

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61802

DATE: October 15, 2015

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 7:00 p.m.

MEMBERS PRESENT: Debra Griest, Marilyn Lee, Jim Randol, Eric Thorsland

MEMBERS ABSENT : Catherine Capel, Brad Passalacqua

STAFF PRESENT : Connie Berry, John Hall, Susan Chavarria

OTHERS PRESENT : Brian Wishall, Jason Wishall, Kim Wishall, Dave Spillers, Ginger Spillers, Mike Wishall, Megan Spillers, Cecilia Allen, Roger Blakely, Matt Schweighart

1. Call to Order

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

2. Roll Call and Declaration of Quorum

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

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

3. Correspondence

None

4. Approval of Minutes (August 27, 2015 and September 10, 2015)

Mr. Thorsland entertained a motion to approve the August 27, 2015 and table the September 10, 2015, minutes.

Ms. Lee moved, seconded by Ms. Griest to approve the August 27, 2015, minutes as submitted and to table the September 10, 2015, minutes. The motion carried by voice vote.

Mr. Thorsland entertained a motion to rearrange the docket and hear Case 813-V-15, Dave and Ginger

1 Spillars, d.b.a. as Ohana Spas & Billiards, Inc., prior to Cases 805-AM-15, 806-S-15 807-V-15, Michael
2 Wishall, Jason Wishall, Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation, Inc., and
3 Wishall Farms, Inc.

4
5 **Ms. Griest moved, seconded by Ms. Lee to rearrange the docket and hear Case 813-V-15, Dave and**
6 **Ginger Spillars, d.b.a. as Ohana Spas & Billiards, Inc., prior to Cases 805-AM-15, 806-S-15 807-V-15,**
7 **Michael Wishall, Jason Wishall, Brian Wishall d.b.a. Wishall Transport, Wishall Farms &**
8 **Transportation, Inc., and Wishall Farms, Inc. The motion carried by voice vote.**

9

10 **5. Continued Public Hearing**

11

12 None

13

14 **6. New Public Hearings**

15

16 **Cases 805-AM-15, 806-S-15 and 807-V-15 Petitioner: Michael Wishall, Jason Wishall, Brian Wishall**
17 **d.b.a. Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc.**

18

19 **Case 805-AM-15: Request to amend the Zoning Map to change the zoning district designation from**
20 **the AG-1, Agriculture Zoning District to the AG-2 Agriculture Zoning District in order to authorize**
21 **the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Zoning Case**
22 **806-S-15 and subject to the requested variance in related zoning case 807-V-15.**

23

24 **Case 806-S-15: Request: Part A: Authorize the use of an existing unauthorized Truck Terminal as a**
25 **Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the**
26 **current AG-1 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in**
27 **related zoning Case 805-AM-15 and subject to the requested variance in related zoning case 807-V-15;**
28 **and Part B: Authorize the following waiver to the standard conditions of the “Truck Terminal”**
29 **special use as per Section 6.1.3 of the Zoning Ordinance: A separation distance of 30 feet in lieu of the**
30 **required 200 feet between any Truck Terminal and any adjacent residential district or residential use.**

31

32 **Case 807-V-15: Request to authorize the following variance on land proposed to be rezoned to the**
33 **AG-2 Agriculture Zoning District in related Case 805-AM-15 in order to authorize the use of an**
34 **existing unauthorized Truck Terminal as a proposed Special Use in related Case 806-S-15: Part A: A**
35 **variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum**
36 **area of 3 acres for lots with soils that are best prime farmland; and Part B: A variance from the**
37 **Champaign County Stormwater Management and Erosion Control Ordinance which requires a**
38 **Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of**
39 **impervious surface area.**

1
2 **Location: A 5.68 acre tract in Pesotum Township in the Northwest Quarter of the Northwest Quarter**
3 **of Section 10 of Township 17 North, Range 8 East of the Third Principal Meridian and commonly**
4 **known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located**
5 **at 482 and 486 CR 900 East, Tolono.**
6

7 Mr. Thorsland informed the audience that Cases 806-S-15 and 807-V-15 are Administrative Cases and as
8 such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time
9 he will ask for a show of hands for those who would like to cross examine and each person will be called
10 upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any
11 questions. He said that those who desire to cross examine are not required to sign the witness register but
12 are requested to clearly state their name before asking any questions. He noted that no new testimony is to
13 be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the
14 ZBA By-Laws are exempt from cross examination.
15

16 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
17 the witness register for that public hearing. He reminded the audience that when they sign the witness
18 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
19 time.
20

21 Mr. Thorsland asked the petitioners if they would like to make a brief statement regarding their request.
22

23 Mr. Matthew Schweighart, attorney for the petitioners, thanked the Board for its time and staff for the
24 informative package that is before everyone tonight. He said that the petitioners are a family farm operation
25 which has been at the subject property since 1939. He said that as a result of the success of the family farm
26 and growth since that time they gradually added trucking operations to their farming operation and as an off-
27 shoot of that they realized that they could haul for other people. He said that the trucking operation was
28 operated by the family farm corporation until 2004 when the trucking operation spun off into a separate
29 entity. He said that the overall growth has been organic at this location and as the petitioners worked hard to
30 grow both of the businesses there was not a lot of consideration in them being separate. He said that the
31 trucking operation is ag related being that predominately 75% of the revenues are from ag related services.
32 He said that the mindset of the petitioners is that the two operations are more or less one in the same and
33 both part of the agricultural nature of the area.
34

35 Mr. Schweighart stated that the trucking operation has been operated without incident until a complaint was
36 filed with the County in 2013 and since the complaint was received the petitioners have spent approximately
37 \$35,000 of their own funds to address concerns with respect to the conditions of the roads and have been
38 very cooperative with their neighbors and government entities. He said that the petitioners have a very good
39 relationship with the Pesotum Township Highway Commissioner and have done everything they can to be

1 good neighbors at this location. He said that the informational packet includes a signed letter of support
2 from the neighbors regarding the trucking business at its current location. He noted that the Pesotum
3 Township Highway Commissioner signed the letter of support and also provided his own letter supporting
4 the trucking operation. Mr. Schweighart stated that the petitioners desire to be good neighbors and to
5 address any concerns that anyone may have.

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

9
10 Mr. Thorsland called John Hall, Zoning Administrator, to testify.

11
12 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated October 15,
13 2015, for the Board's review. He said that the Supplemental Memorandum contains the Natural Resources
14 Report prepared by the Champaign County Soil and Water Conservation District as well as two emails from
15 neighbors. He said that the Natural Resources Report is a standard report as they always report on erosion
16 and sedimentation and surface drainage. He said that the subject property is best prime farmland.

17
18 Mr. Hall stated that the attached emails were received today. He said that the emails are from two neighbors
19 and are very similar. He said that the emails both state that the neighbors have no issue with the trucking
20 operation remaining at its current location, but they do have concerns about safety and maintenance of CR
21 900 East due to the heavy truck traffic from the Wishall business. He said that the neighbors are concerned
22 with the width of the road as well. Mr. Hall noted that one email is from James and Marilyn Chancellor and
23 the other is from Doug and Lori Bartlett.

24
25 Mr. Hall stated that staff had not has sufficient time to summarize the Natural Resources Report in the
26 Summary of Evidence for the special use case but will hopefully have time to do that in the future.

27
28 Ms. Lee asked when the two large metal buildings with white roofs were constructed.

29
30 Mr. Schweighart stated the petitioners would be a better source of information for Ms. Lee's question.

31
32 Mr. Thorsland called Jason Wishall to testify.

33
34 Mr. Jason Wishall, who resides at 4711 Chestnut Grove Drive, Champaign, stated his father could better
35 answer Ms. Lee's question about the specific construction date of the buildings. He said that he does know
36 that one of the buildings is only 8 to 10 years old and the other building is 25 to 30 years old. He said that he
37 was surprised when he received the letter from the Department of Planning and Zoning and sort of expected
38 more than just a letter. He said that the farm has been operating at its current location for numerous years
39 and there is even a rock in the front of the property indicating the date. He said that the farm operation

1 branched off with the trucking company and it has all been tied through the farm as they are both
2 agriculturally related. He said that he and his family are farmers and they enjoy working with farmers
3 because they are easier to work with and they do not have a lot of problems. He said that their employees
4 also enjoy working with the area farmers. He said that they have been blessed by the fact that their business
5 has grown and now they are here.

