

AS APPROVED JULY 30, 2015

1
2
3 **MINUTES OF REGULAR MEETING**

5 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

6 **1776 E. Washington Street**

7 **Urbana, IL 61802**

8
9 **DATE: May 14, 2015**

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

Urbana, IL 61802

10
11 **TIME: 7:00 p.m.**

13 **MEMBERS PRESENT:** Catherine Capel, Debra Griest, Marilyn Lee, Brad Passalacqua, Eric
14 Thorsland

15
16 **MEMBERS ABSENT :** Jim Randol

17
18 **STAFF PRESENT :** Connie Berry, John Hall

19
20 **OTHERS PRESENT :** Lloyd N. Allen Sr., Caleb Burton, Keith Padgett, Andy Tunstall, Lawrence
21 Johnson

22
23
24 **1. Call to Order**

25
26 The meeting was called to order at 7:01 p.m.

27
28 **2. Roll Call and Declaration of Quorum**

29
30 The roll was called and a quorum declared present with one member absent and one vacant seat.

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

35
36 **3. Correspondence**

37
38 None

39
40 **4. Approval of Minutes (March 26, 2015)**

41
42 Mr. Thorsland entertained a motion to approve the March 26, 2015, minutes.

43
44 **Ms. Lee moved, seconded by Ms. Griest to approve the March 26, 2015, minutes as submitted.**

45
46 Mr. Thorsland asked the Board if there were any corrections or additions to the minutes and there were
47 none.

48

1 The motion carried by voice vote.

2

3 **5. Continued Public Hearing**

4

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

24

25 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of the request.

26

27 Mr. Thorsland entertained a motion to continue Case 685-AT-15 to the August 13, 2015, meeting.

28

29 **Ms. Lee moved, seconded by Ms. Griest to continue Case 685-AT-15 to the August 13, 2015, meeting.**
30 **The motion carried by voice vote.**

31

32

33 **Case 792-V-14 Petitioner: Robert Frazier Request to authorize the following Variance from the**
34 **Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District. Part A. Variance for**
35 **48 parking spaces as required by Section 7.4 of the Zoning Ordinance. Part B. Variance for a setback**
36 **of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the**
37 **minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by**
38 **Section 5.3 of the Zoning Ordinance. Location: Lot 4 of the Stahly Subdivision in the Southeast**
39 **Quarter of Section 8 of Champaign Township and commonly known as the former LEX building**

1 **located at 310 Tiffany Court, Champaign.**
2

3 Mr. Thorsland informed the Board that Robert Frazier, the petitioner, is not present. Mr. Thorsland stated
4 that four people have signed the witness register to present testimony although the petitioner is not present
5 and during the common order of events the petitioner is allowed to make a brief statement about their case
6 before the Board receives witness testimony. Mr. Thorsland stated that he does not believe that it is
7 appropriate for the Board to take witness testimony without the petitioner being present because he should
8 have the opportunity to cross examine any witness. He said that during the last public hearing for this case
9 the Board provided a courtesy to the petitioner's tardiness and rearranged the docket to assure the
10 petitioner's presence and then rearranged the docket again when the petitioner walked into the meeting
11 room. Mr. Thorsland apologized to the witnesses that are in attendance tonight but in fairness to the
12 petitioner he should be able to hear the testimony presented by any witness. Mr. Thorsland stated that he
13 will not apologize for the petitioner because it is his choice whether or not to attend the meeting. He said
14 that staff checked the office phones and no message from the petitioner was received.
15

16 Mr. Thorsland entertained a motion to continue Case 792-V-14.
17

18 Ms. Griest stated that she understands and appreciates Mr. Thorsland's comments, but with respect to the
19 witnesses that have chosen to take time out of their day, would the Board serve the witnesses and the
20 petitioner to rearrange the docket and allow the petitioner time to arrive. She said that if the petitioner has
21 not arrived after the Board has completed Case 793-S-14 the Board could then continue Case 792-V-14.
22

23 Mr. Thorsland stated the petitioner may not arrive at all.
24

25 Mr. Passalacqua stated that he apologizes to the people who have signed the witness register to present
26 testimony but it is not the Board's fault that the petitioner has not arrived.
27

28 Mr. Lloyd Allen, who resides at 3222 Stoneybrook Drive, Champaign, asked the Board to indicate their
29 policy when a petitioner chooses not to attend the public hearing.
30

31 Mr. Thorsland stated that generally the Board will continue or dismiss the case.
32

33 Mr. Allen asked Mr. Thorsland why the Board would not dismiss the case since the petitioner has chosen not
34 to notify staff of his absence or blatantly not attend the meeting tonight. He said that he does not understand
35 why everyone else has to suffer due to Mr. Frazier's negligence.
36

37 Mr. Thorsland stated that the only reason why he would entertain a motion to continue the case rather than
38 dismissing it is because the petitioner could have had a mishap or emergency which could have prevented
39 him from notifying staff of his absence.

