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3 **MINUTES OF REGULAR MEETING**

4 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

5 **1776 E. Washington Street**

6 **Urbana, IL 61802**

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8
9 **DATE: February 25, 2016**

**PLACE: Lyle Shields Meeting Room
1776 East Washington Street**

10
11 **TIME: 6:30 p.m.**

Urbana, IL 61802

12
13 **MEMBERS PRESENT:** Catherine Capel, Debra Griest, Marilyn Lee, Brad Passalacqua, Jim Randol,
14 Eric Thorsland

15
16 **MEMBERS ABSENT :** None

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

19
20 **OTHERS PRESENT :** Carl Webber, Matt Deering, Nick Brian, Bonita Blue, Jeff Carpenter, Sarah
21 Carpenter, Kelly Dillard, Mona Dillard, Crystal Bailer, Robert Sherman,
22 Gene Myers, Darren Ramm, Ashley Ramm, Aaron Marsh, Gina Marsh, Dhru
23 Uradha, Mark Brian, Lori Brian

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

27
28 The meeting was called to order at 6:30 p.m.

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

31
32 The roll was called and a quorum declared present.

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

37
38 **3. Correspondence**

39
40 None

41
42 **4. Approval of Minutes (November 12, 2015, December 10, 2015, January 14, 2016)**

43
44 Mr. Thorsland entertained a motion to approved the November 12, 2015, December 10, 2015, and January
45 14, 2016, minutes.

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47 Mr. DiNovo requested that the minutes be approved separately because he was not a member of the Board
48 on November 12, 2015.

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Ms. Lee stated that she did not attend the January 14, 2016, meeting.

Mr. Thorsland stated that the Board will approve the November 12, 2015, December 10, 2015, and the January 14, 2016, minutes separately. He entertained a motion to approved the November 12, 2015, minutes.

Ms. Lee moved, seconded by Ms. Capel to approve the November 12, 2015, minutes as submitted.

Mr. Thorsland asked the Board if there were corrections or additions required for the November 12, 2015, minutes and there were none.

The motion carried.

Mr. Thorsland entertained a motion to approve the December 10, 2015, minutes.

Ms. Lee moved, seconded by Mr. DiNovo to approve the December 10, 2015, minutes as submitted.

Mr. Thorsland asked the Board if there were any corrections or additions required for the November 12, 2015, minutes and there were none.

The motion carried.

Mr. Thorsland entertained a motion to approve the January 14, 2016, minutes.

Mr. DiNovo moved, seconded by Ms. Capel to approve the January 14, 2016, minutes.

Mr. Thorsland asked the Board if there were any corrections or additions required for the January 14, 2016, minutes.

Mr. DiNovo stated that he had one correction for the January 14, 2016, minutes. He said that Line 38, on Page 8, should be revised to read as follows: do have an aerial photograph that has been construed to serve the function of a site plan.

Mr. Thorsland asked the Board if there were any other corrections or additions required for the January 14, 2016, minutes and there were none.

The motion carried.

1 **5. Continued Public Hearing**

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

22
23 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding the request.

24
25 Mr. Hall requested that the Board continue Case 685-AT-11 to the May 26, 2016, meeting.

26
27 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the May 26, 2016, meeting.

28
29 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Case 685-AT-11 to the May 26, 2016,**
30 **meeting. The motion carried by voice vote.**

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32
33 **6. New Public Hearings**

34
35 **Case 820-V-15 Petitioner: Darren Ramm, d.b.a. D. Ramm Services, Inc. Request: Authorize the**
36 **following Variance for a Rural Home Occupation in the AG-1, Agriculture Zoning District: the**
37 **employment of up to five additional non-family employees in lieu of the maximum allowed on**
38 **additional employee for properties smaller than two acres as per Section 7.1.2 B. of the Champaign**
39 **County Zoning Ordinance. Location: A 1.83 acre tract of land located in the Northeast Quarter of the**
40 **Northeast Quarter of Section 29, Township 20 North, Range 14 West of Ogden Township of the**
41 **Second Principal Meridian and commonly known as D. Ramm Services, Inc., with an address of 2685**

1 **CR 2000N, Ogden.**

2
3 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
4 sign the witness register for that public hearing. He reminded the audience that when they sign the
5 witness register they are signing an oath.

6
7 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
8 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
9 show of hands for those who would like to cross examine and each person will be called upon. He
10 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
12 but are requested to clearly state their name before asking any questions. He noted that no new
13 testimony is to be given during the cross examination. He said that attorneys who have complied with
14 Article 7.6 of the ZBA By-Laws are exempt from cross examination.

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

17
18 Mr. Darren Ramm, who resides at 2685 CR 2000N, Ogden, stated that he has a lawn care business and he
19 recently built a shed. He said that he was informed that he needed to apply for the variance due to the
20 number of employees that he has for the lawn care business. He said that he has three part-time employees
21 because his work is seasonal. He said that when they have good weather they are busy but during the winter
22 they could be very slow. He said that one of the photographs that had been taken by staff indicated debris
23 that had been brought back to his property from the job site. He said that at the time he did not know that he
24 could not bring the debris back to the house but he does now and has cleaned them up. He said that one of
25 the piles in the photographs is from the construction of the new shed and that pile has not been cleaned up
26 due to weather conditions. He said that another photograph indicates a pile of wood. He said that the wood
27 is used for his outdoor wood burner. He said that he does bring back wood from some jobs and he uses the
28 wood to heat his home. He said that he does chop the wood and has cleaned up the pile. He said that a
29 photograph indicated the trailers which are currently stored outside and explained that he cannot store them
30 in the new shed until it is completely finished. He said that he does have toys but that is about it.

