

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: March 24, 2011

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

TIME: 7:00 p.m.

Urbana, IL 61802

MEMBERS PRESENT: Catherine Capel, Thomas Courson, Roger Miller, Melvin Schroeder, Eric Thorsland, Paul Palmgren

MEMBERS ABSENT : None

STAFF PRESENT : Lori Busboom, John Hall

OTHERS PRESENT : Mick Harshbarger, Man Szeto

1. Call to Order

The meeting was called to order at 7:00 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

3. Correspondence

None

4. Approval of Minutes (February 17, 2011)

Ms. Capel moved, seconded by Mr. Courson to approve the February 17, 2011, minutes as submitted. The motion carried by voice vote.

5. Continued Public Hearing

None

6. New Public Hearings

Case 677-V-10 Petitioner: **Mick and Leah Harshbarger** Request: **Authorize the occupancy and use of an existing detached accessory structure with a setback of 47 feet and 6 inches from CR 2545, a minor street, in lieu of the minimum required setback of 55 feet and a front yard of 17 feet and 6 inches from the front property line in lieu of the minimum required front yard of 25 feet and located in the CR district.** Location: **Lot 27 of Deer Ridge/Ingram's Third Subdivision in Section 30 of Ogden Township and commonly known as the house at 2545 CR 1375N, Ogden.**

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

Mr. Thorsland called Mr. Mick Harshbarger to testify.

Mr. Mick Harshbarger stated that he has filed for a variance for his detached garage.

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

Mr. Thorsland asked if staff had any questions for Mr. Harshbarger and there were none.

Mr. Hall stated that the only memorandum on Case 677-V-10 is the Preliminary Memorandum that was included in the mailing. He said that the subject property is located in the AG-1 zoning district and not the CR zoning district as indicated in the Preliminary Memorandum dated March 16, 2011. He said that the memorandum reviews the complicated background of Case 677-V-10. He said that the petitioner previously came before the Board for Case 637-V-08 and within that case Part A was denied and Part B was approved. He said that Part A was modified and verified by staff inspection on September 17, 2010, although during that inspection it was discovered that the garage does not meet the minimum required front yard and setback. He said that the garage was one of the original structures constructed without a permit. He said that the petitioner is back before the Board tonight, after the Zoning Administrator has approved two additional permits, for a variance for the garage.

Mr. Hall stated that a copy of the subdivision plat for Ingram's Third Subdivision has been included as an attachment to the Preliminary Memorandum. He said that as a consequence of this case Greg Frerichs, Ogden Township Highway Commissioner, is aware that the road extending from the south line of the petitioner's property to the cul-de-sac is owned privately even though the township receives motor fuel tax