1
2 Mr. Allen asked Mr. Thorsland to indicate the Board’s policy regarding this issue.
3
4 Mr. Thorsland stated that the Champaign County Zoning Board of Appeals By-laws do address this issue.
5
6 Mr. Allen asked Mr. Thorsland if the By-laws are available for review.
7
8 Mr. Thorsland stated yes, and staff can provide a copy for his review.
9
10 Mr. Allen asked Mr. Thorsland how many times the Board will continue this case before it is dismissed. He
11 said that the Board could continue this hearing until June and Mr. Frazier could not appear at that hearing
12 either.
13
14 Mr. Thorsland stated that if Mr. Frazier fails to attend the continued hearing then the Board would vote to
15 dismiss the case.
16
17 Mr. Allen stated that it appears that the decision should be very simple. He said that based on the
18 information that the Board has been provided the request by Mr. Frazier does not apply to the request for the
19 variance.
20
21 Mr. Thorsland stated that the Board needs to decide whether to continue the case to a later date or dismiss
22 the case. He said that he understands Mr. Allen’s frustration and he understands the difference between a
23 responsible person and someone who does not honor their commitments but the Board has to decide whether
24 to continue the case to a later date or dismiss it. He said that the docket does not have room to continue this
25 case to the next meeting.
26
27 Mr. Hall read Article 7.1.4 of the ZBA By-laws as follows: In the event that the petitioner fails to appear
28 either in person or by agent, the case shall be deemed dismissed unless the Board shall vote otherwise. In
29 such cases, the Petitioner shall be furnished with written notice of the dismissal by the Secretary of the
30 Board. A petitioner may reactivate a dismissed case only upon filing a new petition and upon payment of the
31 fee specified in Section 9.3.3(A)4 of the Zoning Ordinance. Such reactivated cases shall be noticed in the
32 usual manner pursuant to Section 6.2 herein. Mr. Hall stated that in this instance the Supplemental
33 Memorandum dated May 6, 2015, indicates that the case will require re-advertisement due to the substantial
34 increase in the proposed variance. He said that if the case is continued and re-advertised the fee for that re-
35 advertisement is \$100. He said that if the case is dismissed a new case will need to be filed with an entirely
36 new application fee of \$200. He said that in a case like this the case shall be deemed dismissed unless the
37 Board votes otherwise.
38
39 **Mr. Passalacqua moved, seconded by Ms. Capel to dismiss Case 792-V-14. The motion carried by**

1 voice vote.

2
3 Mr. Hall stated that one thing that the By-laws do not address is that in most cases a petitioner has to wait
4 one year before resubmitting an application unless there are changed conditions. He said that there has been
5 a lot changed since this case began and the By-laws do not seem to require that one year wait time therefore
6 given the understanding at the time that the Board dismissed the case he is inclined to accept a reapplication
7 tomorrow morning.

8
9 Mr. Thorsland stated that should this case be resubmitted he would assume that everyone who is present
10 tonight would like to be notified of the new public hearing date. He said that staff will make sure that
11 everyone who is in attendance tonight will be included as a special for any new case.

12
13
14 **Case 793-S-14 Petitioner: Lawrence Johnson and Fuad Handal Request: 1) Authorize a kennel as a**
15 **Special Use on 1.8 acres located in the AG-1, Agriculture Zoning District; and 2) Authorize the**
16 **following waivers to the standard conditions of the Kennel Special Use as per Section 6.1.3 of the**
17 **Zoning Ordinance: a. ~~A separation distance of 95 feet between any outdoor animal exercise/training~~**
18 **area and any adjacent residential structure and/or use in lieu of the required 200 feet; ~~Note:~~**
19 **WAIVER NOT NEEDED FOR REVISED SITE PLAN. b. No noise buffer of evergreen shrubs or**
20 **trees in lieu of the required noise buffer of evergreen shrubs or trees a minimum of four feet in height**
21 **installed separating the exercise and/or training area from any adjacent structure and/or use; and c. A**
22 **side yard setback of 85 feet in lieu of the required 200 feet. Location: A 1.8 acre tract in the Southeast**
23 **Quarter of the Southeast Quarter of Section 5, Township 19N, Range 8E. in Champaign Township**
24 **with an address of 1211 North Staley Road, Champaign.**

25
26 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
27 the witness register for that public hearing. He reminded the audience that when they sign the witness
28 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
29 time.

30
31 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
32 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
33 of hands for those who would like to cross examine and each person will be called upon. He requested that
34 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
35 those who desire to cross examine are not required to sign the witness register but are requested to clearly
36 state their name before asking any questions. He noted that no new testimony is to be given during the cross
37 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
38 from cross examination.

39

1 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.
2
3 Mr. Lawrence Johnson, who resides at 1211 N. Staley Road, Champaign, stated that he has petitioned to
4 receive approval for a small household kennel business. He said that he intends to comply with all of the
5 zoning regulations therefore he revised the site plan to comply with those regulations.
6
7 Ms. Lee stated that Mr. Johnson previously testified that he did not like the burning that previously took
8 place on the subject property. She asked Mr. Johnson if he has exclusive possession of the property that he
9 is renting or can the landlord come and go as he pleases to do whatever he chooses to do.
10
11 Mr. Johnson stated that the landlord has the right to come and go and do as he pleases on the property.
12
13 Ms. Lee asked Mr. Johnson if he has a written lease.
14
15 Mr. Johnson stated yes. He said that the lease does not indicate that the landlord cannot do what he wants to
16 do on the property.
17
18 Mr. Passalacqua asked Mr. Johnson if his lease includes the metal shed on the property.
19
20 Mr. Johnson stated no.
21
22 Ms. Lee asked Mr. Johnson how often the landlord visits the property.
23
24 Mr. Johnson stated that the landlord visits the property weekly because there is paint stored in the house for
25 the landlord's other projects.
26
27 Mr. Thorsland asked Mr. Hall if he had new information to present to the Board regarding this case.
28
29 Mr. Hall stated that the description of the case, included on the cover of the Supplemental Memorandum
30 dated May 6, 2015, discusses the fence surrounding the activity area on the south, northeast and north sides
31 but the description should indicate south, east and north sides as this is how the petition is written and the
32 Summary of Evidence. He said that waiver a. is no longer required due to the revised site plan and
33 description b. is accurate. He said that the only new information is the early draft version of the April 16,
34 2015, minutes which were distributed to the Board for review. He said that most of the testimony at the last
35 meeting appeared to address everyone's concerns which could be the reason why no one else is present at
36 tonight's hearing.
37
38 Mr. Thorsland stated that he was not present for the last public hearing for this case but he understands that it
39 was a long evening but it appears that everything was worked out between the neighbors, the petitioner and

