

(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, May 5, 2015, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman Duane Lessen called the meeting to order.

PRESENT: Chairman Duane Lessen, Sandy May, Cheryl Linsley, Don Vaughn, and Ken Zimmerman

ABSENT: JoAn Baum, Loren Toevs, Phil Webb

STAFF: Kristal Deininger, Community Development Administrator; Jaclynn Workman, Inspections Coordinator; David Smesrud, Land Use Planner; Matt Drake, Assistant States Attorney; and Land Use Members: Chairman Terry Hillegonds, Monica Connett, Andrew Rinehart, John Redlingshafer, Gary Sciortino and Sue Sundell

OTHERS

PRESENT: Petitioners and Interested Parties

MINUTES: Moved by May, seconded by Zimmerman, to approve the Minutes of the April 7, 2015 Zoning Board of Appeals Meeting as modified. **Motion carried by voice vote.**

CASE NO. 15-15-S: The petition of Allen Terry Onken as Executor of the Iola Onken Estate for a Special Use to allow a non-conforming lot of record to be utilized as a dwelling site in an A-1 Agriculture Preservation District.

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

Tazewell County Health Department submitted a report regarding the proposed Special Use request having no comment.

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, with reservations regarding the proposed Special Use request.

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

Jim McCool, Groveland Township Road Commissioner made no comment regarding the proposed Special Use request.

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

School District 108 and 303 made no comment regarding the proposed Special Use request.

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

THE FOLLOWING CONTAINS TESTIMONY FOR BOTH CASE NO. 15-15-S AND CASE 15-16-V.

Mr. Terry Allen Onken appeared to testify on behalf of the proposed Special Use and Variance requests. Mr. Onken stated his mother had passed away and he is serving as Executor of the Estate. Mr. Onken said the property had been in the family since 1956, but have no need or desire to keep the acreage and they currently have a buyer who is interested in the property. Mr. Onken explained that an easement was put in place in 1981 to allow access to the site.

Administrator Deininger clarified that the easement was actually created in 1984.

Zona Schneider appeared with concerns and objections to the request. Mrs. Schneider stated that they own vacant property adjoining to the site with access rights to the easement. Mrs. Schneider stated she had concerns regarding use of the easement as part of the easement that is on her lot is only a 20' x 20' area which is low lying natural spring area. Ms. Schneider said she didn't think it would be feasible for construction vehicles to utilize that area of the easement without intruding onto to her property. Mrs. Schneider also stated her concerns regarding maintenance of the easement.

Mr. Randall Byland appeared with concerns and objections to the request. Mr. Byland stated that he also lives adjacent to the property immediately South of the easement and had concerns with regards to how close the actual driveway portion of the easement would be to his property. Mr. Byland added he also had concerns with regards to water run off from the site.

Following all Public Hearings, moved by Zimmerman, seconded by Vaughn, to approve **Case No. 15-15-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.*

NEGATIVE. Although the Special Use conforms to the regulations, the need for the Variance and waiver of the Subdivision Code exceeds the spirit and intent of the Comprehensive Plan, Zoning Code and Subdivision Code.

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.*

NEGATIVE. The proposed Special Use does not appear to be consistent with the relevant 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.*

NEGATIVE. Not all requirements of Article 25 of the Tazewell County Zoning Code have been satisfactorily met. The Special Use request does not meet the following requirements:

- That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- Seventy-five percent (75%) of the site contains soils having a productivity index of less than 125.
- Each such lot shall be at least one (1) acre in size and contain twenty (20) feet of frontage on a public road and the minimum lot width at the front building setback line shall be two hundred (200) feet.

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

NEGATIVE. Following testimony at the Hearing it is the determination of the Zoning Board that the Site would have adverse effects on adjacent properties due to accessing via the easement which encroaches on the westerly adjoining property. The easement which encroaches on the westerly adjoining property is not large enough in area to accommodate for vehicles and in is a low grassy waterway.

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.*

NEGATIVE. Although one new single family detached dwelling at this location is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity it was the determination of the Zoning Board of Appeals following testimony and information at the public hearing that allowing the creation of the new site is not conducive to the area and not consistent with the Comprehensive Land Use Plan of Tazewell County.

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.*

NEGATIVE. Following testimony at the Hearing it is the determination of the Zoning Board that the Site could be injurious to the use and enjoyment of other properties due to accessing via the easement which encroaches on the westerly adjoining property. The easement which encroaches on the westerly adjoining property is not large enough in area to accommodate for vehicles and in is a low grassy waterway.

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

NEGATIVE. A new single family detached dwelling is not anticipated to substantially diminish and / or impair property value within the neighborhood. However following testimony and information at the public hearing it was the determination of the Zoning Board of Appeals that allowing the creation of the new site is not conducive to the area and not consistent with the Comprehensive Land Use Plan of Tazewell County.

