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4 **MINUTES OF REGULAR MEETING**

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6 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

7 **1776 E. Washington Street**  
8 **Urbana, IL 61802**

10 **DATE: July 30, 2015**

**PLACE: Lyle Shield’s Meeting Room**  
**1776 East Washington Street**

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

**Urbana, IL 61802**

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

17 **MEMBERS ABSENT :** None

19 **STAFF PRESENT :** Connie Berry, John Hall, Susan Chavarria

21 **OTHERS PRESENT :** Randall Brown, Richard McCormick, Christine McCormick, Jon Dessen,  
22 Loretta Dessen, Albert Willms

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

26  
27 The meeting was called to order at 7:00 p.m.

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

30  
31 The roll was called and a quorum declared present with one vacant Board seat.

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

36  
37 **3. Correspondence**

38  
39 None

40  
41 **4. Approval of Minutes (May 14, 2015, May 28, 2015, and June 11, 2015)**

42  
43 Mr. Thorsland entertained a motion to approve the May 14, 2015, May 28, 2015, and June 11, 2015,  
44 minutes.

45  
46 **Mr. Randol moved, seconded by Ms. Griest to approve the May 14, 2015, May 28, 2015, and June 11,**  
47 **2015, minutes.**

1 Mr. Thorsland stated that Ms. Lee provided staff with two minor edits. She said that line 14-16 on page 8 of  
 2 the May 14, 2015, minutes should include the following: “Mr. Johnson stated that he has another part-time  
 3 job.” Ms. Lee stated that line 8 on page 3 of the May 28, 2015, minutes should be revised to indicate .40  
 4 acres and not .04 acres.

5

6 **The motion carried.**

7

8 **5. Continued Public Hearing**

9

10 None

11

12 **6. New Public Hearings**

13

14 **Case 808-S-15 Petitioner: Loretta Dessen Request: Authorize a Special Use Permit for a Private**  
 15 **Indoor Recreational Development to allow existing and ongoing use of the existing barn as a rentable**  
 16 **venue for entertainment and recreation in the R-4 Multiple Family Residence Zoning District.**  
 17 **Location: A 10 acre tract in the West half of the Northeast Quarter of Section 4, Township 19 North,**  
 18 **Range 8 East in Urbana Township and commonly known as Farm Lake, with an address of 2502**  
 19 **North Cunningham Avenue, Urbana.**

20

21 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign  
 22 the witness register for that public hearing. He reminded the audience that when they sign the witness  
 23 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this  
 24 time.

25

26 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding her request.

27

28 Ms. Loretta Dessen, who resides at 2502 N. Cunningham Avenue, Urbana, stated that she hosts parties in  
 29 barns that are located on her property. She said that generally the parties are very large and there could be as  
 30 many as 200 people in attendance. She said that most of the parties are held in the evening, sometimes in the  
 31 afternoon, and mostly consist of younger, college age, guests although some parties are for older guests. She  
 32 said that she has also hosted weddings, children’s birthday parties and other happy events at the barns which  
 33 are located on what she considers as a very nice property.

34

35 Mr. Thorsland asked Ms. Dessen to indicate the days of the week the events are typically held.

36

37 Ms. Dessen stated that most of the time the events are held on the weekends but sometimes there are events  
 38 on Tuesday, Wednesday and Thursday. She said that there are never events held on Sunday in the east barn.  
 39 She said that she hosts the events on a seasonal basis which only consist of four months out of the year.

1  
2 Mr. Thorsland thanked Ms. Dessen for her comments and asked the Board if there were any questions for  
3 Ms. Dessen and there were none.

4  
5 Mr. Thorsland called John Hall to testify.

6  
7 Mr. John Hall, Zoning Administrator, distributed a Supplemental Memorandum dated July 30, 2015, to the  
8 Board for review. He said that the new memorandum explains the background of the subject property and  
9 the rezonings that have occurred. He said that the eastern portion of the property was originally zoned AG-2  
10 and the western portion of the property was originally zoned B-3. He said that there were two zoning cases  
11 before the ZBA and the eastern portion was rezoned to R-4 in 1993 and the western portion was rezoned  
12 from B-3 to B-4 in 1998. He said that the western portion of the property is where the latest structure was  
13 constructed in 2005.

14  
15 Mr. Hall stated that the Preliminary Memorandum dated July 23, 2015, included two especially good  
16 paragraphs that staff would like to add to the Summary of Evidence at new items 5.B. and 5.E. He said that  
17 new item 5.B. summarizes the operations of Ms. Dessen’s business. He said that new item 5.E. summarizes  
18 the approved zoning cases for the subject property. He said that new item 7.D. discusses the history of the  
19 property. He said that the Dessen family has owned the property since 1959 and they operated the Farm  
20 Lake Day Camp for 16 years and began holding private events on the property in 1992. He said that the  
21 barns are rented out separately and are approximately 275 yards apart on opposite sides of the residence. He  
22 noted that in 1992 the property was actually zoned AG-2 and shortly after the eastern portion of the property  
23 was rezoned to R-4. He said that during both of the two previous zoning cases there was no mention of  
24 holding events and at this point with the rezoning to R-4 there is no opportunity to have outdoor events on  
25 the eastern property therefore this Special Use is only for indoor events.

26  
27 Mr. Hall stated that there are new special conditions proposed in the Supplemental Memorandum dated July  
28 30, 2015, and the important thing about special conditions is that the owner has to agree to the special  
29 conditions or they do not apply and the Board would have to take action without the special conditions. He  
30 said that in addition to the two special conditions that were included in the Preliminary Memorandum dated  
31 July 23, 2015, staff is proposing the following:

32  
33 **C. The Special Use Permit shall expire when the current resident Loretta Dessen no longer**  
34 **resides on the property.**

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

36 **That life safety concerns and public welfare are adequately considered in management**  
37 **of the proposed Special Use.**

38  
39 Mr. Hall stated that Special Condition C. only applies to the eastern barn which is the oldest and smallest

1 barn and the barn which is closer to the greatest number of neighbors. He said that staff assumes that the  
2 barn will no longer be used after Ms. Dessen retires from the business or leaves the property.

