

(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, February 11, 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, Loren Toevs and Ken Zimmerman

ABSENT: None

STAFF: Kristal Deininger, Community Development Administrator; Matt Drake, Assistant States Attorney; David Smesrud, Land Use Planner; Jaclynn Workman, Inspections Coordinator; and Land Use Members: Monica Connett, Terry Hillegonds, Rosemary Palmer, John Redlingshafer, Greg Sinn and Sue Sundell

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by May, seconded by Baum, to approve the Minutes of the January 7, 2014 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

CASE NO. 14-05-S: The petition of William and Jennifer Frank 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.

Butch Knaak, Spring Lake 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.

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

William Frank appeared to testify on behalf of the proposed Special Use request. Mr. Frank stated he would like to construct a dwelling on the family farm. Mr. Frank said the area proposed was not suitable for farming.

Following all Public Hearings, moved by Zimmerman, seconded by Baum, to approve **Case No. 14-05-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. A new single family freestanding home is not expected 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 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 freestanding home is not expected 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. The proposed lot has access to power utilities. Well and septic will need to be developed.

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 Springlake and Hermann Roads, there are no foreseeable traffic congestion or safety issues from granting the Special Use request as presented.

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

POSITIVE. Per the applicants, 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 deemed 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. 14-05-S** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 14-06-S: The petition of Todd Staley, d/b/a Staley Lawn Care & Landscaping for a Special Use for a Commercial Business to allow a Lawn Care/Landscaping Business on the same property as the existing dwelling 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 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.

John Anderson, Tazewell County Highway Engineer submitted a report regarding the proposed Special Use request stating the existing entrance had adequate site distance.

School District 709 made no comment regarding the proposed Special Use request.

Todd Staley appeared to testify on behalf of the proposed Special Use request. Mr. Staley stated he was proposing one new building for his lawn care and landscape business. Mr. Staley said only one building would be seen from the road and all employee parking would be in between each of the buildings. Mr. Staley added there would be no customers on the property and the buildings would be used for storage of equipment only. Mr. Staley stated he operated his business generally from 6:45 a.m. to Dusk through the week and some on the weekends. Mr. Staley said December to March there was generally no work, and during the month of November he had operated with only half of the employees, when he normally had 10 to 12 employees. Mr. Staley added his intent was to remove only minimal trees. Mr. Staley stated there would be one trip in and one trip out daily by employees in their work vehicles and there would be no outdoor storage of materials. Mr. Staley said he had been in operation for 10 to 12 years now and rented a building about a mile down the road from the present location. Mr. Staley added there were 4 businesses already in operation in the general area. Mr. Staley stated he would use trees as a buffer and there was a significant distance from the existing building to the neighboring properties. Following questioning, Mr. Staley said his business also involved snow removal and had 3 trucks with plows and salting abilities and dependant on the weather, average plowing was once per week. Mr. Staley added he would install a business sign for awareness, and he had a contract with an off site business to take care of the equipment maintenance. Mr. Staley stated the new building would allow indoor storage of all of his equipment.

Weston Taylor appeared with concerns regarding the proposed Special Use request. Mr. Taylor stated his home was East across Springfield Road from the proposed site. Mr. Taylor stated he was concerned of the visual impact a new building closer to the road would have as well as the potential of 12 parked vehicles and a business sign. Mr. Taylor questioned if customers would be at the site and what the impact would be on his property value with a business across the road. Mr. Taylor said the tree removal business, as mentioned by Mr. Staley, was on an operating farm and that property was surrounded by farmland. Mr. Taylor added his property was previously a tree farm and he had removed over 800 trees, and approximately 200 trees remain on his property.

Aaron Scheerer appeared with concerns regarding the proposed Special Use request. Mr. Scheerer stated he resided at 4911 Broadway Road, adjacent to the proposed site. Mr. Scheerer said he was concerned of the impact on his property valued as well as the noise that would be generated from mowers, equipment and the traffic from employees. Mr. Scheerer questioned the storage of mulch and noted his concern of potential pollutants getting into the pond on both properties. Mr. Scheerer added his cousins would be building homes on the properties adjacent to the proposed site at a later date.

Chrissy Peterson, Attorney on behalf of Gary Scheerer appeared with concerns regarding the proposed Special Use request. Ms. Peterson asked for clarification from the Petition and questioned if snow removal was included in the application. Ms. Peterson questioned if no customers would be coming to the proposed site,

then what would be the purpose of a sign. Ms. Peterson further questioned the potential of business growth, where the maintenance of the equipment would be performed and what type of surface the employees would park upon. Ms. Peterson stated there was no definition of a landscaping business and snow removal was not mentioned in the application. Ms. Peterson said the agencies were not given all of the information regarding the business and questioned if the Highway Department's comment would change with the additional traffic from the addition of snow removal.

Following all Public Hearings, moved by Lessen, seconded by May, to continue **Case No. 14-06-S** to the March 4, 2014 Zoning Board of Appeals Public Hearing requiring that the Petitioner provide the following

PREPARE AN ADDENDUM TO THE APPLICATION:

1. Explain in detail all business activities related to the operation.
2. Hours and days of operation for landscaping and snow plowing business.
3. Identify current inventory of all vehicles associated with the business.
4. Any other vehicles needed if the future.
5. Explain disposal of landscape waste and oil.

