

AS APPROVED FEBRUARY 28, 2013

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 **1776 E. Washington Street**

4 **Urbana, IL 61802**

5 **DATE: January 17, 2013**

6 **PLACE: Lyle Shields Meeting Room**

7 **1776 East Washington Street**

8 **Urbana, IL 61802**

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

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

12 **MEMBERS ABSENT :** None

13 **STAFF PRESENT :** Connie Berry, John Hall, Andrew Kass

14 **OTHERS PRESENT :** Jedd Swisher, Daniel Williams, Earl Williams, Dean Rose, Chris Barshney

15 **1. Call to Order**

16 The meeting was called to order at 6:33 p.m.

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

18 The roll was called and a quorum declared present with one member absent and one vacant Board
19 seat.

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

23 **3. Correspondence**

24 None

25 **4. Approval of Minutes (September 19, 2012 and October 24, 2012)**

26 **Mr. Passalacqua moved, seconded by Mr. Miller to approve the September 29, 2012 and October 24,**
27 **2012, minutes as submitted. The motion carried by voice vote.**

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1 **5. Continued Public Hearing**

2
3 **Case 707-S-12** Petitioner: **Daniel Williams and landowner Fran Williams** Request to authorize the
4 **use of an existing Paintball Facility as an “Outdoor Commercial Recreation Enterprise” as a Special**
5 **Use on 5.2 acres that is part of a 35 acre tract in the CR Conservation-Recreation Zoning District.**
6 **Location: A 35 acre tract in the Southeast Quarter of the Northeast Quarter of Section 36 of**
7 **Newcomb Township and commonly known as the home at 2453 CR 600E, Dewey.**

8
9 **Case 725-V-12** Petitioner: **Daniel Williams** Request to authorize the following in the CR Conservation-
10 **Recreation Zoning District for a Special Use proposed in Case 707-S-12: Part A. Variance for a rear**
11 **yard of 0 feet in lieu of the minimum required 25 feet; and Part B. Variance for a side yard of 0 feet in**
12 **lieu of the minimum required 15 feet; and Part C. Variance from a minimum separation from a front**
13 **property line for parking spaces of 0 feet in lieu of the minimum required 10 feet. Location: The same**
14 **5.2 acre tract identified in Case 707-S-12 that is part of a 35 acre tract in the Southeast Quarter of the**
15 **Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453**
16 **CR 600E, Dewey.**

17
18 Mr. Thorsland called Cases 707-S-12 and 725-V-12 concurrently.

19
20 Mr. Thorsland informed the audience that Cases 707-S-12 and 725-V-12 are Administrative Cases and as
21 such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time
22 he will ask for a show of hands for those who would like to cross examine and each person will be called
23 upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any
24 questions. He said that those who desire to cross examine are not required to sign the witness register but
25 are requested to clearly state their name before asking any questions. He noted that no new testimony is to
26 be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the
27 ZBA By-Laws are exempt from cross examination.

28
29 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
30 sign the witness register for that public hearing. He reminded the audience that when they sign the
31 witness register they are signing an oath.

32
33 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

34
35 Mr. Dan Williams stated that he is seeking a permit to allow the continued use of his existing paintball
36 facility.

37
38 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated January 17, 2013,

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1 for Cases 707-S-12 and 725-V-12. He said that the new memorandum includes new information submitted
2 by the petitioner on January 15, 2013, regarding the following: 1. Purple paint has been put on trees to
3 indicate no hunting or trespassing; and 2. Referees are wearing orange during state regulated hunting
4 seasons; and 3. One-third of the woven wire fence has been installed; and 4. One-fifth of the bunkers have
5 been rebuilt for the floodplain area. Mr. Hall stated that the petitioner also provided a revised Firemark
6 Paintball Orientation, which is a handout that is provided to each player. Mr. Hall said that the first
7 paragraph of the Orientation includes the following notes: Note 1: Trespassing onto neighboring properties
8 is strictly prohibited! Make point about woven fence; and Note 2: There is target shooting on adjacent
9 properties. Furthermore, hunting occurs on adjacent properties during state regulated hunting seasons.

10
11 Mr. Hall stated that staff has proposed to update the description of the site plan and the operations and revise
12 Item 5 of the Summary of Evidence. He said that in previous versions of the Summary of Evidence for
13 Cases 707-S-12 and 725-V-12 they were slightly different but obviously this is the same site plan and same
14 operations therefore the item 5.C. should be the same for both cases. He said that Item 5.B. should indicate
15 the revised site plan submitted on January 15, 2012 and new Item 5.B(15) should read as follows: The
16 proposed location of the existing 14' x 60' mobile home in playing Field #2 is proposed to be 142 feet from
17 the north property line; and new Item 5.B(16) should read as follows: An indication that a fence 4 feet in
18 height will run along the side and rear property lines for the length of the playing fields.

19
20 Mr. Hall noted that the Board should remember to obtain conclusive evidence regarding whether or not there
21 is in fact a 15 foot side yard proposed along the north lot line. He said that staff believes that there is a 15
22 foot side yard proposed along the north lot line but no documentation has been received from the petitioner
23 to indicate such.

24
25 Mr. Hall asked Mr. Andrew Kass, Associate Planner, if there was any additional information regarding the
26 site plan.

27
28 Mr. Kass stated that to assure compliance with the side yard requirement the petitioner needed to indicate the
29 distance of the mobile home, which is proposed to be placed in the playing field, to the north property line.

30
31 Mr. Hall stated that the Summary of Evidence for both cases includes new Items 5.D(10) and 5.D(11) as
32 follows: Item 5.D(10): Trespass onto neighboring properties is strictly prohibited; and Item 5.D(11): Target
33 shooting and hunting during state regulated hunting seasons occurs on adjacent properties. He said that Item
34 5.E.2 of the Summary of Evidence for both cases has been revised as follows: A rope will be used to
35 delineate the property boundaries. On January 15, 2013, the petitioner indicated in an update to staff that a
36 woven wire fence is being installed to delineate the property boundaries.

37
38 Mr. Hall stated that the last attachment to the January 17th memorandum is an e-mail dated January 12, 2013,

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1 from Timothy Woodard, former neighbor of the subject property. Mr. Hall said that Mr. Woodard's e-mail
2 is in response to the January 11, 2013, Supplemental Memorandum, which indicated that no new
3 information had been submitted by the petitioner. Mr. Hall stated that Mr. Woodard's e-mail is no longer
4 relevant since the petitioner did submit an update on January 15th and it was distributed to the Board.

5
6 Mr. Hall stated that the Board will be using the Draft Summary of Evidence dated December 13, 2012, for
7 each case.

8
9 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

10
11 Mr. Thorsland asked the Board if there were any questions for Mr. Williams.

12
13 Mr. Thorsland asked Mr. Williams if a fence will be installed 15 feet from the north property line or is a rope
14 going to be installed 15 feet from the north property line.

