

**(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, May 1, 2012, 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, Alternate Sandy May, Loren Toevs, and Ken Zimmerman

ABSENT: JoAn Baum, Robert Vogelsang

STAFF: Kristal Deininger, Community Development Administrator; Kyle Smith, Land Use Planner; Melissa Kreiter, Administrative Assistant; and Land Use Members: Paul Hahn, Terry Hillegonds, Carroll Imig, Darrell Meisinger, Rosemary Palmer, and Mel Stanford

OTHERS

PRESENT: Evelyn Neavear, Tazewell County Health Department; Petitioners and Objectors

MINUTES: Moved by May, seconded by Toevs, to approve the Minutes of the April 3, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

CASE NO. 12-08-S: The petition of Michael Schwermin for a Special Use to allow the creation of one new dwelling site on an existing lot of record in an A-1 Agriculture Preservation Zoning District.

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

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

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

Tazewell County Farm Bureau submitted a report recommending approval with some reservations regarding the existing lane.

Ron Sieh, City of Pekin submitted a report stating no concerns regarding the proposed Special Use request.

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

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

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

Michael Schwermin appeared to testify on behalf of the proposed Special Use request. Mr. Schwermin stated he had been looking for 8 to 10 years for a somewhat rural property to build a dwelling upon. Mr. Schwermin said he would need to make improvements to the access lane but there was a lane existing and a similar lane to the adjacent dwelling was utilized. Mr. Schwermin added he had met with Ameren and the Groveland Water District and would only purchase the property if the request would be approved.

Following all Public Hearings, moved by May, seconded by Toevs, to approve **Case No. 12-08-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 to allow for one new dwelling site within the A-1 Agricultural Preservation Zoning District to construct a single family dwelling will be consistent with the following Tazewell County Comprehensive Land Use Plan implementation strategies:

- *Design new development to conform to the existing development pattern and potential future development patterns.*
 - *Locate new development in areas where it can be served by public infrastructure.*
 - *Direct new development to areas adjacent to municipalities where it can be served by public water...*
 - *Direct development in rural areas to locations where suitable conditions for septic systems exist.*
3. *The petitioner has met the requirements of Article 25 of the Tazewell County Zoning Code.*

POSITIVE. All requirements have been satisfactorily met.

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

POSITIVE. The subject parcel is primarily adjacent to agricultural land and surrounded almost entirely by timber. The proposed Special Use to allow for one new dwelling site within the A-1 Agricultural Preservation Zoning District to construct a single family dwelling will be similar to the existing homesteads and compatible with the nearby agricultural operations. There are no foreseeable adverse effects of the Special Use request at this time.

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 with isolated dwellings; this portion of Tazewell County is rural and agriculture is the dominant use. The proposed dwelling site will be similar in nature to existing homesteads in the general area and will be compatible with the nearby agricultural operations. As such, endangerment to the public health, safety, morals, comfort or general welfare of the neighboring vicinity is not foreseeable at this time.

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 utilized for agriculture and single-family residences. The proposed dwelling site and eventual single family dwelling will be similar in nature to the existing residential uses and will be compatible with the agricultural uses. At this time, it is not foreseeable that the proposed dwelling site will 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. Property in the immediate vicinity is utilized for agriculture and single-family residences. The proposed dwelling site and eventual single family dwelling will be compatible with the existing uses and should not lead to a substantial change in neighborhood character. Diminished property values as a result of allowing the proposed Special Use dwelling site are not anticipated.

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

POSITIVE. A thirty (30) foot wide access lane already exists off of IL Route 98. Public water is available from Groveland and the size of the subject site will allow adequate room for a properly sized septic system. Electricity and gas are available on site.

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 general area is rural. As such, the addition of a dwelling site and eventually one dwelling unit will not lead to a discernible traffic increase along IL Route 98. However, the access lane is near a small hill, which may limit sight distances, especially for vehicles traveling West on IL Route 98. Because the access point is preexisting, I would defer to comments or suggestions from the Road Commissioner. Perhaps signage could be installed along IL Route 98 alerting motorists of the driveway.

