

**MINUTES OF REGULAR MEETING**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

**1776 E. Washington Street**

**Urbana, IL 61801**

**DATE: February 11, 2010**

**PLACE: Lyle Shields Meeting Room  
1776 East Washington Street**

**TIME: 6:30 p.m.**

**Urbana, IL 61802**

**MEMBERS PRESENT:** Doug Bluhm, Catherine Capel, Thomas Courson, Melvin Schroeder, Eric Thorsland, Paul Palmgren

**MEMBERS ABSENT :** Roger Miller

**STAFF PRESENT :** Lori Busboom, John Hall, J.R. Knight

**OTHERS PRESENT :** Larry Lambright, Diane Lambright, Scott Lambright, Steve Burdin, Lisa Burdin, Joyce Brumfield, Robert Brumfield, Alicia Helmick, Scott Helmick

**1. Call to Order**

The meeting was called to order at 6:30 p.m.

**2. Roll Call and Declaration of Quorum**

The roll was called and a quorum declared present with one member absent.

**3. Correspondence**

None

**4. Approval of Minutes (December 17, 2009)**

**Mr. Thorsland moved, seconded by Mr. Schroeder to approve the December 17, 2009, minutes as submitted. The motion carried by voice vote.**

**5. Continued Public Hearing**

**Case 657-V-09 Petitioner: Larry and Diane Lambright; and Scott Lambright Request: Authorize the use of an existing two story detached accessory storage building with a second story deck with a side yard of three feet in lieu of the required ten feet side yard for accessory structures in the AG-2 Agriculture zoning district, and an average height of 16 feet in lieu of the maximum allowed 15 feet average height for residential accessory structures on lots less than one acre in area in the AG-2 Agriculture zoning district. Location: Lot 1 of Cook's Replat of Tract B of the K.D. Headlee**

1 **Subdivision in Section 14 of Mahomet Township and commonly known as the house at 206B Lake of**  
2 **the Woods, Mahomet.**

3  
4 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone  
5 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of  
6 hands for those who would like to cross examine and each person will be called upon. He requested that  
7 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
8 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
9 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
10 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt  
11 from cross examination.

12  
13 Mr. Hall stated that the Supplemental Memorandum dated February 5, 2010, and the draft minutes of the  
14 December 17, 2009, public hearing indicate that the public hearing for this case was closed at the December  
15 17, 2009, public hearing. He said that Article 6.13 of the ZBA By-laws indicates that if any party wishes to  
16 have a public hearing re-opened then it may only be re-opened only upon a majority vote of those members  
17 present and not abstaining from the relevant vote. He said that for that reason there are some things that he  
18 would like the Board to be aware of and requested that the Board re-open this public hearing.

19  
20 Mr. Bluhm asked Mr. Hall if he and Mr. Miller could vote to re-open the case since they were not present at  
21 the December 17, 2009, public hearing regarding this case.

22  
23 Mr. Hall stated that the By-laws only discuss Board members who are abstaining from the final vote and not  
24 Board members who were absent. He said that the way that he would interpret the By-laws is that the  
25 majority of the Board members present at tonight's meeting, less any members who were present at the  
26 December 17, 2009, public hearing who abstained, could vote to re-open the case.

27  
28 **Ms. Capel moved, seconded by Mr. Thorsland to re-open the public hearing for Case 657-V-09. The**  
29 **motion carried by voice vote.**

30  
31 Mr. Hall clarified that the finding that the Board developed at the last public hearing is a finding under  
32 which the Board could only deny the request and in this case that does not just mean denying the side yard  
33 but also the height. He said that it is fair to say that the height is less than what was advertised and it would  
34 be very difficult for the petitioner to lower the height of the shed but if that is what the Board desires then  
35 that is what the Board can require with a complete denial. He said that if the Board is interested in new  
36 evidence there is significant evidence that needs to be added to the finding. He apologized for having more  
37 significant evidence to add at the third meeting for this case but staff does not do the maximum amount  
38 possible for each variance case because the evidence would overload the Board with data. He said that the  
39 first mailing includes preliminary information and the second mailing is supplemented with additional  
40 information. He said that the last meeting was the second meeting for this case and it is obvious that the  
41 Board was headed in a clear direction with the findings therefore if the Board is still comfortable with that  
42 direction then the case could be closed the final determination could be completed. He said that if the Board  
43 is interested in new evidence then staff has prepared a couple of pages of that new evidence to add to the  
44 finding.

