

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

A Public Hearing of the Tazewell County Zoning Board of Appeals was held at 6:00 P.M. on Tuesday, December 4, 2012, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

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

ABSENT: JoAn Baum, Phil Webb

STAFF: Kristal Deininger, Community Development Administrator; Mike Holly, Assistant States Attorney; Maggie Martino, Land Use Planner; Melissa Kreiter, Administrative Assistant; and Land Use Members: Terry Hillegonds, Sue Sundell and Rosemary Palmer

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by May, seconded by Toevs, to approve the Minutes of the November 7, 2012 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**
Abstain 1 – Zimmerman

CASE NO. 12-50-S: The petition of Ray Trapp for a Special Use to allow construction of a Non-Residential Planned Unit Development, specifically an approximate 9,600 square foot 5 Unit Building, for the purpose of housing an Electrical Contracting office and storage in addition to other office and storage related businesses located in a C-2 General Business Commercial 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 the proposed Special Use request.

Jon Oliphant, City of Washington submitted a report recommending approval regarding the proposed Special Use request.

Dave Weaver, Washington Township Road Commissioner made no comment regarding the proposed Special Use request, however, an Entrance Permit had been issued.

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

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

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

Ray Trapp appeared to testify on behalf of the proposed Special Use request. Mr. Trapp stated he would like to construct a 9,600 square foot structure to house his company, Trapp Electric, and also would lease units to other companies to help off set the cost of the building. Mr. Trapp said the building is already pre-leased to a HVAC Contractor, a General Contractor, Home Theater installer and an Insurance Agency.

Following all Public Hearings, moved by May, seconded by Zimmerman, to approve **Case No. 12-54-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 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. The subject parcel is located at an intersection along a US Route. As such, anticipated adverse effects, including visual impacts on adjacent properties, from the granting of the requested Special Use are minimal.

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 commercial building to be utilized by local contractors 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. The closest single family residences are several hundred feet away from the proposed structure.

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

POSITIVE. A new commercial building is not anticipated to substantially diminish and / or impair property value within the neighborhood and may actually increase property values along US Route 24 as more commercial development takes place.

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

POSITIVE. Per the applicant, the subject lot has access to necessary utilities with shared vehicular access already approved on the north side from Spring Creek Road.

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 Spring Creek Road and placement of the main entrance set back from US Route 24, 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 applicant, there are no livestock feeding operations within one-half miles of the subject parcel.

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.

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 nonresidential Planned Development to construct a commercial building is consistent with the other existing uses and activities in the vicinity and typical commercial development along a highway corridor.

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

POSITIVE. Given its proximity to US Route 24, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 12-54-S** as amended the vote was:

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

Nays: 0

Absent: 2 – Baum, Webb

Motion declared carried.

CASE NO. 12-55-S: The petition of Jason Proehl, Attorney for Patricia Wittrig 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 made no comment regarding the proposed Special Use request.

Tazewell County Soil & Water Conservation District recommended denial regarding the proposed Special Use request.

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

Louis Anderson, Boynton Township Road Commissioner made no comment regarding the proposed Special Use request.

John Anderson, Tazewell County Highway Engineer submitted a report stating an Entrance Permit will be required.

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

Jason Proehl appeared to testify on behalf of the proposed Special Use request. Mr. Proehl stated he was the attorney representing the property owner who would like to divide land off to construct a new dwelling to reside in. Mr. Proehl said his clients husband was deceased and owned the adjacent land along with other family members. Mr. Proehl added the soils on the property were good, however it was a small lot to be created on land that was also owned and farmed by his client. Mr. Proehl stated he was unsure who would reside in the existing adjacent dwelling on the property.

Following all Public Hearings, moved by May, seconded by Vaughn, to approve **Case No. 12-55-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 following Tazewell County Comprehensive Land Use Plan implementation strategies:

- 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. The subject area is sparsely populated. As such, anticipated adverse effects, including visual impacts on adjacent properties, from the granting of the requested Special Use are minimal.

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, 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. Given its adjacency to the existing family farmstead, the proposed lot has access to necessary utilities already established along Hopedale Road. Vehicular access to the proposed lot is already in place from Hopedale Road.

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 Hopedale 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 applicant, there are no livestock feeding operations within one-half miles of the subject parcel.

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. Although the soils are above 125 and considered prime farmland, the acreage removed is an uneconomical remnant and will affect the loss of prime farmland.

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 vicinity and will be occupied by one of the owners of the adjacent farmland.

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

On roll call to approve **Case No. 12-55-S** the vote was:

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

Nays: 0

Absent: 2 – Baum, Webb

Motion declared carried.

CASE NO. 12-56-S: The petition of St. Johns Lutheran Church for a Special Use for an expansion of an existing legal non-conforming use of property utilized as a Church to allow construction of an addition to the Church (Vestibule) 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 made no comment regarding the proposed Special Use request.

