

**(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, December 6, 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: Joyce Antonini, K. Russell Crawford, Terry Hillemonds, Darrell Meisinger, Rosemary Palmer, Mel Stanford and Sue Sundell

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the November 1, 2011 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued at the July 6, 2011; August 2, 2011; September 7, 2011; October 4, 2011 and November 1, 2011 ZBA Public Hearings)

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.

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 denial of the proposed Special Use request as prime farmland would be removed from production.

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

Hopedale 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 District 702 made no comment regarding the proposed Special Use request.

Administrator Deininger updated the ZBA regarding the status of the Special Use and Variance request. Ms. Deininger reminded the ZBA that at the July 6, 2011 ZBA Hearing the Board continued the request, directing the Community Development Administrator to set up a meeting with Mr. and Mrs. Stark and their Attorney Burt Dancey and the petitioner Steve Lowery to discuss a compromise and options of setback requirements which would best suit all parties. Ms. Deininger said that meetings were conducted and the outcome reached was that Mr. Lowery sought to purchase the Stark property. Ms. Deininger stated that Mr. Lowery became the equitable owner on December 5, 2011. Therefore the Variance request would need to be modified removing the waiver of the adjacent property owner approval as Mr. Lowery was now the owner of the Stark property. Ms. Deininger added that the Starks formally withdrew their objection via their Attorney Burt Dancey.

NOTE – THE FOLLOWING TESTIMONY INCLUDES TESTIMONY CONDUCTED FOR CASE 11-32-S AND CASE 11-33-V

Steve Lowery appeared to testify on behalf of the proposed Special Use request. Mr. Lowery stated he operated the adjacent gravel pit on approximately 20 acres and that property would be mined out in about a year. Mr. Lowery said he purchased the additional land years ago with the intention to mine the property and the Code then changed in the meantime. Mr. Lowery gave a drawing to the ZBA showing a layout of the proposed expansion and explained the gravel veins were only about 25' to 30' deep, not as deep as what most think they will be. Mr. Lowery added he had a reclamation plan in place to return the land to farmland and explained his ability to mine up to a property line without causing damage to adjacent property. Mr. Lowery stated 1.4 million tons of gravel would be lost if he had to abide by the

current imposed setbacks and stated gravel was in very high demand, especially CA6, which is the majority of the gravel mined from this location. Mr. Lowery said other area pits were already mined out and only some of them had been reclaimed and there was one other pit in the area still in operation. Mr. Lowery added it was hard to determine how much of the land would need to be reclaimed but all the top soil would be saved in order to re-establish future farming. Mr. Lowery stated farming on this property would only do well during wet years due to the type of soils and all the gravel contained underneath.

Following all Public Hearings, moved by Lessen, seconded by Zimmerman, to approve **Case No. 11-32-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. The existing gravel mining operation is located on 20 acres, and the proposal is to expand the operation on 55 acres located to the south and southwest of the existing operation. Properties adjacent to the 55-acre parcel consist of farmland to the east, the existing gravel mining operation and farmland to the north, farmland and large-lot single-family dwellings to the west, and farmland, another existing gravel mining operation, a former gravel mining operation, and large-lot single-family dwellings to the south. The 55-acre parcel surrounds one of the large-lot single-family dwellings on the north, east and west sides. The proposed expansion will be similar to the existing and former gravel mining operations in the area, and it will not impact agricultural operations in the area. As long as the proposed expansion is a suitable distance from nearby dwellings to mitigate the impacts of noise and dust, 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 farmland, existing gravel mining operations, former gravel mining operations, and large-lot dwellings. The proposed expansion is similar to the existing gravel mining operations in the area, and it will not adversely affect agriculture in the general area. As long as the proposed expansion is a suitable distance from nearby dwellings to mitigate the impacts of noise and dust, 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. Property in the immediate vicinity is used for agriculture, gravel mining, and residential use. Noise and dust that will result from the operation will not prohibit the practice of agriculture from continuing in the area, and these impacts will be similar to the impacts from the existing gravel mining operations in the area. As long as the proposed expansion is a suitable distance from nearby dwellings to mitigate the impacts of noise and dust, 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 general area contains two existing gravel mining operations, farmland, and large-lot dwellings. The area is already established as a location for gravel mining, so the proposed expansion will not cause substantial change in the general area. As long as the proposed expansion is located a suitable distance from the nearby dwellings to mitigate the impacts of noise and dust, it will not substantially impact the residential properties in the area. Therefore, the proposed expansion will not substantially diminish property values in the area.

