

(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, October 7, 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, Don Vaughn, Phil Webb and Ken Zimmerman

ABSENT: JoAn Baum, Loren Toevs

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, Rosemary Palmer, Seth Mingus and Sue Sundell

OTHERS

PRESENT: Petitioners and Interested Parties

MINUTES: Moved by May, seconded by Webb, to approve the Minutes of the September 3, 2014 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

CASE NO. 14-34-V: The petition of Mildred Johnson for a Variance to waive the requirements of 7TCC1-5(o)(1) to allow the construction of a Privacy Fence, with an panel height of the fence to 6’ and a total ground elevation height of 9’ situated beyond the building setback line to the front property line to be 5’ higher than allowed in a R-1 Low Density Residential District.

Tazewell County Health Department made no comment regarding the proposed Variance request.

Tazewell County Soil & Water Conservation District submitted a report having no comment regarding the proposed Variance request.

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

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

Ron Hawkins, Cincinnati Township Road Commissioner made no comment regarding the proposed Variance request.

Craig Fink, Tazewell County Highway Engineer stated no impact on traffic expected regarding the proposed Variance request.

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

Mildred Johnson appeared to testify on behalf of the proposed Variance request. Ms. Johnson stated they would like to construct 8 to 9 panels of privacy fence to block out the view of the newly established construction site to the North. Ms. Johnson said the panels will no longer be 9’ high as originally thought, they will be 6’ high. Ms. Johnson said she would like to leave the panels up permanently to block the noise and view of traffic once construction of the new road is complete.

Following all Public Hearings, moved by May, seconded by Webb, to approve **Case No. 14-34-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. Due to Road Construction that is being conducted in the area there are construction trailers and other construction activities that are being carried on immediately adjacent to the site, allowing the additional height of the fence will provide privacy for the applicant and help to shield the property from the construction activities.

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. Due to Road Construction that is being conducted in the area there are construction trailers and other construction activities that are being carried on immediately adjacent to the site, allowing the additional height of the fence will provide privacy for the applicant and help to shield the property from the construction activities.

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. Due to Road Construction that is being conducted in the area there are construction trailers and other construction activities that are being carried on immediately adjacent to the site, allowing the additional height of the fence will provide privacy for the applicant and help to shield the property from the construction activities.

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 the additional height of the Fence will not hinder sight distance.

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 simply wishes to shield the property from the construction activities being conducted due to Road Improvements.

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. Due to Road Construction that is being conducted in the area there are construction trailers and other construction activities that are being carried on immediately adjacent to the site, allowing the additional height of the fence will provide privacy for the applicant and help to shield the property from the construction activities.

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

POSITIVE. Due to Road Construction that is being conducted in the area there are construction trailers and other construction activities that are being carried on immediately adjacent to the site, allowing the additional height of the fence will provide privacy for the applicant and help to shield the property from the construction activities.

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

POSITIVE. Due to Road Construction that is being conducted in the area there are construction trailers and other construction activities that are being carried on immediately adjacent to the site, allowing the additional height of the fence will provide privacy for the applicant and help to shield the property from construction activities.

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

On roll call to approve **Case No. 14-34-V** the vote was:

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

Nays: 0

Absent: 2 – Baum and Toevs

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.

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 submitted a report recommending approval of the proposed Special Use request.

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

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

Wylie Coriell, Sand Prairie Township Road Commissioner submitted a report stating no objection regarding the proposed Special Use request.

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

School District 191 made no comment regarding the proposed Special Use request.

THE FOLLOWING CONTAINS TESTIMONY FOR BOTH CASE 14-30-S AND CASE 14-35-V.

Joseph Weghorst appeared to testify on behalf of the proposed Special Use and Variance request. Mr. Weghorst stated he was the President of the Cemetery Association and the cemetery was getting full and needed more space. Mr. Weghorst said the additional land was donated to the Cemetery Association. Mr. Weghorst added there was a perpetual fund in place for the cemetery.

Following all Public Hearings, moved by Lessen, seconded by Zimmerman, to approve **Case No. 14-30-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. Special Uses when combined with Variances for this same property shall be considered compliant for the purposes of this section.*

POSITIVE.

