

**(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, November 1, 2011, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, Monica Connett, Duane Lessen, Loren Toevs, Robert Vogelsang Alternate Phil Webb and Ken Zimmerman

ABSENT: JoAn Baum

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, K. Russell Crawford, Terry Hillegonds, Darrell Meisinger, Rosemary Palmer, Mel Stanford and Sue Sundell

OTHERS

PRESENT: Petitioners

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

(Continued at the October 4, 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 October 4, 2011 ZBA Public Hearing)

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

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

Moved by Connett, seconded by Webb to continue **Case No. 11-32-S** and, **Case No. 11-33-V** to the December Hearings.

Motion carried by voice vote.

(Continued at the 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.

The Tazewell County Land Use Planner submitted a report identifying 5 Positive Findings of Fact, and 9 Negative Findings of Fact.

Tazewell County Health Department submitted a report regarding the proposed Special Use Request stating a soil analysis and a well permit would be required,

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

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

Jon Oliphant, City of Washington submitted a report recommending approval upon consultation of the Highway Engineer and Health Department.

Dave Weaver, Washington Township Road Commissioner submitted a report regarding the proposed Special use request objecting the proposed driveway location.

Worth Township Road District submitted a report regarding the proposed Special Use request stating that the proposed entrance could create a potentially unsafe situation.

School Districts 52 and 308 made no comment regarding the proposed Special Use request.

Karen Stumpe, Attorney for Petitioner, appeared to testify on behalf of the proposed Special Use request. Ms. Stumpe stated there were 11 acres of a family farm of over 70 years that was being requested to be divided from a larger tract of land. Ms. Stumpe said there was a deep ravine dividing the 11 acres from the remaining land that was once used to allow cattle to graze upon. Ms. Stumpe added the neighbors did not like the cattle at the location so they were removed and a new dwelling site was requested. Ms. Stumpe stated Steve Kerr, an engineer submitted a report for the Zoning Board's review regarding the location of the proposed entrance on the bend in the road being within site distance requirements. Ms. Stumpe said it would be wise to lower the speed limit at the curve in the road. Ms. Stumpe added that Caterpillar owns the property where the entrance would be located and the proposed entrance could not be moved as Caterpillar was planning to develop the property. Ms. Stumpe stated one driveway entrance would not have a large impact on the road. Ms. Stumpe said landscape could be provided in order to block headlights. Ms. Stumpe added the easement exists regardless of the approval of the ZBA for farm use.

Ronald Springer appeared to testify on behalf of the proposed Special Use request. Mr. Springer stated the trees within the easement would need to be removed as well as upgrades would be needed to the easement. Mr. Springer said there would only be 1 house constructed and he was bound to that per the Cat easement. Mr. Springer added there were not utilities to the site at the present time and would be provided.

Matt DeLost appeared to testify against the proposed Special Use request. Mr. DeLost stated he was appearing on behalf of the neighbors and for his children. Mr. DeLost said the easement ran down the side of his property. Mr. DeLost added he purchased his property in 2009 and moved into the dwelling in 2010.

Angela DeLost appeared to testify against the proposed Special Use request. Mrs. DeLost stated she noticed issues with the curve in the road right after moving in to the dwelling. Ms. DeLost said she contacted both Road Commissioners asking for signs or barricades far in advance of the proposed Special Use. Ms. DeLost added there had been 8 accidents that she was aware of that resulted in damages to vehicles or property and cars often veer off the road onto the easement and Cat property. Ms. DeLost stated she will not allow her children to play in the front yard or on that side of the property due to the situation with the curve in the road. Ms. DeLost said paving or graveling the easement would only add to driver confusion along with adding headlights from a car coming the opposite direction. Ms. DeLost added the easement would run the entire length of her property. Ms. DeLost stated when she purchased her property she was told she could not locate her driveway in that location due to the curve in the road so they changed the layout of their home to accommodate. Ms. DeLost gave the growth and development statistics of Washington, Germantown Hills and the City of East Peoria. Ms. DeLost said traffic had significantly increased in the area and asked the ZBA to please consider the information she had provided when rendering a decision.

David Ramsey appeared to testify against the proposed Special Use request. Mr. Ramsey stated he had lived in the area for 12 years at the intersection and had seen a number of accidents. Mr. Ramsey said the police can not patrol the intersection 24/7 and the exiting of vehicles onto Tazewood Road from the easement would only further confuse those traveling the road. Mr. Ramsey added there needed to be great importance stressed in finding another entrance to the proposed dwelling site.

