

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61802**

**DATE: October 24, 2012 PLACE: Lyle Shields Meeting Room
1776 East Washington Street
TIME: 7:00 p.m. Urbana, IL 61802**

MEMBERS PRESENT: Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren, Brad Passalacqua, Roger Miller

MEMBERS ABSENT : None

STAFF PRESENT : Connie Berry, John Hall, Andrew Kass

OTHERS PRESENT : Frank Howard, Michael Boero, Dale Rapp

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 with one Board seat vacant.

Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. He reminded the audience that when they sign the witness register they are signing an oath.

3. Correspondence

None

4. Approval of Minutes (July 26, 2012, August 16, 2012, August 30, 2012, and September 27, 2012)

Mr. Thorsland stated that the July 26, 2012, August 16, 2012, and September 27, 2012 minutes were included in the mailing packet for the Board's review. He noted that the August 30, 2012, minutes were not included in the mailing packet. He requested that the Board consider the July 26, 2012 and September 27, 2012, minutes for approval only at tonight's meeting and allow additional time for the Board to review the August 16, 2012, minutes again. He requested that the August 16, 2012, minutes be placed on the next meeting agenda for approval.

10/24/12

1 Mr. Thorsland entertained a motion to approve the July 26, 2012, minutes as submitted.

2
3 **Mr. Courson moved, seconded by Mr. Miller to approve the July 26, 2012, minutes as submitted. The**
4 **motion carried by voice vote with Mr. Palmgren abstaining due to his absence at the July 26, 2012,**
5 **meeting.**

6
7 Mr. Thorsland entertained a motion to approve the September 27, 2012, minutes as submitted.

8
9 **Mr. Palmgren moved, seconded by Mr. Passalacqua to approve the September 27, 2012, minutes as**
10 **submitted. The motion carried by voice vote with Mr. Thorsland abstaining due to his absence at the**
11 **September 27, 2012, meeting.**

12
13 Mr. Thorsland encouraged the Board to read through the August 16, 2012, minutes prior to the next meeting.

14
15 **5. Continued Public Hearing**

16
17 **Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the**
18 **Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required**
19 **for any County Board approved special use permit for a Rural Residential Development in the Rural**
20 **Residential Overlay district as follows: (1) require that each proposed residential lot shall have an**
21 **area equal to the minimum required lot area in the zoning district that is not in the Special Flood**
22 **Hazard Area; (2) require a new public street to serve the proposed lots in any proposed RRO with**
23 **more than two proposed lots that are each less than five acres in area or any RRO that does not**
24 **comply with the standard condition for minimum driveway separation; (3) require a minimum**
25 **driveway separation between driveways in the same development; (4) require minimum driveway**
26 **standards for any residential lot on which a dwelling may be more than 140 feet from a public street;**
27 **(5) require for any proposed residential lot not served by a public water supply system and that is**
28 **located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other**
29 **than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and contract**
30 **the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results; (6)**
31 **require for any proposed RRO in a high probability area as defined in the Illinois State Historic**
32 **Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy**
33 **of the ISHPA response; (7) require that for any proposed RRO that the petitioner shall contact the**
34 **Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of**
35 **the agency response.**

36

10/24/12

1 Mr. Thorsland stated that the petitioner has requested a continuance to the second meeting in January
2 2013. He asked the petitioner if he would like to add any new information regarding this case and the
3 petitioner indicated no.

4
5 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the second meeting in January 2013.

6
7 **Mr. Palmgren moved, seconded by Ms. Capel to continue Case 685-AT-11 to the second meeting in**
8 **January 2013. The motion carried by voice vote.**

9
10 Mr. Passalacqua informed the Board that it is possible that he will be absent from the first and second
11 meeting in January 2013.

12
13 **Case 722-S-12 Petitioner: Dr. Michael Boero Request to authorize an equine veterinary surgery clinic**
14 **and performance problem evaluation facility as a “Veterinary Hospital” as a Special Use on 4.5 acres**
15 **that is part of a 22 acre property previously authorized as a stable in Case 719-S-90 and located in the**
16 **CR Conservation-Recreation Zoning District. Location: A 22 acre parcel in the West Half of the**
17 **Southeast Quarter of the Southwest Quarter of Section 26 of Newcomb Township and commonly**
18 **known as the home and stable at 430 CR 2500N, Mahomet.**

19
20
21 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
22 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
23 of hands for those who would like to cross examine and each person will be called upon. He requested that
24 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
25 those who desire to cross examine are not required to sign the witness register but are requested to clearly
26 state their name before asking any questions. He noted that no new testimony is to be given during the cross
27 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
28 from cross examination.

29
30 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
31 sign the witness register for that public hearing. He reminded the audience that when they sign the
32 witness register they are signing an oath.

33
34 Mr. Thorsland asked the petitioner if he would like to make a brief statement outlining the nature of his
35 request.