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

NEGATIVE. The property is proposed to be accessed a via private road easement which is not conducive to the area.

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.*

NEGATIVE. Given the current low traffic volumes on California Road (1,100 AADT), there are no foreseeable traffic congestion issues from granting the Special Use request. However, there is limited sight distance to the north due to the topography which could potentially create a hazard when pulling out onto California Rd. It is also noted that the County Subdivision Code states that dead-end streets shall be no longer than 600 feet and that same standard should be applied to private easements. The private easement for this lot is 680 feet in length.

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. Per the applicant, there are no livestock feeding operations within one-half miles of the subject parcel and is not anticipated to hinder the operation or expansion of such 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.*

NEGATIVE. Although the property is located more than one-half mile from a livestock feeding operation, the request over all is not conducive to the surrounding area.

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

NEGATIVE. The subject parcel is currently in crop production. According to the applicant, a majority of the site contains soils having a productivity index of less than 125. It is not clear at this time if the “majority” is at least seventy-five percent (75%) as indicated in the Zoning Code. Without exact figures, this is considered negative.

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

NEGATIVE. The Special Use request for a single family detached dwelling site is not consistent with the other existing single family detached homes in the vicinity because this particular lot does not have frontage along a public roadway, whereas other residences in the area have the required frontage.

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

NEGATIVE. Given its lack of frontage along a public roadway, the subject property is not suitable for the Special Use request as proposed in addition to all other reasons explained in the findings above.

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

On roll call to approve **Case No. 15-10-S** the vote was:

Ayes: 0

Nays: 5 – May, Linsley, Vaughn, Zimmerman and Chairman Lessen

Absent: 3 - Baum, Toevs, Webb

Motion declared failed.

(Upon approval of Case No. 15-15-S by the Zoning Board of Appeals)

CASE NO. 15-16-V: The petition of Allen Terry Onken, as Executor of the Iola Onken Estate for a Variance to waive the requirements of 7TCC1-7(f) to allow a non-conforming lot of record to be utilized as a dwelling

site which will not have frontage along a public roadway, but will have access via an existing private easement in an A-1 Agriculture Preservation Zoning District.

Tazewell County Health Department submitted a report regarding the proposed Variance request having no comment.

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 reservations regarding the proposed Variance request.

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

Jim McCool, Groveland Township Road Commissioner made no comment regarding the proposed Variance request.

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

School District 108 and 303 made no comment regarding the proposed Variance request.

PLEASE REFER TO CASE NO. 15-15-S FOR THE TESTIMONY FOR CASE 15-16-V.

The Zoning Board of Appeals did not arrive at a findings of fact or a decision due to the denial of Case No. 15-15-S therefore making this request null and void.

CASE NO. 15-17-V: The petition of Rick Butler for a Variance to waive the requirements of 7TCC1-15(e) to allow the creation of a new lot of record, which will not have frontage/lot width along a public roadway, but will have access via a private easement in an I-1 Heavy Industrial Zoning District.

Tazewell County Health Department submitted a report regarding the proposed Variance request having no comment.

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

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

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

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

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

Rick Butler d/b/a/ Woodworkers Shop/Pekin Hardwood appeared to testify on behalf of the proposed Variance request. Mr. Butler explained that they had been leasing the building located on the property to an individual for 3 years and now the individual is wishing to purchase the property, buy Mr. Butler would like to retain ownership of the access to the site and grant an easement to the potential buyer. Mr. Butler stated the easement will actual be 55' in width versus 60' as identified on the Site Plan.

Following all Public Hearings, moved by May, seconded by Vaughn, to approve **Case No. 15-17-V** amending the Easement from 60' in width to 55'.

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

1. *The particular surroundings, shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;*

POSITIVE. The applicant is limited in options to obtain the proper road frontage and there is not a need at this time for a Public Road at this location.

2. *The conditions upon which a petition for a variance are based are unique to the property for which the variance is sought and are not applicable, generally, to other property;*

POSITIVE. The applicant is limited in options to obtain the proper road frontage and there is not a need at this time for a Public Road at this location.

3. *Granting the variance will not be detrimental to the public welfare, nor injurious to other property or improvements in the neighborhood in which the property is located or otherwise be inconsistent with any officially adopted County Plan or these regulations;*

POSITIVE. Allowing the property to be accessed via a private road easement will not be detrimental to the public welfare.

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. Although the applicant is proposing to sell the property the proposal makes good use for a new business to be operated out of building that is currently vacant. The Zoning Board determined that a public road is not needed at this time at this location.

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.

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

POSITIVE. The applicant is limited in options to obtain the proper road frontage and there is not a need at this time for a Public Road at this location.

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

POSITIVE. The applicant is limited in options to obtain the proper road frontage and there is not a need at this time for a Public Road at this location.