31
32 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Ramm.

33
34 Mr. DiNovo stated that the Preliminary Memorandum includes an email from Mr. Ramm which indicates
35 that he has one employee who works 4 to 5 days per week during mowing season and there are 3 to 4
36 additional employees that work 2 to 3 days per week depending on the work load.

37
38 Mr. Ramm stated that the part-time employees only work as-needed when his business is really busy.

39
40 Mr. DiNovo asked Mr. Ramm if the average would be three employees during the working season.

41

- 1 Ms. Ashley Ramm stated that they are requesting five employees to allow for the possibility of more growth.
2 She said that during the past few years the lawn care business has grown and when there is a huge amount of
3 snow received they require additional help. She said that they are trying to cover their bases for future
4 growth and the amount of employees they anticipate needing. She said that she and her husband would like
5 to apologize for not knowing the rules.
6
- 7 Mr. Thorsland asked Mr. Ramm if he will be moving the trailers indoors when the shed is completed.
8
- 9 Mr. Ramm stated yes.
10
- 11 Mr. Thorsland asked Mr. Ramm if all of the wood which is brought home from the job sites is utilized to
12 heat their home.
13
- 14 Mr. Ramm stated yes, it prevents them from having to purchase wood from a supplier.
15
- 16 Ms. Griest stated that Mr. Ramm stated that he has some toys. She asked Mr. Ramm if the trailers are
17 exclusively used for the lawn care business or are they also used for his toys as well.
18
- 19 Mr. Ramm stated that the toys that he was referring to are his son's toys that are sitting out there.
20
- 21 Ms. Griest stated that she was thinking of toys being perhaps an ATV.
22
- 23 Mr. Ramm stated that he has things he wants to put in the shed but it is not finished yet. He said that he
24 wants to have his equipment stored inside the shed.
25
- 26 Mr. Thorsland stated that it has been mentioned that the lot is odd-shaped. He asked Mr. Ramm if the only
27 deficiency that he is aware of is that the lot is a little shy of the required acreage.
28
- 29 Mr. Ramm stated that Mr. Thorsland is correct.
30
- 31 Mr. Thorsland asked Mr. Ramm if his acreage would be adequate if the land to the centerline of the road was
32 included. He said that everyone has to pay real estate taxes to the centerline of the road but they can't use it.
33
- 34 Mr. Hall stated that in this case staff should have included the acreage to the right-of-way. He noted that the
35 survey from Berns, Clancy and Associates does include the right-of-way.
36
- 37 Mr. DiNovo asked Mr. Hall to indicate the net acreage for the subject property.
38
- 39 Mr. Hall stated that the net acreage for the subject property is 1.69 acres.
40
- 41 Mr. DiNovo asked Mr. Hall if it is his position that Mr. Ramm could never have yard waste on the site. He

1 said that it may be possible that the yard waste could not be disposed of right of way therefore it stays in the
2 truck and is not placed on the ground.

3
4 Mr. Hall stated that the Zoning Ordinance is silent on this situation. He said that staff does attempt to follow
5 the Environmental Protection Agency's requirements. He said that the EPA recently changed their rules and
6 he believes that they no longer have a specific standard. Mr. Hall stated that staff would be concerned about
7 an accumulation of yard waste that might eventually become a nuisance. He said that staff has not received
8 any complaints for this property and it appears that Mr. Ramm is attempting to take care of this concern over
9 time. He said that Mr. Ramm bringing back some wood from the job site for personal use does not appear to
10 be a problem.

11
12 Mr. DiNovo asked Mr. Hall if some of the yard waste could be allowed as outdoor storage.

13
14 Mr. Hall stated that the Nuisance Ordinance requirement is an amount normally expected to be used for a
15 household. He said that he does not know how much that would be and he is sure that there are plenty of
16 properties in the County which probably exceed that but he does not know what the actual limit would be.

17
18 Mr. DiNovo stated that it seems conceivable that there could be circumstances when it is impossible to get to
19 the yard waste site before requiring them to go out to another job. He said that it could just be temporary
20 storage of the yard waste.

21
22 Mr. Hall stated that as long as staff does not receive any complaints about that temporary storage then as of
23 right now that is okay.

24
25 Mr. Thorsland stated that temporarily storing yard waste due to the trailer being needed for another job is not
26 an issue. He said that every rural home has a pile somewhere on the property and Mr. Ramm's doesn't seem
27 that much different. He said that he does not believe that any kind of condition is warranted because this is a
28 complaint based issue.

29
30 Ms. Ramm stated that they recently purchased a chipper to cut down on the amounts of huge brush piles.

