

**(DRAFT COPY – SUBJECT TO APPROVAL BY THE ZONING BOARD OF APPEALS)
MINUTES OF A PUBLIC HEARING AND THE DELIBERATIONS OF THE TAZEWELL
COUNTY ZONING BOARD OF APPEALS**

A Public Hearing of the Tazewell County Zoning Board of Appeals was held at 6:00 P.M. on Tuesday, October 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, Loren Toevs, Sandy May, and Phil Webb,

ABSENT: Ken Zimmerman

STAFF: Kristal Deininger, Community Development Administrator; Matt Drake, Assistant States Attorney; Nicholas Hayward, Land Use Planner; 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 Toevs, to approve the Minutes of the September 5, 2012 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

CASE NO. 12-48-A: Proposed Amendment No. 40 to the Tazewell County Zoning Code referred for hearing by the Tazewell County Land Use Committee to amend the following:

SECTION 1. Article 2 - Rules of Construction and Glossary of Terms

7TCC 1-2 (b) Glossary of Terms.

(Add the items as bolded and underlined)

AGRICULTURE: Activities customarily engaged in by persons in the business of farming and constitutes the principal activity of land which includes the planting, growing, production, harvesting, keeping or maintenance, for lease or personal use of: beekeeping, dairying and grazing, egg production, field crops, fish or fur farming, floriculture, greenhouses/nurseries (non-commercial), horticulture, hydroponics, livestock raising, orchards, paddocks, poultry raising, sod farming, truck farming, viticulture and other similar or closely related activities. **Farm buildings for protecting or storing farm equipment or machinery. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats or other farm seeds.**

SECTION 2. Article 5 - District Regulations and Standards

(Add new verbiage as bolded and underlined and remove areas as stricken)

7TCC 1-5 (o) Fencing. No person shall erect a fence without first having received a building permit. Fences that are open or solid are allowed in all districts with the following conditions, unless otherwise regulated herein:

- (1) In all residential districts, ~~and~~ platted subdivisions, **and around dwelling units in the agriculture districts,** only open fences, which do not exceed four (4) feet in height, are allowed along the front property line to the building setback line.
- (2) **In all residential districts and platted subdivisions,** fences, which do not exceed six (6) feet in height are allowed to the side and rear of the principal structure. All solid fences shall be constructed with the finished side out. ~~in the Residential Districts.~~
- (6) Fences that **are located around non-agriculture or nonresidential uses and also in a nonresidential district** ~~are constructed in a non-residential district~~ may be either open or solid fences and shall not exceed ~~ten (10)~~ **eight (8)** feet in height. **The Zoning Board of Appeals may, as a Special Use, authorize the construction of a fence higher than eight (8) feet if it is determined the public welfare is served.**
- (7) **A property owner may install a fence within a dedicated easement at his or her own risk. In no case, however, shall a fence be constructed within a dedicated drainage easement.**

(8) **Fencing exempt from permit requirements:**

- i. Fencing used for agriculture purposes/operations.**
- ii. Ornamental fencing consisting of decorative posts, lattices, arbors, trellises.**
- iii. Fences comprising of less than twenty four (24) feet of total lineal distance per parcel. Such fences shall adhere to all other fencing regulations.**

SECTION 3. Article 9 - (RR) Rural Residential District

7TCC 1-9 (b) Permitted Uses.

(Add the following new verbiage)

(3) Agriculture, provided:

- iv. Chickens/Fowl shall adhere to the regulations as found Article 25 7TCC 1-5 (f) Requirements for Particular Special Uses CHICKENS AND FOWL i. through xiii.

SECTION 4. Article 10 - (R-1) Low Density Residential District

7TCC 1-10 (b) Permitted Uses.

(Add the following new verbiage as bolded and underlined and remove areas as stricken)

- (3) Agriculture on a lot not less than ~~twenty (20)~~ **ten** acres;
- (7) **Gardens**, Green house, non-commercial;

7TCC 1-10 (c) Special Uses.

(Add the following new verbiage and renumber accordingly)

Chickens/Fowl on a zoning lot of one (1) acre or more and less than 10 acres subject to the regulations under Article 25, 7TCC 1-25 (f) Requirements for Particular Special Uses.