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

Village of South Pekin made no comment 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 submitted a report regarding the proposed Special Use request stating no issue.

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

NOTE – THE FOLLOWING TESTIMONY INCLUDES TESTIMONY CONDUCTED FOR CASE 12-56-S AND CASE 12-57-V

Mark Schleder appeared to testify on behalf of the proposed Special Use request. Mr. Schleder stated he was a senior elder at the church and was a part of planning to construct a 40 x 50 vestibule for a greeting area and fellowship area. Mr. Schleder said the church will try as best they can to maintain the aesthetics of the historic church building.

Following all Public Hearings, moved by Lessen, seconded by Zimmerman, to approve **Case No. 12-56-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. As a legal nonconforming use, the Special Use is not required to conform to all applicable regulations of the Tazewell County Zoning Code.

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:

○ *As this is a unique request, it is not precisely consistent with any of 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. The subject area is moderately populated. However, the proposed addition faces a parking lot owned by the church and farmland. As such, anticipated adverse effects, including visual impacts on adjacent properties, from the granting of the requested Special Use are minimal.

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 addition 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. The proposed addition is not anticipated to substantially diminish and / or impair property value within the neighborhood. An unsympathetic addition to the main façade of an historic building would negatively affect the neighborhood as a whole, however as provided in testimony by the representative the Church will take all steps necessary to protect the character of the Church for the new addition.

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

POSITIVE. All necessary utilities and road access are presently available at the subject site.

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

POSITIVE. Per the applicant, there are no livestock feeding operations within one-half miles of the subject parcel.

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.

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

POSITIVE. The usage of the church is not changing only modestly expanding. The church will remain consistent with other existing uses of property within the general area as it has for many decades.

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

POSITIVE. Given its size, topography, and utility access, the subject property is suitable for the Special Use request as proposed to allow for an addition to the existing church.

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

On roll call to approve **Case No. 12-55-S** the vote was:

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

Nays: 0

Absent: 2 – Baum, Webb

Motion declared carried.

CASE NO. 12-57-V: The petition of St. Johns Lutheran Church for a Variance to waive the requirements of 7TCC1-7(g)(1)(iii) to allow the construction of an addition to the principal structure (Church Vestibule) to be 50’ from the centerline of Deppert Road, which is 50’ closer than allowed in an A-1 Agriculture Preservation District

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.

Village of South Pekin 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 submitted a report regarding the proposed Variance request stating no issue.

School District 191 made no comment regarding the proposed Variance request.

NOTE – THE TESTIMONY FOR CASE 12-57-V WAS INCLUDED IN THE TESTIMONY LISTED ABOVE IN CASE 12-56-S.

Following all Public Hearings, moved by May, seconded by Vaughn, to approve **Case No. 12-57-V**.

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

1. *The particular surroundings, shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;*

POSITIVE. As the Church is legal non-conforming it does not currently meet the required setbacks for a structure of this nature in an A-1 Zoning District. Placement of the new addition at the proposed location is the most logical and aesthetically appropriate.

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;*

POSITIVE. As the Church is legal non-conforming it does not currently meet the required setbacks for a structure of this nature in an A-1 Zoning District. Placement of the new addition at the proposed location is the most logical and aesthetically appropriate.

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 or otherwise be inconsistent with any officially adopted County Plan or these regulations;*

POSITIVE. The request will not be detrimental to the public welfare and is consistent with all other regulations.

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

POSITIVE. The new addition is needed for the purposes of provided the congregation with a more accommodating means of entering and exiting the building and will not increase congestion on public streets or endanger public safety or diminish property values.

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

POSITIVE. The new addition is needed for the purposes of provided the congregation with a more accommodating means of entering and exiting the building and is therefore not for monetary gain.

6. *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;*

POSITIVE. As the Church is legal non-conforming it does not currently meet the required setbacks for a structure of this nature in an A-1 Zoning District. Placement of the new addition at the proposed location is the most logical and aesthetically appropriate.

7. *Granting of the Variance is the minimum adjustment necessary that will make possible the reasonable use of the land or structure;*

POSITIVE. As the Church is legal non-conforming it does not currently meet the required setbacks for a structure of this nature in an A-1 Zoning District. Placement of the new addition at the proposed location is the most logical and aesthetically appropriate.

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

POSITIVE. As the Church is legal non-conforming it does not currently meet the required setbacks for a structure of this nature in an A-1 Zoning District. Placement of the new addition at the proposed location is the most logical and aesthetically appropriate.

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

On roll call to approve **Case No. 12-57-V** the vote was:

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

Nays: 0

Absent: 2 – Baum, Webb

Motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Wednesday, January 2, 2013** 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 Vaughn, to adjourn the Zoning Board of Appeals Public Hearing at 6:30 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.