PREPARE A NEW SITE PLAN AND IDENTIFY:

1. Distance from business activity (i.e. parking, new building) to adjacent existing dwellings and all property lines
2. Identify floor plan of existing structure and new structure to verify that said structures can accommodate all equipment and other business related items for storage.
3. Identify existing screening and new screening from adjacent properties to shield surrounding properties.

On voice vote, motion declared carried.

CASE NO. 14-07-V: The petition of Galen and Betty Rocke for a Variance to waive the requirements of 7TCC1-7(g)(2)(i) to allow construction of an Addition to the Dwelling to be 20' from the side property line, which is 10' 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.

Lee White, Illinois Department of Transportation made no comment 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.

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 a Variance had been approved allowing him to build closer to Route 9, however, he would require a Variance to the side property line as well. Mr. Rocke added building an addition on the west end of the dwelling would access the bedroom and be very costly.

Following all Public Hearings, moved by Lessen, seconded by Zimmerman, to approve **Case No. 14-07-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 existing septic system and surroundings the petitioner has no other location to construct the addition. Further the new addition as proposed is the most logical location.

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 existing septic system and surroundings the petitioner has no other location to construct the addition. Further the new addition as proposed is the most logical location.

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. Approving the Variance will not be detrimental to the public welfare. The petitioner is located in an area within close proximity of properties zoned R-1 Residential which have less stringent setbacks. If the petitioner was zoned R-1 the same as the adjoining properties the 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 petitioner is located in an area within close proximity of properties zoned R-1 Residential which have less stringent setbacks. If the petitioner was zoned R-1 the same as the adjoining properties the 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 petitioner is simply seeking to expand the existing to accommodate his 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. The petitioner is located in an area within close proximity of properties zoned R-1 Residential which have less stringent setbacks. If the petitioner was zoned R-1 the same as the adjoining properties the Variance would not be required.

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

POSITIVE. The petitioner is located in an area within close proximity of properties zoned R-1 Residential which have less stringent setbacks. If the petitioner was zoned R-1 the same as the adjoining properties the Variance would not be required.

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

POSITIVE. Due to existing septic system and surroundings the petitioner has no other location to construct the addition. Further the new addition as proposed is the most logical location. Further the petitioner is located in an area within close proximity of properties zoned R-1 Residential which have less stringent setbacks. If the petitioner was zoned R-1 the same as the adjoining properties the Variance would not be required.

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

On roll call to approve **Case No. 14-07-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 14-08-V: The petition of Harold E. Vaughn, on behalf of Larry McCoy, for a Variance to waive the requirements of 7TCC1-7(f) to allow the creation of one new zoning lot of record, containing an existing dwelling site, to have 13' of frontage along Hoffman Avenue, which is 187' less 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.

Mike Rankin, Mackinaw Township Road Commissioner made no comment regarding the proposed Variance request.

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

School District 701 made no comment regarding the proposed Variance request.

Eugene Vaughn appeared on behalf of Larry McCoy to testify on behalf of the proposed Variance request. Mr. Vaughn stated the proposed property was a centennial family farm in which he managed and the tenants of the dwelling on the property are the 4th or 5th generation to live on the property. Mr. Vaughn said the tenants would like to purchase the dwelling and buildings. Mr. Vaughn said due to the lay of the land and location of the dwelling, the dwelling would have ownership of a 13' strip out to the public roadway and an easement across the remaining 20' of land.

Following all Public Hearings, moved by May, seconded by Toevs, to approve **Case No. 14-08-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 existing residence and surrounding land has been accessed via the private drive for over 40 plus years. The owner is wishing to sell the existing home to the current tenants who are family. There is no other way to gain the additional frontage without removing farmland from production.

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 existing residence and surrounding land has been accessed via the private drive for over 40 plus years. The owner is wishing to sell the existing home to the current tenants who are family. There is no other way to gain the additional frontage without removing farmland from production.

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 existing residence and surrounding land has been accessed via the private drive for over 40 plus years. The owner is wishing to sell the existing home to the current tenants who are family. There is no other way to gain the additional frontage without removing farmland from production.

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 existing residence and surrounding land has been accessed via the private drive for over 40 plus years. The owner is wishing to sell the existing home to the current tenants who are family. There is no other way to gain the additional frontage without removing farmland from production.

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

POSITIVE. The existing residence and surrounding land has been accessed via the private drive for over 40 plus years. The owner is wishing to sell the existing home to the current tenants who are family. There is no other way to gain the additional frontage without removing farmland from production.

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 existing residence and surrounding land has been accessed via the private drive for over 40 plus years. The owner is wishing to sell the existing home to the current tenants who are family. There is no other way to gain the additional frontage without removing farmland from production.

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

POSITIVE. The existing residence and surrounding land has been accessed via the private drive for over 40 plus years. The owner is wishing to sell the existing home to the current tenants who are family. There is no other way to gain the additional frontage without removing farmland from production.

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

POSITIVE. The existing residence and surrounding land has been accessed via the private drive for over 40 plus years. The owner is wishing to sell the existing home to the current tenants who are family. There is no other way to gain the additional frontage without removing farmland from production.

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. 14-08-V** the vote was:

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

Nays: 0

Motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, March 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 7:40 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.