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:

- 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.

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 not heavily populated, but several dwellings and an assisted living facility are located within ½ mile of the subject property. However, the existing cemetery and church have occupied the site for over a century and these types of uses are not typically regarded as nuisances. 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. An expansion of an existing cemetery 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. No

portion of the subject parcel is currently in crop production.

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

POSITIVE. An expansion of an existing cemetery 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 cemetery and church, the proposed expansion has access to utilities, if needed.

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. Vehicular access to the proposed expansion will be the same as the existing cemetery. Given the current traffic volumes on Townline 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.*

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 Special Use request for an expansion of a cemetery is not necessarily consistent with the agricultural and residential uses in the vicinity. However, the expansion is to occur entirely within the existing parcel, next to an existing church and cemetery that have occupied the site for over a century. There appears to be little, if any, conflict with neighboring uses, as cemeteries are typically low-impact developments.

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

POSITIVE. Given its proximity to the existing cemetery, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 14-30-S** the vote was:

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

Nays: 0

Absent: 2 - Baum and Toevs

Motion declared carried.

CASE NO. 14-35-V: The petition of Sand Prairie Cemetery Association for a Variance to waive the requirements of 7TCC1-25(f)(6)(i) to allow the expansion of an existing Cemetery as approved in Case 14-30-S with plots to be 13.23' from the Northern Side Property Line, which is 11.77' closer than allowed; and 21.3' from the Western Rear Property Line, which is 3.7' closer than allowed; and 14.05' from the Southern Side Property Line, which is 10.95' less than allowed; all situated in on 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 recommending approval of the proposed Variance request.

Tazewell County Farm Bureau submitted a report recommending approval of the proposed Variance request.

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

Wylie Coriell, Sand Prairie Township Road Commissioner submitted a report stating no objection regarding the proposed Variance request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating minimal traffic impact regarding the proposed Variance request.

School District 191 made no comment regarding the proposed Variance request.

PLEASE REFER TO CASE NO. 14-30-S FOR THE TESTIMONY FOR CASE 14-35-V.

Following all Public Hearings, moved by May, seconded by Webb, to approve **Case No. 14-35-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 unable to acquire additional property and due to the need for additional burial plots utilizing the property to its fullest extent is practical in this situation and will not have a negative impact on surrounding properties and will still allow for adequate traffic flow.

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 unable to acquire additional property and due to the need for additional burial plots utilizing the property to its fullest extent is practical in this situation and will not have a negative impact on surrounding properties and will still allow for adequate traffic flow.

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 is unable to acquire additional property and due to the need for additional burial plots utilizing the property to its fullest extent is practical in this situation and will not have a negative impact on surrounding properties and will still allow for adequate traffic flow.

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 applicant is unable to acquire additional property and due to the need for additional burial plots utilizing the property to its fullest extent is practical in this situation and will not have a negative impact on surrounding properties and will still allow for adequate traffic flow.

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 unable to acquire additional property and due to the need for additional burial plots utilizing the property to its fullest extent is practical in this situation and will not have a negative impact on surrounding properties and will still allow for adequate traffic flow.

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 unable to acquire additional property and due to the need for additional burial plots utilizing the property to its fullest extent is practical in this situation and will not have a negative impact on surrounding properties and will still allow for adequate traffic flow.

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 unable to acquire additional property and due to the need for additional burial plots utilizing the property to its fullest extent is practical in this situation and will not have a negative impact on surrounding properties and will still allow for adequate traffic flow.

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

POSITIVE. The applicant is unable to acquire additional property and due to the need for additional burial plots utilizing the property to its fullest extent is practical in this situation and will not have a negative impact on surrounding properties and will still allow for adequate traffic flow.

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

On roll call to approve **Case No. 14-35-V** the vote was:

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

Nays: 0

Absent: 2 - Baum and Toevs

Motion declared carried.

CASE NO. 14-36-A: Proposed Amendment No. 42 to the Tazewell County Zoning Code referred for hearing by the Tazewell County Land Use Committee to amend the following:

SECTION. 1

ARTICLE 9. (RR) RURAL RESIDENTIAL DISTRICT

7 TCC 1-9 (c) Special Uses. The following uses may be established by a special use permit in the Rural Residential District in accordance with procedures and standards set forth in Article 25 (Special Uses).

