

(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, March 4, 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, Sandy May, Phil Webb, Loren Toevs Alternate Don Vaughn and Ken Zimmerman

ABSENT: Duane Lessen

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, Rosemary Palmer, John Redlingshafer and Sue Sundell

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by May, seconded by Baum, to approve the Minutes of the February 11, 2014 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

CASE NO. 14-09-Z: The petition of Paul L. Brown for a Map Amendment to the Official Dillon Township Zoning Map of Tazewell County to change the zoning classification of property from an A-1 Agriculture Preservation District to a A-2 Agriculture 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 regarding the proposed Rezoning request recommending denial.

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

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

School District 703 made no comment regarding the proposed Rezoning request.

Paul Brown appeared to testify on behalf of the proposed Rezoning request. Mr. Brown stated he would like to create a site for his granddaughter and also his son in the future. Mr. Brown said he was not planning on any additional lots other than the 2 lots specified in the application. Mr. Brown added he once occupied the dwelling on the property on 2 separate occasions.

Attorney Mark Allen appeared to testify on behalf of the proposed Rezoning request. Mr. Allen stated there had been a change in the condition of the property since the aerial imagery used as an exhibit had been taken. Mr. Allen said there was pond on the North end of the tract where timber was located. Mr. Allen added minimal farmland would be taken out of production. Mr. Allen stated the Brown family had owned the property since the 1830's and the family would remain engaged in the agricultural use of the property.

Following all Public Hearings, moved by Zimmerman, seconded by Baum, to recommend approval of **Case No. 14-09-Z.**

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 shows the subject area as A-2.

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

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. 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 property in question is not suitable for the uses permitted under the existing zoning classification given the relatively small area of land available for crop production.

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

6. *The suitability of the property in question for the uses permitted under the proposed zoning classification.*

POSITIVE.

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 will be compatible with the A-2 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.*

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 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.

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 Tazewell County Future Land Use Map, which designates the subject area as A-2 Agricultural District.

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

On roll call to recommend approval of **Case No. 14-09-Z** the vote was:

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

Nays: 0

Absent: 1 - Lessen

Motion declared carried.

(Request for Reconsideration and Review)

CASE NO. 08-27-S: Jeff and Kristine Bryson petitioned the Tazewell County Zoning Board of Appeals on June 3, 2008 for a Special Use to allow the construction of an Accessory Structure prior to a Principal Dwelling in an R-R Rural Residential Zoning District. In addition to a Variance to allow said structure to be 4,000 square feet which thereby being 3,600 square feet larger than allowed was approved. Following said Public Hearing the Zoning Board of Appeals approved said Special Use with the condition “that the petitioner shall obtain a permit to begin construction of the principal dwelling by June 3, 2010 and if the applicant does not obtain the permit by June 3, 2010 said applicant shall reappear before the Zoning Board of Appeals for review”. Said Petitioner did obtain a building permit to allow conversion of the storage building into a dwelling with 800 square feet of living area however, following an Inspection by the Community Development Administrator the conversion was not up to specifications or expectations of the definition of a dwelling. The Community Development Administrator requested that Mr. Bryson reappear before the Zoning Board of Appeals for an extension of the time limit for construction of the principal dwelling.

Due to extenuating circumstances Jeff and Kristine Bryson are requesting an extension on the condition placed on the Special Use by the Zoning Board. The Bryson’s are requesting the extension until 2017 to obtain the permit for construction of the principal dwelling.

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

Tazewell County Soil & Water Conservation District submitted a report making no comment regarding the Special Use reconsideration.

Tazewell County Farm Bureau submitted a report stating this case may have a direct impact on agriculture and made no recommended approval regarding the proposed Special Use reconsideration.

Dave Weaver, Washington Township Road Commissioner made no comment regarding the Special Use reconsideration.

Jon Oliphant, City of Washington made no comment regarding the Special Use reconsideration.

School Districts 50 and 308 made no comment regarding the Special Use reconsideration.

Jeff Bryson appeared to testify on behalf of the Special Use reconsideration. Mr. Bryson stated his need for an extension of the condition due to the need to pay of the original contract for deed on the property at a much earlier date, along with the economic downturn. Mr. Bryson said their intentions are to begin construction of a new dwelling once their youngest daughter graduates from high school in 2017.