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Ms. Capel stated that it would only be fair to hear any new evidence that staff could present to the Board regarding this case.

Mr. Thorsland stated that if there is new evidence which could indicate some changes to the finding then the Board should hear such new evidence.

Mr. Hall stated that the petitioner may also have additional evidence to present to the Board.

Mr. Bluhm asked Mr. Hall if an Administrative Variance would have been appropriate for the height violation because it is less than 10%.

Mr. Hall stated yes.

Mr. Bluhm explained to the Board that the height could have been under an Administrative Variance but it has been included in this case because there was another variance which needed authorization.

Mr. Knight distributed a new Supplemental Memorandum dated February 11, 2010 and copy of the Revised Draft Finding of Fact and Final Determination dated December 17, 2009, to the Board for review.

Mr. Hall stated that Item #4.A. of the Summary of Evidence should be revised as follows: The subject property is zoned AG-2 and is a duplex in use as a single family dwelling, the duplex being authorized in Case 373-S-80, and Lambright Construction and Maintenance, Inc. operated as a Neighborhood Home Occupation (NHO-07-09). He said that the revised text corrects the description of property because there was a special use permit for a duplex and a home occupation for the business therefore giving the Board a correct understanding of the zoning approvals on the property.

Mr. Hall stated that the Supplemental Memorandum dated February 11, 2010, includes proposed new evidence which the Board can take or leave. He said that new Item #5.A., renumbering subsequent items, reads as follows: A staff memorandum dated March 21, 1980, for Case 373-S-80, states that the building that is the dwelling was originally built in 1954 as a restaurant on the first floor and an upstairs apartment with an outside entrance but at the time (in 1980) the upstairs apartment had not been rented for approximately 20 years. Case 373-S-80 came about because the nonconforming rights to a duplex had been exhausted and a prospective purchaser claimed that the structure did not lend itself to being a single family dwelling because of the separate stairway leading to the upstairs and the prospective purchaser wanted to convert the dwelling to a duplex. Case 373-S-80 was approved on March 3, 1980. He said that the first sentence in new Item #5.E., indicated as existing Item #5.D. in the revised Draft Summary of Evidence dated December 17, 2009, should be revised as follows: The existing detached accessory storage building is located approximately 55 feet from the south property line and 13 feet from the west property line and situated between tow mature trees. He said that new Item #5.F. should read as follows: Co-petitioner Larry Lambright testified at the December 17, 2009, public hearing that the subject storage building does not sit on a foundation and could be moved. He said that Item #5.G. should read as follows: The circular driveway appears in the Supervisor of Assessments' 1973 aerial photo. Mr. Hall noted that the first attachment to the February 11, 2010, Supplemental Memorandum is the 1973 aerial photograph from the GIS survey and it

1 indicates Permanent Index #176-007 identifies the subject property with its current boundary dimensions  
2 and the underlying background in the 1973 background. He said that it is evident that the circular driveway  
3 existed in the 1973 aerial photograph.  
4

