

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: February 25, 2010
Time: 6:30 P.M.
Place: Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802

**Note: NO ENTRANCE TO BUILDING
FROM WASHINGTON STREET PARKING
LOT AFTER 4:30 PM.**

**Use Northeast parking lot via Lierman Ave.,
and enter building through Northeast
door.**

*If you require special accommodations please notify the Department of Planning & Zoning at
(217) 384-3708*

EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (February 1, 2010 and February 11, 2010)
5. Continued Public Hearings
6. New Public Hearings

***Case 660-V-10** Petitioner: **Maria Salinas-Hayes**

Request: Authorize the construction of an addition to an existing house with a front yard of 18 feet and a setback of 48 feet in lieu of the required 25 feet front yard and 55 feet setback, in regards to Pond Ridge Lane, a minor street in the R-1 Single Family Residence Zoning District.

Location: Lot 18 in Yankee Ridge A-Z Fourth Subdivision in Section 29 of Urbana Township and commonly known as the house at 301 Pond Ridge Lane, Urbana.

7. Staff Report
8. Other Business
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

*** Administrative Hearing. Cross Examination allowed.**

1 **MINUTES OF REGULAR MEETING**
2
3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**
4 1776 E. Washington Street
5 Urbana, IL 61801
6

7 **DATE:** February 1, 2010 **PLACE:** Lyle Shields Meeting Room
8 1776 East Washington Street
9 **TIME:** 6:30 p.m. **Urbana, IL 61802**

11 **MEMBERS PRESENT:** Doug Bluhm, Catherine Capel, Thomas Courson, Melvin Schroeder, Eric
12 Thorsland, Paul Palmgren
13

14 **MEMBERS ABSENT :** Roger Miller
15

16 **STAFF PRESENT :** Connie Berry, John Hall, J.R. Knight
17

18 **OTHERS PRESENT :** Al Kurtz, Herb Schildt, Sherry Schildt, Terry Ladage
19

21 **1. Call to Order**
22

23 The meeting was called to order at 6:35 p.m.
24

25 **2. Roll Call and Declaration of Quorum**
26

27 The roll was called and a quorum declared present with one member absent.
28

29 **3. Correspondence**
30

31 None
32

33 **4. Approval of Minutes (January 14, 2010)**
34

35 Mr. Thorsland stated that Page 10, Line 31 should be revised as follows: He said that he was uncomfortable
36 with a ten foot side yard setback with a 150 foot tower but not with a 50 foot setback with a 150 foot tower.
37

38 Mr. Palmgren stated that Page 25, Line 24 should be revised as follows: Mr. Palmgren stated that there are
39 fewer residential airports in this area right now but there is a trend for more nationwide due to the closing of
40 many small airports.
41

42 **Mr. Thorsland moved, seconded by Mr. Palmgren to approve the January 14, 2010, minutes as**
43 **amended. The motion carried by voice vote.**
44

45 **Ms. Capel moved, seconded by Mr. Thorsland to rearrange the agenda and hear Case 658-AT-09**
46 **prior to Case 634-AT-08, Part B. The motion carried by voice vote.**
47

48 **5. Continued Public Hearing**

DRAFT
SUBJECT TO APPROVAL

1
2 **Case 634-AT-08 Part B. Petitioner: Zoning Administrator Request: Amend the Champaign County**
3 **Zoning Ordinance as follows: 1. Add definitions for “SMALL WIND TURBINE TOWER”and “BIG**
4 **WIND TURBINE TOWER” and revise the definition for “WIND FARM.”; and 2. Amend subsection**
5 **4.2.1. to allow “BIG WIND TURBINE TOWER” as a second principal use on lots in the AG-1 and**
6 **AG-2 Zoning Districts; and 3. Amend paragraph 4.3.1.E. to add new height regulations that apply to**
7 **“SMALL WIND TURBINE TOWER” and “BIG WIND TURBINE TOWER.”; 4. In Section 5.2**
8 **replace “wind turbine” with “BIG WIND TURBINE TOWER,” and indicate “BIG WIND TURBINE**
9 **TOWER” is only authorized as a second principle use on lots in certain Zoning Districts; and 5. in**
10 **Section 6.1.3. add new standard conditions for “BIG WIND TURBINE TOWER” that are similar to**
11 **the standard conditions for a WIND FARM; and 6. Add new subsection 7.7 making “SMALL WIND**
12 **TURBINE TOWER” an authorized accessory use by-right in all zoning districts and add**
13 **requirements including but not limited to: (a) the turbine must be located more than one and one half**
14 **miles from the nearest municipal zoning jurisdiction; and (b) minimum required yards that are the**
15 **same as for other accessory structures in the district provided that the overall height is not more than**
16 **100 feet; and (c) an overall height limit of 200 feet provided that the separation from the nearest**
17 **property line is at least the same as the overall height and authorize private waivers of the separation**
18 **by adjacent neighbors; and (d) a limit of no more than two turbine towers per lot; and (e) allowable**
19 **noise limits; and (f) a requirement for engineer certification; and (g) a requirement to notify the**
20 **electrical power provider if interconnected to the electrical grid; and (h) a requirement that no**
21 **interference with neighboring TV, radio, or cell phone reception; and (i) a requirement for the**
22 **removal of inoperable wind turbines. 7. In Section 9.3.1. add fees for SMALL WIND TURBINE**
23 **TOWER and BIG WIND TURBINE TOWER; and 8. In Section 9.3.3. add application fees for BIG**
24 **WIND TURBINE TOWER Special Use Permit.**

25
26 Mr. Hall stated that the Supplemental Memorandum dated January 26, 2010, included an attachment which
27 discussed revised draft proposed new Subsection 7.7. He said that at the last meeting the Board increased
28 the height of clearance to ground from 15 feet to 20 feet and increased the number of small turbine towers
29 allowed on a property to four, provided that no more than 100kW total nameplate capacity. He said that this
30 is greater than the number that was included in the legal advertisement but it is his view that this is a
31 relatively modest change and does not require re-advertisement. He said that Page B-2 of Attachment B.
32 Case 634-AT-08 Part B Revised Draft Ordinance of the Supplemental Memorandum dated January 26, 2010,
33 indicates an error. He said that when he was constructing the attachment he accidentally cut-off the text after
34 Item 5. and continued the discussion regarding what are BIG WIND TURBINE TOWER requirements on
35 Page B-8. He said that Mr. Knight distributed a new, corrected copy of Attachment B. for the Board’s
36 review.

37
38 Mr. Hall stated that the distributed Supplemental Memorandum dated February 1, 2010, includes an updated
39 Finding of Fact and two tables. He said that the table titled, Comparison of Small Wind Requirements in
40 Other Illinois County Zoning Ordinances and Largest Local Municipalities, compares the current draft with
41 all of its recent changes to the American Wind Energy Association Model Ordinance and the six other
42 Illinois counties which have been reviewed earlier and to the new small wind ordinance adopted by the City
43 of Champaign. He said that the shading indicates where other jurisdictions are less restrictive than the draft

1 that the Board is considering and the club symbol indicates where the County will be more restrictive than
2 anyone else. He said that staff discussed the City of Champaign ordinance with the Board at the last hearing
3 and he would like to point out a few of their requirements to the Board. He said that in regards to height the
4 City of Champaign claims that someone could go up to 175 feet if they were more than 1,000 feet from a
5 residential district and then they have a shadow flicker limit which is applied if the tower is greater than 150
6 feet. He said that he believes that this is the same thing as having a 150 feet height requirement but the City
7 of Champaign will allow a 175 feet tower if it is more than 1,000 feet from a residential district but a shadow
8 flicker study is required. He said that there are a few other Illinois counties which do go up to 150 feet and
9 some have no height limit at all. He said that the Board has spent a lot of time on the height limit and he
10 believes that it makes a lot of sense and it is fairly consistent with the City of Champaign. He said that
11 regarding rotor diameter Champaign County is the only county other than Macon which has limits on rotor
12 diameter. He said that Macon County does not allow anything larger than 30 feet, which he believes is a
13 problem, but on the other hand they allow 30 feet everywhere. He said that the Board spent a lot time of this
14 issue also and it is the most restrictive. He said that the City of Champaign apparently is prepared to allow a
15 50 foot rotor anywhere provided that it has 20 feet clearance to the ground and as a resident of the City of
16 Champaign he personally is not happy about that but this is what they adopted. He said that the City of
17 Champaign actually allows up to 100 feet if it is more than 1,000 feet from a residential district. He said that
18 the City of Champaign is less restrictive than the County but the Board spent a lot of time considering where
19 larger rotors would be allowed and to a reasonable standard there could be some questions raised about the
20 City of Champaign standards but he does not see that as an issue for this Board tonight.

21
22 Mr. Hall stated that regarding the limit of the number of small turbines per lot many counties do not have a
23 limit and some have indicated a limit of one. He said the in the City of Champaign if someone has ten acres
24 or greater there is no limit on the number of small wind turbines. He said that at the last meeting the Board
25 placed a limit of four small wind turbines on a lot that are three acres or larger with a total limit of 100kW.
26 He said that the City of Champaign adopted the Illinois Pollution Control Board Standards therefore they
27 will stop someone shut off their turbine if it exceeds those standards but no documentation is required during
28 the permitting process. He said that he is uncomfortable with the City of Champaign's approach but is very
29 comfortable with what the Board has adopted on a draft basis in that they will follow the Illinois Pollution
30 Control Board regulations as well as it can with the guidelines that have been provided. He said that no one
31 really knows how the ICPB standards are applied but the Board is requiring documentation regarding noise
32 at the time of permitting. He said that once someone has submitted the noise documentation they meet the
33 Ordinance requirements therefore if someone complains about the noise staff is not going to be out there
34 investigating it because staff has the documentation. He said that this requirement makes staff's job a lot
35 easier, which is appreciated, but it does give people a clear indication as to what they have to do to comply.
36 He said that there is a difference between the County's draft and what the City of Champaign has already
37 adopted but those differences can be explained. He said that if the Board is still comfortable with the draft
38 then he believes that it is a good ordinance.

