

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: September 25, 2014

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 7:00 p.m.

MEMBERS PRESENT: Catherine Capel, Debra Griest, Marilyn Lee, Brad Passalacqua, Jim Randol

MEMBERS ABSENT : Eric Thorsland, Roger Miller

STAFF PRESENT : Connie Berry, Susan Chavarria, John Hall

OTHERS PRESENT : Eric Sebens, Jerry Kalk, Barbara Kalk, Toby Drollinger, Keith Harris, Jim McGuire

1. Call to Order

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

Mr. Hall informed the Board that due to the absence of Mr. Thorsland the Board needs to appoint an acting Chair for tonight's meeting.

Mr. Passalacqua moved, seconded by Ms. Lee to appoint Cathe Capel as the acting Chair for tonight's meeting. The motion carried by voice vote.

2. Roll Call and Declaration of Quorum

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

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

3. Correspondence

None

4. Approval of Minutes (August 28, 2014)

Ms. Capel entertained a motion to approve the August 28, 2014, minutes.

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

Mr. Randol moved, seconded by Ms. Griest to approve the August 28, 2014, minutes.

Ms. Capel asked the Board if there were any required corrections to the August 28, 2014, minutes.

Ms. Lee noted that under the Member’s Absent section of the August 28th minutes the spelling of Mr. Thorsland’s name should be corrected.

The motion carried by voice vote.

5. Continued Public Hearing

Case 766-AM-13 Petitioner: Eric L. Sebens d.b.a. Prairieview Landscaping Request: Amend the Zoning Map to change the zoning district designation from the AG-1, Agriculture Zoning District to the B-1 Rural Trade Center Zoning District in order to authorize the proposed Special Use in related zoning Case 767-S-13. Location: A 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR 900E, Champaign.

Case 767-S-13 Petitioner: Eric L. Sebens d.b.a. Prairieview Landscaping Request: Authorize the following as a Special Use in the B-1 Rural Trade Center Zoning District: Part A. Authorize multiple principal buildings on the same lot consisting of the following: (1) a landscape contractor’s facility with outdoor storage that was originally authorized in Case 101-S-97; and (2) Self-Storage Warehouses, providing heat and utilities to individual units as a special use proposed in Part B. Part B. Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to individual units as a special use. Location: A 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR 900E, Champaign.

Ms. Capel called Cases 766-AM-13 and 767-S-13 concurrently.

Ms. Capel informed the audience that Case 767-S-13 is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of hands for those who would like to cross examine and each person will be called upon. She requested that anyone called to cross examine go to the cross examination microphone to ask any questions. She 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. She noted that no new testimony is to be given during the cross examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

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

Ms. Capel asked the petitioner if he desired to make a statement outlining the nature of his request.

Mr. Sebens, who resides at 3008 Cherry Hills Drive, Champaign, thanked the Board for their time and consideration of his requests. He said that he and Mr. Osterbur have worked very hard to meet the requirements of the Zoning Ordinance and the desires of the Zoning Board of Appeals and he is present tonight seeking approval of his two cases.

Ms. Capel asked the Board and staff if there were any questions for Mr. Sebens and there were none.

Ms. Capel asked the audience if anyone desired to cross examine Mr. Sebens and there was no one.

Ms. Capel called John Hall to testify.

Mr. John Hall, Zoning Administrator, distributed an excerpt of the draft September, 11, 2014, minutes to the Board for review. He said that the Board adopted Findings of Fact for both cases at the September 11th meeting. He said that the draft September 11th meeting minutes were available after he had drafted the finding for Case 767-S-13 and the minutes helped him realize that on page 33 of the Revised Draft Summary of Evidence and Findings of Fact the minutes reflect that the actual finding should read as follows:

- 1. The requested Special Use **IS** necessary for the public convenience at this location because **all evidence concluded that the proposal followed County requirements; the subject property has not been in agricultural production since the Zoning Ordinance was adopted in 1973; the proposed Special Use is located in an area where it can meet the needs of several communities and the surrounding rural area; and there is no self-storage facility on this side of Champaign.**

Mr. Hall said that the phrase, “and the surrounding rural area” was omitted from his notes but it is an important part of that finding and should match the draft minutes.

Mr. Hall stated that on page 12 for Case 767-S-13 item #7.F. is one of the subsidiary findings that tie the map amendment and the special use case together and the minutes demonstrate that the Board forgot to make a determination for item 7.F. He said that he drafted item #7.F. based upon the Board’s findings on all other findings but he wanted to bring this matter to the Board’s attention tonight.