15
16 Mr. Williams stated that it is his understanding that the 15 feet was supposed to be for the border and a rope
17 from the inside of that. He said that he has not completed the measurement yet because he is only 2/3rd's
18 done with the installation but he would guess that it is 15 feet. He said that he would hope to have the final
19 1/3rd of the installation completed tomorrow. He said that once entire fence along the back half and the side
20 is completed he will measure off 15 feet and install the rope border. He said that the original rope that
21 already exists is almost 15 feet from the property line already. He said that he does not have a rope in Field
22 #1 therefore he must continue the existing rope into that playing field.

23
24 Mr. Thorsland asked the Board if there were any further questions for Mr. Williams and there were none.

25
26 Mr. Thorsland asked if staff had any questions for Mr. Williams.

27
28 Mr. Hall stated that the description of Case 725-V-12 included a Part B, indicates a variance for a side yard
29 of zero feet in lieu of the minimum required 15 feet. He said that it is up to the Board whether or not Part B.
30 is still required but he does not know that installation of the rope and allowing players to cross the rope once
31 they are out of the game is a valid reason to not require it. He said that Part B could remain with the
32 understanding that there is a rope and playing activities are not supposed to be closer than 15 feet from the
33 property line but once a player is tagged out the area beyond the rope can be used. He said that he does not
34 believe that a full variance is needed but maybe a partial variance.

35
36 Mr. Thorsland asked the Board if they would be interested in explaining such in Orientation at a Note 3.

37
38 Mr. Williams stated that technically this information is already in there and if it is not written it is discussed.

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1 He said that if a player steps outside of the rope boundary line they are automatically out of the game.

2

3 Mr. Thorsland asked Mr. Williams if the referees understood the rule as well.

4

5 Mr. Williams stated that the referees absolutely understand the rules and they do enforce them. He said that
6 once a player steps outside of the rope they are not allowed to shoot because they are eliminated. He said
7 that during the discussions the players are told that even though they are eliminated their barrel covers and
8 safety should be on and if they are close to a referee they are reminded to keep their masks on.

9

10 Mr. Thorsland called Earl Williams to testify.

11

12 Mr. Earl Williams, who resides at 2453 CR 600E, Dewey, stated that he has no new information to add at
13 this time.

14

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

16

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

18

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

20

21 Mr. Thorsland called Chris Barshney to testify.

22

23 Mr. Chris Barshney, who resides at 606 W. Louisiana, Champaign, stated that he is a volunteer referee for
24 the paintball facility and is available to answer any questions that the Board may have regarding these cases.

25

26 Mr. Thorsland asked Mr. Barshney if he wore an orange vest during the state hunting season.

27

28 Mr. Barshney stated yes. He said that he wore a blaze orange vest and mask.

29

30 Mr. Thorsland asked Mr. Barshney if he understood the Board's previous conversation regarding the
31 variance requested in Part B. and that if a player steps outside of the rope they are eliminated.

32

33 Mr. Barshney stated that paintball is much like any other sport in that if a player steps outside of the
34 boundary they are eliminated.

35

36 Mr. Thorsland stated that the purple paint that has been discussed and placed on the property assists people
37 that may come onto the property that they may not trespass or hunt. He asked Mr. Barshney if the fence on
38 the property line is the part of the discussion with the players.

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1
2 Mr. Barshney stated yes. He said that he has been assisting Mr. Williams with the installation of the woven
3 wire fence and Mr. Williams has painted all of the trees along the property line with purple paint.
4
5 Mr. Thorsland asked the Board if there were any questions for Mr. Barshney and there were none.
6
7 Mr. Thorsland asked if staff had any questions for Mr. Barshney and there were none.
8
9 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Barshney and there was no one.
10
11 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
12 regarding these cases and there was no one.
13
14 Mr. Thorsland closed the witness register.
15
16 Ms. Capel arrived at 6:48 p.m.
17
18 Mr. Thorsland stated that the Board will now review the Finding for Case 707-S-12. He said that the
19 Supplemental Memorandum dated January 17, 2013, includes proposed and revised evidence.
20
21 Mr. Williams read a letter dated August 11, 2012, from Carl and James Breedlove, adjacent land owners to
22 the subject property, as follows: "Let it be known by all interested parties that Carl and Jim Breedlove
23 condone and approve the use of Earl and Fran Williams farmland for use up to our property line including
24 the identified County 25 foot setback area by Firemark Paintball, owned and operated by Dr. Daniel
25 Williams. This approval is given freely without compensation, coercion, or any restriction. It is understood
26 that there will be players shooting paintballs, lasers, etc. also that there may be obstacles (bunkers) and other
27 apparatus in the area." Mr. Williams submitted the letter as a Document of Record. He said that he has
28 known Mr. Breedlove for many years and they have come to an agreement that during hunting season Mr.
29 Breedlove is out of his wooded area by 10:00 a.m. and Mr. Williams' players can begin after 10:00 a.m. He
30 noted that the letter is mainly in regards to Part A.
31
32 Mr. Hall asked Mr. Williams if he had received this letter in August, 2012, but only submitted it to the Board
33 tonight.
34
35 Mr. Williams stated that the date of the letter is August, 2012 but James Breedlove is on the road a lot and it
36 has been difficult to catch him on a weekend when he could sign the letter.
37
38 Mr. Thorsland clarified that the letter was written in August, 2012 but James and Carl Breedlove were just

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1 now able to sign it.

2

3 Mr. Williams stated yes.

4

5 Mr. Hall stated that revised Item 5, as indicated in the January 17, 2013, Supplemental Memorandum should
6 replace existing Item 5 included in the Summary of Evidence dated December 13, 2012, and renumbered as
7 necessary.

8

9 Mr. Thorsland stated that the Board will now review the proposed special conditions. He said that no new
10 additions have been proposed to the special conditions.

11

12 Mr. Kass agreed, although special condition #13 should be revised to indicate October 31, 2013, and not
13 October 31, 2012.

14

15 Mr. Thorsland informed Mr. Williams that he will read the special conditions and Mr. Williams can simply
16 indicate his agreement or disagreement.

17

18 Mr. Williams stated that it has been a while since he has reviewed the special conditions and would
19 appreciate review of those conditions with the Board.

20

21 Mr. Thorsland read Special Condition A:

22 **A. Regarding State of Illinois accessibility requirements:**

23 **(1) An accessible portable toilet shall be provided;**

24 **(2) The petitioner shall provide a paved accessible parking space with appropriate**
25 **markings and a paved accessible route to the paintball area when the existing**
26 **parking area is expanded or resurfaced as indicated by Doug Gamble,**
27 **Accessibility Specialist, Illinois Capital Development Board.**

28

29 The special conditions stated above are required to ensure the following:

30

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

33

34 Mr. Williams indicated that he agreed to Special Condition A.

35

36 Mr. Thorsland read Special Condition B:

37 **B. All obstacles used in the play of paintball shall be removed from the property if the**
38 **business ceases operations for longer than 180 consecutive days unless the business is**

1 **being actively marketed for sale.**

2
3 The special condition stated above is required to ensure the following:

4
5 **That the subject property is properly maintained and does not become a nuisance.**

6
7 Mr. Williams indicated that he agreed to Special Condition B.

