

(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, March 3, 2015, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman Duane Lessen called the meeting to order.

PRESENT: Chairman Duane Lessen, Alternate Cheryl Linsley, 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, Seth Mingus, Gary Sciortino and Sue Sundell

OTHERS

PRESENT: Petitioners and Interested Parties

MINUTES: Moved by May, seconded by Zimmerman, to approve the Minutes of the February 3, 2015 Zoning Board of Appeals Meeting with changes. **Motion carried by voice vote.**

CASE NO. 15-05-S: The petition of Daniel Wissel 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 regarding the proposed Special Use request stating no issue.

Tazewell County Soil & Water Conservation District submitted a report recommending denial regarding the proposed Special Use request.

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

Jon Oliphant, City of Washington submitted a report recommending approval of the proposed Special Use request.

Dave Weaver, Washington Township Road Commissioner had no comment regarding the proposed Special Use request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating there may be a very minimal traffic increase and that the Township Highway Commissioner should be contacted.

School District 52 and 308 made no comment regarding the proposed Special Use request.

Daniel Wissel appeared to testify on behalf of the proposed Variance request. Mr. Wissel stated he would retain any prime farm ground for cash crop, and proposed an approximate 3 acre pond. Mr. Wissel said he would need to stabilize the creek. Mr. Wissel referred to the case exhibits noting what he proposed as a building and pond layout. Mr. Wissel stated there was an existing farm entrance to the land and noted he could also access through his property. Mr. Wissel said 2 of the 17 acres were not considered prime farm ground, and said the farm ground would not be affected. Mr. Wissel stated he would like to keep his future options open and noted that if he were to lose his current dwelling for any reason, then he would require a variance to rebuild. Mr. Wissel said the cattle operation that was mentioned was located approximately 9/10ths of a mile from the proposed site and he was aware of the regular farming practices in the area.

Following all Public Hearings, moved by May, seconded by Linsley, to approve **Case No. 15-05-S.**

After considering all the evidence and testimony presented, the ZBA discussed the findings of fact and reviewed the Report of the Land Use Planner and arrived at the following findings of fact:

1. *The Special Use shall, in all other respects, conform to the applicable regulations of the Tazewell County Zoning Ordinance for the district in which it is located.*

POSITIVE. The Special Use shall conform to all applicable regulations of the Tazewell County Zoning Code to be enforced by the Community Development Administrator.

2. *The Special Use will be consistent with the purposes, goals, objectives, and standards of the officially adopted County Comprehensive Land Use Plan and these regulations, or of any officially adopted Comprehensive Plan of a municipality with a 1.5 mile planning jurisdiction.*

POSITIVE. The proposed Special Use will be consistent with the following Tazewell County Comprehensive Land Use Plan implementation strategies:

- 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.
- Allow new residential development that will ensure the viability of family farm operations.

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

POSITIVE.

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

POSITIVE. Anticipated adverse effects, including visual impacts on adjacent properties, from the granting of the requested Special Use are unanticipated at this time.

5. *The establishment, maintenance or operation of the Special Use shall not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.*

POSITIVE. A new single family freestanding home is not expected to be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the neighboring vicinity.

6. *The Special Use shall not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.*

POSITIVE. The subject area is primarily farmland, which shall remain for the foreseeable future, limiting injury to the use and enjoyment of other property in the immediate area. The special use as presented will take some agricultural ground out of production.

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

POSITIVE. A new single family freestanding home is not expected to substantially diminish and / or impair property value within the neighborhood. The pond construction will supposedly improve drainage and lessen erosion.

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

POSITIVE. The proposed lot has access to power utilities. Well and septic will need to be developed.

9. *Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard on the public streets.*

POSITIVE. Given the current low traffic volume on this section of Cruger Road, there is no foreseeable traffic congestion or safety issues from granting the Special Use request as presented. There is a current driveway in place on Cruger Road to provide ingress and egress to the property.

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 applicants, there is a livestock feeding operation within one-half miles of the subject parcel, but the special use is not anticipated to increase population density where it would hinder the operation or expansion the livestock feeding operation. During the Public Hearing it was further established that the property is three quarters of mile from the diary operation.

