

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street
Urbana, IL 61801

DATE: July 28, 2005

Street

PLACE: 1776 East Washington

Meeting Room 1

TIME: 7:05 p.m.

Urbana, IL 61802

MEMBERS PRESENT: Doug Bluhm, Dennis Goldenstein, Joseph L. Irle, Richard Steeves, Melvin Schroeder, Roger Miller

MEMBERS ABSENT : Debra Griest

STAFF PRESENT : John Hall, Connie Berry, Joel Fletcher

OTHERS PRESENT : Ronald Minch, Rich Schugel, Lori Bateman, Mike Bateman, Brian Luckenbill, Frank Palmer, John Wozniak, Michael Russian, Sara Russian, William Campo, A. Bernard Coffey, Lee Eichorst, Helen Weckel, Mark Weckel, Mack Weckel, Wayne Busboom

1. Call to Order

The meeting was called to order at 7:05 p.m. by the Secretary.

Mr. Irle moved, seconded by Mr. Goldenstein to appoint Doug Bluhm as acting Chair, due to the absence of Debra Griest, for the July 28, 2005, Zoning Board of Appeals Meeting. The motion carried by voice vote.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

3. Correspondence

None

4. Approval of Minutes

None

Mr. Irle moved, seconded by Mr. Goldenstein to rearrange the agenda and hear Case 503-V-05: Mike and Sara Russian prior to Case 453-AM-04: William and Peggy Campo; Case 502-V-05: Mike and Lori Bateman; and Case 504-AM-05: Central Illinois Trucks, Inc. and Richard Schugel, agent. The motion carried by voice vote.

5. Continued Public Hearing

Case 453-AM-04 Petitioner: William and Peggy Campo Request to amend the Zoning Map to change the zoning district designation from AG-2, Agriculture to B-1, Rural Trade Center (as amended on April 18, 2005). Location: A .62 acre tract of land located in the N¹/₂ of the NW¹/₄ of the NE¹/₄ of the SW¹/₄ of Section 34 of Somer Township and located approximately one-half east of Illinois Route 45 on the south side of Oaks Road (CR 1900N) and known as the business located at 2305 East Oaks Road, Urbana.

Mr. Hall distributed a Supplemental Memorandum dated July 28, 2005, to the Board for review. He said that testimony by Mr. Don White at the February 17, 2005, meeting and had been previously left out of the Draft Finding of Fact even though it was in the minutes that were included with the May 20, 2005, Supplemental Memorandum. He said that an excerpt of Mr. White's testimony is attached and his testimony is summarized and added to the Revised Draft Finding of Fact as Item 12.A.i. He said that the Supplemental Memorandum dated July 22, 2005, includes proposed conditions which are not based on the actual business but on the type of use which is Minor Auto Repair. He read the following conditions: **Condition #1. The zoning of the subject property shall be B-1, Rural Trade Center but the only authorized use on the subject property shall be limited to activities appropriate for and similar to the Zoning Ordinance definition of "minor automobile repair"; Condition #2. The property will be brought into compliance with all requirements of the Champaign County Zoning Ordinance within one year of map amendment approval with the exception of the setback from Oaks Road or as authorized by variance; Condition #3. The zoning district designation shall revert back to AG-2, Agriculture upon either of the following: A. damage or destruction of the existing building by more than 50% of its replacement value; or B. the cessation of a minor automobile repair business or the cessation of activities defined as minor automobile repair on the subject property in which case the Champaign County Department of Planning and Zoning shall be notified in writing upon the cessation of said use.** He said that the reason for the conversion if damage or destruction is because this is a non-conforming building and a variance has not been requested. He said that even if a variance was requested he would recommend the Board think very carefully about allowing replacement of a building with a such a limited zoning designation. He said that no complaints or testimony has been received regarding the management of hazardous waste. He said that he has asked Mr. Coffey how hazardous waste is managed and it appears to be appropriate. He said that there are floor drains in the building and in today's standards if a new garage was proposed in conformance with the public health code any floor drains would have to have some type of separator to prevent oil or other fluids having entrance into the septic system or sanitary sewers. He read **Condition #4: Building floor drains must either be permanently blocked so as to prevent hazardous substances from erroneously entering the septic system or provided with gas and oil interceptors meeting the requirements of Section 890.520 of the Illinois Plumbing Code and as verified by permit from the Champaign County Department of Public Health or the Illinois Department of Public Health.** He said that the burning of waste products is prohibited in the State of Illinois except for household paper waste or landscape waste produced onsite. The following condition will make it clear that no burning of any waste products may occur on the subject property and ensure that future operators are clearly informed as to these prohibited activities to minimize any disturbance to neighbors from such activities. He read **Condition #5: There shall be no burning, dumping or burial of any waste products onsite other than in EPA approved devices and disposal and temporary storage of all hazardous wastes shall be in conformance with EPA regulations.** He noted that even without this condition the

prohibition of burning of hazardous waste products on this property applies. He said that there are several policies and goals in the Finding of Fact which he did not feel comfortable in making a recommendation therefore before a final determination is made the Board must go through and decide on those various policies and goals as to whether they are achieved or not.

Mr. Irle asked if a new site plan had been submitted.

Mr. Hall stated that no new site plan has been submitted and from a staff level he would not have had much time to review one if it had. He said that as a practical matter we have identified all of the site issues which need to be resolved and Mr. Campo is comfortable with those issues.

Mr. Bluhm asked Mr. Campo if he had any additional testimony.

Mr. Campo stated that he did not have any additional testimony.