Mr. Hall stated that on page 36 for Case 767-S-13, Special Condition H. he would like the Board to consider the following revision of Special Condition H.(2).:

- (2) **Doors shall not be installed on any storage unit at a location at which the exterior of that unit is not enclosed by a six-foot tall chain link fence.**

1 Mr. Hall stated that he believes that the revision is an improvement and provides clear guidance for the
2 future zoning administrator and he would recommend this change to that item. He said that with these three
3 changes the Board could approve the amended Summary of Evidence and Finding of Fact.
4

5 **Ms. Griest moved, seconded by Mr. Randol to approve the three revisions to the Summary of**
6 **Evidence and Findings of Fact for Case 767-S-13. The motion carried by voice vote with one opposing**
7 **vote.**
8

9 Mr. Hall stated that the cases were continued to tonight’s meeting in hope of a fuller Board for a final
10 decision although tonight’s Board is no more full than it was at the last meeting. He said that it is up to the
11 petitioner whether or not he desires to proceed to the final determination at tonight’s meeting or continue his
12 cases to a future date.
13

14 Mr. Hall asked Mr. Sebens if he agreed to the changes to the Findings of Fact and the Special Condition.
15

16 Mr. Sebens stated yes.
17

18 Ms. Capel entertained a motion to move to the Final Determination for Case 766-AM-13 and 767-S-13.
19

20 **Mr. Passalacqua moved, seconded by Ms. Griest to move to the Final Determination for Case 767-**
21 **AM-14. The motion carried by voice vote.**
22

23 Ms. Capel informed the petitioner that two Board members were absent therefore it is at his discretion to
24 either continue Case 766-AM-13 and 767-S-13 until a full Board is present or request that the present Board
25 move to the Final Determination. She informed the petitioner that four affirmative votes are required for
26 approval.
27

28 Mr. Sebens requested that the present Board move to the Final Determinations.
29

30 **Final Determination for Case 767-AM-13:**
31

32 **Mr. Passalacqua moved, seconded by Ms. Griest pursuant to the authority granted by Section 9.2 of**
33 **the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
34 **determines that the Zoning Ordinance Amendment requested in Case 766-AM-13 should BE**
35 **ENACTED by the County Board subject to the following special condition:**
36

- 37 **A. The owners of the subject property hereby recognize and provide for the right**
38 **of agricultural activities to continue on adjacent land consistent with the Right**
39 **to Farm Resolution 3425.**
40

41 Ms. Capel requested a roll call vote.

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

The roll was called as follows:

Randol-yes	Thorsland-absent	Griest-yes
Lee-no	Miller-absent	Passalacqua-yes
Capel-yes		

Final Determination for Case 767-S-13:

Ms. Griest moved, seconded by Mr. Passalacqua 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 767-S-13 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicant Eric L. Sebens to authorize the following in the B-1 District:

Part A. Authorize multiple principal buildings on the same lot consisting of the following:

- (1) a landscape contractor’s facility with outdoor storage that was originally authorized in Case 101-S-97; and
- (2) Self-Storage Warehouses, providing heat and utilities to individual units as a special use proposed in Part B.

Part B. Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to individual units as a special use.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

A. The only two principal uses authorized by Case 767-S-13 are Contractors Facility with outdoor storage and/or outdoor operation and self-storage warehouse providing heat and utilities to individual units. Other uses that can be established by right in the B-1 District may be established if they are the only use on the subject property other than agriculture.

The special condition stated above is necessary to ensure the following:
That the petitioner and future landowners understand the requirements of the Zoning Ordinance.

B. The development of the site must be the same in the approved site plan that consists of the following:

- (1) the Revised Site plan received September 3, 2014.
- The special condition stated above is required to ensure the following:
That the development of the site is the same as described in the public hearing.

C. The Zoning Administrator shall not authorize a Zoning Use Permit without an

1 approved septic system permit from the County Health Department for the
2 replacement leach field.