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

POSITIVE. The existing gravel mining operation has adequate access off of Townline Road and an office on site, and these facilities will remain intact to serve the proposed expansion. Although the proposed expansion will have frontage along Levy Road, there will be no access from Levy Road; the existing Townline Road entrance will remain the only access point. 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 existing operation generates truck traffic along Townline Road; the existing traffic volume is suitable and does not cause congestion or hazard in the area. Although the existing gravel mining operation will be expanded, the volume of traffic will not change significantly because new land will be mined as gravel becomes fully extracted from other land. Therefore, the proposed expansion will minimize congestion and 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.*

POSITIVE. The proposed Special Use is for an expansion to an existing gravel mining operation, so it will not exert residential development pressure that will lead to an increase in population density in the immediate area. Therefore, 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 for an expansion to an existing gravel mining operation, so it will not exert development pressure greater than one-half mile from the site. Therefore, 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 soils on site have a productivity index of 145, and the land is actively farmed, so the proposed expansion will remove farmland from production. However, the immediate area has been established as a suitable location for gravel mining, and the subject property is adjacent to an existing gravel mining operation, so in this particular case the removal of farmland is judged to be appropriate.

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, gravel mining uses, and residential uses. The proposed Special Use is also a gravel mining use, and its impacts will not prohibit agriculture from continuing in the area. Thus, the proposed Special Use is judged to be consistent with existing uses of property within the general area.

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

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

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

On roll call to approve **Case No. 11-32-S** the vote was:

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

Nays: 0

Motion declared carried.

(Continued at the July 6, 2011; August 2, 2011; September 7, 2011; October 4, 2011 and November 1, 2011 ZBA Public Hearings)

(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.

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

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

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

Hopedale Township Road Commissioner made no comment regarding the proposed Variance request.

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

School District 702 made no comment regarding the proposed Variance request.

NOTE – THE TESTIMONY FOR CASE 11-33-V WAS INCLUDED IN THE TESTIMONY LISTED ABOVE IN CASE 11-32-S.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 11-33-V** as amended:

The petition of Steve Lowery, d/b/a Lowery Excavation Inc. for a Variance to the requirements of 7TCC1-25(f)(12)(v)(2) to reduce the 100' perimeter setback for equipment, stockpiles and overburden to be 50' from all boundary lines which is 50' closer than allowed in an A-1 Agriculture Preservation Zoning District.

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. Allowing the Variance allows the petitioner to utilize the property to its fullest potential. Gravel is a much needed valuable resource and as the adjoining properties consist of farmland and a former gravel pit there will be no detriment by reducing the setback requirement for placement of the Berm.

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. Allowing the Variance allows the petitioner to utilize the property to its fullest potential. Gravel is a much needed valuable resource and as the adjoining properties consist of farmland and a former gravel pit there will be no detriment by reducing the setback requirement for placement of the Berm

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 allows the petitioner to utilize the property to its fullest potential. Gravel is a much needed valuable resource and as the adjoining properties consist of farmland and a former gravel pit there will be no detriment by reducing the setback requirement for placement of the Berm. Further Mr. Lowery purchased the property owned by the Stark's who were originally opposed to the request, therefore has equitable ownership which negates the need for the Variance to waive 7TCC1-25(f)(12)(v)(1) of the Zoning Code.

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 allows the petitioner to utilize the property to its fullest potential. Gravel is a much needed valuable resource and as the adjoining properties consist of farmland and a former gravel pit there will be no detriment by reducing the setback requirement for placement of the Berm

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

POSITIVE. Allowing the Variance allows the petitioner to utilize the property to its fullest potential. Gravel is a much needed valuable resource and as the adjoining properties consist of farmland and a former gravel pit there will be no detriment by reducing the setback requirement for placement of the Berm

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. Allowing the Variance allows the petitioner to utilize the property to its fullest potential. Gravel is a much needed valuable resource and as the adjoining properties consist of farmland and a former gravel pit there will be no detriment by reducing the setback requirement for placement of the Berm

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. Allowing the Variance allows the petitioner to utilize the property to its fullest potential. Gravel is a much needed valuable resource and as the adjoining properties consist of farmland and a former gravel pit there will be no detriment by reducing the setback requirement for placement of the Berm

