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MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61801**

**DATE: May 11, 2006 PLACE: Lyle Shields Meeting Room
1776 East Washington Street
Urbana, IL 61802**

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

MEMBERS ABSENT : None

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

OTHERS PRESENT : David Ehler, Cathe Capel, Julie Ehler, Eric Thorsland, Steve Willard, Scott Adair, Debbie Insana, Roberta Schnitkey

1. Call to Order

The meeting was called to order at 7:04 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

3. Correspondence

None

4. Approval of Minutes (October 13, 2005 and December 15, 2005)

Mr. Steeves moved, seconded by Mr. Irle to approve the October 13, 2005 and the December 15, 2005, minutes as submitted. The motion carried by voice vote.

Mr. Irle moved, seconded by Mr. Goldenstein to rearrange the agenda to open and continue New Hearing Case 531-V-05, Case 532-V-05 and Case 541-S-06 prior to hearing Continued Case 497-AM-05, Case 498-S-05 and Case 536-V-06. The motion carried by voice vote.

5. Continued Public Hearing

Case 497-AM-05 Petitioner: Helen Willard and Steven Willard and Shirley Willard. Request to

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1 **amend the Zoning Map to change the zoning designation from CR, Conservation Recreation to AG-2,**
2 **Agriculture. Location: A 29 acre tract in the Northwest ¼ of the Southeast ¼ of Section 36 of**
3 **Newcomb Township and located east of CR 550E and north of CR 2425N at the corner of CR 550E**
4 **and CR 2425N and commonly known as the home and property at 556 CR 2425N, Dewey.**
5

6 **Case 498-S-05 Petitioner: Helen Willard and Steven Willard and Shirley Willard; and rock the shed,**
7 **inc. a non-profit corporation with Directors and Officers Steven Willard, Micah Boyce, Sherry**
8 **Newton, Brian Maroon and Peter Ruedi. Request to authorize the establishment and use of the**
9 **following as Special Use in the AG-2, Agriculture Zoning District: Part A. A Private Indoor**
10 **Recreational Development. Location: A 29 acre tract in the Northwest ¼ of the Southeast ¼ of**
11 **Section 36 of Newcomb Township and located east of CR 550E and north of CR 2425N at the corner**
12 **of CR 550E and CR 2425N and commonly known as the home and property at 556 CR 2425N, Dewey.**
13

14 Ms. Griest called Case 497-AM-05 and Case 498-S-05 concurrently.
15

16 Ms. Monte stated that the Supplemental Memorandum dated April 21, 2006, indicates that the Board may
17 choose to make a final determination regarding Case 497-AM-05, and then forward Case 497-AM-05 onto
18 the County Board apart from the related Special Use request (Case 498-S-05). She distributed the following
19 documents for the Board's review: 1) Village of Mahomet Resolution of No Protest; 2) Letter of opposition
20 dated May 8, 2006, from Lee Sentman; 3) color graphic depicting the location of the subject property; 4)
21 Revised Draft Finding of Fact for Case 497-AM-05, dated May 11, 2006. She reviewed the changes and
22 additions to the Revised Finding of Fact dated May 11, 2006.
23

24 Ms. Griest asked the Board if they had any questions for Ms. Monte regarding Case 497-AM-05 and there
25 were none.
26

27 Ms. Monte stated that on April 13, 2006, the Petitioners chose to withdraw Part B, Church, of the Special
28 Use request. She said that the Petitioner needs to provide some additional information in order to process
29 this request. She said that exact information is required regarding the parking area because it needs to be
30 determined whether or not a stormwater drainage plan will be required. She said that the Petitioner may
31 want to choose to consider reducing the impervious surface area to avoid the costs of a stormwater drainage
32 plan assessment and the costs associated with that or increase the area of the Special Use requested lot. She
33 said that the Board must consider which parking standard it wants to impose on the Petitioner. She said that
34 the Zoning Ordinance's parking standards are inadequate and the closest parking standard in the ordinance
35 calls for 1 parking space for 5 seats of public assembly. She said that translated to maximum occupancy of
36 122 in The Shed divided by 5 is not a realistic parking standard to apply to this request. She said that she
37 and the Petitioner have observed that most people arrive to the subject property in groups of 2 to 5 per car.
38 She said that she would propose considering a standard of one parking space for every two occupants of the
39 building but it is up to the Board for that consideration. She said that testimony needs to be added to the
40 Finding of Fact with regard to the mosh pit and life safety concerns. She said that a list of conditions must
41 be considered by the ZBA and perhaps there will be a chance to review those conditions at tonight's public
42 hearing. She said that it is possible to move the rezoning request to the June 12, 2006, Environment and
43 Land Use Committee Meeting and then possibly to the June 22, 2006, County Board meeting. She said if the
44 rezoning was denied the Petitioner would be clear that this is the end of the road for the Special Use request.

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Mr. Steeves asked Ms. Monte what the other AG-2 properties were on the color graphic.

Ms. Monte stated that in 1978, 25 acres was rezoned from CR, Conservation-Recreation to AG-2, Agriculture for a residential subdivision. She said that there have been seven requests for rezoning from CR to AG-2 since the Zoning Ordinance was adopted. She said that there have been a few rezonings from AG-1 to AG-2 requested in the 1980's.

Mr. Hall stated that the Preliminary Memo referenced Case 459-AM-04, a six lot RRO which had been remanded at that time and asked Ms. Monte if this was updated in the new Finding of Fact.

Ms. Monte stated that the Finding of Fact was updated with the information for Case 459-AM-04.

Ms. Griest asked the Board if they wanted to deal with Case 497-AM-05 only.

The consensus of the Board was to process Case 497-AM-05, only at the May 11, 2006, public hearing.

Ms. Griest stated that the Board will only deal with Case 497-AM-05, therefore there will be no cross-examination.

Mr. Steve Willard, who resides at 552 CR 2425N, Dewey declined to speak at this time.

Ms. Robert Schnitkey, who resides at 570 CR 2425N, Dewey stated that she purchased the property known as Long Leap Farm. She said that she is currently filing the correct paperwork to protest the requested map amendment.