39
40 Mr. Hall stated that attached to the Supplemental Memorandum dated February 1, 2010, is a table titled,
41 Table Comparing Types of Wind Turbine Towers and the Requirements for Each. He said that the table is
42 an update which compares the Small Wind Turbine Tower, Big Wind Turbine Tower and Wind Farm and
43 Wind Farm Tower. He said that the table has been revised to indicate the new height limit, rotor diameter

1 limits and fees. He said that the reason for the update was so that the County Board could see an updated
2 version and understand the range of wind turbines that the ordinance will allow. He said that Champaign
3 County may never see a Big Wind Turbine but at least everyone will know what the requirements are to date.
4

5 Mr. Hall stated that new evidence has been added to the Finding of Fact regarding the City of Champaign
6 ordinance because it is reasonable that County Board members should be aware of that information when it
7 is before them. He said that staff is recommending that Part B. ACHIEVES or CONFORMS to all of the
8 Land Use Goals and Policies therefore it is ready for final action. He said that this is not going to the
9 Committee of the Whole in February but will be before them in March.

10
11 Mr. Bluhm asked the Board if there were any questions for Mr. Hall.

12
13 Mr. Thorsland stated that he does not have any questions but would like to state that the Board and staff have
14 worked on this case for a long time and he believes that it is a good product. He said that Mr. Schildt was a
15 good critic and he appreciates his input. He thanked everyone for their efforts.

16
17 Mr. Hall agreed with Mr. Thorsland and stated that a lot of help was received from the public regarding this
18 case. He said that the Regional Planning Commission Technical Committee meeting is tomorrow and the
19 County, the City of Champaign and the City of Urbana will be sharing all their small wind ordinances. He
20 said that if he thought that there would be any changes from that meeting he would suggest that the Board
21 not move forward to final action tonight but he believes that the draft before the Board tonight is a good
22 ordinance and is ready for action.

23
24 Mr. Bluhm stated that it is a little disturbing to see that the application date for the text amendment was
25 dated September 11, 2008, because it indicates how much time has been spent in working through this case.
26

27 Mr. Hall stated that with the wind farm amendment there was a good model ordinance which didn't take a
28 lot of adjustment and with the small wind, in retrospect, there was a poor model ordinance that got us off on
29 the wrong foot but adjustments were made and here we are today.

30
31 Mr. Bluhm asked the Board if there were any other questions or comments for Mr. Hall and there were none.
32

33 **Mr. Thorsland moved, seconded by Ms. Capel to accept staff's recommendations of ACHIEVES and**
34 **CONFORMS. The motion carried by voice vote.**

35
36 Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony regarding
37 Case 634-AT-08, Part B. and there was no one.
38

39 Mr. Bluhm closed the witness register.
40

41 **Mr. Thorsland moved, seconded by Mr. Palmgren to adopt the Summary of Evidence, Documents of**
42 **Record and Finding of Fact as amended. The motion carried by voice vote.**
43

1 Ms. Capel moved, seconded by Mr. Palmgren to close the public hearing for Case 634-AT-08, Part B.
2 the motion carried by voice vote.

3
4 Mr. Bluhm informed Mr. Hall that one Board member is absent from tonight’s meeting therefore it is at his
5 discretion to either continue Case 634-AT-08, Part B. until a full Board is present or request that the present
6 Board move forward to the Final Determination. He informed Mr. Hall that four affirmative votes are
7 required for approval.

8
9 Mr. Hall requested that the present Board proceed to the final determination.

10
11 **Final Determination for Case 634-AT-08, Part B:**

12
13 **Mr. Thorsland moved, seconded by Mr. Schroeder that pursuant to the authority granted by Section**
14 **9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
15 **finds that the Zoning Ordinance Amendment requested in Case 634-AT-08, Part B should BE**
16 **ENACTED by the County Board in the form attached hereto.**

17
18 The roll was called:

19			
20	Courson-yes	Miller-absent	Palmgren-yes
21	Schroeder-yes	Capel-yes	Thorsland-yes
22	Bluhm-yes		

23
24 Mr. Hall thanked the Board and informed them that this case will be before ELUC at the Committee of the
25 Whole meeting in March.

26
27 Mr. Bluhm encouraged the Board to maintain their paperwork until the case is adopted by the County Board.

28
29 **Case 658-AT-09 Petitioner: Zoning Administrator Request: Part A: 1. Amend paragraph 6.1.1.C.5 to**
30 **reference the requirements of Paragraph 6.1.4.P.5.; and 2. Amend paragraph 6.1.4.C.11 to: (a)**
31 **require the wind farm separation from restricted landing areas or residential airports only for**
32 **restricted landing areas and residential airports that existed on the effective date of County Board**
33 **adoption of Case 658-AT-09; and (b) reduce the distance of the wind farm separation from restricted**
34 **landing areas or residential airports so that it is based on the height of the wind farm tower. Part B:**
35 **1. Amend paragraph 9.1.11.d.1 to include a reference to subsection 6.1 instead of section 6.1.3.**

36
37 Mr. Hall stated that the Supplemental Memorandum dated January 26, 2010, discusses the glitch in the legal
38 advertisement. He said that staff neglected to include the change to the shadow flicker therefore it will be
39 included in a future text amendment to clarify the rules. He said that the memorandum indicates the change
40 that the Board proposed at the last hearing which based the separation on the height of the wind farm towers
41 using the 7:1 ratio. He said that the Board also discussed having the separation apply to the tip of the blade
42 rather than the above ground base. He said that the Board recognized that there was an issue with the
43 separation at the ends of a runway. He said that if the County has a separation of 3,500 feet and there is a

1 500 foot tower off of the end of the runway it would interfere with the approach to that runway and even
2 more so for a residential airport. He said that staff included a specific separation for the runway approach
3 and the new Supplemental Memorandum dated February 1, 2010, which was distributed to the Board for
4 review, includes illustrations of the revised separation. He said that at the previous meeting there were some
5 questions regarding old RLA's and staff discovered that they were recorded properly in the 80's therefore
6 they are all legal. He said that Mr. Knight checked the IDOT website today and IDOT does not have any
7 RLA's indicated that staff are not aware of therefore all of the existing RLA's are nonconforming of record
8 and would receive the benefit of the separation that is adopted but none of the RLA's that staff is aware of
9 are located in an area of any proposed wind farms.

10
11 Mr. Hall stated that the illustrations attached to the Supplemental Memorandum dated February 1, 2010,
12 indicate the existing ordinance RLA minimum wind farm separation and the revised draft RLA minimum
13 wind farm separation. He said that the existing ordinance illustration indicates a blanket 3,500 feet which
14 takes up 1,160 acres, which is different than the information that was in the Supplemental Memorandum
15 dated January 26, 2010. He said that the acreage is big enough that it includes the IDOT Approach Area
16 which is a 15:1 slope for a distance of only 3,000 feet but outside of this perimeter there could be a 500 foot
17 wind tower. He said that the IDOT Approach Area with a 15:1 slope is relative to a 200 foot height and it is
18 not intended to be relative to a 500 foot height therefore there is an obvious problem. He said that the
19 revised draft separation illustration indicates the new language that is included in the February 1, 2010,
20 Supplemental Memorandum. He said that a separation around the sides and the ends based on the 7:1 ratio
21 for a 500 foot wind tower would be 3,500 feet but off the ends of the runway it takes the maximum point of
22 the trapezoidal area, 15:1 slope for 3,000 feet, and carries out to the height of the wind farm tower. He said
23 that for a 500 foot height extension of the runway approach would be 7,500 feet and a 400 foot height
24 extension of the runway approach would be 6,000 feet. He said that this means that 1,160 acres unavailable
25 for wind farm turbines and based on the anticipated height of 400 feet the revised alternative only takes out
26 891 acres. He said that the 7:1 separation is being provided at the sides and ends plus gives protection for
27 the runway approach and is still taking up much less area than the blanket 3,500 feet.

28
29 Mr. Hall read Revised subparagraph 6.1.4C.11 as follows: For any legal restricted landing area that existed
30 on or for which there had been a complete special use permit application received by the date of adoption
31 there shall be a separation from the runway to the nearest tip of a blade to the nearest wind farm tower as
32 follows: (a) the separation from the sides and ends of the runway shall be seven horizontal feet for each one
33 foot of overall wind farm tower height; and (b) an additional separation from the end of the runway shall be
34 15 feet for each one foot of overall wind farm tower height in a trapezoidal shape that is the width of the
35 runway approach zone based on the requirements of 92 Ill. Admin. Code 14.520, except as follows: (1) that
36 part of the separation that is more than 3,000 feet from the end of a runway may be a consistent width based
37 on the widest point of the runway approach zone. Mr. Hall stated that assuming a minimum 1,600 feet long
38 RLA and wind farm towers that are 400 feet tall, the total area of RLA separation will be 891 acres which is
39 only about 77% of the current requirement of 1,160 acres. He said that a greater degree of safety and fewer
40 acres of land taken out with that restriction.

41
42 Mr. Hall stated that for a residential airport the language in subparagraph 6.1.C.12 is the same as the
43 language included in subparagraph 6.1.C.11., although the ratio used is 20 feet for each one foot of overall

1 wind farm tower height. He said that there is only one residential airport in the County and is near the City
2 of Urbana and it is nowhere near any area proposed for a wind farm.

3
4 Mr. Hall stated that before the wind farm amendment the County had reclamation agreements as a standard
5 condition that could apply to any special use permit. He said that when the wind farm amendment was
6 added staff added supplementary information in the section regarding wind farms and staff realized that the
7 two could be knitted together by adding some language in paragraph 6.1.1 C.5 to reference the requirements
8 of paragraph 6.1.4 P.5. He said that the standard language discusses an irrevocable letter of credit of 150%
9 of the replacement costs but the County Board changed it to 210%. He said that paragraph 6.1.1 C.5 will
10 read as follows: No Zoning Use Permit for such special use will be issued until the developer provided the
11 County with an irrevocable letter of credit to be drawn upon a federally insured financial institution within
12 200 miles of Urbana or reasonable and anticipated travel costs shall be added to the amount of the letter of
13 credit. The irrevocable letter of credit shall be in the amount of one hundred fifty percent (150%) of an
14 independent engineer's cost estimate to complete the work described in Section 6.1.1C4a, except as a
15 different amount may be required as a standard condition in Paragraph 6.1.4P. This letter of credit or a
16 successor letter of credit pursuant to Section 6.1.1C6 or 6.1.1C12 shall remain in effect and shall be made
17 available to the County for an indefinite term, or for a different term that may be required as a standard
18 condition in Paragraph 6.1.4P. Mr. Hall stated that the County Board decided that for a wind farm the letter
19 of credit paid down in 12 years so that by year 13 there was a cash balance in escrow which was a very safe
20 way to do the Ordinance. He said that three wind farm developers participated in the hearings and not one
21 objected to this requirement. He said that this version of 6.1.1 C.5 is a much better version that won't give
22 anyone a chance to take shots at a wind farm developer and makes it very clear that the reclamation
23 agreement is discussed in two areas of the Ordinance. He said that it has been made very clear that
24 everything in Section 6.1 is a standard condition that could be waived therefore it is very clear that all of the
25 wind farm requirements are nothing more than standard conditions.