6
7 Mr. Thorsland asked the Board if there were any questions for Mr. Jason Wishall.

8
9 Ms. Lee stated that the information indicates that the trucking operation was incorporated as Wishall
10 Transport in 2006. She asked Mr. Jason Wishall how long the trucking operation was operated prior to
11 2006.

12
13 Mr. Jason Wishall stated that they have been operating for 18 years but his father has always had trucks that
14 he used for the farm operation. He said that on the off-season the winters were cold and the shop was chilly
15 but the trucks were warm, so they branched out and found area farmers who they could haul for, which was
16 much more comfortable than working on a cold shop floor.

17
18 Mr. Thorsland asked Mr. Jason Wishall to indicate his role in the operations.

19
20 Mr. Jason Wishall stated that he is the President of Wishall Transport and he has a shared ownership in the
21 farm.

22
23 Mr. Thorsland stated that Wishall Transport was incorporated in 2006 and 25% of the business is not related
24 to agriculture. He asked Mr. Jason Wishall to indicate what other type of services are involved in the 25%.

25
26 Mr. Jason Wishall stated that they transport seed for seed companies, which is ag related. He said that they
27 have a few local customers who are not ag related such as wood hauling, construction for local contracts, and
28 transport of waste for the Champaign Urbana Sanitary District for about the last eight to ten years. He said
29 that they are a local operation with a good reputation and they would like to stay where they are.

30
31 Mr. Thorsland asked Mr. Jason Wishall if all of the trucks and trailers were owned by Wishall Transport.

32
33 Mr. Jason Wishall stated that between all of us, yes. He said that the photograph indicates trucks and trailers
34 but it isn't just the trucking operation that is indicated in the photograph but also the farm operation. He said
35 that the farm operation owns a bunch of the trailers just to operate for the farm.

36
37 Mr. Thorsland stated that the farm trailers are folded in with the trucking operation trailers as well. He asked
38 the Board and staff if there were any additional questions for Mr. Jason Wishall.

39

- 1 Ms. Griest asked Mr. Jason Wishall if the truck shop is only for their own equipment or is it for others as
2 well.
3
- 4 Mr. Jason Wishall stated that they haul products for other people but the truck shop is only used for their
5 own equipment repairs and maintenance. He said that they do not work on anyone else's equipment.
6
- 7 Mr. Thorsland asked Mr. Jason Wishall if the building that is being discussed is the building indicated 50%
8 farm and 50% trucking company.
9
- 10 Mr. Jason Wishall stated yes.
11
- 12 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Jason Wishall and there was no
13 one.
14
- 15 Mr. Thorsland called Brian Wishall to testify.
16
- 17 Mr. Brian Wishall, who resides at 486 CR 900E, Tolono, stated that he lives at the residence with his wife
18 and three-year old daughter. He said that regarding the neighbors that were previously mentioned, one is
19 located 75 feet across the road to the west from his residence and the other neighbor is also located across
20 the road and is 150 feet to the southwest of his residence. He said that the business did start many years ago
21 and they have seen growth. He said that he understands that the Board does not condone growth, look at
22 everything that is happening around Champaign, but that is the American dream and they do want their
23 business to grow while being respectful to their neighbors. He said that the emails are great but if you ask
24 around the community it is their name and how they do business that has allowed that growth. He said that
25 his dad has worked very hard and so has Jason and there are area neighbors who may have wanted to come
26 to this meeting and who may want to come to the next meeting to support the requests. He said that the
27 Wishall family is not looking for support but an end to this and to find out what is right for all parties
28 involved.
29
- 30 Mr. Thorsland noted that the Board should not be confused with the City of Champaign because this Board
31 is only for the unincorporated areas of the County.
32
- 33 Mr. Schweighart stated that he believes Mr. Brian Wishall meant to say that the Board does not condemn
34 growth.
35
- 36 Mr. Brian Wishall agreed.
37
- 38 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Brian Wishall and there were
39 none.

1
2 Mr. Thorsland asked Mr. Brian Wishall that since he is the resident of the subject property and resides across
3 the road from the neighbors who submitted the emails to staff, does the road suffer from the trucking
4 operation.
5
6 Mr. Brian Wishall stated that 15 years ago the road was a lot worse. He said that the township has 63 miles
7 to maintain therefore if you travel down any roads in Pesotum Township you will find that none of those
8 roads are great. He said that a few of the roads in Pesotum Township are wide and the distance from where
9 his residence is located to the Sadorus Road has been widened by the funds that were spoken about
10 previously from the Wishall operations. He said that the people who widened that road were Mike, Jason
11 and Brian Wishall and the neighbors who witnessed their work stopped to thank them for doing it. He said
12 that there are no great roads in the country and they are all pretty skinny except for their road and a couple of
13 other roads because they have been widened. He said that if you travel north to Tolono Township the roads
14 are wider but as soon as you cross into Pesotum Township they get skinnier but it is his opinion that that is
15 part of living in the area that they do and there are not wide roads. He said that currently their road is 16 feet
16 wide but when you travel south of their residence it goes back to 12 feet.
17
18 Mr. Thorsland stated that the road widening to the north was completed by the petitioners and was funded by
19 the contribution that the petitioners made to the township and the information packet includes documentation
20 pertaining to that.
21
22 Mr. Brian Wishall stated that Mr. Thorsland was correct.
23
24 Mr. Thorsland stated that the petition for support signed by the area neighbors and the documents from the
25 Township Highway Commissioner are included in the information packet and are very helpful to the Board.
26 He asked Mr. Brian Wishall if he is involved in the farm operation, truck operation or both.
27
28 Mr. Brian Wishall stated that they all are involved in both the farm operation and the truck operation. He
29 said that he and his wife are technically Wishall Farms and Transportation, Inc.
30
31 Mr. Thorsland stated that Mr. Brian Wishall and his family are on the scene daily because they reside on the
32 subject property. He asked Mr. Brian Wishall if he knows when the farm/truck shop was constructed.
33
34 Mr. Brian Wishall stated that his dad could provide better construction dates than he could provide.
35
36 Ms. Griest asked Mr. Brian Wishall if the trucks travel north out of the property to 600N, which is also
37 known as the Sadorus slab.
38
39 Mr. Wishall stated yes, every time.

1
2 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Brian Wishall and there was no
3 one.

4
5 Mr. Thorsland called Michael Wishall to testify.
6

7 Mr. Michael Wishall, who resides at 547 CR 900 E, Tolono, stated that he has lived on the road longer than
8 anyone around there. He said that the truck operation did not start with him or his boys but did start with his
9 grandfather and he still has his grandfather's original 1936 GM truck. He said that his grandfather did all of
10 the corn shelling for the local farmers and some that were not real local but he did what he had to do to feed
11 his family. He said that he increased his grandfather's operation and now over the years his boys have
12 increased the operation. He said that it isn't that the boys started the business or he started the business or
13 his father started the business but it was his grandfather who started it. He said that his grandfather
14 purchased the subject property in 1939 but he does not have record of how long his family farmed the
15 subject property before 1939. He said that the houses that are across the road used to also be family
16 properties. He said that he used to live where Brian and his family currently reside and his grandparents and
17 cousins lived across the road and until approximately 10 years ago those homes were still family properties.
18 He said that everyone in that area is related except for one home.
19

20 Mr. Thorsland stated that the Board has a letter of support which was signed by all of the neighbors. He said
21 that it appears that years ago this area was the Wishall spot on the planet and the other people sort of moved
22 in to the area. He said that the current operations have been going on at some scale since the 1930's and
23 have always been visible and not hidden. He asked Mr. Michael Wishall if there was ever any lull in the
24 operations.
25

26 Mr. Michael Wishall stated that he has lived on that road for over 50 years and the roads are as bad in the
27 exact same spots as they ever were for years. He said that the Pesotum Township Highway Commissioner
28 would come in and rip up the road to try to fix the road and people would complain because the road was
29 rough and so next year the road would be fixed. He said that this road had zero maintenance on it before the
30 people complained about the road because the Highway Commissioner was going to come in and rip up the
31 road and place down gravel and at the end of the day we would have had a nice wide road. He said that
32 when this issue came up the Highway Commissioner, to say it nicely, got upset so the only reason that the
33 road is wider and nicer is because of the Wishall family. He said that the Highway Commissioner indicated
34 that he was too busy so the Wishall operations had to take care of the problem road. He said that the
35 improvements to the road are not due to the Highway Commissioner because the oil company would just
36 drop off a load of patching. He said that he called Jason Wishall to find out why a load of asphalt was
37 dropped off because he thought that someone didn't get their load delivered and Jason indicated that they
38 just dropped it off for the petitioners to fill some holes in the road. Mr. Michael Wishall stated that everyone
39 in the area knew that the road needed maintenance and the road company themselves were part of what was

1 going to fix the road. He said that the road company was going to send down machinery and the petitioners
2 had an operator that was going to operate the machine to grade the road but when this issue all started the
3 work was all stopped.