5 Mr. Hall stated that new Items #7.H, 7.I and 7.J. should be added the Summary of Evidence as follows: 7.H:  
6 Regarding the location of the existing detached accessory storage building: (1) The east 60 feet of the  
7 subject property is covered by an easement that prohibits construction, which eliminates the east 1/3 of the  
8 property as a building site; and (2) The 25 feet between the rear of the dwelling and the rear property line is  
9 not deep enough to allow both the construction of an accessory building with the required 10 feet rear yard  
10 and the continued use of the circular driveway; and (3) The only area on the subject property with enough  
11 clearance for the detached accessory building is the west side; and (4) There is a barbecue/sitting area and  
12 one personal storage building in the southwest corner of the subject property; and (5) There are two large  
13 trees which flank the subject detached accessory storage building on either side; and 7.I: Co-petitioner  
14 Larry Lambricht testified at the December 17, 2009, public hearing that the subject storage building does  
15 not sit on a foundation and could be moved; and 7.J: Regarding the height variance, staff measurement of  
16 the detached accessory storage building indicated that the average height is approximately 15.5 feet. Mr.  
17 Hall noted that the last page of the Supplemental Memorandum dated February 11, 2010, indicates the field  
18 notes of Jamie Hitt, Zoning Officer during her recent inspection of the property and those notes indicate that  
19 the building is 6 inches higher than the Zoning Ordinance allows. He said that a new Item #9.F. should be  
20 added as follows: Areas on the subject property where a detached accessory storage building can reasonably  
21 be built were restricted prior to the ownership of the petitioners by the easement over the eastern 1/3 of the  
22 property and the location of the existing dwelling, mature trees and the circular driveway.  
23

24 Mr. Hall stated that this is all of the relevant evidence regardless of which way the Board is inclined to make  
25 their determination. He said that the Board could stop with this evidence or go further and try to argue  
26 whether or not a case has been made for the building with its current dimensions at its current location. He  
27 said that if more evidence is required by the Board then they can indicate such and request that the petitioner  
28 provide it for review.  
29

30 Mr. Bluhm asked the Board if there were any questions or comments for Mr. Hall and there was none.  
31

32 Mr. Hall stated that the By-laws make it very clear that the Board can only approve the petition that it is  
33 presented with. He said that in retrospect staff probably should have spent more time with the petitioners  
34 advising them that the variance has two unrelated parts. He said that one part is the height which deals with  
35 a certain aspect of the building and the other part is the separation from the lot line which deals with a  
36 completely different aspect of it. He said that depending on how the Board is inclined to go they may feel  
37 differently about one part than it does the other and staff should have given the petitioner a heads up about  
38 such and advised them that they might have wanted to request a two part variance. He said that if they had  
39 the Board could have approved one part and not the other, approved both or denied both. He said that staff  
40 did inform the petitioners of this issue this week and informed them that they might want to be prepared  
41 tonight to revise their petition in the hopes of having everything that they originally requested approved over  
42 some lesser amount. He said that staff has a description of the variance available at the meeting tonight and  
43 it can be modified and signed tonight if the petitioner chooses to do so.  
44

1 Mr. Bluhm called Mr. Larry Lambright to testify.

2  
3 Mr. Larry Lambright, who resides at 2110 Pheasant Ridge, Mahomet stated that they have reconsidered their  
4 request and in order to make it easier on the Board they are proposing to cut the deck back to 9 feet off the  
5 property line. He said that the height variance is a major issue because there would be a major cost to cut  
6 the height down. He said that he did previously state that the building is not on a foundation and it could  
7 possibly be moved but it would also be very costly. He noted that he did sign the revised request indicating  
8 the modified yard.

9  
10 Mr. Bluhm asked the Board if there were any questions for Mr. Lambright and there were none.

11  
12 Mr. Bluhm asked if staff had any questions for Mr. Lambright and there were none.

13  
14 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Lambright and there was no one.

15  
16 Mr. Hall stated that the variance for the side yard is reduced from nine foot for a variance of one foot.

17  
18 Mr. Bluhm called Alicia Helmick to testify.