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. Per the applicant, the subject parcel and proposed Special Use are not located within one-half mile or less from a livestock feeding operation.

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 dwelling site and eventually one dwelling unit will be constructed. The proposed dwelling unit is not a driver of land development and will have little, if any, impact on land more than one-half mile away. Therefore, the proposed Special Use will not hinder the operation or expansion of any livestock feeding operations located more than one-half mile away.

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

POSITIVE. While the subject parcels have a soil productivity index of 125 and 135, they are deemed not prime because of the amount of timber on site and the existing pond.

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

POSITIVE. The proposed Special Use to allow for one new dwelling site within the A-1 Agricultural Preservation Zoning District is consistent with the existing uses of property within the general area as previously discussed within this report.

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

POSITIVE. The subject property is deemed suitable for the Special Use as proposed based on fourteen (14) positive findings.

Moved by Connett, seconded by May, 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. 12-08-S** the vote was:

Ayes: 6 – Connett, Lessen, Alternate May, Toevs, Zimmerman and Chairman Newman

Nays: 0

Absent: 2 – Baum, Vogelsang

Motion declared carried.

CASE NO. 12-09-S: The petition of Mark Sommer d/b/a/ Sommer Seed, LLC, for a Special Use to construct and operate an Agriculture Related Business consisting of a Seed Dealership specializing in corn and soybean seed, with warehouse space, office space, outdoor storage bins and demonstration planting plots in an A-1 Agriculture Preservation Zoning District.

Chairman Newman announced Case No. 12-09-S had been withdrawn prior to the Public Hearing, therefore no action would be taken.

CASE NO. 12-10-S: The petition of Steve and Connie Tibbs d/b/a Paws, Claws and Exotics Too, for an expansion to an existing Special Use (Case No. 11-20-S) to allow for the construction of an accessory structure for the sale of domestic and exotic animals to include the outdoor display of exotic animals; construction of an accessory building for a seasonal petting zoo; and a playground area with party rental availability, in a C-2 General Business Commercial District.

The Tazewell County Land Use Planner submitted a report identifying 6 Positive Findings of Fact and 8 Negative Findings of Fact.

Tazewell County Health Department submitted a report regarding the proposed Special Use request stating the business would be required to have public restroom facilities and a septic system based upon the type of use, further stating a soil analysis would be required.

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

Tazewell County Farm Bureau submitted a report regarding the proposed Special Use request recommending approval as this would be an Ag type business.

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

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

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

Steve Tibbs appeared to testify on behalf of the proposed Special Use request. Mr. Tibbs stated he was aware of the Health Department concerns and he was following the USDA regulations for the animals. Mr. Tibbs said he constructed a fence to address previous ZBA concerns of thru traffic and noted the storage units on the West of the building were for personal use only and not being rented. Mr. Tibbs added he provided parking in the front as well as additional vehicles could be parked in the back and on the East side of the building. Mr. Tibbs stated he could not pave the parking area at this time due to the cost to do so. Mr. Tibbs said the party rental availability would be separate from the petting zoo and could designate a parking area solely for party goers. Mr. Tibbs gave an overview of the site plan and explained that delivery trucks came to the property once or twice per month. Mr. Tibbs added the 7 storage units on the East side of the building were rented. Mr. Tibbs stated he was unsure how many vehicles would need to park for a party rental and stated all driving surfaces are gravel. Mr. Tibbs said the main restroom was located inside the main building and the septic area was off to the West in the area of the petting zoo. Mr. Tibbs added the exotics would be kept in pens outside per USDA regulations. Mr. Tibbs stated he listed everything he would or may want on his application and would not be opposed to eliminating proposed storage buildings in order to have the playground and petting zoo approved.