1 funds for maintenance. Mr. Hall stated that it is hard to tell where the dedicated road ends and the non-
2 dedicated road begins. He said that the township highway commissioner has spoken with the landowners in
3 this part of the development and most of them have expressed an interest in having the rest of the road
4 dedicated. He said that the degree to which having the entire road dedicated would affect the need for this
5 variance is up to the Board but it is an unusual circumstance and it is in the process of being corrected. He
6 said that if, for example, the portion of the road which is south of the property line was not maintained by the
7 township vacation of 40 more feet of right-of-way would eliminate the need for this variance. He said that
8 vacation of the road is not really a viable alternative due to the fact that the township does receive MFT
9 funds and the other existing homeowners desire that the road is maintained by the township. He said that the
10 most serious issue in this variance is the practical effect of having less than 25 feet in front of the garage. He
11 said that all of the parking, as far as he can tell, is being accommodated inside the garage therefore they have
12 all of the required parking that they need. He said that there is a home occupation on the property which
13 increases the required amount of parking spaces and as far as he can tell all of the required parking spaces
14 are located on the subject property although there may be one space of required parking that is not currently
15 located such that it meets all of the required yards. He said that it is his understanding that Mr. Harshbarger
16 customarily parks his pickup truck outside when he comes home at night because there is not ample space
17 inside the garage. He said that if Mr. Harshbarger does park his pickup in front of the garage it is possible
18 that he is parked too close to the lot line therefore the question arises whether Mr. Harshbarger needs a
19 variance to park there or not. He said that a vehicle which is long enough to expand into the pavement when
20 parked in front of the garage would obviously be a verifiable public safety issue although he is not aware if
21 any vehicle that is that long being parked on the property. He said that a vehicle which is 35 feet long could
22 be parked on the property without extending onto the pavement of the street although it would clearly be
23 over the right-of-way line. He said that highway commissioners are aware that such an occurrence happens
24 all of the time and that in itself is not a problem and it is not something that the Board should approve accept
25 through very unusual circumstances. He said that dealing with the obvious parking problems created by this
26 insufficient front yard may be the most serious issue because once the Board can prove that it has addressed
27 all traffic issues he would be at a loss to find any other problems. He said that it may prove to be a challenge
28 for the Board to make affirmative findings for all of the criteria that is required in order to approve the
29 variance. He said that if there is anyway to approve this request then it is pretty clear that there must be
30 special conditions and those conditions need to be reviewed by everyone involved and obviously the request
31 could not be approved tonight. He said that if the Board is anticipating a denial he would like to make sure
32 that the State's Attorney attends a meeting to answer any questions that the Board may have about a denial.
33 He said that it is up to the ZBA to determine if, in a case like this, the conditions merit denial because what
34 denial would mean is that the garage would have to be modified to meet the setback and the only way that
35 this garage could be modified is to remove the eight feet which is closest to the road. He said that such a
36 proposition would be very expensive and he does not know if eight feet could simply be added onto the west
37 end to make up for that but there may be other alternatives in regards to modifying this garage. He said that
38 before the Board gets into a possible result such as that he would like the State's Attorney to attend a
39 meeting to answer any questions that the Board may have. He said that he has spoken with the highway
40 commissioner several times about this case and it is common that township highway commissioners do not
41 want to sit down and write a memo to the ZBA and they generally do not like attending meetings. Mr. Hall

1 said that Mr. Frerichs has indicated that he does not have any problem with the garage in its current location
2 provided that there are no public safety issues created with inappropriate parking. Mr. Hall stated that he
3 discussed possible conditions of approval with Mr. Frerichs that the County could enforce to make sure that
4 he does not have any unsafe parking issues in the future as a result of the garage. Mr. Hall informed Mr.
5 Frerichs that before the conditions would be adopted they would be circulated for his review, the petitioner's
6 review and the State's Attorney's review for assurance that everyone was comfortable with those conditions.

7 Mr. Hall stated that the southern portion of the street is going to be dedicated in the near future and it is a
8 cul-de-sac that will never be extended and it very unlikely that any further development will occur to the
9 south that would ever require widening of the street. He said that provided that the parking issues are
10 addressed there are arguably special conditions defining this location. He said that the Board may recall that
11 this property was involved in a previous variance case and in regards to any special conditions that applied
12 Attachment G, 2008 Aerial photograph with parcel boundaries, indicates that the drainage way which is
13 located on the southwest corner of the subject property is clearly a special condition. He said that it is fair to
14 say that the drainage way limits the usable space along the south edge of the property and a careful owner
15 who would come before this Board prior to construction could make that argument and request a variance
16 ahead of time. He said that for the same reason a variance after the fact could be approved once all of the
17 other issues are addressed which come along with inadequate parking space in front of the building.

18
19 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.

20
21 Mr. Schroeder asked Mr. Hall if there would be a problem with a truck and trailer parking in front of the
22 garage.

23
24 Mr. Hall stated that any truck that large would have to be in compliance with the Neighborhood Home
25 Occupation guidelines therefore they could not be over 25 feet in length and could not weigh over 36,000
26 pounds gross vehicle weight. He said that a pickup with a trailer is a condition that exists on the property
27 and the Board should discuss this issue with the petitioner as to the length of the pickup and trailer and how
28 often it is parked on the subject property.

29
30 Mr. Schroeder stated that if the property owner is a contractor then it is very possible that such an occurrence
31 is going to happen.

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

34
35 Mr. Thorsland recalled Mr. Harshbarger to testify and answer any questions that the Board may have
36 regarding this case.

37
38 Ms. Capel stated Mr. Harshbarger indicated that at times, if he going out of town the next day, he does bring
39 home a truck and trailer at the end of the day. She asked Mr. Harshbarger to indicate the length of truck and
40 trailer that is stored on the property at these times.

