

**(DRAFT COPY – SUBJECT TO APPROVAL BY THE ZONING BOARD OF APPEALS)**  
**MINUTES OF A PUBLIC HEARING AND THE DELIBERATIONS OF THE TAZEWELL COUNTY**  
**ZONING BOARD OF APPEALS**

A Public Hearing of the Tazewell County Zoning Board of Appeals was held at 6:00 P.M. on Tuesday, August 4, 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, 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: Monica Connett, Andrew Rinehart, Gary Sciortino and Sue Sundell

**OTHERS**

**PRESENT:** Petitioners and Interested Parties

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

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**CASE NO. 15-30-S:** The petition of Pat McGrath, Attorney representing Neil McMullen, Marilee Chapman and Jeanette Gommel as Executors of the Estate of Marilyn McMullen, and Jane Richmond as Trustee of the Jane A. Richmond Revocable Living Trust for a Special Use to create one new dwelling site in a Conservation Zoning District.

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

Tazewell County Health Department requiring additional information regarding wastewater from camping sites.

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

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

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

Trent Willis, Hopedale Township Road Commissioner made no comment regarding the proposed Special Use request.

Craig Fink, Tazewell County Highway Engineer submitted a report stating a traffic increase would not be anticipated and that the Township Highway Commissioner should be contacted.

School District 16 made no comment regarding the proposed Special Use request.

Attorney Pat McGrath appeared to testify on behalf of the proposed Special Use request. Mr. McGrath stated his client would like to parcel off a homestead site to build upon post retirement. Mr. McGrath said there was a total of 282 acres with a 70 acre gravel pit in the middle of the property. Mr. McGrath added the physical attributes of the property made it difficult for any land division and his client would like to utilize the property for a personal camp site until a dwelling is constructed. Mr. McGrath stated he had spoke with the Road Commissioner regarding the access and the access point to the property would be revisited at such a time when a dwelling permit would be issued. Mr. McGrath said his client is reaching the age of retirement and currently lives in DeKalb, however she desired to move back to the area once retired.

Following all Public Hearings, moved by May, seconded by Webb, to approve **Case No. 15-38-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 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.

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. Adjacent properties contain wooded areas, row crops, a gravel pit and open pasture, and the addition of a single family dwelling at this location will not adversely affect these other uses.

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

*POSITIVE.* The granting of this special use request will not 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 a mix of farmland, pasture, woodland and a few residential uses, which shall remain for the foreseeable future, limiting injury to the use and enjoyment of other property in the immediate area.

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

*POSITIVE.* The special use will not substantially diminish and / or impair property value within the neighborhood.

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

*POSITIVE.* The proposed building site has access to necessary utilities.

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.* As this is primarily an agricultural area, the traffic volumes on McMullen Road are lower than more intensely developed areas, so there should be no foreseeable traffic congestion or safety issues from granting the Special Use request. Sight distance to the west is slightly impaired upon exiting the anticipated driveway location onto McMullen Road. If the County Highway Engineer or Township Road Commissioner advises a treatment, this should be followed.

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. An additional single family home will not increase population density around livestock feeding operations to such levels as to hinder operation or expansion of livestock feeding operations.

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 a single family detached dwelling site is consistent with the other existing single family detached homes in the vicinity. The development pattern and density is appropriate for the area.

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

On roll call to approve **Case No. 15-38-S** the vote was:

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

Nays: 0

Absent: 2 - Baum and Toevs

**Motion declared carried.**

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**CASE NO. 15-39-V:** The petition of Bethany Community Church for a Variance to waive the requirements of 7TCC1-20(f)(5)(i) to allow the construction of an On Premise Sign to be 45 square feet, which is 13 square feet larger than allowed in an A-1 Agriculture Preservation 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 having no recommendation regarding the proposed Variance request.

Jon Oliphant, City of Washington 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 regarding the proposed Variance request making no comment.