19  
20 Ms. Alicia Helmick, who resides at 206-A Lake of the Woods Rd, Mahomet stated that Mr. Lambright has  
21 indicated that it was his impression that the well was abandoned. She submitted photographs to the Board  
22 indicating that the well does work and how close the well is to the shed. She said that the well is  
23 approximately one to two feet away from the back side of Lambright's shed. She said that Mr. Lambright  
24 submitted a diagram dated November 19, 2007, which was included with the Zoning Use Permit that  
25 indicates where the shed was going to be located in conjunction with where the well is located. She said  
26 that the location indicated on this diagram is not where the shed is currently located and in fact the subject  
27 shed is in front of their well instead of off to the side of their well. She said that there is ample space from  
28 the side of the well for the location of the shed and that is where it was originally indicated on the diagram  
29 that was submitted with the permit request.

30  
31 Mr. Bluhm asked Ms. Helmick if she would like to submit the photographs as Documents of Record.

32  
33 Ms. Helmick stated yes. She requested that the Board consider requiring Mr. Lambright to relocate the shed  
34 because it is an obstruction and she has legal documentation of a shared well agreement which indicates that  
35 the well cannot be obstructed. She said that if the shed was located in the area indicated on the submitted  
36 and approved diagram then there would not be an obstruction and she would not have a problem with the  
37 shed. She said that she does have a problem with the current location of the shed and the fact that she is not  
38 able to access their well.

39  
40 Mr. Bluhm asked the Board if there were any questions for Ms. Helmick and there were none.

41  
42 Mr. Bluhm asked if staff had any questions for Ms. Helmick.

43  
44 Mr. Hall asked Ms. Helmick if she requires greater access than a one to two foot diameter clear area.

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2 Ms. Helmick stated that she cannot get to the well due to the deck and the items on one side of the well such  
3 as bricks and a lawnmower. She said that if any equipment was required to do any work on the well it  
4 would be very difficult to get it next to the well with the two-story shed and deck right next to it.  
5  
6 Mr. Hall stated that it has been established that Mr. Lambright shall provide access to the well.  
7  
8 Ms. Helmick stated that Mr. Lambright does have to provide access to the well but if there is any damage  
9 done to Mr. Lambright's shed or his property who is obligated to take care of that damage. She said that it  
10 should not her family who has the obligation for any damages during maintenance of the well because it was  
11 Mr. Lambright who chose to locate the shed in its current location. She said that she is not going to pay  
12 someone to move Mr. Lambright's deck because she needs to gain access to her own well.  
13  
14 Mr. Hall stated that this is a legal issue but if the well agreement requires Mr. Lambright to provide access  
15 to the well then he would be required to move the deck for maintenance to the shed.  
16  
17 Ms. Helmick agreed but even if the deck is removed the shed remains next to the well.  
18  
19 Mr. Thorsland stated that Page 10, Item #13.B of the Revised Draft Summary of Evidence dated December  
20 17, 2009, indicates a special condition as follows: The deck on the storage shed may be rebuilt (without  
21 requiring a permit) to its existing dimensions if it needs to be removed to allow maintenance access to the  
22 well.  
23  
24 Ms. Helmick that the Zoning Ordinance indicates that structures cannot be placed on an easement.  
25  
26 Mr. Hall stated that the only easement that the Zoning Ordinance protects is a drainage easement.  
27  
28 Mr. Bluhm asked Ms. Helmick if a copy of the well agreement has been submitted to the Board as a  
29 Document of Record.  
30  
31 Ms. Helmick stated that she does not know but she would be happy to provide a copy to the Board.  
32  
33 Mr. Bluhm requested that a copy be submitted for review by the Board.  
34  
35 Ms. Helmick submitted the well agreement.  
36  
37 Mr. Bluhm asked the Board if there were any questions for Ms. Helmick and there were none.  
38  
39 Mr. Bluhm asked if staff had any questions for Ms. Helmick and there were none.  
40  
41 Mr. Bluhm stated that the Board will take a ten minute recess to allow staff time to return to the office to  
42 obtain the *Champaign County Public Health Ordinance*.  
43  
44 **The meeting recessed at 7:05 p.m.**

