

(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, April 1, 2014, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman James Newman called the meeting to order.

PRESENT: Chairman James Newman, Duane Lessen, Sandy May, Phil Webb, Loren Toevs and Ken Zimmerman

ABSENT: JoAn Baum

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

OTHERS

PRESENT: Petitioners and Objectors

MINUTES: Moved by May, seconded by Toevs, to approve the Minutes of the February 11, 2014 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.** Abstain: 1 – Lessen

CASE NO. 14-10-S: The petition of Harbach, Gillan and Nixon, Inc. for an Expansion of an existing Special Use as originally approved on Case No. 67-72-S (Anhydrous Ammonia Storage), Case No. 91-73-S (Expansion of Case 67-72-S) and Case No. 03-50-S (Ag Related Business) to allow for the construction of an additional storage building for seed and equipment storage located 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

Tazewell County Farm Bureau recommended approval of the proposed Special Use.

Ben Springer, Hopedale 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 16 made no comment regarding the proposed Special Use request.

Eric Diekhoff appeared to testify on behalf of the proposed Special Use request. Mr. Diekhoff stated they need additional seed and equipment storage space. Mr. Diekhoff said their current storage areas are very congested right now.

Following all Public Hearings, moved by May, seconded by Lessen, to approve **Case No. 14-10-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:

- o 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.
- 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 have been satisfactorily met.

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

POSITIVE. The proposed special use will adhere to the zoning regulations as prescribed and the nearest residential structure is several hundred feet away. The proposed building will be situated at the rear of the property. The proposed structure will house materials and equipment that are currently stored outside. 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 agricultural business that has been in continuous operation for years and is adjacent to farm land 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.

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

POSITIVE. The expansion of an existing agricultural business that has been in continuous operation for 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. Per the applicant, all necessary utilities already exist onsite.

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.

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, the proposed commercial use is not within a half mile of a livestock feeding operation. No adverse impacts on that animal operation are anticipated.

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. Per the applicant, the proposed commercial use is not within a half mile of a livestock feeding operation. No adverse impacts on that animal operation are anticipated.

12. *Seventy-five percent (75%) of the site contains soils having a productivity index of less than 125.*

POSITIVE. Although the property contains soils of more than 125, this is a request for the expansion of an existing agricultural business that has been in continuous operation for years at the site.

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

POSITIVE. Given the usage of heavy equipment and storage of raw materials in agriculture, in general, the Special Use request for construction of a seed and equipment storage building at the subject site is consistent with the existing agricultural uses in the general vicinity.

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

POSITIVE. Given its adjacency to the existing agricultural business, the Special Use request is consistent with the existing uses of property within the general area and the subject property is suitable for the Special Use request as proposed.

Moved by Lessen, seconded by Zimmerman, to approve the findings of fact as written. **Motion declared carried.**

On roll call to approve **Case No. 14-10-S** the vote was:

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

Nays: 0

Absent: 1 - Baum

Motion declared carried.

CASE NO. 14-11-V: The petition of Keith Teubel for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow the construction of an Accessory Structure (Pole Building) to be 3' from the Side Property Line, which is 12' closer than allowed and waive 7TCC1-7(g)(3)(ii) to allow the same Accessory Structure to be 3' from the Rear Property Line which is 22' 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 making no comment regarding the proposed Variance request.

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

Jon Oliphant, City of Washington submitted a report stating the City of Washington had no objection regarding the proposed Variance request.

Dave Weaver, Washington 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 702 made no comment regarding the proposed Special Use request.

Keith Teubel appeared to testify on behalf of the proposed Variance request. Mr. Teubel stated he would like to construct a 30x56 Pole Building for extra storage space. Mr. Teubel said meeting the required setback would cause him to remove mature trees and would encroach onto his patio. Mr. Teubel added his mother owns the adjacent farm land and it did not seem feasible to buy farmland from his mother only to meet a setback requirement.

