

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

A Public Hearing of the Tazewell County Zoning Board of Appeals was held at 6:00 P.M. on Wednesday, September 4, 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, Phil Webb, Loren Toevs and Ken Zimmerman

ABSENT: None

STAFF: Kristal Deininger, Community Development Administrator; Kyle Smith, Land Use Planner; Melissa Kreiter, Administrative Assistant; and Land Use Members: Monica Connett, K. Russell Crawford, John Redlingshafer, Rosemary Palmer, Greg Sinn and Sue Sundell

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by May, seconded by Baum, to approve the Minutes of the August 6, 2013 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

CASE NO. 13-29-Z: The petition of Ray Trapp for a Map Amendment to the Official Washington Township Zoning Map of Tazewell County to change the zoning classification of property from an 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 made no comment regarding the proposed Rezoning request.

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

Tazewell County Farm Bureau submitted a report stating the case may have an impact on Agriculture and recommended approval with reservations.

Jon Oliphant, City of Washington submitted a report stating the City recommended a shared entrance with the existing facility be utilized and also said the City was in support of the proposed Rezoning request.

Dave Weaver, Washington Township Road Commissioner submitted a report having no comment regarding the proposed Rezoning request, however an Entrance Permit has been issued.

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.

Ray Trapp appeared to testify on behalf of the proposed Rezoning request. Mr. Trapp stated due to financial reasons, the church that owned the property approached him regarding purchasing the land as they would no longer be constructing a facility on the property. Mr. Trapp said if purchased, he would like to construct additional buildings, such as what was under construction on his property, immediately adjacent to the proposed site. Mr. Trapp added he had been in contact with the adjacent property owners regarding types of screening they would prefer. Mr. Trapp stated the adjacent property was where his electrical business would be located, along with an HVAC business and other similar small businesses. Mr. Trapp said there would only be one entrance onto Spring Creek Road for both properties to access via, as per the Road Commissioner's request.

Following all Public Hearings, moved by Baum, seconded by Zimmerman, to recommend approval of **Case No. 13-29-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 designates the subject area as commercial.

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 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 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 commercial development adjacent to existing commercial development and US Route 24.

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

POSITIVE. Given its proximity to US Route 24, the subject property is not suitable for residential development.

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 commercial 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. The recent trend in the immediate area has been toward commercial development along US Route 24.

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.

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, which has 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 R-1 is negligible as compared to the hardship imposed upon the 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.

- Avoid leapfrog development and isolated land development to preserve contiguous tracts of productive agricultural land.
- Minimize conflict between land uses.
- Encourage the reuse of vacant properties for new and existing businesses.

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

On roll call to recommend approval of **Case No. 13-29-Z** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Webb, Zimmerman and Chairman Newman

Nays: 0

Absent: 0

Motion declared carried.

CASE NO. 13-30-S: The petition of Bethany Community Church for a Special Use to allow the construction of a new Church facility to include classrooms, administration offices, dedicated sanctuary and outdoor recreational areas in an A-1 Agriculture Preservation District

Kyle Smith, Tazewell County Land Use Planner submitted a report recommending denial of the proposed Special Use request. However, due to the Petitioner’s statement during the public hearing reducing the acreage, Mr. Smith stated he would support the Special Use request as amended.

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

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

Tazewell County Farm Bureau submitted a report stating the case has a direct impact on Agriculture and recommended approval with reservations.

Jon Oliphant, City of Washington submitted a report regarding the proposed Special Use request stating the City was in support of the request however recommended controlling the spillage of outdoor lighting onto neighboring properties.

Dave Weaver, Washington Township Road Commissioner submitted a report regarding the proposed Special Use request stating concerns of additional traffic generated by such a large facility.

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

School District 52 and 308 made no comment regarding the proposed Special Use request.

Mike Wuebben appeared to testify on behalf of the proposed Special Use request. Mr. Wuebben stated he was on the Building Committee for Bethany Community Church. Mr. Wuebben said the church presently conducted 2 Sunday services at Five Points in Washington, each with about 250 people in attendance. Mr. Wuebben added the church would like to construct a facility at the proposed site to house mid week services such as a kids or men’s ministry. Mr. Wuebben stated due to expressed concerns, the request was being modified to only 39 acres, rather than the entire 75 acres. Mr. Wuebben said the church presently used Camp Good News for certain kid’s services, so the roads were already bearing some of the traffic that was being proposed. Mr. Wuebben added the church would come back for an expansion if needed. Mr. Wuebben stated the church would like to move its entire service to the proposed site, but was unable to do so at the present due to financial reasons. Mr. Wuebben indicated on the Site Plan the traffic flow on the roadway and how it would be changed if the proposed facility were approved. Mr. Wuebben said Dutch Lane was a tar and chip surface, the same road type that was presently traveled to the Camp Good News site. Mr. Wuebben added after a recent end of summer event at the site, it was apparent the church needed to be more respectful to the neighboring property and moved the entrance to the proposed site farther to the East than originally proposed. Mr. Wuebben indicated on the Site Plan where vehicles had inadvertently drove onto the neighboring property, due to confusion of an area being blocked for a play area for children. Mr. Wuebben stated the church would discuss buffering the neighboring property from the church and would move the entrance as far East as possible, as long as it did not remove the access for the farm equipment farming the rear of the property. Mr. Wuebben said the church would work diligently with the adjacent property owner to address his concerns. Mr. Wuebben added the church had already exhausted all other options for placement of the church closer to Illinois Route 24 due to the topography of the land and the need to purchase additional land in order to do so. Mr. Wuebben stated the church would meet with the objector and the Road Commissioner as soon as possible to discuss a resolution of the concerns.