Following all Public Hearings, moved by May, seconded by Baum, to approve the reconsideration of the conditions as originally placed upon **Case No. 08-27-S** request with the following:

1. A permit to begin construction of the principal dwelling shall be obtained by December 1, 2017. If a permit to begin construction of the principal dwelling is not obtained by December 1, 2017, then the applicant shall again re-appear before the Zoning Board of Appeals for review.

On roll call to approve the reconsideration of **Case No. 08-27-S** the vote was:

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

Nays: 0

Absent: 1 - Lessen

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 submitted a report regarding the proposed Special Use request stating restrooms, a utility sink and a grease/oil separator would be required in any proposed building.

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 apologized for not originally including the snow removal aspect in his application. Mr. Staley provided various photos of the site and explained the location and details of each photo. Mr. Staley added he planned to reside in the dwelling on the property. Mr. Staley stated there would be no customers on site and all oil changes to equipment are done at a local Speed Lube franchise. Mr. Staley said any organic waste materials are hauled offsite. Mr. Staley added there would be outside storage up until the time construction of the new building was complete, however there would be no outdoor storage beyond that time. Mr. Staley stated handicap parking was not a requirement as he only had 12 employees, and there would be more screening on the proposed site than an existing business located to the North. Mr. Staley said he could not relocate the building to the North of the property as it would require additional trees being removed from the property.

Weston Taylor appeared to testify against the proposed Special Use request. Mr. Taylor stated the proposed use may impair his property value and having a business of this nature was not consistent with the other homes in this area. Mr. Taylor said his response to the various Findings of Fact. Mr. Taylor added if the request were to be approved he would insist on conditions regarding the outside storage of equipment and materials, limited employee parking and no sign be allowed to advertise a business at the location.

Chrissie Peterson, Attorney appeared as representative for Gary Scheerer to testify against the proposed Special Use request. Ms. Peterson suggested moving the proposed building to the North side of the property. Ms. Peterson asked for clarification of the property line and what view of the second building would be seen from the adjacent property. Ms. Peterson questioned the length of the parking lot and size of the various spaces. Ms. Peterson stated she did not feel the proposed use conformed to the Zoning Code and said the use was not consistent with other uses in the area. Ms. Peterson cited various case law to support the Zoning Board denying the proposed request.

Following all Public Hearings, moved by Zimmerman, seconded by May, to approve **Case No. 14-06-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.*

NEGATIVE. The Special Use does not conform to the regulations of the district to the close proximity of the Residential Uses in the immediate area. The Special Use is not consistent with the existing uses.

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.*

NEGATIVE.

3. *The petitioner has met the requirements of Article 25 of the Tazewell County Zoning Code.*

NEGATIVE.

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

NEGATIVE. Due to the nature of the Business as proposed it would have adverse effects and visual impacts on adjacent properties due to the activity of business equipment and employees traveling in and out of the property on a daily basis.

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.*

NEGATIVE. The Business use could be detrimental to the comfort and general welfare of the neighboring vicinity as it is not consistent with the Residential uses in the immediate area and due to the daily activity of business equipment and employees traveling in and out of the property the Business use would not be conducive to the surrounding residential properties.

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.*

NEGATIVE. The Business use could be injurious to the use and enjoyment of the neighboring vicinity as it is not consistent with the Residential uses in the immediate area and due to the daily activity of business equipment and employees traveling in and out of the property the Business use would not be conducive to the surrounding residential properties.

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

NEGATIVE. There is potential for the Business use to diminish and impair property values in the neighborhood as the trend in the area has transitioned to Residential and the type of Business use proposed is not conducive to the neighboring area.

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

NEGATIVE.

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.*

NEGATIVE.

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.*

NOT APPLICABLE

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

NEGATIVE. The proposed Business use is not consistent with the existing Residential uses in the general area.

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

NEGATIVE. The property is not suitable for the proposed Business based on the findings of fact as a whole.

Moved by Baum, seconded by Toevs, to approve the findings of fact as discussed. On roll call to approve the Findings of Fact the vote was Ayes: 4 – Baum, Toevs, May and Webb; Nays: 3 – Alternate Vaughn, Zimmerman and Chairman Newman. **Motion declared carried.**

On roll call to approve **Case No. 14-06-S** the vote was:

Ayes: 2 May and Chairman Newman

Nays: 5 Baum, Toevs, Alternate Vaughn, Webb and Zimmerman

Absent: 1 - Lessen

Motion failed.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, April 1, 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 7:45 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.