

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

PRESENT: Chairman Duane Lessen, Cheryl Linsley, Sandy May, Phil Webb and Ken Zimmerman

ABSENT: JoAn Baum, Don Vaughn

STAFF: Kristal Deininger, Community Development Administrator; Jaclynn Workman, Inspections Coordinator; Ryan Harms, Land Use Planner; Matt Drake, Assistant States Attorney; and Land Use Members: Monica Connett, K. Russell Crawford, Chairman Terry Hillemonds, Andrew Rinehart, Gary Sciortino, Sue Sundell.

OTHERS

PRESENT: Petitioners and Interested Parties

MINUTES: Moved by May, seconded by Webb, to approve the Minutes of the October 6, 2015 Zoning Board of Appeals Meeting. **Motion carried by voice vote.**

CASE NO. 15-51-S: The petition of Sandra Jones 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 regarding the proposed Special Use request recommending approval.

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

Jerry Brown, Elm Grove Township Road Commissioner submitted a report having no objection and that a new entrance and culvert has been installed by the Township.

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

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

THE FOLLOWING CONTAINS THE TESTIMONY FOR CASE 15-51-S AND CASE 15-52-V:

Sandra Jones appeared to testify on behalf of the proposed Special Use request. Ms. Jones stated she and her husband of 50 years, whom recently passed away in 2014 have resided at this property and due to her increasing age, she would like for her daughter to build a house next door in order to help maintain the 6 acres of ground. Ms. Jones said approximately 1 acre of ground was a pond, and they proposed approximately 2 acres to be utilized for the new dwelling site. Ms. Jones added she was limited on the available lot width and setbacks due to the placement of an existing storage building, which is directly wired to the home on the property she would retain.

Following all Public Hearings, moved by May, seconded by Webb, to approve **Case No. 15-51-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 Special Use will be consistent with the following goals, objectives, and policies of the Tazewell County Comprehensive Plan:

- Locate new residential development near roadways and contiguous to existing development to preserve agricultural land.
- Direct development in rural areas to locations where suitable conditions for septic systems and groundwater supply exist.
- Design new development to conform to the existing development pattern and potential future development patterns.

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

POSITIVE. Per the application, the requirements of Article 25 of the Tazewell County Zoning Code have been met.

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

POSITIVE. The proposed Special Use is an additional dwelling site in an established rural residential area. 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. The area surrounding the site is largely agricultural, but also contains several residential homes. The construction and habitation of an additional single family home 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. Property in the immediate vicinity of the subject property is used for single-family residences and agriculture. Two established residential homes exist to the immediate west and east of the proposed Special Use. Therefore, the proposed Special Use will not be injurious to the use of property for the purposes already permitted.

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

POSITIVE. Residential homes already exist in the vicinity of the subject property. The proposed Special Use of the construction of another single family home will not substantially diminish nor impair property values in the area.

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

POSITIVE. Per the applicant, the subject property has access to power utilities. A well has already been installed and a new septic system will be installed.

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. Traffic volume along Allentown Road is reasonably calm (ADT: ~400), and an additional single-family home is not expected to generate considerable traffic. Therefore, there are no foreseeable traffic congestion or safety issues associated with the proposed Special Use.

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 mile of the subject property. There are already established homes in the immediate vicinity, and an additional home will not hinder the operation or expansion of such an 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.*

NOT APPLICABLE

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

POSITIVE. The site of the proposed Special Use is not farmed land, and is directly adjacent to two residential uses in the A-1 district. The Special Use request is consistent with the other single family homes in the vicinity and will not generate negative impacts affecting nearby uses. The proposed Special Use will be consistent with existing uses within the general area.

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

POSITIVE. Given the reasons stated above, the subject property is suitable for the Special Use request.

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

On roll call to approve **Case No. 15-51-S** the vote was:

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

Nays: 0

Absent: 2 - Baum and Vaughn

Motion declared carried.

(Upon approval of Case No. 15-51-S by the Zoning Board of Appeals)

CASE NO. 15-52-V: The petition of Sandra Jones for a Variance to waive the requirements of 7TCC1-7(e) to allow a new zoning lot of record to be 125' wide at the Building Setback Line, which is 75' less than allowed, and to waive the requirements of 7TCC1-7(g)(2)(ii) to allow an 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 Zoning.

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

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

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

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

Jerry Brown, Elm Grove Township Road Commissioner submitted a report having no objection and that a new entrance and culvert has been installed by the Township.