10/24/12

1 Dr. Michael Boero, who resides at 426 CR 2500N, Mahomet, stated that he received a call from the
2 Environmental Protection Agency today and they indicated that he would not need to register with their
3 office since everything that he produces is composted on the site and he does not take in any outside
4 compost. He said that the EPA indicated that they will be sending him a letter confirming their conversation.
5 He said that he has not received any new information regarding the handicap accessibility.
6

7 Mr. Thorsland asked the Board if there were any questions for Dr. Boero and there were none.
8

9 Mr. Thorsland asked if staff had any questions for Dr. Boero and there were none.
10

11 Mr. Thorsland asked the audience if anyone desired to cross examine Dr. Boero and there was no one.
12

13 Mr. Thorsland stated that the Board had previously worked through this case and stopped at the proposed
14 conditions. He said that there are no new memorandums regarding this case for tonight for the Board's
15 review. Mr. Thorsland read the proposed special conditions as follows:
16

- 17 **A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
18 **authorizing operation of the proposed Special Use Permit until the petitioner has**
19 **provided documentation of registration of the composting operation and compliance**
20 **with the Illinois EPA or submitted documentation indicating that the composting**
21 **operation does not need to be registered.**

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

23 **That the composting practices are conducted pursuant to the regulations of the Illinois**
24 **Environmental Protection Agency guidelines.**
25

26 Mr. Thorsland asked Dr. Boero if he agreed to the special condition.
27

28 Dr. Boero stated that he did agree to the special condition.
29

- 30 **B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
31 **authorizing operation of the proposed Special Use Permit until the petitioner has**
32 **verified that the proposed Special Use complies with Illinois Accessibility Code or the**
33 **petitioner submits documentation from the Illinois Capital Development Board**
34 **verifying that the proposed use does not have to comply with the Illinois Accessibility**
35 **Code.**

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

1 **That the proposed Special Use meets applicable state requirements for accessibility.**

2
3 Mr. Thorsland asked Dr. Boero if he agreed to the special condition.

4
5 Dr. Boero stated that he did agree to the special condition.

6
7 Mr. Thorsland stated that a new item #3 should be added to the Documents of Record as follows:
8 Supplemental Memorandum dated September 7, 2012, with attachment: A. E-mail from Doug Gamble
9 received on August 22, 2012.

10
11 Mr. Kass asked if the anticipated letter from the EPA should be included as a Document of Record.

12
13 Mr. Hall stated that staff has not received the letter from the EPA to date although it is highly anticipated for
14 the special use. He said that the anticipated letter should not be added as a Document of Record.

15
16 Mr. Thorsland asked the Board, staff and the audience if there were any additional questions for Mr. Boero
17 and there were none.

18
19 Mr. Thorsland closed the witness register for Case 722-S-12.

20
21 Mr. Thorsland entertained a motion to approve the special conditions.

22
23 **Mr. Courson moved, seconded by Ms. Capel to approve the special conditions as read. The motion**
24 **carried by voice vote.**

25
26 **Finding of Fact for Case 722-S-12:**

27
28 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
29 722-S-12 held on August 16, 2012, and October 24, 2012, the Zoning Board of Appeals of Champaign
30 County finds that:

- 31
32 **1. The requested Special Use Permit IS necessary for the public convenience at this**
33 **location.**

34
35 Mr. Palmgren stated that the requested Special Use Permit IS necessary for the public convenience at this
36 location because the petitioner has testified that there is a large demand for an equine veterinary surgery

1 clinic at this location and the existing facility is well suited for that use.

2
3 Ms. Capel stated that a veterinarian with Dr. Boero's surgical skills is in short supply.

4
5 **2. The requested Special Use Permit, subject to the special conditions imposed, is so**
6 **designed, located, and proposed to be operated so that it WILL NOT be injurious to**
7 **the district in which it shall be located or otherwise detrimental to the public health,**
8 **safety and welfare because:**

9
10 **a. The street has ADEQUATE traffic capacity and the entrance location has**
11 **ADEQUATE visibility.**

12
13 Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE
14 visibility.

15
16 **b. Emergency services availability is ADEQUATE.**

17
18 Mr. Passalacqua stated that emergency services availability is ADEQUATE.

19
20 **c. The Special Use WILL be compatible with adjacent uses.**

21
22 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

23
24 **d. Surface and subsurface drainage will be ADEQUATE.**

25
26 Mr. Passalacqua stated that surface and subsurface drainage will be ADEQUATE because there will be no
27 change to the drainage patterns

28
29 **e. Public safety will be ADEQUATE.**

30
31 Ms. Capel stated that public safety will be ADEQUATE.

32
33 **f. The provisions for parking will be ADEQUATE.**

34
35 Mr. Miller stated that the provisions for parking will be ADEQUATE.

36

10/24/12

1 **g. The property IS SUITED OVERALL for the proposed improvements.**

2
3 Ms. Capel stated that the property IS SUITED OVERALL for the proposed improvements.

4
5 **h. Existing public services ARE available to support the proposed Special Use**
6 **without undue public expense.**

7
8 Ms. Capel stated that existing public services ARE available to support the proposed Special Use without
9 undue public expense.