8
9 Mr. Thorsland read Special Condition C.

10
11 **C. Enclosed gaming structures intended to be temporarily occupied by players shall not be**
12 **larger than 150 square feet in area except that the mobile home may be modified for**
13 **use as a gaming structure in playing field #2, as depicted on the approved site plan.**

14
15 The special condition stated above is required to ensure the following:

16
17 **That existing and future structures are small enough in size where life safety**
18 **considerations are not a concern or necessary.**

19
20 Mr. Williams indicated that he agreed to Special Condition C.

21
22 Mr. Thorsland read Special Condition D.

23
24 **D. Regarding structures and obstacles in the floodplain:**
25 **(1) Structures and obstacles used in the play of paintball shall be secured to the**
26 **ground with a T-post.**
27 **(2) Storage of obstacles and structures not being used in the play of paintball shall**
28 **not occur within the floodplain.**

29
30 The special conditions stated above are required to ensure the following:

31
32 **That effects on neighboring properties are mitigated and that storage does not occur**
33 **within the mapped floodplain.**

34
35 Mr. Williams indicated that he agreed to Special Condition D.

36
37 Mr. Thorsland read Special Condition E.

1 **E. This Special Use Permit shall be void if the business has ceased operations for 12**
2 **consecutive months without the business being actively marketed for sale.**

3
4 The special condition stated above is required to ensure the following:

5
6 **That the subject property is properly maintained and does not become a nuisance.**

7
8 Mr. Williams indicated that he agreed to Special Condition E.

9
10 Mr. Thorsland read Special Condition F.

11
12 **F. Regarding operations of the proposed Special Use during hunting seasons the following**
13 **conditions are to be implemented by the petitioner immediately:**

14 (1) **Paintball referees shall wear blaze orange clothing at all times while refereeing**
15 **paintball games.**

16 (2) **The petitioner shall coordinate with neighboring property owners during**
17 **hunting seasons regarding when and where hunters will be on neighboring**
18 **property so that the petitioner can alter the operational hours of the paintball**
19 **park if hunters will be in the immediate vicinity during business hours.**

20 (3) **The proposed Special Use shall be void if any injuries to patrons, employees, or**
21 **volunteers of the paintball park are the result of gunfire (rifles, handguns,**
22 **shotguns).**

23 The special condition stated above is required to ensure the following:

24
25 **That the petitioner implements proper measures to ensure the safety of patrons,**
26 **employees, and volunteers during hunting seasons and to ensure hunters on**
27 **surrounding properties are aware that there are other people in the area.**

28
29 Mr. Williams indicated that he agreed to Special Condition F.

30
31 Mr. Thorsland read Special Condition G.

32
33 **G. As soon as possible the petitioner shall revise the Firemark Paintball Orientation**
34 **overview/ handout to include the following information and send a copy of the revised**
35 **handout to the Zoning Administrator:**

36 (1) **Trespassing onto neighboring property is strictly prohibited.**

37 (2) **Hunting occurs on adjacent properties during State regulated hunting seasons.**

38 (3) **The petitioner shall provide a copy of the revised Orientation handout/overview**

1 **to the Zoning Administrator after the revisions have been made.**

2
3 The special condition stated above is required to ensure the following:

4
5 **To prevent patrons from trespassing onto neighboring properties and to ensure that**
6 **patrons are aware that hunting occurs on adjacent properties.**

7
8 Mr. Williams indicated that he agreed to Special Condition G.

9
10 Mr. Thorsland read Special Condition H.

11
12 **H. No later than October 31, 2013, the petitioner shall mark trees or install marked posts**
13 **along the side and rear property lines with purple paint in accordance with Illinois**
14 **Public Act 97-0477 and allow inspection by the Zoning Administrator.**

15
16 The special condition stated above is required to ensure the following:

17
18 **To prevent trespass from neighboring properties.**

19
20 Mr. Williams indicated that he agreed to Special Condition H.

21
22 Mr. Thorsland read Special Condition I.

23
24 **I. A Change of Use Permit shall be applied for within 30 days of the approval of Cases**
25 **707-S-12 and 725-V-12 by the Zoning Board of Appeals.**

26
27 The above special condition is required to ensure the following:

28
29 **The establishment of the proposed use shall be properly documented as required by the**
30 **Zoning Ordinance.**

31
32 Mr. Williams requested clarification of Special Condition I.

33
34 Mr. Hall stated that when a new special use is authorized a Change of Use Permit is required to record the
35 use in a permit. He said that the Change of Use Permit can be combined with the Zoning Use Permit that is
36 discussed in Special Condition J.

37
38 Mr. Kass noted that the Change of Use and Zoning Use Permit are processed through the Planning and

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1 Zoning Department and not the ZBA.

2

3 Mr. Williams indicated that he agreed to Special Condition I.

4

5 Mr. Thorsland read Special Condition J.

6

7 **J. A Zoning Use Permit Application for the semi-trailer utilized for storage shall be**
8 **applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the**
9 **Zoning Board of Appeals.**

10

11 The above special condition is required to ensure the following:

12

13 **That the storage structure is in compliance with the Zoning Ordinance.**

14

15 Mr. Williams indicated that he agreed to Special Condition J.

16

17 Mr. Thorsland entertained a motion to approve the special conditions as read.

18

19 **Mr. Miller moved, seconded by Mr. Palmgren to approve the special conditions as read. The motion**
20 **carried by voice vote.**

21

22 Mr. Hall stated that the following items should be added to the Documents of Record: 17. Supplemental
23 Memorandum for Cases 707-S-12 and 725-V-12 dated January 11, 2013; and 18. Supplemental
24 Memorandum for Cases 707-S-12 and 725-V-12 dated January 17, 2013, with attachments: A. Progress
25 Update received January 15, 2013; and B. Firemark Paintball Orientation received January 15, 2013; and C.
26 Revised site plan received January 15, 2013; and D. E-mail from Timothy Woodard dated January 12, 2013.
27 He said that new item 20 should be added as follows: Statement from Carl Breedlove and James Breedlove
28 received January 17, 2013.

29

30 **Finding of Fact for Case 707-S-12:**

31

32 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
33 707-S-12 held on May 17, 2012, September 13, 2012, December 13, 2012, and January 17, 2013, the Zoning
34 Board of Appeals of Champaign County finds that:

35

36 **1. The requested Special Use Permit, subject to the special conditions imposed herein,**
37 **IS necessary for the public convenience at this location.**

38

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1 Mr. Palmgren stated that the requested Special Use Permit, subject to the special conditions imposed herein,
2 IS necessary for the public convenience at this location because it is the only facility of its kind in
3 Champaign County and the facility will bring business to the County.

4
5 Mr. Courson stated that the facility is located in the CR District which offers a topographical layout with its
6 trees as covers and open fields which is conducive to a paintball business.

