

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: April 13, 2006

PLACE: Lyle Shields Meeting Room

1776 E. Washington, St.

Urbana, IL 61802

TIME: 7:00 p.m.

MEMBERS PRESENT: Doug Bluhm, Debra Griest, Richard Steeves, Roger Miller

MEMBERS ABSENT : Dennis Goldenstein, Joseph Irle, Melvin Schroeder

STAFF PRESENT : Connie Berry, John Hall, J.R. Knight

OTHERS PRESENT : Eric Thorsland, Judy Uebelhoer, Darrell Uebelhoer, Tim Asire, Lou Wozniak, David Phillippe, Julie Roth, Jim Householder, Carolyn Bateman, Amy Murray, Paul Quinlan, Tom Everett, Robert Schmidt, Hal Barnhart, Gene Bateman, Chris Doenitz, Doug Turner, Mark Thompson

1. Call to Order

The meeting was called to order at 7:02 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

Ms. Griest stated that if the Board precedes to a level of taking final action on any given case those Petitioners will be given the right to request that their final action be taken at a time when all Board Members are present. She noted that final action at tonight's meeting will require four favorable votes for approval.

3. Correspondence

None

4. Approval of Minutes

None

5. Continued Public Hearing

Case 461-S-04 Petitioner: Mark Thompson. Request to authorize the establishment and use of an Organized Camp as a Special Use in the CR, Conservation Recreation Zoning District, and to waive,

1 **as described in the application, the standard conditions for an Organized Camp requiring a 100 feet**
2 **setback from the centerline of the public street. Location: Approximately 96 acres of land located in**
3 **the West ½ of the Southwest ¼ and the West ½ of the Northeast ¼ of the Southwest ¼ of Section 17 of**
4 **East Bend Township that is bordered on the west by CR 700E and on the south by CR 3300N and is**
5 **commonly known as the farm located at 3333 CR 700E, Fisher.**

6
7 Mr. Hall stated that he has been very busy with director duties and has not had time to meet with the
8 Petitioner. He said that the only new information for the Board is excerpts from the National Rifle
9 Association of America, *The Range Source Book, A Guide to Planning and Construction*. He said that the
10 excerpts shed light on what exactly the NRA recommends for safety features on shooting ranges but
11 unfortunately all of the excerpts must be reviewed and he has not had a chance to do so or discuss these
12 issues with the Petitioner. He said the key items that he needs to discuss with the Petitioner are the type of
13 backstop recommended by the NRA versus the type of backstop described by the Petitioner during previous
14 testimony; side berms for ranges which the NRA excerpt indicates is only necessary on the conditions of
15 each range the activities occurring adjacent from the range. He said that once he has a chance to review
16 these issues with the Petitioner. He said that the site plan may need revised or no revision maybe necessary
17 unless so requested by the Board. He said that the current Ordinance does not include specific requirements
18 for the backstop and what the Petitioner has proposed is much different than what previous ranges have
19 included and in reviewing the NRA handbook that may be entirely appropriate. He said that he would like to
20 see the case continued so that the Petitioner could review the information and determine if he needs to revise
21 his proposal.

22
23 Mr. Mark Thompson, who resides at 564B CR 2400N, Dewey stated that the side berms which are included
24 in the NRA guidelines play into effect in specific circumstances. He said that in their situation the firing line
25 and the lack of people in the area would not necessitate a side berm for the range that they are developing.
26 He said that without a quorum he does not believe that he would want to dive into this issue tonight anyway.
27 He said that a continuance date would be acceptable to discuss the backstop and berm issues with Mr. Hall.

29
30 Ms. Griest clarified that a quorum is present at tonight's hearing although there are three members absent.

31
32 Mr. Thompson stated that it is in his best interest if all of the Board members are present.

33
34 Mr. Bluhm asked Mr. Thompson if he had reviewed the special conditions included in the Supplemental
35 Memorandum dated February 16, 2006.

36
37 Mr. Thompson stated that he has reviewed the conditions and they are acceptable. He said that it was his
38 understanding that everything else was ironed out.

39
40 Mr. Bluhm stated that previously the Board had concerns regarding how the patrons would cross the bridge
41 although Mr. Thompson had testified that the patrons would be bused across the bridge.

42
43 Mr. Thompson stated that Mr. Bluhm was correct.
44

4/13/06

AS APPROVED JUNE 29, 2006

ZBA

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

8
9 Ms. Griest asked the Board if they had any questions for Mr. Thompson and there were none.

10
11 Ms. Griest asked if staff had any questions for Mr. Thompson and there were none.

12
13 Ms. Griest asked the audience if anyone had any questions for Mr. Thompson and there were none.

14
15 **Mr. Miller moved, seconded by Mr. Steeves to continue Case 461-S-04 to the June 29, 2006, regularly**
16 **scheduled meeting. The motion carried by voice vote.**

17
18 **Case 520-AM-05 Petitioner: Gene Bateman. Request to amend the Zoning Map to allow for the**
19 **development of 5 single family residential lots in the AG-1, Agriculture Zoning District by adding the**
20 **Rural Residential Overlay (RRO) Zoning District. Location: The North 631.0 feet of the East 1,042.7**
21 **feet and the South 545 feet of the North 1,960.0 feet of the East 641.0 feet, all of the East ½ of the**
22 **Northeast ¼ of Section 29 of Newcomb Township and fronting on the south side of CR 2600N and on**
23 **the west side of 200E and commonly known as the farmland in the Southwest corner of the intersection**
24 **of CR 2600N and CR 200E.**

25
26 Mr. Hall distributed Land Evaluation Worksheets from the Champaign County Soil and Water District for
27 Tracts 1-5 and a handout dealing with Livestock Management Facilities within one mile of the proposed
28 RRO. He said that after the last public hearing it was discovered that staff had not given adequate
29 consideration to livestock facilities. He said that attached to the handout dealing with Livestock
30 Management Facilities are the following: map illustrating the location of the livestock facilities near the
31 proposed RRO; summary of staff survey of the livestock facilities within one mile of the proposed RRO; and
32 the General Requirements Related to Size of Facility from the Illinois Livestock Management Facilities Act
33 (510 ILCS 77/et.seq.) He said that the point of the handout is when will the proposed RRO make a
34 difference in regards to the management of the livestock facilities and when will it not. He said that he
35 distributed copies of the revised lot layout that was distributed at the last public hearing and a copy of the
36 Supplemental Memorandum dated March 30, 2006. He said that the Soil and Water Conservation District
37 substantiated staff's opinion about the lots and Lot 4 is, on average, best prime farmland and this is the lot
38 which is proposed to be one acre in area. He said that Lots 1,2,3 and 5 are not, on average, best prime
39 farmland. He said that when the livestock facilities are considered the map is based on the parcels and it is
40 not clear that staff has to be that conservative when separation distances are being considered under the
41 Livestock Management Facilities Act. He said that the separation distance is measured from where the waste
42 treatment facility is located and he is not sure if any of the facilities which are located near the

43
44 proposed RRO have a waste treatment facility. He said that the largest facility appears to be the facility

1 depicted as “C” on the map and is directly south of the proposed RRO. He said that there is already a non-
2 farm residence located adjacent to the pasture on “C”. He said that it was very hard to tell from the vehicle
3 but it appeared that 35-50 cows may be present at the facility. He said that all of the lots within the RRO are
4 within one-half mile of this facility and without the RRO there are eight non-farm residences within one-half
5 mile of the facility. He said that the proposed RRO would raise the non-farm residences within one-half mile
6 of the facility to 13 and 10 is the limit that the Illinois Livestock Management Facilities Act defines as a
7 populated area. He said that the proposed RRO would make this facility within one-half mile of a populated
8 area which means that if a new facility of this size was established a waste management plan or livestock
9 manager certification would not be required. He said that he cannot report to the Board what impacts this
10 would have on the existing facility. He said that the three closest livestock facilities to this proposed RRO
11 are depicted as “B”, “C” and “D” on the attached map and all of these facilities have more than ten non-farm
12 residences within one mile so to that degree the proposed RRO will not establish any higher requirement. He
13 said that the one mile separation only applies to the largest livestock facilities and there are no facilities that
14 large currently within one mile.