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

POSITIVE. Allowing the Variance allows the petitioner to utilize the property to its fullest potential. Gravel is a much needed valuable resource and as the adjoining properties consist of farmland and a former gravel pit there will be no detriment by reducing the setback requirement for placement of the Berm

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

On roll call to approve **Case No. 11-33-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-61-Z: The petition of Travis Yordy for a Map Amendment to the Official Morton Township Zoning Map of Tazewell County to change the zoning classification of property from an A-1 Agricultural Preservation Zoning District to a C-2 General Business Commercial 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 making no comment 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.

Roger Spangler, Village of Morton submitted a letter supporting the proposed Rezoning request.

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

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

Travis Yordy appeared to testify on behalf of the proposed Rezoning request. Mr. Yordy stated he would like to expand his storage facility and obtain an additional 3.042 acres to construct 3 new additional buildings for storage. Mr. Yordy said there were approximately 250' of high-line right of way with an additional 75' set back of land that would be. Mr. Yordy added he visited with Sue of the adjacent apartment complex and he would be willing to plant trees, etc in order to help buffer the view of the new buildings from residents of the apartment complex. Mr. Yordy stated he wanted to be a good neighbor and would accommodate with any screening.

Sue Harris, Manage of Creekwood Apartments appeared with concerns regarding the proposed Rezoning request. Ms. Harris stated her tenants would only have a view of the storage facility with the added expansion. Ms. Harris said Mr. Yordy was a very good neighbor and kept the facility clean and orderly and would only request a buffer of trees or landscaping if approved.

Following all Public Hearings, moved by Toevs, seconded by Zimmerman, to recommend approval of **Case No. 11-61-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 property for which this amendment is proposed is part of a larger parcel that is adjacent to the Village of Morton to the north, east and west. The property is adjacent to an existing storage business in the C-2 Zoning District to the west. In the general area, residential and commercial uses within Morton are located to the north, the intersection of Main Street and Interstate 155 is located to the west, and farmland is located to the east and south. This property is at the edge of the Village of Morton and is adjacent to an existing storage business, so the proposed amendment will promote 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 will enable a commercial or similar use to be located adjacent to an existing commercial business and adjacent to the Village of Morton, so it will not create conflicts between uses. Although this rezoning will remove farmland from production, it is appropriate to develop property contiguous to existing development instead of practicing "leapfrog" development. Therefore, the proposed amendment will not endanger 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 include residential and commercial uses to the north, the intersection of Main Street and Interstate 155 to the west, and farmland to the east and south. This property is located at the edge of the Village of Morton and is adjacent to an existing commercial business. Therefore, the request is consistent with existing uses of property within the general area. Further during testimony the petitioner stated that he would take great strides to provide a screened planting along the boundary line facing the senior citizen apartment complex.

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

POSITIVE. The land immediately adjacent to the west is developed as a storage business, and properties to the north, east and west are within the Village of Morton. Land within the Village of Morton to the north has been developed as an apartment complex, single-family residential uses, an automotive dealership, and a design business. These nearby commercial properties are zoned B-2 for General Business and B-3 for Highway and Service Commercial in Morton. 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 A-1 zoning classification primarily allows for agricultural uses, and the land is currently used for agriculture. However, this land is located at the edge of the Village of Morton and is adjacent to existing development, and it is appropriate to develop land contiguous to existing development instead of practicing "leapfrog" development. Therefore, the property is judged not to be 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 C-2 zoning classification allows for higher-intensity commercial businesses that may generate substantial automobile and truck traffic. The property is flat and able to be developed for commercial uses, and it is located adjacent to an existing commercial business and near Main Street, a thoroughfare that serves large-scale commercial businesses and can accommodate substantial automobile and truck traffic. 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 is toward commercial and residential development in the general area. The land is adjacent to an existing storage business to the west, and there is an apartment complex and single-family dwellings to the north. This land is located at the edge of the Village of Morton and is adjacent to a commercial business, so it no longer is only suitable 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. Although the property is used for agriculture, it is located within a transitional area because it is at the edge of the Village of Morton, is located adjacent to an existing storage business, and is near new residential development. As a result, the property is suitable for commercial development. Therefore, the property is considered vacant as zoned.