31
32 Mr. Thorsland stated that there are two proposed special conditions of approval that the Board needs to
33 review with the petitioners. He informed the petitioner that he needs to agree or disagree with the special
34 conditions. He read that proposed special conditions as follows:

- 35
36 **A. The Zoning Administrator shall not authorize a Zoning Use Permit Application for**
37 **issue a Zoning Compliance Certificate on the subject property until the lighting**
38 **specification in Paragraph 7.1.2.M. of the Zoning Ordinance have been met.**

39
40 The special condition stated above is required to ensure the following:

41

1 **That exterior lighting for the Rural Home Occupation meets the requirements**
2 **established for Special Uses in the Zoning Ordinance.**

3
4 Mr. Thorsland asked the petitioners if they currently have outdoor lighting which is full cut-off.

5
6 Ms. Ashley Ramm stated that the lighting that they added to the new shed does point downward although she
7 is not sure if it is full cut-off.

8
9 Mr. Thorsland stated that perhaps before the Zoning Compliance Certificate is issued for the shed it could be
10 proven that the lighting is full cut-off. He said that it is important that the petitioner’s light does not become
11 the neighbor’s light thus the reasoning for the full cut-off requirement. He said that staff can assist the
12 petitioner with the requirements of full cut-off lighting.

13
14 Mr. Thorsland asked the petitioners if they agreed to Special Condition A.

15
16 Ms. Ashley Ramm stated that they agreed to Special Condition A.

17
18 **B. A Type D SCREEN shall be located so as to obscure or conceal any part of any YARD**
19 **used for outdoor STORAGE which is visible within 1,000 feet from any lot occupied by**
20 **a dwelling conforming as to use.**

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

23
24 **That outdoor storage at Rural Home Occupations complies with the Zoning Ordinance.**

25
26 Mr. Thorsland asked the petitioners if they have any questions regarding Special Condition B. He said that
27 he gets the impression that the petitioners do not have that much outdoor storage.

28
29 Ms. Ashley Ramm stated that Mr. Thorsland is correct. She asked Mr. Thorsland if he is referring to the
30 debris piles.

31
32 Mr. Thorsland stated that this refers to any equipment stored outside. He said that this use is not unique and
33 the petitioners may not intend to store anything outside after the new shed construction is completed. He
34 asked Mr. Hall if the Type D Screen is required if no outdoor storage is proposed.

35
36 Mr. Hall stated that Special Condition D. is primarily there to make them aware that if they have anything
37 stored outside within 1,000 feet of a dwelling conforming to use that it does need to be screened. He said
38 that if those items are repositioned so that the existing buildings serve as the screening then nothing else is
39 required. He said that the Board has had neighbors who are willing to sign waivers of screening thus no
40 screening will be required.

41

1 Ms. Ramm asked Mr. Hall if the screening is from the road.

2
3 Mr. Hall stated that the screening is from any dwelling that is within 1,000 feet. He said that it appears that
4 there is a dwelling that is within 1,000 feet to the east of the subject property and there are some things being
5 stored around the barn on the east side of the property. He said that once that area is cleaned up the
6 screening will not be an issue.

7
8 Mr. Thorsland asked the petitioners if they agreed to Special Condition B.

9
10 Ms. Ramm stated that they agreed to Special Condition B.

11
12 Mr. Passalacqua stated that if any of the lighting structures are not labeled full cut-off they can be fabricated
13 with a shade to make them compliant.

14
15 Mr. Hall stated that such a practice is possible but staff has seen some occasions where retrofitting was done
16 that caused the light to bounce back upon a white wall and magnified the effect of the lighting. He said that
17 in instances like this when there is no one very close by, retrofitting the light fixture may be an alternative.

18
19 Mr. Passalacqua stated that the petitioners may discuss this with staff because if the petitioners already have
20 lighting installed replacement fixtures could become very expensive. He said that shades may be better than
21 purchasing new lights and retrofitting could keep the light spray downward.

22
23 Mr. Thorsland stated that an option is to just shut off the lights after the day is complete although he
24 understands that some of the lights are for security.

25
26 Mr. Ramm asked the Board if there is any rule indicating that they cannot have two pole lights on their
27 property. He said that it gets very dark in their area and they have it for security. He said that they have one
28 pole light and three lights on the shed but if they took the lights down he would like to install a new light
29 pole.

30
31 Mr. Thorsland stated that the new pole light has to be full cut-off as well.

32
33 Mr. Passalacqua stated that there is a lot of information available because Champaign County is not the only
34 county with this requirement.

35
36 Mr. Thorsland stated that there may be retrofit kits that can be purchased.

37
38 Mr. Ramm stated that he can put up another pole light and would probably be fine.

39
40 Mr. Thorsland stated that the most important thing is to be a good neighbor.

41

1 Mr. Thorsland entertained a motion to approve the special conditions.

2

3 **Ms. Griest moved, seconded by Mr. DiNovo to approve the special conditions. The motion carried by**
4 **voice vote.**

5

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

7

8 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Darren Ramm or Ms. Ashley
9 Ramm and there was no one.

10

11 Mr. Thorsland asked the audience if anyone desired to sign the witness register for this case and present
12 testimony and there was no one.