15
16 Mr. David Phillippe, Engineer for HDC Engineering and representing Gene Bateman stated that Mr.
17 Bateman would like to create five tracts of ground from his described property located in Newcomb
18 Township. He said that the tracts of ground are designed to comply with the State of Illinois Plat Act; the
19 Champaign County RRO regulations; and minimize the amount of best prime farmland being taken out of
20 production. He said that approving the RRO would have minimal impact on drainage and will be served by
21 private sanitary disposal systems. He said that the revised site map indicates the area of high water backup
22 area drains to a drainage swale that exits the property in the middle of Tract 3. He said that the high water
23 area would only occur if the culvert would cease working for some reason causing the water to backup on the
24 property. He said that the petitioner proposes that this area be set aside as a non-buildable area and within
25 this area is a drainage district tile but the exact location has not been determined. He said that they believe
26 that the drainage district tile is located somewhere near or along the south and east side of the drainage
27 swale. He said that an easement would be created along that swale and declare this area as a non-buildable
28 area therefore offering no disruption to the drainage pattern.

29
30 Mr. Bluhm asked Mr. Phillippe what the thin parcel was which ran along Tract 4 and 5.

31
32 Mr. Phillippe stated that there is a People’s Gas well west of those tracts and the thin parcel is the road for
33 People’s to access the well. He said that the area which will be declared unbuildable will be located 150 feet
34 from CR 2600N.

35
36 Mr. Hall stated that he spoke to Mr. Phillippe regarding his concerns about traffic visibility at the intersection
37 of CR 2600N and CR 200E. He said that the corner visibility triangle in the County Zoning Ordinance is
38 inadequate for speeds of 30mph and would certainly be inadequate for that intersection where it could be
39 easily imagined that traffic would be traveling more than 30mph. He said that the Board should consider
40 establishing a greater visibility triangle on Tract 3. He said that the area, indicated in white on the map, on
41 Tract 3 between the drainage area and CR 2600N is approximately one and one-half acres and a

42
43 large visibility triangle would allow ample room to place a house and septic system. He said that his concern
44 is that if the Board does not establish a special requirement for a greater visibility triangle than what is

1 is normally required there could be problems. He said that it probably would not be any worse than a crop of
2 corn standing at the corner but a crop of corn does not stand year around.

3
4 Mr. Bluhm stated that a row of trees would also be terrible at that intersection.

5
6 Mr. Phillippe stated that he and the petitioner have considered the visibility and if this is a requirement which
7 the Board would like to consider then they will comply.

8
9 Mr. Steeves asked Mr. Phillippe if the intersection was regulated by any signage.

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11 Mr. Phillippe stated that he did not believe that the intersection was regulated by any signage.

12
13 Mr. Gene Bateman, who resides in Mansfield stated that as a farmer with no employee benefits he must pay
14 his medical bills himself. He said that when his wife's medical bills exceeds their income they must consider
15 other options and one of those options is selling a few lots instead of selling the entire field. He said that
16 they and their banker believe that this is their best option at this time.

17
18 Mr. Eric Thorsland, who resides at 480E CR 2500N, Mahomet stated that HDC Engineering did revise the
19 map and did attempt to preserve best prime farmland with the creation of the proposed lots. He said that if
20 the soil types were totally ignored and the map was reviewed along with the black and white photographs the
21 Board could tell exactly where the drainage flows. He said that there would be significant drainage issues
22 due to construction on the proposed lots and it is very possible that the culvert located at the low point in the
23 road could become blocked by silt and debris. He said that he understands Mr. Bateman's need for finances
24 but he does not believe that the tracts are good locations for homes. He said that there are some houses in the
25 area located in better places and were placed there "By-Right". He said that the entire tract should be
26 considered as a whole during the LESA score and not individually by tract. He said that if the case was
27 continued perhaps someone from the drainage district could comment on the tile which is located on the
28 tract. He noted that the soils are not great soils for septic systems. He said that he is concerned about the
29 additional impact on agriculture that the proposed RRO will produce because there is already a small
30 residential island being developed in the area. He said that the homes are located far enough away from
31 Mahomet that it is unlikely that they will ever be annexed but one never knows how far Mahomet will come
32 out. He said that according to the input at "Big, Small, All" people are growing tired of the sprawl popping
33 up in the rural areas and this is a prime example of that type of sprawl. He said that the increased traffic will
34 probably increase the road requirement to 20 feet in width rather than its current 18 foot width. He requested
35 that the Board consider the overall impact of an additional RRO in the area and deny the request.

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37 Ms. Griest asked the Board if they had any questions for Mr. Thorsland and there were none.

38
39 Ms. Griest asked if staff had any questions for Mr. Thorsland and there were none.

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41
42 Mr. Doug Turner, who resides at 248 CR 2500N, Mahomet stated that he is present at tonight's meeting
43 representing the Newcomb Township Special Drainage District. He said that the three members of the
44 Newcomb Township Special Drainage District Committee are very concerned about the proposal. He said

1 that there is a 24” main district tile which runs through the center of Tract 3 and the edges of the other tracts.
2 He said that they are concerned about the drainage district’s ability to access the 24” tile with the houses
3 which are proposed to be constructed on the properties. He said that they are concerned that the new owners
4 will not be aware that the tile exists and the tile will be damaged during construction. He said that the
5 Newcomb Township Special Drainage District Committee is opposed to the proposed RRO because it does
6 place the district tile at risk. He said that the tile crosses CR 200E in two different places on the bridge to
7 the south which is new and has adequate capacity to take the surface water although the bridge to the north is
8 very old and proves inferior during a three inch rain. He said that he has lived in this neighborhood for 50
9 years and has seen water backed up on this farm numerous times. He said that as an individual property
10 owner, not representing the drainage district, he is the landowner to the south of the proposed RRO and his
11 sons own the properties to the east. He said that both of his son’s properties have livestock on them and the
12 farm to the south of the proposed RRO always has in access of 50 cows at the facility and at certain times of
13 the year the cows do travel to the fence line when it is in a pasture situation. He said that the most vital
14 concern regarding this whole project is how adjacent the proposed RRO is to the People’s Gas line. He said
15 that according to the People’s Gas Company’s map there is a high pressure gas line in the corner of Tract 3.
16 He said that People’s Gas Company’s safety record is excellent but several years ago one of their lines did
17 rupture and if the Board could have seen the fire that was created and the hole that was left due to the rupture
18 they would understand his concern. He said that when the fire was finally put out a semi-tractor and trailer
19 would have fit in the hole. He said that he believes that anything north of CR 2500N should not be allowed
20 to be subdivided due to the existing gas lines which run every quarter mile. He said that some of the gas
21 lines are high pressure gas lines, some are water lines which push the gas and others are alcohol lines. He
22 said that in the corner of the proposed RRO there is a pumping station to the north of the intersection of CR
23 2600N and CR 200E and to the east of that intersection within approximately 50 yards. He said that he has
24 witnessed the explosion of the gas lines and he wouldn’t want his house anywhere near it. He said that when
25 People’s Gas Company installed the system they attempted to avoid residential areas as much as possible so
26 that the established houses were at a safe distance from any accidents that may occur and now people are
27 requesting permission to build houses right on top or near the gas lines. He said that the houses which have
28 already been constructed south of the proposed RRO have the same scenario because if the gas line exploded
29 those houses are not far enough away not to be affected. He said that when the previous gas line exploded
30 the fire was so hot that it melted the oil road. He said that he is also concerned with the condition of CR
31 200E. He said that about 3 years ago CR 200E was a gravel road that maybe two or three people drove on
32 per week but now there are about 60 to 70 cars that travel CR 200E per day. He said that CR 200E has been
33 oiled but it is falling apart and there is a 20 foot area that is impassable when a flood event occurs. He said
34 that he does not believe that CR 200E has the ability to handle any more traffic in its current condition.