1 the Board. He asked Mr. Johnson if he has had a lot of interaction with the neighbors since the last public
2 hearing.
3
4 Mr. Johnson stated no. He said that no one has ever contacted him during his time living at the residence.
5
6 Mr. Thorsland asked Mr. Johnson if the April 16th minutes adequately reflect what occurred at the meeting.
7
8 Mr. Johnson stated yes.
9
10 Ms. Lee stated that Mr. Johnson has indicated that he owns six dogs and occasionally he has the landlord's
11 two dogs on the property therefore Mr. Johnson only has openings for seven additional dogs. She asked Mr.
12 Johnson how close he is on most days to his maximum capacity.
13
14 Mr. Johnson stated that when business is slow he does watch his landlord's dogs but it is usually in the
15 summer.
16
17 Ms. Lee asked Mr. Johnson to indicate the largest number of dogs that he has had at the kennel at one time
18 within the last three months.
19
20 Mr. Johnson stated that within the last three he has had ten dogs at one time.
21
22 Ms. Lee asked Mr. Johnson if he is indicating that with his six dogs he only had four other client's dogs.
23
24 Mr. Johnson stated yes.
25
26 Ms. Lee asked Mr. Johnson to indicate his fee for each dog.
27
28 Mr. Johnson stated that he charges \$20 per dog.
29
30 Ms. Lee asked Mr. Johnson if the fee is the same for a small or large dog.
31
32 Mr. Johnson stated yes. He said that he does have another part-time job.
33
34 Mr. Thorsland asked Ms. Lee to explain the relevance of her question regarding the fee.
35
36 Ms. Lee stated that she doesn't understand how Mr. Johnson is making it if he only has seven additional
37 dogs by which he charges a fee.
38
39 Mr. Passalacqua stated that Mr. Johnson's income is not the Board's venue.

1
2 Mr. Thorsland stated that the Board is present to either grant or deny the case and the business income is not
3 part of it the review.
4
5 Ms. Lee stated that the income is relevant to the total number of dogs at the kennel and whether Mr. Johnson
6 goes over the maximum of 15.
7
8 Mr. Thorsland stated that it does but the Board has an agreement with Mr. Johnson regarding the maximum
9 number of dogs allowed.
10
11 Ms. Lee stated that her question regarding the income was not due to dollars and cents but to the number of
12 dogs.
13
14 Mr. Thorsland stated that he understands Ms. Lee's reasoning for questioning the fee.
15
16 Mr. Johnson stated that he is fine with the maximum number of dogs being 15. He said that he lives on the
17 property by himself and he does not have any children therefore he does not need 30 or 40 dogs to make ends
18 meet.
19
20 Mr. Thorsland stated that previous testimony indicated that part of Mr. Johnson's business is not solely
21 taking care of dogs during the day and night but training the dogs.
22
23 Ms. Lee asked how the Board will regulate the number of dogs on the property.
24
25 Mr. Passalacqua stated that it is complaint driven.
26
27 Mr. Thorsland stated that he is sure that the neighbors will be very attentive to the number of dogs that are
28 on the property and if it appears that there are more than 15 they will probably call Mr. Hall with a
29 complaint.
30
31 Mr. Hall stated that this case will be treated like any other case in that the Board either trusts what the
32 petitioner has said and agreed to or they don't. He said that there is no way to ensure that no violation will
33 ever occur.
34
35 Mr. Thorsland asked the Board if there were any additional questions for Mr. Johnson and there were none.
36
37 Mr. Thorsland stated that the Board will now review page 28 of the Revised Draft Summary of Evidence
38 dated May 14, 2015, regarding the proposed special conditions for Case 793-S-14.
39

1 Mr. Thorsland read proposed special condition A. as follows:

2
3 **A. The Zoning Administrator shall not authorize a Zoning Use Permit Application**
4 **or issue a Zoning Compliance Certificate on the subject property until the**
5 **lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been**
6 **met.**

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

8 **That exterior lighting for the proposed Special Use meets the requirements**
9 **established for Special Uses in the Zoning Ordinance.**

10
11 Mr. Thorsland asked Mr. Johnson if he agreed with proposed special condition A.

12
13 Mr. Johnson stated that he agreed with proposed special condition A.