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

4 That the septic system conforms to the requirements of the County Health Ordinance.

5
6 **D. Complete Stormwater Drainage Plan for both the North and South detention basins
7 that conform to the requirements of the Stormwater Management Policy shall be
8 submitted and approved as part of the Zoning Use Permit application for construction
9 and all required certifications shall be submitted after construction prior to issuance of
10 the Zoning Compliance Certificate.**

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

12 That the drainage improvements conform to the requirements of the Stormwater
13 Management Policy.

14
15 **E. The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner
16 has demonstrated that any new or proposed exterior lighting on the subject property
17 will comply with the lighting requirements of Section 6.1.2.**

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

19 That any proposed exterior lighting is in compliance with the Zoning Ordinance.

20
21 **F. The Zoning Administrator shall not authorize a Zoning Compliance Certificate
22 authorizing occupancy of the proposed self-storage warehouses until the Zoning
23 Administrator has received a certification of inspection from an Illinois Licensed
24 Architect or other qualified inspector certifying that the new building complies with the
25 following codes: (A) The 2006 or later edition of the International Building Code; (B)
26 The 2008 or later edition of the National Electrical Code NFPA 70; and (C) the Illinois
27 Plumbing Code.**

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

29 That the proposed structure is safe and in conformance with Public Act 90-704.

30
31 **G. Regarding security on the subject property:**

32 **(1) The Zoning Administrator shall not authorize a Zoning Compliance Certificate
33 until written documentation has been approved from the petitioner that the
34 relevant fire protection district will have access through the security gate at all
35 times.**

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

37 That the petitioner provides adequate security measures and provides access to
38 appropriate public safety agencies.

39
40 **H. The property shall be enclosed by a six-foot tall chain link fence as follows:**

41 **(1) The self-storage buildings and related parking area shall be enclosed by a six-**

- 1 feet tall chain link fence prior to occupancy and at all times during occupancy.
- 2 (2) Doors shall not be installed on any storage unit at a location at which the
- 3 exterior of that unit is not enclosed by a six-foot tall chain link fence.
- 4 (3) The west and north sides of the property shall only need to be fenced with a six-
- 5 foot tall chain link fence at such time as (a) windblown litter has become a
- 6 problem on the adjacent farmland or (b) contractor operations have encroached
- 7 onto the adjacent farmland, and the adjacent landowner has submitted to the
- 8 Zoning Administrator a written request for installation of fencing, in which case
- 9 the petitioner shall install a six-foot tall chain link fence within two months of
- 10 receiving said notification to install the fencing from the Zoning Administrator.

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

12 **That the proposed Special Use does not interfere with adjacent agriculture.**

- 13
- 14 **I. The normal (i.e., non-emergency overflow) discharge of stormwater from the northwest**
- 15 **detention basin shall discharge directly into the neighbor’s six-inch diameter tile with**
- 16 **no overland flow and the discharge into the tile shall be limited to an amount that does**
- 17 **not exceed the discharge capacity of the six-inch diameter tile.**

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

19 **Normal (i.e., non-emergency overflow) flow of storm water from the proposed Special**

20 **Use does not create erosion on the adjacent farmland or surcharge the existing six-inch**

21 **diameter tile.**

22

23 Ms. Capel requested a roll call vote.

24

25 The roll was called as follows:

26 Lee-no	Miller-absent	Passalacqua-yes
27 Griest-yes	Randol-yes	Thorsland-absent
28 Capel-yes		

29

30 Mr. Hall informed Mr. Sebens that he has received a recommendation of approval for the map amendment

31 and that case will be forwarded to the Environment and Land Use Committee for their meeting on October 9,

32 2014. He also informed Mr. Sebens that he has received an approval for the special use.

33

34 **6. New Public Hearings**

35

36 **Case 784-V-14 Petitioner: Jerry O. Kalk and Barbara J. Kalk. Request to authorize the following in**

37 **the AG-1 Agriculture Zoning District: Part C. Variance for a side yard for a dwelling of 10 feet 10**

38 **inches in lieu of the minimum required 15 feet; and Part D. Variance for a side yard for a detached**

39 **accessory building (garage) of 3 feet in lieu of the minimum required 10 feet. Location: A ¼acre tract**

40 **in Ogden Township in the West Half of the Northwest Quarter of the Northeast Quarter of Section 17**

41 **of Township 19N Range 14E of the Second Principle Meridian and commonly known as the home at**

1 **1592 County Road 2650E, Ogden.**

2
3 Ms. Capel informed the audience that this is an Administrative Case and as such the County allows anyone
4 the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of
5 hands for those who would like to cross examine and each person will be called upon. She requested that
6 anyone called to cross examine go to the cross examination microphone to ask any questions. She said that
7 those who desire to cross examine are not required to sign the witness register but are requested to clearly
8 state their name before asking any questions. She noted that no new testimony is to be given during the
9 cross examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
10 exempt from cross examination.

11
12 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the
13 witness register for that public hearing. She reminded the audience that when they sign the witness register
14 they are signing an oath.