Ms. Griest asked Ms. Monte that since Ms. Schnitkey is the new owner of the parcel if she files her protest appropriately it would require a super-majority vote from the County Board.

Ms. Monte stated that Ms. Schnitkey's property comprises 20% of the frontage and her protest would require a ¾ vote from the County Board. She requested that Ms. Schnitkey submit her protest in a timely manner.

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

Ms. Griest asked if staff had any questions for Ms. Schnitkey and there were none.

Ms. Griest asked the audience if anyone wished to sign the witness register to present testimony regarding this case and there were none. She closed the witness register.

Ms. Griest stated that an Item #18.C should be added indicating the following: Ms. Roberta Schnitkey testified at the May 11, 2006, public hearing that she is in the process of filing a frontage protest.

Ms. Griest read Item # 23.B, Natural Resource Goal #1.

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Mr. Irle stated that Item #23.B.4 is NOT ACHIEVED.

The consensus of the Board was that overall, Natural Resource Goal #1 is NOT ACHIEVED by the proposed map amendment.

Ms. Griest read Item #23.D, Natural Resource Goal #2.

Mr. Irle stated that Item #23.D.3 is NOT ACHIEVED.

The consensus of the Board was that overall, Natural Resource Goal #3 is NOT ACHIEVED by the proposed map amendment.

Ms. Griest read Item #23.E, Natural Resource Goal #4.

Mr. Steeves stated that Item #23.E.2 is NOT ACHIEVED. He said that the AG-2, zoning district allows too many uses which would change the character of the agricultural district.

Ms. Monte stated that the AG-2 district is an agricultural district with the expressed intent of preserving the agricultural nature of the County. She said that when a rezoning request is being considered the Board is considering the whole body of uses in the AG-2 district which are permitted and not just one specific use. She said that one of the purposes of the AG-2 district is to preserve agricultural nature.

The consensus of the Board was that overall, Natural Resource Goal #4 is NOT ACHIEVED by the proposed map amendment.

Ms. Griest read Item #24.D, Land Use Goals and Policy 5.7. She said that testimony indicates that the subject property is directly adjacent to a nature preserve and there is a fairly substantial area on the parcel that was wooded and of a natural character.

Ms. Monte stated that the adjacent Nellie Hart Memorial Woods is designated as an Illinois Natural Area and there are no criteria in the Zoning Ordinance which identifies a natural area. She said that the subject property is 29 acres and the majority of the parcel is in farm production.

Mr. Hall stated that Mr. Steve Buck, Caretaker of the Nellie Hart Memorial Woods testified at the July 14, 2005, public hearing.

Mr. Hall stated that the subject property is surrounded by the CR zoning district and there are large residential lots across the river.

Mr. Irle asked if making the change is going to improve the preservation of the natural reserve. He said that he visited the subject property and it is pretty cleared off.

Mr. Irle stated that Item #24.D.2 DOES NOT CONFORM.

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The consensus of the Board was that overall, the proposed map amendment DOES NOT CONFORM to LUGP 5.7.

Ms. Griest read Item #25.A, Land Use Regulatory Policy 1.7.1.

Mr. Bluhm stated that Item #25.A.3 DOES NOT CONFORM. He said that the subject property is located directly across from a designated area therefore there could be too many uses allowed which would interfere with natural wildlife habitat.

The consensus of the Board was that overall, the proposed map amendment DOES NOT CONFORM to LURP 1.7.1.

Ms. Griest read Item #25.B, Land Use Regulatory Policy 1.7.2.

Mr. Irle stated that Item #25.B.6 CONFORMS.

The consensus of the Board was that overall, the proposed map amendment CONFORMS to LURP 1.7.2.

Ms. Griest read Item #26.B Land Use Goal #1.

Mr. Irle stated that Item #26.B.4 is ACHIEVED.

Ms. Griest asked if by “stated that it achieves” is it allowing additional “by-right” uses that would take the subject property out of an agricultural use.

The consensus of the Board was that Agricultural Land Use Goal #1 is ACHIEVED by the proposed map amendment.

Ms. Griest read Item #27.C, Land Use Goal Policy 7.3 and 7.3A. She asked Ms. Monte if since the Board is not considering the suggested use as part of the map amendment shouldn't the reference to the suggested commercial use be taken out of Item #27.C.1(b).

Ms. Monte stated that Item #27.C.1(b) should read as follows: A water well is present on the site and serving the dwelling. She said that the second sentence should be removed.

Mr. Steeves stated that there is not evidence that there is adequate water to support an AG-2, designation.

Ms. Griest stated that any construction or commercial use on the subject property must conform to the County Health Department regulations.

The consensus of the Board was that in regards to water availability, the proposed map amendment CONFORMS to LUGP 7.3 and 7.3A.

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Mr. Bluhm stated that Item #27.C.2(f) CONFORMS.

The consensus of the Board was that in regards to sewer availability, the proposed map amendment CONFORMS to LUGP 7.3 and LUGP 7.3A.

Ms. Griest read Item #27.D.

Ms. Griest stated that Item #27.D. should be revised as follows: In regards to overall adequacy of utilities and fire protection and police protection based on the available information, the proposed map amendment CONFORMS/DOES NOT CONFORM to the LUGP Policies 1.2, 7.3 and 7.3A.

Mr. Irle stated that Item #27.D CONFORMS.

Mr. Bluhm stated that he disagrees that Item #27.D conforms. He said that if suddenly there is a different use on the subject property that is greater than what is allowed in the CR district it may be bigger than what the fire protection district can handle.

Mr. Irle stated that the fire protection district signed off on the proposed use.

Mr. Bluhm stated exactly. He said that the fire protection district signed off on the use which is proposed in Case 498-S-5, not considering all of the other uses that will be allowed in the AG-2 district.

Ms. Griest stated that perhaps PARTIALLY CONFORMS would be more appropriate.

The consensus of the Board was that in regards to overall adequacy of utilities and fire protection and police protection based on the available information, the proposed map amendment PARTIALLY CONFORMS to LUGP Policies 1.2, 7.3 and 7.3A.