41

1 Mr. Harshbarger stated that the length of the trailer is 35 feet. He said that he does not park anything in front
2 of the shop but does park it in front of his house. He said that in general he always parks his truck in front of
3 the house. He said that he does have a truck inside of the garage/shop that is used for snow removal.
4

1 Mr. Hall stated that Mr. Harshbarger previously provided a sketch of the interior of the garage but it is his
2 understanding that a basic garage is a shell around open space. He asked Mr. Harshbarger if the interior of
3 his garage was that simple.
4
5 Mr. Harshbarger stated that the garage has 12 foot walls, 30 feet deep with an 8 foot step.
6
7 Mr. Hall asked Mr. Harshbarger if the garage had any interior walls.
8
9 Mr. Harshbarger stated no but the walls are insulated and sheeted.
10
11 Mr. Hall asked Mr. Harshbarger if 8 feet were required to be removed from the east end of the garage could
12 he add 8 feet onto the west end with the same interior volume that currently exists.
13
14 Mr. Harshbarger stated no. He said that he could not add on to the west end of his garage due to the location
15 of the power and plumbing for the pool.
16
17 Mr. Thorsland asked the audience if anyone had any questions for Mr. Harshbarger and there were none.
18
19 Mr. Miller stated that item #7.B(2)(a) of the Preliminary Summary of Evidence indicates that Mr.
20 Harshbarger was not aware that he needed a building for a detached garage or a play house.
21
22 Mr. Harshbarger stated that he did not realize that a permit was required for a structure which was located
23 out in the country.
24
25 Mr. Miller stated that he is stumped by the fact that Mr. Harshbarger is a building contractor yet he was
26 unaware of the County's requirements for a building permit.
27
28 Mr. Harshbarger stated that normally he does remodeling and room additions for homes.
29
30 Mr. Miller stated that it frustrates him when there is a known County Zoning Ordinance and a licensed
31 contractor ignores its requirements. He said that item #7.B(2)(b) indicates that Mr. Harshbarger has built
32 these types of structures for many people in Champaign without obtaining a permit.
33
34 Mr. Harshbarger stated that he did not need a permit for the shed and the pool house that he built because
35 they were less than 100 square feet.
36
37 Mr. Hall corrected Mr. Harshbarger indicating that a permit is required for any structure 150 square feet or
38 more and the garage is definitely more than 150 square feet.
39
40 Mr. Harshbarger stated that Mr. Miller was discussing the smaller structures.
41
42

1 Ms. Capel asked if the reason why no permit is required for such structures is because the property is located
2 in the AG-1 district.

3
4 Mr. Hall stated no, the requirement applies to all zoning jurisdictions.

5
6 Mr. Thorsland stated that sometimes there are special conditions that disallow reconstruction in the same
7 location. He said that given the footprint of the current garage in relationship to the pool house plumbing he
8 asked Mr. Harshbarger if he were to lose the garage, due to some sort of disaster, and the Board imposed a
9 condition requiring that the reconstruction of the garage comply to the setback, by the removal of 8 feet of
10 the garage, could he still utilize the new garage to park his vehicles inside the garage.

11
12 Mr. Harshbarger stated yes.

13
14 Mr. Hall stated that there is a special condition on reconstruction of the pool pump house in that if it is
15 destroyed it must be in conformance.

16
17 Mr. Thorsland asked Mr. Harshbarger if it is his testimony that at no time does he park a vehicle outside of
18 the garage.

19
20 Mr. Harshbarger stated that when he arrives home he parks his truck in front of the house.

21
22 Mr. Courson asked Mr. Harshbarger if he would still be able to store his vehicle in the garage if eight feet
23 were removed from the garage.

24
25 Mr. Harshbarger stated that it would be difficult but he could. He said that he has a television, couch,
26 refrigerator, golf cart, four-wheeler and a lawn mower in the garage therefore it would be tight with the truck
27 but he could rearrange those items to accommodate the vehicles.

28
29 Ms. Capel asked Mr. Hall to indicate how many parking spaces are required for the property.