3  
4 **D. Music playing at events must be turned off by 10:00 p.m.**

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

6 **That events held on the subject property adequately consider prior noise complaints**  
7 **and current neighbors.**

8  
9 Mr. Hall stated that the eastern barn does not have ventilation and the doors are open when it is being used  
10 and Ms. Dessen testified that the typical use for the barn is for younger generation, college age, parties. He  
11 said that the floor plan showed a Disc Jockey booth and a dance floor and it would be unusual to have quiet  
12 music in a setting such as this and the County’s Nuisance Ordinance states that noise is a concern after 10:00  
13 p.m. He said that staff has received noise complaints against this property in the past and if the Board sees  
14 fit to approve the special use he cannot imagine it being approved without a condition like proposed Special  
15 Condition D.

16  
17 **E. No outdoor activities can be held at events other than use of the portable restrooms on**  
18 **the east parcel.**

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

21 **That events at the Private Indoor Recreational Facility on the east parcel suit the**  
22 **purpose and intent of allowing the proposed Special Use provided uniquely through**  
23 **this land use classification.**

24  
25 Mr. Hall stated that neighbors may wonder how portable restrooms can be utilized for a use that is only  
26 supposed to be operated indoors. He said that there should be no events occurring outside other than the use  
27 of the portable restroom.

28  
29 **F. Prior to the spring of 2016, the Petitioner shall install <ZBA determines height and type>**  
30 **fencing to keep activities in the West Barn from spilling onto the east Parcel, and also to**  
31 **keep East Barn activities from spreading onto areas adjacent to the lakes.**

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

33 **That events and activities will not extend to areas adjacent to the lakes, which can pose**  
34 **a health and safety concern for event attendees.**

35  
36 Mr. Hall stated that Special Condition F. applies to the property in question but does not relate to the east  
37 barn and relates to the fact that Ms. Dessen’s west barn, which can hold events indoor and outdoor by-right,  
38 and those activities cannot spill over onto the eastern portion of the property. He said that staff recommends  
39 fencing around the east barn to prevent activities from spilling over to the areas adjacent to the lakes. He

1 said that guests are coming to the subject property to have a party but an outdoor party cannot be held on the  
2 areas adjacent to Farm Lake because it does not have proper zoning.

3  
4 **G. The Petitioner shall bi-annually provide a Certificate of Insurance issued by an**  
5 **insurance carrier authorized to do business in the State of Illinois for general liability**  
6 **insurance coverage limits, with minimum acceptable coverage for bodily injury of**  
7 **\$1,000,000 per occurrence and \$2,000,000 per aggregate.**

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

9 **That the property owner is in compliance with the Illinois Liquor Control Act (235**  
10 **ILCS 5/6-21).**

11  
12 Mr. Hall stated that this is a level of insurance recommended by the County’s insurance agency and would  
13 apply to Ms. Dessen’s business in case someone is injured while on the property.

14  
15 Mr. Hall noted that this is the first time that Ms. Dessen has had a chance to review the proposed conditions.

16  
17 Ms. Griest stated that she is certain that Ms. Dessen would need to provide the Certificate of Insurance to the  
18 Zoning Administrator. Ms. Griest asked Mr. Hall if providing the Certificate of Insurance to the Zoning  
19 Administrator could be clarified in Special Condition G.

20  
21 Mr. Hall stated yes.

22  
23 Mr. Randol asked Mr. Hall if it is a common practice that the ZBA requires a Certificate of Insurance.

24  
25 Mr. Hall stated that it is not common yet but such a requirement will be proposed to the updated Recreation  
26 and Entertainment (R&E) Ordinance. He said that it has been hoped that the requirement could be added to  
27 the R/E Ordinance this year but it has been discovered that there are more difficult issues with the Ordinance  
28 than originally thought. He said that the Board recently took action on the Hudson Farm case and the Board  
29 did not recommend that a Certificate of Insurance be provided to the Zoning Administrator but maybe it  
30 should have. He said that staff did not believe that the nature of activities that Ms. Hudson planned to do on  
31 the property justified this requirement but in this instance staff feels that it is advisable but the Board may  
32 feel otherwise. He said that the only other time such a condition was proposed was during a case involving  
33 an unauthorized music venue operating in the rural area. He said that the question was whether they should  
34 be allowed to continue until they receive the appropriate zoning approval or not and the Environment and  
35 Land Use Committee made it clear that they had a concern about insurance and until the venue was  
36 authorized staff needed to make sure that they had the proper insurance.

37  
38 Mr. Thorsland stated that the previous venue was held indoors only.

