Special Use request.

John Anderson, Tazewell County Highway Engineer submitted a report stating there would be no affect to a County Highway.

Lee White, Illinois Department of Transportation made no comment regarding the proposed Special Use request.

School Districts 51 and 308 made no comment regarding the proposed Special Use request.

Joe LaHood appeared to testify on behalf of the proposed Special Use request. Mr. LaHood stated his brother would like to build a dwelling on part of the property in the future and would need a building to store materials in. Mr. LaHood said he would also like to start a large garden and would need a storage building for equipment.

Following all Public Hearings, moved by Connett, seconded by Toevs, to approve **Case No. 11-39-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: "Minimize conflict between land uses."

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 Route 24 to the northeast and east, large lot residential development and denser single family residential development to the south, and large lot residential development to the west. The proposed accessory structure will be built along the south property line near the accessory structure of the residential property adjacent to the south. The accessory structure will store tools and other personal equipment; it will not store construction equipment, so there will not be substantial truck traffic to and from the structure. Therefore, the use will have little impact on the adjacent residential properties, so adverse effects will be minimized.

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

POSITIVE. The neighboring vicinity consists of rural residential uses and denser single family residential development; this general area was once agricultural land that is being converted to residential uses. The proposed accessory structure will be used to store tools and other personal equipment in advance of future residential development. It will not be used to store construction equipment, so it will not generate substantial truck traffic to and from the site. Because it will not be an intensive use, it will have little impact on the existing nearby residential uses, so it 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 residential use; the drive that will provide access to the accessory structure is at the southeast corner of the property and passes over the adjacent property to the south. The structure will be used for personal storage and will not be used for any intensive uses such as storage of construction materials. Therefore, the impacts of the use will be minor, so it will not be injurious to the use and enjoyment of residential properties in the immediate vicinity.

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

POSITIVE. The proposed accessory structure will be used for storage of tools and personal equipment; it will not support any intensive uses on the property. Because no intensive uses will occur on the property, the property will be compatible with the nearby residential uses and will not cause substantial change in the neighborhood. As a result, the Special Use 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. Access currently exists via a gravel drive off of Spring Creek Road that passes over an adjacent residential property; an easement exists that grants access over this drive. Traffic over this drive will be limited, and the primary point of access in the future will be off of Teel Lane, so there are no concerns about this access drive being damaged or the potential for future conflict about maintenance. Therefore, all necessary facilities will be provided.

9. *Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard on the public streets.*

POSITIVE. The proposed accessory structure will be used for personal storage and not an intensive use. The access drive is located a short distance from the intersection of Business Route 24 and Spring Creek Road, but because traffic to the site will be limited, the proposed Special Use will not negatively impact traffic at this intersection. Therefore, traffic congestion and hazard on the public streets will be minimized.

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

POSITIVE. The proposed Special Use is an accessory structure, not a residential use or a use that will generate residential development pressure in the future. Therefore, the proposed Special Use will not lead to an increase in population density in the immediate area, so it will not hinder the operation or expansion of any livestock feeding operation located within one-half mile of the site.

11. *Evidence presented establishes that granting the use, which is located more than one-half mile from a livestock feeding operation, will not hinder the operation or expansion of such operation.*

POSITIVE. The proposed Special Use is an accessory structure, so it will not exert development pressure that will impact the development of land greater than one-half mile from the site. Therefore, the proposed Special Use will not hinder the operation or expansion of any livestock feeding operations located greater than one-half mile away.

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

POSITIVE. The soils on site have a productivity index of 120, so the proposed accessory structure will not negatively impact prime farmland.

13. *The Special Use is consistent with the existing uses of property within the general area of the property in question.*

POSITIVE. The proposed Special Use is an accessory structure, and the general area consists of large lot residential uses that have large accessory structures on the property. Therefore, the Special Use 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 Baum, 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. 11-45-S** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-46-V: The petition of Joseph LaHood for a Variance to waive the requirements of 7TCC 1-7(c)(1) to allow the construction of an Accessory Structure prior to a Principal Dwelling for storage of materials to maintain the property and storage of personal equipment which will be approximately 3,200 square feet, which is 2,800 square feet larger than allowed in an A-1 Agriculture Preservation Zoning District

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

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

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

Jon Oliphant, City of Washington submitted a report stating the City was in support of the proposed Variance Use request.