26
27 Mr. Hall indicated that there was no new Finding of Fact for tonight's meeting therefore the Finding of Fact
28 that was included as an attachment to the Supplemental Memorandum dated January 26, 2010, will be
29 reviewed by the Board tonight. He said that there are a few corrections that need to be made to Page 6
30 during the Board's review of the Finding of Fact.

31
32 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.

33
34 Mr. Bluhm asked the audience if anyone desired to present testimony regarding Case 658-AT-09, and if so
35 he requested that they sign the witness register at this time.

36
37 Mr. Hall stated that the Finding of Fact that was included as an attachment to the Supplemental
38 Memorandum dated January 26, 2010, did have alot of new information but one item that was added was
39 that once this becomes effective, in the context of any wind farm special use permit, the County Board can
40 still add a separation for any new RLA that has been developed and effected by the wind farm. He said that
41 rather than having it as an automatic separation it will be one that the County Board has control over.

42
43 Mr. Bluhm called Mr. Herb Schildt to testify.

1
2 Mr. Herb Schildt, who resides at 298 CR 2500N, Mahomet stated that he is concerned with Part B. He said
3 that when he initially reviewed the information he believed that there was a simple clerical oversight. He
4 said that he is concerned that there may be unintended side effects from the change in Part B therefore he
5 requested that it be deferred until the future shadow flicker amendment is completed.

6
7 Mr. Bluhm asked the Board if there were any questions for Mr. Schildt and there were none.

8
9 Mr. Bluhm asked if staff had any questions for Mr. Schildt.

10
11 Mr. Hall asked Mr. Schildt if he was not persuaded by the attachment that was included with Supplemental
12 Memorandum dated January 25, 2010.

13
14 Mr. Schildt stated that he does not believe that the provisions in the wind farm ordinance are subject to the
15 waivers.

16
17 Mr. Hall stated that the provisions are always referred to as standard conditions.

18
19 Mr. Schildt stated that the way the ordinance was written the provisions were left out of the reference. He
20 said that what is being proposed is not a change to the wind farm ordinance section it actually affects the
21 entire ordinance because it refers all waivers back to 6.1 rather than just 6.1.3. He said that perhaps he is
22 overly concerned but he writes computer programming books therefore he constantly deals with a high level
23 of detail and he becomes really nervous when he makes any revisions to a book because there could be
24 upstream and downstream consequences of that change. He said that personally he is not convinced that he
25 fully understands the effects of the change and if it is not that big of deal to fix the shadow flicker issue then
26 why not bring Part B back at that time. He said that he has grown uncomfortable about what this actually
27 means and is concerned about the ramifications to the entire ordinance and not just the wind farm portion.

28
29 Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony regarding
30 Case 658-AT-09 and there was no one.

31
32 Mr. Bluhm closed the witness register.

33
34 Mr. Hall stated that Page 3 of the Summary of Evidence includes a Summary of the Proposed Amendment.
35 He said that 5.A. discusses the revision to Paragraph 6.1.1 C.5 regarding the reclamation agreement and 5.B.
36 summarizes the RLA wind farm separation. He said that subparagraph 5.B(2) should be revised as follows:
37 The proposed amendment first revised the separation so that it only applies to RLA's and Residential
38 Airports that were existing or for which a complete application had been received by the date of adoption of
39 this text amendment. He said that 5.C. summarizes the change in Subparagraph 9.1.11 D.1. referring back to
40 Section 6.1. of standard conditions. He said that a sentence has been added to 8.B(5) on Page 5 of the
41 Summary of Evidence as follows: The Board could require a separation as a standard condition of a wind
42 farm special use permit approval. He said that a new subparagraph 8.B(7) has been added as follows:
43 Airports have an FAA protected separation that amounts to nearly four miles. He said that a new

2/1/2010

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 subparagraph 8.B(8) Regarding safety concerns at RLA's and Restricted Airports has been added indicating
2 the following: (a) IDOT only requires a height restriction to the side of an RLA for a distance of 135 feet
3 from the runway centerline; and (b) In addition to eliminating the wind farm separation for any new RLA or
4 Residential Airport, the amendment readvertised on January 17, 2010, also reduces the basic separation from
5 a standard 3,500 feet for each wind farm to a formula based separation based on the actual height of the wind
6 farm tower and also expands the approach zone separation based on the height of the wind farm towers; (c)
7 The revised approach zone separation is also related to whether the approach zone is for an RLA or a
8 residential airport. The Illinois Department of Transportation has adopted a 15 to 1 approach slope for
9 Residential Landing Areas (RLA's) and a 20 to 1 slope that applies to airports and presumably to residential
10 airports; and (d) The existing original version of the RLA wind farm separation is based on the "side
11 transition surface" for airports that is a slope of seven horizontal feet for each vertical foot and that extends
12 to a height of 150 feet above the ground. Se 92 Ill. Admin.Code 14 APPENDIX A. Airport Standards.; and
13 (e) The existing originally adopted RLA wind farm separation was simply based on the minimum allowable
14 wind farm tower height of 500 feet times the seven horizontal feet for a total separation of 3,500 feet. For a
15 minimum 1,600 feet long RLA the existing simple RLA wind farm separation requires approximately 1,160
16 acres per RLA; and (f) There will probably be waivers requested for most wind farms because wind farm
17 towers are generally less than 500 feet tall. Waivers for wind farms will probably be controversial and it
18 would be best to improve the Ordinance to reduce any unnecessary waivers; and (g) For wind farm towers
19 that are 400 feet tall this revised RLA separation at the sides of both an RLA and a residential airport will be
20 2,800 feet. The separation at the end of an RLA with 400 feet tall wind farm towers will increase to 6,000
21 feet. Assuming a minimum 1,600 feet long RLA and wind farm towers that are 400 feet tall, the total area of
22 RLA separation will be 891 acres which is only about 77% of the current requirement of 1,160 acres; and (h)
23 If wind farm turbines are installed at a density of about 70 acres per wind turbine, the change could result in
24 nearly four additional wind turbines per RLA even though the degree of safety is arguably increased due to
25 the longer separation at the ends of the runways; and (i) The Board could require a separation for any new
26 RLA or Residential Airport as a standard condition of a wind farm special use permit approval. He said that
27 8.C(b) should read as follows: The proposed change to subparagraph 6.1.1 C.5 will make it clear which
28 reclamation agreement requirement applies in the case of a wind farm special use permit. He said that the
29 text regarding shadow flicker has been stricken.

30
31 Mr. Hall stated that a new Item #6 should be added to the Documents of Record indicating the following:
32 Supplemental Memorandum for Case 658-AT-09, dated February 1, 2010, with attachments: A. Revised
33 Draft Proposed Change to Subparagraph 6.1.4 C. 11; and B. Illustration of existing RLA wind farm
34 separation; and C. Illustration of revised Draft RLA wind farm separation.

35
36 Mr. Bluhm asked the Board if there were any questions or comments for Mr. Hall regarding Part B.

37
38 Mr. Thorsland stated that Mr. Hall did an excellent job with Part B and he is comfortable with this version of
39 the amendment.

40
41 Mr. Hall stated that this case is on the February 4, 2010, agenda for the Committee of the Whole Meeting but
42 the County Board cannot take action on Part A. this month because such action would not have allowed 30
43 days for township protests. He said that he would hope that action could be taken on Part A and Part B at

1 tonight's meeting but there cannot be final action on either part until March. He said that he appreciates Mr.
2 Schildt's concerns in regard that we are not making anything a standard condition that isn't already a
3 standard condition. Mr. Hall stated that his position is that these are all standard conditions already and Part
4 B is where there might be arguments when there is a wind farm application submitted. He said that there is
5 no doubt that the reference in Section 9 was not changed and someone could argue that those are not
6 standard conditions because they are not referenced in Section 9 and there is no doubt that every wind farm
7 requirement is stated as a standard condition. He said that the only thing that is in question is the
8 referencing. He said that staff received new information as to when a wind farm application may be
9 submitted and that new information indicated that it will not be in March and it may be some time after that
10 before staff receives one. He noted that if the Board is not comfortable with Part B. then they should not
11 take action on Part B. and if the Board is not comfortable with Part A. then they should not take action on
12 Part A but if the Board is comfortable with either or both he would like to see action taken tonight.

13
14 Mr. Bluhm requested the Board's consensus regarding action of Part A. and Part B.

15
16 Mr. Palmgren stated that he feels good about Part A.

17
18 Mr. Bluhm stated that in regard to Part B. he believes that if there is a question it will be because there is no
19 reference therefore it needs to be finalized earlier enough that no one will have the opportunity to question it.
20 He said that he has faith in the staff in that they are comfortable with the wording and how Part B. will apply.

21
22 Ms. Capel stated that 8.B(5) indicates that the Board could require a separation as a standard condition of a
23 wind farm special use permit approval. She asked if the Board would require a standard condition at the
24 time or will it be something that the Board would impose for each separate wind farm.

25
26 Mr. Hall stated that he is trying to make it clear that the Board always has that option. He said that in his
27 view it does not need to be written in and the Board should be able to rely on staff to point such information.

28
29 Mr. Knight stated that anything that is not written in to the ordinance should be referred to as a special
30 condition and not a standard condition therefore 8.B(5) and 8.B.(8)(i) should indicate "special" condition
31 rather than a "standard" condition.

32
33 Mr. Hall clarified that anything that is in the Ordinance that is known of ahead of time is a standard
34 condition and anything that is decided during the context of an individual case is a special condition.

35
36 Ms. Capel stated that she is comfortable in moving forward with both Part A. and Part B.