14
15 Mr. Thorsland read proposed special condition B. as follows:

16
17 **B. The number of animals to be boarded at one time will not exceed 15, including**
18 **dogs that are the property of anyone residing on the property and any dogs**
19 **belonging to the owner of the property, which is the number the Petitioner**
20 **indicated as the maximum that they would board.**

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

22 **That noise from the proposed Special Use is minimally disruptive to the**
23 **surrounding area.**

24
25 Ms. Capel suggested that special condition B. be revised as follows: The number of animals on the property
26 will not exceed 15 at any one time.

27
28 Mr. Thorsland stated that he prefers “dogs” over “animals”. He asked Ms. Capel to indicate her concern
29 with the existing text.

30
31 Ms. Capel stated that the special condition can be stated very concisely in that the number of dogs will not
32 exceed 15 on the property at any one time.

33
34 Mr. Hall stated that he would beg the Board to include some statement which includes the dogs of the owner
35 as well as the dogs of the resident because it is such an obvious question in the future.

36
37 Mr. Thorsland stated that the zoning district is AG-1 therefore dogs or pigs could be on the subject property.
38 He said that if the Board changes “animals” to “dogs” the special condition would not be limiting what is
39 already a by-right use.

1
2 Mr. Hall stated that he does appreciate the comment regarding the number of dogs to be on the property at
3 any one time so that someone could not indicate that they are only boarding 15 of the 30 dogs that are
4 present on the property.

5
6 Mr. Hall recommended the following change to proposed special condition B.:

7
8 **B. The number of dogs to be on the subject property at any one time shall not**
9 **exceed 15, including dogs that are the property of anyone residing on the**
10 **property and any dogs belonging to the owner of the property.**
11 The special condition stated above is required to ensure the following:
12 **That noise from the proposed Special Use is minimally disruptive to the**
13 **surrounding area.**

14
15 Ms. Capel stated that she agreed with Mr. Hall’s revision with special condition B.

16
17 Mr. Johnson stated that he agreed with revised special condition B.

18
19 Mr. Thorsland read proposed special condition C. as follows:

20
21 **C. The Zoning Administrator shall not authorize a Zoning Use Permit Application**
22 **or issue a Zoning Compliance Certificate on the subject property until the**
23 **Petitioner has installed a six feet tall wood fence on the south, north and east**
24 **sides and chain link on the west side of the relocated fenced activity area.**
25 **There can be no gap between the wood fence and the chain link fence.**
26 The special condition stated above is required to ensure the following:
27 **That the Special Use conforms to the Zoning Ordinance requirement that the**
28 **Special Use is so designed, located, and proposed as to be operated so that it will**
29 **not be injurious to the DISTRICT in which it shall be located or otherwise**
30 **detrimental to the public welfare.**

31
32 Mr. Thorsland asked Mr. Johnson if he agreed with proposed special condition C.

33
34 Mr. Johnson stated that he agreed with revised special condition C.

35
36 Mr. Thorsland read proposed special condition D. as follows:

37
38 **D. The Zoning Administrator shall not authorize a Zoning Use Permit Application**
39 **or issue a Zoning Compliance Certificate on the subject property until the**

1 **Petitioner has ensured compliance with the Illinois Accessibility Code.**

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

3 **That all state accessibility requirements have been met.**

4
5 Mr. Thorsland asked Mr. Johnson if he agreed with special condition D.

6
7 Mr. Johnson asked Mr. Thorsland if the proposed special condition is requiring a wheelchair ramp.

8
9 Mr. Hall informed Mr. Johnson that he should contact Doug Gamble to see what his requirement is because
10 this is not a County requirement. He said that he could tell Mr. Johnson wrong either way so the best bet is
11 for Mr. Johnson to personally contact Mr. Gamble. Mr. Hall noted that Mr. Gamble would be willing to
12 visit the subject property if Mr. Johnson would prefer.

13
14 Mr. Hall stated that normally Mr. Gamble will only be concerned if new parking is being proposed and if so
15 then the parking has to be accessible but Mr. Johnson is not adding any new parking. He said that it is not
16 clear that Mr. Johnson needs to do anything which is the reason why he is requesting that Mr. Johnson
17 contact Mr. Gamble.

18
19 Mr. Johnson stated that he agreed with special condition D and he will contact Mr. Gamble.

20
21 Mr. Thorsland read proposed special condition E. as follows:

22
23 **E. No dog shall be kenneled outside other than for intermittent periods of exercise**
24 **and such periods of exercise shall be supervised by the kennel owner or**
25 **representative.**

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

27 **To ensure that kennel operations are consistent with the testimony and to**
28 **minimize impact on the neighbors.**

29
30 Mr. Thorsland asked Mr. Johnson if he agreed to special condition E.

31
32 Mr. Johnson stated that he agreed to special condition E.

33
34 **F. The private sewage disposal system serving the Special Use Permit shall be**
35 **maintained as necessary or as recommended by the County Health Department**
36 **but maintenance shall occur on at least a triennial basis and all maintenance**
37 **reports shall be made available for review by the Zoning Administrator. Failure**
38 **to provide copies of maintenance reports when requested shall constitute a**
39 **violation of this Special Use Permit approval and the Zoning Administrator**

1 shall refer the violation to the Champaign County State’s Attorney for legal
2 action.

3 The special condition stated above is required to ensure the following:
4 **To ensure that the septic system continues to be of sufficient capacity and in**
5 **operation given the increase in use from a single family residence to a residence**
6 **with a Kennel.**

7
8 Mr. Thorsland asked Mr. Johnson if he agreed with proposed special condition F.