30
31 Mr. Hall stated two parking spaces for the dwelling and one parking space is required for each vehicle
32 associated with the home occupation and off-street parking for any additional vehicles. He said that in terms
33 of doing a zoning analysis staff would want to make sure that there are two parking spaces which meet the
34 10 foot separation distance from the front property line and five feet from the side which is standard for
35 every home. He said that the parking space for the home occupation and any other parking has to meet the
36 yards also. He said that the garage is large enough for two vehicles plus the house has an attached garage
37 and driveway for parking.

38
39 Mr. Thorsland asked the Board if they would be interested in reviewing the proposed special conditions at
40 this time.

41
42

1 Ms. Capel stated that she would assume that the garage would receive substantial damage if it were required
2 to be rebuilt in conformance to the ordinance. She said that she would like to formalize that no parking is
3 allowed in the driveway in front of the subject garage.

4
5 Mr. Harshbarger asked where people were supposed to park if they came over for a cookout or to swim with
6 his family.

7
8 Mr. Hall stated that parking along the road is never encouraged. The proposed special conditions suggests
9 that there should never be parking past the line of the face of the pavement. He said that personal friends
10 who are visiting at a time when there is anticipated road maintenance then it is Mr. Harshbarger's obligation
11 to make sure that there is no parking past the right-of-way. He said that after dark the visitors should not be
12 parked past the centerline of the road side ditch. He said that it may be good for Mr. Harshbarger to have a
13 detailed drawing of where the ditch is versus where the edge of the pavement is located versus where the
14 right-of-way is located. He said that in general if there is no anticipated road maintenance the special
15 conditions would allow visitors to park over the right-of-way line but not out into traffic and then only when
16 dusk occurs does the line move further from the pavement.

17
18 Mr. Harshbarger asked Mr. Hall if the visitors could park in the driveway in front of his home or on the lawn

19
20 Mr. Hall stated yes. He said that as far as he is concerned there should be no parking along the right-of-way
21 but the reality of such is probably between Mr. Harshbarger and Mr. Frerichs.

22
23 Mr. Thorsland asked Mr. Harshbarger if he was agreeable to the proposed special conditions.

24
25 Mr. Harshbarger stated yes.

26
27 Mr. Thorsland asked the Board if there were any further questions for Mr. Harshbarger and there were none.

28
29 Mr. Thorsland asked if staff had any additional questions for Mr. Harshbarger and there were none.

30
31 Mr. Hall stated that in the previous zoning case, before the Board took final action, the Board asked Mr.
32 Harshbarger to submit cost estimates from other contractors as a way of documenting that making required
33 changes to the subject structures for compliance would be unreasonable. He asked the Board if they desired
34 to require cost estimates from other contractors in this case as well.

35
36 Ms. Capel stated that it will be hard to meet the criteria regarding whether the actions were caused by the
37 actions of the petitioner.

38
39 Mr. Hall stated that the particular criteria are the conditions that make the variance necessary and that has
40 nothing to do with the fact that the building already exists. He said that the Board has to ask itself if it would
41 have approved the requested variance if the petitioner had come before them in the first place.

1
2 Ms. Capel stated that the Board has not sat on any requested variance where construction took place before
3 the request for a variance.
4
5 Mr. Thorsland stated that during the previous case the Board dealt with the waterway as a special condition.
6 He said that almost all of the variance cases that this Board has dealt with in this type of situation have been
7 on corner lots with two front yard setbacks to deal with.
8
9 Mr. Miller asked Mr. Hall if this property were to sell would the County have any jurisdiction as to an
10 attachment to the deed regarding any special conditions granted in the variance.
11
12 Mr. Hall stated that the variance goes with the land although the Board could require that a miscellaneous
13 document be recorded in the Champaign County Recorder of Deeds office indicating any special conditions
14 of approval. He said that the miscellaneous document would appear during any title search regarding the
15 property therefore any future owner would be aware of the special conditions imposed in the variance. He
16 said that the Board could require that some sort of sign be posted on the front of the garage notifying people
17 about the parking limitations on the property. He said that if the Board believes that such a sign would be
18 helpful then a special condition of approval would be that the sign must be located on the garage at all times.
19 He said that making sure that any future owner is aware of the property's limitations is a good idea.
20
21 Mr. Thorsland stated that in regard to any proposed special conditions he has noted the following: 1. a
22 "rebuild clause," which was also placed on the pool house during the previous case, indicating that if the
23 garage were destroyed it would have to be reconstructed in compliance with the Zoning Ordinance; and 2.
24 parking suggestion from staff; and 3. a recorded miscellaneous document. He asked the Board if there were
25 any additional special conditions.
26
27 Mr. Miller stated that he does not know how to fix it but who is to say that the nine other properties won't
28 decide to set a building in the corner of their lot which is not in compliance. He said that once precedence is
29 set it is hard to go backwards.
30
31 Mr. Hall stated that there are two other lots in this development that are impacted by the drainage swale
32 therefore no one else has a situation like that therefore they could not make a ridiculous claim. He said that
33 there is a question as to whether Lot 29, a vacant lot, is a good lot and the lot to the west of the subject
34 property is obviously trying to stay away from the drainage swale. He said that someone who would come
35 before this Board making such a claim would have to make the argument that there is a special condition.
36
37 Mr. Thorsland asked the audience if anyone desired to present testimony regarding this case and there was
38 no one.
39
40 Mr. Thorsland requested a motion to close the witness register.
41