15
16 Ms. Capel asked the petitioners if they desired to make a statement outlining the nature of their request.

17
18 Mr. Jerry Kalk, who resides at 1592 CR 2650E, Ogden, stated that he had no new information at this time.

19
20 Ms. Capel called John Hall to testify.

21
22 Mr. John Hall, Zoning Administrator, stated that this case is in regard to the original variances that the
23 petitioners needed for their house and garage and were not included in the variance request in 1980 and staff
24 forgot to include them in the original advertisement for Case 784-V-14 Parts A and B. He said that staff
25 is finally getting all of the nonconformities on this lot taken care of and the Board has never seen a case like
26 this where Parts A and B have already been approved. He said that the findings for Parts A and B have been
27 prepared therefore if the Board wants to make additional or new findings for Parts C and D then they could
28 certainly do so and for the most part the Board might find that Parts C and D are similar to one or both parts
29 that the Board previously took action on so the findings may not require as much work as usual or none. He
30 said that the Board could go back and amend the previous findings or make completely new findings for
31 Parts C and D.

32
33 Mr. Passalacqua stated that the Board talked about Parts C and D but could not take any action because they
34 were not included in the original advertisement. He said that he is comfortable with the findings for Parts A
35 and B to be used for Parts C and D

36
37 Mr. Hall stated that the Board may want to modify the previous findings for Part A and B to make it clear
38 that Parts C and D are also included.

39
40 **Findings of Fact for Case 784-V-14:**

41

1 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
2 784-V-14 held on August 28, 2014 and September 25, 2014, the Zoning Board of Appeals of Champaign
3 County finds that:
4

- 5 **1. 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**
7 **structures elsewhere in the same district because for Parts A and B, the subject**
8 **property is a 10,890 square feet, (.25 acre) lot that is 82 feet wide and 132 feet long and**
9 **the dwelling and the garage existed in 1973 which was prior to the adoption of Zoning**
10 **and the variance for lot coverage is allowable within the Administrative Variance limits**
11 **except that there are other variances required on the subject property; and**
12

13 **For Parts C and D, special conditions and circumstances DO exist which are peculiar to**
14 **the land or structure involved, which are not applicable to other similarly situated land**
15 **and structures elsewhere in the same district.**
16

17 Ms. Griest stated that for Parts C and D, special conditions and circumstances DO exist which are peculiar
18 to the land or structure involved, which are not applicable to other similarly situated land and structures
19 elsewhere in the same district because the subject property is a nonconforming lot of record with an area of
20 only .25 acre and an average lot width of only 82.5 feet and therefore the lot has much less open space than
21 is available on a minimum required lot of one acre with a minimum required average lot width of 200 feet.
22

- 23 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
24 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
25 **the land or structure or construction because for Part A, due to the small lot size and**
26 **with the limit of 20% lot coverage it would be impossible to add onto the home without**
27 **the variance; and for part B. the two small sheds are supposed to movable but they**
28 **have been in the same location so long that moving them may destroy them; and**
29

30 **For Parts C and D, practical difficulties or hardships created by carrying out the strict**
31 **letter of the regulations sought to be varied WILL prevent reasonable or otherwise**
32 **permitted use of the land or structure or construction.**
33

34 Mr. Passalacqua stated that for Parts C and D, practical difficulties or hardships created by carrying
35 out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise
36 permitted use of the land or structure or construction because of the small lot size and the structures existed
37 prior to the adoption of Zoning.
38

39 Ms. Griest stated that the home and garage existed in the current locations when the Zoning Ordinance was
40 adopted in 1973.
41

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

3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because for Part A, the lot to the south is a small nonconforming lot of record and the adjacent lot to the north is also a nonconforming lot of record and no sale of land would be possible to either the north or south and the adjacent land to the east is a farm field and any sale would interrupt the line of tillage; and for Part B, relocation of the sheds could cause irreparable damage to the sheds and the sheds would have to be replaced; and

For Parts C and D, special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.

Ms. Griest stated that for Parts C and D, special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the home and garage existed in the current locations when the Zoning Ordinance was adopted in 1973.

4. The requested variance IS in harmony with the general purpose and intent of the Ordinance because for both Parts A and B, it allows the petitioner to add on without being injurious to the neighborhood and not interfering with the neighbors; and

For Parts C and D, the requested variance IS in harmony with the general purpose and intent of the Ordinance.

Ms. Griest stated that for Parts C and D, the requested variance IS in harmony with the general purpose and intent of the Ordinance because the Zoning Ordinance does not clearly state the considerations that underlay the side yard requirements and the considerations for a side yard are presumed to be similar to those of a rear yard.