Following lengthy discussion, moved by Toevs, seconded by May, to continue Case No 12-10-S to the June 5, 2012 Public Hearing requesting that the Petitioner provide the following information:

1. A new to scaled Site Plan be submitted containing the following information:
 - a. Septic Location
 - b. Indication that the 40' x 120' storage building as proposed and as approved in Case No. 12-10-S will not be constructed or considered in any future plans.
 - c. Identify on the existing 40' x 120' blacktopped area the number of parking spaces including all dimensions of parking spaces.
 - d. Identify and provide more specifically where the public restrooms will be located and how the public restrooms will be accessed by individuals visiting the petting zoo or utilizing the picnic shelter during various recreational activities, i.e. sidewalks.
 - e. Identify traffic flow along the East, West and North side of the property and identify distances from adjacent properties.

Motion carried by voice vote to continue Case No. 12-10-S to the June 5, 2012 Public Hearing.

CASE NO. 12-11-S: The petition of Steven and Mary Sauder for a Special Use to allow the construction of an Accessory Structure prior to and without a Principal Dwelling in a R-1 Low Density Residential 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 recommending approval regarding the proposed Special Use request.

Larry Bolliger, Tremont Township Road Commissioner submitted a report regarding the proposed Special Use request stating the existing access is adequate.

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.

NOTE – THE FOLLOWING TESTIMONY INCLUDES TESTIMONY CONDUCTED FOR CASE 12-11-S AND CASE 12-12-V

Steve Sauder appeared to testify on behalf of the proposed Special Use and Variance request. Mr. Sauder stated he would like to build a pole building type structure to house mowers and tractors to maintain the land and farmland. Mr. Sauder said the property is some farm ground but is mostly used for recreation.

Following all Public Hearings, moved by Connett, seconded by Zimmerman, to approve **Case No. 12-11-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 to construct an accessory structure will be consistent with the following Tazewell County Comprehensive Land Use Plan implementation strategies:

- *Minimize conflict between land uses,*
- *Design new development to conform to the existing development pattern and potential future development patterns.*

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

POSITIVE. All requirements have been satisfactorily met.

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

POSITIVE. Adjacent and nearby properties consist of farmsteads with multiple outbuildings and single family dwellings to the South in Lake Windermere Subdivision. The subject parcel is primarily surrounded by agricultural land. The proposed Special Use to build an accessory structure will be similar to the existing farmsteads and compatible with the nearby agricultural operations. Heavy timber separates the subject parcel from Lake Windermere Subdivision. There are no foreseeable adverse effects of the Special Use request at this time.

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 with isolated dwellings; this portion of Tazewell County is rural and agriculture is the dominant use. The proposed accessory structure will be similar in nature to existing accessory structures and outbuildings in the general area and will be compatible with the nearby agricultural operations. As such, endangerment to the public health, safety, morals, comfort or general welfare of the neighboring vicinity is not foreseeable at this time.

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 utilized for agriculture and single-family residences. The proposed accessory structure will be similar in nature to the existing residential uses and will be compatible with the agricultural uses. At this time, it is not foreseeable that the proposed accessory structure will 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. Property in the immediate vicinity is utilized for agriculture and single-family residences. The proposed accessory structure will be compatible with the existing uses and should not lead to a substantial change in neighborhood character. Diminished property values as a result of allowing the proposed Special Use accessory structure are not anticipated.

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

POSITIVE. Road access at the subject site is adequate and site topography will provide for sufficient drainage. The owner does not intend to permanently occupy the subject site, utilizing it only for recreational purposes. As such, the site does not have electricity or gas service, containing only a pit privy and basic well.

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 general area is rural, and there is minimal traffic on North Lake Windermere Road. The addition of an accessory structure will not lead to a discernible traffic increase. Sight distances are appropriate considering the minimal amount of traffic a recreational lot will generate, a hazard is not anticipated at this time.

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. Per the aerials and site visit, the subject parcel and proposed Special Use do not appear to be located within one-half mile or less from a livestock feeding operation.

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 accessory structure is not a driver of land development and will have little, if any, impact on land more than one-half mile away. Therefore, the proposed Special Use will not hinder the operation or expansion of any livestock feeding operations located more than one-half mile away.

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

POSITIVE. The non-tillable portions of the subject lot which are covered by timber and are sloping have a soil productivity index of 125 and 95. The tillable twelve (12) acres appear to be in crop production.