Ms. Helen Weckel, who resides at 2013 E. Oaks Rd, Urbana, IL stated that she served on the ZBA for a number of years and does not remember encountering a case like the one before the Board today. She said that all of the land use goals always required accessibility to sewer, water and other utilities. She said that according to everything that she has read on this case it is not clear in regards to water and sewer being located on this parcel. She said that the memorandum indicates that there is no evidence of an existing water well, wastewater disposal or the feasibility of such system on the .62 acre tract. She said that Item #29B.3. indicates that the proposed map amendment conforms to the policy regarding optimizing the use of water and sewer because no public infrastructure is required. She said that this is a business which is open to the public and it appears that the property would have to have a water well and some sort of sewer disposal on this property. She asked why a new site plan had not been submitted. She said that she visited the subject property yesterday morning at 7 a.m. and there were no cars there nor any workman but there were 23 vehicles parked next to the building in the area to the east. She said that five or six of those vehicles had no tags on them.

Mr. Hall stated that regarding the policies regarding water and sewer, Policy 3.4 of the Land Use Goals and Policies states that the County Board will not encourage major new commercial development except in those areas where sewer, water, adequate fire protection and other utilities are readily available. He said that he felt comfortable enough with some of the policies and goals that he gave a recommendation. He said that the building has been in existence for more than 30 years and is not encouraging major new commercial development. He said that in his opinion Policy 3.4 is not relevant to this case. He said that Policy 7.3 states that the County Board will encourage development only in areas where both sewer and water systems are available. He said that clearly neither sewer or water is available at this location but the policy does say that in areas without public sewer and water systems, development may occur only if it is determined that individual systems can be installed and maintained. He said that again the building has been in existence for more than 30 years and does not encourage any major new commercial development. He said that he does not believe that there is any water on site but does understand that there is some sort of septic system. He said that as a staff person he can only recommend that the information be provided but cannot require it. He said that Ms. Weckel was a previous member of this Board but she may never have seen this much discussion regarding these issues for a map amendment. He said that it is important that the Board understand what the Goals and

Policies say and that is the reason why the Finding of Fact is very long.

Mr. Bluhm asked the Board if they had any further questions for Ms. Weckel and there were none. Mr. Goldenstein asked why there was no information regarding onsite waste disposal or well.

Mr. Hall stated that he has no evidence regarding either but with his discussions with Mr. Coffey and Mr. Campo it is his understanding that there is some kind of a wastewater system which has been in existence for a long time but no one knows what the physical layout is. He said that he does not believe that there is available water on site.

Mr. Goldenstein asked if the floor drain goes into the ground.

Mr. Hall stated that if the Board approved the map amendment it would be in accord with the County's health code. He said that in speaking with the Health Department, he found that if the map amendment were approved and a Change of Use Permit were processed the Health Department would not even contact the Petitioner. He said that this is not the kind of use which they have any concerns about as far as old structures being brought up to date. He said that this is a discretionary approval and the Board can require whatever conditions it finds to be reasonable but this is a map amendment and normally detailed conditions are not included.

Mr. Goldenstein stated that a condition that requires the floor drains to be sealed should take care of it.

Mr. Hall stated such a condition would only provide some level of certainty that some sort of contamination of that system with oil or gas does not happen and it would not change the system which is there.

Mr. Irle stated that more than likely the system drains into a tile system. He said that he would assume that there is some sort of well on the property since there is a residence next door to the building. He said that in the past he believed that the resident of the home did work at the business. He asked if there was a shared well on the property.

Mr. Hall stated that the existence of a shared well is unknown.

Mr. Bluhm asked what the Zoning Ordinance says about Minor Auto Repair when there are 23 vehicles on the site and five or six of those vehicles have no tags.

Mr. Hall stated that the property is close enough to adjacent dwellings that all outdoor storage must be screened by a Type D screen. He said that regarding storage of vehicles that are untagged the only item in the Zoning Ordinance that refers to such is in the text of a Home Occupation. He said that during his visit of the site he determined that the parking was occurring too close to the front property line therefore it must be moved back and the firewood must be screened.

Mr. Bluhm asked the audience if there was anyone else who desired to give testimony regarding this case and there were none.

Mr. Irle suggested that Mr. Campo address the issues which were brought forward in tonight's testimony.

Mr. Hall stated that it would probably be better for Mr. Coffey to address these issues.

Mr. Bluhm requested that Mr. Coffey sign the witness register.

Mr. A. Bernard Coffey, who resides at 2305 E. Oaks Rd, Urbana, IL stated that there is a well to the east of the property, approximately 250 feet to the other side of the corn field. He said that he can only inform the Board of what he has been told about the property. He said that the well serviced the trailer residence but last winter the water froze and was shut off. He said that the water supply has not been re-established at the trailer site nor at his business. He said that it is his understanding that Mr. Christiansen allowed the electricity to be shut off that runs the pump to the well. He said that he has two 55 gallon drums which store his water supply for flushing the toilet and for use in mixing anti-freeze, etc. He said that the use of water is minimal and he goes through the two 55 gallon drums about every month and a-half. He said that he is very environmentally conscious and stores the waste fluids in three 55 gallon drums which he has contracted with Recovery Services come to the business and remove the oil. He said that any anti-freeze which is used at the business is normally recycled back into the vehicle but if this is not possible then it is stored in a different drum and picked up by Recovery Services. He said that any kind of spillage is kept to a minimum and if any spillage does occur it is immediately wiped up and a product called "Jungle Jake," which is non-acidic, is mixed with water and the floor is scrubbed and runs off into the drain.

Mr. Irle asked Mr. Coffey if it is typical for 20 to 30 vehicles to be on the property at one time.

Mr. Coffey stated that he is a "BMW" fanatic and some of the vehicles are his but he also specializes in older BMW's and Mercedes repair. He said that he does have clients which take advantage of his services and do not pay for the repairs therefore he keeps the car on site but cannot sell nor junk the vehicle without a title. He said that currently his policy is that if the car is not licensed then no service will be rendered.

Mr. Irle stated that the number of vehicles parked on the lot impacts the neighbors.

Mr. Coffey stated that he is conscious of his neighbors and does not feel that placing a fence around the area is a problem. He said that typically ten vehicles would be enough to be on the lot.

Mr. Steeves stated that testimony has been received that 22 vehicles are currently on the lot to date. He asked Mr. Coffey how many of the vehicles were his personal vehicles.