Dave Weaver, Washington Township Road Commissioner made no objection to the proposed Variance request.

John Anderson, Tazewell County Highway Engineer submitted a report regarding the proposed Variance request stating there would be no affect to a County Highway.

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

School Districts 51 and 308 made no comment regarding the proposed Special Use request.

Joe LaHood appeared to testify on behalf of the proposed Variance request. Mr. LaHood stated his brother would like to build a dwelling on part of the property in the future and would need a building to store materials in. Mr. LaHood said he would also like to start a large garden and would need a storage building for equipment.

Following all Public Hearings, moved by Baum, seconded by Zimmerman, to approve **Case No. 11-46-V**.

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

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

POSITIVE. The applicant owns 78 acres and a building of this size is needed to allow for larger equipment and tools that are needed to help with maintenance of the property.

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

POSITIVE. The applicant owns 78 acres and a building of this size is needed to allow for larger equipment and tools that are needed to help with maintenance of the 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. The applicant owns 78 acres and a building of this size is needed to allow for larger equipment and tools that are needed to help with maintenance of the property. Allowing the additional square footage will not be detrimental to the public welfare 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. The proposed location of the building and allowing the additional square footage will not diminish property values in the neighborhood or impair the supply of light and air.

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 owns 78 acres and a building of this size is needed to allow for larger equipment and tools that are needed to help with maintenance of the property.

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. The applicant owns 78 acres and a building of this size is needed to allow for larger equipment and tools that are needed to help with maintenance of the property.

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

On roll call to approve **Case No. 11-46-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-52-S: The petition of Mike and Sue Schaffnit for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

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

Tazewell County Health Department made no comment regarding the proposed Special Use request however a Septic Permit has been issued.

Tazewell County Soil & Water Conservation District recommending approval regarding the proposed Special Use request.

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

John Anderson, Tazewell County Highway Engineer submitted a report stating the entrance was approved for Residential use.

School District 701 made no comment regarding the proposed Special Use request.

Mike Schaffnit appeared to testify on behalf of the proposed Special Use request. Mr. Schaffnit stated he purchased the property in June and would like to construct a dwelling for his mother in-law to live in. Mr. Schaffnit said the entire property was 20 acres and he would divide approximately 2 acres off for the new home site. Mr. Schaffnit added he would leave himself ownership to the South side of the proposed property for future maintenance access. Mr. Schaffnit stated he accessed his property off of the North side of the property. Mr. Schaffnit said he was aware of the Highway Departments advice to keep the access clear and he would be cautious to maintain the access.

Following all Public Hearings, moved by Baum, seconded by Connett, to approve **Case No. 11-52-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 large lot dwellings and farmland to the north and east, large lot dwellings to the south, and a church and farmland to the west. The immediate area is wooded with water features and has been developed as a cluster of large lot dwellings surrounded by farmland. The proposed use is a dwelling, and a dwelling will be compatible with the existing residential and agricultural uses in the area. Therefore, 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 large lot dwellings, farmland, and a church. The proposed dwelling will be similar to the existing dwellings in the area, so the establishment of an additional dwelling in this rural residential area will not create conflicts with the existing residential, agricultural and institutional uses. 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 residential, agricultural, and institutional uses. The addition of a dwelling will be similar to the existing residential uses and will be compatible with the agricultural and institutional uses. Therefore, the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity.

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

POSITIVE. The general area consists of large lot dwellings, agricultural uses, and a church. The addition of one large lot dwelling will be compatible with the existing uses and will not cause substantial change in the general area. Therefore, the Special Use 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. Access will be provided via an existing entry onto Dee Mack Road near a curve, and the Highway Engineer has approved use of this access while encouraging the applicant to prevent the growth of vegetation from limiting sight distance. All other facilities will be provided.

9. *Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard on the public streets.*

POSITIVE. The proposed Special Use will be located in a rural area with relatively low traffic, and the addition of one dwelling will not generate a substantial number of trips, so traffic congestion will be minimized. The only possible hazard is growth of vegetation that can limit the sight distance along Dee Mack Road to the north. As long as vegetation is maintained so that the sight distance is not limited, hazard on the public streets will be minimized.