1 Mr. Hall stated yes, theoretically it was held indoors only.  
2  
3 Mr. Thorsland stated that before the case moves any further he must announce the following: Case 808-S-15  
4 is an Administrative Case and as such the County allows anyone the opportunity to cross examine any  
5 witness. He said that at the proper time he will ask for a show of hands for those who would like to cross  
6 examine and each person will be called upon. He requested that anyone called to cross examine go to the  
7 cross examination microphone to ask any questions. He said that those who desire to cross examine are not  
8 required to sign the witness register but are requested to clearly state their name before asking any questions.  
9 He noted that no new testimony is to be given during the cross examination. He said that attorneys who have  
10 complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.  
11  
12 Ms. Dessen stated that she did not bring her insurance policy with her but she does carry a \$1,000,000  
13 minimum insurance certificate.  
14  
15 Mr. Thorsland stated that the Board has not approved that special condition as of yet but it is good  
16 information for the Board.  
17  
18 Mr. Thorsland called Jon Dessen to testify.  
19  
20 Mr. Jon Dessen, 2502 N. Cunningham Avenue, Urbana, stated that during the last year and one-half they  
21 have invested a substantial amount of money, the sum of \$16,000<sup>+</sup>, in placing fencing between the south part  
22 of the property and the existing trailer park. He said that one of the reasons for the fencing was to keep the  
23 residents and younger children off of Ms. Dessen's property as well as keeping their guests out of the trailer  
24 park's property. He said that staff is more than welcome to come visit the property to view the fence. He  
25 said that the fence is cedar fencing that spans all of the way from the west side of the property to the east side  
26 of the property and is eight feet tall.  
27  
28 Mr. Thorsland stated that information in the mailing indicates that a security guard is hired for every 25  
29 guests. He asked Ms. Dessen if the guards are given any instruction regarding keeping the guests out of the  
30 lake and not having separate parties mingle.  
31  
32 Ms. Dessen stated yes. She said that if a guest places a toe in the lake they are placed back on the bus that  
33 they arrived in and they are sent home.  
34  
35 Mr. Thorsland asked Ms. Dessen if there is some sort of instruction given to the security personnel before  
36 the event.  
37  
38 Ms. Dessen stated yes.  
39

1 Mr. Jon Dessen stated that both parties are aware that they are not encroaching on either side and if they do  
2 they are escorted to the bus or vehicle. He said that guests are not allowed to drive to the property by  
3 personal vehicle and are only to arrive at the property by an authorized vehicle and if they violate the rules  
4 they are escorted back to that vehicle and asked to leave in that authorized vehicle.  
5  
6 Mr. Thorsland asked Mr. Jon Dessen if they enforce the authorized vehicle and if so where do the guests  
7 meet to board the authorized vehicle.  
8  
9 Ms. Dessen stated that one authorized person is allowed one vehicle but no one is allowed to drive  
10 individually. She said that the college guests meet at the sorority or fraternity office to board the bus.  
11  
12 Mr. Thorsland asked Ms. Dessen if it is up to the guests to organize their transportation to the subject  
13 property.  
14  
15 Ms. Dessen stated yes.  
16  
17 Mr. Thorsland asked Ms. Dessen if the guests are to arrive and leave in the same vehicle.  
18  
19 Ms. Dessen stated yes. She said that only one authorized vehicle is allowed with a designated driver from  
20 the organization.  
21  
22 Mr. Thorsland asked Ms. Dessen if that was for parking reasons or because she does not want wear and tear  
23 on her property.  
24  
25 Ms. Dessen stated that it is a control system and she does not want people on the road after the party.  
26  
27 Mr. Thorsland stated that he assumes that alcohol is consumed at the events. He asked Ms. Dessen if an  
28 outside source provides the alcohol for the events.  
29  
30 Ms. Dessen stated yes.  
31  
32 Mr. Thorsland stated that Ms. Dessen's property is only rented for the space to hold the venue.  
33  
34 Ms. Dessen stated yes, she is just the venue and she provides security at that venue.  
35  
36 Mr. Thorsland informed Ms. Dessen that later during the meeting the Board will discuss the special  
37 conditions and she will have the opportunity to agree or disagree with the conditions. He requested that Ms.  
38 Dessen review those conditions and if she is uncomfortable with any of the conditions or if she wants her  
39 attorney to review the conditions then she has that right and the Board can continue her case to a later date.

1  
2 Mr. Thorsland asked Mr. Hall if he had any additional information to present to the Board.  
3  
4 Mr. Hall stated no.  
5  
6 Mr. Thorsland asked the Board if there were any questions for Ms. Dessen.  
7  
8 Mr. Passalacqua asked if anyone had spoken with Mr. Doug Gamble, Accessibility Specialist with the  
9 Illinois Capital Development Board, regarding the venue.  
10  
11 Mr. Thorsland stated that the Preliminary Memorandum indicated Ms. Dessen spoke with Mr. Gamble.  
12  
13 Mr. Passalacqua asked what bearing that has since the guests arrive to the property in a common bus.  
14  
15 Ms. Chavarria stated that when she originally spoke with Ms. Dessen on the phone and Ms. Dessen was  
16 answering questions that Ms. Chavarria had provided to her, Ms. Dessen indicated that she spoke with Mr.  
17 Gamble about the venue. Ms. Chavarria stated that she does not have any documentation about what was  
18 discussed between Ms. Dessen and Mr. Gamble therefore accessibility requirements are yet to be determined  
19 in the future.  
20  
21 Mr. Thorsland asked Ms. Dessen if she remembers what Mr. Gamble told her.  
22  
23 Ms. Dessen stated that she does not recall.  
24  
25 Ms. Chavarria explained to Ms. Dessen that Mr. Gamble is the gentleman that she spoke to about  
26 accessibility requirements for the facility.  
27  
28 Ms. Dessen stated that handicap access is not a problem for the barns because a wheelchair can get into them  
29 easily. She said that if she is made aware that there is someone in a wheelchair that will be attending the  
30 party she will accommodate them by obtaining an accessible portable restroom.  
31  
32 Mr. Thorsland stated that the mailing indicated that information.  
33  
34 Ms. Dessen stated that when the party is booked she inquires whether there will be anyone who requires  
35 special accommodations.  
36  
37 Mr. Thorsland asked Ms. Dessen if she has any correspondence with Mr. Gamble regarding the conversation  
38 that they had regarding the venue.  
39