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

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

PLEASE REFER TO CASE NO 15-51-S FOR THE TESTIMONY FOR CASE 15-52-V.

Following all Public Hearings, moved by May, seconded by Linsley, to approve **Case No. 15-52-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 current location of the existing garage and shape of the property, the applicant has no other alternatives, therefore the division of the lot as proposed is the most practical.

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 current location of the existing garage and shape of the property, the applicant has no other alternatives, therefore the division of the lot as proposed is the most practical.

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's daughter will be constructing a new home on the new proposed lot.

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.

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

POSITIVE. Due to the current location of the existing garage and shape of the property, the applicant has no other alternatives, therefore the division of the lot as proposed is the most practical.

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

On roll call to approve **Case No. 15-52-V** the vote was:

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

Nays: 0

Absent: 2 - Baum and Vaughn

Motion declared carried.

CASE NO. 15-53-V: The petition of Victor Grethey of Grethey Construction on behalf of Henderson-Weir Agency, Inc. for a Variance to waive the requirements of 7TCC1-10(f)(1)(iv) to allow the construction of an Accessory Structure (Unattached Garage) to be 12' from the Edge of the Right of Way, which is 13' closer 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 regarding the proposed Variance request having no recommendation.

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

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

School District 701 made no comment regarding the proposed Variance request.

Victor Grethey appeared to testify on behalf of the proposed Variance request. Mr. Grethey stated the property owner wanted to construct a detached garage at the right front of the property. Mr. Grethey said the home was formerly a weekend home that is now being sold as a permanent residence. Mr. Grethey added there were no future homes to be developed on this small cul-de-sac. Mr. Grethey stated a second entrance for the proposed garage had already been approved by the Heritage Lake Homeowners Association.

Following all Public Hearings, moved by Zimmerman, seconded by Webb, to approve **Case No. 15-53-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 the irregular shape and slope of the lot, there is no other practical location for placement of the new garage.

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 the irregular shape and slope of the lot, there is no other practical location for placement of the new garage.

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 property is owner is simply seeking to construct a new garage as currently there is no garage for storage of personal items and vehicles.

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. Due the irregular shape and slope of the lot, there is no other practical location for placement of the new garage.

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

POSITIVE. Due the irregular shape and slope of the lot, there is no other practical location for placement of the new garage.

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

On roll call to approve **Case No. 15-53-V** the vote was:

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

Nays: 0

Absent: 2 - Baum and Vaughn

Motion declared carried.

CASE NO. 15-54-V: The petition of Shirley Weir Rowell for a Variance to waive the requirements of 7TCC1-16(f) to allow the creation of a new zoning lot of record, containing an existing dwelling to have 20' of frontage along Weir Road, which is 180' less than allowed in a Conservation 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 report regarding the proposed Variance request recommending approval.

Wylie Coriell, Sand Prairie Township Road Commissioner made no comment regarding the proposed Variance request.

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

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

Shirley Rowell appeared to testify on behalf of the proposed Variance request. Ms. Rowell stated she decided it was time to sell the house and outbuildings, however she wanted to retain ownership of the farmland. Ms. Rowell said she proposed approximately 2 acres with the house, and giving the lot the 200' of require frontage would remove farmland from production. Mr. Rowell added the lane to the home was existing and there have never been any problems getting vehicles or implements down the lane.

Following all Public Hearings, moved by May, seconded by Linsley, to approve **Case No. 15-54-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 existing driveway 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. If the requirements of the Zoning Code were met the petitioner would be forced to remove farmland from production.

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 existing driveway 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. If the requirements of the Zoning Code were met the petitioner would be forced to remove farmland from production.

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 applicants are elderly and can no longer maintain the house and buildings.

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. There would be no actual change for ingress and egress as the dwelling is existing and the existing driveway 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. If the requirements of the Zoning Code were met the petitioner would be forced to remove farmland from production.

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 existing driveway 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. If the requirements of the Zoning Code were met the petitioner would be forced to remove farmland from production.

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

On roll call to approve **Case No. 15-53-V** the vote was:

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

Nays: 0

Absent: 2 - Baum and Vaughn

Motion declared carried.

NEXT MEETING

Administrator Deininger stated there would be no meetings conducted during the month of December.

The next meeting of the Zoning Board of Appeals will be **Tuesday, January 5, 2016** 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 Webb, to adjourn the Zoning Board of Appeals Public Hearing at 6:40 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.