

**(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, January 2, 2013, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

**PRESENT:** Chairman James Newman, JoAn Baum, Duane Lessen, Sandy May, Loren Toevs and Phil Webb,

**ABSENT:** Ken Zimmerman

**STAFF:** Kristal Deininger, Community Development Administrator; Matt Drake, Assistant States Attorney; Kyle Smith, Land Use Planner; Melissa Kreiter, Administrative Assistant; and Land Use Members: Chairman Terry Hillegonds, Monica Connett, Greg Sinn, Sue Sundell and Rosemary Palmer

**OTHERS**

**PRESENT:** Petitioners and Objectors

**MINUTES:** Moved by May, seconded by Baum, to approve the Minutes of the December 4, 2012 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

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**CASE NO. 13-01-Z:** The petition of John P. Webb for a Map Amendment to the Official Elm Grove Township Zoning Map of Tazewell County to change the zoning classification of property from an A-1 Agriculture Preservation District to a R-R Rural Residential Zoning District.

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

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

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

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

Terry Lohnes, Elm Grove Township Road Commissioner made no comment regarding the proposed Rezoning request.

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

School District 98 and 303 made no comment regarding the proposed Rezoning request.

John P. Webb appeared to testify on behalf of the proposed Rezoning request. Mr. Webb stated he purchased the property over 25 years ago and had raised 2 children there. Mr. Webb said he would like to divide off 2 additional building sites for each of his children to build upon. Mr. Webb added the property had 60' of frontage along Red Shale Hill Road and he would like to maintain the 60' of ownership and draft a private road easement agreement. Mr. Webb stated his son preferred to build at the Southern end of the property. Mr. Webb said the road base was at least 6 inches of gravel and the lane had been in place for at least 40 years.

Following all Public Hearings, moved by May, seconded by Toevs, to recommend approval of **Case No. 13-01-Z** 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.*

*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 on the border of the R-R / A-2 districts.

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

*POSITIVE.* At this time, the proposed zoning amendment possesses 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 request is consistent with existing uses of property within the general area of the property in question.

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

*POSITIVE.* The proposed amendment will allow and encourage single family residential development adjacent to existing single family residential homes. From a planning perspective it is always preferred to develop property contiguous to existing development instead of practicing “leapfrog” development.

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

*POSITIVE.* Per the applicant, the property in question is not suitable for the uses permitted under the existing zoning classification given the highly erodible and sloping ground.

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 being utilized for residential purposes.

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.* Per the applicant, the trend of nearby development is compatible with the R-R zoning designation as detailed in the Tazewell County Future Land Use Map.

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.* The area has transitioned into a Rural Residential Nature.

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 not within 1.5 miles of a municipality with an adopted Comprehensive Plan.

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 should the subject site remain A-1 is negligible as compared to the hardship imposed upon the individual property owner should this rezoning request be denied.

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.
- Locate new residential development along local roads to facilitate efficient travel and maintain public safety.
- Avoid leapfrog development and isolated land development to preserve contiguous tracts of productive agricultural land.

- Locate new residential development in rural areas close to roadways to preserve contiguous tracts of farmland.
- Minimize conflict between land uses.

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

On roll call to recommend approval of **Case No. 13-01-Z** the vote was:

Ayes: 5 – Baum, Lessen, May, Toevs and Chairman Newman

Nays: 0

Absent: 1 - Zimmerman

Abstain: 1 - Webb

**Motion declared carried.**

**CASE NO. 13-02-S:** The petition of Pastor Joshua Beutow of Grace Baptist Church, for an expansion of an existing Special Use (Case No. 10-16-S) to allow for an expansion of the existing parking lot and for a future addition to the existing Church facility 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 submitted a report recommending approval regarding the proposed Special Use request.

Terry Lohnes, Elm Grove Township Road Commissioner made no comment regarding the proposed Special Use request.

John Anderson, Tazewell County Highway Engineer submitted a report stating access to additional parking lots should be consulted with the Township Road Commissioner.

Joe Crowe, Illinois Department of Transportation submitted a report stating opposition to an expansion pending a review of a Stormwater Management plan.

School District 702 made no comment regarding the proposed Special Use request.

Pastor Josh Beutow appeared to testify on behalf of the proposed Special Use request. Pastor Beutow stated the church was looking to extend the parking lot to the Northwest and add approximately 25 spaces. Pastor Beutow said there was no set time frame for the future expansion. Pastor Beutow added the current parking surface was asphalt and the church would like to expand with concrete. Pastor Beutow stated the church had grown significantly in the last few years.

Following all Public Hearings, moved by Baum, seconded by May, to approve **Case No. 13-02-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:

- a. Locate new development contiguous to existing development to aid police and fire protection.

- b. Provide sufficient land to accommodate new residents and businesses in accordance with the Comprehensive Plan.
- c. Encourage the reuse of vacant properties for new and existing businesses.
- d. 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 shall be satisfactorily met.

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

*POSITIVE.* Proposed buildings, parking lots, and signage will adhere to the zoning regulations and there are no existing adjacent residential structures. 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 expansion of an existing church facility that has been in continuous operation for over two years 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 surrounding 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. Additionally, the church facility is primarily used on Sundays with very limited traffic throughout the remainder of the week.

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

*POSITIVE..* The expansion of an existing church facility that has been in continuous operation for over two years 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.* Necessary utilities have already been established at the subject site. Per the applicant, vehicular access has been deemed adequate by the Illinois Department of Transportation.

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.* There are no foreseeable traffic congestion or safety issues from granting the Special Use request. Should traffic issues arise, the applicant has agreed to utilize traffic safety guards.