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

Steve Hodel, Zendavor Creative Group appeared to testify on behalf of the proposed Variance request. Mr. Hodel stated Bethany Community Church was located on a very large property in an open area and they would like to clearly mark the entrance to the site for safety and traffic. Mr. Hodel said the large size would be better for visibility and there would be plenty of setback to alleviate the site distance issue. Mr. Hodel added the packet included the sign details and mentioned there was no immediate plan for sign lighting.

Following all Public Hearings, moved by Vaughn, seconded by Linsley, to approve **Case No. 15-39-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.** A larger sign is needed at this location to provide more visibility for the Church entrance for patrons, fire and safety personnel and would improve the traffic flow off of Dutch Lane onto the Church 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.** A larger sign is needed at this location to provide more visibility for the Church entrance for patrons, fire and safety personnel and would improve the traffic flow off of Dutch Lane onto the Church 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.**

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.** A larger sign is needed at this location to provide more visibility for the Church entrance for patrons, fire and safety personnel and would improve the traffic flow off of Dutch Lane onto the Church property. Further, a larger sign will be detrimental to the 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 Variance is simply needed to support optimum traffic flow and direction finding.

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.** A larger sign is needed at this location to provide more visibility for the Church entrance for patrons, fire and safety personnel and would improve the traffic flow off of Dutch Lane onto the Church property.

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

**POSITIVE.** A larger sign is needed at this location to provide more visibility for the Church entrance for patrons, fire and safety personnel and would improve the traffic flow off of Dutch Lane onto the Church property.

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

**POSITIVE.** A larger sign is needed at this location to provide more visibility for the Church entrance for patrons, fire and safety personnel and would improve the traffic flow off of Dutch Lane onto the Church property.

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

On roll call to approve **Case No. 15-39-V** the vote was:

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

Nays: 0

Absent: 2 - Baum and Toevs

**Motion declared carried.**

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**CASE NO. 15-40-V:** The petition of Gary Walters for a Variance to waive the requirements of 7TCC1-7(g)(3)(ii) to allow the creation of a new Zoning lot of record with an existing Accessory Structure to be 15' from the newly created Rear Property Line, which is 10' closer than allowed and to allow another existing Accessory Structure to be 5' from a newly created Side Property Line, which is 10' closer than allowed in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a report stating a new septic system to be installed shall remain on the property it serves.

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

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

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

Craig Fink, Tazewell County Highway Engineer submitted a report regarding the proposed Variance request stating a traffic increase would not be anticipated and that the Township Highway Commissioner should be contacted.

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

Attorney Pat McGrath appeared to testify on behalf of the proposed Variance request. Mr. McGrath stated his clients would like to sell the homestead and existing garage and retain ownership of the 240 acres of farmland and existing farm buildings. Mr. McGrath said the garage and shed requiring a variance were older buildings and there was not enough room between the 2 buildings to meet the setback requirements. Mr. McGrath added a new septic system would be installed on the new lot that contained the dwelling.

Following all Public Hearings, moved by May, seconded by Zimmerman, to approve **Case No. 15-40-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 buildings are all existing and are needed to remain with the property for the farming operation, however the house is no longer needed. It would be impossible to divide the house from the farming operation to meet the Zoning Code required setbacks.

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 buildings are all existing, and are needed to remain with the property for the farming operation however the house is no longer needed. It would be impossible to divide the house from the farming operation to meet the Zoning Code required setbacks.

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 buildings are all existing and are needed to remain with the property for the farming operation however the house is no longer needed. It would be impossible to divide the house from the farming operation to meet the Zoning Code required setbacks.

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 buildings are all existing and are needed to remain with the property for the farming operation however the house is no longer needed. It would be impossible to divide the house from the farming operation to meet the Zoning Code required setbacks.

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 buildings are all existing and are needed to remain with the property for the farming operation however the house is no longer needed. It would be impossible to divide the house from the farming operation to meet the Zoning Code required setbacks.

