

**(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 Wednesday, September 5, 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, Loren Toevs, Alternate Robert Vogelsang, Phil Webb and Ken Zimmerman

**ABSENT:** Sandy May

**STAFF:** Kristal Deininger, Community Development Administrator; Mike Holly, Assistant States Attorney; Melissa Kreiter, Administrative Assistant; and Land Use Members: Chairman Carroll Imig, Russ Crawford, Monica Connett, Darrell Meisinger, Sue Sundell and Rosemary Palmer

**OTHERS**

**PRESENT:** Petitioners and Objectors

**MINUTES:** Moved by Baum, seconded by Zimmerman, to approve the Minutes of the August 7, 2012 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

---

**CASE NO. 12-25-S:** A request by Brent and Sarah Lindaman for reconsideration of their hours of operation as originally stipulated and approved by the Zoning Board of Appeals on July 2, 2012 to allow a Home Commercial Special Use for private horse lessons and equine safety training in a Conservation Zoning District.

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

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

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

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

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

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

Brent Lindaman appeared to testify on behalf of the Special Use reconsideration. Mr. Lindaman stated they could hold lessons for a maximum of 2 children at one time. Mr. Lindaman said the request for extended hours was due to the heat of the summer and also to accommodate for children returning to school, which would need weekends and evenings. Mr. Lindaman added the 10:00 p.m. end time was suggested as the last appointment was set for 8:00 p.m. and could run long so he wanted to allow plenty of time. Mr. Lindaman stated there have been complaints against his property from neighbors, however they were out of the scope of the petition and will probably be referred to litigation to resolve. Mr. Lindaman stated he would be willing to not operate on Sundays and reducing the proposed hours. Mr. Lindaman said he had looked into planting fast growing trees on his property or placing a privacy fence on the North and East property lines, however he did not have the funds to do so at the present time but wanted to do something for his family privacy.

Amy Bishop appeared to testify against the proposed Special Use reconsideration. Ms. Bishop stated the letter she seen requested only Monday through Saturday to 8:00 p.m. Ms. Bishop said testimony from the hearing in July indicated this was only a summer operation and by changing the months, days and hours there would be no peace for the neighbors. Ms. Bishop added dates wherein it appeared the Petitioner was violating the hours of operation approved by the ZBA in July and the Petitioner was trying to compete with larger operations. Ms. Bishop stated her dogs bark the entire time a lesson is being conducted so they have to be put away early for some peace. Ms. Bishop said she was agreeable to the hours of operation as originally approved in July and would not be agreeable to any other changes.

Dave Lampe appeared to testify against the proposed Special Use reconsideration. Mr. Lampe stated he was in agreement with Ms. Bishop and that the properties the Petitioner was referring to were much larger farms without adjoining neighbors. Mr. Lampe said operations all day long, 7 days a week were unacceptable. Mr. Lampe added he is against any change in hours and would like to know how he would know what was being conducted as business on the property and what was personal.

Following all Public Hearings, moved by Toevs, seconded by Baum, to approve the request for reconsideration of hours of operation to be as follows:

1. Monday through Friday – 8:00 a.m. to 8:00 p.m. – all lessons shall cease at 8:00 p.m.
2. Saturdays – 8:00 a.m. to 4:00 p.m. – all lessons shall cease at 4:00 p.m.
3. There shall be no business use conducted on Sundays

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

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vogelsang, Webb, Zimmerman & Chairman Newman  
Nays: 0  
Absent: 1 – May

**Motion declared carried.**

---

**CASE NO. 12-40-V:** The petition of Debbie Howard for a Variance to waive the requirements of 7TCC1-5(o)(1) to allow the construction of a 6' Vinyl Privacy Fence along the front property line to the building setback line, which is 2' taller than allowed in an R-2 Multi-Family Residential District.

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

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

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

Jon Oliphant, City of Washington submitted a letter regarding the proposed Variance request stating this type of request would be allowed within the municipality.

Dave Weaver, Washington Township Road Commissioner stated no objection regarding the proposed Variance request as long as no views were obstructed.

