

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

- Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
- Nays: 0
- Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
Nays: 0
Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.

**(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 Monday, July 2, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs, Alternate Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by Baum, seconded by Toevs, to approve the Minutes of the June 5, 2012 Zoning Board of Appeals Meeting as presented. **Motion carried by voice vote.**

(Continued by the ZBA at the June 5, 2012 Public Hearing)

CASE NO. 12-20-S: The petition of Kenneth Whistle for a Special Use to allow a Private Stable for the purpose of raising three (3) horses in an R-1 Low Density Residential Zoning District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District had no comment regarding the proposed Special Use request.

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

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

Bill Dailey, Hopedale Township Road Commissioner phoned regarding the proposed Special Use request and stated he had no objections but felt the pasture area was too small for the number of horses.

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

School District 16 made no comment regarding the proposed Special Use request.

At the June 5, 2012 Public Hearing, the Zoning Board of Appeals continued Case No. 12-20-S to the July 2, 2012 Public Hearings to allow for a video of the site to be shown before the Zoning Board of Appeals. (note: technically difficulty during the Hearing prevented staff from showing videos of the zoning cases)

Kenneth Whistle appeared to testify on behalf of the proposed Special Use request. Mr. Whistle submitted requests from neighboring property owners asking to take their names off of the Petition they had previously signed. Mr. Whistle also submitted photos of his property and surrounding properties within the subdivision. Mr. Whistle stated the horses were gone for a period of approximately 8 months while the family was gone to Florida. Mr. Whistle stated the horses have access to the barn at all times and the front pen is at least one-half acre and there were other pens on the property for the horses to access. Mr. Whistle added upon questioning that he does not recall ever being investigated regarding the care of any of his animals. Mr. Whistle stated additional fence had been added to the rear of the property.

Tim Allen appeared to testify against the proposed Special Use request. Mr. Allen showed a video of the neighborhood and stated the area was a residential subdivision with large lots. Mr. Allen stated in 1996 the Covenants were changed to say no horses to be allowed. Mr. Allen said in 2006 Mr. Whistle brought in cows to the property and was forced to remove them by a violation from the Zoning Department. Mr. Allen added in 2009 the horses and fencing were removed and in 2011 a miniature horse appeared and in the Spring of 2012, two more horses appeared on the property. Mr. Allen stated there were cow and hog farms in the area but he would stand opposed to the proposed request as Mr.

Whistle is the only property owner in the subdivision to have had a horse.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-20-S**.

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

1. The applicant shall be limited to two (2) horses on the property and shall therefore reduce the number of horses to two (2) horses within thirty (30) days from the date of approval by the Zoning Board of Appeals. (Note: Applicant currently has four (4) horses on the property)
2. The applicant shall keep the existing fence on the property maintained and in good repair at all times. If disrepair occurs and the applicant is notified by the Community Development Department, repairs shall be corrected within ten (10) days of notice by the Community Development Administrator.

Motion carried by voice vote for the amendment.

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, in all other respects, conforms to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE.

2. *The proposed Special Use will be consistent with the County Comprehensive Land Use Plan implementation strategies.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. Adverse effects from the granting the Special Use are minimal and visual impacts will be minimized due to the recently installed four (4) foot high fence surrounding the property.

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 fencing has approximately six (6) inches of spacing between the boards, preventing children from getting through the fencing. As such the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject property and fencing has undergone substantial improvements limiting injury to the use and enjoyment of other property in the immediate area. Further reducing the number of horses to only two (2) horses reduces the impact on adjoining

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

POSITIVE. The property has had horses onsite since 1995, prior to all immediate neighbors homes, continued operation of a private stable will not impair property values within the neighborhood.

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

POSITIVE. Utilities, access road and drainage are not a consideration of this Special Use however the applicant will provide the necessary facilities for the horses.

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

POSITIVE. The proposed special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE.

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

POSITIVE. Granting the Special Use will not remove any crop land from production.

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

POSITIVE. The subdivision is located within a rural area with uses as proposed, a property located adjacent to the entrance of the subdivision stables horses. Further equines were permitted within the covenants of the subject neighborhood at the time the applicant constructed their home.

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

POSITIVE. The applicant has appropriate area for a private stable, particularly due to due reduction of the horses to 2.

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

On roll call to approve **Case No. 12-20-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-23-V: The petition of Keith and Patricia Johnson for a Variance to waive the requirements of 8TCC 4-7 (f) (vii) of the Tazewell County Regulating Development in the Flood Plain Ordinance to allow construction of a 38' x 30' unattached garage below the flood protection elevation and to be larger than 500 square feet in an A-2 Zoning District with a Flood Plain Designation of A4.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Wylie Coriell, Sand Prairie 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 191 made no comment regarding the proposed Special Use request.