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

POSITIVE. The proposed Special Use to construct an accessory structure is consistent with the existing uses of property within the general area as previously discussed within this report.

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

POSITIVE. The subject property is deemed suitable for the Special Use as proposed based on fourteen (14) positive findings.

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

On roll call to approve **Case No. 12-11-S** the vote was:

Ayes: 6 –Connett, Lessen, Alternate May, Toevs, Zimmerman and Chairman Newman

Nays: 0

Absent: 2 – Baum, Vogelsang

Motion declared carried.

CASE NO. 12-12-V: The petition of Steven and Mary Sauder for a Variance to waive the requirements of 7TCC 1-7(c)(1) to allow the construction of an Accessory Structure prior to a Principal Dwelling for storage of materials to maintain the property and storage of personal equipment which will be approximately 864 square feet, which is 464 square feet larger than allowed in a R-1 Low Density Residential District.

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

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

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

Larry Bolliger, Tremont Township Road Commissioner submitted a report regarding the proposed Variance request stating the existing access is adequate.

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 12-12-V WAS INCLUDED IN THE TESTIMONY LISTED ABOVE IN CASE 12-11-S.

Following all Public Hearings, moved by Lessen, seconded by Zimmerman, to approve **Case No. 12-12-V**.

After considering all the evidence and testimony presented, the ZBA discussed 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. Although the surroundings or topo conditions of this site do not relate specifically to this request, the property consists of 40 acres and a larger building is required for the storage of items for maintenance of this property. The property is used primarily for private recreational use therefore the petitioner is in need of a structure larger enough to accommodate for the particular uses of this property.

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

POSITIVE. The property consists of 40 acres and a larger building is required for the storage of items for maintenance of this property. The property is used primarily for private recreational use therefore the petitioner is in need of a structure larger enough to accommodate for the particular uses of this property.

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

POSITIVE.

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

POSITIVE. Due to the 40 acre lot size and placement of the building.

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

POSITIVE. The petitioner is simply in need of larger structure to accommodate for storage.

6. *Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district.*

POSITIVE.

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

POSITIVE. The ZBA has reviewed and approved numerous petitions of this nature and it was the consensus of the ZBA that the Zoning Code should allow more flexibility and should be amended as the limitation of 400 square feet is too strict in most situations.

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

POSITIVE. The property consists of 40 acres and a larger building is required for the storage of items for maintenance of this property. The property is used primarily for private recreational use therefore the petitioner is in need of a structure larger enough to accommodate for the particular uses of this property.

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

On roll call to approve **Case No. 12-12-V** the vote was:

Ayes: 6 –Connett, Lessen, Alternate May, Toevs, Zimmerman and Chairman Newman

Nays: 0

Absent: 2 – Baum, Vogelsang

Motion declared carried.

CASE NO. 12-13-V: The petition of Christina Lipps for a Variance to waive the requirements of 7TCC1-5(o)(2) to allow the construction of a 12' Woven Wire fence to be constructed, which is 6' taller than allowed in an R-1 Low Density Residential District.

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

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

Tazewell County Farm Bureau submitted a report regarding the proposed Variance request having no recommendation.

Jon Oliphant, City of Washington submitted a report stating the City cannot recommend approval as they feel a 6' fence would be sufficient to keep out predators and keep the Petitioner's children safe.

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

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

School District 50 and 308 made no comment regarding the proposed Variance request.

Christina Lipps appeared to testify on behalf of the proposed Variance request. Ms. Lipps stated she would like to build a "Catio" to protect her animals and keep the area wildlife out. Ms. Lipps said she had trees for the cats to climb and wanted a fence tall enough that they would not get out. Ms. Lipps added the fence would be constructed of a 2x4 woven wire fencing and 2 panels would be stacked on top of each other to reach the 12' height and the fence would be attached to 6x6 wooden poles. Ms. Lipps stated part of the fence was already up and it was basically a cat patio or an enclosed area for cats to run. Ms. Lipps said the fence was around 3 parts of the house and needed to be higher than 6' as the cats could climb over and the deer can jump over a 6' fence. Ms. Lipps added she had 4 cats but would like to have more and she had a dog also, which had been attacked by coyotes in the past. Ms. Lipps stated the fence would be 20' from the property line. Ms. Lipps said she would like to put netting on top of the fenced structure as well. Ms. Lipps added she had lost 3 cats to coyote attacks and the cats would enjoy the fenced area.