SECTION 5. Article 24 – Variances

(Add the following new verbiage as bolded and underlined and remove areas as stricken)

7 TCC 1-24 (d) Standards for Variances. In evaluating Variance requests, the following factors shall be considered, not one of which shall be controlling:

- (2) That 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;~~
- (3) That 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 **or otherwise be inconsistent with any officially adopted County Plan or these regulations;**

- (6) ~~That 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;~~

The circumstances or conditions are such that the strict application of the provisions of this section would deprive the applicant of reasonable use of his or her property. Mere loss in value shall not justify a Variance.

- (7) ~~That 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;~~

The granting of the Variance is the minimum adjustment necessary that will make possible the reasonable use of the land or structure.

SECTION 6. Article 25 – Special Uses

7TCC 1-25 (e) Particular Special Uses.

(Add the following new verbiage and renumber accordingly)

Chickens/fowl

7TCC 1-25 (f) Requirements for Particular Special Uses.

(Add the following new verbiage and renumber accordingly)

CHICKENS/FOWL. Specific requirements for chickens/fowl in the R-1 Low Density Residential District:

- i. Chickens/Fowl shall only be permitted on a lot with a single family residence which shall be inhabited on a full time basis. Chickens/fowl shall be prohibited at duplex and multifamily buildings;
- ii. Roosters shall be prohibited;
- iii. The slaughtering of chickens/fowl shall not be allowed on-site, except for humane reasons;
- iv. Chickens/fowl shall be kept for personal use only and shall be contained within a coop or enclosure / run at all times;
- v. The structure (coop) housing the chickens/fowl shall be located behind the rear plane of the existing dwelling (not in the front or side yard) and shall be maintained in a clean and sanitary condition at all times. Said coop shall be covered and ventilated to protect chickens/fowl from inclement weather and predators and shall provide a minimum of 4 square feet per chicken to allow for free movement. Said coop shall be located 10’ from the side and rear yard property lines and electric service to the coops shall not be provided by an extension cord.
- vi. Chickens/fowl shall have access to a fenced enclosure / run providing a minimum of 10 square feet per chicken to allow for outdoor time, said fenced enclosure or run shall be 10’ from any side or rear yard property lines. Chickens shall not be allowed to run freely on a lot. A 50 foot minimum lateral distance from the fenced enclosure to any well, in clay or loam soils, shall be maintained. For other soils the Tazewell County Health Department may be called on for assistance in determining a proper distance.
- vii. Storage vessels containing chicken feed shall be impervious to pests and vermin.
- viii. The number of chicken/fowl shall be allowed per acre as follows:
 - o 1 acre to 1.99 acres = 4 chickens/fowl
 - o 2 acres to 2.99 acres = 5 chickens/fowl
 - o 3 acres to 3.99 acres = 6 chickens/fowl
 - o 4 acres to 4.99 acres = 7 chickens/fowl
 - o 5 acres to 9.99 acres = 8 chickens/fowl

SECTION 7. Article 33 – Fee Schedule

7TCC 1-33 (b) Fees Charged for Public Hearings.

(Add the following new verbiage)

Special Use Chickens/Fowl	\$150.00
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SECTION 8. This amendatory ordinance shall take effect upon passage as provided by law.

Tazewell County Health Department made no comment regarding the proposed Amendment.

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

The Tazewell County Farm Bureau submitted a report regarding the proposed Amendment with no objections, however did have questions.

All municipalities were notified however only the following comments were received regarding the proposed Amendment:

Jon Oliphant, City of Washington submitted a report stating the City was in support of the proposed Amendment.

All Tazewell County School Districts were notified and made no comment regarding the proposed Amendment.

Administrator Deininger gave an explanation regarding the proposed Zoning Code Amendment.

Following all Public Hearings, moved by Baum, seconded by Webb, to recommend approval of **Case No. 12-48-A** 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 proposed amendment shall not be detrimental to the orderly development of Tazewell County.*
2. *The proposed amendment shall not be detrimental to or endanger the public health, safety, morals or general welfare of Tazewell County.*

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

On roll call to recommend approval of **Case No. 12-48-A** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Webb, and Chairman Newman

Nays: 0

Absent: 1 – Zimmerman

Motion declared carried.