Ms. Lee stated that the home and garage existed in the current locations when the Zoning Ordinance was adopted in 1973.

5. The requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because for both Parts A and B, the Ogden Township Highway Commissioner and the Ogden-Royal Fire Protection District have both been notified and no comments were received and the variance will not increase traffic nor will the variance decrease public safety; and

For Parts C and D, the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.

Mr. Passalacqua stated that for Parts C and D, the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because there is no change.

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

6. The requested variance IS the minimum variation that will make possible the reasonable use of the land/structure for both Parts A and B; and

For Parts C and D, the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure.

Ms. Griest stated that for Parts C and D, the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure.

7. No Special Conditions are hereby imposed.

Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of Fact as amended.

Ms. Griest moved, seconded by Ms. Lee to adopt the Summary of Evidence, Documents of Record and Findings of Fact as amended. The motion carried by voice vote.

Ms. Capel entertained a motion to move to the Final Determination for Case 784-V-14.

Ms. Griest moved, seconded by Ms. Lee to move to the Final Determination for Case 784-V-14. The motion carried by voice vote.

Ms. Capel informed the petitioner that two Board members were absent therefore it is at his discretion to either continue Case 784-V-14 until a full Board is present or request that the present Board move to the Final Determination. She informed the petitioner that four affirmative votes are required for approval.

Mr. Kalk requested that the present Board move to the Final Determination.

Final Determination for Case 784-V-14:

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C HAVE* been met and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the variance requested in Case 784-V-14 Parts A and B is hereby GRANTED* to the petitioners Jerry and Barbara Kalk to authorize the following in the AG-1 Agriculture Zoning District:

- Part A. Variance for lot coverage of 21.7% in lieu of the maximum allowed 20%; and
- Part B. Variance for a rear yard for two existing accessory buildings of 3 feet in lieu of the minimum required 10 feet; and

*Determination in Parts A and B on August 28, 2014

Mr. Passalacqua moved, seconded by Ms. Griest that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the variance requested in Case 784-V-14 Parts C and D is hereby GRANTED to the petitioners Jerry and Barbara Kalk to authorize the following in the AG-1 Agriculture Zoning District:

- Part C. Variance for a side yard for a dwelling of 10 feet 10 inches in lieu of the minimum required 15 feet; and
- Part D. Variance for a side yard for a detached accessory building (garage) of 3 feet in lieu of the minimum required 10 feet.

Ms. Capel requested a roll call vote.

The roll was called as follows:

Randol-yes	Thorsland-absent	Griest-yes
Lee-yes	Miller-Absent	Passalacqua-yes
Capel-yes		

Mr. Hall informed the petitioners that they have received an approval for their requests.

Case 786-V-14 Petitioner: Toby Drollinger Request to authorize the following variance in the R-1 Single Family Residence Zoning District: Part A. A proposed detached garage with a side yard of 3 feet in lieu of the minimum required 5 feet; and Part B. An existing detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 0 inches in lieu of the minimum required 5 feet; and Part C. A second detached shed located in a utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement and with a side yard of 1 foot 7 inches in lieu of the minimum required 5 feet.

Ms. Capel informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of hands for those who would like to cross examine and each person will be called upon. She requested that anyone called to cross examine go to the cross examination microphone to ask any questions. She 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. She noted that no new testimony is to be given during the

1 cross examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
2 exempt from cross examination.

3
4 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the
5 witness register for that public hearing. She reminded the audience that when they sign the witness register
6 they are signing an oath.

7
8 Ms. Capel asked the petitioner if he desired to make a statement outlining the nature of his request.

9
10 Mr. Toby Drollinger, who resides at 2404 John Drive, Urbana, stated that he had no new information at this
11 time.

12
13 Ms. Capel called John Hall to testify.

14
15 Mr. John Hall, Zoning Administrator, stated that there is no new information regarding this case for
16 tonight therefore the only information for the Board is what is included in the Preliminary Memorandum
17 dated September 17, 2014. He said that the subject property is an irregularly shaped lot which is much wider
18 than other lots on this same street. He said that the lot exceeds the minimum lot area and lot width. He said
19 that when the house was built originally it was placed in the center of the lot which is why the petitioners are
20 here tonight because if it had been offset a little bit more the garage could have been added at the side with
21 no problem. He noted that the petitioner did not build the house and it existed when the petitioner purchased
22 the lot.