9
10 Mr. Johnson stated that he agreed with proposed special condition F.

11
12 Mr. Thorsland read proposed special condition G.

13
14 **G. No Trash or garbage shall be burned on the property.**

15 The special condition stated above is required to ensure the following:
16 **To ensure that the Special Use conforms with the Zoning Ordinance policy**
17 **protecting the health, safety, and general welfare of area residents.**

18
19 Ms. Griest stated that Mr. Johnson’s testimony indicated that, technically, he was not renting all of the
20 property. She asked Mr. Hall if Mr. Johnson is not going to have control over all of the property does this
21 condition refer to the entire parcel or only the portion of the property of which Mr. Johnson does have
22 control.

23
24 Mr. Thorsland states that no trash or garbage shall be burned on the property.

25
26 Mr. Johnson stated that he had no control over what was going on when the EPA visited the property. He
27 said that he spoke with the EPA because he was the only person on the property at the time of their visit. He
28 said that Mr. Handal called him shortly after the EPA’s visit and told him that if anyone shows up with
29 materials to burn that they are not allowed to do it because if they do it will cost Mr. Handal \$3,000 in fines.

30
31 Mr. Passalacqua stated that the violation with the EPA is not on Mr. Johnson’s shoulders and has nothing to
32 do with this case.

33
34 Ms. Griest agreed. She said that she does not want to burden Mr. Johnson with the responsibility of
35 controlling a landlord which seems to be outside of the bounds of EPA regulations.

36
37 Mr. Thorsland stated that perhaps the condition could indicate that no trash or garbage shall be burned on
38 the 1.8 acres of the property, as contained in this Special Use Permit.

39

1 Mr. Hall stated that Mr. Thorsland’s proposed text does not change anything because that is what this
2 condition is already.

3
4 Mr. Thorsland stated that someone could decide that this means the entire property and not just the 1.8 acres.

5
6 Ms. Griest stated that if Mr. Hall is clarifying that the condition, as written, only pertains to the portion of
7 the property that is covered by the special use.

8
9 Mr. Hall stated that that would be a different condition because the 1.8 acres consists of the land that the
10 Board may authorize the kennel upon plus the sheds that are there and Mr. Johnson does not use. He said
11 that all of the sheds are not located on the 1.8 acres but Mr. Johnson isn’t proposing to use all of the 1.8
12 acres for the kennel. He said that based on what Mr. Johnson said about the last visit by the EPA, there will
13 not be burning occurring on the 1.8 acres because there will be a \$3,000 fine imposed upon the landowner.

14
15 Mr. Thorsland asked Mr. Johnson if Mr. Handal is aware of the possible \$3,000 fine.

16
17 Mr. Johnson stated yes, because Mr. Handal called him to tell him about it.

18
19 Mr. Thorsland asked Mr. Johnson if he agreed with proposed special condition G. as written.

20
21 Mr. Johnson stated that he agreed with proposed special condition G. as written.

22
23 Mr. Thorsland read proposed special condition H.

24
25 **H. The Special Use Permit shall expire when the current resident operator Mr.**
26 **Reginald Johnson no longer resides on the property.**

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

28 **To ensure that there is an experienced and qualified resident operator that has**
29 **been involved in the public hearing for this case.**

30
31 Mr. Thorsland asked Mr. Johnson if he agreed with proposed special condition H.

32
33 Mr. Johnson stated that he agreed with proposed special condition H.

34
35
36 **I. The Revised Site Plan received April 24, 2015, will be the final site plan for**
37 **approval and will include the floor plans received April 07, 2015.**

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

39 **To ensure that all parties are clear in which submitted site plan is the official**

1 site plan for approval.

2
3 Mr. Thorsland asked Mr. Johnson if he agreed with proposed special condition I.

4
5 Mr. Johnson stated that he agreed with proposed special condition I.

6
7 Mr. Thorsland asked the Board if there were any additional questions for Mr. Johnson and there were none.

8
9 Mr. Thorsland entertained a motion to approve special conditions.

10
11 **Ms. Griest moved, seconded by Ms. Capel to approve the special conditions. The motion carried by**
12 **voice vote.**

13
14 Mr. Thorsland asked Mr. Hall if there were any new Documents of Record.

15
16 Mr. Hall stated that there were no new Documents of Record.

17
18 **Findings of Fact for Case 793-S-14:**

19
20 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
21 793-S-14 held on February 12, 2015, April 16, 2015, and May 14, 2015, the Zoning Board of Appeals of
22 Champaign County finds that:

- 23
24 **1. The requested Special Use Permit IS necessary for the public convenience at this**
25 **location.**

26
27 Mr. Passalacqua stated that the requested Special Use Permit IS necessary for the public convenience at this
28 location because it is an underserved market.

29
30 Mr. Thorsland stated that the proposed Special Use Permit serves a demand that is underserved in this area
31 and the site has easy access for a business of this type to the urban area.