4
5 Mr. Thorsland asked Mr. Michael Wishall if the Township Highway Commissioner had organized all of the
6 road improvements but when this issue all started the improvement plans were stopped.

7
8 Mr. Michael Wishall stated yes. He said that they had an employee who used to work for Open Road and he
9 was going to run the machine to grade the road.

10
11 Mr. Thorsland noted that all of the preliminary plans for the road improvement were organized by the
12 Pesotum Highway Commissioner.

13
14 Mr. Michael Wishall stated that Mr. Thorsland was correct. He said that when all of this blew up the road
15 improvement plans stopped. He said that they did not know that they were out of compliance and the only
16 correspondence that they received was a letter indicating that they either needed to cease their operations or
17 move to a different location. He said that they never received a phone call or any correspondence indicating
18 that they needed to talk to the County because there might be a problem.

19
20 Mr. Thorsland stated that they should not feel slighted by that particular letter as staff was only following the
21 requirements of the Zoning Ordinance and they are not the first people who have had a business that has
22 been in operation for a very long time and to find out that it is operating illegally. He said that the first
23 notice that is to go out is a letter indicating that the operations are illegal and the letter will provide options
24 to be in compliance. He said that the only way staff finds out about these types of issues is by complaint and
25 that is usually what initiates the letter.

26
27 Mr. Thorsland stated that he wants it to be very clear that the Highway Commissioner had intentions of
28 fixing the road but when this issue came up he ceased those plans therefore the petitioners took on the
29 responsibility to fix the road or did the Highway Commissioner ask them to fix the road for him.

30
31 Mr. Michael Wishall stated that they were working together with the Highway Commissioner but when this
32 issue came up this spring the Highway Commissioner decided that he was too busy and that the petitioners
33 would have to take care of it. Mr. Michael Wishall stated that a couple of years ago his son, Jason Wishall,
34 purchased and hauled in over 100 ton of rock and purchased new culverts and the Highway Commissioner
35 was not getting things done. He said that if he had known that they were going to have to do it and that the
36 Highway Commissioner was okay with them doing it they would have hauled in the rock to bring up the
37 shoulders. He said that he travels CR 900E everyday too and when the interstate is closed there are 100
38 other trucks that travel up and down that road. He said that today, due to an accident, the interstate was
39 closed and 53 foot loaded semi-trucks were traveling up and down that road, CR 900E, from the Monticello

1 Road to Pesotum and that is not the first time that this has happened. He said that Wishall Transportation is
2 not the only trucking operation that uses that road because the fertilizer company uses that road as it is a
3 good road for them to take. He said that another truck operation down the road is building a huge shed and
4 approximately 100 loads of dirt was hauled past the subject property every day and that is why if you
5 continue south on CR 900E you will see that the road is not any better as it is only 12 foot wide.
6

7 Mr. Thorsland asked Mr. Michael Wishall if they agreed to a deal with the Pesotum Township Highway
8 Commissioner and the petitioner's operation agreed to spend a specific amount of money to make the road
9 wider. He asked Mr. Michael Wishall if they worked with the Pesotum Township Highway Commissioner
10 on this project or did they only receive advice from the Pesotum Township Highway Commissioner.
11

12 Mr. Michael Wishall stated that they were only assisting the Pesotum Highway Commissioner and they ran a
13 drag on the sides of the shoulder to level it off and he told the Pesotum Highway Commissioner that he did
14 this because it looked like the road was going to hold water next to the oil and the Pesotum Highway
15 Commissioner agreed. Mr. Michael Wishall stated that he was concerned about someone running into them
16 while they were working on the road as they was not working under the Pesotum Highway Commissioner so
17 it made him really nervous doing anything extra.
18

19 Mr. Thorsland stated that Mr. Michael Wishall may want to ask his attorney who is responsible if someone
20 has an accident due to the road maintenance that was not done by the Pesotum Township Highway
21 Commissioner.
22

23 Mr. Michael Wishall stated that the Pesotum Township Highway Commissioner was the boss of the project
24 and the petitioners were just doing part of the work under his advice.
25

26 Mr. Brian Wishall stated that the gravel that was built up on the shoulder was installed by the Pesotum
27 Township Highway Commissioner but Open Road supplied all of the equipment through the Pesotum
28 Township Highway Commissioner and they oiled and chipped the road. He said that they were only
29 assisting with the gravel on the shoulder due to complaints that the road was not wide enough but they had
30 nothing to do with the road being rebuilt.
31

32 Mr. Thorsland asked Mr. Michael Wishall if he could indicate the age of the buildings on the subject
33 property.
34

35 Mr. Michael Wishall stated that the shop was built in the 1970's and it wasn't built as a shop. He said that
36 the other white building was built in the 1960's and it was the original shop at that time. He said that the
37 newest shed was built approximately 10 or 15 years ago. He said that the silver building was built in 1965
38 and he has a picture of the farm that is dated 1965 and the building was painted onto the picture because it
39 was not there at the time that the picture was taken but it was planned and ordered.

1
2 Ms. Lee stated that the last building to be built was probably built so that the trucking operation could be
3 placed in the other one.

4
5 Mr. Michael Wishall stated that the trucking operation was not very big then.

6
7 Ms. Lee asked Mr. Michael Wishall to clarify the word "then."

8
9 Mr. Michael Wishall stated that the 72' x 128' building only held two or three trucks and that is only if they
10 had that many at the time and two of those three trucks were for the farm operation. He said that currently
11 three of the trucks have farm plates and are not used for commercial use.

12
13 Ms. Lee asked Mr. Michael Wishall to indicate how many trucks he has that are not used for the farm
14 operation.

15
16 Mr. Michael Wishall stated that he has zero commercial trucks but the boys do have commercial trucks.

17
18 Mr. Thorsland asked Mr. Michael Wishall if the aerial sketch plan dated September 17, 2015, is a fair
19 representation of when all of the trucks and trailers are present on the subject property.

20
21 Mr. Michael Wishall stated that the picture is fairly accurate in regards of the trailers but there are only three
22 trucks indicated. He said that Jason and Brian could indicate the number of trucks that are involved in the
23 trucking operation.

24
25 Ms. Lee asked Mr. Michael Wishall why he didn't obtain a permit when he first started operating the non-
26 farm trucking operation.

27
28 Mr. Thorsland stated that buildings get built on farms because they are ag exempt and often times a Zoning
29 Use Permit is not requested. He said that it is not typical for any farm construction to appear in any
30 permitting documentation. He said that equipment tends to accumulate and Mr. Michael Wishall testified
31 that he still has his grandfather's truck from the 1930's. He said that as Mr. Schweighart testified this
32 operation has had organic growth. Mr. Thorsland said that there is a fairly good record in the information
33 packet as to when the trucking company became big enough that it was separated from the farm operation.
34 He said that later during the meeting he will call Brian and/or Jason Wishall to the witness microphone to
35 indicate the number of trucks and trailers involved in the trucking operation.

36
37 Mr. Hall stated staff has not bothered to document the number of trucks and has only concentrated on the
38 number of acres that are currently be used and how many acres will be required in the future. He said that if
39 the Board desires information regarding the number of trucks and trailers for the operation then staff can

1 obtain that information.

2

3 Mr. Thorsland asked the Board if there is any additional information required regarding the trucking
4 operation.

5

6 Ms. Griest stated that the trucks which have farm plates are not the subject of this case and are excluded
7 from the count that staff will complete.

8

9 Mr. Hall stated that he is not knowledgeable about what can and cannot be done with a truck with farm
10 plates but he would assume that you can haul grain for other people under a farm plate. He said that we are
11 not here tonight due to the hauling of grain and we would not be having this meeting if that was the concern.