Mr. Coffey stated that four or five of the vehicles are his personal vehicles. He said that two of the vehicles are owned by one owner and one vehicle has been used for parts. He said that some customers drop off vehicles to be repaired within one or two days although some of the vehicles are already repaired and are awaiting pickup. He said that the number of vehicles on the lot fluctuates.

Mr. Steeves stated that seven of the vehicles will be present for a long period of time but the rest of the vehicles will come and go. He said that it appears that there could be at least 15 vehicles

on the lot.

Mr. Bluhm asked the Board if they had any further questions for Mr. Coffey and there were none.

Mr. Bluhm asked if staff had any further questions for Mr. Coffey and there were none.

Mr. Bluhm stated that Mr. Coffey testified that there is no running water on the site and his concern is how it relates to the water issue and if this is a public business does it have to have operating facilities for clients.

Mr. Hall stated that he has spoken with the Public Health Department and they have no issues since this is an existing building which is being reused. He said that he tried to speak with the people who enforce the State Plumbing Code but was unsuccessful. He said that he gets the impression that non-conformities with old buildings in regard to the State Plumbing Code are very difficult issues and he is unaware how they even know about these types of situations. He said that if the Board has a concern then a condition can be drafted. He said that the Zoning Ordinance does not say that every commercial building has to have water but it is a State Law that every building in the State of Illinois has to comply with the State Plumbing Code but apparently enforcement of the non-conformities of the State Plumbing Code are very difficult.

Mr. Irle stated that it would be difficult to make a condition when the primary enforcement agency won't enforce its own standards.

Mr. Hall stated that if a new well was installed it would be required to be approved by the County Health Department but the County Health Department is not going to require the owners to install a new well. He said that testimony indicates that there is a public restroom available and serviced by a 55 gallon drum filled with water. He said that the Zoning Ordinance would allow staff to issue a permit on this building.

Mr. Bluhm questioned the safety of the site without water availability.

Mr. Hall reviewed Item #22.A and 22.B of the Revised Finding of Fact dated July 22, 2005, regarding the second commercial land use goal of the Land Use Goals and Policies. He said that conformance of Policy 7.3 is unclear because the policy is not specific if it is talking about new business construction in rural areas or is it talking about buildings which are over 30 years old. He said that he is not trying to be difficult with the Board but he is also not going to advise the Board based on misunderstandings. He reviewed Item #31 regarding the third general land use goal. He reviewed Item #25 which indicates Policy 1.2 of the Land Use Goals and Policies is relevant to this case if the Board is going to rezone the property from agriculture to business. He reviewed Item #23. He said that the compatibility of the site appears to be in conformance with the policies but the issue is compatibility with non-commercial uses. He said that there is no residence that is immediately adjacent to this property which is being used and the only residence which is immediately adjacent is vacant at this time. He said that the nearest residence is a few hundred feet away from the building and in general most of the residential development in the area which has occurred since zoning was adopted is located further away than that.

Mr. Irle stated that testimony received indicates that the current tenant is not the problem but the

potential future use of the zoning designation. He said that perhaps the Board can tighten up the existing use.

Mr. Hall stated that the State's Attorney has indicated that the Board does not have that authority. He said that perhaps based on the testimony the use is not compatible the Board cannot provide that degree of assurance. He said that the same uncertainties would go with Item #32 in regard to arrangement of land use patterns designed to promote mutual compatibility. He said that with the screening requirements which are included in the current Zoning Ordinance the position could be taken that the screening would promote compatibility.

Mr. Steeves stated that the property is currently AG-2 and the type of business would be allowable if it were a Home Occupation. He asked if there was a way to make this business compatible in the AG-2 zoning by variance or some other form rather than rezoning.

Mr. Hall stated that the only reason that we allow Minor Auto Repair in the AG-2 district is as a Rural Home Occupation and there is a presumption that if someone lives there they maybe a little more careful about what they do than if they don't live on the property.

Mr. Steeves stated that the facts as they are presented does not fit the City of Urbana's Long Range Plan unless the zoning is changed.

Mr. Bluhm stated that even if the zoning is changed it still doesn't fit the City of Urbana's Long Range Plan.

Mr. Irle stated the testimony received indicates that the neighbors are okay with the existing business and if there was anyway that the Board could satisfy the neighbors in knowing that if the business ceased to exist that the zoning could revert back to AG-2 but the State's Attorney's office has indicated that the ZBA does not have this authority.

Mr. Bluhm read Item #22 of the Revised Draft Finding of Fact dated July 28, 2005.

Mr. Hall stated that the following text should be added to Item #22.A.1: At the July 28, 2005, ZBA meeting Bernard Coffey testified that the water system that was previously shared with the trailer is no longer functional at this time.

Mr. Irle moved, seconded by Mr. Goldenstein that based on the review of the five relevant specific policies, the proposed map amendment does achieve this goal. The motion carried by voice vote.

Mr. Bluhm read Item #31 of the Revised Draft Finding of Fact dated July 28, 2005.

Mr. Miller moved, seconded by Mr. Irle that the proposed map amendment relates to this goal and is not clearly achieved in regards to utilities considering the degree of conformance with the first general policy (item 29), the degree of achievement of the second commercial land use goal (item 22), and the degree of conformance with commercial land use policy 3.4 (item 17). The motion carried by voice vote.

Mr. Bluhm read Item #25 of the Revised Draft Finding of Fact dated July 28, 2005.

Mr. Goldenstein moved, seconded by Mr. Irle that the proposed map amendment somewhat conforms to Policy 1.2 and regards to overall adequacy of utilities and services, the proposed map amendment somewhat conforms to Policies 7.3 and 7.3A and related Policy 1.2 based on conformance with Policy 3.4 (see item 17). The motion carried by voice vote.

Mr. Bluhm read Item #23 of the Revised Draft Finding of Fact dated July 28, 2005.