23
24 Mr. Hall stated that the two garden sheds are small portable structures that were recently located. He said
25 that the yard has been exquisitely developed with landscaping and the sheds are placed at the perimeter. He
26 said that it is up to the Board to determine whether or not the sheds can be left at their current location or if
27 they need to be relocated. He said that the sheds do not have any concrete which would make it difficult to
28 move them if the utility company required access and at a staff level a special condition was proposed
29 requiring the owner to move the sheds at their expense if requested by the utility and if either shed is
30 destroyed by more than 50% it could not be replaced. He said that the alternative would be that as long as
31 the owner is willing to remove the shed the Board could indicate that they are willing to allow the owner to
32 replace it as long as he agrees to remove it when necessary. He said that recently the Board had a fairly
33 labored case that had a stick built shed in a utility easement with a concrete floor and in that instance the
34 Board required the owner to remove the stick built portion from the utility easement. He said that the
35 conditions are different with this case but a utility easement is something that generally prohibits any
36 building at all which is why the petitioner is before the Board tonight.

37
38 Mr. Passalacqua stated that the structures are shaped like a shed but they could be moved within one hour.
39 He said that if the power company indicated that they needed the structures moved they could be done easily
40 therefore he has no issue with the sheds in their current location.

41

1 Mr. Hall asked Mr. Passalacqua if he has issue with replacement of the sheds.

2
3 Mr. Passalacqua stated that it appears that the sheds are snap together units therefore he would have no
4 problem with their relocation. He said that he would not approve footings and a concrete pad within the
5 easement but the structures as they are could be moved within one hour.

6
7 Mr. Hall asked Mr. Passalacqua if proposed special condition A(1) is necessary.

8
9 Mr. Passalacqua stated that he is fine with only requiring proposed special condition A(2).

10
11 Ms. Lee asked Mr. Hall if it is winter time and the sanitary district requires access would it be difficult to
12 remove the buildings from the easement area when the ground is frozen.

13
14 Mr. Passalacqua stated that if the sanitary district needs the sheds moved they will move them even if they
15 have to use a backhoe to do it.

16
17 Ms. Griest stated that she agrees with Mr. Passalacqua in that proposed special condition A(1) could be
18 stricken. She said that these are portable sheds by definition and there are no footings therefore the Board
19 would be overreaching and restricting any homeowner's right to be able to put portable objects within the
20 confines of their own lot, even if it is a utility easement because by being portable they are movable.

21
22 Ms. Capel asked if the Board needs to specify that if the sheds are damaged and require replacement what
23 type of sheds are to be reconstructed.

24
25 Ms. Griest stated no. She said that the Board is not giving the homeowner any authorization to build in that
26 area because they are simply placing portable units in that area that can be easily hooked on to with a piece
27 of machinery and either picked up or slid across the yard. She said that the sheds are not a permanent
28 structure that is attached to the ground therefore she does not support restricting the owner's rights or adding
29 something indicating that they could not build within the utility easement because we already have an
30 ordinance which restricts it.

31
32 Ms. Capel stated that she was more concerned with the owner replacing the portable shed with a more
33 permanent structure.

34
35 Ms. Griest stated that the Ordinance already restricts it.

36
37 Mr. Randol asked if any complaints have been voiced by the neighbors.

38
39 Mr. Hall stated no. He said that the Homeowner's Association called staff and indicated that they had no
40 issue with the variance request.

41

- 1 Ms. Capel noted that she drove past the property and the landscaping is very nice and everything fits together
2 very well.
3
- 4 Ms. Lee asked Mr. Hall if in order to maintain flexibility if language should be inserted indicating that the
5 replacement structure cannot be a permanent structure.
6
- 7 Ms. Griest stated that the Ordinance already indicates such.
8
- 9 Mr. Hall stated that if they constructed a permanent stick built structure, even if it were the same size, it is
10 materially different than this case and would be violation and either a new variance would be required or the
11 structure would have to be removed.
12
- 13 Mr. Passalacqua stated that a shed which is the same size as the two subject sheds would not require a permit
14 but it is required to be within the Ordinance therefore it is still covered.
15
- 16 Ms. Capel asked the Board if there were any additional questions for the petitioner or Mr. Hall and there
17 were none.
18
- 19 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony regarding
20 this case.
21
- 22 Ms. Capel called Keith Harris to testify.
23
- 24 Mr. Keith Harris, who resides at 413 N. Abbey Road, Urbana, stated that he is the contractor for Mr.
25 Drollinger. He said that when he filled out the paperwork for the permit he indicated that the detached
26 garage would be 704 square feet although the Preliminary Memorandum indicates 512 square feet. He said
27 that he wanted to make sure that the square footage discrepancy was clarified and that everyone was aware of
28 what the Mr. Drollinger was petitioning for.
29
- 30 Mr. Hall stated that item #5(2) should be revised to indicate the following: Proposed construction of a 704
31 square foot detached garage on the west side of the residence.
32
- 33 Ms. Capel asked the Board and staff if there were any questions for Mr. Harris and there were none.
34
- 35 Ms. Capel asked the audience if anyone desired to cross examine Mr. Harris and there was no one.
36
- 37 Ms. Capel called Toby Drollinger to testify.
38
- 39 Mr. Toby Drollinger stated that these are plastic sheds built on a wood platform and can be easily moved.
40 He said that he called the power company and he reached someone in Peoria who then transferred him to
41 Decatur. He said that a gentleman by the name of Nick informed him that the power company does not give

