

**(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 2, 2016, Tazewell County Justice Center, 101 South Capitol Street, Pekin, Illinois. Chairman Duane Lessen called the meeting to order.

**PRESENT:** Chairman Duane Lessen, Alternate Mike Lance, Cheryl Linsley, Sandy May, Don Vaughn and Ken Zimmerman

**ABSENT:** JoAn Baum, Phil Webb

**STAFF:** Kristal Deininger, Community Development Administrator; Jaclynn Workman, Inspections Coordinator; Matt Drake, Assistant States Attorney; Maggie Martino, Land Use Planner; and Land Use Members: John Redlingshafer and Sue Sundell

**OTHERS**

**PRESENT:** Petitioners and Interested Parties

**MINUTES:** Moved by May, seconded by Linsley, to approve the Minutes of the July 6, 2016 Zoning Board of Appeals Meeting. **Motion carried by voice vote.**

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**CASE NO. 16-01-R:** An Appeal made by Jon Gillespie to reverse the decision and interpretation issued by the Community Development Administrator with regards to the interpretation of the definition of an “Outdoor Shooting Range” under TCC 1-2 (b) Glossary of Terms of the Tazewell County Zoning Code. The Community Development Administrator has ruled that Averyville Baptist Church was not conducting an “Outdoor Shooting Range” by allowing congregation members to target shoot on the Church premises. Mr. Gillespie alleges that the Community Development Administrator made an error in this decision and determination and Averyville Baptist Church should not be permitted to allow target shooting by congregation members on the Church premises in an A-1 Agriculture Preservation District.

Tazewell County Health Department submitted a report having no comment regarding the Appeal.

Tazewell County Soil & Water Conservation District made no comment regarding the Appeal.

Tazewell County Farm Bureau submitted a report making no recommendation regarding the Appeal.

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

David Layne, IDOT submitted a report having no comment regarding the Appeal.

Jon Gillespie appeared to testify on behalf of the proposed appeal. Mr. Gillespie stated he wanted to preserve the safety of the neighboring properties by ceasing the shooting that has taken place at the church property on Spring Bay Road. Mr. Gillespie referenced the Outdoor Shooting Range as referenced in several areas of the Code. Mr. Gillespie said there were photos in the provided exhibits showing the berm with multiple users accessing the range at multiple times at random as well as several police reports. Mr. Gillespie added he contacted Community Development on April 12<sup>th</sup>, following a Conceal Carry class that was held at the site in question. Mr. Gillespie stated there was a Violation issued by the Community Development office which was later abated, however he argued that the property met the definition of outdoor shooting range and area neighbors were concerned of the activities, children and animals alike were fearful. Mr. Gillespie said the definition of shooting range was not clear as to whether it addressed private or commercial, therefore, it should encompass both. Mr. Gillespie added there were nearly 37 residential properties within 1,000 feet of the berm and discussed the traveling distance of firearm rounds from various types of weapons. Mr. Gillespie stated there was a shooting range north of the church property that was much better suited for this type of activity. Mr. Gillespie submitted a Petition signed by residents, FOID cardholders, and the like stating the shooting range should not be allowed to continue. Mr. Gillespie said the church has never offered any communication with the residents regarding any proposed shooting at the property and the subdivision was developed 10 to 12 years prior. Mr. Gillespie added that he was a spokesman for the subdivision and had nothing against the 2<sup>nd</sup> Amendment as he was a FOID holder. Mr. Gillespie stated that he was not anti-gun but was against the unannounced gunfire and that with the development of the subdivision in the area, times have changed.

Administrator Deininger stated Mr. Gillespie was accurate in his timeline of the events that transpired to initiating a Notice of Violation. Ms. Deininger explained that following her conversation with the Pastor of the church, it was determined that the target shooting was not considered commercial, simply private use on private property which is not addressed by the Zoning Code, therefore it would be allowed. Ms. Deininger said in the 38 years the church had existed and been shooting on the property, there have never been concerns addressed nor complaints made to her Department. Ms. Deininger added the concealed carry class was in violation, and they were asked to cease any further shooting activity of any kind pending the decision of the Zoning Board regarding the Appeal by Mr. Gillespie.

Roman Stear appeared to testify on behalf of the Appeal. Mr. Stear stated he had been a resident of the area since 2005 and had never noticed any gunfire until 2015 and 2016. Mr. Stear said there had been numerous vehicles at the site, some with children and there has even been rapid firing of weapons into the berm. Mr. Stear added a deputy had told him the berm was 300' from the property line, therefore it was legal, however he felt the berm was closer and illegal. Mr. Stear stated he recently found a bullet lying in his driveway, he would assume was from the church shooting activities. Mr. Stear said the gunfire is very loud at times and he had to keep his doors and windows shut to muffle the sound. Mr. Stear added the gunfire happens on weekdays and weekends alike.