1 The meeting resumed at 7:15 p.m.

2  
3 Mr. Bluhm stated that there was some question as to what the *Champaign County Public Health Ordinance*  
4 required for separation between a well and a building. He said that the Ordinance reads as follows: 1.  
5 When a well must be located adjacent to a building, it shall be located that the centerline of well extended  
6 vertically will clear any projection from the building by not less than two feet. He said that in reviewing the  
7 submitted photographs the brick could be used to count the distance and he would approximate 20 inches to  
8 the centerline of the well. He said that the Board needs an exact measurement from the well centerline to  
9 the building and a clarification from the Champaign County Public Health Department as to what they  
10 consider a projection and why the separation is required. He said that there are some unresolved issues that  
11 need answered.

12  
13 Mr. Bluhm allowed Mr. Lambright the opportunity to read a section of the shared well agreement.

14  
15 Mr. Lambright stated that their property and the Helmick’s property is connected to Sangamon Valley Water  
16 and the well agreement specifically states the following, “water well on Tract 1 is for domestic water use  
17 purpose only.” He said that domestic water use purpose only is not filling a pool or watering flowers but for  
18 drinking and cooking. He said that when he purchased his property he was informed that the water well was  
19 not working. He said that he is not sure if the photographs submitted by Ms. Helmick are accurate because  
20 he is not sure if the water is coming from the well that is located on his property because the well head that  
21 is on his property has never worked. He said that he has tried to use the spigot and it hasn’t worked and if it  
22 is suppose to work then the power should be on all of the time because it is a shared well and he has the  
23 right to also use it. He said that he has pulled wells before and there is no reason why the well could not be  
24 pulled and he would be happy to do it if someone would like to come watch him do it.

25  
26 Mr. Bluhm stated that the terminology of “domestic water use purpose only” should be clarified for the  
27 Board.

28  
29 Ms. Helmick requested the opportunity to respond.

30  
31 Mr. Bluhm allowed Ms. Helmick to respond but informed the audience that the Board does not allow back  
32 and forth testimony.

33  
34 Ms. Helmick stated that when the easement was put into place there was public water provided to their home  
35 in 1994.

36  
37 Mr. Hall asked Ms. Helmick if her property is still served by public water.

38  
39 Ms. Helmick stated yes. She said that they use the well water to fill their pool.

40  
41 Mr. Courson requested that staff obtain clarification of “domestic water use purpose only” and obtain  
42 information from a well drilling company as to how much room is required to pull a well for maintenance.

43  
44 Ms. Capel stated that she would like to see an exact measurement from the centerline of the well to the

1 building.

2  
3 Mr. Thorsland stated that it appears that a continuance of this case is warranted to clarify these issues.

4  
5 Mr. Bluhm stated that clarification is needed from the Public Health District regarding clarification of  
6 “domestic water use purpose only.” He said that the State’s Attorney’s Office should review the language in  
7 the shared well agreement. He said that a statement from a well drilling company regarding the amount of  
8 area required to pull the well for maintenance would be helpful to the Board although he does not believe  
9 that much area is needed because it is a case well. He said that he is not comfortable in approving anything  
10 regarding this case until clarification is received from the Public Health District.

11  
12 Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony regarding  
13 Case 657-V-09, and there was no one.

14  
15 Mr. Bluhm closed the witness register.

16  
17 Mr. Bluhm requested a motion for a continuance date.

18  
19 **Mr. Thorsland moved, seconded by Mr. Courson to continue Case 657-V-09, to March 11, 2010. The**  
20 **motion carried by voice vote.**

21  
22 **6. New Public Hearings**

23  
24 **Case 659-V-09** Petitioner: **Stephan and Lisa Burdin** Request: **Authorize the use of an existing non-**  
25 **conforming lot 0.94 acres in area with an average lot width of 140 feet in lieu of the minimum**  
26 **required lot area of one acre and minimum average lot width of 200 feet.** Location: **A 0.94 acre tract**  
27 **in the Southeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 26 of**  
28 **Newcomb Township and commonly known as the house at 2527 CR 450E, Mahomet.**

29  
30 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone  
31 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of  
32 hands for those who would like to cross examine and each person will be called upon. He requested that  
33 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
34 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
35 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
36 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt  
37 from cross examination.