10
11 **i. Existing public infrastructure together with the proposed development IS**
12 **adequate to support the proposed development effectively and safely without**
13 **undue public expense.**

14
15 Ms. Capel stated that existing public infrastructure together with the proposed development IS adequate to
16 support the proposed development effectively and safely without undue public expense.

17
18 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
19 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in
20 which it shall be located or otherwise detrimental to the public health, safety, and welfare.

21
22
23 **3a. The requested Special Use Permit, subject to the special conditions imposed herein,**
24 **DOES conform to the applicable regulations and standards of the DISTRICT in which**
25 **it is located.**

26
27 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,
28 DOES conform to the applicable regulations and standards of the DISRICT in which it is located.

29
30 **3b. The requested Special Use Permit, subject to the special conditions imposed herein,**
31 **DOES preserve the essential character of the DISTRICT in which it is located because:**

32
33 **a. The Special Use will be designed to CONFORM to all relevant County**
34 **ordinances and codes.**

35
36 Mr. Courson stated that the Special Use will be designed to CONFORM to all relevant County ordinances

1 and codes.

2
3 **b. The Special Use WILL be compatible with adjacent uses.**

4
5 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

6
7 **c. Public safety will be ADEQUATE.**

8
9 Mr. Passalacqua stated that public safety will be ADEQUATE.

10
11 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
12 DOES preserve the essential character of the DISTRICT in which it is located.

13
14 **4. The requested Special Use Permit, subject to the special conditions imposed herein, IS**
15 **in harmony with the general purpose and intent of the Ordinance because:**

16
17 **a. The Special Use is authorized in the District.**

18
19 **b. The requested Special Use Permit IS necessary for the public convenience at this**
20 **location.**

21
22 Mr. Courson stated that the requested Special Use Permit IS necessary for the public convenience at this
23 location.

24
25 **c. The requested Special Use Permit, subject to the special conditions imposed**
26 **herein, is so designed, located, and proposed to be operated so that it WILL**
27 **NOT be injurious to the district in which it shall be located or otherwise**
28 **detrimental to the public health, safety, and welfare.**

29
30 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein, is
31 so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it
32 shall be located or otherwise detrimental to the public health, safety, and welfare.

33
34 **d. The requested Special Use Permit, subject to the special conditions imposed**
35 **herein, DOES preserve the essential character of the DISTRICT in which it is**
36 **located.**

10/24/12

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

Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.

Mr. Courson stated that the requested Special Use Permit, subject to the special condition imposed herein, IS in harmony with the general purpose and intent of the Ordinance.

5. The requested Special Use IS NOT an existing nonconforming use.

Mr. Thorsland stated that the requested Special Use IS NOT an existing nonconforming use.

6. The special conditions imposed herein are required to ensure compliance with the criteria for Special Use Permits for the particular purposes described below:

A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the petitioner has provided documentation of registration of the composting operation and compliance with the Illinois EPA or submitted documentation indicating that the composting operation does not need to be registered.

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

That the composting practices are conducted pursuant to the regulations of the Illinois Environmental Protection Agency guidelines.

B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the petitioner has verified that the proposed Special Use complies with Illinois Accessibility Code or the petitioner submits documentation from the Illinois Capital Development Board verifying that the proposed use does not have to comply with the Illinois Accessibility Code.

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

That the proposed Special Use meets applicable state requirements for accessibility.

Mr. Thorsland entertained a motion to approve the Findings of Fact as amended.

10/24/12

1 **Mr. Palmgren moved, seconded by Ms. Capel to approve the Findings of Fact for Case 722-S-12 as**
2 **amended. The motion carried by voice vote.**

3
4 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
5 of Fact as amended.
6

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

9
10 Mr. Thorsland entertained a motion to move to the final determination.
11

12 **Ms. Capel moved, seconded by Mr. Palmgren to move to the final determination for Case 722-S-12.**
13 **The motion carried by voice vote.**

14
15 **Final Determination for Case 722-S-12:**

16
17 **Ms. Capel moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals**
18 **finds that, based upon the application, testimony, and other evidence received in this case, the**
19 **requirements of 9.1.11B. for approval HAVE been met, and pursuant to the authority granted by**
20 **Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that the Special Use**
21 **requested in Case 722-S-12 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicant**
22 **Dr. Michael Boero to authorize an equine veterinary surgery clinic and performance problem**
23 **evaluation facility as a “Veterinary Hospital” as a Special Use on 4.5 acres that is part of a 22 acre**
24 **property previously authorized as a stable in Case 719-S-90 and located in the CR Conservation**
25 **Recreation Zoning District, subject to the following special conditions:**

26 **A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
27 **authorizing operation of the proposed Special Use Permit until the petitioner**
28 **has provided documentation of registration of the composting operation and**
29 **compliance with the Illinois EPA or submitted documentation indicating that**
30 **the composting operation does not need to be registered.**

31 The special condition stated above is necessary to ensure the following:
32 **That the composting practices are conducted pursuant to the regulations of the**
33 **Illinois Environmental Protection Agency guidelines.**

34
35 **B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
36 **authorizing operation of the proposed Special Use Permit until the petitioner**

10/24/12

1 **has verified that the proposed Special Use complies with Illinois Accessibility**
 2 **Code or the petitioner submits documentation from the Illinois Capital**
 3 **Development Board verifying that the proposed use does not have to comply**
 4 **with the Illinois Accessibility Code.**

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

6 **That the proposed Special Use meets applicable state requirements for**
 7 **accessibility.**

8
 9 Mr. Thorsland requested a roll call vote.