Following all Public Hearings, moved by Toevs, seconded by Connett, to approve **Case No. 12-13-V**.

Following discussion, moved by Connett, seconded by Toevs to Amend the Main Motion to reduce the height of the fence from 12' to 8'.

Motion carried by voice vote for the amendment.

After considering all the evidence and testimony presented, the ZBA discussed 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 petitioner's property is bordered by woods, however a 12' fence in a residential district would be setting a precedent, therefore the 8' fence should be sufficient to protect the petitioner's animals and children from wild animals.

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 petitioner's property is bordered by woods, however a 12' fence in a residential district would be setting a precedent, therefore the 8' fence should be sufficient to protect the petitioner's animals and children from wild animals.

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

POSITIVE

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

POSITIVE. Reducing the size of the fence from 12' to 8' is more conducive to the surrounding area.

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

POSITIVE. The petitioner is seeking only to provide protection for children and animals.

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. Granting the 12' fence would confer on the petitioner a special privilege, however reducing the height to 8' is consistent with other approved requests of this nature.

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 Ordinance does not address issues of this nature.

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

POSITIVE. The petitioner's property is bordered by woods, however a 12' fence in a residential district would be setting a precedent, therefore the 8' fence should be sufficient to protect the petitioner's animals and children from wild animals.

Moved by May, seconded by Connett, to accept the findings of fact as discussed. **Motion carried by voice vote.** 1 – Nay, Zimmerman

On roll call to approve **Case No. 12-13-V** the vote was:
Ayes: 4 –Connett, Lessen, Toevs, and Chairman Newman
Nays: 2 - Alternate May, Zimmerman
Absent: 2 – Baum, Vogelsang

Motion declared carried.

CASE NO. 12-14-V: The petition of Kip Nanninga for a Variance to waive the requirements of 7TCC1-10(f)(2)(ii) to allow construction of an Accessory Structure (Unattached Garage) to be 3’ from the side property line, which is 2’ closer than allowed in a R-1 Low Density Residential District.

Tazewell County Health Department submitted a report regarding the proposed Variance request stating the proposed structure may remove space for a replacement septic system should the existing system fail, therefore an above ground system may be required if a repair becomes necessary.

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

Tazewell County Farm Bureau submitted a report having no recommendation regarding the proposed Variance request.

Butch Knaak, Spring Lake 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 606 and 303 made no comment regarding the proposed Variance request.

Kip Nanninga appeared to testify on behalf of the proposed Variance request. Mr. Nanninga stated he wanted a 2 stall garage in the location where a garage once stood when his grandparents owned the property. Mr. Nanninga said the Health Department had done a soil analysis and is working on an above ground system at this time.

Following all Public Hearings, moved by Connett, seconded by May, to approve **Case No. 12-14-V**.

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

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

POSITIVE. Due to the small lot size, location of the lake, location of the septic system, the petitioner has no other alternative for placement of the unattached garage other than as proposed. Further, the petitioner will be constructing the unattached garage on the same foundation and location as a former existing garage.

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

POSITIVE. Due to the small lot size, location of the lake, location of the septic system, the petitioner has no other alternative for placement of the unattached garage other than as proposed. Further, the petitioner will be constructing the unattached garage on the same foundation and location as a former existing garage.

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

POSITIVE. Due to the small lot size, location of the lake, location of the septic system, the petitioner has no other alternative for placement of the unattached garage other than as proposed. Further, the petitioner will be constructing the unattached garage on the same foundation and location as a former existing garage.