Ms. Griest read Item #28.A.

Mr. Bluhm stated that Item #28.A.5 DOES NOT CONFORM. He said that if a golf course was located on the subject property there could be chemical problems as well as the conflict with the equine facility. He said that a golf course would be a non-agricultural use and would not require a Special Use Permit.

Mr. Hall stated that LURP 1.4.1. relates to uses and the Board is dealing with a map amendment therefore there is an inherent contradiction there but his concern is that if the Board does not address this policy then the Board is open to criticism because the policy was not addressed. He said that he has a problem with rezoning to AG-2 does not conform to the policy that calls for agricultural uses.

Ms. Griest stated that Mr. Bluhm is struggling with the variety of uses allowed in AG-2 as opposed to AG-1 because AG-1 is more purely agricultural where AG-2 allows a greater leniency in that agricultural interpretation.

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1 **Mr. Bluhm moved, seconded by Mr. Steeves to continue the May 11, 2006, public hearing to 10:30**
2 **p.m. The motion carried by voice vote.**

3
4 Mr. Hall stated that he understands Mr. Bluhm's concern and it is a classic concern. He said that this is
5 exactly why the Board has to go through these findings individually.

6
7 **The consensus of the Board was that the proposed map amendment DOES NOT CONFORM to**
8 **LURP 1.4.1.**

9
10 Ms. Griest read Item #28.B, Land Use Regulatory Policy 1.4.2.

11
12 Mr. Irle stated that no testimony has been received regarding drainage and only some testimony regarding
13 road usage.

14
15 Ms. Griest stated that the Board must remember that they are not to base their decision on one specific use
16 but all allowed uses in the AG-2, district.

17
18 Mr. Bluhm stated that Item #28.B.4. PARTIALLY CONFORMS.

19
20 **The consensus of the Board was that the proposed map amendment PARTIALLY CONFORMS to**
21 **LURP 1.4.2.**

22
23 Ms. Griest read Item #28.C, Land Use Regulatory Policy 1.5.1.

24
25 Mr. Irle stated that Item #28.C.4 CONFORMS.

26
27 **The consensus of the Board was that based on the available information, the proposed map**
28 **amendment CONFORMS to LURP 1.5.1.**

29
30 Ms. Griest read Item #28.D, Land Use Regulatory Policy 1.5.3.

31
32 Ms. Monte stated that Item #28.D.5 should be revised to read as follows: Based on the experience to date,
33 the existing infrastructure seems to BE ADEQUATE/NOT BE ADEQUATE for the array of uses allowed in
34 AG-2.

35
36 Mr. Irle stated that Item #28.D.5 seem to NOT BE ADEQUATE.

37
38 **The consensus of the Board was that based on the experience to date, the existing infrastructure seems**
39 **NOT ADEQUATE for the array of uses allowed in AG-2.**

40
41 Mr. Irle stated that Item # 28.D.6 DOES NOT CONFORM.

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43 **The consensus of the Board was the based on the available information, the proposed map**
44 **amendment DOES NOT CONFORM to LURP 1.5.3.**

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Ms. Griest read Item #28.E, Land Use Regulatory Policy 1.5.4.

Mr. Bluhm stated that Item #28.E.4 PARTIALLY CONFORMS.

The consensus of the Board was that based on the available information, the proposed map amendment PARTIALLY CONFORMS to LURP 1.5.4.

Ms. Griest read Item #28.F, Land Use Regulatory Policy 1.6.1.

Mr. Bluhm stated that Item #28.F.4 PARTIALLY CONFORMS. He said that a portion of the AG-2 uses do conform but there are a few uses which do not.

The consensus of the Board was that based on the available information, the proposed map amendment PARTIALLY CONFORMS to LURP 1.6.1.

Ms. Griest read Item #28.G, Land Use Regulatory Policy 1.6.2.

Mr. Bluhm asked if an LE rating was determined.

Ms. Monte stated that the LE rating is unknown.

Mr. Bluhm stated that if the subject property is not best prime farmland then the policy doesn't relate.

Mr. Hall stated that if it is not best prime farmland then the policy does not apply but because they are not taking any farmland out of production and so there is no natural resource report.

Ms. Griest asked if the Board could indicate that there is not enough available information to make a determination on this point.

The consensus of the Board was that there is not enough information to evaluate LURP 1.6.2. as it applies to this request.

Ms. Griest read Item #29.A, General Policy #1.

Mr. Steeves stated that Item #29.A.3 DOES NOT CONFORM. He said that the road would require considerable upgrades with the allowed uses in the AG-2, district.

The consensus of the Board was that overall, based on the available information, the proposed map amendment DOES NOT CONFORM to General Policy #1.

Ms. Griest read Item #30.C, General Goal #3.

Mr. Irle stated that Item #30.C.1 is PARTIALLY ACHIEVED.

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The consensus of the Board was that the proposed map amendment relates to this goal and is PARTIALLY ACHIEVED in regards to public services.

Mr. Bluhm stated that Item #30.C.2; and #30.C.3 is PARTIALLY ACHIEVED.

The consensus of the Board was the proposed map amendment relates to this goal and is PARTIALLY ACHIEVED in regards to site characteristics and the proposed map amendment relates to this goal based on available information is PARTIALLY ACHIEVED in regards to utilities.

Mr. Bluhm stated that Item #30.C.4 is ACHIEVED.

The consensus of the Board is that the proposed map amendment relates to this goal and overall, based on available information, General Goal #3 is PARTIALLY ACHIEVED by the proposed map amendment.

Ms. Griest read Item #30.D, General Goal #4.

Mr. Irle stated that Item #30.D.1, is NOT ACHIEVED.

The consensus of the Board was that overall, General Goal #4 is NOT ACHIEVED by the proposed map amendment.

Ms. Griest read Item #31.A, Land Use Regulatory Policy 1.1.

Mr. Bluhm stated that Item #31.A.3 is UNSUITED OVERALL. He said that there would be disturbance to the natural areas in proximity to the location of the subject property and the infrastructure is not adequate.