Keith Johnson appeared to testify on behalf of the proposed Variance request. Mr. Johnson stated he would like to build a 38x30 Unattached Garage, elevated on 4 courses of block, to replace an existing attached garage his insurance company forced him to remove. Mr. Johnson said the area had not flooded in at least 2 years and when the State of Illinois did bridge repair work in the area, that stopped a lot of the flooding issues. Mr. Johnson added the proposed garage will be on the existing concrete foot print of the prior garage. Mr. Johnson stated he does not to carry flood insurance on his property.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to recommend approval **Case No. 12-23-V** to the Tazewell County Board..

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

1. The development activity cannot be located outside the floodplain as the property is in an established non-conforming subdivision with an existing dwelling.
2. An exceptional hardship would result if the variance were not granted. The property owner recently removed a non-conforming dilapidated garage and wishes to construct a new garage within the same footprint of the old garage. The new garage will allow for the same storage of personal items as the old. Although the new garage will be 640 square feet larger than allowed the petitioner will still adhere to the Flood Plain Ordinance with regards all other criteria for structures of this nature and replacement of the non-conforming garage will allow for the new garage to be complaint with current regulations with exception to the size.
3. The relief requested is the minimum necessary.
4. There will be no additional threat to public health, safety or creation of a nuisance as the new structure will adhere to all other criteria of the Flood Plain Ordinance for structures of this nature. Although the garage is larger than allowed it will be compliant with current regulations unlike old the garage which was not.
5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP and the applicant has signed a Non-conversion agreement for enclosures below the base flood elevation. Further, construction of the new garage will be compliant with current regulations unlike the dilapidated garage which was not.
7. The applicant has obtained approval from State of Illinois Department of Natural Resources Office of Water Resources Permit DS2012016

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

On roll call to recommend approval of **Case No. 12-23-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-24-S: The petition of Michael Baynard for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

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

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

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

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

Tom Wallace, Deer Creek Township Road Commissioner had issued an Entrance Permit regarding the proposed Special Use request.

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

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

Michael Baynard appeared to testify on behalf of the proposed Special Use request. Mr. Baynard stated he would like to purchase and move the old Legacy Built Homes model home located along I-74 to the proposed site for his son and daughter in law to reside in. Mr. Baynard said he resides in the house directly to the North of the proposed site.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve **Case No. 12-24-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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will be minimized by the placement of the proposed dwelling to be set back from the main road, with trees screening the south side of the proposed dwelling.

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. A new single family detached dwelling is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.

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

POSITIVE. The subject area is primarily farmland and shall remain in crop production for the foreseeable future limiting injury to the use and enjoyment of other property in the immediate area.

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

POSITIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. Per the applicant, Ameren will provide electricity to the proposed site. Onsite utilities will include septic and well systems. A new twenty (20) foot wide driveway will be constructed off of Zimmerman Road leading to the proposed dwelling. Existing stormwater drainage carries / directs runoff to the rear of the site into an existing pond.

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. Given the current low traffic volumes on Zimmerman Road, the proposed Special Use will not contribute to traffic congestion.

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 dwelling site is not within a half mile of 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.

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

POSITIVE. The property contains soils with a productivity index of 125, however the site is located immediately adjacent to the Village limits of Goodfield, is consistent with other lots in the area and will not be removing tillable farmland from production.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the three other existing single family detached homes in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-24-S** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-25-S: The petition of Brent and Sarah Lindaman for a Home Commercial Special Use to allow for private horse lessens, equine safety training and a therapeutic riding center for disabled children and adults in a Conservation Zoning District

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

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

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau made no comment regarding proposed Special Use request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

School District 16 made no comment regarding the proposed Special Use request.

Brent Lindaman appeared to testify on behalf of the proposed Special Use request. Mr. Lindaman submitted letters of recommendation to the Board. Mr. Lindaman stated he purchased the 100 year old farmstead in 2008 and had cleared the property of many burn piles and overgrown fence rows. Mr. Lindaman said his wife had a passion for horses, to rescue horses and to work with disabled individuals. Mr. Lindaman added there would be no more than 10 kids at a time on the property for riding lessons. Mr. Lindaman stated they have 6 personal horses and 6 rescue horses on the property at the present time and utilized Morton Building shown in the video was the horse barn. Mr. Lindaman said he spoke with his neighbor Amy Bishop regarding manure concerns she had voiced. Mr. Lindaman added there would be no breeding on the property as the stallion was taken off of the property and the therapeutic riding would be at least 2 to 3 years in the future as they do not have the facilities and licensing at this time to begin. Mr. Lindaman stated he would agree to remove the therapeutic riding aspect from the request and there would be no boarding at the site. Mr. Lindaman agreed there was a drainage issue on the Lampe side of the property and was using that area to pasture the horses as it had tree cover for the horses, noting he would work with Mr. Lampe to resolve his concerns.