7
8 Mr. Thorsland stated that the facility offers programs for local youth organizations.

9
10 Mr. Kass read the Board’s findings as follows: 1. It is the only facility of its kind located in Champaign
11 County and will provide business to the County; and 2. It is located in a CR District and it offers conditions
12 that are conducive to the paintball business by providing open fields and tree cover; and 3. It offers programs
13 for local youth organizations.

14
15 Mr. Hall noted that there is one other paintball facility in Champaign County but it is located within the
16 jurisdiction of St. Joseph. He said that the Board can leave the finding as indicated or insert
17 “unincorporated” into finding.

18
19 The Board agreed to revise the finding as follows: 1. It is the only facility of its kind located in
20 unincorporated Champaign County and will provide business to the County.

21
22 **2. The requested Special Use Permit, subject to the special conditions imposed herein, is**
23 **so designed, located, and proposed to be operated so that it WILL NOT be injurious to**
24 **the district in which it shall be located or otherwise detrimental to the public health,**
25 **safety and welfare because:**

26
27 **a. The street has ADEQUATE traffic capacity and the entrance location has**
28 **ADEQUATE visibility.**

29
30 Mr. Courson stated that the street has ADEQUATE traffic capacity and the entrance location has
31 ADEQUATE visibility.

32
33 **b. Emergency services availability is ADEQUATE.**

34
35 Mr. Palmgren stated that emergency services availability is ADEQUATE.

36
37 **c. The Special Use WILL be compatible with adjacent uses.**
38

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1 Mr. Courson stated that the Special Use WILL be compatible with adjacent uses.

2

3

d. Surface and subsurface drainage will be ADEQUATE.

4

5 Mr. Palmgren stated that surface and subsurface drainage will be ADEQUATE because drainage patterns
6 will be relatively unchanged.

7

8

e. Public safety will be ADEQUATE.

9

10 Ms. Capel stated that public safety will be ADEQUATE.

11

12

f. The provisions for parking will be ADEQUATE.

13

14 Mr. Palmgren stated that the provisions for parking will be ADEQUATE.

15

16

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

17

18 Mr. Courson stated that the property IS SUITED OVERALL for the proposed improvements.

19

20 **h. Existing public services ARE available to support the proposed Special Use**
21 **without undue public expense.**

22

23 Ms. Capel stated that existing public services ARE available to support the proposed Special Use without
24 undue public expense.

25

26

i. Existing public infrastructure together with the proposed development IS
27 **adequate to support the proposed development effectively and safely without**
28 **undue public expense.**

29

30 Mr. Courson stated that existing public infrastructure together with the proposed development IS adequate to
31 support the proposed development effectively and safely without undue public expense.

32

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

36

37 **3a. The requested Special Use Permit, subject to the special conditions imposed herein,**
38 **DOES conform to the applicable regulations and standards of the DISTRICT in which**

1 **it is located, subject to Case 725-V-12.**

2
3 Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein,
4 DOES conform to the applicable regulations and standards of the DISTRICT in which it is located, subject
5 to Case 725.-V-12.
6

7 **3b. The requested Special Use Permit, subject to the special conditions imposed herein,**
8 **DOES preserve the essential character of the DISTRICT in which it is located because:**

9 **a. The Special Use will be designed to CONFORM to all relevant County**
10 **Ordinances and codes, subject to Case 725-V-12.**
11

12 Mr. Passalacqua stated that the Special Use will be designed to CONFORM to all relevant County
13 Ordinances and codes, subject to Case 725-V-12.
14

15 **b. The Special Use WILL be compatible with adjacent uses.**
16

17 Mr. Passalacqua stated that the Special Use WILL be compatible with adjacent uses.
18

19 **c. Public safety will be ADEQUATE.**
20

21 Mr. Courson stated that public safety will be ADEQUATE.
22

23 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
24 DOES preserve the essential character of the DISTRICT in which it is located.
25

26 **4. The requested Special Use Permit, subject to the special conditions imposed herein, IS**
27 **in harmony with the general purpose and intent of the Ordinance because:**
28

29 **a. The Special Use is authorized in the District**
30

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

34 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
35 location.
36

37 **c. The requested Special Use Permit, subject to the special conditions imposed**
38 **herein, is so designed, located, and proposed to be operated so that it WILL**

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1 **NOT be injurious to the district in which it shall be located or otherwise**
2 **detrimental to the public health, safety and welfare.**

3
4 Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein,
5 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in
6 which it shall be located or otherwise detrimental to the public health, safety and welfare.

7
8 **d. The requested Special Use Permit, subject to the special conditions imposed**
9 **herein, DOES preserve the essential character of the DISTRICT in which it is**
10 **located.**

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

14
15 Mr. Passalacqua stated that the requested Special Use Permit, subject to the special conditions imposed
16 herein, IS in harmony with the general purpose and intent of the Ordinance.

17
18 **5. The requested Special Use IS NOT an existing nonconforming use.**

19
20 Mr. Hall stated that “subject to Case 725-V-12” should be added to findings 3a. and 3.b(a) and the Board
21 agreed.

22
23 **6. The special conditions imposed herein are required to ensure compliance with the**
24 **criteria for Special Use Permits and for the particular purposes described below:**

25
26 **A. Regarding State of Illinois accessibility requirements:**
27 **(1) An accessible portable toilet shall be provided;**
28 **(2) The petitioner shall provide a paved accessible parking space with appropriate**
29 **markings and a paved accessible route to the paintball area when the existing**
30 **parking area is expanded or resurfaced as indicated by Doug Gamble,**
31 **Accessibility Specialist, Illinois Capital Development Board.**

32 The special conditions stated above are required to ensure the following:
33 **That the proposed Special Use meets applicable state requirements for**
34 **accessibility.**

35
36 **B. All obstacles used in the play of paintball shall be removed from the property if the**
37 **business ceases operations for longer than 180 consecutive days unless the business is**
38 **being actively marketed for sale.**