38  
39 Mr. Hall stated that the petitioners first inquired about building a new home on the subject property on  
40 November 12, 2009, with the Planning and Zoning Department. He said that staff identified that the lot was  
41 probably created in 1978 as an illegally nonconforming lot which did not meet the minimum requirements  
42 for the zoning district therefore a variance is required.

43  
44 Mr. Hall distributed a Supplemental Memorandum dated February 11, 2010, to the Board for review. He



1 said that the new memorandum includes new evidence for the Summary of Evidence. He said that attached  
2 to the new memorandum is a revised site plan which indicates the existing septic system and an excerpt from  
3 the Soil Survey which indicates the soil types. He said that it is customary in lot area variances that the  
4 Summary of Evidence includes some information about the soil potential ratings for the soils.  
5

6 Mr. Hall read new Item #5.D. as follows: The petitioners submitted a revised site plan on February 10,  
7 2010, which was identical to the annotated existing layout, but indicated the approximate location of the  
8 existing septic system. He read revised Item #11.B(3) as follows: The pamphlet *Soil Potential Ratings for*  
9 *Septic Tank Absorption Fields Champaign County, Illinois*, is a report that indicates the relative potential of  
10 the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic  
11 tank leach fields). The pamphlet contains worksheets for 60 different soils that have potential ratings  
12 (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability). He read new Item  
13 #11.(4)-(5) as follows: (4) The worksheet for the relevant soil types on the subject property can be  
14 summarized as follows: (a) Xenia soil covers the lot from approximately the front of the existing house and  
15 forward to the front lot line. Xenia Silt loam, 2-5% slopes, (map unit 291B) has Medium suitability for  
16 septic tank leach fields with a soil potential index of 79. Xenia has severe wetness problems due to a high  
17 water table (2 to 6 feet deep) and severely limited permeability. The typical corrective measure is a curtain  
18 drain to lower groundwater levels and/or a large absorption field; and (b) Birkbeck soil covers the lot from  
19 approximately the front of the existing house and back towards the rear lot line. Birkbeck soil loam, 1-5%  
20 slopes, (map unit 233B) has High suitability for septic tank leach fields with a soil potential index of 93.  
21 Birkbeck has severe wetness problems due to a high water table (3 to 6 feet deep) and moderate  
22 permeability. The typical corrective measure is a curtain drain to lower groundwater levels. (5) Based on  
23 the revised site plan submitted on February 10, 2010, the petitioners appear to have adequate space on the  
24 rear portion of their lot to accommodate a reserve septic tank leach field. He noted that this area has the soil  
25 with the highest suitability.  
26

27 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.  
28

29 Mr. Bluhm called Mr. Stephan Burdin to testify.  
30

31 Mr. Stephan Burdin, who resides at 2527N CR 450E, Mahomet stated that he would like to replace the  
32 existing house with a new house. He said that his neighbor would rather not sell additional land because it  
33 would restrict access to the lot which is located behind his property.  
34

35 Mr. Bluhm asked the Board if there were any questions for Mr. Burdin.  
36

37 Mr. Courson asked Mr. Burdin to identify the small rectangular building indicated on the site plan dated  
38 February 10, 2010.  
39

40 Mr. Burdin stated that the rectangular building is a buried concrete box that is utilized as a storm shelter for  
41 his family.  
42

43 Mr. Bluhm asked the Board if there were any additional questions for Mr. Burdin and there were none.  
44

2-11-10

AS APPROVED FEBRUARY 25, 2010

ZBA

1 Mr. Burdin asked if the soil map survey which was included in the Supplemental Memorandum dated  
2 February 11, 2010, was accurate. He said that every time he has dug into the ground on his property he  
3 always gets clay from the top to the bottom of the hole.