12

13 Ms. Griest stated that the Board is not looking at the transportation element of the farm operation but the
14 Board is looking at the commercial trucking operation for hire for other entities.

15

16 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Michael Wishall and there was no
17 one.

18

19 Mr. Michael Wishall noted that three trucks and 10 trailers indicated in the photograph are for the farm.

20

21 Mr. Thorsland asked Mr. Michael Wishall if those trucks and trailers have farm plates.

22

23 Mr. Michael Wishall stated that the three trucks have farm plates but there is no difference in the plates that
24 are required for the trailers.

25

26 Mr. Thorsland called Jason Wishall to testify.

27

28 Mr. Jason Wishall stated that there are 24 trucks and the photograph is a pretty good representation of what
29 is on their property at any one time, unless it is Christmas as they try to not have anyone working on
30 Christmas. He said that they do not want the drivers to keep the trucks at the subject property, but at their
31 homes so that they have more family time and they put less miles and wear and tear on the trucks. He said
32 that the number of trucks owned by the operation should not be an issue as the photograph is a good
33 representation of what is on the lot at any given time.

34

35 Mr. Thorsland stated that the real concern appears to revolve around the condition of the road and the factor
36 of how many trucks go up and down it. He said that testimony has been given that there are other people
37 who use this road but currently the petitioners are the ones before the Board. He said that Mr. Jason Wishall
38 has testified that it is preferred that the drivers take the trucks home so not all of the trucks come back to the
39 subject property every day and some may not come back for some time. He said that not all Wishall

1 Transport trucks travel up and down CR 900E every morning and afternoon.

2

3 Mr. Jason Wishall stated that Mr. Thorsland was correct.

4

5 Mr. Thorsland asked Mr. Jason Wishall if the trucks and trailers which come back to the subject property are
6 empty.

7

8 Ms. Griest indicated that whether the trucks and trailers and loaded or unloaded is not relevant.

9

10 Mr. Thorsland stated that his question is relevant as it has to do with the weight of the truck and trailer while
11 traveling down CR 900E.

12

13 Ms. Griest stated that if the trucks and trailers are hauling their own grain it is not relevant. She clarified Mr.
14 Thorsland's question and asked Mr. Jason Wishall if the trucks and trailers are loaded or unloaded when they
15 arrive at the subject property.

16

17 Mr. Jason Wishall stated that the trucks and trailers are unloaded when they arrive at the subject property
18 although there is a rare occasion when they have to come to the property loaded. He said that they do not
19 want the loaded trucks and trailers destroying the road by coming to the subject property.

20

21 Mr. Thorsland stated that none of the other services occur at the subject property so when trucks go to the
22 subject property they are empty and headed home.

23

24 Mr. Jason Wishall stated that Mr. Thorsland was correct.

25

26 Mr. Thorsland stated the 24 trucks can only pull 24 trailers and they are not coming and going from the
27 subject property everyday therefore the count of trips is probably lower than what the photograph would lead
28 the Board to believe. He asked Mr. Jason Wishall how they ended up paying for part of the road repair that
29 was under the control of the Pesotum Township Highway Commissioner.

30

31 Mr. Jason Wishall stated the road improvements were already planned by the Pesotum Township Highway
32 Commissioner and not a lot of the work had been done to the road. He said that part of the reason why the
33 work had not been completed was because of the future plans to repair the road in the right way. He said
34 that once complaints were filed and the letter was received the road repair plans stopped. He said that the
35 written agreement was the initial verbal agreement with Pesotum Township. He said that they use the road
36 for more than driving to work in their cars therefore they agreed to help pay for the maintenance of the road,
37 especially since the townships do not have a lot of money and can barely take care of the roads that they
38 have. He said that since they do use the road they wanted to assist the township in getting it back into shape.
39 He said that they paid for the repair of one and one-quarter miles of the road.

1
2 Mr. Thorsland stated that his township is down to properly maintaining three miles of its 80 miles of road
3 per year.
4
5 Ms. Griest asked if the amount paid was 100% of the cost or just their 50%.
6
7 Mr. Jason Wishall stated that the agreement states that they pay for 50% of the cost to oil and chip the road.
8 He said that their check went to Illiana Construction Co. for the oil so yes, they paid for all of the oil.
9
10 Mr. Thorsland stated that it was pre-arranged for the petitioners to pay for some of the supplies for the road
11 maintenance.
12
13 Mr. Jason Wishall stated yes. He said that all of this went through the Pesotum Township Highway
14 Commissioner.
15
16 Mr. Thorsland stated that the Pesotum Township Highway Commissioner acted as the contractor for the road
17 maintenance.
18
19 Mr. Jason Wishall stated yes.
20
21 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Jason Wishall and
22 there were none.
23
24 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Jason Wishall and there was no
25 one.
26
27 Mr. Thorsland stated that at this point the Board has a lot of stuff that could be worked through but if the
28 Board has questions or desires additional information then this is the time to indicate such so that either staff
29 or the petitioners can address those questions or obtain additional information.
30
31 Ms. Griest stated that staff needs additional time to summarize the Natural Resources Report although she
32 does not see any information that is lacking or requires further clarification. She said that the information
33 packet is a great packet.
34
35 Mr. Thorsland stated that he is reluctant to go through everything tonight because two members who are
36 absent have really good insight into these matters and Mr. Hall will have time to incorporate the Natural
37 Resources Report into the Summary of Evidence. He said that he has a pet peeve in that if he receives a
38 memorandum which is more than three pages on the night of the meeting he does not want to finish the case
39 until he has adequate time to review the memorandum. He said that another thing that would be nice would

1 be if the people who signed the letter of support could attend the meeting and speak to the Board. He said
2 that he would like to continue the case so that the petitioners have the luxury of a larger Board because if the
3 Board went to final determination tonight the petitioner would have to obtain four affirmative votes from a
4 bare minimum quorum.

5
6 Mr. Thorsland asked the petitioners if there was any additional information that they would like to add to the
7 record. He said that the petitioners' operations can continue as they are currently because they are in the
8 process with the County of obtaining the appropriate approvals.

9
10 He asked Mr. Jason Wishall if there was anything that he would like to add and Mr. Jason Wishall stated not
11 at this time.

12
13 Mr. Thorsland called Brian Wishall to testify.

14
15 Mr. Brian Wishall stated that the farm storage building which is closest to CR 900E is a very old shed and
16 everyone knows that farm equipment was very small back then and today this building now only stores
17 smaller equipment. He said that there is a crib and then another farm storage building and that building is
18 only big enough to store their backhoe. He said that the biggest shed that is in question, indicated on the
19 photograph as 50% trucking company and 50% farm use, and is the one that Ms. Lee asked about was not
20 large enough to hold their combine and corn pickers. He said that it was ironic because they had to work on
21 those pieces of equipment in the cold because their current shed was not big enough thus the reason for the
22 new shed.

23
24 Ms. Lee stated that initially she thought that the trucking company forced them to build the 80' x 150' shed.

25
26 Mr. Brian Wishall stated that Ms. Lee was not accurate.

27
28 Mr. Thorsland stated that every year the farm equipment gets bigger and they get taller too. He said that ag
29 buildings continue to get bigger and bigger because they have to in order to store today's equipment. He
30 said that the petitioners have a large farm operation which involves large equipment.

31
32 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Brian Wishall and
33 there were none.

34
35 Mr. Randol stated that he does not need to hear any more information regarding the road.

36
37 Mr. Brian Wishall added that they store their sprayer in the 80' x 150' shed and when the sprayer is folded
38 completely out it is 120' long.

39

1 Mr. Thorsland stated that it appears that there are no future assignments for the petitioners for the next
2 meeting other than perhaps asking the people who signed the letter of support to attend the meeting.

3
4 Ms. Griest requested that the Board review the proposed Special Conditions before the case is continued.