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Mr. Bluhm asked Mr. Turner if he had a copy of the Newcomb Drainage District’s tile map.

Mr. Turner stated that he does not have the actual map but they do know the approximate location of the tile. He said that as with most district drainage tiles it is an approximation but it can be located. He said that the assumption is that the tile is located to the north and west side of the low spot in the ditch. He said that they have not probed the tile for an exact location.

4/13/06

AS APPROVED JUNE 29, 2006

ZBA

1 Mr. Bluhm asked Mr. Turner if the drainage district feels that it is only the 24" tile that is within its control.

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3 Mr. Turner stated that within the subject property the 24" tile is the only tile which is in the drainage
4 district's control but there are 10 to 15 inch private tiles which branch off.

5
6 Ms. Griest asked Mr. Turner if the Newcomb Township Drainage District discussed this issue and desired to
7 present an official protest.

8
9 Mr. Turner stated that the Commissioners did discuss this issue at their last meeting.

10
11 Mr. Hall stated that the Newcomb Township Drainage District does not have protest rights but a written
12 statement would be a better visible sign that they object to the proposed RRO.

13
14 Mr. Phillippe asked Mr. Turner if the drainage district has a current easement on the tile.

15
16 Mr. Turner stated that by design anywhere there is a drainage district tile by virtue there is an easement
17 because it is within a drainage district. He said that the problem arises when the ownership changes on the
18 parcel where the drainage district tile exists. He said that in the farming community it is understood that
19 when a district tile exists and it requires maintenance the drainage district has the right to come on to the
20 property to do such maintenance.

21
22 Mr. Hall asked Mr. Turner what the minimum width of an easement would be required to perform proper
23 maintenance on a district tile.

24
25 Mr. Turner stated that the drainage district tile which exists on the subject property is approximately 90 years
26 old which means that at some point it will need to be replaced. He said that at a minimum he would estimate
27 that the drainage district will require a total of 75 feet in order to replace the tile. He said that he will ask the
28 drainage district commissioners but he is comfortable with the 75 foot easement estimation.

29
30 Mr. Chris Doenitz, who resides at 125 CR 2300N, Mahomet stated that he is speaking as a farmer and
31 landowner tonight and not as a Champaign County Board member. He said that placing RROs out in the
32 middle of no where is a bad idea especially the ones that place driveways and mailboxes every 500 feet along
33 the road. He said that he travels CR 200E with his farm equipment and currently he has to dodge mailbox
34 after mailbox and the more houses that are built the worse it will become. He said that CR 200E is an
35 inadequate road for large farm equipment and traffic. He said that if the RROs are approved then they
36 should be required to install their own infrastructure. He said that the continued creation of five acre lots
37 along the roads creates havoc for the new landowners and the farmers. He said that there is a big
38 misconception from the people who move onto these five acre lots about what the established drainage
39 districts can and cannot do therefore creating a constant struggle.

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41 Mr. Bluhm asked Mr. Doenitz if the intersection at CR 2600N and CR 200E is marked.

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43 Mr. Doenitz stated that he is not the Newcomb Township Road Commissioner but the intersection is not
44 marked.

1
2 Mr. Bluhm asked Mr. Doenitz if the low point in the road is a bridge or culvert running under the road.

3
4 Mr. Doenitz stated that there is a double box culvert at the low point in the road.

5
6 Mr. Louis Wozniak, who resides at 401C CR 2425N, Mahomet stated that he is speaking first as an observer
7 and then again as a registered professional engineer. He said that as an observer there have been some
8 comments made which would apply to any RRO. He said that the comment was made that houses draw
9 other houses yet this is not a problem associated with this particular development. He said that if there is
10 such a problem then it should be addressed at the County Board level and perhaps doing away with RROs.
11 He said that the comment that he would like to add as an engineer is that there was an explosion in 1998
12 which was caused by a gas pipeline igniting. He said that since then People's Gas has entered into a program
13 of preventive maintenance. He said that the gas lines are pressured to 1,750 psi. and every underground
14 pipeline that People's Gas controls in the area is pressured every five years to 2,500 psi. with water which is
15 allowed to stay overnight. He said that water is incompressible therefore the smallest leak in a pipeline
16 would appear. He said that the United States Department of Transportation controls safety issues associated
17 with gas pipelines and they have certain rules and regulations as to what the safety factor should be and what
18 kind of line can be close to one or ten homes. He said that if a home is built too close to the pipeline it is the
19 gas company that must abide by the regulations and move the pipeline not the homeowner.

20
21 Ms. Griest asked if anyone else would like to sign the witness register to present testimony regarding this
22 case and there were none. Ms. Griest closed the witness register.

23
24 Mr. Bluhm stated that he would appreciate a copy of the gas line map so that he can see where the lines are
25 located.

26
27 Mr. Steeves stated that he would like more information regarding the drainage district tile and any easement
28 which may exist.

29
30 Mr. Bluhm asked Mr. Hall if there is not a drainage easement is there such a thing as statute by right in the
31 Illinois Drainage Code.

32
33 Mr. Hall stated that he was not aware of any such statute.

34
35 Mr. Bluhm requested that Mr. Turner investigate if a written easement exists for the drainage tile
36 maintenance and present that information to staff.

37
38 Mr. Turner stated that he will discuss this with the commissioners and the drainage district attorney.

39
40 Mr. Hall stated that the location of the drainage district tile is not specific.

41
42 Mr. Bluhm stated that there have been conflicting reports on the location of the drainage tile. He said that
43 the engineer believed that the drainage district tile was located on the south and east side of the low point yet
44 the drainage district believes that it is located on the north and west side of the low point. He said that if it is

1 located on the north and west side of the low point then he has concern that it will be located closer to any
2 house that is constructed.

3
4 Mr. Hall stated that this suggests two alternatives: 1. over estimate the easement given that there is
5 inaccuracy of the drainage district tile's location; or 2. request that the drainage tile be located where it is
6 relevant. He said that he is assuming that the relevant locations would be on Tracts 1, 2 and 3.

7
8 Ms. Griest stated that it may be relevant to Tracts 4 and 5.