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

**POSITIVE.** The buildings are all existing and are needed to remain with the property for the farming operation however the house is no longer needed. It would be impossible to divide the house from the farming operation to meet the Zoning Code required setbacks.

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

**POSITIVE.** The buildings are all existing and are needed to remain with the property for the farming operation however the house is no longer needed. It would be impossible to divide the house from the farming operation to meet the Zoning Code required setbacks.

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

On roll call to approve **Case No. 15-40-V** the vote was:

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

Nays: 0

Absent: 2 - Baum and Toevs

**Motion declared carried.**

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**CASE NO. 15-41-V:** The petition of Mike Lance for a Variance to waive the requirements of 7TCC1-5(o)(1) allow the construction of a 6' Privacy Fence beyond the building setback line to the front property line to be 2' higher than allowed in a R-1 Low Density Residential District.

Tazewell County Health Department submitted a report stating no fence posts shall be installed in the area of the septic system.

Tazewell County Soil & Water Conservation District submitted a report having no comment .

Tazewell County Farm Bureau submitted a report having 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.

David Layne, IDOT submitted a report making no comment regarding the proposed Variance request.

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

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

Michael Lance appeared to testify on behalf of the proposed Variance request. Mr. Lance stated the dwelling on the property was completed in 2015 and a fence would help reduce the noise and lack of privacy from State Route 29. Mr. Lance said he looked at various screening options and a fence seemed like the best option. Mr. Lance added Security Fence would install a 6' white PVC fence with aluminum posts. Mr. Lance stated the kitchen window faces a tavern across Route 29 and the baffle of sound would be beneficial. Mr. Lance said he made the corrections necessary to address the Health Department's concerns with the septic system.

Following all Public Hearings, moved by Vaughn, seconded by May, to approve **Case No. 15-41-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 property has two front yards as it is bounded by Illinois Route 29 and Glenmar Drive. Realistically Illinois Route 29 serves as the rear for the property and in all other cases a fence of this nature would be allowed in a rear yard. The applicant is seeking to construct a taller fence to help with noise reduction from Illinois Route 29 and to provide for additional privacy.

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 property has two front yards as it is bounded by Illinois Rout3 29 and Glenmar Drive. Realistically Illinois Route 29 serves as the rear for the property and in all other cases a fence of this nature would be allowed in a rear yard. The applicant is seeking to construct a taller fence to help with noise reduction from Illinois Route 29 and to provide for additional privacy.

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 seeking to construct the fence for privacy and noise reduction.

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 property has two front yards as it is bounded by Illinois Route 29 and Glenmar Drive. Realistically Illinois Route 29 serves as the rear for the property and in all other cases a fence of this nature would be allowed in a rear yard. The applicant is seeking to construct a taller fence to help with noise reduction from Illinois Route 29 and to provide for additional privacy.

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

**POSITIVE.** The property has two front yards as it is bounded by Illinois Route 29 and Glenmar Drive. Realistically Illinois Route 29 serves as the rear for the property and in all other cases a fence of this nature would be allowed in a rear yard. The applicant is seeking to construct a taller fence to help with noise reduction from Illinois Route 29 and to provide for additional privacy.

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

**POSITIVE.** The property has two front yards as it is bounded by Illinois Route 29 and Glenmar Drive. Realistically Illinois Route 29 serves as the rear for the property and in all other cases a fence of this nature would be allowed in a rear yard. The applicant is seeking to construct a taller fence to help with noise reduction from Illinois Route 29 and to provide for additional privacy.

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

On roll call to approve **Case No. 15-41-V** the vote was:

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

Nays: 0

Absent: 2 - Baum and Toevs

**Motion declared carried.**

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### **NEXT MEETING**

The next meeting of the Zoning Board of Appeals will be **Tuesday, September 1, 2015** at 6:00 p.m. in the Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois.

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### **ADJOURNMENT**

There being no further business, moved by May, seconded by Vaughn, to adjourn the Zoning Board of Appeals Public Hearing at 6:55 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.