The consensus of the Board was that considering that a site specific review would be required for a Special Use authorized in the AG-2 district that could be proposed on the subject property with the option of the ZBA imposing Special Conditions as may be necessary, and considering the array of land use types allowed in the AG-2 district “by-right” the subject property appears to be UNSUITED OVERALL for a land use other than commercial agriculture.

Mr. Bluhm stated that Item #31.A. 4 is NOT ADEQUATE.

The consensus of the Board was that based on the review of the infrastructure and public services available to the subject property as described in Items 23.C and 24.E.3 above, the infrastructure and public services available to the subject property would appear to be NOT ADEQUATE for the land uses authorized in the AG-2 district ‘by-right’.

Mr. Irle stated that Item #31.A.5 is SIGNIFICANT AND NOT MINIMIZED.

The consensus of the Board was that considering that a site-specific review would be required for a

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Special Use authorized in the AG-2 district that is proposed on the subject property with the option of the ZBA imposing Special conditions as may be necessary, and considering the limited array of land use types allowed in the AG-2 district ‘by-right’, the potential for conflicts with agriculture is SIGNIFICANT AND NOT MINIMIZED.

Mr. Bluhm stated that Item #31.A.6 DOES NOT CONFORM.

The consensus of the Board was that based on the available information, the proposed map amendment DOES NOT CONFORM to LURP 1.1.

Ms. Griest asked if there were any other changes or additions to the Finding of Fact or Documents of Record and there were none.

Mr. Irle 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. Irle moved, seconded by Mr. Schroeder to close the public hearing for Case 497-AM-05. The motion carried by voice vote.

Final Determination for Case 497-AM-05:

Mr. Steeves moved, seconded by Mr. Miller 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 497-AM-05 should NOT BE ENACTED by the County Board as requested.

The roll was called:

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

Mr. Monte stated that the recommendation for denial will be forwarded to the Environment and Land Use Committee meeting on June 12, 2006 and will then be forwarded to the June 22, 2006, County Board meeting.

Mr. Bluhm moved, seconded by Mr. Goldenstein to continue Case 498-S-05 to the July 27, 2006, regularly scheduled ZBA meeting. The motion carried by voice vote.

Case 536-V-06: Petitioner: Scott Adair Request to authorize the division of a lot that is 4.863 acres in area instead of the required minimum area of more than 5 acres in order for a lot to be divided, in the AG-2, Agriculture Zoning District. Location: Lot 2 of Continuin’ Winds Subdivision which is commonly known as the house at 4011 East Airport Rd, Urbana.

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1 Mr. Hall stated that this case was continued from the March 16, 2006, meeting. He said that this case had
2 originally been continued to a later date but the Petitioner sent the Board a letter requesting that the case be
3 moved up to an earlier date and the Board rescheduled this case for today's date. He distributed a copy of
4 the Petitioner's letter dated April 1, 2006, for the Board's review. He said that the Supplemental
5 Memorandum dated April 21, 2006, includes the requirements of the State of Illinois Livestock Management
6 Facilities Act (510ILCS77) because of the livestock facility which is adjacent to the subject property. He
7 said that a draft condition to widen the driveway is also proposed in the Supplemental Memorandum.
8

9 Ms. Griest informed the audience that this is an Administrative Case and as such the County allows anyone
10 the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of
11 hands for those who would like to cross examine and each person will be called upon. She requested that
12 anyone called to cross examine go to the cross examination microphone to ask any questions. She said that
13 those who desire to cross examine are not required to sign the witness register but are requested to clearly
14 state their name before asking questions. She noted that no new testimony is to be given during the cross
15 examination.
16

17 Mr. Hall stated that the Champaign County Senior Assistant State's Attorney has requested that staff clarify
18 that the person asking the question is not to give new testimony but the person answering can give new
19 testimony.
20

21 Mr. Scott Adair, who resides at 4003 Aberdeen, Champaign stated that Steve Thuney Carroll Fire Protection
22 District Chief has indicated that he has no problem with the existing road. He distributed and submitted as
23 evidence a photograph of the existing road and the subject property. He said that the existing 15 foot road
24 has a two foot cinder base with white rock on top of that. He said that there was a question at the last
25 meeting regarding the access easement for Mr. Ehler and a copy of the Agreement for the Sale of Farmland
26 between himself and Mr. and Mrs. Ehler has been included in the Supplemental Memorandum dated April
27 21, 2006. He noted that Chief Thuney asked if a second lot was approved and a house was to be constructed
28 would he widen the road and he informed Chief Thuney that he would.
29