Linda Hansen appeared to testify against the proposed Special Use request. Ms. Hansen stated she was the prior owner of the DeLost property and was open for any questions the ZBA may have had.

Karen Jacobs appeared to testify against the proposed Special Use request. Ms. Jacobs stated she was on the Board of Directors for Camp Good News which deals with over 500 children at camp every summer. Ms. Jacobs said the Camp also provided year round events for children and she has concern for the children's safety. Ms. Jacobs added she was concerned of any recreational use and children at the proposed Special Use site trespassing on the Camp Good News property.

Randall Jacobs appeared to testify against the proposed Special Use request. Mr. Jacobs said he was the attorney for Child Evangelical Fellowship. Mr. Jacobs said the engineer report was blind by the testimony given. Mr. Jacobs added the Petitioner's attorney even testified to the dangerous nature of the intersection to be created and it was not in the scope of the ZBA authority to change the speed limits at the curve.

Dave Weaver, Washington Township Road Commissioner appeared to answer questions regarding the proposed Special Use request. Mr. Weaver stated even he can not change speed limits as a road commissioner and stated the State makes the determination of a speed limit. Mr. Weaver said the headlights would be an issue and the petitioner was advised to look for an option further to the North.

Mr. Weaver added he had talked with the Highway Department and had even moved the location of a few posted signs and that would not stop the accidents.

Connie Ramsey appeared to testify against the proposed Special Use request. Ms. Ramsey stated the Petitioner could not build or landscape within the easement location.

Steve Kerr, Civil Engineer on behalf of the Petitioner, appeared to testify on behalf of the proposed Special Use request. Mr. Kerr stated he submitted the report that was before the ZBA. Mr. Kerr added the road was banked and elevated about the easement. Mr. Kerr stated he was not sure if any screening could be added within the easement area.

Following all Public Hearings, moved by Connett, seconded by Toevs, to approve **Case No. 11-23-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.*

NEGATIVE. Although the Special Use conforms to all applicable regulations of the Tazewell County Zoning Ordinance and when intertwined with a Variance request is considered compliant, allowing the access drive on a 90 degree curve poses other risks such as additional congestion on a Township Road thereby increasing the risk of safety to motorists and any potential owner of the proposed new site.

2. *The Special Use will be consistent with the purposes, goals, objectives, and standards of the officially adopted County Comprehensive Land Use Plan and these regulations, or of any officially adopted Comprehensive Plan of a municipality with a 1.5 mile planning jurisdiction.*

NEGATIVE. The proposed Special Use will be contrary to the following County Comprehensive Land Use Plan principle: "The transportation network is coordinated with land development to ensure safety, minimize congestion, optimize vehicle miles traveled, and ensure maintenance and functionality of the network." The proposed access drive potentially could be a safety hazard.

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

NEGATIVE. Although the requirements have been met, the request is not consistent with the purpose of Special Use requests due to the potential harm to the public which may be caused by the proposed access way to the site on a 90 degree.

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

NEGATIVE. Adjacent properties consist of several large lot dwellings along Tazewood Road to the north, large lot dwellings, wooded land and agricultural land along Tazewood Road to the west, agricultural land and wooded land to the south, and agricultural land to the east. The proposed parcel to be developed is southeast of the curve in Tazewood Road, and large lot dwellings are located to the north and west of the Tazewood Road curve. Although the site itself is suitable for a dwelling, the proposed access intersects Tazewood Road at the curve, and this potentially could be a safety hazard. This safety hazard is a substantial adverse effect, so adverse effects of the site will not 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.*

NEGATIVE. Although the site itself is suitable for a dwelling, the proposed access potentially could be a hazard that would endanger the safety of motorists traveling along Tazewood Road. Therefore, the Special Use will endanger public safety within the neighboring vicinity.

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

NEGATIVE. The immediate vicinity consists of several large-lot dwellings, so the development of an additional dwelling at this site will not be injurious to the use and enjoyment of the existing residential and agricultural uses. However, land immediately to the north of the Tazewood Road curve is owned privately for residential use, and because the proposed point of access has been the site of accidents in the past, the potential safety hazard could impact these privately owned properties. Therefore, the Special Use could 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.*

NEGATIVE. Although the development of a new dwelling itself at this site will not substantially diminish the values of nearby residential and agricultural property, the potential safety hazard that would be created by adding the proposed access drive at the location of a ninety-degree curve on Tazewood Road could substantially diminish property values if prospective residents are discouraged to move to the immediate area because of a substantial safety hazard. Therefore, the proposed Special Use could substantially diminish property values in the immediate area.