Mr. Steeves moved, seconded by Mr. Irle that based on the review of the relevant specific policies and other evidence, the proposed map amendment does not achieve this goal and in regards to compatibility with non-commercial uses, the proposed map amendment is not compatible with surrounding non-commercial uses. The motion carried by voice vote.

Mr. Bluhm read Item #32 of the Revised Draft Finding of Fact dated July 28, 2005.

Mr. Miller moved, seconded by Mr. Irle that based on the review of the relevant specific policies and other evidence and the third commercial goal in regards to compatibility with non-commercial land uses (item 23), the proposed map amendment does not achieve this goal because the proposed map amendment is not compatible with surrounding non-commercial uses. The motion carried by voice vote.

Mr. Bluhm read Item #38 of the Revised Draft Finding of Fact dated July 28, 2005.

Mr. Irle moved, seconded by Mr. Miller that the proposed map amendment does not conform to this policy. The motion carried by voice vote.

Mr. Bluhm stated that the Board has the option to review the special conditions or accept a motion to continue to the final determination.

Mr. Goldenstein stated that it appears that there are more negative factors than positive factors in the Board's determinations of the finding.

Mr. Irle moved, seconded by Mr. Goldenstein to continue to the final determination. The motion carried by voice vote.

Mr. Goldenstein moved, seconded by Mr. Steeves to close the public hearing for Case 453-AM-04: William and Peggy Campo. The motion carried by voice vote.

Mr. Irle moved, seconded by Mr. Schroeder to adopt the Summary of Evidence, Documents of Record and Finding of Fact as amended. The motion carried by voice vote.

Mr. Bluhm informed Mr. Campo that the Zoning Board of Appeals is short one member at tonight's meeting and it is his right to have a full Board present for the final determination. He asked Mr. Campo if he would like to proceed with final action at tonight's hearing or continue the case until a full Board is present.

Mr. Campo stated that he would like to continue with the final determination with the present

Board.

Final Determination for Case 453-AM-04:

Mr. Steeves moved, seconded by Mr. Irle that pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the Map Amendment requested in Case 453-AM-04 should not be enacted by the County Board as requested.

The roll was called:

Miller-yes	Schroeder-yes	Steeves-yes
Griest-absent	Goldenstein-yes	Irle-yes
Bluhm-yes		

Mr. Hall informed Mr. Campo that this case will be forwarded to the Environment and Land Use Committee at their August 08, 2005, meeting. He informed the audience that everyone who signed the attendance record in regard to this case will receive notification of the meeting. He said that it is always recommended to ELUC that no new testimony be accepted although they almost always disregard this recommendation therefore anyone may have the opportunity to speak at that meeting.

Mr. Schroeder moved, seconded by Mr. Steeves to recess for ten minutes. The motion carried by voice vote.

The Board recessed at 8:45 p.m.

The Board resumed at 8:55 p.m.

6. New Public Hearings

Case 502-V-05 Petitioner: Mike and Lori Bateman. Request to authorize the division of a lot that is 4.984 acres in area instead of the required minimum area of more than 5 acres in order for a lot to be divided in the CR, Conservation Recreation Zoning District. Location: A 4.984 acre tract that is located approximately in the East 1/2 of the Southeast 1/4 of the Northwest 1/4 of Section 18 of East Bend Township and located on the southwest side of CR 3350N and that is commonly known as the residence at 663 CR 3350N, Fisher.

Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any questions. He said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. He noted that no new testimony is to be given during the cross examination.

Mr. Hall distributed a Supplemental Memorandum dated July 28, 2005, for the Board's review. He

said that a memorandum has been received from a neighbor, Ronald Minch, in opposition to the variance. Mr. Hall said that Mr. Minch's attorney prepared the memorandum and they are both present at tonight's hearing. In response to Mr. Minch's memorandum staff reviewed the tapes of the May 9, 2005, Environment and Land Use Committee meeting and revised the unapproved minutes to be more nearly verbatim. He reviewed the list of attachments to the July 28, 2005, Supplemental Memorandum.

Mr. Mike Bateman, who resides at 663 CR 3350 N, Fisher, stated that he purchased the land approximately 17 years ago and built his house off to one side with the intention to do what he is now requesting. He said that in 2002 he contacted Mr. Hall for information but put it on the back burner for a while. He said that in 2004 he got more serious about the project and again contacted Mr. Hall. He said that he was under the impression that he owned 5.29 acres but recently discovered that the easement is not included in the acreage therefore leaving the parcel at 4.984 acres. He said that during the flooding which occurred in the Spring of 2005, he was still at least six foot above the water level.

Mr. Bluhm asked the Board if they had any questions for Mr. Bateman and there were none.

Mr. Bluhm asked if staff had any questions for Mr. Bateman and there were none.

Mr. Bluhm asked if anyone in the audience had any questions for Mr. Bateman and there were none.

Mr. Phillip VanNess, Attorney for Ronald Minch stated that the July 28, 2005, Supplemental Memorandum includes a seven page memorandum in opposition to the proposed variance and the staff's response to the memorandum. He requested that the Board review the memorandum of opposition before making a final determination. He said that having reviewed the staff's response Mr. Minch still stands by his memorandum of opposition. He said that staff produced a single sheet of paper, Inquiry Follow-Up, dated March 1, 2002, indicating that the Batemans were aware that no Illinois Plat Act Exceptions were available. He said that Mr. Minch lives west of the Batemans and it is clear that the water flows from the north end of the Bateman's lot and the newly proposed Lot 1 will flow to the public road way to the northeast or onto the property of Mr. Minch to the west/southwest. He said that he visited Mr. Minch's property and saw how the water flow is channeled onto Mr. Minch's property. He said that neither Staff nor the Batemans identified any difficulty or hardship created by the existing zoning laws for the present use of the property. He said that Mr. Bateman testified that he has owned the property for approximately 17 years and built upon the property and now they desire to sell off a piece of it for a residential lot. He said that there is nothing wrong with the Bateman's request except that it requires five waivers and a variance before any of it could come to pass which doesn't give much endorsement to the existing zoning laws.