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

POSITIVE. The immediate area contains several large lot dwellings, so it is already an established residential area, and the addition of one new dwelling will not exert substantial development pressure that will lead to a substantial increase in population density. Therefore, the operation or expansion of any nearby livestock feeding operations will not be hindered.

11. *Evidence presented establishes that granting the use, which is located more than one-half mile from a livestock feeding operation, will not hinder the operation or expansion of such operation.*

POSITIVE. The proposed Special Use is a new dwelling to be located in an area with several large lot dwellings surrounded by farmland. This is an established residential area, and the addition of one new dwelling will not exert substantial development pressure that will lead to land use changes more than one-half mile away. Therefore, the operation or expansion of any livestock feeding operations located more than one-half mile away will not be hindered.

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

POSITIVE. The soils on site have a productivity index of 135, but no portion of the property is used for agriculture; the proposed dwelling will be built on an area of open space near the pond. Therefore, approval of the Special Use will not remove any farmland from 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 large lot dwellings, row crops, and a church. The proposed Special Use will be a large lot dwelling. Therefore, the Special Use will be consistent with the existing uses of property within the general area.

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

POSITIVE. The property is suitable for the Special Use as proposed based on the findings as a whole and subject to the following condition:

Vegetation is maintained so that the sight distance from the entry drive to the north along Dee Mack Road is preserved.

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

On roll call to approve **Case No. 11-52-S** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-53-S: The petition of Fisher Stolz for a Special Use to allow a Home Commercial Business from an existing Accessory Structure for the purpose of operating an Art Studio to create metal sculptures in a R-R Rural Residential 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 stating this case may have an impact on Agriculture and made no recommendation regarding the proposed Special Use request.

Jon Oliphant, City of Washington submitted a letter stating the City could not recommend approval regarding the proposed Special Use request.

Dave Weaver, Washington Township Road Commissioner made no comment regarding the proposed Special Use request.

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

School Districts 51 and 308 made no comment regarding the proposed Special Use request.

Fisher Stolz appeared to testify on behalf of the proposed Special Use request. Mr. Stolz stated he was the Sculpture Professor at Bradley University and was recently tenured. Mr. Stolz said he had lived at the property for 8 years and had been sculpting there personally but wanted to expand and partner with a former student. Mr. Stolz added the sculptures are first cast in clay and then metal would be applied in small fractions and welded into shape before shipping. Mr. Stolz stated keeping the door closed in the summer to keep the noise down was not a problem as he was used to working in the heat.

Following all Public Hearings, moved by Baum, seconded by Connett, to approve **Case No. 11-53-S** with the following condition:

1. There shall be no outside storage of materials related to the business.

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: "Minimize conflict between land uses."

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 large-lot single-family dwellings to the west and north, a large-lot single-family dwelling and farmland to the east, and wooded land and farmland to the south. The proposed use is an art studio to create metal sculptures. The following is a description of potential adverse effects of the use:

- Noise – Grinders will be used when creating metal sculptures, but the building will be closed during grinding work and the noise is barely audible from the house on site, so noise impacts will be minimized.
- Parking – Two additional employees are expected to work at the studio, and vehicles will be parked in front of the studio. There is sufficient room for what should be a maximum of two vehicles, so the negative visual impact of vehicles on site will be minimized.
- Traffic – A pickup truck with a trailer will be used to pick up materials and bring them to the site. A delivery van may be acquired in the future to pick up materials. Materials are expected to be delivered once a month. Also, customers may visit the site, but only to view commissioned work, not to browse as in a gallery. Therefore, traffic to and from the site will be limited, so impacts of vehicular traffic will be minimized.
- Outdoor Storage – No outdoor storage is expected, so impacts will be minimized.

As a result, adverse effects of the proposed Special Use will be minimized.

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

POSITIVE. The neighboring vicinity consists of large-lot single-family dwellings, and because adverse effects will be minimized, the use will not be detrimental to the existing neighboring residential uses. Also, the art studio will be in operation from 8:00 a.m. to 6:00 p.m. Monday through Friday with limited weekend work, so the studio will not be in operation in the evenings and will be in operation only occasionally during the weekend. Therefore, the proposed 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. The immediate vicinity consists of large-lot single-family dwellings and wooded land. Adverse effects of the proposed Special Use will be minimized, so it will not be detrimental to the existing residential uses; the immediate area will retain its residential character. Therefore, the proposed Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity.