30 Mr. Bluhm stated that the photograph must be old because Mr. Ehler's property is not shown.
31

32 Mr. Adair stated that Mr. Ehler's property is not shown in the photo.
33

34 Mr. Irle asked Mr. Adair how many buildings still existed on the property.
35

36 Mr. Adair stated that there are only three buildings existing on the property and the "L" shaped building will
37 be torn down. He said that his understanding of the easement, which gives access to Mr. Ehler and himself,
38 does not allow either of them the ability to block the road. He said that if Mr. Ehler has a problem with
39 loading and unloading his horses he can always use his own driveway rather than blocking the road.
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41 Ms. Griest asked the Board if they had any questions for Mr. Adair and there were none.
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43 Ms. Griest asked if staff had any questions for Mr. Adair and there were none.
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1 Ms. Griest asked if anyone in the audience had any questions for Mr. Adair and there were none.
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3 Mr. David Ehler, who resides at 4007 E. Airport Rd, Urbana read a prepared statement to the Board and
4 submitted the statement as a Document of Record.
5
6 Ms. Griest asked the Board if they had any questions for Mr. Ehler.
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8 Mr. Irle asked Mr. Ehler how many different agricultural parcels would be affected by this request.
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10 Mr. Ehler stated that the entire subject property is surrounded by agricultural parcels.
11
12 Mr. Goldenstein asked Mr. Ehler if he offered to purchase the subject property.
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14 Mr. Ehler stated that he did offer to purchase the subject property but the offer was rejected. He said that his
15 original offer was for the entire subject property and then he submitted a separate offer for Lot 2.
16
17 Ms. Griest asked the Board if they had any additional questions for Mr. Ehler and there were none.
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19 Ms. Griest asked if staff had any questions for Mr. Ehler and there were none.
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21 Ms. Griest asked the Petitioner if he had any questions for Mr. Ehler.
22
23 Mr. Adair asked Mr. Ehler if he doesn't want the property subdivided why does he want to purchase the
24 property.
25
26 Mr. Ehler stated that he is opposed to building a house in the middle of a section when agricultural
27 production is taking place around it. He said that he does not believe that having a 600 foot drive to a single
28 family residence is prudent and goes along with the City of Urbana's regulations, which would require a
29 variance, or whatever statutes the County has for a 600 foot drive therefore he does not feel that it is a good
30 place for a residence.
31
32 Mr. Adair stated to Mr. Ehler that this is only his opinion.
33
34 Mr. Goldenstein asked Mr. Ehler if he purchased Lot 2 would he use it for agricultural purposes.
35
36 Mr. Ehler stated yes. He said that it is his understanding that if Mr. Adair does not receive his variance then
37 he has to sell the property in total or to an adjacent landowner. He said that he is farming his land currently
38 and has no intention in subdividing his property nor does anyone else who owns land around the subject
39 property therefore if he purchased Lot 2 it would go into farm production. He said that this was the basis to
40 the offer that he made to Mr. Adair to purchase the land. He said that he offered an agricultural value that
41 was based on a comparable on land to the east owned by Mr. Kevin Coey.
42
43 Ms. Griest asked the audience if anyone else wished to sign the witness register to present testimony
44 regarding this case and there were none. She closed the witness register.

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Mr. Irle stated that he does not remember a flag lot that wound up in the middle of agricultural production. He said that it seems that most of the flag lots involved timber ground or a lot which had natural boundaries.

Mr. Hall stated that a flag lot does not have to come before this Board and can happen anywhere as long as they are allowed "by-right" and meet the minimum width for access and all other requirements. He said that there are a lot of lots in the agricultural area that are flag lots and many of them are set much further back than this particular lot.

Mr. Irle stated that the flag lots that have appeared before this Board he cannot remember this many operators being affected by the request for one lot.

Mr. Hall reminded the Board that this is an existing, less than five acre lot. He said that there is a house to the north of the subject property and Mr. Ehler's property is only 15 acres to the west therefore it is up to the Board to decide if this flag lot would be sitting out in the middle of agricultural production.

Mr. Bluhm asked if most of the previous flag lots in the middle of a section were newer or older homes.

Mr. Hall stated that he has the impression that they are older homes.

Mr. Bluhm stated that in the earlier days the home was placed in the middle of the section so that the farmer could view his entire property. He said that it was a typical practice to have a quarter-mile lane to the home.

Mr. Hall stated that a lot of the older homes are placed on Catlin Soil rises which is where the Adair home is located.

Mr. Schroeder stated that he currently farms land which has an old easement which accessed homes. He said that the homes have been destroyed but he still has the expense of maintaining the easement.

Mr. Bluhm stated that he is concerned about the maintenance of the easement and how it would be enforced between three property owners. He said that it would not seem fair for Mr. Ehler to continue to pay 1/2 of the maintenance cost when a third party utilizes the lane. He asked if there were regulations regarding the trees branching out over the easement.

Mr. Hall stated that this is one of the problems with easements and theoretically Mr. Ehler is liable to the extent that the easement is enforced. He said that the Board could require a new agreement for maintenance. He said that if the Board requires that the easement be widened then that is a requirement that it be widened however it gets widened.

Mr. Goldenstein stated that Mr. Adair stated that the road has a two foot cinder base but if the fire protection district ever requires the road to be widened an additional two foot base would need to be added. He said that it would not be fair for Mr. Ehler to pay 1/2 of the costs to widen the road.

Mr. Hall stated that he would assume that if Mr. Ehler chose not to participate in the widening and the Board

1 makes the widening a condition then it will have to be done by Mr. Adair. He said that the Board may want
2 to point out in the finding that if this was a 5.01 acre tract the variance would not be required but since the
3 variance is required the Board has the chance to determine if this is a reasonable request.
4

5 Ms. Griest stated that the Board received testimony to the effect that the City of Urbana would require a
6 variance for the lane.
7

8 Mr. Hall stated that the City of Urbana would require a subdivision waiver for the lane. He said that text is
9 included in the City of Urbana's memorandum dated February 3, 2006, regarding their judgment about the
10 waivers. He said that they indicated that with the exception of the proposed waivers, the proposed plat
11 meets the requirements of the Urbana Subdivision and Land Development Code.
12

13 Ms. Griest stated that the City of Urbana's Objectives and Goals set forth in their Comprehensive Plan are
14 not where agriculture is the best use of prime farmland.
15

16 Mr. Hall stated that the City of Urbana's Comprehensive Plan calls this property out to be residential.
17

18 Mr. Bluhm stated that in the Land Use and Zoning Designations of the City of Urbana's memorandum they
19 indicated that the 2005 Urbana Comprehensive Plan identifies this area as appropriate for land uses
20 compatible with agriculture. The proposal for low density rural residential development is generally
21 consistent with the goals of the Comprehensive Plan for this area.
22

23 Ms. Griest stated that the City of Urbana's evaluation criteria that they were using for compatibility might
24 be different than what the Board typically considers.
25

26 Mr. Hall stated that he had mentioned the City of Urbana's text regarding the waiver because Urbana
27 apparently felt that the waiver on the length of the flag lot was a reasonable waiver.
28

29 Mr. Bluhm stated that the City of Urbana also stated that a cross access agreement would be necessary
30 between all three lots. The proposed flag access drive will conform to the Urbana Subdivision and Land
31 Development Code requirement for a minimum 20 foot width.
32

33 Mr. Hall stated that he would be very surprised if the City of Urbana has any drive width requirements.
34

35 Ms. Griest stated that an Item #8 should be added to the Documents of Record indicating the photograph of
36 the subject property from Scott Adair submitted at the May 11, 2006, meeting. She said that an Item #9
37 should be added to the Documents of Record indicating the hand written statement from David Ehler
38 submitted at the May 11, 2006, meeting.
39

40 Mr. Ehler stated that Mr. Adair previously testified that he would like to keep a piece of the property
41 although due to changes in Mr. Adair's home life he has offered him the opportunity to purchase the entire
42 property.
43

44 Mr. Hall stated that an Item #13.K should be added to the Summary of Evidence as follows: Mr. David

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1 Ehler testified at the May 11, 2006, public hearing that after an offer from Mr. Adair to sell the property Mr.
2 Ehler offered to buy either proposed Lot 2 of the Adair Subdivision or the entire subject property and both
3 offers were refused. Mr. Ehler also testified that the offer was based on the value of farmland of sales of
4 comparable land in the vicinity.

