

(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, September 3, 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, Phil Webb and Ken Zimmerman

ABSENT: None

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, Monica Connett, Vice Chairman K. Russell Crawford, 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 August 5, 2014 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

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.

Due to failure by the petitioner to appear at the Hearing, moved by Lessen, seconded by May to continue the request to the October 7, 2014, Zoning Board of Appeals Public Hearing. **Motion declared carried.**

CASE NO. 14-30-S: The petition of Sand Prairie Cemetery Association for a Special Use to allow for the expansion of a Non-Conforming Cemetery in an A-1 Agriculture Preservation District.

At the request of the Petitioner, moved by Lessen, seconded by May to continue the request to the October 7, 2014, Zoning Board of Appeals Public Hearing.

CASE NO. 14-31-S: The petition of Michael Mathis 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.

Tazewell County Health Department submitted a report stating a soils analysis and septic repair permit would be required.

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.

Roger Spangler, Village of Morton submitted a report having no objection regarding the proposed Special Use request.

Larry Bolliger, Tremont Township Road Commissioner made no comment regarding the proposed Special Use request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating there would be a minimal traffic impact regarding the proposed Special Use request.

School District 702 made no comment regarding the proposed Special Use request.

Michael Mathis appeared to testify on behalf of the proposed Special Use request. Mr. Mathis stated his home was for sale and he would like to construct a new home and shed to the East of his Mother and Father In Law. Mr. Mathis said his in laws are aging and have some health concerns. Mr. Mathis added he and his wife would like to be closer to his in laws to assist them.

Following all Public Hearings, moved by Zimmerman, seconded by Baum, to approve **Case No. 14-31-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 Locate new development contiguous to existing development to aid police and fire protection.
- o Locate new residential development along local roads to facilitate efficient travel and maintain public safety.
- o 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. The subject area is sparsely populated. Seven other residential dwellings are located within ½ mile of the proposed dwelling along Broadway Road. 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. A new single family detached dwelling 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 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. The applicant has signed an agriculture land use easement acknowledging the subject property is situated in an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands.

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

POSITIVE. A new single family detached dwelling 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. Given its adjacency to an existing single family residence, the proposed lot has access to necessary utilities presumably already established along Broadway Road. Vehicular access to the proposed lot shall be established in accordance with the Road Commissioner's recommendation. A new well will be drilled and complete septic system installed to comply with all applicable Tazewell County regulations.

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 Broadway Rd. and relatively flat topography, 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, there are no livestock feeding operations within one-half miles of the subject parcel.

11. *Evidence presented establishes that granting the use, which is located more than one-half mile from a livestock feeding operation, will not hinder the operation or expansion of such operation.*

POSITIVE.

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

POSITIVE.

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

POSITIVE. The Special Use request for a single family detached dwelling site is consistent with the other existing single family detached homes in the vicinity. Furthermore, the proposed residential lot is within identified Community Growth Area on the adopted Future Land Use Map, as the parcel is only 400 feet from the Morton municipal boundary.

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. 14-31-S** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 14-32-V: The petition of Larry Schaer of Schaer Enterprises, LLC for a Variance to waive the requirements of 7TCC1-10(d)(2) to waive the lot size requirement for the purpose of creating a 13 lot subdivision, to be served by a Public Water System (Shared Well) , with said lots being a minimum .6 of an acre, which is .15 of an acre less than allowed in a R-1 Low Density Residential District.

Tazewell County Health Department submitted a report stating a Variance will be granted on lot size through the Health Department based on the previously developed lots. A positive soil analysis report and developer willing to move semi private wells to larger lots will be required.

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.

Paul Whittington, Fondulac Township Road Commissioner made no comment regarding the proposed Variance request.

Craig Fink, Tazewell County Highway Engineer submitted a report regarding the proposed Variance request stating an increase in traffic is expected.

School Districts 86 and 309 made no comment regarding the proposed Special Use request.

Larry Schaer appeared to testify on behalf of the proposed Variance request. Mr. Schaer stated a preliminary plat was done and approved in 2005 for all phases of the Sunset Acres subdivision. Mr. Schaer said prior to being able to develop all phases of the subdivision, the lot size requirements had changed. Mr. Schaer added he had been in contact with the Health Department regarding the proposed Variance. Mr. Schaer stated he would change the location of the shared wells to meet the Health Departments' request. Mr. Schaer said the smallest lot size proposed would be 6/10ths of an acre.

Following all Public Hearings, moved by Baum, seconded by Toevs, to approve **Case No. 14-32-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 had originally been approved to develop the subdivision for Phase 1 and Phase 2 under the requested lot size, however the applicant never proceeded with Phase 2 and the Zoning Code was subsequently amended in 2007 increasing the lot sizes. Upon a soil analysis it was determined by the Health Department that decreasing the lot size would not cause a detriment as long as the private wells would be moved to larger lots. Phase 2 will be consistent with the area and with Phase 1.

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 had originally been approved to develop the subdivision for Phase 1 and Phase 2 under the requested lot size, however the applicant never proceeded with Phase 2 and the Zoning Code was subsequently amended in 2007 increasing the lot sizes. Upon a soil analysis it was determined by the Health Department that decreasing the lot size would not cause a detriment as long as the private wells would be moved to larger lots. Phase 2 will be consistent with the area and with Phase 1.