5
6 Mr. Thorsland read the proposed Special Conditions as follows:

7
8 **A. A Change of Use Permit shall be applied for within 30 days of the approval of Case
9 805-AM-15 by the County Board.**

10 The above special condition is required to ensure the following:
11 **The establishment of the proposed use shall be properly documented as required by the
12 Zoning Ordinance.**

13
14 **B. All inbound and outbound trucks associated with the Special Use shall not use CR 900
15 East north of CR 600 North.**

16 The above special condition is required to ensure the following:
17 **To prevent additional deterioration of the road.**

18
19 **C. The Special Use shall be void if the owner/operator fails to comply with the road
20 agreement with Pesotum Township regarding an annual road maintenance fee,
21 provided as follows:**

22 **(1) This condition applies to the Agreement with Pesotum Township Road
23 Commissioner received June 24, 2015, or to any subsequent road agreement
24 between the petitioner and Pesotum Township, provided that a fully executed
25 agreement shall be filed with the Zoning Administrator.**

26
27 **(2) This condition shall be cancelled if the Pesotum Township Highway
28 Commissioner relieves the Petitioners of the road maintenance agreement
29 obligations.**

30 The special condition stated above is required to ensure the following:
31 **That any additional highway maintenance due to the truck traffic generated by the
32 proposed Special Use is reimbursed by the petitioner.**

33
34 **D. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the
35 proposed Truck Terminal until the petitioner has demonstrated that the proposed
36 Special Use complies with the Illinois Accessibility Code.**

37 The special condition stated above is necessary to ensure the following:
38 **That the proposed Special Use meets applicable state requirements for accessibility.**

39

1 Ms. Griest asked Mr. Hall if proposed Special Condition C.(1) should indicate the road maintenance
2 agreement dated December 23, 2104 and not June 24, 2015. She asked Mr. Hall if there is a second
3 agreement in the packet that she is overlooking.

4
5 Mr. Hall stated that the proposed Special Condition C.(1) references the received date.

6
7 Mr. Thorsland asked if the petitioners had any questions or concerns regarding the proposed Special
8 Conditions as read.

9
10 Mr. Jason Wishall stated that, regarding Special Condition B, they have a verbal agreement with the
11 Pesotum Township Highway Commissioner to run empty, bobtail, and not to run the tall van trailers because
12 van trailers tend to scare people. He said that he could obtain this verbal agreement in writing if necessary.

13
14 Mr. Hall stated that since the petitioners are working with the Pesotum Township Highway Commissioner
15 perhaps proposed Special Condition B. could just be incorporated with proposed Special Condition C.,
16 making Special Condition C. the new Special Condition B. He said that staff would be happy to work with
17 the petitioners regarding this matter and when they submit the written agreement staff will just refer to the
18 agreement in the special condition. He said that since this is an agreement between the petitioners and the
19 township it will be noted, thus satisfying the Board's interest in the roads.

20
21 Ms. Lee asked Mr. Jason Wishall how the trucks will travel if they will not travel beyond CR 600N on CR
22 900E.

23
24 Mr. Jason Wishall stated that the trucks travel north out of the subject property to CR 600N, County
25 Highway 17 or also known as the Sadorus slab, traveling east to Route 45 where they travel north to the
26 Monticello Road, County Highway 18.

27
28 Ms. Lee thanked Mr. Wishall.

29
30 Mr. Thorsland stated that the trucks only travel as far north as to drive out of the subject property to get onto
31 CR 600N. He said that he agrees with Mr. Hall's recommendation regarding blending Special Conditions B
32 & C.

33
34 Ms. Griest stated that a notation indicating that CR 600N is County Highway 17 would be appreciated for
35 future reference.

36
37 Mr. Hall stated that he would really like to only refer to the agreement with the Pesotum Township Highway
38 Commissioner.

39

1 Mr. Hall stated that the petitioners expect staff to provide useful guidance regarding their requests. He said
2 that the request which causes him the most difficulty is Part B. of Case 807-V-15 regarding a variance from
3 the Champaign County Stormwater Management and Erosion Control Ordinance. He said that if the Board
4 has any thoughts regarding this variance and whether or not it seems reasonable due to the organic growth of
5 the trucking operation at the farm operation location or whether as organic as it may be the petitioners can
6 still provide stormwater detention. He said that there has only been one other variance from the Stormwater
7 Management Policy and that variance was approved so he does not have a lot of history to work from.

8
9 Ms. Lee asked Mr. Hall to indicate the variance case that was approved.

10
11 Mr. Thorsland stated that the previous case is not relevant to this case.

12
13 Mr. Hall stated that the previous case was a completely different situation.

14
15 Mr. Thorsland pointed out that the petitioners own the property to the east and they farm that acreage. He
16 said that the Board is not indicating that the petitioners have to do any further improvements to handle the
17 runoff from the non-permeable areas. He said that since it appears that Mr. Michael Wishall has lived in the
18 area for a very long time, he may know which way the water flows and why the newest building is located in
19 its current location. He asked the Board if they are uncomfortable in not requiring any stormwater
20 management for this particular property given the peculiarity.

21
22 Mr. Hall asked the Board if they are comfortable granting a variance with little or no technical justification
23 as to why stormwater management should not be provided.

24
25 Mr. Thorsland stated that the information indicates that the buildings have been in place for some time now
26 with no noticeable issues regarding water.

27
28 Mr. Randol stated yes. He said that the structures have been there for a number of years therefore if there
29 was a problem the petitioners have probably already dealt with it. He said that it is obviously not affecting
30 the road so the water is not draining that way and causing any problems. He said that he does not believe
31 that this is an issue.

32
33 Mr. Hall clarified that the water is draining towards the road. He said that once the Board makes its decision
34 he will know what to tell future applicants if they do not want to provide stormwater detention.

35
36 Mr. Thorsland stated that the petitioners testified that they had culverts delivered to be installed before the
37 progress was stopped and the culverts have now been installed.

38
39 Mr. Jason Wishall stated that the culverts have been installed.

1
2 Mr. Thorsland asked Mr. Jason Wishall if drainage improvements were made when the road was improved.
3
4 Mr. Jason Wishall stated yes.
5
6 Ms. Griest stated that she does not have a problem with the variance request in Part B. She said that less
7 than two acres of the parcel is dedicated to the trucking operation therefore it is her rationale that even
8 though overall we have talked about 5.68 acres some of it is not solely dedicated to the trucking operation.
9 She said that she really does not think that when we are looking at a 50/50 ratio on the areas and buildings
10 that are being shared, if we went with the 50% of the area was completely dedicated to the truck operation,
11 that we are exceeding the three acres for the special use portion and the rest of it falls over to the farm
12 operation. She said that she is opposed to taking ground out of production to provide stormwater detention
13 when it is not necessary when the dated historical aerials included in the packet do not indicate apparent
14 ponding or flooding adjacent to or on the subject property. She said that she has no issue with the requested
15 variance as this is a unique situation and it would be different if the use was just being proposed from scratch
16 with no documentation of flooding, then this discussion would be different. She said that this use has
17 evolved from a farm operation into a trucking operation and the petitioners did not change the profile of the
18 property.
19
20 Mr. Thorsland stated that he agrees with Ms. Griest and asked if it is made clear that some recent drainage
21 upgrades were made and no significant changes have taken place since well before the incorporation of the
22 trucking operation. He said that the newest building is not located on the subject property.
23
24 Ms. Lee stated that if you look at where the .4 acres which has all of the trailers parked upon and eliminate
25 the 72' x 128' building, you still have one acre that is between the two parcels that is involved in the
26 trucking operation. She said that there is still over one acre applicable to the Stormwater Management
27 Policy.
28
29 Mr. Randol stated that it is not in one particular area and is in spots on the property. He said that the largest
30 area is one acre that is drawn where the trucks are parked. He asked how many acres are involved in the
31 entire subject property.
32
33 Mr. Thorsland stated that the subject property consists of 5.68 acres.
34
35 Mr. Randol stated that not even one-fifth of the subject property is for the trucking operation.
36
37 Ms. Lee stated that basically there is still more than one acre that is impervious area that is for the trucking
38 operation.
39

1 Mr. Thorsland stated that the dotted line that wraps around the 50/50 building indicates one acre.

2
3 Mr. Hall stated that Board members should not focus on the dotted area because the dotted areas can only be
4 used once you get to them. He said that the area outside of the dotted area is absolutely necessary for the
5 trucking operation and our policy requires that if there is one acre of impervious area in any 90,000 square
6 feet area then stormwater detention must be provided and that is what the Ordinance indicates. He said that
7 if all of the impervious area was added up for the trucking operation and the general maneuver areas were
8 only used half of the time or 40% trucking and 60% farm there is still almost two acres for trucking.