37
38 Mr. Hall stated that in staff's review of the relevant Goals and Policies few were found for such a simple text
39 amendment but all of the ones that were found have been recommended as either CONFORMS or
40 ACHIEVES. He said that the final call is up to the Board but staff is recommending that this is consistent
41 with all of the Goals and Policies and the Board needs to indicate that it accepts the recommendations
42 indicated in subparagraph 8.B.; and 8.C.

43

1 Mr. Thorsland moved, seconded by Ms. Capel to accept staff's recommendation for subparagraphs
2 8.B. and 8.C. as ACHIEVES. The motion carried by voice vote.

3
4 Mr. Palmgren moved, seconded Mr. Schroeder to adopt the Summary of Evidence, Documents of
5 Record and Finding of Fact as amended. The motion carried by voice vote.

6
7 Mr. Thorsland moved, seconded by Ms. Capel to close the public hearing for Case 658-AT-09. The
8 motion carried by voice vote.

9
10 Mr. Bluhm informed Mr. Hall that one Board member is absent from tonight's meeting therefore it is at his
11 discretion to either continue Case 658-AT-09 until a full Board is present or request that the present Board
12 move forward to the Final Determination. He informed Mr. Hall that four affirmative votes are required for
13 approval.

14
15 Mr. Hall requested that the present Board proceed to the final determination.

16
17 Final Determination for Case 658-AT-09:

18
19 Mr. Schroeder moved, seconded by Mr. Palmgren that pursuant to the authority granted by Section
20 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County
21 determines that the Zoning Ordinance Amendment requested in Case 658-AT-09 should BE
22 ENACTED by the County Board in the form attached hereto.

23
24 The roll was called:

25			
26	Capel-yes	Courson-yes	Miller-absent
27	Palmgren-yes	Schroeder-yes	Thorsland-yes
28	Bluhm-yes		
29			

30 Mr. Hall stated that this case is on the Committee of the Whole agenda for Thursday, February 4, 2010, and
31 once a recommendation is made staff will contact townships and municipalities as to which version was
32 selected.

33
34 Mr. Schildt asked Mr. Hall if the thirty day review period begins today.

35
36 Mr. Hall stated yes.

37
38 **6. New Public Hearings**

39
40 None

41
42 **7. Staff Report**

43

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

None

8. Other Business

Ms. Capel indicated that she will not be attending the February 25, 2010, meeting.

Mr. Kurtz thanked the Board and staff for their efforts in developing this important ordinance.

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

None

10. Adjournment

The meeting adjourned at 7:37 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

1 **MINUTES OF REGULAR MEETING**
2
3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**
4 **1776 E. Washington Street**
5 **Urbana, IL 61801**
6

7 **DATE:** February 11, 2010 **PLACE:** Lyle Shields Meeting Room
8 1776 East Washington Street
9 **TIME:** 6:30 p.m. **Urbana, IL 61802**

10 **MEMBERS PRESENT:** Doug Bluhm, Catherine Capel, Thomas Courson, Melvin Schroeder, Eric
11 Thorsland, Paul Palmgren
12

13 **MEMBERS ABSENT :** Roger Miller
14

15 **STAFF PRESENT :** Lori Busboom, John Hall, J.R. Knight
16

17 **OTHERS PRESENT :** Larry Lambright, Diane Lambright, Scott Lambright, Steve Burdin, Lisa
18 Burdin, Joyce Brumfield, Robert Brumfield, Alicia Helmick, Scott Helmick
19

20
21
22 **1. Call to Order**
23

24 The meeting was called to order at 6:30 p.m.
25

26 **2. Roll Call and Declaration of Quorum**
27

28 The roll was called and a quorum declared present with one member absent.
29

30 **3. Correspondence**
31

32 None
33

34 **4. Approval of Minutes (December 17, 2009)**
35

36 **Mr. Thorsland moved, seconded by Mr. Schroeder to approve the December 17, 2009, minutes as**
37 **submitted. The motion carried by voice vote.**
38

39 **5. Continued Public Hearing**
40

41 **Case 657-V-09 Petitioner: Larry and Diane Lambright; and Scott Lambright Request: Authorize the**
42 **use of an existing two story detached accessory storage building with a second story deck with a side**
43 **yard of three feet in lieu of the required ten feet side yard for accessory structures in the AG-2**
44 **Agriculture zoning district, and an average height of 16 feet in lieu of the maximum allowed 15 feet**
45 **average height for residential accessory structures on lots less than one acre in area in the AG-2**
46 **Agriculture zoning district. Location: Lot 1 of Cook's Replat of Tract B of the K.D. Headlee**
47 **Subdivision in Section 14 of Mahomet Township and commonly known as the house at 206B Lake of**
48 **the Woods, Mahomet.**

DRAFT
SUBJECT TO APPROVAL

1
2 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone
3 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands
4 for those who would like to cross examine and each person will be called upon. He requested that anyone
5 called to cross examine go to the cross examination microphone to ask any questions. He said that those
6 who desire to cross examine are not required to sign the witness register but are requested to clearly state
7 their name before asking any questions. He noted that no new testimony is to be given during the cross
8 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt
9 from cross examination.

10
11 Mr. Hall stated that the Supplemental Memorandum dated February 5, 2010, and the draft minutes of the
12 December 17, 2009, public hearing indicate that the public hearing for this case was closed at the December
13 17, 2009, public hearing. He said that Article 6.13 of the ZBA By-laws indicates that if any party wishes to
14 have a public hearing re-opened then it may only be re-opened only upon a majority vote of those members
15 present and not abstaining from the relevant vote. He said that for that reason there are some things that he
16 would like the Board to be aware of and requested that the Board re-open this public hearing.

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

20
21 Mr. Hall stated that the By-laws only discuss Board members who are abstaining from the final vote and not
22 Board members who were absent. He said that the way that he would interpret the By-laws is that the
23 majority of the Board members present at tonight's meeting, less any members who were present at the
24 December 17, 2009, public hearing who abstained, could vote to re-open the case.

25
26 **Ms. Capel moved, seconded by Mr. Thorsland to re-open the public hearing for Case 657-V-09. The**
27 **motion carried by voice vote.**

28
29 Mr. Hall clarified that the finding that the Board developed at the last public hearing is a finding under which
30 the Board could only deny the request and in this case that does not just mean denying the side yard but also
31 the height. He said that it is fair to say that the height is less than what was advertised and it would be very
32 difficult for the petitioner to lower the height of the shed but if that is what the Board desires then that is
33 what the Board can require with a complete denial. He said that if the Board is interested in new evidence
34 there is significant evidence that needs to be added to the finding. He apologized for having more significant
35 evidence to add at the third meeting for this case but staff does not do the maximum amount possible for
36 each variance case because the evidence would overload the Board with data. He said that the first mailing
37 includes preliminary information and the second mailing is supplemented with additional information. He
38 said that the last meeting was the second meeting for this case and it is obvious that the Board was headed in
39 a clear direction with the findings therefore if the Board is still comfortable with that direction then the case
40 could be closed the final determination could be completed. He said that if the Board is interested in new
41 evidence then staff has prepared a couple of pages of that new evidence to add to the finding.

42
43 Ms. Capel stated that it would only be fair to hear any new evidence that staff could present to the Board

1 regarding this case.

2
3 Mr. Thorsland stated that if there is new evidence which could indicate some changes to the finding then the
4 Board should hear such new evidence.

5
6 Mr. Hall stated that the petitioner may also have additional evidence to present to the Board.

7
8 Mr. Bluhm asked Mr. Hall if an Administrative Variance would have been appropriate for the height
9 violation because it is less than 10%.

10
11 Mr. Hall stated yes.

12
13 Mr. Bluhm explained to the Board that the height could have been under an Administrative Variance but it
14 has been included in this case because there was another variance which needed authorization.

15
16 Mr. Knight distributed a new Supplemental Memorandum dated February 11, 2010 and copy of the Revised
17 Draft Finding of Fact and Final Determination dated December 17, 2009, to the Board for review.

18
19 Mr. Hall stated that Item #4.A. of the Summary of Evidence should be revised as follows: The subject
20 property is zoned AG-2 and is a duplex in use as a single family dwelling, the duplex being authorized in
21 Case 373-S-80, and Lambright Construction and Maintenance, Inc. operated as a Neighborhood Home
22 Occupation (NHO-07-09). He said that the revised text corrects the description of property because there
23 was a special use permit for a duplex and a home occupation for the business therefore giving the Board a
24 correct understanding of the zoning approvals on the property.

25
26 Mr. Hall stated that the Supplemental Memorandum dated February 11, 2010, includes proposed new
27 evidence which the Board can take or leave. He said that new Item #5.A., renumbering subsequent items,
28 reads as follows: A staff memorandum dated March 21, 1980, for Case 373-S-80, states that the building
29 that is the dwelling was originally built in 1954 as a restaurant on the first floor and an upstairs apartment
30 with an outside entrance but at the time (in 1980) the upstairs apartment had not been rented for
31 approximately 20 years. Case 373-S-80 came about because the nonconforming rights to a duplex had been
32 exhausted and a prospective purchaser claimed that the structure did not lend itself to being a single family
33 dwelling because of the separate stairway leading to the upstairs and the prospective purchaser wanted to
34 convert the dwelling to a duplex. Case 373-S-80 was approved on March 3, 1980. He said that the first
35 sentence in new Item #5.E., indicated as existing Item #5.D. in the revised Draft Summary of Evidence dated
36 December 17, 2009, should be revised as follows: The existing detached accessory storage building is
37 located approximately 55 feet from the south property line and 13 feet from the west property line and
38 situated between tow mature trees. He said that new Item #5.F. should read as follows: Co-petitioner Larry
39 Lambright testified at the December 17, 2009, public hearing that the subject storage building does not sit on
40 a foundation and could be moved. He said that Item #5.G. should read as follows: The circular driveway
41 appears in the Supervisor of Assessments' 1973 aerial photo. Mr. Hall noted that the first attachment to the
42 February 11, 2010, Supplemental Memorandum is the 1973 aerial photograph from the GIS survey and it
43 indicates Permanent Index #176-007 identifies the subject property with its current boundary dimensions and

1 the underlying background in the 1973 background. He said that it is evident that the circular driveway
2 existed in the 1973 aerial photograph.