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

POSITIVE. Due to the small lot size, location of the lake, location of the septic system, the petitioner has no other alternative for placement of the unattached garage other than as proposed. Further, the petitioner will be constructing the unattached garage on the same foundation and location as a former existing garage. During testimony the petitioner stated that he met with the Health Department and addressed their concerns regarding a replacement septic system.

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

POSITIVE. The petitioner is simply seeking to construct a new garage as he currently does not have a garage of any type for storage of vehicles, etc.

6. *Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Due to the small lot size, location of the lake, location of the septic system, the petitioner has no other alternative for placement of the unattached garage other than as proposed. Further, the petitioner will be constructing the unattached garage on the same foundation and location as a former existing garage. During testimony the petitioner stated that he met with the Health Department and addressed their concerns regarding a replacement septic system.

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

On roll call to approve **Case No. 12-14-V** the vote was:

Ayes: 6 –Connett, Lessen, Alternate May, Toevs, Zimmerman and Chairman Newman

Nays: 0

Absent: 2 – Baum, Vogelsang

Motion declared carried.

CASE NO. 12-15-V: The petition of Benckendorf and Benckendorf, P.C. representing the Koch Trust for a Variance to waive the requirements of 7TCC1-7(f) to allow the creation of a new zoning lot of record containing an existing dwelling to have 116.88 feet of frontage along Springfield Road (Co. Hwy 1) which is 83.12 feet less than allowed in an A-1 Agriculture Preservation Zoning District.

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

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

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

Terry Lohnes, Elm Grove Township Road Commissioner submitted a report stating no objection 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.

Andrew Crouch, Attorney for the Koch Trust, appeared to testify on behalf of the proposed Variance request. Mr. Crouch stated there was a current residence on the property and with the passing of Matilda Koch his client needed to subdivide the property for the Estate. Mr. Crouch said his client would not be farming the surrounding land so removing additional land for road frontage would remove farmland from production.

Following all Public Hearings, moved by Connett, seconded by May, to approve **Case No. 12-15-V**.

After considering all the evidence and testimony presented, the ZBA discussed 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. Although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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. Although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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

POSITIVE. The use of the land will not change and although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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

POSITIVE. The use of the land will not change and although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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

POSITIVE. Although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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. Although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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

POSITIVE.

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

POSITIVE. Although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production.

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

On roll call to approve **Case No. 12-15-V** the vote was:

Ayes: 6 –Connett, Lessen, Alternate May, Toevs, Zimmerman and Chairman Newman

Nays: 0

Absent: 2 – Baum, Vogelsang

Motion declared carried.

CASE NO. 12-16-V: The petition of Benckendorf and Benckendorf, P.C. representing the Koch Trust for a Variance to waive the requirements of 7TCC1-7(f) to allow the creation of a new zoning lot of record to have 20 feet of frontage along Red Shale Hill Road which is 180 feet less than allowed and to waive the requirements of 7TCC1-7(d) to allow the same lot to be 24.16 acres, which is 15.84 acres less than allowed in an A-1 Agriculture Preservation Zoning District.

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

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

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

Terry Lohnes, Elm Grove Township Road Commissioner submitted a report having no objection regarding the proposed Variance request.

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

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

Andrew Crouch, Attorney for the Koch Trust, appeared to testify on behalf of the proposed Variance request. Mr. Crouch stated the request was due to an estate division. Mr. Crouch said there was not enough land to give each son the minimum required land and frontage. Mr. Crouch added there was no intention to build a dwelling on the property at this time.

Following all Public Hearings, moved by May, seconded by Connett, to approve **Case No. 12-16-V**.

After considering all the evidence and testimony presented, the ZBA discussed 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. Although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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. Although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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

POSITIVE. The use of the land will not change and although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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

POSITIVE. The use of the land will not change and although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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

POSITIVE. Although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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. Although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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

POSITIVE.

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

POSITIVE. Although the Variance is based on the beneficiaries trust, the property from which the site is being divided from is a much larger parcel and uniquely shaped and most division of this property would require some form of waiver of the requirements. Allowing the reduction in frontage prevents additional farmland from being removed from production,

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

On roll call to approve **Case No. 12-16-V** the vote was:

Ayes: 6 –Connett, Lessen, Alternate May, Toevs, Zimmerman and Chairman Newman

Nays: 0

Absent: 2 – Baum, Vogelsang

Motion declared carried.