5
6 Mr. Bluhm stated that Item #12.C(11) should be revised to read the following: The amount of land to be
7 converted from agriculture uses versus the number of dwelling units to be accommodated. The proposed
8 subdivision could result in as much as 2.8 acres taken out of agricultural production.

9
10 Mr. Hall stated that in the RRO process we actually distinguish between land that is actually physically
11 converted and land that is just divided into small lots. He said that he was focusing on the fact that this is
12 already a five acre lot and in terms of division of farmland it is already divided but in terms of physical
13 conversion there is 2.8 acres of the five acres could be farmed.

14
15 Mr. Bluhm stated that he could see the entire 2.8 acres converted to grass for the house.

16
17 Mr. Ehler stated that obviously Mr. Adair is not happy with him and that is fine. He said that his portion of
18 the ground has been planted and is taken care of but within the last week Mr. Adair has contacted another
19 individual and offered him the property. He said that everything around the property is in agricultural
20 production therefore proposed Lot 2 should also stay as agriculture.

21
22 Mr. Steeves asked Mr. Hall if the subject property could be grandfathered since the 4.863 acres existed prior
23 to August 19, 2004.

24
25 Mr. Hall stated no.

26
27 Mr. Irle stated that Mr. Adair used the variance opportunity as his first option rather than trying to purchase
28 additional ground to avoid the variance.

29
30 Mr. Hall stated that when Mr. Adair first came to the office he showed him a layout of 10 lots and the
31 concern of dividing a five acre lot evaporated in light of the fact that there would be a significant RRO
32 required in the middle of farmland.

33
34 Mr. Irle stated that subject property is completely surrounded by livestock and agriculture.

35
36 Ms. Griest read Item #14 which discusses a potential condition for Case 536-V-06.

37
38 Mr. Bluhm stated that perhaps it should be added that the owner of Lot 2 would be required to bring the
39 drive up to standards.

40
41 Mr. Hall stated that he is not sure if the Board should get involved because the only thing that is important is
42 that the condition is met and not who does it. He said that he presumes that Mr. Ehler will not participate in
43 the widening of the driveway therefore it will be Mr. Adair or whoever purchases Lot 2 to complete the
44 widening.

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Ms. Griest stated that there is also the contractual arrangement on the maintenance of the easement and asked if the widening falls into the maintenance category or not.

Mr. Hall stated that maintenance agreement is fair game for a condition because there is an existing arrangement with Mr. Ehler’s property and if the Board grants the variance he could see where they would want to make sure that there is a new maintenance agreement but widening the driveway is not part of the maintenance.

Ms. Griest asked if the condition should clearly state that the widening is not part of the maintenance agreement.

Mr. Bluhm stated that he could see a court case in the future regarding the maintenance of the driveway.

Ms. Griest stated that if the Board believes that dividing the subject property into separate parcels is going to create a conflict then it should be reflected in the Finding of Fact.

Mr. Hall stated that because the County could be served with a lawsuit either way.

Ms. Griest read the proposed special condition, included as Item #14 of the Summary of Evidence, as follows:

The Zoning Administrator shall not approve a Zoning Use Permit Application on Lot 2 of the Adair Subdivision unless and until the existing shared private lane has a gravel surface that is a minimum of six inches thick and a minimum of 20 feet wide.

Mr. Bluhm moved, seconded by Mr. Miller to accept the Special Condition as written. The motion carried by voice vote.

Mr. Bluhm stated that he would like to propose a second condition as follows: No Zoning Use Permit will be authorized unless a revised shared maintenance agreement is issued and recorded.

Mr. Hall stated that there is already a two-way maintenance agreement. He asked Mr. Bluhm if he was proposing a three-way maintenance agreement.

Mr. Bluhm stated that a revised maintenance agreement should be issued and recorded when Lot 2 is sold.

Mr. Hall stated that he is not sure if the Board could legally require that all three parties agree to the easement. He said that the Board could require that a three-way maintenance agreement be recorded which would document that on the shared lane on Mr. Adair’s property he has recorded a new agreement that is split three-ways identifying the three properties. He noted that just because this is documented does not mean that anyone else agrees with it but it is documented.

Ms. Griest stated that whoever proposes to buy Lot 2 could agree that the three-way agreement be funded by

1 the owner of Lot 2.

2
3 Mr. Hall asked the Board if they would rather have the maintenance be the responsibility of the owner of
4 Lot 2.

5
6 Mr. Irle stated that when the property is improved the owner will pay for the improvements of the easement
7 up to the existing lane and at that point the maintenance of the existing easement is split three-ways.

8
9 Ms. Griest stated that if you restrict this to a new owner it doesn't include everyone because Mr. Adair could
10 build on Lot 2 without improving the easement to Lot 2.

11
12 Mr. Irle asked why Mr. Ehler should pay for the improvements of the easement to the new lot.

13
14 Mr. Hall stated that the agreement for improvements to the easement could be included on the plat of
15 subdivision when recorded. He said that there is nothing that the Board can do to assure that a new owner
16 will be aware of the maintenance agreement. He said that there is always a maintenance issue with shared
17 driveways and one benefit for having a shared driveway in this instance is that there are fewer driveway
18 access points along Airport Rd. He said that the simplest way to deal with maintenance is to minimize the
19 parties involved and this variance is to benefit Lot 2 of the proposed subdivision. He said that the Board
20 could establish a condition that maintenance of the improved driveway is the responsibility of Lot 2 and in
21 the future if staff receives a call that the shared driveway is not being maintained then it would be a violation
22 of the variance. He said that if this is too much trouble then perhaps this variance should not be granted.