1 **Ms. Capel moved, seconded by Mr. Palmgren to close the witness register for Case 677-V-10. The**
2 **motion carried by voice vote.**

3
4 Mr. Thorsland asked the Board if they desired to continue to the Documents of Record and Finding of Fact
5 or if additional information is required from the petitioner or staff.
6

7 Mr. Courson stated that he believes that the Board should move forward. He said that the only information
8 that has not been received is something in writing from the road commissioner.
9

10 Mr. Thorsland stated that tentatively there are three proposed special conditions. He said that the petitioner
11 has indicated that he is comfortable with the special conditions regarding parking.
12

13 Mr. Miller asked if a requirement regarding a written document be recorded regarding the special conditions
14 of the variance.
15

16 Mr. Thorsland stated that currently he would like the Board to address the special conditions regarding
17 parking and then the Board will address Mr. Miller's proposed condition.
18

19 Mr. Hall asked the Board if they were contemplating taking action on this case tonight.
20

21 Ms. Capel stated no.
22

23 Mr. Thorsland stated that if not, then the Board has plenty of time to work on the proposed special
24 conditions.
25

26 Ms. Hall stated that he would like to make sure that the highway commissioner does not have any further
27 concerns.
28

29 Mr. Miller asked Mr. Hall if the neighbors have been notified of this case.
30

31 Mr. Hall stated that the neighbors have been notified and staff has not received one call regarding this case.
32 He said that the highway commissioner has contacted the neighbors to the south regarding the situation with
33 the road and he is fairly certain that the discussion lead to this variance. Mr. Hall said that he is at a loss as
34 to why no one is present at tonight's public hearing but it definitely makes it easier than the last case.
35

36 Mr. Thorsland requested a continuance date for Case 677-V-10.
37

38 Mr. Hall asked the Board if they would like to have a written document from the highway commissioner or if
39 they are comfortable with verbal communication. Mr. Hall said that he could mail Mr. Frerichs a copy of the
40 proposed special conditions and he could return it with his signature indicating his approval. He said that he
41 wants to make sure that Mr. Frerichs is aware of the Board's expectations.

1
2 Ms. Capel stated that she believes that the highway commissioner's signature is important because his
3 approval has a significant impact on this case.
4
5 Mr. Hall stated that there are two more special conditions which need to be drafted and he would like the
6 highway commissioner to see all of the conditions before submitting his comments in writing. Mr. Hall
7 stated that he would recommend that the case be continued.
8
9 Mr. Thorsland asked Mr. Hall if staff has received any additional information regarding Case 681-S-11.
10
11 Mr. Hall stated no.
12
13 Mr. Thorsland asked Mr. Hall if the Board could begin hearing the text amendment cases as the next public
14 hearing.
15
16 Mr. Hall stated that the Board could begin those hearings although the Board would not be in the position to
17 take action on those cases. He said that given the current staffing it would be difficult to have information
18 ready for the next meeting for the text amendments but staff could certainly attempt such.
19
20 Mr. Thorsland stated that Case 677-V-10 could be continued to April 28th.
21
22 Mr. Hall asked the Board if a quorum could be anticipated at the April 28th meeting.
23
24 Mr. Thorsland stated yes.
25
26 Ms. Capel stated that she will be absent from the April 14th meeting.
27
28 Mr. Hall stated the petitioner for tonight's hearing could request a continuance until a full Board of seven
29 members is present although he is not sure if the Board is obligated to honor such a request because that
30 Board member would have not been present at any of the previous hearings.
31
32 Mr. Thorsland requested a motion to continue Case 677-V-10 to the April 28th meeting.
33
34 **Ms. Capel moved, seconded by Mr. Palmgren to continue Case 677-V-10 to the April 28th meeting.**
35 **The motion carried by voice vote.**
36
37 Mr. Hall stated that he will draft the proposed special conditions as soon as possible for review.
38
39 **7. Staff Report**
40 **A. January, 2011 Monthly Report**
41 **B. February, 2011 Monthly Report**