CASE NO. 12-42-Z: The petition of Brad Fuller, as President of F-5, Inc. for a Map Amendment to the Official Washington Township Zoning Map of Tazewell County to change the zoning classification of property from a R-1 Low Density Residential District to a C-2 General Business Commercial Zoning District.

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

Tazewell County Health Department submitted a report regarding the proposed Rezoning request stating certain criteria must be met to determine a proper septic system.

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

Tazewell County Farm Bureau submitted a report recommending approval of the proposed Rezoning request.

Jon Oliphant, City of Washington submitted a report urging a shared drive with the adjacent Church property and stated the City was in support of the proposed Rezoning request.

Dave Weaver, Washington Township Road Commissioner submitted a report stating some concern of additional traffic generated and had no objection regarding the proposed Rezoning request.

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

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

School District 51 and 308 made no comment regarding the proposed Rezoning request.

Attorney Charles Rock appeared to testify on behalf of the proposed Rezoning request. Mr. Rock stated the road commissioner stated he had no concern with the proposed access. Mr. Rock said the property was not conducive to farming and the original intent of the developer was to develop the land as a commercial property. Mr. Rock said there were only 2 residential properties near the proposed site and they front along Farmview Road. Mr. Rock added F-5 was the developer of the property and there was a proposed buyer for the site, if the rezoning were approved. Mr. Rock stated it was planned to share a driveway with the adjacent church property and the township road commissioner would govern any load limitations on Spring Creek Road. Mr. Rock said other area residents may find a need for a business on the proposed property.

William Flowers appeared to testify against the proposed Rezoning request. Mr. Flowers stated he was an adjoining property owner and had lived in the area for 6 years. Mr. Flowers said traffic has always been a concern and the elevation of Route 24 makes for difficult visibility. Mr. Flowers added he also had concerns regarding runoff from stormwater affecting the already high water table. Mr. Flowers then read the definitions of both of the C-1 and C-2 designation and his reasons why neither were suitable for the proposed site. Mr. Flowers stated a drainage tile runs near the proposed property and he was concerned drainage would be affected by any proposed business.

Ray Trapp appeared to testify on behalf of the proposed Rezoning request. Mr. Trapp stated he was the proposed buyer for the site and would like to locate his electrical contracting business at the location, along with providing smaller shops for rent. Mr. Trapp said all of his employees work generally in the field and road load limits would not be a concern. Mr. Trapp added he lived in the area and would build an attractive building conducive with the design of homes in the area. Mr. Trapp stated there would be no walk in traffic and he had 2 office workers that would remain at the business. Mr. Trapp said work vehicles may have to return to the property during business hours for various tools or supplies, however he had project supplies shipped directly to clients' properties.

Following all Public Hearings, moved by Baum, seconded by May, to recommend approval of **Case No. 12-42-Z** to the Tazewell County Board.

After considering all the evidence and testimony presented, the ZBA discussed the findings of fact and reviewed the Report of the Land Use Planner and arrived at the following findings of fact:

1. *The proposed amendment shall not be detrimental to the orderly development of Tazewell County.*

POSITIVE. The proposed amendment shall not be detrimental to the orderly development of Tazewell County as it is consistent with the Future Land Use Map for Tazewell County, which shows the subject area zoned as C-2.

2. *The proposed amendment shall not be detrimental to or endanger the public health, safety, morals or general welfare of Tazewell County.*

POSITIVE. The proposed amendment will allow and encourage commercial development. Commercially zoned land and development should be maintained along high traffic corridors such as Route 24 and particularly at intersections or nodes with easy vehicular access. The proposed zoning amendment poses no foreseeable danger or risk to the public health, safety, morals or general welfare of Tazewell County or its residents.

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

POSITIVE. The site is located adjacent to a site for a proposed church facility.

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

POSITIVE. Although there is currently no other C-2 in the general area, site is situated along Route 24 which is the intent of the C-2 Zoning District.

5. *The suitability of the property in question for the uses permitted under the existing zoning classification.*

POSITIVE. The property in question is not suitable for the uses permitted under the existing zoning classification given its proximity to Route 24. There is no viability of establishing residential dwellings on the subject parcel.

6. *The suitability of the property in question for the uses permitted under the proposed zoning classification.*

POSITIVE. The property in question is suitable for the uses permitted under the proposed zoning classification given the consistency with other nearby parcels which have received approval to develop projects other than residential units.