Paul Markas appeared to testify on behalf of the proposed Special Use request. Mr. Markas stated the proposed site was indicated as R-1 Residential in the Comp Plan.

Ken Agans appeared with concerns regarding the proposed Special Use request. Mr. Agans stated he was the only dwelling in the area and his property would be completely surrounded by the proposed church facility. Mr. Agans said he had concern of noise and a loss of privacy if the proposed use were approved. Mr. Agans added there had been a recent event where vehicles actually drove through his yard in order to exit the property. Mr. Agans also spoke of an instance of the farmer driving into his yard. Mr. Agans indicated on the Site Plan where his residence was located. Mr. Agans stated he spoke with a tax assessor who stated he would lose property value due to the loss of privacy.

Following all Public Hearings, moved by Baum, seconded by May, to continue **Case No. 13-30-S** to the October 1, 2013 ZBA Public Hearing requesting the petitioner conduct the following:

1. Submit a new Site Plan identifying:
 - a. The reduction in acreage from 75.52 acres to 39 acres as testified at the Public Hearing;
 - b. Proposed lighting for the site;
 - c. Relocation of the proposed entrance further to the East of the site;
 - d. Screening along the adjacent owner's property (Ken Agans) to provide privacy.
2. Work with David Weaver, the Washington Township Road Commissioner to address potential traffic concerns as posed by Mr. Weaver.
3. Work with the adjacent property owner (Ken Agans) to address the concerns regarding privacy, litter, noise and the potential for trespassing onto his property.

On voice vote, motion declared carried.

CASE NO. 13-31-V: The petition of Douglas Huff for a Variance to waive the requirements of 7TCC1-7(g)(1)(iii) to allow construction of an Accessory Structure (Unattached Garage) to be 40' from the centerline of Ten Mile Creek Road, which is 60' closer than allowed in an A-1 Agriculture Preservation Zoning District.

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

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

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

Paul Whittington, Fondulac 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 86 and 309 made no comment regarding the proposed Special Use request.

Douglas Huff appeared to testify on behalf of the proposed Variance request. Mr. Huff stated he would like to construct a garage to house his vehicles from the elements. Mr. Huff said due to the topography of the property and the creek the building could not be located elsewhere. Mr. Huff said there was a circle drive on his property he did not want to disturb as the East Peoria school bus used that as a turn around on their route.

Following all Public Hearings, moved by Lessen, seconded by Baum, to approve **Case No. 13-31-V**.

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 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, location of the septic, power lines, the applicant is limited in area for placement of the new 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. Due to the topography of the property, location of the septic, power lines, the applicant is limited in area for placement of the new 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.

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 only need of additional storage for personal items and to park his personal work vehicle.

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 applicant has no other alternative for placement of the structure and would be denied reasonable use of the property if the Variance were denied.

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, location of the septic, power lines, the applicant is limited in area for placement of the new structure.

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

POSITIVE. Due to the topography of the property, location of the septic, power lines, the applicant is limited in area for placement of the new 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. 13-31-V** the vote was:

Ayes: 7 – Baum, Lessen, May, Toevs, Webb, Zimmerman and Chairman Newman

Nays: 0

Absent: 0

Motion declared carried.

OTHER BUSINESS: Administrator Deininger stated on September 4, 2013, the Zoning Board of Appeals approved Case No. 13-24-S, Special Use to allow the operation of a Commercial Retail Establishment for the purpose of constructing, indoor and outdoor displaying and selling of up-scale back yard portable storage buildings, gazebos, wood play systems, and Amish style lawn furniture in an I-1 Light Industrial Zoning District in Fondulac Township with conditions. Ms. Deininger said one of the conditions placed on the Special Use was that a 6' Barrier Fence were to be constructed along the drainage ditch of Route 116. Ms. Deininger added the Petitioner was seeking a reconsideration of this condition to read:

The Petitioner shall construct a ~~6~~ 4' barrier fence parallel to the Drainage Ditch, as indicated on the Site Plan, by August 6, 2014. Said fence shall not hinder site distance at the intersection of Illinois Route 116 and Fauber Lane.

On voice vote, motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, October 1, 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 May, seconded by Toevs, to adjourn the Zoning Board of Appeals Public Hearing at 7:25 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.