1 Ms. Dessen stated no. She said that she spoke to Mr. Gamble on the phone.  
2  
3 Mr. Thorsland asked Ms. Dessen if it is possible for her to call Mr. Gamble again so that he could send  
4 something to staff in writing regarding the accessibility requirements for the property.  
5  
6 Ms. Dessen stated yes. She noted that the barns are no problem because there are no stairs in them.  
7  
8 Mr. Thorsland stated that normally Mr. Gamble will indicate the number of accessible parking spaces  
9 required for the property. He asked Ms. Dessen if she and Mr. Gamble discussed accessibility requirements.  
10  
11 Ms. Dessen stated that she has not been asking about it but they let her know. She said that she has had  
12 someone indicate that they have a guest who has broken their leg that has special needs.  
13  
14 Mr. Thorsland stated that he is not talking about the customers but is speaking about her conversation with  
15 Mr. Gamble and whether or not he indicated that an accessible parking space was required.  
16  
17 Ms. Dessen stated that she believes that Mr. Gamble was out.  
18  
19 Mr. Thorsland asked Ms. Dessen if Mr. Gamble came to the property.  
20  
21 Ms. Dessen stated that there is no problem getting in and out of the barn.  
22  
23 Mr. Thorsland asked Ms. Dessen if Mr. Gamble said anything about an accessible parking space.  
24  
25 Ms. Dessen stated that Mr. Gamble didn't say anything to her about it.  
26  
27 Mr. Thorsland informed Ms. Dessen that the Board would like to see something in writing from Mr.  
28 Gamble.  
29  
30 Ms. Griest stated that with respect to Special Condition A., it is evident that this case will be substantially  
31 different in regards to having accessible parking indicated on the site plan and a specific number of parking  
32 spaces on the site plan. She said that she would like to see a letter or email from Mr. Gamble to satisfy  
33 proposed Special Condition A. as currently everything is hearsay and she is not comfortable with that.  
34  
35 Mr. Thorsland stated that he specifically requested that a letter or email from Mr. Gamble be submitted to  
36 the Board regarding accessibility requirements for the property.  
37  
38 Mr. Thorsland stated that if the ZBA had known about this in 1993 we would not be here today because the  
39 uses would have been made part of that case. He said that the Board must find that the proposed use is

- 1 necessary for the public convenience. He asked Ms. Dessen why it would be necessary for the Board to  
2 approve this Special Use Permit.  
3
- 4 Ms. Dessen stated that people like the east barn because it is old, romantic, and picturesque and it has a  
5 feeling of being around for a long time. She said that they really enjoy the east barn a lot.  
6
- 7 Mr. Thorsland asked Ms. Dessen if the east barn is one of the original structures and was it part of the day  
8 camp.  
9
- 10 Ms. Dessen stated that they built the barn in the 60's and it is only historic to her.  
11
- 12 Mr. Jon Dessen stated that the barn was part of the day camp.  
13
- 14 Mr. Thorsland stated that the east barn is sort of a public resource facility that has been used for the day  
15 camp and other events for a very long time.  
16
- 17 Mr. Jon Dessen stated yes.  
18
- 19 Mr. Thorsland asked Ms. Dessen why the use of the east barn was not discussed in 1993. He asked if the  
20 current use was new or was it being rented out at that time.  
21
- 22 Ms. Dessen stated that she does not know if it was mentioned at that time or not.  
23
- 24 Mr. Thorsland asked the Board if there were any additional questions.  
25
- 26 Ms. Griest stated that the site plan indicates a small patio on the east barn. She asked if the request precludes  
27 them from having activities extended out onto the patio.  
28
- 29 Mr. Hall stated that this is the Board's call. He said that this is supposed to be an indoor recreational  
30 development and if he was there he would go out onto the patio and stay there all night. He said that it is up  
31 to the Board but he would recommend that the patio not be part of the approval. He said that the Board  
32 should also note that behind the disc jockey booth and bar and vending there is an area that is an area that is  
33 open to the north, east and west sides with a roof overhang. He said that a lot of people will want to hang  
34 out in these areas.  
35
- 36 Ms. Dessen asked why this is being considered an indoor recreational facility. She asked if there are rules  
37 which restrict people from being outdoors.  
38
- 39 Mr. Hall stated that on the east property the venue can only be indoors and cannot be outdoors.

1

2 Ms. Dessen asked why.

3

4 Mr. Hall stated that it is how the Zoning Ordinance is written. He said that he believes that it goes back to  
5 the fact that R-4 is a residential zoning district and there is a presumption that commercial outdoor recreation  
6 is generally incompatible with nearby residences. He said that this is why staff will stress that anything that  
7 has to do with the outdoors is incompatible in this zoning district. He said that the Board does have some  
8 discretion regarding the patios that are partially covered.

9

10 Mr. Randol asked Ms. Dessen if the patios are used extensively.

11

12 Ms. Dessen stated yes. She said that people enjoy the outdoor environment as much as they do the indoor.  
13 She said that the east barn is not completely enclosed because there are no doors to shut and is open to the  
14 outdoors. She said that she is not clear as to why the activity is prohibited when there is a place that has a  
15 beautiful outdoor setting. She said that not allowing its full use would change the nature of the east barn.

16

17 Mr. Thorsland stated that the only recreational use allowed in the R-4 District is indoors and there are  
18 probably historical reasons for that restriction. He said that the R-4 District is a residential zoning district as  
19 compared to an agricultural or commercial zoning district. He said that the reason why the west barn is not  
20 before the Board tonight is because it is zoned differently and Ms. Dessen's property has a couple of  
21 different zoning districts on it. He said that due to the Zoning Ordinance the Board can only allow indoor  
22 recreational activities and the patio with a roof is a gray area as to whether it is really indoor or outdoor use.  
23 He said that how beautiful and open the property is cannot be a factor. He said that a building being as open  
24 as this puts the whole barn into a gray area in being used for such a venue in the R-4 district as the east barn  
25 can only be operated totally indoors with a special use. He said that he understands that this is frustrating but  
26 the east barn is located in the R-4 zoning district and that is why we keep going back to the case in 1993  
27 because if the Board would have known the use of the east barn in 1993 the zoning may have not been  
28 changed.