- 32
33 **2. The requested Special Use Permit, subject to the special conditions imposed herein, is so**
34 **designed, located, and proposed to be operated so that it WILL NOT be injurious to the**
35 **district in which it shall be located or otherwise detrimental to the public health, safety**
36 **and welfare.**

- 37
38 **a. The street has ADEQUATE traffic capacity and the entrance location has**
39 **ADEQUATE visibility.**

- 1
2 Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE
3 visibility.
4
- 5 **b. Emergency services availability is ADEQUATE.**
6
- 7 Mr. Passalacqua stated that emergency services availability is ADEQUATE.
8
- 9 **c. The Special Use WILL be compatible with adjacent uses.**
10
- 11 Mr. Passalacqua stated that the Special Use WILL be compatible with adjacent uses.
12
- 13 **d. Surface and subsurface drainage will be ADEQUATE.**
14
- 15 Mr. Passalacqua stated that surface and subsurface drainage will be ADEQUATE and is unchanged.
16
- 17 **e. Public safety will be ADEQUATE.**
18
- 19 Ms. Capel stated that public safety will be ADEQUATE.
20
- 21 Mr. Thorsland stated that public safety will be ADEQUATE due to Special Conditions C. and E.
22
- 23 **f. The provisions for parking will be ADEQUATE.**
24
- 25 Mr. Passalacqua stated that the provisions for parking will be ADEQUATE.
26
- 27 **g. The property is BEST PRIME FARMLAND and the property with the**
28 **proposed improvements IS WELL SUITED OVERALL.**
29
- 30 Mr. Passalacqua stated that the property is BEST PRIME FARMLAND and the property with the proposed
31 improvements IS WELL SUITED OVERALL.
32
- 33 **h. The existing public services ARE available to support the proposed special use**
34 **effectively and safely without undue public expense.**
35
- 36 Ms. Griest stated that the existing public services ARE available to support the proposed special use
37 effectively and safely without undue public expense.
38
- 39 **i. The only existing public infrastructure together with proposed improvements**

1 **ARE adequate to support the proposed development effectively and safely**
2 **without undue public expense.**
3

4 Mr. Passalacqua stated that the only existing public infrastructure together with proposed improvements
5 ARE adequate to support the proposed development effectively and safely without undue public expense.
6

7 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
8 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in
9 which it shall be located or otherwise detrimental to the public health, safety, and welfare.
10

11 **3a. The requested Special Use Permit, subject to the special conditions imposed**
12 **herein, DOES conform to the applicable regulations and standards of the**
13 **DISTRICT in which it is located.**
14

15 Ms. Griest stated that the requested Special Use Permit, subject to the special conditions imposed herein,
16 DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.
17

18 **3b. The requested Special Use Permit, subject to the special conditions imposed**
19 **herein, DOES preserve the essential character of the DISTRICT in which it is**
20 **located because:**
21

22 **a. The Special Use will be designed to CONFORM to all relevant County**
23 **ordinances and codes.**
24

25 Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County ordinances and
26 codes.
27

28 **b. The requested Special Use Permit IS necessary for the public**
29 **convenience at this location.**
30

31 Mr. Thorsland stated that the requested Special Use Permit IS necessary for the public convenience at this
32 location.
33

34 **c. The requested Special Use Permit, subject to the special conditions**
35 **imposed herein, is so designed, located, and proposed to be operated so**
36 **that it WILL NOT be injurious to the district in which it shall be located**
37 **or otherwise detrimental to the public health, safety and welfare.**
38

39 Mr. Passalacqua stated that the requested Special Use Permit, subject to the special conditions imposed

1 herein, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the
2 district in which it shall be located or otherwise detrimental to the public health, safety and welfare.

- 3
4 **d. The requested Special Use Permit, subject to the special conditions**
5 **imposed herein, DOES preserve the essential character of the DISTRICT**
6 **in which it is located.**

7
8 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,
9 DOES preserve the essential character of the DISTRICT in which it is located.

10
11 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein, IS
12 in harmony with the general purpose and intent of the Ordinance.

- 13
14 **5. The requested Special Use IS NOT an existing nonconforming use.**

15
16 Mr. Thorsland stated that the requested Special Use IS NOT an existing nonconforming use.

- 17
18 **6. For the requested waivers, special conditions and circumstances DO exist which**
19 **are peculiar to the land or structure involved, which are not applicable to other**
20 **similarly situated land and structures elsewhere in the same district.**

21
22 Mr. Passalacqua stated that for the requested waivers, special conditions and circumstances DO exist which
23 are peculiar to the land or structure involved, which are not applicable to other similarly situated land and
24 structures elsewhere in the same district because of the proximity to the City of Champaign.

- 25
26 **7. For the requested waivers, practical difficulties or hardships created by**
27 **carrying out the strict letter of the regulations sought to be varied WILL**
28 **prevent reasonable or otherwise permitted use of the land or structure or**
29 **construction.**

30
31 Mr. Thorsland stated that for the requested waivers, practical difficulties or hardships created by carrying
32 out the strict letter of the regulations sought to be varied WILL prevent reasonable or permitted use of the
33 land or structure or construction.

- 34
35 **8. For the requested waivers, the special conditions, circumstances, hardships, or**
36 **practical difficulties DO NOT result from actions of the applicant.**

37
38 Ms. Capel stated that for the requested waivers, the special conditions, circumstances, hardships, or
39 practical difficulties DO NOT result from actions of the applicant.

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9. **The special conditions imposed herein are required to ensure compliance with the criteria for Special Use Permits and for the particular purposed described below:**

A. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.

The special condition stated above is required to ensure the following:
That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

B. The number of dogs to be on the subject property at any one time shall not exceed 15, including dogs that are the property of anyone residing on the property and any dogs belonging to the owner of the property.

