

**(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, July 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 Don Vaughn

**ABSENT:** Ken Zimmerman

**STAFF:** Kristal Deininger, Community Development Administrator; Jaclynn Workman, Inspections Coordinator; David Smesrud, Land Use Planner; Matt Drake, Assistant States Attorney; and Land Use Members: Chairman Terry Hillegonds, Seth Mingus, 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 June 3, 2014 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

---

**CASE NO. 14-19-S:** The petition of Keith & Christine Phillips for a Special Use to allow the operation of a Commercial Kennel from existing Accessory Structures for the purposes of breeding and selling of canines 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 no issue.

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.

Craig Fink, Tazewell County Highway Engineer made no comment regarding the Special Use request.

Village of Deer Creek made no comment regarding the proposed Special Use request.

Tom Wallace, Deer Creek Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

School District 701 made no comment regarding the proposed Special Use request.

Keith Phillips appeared to testify on behalf of the proposed Special Use request. Mr. Phillips stated he currently had 31 dogs, however, his facility would accommodate 50. Mr. Phillips said he had a disposal dumpster for any waste and there was an outdoor fenced play yard for the animals. Mr. Phillips added he was licensed through the State of Illinois and had annual inspections. Mr. Phillips stated he had no intention of increasing the size of the business, and 50 dogs would be to total number of animals on site.

Following all Public Hearings, moved by Baum, seconded by May, to approve **Case No. 14-19-S.**

Following discussion, moved by Lessen, seconded by Baum to amend the Main Motion to include the following conditions:

1. The maximum number of breeding dogs shall be limited to 50.

**Motion carried by voice vote for the amendment.**

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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

*POSITIVE.* Per the applicant's submitted site plan, all requirements of Article 25 of the Tazewell County Zoning Code will be satisfactorily met.

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

*POSITIVE.* Anticipated adverse effects from the granting of the requested Special Use are minimal. Adjacent properties consist of agricultural parcels and large single-family residential properties that are not part of a residential subdivision. The nearest residence is approximately ¼ mile away from the property line of the subject property. Existing fencing reduces visual impact and provides for dog safety. Therefore, adverse effects of the Special Use will be minimized on adjacent properties.

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 kennel is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the neighboring vicinity. Clients are only seen by appointment on Saturdays and are limited to three at a time.

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 agricultural; injury to the use and enjoyment of other property in the immediate area is not anticipated.

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

*POSITIVE.* Given its proposed location, a commercial kennel is not anticipated to substantially diminish and / or impair property value within the neighborhood. The kennel will operate out of existing buildings; no new structures are planned for construction.

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

*POSITIVE.* The Special Use already has sufficient access to utilities.

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.* The Special Use does not require additional access off Third Avenue.

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.*

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 commercial kennel is consistent with the other uses in the immediate vicinity. There is no negative impact on the surrounding agricultural uses.

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

*POSITIVE.* Given its size and topography, 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 discussed. **Motion declared carried.**

On roll call to approve **Case No. 14-19-S** the vote was:

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

Nays: 0

Absent: 1 - Zimmerman

**Motion declared carried.**

---

**CASE NO. 14-20-S:** The petition of Court Houston for an expansion to an existing Special Use as approved in Case No. 04-37-S & 08-14-S to construct an addition to the Commercial Kennel for the purpose of grooming, boarding and training dogs and to increase the number of animals allowed from 22 to 40 animals 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 no issue.

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.

Craig Fink, Tazewell County Highway Engineer made no comment regarding the Special Use request.

Ron Hawkins, Cincinnati Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

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

Court Houston appeared to testify on behalf of the proposed Special Use request. Mr. Houston stated he would like to expand his business in order to accommodate the additional animals over the holidays. Mr. Houston said there has been normal business traffic during the week and have kept busy with 10 to 15 people per day. Mr. Houston added he has been in operation for 9 to 10 years. Mr. Houston stated he had a dumpster for the disposal of waste. Mr. Houston added a typical length of stay could be from a weekend, to a week and some have stayed for 2 to 3 months. Mr. Houston stated they offer grooming as well and has regular clients for each aspect of the business. Mr. Houston said with meeting his normal capacity of around 22 animals and the increase over the holidays had prompted his expansion request.

Following all Public Hearings, moved by Baum, seconded by May, to approve **Case No. 14-20-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 Tazewell County Comprehensive Land Use Plan implementation strategies.