7. *The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the property in question was placed in its present zoning classification.*

POSITIVE. Trend of nearby development is compatible with the C-2 zoning designation and given its proximity to Route 24, there is no viability of establishing residential dwellings on the subject parcel.

8. *The length of time the property has been vacant as zoned, considered in the context of the land development in the area surrounding the subject property.*

POSITIVE. When the area was originally established this particular site was set aside for the possibility of commercial uses due to its proximity to Route 24.

9. *The proposed map amendment is within one and one half (1 ½) miles of a municipality and consistent with an adopted Comprehensive Plan.*

POSITIVE. The proposed zoning map amendment is within 1.5 miles of Washington, a municipality with an adopted Comprehensive Plan who had no objections to the request.

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

POSITIVE. The relative gain to the public is increased taxation of a viable commercial enterprise. Should the rezoning request be denied, there would be substantial hardship imposed on the owner, as there is no residential viability at the subject parcel.

11. *The proposed amendment is consistent with the goals, objectives, and policies of the Tazewell County Comprehensive Plan.*

POSITIVE. The proposed zoning map amendment is consistent with the goals, objectives, and policies of the Tazewell County Comprehensive Plan listed below:

- Provide sufficient land to accommodate new residents and businesses in accordance with the Comprehensive Plan.
- Locate new development contiguous to existing development to aid police and fire protection.
- Avoid leapfrog development and isolated land development to preserve contiguous tracts of productive agricultural land.
- Attract new businesses and industries to the County that provide valuable services and fulfill County needs.

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

On roll call to recommend approval of **Case No. 12-42-Z** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Webb, and Chairman Newman

Nays: 0

Absent: 1 – Zimmerman

Motion declared carried.

CASE NO. 12-43-S: The petition of Gary & Vicki Fields for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation District.

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

Tazewell County Health Department submitted a report stating that a soil analysis will need to be completed prior to issuance of a septic permit.

Tazewell County Soil & Water Conservation District submitted a report recommending denial of the proposed Special Use.

Tazewell County Farm Bureau recommended approval with reservations.

Wylie Coriell, Sand Prairie Township Road Commissioner made no comment.

John Anderson, Tazewell County Highway Engineer made no comment.

School District 191 made no comment regarding the proposed Special Use request.

Gary Fields appeared to testify on behalf of the proposed Special Use request. Mr. Fields stated he and his wife wanted to construct a dwelling near his mother in law, who lived in the area. Mr. Fields said his brother in law also lived in the area. Mr. Fields added his mother in law owned 111 acres of farm ground that would eventually be given to the siblings.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 12-43-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.

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 request is consistent with the Comprehensive Land Use Plan implementation strategies as follows:

- Locate new development contiguous to existing development to aid police and fire protection.
- Locate new residential development along local roads to facilitate efficient travel and maintain public safety.
- Locate new residential development in rural areas close to roadways to preserve contiguous tracts of farmland.
- Allow new residential development that will ensure the viability of family farm operations.

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 100 feet from centerline of Pfanz road.

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 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 area is primarily farmland, which 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 applicants, the subject parcel has access to electrical service already established along Pfanzen Road, a new well will be drilled, a new septic system will be installed according to Tazewell County Health Department specifications, liquid propane service will be established, and a culvert will be placed in the ditch along Pfanzen Road to create vehicular access.

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 Pfanzen Road and relatively flat topography, there are no foreseeable traffic congestion or safety issues from granting the Special Use request.

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

POSITIVE. Per the applicants, 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. Per the applicants, the proposed dwelling site is not within a half mile of a livestock feeding operation.

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

POSITIVE. Although the site contains soils of 125 this property is part of the family farm and will be inherited by the applicant in the future and minimal farm ground will be removed for the proposed site.

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

On roll call to approve **Case No. 12-43-S** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Webb, and Chairman Newman

Nays: 0

Absent: 1 – Zimmerman

Motion declared carried.

CASE NO. 12-44-V: The petition of Brenda Kaeb for a Variance to waive the requirements of 7TCC 1-25(f)(20)(iii) to allow for one (1) additional Special Use request to create one new dwelling site in an A-1 Agriculture Preservation Zoning District

Tazewell County Health Department submitted a report regarding the proposed Variance request stating a soil analysis will need to be completed.