The special condition stated above is required to ensure the following:
That noise from the proposed Special Use is minimally disruptive to the surrounding area.

C. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has installed a six feet tall wood fence on the south, north and east sides and chain link on the west side of the relocated fenced activity area. There can be no gap between the wood fence and the chain link fence.

The special condition stated above is required to ensure the following:
That the Special Use conforms to the Zoning Ordinance requirement that the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare.

D. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has ensured compliance with the Illinois Accessibility Code.

The special condition stated above is required to ensure the following:
That all state accessibility requirements have been met.

- 1 **E. No dog shall be kenneled outside other than for intermittent periods of**
2 **exercise and such periods of exercise shall be supervised by the kennel**
3 **owner or representative.**
4 The special condition stated above is required to ensure the following:
5 **To ensure that kennel operations are consistent with the testimony and to**
6 **minimize impact on the neighbors.**
7
8 **F. The private sewage disposal system serving the Special Use Permit shall**
9 **be maintained as necessary or as recommended by the County Health**
10 **Department but maintenance shall occur on at least a triennial basis and**
11 **all maintenance reports shall be made available for review by the Zoning**
12 **Administrator. Failure to provide copies of maintenance reports when**
13 **requested shall constitute a violation of this Special Use Permit approval**
14 **and the Zoning Administrator shall refer the violation to the Champaign**
15 **County State’s Attorney for legal action.**
16 The special condition stated above is required to ensure the following:
17 **To ensure that the septic system continues to be of sufficient capacity**
18 **and in operation given the increase in use from a single family residence**
19 **to a residence with a Kennel.**
20
21 **G. No Trash or garbage shall be burned on the property.**
22 The special condition stated above is required to ensure the following:
23 **To ensure that the Special Use conforms with the Zoning Ordinance**
24 **policy protecting the health, safety, and general welfare of area**
25 **residents.**
26
27
28 **H. The Special Use Permit shall expire when the current resident operator**
29 **Mr. Reginald Johnson no longer resides on the property.**
30 The special condition stated above is required to ensure the following:
31 **To ensure that there is an experienced and qualified resident operator**
32 **that has been involved in the public hearing for this case.**
33
34
35 **I. The Revised Site Plan received April 24, 2015, will be the final site plan**
36 **for approval and will include the floor plans received April 07, 2015.**
37 The special condition stated above is required to ensure the following:
38 **To ensure that all parties are clear in which submitted site plan is the**
39 **official site plan for approval.**

1
2 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
3 of Fact as amended.
4

5 **Ms. Griest moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of Record
6 and Findings of Fact as amended. The motion carried by voice vote.**
7

8 Mr. Thorsland entertained a motion to move to the Final Determination for Case 793-S-14.
9

10 **Ms. Griest moved, seconded by Ms. Capel to move to the Final Determination for Case 793-S-14. The
11 motion carried by voice vote.**
12

13 Mr. Thorsland informed Mr. Johnson that currently the Board has one vacant Board seat and one absent
14 Board member therefore it is at his discretion to either continue Case 793-S-14 until a full Board is present
15 or request that the present Board move to the Final Determination. He informed Mr. Johnson that four
16 affirmative votes are required for approval.
17

18 Mr. Johnson requested that the present Board move to the Final Determination.
19

20 **Final Determination for Case 793-S-14:**
21

22 **Ms. Griest moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals finds
23 that, based upon the application, testimony, and other evidence received in this case, the requirements
24 of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted by Section
25 9.1.6B. of the Champaign county Zoning Ordinance, determines that:**
26

27 **The Special Use requested in Case 793-S-14 is hereby GRANTED WITH SPECIAL
28 CONDITIONS to the applicants Fuad Handal and Lawrence Johnson to:**
29

- 30 1) **Authorize a kennel as a Special Use on 1.8 acres located in the AG-1,
31 Agriculture Zoning District.**
- 32 2) **Authorize the following waivers to the standard conditions of the Kennel special
33 use as per Section 6.1.3 of the Zoning Ordinance:**
 - 34 a. **A six feet tall wood privacy fence around the activity area on the
35 northeast and north side.**
 - 36 b. **A side yard setback of 85 feet in lieu of the required 200 feet.**
37

38 **Subject to the following special conditions:**
39

- 1 A. **The Zoning Administrator shall not authorize a Zoning Use Permit**
2 **Application or issue a Zoning Compliance Certificate on the subject**
3 **property until the lighting specifications in Paragraph 6.1.2.A. of the**
4 **Zoning Ordinance have been met.**
5 The special condition stated above is required to ensure the following:
6 **That exterior lighting for the proposed Special Use meets the**
7 **requirements established for Special Uses in the Zoning Ordinance.**
8
9 B. **The number of dogs to be on the subject property at any one time shall**
10 **not exceed 15, including dogs that are the property of anyone residing on**
11 **the property and any dogs belonging to the owner of the property.**
12 The special condition stated above is required to ensure the following:
13 **That noise from the proposed Special Use is minimally disruptive to the**
14 **surrounding area.**
15
16 C. **The Zoning Administrator shall not authorize a Zoning Use Permit**
17 **Application or issue a Zoning Compliance Certificate on the subject**
18 **property until the Petitioner has installed a six feet tall wood fence on**
19 **the south, north and east sides and chain link on the west side of the**
20 **relocated fenced activity area. There can be no gap between the wood**
21 **fence and the chain link fence.**
22 The special condition stated above is required to ensure the following:
23 **That the Special Use conforms to the Zoning Ordinance requirement**
24 **that the Special Use is so designed, located, and proposed as to be**
25 **operated so that it will not be injurious to the DISTRICT in which it**
26 **shall be located or otherwise detrimental to the public welfare.**
27
28 D. **The Zoning Administrator shall not authorize a Zoning Use Permit**
29 **Application or issue a Zoning Compliance Certificate on the subject**
30 **property until the Petitioner has ensured compliance with the Illinois**
31 **Accessibility Code.**
32 The special condition stated above is required to ensure the following:
33 **That all state accessibility requirements have been met.**
34
35 E. **No dog shall be kenneled outside other than for intermittent periods of**
36 **exercise and such periods of exercise shall be supervised by the kennel**
37 **owner or representative.**
38 The special condition stated above is required to ensure the following:
39 **To ensure that kennel operations are consistent with the testimony and to**