Add the new following language and renumber accordingly:

Adaptive re-use of existing structures;

SECTION 2.

ARTICLE 25. SPECIAL USES

7 TCC 1-25 (f) Requirements For Particular Special Uses. In addition to the information required in 7 TCC 1-25 (c), the following contains information and requirements specific to each Special Use listed:

Add the following language as bolded and underlined and renumber accordingly:

- (3) **ADAPTIVE REUSE OF EXISTING STRUCTURES.** Specific requirements for adaptive reuse of existing structures in the R-1 Low Density Residential District **and the RR Rural Residential Districts:**

SECTION 3.

This amendatory ordinance shall effect immediately upon passage as provided by law.

Tazewell County Health Department made no comment regarding the proposed Amendment.

Tazewell County Soil & Water Conservation District submitted a report making no comment regarding the proposed Amendment.

The Tazewell County Farm Bureau submitted a report regarding the proposed Amendment recommending approval.

All municipalities were notified however no comments were received regarding the proposed Amendment.

Craig Fink, Tazewell County Highway Engineer submitted a report making no comment regarding the proposed Amendment.

Following all Public Hearings, moved by May, seconded by Webb, to recommend approval of **Case No. 14-36-A** to the Tazewell County Board.

After considering all the evidence and testimony presented, the ZBA discussed and arrived at the following findings of fact:

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

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

On roll call to recommend approval of **Case No. 14-36-A** the vote was:

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

Nays: 0

Absent: 2 - Baum and Toevs

Motion declared carried.

CASE NO. 14-37-S: The petition of the Islamic Center of Peoria for a Special Use to allow an Adaptive Reuse of an existing Principal Structure (formerly utilized as a church) for the purpose of conducting an IT (Information Technology) Contracting business in a R-R Rural Residential 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 submitted a report making no comment regarding the proposed Special Use request.

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

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

Dave Weaver, Washington Township Road Commissioner stated concerns involving traffic regarding the proposed Special Use request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating impact and a small change in traffic regarding the proposed Special Use request.

School District 51 & 308 made no comment regarding the proposed Special Use request.

Majid Alikhan appeared to testify on behalf of the proposed Special Use request. Mr. Alikhan stated the church had been in existence for 30 years and recently moved to a new location. Mr. Alikhan said they come to the property every few weeks to check on things and the property had been vandalized a few times now. Mr. Alikhan added the property had been for sale for a few months. Mr. Alikhan stated he does not foresee the Islamic Center moving back to this location and stated it would be better for the neighborhood if the building were occupied. Mr. Alikhan said the proposed buyer was a computer company that had been in business for 20 years and had 3 to 7 employees. Mr. Alikhan added they would be selling the building and all the land surrounding the building. Mr. Alikhan stated the potential buyer was affiliated with the Temple. Mr. Alikhan stated they were asking \$230,000 for the property, however there were no calls at that price. In closing, Mr. Alikhan stated they would have liked to have sold the building quickly, but it was in poor condition. Mr. Alikhan said if the property does not sell, it will remain vacant.

Herbert Uftring appeared to testify against the proposed Special Use request. Mr. Uftring stated the for sale sign was only up for 2 months on the property and the contact number had washed off the sign. Mr. Uftring said the property had a poor appearance and questioned how the potential buyer found the location. Mr. Uftring added there was a traffic concern in the area already and this business would only add to those concerns. Mr. Uftring stated he felt this was not a good option for the site and viewed it as an inexpensive solution. Mr. Uftring questioned the price of the building and land and mentioned there were 250 homes in the area and the land should be used as residential lots.

Laverne Wilson appeared to testify against the proposed Special Use request. Ms. Wilson read from a Petition that was submitted and signed by a number of area residents. Ms. Wilson said the property was more conducive to another residence and not a commercial project.

Following all Public Hearings, moved by Lessen, seconded by Zimmerman, to approve **Case No. 14-37-S**.

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

1. Upon approval of Case No. 14-36-A/Amendment 42 to the Zoning Code by the Tazewell County Board.
2. The number of employees shall be limited to ten (10). If the business expands and needs additional employees, a request for expansion to the Special Use will be required and approved by the Zoning Board of Appeals.

