

(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, January 7, 2014, 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, and Loren Toevs

ABSENT: Ken Zimmerman

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by May, seconded by Toevs, to approve the Minutes of the November 5, 2013 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

CASE NO. 14-01-S: The petition of Lori Augustin 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 submitted a report recommending approval regarding the proposed Special Use request.

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

Larry Bolliger, Tremont 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.

Attorney Pat McGrath appeared to testify on behalf of the proposed Special Use request. Mr. McGrath stated his client, Lori Augustin was joint owner with three siblings in a tract of land, however she owned the dwelling on the property solely. Mr. McGrath said his client would like to take sole ownership of the approximate 2.01 acres of ground the dwelling was located on. Mr. McGrath added there would be no farm ground taken out of production and his client would still have joint ownership of the adjacent land.

Following all Public Hearings, moved by May, seconded by Baum, to approve **Case No. 14-01-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 shall 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 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.

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

POSITIVE. Anticipated adverse effects, including visual impacts on adjacent properties, from the granting of the requested Special Use are unanticipated at this time.

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 single family detached dwelling built six years ago has not been detrimental to or endangered 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 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 single family detached dwelling built six years ago has not substantially diminished and / or impaired property value within the neighborhood.

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

POSITIVE. The proposed lot has access to necessary utilities. Well and septic are in place.

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 Augustin Road, 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.

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.

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 approve the findings of fact as submitted. **Motion carried by voice vote.**

On roll call to approve **Case No. 14-01-S** the vote was:

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

Nays: 0

Absent: 1 - Zimmerman

Motion declared carried.

CASE NO. 14-02-V: The petition of Kenny Becker, d/b/a Ag Reliants, LLC for a Variance to waive the requirements of 7TCC1-7(g)(1)(ii) to allow construction of an Office & Storage Addition to an existing Ag Related Business (as approved on 4/6/04 in Case No. 04-17-S) to be 88' from the centerline of Townline Road, which is 12' 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 making no comment regarding the proposed Variance request.

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

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

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

Kenny Becker appeared to testify on behalf of the proposed Variance request. Mr. Becker stated he would like to expand the office space located on the East side of the building. Mr. Becker said he could not expand any other direction than towards the road due to the location of the septic system and an irrigation system for the adjacent farmland.

Following all Public Hearings, moved by Lessen, seconded by Baum, to approve **Case No. 14-02-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. Construction of the new addition is the most logical location aesthetically and the applicant is hindered for construction of the addition in a different spot due to the septic system on the east side of the property and irrigation systems located to the south of the property.

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. Construction of the new addition is the most logical location aesthetically and the applicant is hindered for construction of the addition in a different spot due to the septic system on the east side of the property and irrigation systems located to the south of the property.

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. Allowing the Variance will not be detrimental to the public or improvements in the area as the area is predominately Agriculture and the business is an Ag-related use and the addition to the building will not be inconsistent with the County Plan.

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 current use is for a business, the office addition is simply needed to accommodate for more space that is needed for operation of the business.

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. Construction of the new addition is the most logical location aesthetically and the applicant is hindered for construction of the addition in a different spot due to the septic system on the east side of the property and irrigation systems located to the south of the property.

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

POSITIVE. Construction of the new addition is the most logical location aesthetically and the applicant is hindered for construction of the addition in a different spot due to the septic system on the east side of the property and irrigation systems located to the south of the property.

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

POSITIVE. Construction of the new addition is the most logical location aesthetically and the applicant is hindered for construction of the addition in a different spot due to the septic system on the east side of the property and irrigation systems located to the south of the property.

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

On roll call to approve **Case No. 14-02-V** the vote was:

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

Nays: 0

Absent: 1 - Zimmerman

Motion declared carried.

CASE NO. 14-03-V: The petition of Galen and Betty Rocke for a Variance to waive the requirements of 7TCC1-7(g)(1)(i) to allow construction of an Addition to Dwelling to be 120' from the Centerline of Illinois Route 9, which is 30' closer than allowed A-1 Agriculture Preservation Zoning District.

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

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

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

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

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

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

Galen Rocke appeared to testify on behalf of the proposed Variance request. Mr. Rocke stated he needed to extend his home to 4 bedrooms for his growing family. Mr. Rocke said the septic system was already approved for the expansion from the Health Department.

Following all Public Hearings, moved by May, seconded by Baum, to approve **Case No. 14-03-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. Allowing construction of the new addition as proposed is the most aesthetically and logical location as the existing home does not meet the required setbacks and the location of the septic and well also limits construction within the area of the lot.

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. Allowing construction of the new addition as proposed is the most aesthetically and logical location as the existing home does not meet the required setbacks and the location of the septic and well also limits construction within the area of the lot.

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 property is in the same area as Residential properties which actually have a different setback requirement for additions such as the applicant is proposing and if the applicant's property were zoned Residential as the ones almost adjacent to the property a Variance would not be required.

