

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street  
Urbana, IL 61801

DATE: September 16, 2010 PLACE: Lyle Shields Meeting Room  
1776 East Washington Street  
Urbana, IL 61802

MEMBERS PRESENT: Thomas Courson, Melvin Schroeder, Eric Thorsland, Paul Palmgren

MEMBERS ABSENT : Doug Bluhm, Catherine Capel, Roger Miller

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

OTHERS PRESENT : Brian Sides, Cristina Manuel, Leslie Kimble, Herb Schildt, Sherry Schildt,  
Steve Burdin, John Collins

1. Call to Order

The meeting was called to order at 7:01 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with three members absent.

Mr. Hall informed the Board that due to the absence of Doug Bluhm, Chairman, the Board must appoint an Interim Chair for tonight's meeting.

Mr. Palmgren moved, seconded by Mr. Schroeder to appoint Mr. Thorsland as Interim Chair for tonight's meeting. The motion carried by voice vote.

3. Correspondence

None

4. Approval of Minutes (August 12, 2010 and August 26, 2010)

Mr. Thorsland stated that he had previously indicated a few minor changes to the August 26, 2010, minutes to staff for correction.

Mr. Palmgren stated that Page 15, Line 32 of the August 26, 2010, minutes should be revised to indicate the following: He said that if the wind farm company went ahead and placed their wind towers wherever they

1 have contracts eventually one or more would become too close and the Division of Aeronautics would act to  
2 decertify the RLA.

3  
4 **Mr. Palmgren moved, seconded by Mr. Courson to approve the August 12, 2010, minutes and the**  
5 **August 26, 2010, minutes as amended. The motion carried by voice vote.**

6  
7 **Mr. Palmgren moved, seconded by Mr. Courson to rearrange the agenda and hear Case 674-V-10**  
8 **prior to Cases 665-AT-10 and 666-AT-10. The motion carried by voice vote.**

9  
10 **5. Continued Public Hearing**

11  
12 **Case 665-AT-10 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**  
13 **Ordinance by revising paragraph 4.3.3G as follows: A. Increase the maximum fence height allowed in**  
14 **side and rear yard from six feet to eight feet for fences in Residential Zoning Districts and on**  
15 **residential lots in the AG-1 and AG-2 Zoning Districts; and B. Require fencing that is higher than**  
16 **four feet tall to be at least 50% transparent when located in the following areas: (1) In residential**  
17 **Zoning Districts, all fencing that is in the front yard; and (2) On residential lots in the AG-1, AG-2,**  
18 **and CR Zoning Districts, only fencing between the dwelling and the driveway within 25 feet of the**  
19 **dwelling; and C. Increase the maximum allowed height of all fencing to allow up to three inches of**  
20 **ground clearance.**

21  
22 Mr. Hall stated that the description of the case has been revised based on the Board’s discussion from the  
23 May 27, 2010, public hearing. He said that he sent an e-mail to Sheriff Walsh and his deputies but it was not  
24 sent until last Friday. He said that the e-mail informed Sheriff Walsh and his deputies that the case was on  
25 the agenda and that their comments were not required by Thursday but the Board would appreciate their  
26 comments. He said that the Finding of Fact had to be revised to reflect the adoption of the Land Resource  
27 Management Plan and it is staff’s recommendation that the proposed text amendment achieves all relevant  
28 Goals and Objectives. He said that the Board will have adequate time to review and consider the Finding of  
29 Fact before the next hearing and staff would recommend continuing Case 665-AT-10 to the October 14,  
30 2010, meeting. He said that the Board could continue this case to September 30, 2010, although the time  
31 frame is too short for the case to be included on the ELUC agenda in October. He said that he is not sure if  
32 there will be a full Board for the September 30<sup>th</sup> meeting therefore the Board may decide to simply cancel  
33 that meeting and continue Cases 665-AT-10 and 666-AT-10 to the October 14, 2010, meeting. He said that  
34 the two cases will get to ELUC and the County Board just as quickly as if the ZBA had dealt with those  
35 cases on September 30<sup>th</sup>. He pointed out that the revised amendment is in the Finding of Fact as Item #5.