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. Upon approval of Case #14-36-A/Amendment No. 42 to the Zoning Code by the County Board 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:

- Locate new development contiguous to existing development to aid police and fire protection.
- Encourage the reuse of vacant properties for new and existing businesses.
- 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 will be satisfactorily met upon approval of Case No. Case #14-36-A/Amendment No. 42 to the Zoning Code by the County Board.

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

POSITIVE. The subject parcel is located near residential development, which lies to the north, south and east. The adaptive reuse of an existing structure that has been present on the subject parcel for several years is not anticipated to have adverse effects, including visual impacts on adjacent properties. A new business moving into the property will more than likely improve the appearance of building and land.

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. Adaptive reuse of the existing structure 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 size and scale of the existing building is not going to change and the proposed adaptive reuse should not significantly increase the intensity of the use, 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. Adaptive reuse of the existing structure 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. The parcel already has adequate vehicular access. Well and septic are also already 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 Spring Creek Rd. and the proposed adaptive reuse will only have five employees, 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.*

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 Special Use request for adaptive reuse of an existing structure (formerly used as a church) to be used as an IT consulting business is not necessarily consistent with the other existing single family detached homes in the vicinity. However, the previous use as a church was approved for a special use permit 33 years ago, predating the residential uses in the area. Due to the small size and scale of the proposed adaptive reuse, it should not negatively conflict with surrounding residential uses.

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

POSITIVE. Given its limited impact 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 Lessen, seconded by May, to approve the findings of fact as modified. **Motion declared carried.**

On roll call to approve **Case No. 14-37-S** as amended the vote was:

Ayes: 5 –Lessen, May, Webb, Zimmerman and Chairman Newman

Nays: 1 - Vaughn

Absent: 2 - Baum and Toevs

Motion declared carried.

CASE NO. 14-38-S: The petition of Mid-America Advertising, Inc. for a Special Use to allow the placement of an Off Premise Sign (Billboard) on property located in an I-1 Light Industrial 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 submitted a report having no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau submitted a report recommending approval regarding the proposed Special Use request as long as no adjacent land owner objected.

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

Lee White, IDOT made no comment regarding the proposed Special Use request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating IDOT should be contacted regarding the proposed Special Use request.

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

Darla Jorn appeared to testify on behalf of the proposed Special Use request. Ms. Jorn stated she was the leasing agent for Mid America. Ms. Jorn said IDOT required County approval prior to them giving approval. Ms. Jorn added they avoid any residential areas when placing billboards.

Following all Public Hearings, moved by May, seconded by Zimmerman, to approve **Case No. 14-38-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 County Comprehensive Land Use Plan does not specifically address off-premises signs. However, based on the proposed design and the Tazewell County Zoning Code provisions that must be adhered met, the proposed off-premises sign will not cause substantial adverse effects on the adjacent properties. Therefore, the proposed Special Use is judged to be consistent with the County 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. Adjacent properties consist of farmland and commercial/industrial uses along Route 9. The proposed off-premises sign will be 30 feet in height, have an area of no more than 300 square feet, and have lighting that will shine directly on the sign face, minimizing the adverse impact on surrounding properties. Off-premises signs are best suited for commercial areas, so this sign is compatible with the surrounding uses. Therefore, adverse effects of the proposed off-premises sign will be minimized.

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 off-premises sign 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. Other property in the immediate vicinity is used for commercial/industrial and agricultural uses. The off-premises sign will have no impact on the nearby agricultural uses. The nearest dwellings are located approximately 1,000 feet away from the proposed off-premises sign. As a result of this distance, the height and area requirements that must be met, and the proposed lighting, the proposed off-premises sign will not be injurious to the use and enjoyment of the residential properties.

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

POSITIVE. A new off-premises sign 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. Adequate access to the site off of Illinois Route 9 exists, and the proposed sign will not generate additional traffic along Illinois Route 9. The Illinois Department of Transportation will make the final determination on whether the placement of the proposed off-premises sign will lead to traffic congestion or hazard along Illinois Route 9.