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 Morton, and according to the Morton Comprehensive Plan, land within this general area is slated to be used for commercial, multi-family residential, and suburban residential uses. The proposed rezoning will allow for commercial uses on land adjacent to an existing storage business and near commercial and residential uses, so the proposed map amendment is consistent with the Morton 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 owner because it would restrict the property from being developed for a more appropriate use. Although the land is zoned for agricultural use and is used for agriculture, it is located at the edge of the Village of Morton and adjacent to an existing storage business, so it is suitable for commercial use. The general area is a transitional area where new development is occurring next to agricultural uses, and the preferable development pattern is to develop farmland that is contiguous to development as opposed to practicing “leapfrog” development. 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: “Direct new development to areas adjacent to municipalities where it can be served by public water and sewer infrastructure.”

Moved by Toevs, 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. 11-61-Z** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 11-62-V: The petition of James Cooper, d/b/a D & S Towing for a Variance to waive the requirements of 7TCC 1-5 (1) (8) to allow the conversion of a box trailer into an accessory structure for the purpose of storing automobile parts associated with an existing car repair business being conducted on said site in a C-1 Neighborhood Commercial 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.

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

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

Ron Hawkins, Cincinnati Township Road Commissioner submitted a report stating that he has had concerns regarding the parking of vehicles on the Right of Way of Thompson Road.

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

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

School Districts 137 and 303 made no comment regarding the proposed Special Use request.

James Cooper appeared to testify on behalf of the proposed Variance request. Mr. Cooper stated he needed additional space in his compound area for storage in order to keep vehicles off of the roadway. Mr. Cooper said he had purchased a 10x26 Box Trailer for additional storage not knowing it would not be allowed. Mr. Cooper added the prior owner of the property left the property a disarray and 30% of the property was covered in semi parts. Mr. Cooper stated he hired Tazewell Towing to clean the property and he would finish the existing sheds to look nicer. Mr. Cooper said he bought and re-sold cars, scrapped parts and also did public mechanical work to automobiles. Mr. Cooper added there were 4 sheds on the property that were grandfathered and he did not know a semi box would not be allowed. Mr. Cooper stated he was buying the property contract for deed and recently had fulfilled the contract. Mr. Cooper said there were approximately 10 vehicles on the property, 7 of which were operable. Mr. Cooper added he needed to clear the existing sheds of the former owners junk so could replenish the shed with his parts that were laying about the property. Mr. Cooper stated the compound area was locked at all times and any oil on the property was stored in steel drums as approved by the EPA. Mr. Cooper said he would take the used oil to a business in East Peoria who purchased it. Mr. Cooper said he would construct a new fence along Thompson and between the neighbor properties to make things right so he could be a good neighbor.

Steven Thompson appeared to testify against the proposed Variance request. Mr. Thompson stated he inherited the adjacent property from his parents and his children reside at the property. Mr. Thompson said Mr. Cooper was using the grandfather clause to run a junk yard and Mr. Thompson could not list his property for sell because of the Cooper property. Mr. Thompson added the property was filled with mosquitoes and auto fluids were seeping into the ground from the various parts laying around. Mr. Thompson stated the unsightly fence was not hiding anything on the property and asked the ZBA to "hold Mr. Cooper's feet to the fire" or he would not remain in compliance.

Following all Public Hearings, moved by Toevs, seconded by Vogelsang, to approve **Case No. 11-62-V**.

Following discussion, moved by Baum, seconded by Connett, to Amend the Main Motion to include the following conditions:

1. The existing 6' wood privacy fence which surrounds the entire compound area and particularly along the Western boundary line of said property shall be repaired and upon repair shall be properly maintained as per 7TCC 1-18 (c) Maintenance of the Tazewell County Zoning Code during the course of the business use at this location. Applicant shall have said fence repaired and in a neat appearance by May 1, 2012.
2. Effective January 1, 2012, there shall be no further parking and storage of inoperable/unlicensed vehicles or other vehicles related to the business in the Right of Way along Thompson Road or Illinois Route 29. Further all vehicles related to the business shall be parked within the compound area at all times.
3. All vehicles and parts associated with the business shall be stored within the compound area as originally specified in 1992 and required by the Zoning Code enforced at that time. All vehicles and parts within the compound area shall be concealed from neighboring properties and shall not exceed the height of the existing 6' wooden fence surrounding the compound area.