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 property is in the same area as Residential properties which actually have a different setback requirement for additions such as the applicant is proposing and if the applicant's property were zoned Residential as the ones almost adjacent to the property a Variance would not be required.

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 needing more garage storage and an additional bedroom to accommodate for their growing family.

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. Allowing construction of the new addition as proposed is the most aesthetically and logical location as the existing home does not meet the required setbacks and the location of the septic and well also limits construction within the area of the lot.

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

POSITIVE. Allowing construction of the new addition as proposed is the most aesthetically and logical location as the existing home does not meet the required setbacks and the location of the septic and well also limits construction within the area of the lot. Further, the property is in the same area as Residential properties which actually have a different setback requirement for additions such as the applicant is proposing and if the applicant's property were zoned Residential as the ones almost adjacent to the property a Variance would not be required.

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

POSITIVE. Allowing construction of the new addition as proposed is the most aesthetically and logical location as the existing home does not meet the required setbacks and the location of the septic and well also limits construction within the area of the lot. Further, the property is in the same area as Residential properties which actually have a different setback requirement for additions such as the applicant is proposing and if the applicant's property were zoned Residential as the ones almost adjacent to the property a Variance would not be required.

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

On roll call to approve **Case No. 14-03-V** the vote was:

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

Nays: 0

Absent: 1 - Zimmerman

Motion declared carried.

CASE NO. 14-04-V: The petition of Randy Drury for a Variance to waive the requirements of 7TCC1-10(f)(1)(iii) to allow construction of an Addition to Accessory Structure (Addition to Unattached Garage) to be 38' from the centerline of Evergreen Court, which is 12' 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 made no recommendation regarding the proposed Variance request.

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

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

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

Randy Drury appeared to testify on behalf of the proposed Variance request. Mr. Drury stated he was a collector of cars and his current garage was full. Mr. Drury said he needed additional room to work on and restore his vehicles. Mr. Drury added his shop area was in the rear of the existing garage so it was most feasible to expand the front of the garage. Mr. Drury stated he could not build an addition off of the back of the garage as there would be no way to get the vehicles out of the garage and an additional drive would be necessary. Mr. Drury also said if he were to build the proposed addition on the rear of the garage the addition would be even closer to Mr. Doering's residence than what is proposed. Mr. Drury added there was a tree line beyond where the garage would sit and to place the addition on the rear he would have to relocate a propane tank as well as restructure his existing garage.

Jim Doering appeared to testify against the proposed Variance request. Mr. Doering stated the proposed addition would extend into an established utility easement as well as it would be unsightly in the area as no other garages extend that close to the road. Mr. Doering said it would not be aesthetically pleasing and submitted an aerial image depicting the addition and the utility easement.

Following all Public Hearings, moved by Toevs, seconded by Webb, to approve **Case No. 14-04-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;*

NEGATIVE. Testimony provided by applicant did not provide adequate proof to show that a particular hardship exists and allowing the garage addition as proposed would be a convenience for the applicant. There are other are other options that the applicant is able to seek for construction of the addition which would make the addition compliant with all setback regulations.

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;*

NEGATIVE. The proposal is not unique to the property as the applicant as other alternatives for construction of the addition which would not hinder the applicant for logical use of the garage.

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;*

NEGATIVE. Construction of the new addition has the potential to be detrimental to the welfare and improvements within the area as the addition is not consistent with other structures in the subdivision as it is proposed to extend further into the building setback line than other structures in the neighborhood.

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;*

NEGATIVE. The addition could pose visual problems within the area and has the potential to diminish property values in the neighborhood as it will extend into the building setback line and would be aesthetically unpleasing to the area, the applicant has other alternatives for placement of the addition and would be compliant with all setback regulations.

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

NEGATIVE. Although construction of the new addition is not for monetary gain there are other deciding factors identified which justifies denying the request as proposed.

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;*

NEGATIVE. There are no justifiable factors or conditions that would deprive the applicant of reasonable use of his property as there are other alternatives available to the applicant for construction of the addition which would be compliant with all setback regulations.

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

NEGATIVE. The request is not the minimum adjustment necessary, the applicant has other options available to him that would still allow the applicant reasonable use of his land and of the structure.

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

NEGATIVE. Testimony provided by applicant did not provide adequate proof to show that a particular hardship exists and allowing the garage addition as proposed would be a convenience for the applicant. There are other options that the applicant is able to seek for construction of the addition which would make the addition compliant with all setback regulations. Further construction of the addition as proposed places the addition within the subdivision's building setback line and 2' within an existing utility easement.

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

On roll call to approve **Case No. 14-04-V** the vote was:

Ayes: 0

Nays: 6 - Baum, Lessen, May, Toevs, Webb and Chairman Newman

Absent: 1 - Zimmerman

Motion failed.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, February 4, 2014** 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 6:55 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.