13

14 **Findings of Fact for Case 820-V-15:**

15 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
16 **820-V-15** held on **February 25, 2016**, the Zoning Board of Appeals of Champaign County finds that:

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

20

21 Mr. DiNovo offered a correction to the Summary of Evidence. He said that item 3.A. should be
22 revised as follows: The subject property is located within one and one-half mile extraterritorial jurisdiction
23 of the Village of Royal. Municipalities do not have protest rights on variances within their ETJ and are not
24 notified of such cases.

25

26 Mr. Passalacqua stated that Special Conditions and circumstances DO exist which are peculiar to the land or
27 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
28 same district because the property is only .17 acre smaller than the required 2 acre minimum.

29

30 Mr. Randol stated that the closest neighbor is 700 feet away.

31

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

35

36 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the
37 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
38 or construction because the variance is much smaller than the impact on the business without the
39 variance.

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Mr. Thorsland stated that the business would be curtailed drastically for the simple fact of being .17 acres too small.

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

Mr. Randol stated that special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the land was undersized when he purchased it.

Ms. Capel stated that the growth of the business, due to demand, requires the extra employees.

4. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS in harmony with the general purpose and intent of the Ordinance.

Mr. DiNovo stated that the requested variance, subject to the proposed conditions, IS in harmony with the general purpose and intent of the Ordinance because the Zoning Ordinance only speaks about employees but does not distinguish Full-Time and Part-Time and temporary employees. He said that with the Full-Time equivalent you actually end up with fewer total work hours than the ordinance would potentially permit. He said that the ordinance allows up to 4,000 total work hours per year. He said that based on what was reported in the petition with five employees he estimated 2,800 total work hours per year.

5. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.

Mr. Passalacqua stated that the requested variance, subject to the proposed conditions, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because as a result of this case, the property will actually be better than it was before due to the addition of the shed.

Mr. Thorsland stated that the fire protection district was notified and there was no comment.

6. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS the minimum variation that will make possible the reasonable use of the land/structure.

Ms. Capel stated that the requested variance, subject to proposed conditions, IS the minimum variation that will make possible reasonable use of the land/structure.

7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:

1 A. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
 2 **issue a Zoning Compliance Certificate on the subject property until the lighting**
 3 **specifications in Paragraph 7.1.2.M. of the Zoning Ordinance have been met.**

4
 5 The special condition stated above is required to ensure the following:
 6 **That exterior lighting for the Rural Home Occupation meets the**
 7 **requirements established for Special Uses in the Zoning Ordinance.**

8
 9 B. **A Type D SCREEN shall be located so as to obscure or conceal any part of any**
 10 **YARD used for outdoor STORAGE which is visible within 1,000 feet from any lot**
 11 **occupied by a dwelling conforming as to use.**

12
 13 The special condition stated above is required to ensure the following:
 14 **That outdoor storage at Rural Home Occupations complies with the**
 15 **Zoning Ordinance.**

16
 17 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Findings of Fact, and
 18 Documents of Record as amended.

19
 20 **Mr. Randol moved, seconded by Ms. Capel to adopt the Summary of Evidence, Findings of Fact**
 21 **and Documents of Record as amended. The motion carried by voice vote.**

22
 23 Mr. Thorsland entertained a motion to move the Final Determination for Case 820-V-15.

24
 25 **Ms. Griest moved, seconded by Mr. Passalacqua to move to the Final Determination for Case 820-**
 26 **V-15. The motion carried by voice vote.**

27
 28 Mr. Thorsland stated that a full Board is present tonight.

29
 30 **Final Determination for Case 820-V-15:**

31
 32 **Ms. Griest moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals**
 33 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
 34 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority**
 35 **granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of**
 36 **Appeals of Champaign County determines that:**

37
 38 **The Variance requested in Case 820-V-15 is hereby GRANTED WITH CONDITIONS to**
 39 **the petitioner Darren Ramm, d.b.a. D. Ramm Services, Inc., to authorize the following**
 40 **variance in the AG-1, Agriculture Zoning District:**

41

1 **The employment of up to five additional non-family employees in lieu of the maximum**
2 **allowed two additional employees for properties smaller than two acres as per Section**
3 **7.1.2.B of the Champaign County Zoning Ordinance.**

4
5 **Subject to the following conditions:**

6
7 **A. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
8 **issue a Zoning Compliance Certificate on the subject property until the lighting**
9 **specifications in Paragraph 7.1.2.M. of the Zoning Ordinance have been met.**

10
11 The special condition stated above is required to ensure the following:
12 **That exterior lighting for the Rural Home Occupation meets the**
13 **requirements established for Special Uses in the Zoning Ordinance.**

14
15 **B. A Type D SCREEN shall be located so as to obscure or conceal any part of any**
16 **YARD used for outdoor STORAGE which is visible within 1,000 feet from any lot**
17 **occupied by a dwelling conforming as to use.**

18
19 The special condition stated above is required to ensure the following:
20 **That outdoor storage at Rural Home Occupations complies with the**
21 **Zoning Ordinance.**

22
23 Mr. Thorsland requested a roll call vote.