CASE NO. 12-17-V: The petition of Brandon and Shannon Fonner for a Variance to waive the requirements of 7TCC1-7(g)(2)(i) to allow the construction of an Addition to an existing Dwelling (Attached Garage) to be 13' from the side Property line, which is 7 feet closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a report stating the proposed structure may remove space for a replacement septic system should the existing system fail, therefore an above ground system may be required if a repair becomes necessary.

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

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

Dave Risinger, Groveland Township Road Commissioner submitted a report stating no objection regarding the proposed Variance request.

Roger Spangler, Village of Morton made no comment regarding the proposed Variance request.

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

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

Brandon Fonner appeared to testify on behalf of the proposed Variance request. Mr. Fonner stated he was surrounded by new homes with attached garages and would like to update and modernize his home. Mr. Fonner said he owned the adjacent property as well should the septic system ever fail.

Following all Public Hearings, moved by May, seconded by Toevs, to approve **Case No. 12-17-V**.

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

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

POSITIVE. Due to the narrowness of the lot, location of existing home on the property, location of the existing septic system, the location of the proposed attached garage is the most logical location and will be aesthetically consistent with the existing home.

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

POSITIVE. Due to the narrowness of the lot, location of existing home on the property, location of the existing septic system, the location of the proposed attached garage is the most logical location and will be aesthetically consistent with the existing home.

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

POSITIVE. Due to the narrowness of the lot, location of existing home on the property, location of the existing septic system, the location of the proposed attached garage is the most logical location and will be aesthetically consistent with the existing home. Further, the site is zoned Agriculture, but is located immediately adjacent to R-1 Zoning and if the petitioner's property was zoned R-1, as adjacent properties, the setback would be 10' which would negate the need for a Variance.

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

POSITIVE. Due to the narrowness of the lot, location of existing home on the property, location of the existing septic system, the location of the proposed attached garage is the most logical location and will be aesthetically consistent with the existing home. Further, the site is zoned Agriculture, but is located immediately adjacent to R-1 Zoning and if the petitioner's property was zoned R-1, as adjacent properties, the setback would be 10' which would negate the need for a Variance.

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

POSITIVE. The applicant is simply seeking to improve the home.

6. *Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district.*

POSITIVE. Due to the narrowness of the lot, location of existing home on the property, location of the existing septic system, the location of the proposed attached garage is the most logical location and will be aesthetically consistent with the existing home. Further, the site is zoned Agriculture, but is located immediately adjacent to R-1 Zoning and if the petitioner's property was zoned R-1, as adjacent properties, the setback would be 10' which would negate the need for a Variance.

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

POSITIVE. Due to the narrowness of the lot, location of existing home on the property, location of the existing septic system, the location of the proposed attached garage is the most logical location and will be aesthetically consistent with the existing home. Further, the site is zoned Agriculture, but is located immediately adjacent to R-1 Zoning and if the petitioner's property was zoned R-1, as adjacent properties, the setback would be 10' which would negate the need for a Variance.

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

POSITIVE. Due to the narrowness of the lot, location of existing home on the property, location of the existing septic system, the location of the proposed attached garage is the most logical location and will be aesthetically consistent with the existing home. Further, the site is zoned Agriculture, but is located immediately adjacent to R-1 Zoning and if the petitioner's property was zoned R-1, as adjacent properties, the setback would be 10' which would negate the need for a Variance.

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

On roll call to approve **Case No. 12-17-V** the vote was:

Ayes: 6 –Connett, Lessen, Alternate May, Toevs, Zimmerman and Chairman Newman

Nays: 0

Absent: 2 – Baum, Vogelsang

Motion declared carried.

Following the Public Hearing portion of the Meeting and prior to the start of Deliberations, Chairman Newman called for a recess at 7:25 p.m. and then reconvened the meeting at 7:40 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, June 5, 2012** 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.