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 applicant had originally been approved to develop the subdivision for Phase 1 and Phase 2 under the requested lot size, however the applicant never proceeded with Phase 2 and the Zoning Code was subsequently amended in 2007 increasing the lot sizes. Upon a soil analysis it was determined by the Health Department that decreasing the lot size would not cause a detriment as long as the private wells would be moved to larger lots. Phase 2 will be consistent with the area and with Phase 1.

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. Approval of the Variance will not impair the supply of light and air and will not endanger public safety or diminish property values.

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 had originally been approved to develop the subdivision for Phase 1 and Phase 2 under the requested lot size, however the applicant never proceeded with Phase 2 and the Zoning Code was subsequently amended in 2007 increasing the lot sizes. Upon a soil analysis it was determined by the Health Department that decreasing the lot size would not cause a detriment as long as the private wells would be moved to larger lots. Phase 2 will be consistent with the area and with Phase 1.

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 had originally been approved to develop the subdivision for Phase 1 and Phase 2 under the requested lot size, however the applicant never proceeded with Phase 2 and the Zoning Code was subsequently amended in 2007 increasing the lot sizes. Upon a soil analysis it was determined by the Health Department that decreasing the lot size would not cause a detriment as long as the private wells would be moved to larger lots. Phase 2 will be consistent with the area and with Phase 1.

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 had originally been approved to develop the subdivision for Phase 1 and Phase 2 under the requested lot size, however the applicant never proceeded with Phase 2 and the Zoning Code was subsequently amended in 2007 increasing the lot sizes. Upon a soil analysis it was determined by the Health Department that decreasing the lot size would not cause a detriment as long as the private wells would be moved to larger lots. Phase 2 will be consistent with the area and with Phase 1.

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

POSITIVE. The applicant had originally been approved to develop the subdivision for Phase 1 and Phase 2 under the requested lot size, however the applicant never proceeded with Phase 2 and the Zoning Code was subsequently amended in 2007 increasing the lot sizes. Upon a soil analysis it was determined by the Health Department that decreasing the lot size would not cause a detriment as long as the private wells would be moved to larger lots. Phase 2 will be consistent with the area and with Phase 1.

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

On roll call to approve **Case No. 14-32-V** the vote was:

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

Nays: 0

Motion declared carried.

CASE NO. 14-33-V: The petition of Mark Graber as Trustee of the Viola Graber Trust #8292 for a Variance to create 2 new zoning lots of record waiving the requirements of Tract B - 7TCC1-7(e) to allow the lot width at the Building Setback Line to be 184' in width, which is 16' less than allowed, and to waive the requirements of 7TCC1-7(b)(8) to allow the lot acreage to be .983 acres, which is .017 acres less than allowed; and Tract C - 7TCC1-7(e) to allow the lot width at the Building Setback Line to be 179' in width, which is 21' less than allowed and to waive the requirements of 7TCC1-7(b)(8) to allow the lot acreage to be .968 acres, which is .032 acres less than allowed; each situated in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a report regarding the proposed Variance request stating a soils analysis will be required.

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.

Brian Eeten, Boynton Township Road Commissioner submitted a report regarding the proposed Variance request having no objection.

Craig Fink, Tazewell County Highway Engineer submitted a report regarding the proposed Variance request stating no impact on traffic is expected.

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

Mark Graber appeared to testify on behalf of the proposed Variance request. Mr. Graber stated he would like to separate an existing lot with 2 dwellings into 2 separate lots. Mr. Graber said the frustrations were created when the State of Illinois took 40' of the East side of the property for road right of way. Mr. Graber added they have farmed the adjacent land for over 50 years and his parents moved to the area in 1990. Mr. Graber stated they purchased the other residence upon the death of a prior resident.

Following all Public Hearings, moved by Lessen, seconded by Zimmerman, to approve **Case No. 14-33-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 parcel as originally created had enough road frontage and acreage to meet Zoning Code requirements to allow the division of the site, however due to the widening of Armington Road part of the applicant's property was claimed for ROW resulting in a reduction in frontage and acreage. Further tillable farmland would be sacrificed if the petitioner would be forced to meet the Zoning Code 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 parcel as originally created had enough road frontage and acreage to meet Zoning Code requirements to allow the division of the site, however due to the widening of Armington Road part of the applicant's property was claimed for ROW resulting in a reduction in frontage and acreage. Further tillable farmland would be sacrificed if the petitioner would be forced to meet the Zoning Code 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.

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 parcel as originally created had enough road frontage and acreage to meet Zoning Code requirements to allow the division of the site, however due to the widening of Armington Road part of the applicant's property was claimed for ROW resulting in a reduction in frontage and acreage. Further tillable farmland would be sacrificed if the petitioner would be forced to meet the Zoning Code 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 parcel as originally created had enough road frontage and acreage to meet Zoning Code requirements to allow the division of the site, however due to the widening of Armington Road part of the applicant's property was claimed for ROW resulting in a reduction in frontage and acreage. Further tillable farmland would be sacrificed if the petitioner would be forced to meet the Zoning Code requirements.

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

POSITIVE. The parcel as originally created had enough road frontage and acreage to meet Zoning Code requirements to allow the division of the site, however due to the widening of Armington Road part of the applicant's property was claimed for ROW resulting in a reduction in frontage and acreage. Further tillable farmland would be sacrificed if the petitioner would be forced to meet the Zoning Code 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. 14-33-V** the vote was:

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

Nays: 0

Motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, October 7, 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 6:35 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.