Mr. Bluhm asked the Board if they had any questions for Mr. VanNess and there were none.

Mr. Irle asked what the impact of an additional home will be on the existing homes and asked what the elevation level was for each of the two homes in relationship to each other.

Mr. VanNess stated that from his observation it appears that Mr. Minch's home is set lower than

the Bateman's residence. He said that the elevation of the buildable area for Lot 1 is 714.0 feet but there is an approximate six foot drop to the south of Lot 1 which will push water flows to that direction directly to Mr. Minch's property. He said that there is a dry ravine which acts as a channel for the water flow from the upper northeast of the lot into the direction Minch's residence. He said that from time to time the Sangamon River floods so much that the residents cannot get out of their property.

Mr. Bluhm asked if staff had any questions for Mr. VanNess.

Mr. Hall asked Mr. VanNess where Mr. Minch's residence is located on the Subsidiary Map. He said that it appears that the slope is south of Mr. Minch's home.

Mr. VanNess stated that Mr. Minch's home is roughly to the west of the Bateman residence and slightly south of the 200' diameter circle on the Subsidiary Map. He said that the slope does not appear on the Subsidiary Map although it does flow south/southwest along either side of Mr. Minch's residence.

Mr. Bluhm asked if members of the audience if they had any questions for Mr. VanNess and there were none.

Mr. Irle asked Mr. Ronald Minch what the general level is between his home and Mr. Bateman's home. He said that the proposed residence must be 15 foot from the property line and asked Mr. Minch how far his residence was from the property line.

Mr. Ronald Minch, who resides at 611 CR 3350N, Fisher stated that his residence is approximately 50 foot from the property line. He said that an educated guess would be that his residence is probably four to six feet lower than the Bateman's. He said that the runoff now is coming from the proposed Lot 1 and runs into a dry creek bed along his property. He said that water displacement occurs when a home, sidewalk, garage are constructed which will create more runoff onto his property.

Mr. Irle stated that the Subsidiary Map indicates that the runoff would run more towards the Sangamon River rather than towards Mr. Minch's lot.

Mr. Minch stated that the swale begins approximately 25 feet south of the road ditch. He said that increasing the density will do nothing but make more runoff and more water issues for everyone. He said that the new bridge which was built on CR600N was built three feet above the 100 year flood and in January 2005, it flooded. He said that there is already a current water problem out there already and requested that the County not make it worse.

Mr. Bluhm asked the Board if they had any further questions for Mr. Minch and there were none.

Mr. Bluhm asked if staff had any further questions for Mr. Minch and there were none.

Mr. Hall asked Mr. Minch if the swale existed when he purchased the property.

Mr. Minch stated that the swale existed when he purchased the property.

Mr. Bluhm asked if members of the audience if they had any questions for Mr. Minch and there were none.

Mr. Goldenstein asked Mr. Minch how many years he has lived on the property and was the house an existing structure.

Mr. Minch stated that he has lived on the property for approximately seven years and the house was existing.

Mr. Bluhm asked if members of the audience had any questions for Mr. Minch and there were none.

Mr. Irle asked Mr. Bateman if when he built his home seventeen years ago if he was aware of the flooding issues for the area.

Mr. Bateman stated that he was aware of the flooding issues and built above the flood elevations. He said that he is not aware of the swale that Mr. Minch keeps referring to during his testimony. He said that the road on CR 600N flooded and not the entire bridge.

Mr. Hall distributed color photographs of the subject property for the Board's review. He noted that these are the same pictures which were included in black and white in the packet.

Mr. Hall stated that when someone owns property they should be aware of the amount of property which is owned but this is an instance when the five acre prohibition had been implemented. He said that he informed Mr. Bateman of the five acre prohibition and Mr. Bateman indicated that it wasn't a problem because he owned 5.29 acres and the Sidwell Tax Atlas confirmed his acreage therefore at the time no variance was apparently required. He said that once the subdivision plat was submitted it was apparent that the tract was not 5.29 acres and excluding the right of way was actually 4.984 acres.

Mr. Bluhm asked if the Board had any further questions for Mr. Bateman and there were none.

Mr. Bluhm asked if staff had any further questions for Mr. Bateman and there were none.

Mr. Bluhm asked if members of the audience had any further questions for Mr. Bateman and there were none.

Mr. Bluhm closed the witness register.

Mr. Hall noted that the Board does not often receive a seven page objection memorandum from an adjacent landowner. He said that if the subject property was 5.29 acres the waivers would still have been required for the subdivision but no variance would have been required.

Mr. Bluhm asked the Board if they required additional time for review or were they ready to continue with the final determination.

Mr. Bluhm informed Mr. Bateman that the Zoning Board of Appeals is short one member at tonight's meeting and it is his right to have a full Board present for the final determination. He asked Mr. Bateman if he would like to proceed with final action at tonight's hearing or continue the case until a full Board is present.

Mr. Bateman stated that he would like to continue with the final determination with the present Board.

Mr. Bluhm asked the Board if they would like to continue with the final determination of if they required additional time to review the documentation.

Mr. Steeves questioned the percentage of the required waivers.

Mr. Hall stated that the Minimum Subdivision Standards are a recent addition to the Subdivision Regulations. He referred to Table 2. Preliminary Assessment of Compliance with Minimum Subdivision Standards during his discussion of the percentages of the required waivers. He said that no part of a minimum required lot area shall be located on the following soils: Ross silt loam soil (No. 3473A), Ambraw silty clay loam soil (No. 3302A), Peotone silty clay loam soil (No. 330A), or colo silty clay loam soil (3107A). He said that these bottomland soils are the worst soils in the County for septic systems and in this case since it is along the Sangamon River some of these soils do exist. He said that you cannot have a lot that has part of the Sangamon River in it and not be more than one foot below the base flood elevation. He said that it is not to say that the lot has lousy drainage because it has wonderful drainage to the Sangamon River. He said that the minimum required lot area for any lot must have positive surface drainage with no significant identifiable area of likely stormwater ponding. He said that one could say that there is water ponding on the lot due to the Sangamon River although the Sangamon River does always flow. He said that these things must be taken into account whether it is a bad site which has poor drainage or is a site which has nice drainage, overlooks the river and is well above the BFE. He said that even though the Environment and Land Use Committee did have questions they did approve the subdivision with the required waivers.