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

22
23 Mr. Hall stated that this is all of the relevant evidence regardless of which way the Board is inclined to make
24 their determination. He said that the Board could stop with this evidence or go further and try to argue
25 whether or not a case has been made for the building with its current dimensions at its current location. He
26 said that if more evidence is required by the Board then they can indicate such and request that the petitioner
27 provide it for review.

28
29 Mr. Bluhm asked the Board if there were any questions or comments for Mr. Hall and there was none.

30
31 Mr. Hall stated that the By-laws make it very clear that the Board can only approve the petition that it is
32 presented with. He said that in retrospect staff probably should have spent more time with the petitioners
33 advising them that the variance has two unrelated parts. He said that one part is the height which deals with
34 a certain aspect of the building and the other part is the separation from the lot line which deals with a
35 completely different aspect of it. He said that depending on how the Board is inclined to go they may feel
36 differently about one part than it does the other and staff should have given the petitioner a heads up about
37 such and advised them that they might have wanted to request a two part variance. He said that if they had
38 the Board could have approved one part and not the other, approved both or denied both. He said that staff
39 did inform the petitioners of this issue this week and informed them that they might want to be prepared
40 tonight to revise their petition in the hopes of having everything that they originally requested approved over
41 some lesser amount. He said that staff has a description of the variance available at the meeting tonight and
42 it can be modified and signed tonight if the petitioner chooses to do so.

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 the
6 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 that
26 the location indicated on this diagram is not where the shed is currently located and in fact the subject shed is
27 in front of their well instead of off to the side of their well. She said that there is ample space from the side
28 of the well for the location of the shed and that is where it was originally indicated on the diagram that was
29 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

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

2
3 Ms. Helmick stated that she cannot get to the well due to the deck and the items on one side of the well such
4 as bricks and a lawnmower. She said that if any equipment was required to do any work on the well it would
5 be very difficult to get it next to the well with the two-story shed and deck right next to it.

6
7 Mr. Hall stated that it has been established that Mr. Lambright shall provide access to the well.

8
9 Ms. Helmick stated that Mr. Lambright does have to provide access to the well but if there is any damage
10 done to Mr. Lambright's shed or his property who is obligated to take care of that damage. She said that it
11 should not her family who has the obligation for any damages during maintenance of the well because it was
12 Mr. Lambright who chose to locate the shed in its current location. She said that she is not going to pay
13 someone to move Mr. Lambright's deck because she needs to gain access to her own well.

14
15 Mr. Hall stated that this is a legal issue but if the well agreement requires Mr. Lambright to provide access to
16 the well then he would be required to move the deck for maintenance to the shed.

17
18 Ms. Helmick agreed but even if the deck is removed the shed remains next to the well.

19
20 Mr. Thorsland stated that Page 10, Item #13.B of the Revised Draft Summary of Evidence dated December
21 17, 2009, indicates a special condition as follows: The deck on the storage shed may be rebuilt (without
22 requiring a permit) to its existing dimensions if it needs to be removed to allow maintenance access to the
23 well.

24
25 Ms. Helmick that the Zoning Ordinance indicates that structures cannot be placed on an easement.

26
27 Mr. Hall stated that the only easement that the Zoning Ordinance protects is a drainage easement.

28
29 Mr. Bluhm asked Ms. Helmick if a copy of the well agreement has been submitted to the Board as a
30 Document of Record.

31
32 Ms. Helmick stated that she does not know but she would be happy to provide a copy to the Board.

33
34 Mr. Bluhm requested that a copy be submitted for review by the Board.

35
36 Ms. Helmick submitted the well agreement.

37
38 Mr. Bluhm asked the Board if there were any questions for Ms. Helmick and there were none.

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

41
42 Mr. Bluhm stated that the Board will take a ten minute recess to allow staff time to return to the office to
43 obtain the *Champaign County Public Health Ordinance*.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

The meeting recessed at 7:05 p.m.
The meeting resumed at 7:15 p.m.

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

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

Mr. Lambright stated that their property and the Helmick’s property is connected to Sangamon Valley Water and the well agreement specifically states the following, “water well on Tract 1 is for domestic water use purpose only.” He said that domestic water use purpose only is not filling a pool or watering flowers but for drinking and cooking. He said that when he purchased his property he was informed that the water well was not working. He said that he is not sure if the photographs submitted by Ms. Helmick are accurate because he is not sure if the water is coming from the well that is located on his property because the well head that 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 is suppose to work then the power should be on all of the time because it is a shared well and he has the right to also use it. He said that he has pulled wells before and there is no reason why the well could not be pulled and he would be happy to do it if someone would like to come watch him do it.

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

Ms. Helmick requested the opportunity to respond.

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

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

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

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

Mr. Courson requested that staff obtain clarification of “domestic water use purpose only” and obtain

1 information from a well drilling company as to how much room is required to pull a well for maintenance.

2
3 Ms. Capel stated that she would like to see an exact measurement from the centerline of the well to the
4 building.

5
6 Mr. Thorsland stated that it appears that a continuance of this case is warranted to clarify these issues.

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

14
15 Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony regarding
16 Case 657-V-09, and there was no one.

17
18 Mr. Bluhm closed the witness register.

19
20 Mr. Bluhm requested a motion for a continuance date.

21
22 **Mr. Thorsland moved, seconded by Mr. Courson to continue Case 657-V-09, to March 11, 2010. The**
23 **motion carried by voice vote.**

24
25 **6. New Public Hearings**

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

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

41
42 Mr. Hall stated that the petitioners first inquired about building a new home on the subject property on
43 November 12, 2009, with the Planning and Zoning Department. He said that staff identified that the lot was

1 probably created in 1978 as an illegally nonconforming lot which did not meet the minimum requirements
2 for the zoning district therefore a variance is required.
3

4 Mr. Hall distributed a Supplemental Memorandum dated February 11, 2010, to the Board for review. He
5 said that the new memorandum includes new evidence for the Summary of Evidence. He said that attached
6 to the new memorandum is a revised site plan which indicates the existing septic system and an excerpt from
7 the Soil Survey which indicates the soil types. He said that it is customary in lot area variances that the
8 Summary of Evidence includes some information about the soil potential ratings for the soils.
9

10 Mr. Hall read new Item #5.D. as follows: The petitioners submitted a revised site plan on February 10,
11 2010, which was identical to the annotated existing layout, but indicated the approximate location of the
12 existing septic system. He read revised Item #11.B(3) as follows: The pamphlet *Soil Potential Ratings for*
13 *Septic Tank Absorption Fields Champaign County, Illinois*, is a report that indicates the relative potential of
14 the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic
15 tank leach fields). The pamphlet contains worksheets for 60 different soils that have potential ratings
16 (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability). He read new Item
17 #11.(4)-(5) as follows: (4) The worksheet for the relevant soil types on the subject property can be
18 summarized as follows: (a) Xenia soil covers the lot from approximately the front of the existing house and
19 forward to the front lot line. Xenia Silt loam, 2-5% slopes, (map unit 291B) has Medium suitability for septic
20 tank leach fields with a soil potential index of 79. Xenia has severe wetness problems due to a high water
21 table (2 to 6 feet deep) and severely limited permeability. The typical corrective measure is a curtain drain to
22 lower groundwater levels and/or a large absorption field; and (b) Birkbeck soil covers the lot from
23 approximately the front of the existing house and back towards the rear lot line. Birkbeck soil loam, 1-5%
24 slopes, (map unit 233B) has High suitability for septic tank leach fields with a soil potential index of 93.
25 Birkbeck has severe wetness problems due to a high water table (3 to 6 feet deep) and moderate
26 permeability. The typical corrective measure is a curtain drain to lower groundwater levels. (5) Based on the
27 revised site plan submitted on February 10, 2010, the petitioners appear to have adequate space on the rear
28 portion of their lot to accommodate a reserve septic tank leach field. He noted that this area has the soil with
29 the highest suitability.
30

31 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.
32

33 Mr. Bluhm called Mr. Stephan Burdin to testify.
34

35 Mr. Stephan Burdin, who resides at 2527N CR 450E, Mahomet stated that he would like to replace the
36 existing house with a new house. He said that his neighbor would rather not sell additional land because it
37 would restrict access to the lot which is located behind his property.
38

39 Mr. Bluhm asked the Board if there were any questions for Mr. Burdin.
40

41 Mr. Courson asked Mr. Burdin to identify the small rectangular building indicated on the site plan dated
42 February 10, 2010.
43

- 1 Mr. Burdin stated that the rectangular building is a buried concrete box that is utilized as a storm shelter for
- 2 his family.
- 3
- 4 Mr. Bluhm asked the Board if there were any additional questions for Mr. Burdin and there were none.
- 5
- 6 Mr. Burdin asked if the soil map survey which was included in the Supplemental Memorandum dated
- 7 February 11, 2010, was accurate. He said that every time he has dug into the ground on his property he
- 8 always gets clay from the top to the bottom of the hole.
- 9
- 10 Mr. Hall stated that the soil survey is not supposed to be considered very accurate at all at that small of a
- 11 scale.
- 12
- 13 Mr. Burdin asked the Board if he will be required to install a new septic system when he replaces the
- 14 existing home.
- 15
- 16 Mr. Bluhm stated this would be a question for the Champaign County Public Health Department.
- 17
- 18 Mr. Burdin asked what codes the County has adopted in terms of electrical and building codes.
- 19
- 20 Mr. Hall stated that for every permit issued for a new dwelling staff includes a copy of the Illinois
- 21 Residential Building Code Act and under State law every new home should be built under a code that has
- 22 been adopted by a municipality within a 100 mile radius of the property.
- 23
- 24 Mr. Burdin asked if the municipalities kept the codes up to date.
- 25
- 26 Mr. Hall stated that it is up to the property owner and the builder to make sure which code is used.
- 27
- 28 Mr. Bluhm noted that there are no inspections completed by the County for electrical and building codes. He
- 29 said that only a final inspection is completed by the Planning and Zoning Department for compliance with
- 30 the *Zoning Ordinance*. He said that the Champaign County Public Health Department will conduct the
- 31 inspection for the septic system.
- 32
- 33 Mr. Burdin stated that centering the new home on the property makes sense because the existing septic
- 34 digestion tank is really close to where the previous addition was built. He said that the satellite view
- 35 photograph indicates the tree line along the driveway and the white spot is a propane tank. He said that he
- 36 had the tank moved to its current location because several years ago it was right next to the garage which
- 37 made it approximately ten feet from the house and he was uncomfortable with its location.
- 38
- 39 Mr. Courson asked Mr. Burdin to identify the small building to rear of the property which is indicated on the
- 40 satellite view photograph. He said that the small building is not indicated on the submitted site plan.
- 41
- 42 Mr. Burdin stated that the small building was there when they purchased the property and it is a playhouse
- 43 for children.