23
24 **Mr. Schroeder moved, seconded by Mr. Bluhm to recess the Board for a five minute break. The**
25 **motion carried by voice vote.**

26
27 **The Board recessed at 8:27 p.m.**

28 **The Board resumed at 8:34 p.m.**

29
30 Mr. Bluhm stated that no alternative condition is being proposed regarding this case.

31
32 **Finding of Fact for Case 536-V-06:**

33
34 From the documents of record and testimony and exhibits received at the public hearing conducted on
35 March 16, 2006 and May 11, 2006, the Zoning Board of Appeals of Champaign county finds that:

- 36
37 **1. Special conditions and circumstances do exist which are peculiar to the land**
38 **or structure involved which are not applicable to other similarly situated land**
39 **and structures elsewhere in the same district.**

40
41 Mr. Goldenstein stated that special conditions and circumstances do exist which are peculiar to the land or
42 structure involved which are not applicable to other similarly situated land and structures elsewhere in the
43 same district because the property is surrounded by four different farm operators and an equine facility. Mr.
44 Bluhm stated that the property is proposing to use a share driveway.

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2. Practical difficulties and hardships created by carrying out the strict letter of the regulations sought to be varied will not prevent reasonable or otherwise permitted use of the land or structure or construction.

Mr. Hall reminded the Board that the Zoning Ordinance requires a positive finding for each Finding of Fact for the variance to be approved.

Mr. Steeves stated that if he answers Item #2 that practical difficulties and hardships will be created if we follow the law because it indicates that no lots under five acres will be further subdivided therefore if the Board stops right there the variance is ended. He asked how this situation could have a positive twist.

Mr. Hall stated that this is a positive twist because if the variance isn't granted there will be a hardship therefore it tends to support granting the variance. He said that the Board could make positive findings on five of the six findings but if there is one finding that argues against the variance it cannot be approved by the terms of the Zoning Ordinance. He said that if the Board makes positive findings on all six findings a court would find that the Board should grant the variance. He noted that he was just reminding the Board that the Ordinance requires positive findings on all six before the variance can be approved.

Mr. Steeves stated that the statement in itself is a negative statement. He said, as an example, if he were stopped for speeding and his explanation was that if he couldn't go over the speed limit then he could not get to point A faster, would it be a positive reason why he shouldn't adhere to the speed limit. He said that in essence this is the same instance with this case in disregarding the flat statement that the County has rule that states no lot under five acres will be subdivided which creates a hardship.

Mr. Hall stated that this is why there has to be a variance process because some zoning requirements do make hardships.

Mr. Steeves stated that making his statement regarding Item #2 is just stating the obvious.

Mr. Goldenstein stated that practical difficulties and hardships created by carrying out the strict letter of the regulations sought to be varied will not prevent reasonable or otherwise permitted use of the land or structure or construction because the land has been in agricultural use for a number of years and the Petitioner requested that the adjacent landowner to make an offer on the land, which was rejected. He said that if the offer, which was based on comparable sales of farmland in the vicinity, had been accepted the land would remain as farmland. Ms. Griest stated that the Petitioner originally divided the parcel into a unit of less than five acres.

3. The special conditions, circumstances, hardships, or practical difficulties do result from actions of the applicant.

Mr. Irlle stated that the special conditions, circumstances, hardships, or practical difficulties do result from actions of the applicant because the applicant failed to retain a full five acres when agreeing to sell approximately 15 acres from the 20 acre parent tract.

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Mr. Hall stated that in order for a variance not to be required the Petitioner would have been required to retain more than five acres.

Mr. Irle stated that his statement should indicate that the Petitioner failed to retain more than five acres when agreeing to sell approximately 15 acres from the 20 acre parent tract.

4. The requested variance, subject to the special condition, is not in harmony with the general purpose and intent of the Ordinance.

Mr. Steeves stated that the requested variance, subject to the special condition, is not in harmony with the general purpose and intent of the Ordinance because it will take an additional two acres out of agricultural production and place an additional house in the middle of current agricultural operations. Mr. Goldenstein stated that the subject property is bordered by four different farm operators.

5. The requested variance, subject to the special condition, will 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 special condition, will be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because an existing livestock management facility is adjacent to the subject property which cause practical difficulties in the loading of show horses. Mr. Irle stated it will be injurious because the existing easement could cause potential conflict with the adjacent landowner. Mr. Bluhm stated that the subject property is surrounded on four sides by agricultural operations.

6. The requested variance, subject to the special condition, is not the minimum variation that will make possible the reasonable use of the land/structure.

Mr. Irle stated that the requested variance, subject to the special condition, is not the minimum variation that will make possible the reasonable use of the land/structure because the Petitioner did not pursue the purchase of additional acreage prior to the submission of the variance application.

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

Mr. Irle moved, seconded by Mr. Goldenstein to close the public hearing for Case 536-V-06. The motion carried by voice vote.

Determination for Case 536-V-06:

Mr. Bluhm moved, seconded by Mr. Goldenstein that the Champaign County Zoning 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 not been met, and pursuant to the authority granted by Section 9.1.6B of the Champaign County Zoning Ordinance, determines that the variance requested

1 **ZBA**

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2 in Case 536-V-06 is hereby denied to the Petitioner, Scott C. Adair, to authorize the division of a lot
3 that is 4.863 acres in area instead of the required minimum area of more than 5 acres in order for a
4 lot to be divided, in the AG-2, Agriculture Zoning District, subject to the following special condition:

5 **The Zoning Administrator shall not approve a Zoning Use Permit Application on Lot 2**
6 **of the Adair Subdivision unless and until the existing shared private lane has a gravel**
7 **surface that is a minimum of six inches thick and a minimum of 20 feet wide.**

8
9 The roll was called:

10
11 **Irle-yes Miller-yes Schroeder-yes**
12 **Steeves-yes Bluhm-yes Goldenstein-yes**
13 **Griest-yes**
14