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

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. The subject parcel is currently not in crop production.

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 off-premises sign is consistent with the other existing commercial and industrial uses in the vicinity.

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

POSITIVE. Given its proximity to commercial and industrial uses, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 14-38-S** the vote was:

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

Nays: 0

Absent: 2 - Baum and Toevs

Motion declared carried.

CASE NO. 14-39-S: The petition of Mid-America Advertising, Inc. for a Special Use to allow the placement of an Off Premise Sign (Billboard) on property located in a C-2 General Business Commercial 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 submitted a report having no comment regarding the proposed Special Use request.

Tazewell County Farm Bureau submitted a report recommending approval regarding the proposed Special Use request as long as no adjacent land owner objected.

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

Lee White, IDOT made no comment regarding the proposed Special Use request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating IDOT should be contacted regarding the proposed Special Use request.

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

Darla Jorn appeared to testify on behalf of the proposed Special Use request. Ms. Jorn stated she was the leasing agent for Mid America. Ms. Jorn said IDOT required County approval prior to them giving approval. Ms. Jorn added they avoid any residential areas when placing billboards.

Following all Public Hearings, moved by Zimmerman, seconded by Vaughn, to approve **Case No. 14-39-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 County Comprehensive Land Use Plan does not specifically address off-premises signs. However, based on the proposed design and the Tazewell County Zoning Code provisions that must be adhered to, the proposed off-premises sign will not cause substantial adverse effects on the adjacent properties. Therefore, the proposed Special Use is judged to be consistent with the County 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. Adjacent properties consist of farmland and commercial/industrial uses along Route 9. The proposed off-premises sign will be 30 feet in height, have an area of no more than 300 square feet, and have lighting that will shine directly on the sign face, minimizing the adverse impact on surrounding properties. Off-premises signs are best suited for commercial areas, so this sign is compatible with the surrounding uses. Therefore, adverse effects of the proposed off-premises sign will be minimized.

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 off-premises sign 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. Other property in the immediate vicinity is used for commercial/industrial and agricultural uses. The off-premises sign will have no impact on the nearby agricultural uses. The nearest dwellings are located approximately 1,000 feet away from the proposed off-premises sign. As a result of this distance, the height and area requirements that must be met, and the proposed lighting, the proposed off-premises sign will not be injurious to the use and enjoyment of the residential properties.

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

POSITIVE. A new off-premises sign 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. Adequate access to the site off of Illinois Route 9 exists, and the proposed sign will not generate additional traffic along Illinois Route 9. The Illinois Department of Transportation will make the final determination on whether the placement of the proposed off-premises sign will lead to traffic congestion or hazard along Illinois Route 9.

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

parcel.

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. The subject parcel is currently not in crop production.

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 off-premises sign is consistent with the other existing commercial and industrial uses in the vicinity.

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

POSITIVE. Given its proximity to commercial and industrial uses, size, topography, and utility access, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 14-39-S** the vote was:

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

Nays: 0

Absent: 2 - Baum and Toevs

Motion declared carried.

CASE NO. 14-40-V: The petition of Ty and Courtney Simpson for a Variance to waive the requirements of 7TCC1-7(f) to allow the creation of a new dwelling site as requested in Case No. 14-41-S which will not have frontage along a public roadway but will have access via an easement in an A-1 Agriculture Preservation Zoning District.

Tazewell County Health Department made no comment regarding the proposed Variance request.

Tazewell County Soil & Water Conservation District submitted a report having no comment regarding the proposed Variance request.

Tazewell County Farm Bureau submitted a recommending approval with reservation regarding the proposed Variance request.

Roger Spangler, Village of Morton submitted a report stating the Village had no comment regarding the proposed Variance request.

Greg Menold, Morton Township Road Commissioner submitted a report having no objection regarding the proposed Variance request.

Craig Fink, Tazewell County Highway Engineer stated no impact on traffic expected regarding the proposed Variance request.

School Districts 709 made no comment regarding the proposed Variance request.

THE FOLLOWING CONTAINS TESTIMONY FOR BOTH CASE 14-40-V AND CASE 14-41-S.