1
2 Mr. Bluhm asked the Board if there were any additional questions for Mr. Burdin and there were none.

3
4 Mr. Bluhm asked if staff had any additional questions for Mr. Burdin and there were none.

5
6 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Burdin and there were none.

7
8 Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony in Case
9 659-V-09 and there was no one.

10
11 Mr. Bluhm closed the witness register.

12
13 Mr. Hall stated that a new Item #8.C. should be added to the Summary of Evidence indicating the following:
14 Co-petitioner Steve Burdin testified at the February 11, 2010, public hearing that his neighbor would rather
15 not sell any land. Mr. Hall stated that this testimony establishes that there is no additional land available for
16 purchase.

17
18 Mr. Knight stated that the text for proposed new Item #8.C. should just replace the text for existing Item
19 #8.B.

20
21 Mr. Hall stated that Mr. Knight is correct therefore he would recommend that the original text for Item #8.B.
22 be revised to indicate the following: Co-petitioner Steve Burdin testified at the February 11, 2010, public
23 hearing that his neighbor would rather not sell any land. He said that there will be no need for an Item #8.C.
24 Mr. Hall stated that a new Item #3 should be added to the Documents of Record as follows: Supplemental
25 Memorandum dated February 11, 2010, with attachments.

26
27 **Finding of Fact for Case 659-V-09:**

28
29 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
30 659-V-09 held on February 11, 2010, the Zoning Board of Appeals of Champaign County finds that:

- 31
32 **1. Special conditions and circumstances DO exist which are peculiar to the land**
33 **or structure involved which are not applicable to other similarly situated land**
34 **and structures elsewhere in the same district.**

35
36 Mr. Thorsland stated that special conditions and circumstances DO exist which are peculiar to the land or
37 structure involved which are not applicable to other similarly situated land and structures elsewhere in the
38 same district because the lot was not created by the petitioners and additional land is not available for
39 purchase and if the variance iss not granted the land would be unusable.

- 40
41 **2. Practical difficulties or hardships created by carrying out the strict letter of**
42 **the regulations sought to be varied WILL prevent reasonable or otherwise**
43 **permitted use of the land or structure or construction.**

1
2 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
3 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
4 or construction because it will prevent the petitioners from building a new home.

5
6 **3. The special conditions, circumstances, hardships, or practical difficulties**
7 **DO NOT result from actions of the applicant.**
8

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

12
13 **4. The requested variance IS in harmony with the general purpose and intent**
14 **of the Ordinance.**
15

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

19
20 **5. The requested variance WILL NOT be injurious to the neighborhood or**
21 **otherwise detrimental to the public health, safety or welfare.**
22

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

26
27 Mr. Bluhm added that no increase in traffic will occur.

28
29 Mr. Thorsland stated that no comments were received from the township highway commissioner or the fire
30 protection district.

31
32 **6. The requested variance IS the minimum variation that will make possible**
33 **the reasonable use of the land/structure.**
34

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

37
38 Mr. Courson stated no other land is available for purchase.

39
40 **Mr. Courson moved, seconded by Mr. Thorsland to adopt the Summary of Evidence, Documents of**
41 **Record and Finding of Fact as amended. The motion carried by voice vote.**
42

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

1 motion carried by voice vote.

2
3 Mr. Bluhm informed Mr. Burdin that one Board member is absent from tonight’s meeting therefore it is at
4 his discretion to either continue Case 659-V-09 until a full Board is present or request that the present Board
5 move forward to the Final Determination. He informed Mr. Burdin that four affirmative votes are required
6 for approval.

7
8 Mr. Burdin requested that the present Board continue to the final determination.

9
10 Final Determination for Case 659-V-09:

11
12 **Ms. Capel moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals**
13 **finds that, based on the application, testimony and other evidence received in this case, that the**
14 **requirements of Section 9.1.9.C HAVE been met and pursuant to the authority granted in Section**
15 **9.1.6.B of the *Champaign County Zoning Ordinance*, the Zoning Board of Appeals of Champaign**
16 **County finds that the variance requested in Case 659-V-09 is hereby GRANTED to the petitioners,**
17 **Stephan and Lisa Burdin, to authorize the use of an existing non-conforming lot .094 acres in area**
18 **with an average lot width of 140 feet in lieu of the minimum required lot area of one acre and**
19 **minimum average lot width of 200 feet.**

20
21 The roll was called:

22
23 **Capel-yes Courson-yes Palmgren-yes**
24 **Schroeder-yes Thorsland-yes Bluhm-yes**
25 **Miller-absent**

26
27 **7. Staff Report**

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

39
40 Mr. Hall stated that he expected to obtain a recommendation from ELUC this month on the zoning case
41 regarding RLA separation but the case has hit a brick wall. He said that the Board worked very hard on this
42 case and completed it in record time but ELUC deferred the case for consideration. He said that he
43 submitted a memorandum to ELUC explaining the situation and that at their meeting they would obtain the

1 recommended amendment but that is not how it is normally presented and it was not accepted well.

2

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

4

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

10

11 **8. Other Business**

12

13 None

14

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

16

17 None

18

19 **10. Adjournment**

20

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

22

23

24

25

26 Respectfully submitted

27

28

29

30

31 Secretary of Zoning Board of Appeals

32

33

34

35

36

37

38

39

40

41

42

43

CASE NO. 660-V-10

PRELIMINARY MEMORANDUM

February 19, 2010

Petitioner: **Maria Salinas-Hayas**

Request: **Authorize the construction of an addition to an existing house with a front yard of 18 feet and a setback of 48 feet in lieu of the required 25 feet front yard and 55 feet setback, in regards to Pond Ridge Lane, a minor street in the R-1 Single Family Residence Zoning District**

Champaign
County
Department of



Site Area: **approx. 11,500 sq. ft.**

Time Schedule for Development:
Immediate

Location: **Lot 18 in Yankee Ridge A-Z Fourth Subdivision in Section 29 of Urbana Township and commonly known as the house at 301 Pond Ridge Lane, Urbana.**

**Brookens
Administrative Center**
1776 E. Washington Street
Urbana, Illinois 61802

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

(217) 384-3708

BACKGROUND

The petitioner's brother submitted Zoning Use Permit Application (ZUPA) 293-09-01 on October 20, 2009. That ZUPA was approved on October 30, 2009. During construction of the proposed addition the petitioner became aware that the addition would not meet the front yard and setback requirements as had been previously reported on the site plan for the ZUPA.

The petitioner's attorney contacted the Department regarding the problem and then submitted a variance application on January 21, 2010.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Urbana. Municipalities with zoning do not have protest rights in variance cases and they are not notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	R-1 Single Family Residence
North	Single Family Dwelling	R-1 Single Family Residence
East	Single Family Dwelling	R-1 Single Family Residence
West	Single Family Dwelling	R-1 Single Family Residence
South	Single Family Dwelling	R-1 Single Family Residence

ATTACHMENTS

- A Case Maps (Location, Land Use, Land Use Detail, Zoning)
- B Petitioner site plan, received on January 21, 2010
- C Approved Site Plan for ZUPA 293-09-01
- D Area of Lots in Vicinity of Subject Property

ATTACHMENT A. LOCATION MAP

Case 660-V-10

FEBRUARY 19, 2010



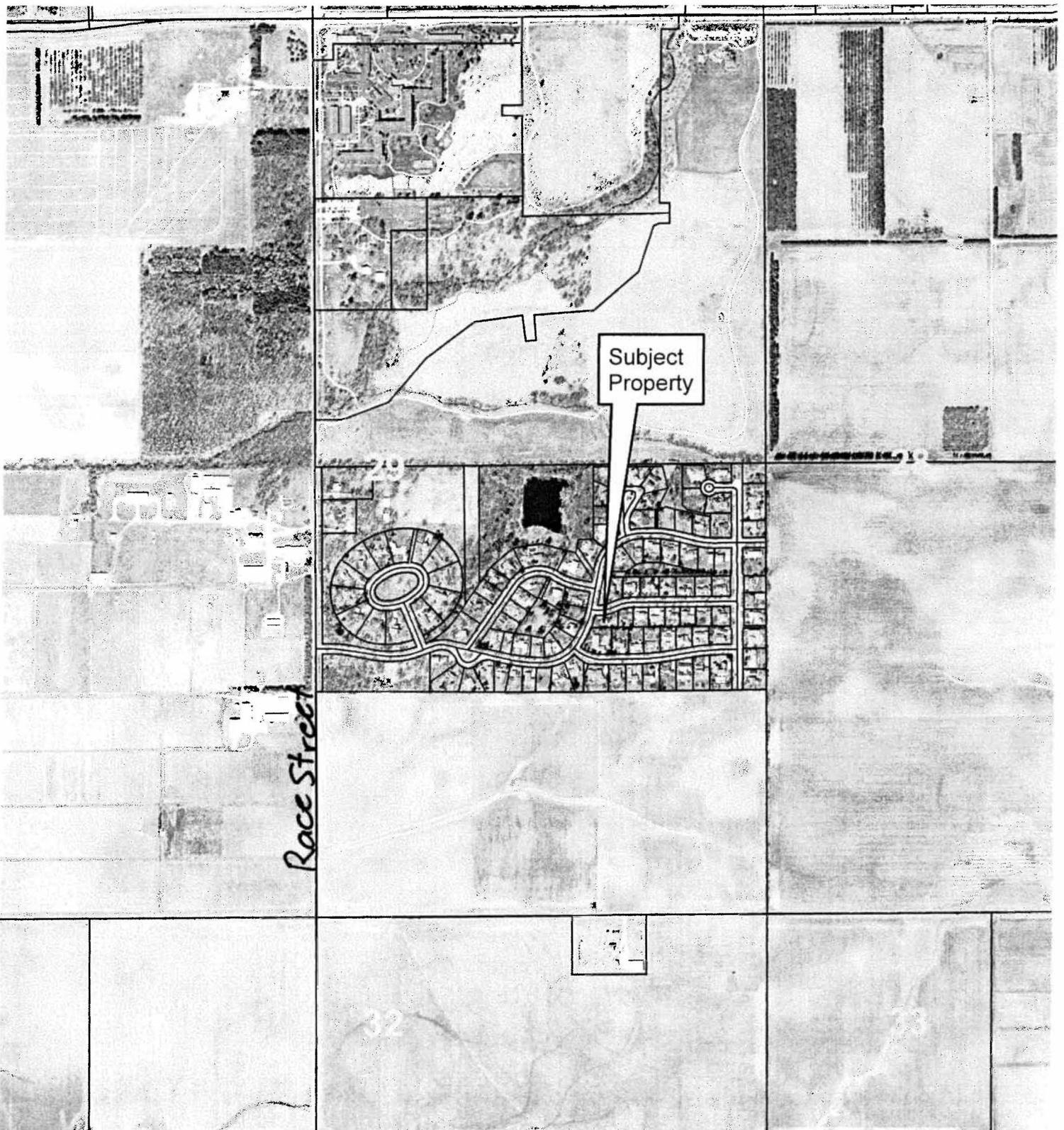
Champaign
County
Department of
**PLANNING &
ZONING**