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 Tazewell County Zoning Code designates a church as a commercial use. The Special Use request for the expansion of an existing church facility is consistent with the other existing commercial uses in the vicinity.

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

*POSITIVE.* Given its proximity to other existing commercial uses, size, topography, utility access, and state route frontage the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 13-02-S** as amended the vote was:

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

Nays: 0

Absent: 1 - Zimmerman

**Motion declared carried.**

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**CASE NO. 13-03-S:** The petition of Rick Cross d/b/a Cross Implement, Inc. for a Special Use to operate an Agriculturally Related Business for outdoor storage of agriculture machinery in an A-1 Agriculture Preservation District.

Chairman Newman called for the petitioner to step forward three times. Following all Public Hearings, moved by May, second by Baum to continue Case No. 13-03-S to the February 5, 2013 Zoning Board of Appeals Public Hearing. **On voice vote, motion declared carried.**

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**CASE NO. 13-04-V:** The petition of Nelson Koch for a Variance to waive the requirements of 7TCC1-7(g)(iii) to allow construction of an Accessory Structure to be 32' from the centerline of Locust Road, which is 68' 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 submitted a report having no comment regarding the proposed Variance request.

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

Kenneth Siegrist, Dillon Township Road Commissioner submitted a report having no objection regarding the proposed Variance request.

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

School District 702 made no comment regarding the proposed Special Use request.

Nelson Koch appeared to testify on behalf of the proposed Variance request. Mr. Koch stated the existing buildings proposed to be demolished had existed since at least 1943 per the assessment records. Mr. Koch said he would like to construct a new building for sheep and other agriculture related items and would tear down the existing 2 sheds on the property. Mr. Koch added Locust Road ends just beyond his property as the old iron bridge had been closed.

Following all Public Hearings, moved by Lessen, seconded by Baum, to approve **Case No. 13-04-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. Due to the topography of the property the applicant would be required to haul in fill to the west and to the south of the site to meet the required setback.

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. Due to the topography of the property the applicant would be required to haul in fill to the west and to the south of the site to meet the required setback.

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 new structure will be constructed within the same footprint as two existing buildings to be removed. As the road is a “dead end” road allowing the structure to be closer than allowed will not have a hindrance on traffic.

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

POSITIVE.

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

POSITIVE. The applicant is simply in need of additional storage.

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.

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

POSITIVE. Due to the topography of the property the applicant would be required to haul in fill to the west and to the south of the site to meet the required setback.

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

POSITIVE. Due to the topography of the property the applicant would be required to haul in fill to the west and to the south of the site to meet the required setback.

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

On roll call to approve **Case No. 13-04-V** as amended the vote was:

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

Nays: 0

Absent: 1 - Zimmerman

**Motion declared carried.**

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**CASE NO. 13-05-V:** The petition of Kyle and Michelle Essert for a Variance to waive the requirements of 7TCC1-10(f)(1)(iii) to allow the reconstruction of a Dwelling on an existing foundation, destroyed by fire, to be 43’ from the centerline of the Right of Way of Laurel Lane, which is 7’ closer than allowed and to waive 7TCC1-10(f)(2)(i) to allow the same, to be 5’ from the side property line, which is 5’ closer than allowed in a R-1 Low Density Residential District.

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

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

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

Ty Livingston, City of East Peoria made no comment regarding the proposed Variance request.

Paul Whittington, Fondulac Township Road Commissioner submitted a report stating no objection regarding the proposed Variance request.

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

School District 85 and 309 made no comment regarding the proposed Special Use request.

Kyle Essert appeared to testify on behalf of the proposed Variance request. Mr. Essert stated his dwelling, which was non-conforming, was destroyed by fire. Mr. Essert said he would be using the existing foundation and basement for reconstruction. Mr. Essert added the adjacent home to the East had some siding damage from the fire.

Following all Public Hearings, moved by Baum, seconded by May, to approve **Case No. 13-05-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. The lot is narrow thereby limiting the applicant in buildable area. Further the applicant wishes to utilize the existing foundation which was salvageable after the fire destroyed the main structure.

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. The lot is narrow thereby limiting the applicant in buildable area. Further the applicant wishes to utilize the existing foundation which was salvageable after the fire destroyed the main structure.

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 lot is narrow thereby limiting the applicant in buildable area. Further the applicant wishes to utilize the existing foundation which was salvageable after the fire destroyed the main structure.

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 it would be very expensive for the applicant not to use the existing foundation there are other factors that negate the 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. The lot is narrow thereby limiting the applicant in buildable area. Further the applicant wishes to utilize the existing foundation which was salvageable after the fire destroyed the main structure.

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

POSITIVE. The lot is narrow thereby limiting the applicant in buildable area. Further the applicant wishes to utilize the existing foundation which was salvageable after the fire destroyed the main structure.

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

POSITIVE. The lot is narrow thereby limiting the applicant in buildable area. Further the applicant wishes to utilize the existing foundation which was salvageable after the fire destroyed the main structure.

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

On roll call to approve **Case No. 13-05-V** as amended the vote was:

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

Nays: 0

Absent: 1 - Zimmerman

**Motion declared carried.**

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**NEXT MEETING**

The next meeting of the Zoning Board of Appeals will be **Tuesday, February 5, 2013** at 6:00 p.m. in the Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois.

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**ADJOURNMENT**

There being no further business, moved by Toevs, seconded by Baum, to adjourn the Zoning Board of Appeals Public Hearing at 7:00 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.