36  
37 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony  
38 regarding this case and there was no one.

39  
40 Mr. Thorsland closed the witness register.

41  
42 **Ms. Schroeder moved, seconded by Mr. Palmgren to continue Case 665-AT-10 to the October 14,**  
43 **2010, meeting. The motion carried by voice vote.**

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**Case 666-AT-10 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning Ordinance by revising Subsection 6.1 and paragraph 9.1.11D.1 to clarify that the standard conditions in Subsection 6.1 which exceed the requirements of Subsection 5.3 in either amount or kind are subject to a waiver by the Zoning Board of Appeals or County Board.**

Mr. Hall stated that the new Supplemental Memorandum has a letter from Herbert Schildt, Chairman of the Newcomb Township Plan Commission, dated September 13, 2010, attached. Mr. Hall stated that staff needs to send a question to the State’s Attorney’s office which he is fairly certain will change the description of the case. He said that the question has to do with the standard conditions for a County Board Special Use Permits and whether those are subject to plan commission protest because the statutes discuss any variation that is approved by the County Board can be protested by a township. He said that it seems to him that a waiver of a standard condition is the same thing as a variance therefore it may be done in a similar way which is as a waiver so that staff does not put in all of the effort that a variance requires but he believes that it is subject to protest by a township. He said that at the current time the County only has one type of County Board Special Use Permit which is the wind farm but in the near future he hopes to have more.

Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

Mr. Thorsland called Mr. Herb Schildt to testify.

Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet stated that he is the Chairman of the Newcomb Township Plan Commission but his comments tonight are his own. He said that the opinion included in the letter was passed 5-0 by the plan commission and its submission was authorized by the Newcomb Township Board of Trustees. He asked Mr. Hall if staff is recommending that the case be continued to a later date.

Mr. Hall stated yes.

Mr. Schildt stated that he will reserve any further comments until the next hearing regarding this case.

Mr. Thorsland asked the Board and staff if there were any questions for Mr. Schildt and there were none.

Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony regarding Case 666-AT-10 and there was no one.

**Mr. Courson moved, seconded by Mr. Palmgren to close the witness register for Case 666-AT-10. The motion carried by voice vote.**

**Mr. Courson moved, seconded by Mr. Schroeder to continue Case 666-AT-10 to the October 14, 2010, meeting. The motion carried by voice vote.**

**6. New Public Hearings**

1 Case 674-V-10 Petitioner: **Dobbins Downs Community Improvement Association, with Leslie Kimble,**  
 2 **President; Cristina Manuel, Vice-President; Norman Davis, Treasurer; and Amanda Zuek, Secretary**  
 3 **Request to authorize the construction and use of a public park in the R-3 Two Family Residence**  
 4 **Zoning District, with the following variances: A. Construction and use of a basketball court with a**  
 5 **side yard of five feet for accessory structures; and B. No off-street parking spaces in lieu of the**  
 6 **minimum required one off-street parking space per three patrons based on the estimated number of**  
 7 **patrons during peak attendance; and C. Front yards of six feet and setbacks of 36 feet in lieu of the**  
 8 **minimum required 25 feet front yard and 55 feet setback with regard to Campbell Drive and**  
 9 **Kingsway Drive, minor streets in the R-3 Zoning District; and D. A waiver of the application fees for**  
 10 **the proposed variance application; and E. A waiver of the Zoning Use Permit Application fees for the**  
 11 **proposed public park. Location: Lot 33 in Regency West Subdivision in Section 35 of Hensley**  
 12 **Township and commonly known as the vacant lot at 2603 Campbell Drive, Champaign.**

13  
 14 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows  
 15 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show  
 16 of hands for those who would like to cross examine and each person will be called upon. He requested that  
 17 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
 18 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
 19 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
 20 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt  
 21 from cross examination.