29

30 Mr. Jon Dessen stated that he understands what Mr. Thorsland is saying and he understands that if  
31 everything had been disclosed in 1993 then this may not be an issue today. He asked if it would satisfy the  
32 Board if they were to make the patio and the lean-to areas non-accessible to the guests. He said that the lean-  
33 to or overhang is on the north side of the barn and it is where they store a tractor or additional implements  
34 and it has always been there since the barn was first constructed. He said that when the overhang was first  
35 constructed it was used to store wood.

36

37 Mr. Thorsland stated that he is only one member of the Board but he could see a couple of options. He said  
38 that they could just not allow anyone access to those areas. He said that he assumes that smoking is not  
39 allowed inside of the barn so when people want to smoke they are outdoors.

- 1  
2 Mr. Jon Dessen stated that there is a designated distance from the barn for guests who smoke.  
3
- 4 Mr. Thorsland stated that an option would be to construct walls thus making the areas indoor.  
5
- 6 Ms. Capel stated that it seems a lot of the issues arise due to the zoning.  
7
- 8 Mr. Thorsland stated yes, but the case that is before the Board is a Special Use Permit and not a Map  
9 Amendment.  
10
- 11 Ms. Griest stated that she understands what is before the Board. She asked Mr. Hall if Ms. Dessen has the  
12 opportunity to request that the property be rezoned back to AG-2.  
13
- 14 Mr. Hall stated yes, but it needs to be carefully considered. He asked why the property was requested to be  
15 rezoned to R-4 and what would they be giving up in going back to AG-2. He said that part of this issue is  
16 the condition that the music must stop at 10:00 p.m. and it would be a very big deal for the way that this  
17 business is being conducted currently. He said that all of these things need to be weighed and hopefully the  
18 Board can give Ms. Dessen the best guidance they can as to what will and will not work. He said that the  
19 Board needs to be careful because the east barn is the barn that is closest to all of the residents. He said that  
20 there are residents within 500 feet on three sides of the property and nothing discussed here tonight is going  
21 to make the noise issue any worse than it has been historically but there have been noise complaints and it is  
22 not unusual for the Champaign County Sheriff to receive calls about the noise. He said that a call to the  
23 Sheriff does not happen all of the time but it has happened on one or two occasions.  
24
- 25 Mr. Thorsland stated that he is sure that Ms. Dessen is aware that the Sheriff's office has come to the  
26 property to request that the music be turned down.  
27
- 28 Ms. Dessen stated yes. She said that the music is not as bad as the girls' voices. She said that she used to be  
29 a girl but she grew up and she doesn't scream anymore.  
30
- 31 Mr. Thorsland stated that one way to handle the girls' voices is to keep them indoors and another way is to  
32 make the building a little tighter.  
33
- 34 Ms. Dessen stated that she really doesn't want to change the building.  
35
- 36 Mr. Thorsland stated that Ms. Griest and Ms. Capel are suggesting that Ms. Dessen request a zoning change.  
37
- 38 Ms. Dessen stated that it sounds like a zoning change may be the best thing to do.  
39

1 Mr. Thorsland stated that Ms. Dessen should spend some time with staff to discuss the pros and cons for a  
2 zoning change. He said that if Ms. Dessen desires to maintain the charm of the east barn, as it is currently,  
3 then maybe a better solution is to change the land that it is located upon. He said that keeping the parties all  
4 indoors would be a difficult task, even with the security, because people do smoke and they will want to go  
5 outside. He said that the east barn does not have any doors so the music and the guests will filter outside.  
6 He said that the 10:00 p.m. music cut-off is going to happen anyway regardless of the zoning because that  
7 requirement is part of the Nuisance Ordinance.

8  
9 Mr. Hall stated that he would not be proposing a 10:00 p.m. cut-off if this was a building that could be  
10 closed.

11  
12 Mr. Thorsland stated that Ms. Dessen does not want to change the building therefore it may be beneficial for  
13 Ms. Dessen to request a rezoning.

14  
15 Mr. Randol stated that Ms. Dessen definitely needs to discuss all of the options with staff because if use of  
16 the patio and other areas are restricted it will be a major problem to enforce without changing the structure of  
17 the barn. He said that if rezoning the property will allow all of Ms. Dessen's desires then that would be a  
18 better route to take.

19  
20 Ms. Lee asked if the property could be rezoned to B-4 to match the other side of the property.

21  
22 Mr. Hall stated that Ms. Dessen would be entirely in her rights to propose being rezoned to B-4 and at that  
23 point it would simply be a map amendment. He said that if the request is approved there is no Special Use  
24 Permit and no conditions and it would require good management to ensure that there are no problems.

25  
26 Ms. Capel asked Mr. Hall if the property is zoned to AG-2, Ms. Dessen would still require a Special Use  
27 Permit.

28  
29 Mr. Hall stated that it is a special use and it could also be outdoors as a special use.

30  
31 Ms. Capel stated that as far as she is concerned AG-2 would be her preference because with AG-2 the Board  
32 would have some control.

33  
34 Mr. Thorsland stated that Ms. Capel makes a good point that in AG-2 the Board could allow Ms. Dessen to  
35 hold her events outdoors but the Board would still have the ability to protect the surrounding neighbors that  
36 are in the residential districts. He said that if Ms. Dessen requests that the property be rezoned to B-4 then  
37 the only thing the Board could do is approve or deny the request and Ms. Dessen would be her own police  
38 officer.