- 1 The special condition stated above is required to ensure the following:
 2 **That the subject property is properly maintained and does not become a nuisance.**
 3
- 4 **C. Enclosed gaming structures intended to be temporarily occupied by players shall not be**
 5 **larger than 150 square feet in area except that the mobile home may be modified for**
 6 **use as a gaming structure in playing field #2, as depicted on the approved site plan.**
 7 The special condition stated above is required to ensure the following:
 8 **That existing and future structures are small enough in size where life safety**
 9 **considerations are not a concern or necessary.**
 10
- 11 **D. Regarding structures and obstacles in the floodplain:**
 12 (1) **Structures and obstacles used in the play of paintball shall be secured to the**
 13 **ground with a T-post.**
 14 (2) **Storage of obstacles and structures not being used in the play of paintball shall**
 15 **not occur within the floodplain.**
 16 The special conditions stated above are required to ensure the following:
 17 **That effects on neighboring properties are mitigated and that storage does not occur**
 18 **within the mapped floodplain.**
 19
- 20 **E. This Special Use Permit shall be void if the business has ceased operations for 12**
 21 **consecutive months without the business being actively marketed for sale.**
 22 The special condition stated above is required to ensure the following:
 23 **That the subject property is properly maintained and does not become a nuisance.**
 24
- 25 **F. Regarding operations of the proposed Special Use during hunting seasons the following**
 26 **conditions are to be implemented by the petitioner immediately:**
 27 (1) **Paintball referees shall wear blaze orange clothing at all times while refereeing**
 28 **paintball games.**
 29 (2) **The petitioner shall coordinate with neighboring property owners during**
 30 **hunting seasons regarding when and where hunters will be on neighboring**
 31 **property so that the petitioner can alter the operational hours of the paintball**
 32 **park if hunters will be in the immediate vicinity during business hours.**
 33 (3) **The proposed Special Use shall be void if any injuries to patrons, employees, or**
 34 **volunteers of the paintball park are the result of gunfire (rifles, handguns,**
 35 **shotguns).**
 36 The special condition stated above is required to ensure the following:
 37 **That the petitioner implements proper measures to ensure the safety of patrons,**
 38 **employees, and volunteers during hunting seasons and to ensure hunters on**

surrounding properties are aware that there are other people in the area.

G. As soon as possible the petitioner shall revise the Firemark Paintball Orientation overview/ handout to include the following information and send a copy of the revised handout to the Zoning Administrator:

- (1) Trespassing onto neighboring property is strictly prohibited.**
- (2) Hunting occurs on adjacent properties during State regulated hunting seasons.**
- (3) The petitioner shall provide a copy of the revised Orientation handout/overview to the Zoning Administrator after the revisions have been made.**

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

To prevent patrons from trespassing onto neighboring properties and to ensure that patrons are aware that hunting occurs on adjacent properties.

H. No later than October 31, 2013, the petitioner shall mark trees or install marked posts along the side and rear property lines with purple paint in accordance with Illinois Public Act 97-0477 and allow inspection by the Zoning Administrator.

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

To prevent trespass from neighboring properties.

I. A Change of Use Permit shall be applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the Zoning Board of Appeals.

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

J. A Zoning Use Permit Application for the semi-trailer utilized for storage shall be applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the Zoning Board of Appeals.

The above special condition is required to ensure the following:

That the storage structure is in compliance with the Zoning Ordinance.

Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Finding of Facts as amended.

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

Mr. Thorsland entertained a motion to move to the Final Determination for Case 707-S-12.

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Mr. Courson moved, seconded by Ms. Capel to move to the Final Determination for Case 707-S-12. The motion carried by voice vote.

Final Determination for Case 707-S-12:

Mr. Courson moved, seconded by Mr. Miller that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted by Section 9.1.6B of the Champaign County Zoning Ordinance determines that the Special Use requested in Case 707-S-12 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicants to Daniel Williams and landowner Fran Williams to authorize the use of an existing Paintball Facility as an “Outdoor Commercial Recreational Enterprise” as a Special Use, subject to the following special conditions:

- A. Regarding State of Illinois accessibility requirements:
 - (1) An accessible portable toilet shall be provided;
 - (2) The petitioner shall provide a paved accessible parking space with appropriate markings and a paved accessible route to the paintball area when the existing parking area is expanded or resurfaced as indicated by Doug Gamble, Accessibility Specialist, Illinois Capital Development Board.
The special conditions stated above are required to ensure the following:
That the proposed Special Use meets applicable state requirements for accessibility.

- B. All obstacles used in the play of paintball shall be removed from the property if the business ceases operations for longer than 180 consecutive days unless the business is being actively marketed for sale.
The special condition stated above is required to ensure the following:
That the subject property is properly maintained and does not become a nuisance.

- C. Enclosed gaming structures intended to be temporarily occupied by players shall not be larger than 150 square feet in area except that the mobile home may be modified for use as a gaming structure in playing field #2, as depicted on the approved site plan.
The special condition stated above is required to ensure the following:
That existing and future structures are small enough in size where life safety considerations are not a concern or necessary.

- 1 **D. Regarding structures and obstacles in the floodplain:**
- 2 (1) Structures and obstacles used in the play of paintball shall be secured to the
- 3 ground with a T-post.
- 4 (2) Storage of obstacles and structures not being used in the play of paintball shall
- 5 not occur within the floodplain.
- 6 The special conditions stated above are required to ensure the following:
- 7 **That effects on neighboring properties are mitigated and that storage does not occur**
- 8 **within the mapped floodplain.**
- 9
- 10 **E. This Special Use Permit shall be void if the business has ceased operations for 12**
- 11 **consecutive months without the business being actively marketed for sale.**
- 12 The special condition stated above is required to ensure the following:
- 13 **That the subject property is properly maintained and does not become a nuisance.**
- 14
- 15 **F. Regarding operations of the proposed Special Use during hunting seasons the following**
- 16 **conditions are to be implemented by the petitioner immediately:**
- 17 (1) Paintball referees shall wear blaze orange clothing at all times while refereeing
- 18 paintball games.
- 19 (2) The petitioner shall coordinate with neighboring property owners during
- 20 hunting seasons regarding when and where hunters will be on neighboring
- 21 property so that the petitioner can alter the operational hours of the paintball
- 22 park if hunters will be in the immediate vicinity during business hours.
- 23 (3) The proposed Special Use shall be void if any injuries to patrons, employees, or
- 24 volunteers of the paintball park are the result of gunfire (rifles, handguns,
- 25 shotguns).
- 26 The special condition stated above is required to ensure the following:
- 27 **That the petitioner implements proper measures to ensure the safety of patrons,**
- 28 **employees, and volunteers during hunting seasons and to ensure hunters on**
- 29 **surrounding properties are aware that there are other people in the area.**
- 30
- 31 **G. As soon as possible the petitioner shall revise the Firemark Paintball Orientation**
- 32 **overview/ handout to include the following information and send a copy of the revised**
- 33 **handout to the Zoning Administrator:**
- 34 (1) Trespassing onto neighboring property is strictly prohibited.
- 35 (2) Hunting occurs on adjacent properties during State regulated hunting seasons.
- 36 (3) The petitioner shall provide a copy of the revised Orientation handout/overview
- 37 to the Zoning Administrator after the revisions have been made.
- 38 The special condition stated above is required to ensure the following:

1 **To prevent patrons from trespassing onto neighboring properties and to ensure that**
2 **patrons are aware that hunting occurs on adjacent properties.**

3
4 **H. No later than October 31, 2013, the petitioner shall mark trees or install marked posts**
5 **along the side and rear property lines with purple paint in accordance with Illinois**
6 **Public Act 97-0477 and allow inspection by the Zoning Administrator.**

7 The special condition stated above is required to ensure the following:

8 **To prevent trespass from neighboring properties.**

9
10 **I. A Change of Use Permit shall be applied for within 30 days of the approval of Cases**
11 **707-S-12 and 725-V-12 by the Zoning Board of Appeals.**

12 The above special condition is required to ensure the following:

13 **The establishment of the proposed use shall be properly documented as required by the**
14 **Zoning Ordinance.**

15
16 **J. A Zoning Use Permit Application for the semi-trailer utilized for storage shall be**
17 **applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the**
18 **Zoning Board of Appeals.**

19 The above special condition is required to ensure the following:

20 **That the storage structure is in compliance with the Zoning Ordinance.**

21
22 Mr. Thorsland requested a roll call vote.