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

POSITIVE. The adverse effects of the proposed Special Use will be minimized, so the proposed art studio will not cause substantial change in the neighborhood nor will it substantially alter the residential character of the neighborhood. Therefore, the proposed Special Use 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. The existing access drive is sufficient for the proposed use, and there is sufficient space for parking the limited amount of vehicles that will be associated with the use. The applicant indicates that electrical service may be upgraded in the accessory building. Therefore, all necessary facilities will be provided.

9. *Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard on the public streets.*

POSITIVE. The projected traffic that will access the use consists of two daily trips to the site by employees, one trip per month that will deliver materials, and occasional trips by customers to view commissioned work; the use will not be open to the public as a gallery. The existing access drive and site can accommodate this level of traffic, and this level of traffic will represent only a very small increase in traffic in the general area. Therefore, traffic congestion and hazard on the public streets will be minimized.

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

POSITIVE. The site is located within a rural residential area, and the proposed use is a low intensity business use, so it will not generate development pressure for residential development. Therefore, the proposed Special Use will not increase the population density to a level that will 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 site is located within a rural residential area that is mostly developed, and the proposed use is a low intensity business use, so it will not generate development pressure that will lead to any change in uses greater than one-half mile away. Therefore, it will not hinder the operation or expansion of any livestock feeding operation 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 contains a residential use and is not used for agriculture. Therefore, approval of the proposed Special Use will not remove any prime farmland from 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 large-lot single-family dwellings, wooded land, and farmland. The proposed use is a low intensity business use, but because its adverse effects will be minimized, it will not substantially alter the residential character of the general area and will be compatible with the nearby residential uses. Therefore, it is judged to be consistent with the existing uses of property within the general area.

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

POSITIVE. The property is suitable for the Special Use as proposed based on the findings as a whole. Because adverse effects of the Special Use will be minimized, it will be compatible with nearby residential uses and will not substantially alter the residential character of the surrounding area. The Zoning Board of Appeals may wish to attach conditions to address parking and outdoor storage.

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

On roll call to approve **Case No. 11-53-S** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-54-V: The petition of Richard and Patricia Gay for a Variance waive the requirements of 7TCC1-10(f)(1)(iii) to allow the construction of an Addition to an existing Dwelling (Front Deck) to be 35' from the centerline of Wildwood Drive which is 15' 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 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 the Village would not be affected by the proposed Variance request therefore they would neither oppose nor support the request.

Dave Risinger, Groveland 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.

School District 709 made no comment regarding the proposed Variance request.

Richard Gay appeared to testify on behalf of the proposed Variance request. Mr. Gay stated he would like to construct an 8' x 18' deck on the front of his dwelling. Mr. Gay said he would need a variance due to the house not meeting the required setback.

Following all Public Hearings, moved by Lessen, seconded by Vogelsang, to approve **Case No. 11-54-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 does not meet the required setbacks and for aesthetic purposes the proposed location for the new deck is the most logical. The new deck will not extend out any further to the street and will be in line with other structures in the immediate area.

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 does not meet the required setbacks and for aesthetic purposes the proposed location for the new deck is the most logical. The new deck will not extend out any further to the street and will be in line with other structures in the immediate area.

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 does not meet the required setbacks and for aesthetic purposes the proposed location for the new deck is the most logical. The new deck will not extend out any further to the street and will be in line with other structures in the immediate 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 existing dwelling does not meet the required setbacks and for aesthetic purposes the proposed location for the new deck is the most logical. The new deck will not extend out any further to the street and will be in line with other structures in the immediate 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. The existing dwelling does not meet the required setbacks and for aesthetic purposes the proposed location for the new deck is the most logical. The new deck will not extend out any further to the street and will be in line with other structures in the immediate area.

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 does not meet the required setbacks and for aesthetic purposes the proposed location for the new deck is the most logical. The new deck will not extend out any further to the street and will be in line with other structures in the immediate area.

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

POSITIVE. The existing dwelling does not meet the required setbacks and for aesthetic purposes the proposed location for the new deck is the most logical. The new deck will not extend out any further to the street and will be in line with other structures in the immediate area.