9
10 Mr. Thorsland asked Mr. Hall if we are counting gravel as impervious area.

11
12 Mr. Hall stated that gravel has always been counted as impervious area. He said that gravel is gravel when
13 designing stormwater management, but for purposes of the threshold anything that is not grass is impervious.
14 He said that he does think that there are a lot of compelling reasons due to the organic growth from the
15 farming operation but this is not one-half of an acre that the Board will write off but is two acres that the
16 Board will let be developed in the AG-1 district with no required detention.

17
18 Mr. Thorsland asked Mr. Hall if the rule for AG-2 is the same.

19
20 Mr. Hall stated yes. He said that the point is that this use is surrounded by the AG-1 district and two acres of
21 impervious area has been placed on the subject property and the Board may say that there is nothing to worry
22 about.

23
24 Ms. Griest stated that the impervious area is not being placed there now but already exists as a result of the
25 farming operation and it is shared with the trucking operation. She said that the farm operation does not have
26 to have the detention.

27
28 Mr. Thorsland stated that he would propose waiving the stormwater requirement for the following reasons:
29 1. the business is 50% of what occurs in the impervious area; and 2. the growth has taken place over time;
30 and the surrounding property is owned by the petitioners; and 3. no complaints have been received due to
31 water and no testimony has been received at the public hearing regarding water. He said that perhaps his
32 comments could be used as justification of waiving the stormwater requirement. He said that it appears that
33 the impervious area is just making the threshold for the requirement. He said that the Board is missing two
34 members who could have concerns and helpful advice regarding this issue and should be included in this
35 conversation. He said that he has voiced his reasons for being comfortable in waiving the requirement in
36 this particular case. He said that this case is fairly unique and the Board has had other special use cases
37 where there is a lot of impervious area and it is pointed to other people who are not in common ownership
38 and there were documented problems and efforts to fix the problems and the Board has had to make them fix
39 it better. He said that in this case he hasn't heard testimony indicating that there is any problem and it is sort

1 of, like the buildings all started to grow slowly.

2
3 Ms. Griest stated that maybe as evidence to support the variance a description of the tile that exists on the
4 farm ground that the subject property drains to is necessary. She said that page 3 of the Natural Resources
5 Report discusses the surface and subsurface drainage. She said that under Water Resource: a) Surface
6 Drainage the report states the following: "The site is on a flat ground, water now travels off the site in all
7 directions. The west has a good road ditch to help with drainage." Ms. Griest stated that the petitioner owns
8 property in all three directions of the subject property.

9
10 Mr. Thorsland stated that the new culvert pipes are there for the road and the Natural Resources Report
11 indicates that the road ditch has good drainage. He said that at the Natural Resources Report will be folded
12 in as evidence as testimony and the statement that within the last three years the improved road drainage has
13 been installed adjacent to the fourth side of subject property. He said that is it compelling in this particular
14 and unique case to waive this in this case

15
16 Mr. Michael Wishall stated that his parents did their estate planning 20 or 30 years ago and he did not find
17 out about their wills until his father passed away. He said that at the time of the estate planning their
18 attorney told them that that the subject property had to be five acres. Mr. Michael Wishall stated that if the
19 lot only had to be three acres it would have saved him a lot of money as he would not have had to buy five
20 acres from his brother and sister. He said that the newest shed was built in its current location because he
21 owned the land that the new shed is sitting on and if he had not owned the five acres he would have had to
22 buy it again from his brother and sister and did not desire to do so. He said that he just wanted to inform the
23 Board and staff as to why the five acres is what it is and why the building was built on the adjacent farm
24 land.

25
26 Mr. Thorsland stated that he and Ms. Griest are traveling down the same path and hopefully staff is feeling
27 more comfortable. He said that this discussion will be in the minutes and hopefully staff can summarize this
28 discussion as evidence.

29
30 Ms. Griest asked Mr. Michael Wishall if he had any field tile maps of the subject property.

31
32 Mr. Michael Wishall stated that he did not have any field tile maps of the subject property. He said that his
33 grandfather laid the field tile many, many years ago. He said that he does know where some of the mains are
34 located for the field tiles.

35
36 Ms. Lee stated that the Farm Bureau created some maps years ago.

37
38 Mr. Michael Wishall stated that he has copies of those maps and they are really just an educated guess and
39 was not a science that proved out.

1
2 Mr. Thorsland agreed.
3
4 Mr. Thorsland asked the Board and staff if there were any additional questions or concerns and there were
5 none.
6
7 Mr. Thorsland stated that the Board needs to discuss a continuance date for these cases.
8
9 Mr. Hall stated that he does not have an impression that a great amount of work is required therefore he
10 recommended the first meeting in January 2016. He said that significant cases have been docketed for the
11 October 29th and November 12th meetings, and later on during the meeting staff will be requesting that the
12 Board consider holding a special meeting on December 3rd.
13
14 Mr. Thorsland noted that he will be absent from any December meetings.
15
16 Ms. Lee asked Mr. Hall if Case 792-V-14 will be ready on October 29th for the Board's review.
17
18 Mr. Hall stated that it would be great if petitioners got items to staff two weeks ahead of time but no one in
19 the history of the ZBA has ever done that so it is unknown.
20
21 Mr. Thorsland asked if there is any reason why these cases cannot be continued to the first meeting in
22 January (14th).
23
24 Mr. Michael Wishall stated that he will check to see if he will be back in town for the first meeting in
25 January 2016.
26
27 Mr. Thorsland stated that the reason that the meeting date is tentative is because the County Board has yet to
28 approve their 2016 calendar. He said that the November meetings are both booked solid and the October
29 29th meeting is too soon. He said that the ZBA has been requested to have fewer meetings, if possible, as it
30 costs the County money to have these meetings. He said that the December 3rd meeting is not official yet
31 and the petitioners would not have a full Board in attendance as he will be absent.
32
33 Mr. Hall stated that if the petitioner is open to continuing their cases to the first meeting in January then that
34 is the date that he would recommend although it is a possibility that one of the petitioners may not be able to
35 attend the meeting.
36
37 Mr. Michael Wishall stated that he has lived at his residence for over 50 years and his phone number has
38 never changed so if there are any questions that he needs to answer the Board or staff can just call him.
39

1 Mr. Thorsland stated that perhaps the answers to the questions that were deferred to Mr. Michael Wishall
2 could be passed on to Jason and Brian so that they can address any further questions that the Board may
3 have. He asked the petitioners if they agreed to a tentative continuance date of January 14, 2016.

4
5 The petitioners agreed to a tentative continuance date of January 14, 2016.

6
7 Mr. Thorsland entertained a motion to continue Cases 805-AM-15, 806-S-15 and 807-V-15 to the tentative
8 January 14, 2016, meeting.

9
10 Ms. Griest suggested that the motion only indicate the first meeting in January in lieu of a tentative date.

11
12 Mr. Thorsland agreed.

13
14 **Ms. Griest moved, seconded by Mr. Randol to continue Cases 805-AM-15, 806-S-15 and 807-V-15 to**
15 **the first meeting in January, 2016. The motion carried by voice vote.**

16
17 **Case 813-S-15: Petitioner: David and Ginger Spillars, d.b.a. Ohana Pools, Spas & Billiards, Inc.**
18 **Request to authorize the conversion of an existing single family dwelling to a two-family dwelling by**
19 **the addition of a second dwelling in the AG-2 Agriculture Zoning District. Location: Lot 2 of Hudson**
20 **Acres Subdivision, in the Southeast Quarter of the Southwest Quarter of Section 11 in Urbana**
21 **Township and commonly known as the residence at 3710 East University Avenue, Urbana.**

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

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. He reminded the audience that when they sign the witness
34 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
35 time.

36
37 Mr. Thorsland asked the petitioners if they would like to make a brief statement regarding their request.