1 **C. First Quarter of Fiscal Year 2011 Summary Report**

2
3 Mr. Hall stated that the reports included in the mailing indicates that from a permitting stand point things are
4 looking up.
5

1 **8. Other Business**
2 **A. ZBA Bylaws**
3

4 Mr. Thorsland stated that the Board received copies of the ZBA Bylaws for review. He said that the Board
5 might have noticed that he called the petitioner to the witness stand so that he could plead his case prior to
6 Mr. Hall’s discussion with the Board. Mr. Thorsland stated that Mr. Hall previously informed the Board that
7 the Assistant State’s Attorney had concerns regarding the terminology and procedures that the Board utilizes
8 in its hearings. He said that staff has indicated suggested changes on Page 8 of the Draft Revision of the
9 Zoning Board of Appeals Bylaws.

10
11 Mr. Hall stated that to the phrase, “Close the public hearing,” has existed since the beginning of the Bylaws.
12 He said that the phrase, “Close the witness register,” does not appear in the Bylaws but it is handy device in
13 notifying the public that the Board is moving to a discussion amongst the Board members. He said that this
14 phrase is not in the Bylaws but could be added but in adding it a citizen could certainly raise the issue that
15 the Board has closed the witness register when the Bylaws do not indicate such an allowance. He asked the
16 Board if they wanted to add the phrase, “Close the witness register,” to the Bylaws.

17
18 Mr. Thorsland stated that he would like the phrase to be added to the Bylaws. He said that there will be
19 cases where the Board will need to be make it clear that it has completed the testimony portion of the case
20 and will continue on with their work towards a determination. He said that he does not believe that a time
21 limit can be included and if you review the Bylaws there are plenty of opportunities to prevent redundancy
22 without time limits.

23
24 Mr. Hall stated that he would imagine that David DeThorne, Assistant State’s Attorney would prefer to
25 never use the term “Close” in regards to anything that the Board does within the witness register therefore
26 the Board could use the term “End”.

27
28 Mr. Thorsland agreed.

29
30 Mr. Hall stated that someone could always indicate that they have additional testimony.

31
32 Mr. Thorsland stated that he, as Chair, would then be so inclined to deny that request.

33
34 Mr. Hall noted that denying the request to provide additional testimony may be within the realm of the
35 Chair’s powers but those powers should be exercised very carefully.

36
37 Mr. Thorsland stated that he believes that the opportunity will come up in the near future.

38
39 Mr. Hall stated that if the Bylaws were being written from scratch he would recommend that there are certain
40 things that should apply to the meeting portion of the meeting and there are other things which should apply
41 to the public hearing. He said that Article 7 applies to both because there are motions and decisions which

1 are part of the meeting and motions and decisions which are part of the public hearing. He said that Article 7
2 is similar to Articles 5 and 4 therefore the question arises if the Board wants to change the order of the
3 articles to try to improve them or leave the existing grouping as indicated. He said that Article 8 discusses a
4 final determination but Article 9 describes what needs to be done if the case is to be withdrawn, amended or
5 continued which are logical issues which would come before a final determination. He said that Article 7
6 could be moved ahead of Article 6 and Article 9 could be moved ahead of Article 8.

7
8 Ms. Capel agreed that a more logical placement of those articles would be preferred.

9
10 Mr. Thorsland agreed with Ms. Capel.