10
 11 **Capel-yes Courson-yes Miller-yes**
 12 **Palmgren-yes Passalacqua-yes Thorsland-yes**

13
 14 Mr. Hall informed the petitioner that he has received an approval for his request and staff will contact him
 15 regarding any documentation that needs to be finalized.

16
 17 **6. New Public Hearings**

18
 19 **Case 729-V-12 Petitioner: Frank E. Howard Request to authorize the following in the R-1 Single**
 20 **Family Residence Zoning district: Part A. Variance for lot coverage of 35% in lieu of the maximum**
 21 **allowed 30%; and Part B. Variance for a front yard of 19 feet in lieu of the minimum required 30 feet;**
 22 **and Part C. Variance for a front yard of 22 feet in lieu of the minimum required 25 feet; and Part D.**
 23 **Variance for a front setback of 49 feet from Fogel Road in lieu of the minimum required 75 feet; and**
 24 **Part E. Variance for a front setback of 52 feet from Olen Drive in lieu of the minimum required 55**
 25 **feet; and Part F. Variance for a side yard of 3.4 feet in lieu of the minimum required 10 feet; and Part**
 26 **G. Variance for a front yard of an existing accessory structure of 27 feet in lieu of the minimum**
 27 **required 30 feet; and Part H. Variance for a front yard of an existing accessory structure of 57 feet**
 28 **from Fogel Road in lieu of the minimum required 75 feet; and Part I. Variance from the visibility**
 29 **triangle requirements for a corner lot; and Part J. Variance from Section 4.2.2D requirement that no**
 30 **construction shall take place in a recorded utility easement. Location: Lot 15 of Wildwood Estates**
 31 **Subdivision in the Northwest Quarter of Section 12 of Mahomet Township and commonly known as**
 32 **the home at 1105 Olen Drive, Mahomet.**

33
 34 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
 35 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
 36 of hands for those who would like to cross examine and each person will be called upon. He requested that

10/24/12

1 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
2 those who desire to cross examine are not required to sign the witness register but are requested to clearly
3 state their name before asking any questions. He noted that no new testimony is to be given during the cross
4 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
5 from cross examination.
6

7 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
8 sign the witness register for that public hearing. He reminded the audience that when they sign the
9 witness register they are signing an oath.
10

11 Mr. Thorsland asked the petitioner if he would like to make a brief statement outlining the nature of his
12 request.
13

14 Mr. Frank Howard, who resides at 1105 Olen Drive, Mahomet, submitted photographs of his property to
15 the Board for review and as Documents of Record. He said that he and his wife previously owned a house in
16 Mahomet which consisted of three stories but his wife has had major back issues and four years ago she
17 could stand and walk around normally. He said that approximately three years ago his wife had gone
18 through two surgeries and from her pelvis to her shoulder blades have been fused with rods. He said that his
19 wife has fallen three times and it is very difficult for her to catch herself. He said that most of the variances
20 that have been requested are basically out of his control because the house existed prior to zoning. He said
21 that when he built his building on the side he exceeded the maximum square footage allowed therefore he
22 agreed to take down a yard barn and a portion of the old garage. He said that he removed the yard barn in a
23 reasonable amount of time. He said that he and his wife anticipated that going to a one-story home would
24 work better for them although they did not know what complications were ahead of them. He said that by
25 leaving the extra twelve feet on the old garage the door coming out of the house and the door going into the
26 garage line up fairly straight and his wife would not have far to travel in bad weather. He said that, as the
27 Board can see in the photographs, she cannot stand completely straight and she has to use a walker. He said
28 that if she falls again she is at risk of injuring her back to a point where it cannot be fixed and she will be in
29 severe pain therefore he is trying to do everything that he can to make things as convenient and safe as
30 possible for his wife. He said he is asking the Board to allow the twelve foot portion to remain on the garage
31 so that his wife has close access from the house to the garage and he is asking the allowance of an enclosed
32 breezeway between the house and the garage. He said that he understands that he will be over on the square
33 footage but by attaching the house to the garage, the garage will be too close to the property line therefore
34 requiring a variance as well. He said that he is requesting that the Board allow a roof to be placed over the
35 front porch so that his wife can step down on the porch without a lot of ice during the winter months. He
36 said that he has worked with staff and has intended to abide by all of his previous promises regarding the

10/24/12

1 new shed but he needs to take care of his wife as well and her health is more important. He said that none of
2 his requests will fix his wife's condition but they will certainly help therefore he requests the Board's
3 approval.