24
25 The vote was called as follows:

26
27 **Capel – yes DiNovo – yes Griest – yes**
28 **Lee – yes Passalacqua – yes Randol – yes**
29 **Thorsland - yes**

30
31 Mr. Hall informed the petitioners that they have received an approval of their request. He said that staff will
32 mail the final paperwork to them as soon as possible. He noted that if the petitioners have any questions they
33 should call the office.

34
35 **Case 821-V-15 Petitioner: Aaron and Gina Marsh Request: Authorize a variance in the AG-1,**
36 **Agriculture Zoning District from Section 5.3 of the Zoning Ordinance for a lot size of 4.38 acres in**
37 **lieu of the maximum area of 3 acres for lots with soils that are best prime farmland. Location: A 4.38**
38 **acre tract of land located in the Southeast Quarter of the Southeast Quarter of Section 15, Township**
39 **17 North, Range 7 East of Sadorus Township of the Third Principal Meridian, with an address of 321**
40 **CR 400 East, Sadorus.**

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

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

13
14 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

15
16 Ms. Gina Marsh, who resides at 321 County Road 400 East, Sadorus, IL, stated that they purchased a
17 property that was more than three acres without being aware of the three acre limitation. She said that when
18 she applied for a Zoning Use Permit staff informed her of the three acre limit therefore they quickly applied
19 for the variance so that they can keep the additional 1.38 acres of the property.

20
21 Mr. Thorsland stated that there is a note in the memorandum that indicates that the petitioners had a real
22 estate attorney and as far as they were concerned the subject property was within the parameters of the
23 Zoning Ordinance.

24
25 Ms. Marsh stated that they did not specifically discuss whether or not the amount of acreage was allowed but
26 they did faithfully hire a real estate attorney.

27
28 Mr. Thorsland stated that the petitioners did what they assumed was the best practice for such a transaction
29 and hired someone who should know the limitations.

30
31 Ms. Marsh stated that they purchased the subject property in good faith. She said that the property is a
32 wooded lot with a home and outbuildings and the land is not currently in agricultural production. She said
33 that the lot is a weird shaped lot that has a 100 year old established homestead upon it.

34
35 Mr. Thorsland asked the Board if there were any questions for Ms. Marsh.

36
37 Mr. DiNovo asked Ms. Marsh who determined the shape of the property.

38
39 Ms. Marsh stated that she is unsure as to who determined the shape of the property as it was done before they
40 purchased it. She said that she would imagine that the seller took care of the shape of the lot years before
41 they considered purchasing it.

1
2 Mr. Thorsland asked Ms. Marsh if the land around the homestead is tilled and in agricultural production.
3
4 Ms. Marsh stated yes.
5
6 Ms. Griest asked Ms. Marsh if the lot was separated prior to their purchase or due to their purchase.
7
8 Ms. Marsh stated that the lot was separated prior to their purchase.
9
10 Ms. Griest asked Ms. Marsh if she knew when the lot was separated.
11
12 Ms. Marsh stated that she believes that the lot was separated from the remaining farmland in either 2011 or
13 2012. She said that the seller sold the surrounding farmland and she kept the remaining farmstead and then
14 sold it to them.
15
16 Mr. Hall stated that the limitation for maximum acreage for a lot on best prime farmland was adopted in
17 2004.
18
19 Mr. DiNovo asked Ms. Marsh if she knew the length of the driveway.
20
21 Ms. Marsh stated that she believes that the length of the lane is somewhere in the range of one-quarter of a
22 mile, but she is not 100% confident of that distance.
23
24 Mr. Thorsland asked Ms. Marsh if the width of the lane is 20 feet.
25
26 Ms. Marsh stated that the driveway is narrow with grass on each side.
27
28 Mr. Thorsland stated that he would guess that the driveway is at least 20 feet wide.
29
30 Mr. DiNovo stated that the width requirement for a lane is 20 feet.
31
32 Mr. Randol stated that last fall the Board had a previous case that was very similar to this one. He said that
33 the previous case also consisted of a lot which had a home and outbuildings on it and if everything was to be
34 incorporated into one lot the acreage was greater than what was allowed thus the need for the variance
35 request.
36
37 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Marsh and there was no one.
38
39 Mr. Thorsland asked the audience if anyone desired to present testimony regarding this case and there was
40 no one.
41

1 Mr. Thorsland stated that no special conditions are proposed for this case therefore the Board will move to
2 the Findings of Fact. He apologized for the audio clarity in the meeting room but the Board is having issues
3 with the microphones.
4

5 **Findings of Fact for Case 821-V-16:**
6

7 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
8 821-V-15 held on February 25, 2016, the Zoning Board of Appeals of Champaign County finds that:
9

- 10 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
11 **structure involved, which are not applicable to other similarly situated land and**
12 **structures elsewhere in the same district.**
13

14 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
15 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
16 same district because the size of the farmstead was established 100 years ago.
17

- 18 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
19 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
20 **the land or structure or construction.**
21

22 Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of the
23 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
24 or construction because features from a 100 year old lot would need to be altered to bring it into compliance
25 with the current Zoning Ordinance.
26

- 27 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
28 **result from actions of the applicant.**
29