11
12 Mr. Hall stated that there is one change that he would like to bring to the Board's attention is Section 5.9 on
13 Page 4. He said that for some reason there is this neglected hangover that public hearings shall not be closed
14 other than at a meeting where at least five Board members are present. He said that he believes that this is a
15 carryover from when the ZBA consisted of five members for a quorum. He said that if currently four
16 members is all that it takes to move to a final determination then four members is all it should take to close
17 the public hearing therefore he is recommending that the present text be stricken from the Bylaws. He said
18 that he is still recommending that neither meetings nor public hearings can be held by less than a quorum
19 because a meeting could be started with four members present but you would not want to go into a public
20 hearing with less than four. He said that also under Section 5.5 he is proposing to add a requirement that the
21 Board may only go into closed session for appropriate reasons and only upon the advice of the Champaign
22 County State's Attorney.

23
24 Mr. Capel stated that without that advice the Board is vulnerable.

25
26 Mr. Hall stated yes, but the Board very rarely requests a closed session anyway. He said that this would
27 make it clear to future Board members that a request for a closed session is a big deal. He asked the Board
28 to review Section 6.1 and to indicate if they are comfortable with the proposed text. He noted that the
29 amended Bylaws will be reviewed by the State's Attorney before Board adoption.

30
31 Mr. Hall stated that if it had to be identified where the closing of the public hearing is supposed to occur it
32 would be just prior to an actual final determination. He said that everywhere the document discusses closing
33 the public hearing staff replaced with the text about making a specific final determination. He said that even
34 though this is a change it is consistent with the Board's current practice.

35
36 Mr. Hall stated that there are additional changes that he would like to present to the Board at the next
37 meeting. He said that Bylaws do not refer to a specific administrative statement. He said that this statement
38 is read at the beginning of every administrative hearing and at the time the State's Attorney wanted to make
39 sure that there was indeed a statement but did not want to include the exact statement in the Bylaws. He said
40 that he believes that the State's Attorney at that time desired to be cautious not to add any unnecessary things
41 to the Bylaws. He said that every unnecessary thing in the Bylaws is a possible trip up in the future if the

1 Board forgets to do it. He said that he believes that it is a bad thing if a new Board member could possibly
2 get a new set of Bylaws with a new set of appendices which would still not include an administrative
3 statement. He recommended that an example administrative statement be included in the appendices making
4 it perfectly clear that it is not the exact wording but that these things need to be reviewed at the beginning of
5 every administrative hearing. He said that he is not sure what the current State's Attorney's opinion will be
6 on such an administrative statement because they would always advise not to add anything other than what
7 absolutely needs to be added. He said that the administrative statement is read prior to every administrative
8 hearing therefore it is his opinion that it should be added to the Bylaws.

9
10 Ms. Capel stated that she believes that the administrative statement should be added to the Bylaws.

11
12 Mr. Thorsland agreed. He said that during the wind farm hearings a statement was handed to him indicating
13 the following: Private discussion should be a quiet as possible during testimony and everyone should show
14 respect to all those who are testifying. He said that he does not believe that this needs to be added to the
15 Bylaws.

16
17 Ms. Capel stated that the statement should be added to the Bylaws so that it is absolutely appropriate for the
18 Chair to read that statement.

19
20 Mr. Hall stated that he will ask the State's Attorney if such a statement should be included in the Bylaws.

21
22 Mr. Thorsland noted that not during a ZBA meeting but during a particularly heated County Board meeting a
23 citizen questioned why a deputy sheriff was not present at the meeting.

24
25 Mr. Thorsland asked the Board if they liked receiving their packets by e-mail. Ms. Capel, Mr. Courson and
26 Mr. Thorsland agreed that it is a much better way in receiving the information. Mr. Miller requested that he
27 be placed back on the list for receiving his packets via regular postal mail.

28
29 **9. Audience Participation with respect to matters other than cases pending before the Board**

30
31 None

32
33 **10. Adjournment**

34
35 **Mr. Miller moved, seconded by Ms. Capel to close the public hearing. The motion carried by voice**
36 **vote.**

37
38 The meeting adjourned at 8:15 p.m.

39
40 Respectfully submitted

03/24/11

AS APPROVED APRIL 28, 2011

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- 2
- 3 Secretary of Zoning Board of Appeals