4  
5 Mr. Hall stated that the soil survey is not supposed to be considered very accurate at all at that small of a  
6 scale.

7  
8 Mr. Burdin asked the Board if he will be required to install a new septic system when he replaces the  
9 existing home.

10  
11 Mr. Bluhm stated this would be a question for the Champaign County Public Health Department.

12  
13 Mr. Burdin asked what codes the County has adopted in terms of electrical and building codes.

14  
15 Mr. Hall stated that for every permit issued for a new dwelling staff includes a copy of the Illinois  
16 Residential Building Code Act and under State law every new home should be built under a code that has  
17 been adopted by a municipality within a 100 mile radius of the property.

18  
19 Mr. Burdin asked if the municipalities kept the codes up to date.

20  
21 Mr. Hall stated that it is up to the property owner and the builder to make sure which code is used.

22  
23 Mr. Bluhm noted that there are no inspections completed by the County for electrical and building codes.  
24 He said that only a final inspection is completed by the Planning and Zoning Department for compliance  
25 with the *Zoning Ordinance*. He said that the Champaign County Public Health Department will conduct the  
26 inspection for the septic system.

27  
28 Mr. Burdin stated that centering the new home on the property makes sense because the existing septic  
29 digestion tank is really close to where the previous addition was built. He said that the satellite view  
30 photograph indicates the tree line along the driveway and the white spot is a propane tank. He said that he  
31 had the tank moved to its current location because several years ago it was right next to the garage which  
32 made it approximately ten feet from the house and he was uncomfortable with its location.

33  
34 Mr. Courson asked Mr. Burdin to identify the small building to rear of the property which is indicated on the  
35 satellite view photograph. He said that the small building is not indicated on the submitted site plan.

36  
37 Mr. Burdin stated that the small building was there when they purchased the property and it is a playhouse  
38 for children.

39  
40 Mr. Bluhm asked the Board if there were any additional questions for Mr. Burdin and there were none.

41  
42 Mr. Bluhm asked if staff had any additional questions for Mr. Burdin and there were none.

43  
44 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Burdin and there were none.

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Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony in Case 659-V-09 and there was no one.

Mr. Bluhm closed the witness register.

Mr. Hall stated that a new Item #8.C. should be added to the Summary of Evidence indicating the following: Co-petitioner Steve Burdin testified at the February 11, 2010, public hearing that his neighbor would rather not sell any land. Mr. Hall stated that this testimony establishes that there is no additional land available for purchase.

Mr. Knight stated that the text for proposed new Item #8.C. should just replace the text for existing Item #8.B.

Mr. Hall stated that Mr. Knight is correct therefore he would recommend that the original text for Item #8.B. be revised to indicate the following: Co-petitioner Steve Burdin testified at the February 11, 2010, public hearing that his neighbor would rather not sell any land. He said that there will be no need for an Item #8.C. Mr. Hall stated that a new Item #3 should be added to the Documents of Record as follows: Supplemental Memorandum dated February 11, 2010, with attachments.

**Finding of Fact for Case 659-V-09:**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 659-V-09 held on February 11, 2010, 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. Thorsland 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 lot was not created by the petitioners and additional land is not available for purchase and if the variance iss not granted the land would be unusable.

- 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.**

Ms. Capel 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 it will prevent the petitioners from building a new home.

- 3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.**

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Mr. Palmgren stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the petitioners purchased an existing home and the conditions existed when the petitioners purchased the property.

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

Mr. Thorsland stated that the requested variance IS in harmony with the general purpose and intent of the Ordinance because the use on the lot will not change and the proposed relocation of the structure will improve conditions for both the subject property and surrounding properties.