30 Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO
31 NOT result from actions of the applicant because they purchased an existing lot with good faith.
32

33 Mr. DiNovo stated that 17,000 square feet of the overage is included in the access strip because it is a county
34 requirement.
35

- 36 **4. The requested variance IS in harmony with the general purpose and intent of the**
37 **Ordinance.**
38

39 Ms. Capel stated that the requested variance IS in harmony with the general purpose and intent of the
40 Ordinance because no farmland is being taken out of production.
41

1 Mr. DiNovo stated that there is a very limited amount of farmland that might be able to be put into
2 production.

3
4 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
5 **detrimental to the public health, safety or welfare.**

6
7 Mr. DiNovo stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
8 detrimental to the public health, safety or welfare because there is no change to the existing use of the parcel.

9
10 **6. The requested variance IS the minimum variation that will make possible the**
11 **reasonable use of the land/structure.**

12
13 Ms. Griest stated that the requested variance IS the minimum variation that will make possible the
14 reasonable use of the land/structure.

15
16 **7. No special conditions are hereby imposed.**

17
18 Mr. Thorsland entertained a motion to adopt the Findings of Fact as amended.

19
20 **Ms. Griest moved, seconded by Mr. Randol to adopt the Findings of Fact as amended. The motion**
21 **carried by voice vote.**

22
23 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
24 of Fact as amended.

25
26 **Ms. Griest moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of Record**
27 **and Findings of Fact as amended. The motion carried by voice vote.**

28
29 Mr. Thorsland entertained a motion to move to the Final Determination for Case 821-V-16.

30
31 **Ms. Lee moved, seconded by Mr. Randol to move to the Final Determination for Case 821-V-16. The**
32 **motion carried by voice vote.**

33
34 **Final Determination for Case 821-V-16:**

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

41

1 **The Variance requested in Case 821-V-16 is hereby GRANTED to the petitioners**
 2 **Aaron and Gina Marsh to authorize the following variance in the AG-1 Agriculture Zoning**
 3 **District:**

4
 5 **A Variance from Section 5.3 of the Zoning Ordinance for a lot size of 4.38 acres in**
 6 **lieu of the maximum area of 3 acres for lots with soils that are best prime farmland.**

7
 8 Mr. Thorsland requested a roll call vote.

9
 10 The roll was called as follows:

11
 12 **Capel – yes DiNovo – yes Griest – yes**
 13 **Lee – yes Passalacqua – yes Randol – yes**
 14 **Thorsland – yes**

15
 16 Mr. Hall informed the petitioners that they have received an approval for their request. He stated that staff
 17 will send out the final paperwork as soon as possible.

18
 19 Mr. Thorsland stated that the Board will now take a five minute recess.

20
 21 **The Board recessed at 7:30 p.m.**

22 **The Board resumed at 7:35 p.m.**

23
 24
 25 **Case 822-S-15 Petitioner: Nick Brian, d.b.a. Greenside Lawn Care Request: Authorize a Special Use**
 26 **Permit for a Contractor’s Facility with or without outdoor storage and/or outdoor operations, and a**
 27 **caretaker’s dwelling in addition to an existing by-right single family dwelling in the AG-1, Agriculture**
 28 **Zoning District. Location: An 11.09 acre tract comprised of Lot 1 of Meadow Ridge Subdivision in**
 29 **the Southwest Quarter of the Northwest Quarter of Section 17 of Township 20 North, Range 8 East of**
 30 **the Third Principal Meridian in Hensley Township and commonly known as the contractor business**
 31 **Greenside Lawn Care, located at 707 CR 2200North, Champaign, Illinois.**

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

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

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

4
5 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

6
7 Mr. Matt Deering stated that he is an attorney with the Meyer, Capel Law Firm whose address is 306 W.
8 Church Street, Champaign. He said that he has been retained by the petitioner, Nick Brian, for this case and
9 has been authorized to speak on Mr. Brian's behalf. Mr. Deering stated that Mr. Brian is present for
10 tonight's meeting so that he can answer any fact based questions that the Board may have.

11
12 Mr. Deering stated that the request is to authorize a Special Use Permit for a Contractor's Facility (with or
13 without outdoor storage and/or outdoor operations) and a caretaker's dwelling in addition to an existing
14 single family dwelling in the AG-1 Agriculture Zoning District. He said that on this property there is an
15 existing single family dwelling, a shed that is used for a lawn care and snow removal business and that shed
16 has a dwelling unit. He said that the dwelling unit in the shed was used for the owner before the current
17 single family dwelling was constructed and occupied. He said that the Special Use Permit will allow the
18 operation of the lawn care and snow removal business in the shed as well as allow the shed's dwelling unit
19 to be utilized as a caretaker's facility.

20
21 Mr. Thorsland requested that Nick Brian approach the witness microphone to address questions from the
22 Board.

23
24 Mr. Nick Brian, who resides at 707 County Road 2200N, Champaign, approached the witness microphone to
25 answer questions from the Board.

26
27 Mr. Thorsland asked Mr. Brian if he was the first person on the lot when he moved into the subdivision.

28
29 Mr. Brian stated yes.