Mr. Irle stated that Lot 2 already has an existing home on it and it appears to be the lot which has most of the issues. He said that Lot 1 appears to meet the minimum standards and does not require a waiver.

Mr. Ronald Minch stated that he is aware of the written documents but if this is approved then two lots would be created which do not meet the minimum standards.

Mr. Hall stated that Lot 2 requires waivers of Minimum Subdivision Standards and also a zoning variance and Lot 1 does meet all of the Minimum Subdivision Standards and also requires a zoning variance.

Mr. Steeves asked if the existing house on Lot 2 were destroyed, could it be rebuilt.

Mr. Bluhm stated that if the Minimum Subdivision Standards are met then Lot 2 is not a bad lot.

Mr. Hall stated that if the variance is granted then Lot 2 is in conformance with the Ordinance.

Mr. VanNess stated that if the variance is approved there would be two lots that by virtue of the variance and by virtue of the five granted waivers theoretically there would be two good lots. He said that if the existing house was located on Lot 1 and Lot 2 was vacant this would be a "no brainer" and would not even be before this Board for approval. He said that Lot 2 requires a lot of paperwork to make it a good lot in the eyes of the Ordinance.

Mr. Hall stated that once the approval is given then the two lots are good lots which conform to the Ordinance and if the homes are destroyed they can be rebuilt.

Mr. Irle stated that the need for the required waivers and variance were created a couple of years ago by the Ordinance.

Mr. Hall stated that there is a Minor Subdivision which is going to ELUC in August which is located along the Saline Ditch. He said that the petitioner owns land to the middle of the Saline Ditch therefore they do not meet the same Subdivision Standards but it doesn't mean that they have poor drainage nor that it is a bad lot it only means that they have river front property. He said that we are intelligent enough to know the difference between river front property and property which is located in a hole where water stands. He said that before the Minimum Subdivision Standards were created the County could not do anything about a home which was proposed on a property located in a hole where water stands.

Mr. Goldenstein moved, seconded by Mr. Steeves to continue Case 502-V-05: Mike and Lori Bateman to the August 25, 2005, Zoning Board of Appeals Meeting. The motion carried by voice vote.

Case 503-V-05 Petitioner: Mike and Sara Russian. Request to authorize the construction and use of a detached garage with a side yard of 1.2 feet instead of the minimum required side yard of 5 feet in the R-2, Single Family Residence Zoning District. Location: Lot 2034 in the Western Hills Subdivision and is commonly known as 1504 Comanche Drive, Champaign, Illinois.

Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called upon. He requested that anyone who desires to cross examine that they come to the cross examination microphone to ask any questions. He said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. He noted that no new testimony is to be given during the cross examination.

Mr. Hall distributed a Supplemental Memorandum dated July 29, 2005, to the Board for review.

Mr. John T. Wozniak, Attorney for Mike and Sara Russian stated that a garage was located on the property for approximately 33 years and the Russian's desire to replace the garage with a new garage. He said that the five foot sideyard requirement would make it difficult to easily access the

garage from the driveway. He said that the neighbor which would be directly effected by the requested 1.2 foot sideyard has indicated in a letter, included in packet, that he does not object to the Russian's request. He said that the new garage will be of the same footprint as the old garage with no additional square footage proposed.

Mr. Bluhm asked the Board if they had any questions for Mr. Wozniak.

Mr. Irle asked to verify that the footprint will not change.

Mr. Wozniak stated that Mr. Irle was correct. The new garage will be placed on the existing concrete slab.

Mr. Bluhm asked Mr. Wozniak if there would be an overhang which would protrude past the 1.2 feet of sideyard and upon the neighbor's property.

Mr. Wozniak stated that there is no overhang on the garage.

Mr. Bluhm asked the Board if they had any further questions for Mr. Wozniak and there were none.

Mr. Bluhm asked Staff if they had any further questions for Mr. Wozniak and there were none.

Mr. Bluhm asked the audience if they had any questions for Mr. Wozniak and there were none.

Mr. Bluhm closed the witness register.

Mr. Hall stated that there are no unique conditions for this case. He said that he was able to verify that the garage did exist prior to zoning. He said that the following text should be added to Item #12C of the Summary of Evidence: The proposed garage will have the same footprint as the previous garage. He said that the following text should be added to Item #12D of the Summary of Evidence: At the July 28, 2005, Zoning Board of Appeals Meeting, John Wozniak testified that there will be no overhang on the proposed garage.

Finding of Fact for Case 503-V-05:

From the documents of record and the testimony and exhibits received at the public hearing conducted on July 28, 2005, the Zoning Board of Appeals of Champaign County finds that:

- 1. Special conditions and circumstances do exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land and structures elsewhere in the same district.**

Mr. Goldenstein stated that special conditions and circumstances do exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land and structures elsewhere in the same district because the Petitioner's are going to replace a garage which has been in existence for over 27 years, as indicated on the 1972 aerial photograph. The garage is in

disrepair and is proposed to be replaced with a new garage of the same footprint.

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction.

Mr. Steeves stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction because if the Petitioner is required to follow the regulations they will be unable to easily access the garage without hitting the residence.

3. The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicants.

Mr. Irle stated that the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicants because the structures existed prior to the Petitioner's purchase of the property. He said that structures existed prior to adoption of the Champaign County Zoning Ordinance.

4. The requested variance is in harmony with the general purpose and intent of the Ordinance.

Mr. Steeves stated that the requested variance is in harmony with the general purpose and intent of the Ordinance because the variance is within reason and enhances the property and gives the Petitioners full use of their property.