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.

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

POSITIVE. Given its proximity to other existing single family detached structures, size, topography, and utility access, the subject property is deemed suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 15-05-S** the vote was:

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

Nays: 0

Absent: 2 - Baum, Toevs

Motion declared carried.

CASE NO. 15-06-V: Lot 1: 1) 7TCC1-7(e) - To allow one property containing an acre and an existing dwelling to be 190' wide at the Building Setback Line, which is 10' less than allowed; and 2) 7TCC1-7(f) - To allow the same to have a Road Frontage of 190', which is 10' less than allowed; and 3) 7TCC1-7(g)(2)(i) - To allow the dwelling to be 17' from a new Side Property line, which is 13' closer than allowed; and Lot 2: 1) 7TCC1-7(g)(2)(i) - To allow other dwelling on the remainder of the property containing 5.17 acres more or less to be 16' from a new Side Property line, which is 14' closer than allowed; and 2) 7TCC1-7(g)(2)(i) - To allow a proposed Addition to the dwelling to be 2' from a new Side Property line, which is 28' closer than allowed; in an A-1 Agriculture Preservation Zoning District.

Tazewell County Health Department submitted a report regarding the proposed Variance request stating a recorded easement would be required for the septic service 2337, and the septic system for 2333 must be verified by a licensed septic contractor that it is properly functioning.

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.

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

Dave Weaver, Washington Township Road Commissioner made no comment regarding the proposed Variance request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating no impacts would be expected, however the Washington Township Road Commissioner should be contact for comment.

School District 51 and 308 made no comment regarding the proposed Variance request.

Ted Pittenger appeared to testify on behalf of the proposed Variance request. Mr. Pittenger stated the property was purchased "as is" from his in-laws and the bank would not allow a re-finance on the entire property. Mr. Pittenger said he currently resides in the larger home and rents the smaller home. Mr. Pittenger added the proposed new construction would be to remove and replace the attached garage. Mr. Pittenger stated the large house's septic system may cross over the proposed new property line and said he would work with the Health Department on their requirements.

Following all Public Hearings, moved by Zimmerman, seconded by May, to approve **Case No. 15-06-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 for division of the property. Although the circumstances of bank financing is not a true finding of uniqueness it is important to clarify that such a Variance would not be warranted if it weren't due to new rules and regulations imposed by the Financial Institutions. The Financial Institution will only allow the applicant to finance for the home site area if the property is divided. Further the property is non-conforming as the Zoning Code does not allow 2 dwellings to be located on 1 parcel of land, allowing the division will remove the non-conforming nature of the site, even though particular Variances are needed.

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 for division of the property. Although the circumstances of bank financing is not a true finding of uniqueness it is important to clarify that such a Variance would not be warranted if it weren't due to new rules and regulations imposed by the Financial Institutions. The Financial Institution will only allow the applicant to finance for the home site area if the property is divided. Further the property is non-conforming as the Zoning Code does not allow 2 dwellings to be located on 1 parcel of land, allowing the division will remove the non-conforming nature of the site, even though particular Variances are needed.

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 has no other alternative for division of the property. Although the circumstances of bank financing is not a true finding of uniqueness it is important to clarify that such a Variance would not be warranted if it weren't due to new rules and regulations imposed by the Financial Institutions. The Financial Institution will only allow the applicant to finance for the home site area if the property is divided. Further the property is non-conforming as the Zoning Code does not allow 2 dwellings to be located on 1 parcel of land, allowing the division will remove the non-conforming nature of the site, even though particular Variances are needed.

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 has no other alternative for division of the property. Although the circumstances of bank financing is not a true finding of uniqueness it is important to clarify that such a Variance would not be warranted if it weren't due to new rules and regulations imposed by the Financial Institutions. The Financial Institution will only allow the applicant to finance for the home site area if the property is divided. Further the property is non-conforming as the Zoning Code does not allow 2 dwellings to be located on 1 parcel of land, allowing the division will remove the non-conforming nature of the site, even though particular Variances are needed.