Pastor David Coyle appeared to testify against the proposed Appeal. Pastor Coyle stated he had been on staff with the church for 30 years and had been Pastor for 25 years and the use was not a shooting range. Pastor Coyle said what they shoot into was a burn pile that was 10' to 15' tall and at least 25' to 30' wide at the base. Pastor Coyle added church members do recreational shooting as well as dove or vermin hunt on the additional 23 acres owned by the church. Pastor Coyle stated there had not been any complaints until the last 5 years. Pastor Coyle said in from 1998 to 2007 the church would have a Civil War re-enactment over 2 weekend days there they would have 85 actors all with rifles and cannons. Pastor Coyle referred to photos he submitted and stated that both Tazewell County and Sheriff County deputies were satisfied with the safety precautions and he would always notify each prior to any shooting activity. Pastor Coyle added that there was a 6' perimeter fence that only a handful of people had a key to in order to access the area to shoot and the berm was at least 500' to the nearest residence. Pastor Coyle stated the church taught gun safety to the congregation and children. Pastor Coyle said any shooting would take place in the late afternoon into early evening for approximately 30 minutes, and that the church has 3 rules that no shooting was allowed after 7 pm, you must contact the Pastor prior to any shooting and you are limited to only 30 minutes to an hour. Pastor Coyle added there were no automatic weapons allowed, only shotguns, rifles and pistols. Pastor Coyle stated he did not feel any projectiles could leave the site, and the purpose of allowing church members to shoot on the property was not to operate a shooting range.

Patrick Sampo appeared to testify against the proposed Appeal. Mr. Sampo stated he lived within the City of Washington and could not shoot a gun at his property. Mr. Sampo said a membership into a gun range or club could cost from \$100 to \$500 a year and all ranges in close proximity were closed. Mr. Sampo added he had been a member of church for 3 years and he had moved here from Missouri where the County operated the gun ranges.

Jacob Coyle appeared to testify against the proposed Appeal. Mr. Coyle stated the berm was constructed as more than just a pile of dirt but it was not a "facility" as the definition in the Zoning Code refers to a shooting range as being. Mr. Coyle said the Midwest Gun Range referred to was for shotguns only, so it was not feasible for someone wanting to shoot handguns to join. Mr. Coyle added the berm on the property made the shooting safer, but it could easily be removed if the berm was causing the property to be called a shooting range. Mr. Coyle stated he was a 31 year member of the church and that he was also given permission to hunt on the adjacent land to the church, which he had done for many years.

Fred Trine appeared to testify against the proposed Appeal. Mr. Trine stated that he did not hunt nor keep a gun in the house but with the news showing all of the tragedy around the world he felt it necessary to attend the concealed carry course out of concern for his family and church family. Mr. Trine said that he was sorry if disrupted the homes of those that have moved to the area.

Following all Public Hearings, moved by May, seconded by Zimmerman, to uphold the decision of the Zoning Administrator regarding **Case No. 16-01-R** based upon the following factors:

1. Reversing the decision of the Community Development Administrator would not be consistent with the terms and the regulations of the Tazewell County Zoning Code. The Zoning Board of Appeals concluded that the Administrator did not error in her interpretation of the definition of an "Outdoor Shooting Range". The Church property is private property and the target shooting is a private use where there is no financial profit or a form of Commercial business or use being conducted on site.
2. Reversing the decision of the Community Development Administrator would set a precedent as target shooting on the Church property is similar to any homeowner that would be target shooting and inviting friends and family to participate. Target shooting on private property does not constitute and "Outdoor Shooting Range".
3. The Zoning Board of Appeals is aware that Tazewell County does not have an Ordinance regulating target shooting on private property unlike local municipalities. However, the Zoning Board of Appeals added an amendment to their decision encouraging Averyville Baptist Church and the surrounding property owners to collaborate in a unified effort to find alternatives arriving at a comprise which could collectively satisfy all parties.

On roll call to uphold the decision of the Zoning Administrator the vote was:

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

Nays: 0

Absent: 2 - Baum, Webb

**Motion declared carried.**

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**CASE NO. 16-40-V:** The petition of Daniel Brown for a Variance to waive the requirements of 7TCC1-8(f) to allow the creation of a new lot of record to be utilized as a dwelling site which will not have frontage along a public roadway, but will have access via a private easement in an A-2 Agriculture Zoning District.

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

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

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

Craig Fink, Tazewell County Highway Engineer submitted a report regarding the proposed Variance request stating a slight increase in traffic would be expected.

School District 703 made no comment regarding the proposed Variance request.

Attorney Mark Allen appeared to testify on behalf of the proposed Variance request. Mr. Allen stated the existing residence was owned by the petitioner's daughter and that they would obtain 10 acres adjacent to that residence and utilized the existing lane for a new dwelling. Mr. Allen said the surrounding area was owned by and farmed by family. Mr. Allen added the grandfather and father would retain the right to farm the parcel and the proposed lot would not be landlocked due to its ingress and egress agreement which was approved by the County Board through a Subdivision Modification.