1 anyone permission to build within their easement therefore if there are problems they inform the owner to
2 either move the structure or they will.

3
4 Ms. Capel asked Mr. Drollinger if he agreed to the following proposed special condition.

5
6 **A. Upon written request of any utility, the owner will be required to remove either of the
7 sheds from the easement area.**

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

9 **To ensure that utility companies have appropriate access to their easements**

10
11 Mr. Drollinger stated that he agreed with the proposed special condition.

12
13 Ms. Capel asked the audience if anyone desired to cross examine Mr. Drollinger and there was no one.

14
15 Ms. Capel entertained a motion to approve the proposed special condition:

16
17 **Ms. Griest moved, seconded by Mr. Randol to approve the proposed special condition. The motion
18 carried by voice vote.**

19
20 **Findings of Fact for Case 786-V-14:**

21
22 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
23 786-V-14 held on September 25, 2014, the Zoning Board of Appeals of Champaign County finds that:

24
25 **1. Special conditions and circumstances DO exist which are peculiar to the land or
26 structure involved, which are not applicable to other similarly situated land and
27 structures elsewhere in the same district.**

28
29 Ms. Griest stated that special conditions and circumstances DO exist which are peculiar to the land or
30 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
31 same district because of the irregular shape of the lot and placement of the home that was constructed prior
32 to the adoption of zoning in 1973.

33
34 **2. Practical difficulties or hardships created by carrying out the strict letter of the
35 regulations sought to be varied WILL prevent reasonable or otherwise permitted
36 use of the land or structure or construction.**

37
38 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of the
39 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
40 or construction because it would prevent the petitioner from being able to add the garage.

1 Ms. Capel stated that it causes difficulty in moving to and from the back yard due to the limited space that
2 would result.

3
4 Ms. Lee asked if the same text as in Finding #1 could be added indicating that the home was constructed
5 prior to the adoption of zoning in 1973.

6
7 Ms. Capel stated yes.

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

11
12 Mr. Randol stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
13 result from actions of the applicant because the petitioner is not the first owner and the property was
14 developed prior to the current zoning requirements.

15
16 **4. The requested variance, SUBJECT TO THE PROPOSED SPECIAL CONDITION, IS**
17 **in harmony with the general purpose and intent of the Ordinance.**

18
19 Ms. Griest stated that the requested variance, SUBJECT TO THE PROPOSED SPECIAL CONDITION, IS
20 in harmony with the general purpose and intent of the Ordinance. She said that she has no additional
21 comments to add.

22
23 **5. The requested variance, SUBJECT TO THE PROPOSED SPECIAL CONDITION,**
24 **WILL NOT be injurious to the neighborhood or otherwise detrimental to the public**
25 **health, safety, or welfare.**

26
27 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED SPECIAL
28 CONDITION, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health,
29 safety or welfare because evidence indicates that the Homeowner’s Association is in favor of the variance
30 and letters have been received from neighbors indicating that they too are in favor of the proposed project.

31
32 Ms. Griest stated that there is adequate separation for light and air and the subject property is .04 road miles
33 from the Edge-Scott Fire Protection District and no concerns have been received from the fire protection
34 district.

35
36 **6. The requested variance, SUBJECT TO THE PROPOSED SPECIAL CONDITION, IS**
37 **the minimum variation that will make possible the reasonable use of the land/structure.**

38
39 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE PROPOSED SPECIAL
40 CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure.
41 He said that he has no additional comments to add.

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

Ms. Griest stated that there is no other available space on the lot that is accessible to build a detached garage.