- 1 Mr. Hall stated that he would not recommend rezoning the tract to B-4 before discussing it with the City of  
2 Urbana because they have protest rights.  
3
- 4 Ms. Dessen asked Mr. Hall to define B-4 zoning.  
5
- 6 Mr. Hall stated that B-4 is the County's general business district, which is what the west tract is zoned, and  
7 Ms. Dessen would be able to do almost anything on that property, which is good, but before Ms. Dessen  
8 attempts to extend the B-4 zoning onto the eastern tract she should talk to the City of Urbana to see if they  
9 would be opposed to the rezoning request and then make a decision.  
10
- 11 Mr. Randol stated that he would assume that Ms. Dessen has an attorney.  
12
- 13 Ms. Dessen stated that she does have an attorney.  
14
- 15 Mr. Randol stated that it might be wise for Ms. Dessen to consult with her attorney regarding the current  
16 operation and what she intends to continue doing on the property before she requests any zoning changes.  
17
- 18 Mr. Thorsland stated that Ms. Dessen should make sure that she is clear on what the different zoning rules  
19 are for the different zoning districts that she may consider.  
20
- 21 Ms. Capel stated that the City of Urbana may be unwilling to support any rezoning therefore consultation  
22 with the City of Urbana is an important first step.  
23
- 24 Mr. Thorsland stated that he would like to continue the case so that Ms. Dessen can decide which direction  
25 she wants to take. He said that if Ms. Dessen decides to continue with the special use request then the Board  
26 can continue with the case as it is before them tonight. He said that if Ms. Dessen decides that she wants to  
27 rezone the property then staff will notify the Board regarding the change and what their role will be in the  
28 case. He said that he understands that this process is frustrating because Ms. Dessen has been operating for a  
29 very long time and people are very happy with the operation. He noted that this delay will not slow down  
30 Ms. Dessen but will give her adequate time to decide which direction she wants to go regarding rezoning or  
31 a special use.  
32
- 33 Mr. Randol stated that even if the City of Urbana files a protest against any rezoning of the property the  
34 Board does not have to abide by that protest. He informed Ms. Dessen that even if the City of Urbana does  
35 file a protest it should not detour her from pursuing a change that she sincerely wants to do.  
36
- 37 Ms. Dessen stated that she certainly wants to be in compliance.  
38
- 39 Mr. Randol stated that whatever Ms. Dessen decides to do she would have to meet the County's

1 requirements.

2

3 Mr. Thorsland stated that it would be good for Ms. Dessen to meet with the appropriate staff from the City of  
4 Urbana to discuss her intentions.

5

6 Ms. Griest encouraged Ms. Dessen to spend a lot of time with Mr. Hall and Ms. Chavarria first so that she  
7 fully understands her options.

8

9 Ms. Griest asked Mr. Thorsland if there were any additional witnesses for the case.

10

11 Mr. Thorsland stated that there were no additional witnesses for the case.

12

13 Mr. Thorsland stated that the docket has an opening for the November 12<sup>th</sup> meeting. He said that a  
14 continuance to November 12<sup>th</sup> would not stop or slow down anything that Ms. Dessen is currently doing on  
15 her property.

16

17 Mr. Jon Dessen asked if November 12<sup>th</sup> is the date that he and Ms. Dessen would meet with Mr. Hall and  
18 Ms. Chavarria or is it the date of the next public hearing.

19

20 Mr. Thorsland stated that the case will be continued to the November 12<sup>th</sup> meeting in its current form but if a  
21 new case is proposed then the meeting date may be beyond November 12<sup>th</sup>.

22

23 Mr. Jon Dessen asked if the scheduled events can continue to be held if they do their best to abide by the  
24 County's rules. He agreed that it would be a good idea to meet with staff and the City of Urbana and their  
25 attorney regarding rezoning the back part of the property. He said that these meetings would help them  
26 understand the legalities, paperwork and procedures required for a successful outcome.

27

28 Mr. Thorsland informed Ms. Dessen and Mr. Jon Dessen that the continuance will basically place the case  
29 on the shelf and nothing changes until the next meeting date. He said that if they decide to rezone the  
30 property Case 808-S-15 will be removed and a new map amendment case will be proposed.

31

32 Mr. Hall stated that if things move along well and Ms. Dessen decides how she wants to move forward and a  
33 map amendment is part of that decision staff could advertise the new case if staff is notified one month prior  
34 to the next meeting date.

35

36 Mr. Jon Dessen asked if he should call Ms. Chavarria at the office.

37

38 Mr. Hall stated yes.

39

1 Mr. Randol suggested that Ms. Dessen and Mr. Jon Dessen contact staff as soon as possible.

2  
3 Mr. Thorsland asked Ms. Dessen and Mr. Jon Dessen if a continuance to November 12, 2015, is an  
4 acceptable date.

5  
6 Ms. Dessen and Mr. Jon Dessen stated yes.

7  
8 Mr. Passalacqua informed Ms. Dessen and Mr. Jon Dessen that the Board often requests a copy of the  
9 contract and rules and restrictions for the events and a copy of the documentation from Mr. Gamble  
10 regarding required accessibility.

11  
12 Mr. Thorsland entertained a motion to continue Case 808-S-15 to the November 12, 2015, meeting.

13  
14 **Ms. Griest moved, seconded by Mr. Randol to continue Case 808-S-15 to the November 12, 2015,**  
15 **meeting. The motion carried by voice vote.**

16  
17 Mr. Thorsland stated that the Board will take a five minute recess.

18  
19 The Board recessed at 7:55 p.m.