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

*POSITIVE.* Per the applicant's submitted site plan, all requirements of Article 25 of the Tazewell County Zoning Code will be satisfactorily met.

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

*POSITIVE.* Anticipated adverse effects from the granting of the requested Special Use are minimal. Adjacent properties consist of agricultural parcels and large single-family residential properties that are not part of a residential subdivision. The nearest residence is approximately 1/3 mile away from the property line of the subject property. Existing fencing reduces visual impact and provides for dog safety. Therefore, adverse effects of the Special Use will be minimized on adjacent properties.

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 kennel 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 subject area is primarily agricultural; injury to the use and enjoyment of other property in the immediate area is not anticipated. The proposed expansion does not infringe upon agricultural land.

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

*POSITIVE.* Given its proposed location, a commercial kennel is not anticipated to substantially diminish and / or impair property value within the neighborhood. The kennel will operate out of existing buildings; no new structures are planned for construction.

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

*POSITIVE.* The Special Use already has sufficient access to utilities.

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.* The Special Use does not require additional access off Fuelberth Road.

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.*

*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 an expansion of an existing commercial kennel is consistent with the other uses in the immediate vicinity. There is no negative impact on the surrounding agricultural uses.

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

*POSITIVE.* Given its size and topography, 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 discussed. **Motion declared carried.**

On roll call to approve **Case No. 14-20-S** the vote was:

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

Nays: 0

Absent: 1 - Zimmerman

**Motion declared carried.**

---

**CASE NO. 14-21-S:** The petition of Jason Fleming for a Special Use to allow the construction of an Accessory Structure to be 1,260 square feet, which will bring the total square footage of all accessory structures to 3,540 square feet, which is 1,493 square feet larger than allowed in a R-1 Low Density Residential District.

Due to failure by the petitioner to appear at the Hearing, moved by Lessen, seconded by Baum to continue the request to the August 5, 2014, Zoning Board of Appeals Public Hearing. **Motion declared carried.**

---

**CASE NO. 14-22-V:** The petition of Jerry Gray for a Variance to waive the requirements of 7TCC1-7(g)(1)(iii) to allow the reconstruction of an Accessory Structure (Pole Barn) to be 50' from the centerline of Red Shale Hill Road, which is 50' closed than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a report stating no issue 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.

Terry Lohnes, Elm Grove Township Road Commissioner submitted a report stating no objection regarding the proposed Variance request.

Craig Fink, Tazewell County Highway Engineer made no comment regarding the proposed Variance request.

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

Jerry Gray appeared to testify on behalf of the proposed Variance request. Mr. Gray stated the existing shed on the property was built in the 1900's and had been remodeled twice since that time. Mr. Gray said he would like to remove the shed and build new as he is in need of a larger garage space. Mr. Gray added the proposed building would be 13.5' to the peak, with 10' side walls, which is 2' to 3' taller than what is existing.. Mr. Gray stated the East wall of the existing building does not meet the current setback and he will not be extending beyond the existing building.

Following all Public Hearings, moved by Toevs, seconded by May, to approve **Case No. 14-22-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.**

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 reconstruction of the new building on the existing foundation and footprint of the building to be removed is the most practical location and there will be no sight issues or hindrances to adjoining properties.

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 reconstruction of the new building on the existing foundation and footprint of the building to be removed is the most practical location and there will be no sight issues or hindrances to adjoining properties.

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. Allowing reconstruction of the new building on the existing foundation and footprint of the building to be removed is the most practical location and there will be no sight issues or hindrances to adjoining properties.

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

POSITIVE.

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 reconstruction of the new building on the existing foundation and footprint of the building to be removed is the most practical location and there will be no sight issues or hindrances to adjoining properties.

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

POSITIVE. Allowing reconstruction of the new building on the existing foundation and footprint of the building to be removed is the most practical location and there will be no sight issues or hindrances to adjoining properties.

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

POSITIVE. Allowing reconstruction of the new building on the existing foundation and footprint of the building to be removed is the most practical location and there will be no sight issues or hindrances to adjoining properties.

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

On roll call to approve **Case No. 14-22-V** the vote was:

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

Nays: 0

Absent: 1 - Zimmerman

**Motion declared carried.**

---

#### **NEXT MEETING**

The next meeting of the Zoning Board of Appeals will be **Tuesday, August 5, 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 6:44 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.