38
39 Mr. David Spillars, who resides at 1605 Nottingham Drive, St. Joseph, stated that he is requesting a Special

- 1 Use Permit for the conversion of an existing single family dwelling to a two-family dwelling by the addition
2 of a second dwelling. He said that he isn't adding a second dwelling but trying to obtain a Zoning Use
3 Permit for an existing second dwelling that was illegally constructed without a Zoning Use Permit.
4
- 5 Mr. Thorsland stated that the Preliminary Memorandum indicates that a sunroom is being constructed to
6 connect the two dwellings.
7
- 8 Mr. Spillars stated that he is trying to rehabilitate the property in making it structurally safe and compliant to
9 the required codes.
10
- 11 Mr. Thorsland asked the Board if there were any questions for Mr. Spillars and there were none.
12
- 13 Mr. Thorsland asked Mr. Spillars if he would like to provide any specific details regarding the request. Mr.
14 Thorsland informed Mr. Spillars that since this is a Special Use case there are criteria that must be met
15 therefore he may want to indicate why this use is necessary for the public convenience at this site.
16
- 17 Mr. Spillars stated that this was a distressed property when they purchased the property and there are two or
18 three other properties in the subdivision which are also in a distressed state. He said that the rest of the area
19 is really pretty nice rural residential area with a grandfather clause regarding home based businesses. He said
20 that his parcel had a home based business on it for years and he can remember visiting the property as a
21 child. He said that the other home businesses in the area include an accounting office and an artist studio.
22 He said that as far as he knows the garage was converted into a "mother-in-law" suite and the property was
23 presented to him and his wife as a two dwelling property with a home business that had been grandfathered
24 which they thought was a great aspect of the property.
25
- 26 Mr. Thorsland asked Mr. Spillars if the property had been abandoned or were the homes only unoccupied at
27 the time.
28
- 29 Mr. Spillars stated that the property was for sale for some time and was in disrepair and yes both homes were
30 unoccupied.
31
- 32 Mr. Thorsland asked Mr. Spillars if it was his understanding that the two homes were allowed on the
33 property.
34
- 35 Mr. Spillars stated yes. He said that the two homes have been on the property for almost 40 years and during
36 his rehabilitation of the property he found the years 1974 and 1975 written on the walls, which is when he
37 believes that the garage was converted into a second dwelling.
38
- 39 Mr. Thorsland noted that the Zoning Ordinance was adopted on October 10, 1973, which is before the dates

1 on the wall.

2
3 Mr. Spillars stated that he noticed that the information indicated a discrepancy regarding the date of
4 conversion and obviously it was never permitted. He said that there appears to be a lot of things on the
5 property which were done by the seat of the previous owner's pants which is why he is trying to bring
6 everything up to code making the structures safe so that the dwellings are livable units. He said that if the
7 zoning has to be changed to allow for a duplex then he is good with it as he is willing to do whatever he has
8 to do to bring this property into compliance.

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

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

13
14 Mr. Thorsland asked Ginger Spillars if she would like to present any testimony to the Board.

15
16 Ms. Ginger Spillars, who resides at 1605 Nottingham, St. Joseph, stated that they purchased the property
17 with two homes and had no clue that the property was in violation. She said that this property is where they
18 plan to reside with their kids therefore they are trying to make it nice. She said that they were totally
19 shocked when they found out the issues with the property but they are business people and they realize that
20 people do things without permission. She said that she and her husband are the type of people who obtain
21 required permits for construction and they are trying to get their property in compliance because they plan on
22 living there for a very long time.

23
24 Mr. Thorsland asked Ms. Spillars if she already owned the property when she found out that the property
25 was in violation.

26
27 Ms. Spillars stated yes. She said that they were remodeling the property and when her husband was
28 completing upgrades for the plumbing to the septic system they decided to add on to the structure. She said
29 that she visited the Department of Planning and Zoning to acquire a permit for the addition and was
30 informed that the property was in violation.

31
32 Mr. Thorsland stated that it is good that the Spillars decided to acquire a permit for the additions.

33
34 Ms. Spillars stated that it was good that they were trying to comply but unfortunately they discovered that
35 there were a lot of things on the property which did not obtain permits or approval by the County.

36
37 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Spillars and there were none.

38
39 Mr. Thorsland stated that there is one proposed special condition indicated on Page 14 of the Preliminary

1 Draft Summary of Evidence. He read the proposed special condition as follows:

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- A. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

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

Mr. Hall explained that for any Special Use Permit the lighting is supposed to be full cut-off. He said that hopefully the petitioners have not added any exterior lighting yet but if they have or plan to, staff would be happy to review the manufacturer’s data sheet for the fixture to assure that it is full cut-off.

Mr. David Spillars asked if full cut-off means horizontal lighting which stops at the fixture.

Mr. Thorsland stated that full cut-off lights should only produce light on the subject property and not upon the neighbor’s property.

Mr. and Mrs. Spillars stated that they are planning on taking down some lights therefore they have no issue with the proposed special condition.

Mr. Thorsland read the proposed special condition again as follows:

- A. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

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

Mr. Thorsland asked Mr. and Mrs. Spillars if they agreed to the Special Condition A.

Mr. and Mrs. Spillars indicated that they agreed to Special Condition A.

Mr. Thorsland entertained a motion to approve Special Condition A.

Ms. Griest moved, seconded by Mr. Randol to approve Special Condition A. The motion carried by voice vote.

1 Mr. Thorsland stated that there are no new Documents of Record.

2

3 **Finding of Fact for Case 813-V-13:**

4

5 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
6 813-V-15 held on October 15, 2015, the Zoning Board of Appeals of Champaign County finds that:

7

- 8 **1. The requested Special Use Permit IS necessary for the public convenience at this**
- 9 **location.**

10

11 Mr. Randol stated that the requested Special Use Permit IS necessary for the public convenience at this
12 location to bring the property into compliance and to provide the community with adequate and
13 habitable living quarters.

14

15

- 16 **2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
- 17 **IMPOSED HEREIN is so designed, located, and proposed to be operated so that it**
- 18 **WILL NOT be injurious to the district in which it shall be located or otherwise**
- 19 **detrimental to the public health, safety, and welfare because:**

20

- 21 **a. The street has ADEQUATE traffic capacity and the entrance**
- 22 **location has ADEQUATE visibility.**

23

24 Ms. Griest stated that the street has ADEQUATE traffic capacity and the entrance location has
25 ADEQUATE visibility.

26

- 27 **b. Emergency services availability is ADEQUATE.**

28

29 Ms. Griest stated that emergency services is ADEQUATE.

30

- 31 **c. The Special Use WILL be compatible with adjacent uses.**

32

33 Ms. Lee stated that the Special Use WILL be compatible with adjacent uses.

34

- 35 **d. Surface and subsurface drainage will be ADEQUATE.**

36

37 Ms. Griest stated that surface and subsurface drainage will be ADEQUATE.

38

39

1 **e. Public safety will be ADEQUATE.**

2
3 Ms. Lee stated that public safety will be ADEQUATE.
4

5
6 **f. The provisions for parking will be ADEQUATE.**

7
8 Mr. Randol stated that the provisions for parking will be ADEQUATE.
9

10
11 **g. The property IS WELL SUITED OVERALL for the proposed**
12 **improvements.**

13
14 Mr. Randol stated that the property IS WELL SUITED OVERALL for the proposed improvements.
15

16 **h. Existing public services ARE available to support the proposed**
17 **SPECIAL USE without undue public expense.**

18
19 Ms. Griest stated that existing public services ARE available to support the proposed SPECIAL USE
20 without undue public expense.
21

22
23 **i. Existing public infrastructure together with the proposed development IS**
24 **adequate to support the proposed development effectively and safely**
25 **without undue public expense.**

26
27 Ms. Griest stated that existing public infrastructure together with the proposed development IS adequate
28 to support the proposed development effectively and safely without undue public expense.
29

30 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
31 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
32 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety
33 and welfare.
34

35 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS,**
36 **IMPOSED HEREIN DOES conform to the applicable regulations and standards of**
37 **the DISTRICT in which it is located.**
38

1 Ms. Griest the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED
2 HEREIN DOES conform to the applicable regulations and standards of the DISTRICT in which it is
3 located.

4
5 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
6 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in**
7 **which it is located because:**

8
9 **a. The Special Use will be designed to CONFORM to all relevant County**
10 **ordinances and codes.**

11
12 Mr. Randol stated that the Special Use will be designed to CONFORM to all relevant County ordinances
13 and codes.

14
15 **b. The Special Use WILL be compatible with adjacent uses.**

16
17 Ms. Griest stated that the Special Use WILL be compatible with adjacent uses.

18
19 **c. Public safety will be ADEQUATE.**

20
21 Ms. Griest stated that public safety will be ADEQUATE.