Jill Teubel appeared to testify on behalf of the proposed Variance request. Mrs. Teubel stated the building would be 15' to the peak of the roof and the building would be in the back corner of the property. Mrs. Teubel said there was a 12x10 shed currently in that location that would be removed. Mrs. Teubel added the proposed location was the most feasible also due to the location of an established garden with grapevines as well as due to the location of the LP tank. Mrs. Teubel stated utilizing the existing building on her mother in laws property was too far away for use as a garage.

Joel Wilcoxon appeared to testify against the proposed Variance request. Mr. Wilcoxon stated he owned the property to the West and there was a fair amount of ground for the Teubel's to construct a building and meet the required setback. Mr. Wilcoxon said the proposed building will cast a shadow on his property that could inhibit him if he farmed the property. Mr. Wilcoxon added his land was not in crop production at the present time. Mr. Wilcoxon stated the Teubel's could use the existing pole building down the road on their mothers property for storage.

Following all Public Hearings, moved by Zimmerman, seconded by May, to approve **Case No. 14-11-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 proposed location for the new building is the most logical due to the existing septic system and physical attributes of the property. The applicant indicated that purchase of adjacent land could be made however prime farmland would be removed from production. Further the applicant indicated that if the building would be placed on the East side of the property, the Road Commissioner would not allow a new entrance to access the building.

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 proposed location for the new building is the most logical due to the existing septic system and physical attributes of the property. The applicant indicated that purchase of adjacent land could be made however prime farmland would be removed from production. Further the applicant indicated that if the building would be placed on the East side of the property, the Road Commissioner would not allow a new entrance to access the building.

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 proposed location for the new building is the most logical due to the existing septic system and physical attributes of the property. The applicant indicated that purchase of adjacent land could be made however prime farmland would be removed from production. Further the applicant indicated that if the building would be placed on the East side of the property, the Road Commissioner would not allow a new entrance to access the building. Although the adjacent property owner raised concerns over a shadow being cast on his property due to the new building it was the consensus of the Zoning Board that the shading, if it would occur, would be minimal and not detrimental to the adjoining property.

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 proposed location for the new building is the most logical due to the existing septic system and physical attributes of the property. The applicant indicated that purchase of adjacent land could be made however prime farmland would be removed from production. Further the applicant indicated that if the building would be placed on the East side of the property, the Road Commissioner would not allow a new entrance to access the building. Although the adjacent property owner raised concerns over a shadow being cast on his property due to the new building it was the consensus of the Zoning Board that the shading, if it would occur, would be minimal and not detrimental to the adjoining property.

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 seeking 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. The proposed location for the new building is the most logical due to the existing septic system and physical attributes of the property. The applicant indicated that purchase of adjacent land could be made however prime farmland would be removed from production. Further the applicant indicated that if the building would be placed on the East side of the property, the Road Commissioner would not allow a new entrance to access the building. Although the adjacent property owner raised concerns over a shadow being cast on his property due to the new building it was the consensus of the Zoning Board that the shading, if it would occur, would be minimal and not detrimental to the adjoining property.

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

POSITIVE. The proposed location for the new building is the most logical due to the existing septic system and physical attributes of the property. The applicant indicated that purchase of adjacent land could be made however prime farmland would be removed from production. Further the applicant indicated that if the building would be placed on the East side of the property, the Road Commissioner would not allow a new entrance to access the building. Although the adjacent property owner raised concerns over a shadow being cast on his property due to the new building it was the consensus of the Zoning Board that the shading, if it would occur, would be minimal and not detrimental to the adjoining property.

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

POSITIVE. The proposed location for the new building is the most logical due to the existing septic system and physical attributes of the property. The applicant indicated that purchase of adjacent land could be made however prime farmland would be removed from production. Further the applicant indicated that if the building would be placed on the East side of the property, the Road Commissioner would not allow a new entrance to access the building. Although the adjacent property owner raised concerns over a shadow being cast on his property due to the new building it was the consensus of the Zoning Board that the shading, if it would occur, would be minimal and not detrimental to the adjoining property.

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

On roll call to approve **Case No. 14-11-V** the vote was:

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

Nays: 0

Absent: 1 - Baum

Motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, May 6, 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 6:30 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.