9
10 Mr. Bluhm stated that if it crosses the road going back to the People's Gas then it would be into Tract 5.

11
12 Mr. Hall stated that perhaps on Tracts 4 and 5 it would be adequate to specify a greater setback than just the
13 normal sideyard setback but on Tracts 1, 2 and 3 the location of the drainage district tile could be significant.

15
16 Mr. Bluhm stated that the thing that scares him the most about this is that there is a 24" drainage district tile
17 and new landowners which are installing their specific drainage systems. He said that the existing drainage
18 tile was designed to serve the agricultural district and suddenly it is being loaded up with residential use. He
19 asked if multi-flow systems could be connected to the tile.

20
21 Mr. Hall stated that nothing should be connected to the tile if it isn't approved by the drainage district.

22
23 Mr. Bluhm stated that he understands that they shouldn't be connected to the tile but he would bet that the
24 number of times that people ask the drainage districts about connections is a lot lower than the times that
25 they just connect without permission.

26
27 Mr. Hall reminded the Board that the 440B soils are some of the best soils in the County for septic systems.

28
29 Mr. Bluhm stated that 440B soils maybe some of the best soils in the County for septic systems but if they
30 install a multi-flow and they require a discharge location and do not utilize a leach field the drainage tile
31 would be an easy hookup. He said that if basements are constructed a tile will be installed around the
32 basement and tied into something for drainage. He said that he is aware of what the 90 year old tiles look
33 like and they are fragile and old therefore once the dirt is disturbed they begin cracking. He said that he
34 would like to see where the drainage district tile is located.

35
36 Ms. Griest asked Mr. Bluhm if he would like to have information related to a recommendation on visibility
37 issues on Tract 3.

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39
40 Mr. Bluhm stated that he would still like to have that information.

41
42 Mr. Hall stated that Tracts 4 and 5 seem to be candidates for investigation of a shared driveway to minimize
43 the nuisance of two driveways. He said that Tracts 1, 2 and 3 have no alternatives but to have separate
44 driveways.

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Mr. Bluhm asked if there was a standard for how far a driveway is to be located from an intersection.

Mr. Doenitz stated that he is not aware of any standards regarding the distance of a driveway from an intersection.

Mr. Phillippe stated that Mr. Bateman will provide the information requested by the Board. He said that they will work with the drainage district in locating the tile and providing any type of reasonable easement that they require. He said that they feel that the lots are certainly large enough to accommodate any reasonable easement that they request. He said that the Champaign County Public Health District requires a permit for all systems whether it is a septic tank, multi-flow or any other type of systems. He said that they inspect the systems when they are completely installed so the days of going out and illegally hooking up to drainage district tiles are over.

Mr. Bluhm stated that it is not the sewage disposal that he is specifically worried about but the basement drains pumping out into the road ditch. He said that people assume that it is okay therefore they don't ask.

Mr. Phillippe stated that Mr. Bateman will accommodate the Board's concern in notifying the buyers of the proper practices for such discharges. He said that it would be preferable, so that the tile is protected, if it could be located by probing rather than digging.

Mr. Turner stated that one of the reasons that the drainage district tile could be hard to locate is because over time the ditch has moved and in a lot of places the tile may be five or six feet deep yet there may be areas where it is only one foot deep.

Mr. Hall asked Mr. Turner if the Champaign County Soil and Water Conservation District's maps are accurate in locating tiles.

Mr. Turner stated that he wouldn't trust it unless it is a brand new tile but more than likely a 90 year tile will not show up.

Ms. Griest informed Mr. Phillippe that any revision in the site plan related to keeping fewer driveways and mailboxes off of the road would be an improvement.

Mr. Miller moved, seconded by Mr. Steeves to continue Case 520-AM-05, Gene Bateman to the July 13, 2006, regularly scheduled ZBA meeting. The motion carried by voice vote.

Mr. Bluhm moved, seconded by Mr. Steeves to recess the April 13, 2006, public hearing for a five minute break. The motion carried by voice vote.

The Board recessed at 8:12 p.m.

The Board resumed at 8:18 p.m.

6. New Public Hearings

Case 527-V-05 Petitioner: Tim Asire. Request to authorize the following variances from the Champaign County Special Flood Hazard Areas Ordinance: A: Authorize the use of an existing dwelling in which the top of the lowest floor is 8.5 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood elevation; and B. Authorize the construction and use of an addition to a dwelling in which the top of the lowest floor of the addition is 8.5 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation; and C. Authorize the use of an existing shed in which the top of the lowest floor is 4 feet 7 inches below the Base Flood Elevation instead of 1/0 feet above the Base Flood Elevation and that is 720 square feet in area instead of no more than 500 square feet in area. Location: Lot 27 of The Meadows Subdivision in Section 36 of Newcomb Township and that is commonly known as the residence at 2610 Appaloosa Lane, Mahomet.

Ms. Griest informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of hands for those who would like to cross examine and each person will be called upon. She requested that anyone called to cross examine go to the cross examination microphone to ask any questions. She 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. She noted that no new testimony is to be given during the cross examination.

Mr. Hall stated that the Petitioner came in to the office last fall desiring to build a room addition onto his home. He said that being in The Meadow’s Subdivision it was clear that the lot would be in the Special Flood Hazard Area and staff also knew that the home had been constructed prior to the adoption of the Special Flood Hazard Ordinance. He said that sometimes in those instances there were no standards and the regulations actually allow small additions to those homes with no requirements. He said that staff reviewed the original permit for the home and found that there was a requirement for the home to be built to a lowest floor of 1.0 foot above the Base Flood Elevation. He said that at that time staff had the same BFE that we have now at The Meadows but the Zoning Administrator, for some reason, had rounded the BFE down by 6/10ths of a foot which was incorrect. He said that the original builder went to great troubles to comply with the Zoning Administrator’s errant decision. He said that the current Petitioner wanted to build a new addition with no level changes between the addition and the existing home thus the need for the variance. He said that the construction was authorized because it seemed reasonable that the addition could be built anticipating the variance would be granted and in the event that the variance isn’t granted the Petitioner could add on to the floor to bring it up to the level that it needs to be because the Special Flood Hazard Areas Ordinance goes to the top of the lowest floor. He said that it is his position that the existing home also

requires a variance because the original requirement was that it was to be built 1.0 foot above the BFE and it wasn’t. He said that the other part of the variance is the shed that was constructed before the Petitioner purchased the property and it was constructed without a permit and constructed not in accordance with the regulations. The Petitioner has been allowed to build his addition and he has submitted in writing his willingness to comply with whatever the Board requires and at the time that the Petitioner wanted to build the addition knowing that the docket was as full as it is it seemed reasonable to allow the construction provided that staff had his assurance in writing for full compliance. He reviewed the attachments to the

1 Preliminary Memorandum dated April 7, 2006. He noted that the Petitioner has received approval from the
2 Illinois Department of Natural Resources in regard to floodway encroachment therefore it is not a concern.

3
4 Mr. Steeves asked if staff has received any reports that the 6 inches has caused any water issues for the
5 house.

6
7 Mr. Hall stated that he has not received any information regarding such.

