

(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, September 1, 2015, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman Duane Lessen called the meeting to order.

PRESENT: Chairman Duane Lessen, Joan Baum, Alternate Mike Lance, Sandy May, Don Vaughn, Phil Webb and Ken Zimmerman

ABSENT: Cheryl Linsley

STAFF: Kristal Deininger, Community Development Administrator; Jaclynn Workman, Inspections Coordinator; Ryan Harms, Land Use Planner; Maggie Martino; Matt Drake, Assistant States Attorney; and Land Use Members: Monica Connett, K. Russell Crawford, and Gary Sciortino

OTHERS

PRESENT: Petitioners and Interested Parties

MINUTES: Moved by May, seconded by Webb, to approve the Minutes of the August 4, 2015 Zoning Board of Appeals Meeting. **Motion carried by voice vote.**

CASE NO. 15-42-S: The petition of Theo Kindred for a Special Use to allow the construction of an Accessory Structure to be 2,000 square feet, which will bring the total square footage of all accessory structures to 2,960 square feet, which is 1,117 square feet larger than allowed in an R-1 Low Density Residential 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 requesting the distance from the septic system to the proposed Accessory Structure.

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

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

Darel Knaak, Spring Lake Township Road Commissioner submitted a report stating that the proposed structure may block the view of traffic pulling out onto the Manito Blacktop.

Craig Fink, Tazewell County Highway Engineer submitted a report regarding the proposed Special Use request stating there may not be access onto Manito Road and that the Township Highway Commissioner should be contacted regarding the access to Bass Road.

School District 606 made no comment regarding the proposed Special Use request.

Theo Kindred appeared to testify on behalf of the proposed Special Use request. Mr. Kindred stated he needed a large garage for his 5th wheel, truck, trailer, work truck and all personal items. Mr. Kindred said he would propose a new entrance 8' directly West of the proposed structure to access Bass Road. Mr. Kindred added the building would have 14' side walls in order to fit the travel trailer. Mr. Kindred stated the proposed structure would be 100' from Bass Road.

Following all Public Hearings, moved by May, seconded by Baum, to approve **Case No. 15-42-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.*

NOT APPLICABLE. This issue is not directly addressed in the Tazewell County Comprehensive Plan.

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, except for a letter from the township road commissioner approving the additional entrance on Bass Road.

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

POSITIVE. Anticipated adverse effects from the granting of the requested Special Use are to be minimal. The neighbor to the east has a fence that will block some of the view and the existing garage blocks the view from the neighbor to the north. Placement of the proposed accessory structure will be at the same front setback as the existing garage and will be the same color as the house for consistency.

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 accessory structure is not anticipated to be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the neighboring vicinity.

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

POSITIVE. The Special Use will not be injurious 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. Given its proposed location, a new accessory structure is not anticipated to substantially diminish and/or impair property value within the neighborhood. It is to be brand new construction completed by a professional contractor.

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

POSITIVE. The accessory structure has access to utilities from the existing dwelling on site.

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. The petitioner proposes to build another driveway access off Bass Road for the proposed accessory structure. The two driveways will be about 100 feet apart. It is not know at this time if the township road commission has approved this new entrance.

10. *The evidence establishes that granting the use, which is located one-half mile or less from a livestock feeding operation, will not increase the population density around the livestock feeding operation to such levels as would hinder the operation or expansion of such operation.*

NOT APPLICABLE.

11. *Evidence presented establishes that granting the use, which is located more than one-half mile from a livestock feeding operation, will not hinder the operation or expansion of such operation.*

NOT APPLICABLE.

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

NOT APPLICABLE.

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 detached accessory structure is not consistent with the other existing single family detached homes and accessory structures in the immediate vicinity, as there are few other secondary accessory buildings of this size in the vicinity.

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

POSITIVE. Given its size and topography, the subject property is suitable for the Special Use request as proposed.

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

On roll call to approve **Case No. 15-42-S** the vote was:

Ayes: 7 –Baum, Alt. Lance, May, Vaughn, Webb, Zimmerman and Chairman Lessen

Nays: 0

Absent: 1 - Linsley

Motion declared carried.

CASE NO. 15-43-S: The petition of Scott Burroughs of Burroughs Farms, LLC. for a Special Use to allow the operation of an Ag Related Business for the purposes of installation and maintenance of technological components for a wide range of Ag related products and equipment in an A-1 Agriculture Preservation District.

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

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 having no comment regarding the proposed Special Use request.

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

Greg Menold, Morton Township Road Commissioner submitted a report having no objection.

Dave Weaver, Washington Township Road Commissioner submitted a report reiterating the weight limits that are posted along Cooper Road in the spring.

Craig Fink, Tazewell County Highway Engineer submitted a report stating the Township Highway Commissioner should be contacted.

Jon Oliphant, City of Washington submitted a report stating the proposed Special Use was compatible with their Comprehensive Plan, however they recommended conditions be placed on the operation.