22  
 23 Mr. Hall distributed a new Supplemental Memorandum dated September 16, 2010, to the Board for review.  
 24 He said that since the mailing staff contacted Robert Sherman, Hensley Township Highway Commissioner,  
 25 and Mr. Sherman had no concerns or reservations regarding the parking areas. Mr. Hall stated that staff also  
 26 contacted the Champaign and Urbana Park Districts and was informed that for neighborhood parks, such as  
 27 the proposed, they customarily do not provide parking. He said that staff discovered that the City of  
 28 Champaign Zoning Ordinance does not require any parking for neighborhood parks. He noted that a  
 29 condition for approval is being proposed at tonight’s hearing regarding accessibility.

30  
 31 Mr. Hall reviewed the evidence included in the new Supplemental Memorandum dated September 16, 2010.  
 32 He said that the following should be added as new Items #7.D(3), 8.C(4), 9.C(3) and 11.E(2) renumbering  
 33 the existing 11.E as 11.E(1): A staff review of the parking standards for neighborhood parks in Champaign  
 34 and Urbana Zoning Ordinances indicated the following: (a) the City of Champaign Zoning Ordinance does  
 35 not require any parking for neighborhood parks; and (b) the City of Urbana Zoning Ordinance does not have  
 36 a specific parking standard for parks, but the ordinance does include a provision that the city’s Zoning  
 37 Administrator can determine the parking standard based on the use that is most similar to a park. He said  
 38 that the following should be added as new Item #10.H: Requests for waiver of zoning case fees have  
 39 historically been presented to the Environment and Land Use Committee (ELUC) of the Champaign County  
 40 Board even though the Champaign County Zoning Ordinance does not provide for waiver of fees in that  
 41 manner. Between January 1, 1990, and the present time there were 14 waiver requests presented to ELUC  
 42 and all were approved. The requests were from five cemetery associations, three water districts, one highway  
 43 district, one school district, two municipalities, and one non-governmental organization. He said that

9/16/10

AS APPROVED OCTOBER 14, 2010

ZBA

1 existing Item #11.C should be revised to read as follows: In a phone conversation with J.R. Knight,  
2 Associate Planner, on September 15, 2010, Robert Sherman, Hensley Township Highway Commissioner,  
3 indicated that he had no concerns regarding a variance to provide parking for the proposed park. He said that  
4 the following should be added as new Item #11.H: In a letter to Brian Sides, attorney for the petitioner,  
5 dated July 22, 2010, Jamie Hitt, Zoning Officer, indicated that Doug Gamble, Accessibility Specialist for the  
6 Illinois Capital Development Board, had indicated to her that the proposed public park must be accessible, as  
7 follows: (1) If no on-site parking is added to the subject property no accessible parking space is required; and  
8 (2) The park must be accessible with firm and stable walks no steeper than 1:20; and (3) The Illinois  
9 Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a  
10 licensed architect that the specific construction complies with the Illinois Accessibility Code for all  
11 construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility  
12 Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the  
13 Zoning Use Permit is required. There is no information regarding the cost of the proposed park; and (4)  
14 Although not in Ms. Hitt's letter, an analysis of the accessibility of the proposed park can be done by an  
15 Illinois Licensed Architect or Illinois Professional Engineer, and a special condition has been proposed to  
16 require documentation of the park's accessibility before a Zoning Use Permit is approved for the property.  
17 He said that the following should be added as revised Item #14: The proposed park must meet all applicable  
18 state statutes, including requirements for accessibility established in the Illinois Environmental Barrier Act  
19 and Illinois Accessibility Code. The following condition requires documentation that the proposed park  
20 meets these requirements before a Zoning Use Permit can be authorized:

21  
22 **The Zoning Administrator shall not authorize a Zoning Use Permit for the proposed**  
23 **public park without documentation of compliance with the Illinois Environmental**  
24 **Barriers Act and the Illinois Accessibility Code.**

25 The above stated special condition is necessary to ensure the following:

26 **The proposed public park complies with state accessibility requirements.**  
27

28 He said that normally in a Special Use Permit there would be extensive evidence in the Summary of  
29 Evidence about the accessibility requirements and since Ms. Hitt's letter had already been written it was  
30 decided that it would be included as a Document of Record rather than adding it to the Summary of  
31 Evidence.