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

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

Debbie Howard appeared to testify on behalf of the proposed Variance request. Ms. Howard said her property fronts Mickel Parkway and backs up to Summit Drive. Ms. Howard stated she would like to construct a vinyl privacy fence that would be 43' from the centerline of Summit and are similar to other privacy fences in the area. Ms. Howard stated she checked with her neighbors, the subdivision developer, and the City of Washington, all of whom were in agreement for the fence and it was not until she learned her property was not within the City limits that she would need a Variance. Ms. Howard said she wanted privacy for her 15 and 18 year old daughters and a place to contain their dog.

Following all Public Hearings, moved by Zimmerman, seconded by Lessen, to approve **Case No. 12-40-V**.

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

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

POSITIVE. Due to the site being bounded on the front and rear by two streets the applicant is forced to adhere to front yard requirements.

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 site being bounded on the front and rear by two streets the applicant is forced to adhere to front yard requirements.

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

POSITIVE. Allowing the additional fence height is similar to what many properties in neighborhood enjoys, but due to the site being bounded on the front and rear by two streets the applicant is forced to adhere to front yard requirements.

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

POSITIVE. Allowing the additional fence height will not obstruct traffic views and will not impair property values within the neighborhood.

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

POSITIVE. The applicant is simply seeking the additional fence height for privacy.

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

POSITIVE.

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

POSITIVE.

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

POSITIVE. Due to the site being bounded on the front and rear yard by two streets the applicant is forced to adhere to front yard requirements which limits the ability of having the rear yard rights as other properties within the same district.

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. 12-40-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vogelsang, Webb, Zimmerman & Chairman Newman

Nays: 0

Absent: 1 – May

**Motion declared carried.**

---

**CASE NO. 12-41-V:** The petition of Alberta and Brent Hellman for a Variance to waive the requirements of 7TCC1-7(f) to allow a new zoning lot of record to have 20' of Frontage, which is 180' less than allowed in an A-1 Agriculture Preservation Zoning District.

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

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

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

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

School District 703 made no comment regarding the proposed Variance request.

Brent Hellman appeared to testify on behalf of the proposed Variance request. Mr. Hellman stated the property owner approached him about purchasing the farm land that he had been cash renting. Mr. Hellman said the property owner would keep the original farmstead and sell the approximate 8 acres of farmland. Mr. Hellman added the survey had been done and the 20' of frontage was the original lane to the property.

Following all Public Hearings, moved by Baum, seconded by Vogelsang, to approve **Case No. 12-41-V**.

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

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

POSITIVE. Due to the location of the home on the property the applicant has no other alternative, and farmland would unnecessarily be removed from production if the applicant were forced to adhere to the required frontage.

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.*

Due to the location of the home on the property the applicant has no other alternative, and farmland would unnecessarily be removed from production if the applicant were forced to adhere to the required frontage.

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. Allowing the Variance will not impair property values or impair the adequate supply of light and air or increase congestion on public streets.

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

POSITIVE. Although the owner is selling the remaining farmland off to the adjacent property owner, allowing the Variance is still practical due to the location of the home on the property the applicant has no other alternative, and farmland would unnecessarily be removed from production if the applicant were forced to adhere to the required frontage.

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

POSITIVE

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

POSITIVE. The situation is unique due to the location of the home on the property, and the requirements of the Zoning Code makes transfer of the existing farmland impossible and impractical.

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

POSITIVE. Due to the location of the home on the property the applicant has no other alternative, and farmland would unnecessarily be removed from production if the applicant were forced to adhere to the required frontage.

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

On roll call to approve **Case No. 12-41-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Alt. Vogelsang, Webb, Zimmerman & Chairman Newman

Nays: 0

Absent: 1 – May

**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 6:40 p.m. and then reconvened the meeting at 6:50 p.m. to conduct Deliberations of the Zoning Cases.

---

**NEXT MEETING**

The next meeting of the Zoning Board of Appeals will be **Tuesday, October 2, 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 Toevs, seconded by Baum, to adjourn the Zoning Board of Appeals Public Hearing at 7:09 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.