School District 50 and 308 made no comment regarding the proposed Special Use request.

Scott Burroughs appeared to testify on behalf of the proposed Special Use request. Mr. Burroughs stated he would like to operate an Ag Related business from the site of his family farm, Burroughs Farms, which has been in the area since 1896. Mr. Burroughs said the business was called Bottom Line which was in the business of ag technology. Mr. Burroughs added there was only himself and one other family member that were employees of the business. Mr. Burroughs stated there would be no outside storage or sales area related to the business. Mr. Burroughs said the building would mainly be used for storage for Burroughs Farms and grain, along with their additional storage locations in Northern Tazewell County. Mr. Burroughs added there were numerous buildings on the existing property and the area for the proposed building had been a cattle lot and pasture area. Mr. Burroughs stated he owned or farmed all of the adjacent land to the proposed site. Mr. Burroughs said the building proposed would have a low roof structure and would use colors that were aesthetically pleasing. Mr. Burroughs added he had no intended change in the future use of the building from the light industrial nature. Mr. Burroughs stated there was not a stormwater permit because of the agricultural use of the building, however he stated the run off from the roof area was being retained in order to rinse of machinery. Mr. Burroughs said all the agriculture traffic used the Morton Township Road and he would abide by the required road regulations and weight limits. Mr. Burroughs added the shop and storage area would be used solely for Burroughs Farms and only the office area would be utilized for Bottom Line. Mr. Burroughs stated Bottom Line primarily did on-site servicing at the customers properties, with the client base being in Tazewell, Logan and Mason Counties. Mr. Burroughs said he may add one additional office person, and there were no sales from the site. Mr. Burroughs said the existing sign would remain for Burroughs Farms.

Following all Public Hearings, moved by Zimmerman, seconded by Baum, to approve **Case No. 15-43-S** with the following conditions:

1. No more than 10% of the 100'x300' structure shall be utilized for the Ag Related Business; and

2. There shall be no more than 5 employees associated with the Ag Related Business.

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:

- Promote the establishment of agricultural businesses in agricultural areas
- Develop and attract businesses related to agriculture

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

POSITIVE. Per the applicant's submitted site plan, all requirements of Article 25 of the Tazewell County Zoning Code will be satisfactorily met.

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

POSITIVE. The primary use of the building is for the Burroughs Farming operation, and only a 60' x 40' area will be designated for the Ag related business. There will be no adverse effects or visual impacts on adjacent property and the Burroughs owns the farm ground surrounding the property on 3 sides.

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 primary use of the building is for the Burroughs Farming operation, and only a 60' x 40' area will be designated for the Ag related business.

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 agriculture aspect of the business will not be injurious to the surrounding area which is primarily farmland, and will remain in crop production for the foreseeable future.

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

POSITIVE.. The primary use of the building is for the Burroughs Farming operation, and only a 60' x 40' area will be designated for the Ag related business. A use of this nature will not diminish or impair property values.

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

POSITIVE. There is adequate access to utilities from the existing property. Electric lines are to be buried, per the applicant. There is to be direct access to the site from Cooper Road to facilitate any movement of agriculture related machinery and equipment.

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. The petitioner testified that there will be very little traffic related to the Ag-business.

10. *The evidence establishes that granting the use, which is located one-half mile or less from a livestock feeding operation, will not increase the population density around the livestock feeding operation to such levels as would hinder the operation or expansion of such operation.*

NOT APPLICABLE.

11. Evidence presented establishes that granting the use, which is located more than one-half mile from a livestock feeding operation, will not hinder the operation or expansion of such operation.

NOT APPLICABLE.

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

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 agriculture aspect of the business will not be injurious to the surrounding area which is primarily farmland, and will remain in crop production for the foreseeable future.

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, with conditions.

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

On roll call to approve **Case No. 15-43-S** the vote was:

Ayes: 7 – Baum, Alt. Lance, May, Vaughn, Webb, Zimmerman and Chairman Lessen

Nays: 0

Absent: 1 - Linsley

Motion declared carried.

CASE NO. 15-44-V: 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 Variance to waive 7TCC1-16(d) to allow the creation of a new zoning lot of record to be 26.47 acres, which is 13.53 acres less than allowed in a Conservation 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 regarding the proposed Variance request.

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

Trent Willis, Hopedale 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 stating no impacts would be expected, however the Township Road Commissioner should be contacted for comment.

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 the proposed site was originally part of a 282 acre undivided farm and was being divided up according to what works with how it was being utilized. Mr. McGrath said the proposed split of the property would allow for the recreational use of the property, rather than the commercial use such as the gravel pit. Mr. McGrath added the entrance to the property was onto a township road and there would be no adverse affect on any adjacent property owners. Mr. McGrath said the property North of the Mackinaw River was land locked and there was a prospective buyer looking for a recreational piece of ground. Mr. McGrath added they were aware the majority of the property was located in a floodplain.