32  
33 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

34  
35 Mr. Thorsland called Brian Sides to testify.

36  
37 Mr. Brian Sides, attorney for the petitioners, stated that the memorandum was very extensive and exhaustive  
38 and included all of the arguments that he was allowed to make on the application. He said that the proposed  
39 amendments and requirements will be complied with by the association in short order. He said that their  
40 request is being brought before the ZBA very close to their build day and this is not out of lack of respect or  
41 because zoning was an after thought. He said that the need was identified; the children from the  
42 neighborhood play in the streets because they do not have a safe place to play, a community group was  
43 formed and one of the goals of the group was to address the issue of providing a safe place for the

1 neighborhood children to play. He said that the group was formed two years ago and meetings began with  
2 different members of the community and a lot was identified for County Board approval of a lease to the  
3 association. He said that the funding for the playground equipment will be through annual grants therefore  
4 expanding the playground equipment annually adding a new playground project every year. He said that  
5 after the lease agreement was docketed on the agenda for the County Board the association received a call  
6 from United Way indicating that a group from Washington, D.C. called "Kaboom" was willing to act as an  
7 intermediary for Blue Cross/Blue Shield of Illinois for complete funding of the playground. He said that  
8 these occurrences changed their plans entirely in early July and the process of submitting an application to  
9 the ZBA requires a site plan. He said that they were not able to obtain a site plan until the second week of  
10 August at which time an application for this request was submitted to the County. He said that he would like  
11 Ms. Manuel to address Item D. and E, regarding the waiver of fees.

12

13 Mr. Thorsland asked the Board if there were any questions for Mr. Sides and there were none.

14

15 Mr. Thorsland asked if staff had any questions for Mr. Sides.

16

17 Mr. Hall stated that he understands that there is no disrespect intended because staff hardly ever gets a  
18 petitioner who is as responsive as he has been with this case. He said that staff appreciates his quickness in  
19 submitting the required materials as well as their thoroughness and is concerned that perhaps staff rushed  
20 things on their part. He asked Mr. Sides if he has had any communication with the neighbor who will live  
21 next to the basketball court and are there any concerns that the basketball court, at the proposed location,  
22 may be a source of problems in the future.

23

24 Mr. Sides stated that there is a duplex located south of the proposed basketball court and it is a rental unit.  
25 He said that he did speak to both residents of the duplex and they indicated that there were okay with the  
26 location of the basketball court. He said that when he was younger he played basketball and when the sun  
27 went down he and his friends would pull their cars up to the court and turn on their headlights so that they  
28 could still play ball. He said that the association is taking steps to try to reduce any type of such nuisance  
29 therefore they are planning to erect a privacy fence, as opposed to chain-link, which may or may not do a  
30 whole lot for noise. He said that the association has been in touch with law enforcement because they are  
31 concerned that there are no blind spots with the erection of the fence which would entice foul play. He said  
32 that there will be a closing hour established for the park and the deputies that were consulted with were not  
33 reluctant in enforcing that closing time.

34

35 Mr. Hall asked Mr. Sides if he could indicate the park hours.

36

37 Mr. Sides stated that such hours will take DDCIA Board approval and have not been established yet but it is  
38 his suspicion that the park will close at sunset, varying with the time of the year. He said that there will be  
39 two signs posted on the site of which one will be for the sponsor and the other will be for the rules of the  
40 park of which the closing time will be posted.

41

42 Mr. Hall stated that in regards to the fence, there is really nothing that can be done about the noise due to the  
43 proximity of the park. He said that the more important issue is the visual screening in which the privacy

1 fence will provide. He asked Mr. Sides to indicate the height of the privacy fence.

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3 Mr. Sides stated that the association ordered materials for a six foot fence.