8
9 Mr. Tim Asire, who resides at 2610 Appaloosa Ln, Mahomet stated that during the flood in 1993 the water
10 was about two foot in elevation from coming into the house and that was a 100-year flood. He said that this
11 would be two foot below the BFE. He said that the house was built in 1978 and the original contractor built
12 it approximately four foot lower than it sits today. He said that the contractor went to great lengths to
13 comply and jacked the house up and placed an additional four foot foundation under it per the request of the
14 Zoning Administrator at the time. He said that the contractor then sent a letter to the Zoning Administrator
15 indicating that they had completed what was requested bringing the floor elevation to 696.3 which 3.4 inches
16 below the one foot below BFE requirement. He said that he purchased the house in 1991 obviously not
17 knowing all of this information. He said that the previous owner also built a shed without a permit which is
18 three foot below what it should be. He said that the shed actually had water in it during the flood in 1993.
19 He said that the shed is constructed of treated posts and beams which are set in concrete. He said that they
20 desire to construct the addition at the same level as the rest of the house and not have a three and one-half
21 inch drop.

22
23 Mr. Steeves asked Mr. Asire if push comes to shove he will comply with the three and one-half inches.

24
25 Mr. Asire stated only if he absolutely has to comply. He said that leaving it at the level that it is now causes
26 no more threat to the other residences in the area than it has for the past 20 years.

27
28 Ms. Griest stated that the level of variance that is being requested for the shed and that in the event that it is
29 destroyed the variance would give the Petitioner the right to replace it at that reduced level. She asked Mr.
30 Asire if he is requesting the variance for the shed in case the shed is destroyed so that he can replace it or just
31 to be able to continue its use.

32
33 Mr. Asire stated that the variance as written is just to able to keep it there so that he can use it. He said that
34 he was required to receive a variance for the shed so that he could receive a permit on the addition.

35
36
37 Ms. Griest asked Mr. Asire if he were to replace the shed would he place it in the same location or place it
38 some place else.

39
40 Mr. Bluhm explained that if the Board grants the variance the shed could be rebuilt in the same location if
41 required.

42
43 Mr. Hall stated that Mr. Bluhm was correct unless the Board places a condition on the variance. He said that
44 such a condition would be a good idea. He said that the shed as it is does have openings to allow water to

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1 pass through but fill would have to reviewed by IDNR and staff has no control over what they might or
2 might not approve. He said that if the shed has to be rebuilt and IDNR will not allow fill then there will not
3 be any filled placed there.

4
5 Mr. Bluhm asked how the Board would condition the variance if IDNR has control over the fill issue.

6
7 Ms. Griest stated that perhaps as in the past the condition could indicate that the variance is not longer valid
8 if the shed is destroyed.

9
10 Mr. Hall stated that the condition could indicate that the variance does not apply to replacement of the
11 structure and if it needs to be replaced at some point the Petitioner will have to come back to the Board with
12 a new request.

13
14 Mr. Bluhm stated that the Board could approve the variance with whatever IDNR would allow rebuilding the
15 structure and if no fill is allowed to elevate the Petitioner would have to come back before the Board. He
16 said that it seems redundant to make the Petitioner pay the fee and appear before this Board again when he is
17 already before us

18
19 Ms. Griest stated that she would hate to make Mr. Asire pay the fee and come back before the Board but at
20 the same time she would not want to replicate the problem. She said that it doesn't appear that there is any
21 buildable area on the lot that is outside the Special Flood Hazard Area.

22
23 Mr. Hall stated that it appears that all of the ground is below the BFE.

24
25 Mr. Asire stated that not all of the ground is below the BFE but he isn't going to place the shed between the
26 house and the street. He said that the shed was already there when he purchased the property therefore he
27 has no true attachment to the shed.

28
29 Ms. Griest stated that metal sheds do have a life expectancy and when it goes away replacing it replicates the
30 problem.

31
32 Ms. Griest asked the Board if they had any other questions for Mr. Asire and there were none.

33
34 Ms. Griest asked if staff had any questions for Mr. Asire and there were none.

35
36 Ms. Griest asked if anyone in the audience had any questions for Mr. Asire and there were none.

37
38 Mr. Bluhm stated that the Zoning Administrator's letter indicated an elevation of 695 the actual elevation of
39 the first floor, as indicated by HDC Engineering, is 696.3 therefore they did build it above one foot with
40 room to spare.

41
42 Ms. Griest stated that the Zoning Administrator rounded the elevation inappropriately. She said that Item #
43 5.A(2) of the Preliminary Finding of Fact dated April 13, 2006, indicates that the total square footage of the
44 home is 4,320 but the original drawing indicates 2400 square feet.

1
2 Mr. Asire stated that the numbers which are indicated on the drawing were placed there by staff when he
3 came into the office with his request.
4
5 Mr. Hall stated that staff will recalculate the floor area and insert the correct the square footage for Item #
6 5.A(2).
7
8 Ms. Griest stated that as she read Item 5.B91(a)(ii); (iii); and (iv) it appears that it is indicating that the
9 house, at its current construction, is at the maximum allowable crawlspace height and at crawlspace interior
10 depth of unsupported walls. She asked if from the crawlspace prospective the Petitioner had no additional
11 options to be able to build his crawlspace and comply with the elevation.
12
13 Mr. Hall stated that he would be hesitant to say that he had no additional options. He said that the adjacent
14 grade is two foot higher than the floor of the crawlspace and fill could be added in the crawlspace which
15 would lessen the two foot difference and would also lessen the maximum height on the crawlspace or
16 alternatively fill could be added, maintain the four foot height, and get it higher. He said that there is a way
17 that he could meet the requirement for both the finished floor and the maximum crawlspace height.
18
19 Mr. Bluhm stated that Item #5.B(1)(v) should be corrected to indicate a sump pump and not a sub-pump. He
20 said that Item #5.B(2) should be corrected to indicate a site plan and not a site plan.
21
22 Mr. Hall stated that Item #6.B. should include the various ways that the residential building may be protected
23 from flood damage. He said that if the Board would find it acceptable one way to revise this would be to
24 indicate that Paragraph 7.B. provides that a residential building may be protected from flood damage below
25 the flood protection elevation by elevating the building.
26
27 The Board accepted Mr. Hall's revision to Item #6.B.
28
29 Mr. Bluhm stated that Item #10.D should be corrected to indicate that regarding the proposed addition to the
30 existing house the Petitioner has expressed that he would like to avoid a 3.5 inch bump between sections of
31 his house, and so would like to construct the proposed addition at the same level as the rest of the house. He
32 said that Item #14.A indicates that IDNR indicates that the shed is outside of the floodway.
33
34 Mr. Hall stated that the condition should require that the shed should be rebuilt in conformance with the
35 Special Flood Hazard Areas Ordinance.
36
37 Mr. Griest stated that Item #14.B(1)(c) indicates that crawlspace construction should not be permitted in V
38 zones.
39
40 Mr. Knight stated that V zones are coastal flood areas therefore it does not apply to this case.
41
42 Mr. Bluhm stated that an item of evidence should be added indicating that Mr. Asire testified that in 1993 the
43 floodwaters were within two feet from the lowest floor level.
44

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1 Mr. Hall stated that a new Item #15 should indicate that Mr. Tim Asire testified at the April 13, 2006, public
2 hearing that in 1993 the highest flood waters was two feet below the lowest floor elevation of the residence.
3 He said that a new Item #16 should be added for the Board's consideration. He read Item #16 as follows:

4
5 **The following special condition would allow the shed to remain but prohibit reconstruction**
6 **of the shed as it currently exists.**

7 **In the event that the shed is damaged or destroyed or needs to be rebuilt for any reason**
8 **the shed shall be rebuilt in conformance with the Special Flood Hazard Areas Ordinance**
9 **to ensure that if the shed must be rebuilt it is built as so to minimize flood damage.**

10
11 **Mr. Bluhm moved, seconded by Mr. Steeves to approve the condition as read. The motion carried by**
12 **voice vote.**

13
14 **Finding of Fact for Case 527-FV-05:**

15
16 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
17 527-FV-06 held on April 13, 2006, the Zoning Board of Appeals of Champaign County finds that:

18
19 **1. The development activity can not be located outside the floodplain.**

20
21 Mr. Miller stated that the development activity can not be located outside the floodplain because the house
22 addition is intended to match the existing elevation of the home that it is to be added on to.