5. The requested variance will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.

Mr. Steeves stated that the requested variance will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the garage is going to be the same footprint as the garage which existed for over 27 years. He said that no adjacent structures are close to the proposed garage.

6. The requested variance is the minimum variation that will make possible the reasonable use of the land/structure.

Mr. Irle stated that the requested variance is the minimum variation that will make possible the reasonable use of the land/structure because it will utilize the same concrete pad and footprint and will not encroach onto neighboring properties.

Mr. Irle moved, seconded by Mr. Steeves to adopt the Summary of Evidence, Finding of Fact and Documents of Record as amended. The motion carried by voice vote.

Mr. Irle moved, seconded by Mr. Goldenstein to close the public hearing for Case 503-V-05: Mike and Sara Russian. The motion carried by voice vote.

Mr. Bluhm informed Mr. and Mrs. Russian and Mr. Wozniak that the Zoning Board of Appeals is short one member at tonight's meeting and it is his right to have a full Board present for the final determination. He asked Mr. and Mrs. Russian and Mr. Wozniak if they would like to proceed with final action at tonight's hearing or continue the case until a full Board is present.

Mr. Wozniak stated that Mr. and Mrs. Russian would like to proceed with the final determination.

Final Determination for Case 503-V-05:

Mr. Goldenstein moved, seconded by Mr. Steeves that the Champaign County Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9C have been met, and pursuant to the authority granted by Section 9.1.B. of the Champaign County Zoning Ordinance, determines that the variance requested in Case 503-V-05, is hereby granted to the petitioners, Sara and Michael Russian, to authorize the construction and use of a detached garage with a side yard of 1.2 feet instead of the minimum required side yard of 5 feet in the R-2, Single Family Residence Zoning District.

The roll was called:

Irle-yes	Miller-yes	Schroeder-yes
Steeves-yes	Griest-absent	Bluhm-yes
Goldenstein-yes		

Mr. Hall stated that during a recent case staff had reason to review the State Statutes and during that review it was discovered that the State lowered the number of affirmative votes necessary for a County ZBA to take action upon a case. He said that it was originally five affirmative votes but currently it is four affirmative votes and our by-laws cannot establish a higher requirement than state laws requires. He said that a by-laws case will be processed to bring our by-laws in line with current state law. He said that four affirmative votes is a simple majority and in cases where the ZBA is not the final decision, as in a map amendment, if there is a simple majority to adopt the finding of fact then perhaps it will be the same majority for the final determination.

Case 504-AM-05 Petitioner: Central Illinois Trucks, Inc. and Richard Schugel, agent. Request to amend the Zoning Map to change the zoning district from B-3, Highway Business Zoning District to B-4, General Business Zoning District. Location: An approximately 15 acre tract in the East 1/2 of the Northeast 1/4 of the Northeast 1/4 Section 24 of Hensley Township and located between Leverett Road and Interstate 57 and that is commonly known as the field on the west side of Leverett Road at the Interstate 57 interchange on Leverett Road.

Mr. Hall stated that this is an instance in which a realtor came into the Planning and Zoning Department office and requested a zoning district determination and was given inaccurate information. He said that by the time that he realized that his determination was incorrect the offer for the subject property had already been made and accepted. He said that once the realtor realized that rezoning was required he did some checking and obtained positive results therefore

decided to continue with the rezoning request. He said that the property was previously rezoned in 1989, from a combined AG-2/B-3 Zoning District to all B-3, although the proposed use requires B-4, General Business. He said that in considering some of the goals and policies one of the tasks in this case is to decide what the policies mean since the property is already B-3 and the request is to move it to B-4. The policies are written as simply as they can be but they do not provide for such a request therefore it is up to the Board to make the decision. He said that he was able to get recommendations for all goals and policies except for two and those are listed in Items 21 and 26 of the Preliminary Draft Summary of Evidence.

Mr. Irle moved, seconded by Mr. Goldenstein to extend the July 28, 2005, Zoning Board of Appeals Meeting to 10:30 p.m. The motion carried by voice vote.

Mr. Richard Schugel, Agent/General Manager for Central Illinois Trucks, Inc., Urbana stated that they are a Kenworth and Volvo truck dealership. He said that currently they are selling new and used equipment, offering service repair for the equipment and selling replacement parts. He said that their current location is under a lease agreement which expires March 31, 2006. He said that they have been searching for a site to relocate and subsequently was approached by a real estate agent on the subject property. He said that his first question to the realtor was what the site was zoned and he indicated that it was zoned B-4, which was the proper zoning for this type of business. He said that the current zoning of B-3 would allow them to perform all of their services except for sales. He said that there are two reasons why they would like to relocate to this location: 1. the current lease is expiring soon; and 2. the subject property is close to the interstate and would be an ideal location for their business.

Mr. Bluhm asked the Board if they had any questions for Mr. Schugel and there were none.

Mr. Bluhm asked if staff had any questions for Mr. Schugel.

Mr. Hall stated that there is no representative for Hensley Township present at tonight's meeting and asked Mr. Schugel if he had anything in writing from their Board.

Mr. Schugel stated that he did not have anything in writing from the Hensley Township Board but he did meet with them and explained Central Illinois Trucks, Inc. intentions. He said that he received only positive feedback at the meeting. He said that he met with Mr. John Cain, landowner to the North of the property and he indicated that he had no objections to the proposal and welcomed the facility because he too is involved in the trucking business. Mr. Schugel stated that at the intersection of I-57 and Leverett Road there is a truck stop and truck repair facility which would be convenient for their business location.

Mr. Wayne Busboom, Representative for Beaver Lake Drainage District requested that the Board keep in mind that Beaver Lake Drainage District requires a 40 foot easement along both sides of the ditch for maintenance work. He noted that state law actually allows for 60 feet of easement but they only require 40 feet.

Mr. Hall stated that the survey indicates 40 foot of easement therefore it appears that the easement is already in place.

Mr. Bluhm asked the Board if they had any questions for Mr. Busboom and there were none.