4  
5 Mr. Hall stated that currently there is a proposed amendment to the Zoning Ordinance to allow an eight foot  
6 fence. He said that his only concern with the height was deferring basketballs from bouncing over the fence  
7 and hitting cars.

8  
9 Mr. Sides stated that if any ball goes over the fence it would hit the garage wall which is closest to the  
10 basketball court. He said that it would be unlikely for any balls to hit any cars because the cars would be  
11 garaged and if there were any cars on the driveway they would not be affected because the hoop will be  
12 closer to the west and the approach to the 57 foot driveway is to the east. He said that the driveway is 22 feet  
13 wide and the board of the court will be at least at the edge of that and will not be inside the driveway and  
14 they may even take a couple feet to the north which will be further away from the affected property that is  
15 being discussed.

16  
17 Mr. Schroeder asked Mr. Sides how many cars may be involved after a game on the court.

18  
19 Mr. Sides stated that the lot for the playground is fairly small and is basically 80' x 100'. He said that the lot  
20 will be used for play equipment such as swings and a play structure. He said that an old house was destroyed  
21 by fire on the lot and the County ended up obtaining the property due to unpaid property taxes. He said that  
22 the lot is closely centered to the neighborhood and it is expected that most of the residents will walk to the  
23 park therefore not creating much parking. He said that the lot is located on the corner of Campbell Drive and  
24 Kingsway Drive and Campbell Drive is considered to be the street which feeds the neighborhood. He said  
25 that Kingsway Drive is platted with a 60 foot right-of-way but only 30 feet of the right-of-way is paved  
26 therefore a few cars could be parked along Kingsway next to the lot which would be the logical place for  
27 someone to park because the entrance will be off of Kingsway. He said that a four foot chain-link fence will  
28 be erected along the Campbell Drive side of the park because Campbell Drive is such a busy road and they  
29 don't want anyone getting hurt. He said that they do not believe that there will be a lot of vehicular traffic to  
30 the park because they believe that most people will walk and Kingsway Drive is wide enough for two lanes  
31 of traffic plus a lane of parked cars. He said that the current Zoning Ordinance allows for parking in that  
32 area and the association is not asking for the Board to allow parking in an area where it normally is not.

33  
34 Mr. Schroeder stated that he does not want the Board to create a problem for the association.

35  
36 Mr. Sides stated that the name of the association is the Dobbins Downs Community Improvement Associate  
37 (DDCIA) and they emphasize improvement therefore the last thing that they want to do is create something  
38 that is considered a nuisance.

39  
40 Mr. Thorsland asked the Board if there were any further questions for Mr. Sides and there were none.

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

1 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Sides.

2  
3 Mr. John Collins requested the opportunity to cross examine Mr. Sides.

4  
5 Mr. Thorsland apologized to the audience and informed them that Mr. Sides is an attorney therefore cross  
6 examination is not allowed.

7  
8 Mr. Collins asked if Mr. Sides was speaking as an attorney or as a citizen of the neighborhood.

9  
10 Mr. Thorsland stated that Mr. Sides is speaking as an attorney.

11  
12 Mr. Thorsland called Cristina Manuel to testify.

