

(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, August 5, 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, Loren Toevs, Don Vaughn and Ken Zimmerman

ABSENT: Phil Webb

STAFF: Kristal Deininger, Community Development Administrator; Jaclynn Workman, Inspections Coordinator; David Smesrud, Land Use Planner; Matt Drake, Assistant States Attorney; and Land Use Members: Monica Connett, Vice Chairman K. Russell Crawford, Rosemary Palmer, 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.** Abstain: 1 – Zimmerman

(Continued from the July 1, 2014 ZBA Public Hearing)

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.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

The Tazewell County Health Department submitted a report having no issues with the proposed Special Use request.

The Tazewell County Soil and Water Conservation District submitted a report having no comment regarding the proposed Special Use request.

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

Craig Fink, Tazewell County Highway Engineer submitted a report making no recommendation regarding the proposed Special Use request.

Daryl Knaak, Spring Lake Township Road Commissioner submitted a report making no objection regarding the proposed Special Use request.

School Districts 606 and 303 made no comment regarding the proposed Special Use request.

Jason Fleming appeared to testify on behalf of the proposed Special Use request. Mr. Fleming stated the proposed building was necessary for storage of personal items and vehicles to keep them out of the weather. Mr. Fleming said the building would have no electrical, and he did not obtain a permit because it was not attached to another structure. Mr. Fleming added the building was on skids and could be removed if he moved.

Following all Public Hearings, moved by Baum, seconded by May, to approve **Case No. 14-21-S.**

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

1. The structure in question shall be removed from the site if the applicant moves or sells the property.

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.

- 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.

- 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.

- 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. Visual impacts on adjacent properties will only be minimized by the two trees that lie between the proposed structure and the road. Placement of the proposed accessory structure is at the front of the subject parcel and would be located closer to the road than similar accessory structures on neighboring properties.

- 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 accessory structure is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the neighboring vicinity.

- 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 single family residences; injury to the use and enjoyment of other property in the immediate area is not anticipated.

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

POSITIVE. Given its proposed location, a new accessory structure is not anticipated to substantially diminish and / or impair property value within the neighborhood.

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

POSITIVE. The accessory structure does not require utilities.

- 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 structure does not require additional access off Grandview Drive.

- 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.

- 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

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

POSITIVE.

- 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 detached accessory structure is consistent with the other existing single family detached homes and accessory structures in the immediate vicinity.

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. 14-21-S** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Alternate Vaughn and Chairman Newman

Nays: 1 – Zimmerman

Absent: 1 - Webb

Motion declared carried.

CASE NO. 14-24-S: The petition of Melissa Lee, d/b/a Lee's Family Restaurant for a Special Use to operate a Full Service Restaurant within the Principal Structure as an Accessory Use to the Special Use to operate a Clubhouse (as approved in Case No. 11-39-S) in an A-1 Agriculture Preservation District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

The Tazewell County Health Department submitted a report having no issues with the proposed Special Use request as the proper licenses have been obtained.

The Tazewell County Soil and Water Conservation District submitted a report regarding the proposed Special Use request making no comment.

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

Craig Fink, Tazewell County Highway Engineer submitted a report stating no impact foreseeable regarding the proposed Special Use request.

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

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

Melissa Lee appeared to testify on behalf of the proposed Special Use request. Ms. Lee stated the restaurant has been in operation within the Marine Corp clubhouse. Ms. Lee said the restaurant is a separate business from the Marine Corp League, however, they do serve the Marine Corp customers as well as the public. Ms. Lee added her restaurant was in operation for 6 to 7 years prior at the Pekin UAW.

Tom Wiseman, Commandment of the Marine Corp League appeared to testify on behalf of the proposed Special Use request. Mr. Wiseman stated the Non Profit Vet organization was open to the public and having the restaurant was an asset as it brings additional customers. Mr. Wiseman said the restaurant maintains a weekly lease to help the organization financially. Mr. Wiseman added the restaurant displayed 6 Tazewell County Health Department Plaques for service over the years.

Following all Public Hearings, moved by Lessen, seconded by May, to approve **Case No. 14-24-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:

- a. Provide sufficient land to accommodate new residents and businesses in accordance with the Comprehensive Plan.
- b. 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. As the building site already exists, there are minimal adverse effects on adjacent properties from allowing a restaurant to operate as an accessory use to the clubhouse. The closest residence is nearly 1,800 feet away. A grain storage operation exists 800 feet east of the subject property. The appearance of the subject property is not going to change should the special use be granted.

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 restaurant as an accessory use to the clubhouse 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. While the prevalence of single family homes has increased in recent years, the subject area remains agriculturally zoned and 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. No farmland is to be taken out of production with this special use request. The special use request will not hinder industrial uses in the area.