7. The special condition imposed herein is required for the particular purposes described below:

A. Upon written request of any utility, the owner will be required to remove either of the sheds from the easement area.

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

To ensure that utility companies have appropriate access to their easements.

Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of Fact as amended.

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

Ms. Griest entertained a motion to move to the Final Determination for Case 786-V-14.

Mr. Passalacqua moved, seconded by Ms. Griest to move to the Final Determination for Case 786-V-14.

Ms. Capel informed the petitioner that two Board members were absent therefore it is at his discretion to either continue Case 786-V-14 until a full Board is present or request that the present Board move to the Final Determination. She informed the petitioner that four affirmative votes are required for approval.

Mr. Drollinger requested that the present Board move to the Final Determination.

Mr. Passalacqua asked Mr. Hall if the sheds should not be part of this case since the Board determined that the sheds are on skids and totally portable.

Mr. Hall stated no because they are still sitting in an easement. He said that the Board determined that because the sheds are portable that mitigates them being in the easement.

Final Determination for Case 786-V-14:

Ms. Griest moved, seconded by Ms. Lee that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the Variance requested in Case 786-V-14 is hereby GRANTED WITH

1 **CONDITIONS to the petitioner Toby Drollinger to authorize the following variances in the R-1**
2 **Residential Zoning District:**

3
4 **Part 1. A proposed detached garage with a side yard of 3 feet in lieu of the minimum**
5 **required 5 feet.**

6
7 **Part 2. An existing detached shed located in a utility easement in lieu of the**
8 **requirement that no construction shall take place in a recorded utility easement**
9 **and with a side yard of 0 inches in lieu of the minimum required 5 feet.**

10
11 **Part 3. A second detached shed located in a utility easement in lieu of the requirement**
12 **that no construction shall take place in a recorded utility easement and with a**
13 **side yard of 1 foot 7 inches in lieu of the minimum required 5 feet.**

14
15 **SUBJECT TO THE FOLLOWING SPECIAL CONDITION:**

16
17 **A. Upon written request of any utility, the owner will be required to remove either**
18 **of the sheds from the easement area.**

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

20 **To ensure that utility companies have appropriate access to their easements.**

21
22 Ms. Capel requested a roll call vote.

23
24 The roll was called as follows:

25	Miller-absent	Passalacqua-yes	Randol-yes
26	Thorsland-absent	Griest-yes	Lee-yes
27	Capel-yes		

28
29
30 Mr. Hall informed the petitioner that he has received an approval of his request and staff will contact him
31 within the next few days.

32
33 **7. Staff Report**

34
35 None

36
37 **8. Other Business**

38 **A. Review of Docket**

39
40 Mr. Hall distributed an updated docket to the Board for review. He said that there has been a mini-rush of
41 cases during the past week. He said that during the last two weeks staff has received one new case and is

1 expecting the two co-op cases to be submitted sometime next week. He said that the co-op has been in
 2 touch with staff for some time now about those cases therefore staff knows that they are serious about doing
 3 them. He said that normally staff does not schedule cases prior to receiving the application but the petitioner
 4 has been working with staff for such a time that he felt comfortable in going ahead and scheduling them on
 5 the docket. He said that it could be that staff will not receive the applications in time and the co-op knows
 6 that if they do not submit them sometime next week that they will be scheduled for the next available meeting.
 7

8 Ms. Griest reminded the Board and staff that she will be absent from the October 30th meeting.
 9

10 Ms. Capel requested that if anyone anticipates an absence from the October 30th meeting or any other
 11 meeting in the future that they contact staff as soon as possible.
 12

13 Mr. Hall stated that Fiscal Year 2014 is going to shape up to probably having as many cases as in 2013
 14 therefore it is a good thing that the Board and staff has had Ms. Chavarria assisting us this year because it
 15 would have been very difficult without the extra help. He said that the Planning Interns are still with the
 16 department but their hours have been reduced due to their school requirements and every day that they are
 17 reporting to the office they are in the field completing inspections.
 18

19 **9. Audience Participation with respect to matters other than cases pending before the Board**
 20

21 None
 22

23 **10. Adjournment**
 24

25 Ms. Capel entertained a motion to adjourn the meeting.
 26

27 **Ms. Griest moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried by voice**
 28 **vote.**
 29

30 The meeting adjourned at 8:00 p.m.
 31
 32
 33
 34

35 Respectfully submitted
 36
 37
 38
 39

40 Secretary of Zoning Board of Appeals
 41

ZBA

AS APPROVED OCTOBER 16, 2014

9/25/14

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17