13  
14 Ms. Cristina Manuel, who resides at 2300 Roland Drive, Champaign stated that she is the Vice-President of  
15 the Dobbins Downs Community Improvement Association which is a non-profit organization established in  
16 April, 2009. She said that they have hosted many neighborhood events such as cookie decorating,  
17 neighborhood barbeques, seminars on property taxes, Medicare, etc. She said that regardless whether they  
18 are incorporated or not they are receiving their funding and donations as a non-profit organization from the  
19 City of Champaign as grants. She said that the City of Champaign's fiscal year ends in June therefore  
20 DDCIA applied for funding of the playground equipment and received \$5,000 and since their fiscal year  
21 ends in June they re-applied and received \$2,500 for the 2010 fiscal year. She said that the grant money,  
22 \$7,500, which was received from the City of Champaign, was sent to Kaboom as a down payment for the  
23 equipment and Blue Cross/Blue Shield of Illinois will be funding the balance. She said that the DDCIA has  
24 received approximately \$1,500 from door to door solicitations and fundraising and they received a \$1,000  
25 grant from Sam's Club. She said that those donations are set for future expenditures that will be required on  
26 the park such as the basketball hoop which will be installed in October. She said that they are using the  
27 vendors from the Champaign Park District because they will be able to obtain better rate discounts for the  
28 basketball hoop and that cost is estimated at approximately \$1,000. She said that Kaboom requires that on  
29 the build day that DDCIA provide dumpsters, port-a-potties, food for the volunteers, tents for first aid and  
30 children activities and the funds for these items will come from the City of Champaign grant money. She  
31 said that the reason why they have requested the variances from the fees is so that the funding that they do  
32 have will not decrease the amount of equipment or services that can be provided for the playground. She  
33 said that the County is requiring that DDCIA pay \$50 annually for leasing the property and insure the  
34 property which costs DDCIA \$400 annually. She said that there are outlying expenses and in order to  
35 address those expenses they are holding on to their funds because once the playground is established it will  
36 be very hard to get additional funding. She said that she has reviewed the proposed special condition and  
37 sees no reason why they could not comply because all of the playground equipment is ADA accessible and  
38 they are required to use engineered wood fiber which is different than regular wood chips because it is  
39 supposed to be ADA acceptable surfacing. She noted that the site plan indicates an accessibility ramp. She  
40 said that a one foot barrier is placed around the perimeter of the playground and then filled with mulch and  
41 an accessible ramp is constructed. She said that they have already excavated the lot and it has a 2% grade.

42  
43 Mr. Thorsland asked the Board if there were any questions for Ms. Manuel and there were none.

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2 Mr. Thorsland asked if staff had any questions for Ms. Manuel and there were none.  
3  
4 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Manuel.  
5  
6 Mr. John Collins, who resides at 893 CR 2125N, Champaign asked Ms. Manuel if the basketball hoop will  
7 be backed up to the six foot fence.  
8  
9 Ms. Manuel stated that the basketball hoop is located on the north side of the existing driveway therefore it  
10 will not be backed up to fence. She said that the fence will be located on the south side.  
11  
12 Mr. Thorsland called Leslie Kimble to testify.  
13  
14 Ms. Leslie Kimble, who resides at 2207 Roland Drive, Champaign, thanked the Board and staff for their  
15 time in reviewing their request. She said that she appreciates Mr. Sides' and Ms. Manuel's time in providing  
16 all of the required information for the Board's review. She said that as a resident of the area, a mother and a  
17 member of the Board for DDCIA she requests that the Board consider and approve the requested variances.  
18  
19 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Kimble and there were none.  
20  
21 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Kimble and there was no one.  
22  
23 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony  
24 regarding Case 674-V-10 and there was no one.  
25  
26 **Mr. Palmgren moved, seconded by Mr. Courson to close the witness register. The motion carried by**  
27 **voice vote.**  
28  
29 Mr. Thorsland closed the witness register.  
30  
31 Mr. Thorsland asked the Board if there were any questions for staff regarding the Summary of Evidence.  
32  
33 Mr. Hall stated that every now and then the issue of cost is inserted as relevant evidence because the  
34 organization is a public charity although cost is never a reason for approving a variance. He said that cost is  
35 an unavoidable issue in regards to the fence and typically the Zoning Ordinance waives Zoning Use Permit  
36 fees for local government agencies and the services that this organization is providing are similar to those  
37 that a local government agency would provide. He said that he assumes that the reason why the fees are  
38 waived for local government agencies is because we are all in this together therefore the more reduced fees  
39 will reduce the tax burden. He cautioned the Board to not use cost as a reason to approve the side yard  
40 variance for the driveway. He said that either the Board can find a way to approve the basketball court that  
41 close to the lot line or not but if the Board can not find a way to justify it the Board should not simply justify  
42 it because it is cheaper. He said that a six foot privacy fence in that location should not have the problem of  
43 a ball traveling over the fence and hitting a car although it might hit the side of the garage. He said that a six

1 foot privacy fence will mitigate the physical nature of seeing people playing ball and even if the basketball  
2 court met the full five foot side yard it would still only be five feet from the property line. He said that cost  
3 is relevant in regards to the fees but as much as possible costs should not be material evidence for the other  
4 variances.