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

POSITIVE. The restaurant is not anticipated to substantially diminish and / or impair property value within the area.

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

POSITIVE. Projected traffic impacts of the proposed accessory use are negligible. Since the accessory use already operates, it does not appear that traffic generated from the use has led to any congestion or safety issues on Garman Road.

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. Projected traffic impacts of the proposed accessory use are negligible. Since the accessory use already operates, it does not appear that traffic generated from the use has led to any congestion or safety issues on Garman 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.*

NOT APPLICABLE

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 proposed Special Use is a private club located in an agricultural area near heavy industrial uses, so it will not exert pressure for new development in the immediate area and should not cause conflict with these surrounding uses.

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

POSITIVE. Considering the existing detached structures, lot 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 discussed. **Motion declared carried.**

On roll call to approve **Case No. 14-24-S** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Alternate Vaughn and Chairman Newman

Nays: 1 – Zimmerman

Absent: 1 - Webb

Motion declared carried.

CASE NO. 14-25-S: The petition of Breann Osborn for a Special Use to operate a Commercial Kennel from a proposed Accessory Structure 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.

The Tazewell County Health Department submitted a report with questions pertaining to drains in the proposed structure and distances to the established seepage bed, but then provided a second report stating that all issues had been addressed regarding the proposed Special Use request.

The Tazewell County Soil and Water Conservation District submitted a report making no comment regarding the proposed Special Use request.

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

Craig Fink, Tazewell County Highway Engineer submitted a report stating no impact foreseeable regarding the proposed Special Use request.

Kenneth Siegrist, Dillon Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

School Districts 703 made no comment regarding the proposed Special Use request.

Michael Beccue appeared to testify on behalf of the proposed Special Use request. Mr. Beccue stated he was Breann Osborn's fiancé and Ms. Osborn currently resided out of state and was not able to attend. Mr. Beccue said there would be 5 adult dogs and the waste would be removed daily and a disinfectant used for the urine odor. Mr. Beccue added a 5' chain link fence would be constructed for runs with an enclosed building large enough for the 5 dogs. Mr. Beccue stated they would breed Labridoodles and Poodles which are AKC registered, generally produce 6 to 8 puppies and then are retired after a few litters'. Mr. Beccue said bark collars could be used for noise control and he would have to confirm with his fiancé the exact number of dogs.

Moved by Lessen, seconded by Baum to continue the request to the September 3, 2014, Zoning Board of Appeals Public Hearing requesting the following:

1. The Petitioner shall be in attendance at the September Hearings to provide detailed and accurate information related to the request.
2. The Petitioner shall submit a plan of how the waste will be handled from the kennel in addition to the drainage. The Agent representing the petitioner stated during testimony that it would be disposed of via a plastic bag and disposed in the garage for Waste Management to pick up during normal garbage routes. If this is fact the petitioner will need to obtain approval from Waste Management regarding this type of disposal.

3. Describe how noise will be controlled. The Agent representing the petitioner stated that the dogs will wear shock collars on a daily and nightly basis. The petitioner should check into Illinois law regarding the use of shock collars for animals on a full time basis.

Motion declared carried.

CASE NO 14-26-S: The petition of Shirlee Zimmerman for a Special Use to allow the placement of a Mobile Home on property for a Retired Parent to reside in located in an A-1 Agriculture Preservation District.

The Tazewell County Land Use Planner submitted a report recommending approval of the proposed Special Use request.

The Tazewell County Health Department submitted a report with questions pertaining to the location of a new system and proposed replacement system, but then provided a second report stating that all issues had been addressed.

The Tazewell County Soil and Water Conservation District submitted a report recommending approval regarding the proposed Special Use request.

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

Craig Fink, Tazewell County Highway Engineer submitted a report stating no impact foreseeable regarding the proposed Special Use request.

Dave Risinger, Groveland Township Road Commissioner made no comment regarding the proposed Special Use request.

Roger Spangler, Village of Morton submitted a letter stating no opposition to the proposed Special Use request.

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

Shirlee Zimmerman appeared to testify on behalf of the proposed Special Use request. Ms. Zimmerman stated she resided on the family farm and now that her husband had deceased, her son has taken over farming the land. Ms. Zimmerman said she would like her son and his family to reside in the dwelling on the property and she would place a mobile home on the property to reside in. Ms. Zimmerman added the mobile home would be removed once she no longer resided in it.