4

5 Mr. Thorsland asked the Board if there were any questions for Mr. Howard.

6

7 Mr. Passalacqua asked if any of the neighbors have voiced opposition to the requests.

8

9 Mr. Hall and Mr. Kass stated that staff has not received any comments from the neighbors.

10

11 Mr. Howard stated that he has spoken with most of the neighbors and they indicated that the only problem
12 that they would have is if he was denied the requests.

13

14 Mr. Hall stated that someone came to the last meeting anticipating this case to be heard and they were
15 notified of this meeting. He asked Mr. Howard if anyone had contacted him outside of the meeting
16 regarding this case.

17

18 Mr. Howard stated that Mr. and Mrs. Workman contacted him asking why they received another letter and
19 two other neighbors asked him why another meeting was being held.

20

21 Mr. Thorsland asked the Board if there were any additional questions for Mr. Howard and there were none.

22

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

24

25 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Howard and there was no one.

26

27 Mr. Thorsland called John Hall to testify.

28

29 Mr. Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated October 24, 2012, for
30 the Board's review. He said that the new memorandum includes the following proposed evidence to the
31 Summary of Evidence: 7.I.: Regarding Parts B, D, G and H of the variance, it is unlikely that Fogel Road
32 will be widened due to cost and other existing nonconforming structures. He said that Fogel Road is an
33 urban arterial street and that fact was overlooked during processing of the previous permit and if it has been
34 caught the permit for the new shed would have to be 15 feet shorter than what it was allowed to be built. He
35 said that staff does not believe that it is likely that Fogel Road will be widened in this area because there are
36 so many other existing nonconforming structures there. He said that new item 10.B.(3) is also proposed as

10/24/12

1 new evidence to the Summary of Evidence as follows: The maximum lot coverage in the R-1 District is
2 30%. The subject property is 9,600 square feet which would allow 2,880 square feet of coverage until the
3 minimum lot coverage would be reached. The current lot coverage of the subject property is 3,146 square
4 feet (32.7). The proposed lot coverage is 3,308 square feet (35%). If the petitioner would have removed the
5 275 square feet of the existing garage as was indicated on the approved site plan for ZUPA No. 239-10-02
6 the lot coverage would currently be 2,871 square feet (29.9%) and under the proposed variance would be
7 3,033 square feet (31.5%).

8
9 Mr. Hall stated that he wonders if the County's lot coverage standards are out of date. He said that the
10 Village of Mahomet's Zoning Ordinance does not worry about lot coverage. He said that it could be that the
11 lot coverage requirement for the County is a little out of date and the Board may think that going from 30%
12 to 35% would make a big difference but in terms of the open space on the lot it only went from 70% to 65%
13 which is a modest decrease. He said that the petitioner's testimony mentioned two important things, the
14 house and garage are nonconforming and existed prior to zoning, and it is true that attaching the two
15 increases the nonconformity but he has very good reason for doing so. He said that given all of the
16 nonconformities and given the fact that the County's lot coverage is 30%, a lot of the requests are reasonable
17 and can be justified but it is up to the Board to agree. He said that of the ten parts of the variance seven of
18 them are nonconformities. He said that it is always staff's recommendation that if a petitioner has to go to
19 the Board for one variance and other nonconformities exist maybe the Board can approve all of the
20 nonconformities so that if the petitioner needed to replace his house there would be no problem. He said that
21 the front porch does not have a roof at this time therefore at this time it is not included in the lot coverage but
22 the petitioner explained that he would like to install a roof over the porch therefore it has been included as
23 part of the lot coverage.

24
25 Mr. Howard stated that the new garage is two feet back from the front of the house therefore if his garage is
26 in the way of any expansion of Fogel Road then the front of the house is as well.

27
28 Mr. Hall stated that he approved the garage in a location where it should not have been allowed and it was
29 realized during the processing of this case that staff had erred in the approval of that permit.

30
31 Mr. Thorsland stated that the photographs that Mr. Howard submitted will be added as Documents of Record
32 for the case.

33
34 Mr. Kass distributed photographs of the subject property to the Board that were taken during staff's site visit
35 on October 24, 2012.

36

10/24/12

1 Mr. Thorsland stated that the following items should be added to the Documents of Record: 7.
2 Supplemental Memorandum dated October 24, 2012; and 8. Photographs submitted by Frank Howard at the
3 October 24, 2012, public hearing; and 9. Site visit photographs of the subject property submitted by staff at
4 the October 24, 2012, public hearing.

5
6 Mr. Thorsland stated that no special conditions have been proposed. He said that the Board will move to the
7 Finding of Fact for this case.

8
9 **Finding of Fact for Case 729-V-12:**

10
11 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
12 729-V-12 held on October 24, 2012, the Zoning Board of Appeals of Champaign County finds that:

- 13
14 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
15 **structure involved, which are not applicable to other similarly situated land and**
16 **structures elsewhere in the same district.**

17
18 Mr. Palmgren stated that special conditions and circumstances DO exist which are peculiar to the land or
19 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
20 same district because many of the variances are due to the nonconforming structures being built prior to
21 1973. He said that an error was committed by staff when permitting the shed in 2006 and the petitioner's
22 wife's health requires the proposed accommodations.