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

On roll call to approve **Case No. 15-17-V**, the vote was:

Ayes: 5 – May, Linsley, Vaughn, Zimmerman and Chairman Lessen

Nays: 0

Absent: 3 - Baum, Toevs, Webb

Motion declared carried.

CASE NO. 15-18-V: The petition of Bob Fortner for a Variance to waive the setback requirements of 7TCC1-7(g)(3)(ii) to allow the construction of an Accessory Structure (Above Ground Swimming Pool) to be 15' from the Rear property line, which is 10' closer than allowed in an A-1 Agriculture Preservation Zoning District.

Tazewell County Health Department submitted a report regarding the proposed Variance request stating the setback from a seepage field is 5' for an above ground pool.

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

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

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

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

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

Bob Fortner appeared to testify on behalf of the proposed Variance request. Mr. Fortner leases the property from Michael Yordy. Mr. Fortner explained that the Variance is needed to due to the current location of the septic field and the existing barn located on the property.

Following all Public Hearings, moved by May, seconded by Zimmerman, to approve **Case No. 15-18-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 proposed location of the pool is the most practical due to the location of the seepage field and the existing barn 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. The proposed location of the pool is the most practical due to the location of the seepage field and the existing barn 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. Approving the Variance will not be detrimental to the public welfare, nor injurious to property and improvements in the area.

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 to install an above ground pool for personal enjoyment and the proposed location of the pool is the most practical due to the location of the seepage field and the existing barn 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. The proposed location of the pool is the most practical due to the location of the seepage field and the existing barn 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. The proposed location of the pool is the most practical due to the location of the seepage field and the existing barn on the property.

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

POSITIVE. The proposed location of the pool is the most practical due to the location of the seepage field and the existing barn on the property.

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

On roll call to approve **Case No. 15-18-V**, the vote was:

Ayes: 5 – May, Linsley, Vaughn, Zimmerman and Chairman Lessen

Nays: 0

Absent: 3 - Baum, Toevs, Webb

Motion declared carried.

CASE NO. 15-19-V: The petition of George Yocum for a Variance to waive the requirements of 7TCC1-7(g)(2)(ii) to allow the construction of an Accessory Structure (Unattached Garage) to be 10' from the South Side Property Line, which is 5' closer than allowed in an A-1 Agriculture Preservation Zoning District.

Tazewell County Health Department submitted a report regarding the proposed Variance request having no comment.

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

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

Jerry Brown, Elm Grove Township Road Commissioner made no comment regarding the proposed Variance request.

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

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

George Yocum appeared to testify on behalf of the proposed Variance request. Mr. Yocum stated that the need for the Variance for the garage to be placed in the proposed location is due area due to the topography of the site and the necessity to remain a safe distance from the existing fireplace on the dwelling.

Following all Public Hearings, moved by May, seconded by Linsley, to approve **Case No. 15-19-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 proposed location of the garage is the most practical and conducive with the existing layout of the dwelling. Further the applicant is limited in area due to the topography of the site and necessity to remain a safe distance from the existing fireplace on the 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 proposed location of the garage is the most practical and conducive with the existing layout of the dwelling. Further the applicant is limited in area due to the topography of the site and necessity to remain a safe distance from the existing fireplace on the 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. Granting the Variance will not be detrimental to the public welfare the applicant is limited in area due to the topography of the site and necessity to remain a safe distance from the existing fireplace on the 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.

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 requesting to construct the garage to allow for additional storage of personal items. The proposed location of the garage is the most practical and conducive with the existing layout of the dwelling. Further the applicant is limited in area due to the topography of the site and necessity to remain a safe distance from the existing fireplace on the 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 proposed location of the garage is the most practical and conducive with the existing layout of the dwelling. Further the applicant is limited in area due to the topography of the site and necessity to remain a safe distance from the existing fireplace on the 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 proposed location of the garage is the most practical and conducive with the existing layout of the dwelling. Further the applicant is limited in area due to the topography of the site and necessity to remain a safe distance from the existing fireplace on the dwelling.

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

POSITIVE. The proposed location of the garage is the most practical and conducive with the existing layout of the dwelling. Further the applicant is limited in area due to the topography of the site and necessity to remain a safe distance from the existing fireplace on the dwelling.

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

On roll call to approve **Case No. 15-19-V**, the vote was:

Ayes: 5 – May, Linsley, Vaughn, Zimmerman and Chairman Lessen

Nays: 0

Absent: 3 - Baum, Toevs, Webb

Motion declared carried.

RECESS

The Chairman called for a 10 minute Recess prior to Deliberations beginning at 7:03 P.M. and resumed the meeting at 7:13 P.M.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, June 2, 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 7:35 p.m.

Kristal Deininger, Secretary

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