Following all Public Hearings, moved by May, seconded by Baum, to approve **Case No. 15-44-V.**

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

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

POSITIVE. The majority of the property is located within the floodplain and the Mackinaw River splits the property which makes access to rear of the property difficult, allowing the Variance is the most practical due to the limited use of this site.

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 majority of the property is located within the floodplain and the Mackinaw River splits the property which makes access to rear of the property difficult, allowing the Variance is the most practical due to the limited use of this site.

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. Although the division of the property is to due a sale, allowing the Variance is the highest and best use of the site.

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 majority of the property is located within the floodplain and the Mackinaw River splits the property which makes access to rear of the property difficult, allowing the Variance is the most practical due to the limited use of this site.

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

POSITIVE. The majority of the property is located within the floodplain and the Mackinaw River splits the property which makes access to rear of the property difficult, allowing the Variance is the most practical due to the limited use of this site.

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

POSITIVE. The majority of the property is located within the floodplain and the Mackinaw River splits the property which makes access to rear of the property difficult, allowing the Variance is the most practical due to the limited use of this site.

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

On roll call to approve **Case No. 15-44-V** the vote was:

Ayes: 7 –Baum, Alt. Lance, May, Vaughn, Webb, Zimmerman and Chairman Lessen

Nays: 0

Absent: 1 - Linsley

Motion declared carried.

CASE NO. 15-45-V: The petition of Jeffrey Weller for a Variance to waive the requirements of 7TCC1-5(p)(1) and (2) to allow the placement of an In-Ground Swimming Pool which will not have the required wall or fence enclosure of four (4) feet minimum height or a Power Safety Cover as required by the Zoning Code in an A-1 Agriculture Preservation Zoning District.

Tazewell County Health Department submitted a report regarding the proposed Variance request stating the request would create an attractive nuisance and poses a threat to health and safety.

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

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

Roger Spangler, Village of Morton submitted a report regarding the proposed Variance request stating this matter was a life safety issue and could be very detrimental to the welfare of area residents.

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

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

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

Toni Weller appeared to testify on behalf of the proposed Variance request. Ms. Weller stated she would prefer to not install a fence as the pool is 75' from an existing pond. Ms. Weller said there was a 4' to 5' retaining wall on either side of the pool as a barrier, Ms. Weller added they did not have a hard cover for the pool as they were unaware they needed one given the contractor pulled the Permits. Ms. Weller stated the pool was 3' to 8' deep and there were 4 other pools in the neighborhood, 3 of which were constructed prior to any zoning ordinance. Ms. Weller said there was a 4 year old that lived next door. Ms. Weller added the existing pond in the area was 10' deep and was shared by 3 families. Ms. Weller stated due to the cost of a power safety cover and the process to anchor it to the concrete, she does not want to install one at this time. Ms. Weller said she did not want to install a fence either.

Following all Public Hearings, moved by Webb, seconded by Zimmerman, to approve **Case No. 15-45-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;*

NEGATIVE. There are no physical or topographical conditions that exist as the reason why the petitioner is unable to provide a fence or automatic pool cover as required by the Zoning Code. The strict letter of the regulations should be carried in out in this situation as allowing a waiver of this nature could set a dangerous precedent and serious life safety issues. All pools of this nature should have a barrier as described by the Zoning Code.

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;*

NEGATIVE. There are no conditions that exist that are unique to the property. Not requiring a barrier as described by the Zoning Code presents a life safety issue.

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;*

NEGATIVE. Granting the Variance will be detrimental to the public welfare and will be injurious to properties and families in the neighborhood and presents a serious life safety issue.

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;*

NEGATIVE. Granting the Variance would endanger the public safety for the properties in the surrounding area.

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

NEGATIVE. The petitioner stated in the application that they could not afford to install an automotive pool cover as they were out of money. Providing fencing or an automatic pool cover is an additional cost of having pools of this nature because of the potential life safety issues associated with pools that do not have a barrier.

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;*

NEGATIVE. Requiring the petitioner to meet the criteria of the Zoning Code will not deprive the applicant a reasonable use of their property.

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

NEGATIVE. Requiring the petitioner to meet the criteria of the Zoning Code will not deprive the applicant a reasonable use of their property.

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

NEGATIVE. The strict letter of the regulations should be carried out in this situation as allowing a waiver of this nature could set a dangerous precedent and serious life safety issues. All pools of this nature should have a barrier as described by the Zoning Code.

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

On roll call to approve **Case No. 15-45-S** the vote was:

Ayes: 0

Nays: 7 –Baum, Alt. Lance, May, Vaughn, Webb, Zimmerman and Chairman Lessen

Absent: 1 - Linsley

Motion failed.

RECESS

The Chairman called for a 10 minute Recess prior to Deliberations beginning at 7:20 P.M. and resumed the meeting at 7:30 P.M.

NEXT MEETING

The next meeting of the Zoning Board of Appeals will be **Tuesday, October 6, 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 Baum, to adjourn the Zoning Board of Appeals Public Hearing at 8:00 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.