5  
6 Mr. Courson stated that a concrete block fence would mitigate the noise concern.

7  
8 Mr. Hall stated that if no variances were required the petitioners would not be before the Board tonight. He  
9 said that the Zoning Ordinance has already determined that the noise in the park is compatible with the  
10 residential district therefore the only reason that he mentioned noise is because there is a request for a  
11 variance for the basketball area.

12  
13 Mr. Hall stated that a new Item #8.B(3) should be added to the Summary of Evidence as follows: Regarding  
14 Part A of the proposed variance, the proposed basketball court is similar to many homes which use a  
15 driveway as a basketball court but may generate more noise than a typical home basketball court. He said  
16 that Item #11.D. should be revised to read as follows: (1) Regarding Part A of the proposed variance, the  
17 proposed basketball court is similar to many homes which use a driveway as a basketball court but may  
18 generate more noise than a typical home basketball court; and (2) Notices of the requested variance were  
19 mailed to adjacent landowners and no comments have been received; and (3) Petitioner’s attorney, Brian  
20 Sides testified at the public hearing on September 16, 2010, that a six foot high privacy fence would be built  
21 between the basketball play area and the adjacent property. He said that a new Item #11.H. should be added  
22 as follows: Petitioner’s attorney, Brian Sides, testified at the public hearing on September 16, 2010, that the  
23 DDCIA Board intends to establish a daily closing time intended to minimize possible nuisance conditions.

24  
25 Mr. Thorsland read the special condition for the Board as follows:

26  
27 **The Zoning Administrator shall not authorize a Zoning Use Permit for the proposed**  
28 **public park without documentation of compliance with the Illinois Environmental**  
29 **Barriers Act and the Illinois Accessibility Code.**

30 The above stated special condition is necessary to ensure the following:

31 **The proposed public park complies with state accessibility requirements.**

32  
33 Mr. Thorsland asked Mr. Sides if he understands and agreed to the proposed condition.

34  
35 Mr. Sides stated yes.

36  
37 **The consensus of the Board was to approve the special condition as previously read.**

38  
39 **Finding of Fact for Case 674-V-10:**

40  
41 From the documents of record and the testimony and exhibits received at the public hearing for zoning case  
42 674-V-10 held on September 16, 2010, the Zoning Board of Appeals of Champaign County finds that:



1 Mr. Palmgren stated that the special conditions, circumstances, hardships or practical difficulties DO NOT  
2 result from actions of the applicant because the existing lot is not an existing unsaleable lot and the group  
3 does not have a lot of money. He said that the annexation agreement proposal with the City of Champaign  
4 was denied.

5  
6 Mr. Thorsland stated that both the paved feature and the lot existed prior to October 10, 1973, and they were  
7 not created by the current petitioners.

8  
9 **4. The requested variance, subject to the special condition, IS in harmony with the**  
10 **general purpose and intent of the Ordinance.**

11  
12 Mr. Palmgren stated that the requested variance, subject to the special condition, IS in harmony with the  
13 general purpose and intent of the Ordinance because traffic visibility is okay and street parking should not be  
14 an issue because the residents can walk to the park. He said that the request is definitely for the public  
15 interest.

16  
17 Mr. Courson stated that the petitioner intends to construct a privacy fence to mitigate some noise and visual  
18 impact from the basketball fields.

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

23  
24 Mr. Palmgren stated that the requested variance, subject to the proposed special condition, WILL NOT be  
25 injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the  
26 use is an asset to the community and the play equipment is movable and not permanent.

27  
28 Mr. Courson stated that the play ground equipment is standard with other park district's equipment and the  
29 petitioner has indicated that they will be carrying insurance on the project. The petitioner has indicated that  
30 the park will have a closing time and the park will not be open during evening hours.