23
24 Ms. Capel stated that it is unlikely that Fogel Road will be widened in the future.

- 25
26 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
27 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
28 **the land or structure or construction.**

29
30 Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of the
31 Regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
32 or construction because it would not allow shelter from the garage to the home allowing easy passage
33 between the two structures.

- 34
35 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
36 **result from actions of the applicant.**

10/24/12

1
2 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
3 result from actions of the applicant because many of the structures are nonconforming and was constructed
4 prior to 1973 and the petitioner's wife's health problems do not result from actions of the petitioner.
5

6 **4. The requested variance IS in harmony with the general purpose and intent of the**
7 **Ordinance.**
8

9 Mr. Thorsland stated that the requested variance IS in harmony with the general purpose and intent of the
10 Ordinance because it allows normal and expected use of a residential lot, that would not require most
11 variations if unique conditions were not present.
12

13 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
14 **detrimental to the public health, safety, or welfare.**
15

16 Mr. Palmgren stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
17 detrimental to the public health, safety, or welfare because there will be no visibility issues and not negative
18 comments have been received from the neighbors. He said that no comments have been received from the
19 fire protection district or the township highway commissioner and it is consistent with the overall
20 development pattern of the neighborhood.
21

22 **6. The requested variance IS the minimum variation that will make possible the**
23 **reasonable use of the land/structure.**
24

25 Mr. Passalacqua stated that the requested variance IS the minimum variation that will make possible the
26 reasonable use of the land/structure because it is a small alteration to an existing structure to increase its
27 safety and functionality.
28

29 **7. No special conditions are hereby imposed.**
30

31 Mr. Thorsland entertained a motion to adopt the Findings of Fact as amended.
32

33 **Mr. Courson moved, seconded by Ms. Capel to adopt the Findings of Fact as amended. The motion**
34 **carried by voice vote.**
35

36 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings

10/24/12

1 of Fact as amended.

2
3 **Mr. Passalacqua moved, seconded by Mr. Courson to adopt the Summary of Evidence, Documents of**
4 **Record and Findings of Fact as amended. The motion carried by voice vote.**

5
6 Mr. Thorsland entertained a motion to move to the final determination.

7
8 **Mr. Courson moved, seconded by Mr. Palmgren to move to the final determination for Case 729-V-12.**
9 **The motion carried by voice vote.**

10
11 **Final Determination for Case 729-V-12:**

12
13 **Ms. Capel moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals**
14 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
15 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted**
16 **by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
17 **Champaign County determines that the variance requested in Case 729-V-12 is hereby GRANTED to**
18 **the petitioner Frank Howard to authorize the following in the R-1 Single Family Residence Zoning**
19 **District:**

- 20 **Part A. Variance for lot coverage of 35% in lieu of the maximum allowed 30%;**
- 21 **Part B. Variance for a front yard of 19 feet in lieu of the minimum required 30 feet;**
- 22 **Part C. Variance for a front yard of 22 feet in lieu of the minimum required 25 feet;**
- 23 **Part D. Variance for a front setback of 49 feet from Fogel Road in lieu of the minimum**
24 **required 75 feet;**
- 25 **Part E. Variance for a front setback of 52 feet from Olen Drive in lieu of the minimum**
26 **required 55 feet;**
- 27 **Part F. Variance for a side yard of 3.4 feet in lieu of the minimum required 10 feet;**
- 28 **Part G. Variance for a front yard of an existing accessory structure of 27 feet in**
29 **lieu of the minimum required 30 feet;**
- 30 **Part H. Variance for a front setback for an existing accessory structure of 57 feet from**
31 **Fogel Road in lieu of the minimum required 75 feet;**
- 32 **Part I. Variance from the visibility triangle requirements for a corner lot;**
- 33 **Part J. Variance from Section 4.2.2D requirement that no construction shall take place**
34 **in a recorded utility easement.**

35
36 Mr. Thorsland requested a roll call vote.

10/24/12

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

Courson-yes Miller-yes Palmgren-yes
Passalacqua-yes Capel-yes Thorsland-yes

Mr. Hall informed Mr. Howard that he has received an approval for his case and staff will send out the the appropriate documentation as soon as possible.

Mr. Howard thanked the Board and staff.

Mr. Thorsland entertained a five minute recess.

The Board recessed at 7:55 p.m.

The Board resumed at 8:02 p.m.

Case 730-V-12 Petitioner: Dale L. and Cheri Rapp Request to authorize the following in the CR Conservation-Recreation Zoning District: Part A. Variance for lot coverage of 21% in lieu of the maximum allowed 20%; and Part B. Variance for a front setback for an existing nonconforming dwelling of 39 feet from the centerline of Cottonwood Road in lieu of the minimum required 75 feet; and Part C. Variance for a front yard for an existing nonconforming dwelling of 19 feet in lieu of the minimum required 30 feet; and Part D. Variance for a rear yard for an existing accessory building of 4 feet in lieu of the minimum required 10 feet. Location: A one acre tract in the Southwest Quarter of the Southwest Quarter of Section 1 of Urbana Township and commonly known as the home at 1604 North Cottonwood Road, Urbana.