Following all Public Hearings, moved by Zimmerman, seconded by Baum, to approve **Case No. 14-26-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 County Comprehensive Land Use Plan does not specifically address mobile homes. However, the primary goals of the plan are to achieve an orderly development pattern and promote farm land conservation. Allowing a mobile home to remain on this specific property for a retired parent is not contrary to these goals, so the Special Use is judged to be consistent with the Comprehensive Land Use Plan.

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 subject property is located in an isolated rural area, surrounded by agricultural fields, with the nearest dwellings no closer than 500 feet away. Allowing the mobile home to remain on the property for a retired parent will not cause adverse effects 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 neighboring vicinity is an isolated rural area with agricultural fields, farm dwellings and a church spaced far apart. Allowing the mobile home to be placed on the property to house a retired parent will not interfere with the surrounding agricultural and residential uses, so establishment of the Special Use will not 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. Other property in the immediate vicinity is used for agriculture, residential and religious uses, and allowing this mobile home to be established on this property will not interfere with the nearby uses. Therefore, the proposed Special Use will not be injurious to the use of other property in the immediate vicinity.

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

POSITIVE. The proposed special use is not anticipated to have a negative effect on nearby property values.

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 this portion of Queenwood Road, there is no foreseeable traffic congestion or safety issues from granting the Special Use request. No additional access of Queenwood Road is required.

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. Per the applicant, there are no livestock feeding operations within one-half miles of the subject parcel.

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 mobile home occupied by a retired parent is consistent with other uses in the vicinity. No farmland will be taken out of production.

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 discussed. **Motion declared carried.**

On roll call to approve **Case No. 14-26-S** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Alternate Vaughn and Chairman Newman

Nays: 1 – Zimmerman

Absent: 1 - Webb

Motion declared carried.

CASE NO. 14-27-S: The petition of Kenneth D. Mitzelfelt, III for a Special Use to create 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.

The Tazewell County Health Department submitted a report requesting distances proposed for septic and geothermal systems were acceptable, but then provided a second report stating that all issues had been addressed.

The Tazewell County Soil and Water Conservation District submitted a report recommending approval regarding the proposed Special Use request.

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

Craig Fink, Tazewell County Highway Engineer submitted a report stating no impact foreseeable regarding the proposed Special Use request.

Ron Hawkins, Cincinnati Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request, as well, an Entrance Permit has been issued for the site.

Village of South Pekin made no comment regarding the proposed Special Use request.

School Districts 98 & 703 made no comment regarding the proposed Special Use request.

THE FOLLOWING CONTAINS TESTIMONY FOR BOTH CASE 14-28-S AND CASE 14-28-V.

Kenneth Mitzelfelt appeared to testify on behalf of the proposed Special Use and Variance request. Mr. Mitzelfelt stated his mother owned the land and the existing dwelling on the property had been vacant for at least 10 years. Mr. Mitzelfelt said that he made contact with the railroad regarding a new entrance to the site. Mr. Mitzelfelt added there were no trees on the property he would be obtaining and the property was formerly owned by his wife's family for well over 100 years. Mr. Mitzelfelt stated there were not 200 pigs on the adjacent property.

Dustin Eitenmiller appeared to testify against the proposed Special Use and Variance request. Mr. Eitenmiller stated the driveway for the proposed site would be located across from his fathers house and would have an adverse visual impact on his family farmstead. Mr. Eitenmiller read the definition of an A-1 Agriculture Preservation District and stated the adverse effects that a new dwelling would have. Mr. Eitenmiller said the ground could be farmed and it was within ½ mile of a livestock feeding operation. Mr. Eitenmiller added he had 200 hogs on 2 different farms, but only 6 were on the property across from the proposed site. Mr. Eitenmiller stated he wanted to make sure he was protected to build another hog confinement facility or another barn in the future with the proposed dwelling across the road.

Following all Public Hearings, moved by Baum, seconded by May, to approve **Case No. 14-27-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:

- a. Locate new residential development along local roads to facilitate efficient travel and maintain public safety.
- b. Locate new residential development in rural areas close to roadways to preserve contiguous tracts of farmland.

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. 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, 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.*

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. Per the applicants, there are no livestock feeding operations within one-half miles of the subject parcel.

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 discussed. **Motion declared carried.**

On roll call to approve **Case No. 14-27-S** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Alternate Vaughn and Chairman Newman

Nays: 1 – Zimmerman

Absent: 1 - Webb

Motion declared carried.

CASE NO. 14-28-V: The petition of Kenneth D. Mitzelfelt, III for a Variance to waive the requirements of 7TCC1-7(e) to allow the lot width at the Building Setback Line to be 159' in width, which is 41' less than allowed in an A-1 Agriculture Preservation District

The Tazewell County Health Department submitted a report regarding the proposed Variance request distances proposed for septic and geothermal systems were acceptable.