Following all Public Hearings, moved by Zimmerman, seconded by May, to approve **Case No. 16-40-V.**

After considering all the evidence and testimony presented, the ZBA discussed the findings of fact 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 is no other alternative for the applicant and tillable farmland could be in jeopardy if the applicant was forced to meet the required frontage.

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 circumstances are unique as there is not a need for fee simple ownership at this location and allowing the easement reduces the need to remove prime 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.* The Tazewell County Board approved a Road Waiver Resolution LU-16-04 on July 27, 2016, to allow the property to be accessed via the private road easement finding that the allowing the private road easement would not have a negative effect on the purpose of the Comprehensive Plan.

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 properties involved are owned by family members and the applicant is seeking to construct a new home on the parcel in questions. There is no monetary gain with regards to this Variance.

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.* There is no other alternative for the applicant and tillable farmland could be in jeopardy if the applicant was forced to meet the required frontage.

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

On roll call to approve **Case No. 16-40-V** the vote was:

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

Nays: 0

Absent: 2 - Baum, Webb

**Motion declared carried.**

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**CASE NO. 16-41-V:** The petition of Donna Horton for a Variance to waive the requirements of 7TCC1-10(f)(1)(iii) to allow the construction of an Addition to an existing Dwelling (Porch) to be 38' from the centerline of East Almond Drive, which is 12' closer than allowed in a R-1 Low Density Residential District

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

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

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

Craig Fink, Tazewell County Highway Engineer submitted a report regarding the proposed Variance request stating the Township Road Commissioner should be contacted for comment.

Scott Weaver, Washington Township Road Commissioner submitted a report stating no objection to the proposed Variance request.

Glen Wetterow, City of East Peoria submitted a report stating the City was not in support of the proposed Variance request.

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

Donna Horton appeared to testify on behalf of the proposed Variance request. Ms. Horton stated she would like a covered porch on the front of her home just as the house across the road, and the homes up the street. Ms. Horton said she had to have a 50 year old tree removed from her front yard and would like the shade of a covered porch to sit under. Ms. Horton added the porch would be of a composite material with a white railing.

Following all Public Hearings, moved by Lance, seconded by Vaughn, to approve **Case No. 16-41-V.**

After considering all the evidence and testimony presented, the ZBA discussed the findings of fact 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 existing home is non-conforming and does not meet the required setback, and even if the applicant were to reduce the size of the porch a Variance would be needed. Allowing a Variance of this nature is the most practical due to the existing conditions related to the 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 existing home is non-conforming and does not meet the required setback, and even if the applicant were to reduce the size of the porch a Variance would be needed. Allowing a Variance of this nature is the most practical due to the existing conditions related to the 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.* The existing home is non-conforming and does not meet the required setback, and even if the applicant were to reduce the size of the porch a Variance would be needed. Allowing a Variance of this nature is the most practical due to the existing conditions related to the site. Further the new porch will be still remain in line with all other structures located in the immediate 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.* The existing home is non-conforming and does not meet the required setback, and even if the applicant were to reduce the size of the porch a Variance would be needed. Allowing a Variance of this nature is the most practical due to the existing conditions related to the site. Further the new porch will be still remain in line with all other structures located in the immediate area.

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 a new front porch to allow better access to the existing home.

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 existing home is non-conforming and does not meet the required setback, and even if the applicant were to reduce the size of the porch a Variance would be needed. Allowing a Variance of this nature is the most practical due to the existing conditions related to the site. Further the new porch will be still remain in line with all other structures located in the immediate area.

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

*POSITIVE.* The existing home is non-conforming and does not meet the required setback, and even if the applicant were to reduce the size of the porch a Variance would be needed. Allowing a Variance of this nature is the most practical due to the existing conditions related to the site. Further the new porch will be still remain in line with all other structures located in the immediate area.

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

*POSITIVE.* The existing home is non-conforming and does not meet the required setback, and even if the applicant were to reduce the size of the porch a Variance would be needed. Allowing a Variance of this nature is the most practical due to the existing conditions related to the site. Further the new porch will be still remain in line with all other structures located in the immediate area.

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

On roll call to approve **Case No. 16-41-V** the vote was:

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

Nays: 0

Absent: 2 - Baum, Webb

**Motion declared carried.**

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**RECESS**

The Chairman called for a 10 minute Recess prior to Deliberations beginning at 8:05 P.M. and resumed the meeting at 8:15 P.M.

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**NEXT MEETING**

The next meeting of the Zoning Board of Appeals will be **Wednesday, September 7, 2016** 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 Webb, to adjourn the Zoning Board of Appeals Public Hearing at 8:40 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.