**5. The requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare.**

Mr. Courson stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because the petitioners are proposing to replace an existing structure.

Mr. Bluhm added that no increase in traffic will occur.

Mr. Thorsland stated that no comments were received from the township highway commissioner or the fire protection district.

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

Ms. Capel stated that the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure because it will bring the lot into conformance with the Zoning Ordinance.

Mr. Courson stated no other land is available for purchase.

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

**Ms. Capel moved, seconded by Mr. Palmgren to close the public hearing for Case 659-V-09. The motion carried by voice vote.**

Mr. Bluhm informed Mr. Burdin that one Board member is absent from tonight’s meeting therefore it is at his discretion to either continue Case 659-V-09 until a full Board is present or request that the present Board move forward to the Final Determination. He informed Mr. Burdin that four affirmative votes are required for approval.

1 Mr. Burdin requested that the present Board continue to the final determination.

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3 **Final Determination for Case 659-V-09:**

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5 **Ms. Capel moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals**  
6 **finds that, based on the application, testimony and other evidence received in this case, that the**  
7 **requirements of Section 9.1.9.C HAVE been met and pursuant to the authority granted in Section**  
8 **9.1.6.B of the *Champaign County Zoning Ordinance*, the Zoning Board of Appeals of Champaign**  
9 **County finds that the variance requested in Case 659-V-09 is hereby GRANTED to the petitioners,**  
10 **Stephan and Lisa Burdin, to authorize the use of an existing non-conforming lot .094 acres in area**  
11 **with an average lot width of 140 feet in lieu of the minimum required lot area of one acre and**  
12 **minimum average lot width of 200 feet.**

13  
14 The roll was called:

16	<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Palmgren-yes</b>
17	<b>Schroeder-yes</b>	<b>Thorsland-yes</b>	<b>Bluhm-yes</b>
18	<b>Miller-absent</b>		

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20 **7. Staff Report**

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22 Mr. Hall distributed the Monthly Reports for January, 2010 and December, 2009 and the Summary Report  
23 for Fiscal Year 2009 to the Board for review. He said that Fiscal Year 2009 was a year that set new lows for  
24 Zoning Use Permits and zoning cases and in terms of compliance inspections a new record was set. He said  
25 that everyone know things are very slow although it has given staff the opportunity to make progress on the  
26 backlog of compliance inspections. He said that he has intended for some time to distribute the monthly  
27 reports to the Board, which are given to ELUC every month, but because of the offset of the meetings for  
28 ELUC and the ZBA he has not accomplished that intention. He said that at the end of the year when ELUC  
29 reviews how things have gone in the department part of that review will be how many cases the ZBA have  
30 completed. He said that he would be happy to answer any questions that the Board may have regarding the  
31 monthly reports.

32  
33 Mr. Hall stated that he expected to obtain a recommendation from ELUC this month on the zoning case  
34 regarding RLA separation but the case has hit a brick wall. He said that the Board worked very hard on this  
35 case and completed it in record time but ELUC deferred the case for consideration. He said that he  
36 submitted a memorandum to ELUC explaining the situation and that at their meeting they would obtain the  
37 recommended amendment but that is not how it is normally presented and it was not accepted well.

38  
39 Mr. Palmgren asked if ELUC has a specific problem with the amendment.

40  
41 Mr. Hall stated that the term “ram-rod” was used several times. He said that ELUC will have one full month  
42 to consider the amendment for action in March. He said that the amendment for small wind has not been  
43 forwarded to ELUC and he will be interested to see their reaction to that amendment in March. He said that  
44 in March staff will hopefully receive direction from ELUC on some new text amendments that could be

1 completed.

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3 **8. Other Business**

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5 None

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

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9 None

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11 **10. Adjournment**

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13 The meeting adjourned at 7:55 p.m.

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18 Respectfully submitted

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23 Secretary of Zoning Board of Appeals

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ZBA //

***DRAFT SUBJECT TO APPROVAL DRAFT***

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