15 **6. New Public Hearings**

16
17 **Case 531-V-05 Petitioner: Erick W. Miner, Jan Nussbaum and Steve Aubry, d.b.a. Central Illinois**
18 **Trucks, Inc. Request to authorize the establishment and use of an on-premises advertising sign that**
19 **is 200 square feet in area instead of the maximum allowable area of 75 square feet and that is 65 feet**
20 **tall instead of the maximum allowable height of 35 feet, in the B-4, General Business Zoning District.**
21 **Location: An approximately 15 acre tract in the East ½ of the Northeast ¼ of the Northeast ¼ of**
22 **Section 24 of Hensley Township and located between Leverett Rd and Interstate 57 and that is**
23 **commonly known as the filed on the west side of Leverett Rd at the Interstate 57 interchange on**
24 **Leverett Rd and also known as 148 Leverett Rd, Champaign.**

25
26 Mr. Hall stated that a witness register is not available for this case therefore if anyone in the audience
27 wished to present testimony regarding this case they should indicate such to the Board. He recommended
28 that the case be continued to a special meeting date of June 1, 2006. He said that the circumstance of having
29 a third meeting every month to deal with the Comprehensive Zoning Review did not work out in the month
30 of June because the Brookes' Gymnasium was not available for June 1st, although the gymnasium is
31 available on May 25th. He informed the Board that the CZR meeting could be moved to May 25, 2006, to be
32 held in the Brookes' Gymnasium and the June 1, 2006, meeting could be held in the Lyle Shields Meeting
33 Room.

34
35 **Mr. Bluhm moved, seconded by Mr. Steeves to schedule a special ZBA meeting on June 1, 2006, at**
36 **7:00 p.m. to be held in the Lyle Shields Meeting Room. The motion carried by voice vote.**

37
38 Ms. Griest asked the audience if anyone would like to present testimony regarding Case 531-V-05 and there
39 were none.

40
41 **Mr. Goldenstein moved, seconded by Mr. Steeves to continue Case 531-V-05, Erick W. Miner, Jan**
42 **Nussbaum and Steve Aubry, d.b.a. Central Illinois Trucks, Inc. to the June 1, 2006, ZBA meeting.**
43 **The motion carried by voice vote.**
44

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1 **Case 532-V-05** Petitioner: **John L. and Dawn M. Cooley** Request to authorize the following variances
2 **in the R-2, Single Family Zoning District:** **A. authorize the construction and use of an addition to a**
3 **dwelling with a rear yard of 4 feet instead of the required rear yard of 20 feet; and B. authorize the**
4 **construction and use of a detached carport with a side yard of 2 feet instead of the required side yard**
5 **of 5 feet; and C. authorize the replacement of a nonconforming detached garage with a side yard of 2**
6 **feet instead of the required side yard of 5 feet with a rear yard of 4 feet instead of the required rear**
7 **yard of 5 feet; and D. authorize a lot with 44% of the lot area covered by building area instead of a**
8 **maximum allowed 30% of the lot area covered by building area.** Location: **Lot 310 of Scottswood 6th**
9 **Subdivision commonly known as the residence at 2706 High Court, Urbana.**

10
11 Mr. Hall stated that a witness register is not available for this case therefore if anyone in the audience
12 wished to present testimony regarding this case they should indicate such to the Board. He recommended
13 that the case be continued to a special meeting date of June 1, 2006.

14
15 Ms. Griest asked the audience if anyone would like to present testimony regarding Case 532-V-05 and there
16 were none.

17
18 **Mr. Miller moved, seconded by Mr. Irle to continue Case 532-V-05, John L. and Dawn M. Cooley to**
19 **the June 1, 2006, ZBA meeting. The motion carried by voice vote.**

20
21 **Case 541-S-06** Petitioner: **Fisher Farmers Grain & Coal Company and Louis Schwing, Manager**
22 **Request to authorize the use and expansion of an existing grain elevator that is 250 feet in height as a**
23 **Special Use Permit in the I-1, Light Industry Zoning District.** Location: **Approximately 10.50 acres in**
24 **the North ½ of the Northeast ¼ of the Southwest ¼ of Section 34 of East Bend Township and**
25 **commonly known as the Fisher Farmers Grain and Coal Company located on One Main Street in**
26 **Dewey.**

27
28 Mr. Hall stated that a witness register is not available for this case therefore if anyone in the audience
29 wished to present testimony regarding this case they should indicate such to the Board. He recommended
30 that the case be continued to a special meeting date of June 1, 2006. He said that this case is related to the
31 recently approved map amendment case, Zoning Case 530-AM-05. He said that staff issued a Zoning Use
32 Permit once the Special Use Permit application was received so that construction would not be slowed
33 down. He said that the Special Use Permit is required because Fisher Farmers Grain & Coal Company is
34 exceeding the 100 foot height limit. He said that the Board has not seen very many Special Use Permits like
35 this and there are a lot of elevators in the County which are over 100 foot tall. He recommended that the
36 case be continued to a special meeting date of June 1, 2006.

37
38 Ms. Griest asked the audience if anyone would like to present testimony regarding Case 541-S-06 and there
39 were none.

40
41 Mr. Schroeder stated that 30 days means a lot when an elevator is being constructed.

42
43 Mr. Hall stated that Fisher Farmers Grain & Coal Company has been authorized to proceed with
44 construction.

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Mr. Schroeder moved, seconded by Mr. Irle to hear Case 541-S-06, Fisher Farmers Grain & Coal Company and Louis Schwing, Manager at the June 1, 2006, ZBA meeting. The motion carried by voice vote.

Ms. Griest asked the Board if they would like to rearrange the continued public hearing category and hear Case 536-V-05 prior to Case 497-AM-05 and Case 498-S-05.

Mr. Goldenstein moved, seconded by Mr. Miller to rearrange the continued public hearing category and hear Case 536-V-05 prior to Case 497-AM-05 and Case 498-S-05. The motion carried by voice vote.

7. Staff Report

None

8. Other Business

None

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

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DRAFT SUBJECT TO APPROVAL DRAFT

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