30
31 Mr. Thorsland asked Mr. Brian if he was the first person to build in the area.

32
33 Mr. Brian stated that he was the last person to build his home in the area.

34
35 Mr. Thorsland asked Mr. Brian if he resided in the dwelling unit located in the shed while his home was
36 being constructed.

37
38 Mr. Brian stated yes.

39
40 Mr. Thorsland asked Mr. Brian if he operated the lawn care and snow removal operation during the time that
41 he was living in the dwelling inside of the shed and his home was being constructed.

1

2 Mr. Brian stated that he did operate the lawn care and snow removal operation while his home was being
3 constructed.

4

5 Mr. Thorsland asked Mr. Brian if there were other homes being constructed in the area during the same time
6 that his home was being constructed and while the business was in operation.

7

8 Mr. Brian stated that the other homes were already constructed.

9

10 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Brian at this time and there were
11 none.

12

13 Mr. Thorsland called John Hall to testify.

14

15 Mr. John Hall, Zoning Administrator, stated that in describing this case, at the time when the memorandums
16 were being created, the dwelling inside of the shed was being called a caretaker's dwelling. He said that the
17 dwelling, which is part of the business, is really what he would call an office area. He said that he would
18 really like to get away from calling this area a caretaker's dwelling. He said that staff uses that term of
19 phrasing out of convenience and before this case is over he would like to change that description. He said
20 that the intent of the case is the same and there is what staff would call a dwelling unit in the office portion
21 of the shed where the business is located. He said that tonight there is a lot of information to review.

22

23 Mr. Hall distributed a Supplemental Memorandum #1 dated February 22, 2016, for the Board's review. He
24 said that the memorandum reviews exterior lighting, neighborhood concerns, an e-mail regarding the lighting
25 and a Letter of Opposition dated February 22, 2016, from Attorney Carl Webber, Attorney for Jeff and Sarah
26 Carpenter.

27

28 Mr. Hall distributed Supplemental Memorandum #2, dated February 25, 2016, to the Board for review. He
29 stated that the memorandum reviews, in staff's opinion, the important parts of the Letter of Opposition from
30 Attorney Carl Webber. Mr. Hall stated that Attorney Carl Webber correctly pointed out that Mrs. Brian's
31 signature was required on the SUP application. Mr. Hall stated that staff has since received Mrs. Brian's
32 signature on the SUP application. Mr. Hall stated that Attorney Carl Webber suggested that a more complete
33 site plan is necessary to comply with the Ordinance and Mr. Hall indicated that he agreed with Attorney
34 Webber and that he hopes that the Board will require a more complete site plan. He noted that if the Board
35 does require a more complete site plan then the case cannot be finalized at tonight's public hearing and will
36 require a continuance date. Mr. Hall stated that Attorney Webber questions if the true extent of fertilizer and
37 ice/snow melt storage is known and that the areas for storage of fertilizer and ice and snow melt should be
38 identified on the site plan and at this time that is only in the small shed. Mr. Hall stated that staff has
39 constructed a special condition to identify all areas like this.

40

41 Mr. Hall stated that Attorney Webber's Letter of Opposition claims that the request will lower the value of

1 area properties and that the use cannot be a “home occupation” which is evidence that the use is not
2 “proper”. Mr. Hall stated that this use is not coming to the Board as a “home occupation.” He said that staff
3 has created a table showing the proposed use and what restrictions apply if the case is approved with a
4 Special Use Permit or via Rural Home Occupation (RHO). He said that the intent of the table is to highlight
5 where this use differs from a Rural Home Occupation and where it doesn’t differ. He said that a special
6 condition has been added that makes it clear that in general this use is held to the same limits as a home
7 occupation except where the approval exceeds what is otherwise allowed as a home occupation. He said that
8 the only things that exceeded what is allowed are the salt storage and that part of the office which is a
9 dwelling. He said that Exhibit G of Attorney Webber’s Letter of Opposition listed various limitations that
10 should be applied to any Special Use Permit on the property. Mr. Hall stated that this would generally
11 translate into conditions of approval or revisions of the application and part of this memorandum tonight is a
12 list of additional proposed special conditions A-J. He said that in general these special conditions will
13 identify where things exceed what would be allowed as a Rural Home Occupation and they talk about the
14 hours and when things can be outside on the property versus indoor storage. He said that now is not the time
15 to review the special conditions because he does not believe that everyone can focus on them right now but
16 the Board can review them when they are ready. He noted that all of the special conditions must be accepted
17 by the petitioner otherwise the decision is made without the special conditions. He said that staff believes
18 that all of the special conditions are warranted and are necessary for approval but that is only staff’s
19 recommendation and the final decision is up to the Board.