23
24 **Capel-yes Courson-yes Miller-yes**
25 **Palmgren-yes Passalacqua-yes Thorsland-yes**

26
27 Mr. Hall informed the petitioner that he has received an approval for Case 707-S-12.

28
29 Mr. Thorsland stated that the Board will now review the Summary of Evidence for Case 725-V-12.

30
31 Mr. Hall stated that a new Item #5.C.(2)(a) be added to the description of the variance included in the
32 December 13, 2012, Finding of Fact. He said that new Item #5.C.(2)(a) should read as follows: Testimony
33 received at the January 17, 2013, public hearing petitioner Dan Williams testified that play will not be closer
34 than 15 feet of the north property line but once a player is tagged out they can cross the rope and stand in the
35 15 foot side yard. Mr. Hall stated that the addition of new Item # 5.C.(2)(a) will assure that the petitioner’s
36 testimony was captured and would make it clear that there is really only a partial variance for the 15 foot side
37 yard and applies to the active play and does not apply to a player that has been tagged out.
38

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1 Mr. Thorsland asked the Board if they agreed to Mr. Hall’s suggested new item of evidence and the Board
2 agreed.

3
4 Mr. Thorsland read proposed Special Condition A as follows:

- 5 **A. The petitioner and any future owner of Firemark Paintball shall have in place**
6 **and maintain a rope 15 feet from only the north property line to delineate the exterior**
7 **boundaries of the play fields at all times and a 4 feet tall woven wire fencing with signs**
8 **stating “DO NOT GO BEYOND FENCE” to indicate the end of the property as**
9 **indicated on the approved site plan.**

10 The special condition stated above is required to ensure the following:

11 **To prevent trespass of Firemark Paintball patrons onto neighboring properties.**

12
13 Mr. Williams indicated that he agreed to proposed Special Condition A.

14
15 Mr. Thorsland entertained a motion to approved Special Condition A, as amended.

16
17 **Mr. Passalacqua moved, seconded by Mr. Courson to approve Special Condition A, as amended. The**
18 **motion carried by voice vote.**

19
20 Mr. Thorsland stated that the Documents of Record for Case 725-V-12 are identical to the Documents of
21 Record for Case 707-S-12 and staff will amend Case 725-V-12 accordingly.

22
23 Mr. Kass stated that Mr. Thorsland was correct.

24
25 **Finding of Fact for Case 725-V-12:**

26
27 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
28 725-V-12 held on September 13, 2012, December 13, 2012, and January 17, 2013, the Zoning Board of
29 Appeals of Champaign County finds that:

- 30
31 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
32 **structure involved, which are not applicable to other similarly situated land and**
33 **structures elsewhere in the same district.**

34
35 Mr. Thorsland stated that special conditions and circumstances DO exist which are peculiar to the land or
36 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
37 same district because removing 25 feet from the back of the property would take a substantial amount of area
38 from play which is necessary for the paintball business to operate and moving the fields in would require

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1 productive farmland to be utilized for play.

- 2
3 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
4 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
5 **the land or structure or construction.**
6

7 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of the
8 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
9 or construction because it would limit the size of the playing fields.

10
11 Ms. Capel stated that by carrying out the strict letter of the regulations would cause the desirable terrain to
12 not be usable for play.

- 13
14 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
15 **result from actions of the applicant.**
16

17 Ms. Capel stated that special conditions, circumstances, hardships, or practical difficulties DO NOT result
18 from actions of the applicant because the play fields utilize the terrain and natural features that would
19 otherwise be located in the minimum required rear yard.

20
21 Mr. Thorsland stated that the playing fields are located on non-productive land, therefore not taking any
22 active farmland out of production.

- 23
24 **4. The requested variance, subject to the proposed special condition, IS in harmony with**
25 **the general purpose and intent of the Ordinance.**
26

27 Mr. Thorsland stated that the requested variance, subject to the proposed special condition, IS in harmony
28 with the general purpose and intent of the Ordinance because there will still be more than 600 feet to the
29 nearest dwelling and that landowner has provided a letter of approval for the proposed variance.

- 30
31 **5. The requested variance, subject to the proposed special condition, WILL NOT be**
32 **injurious to the neighborhood or otherwise detrimental to the public health, safety, or**
33 **welfare.**
34

35 Mr. Miller stated that the requested variance, subject to the proposed special condition, WILL NOT be
36 injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because the
37 existing activities are non-invasive to bordering properties and will not create any health or safety issues.

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1 Mr. Courson stated that the petitioner has constructed fencing to prevent trespass onto the neighboring
2 properties.

3
4 Ms. Capel stated that the petitioner notifies patrons that trespass is prohibited.

5
6 **6. The requested variance, subject to the proposed special condition, IS the minimum
7 variation that will make possible the reasonable use of the land/structure.**

8
9 The Board had no comments for Finding #6.

10
11 **7. The special condition, imposed herein is required for the particular purpose described
12 below:**

13
14 **A. The petitioner and any future owner of Firemark Paintball shall have in place
15 and maintain a rope 15 feet from only the north property line to delineate the
16 exterior boundaries of the play fields at all times and a 4 feet tall woven wire
17 fencing with signs stating “DO NOT GO BEYOND FENCE” to indicate the end
18 of the property as indicated on the approved site plan.**

19 The special condition stated above is required to ensure the following:
20 **To prevent trespass of Firemark Paintball patrons onto neighboring properties.**

21
22 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Finding
23 of Facts as amended.

24
25 **Mr. Courson moved, seconded by Mr. Miller to adopt the Summary of Evidence, Documents of
26 Record and Finding of Facts as amended. The motion carried by voice vote.**

27
28 Mr. Thorsland entertained a motion to move to the Final Determination for Case 725-V-12.