22
23 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
24 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

25
26 **4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
27 **IMPOSED HEREIN, IS in harmony with the general purpose and intent of the**
28 **Ordinance because:**

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

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

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

37
38 **c. The requested Special Use Permit, SUBJECT TO THE SPECIAL**
39 **CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to**

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

3
4 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITION
5 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
6 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
7 and welfare.

8
9 **d. The requested Special Use Permit, SUBJECT TO THE SPECIAL**
10 **CONDITIONS IMPOSED HEREIN, DOES preserve the essential character**
11 **of the DISTRICT in which it is located.**

12
13 Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
14 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

15
16 Mr. Thorsland stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL
17 CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the
18 Ordinance.

19
20 **5. The requested Special Use IS NOT an existing nonconforming use.**

21
22 **6. THE SPECIAL CONDITIONS IMPOSED HEREIN IS REQUIRED TO ENSURE**
23 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND**
24 **FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**

25
26 **A. The Zoning Administrator shall not authorize a Zoning Compliance**
27 **Certificate until the petitioner has demonstrated that any new or proposed**
28 **exterior lighting on the subject property will comply with the lighting**
29 **requirements of Section 6.1.2.**

30
31 The special conditions stated above are required to ensure the following:
32 **That any proposed exterior lighting is in compliance with the Zoning**
33 **Ordinance.**

34
35 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
36 of Fact as amended.

37
38 **Ms. Lee moved, seconded my Mr. Randol to adopt the Summary of Evidence, Documents of Record**
39 **and Findings of Fact as amended. The motion carried by voice vote.**

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Mr. Thorsland entertained a motion to move to the Final Determination for Case 813-S-15.

Ms. Lee moved, seconded by Mr. Randol to move to the Final Determination for Case 813-S-15. The motion carried by voice vote.

Mr. Thorsland informed Mr. and Mrs. Spillars that currently the Board has one vacant Board seat and two absent Board members therefore it is at their discretion to either continue Case 813-S-15 until a full Board is present or request that the present Board move to the Final Determination. He informed Mr. and Mrs. Spillars that four affirmative votes are required for approval.

Mr. and Mrs. Spillars requested that the present Board move to the Final Determination.

Final Determination for Case 813-S-15:

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

The Special Use requested in Case 813-S-15 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicants David and Ginger Spillars, to authorize the following:

Authorize a Special Use Permit in the AG-2 Agriculture Zoning District for the conversion of an existing single family dwelling to a two-family dwelling by the addition of a second dwelling.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

- A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

The special conditions stated above are required to ensure the following:
That any proposed exterior lighting is in compliance with the Zoning Ordinance.

Mr. Thorsland requested a roll call vote.

1 The roll call vote was called as follows:

2

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

5

6 Mr. Hall informed Mr. and Mrs. Spillars that they have received an approval of their request and staff will
7 send the final paperwork as soon as possible. He requested that Mr. and Mrs. Spillars contact the office with
8 any questions.

9

10 Mr. Thorsland stated that the Board will now hear Cases 805-AM-15, 806-S-15 and 807-V-15, Michael
11 Wishall, Jason Wishall, Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation, Inc., and
12 Wishall Farms, Inc.

13

14

15 **7. Staff Report**

16

17 Mr. Hall stated that prior to the explosion in zoning cases this month Ms. Chavarria has been doing excellent
18 work in assisting with enforcement cases. He said that he should have commended Ms. Chavarria for her
19 work at the last meeting as this has been going on for a couple of months. He said that there have not been a
20 great number of enforcement cases resolved but there have been some and there has been contact made for a
21 great many of those enforcement cases. He said that we have finally achieved, to a degree, having the
22 current planner assisting with enforcement.

23

24 **8. Other Business**

25 A. Review of Docket

26

27 Mr. Thorsland stated that he will be absent from all of the December meetings as he will be out of the
28 country.

29

30 Mr. Randol stated that it is a possibility that he will not be attending the November 12, 2015, public hearing.

31

32 Ms. Griest stated that she will be absent from the first meeting in February, 2016.

33

34 Mr. Hall stated that the December 17th meeting is over docketed and Case 802-AT-15 can be placed on a
35 different docket date. He said that Case 819-AT-15 needs to be done because it is holding up a development
36 and even if that case gets decided early, a minimum of four months, it will lead to a follow up case that will
37 take a couple of months to work through. He said that currently the December 17th meeting includes Cases
38 818-S-15 Woods Edge MFH Park and 819-AT-15, Zoning Administrator and those two cases will include a
39 lot of information and he knows that the text amendment will not be finalized at that meeting. He said that

1 the petitioners for Case 818-S-15 would like to see a final determination in calendar year 2015 but it is
2 unknown if that will be possible. He said that the Board does not often have the opportunity to hold special
3 meetings when the docket is so loaded but it is the Board's decision.

4
5 Mr. Thorsland asked Mr. Hall if he is hoping that some of the cases currently on the December 17th docket
6 could drift on to the December 3rd special meeting date, if the Board chooses to approve a special meeting
7 date.

8
9 Mr. Hall stated that he would not drift Case 802-AT-15 backwards to the proposed December 3rd special
10 meeting but he would drift Cases 818-S-15, Woods Edge MFH Park and Case 819-AT-15, Zoning
11 Administrator.

12
13 Mr. Thorsland asked Mr. Hall if the Board could do that now.

14
15 Mr. Hall stated that the Board could if there is a proposed special meeting on December 3rd.

16
17 Mr. Thorsland stated yes that would be the first thing but are any of the cases ready enough to be moved
18 forward to a closer date.

19
20 Mr. Hall stated that who knows how much meeting time there will be at the October 29th meeting but he
21 would predict that the Board will have at least two full hours of meeting time. He said that on November
22 12th the Board will be doing very well to deal with all of those cases at that meeting. He said that he does
23 not want to move any of the cases from the December 17th meeting to the November 12th meeting.

24
25 Mr. Thorsland stated that if the Board decides to have a special meeting could Case 818-S-15, Woods Edge
26 MFH Park be moved to that meeting.

27
28 Mr. Hall stated that the December 3rd special meeting, if approved, would probably consist of Cases 816-V-
29 15, Waughtel, 818-S-15, Woods Edge MFH Park leaving Case 819-AT-15 on the December 17th meeting.
30 He said that Case 802-AT-15, Zoning Administrator could remain on the December 17th meeting and if the
31 Board does not get to it then it will be continued.

32
33 Ms. Griest asked Mr. Hall if it is his preference that the Board schedules a special meeting on December 3rd
34 and in approving that special meeting it would not overload staff.

35
36 Mr. Hall stated that is his preference.

37
38 Ms. Griest asked Mr. Hall if Case 819-AT-15 could be placed on the December 3rd agenda so that staff could
39 at least introduce the case to the Board.

1
2 Mr. Thorsland asked if the docket placement for the proposed December 3rd meeting could be at staff's
3 discretion for moving cases to it.
4
5 Ms. Griest asked if the cases are generally scheduled on the docket in numerical order.
6
7 Mr. Hall stated that when it is a text amendment he will take the liberty of delaying it if it helps out private
8 citizens.
9
10 Ms. Lee asked Mr. Hall to indicate his preference regarding the December 3rd special meeting.
11
12 Mr. Hall stated that he would like to have a special meeting held on December 3rd if the Board is willing to
13 do it. He said that he doesn't really want to add another meeting but he does feel that it is worth doing given
14 the situation that we have with these cases. He said that it is not fun and it isn't what he prefers but it is what
15 the public would want to do.
16
17 Mr. Thorsland entertained a motion to hold a special meeting on December 3rd.
18
19 **Mr. Randol moved, seconded by Ms. Griest to hold a special ZBA meeting on December 3, 2015. The**
20 **motion carried by voice vote.**
21
22 **9. Audience Participation with respect to matters other than cases pending before the Board**
23
24 None
25
26 **10. Adjournment**
27
28 Mr. Thorsland entertained a motion to adjourn the meeting.
29
30 **Ms. Griest moved, seconded by Ms. Lee to adjourn the meeting. The motion carried by voice vote.**
31
32 The meeting adjourned at 8:59 p.m.
33
34
35
36 Respectfully submitted
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39

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2 Secretary of Zoning Board of Appeals
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