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 has no other alternative for division of the property. Although the circumstances of bank financing is not a true finding of uniqueness it is important to clarify that such a Variance would not be warranted if it weren't due to new rules and regulations imposed by the Financial Institutions. The Financial Institution will only allow the applicant to finance for the home site area if the property is divided. Further the property is non-conforming as the Zoning Code does not allow 2 dwellings to be located on 1 parcel of land, allowing the division will remove the non-conforming nature of the site, even though particular Variances are needed.

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

POSITIVE. The applicant has no other alternative for division of the property. Although the circumstances of bank financing is not a true finding of uniqueness it is important to clarify that such a Variance would not be warranted if it weren't due to new rules and regulations imposed by the Financial Institutions. The Financial Institution will only allow the applicant to finance for the home site area if the property is divided. Further the property is non-conforming as the Zoning Code does not allow 2 dwellings to be located on 1 parcel of land, allowing the division will remove the non-conforming nature of the site, even though particular Variances are needed.

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

On roll call to approve **Case No. 15-06-V** the vote was:

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

Nays: 0

Absent: 2 - Baum, Toevs

Motion declared carried.

CASE NO. 15-07-V: The petition of William and Felicia Siliskie for a Variance to waive the requirements of 7TCC1-7(f) to allow the creation of a new lot of record, containing an existing dwelling, 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 submitted a report regarding the proposed Variance request stating the property containing the existing dwelling was properly inspected in April of 2014, there they had no issue.

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

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

Greg Troyer, Little Mackinaw Township Road Commissioner made no comment regarding the proposed Variance request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating no impacts would be expected, however the Little Mackinaw Township Road Commissioner should be contact for comment.

School District 16 made no comment regarding the proposed Variance request.

William Siliskie appeared to testify on behalf of the proposed Variance request. Mr. Siliskie stated the property contained 9 acres of prime farm ground and 6 acres of timber. Mr. Siliskie said he intended to deed the dwelling and 2 to 3 acres to his son and his family and retain ownership of the remaining ground.

Following all Public Hearings, moved by May, seconded by Vaughn, to approve **Case No. 15-07-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. There would be no actual change for ingress and egress as the dwelling is existing and the easement is how the site has always been accessed. The only change is due to the family wanting to split the farm ground from the property which results in the need for the Variance. The easement will be owned by the father of the son who will live in the dwelling on 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. There would be no actual change for ingress and egress as the dwelling is existing and the easement is how the site has always been accessed. The only change is due to the family wanting to split the farm ground from the property which results in the need for the Variance. The easement will be owned by the father of the son who will live in the dwelling on 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. There would be no actual change for ingress and egress as the dwelling is existing and the easement is how the site has always been accessed. The only change is due to the family wanting to split the farm ground from the property which results in the need for the Variance. The easement will be owned by the father of the son who will live in the dwelling on 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. There would be no actual change for ingress and egress as the dwelling is existing and the easement is how the site has always been accessed. The only change is due to the family wanting to split the farm ground from the property which results in the need for the Variance. The easement will be owned by the father of the son who will live in the dwelling on 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. There would be no actual change for ingress and egress as the dwelling is existing and the easement is how the site has always been accessed. The only change is due to the family wanting to split the farm ground from the property which results in the need for the Variance. The easement will be owned by the father of the son who will live in the dwelling on 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. There would be no actual change for ingress and egress as the dwelling is existing and the easement is how the site has always been accessed. The only change is due to the family wanting to split the farm ground from the property which results in the need for the Variance. The easement will be owned by the father of the son who will live in the dwelling on the property.

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

POSITIVE. There would be no actual change for ingress and egress as the dwelling is existing and the easement is how the site has always been accessed. The only change is due to the family wanting to split the farm ground from the property which results in the need for the Variance. The easement will be owned by the father of the son who will live in the dwelling on the property.

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

On roll call to approve **Case No. 15-07-V**, the vote was:

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

Nays: 0

Absent: 2 - Baum, Toevs

Motion declared carried.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, April 7, 2015** 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 7:01 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.