29
30 **Ms. Capel moved, seconded by Mr. Courson to move to the Final Determination for Case 725-V-12.
31 The motion carried by voice vote.**

32
33 **Final Determination for Case 725-V-12:**

34
35 **Mr. Courson moved, seconded by Mr. Miller that the Champaign County Zoning Board of Appeals
36 finds that, based upon the application, testimony, and other evidence received in this case, that the
37 requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted
38 in Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**

1 **Champaign County finds that the Variance requested in Case 725-V-12 is hereby GRANTED WITH**
 2 **CONDITIONS to the petitioner Daniel Williams to authorize the following in the CR Zoning District:**
 3 **Part A. Variance for a rear yard of zero feet in lieu of the minimum required 25 feet; and Part B.**
 4 **Variance for a side yard of zero feet in lieu of the minimum required 15 feet; and Part C. Variance**
 5 **from a minimum separation from a front property line for parking spaces of zero feet in lieu of the**
 6 **minimum required 10 feet, subject to the following special condition:**

7
 8 **A. The petitioner and any future owner of Firemark Paintball shall have in place**
 9 **and maintain a rope 15 feet from only the north property line to delineate the**
 10 **exterior boundaries of the play fields at all times and a 4 feet tall woven wire**
 11 **fencing with signs stating “DO NOT GO BEYOND FENCE” to indicate the end**
 12 **of the property as indicated on the approved site plan.**

13 The special condition stated above is required to ensure the following:

14 **To prevent trespass of Firemark Paintball patrons onto neighboring properties.**

15
 16 Mr. Thorsland requested a roll call vote.

17			
18	Palmgren-yes	Passalacqua-yes	Capel-yes
19	Courson-yes	Miller-yes	Thorsland-yes
20			

21 Mr. Hall informed the petitioner that he has received an approval for Case 725-V-12.

22
 23 Mr. Thorsland stated that the Board will take a five minute recess prior to hearing Case 724-V-12.

24
 25 **The Board recessed at 7:42 p.m.**

26 **The Board resumed at 7:47 p.m.**

27
 28 **6. New Public Hearings**

29
 30 **Case 724-V-12 Petitioner: Jedd Swisher Request to authorize the following in the CR Conservation-**
 31 **Recreation Zoning District: Part A. Authorize the following on Lot 2 of Phillips Acres Subdivision:**
 32 **1. Variance for a lot area of .78 acre in lieu of the minimum required 1 acre; and 2. Variance for an**
 33 **average lot width of 104.15 feet in lieu of the minimum required 200 feet; and 3. Variance to authorize**
 34 **the use of Lot 2 separately from Lot 3 in lieu of the requirement that when two or more contiguous**
 35 **lots that do not meet any dimensional, geometric, lot access or other standards are brought into**
 36 **common ownership the lots shall be considered one lot, on the subject property. Part B. Authorize the**
 37 **following on Lot 3 of Phillips Acres Subdivision: 1. Variance for a lot area of .77 acre in lieu of the**
 38 **minimum required 1 acre; and 2. Variance for an average lot width of 104.40 feet in lieu of the**

1 **minimum required 200 feet; and 3. Variance to authorize the use of Lot 3 separately from Lot 2 in lieu**
2 **of the requirement that when two or more contiguous lots that do not meet any dimensional,**
3 **geometric, lot access or other standards are brought in to common ownership the lots shall be**
4 **considered one lot, on the subject property. Location: Lots 2 and 3 of Phillip's Acres Subdivision in**
5 **the Northeast Quarter of Section 12 of Urbana Township and commonly known as the dwelling at**
6 **1762 CR 1650N, Urbana.**

7
8 Mr. Thorsland informed the audience that Case 724-V-12 is an Administrative Case and as such the County
9 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
10 show of hands for those who would like to cross examine and each person will be called upon. He requested
11 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
12 that those who desire to cross examine are not required to sign the witness register but are requested to
13 clearly state their name before asking any questions. He noted that no new testimony is to be given during
14 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
15 exempt from cross examination.

16
17 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
18 sign the witness register for that public hearing. He reminded the audience that when they sign the
19 witness register they are signing an oath.

20
21 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

22
23 Mr. Jedd Swisher, who resides at 1762 CR 1650N, Urbana, stated that he owns the two lots which are the
24 subject of this case. He said that his twenty-two year old daughter has a five year old son and due to her
25 employment Mr. Swisher and his wife will care for their grandson during the week and on weekends. He
26 said that instead of his daughter getting a place somewhere else they decided that it would be better to build
27 a home on the empty lot next to their home. He said that the property is located within the St. Joseph School
28 District which is the district that his daughter desires for her son to attend.

29
30 Mr. Thorsland asked the Board if there were any questions for Mr. Swisher and there were none.

31
32 Mr. Thorsland asked if staff had any questions for Mr. Swisher and there were none.

33
34 Mr. Passalacqua asked Mr. Hall if any construction has occurred on the empty lot.

35
36 Mr. Hall stated no.

37
38 Mr. Hall stated that this is one of those rare cases where the facts are pretty simple. He said that this is an

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1 old subdivision and the Land Use Map indicates that there are separate dwellings on almost every lot that
2 was platted. He said that he does not know how Mr. Swisher came to be the lucky owner of one of the lots
3 which remained vacant but the lot is not one acre and is does not have an average lot width of 200 feet
4 therefore the variances are required. Mr. Hall said that Mr. Swisher has provided evidence that he has
5 already received a septic permit for the vacant lot and there is plenty of buildable area outside of the mapped
6 floodplain. Mr. Hall stated that permitting a house on the vacant lot would prevent the use of farmland
7 anywhere else for a home. He said that this variance is very straight forward and the petitioner has done his
8 homework by obtaining the permit for the septic system.

9
10 Mr. Thorsland asked the Board if there were any questions for staff and there were none.

11
12 Mr. Courson stated that he noticed that the site plan indicates that the water line which crosses the septic
13 field which is not allowed by the health department.

14
15 Mr. Swisher stated that he had Sims Well Drilling Company at the site yesterday and they informed him that
16 the water line would cross the new septic system and his existing septic system as well therefore the water
17 line will be directed to the front of the lot and then back to the new home. He said that he has not had a
18 chance to revise the site plan to indicate the new location of the water line.

19
20 Ms. Capel asked Mr. Swisher if there would be an issue with the shared well if both properties are sold.

21
22 Mr. Swisher stated no. He said that Sims Well Drilling Company informed him that the one well is capable
23 of supplying four homes with water service.

24
25 Mr. Kass stated that it is common practice for modern subdivisions to share a well and some even share
26 septic systems.

27
28 Mr. Swisher stated that he was informed by the Champaign County Health Department that both homes
29 could share the well but could not share the septic system.

30
31 Mr. Thorsland thanked Mr. Swisher for obtaining the septic permit and for not constructing anything on the
32 lot prior to this hearing.

33
34 Mr. Passalacqua asked Mr. Swisher if he could revise the annotated site plan tonight indicating the new
35 location for the water line.

36
37 Mr. Swisher stated yes. He said that he purchased Lot 3, his residence, from the deceased owner of Cross
38 Construction and four years later he purchased Lot 2 separately. He said that the two lots have separate real

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1 estate tax bills therefore he believed that he had two separate buildable lots but when he visited the Planning
2 and Zoning Department he was informed that the lots were treated as one lot because he owned them both.

3
4 Mr. Passalacqua asked Mr. Kass if any communication from the neighbors has been received by staff.

5
6 Mr. Kass stated no.

7
8 Mr. Swisher stated that he spoke with his neighbors about his proposal and they indicated no opposition.