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 7.6 of the ZBA By-Laws are exempt from cross examination.

Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. He reminded the audience that when they sign the witness

10/24/12

1 register they are signing an oath.

2

3 Mr. Thorsland asked the petitioner if he would like to make a brief statement outlining the nature of his
4 request.

5

6 Mr. Dale Rapp, who resides at 1604 North Cottonwood, Urbana, stated that the subject property is a
7 historical site because in 1865 it was the original site of the first framed Blackberry Schoolhouse. He said
8 that in 1832 the subject property was a log cabin homestead site. He said that the one acre parcel goes back
9 to when the Busey family owned the property and donated it to the school district in 1865.

10

11 Mr. Rapp stated that he had indicated on the site plan a proposed guest cottage for him and his wife to reside
12 and the existing house which was to be for his step-son and family. He said that his step-son would rent to
13 own the home and take possession of it in the future. He said that he had included an elevator addition to the
14 existing home on the site plan for his step-son's wife who has a genetic nerve condition in her legs. He said
15 that his step-son's wife currently walks with a cane but will eventually be in a wheelchair. He said that he
16 included the elevator addition on the site plan which would consist of a two-story elevator. He said that he
17 had included the future 6' x 6' elevator addition but it would not be part of the current Zoning Use Permit
18 because it would be next year before he would construct it. He said that staff advised him to erase the future
19 elevator from the submitted site plan but it is included in the math for the total calculated square footage. He
20 said that he would like the elevator to be noted during this variance request so that he does not have to go
21 back through this process again when the elevator is constructed. He said that Item 8.B(2) of the Summary
22 of Evidence indicates that the 200 square feet is to be used for the handicap elevator although only 36 square
23 feet is actually required.

24

25 Mr. Kass stated that staff used 200 square feet in case there was any other supporting construction that
26 needed to be added in the future. He said that staff added the 200 square feet to accommodate any extra
27 square footage that Mr. Rapp may need in the future.

28

29 Mr. Rapp asked if the 200 square feet placed him over the 20% lot coverage requirement.

30

31 Mr. Hall stated that the square footage was already over the 20% lot coverage requirement.

32

33 Mr. Rapp stated that his math was in error. He asked that the handicap elevator be included in the variance
34 request.

35

36 Mr. Thorsland asked Mr. Rapp if he intended to revise the site plan and add the elevator.

10/24/12

1
2 Mr. Rapp stated yes. He said that the site plan still indicates the elevator because he could not completely
3 erase it.

4
5 Mr. Thorsland asked the Board if there were any questions for Mr. Rapp and there were none.

6
7 Mr. Thorsland asked if staff had any questions for Mr. Rapp and there were none.

8
9 Mr. Hall called John Hall to testify.

10
11 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated October 24,
12 2012, to the Board for review. He said that the new memorandum includes a new proposed item of evidence
13 to the Summary of Evidence. He said that the proposed evidence for new Item 11.F. is as follows: In an e-
14 mail dated October 18, 2012, University of Illinois representative Bruce Walden, indicated that he did not
15 believe that they have any objection to the requested variance. Mr. Hall stated that Mr. Walden's e-mail is
16 included on the back page of the new memorandum. He said that the new memorandum should be added as
17 new Item 3 of the Documents of Record as follows: 3. Supplemental Memorandum dated October 24, 2012,
18 with attachments.

19
20 Mr. Kass distributed photographs of the subject property to the Board that were taken during staff's site visit
21 on October 24, 2012. He said that the photographs should be added as new Item 4. of the Documents of
22 Record as follows: 4. Site visit photographs of the subject property submitted by staff at the October 24,
23 2012, public hearing.

24
25 Mr. Thorsland asked the Board if there were any questions for Mr. Rapp and there were none.

26
27 Mr. Thorsland asked if staff had any questions for Mr. Rapp and there were none.

28
29 Mr. Thorsland stated that no special conditions have been proposed. He said that the Board will move to the
30 Finding of Fact for this case.

31
32 **Finding of Facts for Case 730-V-12:**

33
34 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
35 730-V-12 held on October 24, 2012, the Zoning Board of Appeals of Champaign County finds that:
36

10/24/12

1 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
 2 **structure involved, which are not applicable to other similarly situated land and**
 3 **structures elsewhere in the same district.**

4
 5 Mr. Palmgren stated that special conditions and circumstances DO exist which are peculiar to the land or
 6 structure involved which are not applicable to other similarly situated land and structures elsewhere in the
 7 same district because the home and detached garage existed prior to the adoption of zoning in October 1973.
 8 He said that the existing structures are on the petitioner’s property and no part extends to adjacent property
 9 even though there was a discrepancy on the location of the rear property line.