23
24 Mr. Bluhm stated that it appears that the entire lot is within the Special Flood Hazard Area.

25
26 **2. An exceptional hardship would result if the floodplain variance were**
27 **not granted.**

28
29 Mr. Bluhm stated that an exceptional hardship would result if the floodplain variance were not granted
30 because the shed would not be useable and the Petitioner may not be able to sell the property. He said that
31 the previous Zoning Administrator mistakenly rounded the BFE down at the time of application for

32
33
34 construction of the home. He said that the contractor tried every attempt to comply with the Zoning
35 Administrator's recommendation.

36
37 **3. The relief requested, subject to the special condition, is the minimum necessary.**

38
39 Mr. Steeves stated that the relief requested, subject to the proposed condition, is the minimum necessary
40 because it allows the shed to be used and if the shed is damaged or destroyed it must be built to meet the
41 SFAO requirements. He said that the addition matches the floor level of the existing house.

42
43 **4. The requested floodplain variance, subject to the special condition, will**
44 **not result in any additional threat to public health and safety or creation**

of a nuisance.

Mr. Steeves stated that the requested floodplain variance, subject to the special condition, will not result in any additional threat to public health and safety or creation of a nuisance because the addition is being added to an existing structure and the shed has not caused any nuisance impacts for 14+ years.

5. The requested floodplain variance, subject to the special condition will not result in additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.

Mr. Steeves stated that the requested floodplain variance, subject to the special condition, will not result in additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities or other public facilities because it is an existing facility and there is no additional risk to emergency vehicles or increase in traffic.

6. The applicant’s circumstances, subject to the special condition, are unique and do not establish a pattern inconsistent with the National Flood Insurance Program.

Mr. Bluhm stated that the applicant’s circumstances, subject to the special condition, are unique and do not establish a pattern inconsistent with the National Flood Insurance Program because this is only the fifteenth flood variance applied for in Champaign County under the Special Flood Hazard Area Ordinance while at the same time there have been over 2000 zoning use permits issued.

7. All other required state and federal permits have been obtained.

Mr. Bluhm stated that all other required state and federal permits have been obtained.

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

Mr. Steeves moved, seconded by Mr. Miller to close the public hearing for Case 527-FV-05, Tim Asire.

The motion carried by voice vote.

Ms. Griest informed Mr. Asire that the Board has four of the seven members present at tonight’s hearing. She said that the four members who are present does constitute a quorum and a positive in his favor would require four affirmative votes. She said that it is at his discretion that the Board proceed to a final determination at tonight’s hearing or he can request a continuance to a later date when all Board members are present.

Mr. Asire requested that the Board proceed to the final determination tonight.

Final Determination for Case 527-FV-05:

1
2 Mr. Bluhm moved, seconded by Mr. Miller that the Champaign County Zoning Board of appeals finds
3 that, based upon the application, testimony, and other evidence received in this case, that the
4 requirements of Section 10a. of the *Special Flood Hazard Areas Ordinance* have been met, and
5 determines that the Floodplain Variances requested in Case 527-FV-05 is hereby granted with
6 conditions to the Petitioner, Tim Asire, to authorize the following variances:
7

- 8 A. Authorize the use of an existing dwelling in which the top of the lowest
9 floor is 8.5 inches above the Base Flood Elevation instead of 1.0 feet
10 above the Base Flood Elevation;
- 11
- 12 B. Authorize the construction and use of an addition to a dwelling in which
13 the top of the lowest floor of the addition is 8.5 inches above the Base
14 Flood Elevation instead of 1.0 feet above the Base Flood Elevation;
- 15
- 16 C. Authorize the use of an existing shed in which the top of the lowest floor
17 is 4 feet 7 inches below the Base Flood Elevation instead of 1.0 feet above
18 the Base Flood Elevation and that is 720 square feet in area instead of
19 no more than 500 square feet in area;
- 20

21 The roll was called:

22	23 Miller-yes	23 Schroeder-absent	23 Steeves-yes
24	24 Goldenstein-absent	24 Irle-absent	24 Bluhm-yes
25	25 Griest-yes		

26
27 **Case 528-V-05** Petitioner: **Robert Schmidt**. Request to authorize the use of a lot that was created
28 after October 10, 1973, and that has a lot area of 12 acres instead of the required maximum 3 acres
29 when located on best prime farmland in the AG-1, Agriculture Zoning District. Location: A 12 acre
30 tract in the North ½ of the Southeast ¼ of Section 29 of Rantoul Township and that is commonly
31 known as the dwelling at 1962 CR 2500N, Thomasboro.
32

33 Ms. Griest informed the audience that this is an Administrative Case and as such the County allows anyone
34 the opportunity to cross examine any witness. She said that that the proper time she will ask for a show of
35 hands for those who would like to cross examine and each person will be called upon. She requested that
36 anyone called to cross examine go to the cross examination microphone to ask any questions. She said that
37 those who desire to cross examine are not required to sign the witness register but are requested to clearly
38 state their name before asking any questions. She noted that no new testimony is to be given during the cross
39 examination.
40

41 Mr. Hall stated that last summer Mr. Schmidt began discussing with staff the possibility of selling off the
42 house and the restricted landing area. He said that staff immediately realized that the maximum lot size
43 would be a concern but he did not realize at the time that there would be other issues. He said that during
44 Mr. Knight’s review of the case he discovered that this is a non-conforming restricted landing area that is

1 part of 200 acres and now since the restricted landing area is going to be cut off the non-conformity cannot
2 be increased. He said that the text amendment which added restricted landing areas established certain
3 dimensional requirements which are for runway safety areas which are 120 feet wide and extends 240 feet
4 past the end of the runways. He said that the text amendment also establishes a 120 foot width also along the
5 runway. He said that he was not aware of this requirement therefore he did not advise Mr. Schmidt about it
6 during his discussion with staff but since that discussion Mr. Schmidt had a plat of survey completed such
7 that where the runway is located that strip is only 100 feet wide. He said that at this point in order for this lot
8 to be approved as it is would actually require another variance which would be a variance from the
9 requirement for a 120 foot wide runway safety area which is a significant deviation from what has been
10 advertised therefore requiring re-advertisement. He said that alternatively the Board could require a
11 condition that the lot includes that 120 foot wide area as depicted on the annotated plat of survey. He said
12 that it would not have to be resurveyed and could just be handled as an additional part of the sale of the land
13 but that would require Mr. Schmidt and the prospective buyer coming to an agreement on that much extra
14 land. He said that Mr. Schmidt was just given this information prior to the meeting therefore he may not be
15 ready for final action at tonight's hearing. He said that this requirement caught staff by surprise although it is
16 a clear requirement that a nonconformity cannot be increased therefore there would have to either be an extra
17 amount of land added to the lot or the variance would have to be increased and re-advertised. He said that
18 the diagram also shows other areas established by the Ordinance which are the primary surface areas and
19 runway clear zones and these areas are not required to be part of the lot and will apply after the sale just like
20 they applied before the sale.