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

Tazewell County Farm Bureau submitted a report recommending approval with reservations.

Wylie Corriel, 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 Variance request.

NOTE – THE FOLLOWING TESTIMONY INCLUDES TESTIMONY CONDUCTED FOR CASE 12-44-V AND CASE 12-45-S

Gary Fields appeared to testify on behalf of the proposed Variance and Special Use requests. Mr. Fields stated his sister in law would like to build a dwelling on a portion of his mother in law’s property to be close to family, however he and his wife used the one time special use requirement and Rezoning the property was not a favorable option.

Following all Public Hearings, moved by Webb, seconded by Baum, to approve **Case No. 12-44-V**.

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

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

POSITIVE. The new site will not exert development pressure which could hinder Ag operations in the area.

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. Waiving the requirements will remain compliant while protecting the rural charter of the area.

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

POSITIVE. The new site will not hinder ag operations or activities in the area.

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 daughter of the owner simply wishes to construct a new home on the family farm which allows the family to be closer and help care for the mother.

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

POSITIVE. This is a family farm and granting the Variance will allow the daughter to build a new home on property she will one day inherit. Not allowing the Variance would be a “taking” which is not consistent with the code.

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

POSITIVE. This is a family farm and granting the Variance will allow the daughter to build a new home on property she will one day inherit. Not allowing the Variance would be a “taking” which is not consistent with the code.

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

POSITIVE. This is a family farm and granting the Variance will allow the daughter to build a new home on property she will one day inherit. Not allowing the Variance would be a “taking” which is not consistent with the code.

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. 12-44-V** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Webb, and Chairman Newman

Nays: 0

Absent: 1 – Zimmerman

Motion declared carried.

(Upon approval of Case No. 12-44-V by the Zoning Board of Appeals)

CASE NO. 12-45-S: The petition of Brenda Kaeb for a Special Use to allow the creation of one new dwelling site in an A-1 Agriculture Preservation District.

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

Tazewell County Health Department submitted a report regarding the proposed Special Use request stating a soil analysis will need to be completed.

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

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

Wylie Coriell, Sand Prairie Township Road Commissioner made no comment regarding the proposed Special Use request.

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

School District 191 made no comment regarding the proposed Special Use request.

NOTE – THE TESTIMONY FOR CASE 12-45-S WAS INCLUDED IN THE TESTIMONY LISTED ABOVE IN CASE 12-44-V.

Following all Public Hearings, moved by Baum, seconded by Webb, to approve **Case No. 12-45-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.

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 request is consistent with the Comprehensive Land Use Plan implementation strategies as follows:
 - Locate new development contiguous to existing development to aid police and fire protection.

- Locate new residential development along local roads to facilitate efficient travel and maintain public safety.
- Locate new residential development in rural areas close to roadways to preserve contiguous tracts of farmland.
- Allow new residential development that will ensure the viability of family farm operations.

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 100 feet from centerline of Pfanz road.

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 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 area is primarily farmland, which 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 applicants, the subject parcel has access to electrical service already established along Pfanz Road, a new well will be drilled, a new septic system will be installed according to Tazewell County Health Department specifications, liquid propane service will be established, and a culvert will be placed in the ditch along Pfanz Road to create vehicular access.

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 Pfanz Road and relatively flat topography, there are no foreseeable traffic congestion or safety issues from granting the Special Use request.

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

POSITIVE. Per the applicants, 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. Per the applicants, the proposed dwelling site is not within a half mile of a livestock feeding operation.

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

POSITIVE. Although the site contains soils of 125 this property is part of the family farm and will be inherited by the applicant in the future and minimal farm ground will be removed for the proposed site.

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

On roll call to approve **Case No. 12-45-S** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Webb, and Chairman Newman

Nays: 0

Absent: 1 – Zimmerman

Motion declared carried.

CASE NO. 12-46-S: The petition of Jobie Ledford for a Special Use to allow for the operation of a Contractor/Construction Office/Storage, known as JL Concrete from an existing structure in an A-1 Agriculture Preservation District

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

Tazewell County Health Department submitted a report with questions regarding the need for a septic system.

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

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

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

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

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

Joe Crowe, Illinois Department of Transportation submitted a report regarding the proposed Special Use request stating the entrance must be upgraded to commercial standards prior to approval.