4. Applicant shall utilize the proposed box trailer as well as the 4 existing structures currently located on the property to their fullest extent for storage of all car parts as so stated by the applicant during testimony. Utilizing said structures will alleviate and remedy the current unsightly appearance of the property and reduce the outside storage of parts within the compound area.
5. Applicant shall provide to the Community Development Administrator by January 2, 2012, all required licensing by the Secretary of State's Office or other required agencies approving the type of business conducted by the applicant at the location.
6. Applicant shall provide to the Community Development Administrator by January 2, 2012, in writing the proper channels taken for disposal of oil from the vehicles.
7. If the applicant fails to comply with any of the above conditions said Variance shall be revoked and turned over to the Tazewell County State's Attorneys Office as well as the Tazewell County Hearing Office as an Ordinance violation. The Community Development Administrator is also directed to seek any other remedies needed to bring the property into Code compliance.

Motion carried by voice vote for the amendment.

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. This particular request is unique as it is clearly evident that the applicant is in need of additional storage due to the unsightly appearance of the property. Although the applicant has already pursued siding the box trailer the appearance of said structure will be that of a storage shed. The applicant indicated during testimony that the box trailer will be used for storage of miscellaneous vehicle parts to alleviate the current appearance of the property. The applicant also stated during testimony that it is his every intention to perform property clean up.

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. This particular request is unique as it is clearly evident that the applicant is in need of additional storage due to the unsightly appearance of the property. Although the applicant has already pursued siding the box trailer the appearance of said structure will be that of a storage shed. The applicant indicated during testimony that the box trailer will be used for storage of miscellaneous vehicle parts to alleviate the current appearance of the property. The applicant also stated during testimony that it is his every intention to perform property clean up.

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 box trailer to remain and to be remodeled to take on the appearance of a storage shed will allow the applicant to store miscellaneous vehicle parts within the structure, therefore helping to remedy the current unsightly appearance of the property.

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

POSITIVE. Allowing the box trailer to remain and to be remodeled to take on the appearance of a storage shed will allowed the applicant to store miscellaneous vehicle parts within the structure. therefore, helping to remedy the current unsightly appearance of the property.

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

POSITIVE. This particular request is unique as it is clearly evident that the applicant is in need of additional storage due to the unsightly appearance of the property. Although the applicant has already pursued siding the box trailer the appearance of said structure will be that of a storage shed. The applicant indicated during testimony that the box trailer will be used for storage of miscellaneous vehicle parts to alleviate the current appearance of the property. The applicant also stated during testimony that it is his every intention to perform property clean up.

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. This particular request is unique as it is clearly evident that the applicant is in need of additional storage due to the unsightly appearance of the property. Although the applicant has already pursued siding the box trailer the appearance of said structure will be that of a storage shed. The applicant indicated during testimony that the box trailer will be used for storage of miscellaneous vehicle parts to alleviate the current appearance of the property. The applicant also stated during testimony that it is his every intention to perform property clean up.

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. This particular request is unique as it is clearly evident that the applicant is in need of additional storage due to the unsightly appearance of the property. Although the applicant has already pursued siding the box trailer the appearance of said structure will be that of a storage shed. The applicant indicated during testimony that the box trailer will be used for storage miscellaneous vehicle parts to alleviate the current appearance of the property. The applicant also stated during testimony that it is his every intention to perform property clean up.

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

POSITIVE. This particular request is unique as it is clearly evident that the applicant is in need of additional storage due to the unsightly appearance of the property. Although the applicant has already pursued siding the box trailer the appearance of said structure will be that of a storage shed. The applicant indicated during testimony that the box trailer will be used for storage miscellaneous vehicle parts to alleviate the current appearance of the property. The applicant also stated during testimony that it is his every intention to perform property clean up.

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. 11-62-V as amended** the vote was:

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

Nays: 0

Motion declared carried.

RECESS

The Zoning Board took a short recess at 7:18 p.m. prior to deliberations and reconvened at 7:28 p.m.

Chairman Newman announced due to the lack of Petitions on file, there would not be a January meeting of the Zoning Board of Appeals.

NEXT MEETING

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

ADJOURNMENT

There being no further business, moved by Connett, seconded by Zimmerman, to adjourn the Zoning Board of Appeals Public Hearing at 8:00 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.