Courtney Simpson appeared to testify on behalf of the proposed Variance and Special Use request. Mrs. Simpson stated the property was previously owned by her husbands grandparents. Mrs. Simpson said there are currently 2 dwellings accessing property via an easement, and if approved, there will be 3 dwellings. Mrs. Simpson added her father in law now owns the land and would provide a 25' easement for them to access the property. Mrs. Simpson stated with the addition of a dwelling, they will be able to help improve and maintain the property and would be able to teach extended family about agricultural practices.

Noah Menold appeared with concerns regarding the proposed Variance and Special Use request. Mr. Menold stated he was an adjacent land owner. Mr. Menold questioned the ownership of the property and added that ownership needed to be proven prior to any petitions being processed. Mr. Menold stated that there was farmland in all directions and this request should be denied as the A-1 District was established to protect areas best suited for agriculture. Mr. Menold said there were a number of abandoned pieces of equipment on the property that were in violation of Tazewell County ordinances and that the Board should not reward irresponsible management of the site through granting a Variance and Special Use.

Following all Public Hearings, moved by Vaughn, seconded by May, to approve **Case No. 14-40-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 has no other alternative to gain access to the property.

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 has no other alternative to gain access to the property.

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 has no other alternative to gain access to the 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.

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 access to a landlocked property.

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. Granting the Variance will allow the applicant reasonable use of their property as the applicant has no other alternatives to gain access to the site.

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

POSITIVE. Granting the Variance will allow the applicant reasonable use of their property as the applicant has no other alternatives to gain access to the site.

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

POSITIVE. Granting the Variance will allow the applicant reasonable use of their property as the applicant has no other alternatives to gain access to the site.

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

On roll call to approve **Case No. 14-40-V** the vote was:

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

Nays: 0

Absent: 2 – Baum and Toevs

Motion declared carried.

CASE NO. 14-41-S: The petition of Ty and Courtney Simpson 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 made no comment regarding the proposed Special Use request.

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 with reservation regarding the proposed Special Use request.

Roger Spangler, Village of Morton submitted a report stating the Village had no comment regarding the proposed Special Use request.

Greg Menold, Morton Township Road Commissioner submitted a report having no objection regarding the proposed Special Use request.

Craig Fink, Tazewell County Highway Engineer stated no impact on traffic expected regarding the proposed Special Use request.

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

PLEASE REFER TO CASE NO. 14-40-V FOR THE TESTIMONY FOR CASE 14-41-S.

Following all Public Hearings, moved by Lessen, seconded by May, to approve **Case No. 14-41-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:

- Locate new development contiguous to existing development to aid police and fire protection.
- Locate new residential development along local roads to facilitate efficient travel and maintain public safety.
- 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 parcel is not within, but is located near the residential Kennel Lake subdivision, which lies to the east. The construction of another single family home in this already developed area is not anticipated to have adverse effects, including visual impacts 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. 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 on the north, south and west 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 Lakeland 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 Lakeland Rd. and relatively flat topography, there are no foreseeable traffic congestion or safety issues.

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. The subject parcel is currently not in crop production, it mainly consists of various vegetation and overgrowth.

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 Tazewell County Future Land Use Map, as the parcel is approximately 1/2 mile from the Village of 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 Lessen, seconded by May, to approve the findings of fact as written. **Motion declared carried.**

On roll call to approve **Case No. 14-41-S** the vote was:

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

Nays: 0

Absent: 2 – Baum and Toevs

Motion declared carried.

CASE NO. 14-42-V: The petition of Randy Skaggs for a Variance to waive the requirements of 7TCC1-7(g)(1)(i) to allow the construction of a New Dwelling to be 108' from the centerline of Illinois Route 9, which is 42' closer than allowed, and to waive 7TCC1-7(g)(3)(i) to allow the same dwelling to be 23' from the rear property line, which is 27' 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 having no comment regarding the proposed Variance request.

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

Village of Tremont made no comment regarding the proposed Variance request.

Lee White, IDOT made no comment regarding the proposed Variance request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating IDOT should be contacted regarding the proposed Variance request.

School Districts 702 made no comment regarding the proposed Variance request.