20 The Board resumed at 8:00 p.m.

21  
22 **Case 810-V-15 Petitioner: Thomas E. Burgin II and Randall Brown Request: Authorize the following**  
23 **variance in the CR, Conservation-Recreation Zoning District: Authorize the proposed separate use of**  
24 **an existing nonconforming lot that was in common ownership with adjacent property and has an**  
25 **average width of 132 feet in lieu of the required minimum 200 feet as per Section 5.3 of the Zoning**  
26 **Ordinance. Location: A one acre tract in Urbana Township in the Northeast Quarter of the Northeast**  
27 **Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian and**  
28 **commonly known as 2901 Airport Road, Urbana.**

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

34  
35 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows  
36 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show  
37 of hands for those who would like to cross examine and each person will be called upon. He requested that  
38 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
39 those who desire to cross examine are not required to sign the witness register but are requested to clearly

1 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
2 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt  
3 from cross examination.

4  
5 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding the request.

6  
7 Mr. Randall Brown, who resides at 3008 Artesia Crossing, Urbana, stated that he came across this property,  
8 owned by Thomas Burgin, while driving past it many times and he decided to contact the owner regarding  
9 the possibility of purchasing the property. Mr. Brown stated that his vision is to remove the house that is  
10 currently on the property and construct a new ranch home on the property. He said that Mr. Burgin's  
11 original intention was to complete improvements on the house and use it as rental property.

12  
13 Mr. Thorsland asked the Board if there were any questions for Mr. Brown and there were none.

14  
15 Mr. Thorsland asked if staff had any questions for Mr. Brown and there were none.

16  
17 Mr. Thorsland asked if staff had any additional information regarding the case other than what was included  
18 in the Preliminary Memorandum dated July 23, 2015.

19  
20 Mr. John Hall, Zoning Administrator, stated that staff had no new information regarding the request. He  
21 said that this is a pretty straight forward case.

22  
23 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Brown and there was no one.

24  
25 Mr. Thorsland asked the audience if anyone desired the witness register to present testimony regarding this  
26 case.

27  
28 Ms. Capel requested clarification regarding the term "common ownership".

29  
30 Mr. Hall stated that a property is owned jointly with an adjacent property. He said that the lot was owned  
31 with land to the east.

32  
33 Mr. Thorsland called Albert G. Willms to testify.

34  
35 Mr. Albert G. Willms, who resides at 2405 North High Cross Road, Urbana, stated that he owns adjacent  
36 farmland across from the subject property. He said that he has lived on Airport Road all of his life and was  
37 born and raised on Airport Road. He said that he knows the history of the subject house and property and he  
38 would guess that the house was built approximately 50 years ago and it has sat empty for almost 50 years.  
39 He said that the family has been deceased for a very long time and the house has sat empty. He said that he

1 has no objections to Mr. Brown’s request because he would like to see the house either torn down and the  
2 property put to good use. He said that Mr. Brown’s request would improve the neighborhood. He said that  
3 there have been at least 25 generations of raccoons that have lived in the house and it is unknown how many  
4 generations of other critters have lived on the property.  
5

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

8 Mr. Thorsland asked Mr. Brown if he had any information or statements that he would like to add to Mr.  
9 Willms’ testimony.  
10

11 Mr. Brown stated no.  
12

13 Mr. Thorsland stated that there are no special conditions proposed for Case 810-V-15 and there are no new  
14 Documents of Record.  
15

16 **Findings of Fact for Case 810-V-15:**  
17

18 From the documents of record and the testimony and exhibits received at the public hearing for zoning Case  
19 810-V-15 held on July 30, 2015, the Zoning Board of Appeals of Champaign County finds that:  
20

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

25 Mr. Thorsland stated that 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 structures elsewhere in the  
27 same district because the creation of the adjacent subdivision was the trigger that made this lot narrow and  
28 caused the need for this action.  
29

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

34 Mr. Passalacqua stated that 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 use of the land or structure  
36 or construction because it would not allow for the improvement or new construction of the home.  
37

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

1  
 2 Mr. Thorsland stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT  
 3 result from actions of the applicant because the creation of the adjacent subdivision was the trigger that  
 4 made this lot narrow and the caused the need for this action was not due to the action of the applicant.

5  
 6 **4. The requested variance IS in harmony with the general purpose and intent of the**  
 7 **Ordinance.**

8  
 9 Mr. Thorsland stated that the requested variance IS in harmony with the general purpose and intent of the  
 10 Ordinance.

11  
 12 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**  
 13 **detrimental to the public health, safety, or welfare.**

14  
 15 Ms. Capel stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise  
 16 detrimental to the public health, safety, or welfare because there is no change in use.

17  
 18 **6. The requested variance IS the minimum variation that will make possible the**  
 19 **reasonable use of the land/structure.**

20  
 21 Mr. Thorsland stated that the requested variance IS the minimum variation that will make possible the  
 22 reasonable use of the land/structure.

23  
 24 **7. No special conditions are hereby imposed.**

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

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

31  
 32 Mr. Thorsland entertained a motion to move to the Final Determination for Case 810-V-15.

33  
 34 **Ms. Griest moved, seconded by Mr. Randol to move to the Final Determination for Case 810-V-15.**  
 35 **The motion carried by voice vote.**

36  
 37 **Final Determination for Case 810-V-15:**

38  
 39 **Ms. Griest moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals finds**

1 that, based upon the application, testimony, and other evidence received in this case, that the  
 2 requirements for approval in Section 9.1.9.C. HAVE been met, and pursuant to the authority granted  
 3 by Section 9.1.6.B. of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of  
 4 Champaign County determines that the Variance requested in Case 810-V-15 is hereby GRANTED to  
 5 the petitioners Thomas E. Burgin II and Randall Brown to authorize the following variance in the  
 6 CR Conservation-Recreation Zoning District:

7  
 8 **A proposed separate use of an existing nonconforming lot that was in common ownership with**  
 9 **adjacent property and has an average width of 132 feet in lieu of the required minimum 200**  
 10 **feet as per Section 5.3 of the Zoning Ordinance.**

11  
 12 Mr. Thorsland requested a roll call vote.