Amy Bishop appeared with concerns regarding the proposed Special Use request. Ms. Bishop stated she lived to the East of the proposed property and was opposed to the therapeutic riding aspect of the request. Ms. Bishop said the properties are very close and she would be afraid of causing an accident by spooking horses if she would make a loud noise on her property. Ms. Bishop added she was concerned regarding the hours of operations and did not want to see any boarding on the property. Ms. Bishop further stated she would hope the rescue horses did not have any illness that would affect neighboring animals and was concerned about the amount of manure and the close proximity to her feed lot, however, the Petitioner agreed to work to resolve this concern.

David Lampe appeared with concerns regarding the proposed Special Use request. Mr. Lampe stated Ms. Bishop addressed the majority of his concerns but wanted to add that he also had issues with the amount of manure and was working with the Petitioner to address those concerns. Mr. Lampe said he had no issue with the riding lessons and encouraged them to do so however he was concerned regarding the therapeutic riding.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 12-25-S**.

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

1. The therapeutic riding center shall be removed from the proposal and the applicant shall file for an expansion to this current Special Use in the future should the applicant fully intend to conduct a therapeutic riding at this location.
2. Hours of operation shall be Monday-Friday 9 a.m. to 5 p.m. as specified by the applicant on the Special Use application.

Motion carried by voice vote for the amendment.

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.*

POSITIVE. The Special Use will conform to all applicable regulations of the Tazewell County Zoning Code 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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

POSITIVE. All requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are minimal. Visual impacts on adjacent properties will change very little, if at all, from what they currently are.

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 proposed equine center is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity. Per the applicants, horses are contained at all times. Student riders will not be allowed to leave the subject property and are required to wear helmets and boots at all times.

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

POSITIVE. The subject site is surrounded by livestock and / or horses on three sides. No new structures will be developed limiting injury to the use and enjoyment of other property in the immediate area for the purposes already permitted.

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

POSITIVE. With similar uses already operating in the general vicinity of the proposed equine center, it is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The subject site is accessed by paved roads with ditches and utility easements. Per the applicants, on site well and septic systems are properly maintained. No utility upgrades shall be necessary to support the proposed equine facility.

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. Given the current low traffic volumes on East Wildlife Drive, the proposed Special Use will not contribute to traffic congestion.

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.*

NOT APPLICABLE

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.*

NOT APPLICABLE

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

POSITIVE. Although the property has a productivity of more than 125 the property will not be removing farmland from production.

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

POSITIVE. The Special Use request for Home Commercial in the Conservation District is consistent with the other existing equine and livestock facilities in the immediate vicinity.

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

POSITIVE. Given its proximity to other existing equine and livestock facilities, size, topography, utility access, and rural nature of the immediate vicinity the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-25-S as Amended** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman

Nays: 0

Absent: 1 - Webb

Motion declared carried.

CASE NO. 12-26-V: The petition of Nate Gray for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow construction of an Accessory Structure (Machine Shed) to be 1' from the side property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a comment regarding the proposed Variance request stating the Septic System was of adequate distance from the proposed Shed.

Tazewell County Soil & Water Conservation District made no comment regarding the proposed Variance request.

Tazewell County Farm Bureau made no comment regarding the proposed Variance request.

Terry Lohnes, Elm Grove 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 98 and 303 made no comment regarding the proposed Special Use request.

Nate Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated he would like to construct a Pole Building which will replace the existing dilapidated building to store farm machinery and various equipment in. Mr. Gray said he required a Variance due to the location of the Septic Field Bed and had to place it close to the property line so the equipment would not be drive over the Septic area. Mr. Gray added there was at least one-half mile to the nearest residence to the East. Mr. Gray stated he could not remove the old shed until the new shed was constructed and would like to get a Permit to start construction as soon as possible.

Following all Public Hearings, moved by Lessen, seconded by Toevs, to approve **Case No. 12-26-S.**

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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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.

- 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 wishes to remove a dilapidated shed and replace with the new one and to allow 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. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

- 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 existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

POSITIVE. Due to the existing location of the septic system, the ravine on the property, and how the applicant accesses the rear of the property the proposed location of the machine shed is the most logical and practical area. Further allowing the machine shed closer to the property will not hinder the applicant for expansion of the existing dwelling in the future.

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

On roll call to approve **Case No. 12-26-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vaughn, Zimmerman and Chairman Newman
 Nays: 0
 Absent: 1 - Webb

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 7:15 p.m. and then reconvened the meeting at 7:25 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 7, 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 7:47 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.