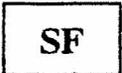
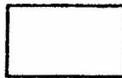
ATTACHMENT A. LAND USE MAP

Case 660-V-10

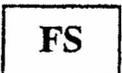
FEBRUARY 19, 2010



Area of Concern



Single Family



Farmstead



NORTH

1 inch = 800 feet

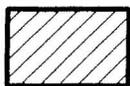
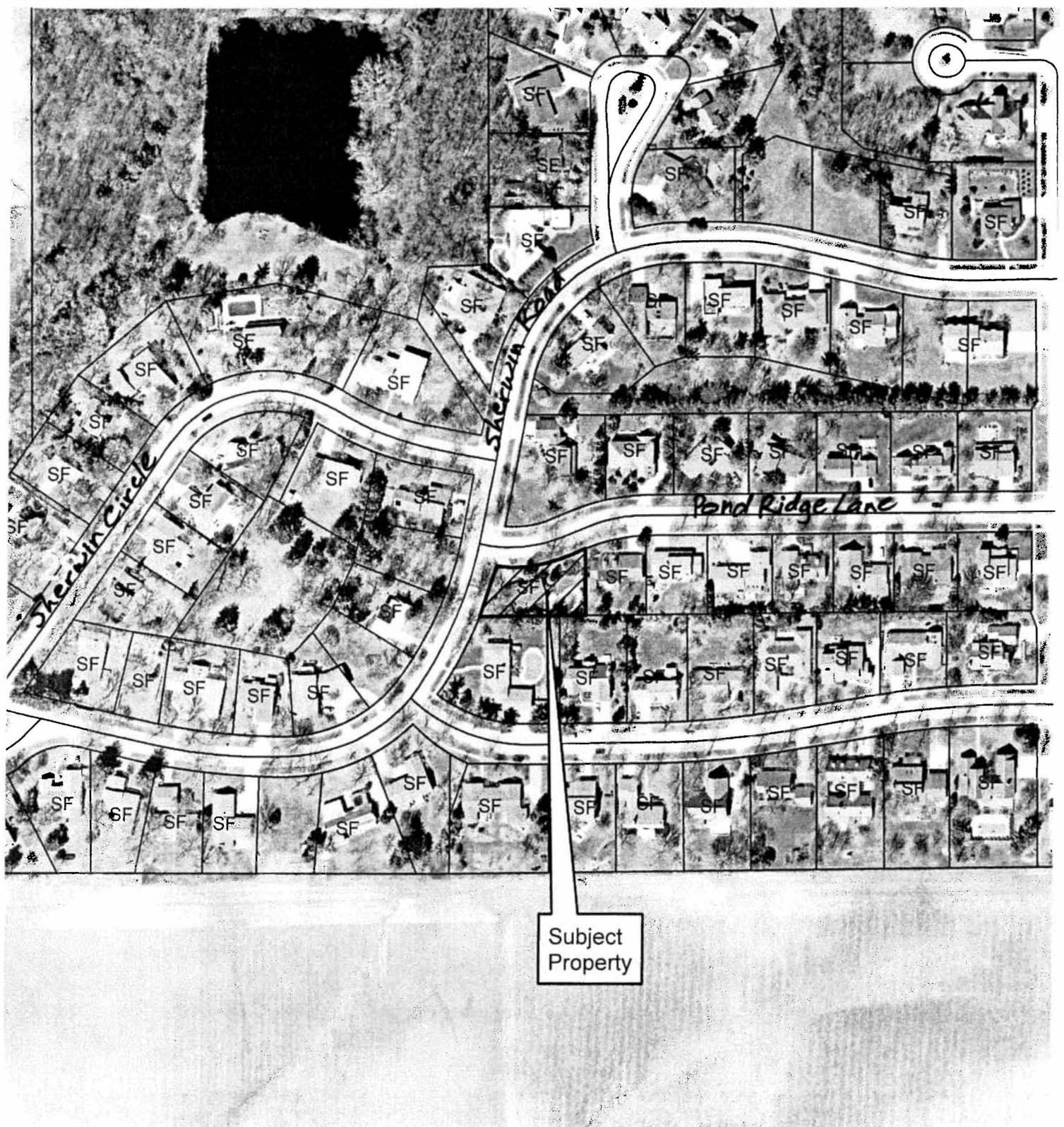
Champaign
County
Department of

**PLANNING &
ZONING**

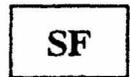
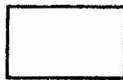
ATTACHMENT A. LAND USE DETAIL

Case 660-V-10

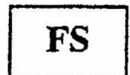
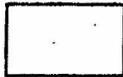
FEBRUARY 19, 2010



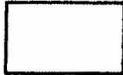
Area of Concern



Single Family



Farmstead



1 inch = 200 feet

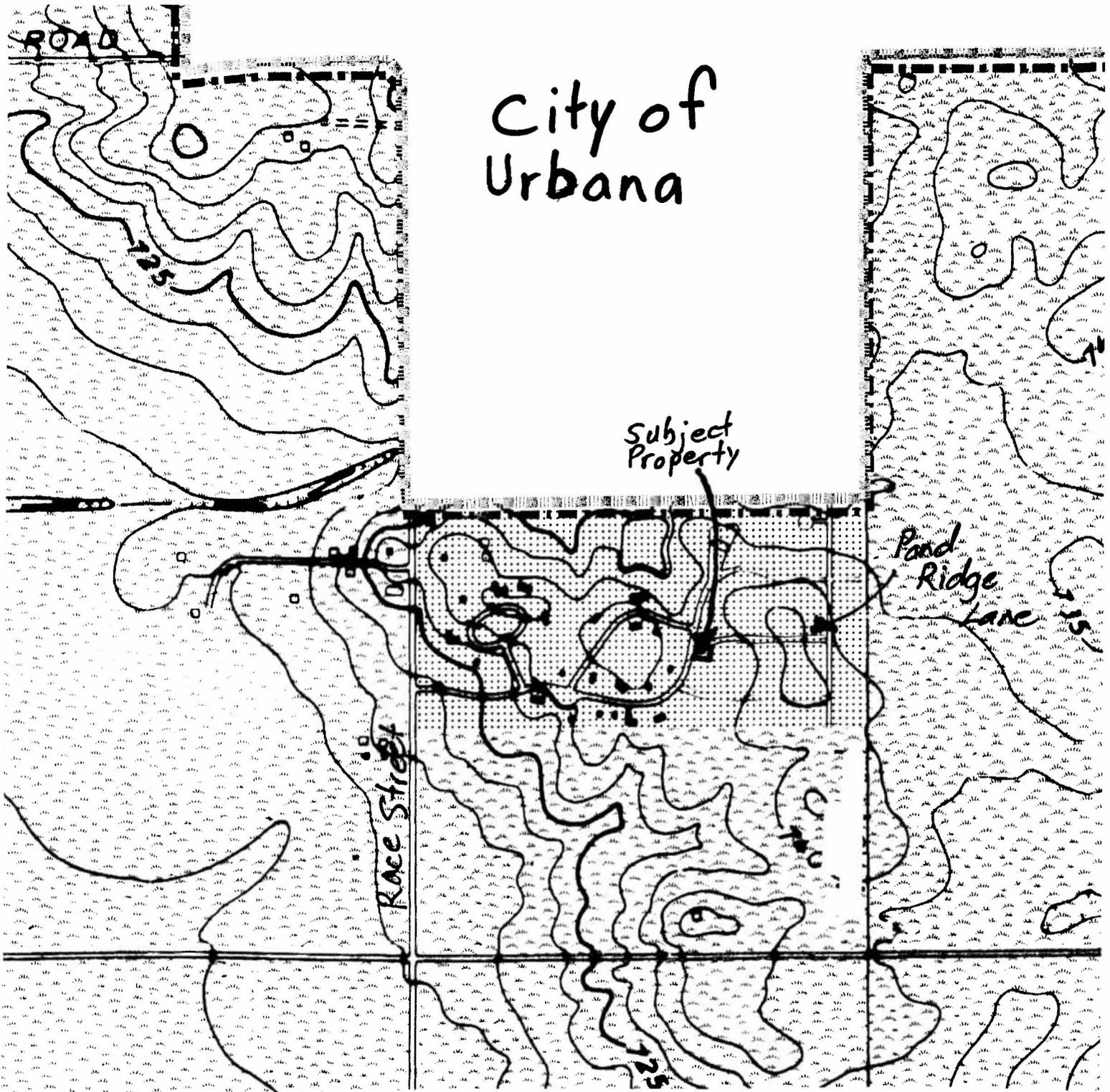
Champaign
County
Department of

**PLANNING &
ZONING**

ATTACHMENT A. ZONING MAP

Case 660-V-10

FEBRUARY 19, 2010



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	NORTH Champaign County Department of PLANNING & ZONING
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	

PRELIMINARY DRAFT

660-V-10

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: *{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}*