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minimize impact on the neighbors.

- F. The private sewage disposal system serving the Special Use Permit shall be maintained as necessary or as recommended by the County Health Department but maintenance shall occur on at least a triennial basis and all maintenance reports shall be made available for review by the Zoning Administrator. Failure to provide copies of maintenance reports when requested shall constitute a violation of this Special Use Permit approval and the Zoning Administrator shall refer the violation to the Champaign County State’s Attorney for legal action.**

The special condition stated above is required to ensure the following:
To ensure that the septic system continues to be of sufficient capacity and in operation given the increase in use from a single family residence to a residence with a Kennel.

- G. No Trash or garbage shall be burned on the property.**
 The special condition stated above is required to ensure the following:
To ensure that the Special Use conforms with the Zoning Ordinance policy protecting the health, safety, and general welfare of area residents.

- H. The Special Use Permit shall expire when the current resident operator Mr. Reginald Johnson no longer resides on the property.**
 The special condition stated above is required to ensure the following:
To ensure that there is an experienced and qualified resident operator that has been involved in the public hearing for this case.

- I. The Revised Site Plan received April 24, 2015, will be the final site plan for approval and will include the floor plans received April 07, 2015.**
 The special condition stated above is required to ensure the following:
To ensure that all parties are clear in which submitted site plan is the official site plan for approval.

Mr. Thorsland requested a roll call vote:

The roll was called:

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

Mr. Hall informed Mr. Johnson that he received an approval for his request. He said that Ms. Chavarria will contact Mr. Johnson regarding the contact information for Doug Gamble and a copy of the final documentation will be sent out as soon as possible.

6. New Public Hearings

None

7. Staff Report

None

8. Other Business

A. Review of Docket

Mr. Hall stated that Ms. Chavarria is acting as staff’s chief enforcer for people who need to submit their applications for a public hearing but this process will take a while.

Mr. Hall stated that the City of Urbana did file a conditional protest for Case 769-AT-13 and he is glad that they did because it really has to do with something that we were too aggressive on in changing in the current policy and it was a very reasonable change and that change is what ELUC recommended at their meeting last week. He said that even though it was a condition protest it was sort of a friendly protest and the County will be better off for it. He said that hopefully Case 769-AT-13 will be approved by the County Board next week.

Ms. Lee asked Mr. Hall to explain what portion of the amendment that the City of Urbana protested.

Mr. Hall stated that Section 4.3, Exemptions and our current policy exempts anything that is subject to municipal storm water regulations. He said that Mr. Kass had assisted him with this and when an exemption for anything subject to annexation agreement was added in Section 4.2 Mr. Kass believed that this removed the need for that existing exemption but in fact it didn’t because Section 4.2 is only for when there is an annexation agreement. He said that there could still be development subject to municipal storm water regulations of which the County would still permit. He said that he was actually glad that the City of Urbana caught that and he just restored the existing exemption the way it is in the current storm water policy and it is a really good change.

Ms. Lee asked Mr. Hall if the ZBA needs to do anything about this change.

1
2 Mr. Hall stated that this is out of the ZBA's hands. He said that he took it to be a friendly amendment to the
3 Board's recommendation and it didn't need to come back to the ZBA. He said that if it had subsequently
4 changed the ZBA's recommendation it should have been sent back so that the ZBA could approve it but
5 since it was something that was in our existing policy it did not need to be sent back to this Board.

6
7 Mr. Thorsland stated that he will be absent for the May 28th meeting.

8
9 Ms. Griest stated that she will be absent from the June 11th meeting.

10
11 Ms. Lee stated that she will be scheduling hand surgery as soon as possible but she has not specific date yet.
12 She said that she will let staff know when a date is set.

13
14 Mr. Thorsland asked Mr. Hall if any applications for the vacant Board seat have been submitted.

15
16 Mr. Hall stated that at this time there are no valid applications for the empty Board seat.

17
18 **9. Audience Participation with respect to matters other than cases pending before the Board**

19
20 None

21
22 **10. Adjournment**

23
24 Mr. Thorsland entertained a motion to adjourn the meeting.

25
26 **Ms. Griest moved, seconded by Ms. Lee to adjourn the meeting. The motion carried by voice vote.**

27
28 The meeting adjourned at 7:56 p.m.

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32 Respectfully submitted

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37 Secretary of Zoning Board of Appeals

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39

ZBA

AS APPROVED JULY 30, 2015

5/14/15

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