10
 11 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
 12 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
 13 **the land or structure or construction.**

14
 15 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
 16 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
 17 or construction because it prevents expected use of the land and the 20 feet easement limits the buildable
 18 area of the lot.

19
 20 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
 21 **result from actions of the applicant.**

22
 23 Mr. Palmgren stated that the special conditions, circumstances, hardships or practical difficulties DO NOT
 24 result from actions of the applicant because the home and detached garage existed prior to the adoption of
 25 zoning in October 1973. He said that the existing structures are on the petitioner’s property and no part
 26 extends to adjacent any property even though there was a discrepancy on the location of the rear property
 27 line.

28
 29 Mr. Thorsland stated that the improper lot line location was determined by earlier property owners.

30
 31 **4. The requested variance IS in harmony with the general purpose and intent of the**
 32 **Ordinance.**

33
 34 Mr. Thorsland stated that the requested variance IS in harmony with the general purpose and intent of the
 35 Ordinance because it allows a use on the lot as if it was a full one acre parcel without the road setback.
 36

10/24/12

1 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
2 **detrimental to the public health, safety or welfare.**
3

4 Mr. Palmgren stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
5 detrimental to the public health, safety or welfare because no comments have been received from the fire
6 protection district or the township highway commissioner. He said that no increase in traffic will be created
7 on Cottonwood Road and no major visibility change will occur on Cottonwood Road. He said that the
8 petitioner has a good relationship with the University of Illinois which is the adjacent land owner.
9

10 **6. The requested variance IS the minimum variation that will make possible the**
11 **reasonable use of the land/structure.**
12

13 Ms. Capel stated that the requested variance IS the minimum variation that will make possible the
14 reasonable use of the land/structure because this is the minimum variance that would allow the proposed
15 and existing structures to be in compliance with the Zoning Ordinance.
16

17 **7. No special conditions are hereby imposed**
18

19 Mr. Thorsland entertained a motion to approve the Findings of Fact as amended.
20

21 **Mr. Miller moved, seconded by Mr. Palmgren to approve the Findings of Fact as amended. The**
22 **motion carried by voice vote.**
23

24 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
25 of Fact as amended.
26

27 **Ms. Capel moved, seconded by Mr. Passalacqua to adopt the Summary of Evidence, Documents of**
28 **Record and Findings of Fact as amended. The motion carried by voice vote.**
29

30 Mr. Thorsland entertained a motion to move to the final determination for Case 730-V-12.
31

32 **Mr. Palmgren moved, seconded by Ms. Capel to move to the final determination for Case 730-V-12.**
33 **The motion carried by voice vote.**
34

35 **Final Determination for Case 730-V-12:**
36

10/24/12

1 **Ms. Capel moved, seconded by Mr. Palmgren that the Champaign County Zoning Board of Appeals**
 2 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
 3 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted**
 4 **by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
 5 **Champaign County determines that the variance requested in Case 730-V-12 is hereby GRANTED to**
 6 **the petitioners Dale and Cheri Rapp to authorize the following in the CR Conservation Recreation**
 7 **Zoning District:**

- 8 **Part A. Variance for lot coverage 21% in lieu of the maximum allowed 20%;**
- 9 **Part B. Variance for a front setback for an existing nonconforming dwelling of 39 feet**
 10 **from the centerline of Cottonwood Road in lieu of the minimum required 75**
 11 **feet;**
- 12 **Part C. Variance for a front yard for an existing nonconforming dwelling of 19 feet in**
 13 **lieu of the minimum required 30 feet;**
- 14 **Part D. Variance for a rear yard for an existing accessory building of 4 feet in lieu of the**
 15 **minimum required 10 feet.**

16
17 Mr. Thorsland requested a roll call vote.

18			
19	Miller-yes	Palmgren-yes	Passalacqua-yes
20	Capel-yes	Courson-yes	Thorsland-yes
21			

22 Mr. Hall informed Mr. Rapp that he has received an approval for his case and staff will send out the
23 the appropriate documentation as soon as possible.

24
25 **7. Staff Report**

26
27 None

28
29 **8. Other Business**

30 **A. Review of Docket**

31
32 Mr. Hall stated that there are no updates to report for the docket at this time.

33
34 Mr. Thorsland entertained a motion to cancel the December 27, 2012, meeting.

35
36 **Mr. Passalacqua moved, seconded by Mr. Miller to cancel the December 27, 2012, meeting. The**

1 **motion carried by voice vote.**

2

3 **B. November meetings**

4

5 Mr. Thorsland reminded the Board that there are no ZBA meetings scheduled for November.

6

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

8

9 None

10

11 **10. Adjournment**

12

13 Mr. Thorsland entertained a motion to adjourn the meeting.

14

15 **Ms. Capel moved, seconded by Mr. Courson to adjourn the meeting. The motion carried by voice**
16 **vote.**

17

18 The meeting adjourned at 8:27 p.m.

19

20

21

22 Respectfully submitted

23

24

25

26

27 Secretary of Zoning Board of Appeals

28

29

30

31

32

33

34

35

36

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

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23