The Tazewell County Soil and Water Conservation District submitted a report recommending approval regarding the proposed Variance request.

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

Craig Fink, Tazewell County Highway Engineer submitted a report stating no impact foreseeable regarding the proposed Variance request.

Ron Hawkins, Cincinnati Township Road Commissioner submitted a report having no objection regarding the proposed Variance request, as well, an Entrance Permit has been issued for the site.

Village of South Pekin made no comment regarding the proposed Variance request.

School Districts 98 & 703 made no comment regarding the proposed Variance request.

PLEASE REFER TO CASE NO. 14-27-S FOR THE TESTIMONY FOR CASE 14-28-V.

Following all Public Hearings, moved by Baum, seconded by May, to approve **Case No. 14-28-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 applicant is limited in frontage due to the existing geothermal heating system located on the property which prevents the proposed lot from meeting the frontage requirements. There are not other options available to meet the requirements.

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 applicant is limited in frontage due to the existing geothermal heating system located on the property which prevents the proposed lot from meeting the frontage requirements. There are not other options available to meet the requirements.

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. Based on the testimony provided.

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. Based on the testimony provided.

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 seeking to build on property currently owned by his mother.

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 applicant is limited in frontage due to the existing geothermal heating system located on the property which prevents the proposed lot from meeting the frontage requirements. There are not other options available to meet the requirements.

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

POSITIVE. The applicant is limited in frontage due to the existing geothermal heating system located on the property which prevents the proposed lot from meeting the frontage requirements. There are not other options available to meet the requirements.

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

POSITIVE. The applicant is limited in frontage due to the existing geothermal heating system located on the property which prevents the proposed lot from meeting the frontage requirements. There are not other options available to meet the requirements.

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

On roll call to approve **Case No. 14-28-V** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Alternate Vaughn and Chairman Newman

Nays: 1 – Zimmerman

Absent: 1 - Webb

Motion declared carried.

CASE NO. 14-29-V: The petition of John Garrett for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow an existing Accessory Structure (Shed) to be 1' from the overhang to a newly created property line, which is 14' closer than allowed in an A-1 Agriculture Preservation District

The Tazewell County Health Department submitted a report regarding the proposed Variance request stating an operational inspection would need to be conducted prior to being sold.

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

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

Craig Fink, Tazewell County Highway Engineer submitted a report stating no impact foreseeable regarding the proposed Variance request.

Dave Risinger, Groveland Township Road Commissioner submitted a report having no objection regarding the proposed Variance request.

Ron Sieh, City of Pekin made no comment regarding the proposed Variance request.

Village of Marquette Heights made no comment regarding the proposed Variance request.

Village of Creve Coeur made no comment regarding the proposed Variance request.

Ty Livingston, City of East Peoria made no comment regarding the proposed Variance request.

School Districts 98 & 703 made no comment regarding the proposed Variance request.

John Garret appeared to testify on behalf of the proposed Variance request. Mr. Garrett stated his existing driveway could be impacted if the property were not re-surveyed and property lines moved. Mr. Garrett said he is trying to do future planning before his fathers property is sold. Mr. Garrett added the fence was not on the property line.

Following all Public Hearings, moved by Lessen, seconded by Baum, to approve **Case No. 14-29-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 site is non-conforming with two dwellings located on the property. The applicant is seeking to correct the matter of the driveway prior to sale of one of the dwellings and division of the property should he ever pursue sale. The request is logical and the applicant has no other alternatives.

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 site is non-conforming with two dwellings located on the property. The applicant is seeking to correct the matter of the driveway prior to sale of one of the dwellings and division of the property should he ever pursue sale. The request is logical and the applicant has no other alternatives.

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

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

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 site is non-conforming with two dwellings located on the property. The applicant is seeking to correct the matter of the driveway prior to sale of one of the dwellings and division of the property should he ever pursue sale. The request is logical and the applicant has no other alternatives.

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

POSITIVE. The site is non-conforming with two dwellings located on the property. The applicant is seeking to correct the matter of the driveway prior to sale of one of the dwellings and division of the property should he ever pursue sale. The request is logical and the applicant has no other alternatives.

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

POSITIVE. The site is non-conforming with two dwellings located on the property. The applicant is seeking to correct the matter of the driveway prior to sale of one of the dwellings and division of the property should he ever pursue sale. The request is logical and the applicant has no other alternatives.

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

On roll call to approve **Case No. 14-29-V** the vote was:

Ayes: 6 – Baum, Lessen, May, Toevs, Alternate Vaughn and Chairman Newman

Nays: 1 – Zimmerman

Absent: 1 - Webb

Motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Wednesday, September 3, 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 7:53 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.