Mr. Bluhm asked if staff had any questions for Mr. Busboom and there were none.

Mr. Lee Eichhorst, who resides at 309 E. Leverett Road, Champaign stated that he lives to the east of the subject property. He requested that concrete or asphalt be placed in the parking lot to minimize the dust. He said that when it is dry and windy the truck stop produces a lot of dust and requests that Central Illinois Trucks become a good neighbor and not add to the problem.

Mr. Bluhm asked the Board if they had any questions for Mr. Eichhorst and there were none.

Mr. Bluhm asked if staff had any questions for Mr. Eichhorst and there were none.

Mr. Bluhm closed the witness register.

Mr. Steeves asked if the site is currently being farmed.

Mr. Hall stated that the site is currently being farmed. He said that Item #4 of the Preliminary Draft Summary of Evidence should be revised to indicate the following: The subject property was zoned B-3, Highway Business in Case 688-AM-79 on January 16, 1990, and is currently farmed.

Mr. Bluhm requested the Mr. Schugel explain the intentions of Central Illinois Trucks, Inc. for the parking areas.

Mr. Schugel stated that their intentions are to develop approximately four to five acres of the parcel. He said that they are proposing to construct a 20,000 square foot building which would accommodate the sales office, administrative office, maintenance and parts departments. He said that they do have intentions to concrete the approaches to the building and to place hard surface, asphalt, onto the rest of the area. He said that they intend to build the building approximately 160 feet south of the north property line therefore the drainage ditch easement would not be a problem.

Mr. Irle stated that he would like to see a 60 foot easement along the drainage ditch for maintenance.

Mr. Goldenstein asked Mr. Schugel what their intentions were for the remaining portion of the property.

Mr. Schugel stated that they would leave the rest of the area in farmland. He said that there will be a lot of interstate traffic passing by the facility and they desire to keep the site attractive.

Mr. Hall stated that a new Item 21.C. should be added to the Summary of Evidence indicating the following: 1. Mr. Wayne Busboom, Representative of Beaver Lake Drainage District testified at the July 28, 2005, meeting that the drainage district has a minimum of 40 foot easement along the drainage ditch but that a 60 foot easement would be better; 2. Lee Eichhorst, who resides at 309 E. Leverett Road, Champaign testified that he lives nearby and farms and he was not opposed to the map amendment but hoped that hard surfacing would be used on the parking lot so as to

minimize dust; 3. Richard Schugel, agent testified that since the business is to sell new trucks dust will be minimized by concrete driveways and approaches and a hard surface, asphalt, on the parking lot. He also testified that the approximately 20,000 square foot building would be located approximately 160 feet south of the north lot line and that the remainder of the property would be farmland.

Mr. Schugel stated that four to five acres is all that is needed currently. He said that there are no future plans for development for the remainder and will remain farmland.

Mr. Bluhm read Item #21, the third commercial land use goal of the Land Use Goals and Policies, of the Summary of Evidence as follows: Commercial areas: i. Designed to promote compatibility with non-commercial uses; and ii. At the same time provide ease of access.

Mr. Goldenstein moved, seconded by Mr. Irle that based on the review of the relevant specific policies and other evidence, the proposed map amendment does achieve this goal and is compatible with surrounding non-commercial uses. The motion carried by voice vote.

Mr. Bluhm read Item #26, the fourth general land use goal, of the Summary of Evidence as follows: Arrangement of land use patterns designed to promote mutual compatibility.

Mr. Irle moved, seconded by Mr. Goldenstein that based on the review of the relevant specific policies and other evidence and the third commercial goal in regards to compatibility with non-commercial land uses (item 21), the proposed map amendment does achieve this goal because the proposed map amendment is compatible with surrounding non-commercial uses.

Mr. Irle moved, seconded by Mr. Schroeder to close the public hearing for Case 504-AM-05, Central Illinois Trucks, Inc. and Richard Schugel, agent. The motion carried by voice vote.

Mr. Goldenstein moved, seconded by Mr. Steeves to adopt the Summary of Evidence and Documents of Record as amended. The motion carried by voice vote.

Mr. Bluhm informed Mr. Schugel the Zoning Board of Appeals is short one member at tonight's meeting and it is his right to have a full Board present for the final determination. He asked Mr. Schugel if he would like to proceed with final action at tonight's hearing on continue the case until a full Board is present.

Mr. Schugel stated that he would like to continue with the final determination with the present Board.

Final Determination for Case 504-AM-05:

Mr. Goldenstein moved, seconded by Mr. Steeves that pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the Map Amendment requested in Case 504-AM-05, should be enacted by the County Board.

The roll was called:

Miller-yes
Griest-absent
Bluhm-yes

Schroeder-yes
Goldenstein-yes

Steeves-yes
Irle-yes

7. Staff Report

Mr. Hall stated that Mr. Roseman, Zoning Administrator has been hospitalized and is scheduled for major surgery and his return date is undetermined.

8. Other Business

- A. Amendment to ZBA By-Laws Article 6-Procedure regarding cross examination in zoning cases.

Mr. Hall distributed a memorandum dated July 28, 2005, to the Board's review. He said that included in the memorandum is the State's Attorney's most recent version of the proposed amendment.

Mr. Irle asked if a time limit has been determined for cross-examination.

Mr. Hall stated that no time limit has been determined at this time.

Mr. Bluhm stated that he approved of Section 6.8.E.1, 6.8.E.2 and 6.8.E.3. He said that if the attorney or representative indicates that they are representing several people the Board can limit the testimony to that representative.

Mr. Hall stated that he was not sure if the Board desired to take final action tonight or wait until Debra Griest, Chair has an opportunity to review the memorandum.

Mr. Irle moved, seconded by Mr. Miller to continue the Amendment to Champaign County Zoning Board of Appeals By-laws to August 11, 2005. The motion carried by voice vote.

9. Audience Participation with respect to matters other than cases pending before the Board

None

10. Adjournment

The meeting adjourned at 10:28 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