31  
32 Mr. Thorsland stated that the park will be compliant for accessibility.

33  
34 **6. The requested variance, subject to the proposed special condition, IS the minimum**  
35 **variation that will make possible the reasonable use of the land/structure.**

36  
37 Mr. Courson stated that the requested variance, subject to the proposed special condition, IS the minimum  
38 variation that will make possible the reasonable use of the land/structure because the current structure is only  
39 at 22 feet in width and requiring another five foot would make the proposed basketball court almost  
40 unusable.

41  
42 Mr. Thorsland stated that enforcing the full setback would diminish the usable space on the corner lot for the  
43 intended playground project.

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

The Zoning Administrator shall not authorize a Zoning Use Permit for the proposed public park without documentation of compliance with the Illinois Environmental Barriers Act and the Illinois Accessibility Code.

The above stated special condition is necessary to ensure the following:

The proposed public park complies with state accessibility requirements.

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

Mr. Courson moved, seconded by Mr. Schroeder to close the public hearing for Case 674-S-10. The motion carried by voice vote.

Mr. Thorsland informed the petitioners that three Board members are absent from tonight’s meeting therefore it is at their discretion to either continue Case 674-V-10 until a full Board is present or request that the present Board move forward to the Final Determination. He informed the petitioners that four affirmative votes are required for approval.

Mr. Sides requested that the present Board move forward to the Final Determination.

**Final Determination for Case 674-V-10:**

Mr. Courson moved, seconded by Mr. Schroeder that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9.C HAVE 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 674-V-10 is hereby GRANTED WITH CONDITIONS, to the petitioners, Dobbins Downs Community Improvement Association with Leslie Kimble, President; Cristina Manuel, Vice-President; Norman Davis, Treasurer; and Amanda Zuek, Secretary, to authorize the construction and use of a public park in the R-3 Two Family Residence Zoning District, with the following variances: A. Construction and use of a basketball court with a side yard of zero feet in lieu of the required minimum side yard of five feet for accessory structures; and B. No off-street parking spaces in lieu of the minimum required one off-street parking space per three patrons based on the estimated number of patrons during peak attendance; and C. Front yards of six feet and setbacks of 36 feet in lieu of the minimum required 25 feet front yard and 55 feet setback with regard to Campbell Drive and Kingsway Drive, minor streets in the R-3 Zoning District; and D. A waiver of the application fees for the proposed variance application; and E. A waiver of the Zoning Use Permit Application fees for the proposed public park, subject to the following special condition:

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**The Zoning Administrator shall not authorize a Zoning Use Permit for the proposed public park without documentation of compliance with the Illinois Environmental Barriers Act and the Illinois Accessibility Code.**

The above stated special condition is necessary to ensure the following:

**The proposed public park complies with state accessibility requirements.**

The roll was called:

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

Mr. Thorsland stated that the Board will now hear Case 665-AT-10.

**7. Staff Report**

**A. August, 2010 Monthly Report**

Mr. Hall stated that the August, 2010 Monthly Report was included in the packet and if the Board has any questions he would be happy to answer them.

Mr. Courson asked Mr. Hall if there has been an increase in permitting.

Mr. Hall stated that in comparison to August permitting has picked up somewhat in September although permitting is very low. He said that last week a subdivision application was received which is somewhat exciting because staff has not received any subdivision applications for almost two years.

**8. Other Business**

**Mr. Palmgren moved, seconded by Mr. Schroeder to cancel the September 30, 2010, meeting. The motion carried by voice vote.**

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

None

**10. Adjournment**

**Mr. Schroeder moved, seconded by Mr. Courson to adjourn the meeting. The motion carried by voice vote.**

The meeting adjourned at 8:17 p.m.

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AS APPROVED OCTOBER 14, 2010

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Respectfully submitted

Secretary of Zoning Board of Appeals

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*DRAFT SUBJECT TO APPROVAL DRAFT*

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