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

NEGATIVE. The proposed access is not suitable because it is an access drive located at a ninety-degree curve on Tazewood Road where accidents have occurred in the past. The addition of vehicular trips at this specific location only increases the potential safety hazard. Therefore, necessary facilities are not being 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.*

NEGATIVE. The proposed access will be located at a ninety-degree curve on Tazewood Road where accidents have occurred in the past, and the addition of vehicular trips at this specific location only increases the potential safety hazard. Therefore, there will not be adequate measures in place to minimize hazard on the public streets.

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

NEGATIVE. The addition of one new dwelling at this site will not lead to an increase in population density that will hinder the operation or expansion of nearby livestock feeding operations, however allowing the proposed site to be accessed on a 90 degree curve increases the potential safety hazard along the Township Road.

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.*

NEGATIVE. The Special Use will not hinder the operation or expansion of any livestock feeding operations located greater than one-half mile away however allowing the proposed site increases the potential safety hazard along the Township Road.

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

NEGATIVE. The development of a single-family dwelling will not remove any farmland from production, however allowing an access point to serve the proposed site on a 90 degree curve increases the potential safety hazard along the Township Road.

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

NEGATIVE. Although the proposed dwelling itself is consistent with the existing residential uses that exist in the general area, the nearby existing dwellings have an access point along a straight segment of Tazewood Road. The proposed access for the Special Use will have an access point at a ninety-degree curve on Tazewood Road, creating a potential safety hazard.

Therefore, the proposed Special Use is not consistent with the existing uses of property because it contains an access point with greater potential for being a safety hazard.

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

NEGATIVE. While the site itself is suitable for a dwelling, the proposed access causes concern because it will add vehicular trips to a point along Tazewood Road that has been the site of accidents in the past. The property is not suitable for the Special Use as proposed because the proposed access is a potential safety hazard. An alternative access arrangement is needed to improve safety and minimize the adverse effect on the immediate area.

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

On roll call to approve **Case No. 11-23-S** the vote was:

Ayes: 0

Nays: 7 – Connett, Lessen, Toevs, Vogelsang, Alt. Webb, Zimmerman and Chairman Newman

Absent: 1 – Baum

Motion failed.

(Continued at the ZBA Public Hearing)

(Upon approval of Case No. 11-23-S by the Zoning Board of Appeals)

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.

Tazewell County Health Department submitted a report regarding the proposed Variance Request stating a soil analysis and a well permit would be required,

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

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

Jon Oliphant, City of Washington submitted a report recommending approval upon consultation of the Highway Engineer and Health Department.

Dave Weaver, Washington Township Road Commissioner submitted a report regarding the proposed Variance request objecting the proposed driveway location.

Worth Township Road District submitted a report regarding the proposed Variance request stating that the proposed entrance could create a potentially unsafe situation.

School Districts 52 and 308 made no comment regarding the proposed Variance request.

The Zoning Board of Appeals did not arrive at a findings of fact or vote on the Variance request due to the denial of Case No. 11-23-S therefore making this request null and void.

CASE NO. 11-57-Z: The petition of Wayne and Marjorie Counterman, Randall Counterman, Charles Hundt, Ronald Hundt, and Mark and Kristina Lynn for a Map Amendment to the Official Elm Grove Township Zoning Map of Tazewell County to change the zoning classification of property from an A-1 Agricultural Preservation Zoning District to a R-R Rural Residential 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 recommending approval regarding the proposed Rezoning request.

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.

Terry Lohnes, Elm Grove Township Road Commissioner made no comment regarding the proposed Rezoning request.

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

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

Wayne Counterman appeared to testify on behalf of the proposed Rezoning request. Mr. Counterman stated he wanted to create a lot for his children. Mr. Counterman said he had 2 children living out there by him and wanted to create a lot for a third child as well. Mr. Counterman added his only option was to rezone the property.

Scott Kriegsman, Attorney for Petitioner, appeared to testify on behalf of the proposed Rezoning request. Mr. Kriegsman stated the only option was to petition for a rezoning. Mr. Kriegsman said there would not be a subdivision created, only one home. Mr. Kriegsman added the land was not suitable for agriculture and was more suited for Rural Residential.