21
22 Mr. Bluhm asked Mr. Hall if he was only talking about twenty extra feet for the length of the effective
23 runway plus 240 feet at each end of the runway.

24
25 Mr. Hall stated that Mr. Bluhm was correct.

26
27 Mr. Steeves asked if the runway needed to be 240 feet wider.

28
29 Mr. Hall stated no, only 20 feet wider and it doesn't have to go the full length of the northern strip.

30
31
32 Mr. Steeves asked Mr. Hall if the runway was hard surfaced or grass.

33
34 Mr. Hall stated that the runway was grass not hard surfaced. He said that the nonconformity is well
35 documented.

36
37 Mr. Robert Schmidt, who resides at 1962 CR 2500N, Thomasboro stated that the new information was a
38 surprise. He asked how much time is involved in the variance.

39
40 Mr. Hall stated that the time involved in the variance would be at the Board's discretion. He said that the
41 earliest that the variance could come back would be May 11, 2006, and then only if it could be squeezed in
42 on that meeting date and the legal advertisement would have to be placed during the week of April 26th.

43
44 Mr. Schmidt asked if it would take care of it if he increased the width by 20 feet.

1
2 Mr. Hall stated that if Mr. Schmidt is confident that he can increase the width by 20 feet then the Board
3 could make it a condition at tonight's meeting.
4
5 Mr. Schmidt stated that he isn't sure if he can tonight.
6
7 Mr. Bluhm asked if the 20 feet could be on the south line of the runway.
8
9 Mr. Hall stated that the 20 feet is supposed to be centered on the runway.
10
11 Mr. Schmidt stated that the centerline of the runway would have to be moved north.
12
13 Mr. Bluhm stated that this involves one and one-half acres of land to negotiate.
14
15 Mr. Schmidt stated that IDOT requires a clear zone and it is 85 feet each way.
16
17 Mr. Knight stated that the Division of Aeronautics' runway clear zones are 3000 feet long but they are
18 sloped.
19
20 Mr. Schmidt stated that IDOT is indicating that the runway has to be 100 feet but the County is indicating
21 that is must be 120 feet.
22
23 Mr. Knight stated that the County received their information regarding runway safety from the FAA.
24
25 Mr. Schmidt stated that his diagrams and paperwork all indicate 100 feet and that is from the latest manual
26 issued by IDOT.
27
28 Mr. Knight stated that when the issue originally came up IDOT was not completely in favor of having the
29 area added to the Ordinance because they felt that it was too restrictive because the there were Federal
30
31 Standards for private uses but nevertheless it did make its way into the Ordinance. He referred to Appendix
32 6. Runway Clear Zone Dimensions, attached to the Preliminary Memorandum date April 6, 2006.
33
34 Mr. Hall stated that he believes that this only goes to the primary surface of the runway clear zone.
35
36 Mr. Schmidt stated that he does not believe that his runway applies to these Federal rules.
37
38 Mr. Hall stated that the only thing at issue is something that is clearly in the Zoning Ordinance which
39 indicates that the Restricted Landing Area shall provide for a runway plus a runway safety area both located
40 entirely on the lot. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond
41 each end of the runway.
42
43 Mr. Schmidt asked if anything can be built next to the runway.
44

1 Mr. Hall stated no.
2
3 Mr. Schmidt asked what was going to be hit.
4
5 Mr. Hall stated that this fact may be good grounds for a variance but this is what the Ordinance requires
6 without a variance.
7
8 Mr. Schmidt stated that according to the Zoning Ordinance he couldn't go out and build something next to
9 the runway either.
10
11 Mr. Hall stated that Mr. Schmidt was correct.
12
13 Mr. Schmidt asked that if he can't build anything anyway why is the additional 20 foot needed.
14
15 Mr. Steeves asked if the additional 20 feet is what needs to be re-advertised with the variance.
16
17 Mr. Hall stated yes because it is such a substantial difference than what was previously advertised.
18
19 Ms. Griest asked Mr. Hall if Mr. Schmidt has the 200 foot at the end already included but it is just width that
20 we are concerned about.
21
22 Mr. Hall stated that the width is the issue.
23
24 Mr. Schmidt stated that he needs time to discuss this issue.
25
26 Mr. Hall stated that the Board could approve this request tonight with a condition that the 20 feet be added
27 and in the event that Mr. Schmidt cannot come to an agreement with the prospective buyer he could ask for a
28 variance.
29
30 Mr. Schmidt stated that Mr. Hall's option would help.
31
32 Mr. Hall informed Mr. Schmidt that if he is working on a time constraint that the Board is docketing for July
33 unless the Board would chose to move the case up.
34
35 Mr. Steeves asked Mr. Schmidt when the runway was constructed.
36
37 Mr. Schmidt stated that the runway was constructed in 1984.
38
39 Mr. Bluhm stated that IDOT's letter dated October 20, 2005, indicates that the existing runway width is 104
40 feet.
41
42 Mr. Schmidt stated that he understood that their requirement was only 100 feet therefore that is how he set up
43 the runway.
44

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1 Mr. Bluhm asked Mr. Schmidt if IDOT still feels that he is in compliance with their regulations.

2

3 Mr. Schmidt stated yes.

4

5 Ms. Griest asked if IDOT is saying that the RLA was certified July 21, 1983, with the width of 104 feet but
6 the plat indicates 100 feet wouldn't the four feet would be required to comply with the IDOT RLA.

7

8 Mr. Bluhm stated that it is possible so that the runway complies with the original permit. He said that the
9 letter also indicates the following: As per the phone conversation for the certificate of approval to be
10 transferred the RLA must meet the minimum standards currently in effect. Mr. Bluhm stated that the current
11 minimum standard is 100 feet as per the IDOT book.

12

13 Mr. Schmidt stated that when the property changes hands the RLA will be re-certified and at that point it can
14 be certified at 100 feet.

15

16 Mr. Steeves asked if the purchase of an additional one and one-half acre will be a problem for the buyer.

17

18 Mr. Schmidt stated that he will need to discuss this issue with the buyer and negotiate a price.

19

20 Mr. Steeves asked if the landing strip is on the extreme edge of the property.

21

22 Mr. Schmidt stated that there is a property line on the edge of the landing strip but he farms the north side of
23 the landing strip. He said that he does not want to encroach onto his relative's property to the south to
24 accommodate the additional 10 feet.

25

26 Mr. Hall stated that at this point the Board has two options in regard to this case: 1. continue the case to see if
27 Mr. Schmidt can come to terms with the prospective buyer providing enough time for re-advertisement if
28 necessary; 2. approve the case with the condition that the site plan be amended to meet the Ordinance
29 requirement. He said that if Mr. Schmidt receives his variance with this condition and he cannot come to
30 terms with the buyer the case would be re-advertised and return to the Board.

31

32 Ms. Griest stated that if the Board approved the variance tonight it would have to include a special condition
33 that he entered into his contract to replat the sale to meet the Zoning Ordinance's additional 20 foot
34 requirement. She said that Mr. Schmidt would have to increase the lot size by 20 foot in width and
35 approximately 3,000 feet in length.