Randy Skaggs appeared to testify on behalf of the proposed Variance request. Mr. Skaggs stated his home is very close to the highway and traffic has increased over his 20 years of residing on the property. Mr. Skaggs said he would like to construct a new dwelling further off of the roadway for safety purposes. Mr. Skaggs added he will use the existing entrance to the property.

Following all Public Hearings, moved by Zimmerman, seconded by Vaughn, to approve **Case No. 14-42-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 will be demolishing the existing home on the property which currently sits dangerously closer to Illinois Route 9. Due to the odd triangular shape of the property the applicant is limited in buildable area for the new dwelling. Construction of the new dwelling in the proposed location is the most practical and allows the applicant reasonable use of the property in addition to providing a safer environment with regards to the distance to the Highway than the existing dwelling.

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 will be demolishing the existing home on the property which currently sits dangerously closer to Illinois Route 9. Due to the odd triangular shape of the property the applicant is limited in buildable area for the new dwelling. Construction of the new dwelling in the proposed location is the most practical and allows the applicant reasonable use of the property in addition to providing a safer environment with regards to the distance to the Highway than the existing dwelling.

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 will be demolishing the existing home on the property which currently sits dangerously closer to Illinois Route 9. Due to the odd triangular shape of the property the applicant is limited in buildable area for the new dwelling. Construction of the new dwelling in the proposed location is the most practical and allows the applicant reasonable use of the property in addition to providing a safer environment with regards to the distance to the Highway than the existing dwelling.

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 applicant will be demolishing the existing home on the property which currently sits dangerously closer to Illinois Route 9. Due to the odd triangular shape of the property the applicant is limited in buildable area for the new dwelling. Construction of the new dwelling in the proposed location is the most practical and allows the applicant reasonable use of the property in addition to

providing a safer environment with regards to the distance to the Highway than the existing dwelling.

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 will be demolishing the existing home on the property which currently sits dangerously closer to Illinois Route 9. Due to the odd triangular shape of the property the applicant is limited in buildable area for the new dwelling. Construction of the new dwelling in the proposed location is the most practical and allows the applicant reasonable use of the property in addition to providing a safer environment with regards to the distance to the Highway than the existing dwelling.

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 will be demolishing the existing home on the property which currently sits dangerously closer to Illinois Route 9. Due to the odd triangular shape of the property the applicant is limited in buildable area for the new dwelling. Construction of the new dwelling in the proposed location is the most practical and allows the applicant reasonable use of the property in addition to providing a safer environment with regards to the distance to the Highway than the existing dwelling.

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 will be demolishing the existing home on the property which currently sits dangerously closer to Illinois Route 9. Due to the odd triangular shape of the property the applicant is limited in buildable area for the new dwelling. Construction of the new dwelling in the proposed location is the most practical and allows the applicant reasonable use of the property in addition to providing a safer environment with regards to the distance to the Highway than the existing dwelling.

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

POSITIVE. The applicant will be demolishing the existing home on the property which currently sits dangerously closer to Illinois Route 9. Due to the odd triangular shape of the property the applicant is limited in buildable area for the new dwelling. Construction of the new dwelling in the proposed location is the most practical and allows the applicant reasonable use of the property in addition to providing a safer environment with regards to the distance to the Highway than the existing dwelling.

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

On roll call to approve **Case No. 14-42-V** the vote was:

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

Nays: 0

Absent: 2 – Baum and Toevs

Motion declared carried.

CASE NO. 14-43-V: The petition of Michael Matthews for a Variance to waive the requirements of 7TCC1-10(f)(2)(i) to allow the construction of an Addition to Dwelling with the wall of the Dwelling to be 8’ from the Side Property Line, which is 2’ closer than allowed and to allow the Overhang to be 6’ from the Side Property Line, which is 4’ closer than allowed in an R-1 Low Density Residential District.

Tazewell County Health Department made no comment regarding the proposed Variance request.

Tazewell County Soil & Water Conservation District submitted a report having no comment regarding the proposed Variance request.

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

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

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

School Districts 108 & 303 made no comment regarding the proposed Variance request.

Michael Matthews appeared to testify on behalf of the proposed Variance request. Mr. Matthews stated he would like to expand his dwelling by 32’ to the East. Mr. Matthews said the overhang will remain in line with what is existing, and there will be a jog in the wall. Mr. Matthews added the existing house was non

conforming and he will not be increasing the non conformity.