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

NOTE – THE FOLLOWING TESTIMONY INCLUDES TESTIMONY CONDUCTED FOR CASE 12-46-S AND CASE 12-47-V.

Jobie Ledford appeared to testify on behalf of the proposed Special Use and Variance requests. Mr. Ledford stated he would like to use the existing structure on the proposed property to store concrete forms, trucks and trailers. Mr. Ledford said he was the only employee at the present time and only needed the property for storage purposes at the present time. Mr. Ledford added there would be no office at the proposed site. Mr. Ledford stated he was willing to close the entrance onto IL Route 122 if necessary.

Following all Public Hearings, moved by Lessen, seconded by May, to approve **Case No. 12-46-S.**

Following discussion, moved by Lessen, seconded by May to Amend the Main Motion to include the following conditions:

1. The existing entrance onto Illinois Route 122 shall be closed to all traffic or said entrance shall be improved per Illinois Department of Transportation regulations.

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 following Tazewell County Comprehensive Land Use Plan implementation strategies:

- Provide sufficient land to accommodate new residents and businesses in accordance with the Comprehensive Plan.
- Locate new development contiguous to existing development to aid police and fire protection.
- Avoid leapfrog development and isolated land development to preserve contiguous tracts of productive agricultural land.
- Attract new businesses and industries to the County that provide valuable services and fulfill County needs.

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. The subject structure is existing, therefore visual impacts on adjacent properties will be unchanged from current conditions.

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 small scale commercial use 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, which 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 small scale commercial use 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, the subject site currently has electric & water service and a well.

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

POSITIVE. Projected traffic impacts of the proposed commercial use are negligible. Currently there are two entrances to the subject site. One entrance is off of Stringtown Road, to which the road commissioner has no concerns. The second entrance is directly off of Illinois Route 122. IDOT has requested that the applicant upgrade the entrance to commercial standards prior to its usage.

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.*

NOT APPLICABLE.

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

POSITIVE. Given the usage of heavy equipment and storage of raw production materials in both agriculture and construction, the Special Use request for a commercial contractor facility at the subject site is consistent with the agricultural uses in the general vicinity.

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

POSITIVE. Considering the existing detached structure, lot size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-46-S** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Webb, and Chairman Newman

Nays: 0

Absent: 1 – Zimmerman

Motion declared carried.

(Upon approval of Case No. 12-46-S by the Zoning Board of Appeals)

CASE NO. 12-47-V: The petition of Jobie Ledford for a Variance to waive the requirements of 7TCC1-7(c)13 to allow for the operation of a Contractor/Construction Office/Storage, known as JL Concrete from an existing structure which is 2,592 square feet, 192 square larger than allowed in an A-1 Agriculture Preservation District

Tazewell County Health Department submitted a report regarding the proposed the proposed Variance request with questions regarding the need for a septic system.

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

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

Village of Hopedale made no comment regarding the proposed Variance request.

Bill Dailey, Hopedale Township Road Commissioner submitted a report having no objection to the proposed Variance request.

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

Joe Crowe, Illinois Department of Transportation submitted a report regarding the proposed Variance request stating the entrance must be upgraded to commercial standards prior to approval.

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

NOTE – THE TESTIMONY FOR CASE 12-47-V WAS INCLUDED IN THE TESTIMONY LISTED ABOVE IN CASE 12-46-S.

Following all Public Hearings, moved by Lessen, seconded by Baum, to approve **Case No. 12-47-V.**

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

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

POSITIVE. The building is existing and allowing the additional 192 square feet is minimal.

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

POSITIVE. The building is existing and allowing the additional 192 square feet is minimal.

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. Although the applicant intends to operate a business at this located allowing the 192 additional square feet is minimal in addition to the fact that the building is existing.

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. The building is existing and allowing the additional 192 square feet is minimal.

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. 12-47-V** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Webb, and Chairman Newman

Nays: 0

Absent: 1 – Zimmerman

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 7:08 p.m. and then reconvened the meeting at 7:18 p.m. to conduct Deliberations of the Zoning Cases.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Wednesday, November 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 Toevs, seconded by Baum, to adjourn the Zoning Board of Appeals Public Hearing at 7:42 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.