36

37 Mr. Bluhm stated that the request is for the lot size. He said that the subject property is at 12 acres and if Mr.
38 Schmidt adds the other 20 feet the subject property will be approximately 13.45 acres. He said that the
39 condition is so that he has to bring the 20 feet into the sale so that the RLA conforms to the Ordinance.

40

41 Mr. Steeves stated that he was confused about the need for re-advertisement.

42

43 Mr. Hall stated that increasing the amount of the variance for maximum lot area, making it bigger by one and
44

1 and one-half acres, would probably need to be re-advertised but he does not believe that it is a significant
2 enough difference. He said that including a variance in regards to a runway safety area would be a
3 significant difference.

4
5 Mr. Steeves stated that now he understands the need for re-advertisement if the buyer does not purchase the
6 additional one and one-half acre.

7
8 Mr. Knight stated that the addition of 1.4 acres is not required because Mr. Schmidt only needs to add 20 feet
9 to 2,670 feet. He said that it is the effective land of the runway plus 240 feet on each end.

10
11 Mr. Bluhm asked Mr. Schmidt if he would want to farm around the 20 foot offset.

12
13 Mr. Schmidt stated no.

14
15 Ms. Griest asked if ground is being added to the RLA under different ownership is the existing ground being
16 taken out of production which could remain in production if a variance was sought and approved.

17
18 Mr. Schmidt stated that he would be glad to discuss this issue with the buyer but he does not want this case
19 to drag out for another six months. He said that he started this process six months ago and consulted with his
20 lawyer but she obviously missed this issue.

21
22 Mr. Bluhm stated that he assumes that the new owner does want the runway.

23
24 Mr. Schmidt stated that if the buyer would purchase the additional ground then he would include it in the
25 sale. He said that it may be a very simple issue and he may not have a problem.

26
27
28 Mr. Bluhm asked Mr. Schmidt if he would like the Board to recess for ten minutes so that he could reach the
29 buyer to discuss this issue.

30
31 Mr. Schmidt stated that he would appreciate that opportunity.

32
33 **Mr. Bluhm moved, seconded by Mr. Steeves to recess the April 13, 2005, public hearing for a five**
34 **minute break. The motion carried by voice vote.**

35
36 **The Board recessed at 9:40 p.m.**

37 **The Board resumed at 9:45 p.m.**

38
39 Mr. Schmidt stated that he discussed the issue with the buyer and he agreed to purchase the additional
40 acreage.

41
42 Mr. Hall stated that Item #17 of the Preliminary Draft Summary of Evidence should be revised to indicate the
43 following condition:

The Petitioner shall revise the site plan to include sufficient land, such that the runway safety area for the Restricted Landing Area is contained on the lot.

Ms. Griest asked if the Board and staff had any additional questions for Mr. Schmidt and there were none.

Ms. Griest asked the audience if anyone else would like to sign the witness register on this case and present testimony that has not done so but would like to do so at this time and there were none.

Ms. Griest closed the witness register.

Mr. Hall stated that the Variance Application with a Plat of Survey should be added as Document of Record #1 and the other Documents of Record should be renumbered accordingly.

Mr. Bluhm moved, seconded by Mr. Steeves to approve the condition as previously read by Mr. Hall and included as revised Item #17 of the Preliminary Draft Summary of Evidence. The motion carried by voice vote.

Finding of Fact for Case 528-V-05:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 528-V-05 held on April 13, 2006, 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. Bluhm 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 property has been a residence for over 80 years and the Restricted Landing Area has existed since 1983. He said that the variance is required so that the Petitioner can sell the property and to do that the lot must be created in this fashion so that the lot is in conformance with the Zoning Ordinance.

- 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. Bluhm 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 the prospective buyer will not purchase the subject property without the Restricted Landing Area. He said that the lot has been in its present configuration since 1983 and permitted as an RLA.

- 3. The special conditions, circumstances, hardships or practical difficulties do**

not result from actions of the applicant.

Mr. Bluhm stated that the special conditions, circumstances, hardships or practical difficulties do not result from actions of the applicant because the configuration of the lot is required to accommodate the RLA and the house.

4. The requested variance, subject to the imposed condition, is in harmony with the general purpose and intent of the Ordinance.

Mr. Bluhm stated that the requested variance, subject to the imposed condition, is in harmony with the general purpose and intent of the Ordinance because the lot that the Petitioner is trying to sell has not been farmed since 1983 and it conforms to the Zoning Ordinance in all other regards.

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

Mr. Miller stated that the requested variance, subject to the imposed condition, will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the RLA has been in existence since 1983 and the Petitioner is not establishing a new RLA. Mr. Bluhm stated that the RLA must meet all of the Federal Aviation and IDOT requirements.

6. The requested variance, subject to the imposed condition, is the minimum variation that will make possible the reasonable use of the land/structure.

Mr. Bluhm stated that the requested variance, subject to the imposed condition, is the minimum variation that will make possible the reasonable use of the land/structure because the property must be configured in this manner to accommodate the residence and the landing strip and the Petitioner is trying to use the smallest amount of acreage that will meet the requirements.

7. The special condition imposed herein is required to ensure compliance with the criteria for variance and for the particular purposes described below:

Mr. Hall stated that the special condition imposed herein is required to ensure that the RLA is not made more non-conforming by the lot division.

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

Mr. Steeves moved, seconded by Mr. Miller to close the public hearing for Case 528-V-05, Robert Schmidt. The motion carried by voice vote.

Mr. Bluhm moved, seconded by Mr. Steeves to extend the April 13, 2006, public hearing to 10:15 p.m.

1 The motion carried by voice vote.

2
3 Ms. Griest informed Mr. Schmidt that the Board has four of the seven members present at tonight’s hearing.
4 She said that the four members who are present does constitute a quorum and a positive in his favor would
5 require four affirmative votes. She said that it is at his discretion that the Board proceed to a final
6 determination at tonight’s hearing or he can request a continuance to a later date when all Board members are
7 present.

8
9 Mr. Schmidt requested that the Board proceed.

10
11 **Final Determination for Case 528-V-05:**

12
13 **Mr. Steeves moved, seconded by Mr. Miller that the Champaign County Zoning Board of Appeals**
14 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
15 **requirements of Section 9.1.9S have been met and pursuant to the authority granted by Section 9.1.6.B**
16 **of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
17 **determines that the Variance requested in Case 528-V-05 should be granted subject to the following**
18 **condition:**

19
20 **The Petitioner shall revise the site plan to include sufficient land, such that the runway**
21 **safety area for the Restricted Landing Area is contained on the lot.**

22
23 The roll was called:

24	Bluhm-yes	Goldenstein-absent	Irle-absent
25	Miller-yes	Schroeder-absent	Steeves-yes
26	Griest-yes		

27
28
29 **7. Staff Report**

30
31 None

32
33 **8. Other Business**

34
35 None

36
37 **9. Audience Participation with respect to matters other than cases pending before the Board**

38
39 None

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41 **10. Adjournment**

42
43 The meeting adjourned at 10:02 p.m.

44

ZBA

AS APPROVED JUNE 29, 2006

4/13/06

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Respectfully submitted

Secretary of Zoning Board of Appeals

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DRAFT SUBJECT TO APPROVAL DRAFT

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