9
10 Ms. Capel stated that the proposed use of the lot would be within the characteristic of the neighborhood.

11
12 Mr. Thorsland stated that this is a better use for the vacant lot rather than utilizing productive farmland for a
13 home somewhere else in the County.

14
15 Mr. Thorsland asked the Board if there were any additional questions or comments for Mr. Swisher or staff
16 and there were none.

17
18 Mr. Thorsland read the proposed special condition as follows:

- 19 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate**
20 **for the proposed construction until the petitioner has received a Zoning Use**
21 **Permit for the existing shed on Lot 2.**

22 The above special condition is required to ensure the following:

23 **That the storage structure is in compliance with the Zoning Ordinance.**

24
25 Mr. Swisher stated that the shed existed on the property when he purchased it. He said that Mr. Kass
26 informed him that a permit was required for the shed's construction and no permit was issued therefore
27 before a Zoning Compliance Certificate for the proposed house could be issued on Lot 2 he would need to
28 obtain a permit for the shed. He said that he intends to keep the shed for personal storage therefore he has no
29 issue with obtaining the permit.

30
31 Mr. Thorsland asked Mr. Swisher if he agreed to Special Condition A.

32
33 Mr. Swisher stated yes.

34
35 Mr. Thorsland entertained a motion to approve the condition as read.

36
37 **Mr. Passalacqua moved, seconded by Mr. Courson to approve Special Condition A as read. The**
38 **motion carried by voice vote.**

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Mr. Thorsland stated that there are no new documents to add to the Documents of Record therefore the Board will move the Findings of Fact.

Findings of Fact for Case 724-V-12:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 724-V-12 held on January 17, 2013, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Courson stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the subdivision was platted prior to zoning in 1973.

Mr. Thorsland stated that no additional land is available on either side to allow room for expansion.

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

Mr. Courson stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because under the Zoning Ordinance the lot is non-conforming therefore no permit could be issued, rendering the lot unbuildable.

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

Mr. Palmgren stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the subdivision was platted in 1963 which was prior to zoning. He said that the lot has an area located in the floodplain which limits the buildable area.

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

1 Mr. Thorsland stated that the requested variance, subject to the proposed special conditions, IS in harmony
2 with the general purpose and intent of the Ordinance because it allows construction consistent with the
3 surrounding area and does not force construction onto adjacent farmland.

4

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

8

9 Mr. Passalacqua stated that the requested variance, subject to the proposed special condition, WILL NOT be
10 injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the
11 building is consistent with neighboring properties.

12

13 Mr. Thorsland stated that the petitioner has obtained a septic permit for the new construction on Lot 2 from
14 the County Health Department.

15

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

18

19 Mr. Thorsland stated that the requested variance, subject to the proposed special condition, IS the minimum
20 variation that will make possible the reasonable use of the land/structure.

21

22 **7. The special condition imposed herein is required for the particular purpose described**
23 **below:**

24 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate**
25 **for the proposed construction until the petitioner has received a Zoning Use**
26 **Permit for the existing shed on Lot 2.**

27 The above special condition is required to ensure the following:

28 **That the storage structure is in compliance with the Zoning Ordinance.**

29

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

32

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

35

36 Mr. Thorsland entertained a motion to move to the Final Determination for Case 724-V-12.

37

38 **Mr. Passalacqua moved, seconded by Mr. Courson to move to the Final Determination for Case 724-**

1 V-12. The motion carried by voice vote.

2

3 **Final Determination for Case 724-V-12:**

4

5 Mr. Courson moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals
6 finds that, based upon the application, testimony, and other evidence received in this case, that the
7 requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted
8 by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of
9 Champaign County determines that the Variance requested in Case 724-V-12 is hereby GRANTED
10 WITH CONDITIONS to the petitioner Jedd Swisher to authorize the following in the CR
11 Conservation Zoning District: Part A. Authorize the following on Lot 2 of Phillips Acres
12 Subdivision: 1. Variance for a lot area of .78 acre in lieu of the minimum required 1 acre; and 2.
13 Variance for an average lot width of 1.04.15 feet in lieu of the minimum required 200 feet; and 3.
14 Variance to authorize the use of Lot 2 separately from Lot 3 in lieu of the requirement that when two
15 or more contiguous lots that do not meet any dimensional, geometric, lot access or other standards are
16 brought into common ownership the lots shall be considered on lot. Part B. Authorize the following
17 on Lot 3 of Phillips Acres Subdivision: 1. Variance for a lot area of .77 acre in lieu of the minimum
18 required 1 acre; and 2. Variance for an average lot width of 104.40 feet in lieu of the minimum
19 required 200 feet; and 3. Variance to authorized the use of Lot 3 separately from Lot 2 in lieu of the
20 requirement that when two or more contiguous lots that do not meet any dimensional, geometric, lot
21 access or other standards are brought into common ownership the lots shall be considered one lot.
22 Subject to the following special condition:

- 23 A. The Zoning Administrator shall not issue a Zoning Compliance Certificate
- 24 for the proposed construction until the petitioner has received a Zoning Use
- 25 Permit for the existing shed on Lot 2.

26 The above special condition is required to ensure the following:

27 That the storage structure is in compliance with the Zoning Ordinance.

28

29 Mr. Thorsland requested a roll call vote.

30

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

33

34 Mr. Hall informed the petitioner that he has received an approval for Case 724-V-12.

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36 7. Staff Report

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38 None

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8. Other Business

A. November and December 2012 Monthly Reports

None

B. Review of Docket

Mr. Hall stated that currently staff is docketing for the March 28th meeting. He said that several text amendments will be heard at the next meeting.

C. Review and approval of 2013 ZBA Meeting Calendar

Ms. Capel noted that she will be absent from the February 14, 2013, meeting.

Mr. Thorsland requested that the Board review the calendar as submitted. He asked the Board if they desired to cancel the December 26, 2013, meeting.

Ms. Capel stated that the Board normally cancels this meeting anyway therefore it would make sense to just go ahead and cancel now so that it can be removed from the approved calendar.

Mr. Thorsland entertained a motion to cancel the December 26, 2013, meeting.

Ms. Capel moved, seconded by Mr. Palmgren to cancel the December 26, 2013, meeting. The motion carried by voice vote.

Mr. Thorsland entertained a motion to approve the 2013 Planning and Zoning Calendar as amended.

Ms. Capel moved, seconded by Mr. Passalacqua to approve the 2013 Planning and Zoning Calendar as amended. The motion carried by voice vote.

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

None

10. Adjournment

Mr. Thorsland entertained a motion to adjourn the meeting.

Mr. Courson moved, seconded by Mr. Palmgren to adjourn the January 17, 2013, meeting. The motion carried by voice vote.

ZBA

AS APPROVED FEBRUARY 28, 2013

1/13/13

1 The meeting adjourned at 8:17 p.m.

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5 Respectfully submitted

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10 Secretary of Zoning Board of Appeals

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DRAFT SUBJECT TO APPROVAL DRAFT ZBA //

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