Following all Public Hearings, moved by Connett, seconded by Toevs, to recommend approval of **Case No. 11-57-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 Rural Residential Zoning District. This request encompasses seven different properties located among wooded, hilly terrain with some water features; five of the properties contain dwellings. Other dwellings are located among wooded land to the north and across Mennonite Church Road, and only a very small portion of the acreage is used for agriculture. Because dwellings exist on the subject properties and within the general area, the land is largely hilly and wooded, and very little land is used for agriculture, 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 immediate area is hilly and wooded, and dwellings are located on some of the subject properties and within the general area. Very little of the subject land is used for agriculture. Therefore, the proposed rezoning will better reflect the existing uses on the subject properties, so the proposed amendment will not be detrimental to the public health, safety, morals or general welfare.

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

POSITIVE. Most of the properties in question contain dwellings, and other residential uses are located to the north and across Mennonite Church Road. The immediate area is largely wooded and used for residential purposes; very little of the land is used for agriculture. 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. All adjacent property is zoned A-1, and some property within the general area to the south is zoned R-1 for denser residential uses. However, the subject properties are located in a hilly wooded area, and most of the properties are already used for residential purposes. Very little of the subject land is used for agriculture. Therefore, the request is judged to be 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 A-1 zoning classification primarily allows for agricultural uses and as a minimum lot size of 40 acres, but the subject properties in general are used for residential purposes and have smaller lot sizes. The majority of the land is not suitable for agriculture. Therefore, the property is not suitable for the 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 RR zoning classification allows for residential uses on a minimum lot size of 2 acres, and the subject properties generally are developed for residential purposes. Three of the subject properties are less than 2 acres in size and two of the subject properties are between 2 acres and 3 acres in size. The majority of the property is developed for residential use or is suitable for residential use. 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. The trend of development in the general area has been toward residential uses. The immediate area is wooded and hilly, and five of the seven subject properties contain dwellings. Also, only a very small portion of the subject property is used for agriculture. 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 vacant as zoned because although it is zoned for agricultural use, it is generally not suitable for agriculture. The subject property is largely hilly and wooded, and five of the seven subject properties have been developed for residential purposes. Also, only a very small portion of the subject property 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 within one-and-one-half miles of Pekin, and according to the Pekin Comprehensive Plan, land within this general area is slated to be used for conservation purposes and estate purposes in the future. Because the land in general is already developed for residential use and it is near land slated to be used for estate purposes, the proposed map amendment is consistent with the Pekin Comprehensive Plan.

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

POSITIVE. Allowing the current zoning classification to remain will impose a hardship on the property owners because the subject property is not suitable for the current zoning classification due to its existing characteristics and the existing development. This situation could prevent changes to the properties that would be appropriate based on the existing manner in which the properties are used. Therefore, the proposed zoning amendment 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." In addition, the Comprehensive Plan future land use map identifies the subject property as within the RR Zoning District and a community growth area.

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

Motion carried by voice vote.

On roll call to recommend approval of **Case No. 11-57-Z** the vote was:

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

Nays: 0

Absent: 1 – Baum

Motion declared carried.

CASE NO. 11-58-S: The petition of Pastor Jay Arnold, Cross Baptist Church for an expansion to a an existing Special Use (Case No. 86-12-S) for Construction of an Addition to the church facility to be utilized as a Fellowship Hall, Restrooms and Common Area for a Sunday School Classroom in an A-1 Agriculture Preservation District.

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

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

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

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

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

Joe Crowe, Illinois Department of Transportation submitted a letter stating a Stormwater Management Plan and a Highway Permit would be required.

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

Pastor Jay Arnold appeared to testify on behalf of the proposed Special Use request. Pastor Arnold stated his Church has acquired the building and was relocating from their facility in Peoria. Pastor Arnold said his congregation needed a place to worship within the building, especially a fellowship hall.

Following all Public Hearings, moved by Toevs, seconded by Vogelsang, to approve **Case No. 11-58-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." Allowing the expansion of a non-intensive use in an area that contains agricultural and residential uses is appropriate.

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

POSITIVE. All requirements have been met.

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

POSITIVE. Adjacent properties consist of a livestock operation owned by the applicant to the west, single-family dwellings across Route 98 to the south, farmland to the east, and wooded land to the north. The church as it exists today is a low-intensity use and is compatible with the nearby residential and agricultural uses, and although this Special Use is a proposed expansion, the church will remain a low-intensity use and will have little impact on the existing residential and 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 residential and agricultural uses. The proposed Special Use will attract many users only at limited times during the week, and activities will primarily occur inside the church building. It is possible for a church to have outdoor activities, but they will likely be limited and not have a substantial impact on the neighboring vicinity. Therefore, the proposed Special Use will not be detrimental to the public health, safety, morals, comfort or general welfare.