Date: February 19, 2010

Petitioner: Maria Salinas-Hayes

Request: Authorize the construction of an addition to an existing house with a front yard of 18 feet and a setback of 48 feet in lieu of the required 25 feet front yard and 55 feet setback, in regards to Pond Ridge Lane, a minor street in the R-1 Single Family Residence Zoning District

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 25, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Maria Salinas-Hayes, owns the subject property. She purchased the property in 2008.
2. The subject property is Lot 18 in Yankee Ridge A-Z Fourth Subdivision in Section 29 of Urbana Township and commonly known as the house at 301 Pond Ridge Lane, Urbana.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana. Municipalities do not have protest rights in variance cases and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned R-1 Single Family Residence, and is part of the Yankee Ridge Subdivision in use as a single family dwelling.
 - B. Land on all sides of the subject property is zoned R-1 Single Family Residence and is part of the Yankee Ridge Subdivision in use as single family dwellings.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the proposed site plan, the subject property is an 11, 458 square feet lot in the Yankee Ridge Subdivision, as follows:
 - A. The existing house on the subject property was constructed, as follows:

PRELIMINARY DRAFT

- (1) According to the Supervisor of Assessment tax records, a previous owner built the house in 1973.
 - (2) Staff did not find a permit for the existing house issued by the Department. However, before the County adopted zoning on October 10, 1973, the City of Urbana did issue permits for construction outside the City's corporate limits. It is possible there is a permit for the house in the records of the City of Urbana.
 - (3) The house was constructed at an angle to the front lot line, such that it faces the corner of Pond Ridge Lane and Sherwin Drive.
 - (4) Prior to the addition, the existing house was approximately 1,480 square feet in area, which is 11% of the total lot area of 13,230 square feet. The proposed addition is 728 square feet in area for a total building area of 2,208 square feet, which is 16.7% of the total lot area. The maximum allowed lot coverage in the R-1 Zoning District is 30%.
- B. ZUPA 293-09-01 was for a 728 square foot addition to the east side of the existing house, which is the side closest to Pond Ridge Lane. The northeast corner of the proposed addition will have a front yard of 18 feet and a setback from the centerline of Pond Ridge Lane of only 48 feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
 - (1) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
 - (2) "DWELLING, SINGLE FAMILY" is a DWELLING containing one DWELLING UNIT.
 - (3) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (4) "LOT, CORNER" is a LOT located:
 - (a) At the junction of and abutting two or more intersecting STREETS; or
 - (b) At the junction of and abutting a STREET and the nearest shoreline or high water line of a storm or floodwater runoff channel or basin; or
 - (c) At and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.

- (5) "LOT LINE, FRONT" is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
 - (6) "SETBACK LINE" is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
 - (7) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
 - (a) MAJOR STREET: Federal or State highways
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.
 - (8) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or Zoning Board of Appeals are permitted to grant.
 - (9) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
 - (10) "YARD, FRONT" is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
- B. In the *Zoning Ordinance*, setback requirements are established in two sections, as follows:
- (1) Subsection 4.3.2. Setback Line states, "All BUILDINGS and all MAIN or PRINCIPAL STRUCTURES shall be positioned in conformance with the SETBACK LINE regulations and standards specified hereinafter for the DISTRICT in which they are located," and drawings in 4.3.2 further specify that in the case of a MINOR STREET the required setback is 55 feet with a front yard of 25 feet.
 - (2) Section 5.3 is the Schedule of Area, Height, and Placement Regulations by District and indicates that the setback from a MINOR STREET is 55 feet and footnote 3 further specifies that in no case shall the FRONT YARD be less than 25 feet from a MINOR STREET.

PRELIMINARY DRAFT

- C. The Department of Planning and Zoning measures yards and setbacks to the nearest wall line of a building or structure and the nearest wall line is interpreted to include overhanging balconies, projecting window and fireplace bulkheads, and similar irregularities in the building footprint. A roof overhang is only considered if it overhangs a property line.
- D. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
 - (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- E. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

- 7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
 - A. The Petitioner has testified on the application that, **“The lot has two street frontages (Pond Ridge and Sherwin) which would require 55 foot setbacks along two sides of the property.”**

- B. The subject property is a small corner lot, as follows:
- (1) Corner lots are required to provide front yards and setback along both frontages, as well as a 50 feet corner visibility triangle where the two frontages meet. As a result of the requirements, corner lots have a smaller percent of the lot area available for building area than interior lots.
 - (2) Because of this increased non-buildable area corner lots are customarily larger than interior lots. The corner lots immediately north and south of the subject property are 19,765 square feet in area and 23,304 square feet in area, respectively.
 - (3) The subject property is only 11,458 square feet in area, compared to the first two interior lots on the north side of Pond Ridge, which are 12,165 and 13,190 square feet in area. The first two interior lots on Yankee Ridge Lane to the south of the subject property are 15,874 and 14,143 square feet in area.
- C. The existing house on the subject property was constructed so that it is not parallel to the front property line, but at an angle facing the corner.
- D. Regarding the area of the proposed addition:
- (1) The existing house is approximately 1,480 square feet in area, which is 11% of the total lot area of 13,230 square feet.
 - (2) The proposed addition is 728 square feet in area for a total building area of 2,208 square feet, which is 16.7% of the total lot area.
 - (3) The maximum allowed lot coverage in the R-1 Zoning District is 30%.

GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioner has testified on the application that, **“The design of the proposed addition is an extension of the line of construction of the existing house. The addition would not be buildable on the west side (off the garage) and the addition would be undesirable in the back yard (extending from the south line of the existing house), since it would leave very little back yard and would not be workable from a design perspective. The addition is a natural extension of the front line of the house and the interior bedroom area. No adjacent land is available to purchase to mitigate the situation.”**
- B. There is no land available for purchase to increase the size of the lot because the subject property is located in a developed subdivision.

PRELIMINARY DRAFT

- C. The subject property is smaller than many other lots in Yankee Ridge subdivision, and significantly smaller than several nearby corner lots.
- D. If the front building line of the addition were moved back seven feet to make it conforming with the setback from the street it would drop from 732 to 532 square feet in area, and the interior arrangement would suffer.

GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

- 9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioner has testified on the application that, **“The owner was not aware of the physical limitations of the property when she purchased the lot. The construction of the foundation of the addition was started but work was halted as soon as the owner became aware of the situation.”**
 - B. The size of the subject property was determined when the subdivision was platted.
 - C. The petitioner purchased the subject property in 2008. The orientation of the house on the lot was determined by a previous owner.
 - D. All land surrounding the subject property has been developed and is not available for purchase.

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

- 10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
 - A. The Petitioner has testified on the application that, **“The homeowner wishes to enhance the value of the property with the proposed addition. At its narrowest point the resulting side yard will still be greater than 23’ (10’ required) and the overall lot coverage will be less than 20% (30% allowed) so that the purposes of securing adequate light and conserving values are preserved, and the intensity of the use of the lot is consistent with the neighborhood and the district. There are no traffic, safety or public health issues impacted.”**
 - B. The Zoning Ordinance does not clearly state the considerations that underlay the setback and front yard requirements. In general, the setback is presumably intended to ensure the following:
 - (1) Right of way acquisition: The subject property is located in Yankee Ridge subdivision on a minor street. As Yankee Ridge is a fully developed subdivision and Pond Ridge Lane is a minor street it is unlikely the right-of-way will ever need to be expanded in the future.
 - (2) Off-street parking: The subject property provides the required amount of off-street parking outside of the setback.

- (3) Aesthetics: Aesthetic benefit may be a consideration for any given front yard and setback but can be very subjective.
- C. The subject property conforms to all other zoning requirements.
- D. The proposed front yard of 18 feet is 72% of the required 25 feet for a variance of 28%, and the proposed setback of 48 feet is 87% of the required 55 feet for a variance of 13%.
- E. Reducing the amount of variance is one way to ensure that any variance is more in harmony with the general intent and purpose of the Ordinance, as follows:
 - (1) The amount of variance in this case can only be reduced by relocating the addition to somewhere else on the existing house.
 - (2) The petitioners have maintained that the current proposed location for the addition is the best functioning location for their needs.
 - (3) Purchase of additional land that would increase the viable locations for the addition is not possible because the subject property is located in a developed subdivision.
- F. The requested variance is not prohibited by the *Zoning Ordinance*.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

- 11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioner has testified on the application that, **“The construction of the proposed addition will be performed under the supervision of a designer and contractor to ensure the conditions of the variance are followed.”**
 - B. The Township Highway Commissioner has been notified of this variance but no comments have been received.
 - C. The Fire Protection District has been notified of this variance but no comments have been received.
- 12. On the application the Petitioner has also testified that, **“The original home was built with a front design line that is not parallel to the lot line, so the addition (built as an extension of that line) extends slightly closer to the street. Other properties in the neighborhood appear to also have been built with less than the 55’ front setback to the centerline of the street.”**

GENERALLY REGARDING PROPOSED CONDITIONS OF APPROVAL

- 13. No special conditions of approval are proposed at this time.

DOCUMENTS OF RECORD

1. Zoning Use Permit Application 293-09-01 from Frank Salinas, received on October 20, 2009, with attached site plan
2. Zoning Use Permit 293-09-01, approved on October 30, 2009
3. Variance Application from Maria Salinas-Hayes and attorney Wendy Bauer, received on January 21, 2010, with attached site plan
4. Preliminary Memorandum for Case 660-V-10, with attachments:
 - A Case Maps (Location, Land Use, Land Use Detail, Zoning)
 - B Petitioner site plan, received on January 21, 2010
 - C Approved Site Plan for ZUPA 293-09-01
 - D Area of Lots in Vicinity of Subject Property

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 660-V-10 held on **February 25, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* 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: _____

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: _____

3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: _____

4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: _____

5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: _____

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

FINAL DETERMINATION

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 9.1.9.C *{HAVE / HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 660-V-10 is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioner, **Maria Salinas-Hayes**, to authorize **the construction of an addition to an existing house with a front yard of 18 feet and a setback of 48 feet in lieu of the required 25 feet front yard and 55 feet setback, in regards to Pond Ridge Lane, a minor street in the R-1 Single Family Residence Zoning District.**

{SUBJECT TO THE FOLLOWING CONDITION(S):}

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date