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. 11-54-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-55-V: The petition of David Martin for a Variance to waive the requirements of 7TCC1-7(g)(1)(iii) to allow the construction of an Accessory Structure (Garden Shed) to be 46’ from the centerline of Locust Road which is 54’ closer than allowed in an A-1 Agriculture Preservation District.

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

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

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

Kenneth Siegrist, Dillon 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.

School District 709 made no comment regarding the proposed Variance request.

James Vick appeared representing Mr. Vick and testified on behalf of the proposed Variance request. Mr. Vick stated Mr. Martin’s ground tapers on the back of a bluff and there was no level ground to build upon without requiring a lot of dirt work. Mr. Vick said the shed was proposed in the most level location of the property. Mr. Vick added the 16’ x 16’ shed would not be on a foundation. Mr. Vick stated he lived across the street from the Martin property and would be the only person to see the shed and did not have an issue with the location.

Following all Public Hearings, moved by Zimmerman, seconded by Baum, to approve **Case No. 11-55-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 slope and topography of the site the applicant has no other location on the property for placement of the shed.

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 slope and topography of the site the applicant has no other location on the property for placement of the shed.

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. Due to the slope and topography of the site the applicant has no other location on the property for placement of the shed. The proposed location will not be detrimental to the public welfare.

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. Due to the slope and topography of the site the applicant has no other location on the property for placement of the shed and the proposed location will not have a negative affect on the surrounding area.

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 a structure for additional storage which is needed,.

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 slope and topography of the site the applicant has no other location on the property for placement of the shed.

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 slope and topography of the site the applicant has no other location on the property for placement of the shed.

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

POSITIVE. Due to the slope and topography of the site the applicant has no other location on the property for placement of the shed.

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

On roll call to approve **Case No. 11-55-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-56-V: The petition of Mark Dahmm for a Variance to waive the requirements of 7TCC1-10(f)(1)(iii) to allow the construction of an Addition to Dwelling (Covered Front Porch) to be 41' from the centerline of Fahey Hollow Road, which is 9' 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.

Ty Livingston, City of East Peoria submitted a report stating the City staff recommended denial of the proposed Variance request.

Dave Risinger, Groveland 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.

School Districts 86 and 309 made no comment regarding the proposed Special Use request.

Mark Dahmm appeared to testify on behalf of the proposed Variance request. Mr. Dahmm stated he constructed a porch area for his father to get out of the sun. Mr. Dahmm said his father was 82 years old. Mr. Dahmm added the neighboring property had a building that was only 15 feet from the edge of the road and all structures along Fahey Hollow were as close, if not closer than what he had proposed.

Following all Public Hearings, moved by Connett, seconded by Baum, to approve **Case No. 11-56-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. For aesthetic purposes the proposed location for the new porch is the most logical. The new porch will not extend out any further to the street and will be in line with other structures in the immediate area.

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. For aesthetic purposes the proposed location for the new porch is the most logical. The new porch will not extend out any further to the street and will be in line with other structures in the immediate area.

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. For aesthetic purposes the proposed location for the new porch is the most logical and an improvement to the existing home. The new porch will not extend out any further to the street and will be in line with other structures in the immediate 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. For aesthetic purposes the proposed location for the new porch is the most logical and an improvement to the existing home. The new porch will not extend out any further to the street and will be in line with other structures in the immediate 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. For aesthetic purposes the proposed location for the new porch is the most logical. The new porch will not extend out any further to the street and will be in line with other structures in the immediate area.

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. For aesthetic purposes the proposed location for the new porch is the most logical. The new porch will not extend out any further to the street and will be in line with other structures in the immediate area.

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

POSITIVE. For aesthetic purposes the proposed location for the new porch is the most logical. The new porch will not extend out any further to the street and will be in line with other structures in the immediate area.

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

On roll call to approve **Case No. 11-56-V** the vote was:

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

Nays: 0

Motion declared carried.

OTHER BUSINESS

Following deliberations, Land Use Planner Nick Hayward reminded the Zoning Board of Appeals members of the upcoming Citizen Planner Workshop.

Administrator Deininger updated the Zoning Board of Appeals on the Lowery case. She stated there has been an agreement for purchase made and Mr. Lowery will appear again before the Zoning Board of Appeals once that had been finalized.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, November 1, 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.