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

POSITIVE. The immediate vicinity consists of residential and agricultural uses. The church is a low-intensity use and will remain a low-intensity use after the proposed expansion. Therefore, it will not negatively impact the existing residential and agricultural uses. 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 proposed Special Use will be a low-intensity use that will have little impact on the existing residential and agricultural uses, so it will not cause substantial change within 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 church already exists on site, so adequate utilities are already provided, and the access onto Route 98 appears to be suitable. Additional parking is needed, and the proposed expansion will extend near the existing parking area. Sufficient space must exist between the addition and the existing outbuilding on the property to ensure that access lanes can provide access to additional parking spaces to the northern portion of the property if needed. A site plan that identifies the location and size of parking spaces should be developed prior to construction. Otherwise, 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 expansion will result in increased traffic to the site that will be concentrated at specific times during the week such as Sunday mornings and Wednesday evenings. While there may be some congestion in the immediate area at these times, the congestion will occur for only brief periods of time and will have little impact on the overall traffic pattern in the immediate area. Therefore, traffic congestion and hazard will be minimized on the public streets.

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

POSITIVE. A livestock feeding operation is located adjacent to the site to the west. However, the property is owned by the applicant. Also, the proposed Special Use is for the expansion of a church within the bounds of the existing property, so it will not exert residential development pressure and it will not encroach upon the existing livestock feeding operation. 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 proposed Special Use is an expansion to an existing church. The church is not expanding onto an additional parcel, and the existing area contains agricultural uses and residential uses such as large-lot dwellings, so the expansion of the church will have little impact on the prevailing rural residential development pattern of the general area. Since the proposed Special Use will have little impact on the prevailing development pattern, it will not lead to land use changes more than one-half mile away, so it will not hinder the operation or expansion of any livestock feeding operations located more than one-half mile away.

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

POSITIVE. The site contains a church 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 agricultural uses and residential uses such as large-lot single-family dwellings. Although the proposed Special Use can be considered an institutional use, it is a low-intensity use and will remain a low-intensity use after the proposed expansion. Therefore, it will be compatible with the existing agricultural and residential uses, so 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

Moved by Toevs, 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. 11-58-S** the vote was:

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

Nays: 0

Absent: 1 – Baum

Motion declared carried.

CASE NO. 11-59-S: The petition of Thad Heinold for a Special Use to create one new dwelling site in an A-1 Agriculture Preservation District.

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

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

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

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

Village of Deer Creek made no comment regarding the proposed Special Use request.

Tom Wallace, Deer Creek Township Road Commissioner submitted a report stating no objection to the proposed Special Use request.

School District 140 made no comment regarding the proposed Special Use request.

Thad Heinold appeared to testify on behalf of the proposed Special Use request. Mr. Heinold stated he wanted to build a dwelling on a portion of his parents 44 acres parcel. Mr. Heinold said he intended to purchase the land.

Following all Public Hearings, moved by Toevs, seconded by Webb, to approve **Case No. 11-59-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 in rural areas close to roadways to preserve contiguous tracts of farmland."

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 north, farmland across Zimmerman Road to the west, large-lot single family dwellings among wooded land to the south, and wooded land within a large-lot residential property to the east. The immediate area is wooded land near the Mackinaw River and agricultural land. A dwelling will be compatible with the existing residential and agricultural uses in the general area, so adverse effects of the Special Use will be minimized.

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

POSITIVE. The neighboring vicinity consists of residential uses, agricultural land, and wooded land. Several large-lot dwellings exist within the general area. The addition of a dwelling at this site will be compatible with the existing residential and agricultural uses, so it will not be detrimental to the public health, safety, morals, comfort or general welfare.