Following all Public Hearings, moved by May, seconded by Lessen, to approve **Case No. 14-43-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 existing structure does not currently meet the required setbacks, however the new foundation wall needs to be angled to provide strength for the structure. While the new wall will be closer to the property line the overhang will be line with the existing overhang and therefore the closest point of the structure will not project further into the setback than what currently exists.

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 existing structure does not currently meet the required setbacks, however the new foundation wall needs to be angled to provide strength for the structure. While the new wall will be closer to the property line the overhang will be line with the existing overhang and therefore the closest point of the structure will not project further into the setback than what currently exists.

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. The applicant is simply asking for reasonable use of the property.

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 existing structure does not currently meet the required setbacks, however the new foundation wall needs to be angled to provide strength for the structure. While the new wall will be closer to the property line the overhang will be line with the existing overhang and therefore the closest point of the structure will not project further into the setback than what currently exists.

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

POSITIVE. The existing structure does not currently meet the required setbacks, however the new foundation wall needs to be angled to provide strength for the structure. While the new wall will be closer to the property line the overhang will be line with the existing overhang and therefore the closest point of the structure will not project further into the setback than what currently exists.

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

POSITIVE. The existing structure does not currently meet the required setbacks, however the new foundation wall needs to be angled to provide strength for the structure. While the new wall will be closer to the property line the overhang will be line with the existing overhang and therefore the closest point of the structure will not project further into the setback than what currently exists.

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

On roll call to approve **Case No. 14-43-V** the vote was:

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

Nays: 0

Absent: 2 – Baum and Toevs

Motion declared carried.

CASE NO. 14-44-V: The petition of James Brown for a Variance to waive the requirements of 7TCC1-7(g)(1)(i) to allow the construction of a New Dwelling to be 109.6’ from the centerline of Illinois Route 9, which is 40.4’ closer than allowed, and to waive 7TCC1-7(g)(3)(i) to allow the same dwelling to be 40’ from the rear property line, which is 10’ 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 having no comment regarding the proposed Variance request.

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

Village of Mackinaw made no comment regarding the proposed Variance request.

Lee White, IDOT made no comment regarding the proposed Variance request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating IDOT should be contacted regarding the proposed Variance request.

School Districts 108 & 303 made no comment regarding the proposed Variance request.

James Brown appeared to testify on behalf of the proposed Variance request. Mr. Brown stated there is 1 ½ acre of ground that was not wooded and was trying to build furthest away from Route 9.

Following all Public Hearings, moved by May, seconded by Zimmerman, to approve **Case No. 14-44-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. Due to the odd triangular shape of the property the applicant is limited in buildable area, therefore allowing the Variance allows the applicant reasonable use of the property.

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. Due to the odd triangular shape of the property the applicant is limited in buildable area, therefore allowing the Variance allows the applicant reasonable use of the property.

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. Due to the odd triangular shape of the property the applicant is limited in buildable area, therefore allowing the Variance allows the applicant reasonable use of the 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;*

POSTIVE.

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

POSITIVE. Due to the odd triangular shape of the property the applicant is limited in buildable area, therefore allowing the Variance allows the applicant reasonable use of the property.

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. Due to the odd triangular shape of the property the applicant is limited in buildable area, therefore allowing the Variance allows the applicant reasonable use of the property.

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

POSITIVE. Due to the odd triangular shape of the property the applicant is limited in buildable area, therefore allowing the Variance allows the applicant reasonable use of the property.

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

POSITIVE. Due to the odd triangular shape of the property the applicant is limited in buildable area, therefore allowing the Variance allows the applicant reasonable use of the property.

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

On roll call to approve **Case No. 14-44-V** the vote was:

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

Nays: 0

Absent: 2 – Baum and Toevs

Motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, November 4, 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 Zimmerman, to adjourn the Zoning Board of Appeals Public Hearing at 8:45 p.m.

Kristal Deininger, Secretary

Secretary's Note: For further information regarding the discussion and testimony during the Public Hearing, please contact the Community Development Department for copies of the transcripts.