13  
 14 The roll was called as follows:

15	16	17	18
	<b>Lee-yes</b>	<b>Passalacqua-yes</b>	<b>Randol-yes</b>
	<b>Capel-yes</b>	<b>Griest-yes</b>	<b>Thorsland-yes</b>

19 Mr. Hall informed Mr. Brown that he has received an approval for his request therefore he should proceed  
 20 with his construction and staff will send out the appropriate paperwork as soon as possible.

21  
 22 **7. Staff Report**

23  
 24 Mr. Hall stated that during the past month Champaign County Department Heads spent time preparing their  
 25 Fiscal Year 2016 Budget. He said that the County asked that every department cut their budget by 4% and  
 26 luckily for the Department of Planning and Zoning and other small departments the County was able reduce  
 27 that reduction to a 1% cut. He said that even at a 1% cut from FY2015 it took a lot of work to find 1% and  
 28 the easiest place in the Department of Planning and Zoning Budget to cut money was in regards to the  
 29 Zoning Board of Appeals meetings. He said that the Department of Planning and Zoning never budgets for  
 30 24 meetings in a year and there has only been one year in recent memory where we did hold 24 meetings and  
 31 that was in 2011 when the Board reviewed the wind farm hearings. He said that for the FY2016 Budget he  
 32 proposed an amount for hearings which is still more than the amount that will be spent in FY2015 but with  
 33 less than what was budgeted for 2015. He said that it occurred to him that he should ask the ZBA what they  
 34 thought about reducing the amount of meetings. He said that even if the Board does have concerns he  
 35 cannot come up with that much money anywhere else.

36  
 37 Mr. Thorsland stated that the implication is that the meetings that are held will have more cases and may  
 38 have the potential to last longer.

1 Mr. Hall stated that it depends because the projected amount of cases for FY2016 is fewer than last year but  
2 the same as this year therefore the workload that ZBA members see per meeting should not change.

3  
4 Ms. Capel noted that the Board has cancelled several meetings for FY2015.

5  
6 **8. Other Business**

7 A. Review of Docket

8  
9 Mr. Hall stated that there are no cases scheduled for August 13<sup>th</sup> other than the Board's favorite case which  
10 is Case 685-AT-11 therefore he recommended that the August 13<sup>th</sup> meeting be cancelled.

11  
12 B. September 24, 2015, meeting location or cancellation

13  
14 Mr. Hall stated that the Lyle Shields Meeting Room is not available for the September 24<sup>th</sup> meeting. He said  
15 that the Board has utilized the John Dimit Room but there is a Regional Planning Commission meeting the  
16 next day and they would prefer that the ZBA not use the room the night before but they have not officially  
17 denied staff's request. He said that if the ZBA meeting is held in the John Dimit Room on September 24<sup>th</sup>  
18 staff must guarantee that there will be no changes after the Board's use.

19  
20 Mr. Thorsland stated that he will be absent from the September 10<sup>th</sup> and 24<sup>th</sup> meetings. He said that the  
21 Board has used the John Dimit Meeting Room before and it is not the best room for the Board to work in  
22 and the RPC is very particular about the meeting room's use.

23  
24 Mr. Thorsland entertained a motion to cancel the August 13<sup>th</sup> and September 24<sup>th</sup> meetings.

25  
26 **Ms. Capel moved, seconded by Ms. Lee to cancel to August 13<sup>th</sup> and September 24<sup>th</sup> meetings. The**  
27 **motion carried by voice vote.**

28  
29 Mr. Randol asked Mr. Hall if the ZBA needs to provide comments or a recommendation regarding the  
30 Certificate of Insurance issue.

31  
32 Mr. Hall stated that if the Board desires he will let the Board know when the Recreation and Entertainment  
33 amendments are before the Environment and Land Use Committee for review. He said that at that time that  
34 ELUC reviews those amendments the Board could submit its comments and recommendations.

35  
36 Mr. Passalacqua stated that he cannot imagine anyone who runs a business would not have a policy.

37  
38 Mr. Thorsland stated that the petitioner tonight did have such a policy.

1 Ms. Griest stated that the petitioner had a policy but it was not at the level that was required in the special  
2 condition.

3  
4 Ms. Capel asked what the special condition had to do with compliance with the Illinois Liquor Control  
5 Board.

6  
7 Mr. Hall stated that they were not talking about liquor liability because of other factors and the liquor  
8 liability lies elsewhere. He said that we are just talking about protecting the citizens who go there.

9  
10 Mr. Passalacqua stated that if Ms. Dessen is concerned about the girls' voices then the neighbors probably  
11 hear the girls as well.

12  
13 Mr. Randol stated that the area does have some noise cushioning due to the trees and brush.

14  
15 **9. Audience Participation with respect to matters other than cases pending before the Board**

16  
17 None

18  
19 **10. Adjournment**

20  
21 Mr. Thorsland entertained a motion to adjourn the meeting.

22  
23 **Ms. Capel moved, seconded by Ms. Griest to adjourn the meeting. The motion carried by voice vote.**

24  
25 The meeting adjourned at 8:23 p.m.

26  
27

28  
29 Respectfully submitted

30  
31

32  
33

34 Secretary of Zoning Board of Appeals

35  
36

37  
38  
39

ZBA

*AS APPROVED AUGUST 27, 2015*

7/30/15

1  
2  
3