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

POSITIVE. The immediate vicinity consists of large-lot single family dwellings, agricultural land, and wooded land. The proposed Special Use will be similar to the existing residential uses in the general area and will be compatible with the nearby agricultural uses. 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 proposed Special Use will be a large-lot single family dwelling, and the general area consists of large-lot single family dwellings, agricultural land, and wooded land. The proposed Special Use will be compatible with these nearby uses, so it will not cause substantial change within 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 proposed access is at a high point on Zimmerman Road and affords good visibility, and necessary utilities will be able to be provided to this site since they are provided for the nearby large-lot dwellings. 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 Special Use will generate few trips since it is a single family dwelling, and Zimmerman Road is located in a rural area and is lightly traveled. As a result, 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 general area already contains several large-lot single family dwellings, so the addition of one new dwelling will have little impact on exerting residential development pressure in the area. Also, the proposed Special Use will be split from an existing residential parcel, not an agricultural parcel. 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 proposed Special Use is a single family dwelling in an area that already contains several single family dwellings, so the addition of one new dwelling will have little impact on exerting residential development pressure in the area. Also, the area is rural and not densely developed. As a result, the proposed Special Use will not lead to land use changes more than one-half mile away, so it will not hinder the operation or expansion of any livestock feeding operations located more than one-half mile away.

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

POSITIVE. The productivity indices of soils on site are 125 and 95, but the site itself consists of open space and wooded land and is not used for agriculture. Therefore, the proposed 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 residential uses, agricultural uses and wooded land. The proposed Special Use will be a large-lot single family dwelling similar to the existing nearby residential uses, and it will be compatible with the existing agricultural uses, so it will be consistent with the existing uses of property within the general area.

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

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

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

On roll call to approve **Case No. 11-59-S** the vote was:

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

Nays: 0

Absent: 1 – Baum

Motion declared carried.

CASE NO. 11-60-V: The petition of Steven Jo Baker for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow an Accessory Structure (Shed) to be constructed and be 3’ 10” from the Side Property line which is 11’ 2” 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 on the proposed Variance request.

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

Rick Crum, City of Marquette Heights submitted a letter stating the proposed Variance request may affect future development in the area.

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

School Districts 102 and 303 made no comment regarding the proposed Special Use request.

Steve Baker appeared to testify on behalf of the proposed Variance request. Mr. Baker stated he had lived in the area since 1993 and was the last house on the dead end road. Mr. Baker said he needed a shed as he was an avid gardener and had a number of fruit trees to maintain. Mr. Baker added he once had a dog kennel in the same location as where the shed was proposed and would utilize the existing foundation. Mr. Baker stated there would be no impact in the area and there was 15 to 20 feet between his property and the area where the Village voiced concerns.

Following all Public Hearings, moved by Toevs, seconded by Connett, to approve **Case No. 11-60-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 intends to utilize an existing slab foundation for the new storage shed and the proposed location is the most practical due to the remaining property being utilized for growing of fruit trees. The property is a very small lot and normally properties that are zoned A-1 are of a much larger lot size and in most cases the setback requirement is not a hindrance, however due to the small lot size the A-1 setback is extreme in this circumstance.

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 property is a very small lot and normally properties that are zoned A-1 are of a much larger lot size and in most cases the setback requirement is not a hindrance, however due to the small lot size the A-1 setback is extreme in this circumstance.

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

POSITIVE. Allowing the Variance will not be detrimental to the public welfare and although the City of Marquette Heights has future long term improvements in this area the proposed location of the new structure will not impact those long term improvements at this time. If this property were zoned Residential like all other properties in the area a setback requirement of 5' foot would be required, therefore allowing a setback of 3' will not be injurious to other properties or improvements in the area at this time.

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

POSITIVE. Allowing the Variance will not be detrimental to the public welfare and although the City of Marquette Heights has future long term improvements in this area the proposed location of the new structure will not impact those long term improvements at this time. If this property were zoned Residential like all other properties in the area a setback requirement of 5' foot would be required, therefore allowing a setback of 3' will not be injurious to other properties or improvements in the area at this time

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

POSITIVE. The applicant simply seeks to construct a storage shed for personal storage of lawnmowers and garden equipment to maintain 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. The property is a very small lot and normally properties that are zoned A-1 are of a much larger lot size and in most cases the setback requirement is not a hindrance, however due to the small lot size the A-1 setback is extreme in this circumstance.

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 property is a very small lot and normally properties that are zoned A-1 are of a much larger lot size and in most cases the setback requirement is not a hindrance, however due to the small lot size the A-1 setback is extreme in this circumstance.

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

POSITIVE. The property is a very small lot and normally properties that are zoned A-1 are of a much larger lot size and in most cases the setback requirement is not a hindrance, however due to the small lot size the A-1 setback is extreme in this circumstance.

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. 11-60-V** the vote was:

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

Nays: 0

Absent: 1 – Baum

Motion declared carried.

NEXT MEETING

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

ADJOURNMENT

There being no further business, moved by Connett, seconded by Zimmerman, to adjourn the Zoning Board of Appeals Public Hearing at 8:15 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.