20
21 Mr. Hall stated that two letters of support have been received. He said that one letter dated February 25,
22 2016, is from Gene and Julie Myers, who reside at 724 CR 2175N, Champaign, and the second letter dated
23 February 25, 2016, is from Jeremy and Monica Stutsman, who reside at 2176 CR 700 E, Champaign. Mr.
24 Hall stated that staff also received an email from Jeff Blue, Champaign County Highway Engineer. Mr. Hall
25 stated that staff decided to check with Jeff Blue to see if a door on the salt storage shed was recommended.
26 Mr. Hall stated that Mr. Blue indicated in his email that County Engineers do not normally install doors on
27 salt storage sheds because it is just one more thing to take care of when they are trying to get salt loaded and
28 the trucks out on the roads. Mr. Hall stated that Mr. Blue was not aware of any problems that the door
29 would cause and a door on the salt storage shed was a request made by one of Mr. Brian’s neighbors. Mr.
30 Hall stated that as the Zoning Administrator he would rather see a door on any salt storage shed at a use like
31 this so that there is less chance for storm water to enter the building and melt the salt causing it to run out
32 onto the property but that is for the Board to determine.

33
34 Mr. Thorsland stated that it is noted in the memorandum that during the warm season the shed is used for
35 mulch. He said that it is his opinion that a door should not be a requirement for a building with wet mulch in
36 it because wet mulch could become stagnant and will generate its own heat.

37
38 Mr. Hall stated that this would be a good question for Mr. and Mrs. Carpenter because they have indicated
39 that they would like to have all outdoor storage screened. He said that he would not have any concerns about
40 rainwater getting in the shed and onto mulch but his main concern is with the salt storage. He said that Ms.
41 Chavarria prepared a map regarding the need for cut-off lighting. He said that the question arose how,

1 topographically, one house compares to another and would cut-off lighting provide any benefit given the
2 topography. He said that the location of the shed appears to be at an elevation of 776 or 778 and the
3 Carpenter's home is much higher at an elevation of 784 so cut-off lighting on the Brian property would not
4 be negated by the difference in elevation. He said that staff has seen in other Special Use Permits that
5 perfectly good cut-off lighting was placed on the building but neighbors who were some distance away were
6 more than 10 feet lower in elevation and still had issues with the cut-off lighting. He said that in this
7 instance it does appear that there would be some benefit but there is some question as to whether the lighting
8 was installed prior to the home occupation was there. He said that perhaps the business use occurred
9 immediately upon occupancy and if so, then full cut-off lighting should have been installed but this is
10 another fact that the Board has to work through during the public hearing.

11
12 Mr. Passalacqua asked Mr. Hall to explain the County's recourse for violation of the special condition on the
13 approved Zoning Use Permit indicating that the dwelling inside of the shed be decommissioned prior to
14 issuance of the Zoning Compliance Certificate.

15
16 Mr. Hall stated that unless the dwelling unit in the shed is authorized either pursuant to the approval of the
17 Special Use Permit or they can go through the Rural Residential Overlay approval for the second dwelling
18 but that process is expensive and risky. He said that other than those two options the dwelling in the shed
19 must be decommissioned which was a condition of the original Zoning Use Permit.

20
21 Mr. Passalacqua stated that there is a violation of the original Zoning Use Permit already therefore we are
22 solving that violation with this case.

23
24 Mr. Hall stated that it is actually the second Zoning Use Permit (2012).

25
26 Ms. Lee asked Mr. Hall if it is the bathroom in the office along with the kitchen that is the violation. She
27 said that just having a bathroom in the office does not make the shed in violation, correct.

28
29 Mr. Hall stated that either the bathroom or the kitchen must be decommissioned otherwise it is in fact a
30 dwelling unit under the terms of the Zoning Ordinance.

31
32 Mr. Thorsland stated that Mr. Brian was the last person to build in the area which started with the metal shed
33 with a dwelling unit inside of it and the business was in operation therefore it appears that all of the
34 neighbor's existing homes in the area were already constructed. He asked Mr. Brian if all of his neighbors
35 are original owners of the homes and have remained in the area or are some neighbors new owners of the
36 existing homes.

37
38 Mr. Brian stated that the Carpenters are the third owners of their home and the Stutsmans are the second
39 owners of their home and the other two homes house the original owners.

40
41 Mr. Thorsland stated that there has been some turnaround in ownership of the neighbor's homes since his

1 business was established.

2

3 Mr. Brian stated yes.

4

5 Mr. Thorsland stated that his question to Mr. Brian establishes a timeline and the character of what is going
6 on. He said that sometimes the Board discusses this situation when variances or special uses are granted and
7 many times a special condition will be approved which indicates that the use will terminate once the current
8 owner leaves the property. He said that at times during a case the current neighbor will approve a waiver of
9 screening but then suddenly staff receives a complaint due to a change of property ownership for that
10 neighboring property. He said that it is obvious that there has been some turnaround in ownership for the
11 area and it is always a good idea to achieve a timeline as to what has been consistent and what has not.

12

13 Mr. DiNovo stated that the petition indicates two trucks but the photographs which are said to be from the
14 business' Facebook page indicate four trucks, one black pickup, two red pickups and one flatbed.

15

16 Mr. Brian stated that the two red trucks and the white and green truck are no longer on the property. He said
17 that he has a total of three trucks and one is his personal truck.

18

19 Mr. DiNovo stated that the petition indicates that Mr. Brian has two employees and two mowing crews.

20

21 Mr. Brian stated that he has two full-time employees and the other three employees are seasonal. He said
22 that the two full-time employees run the two mowing crews and usually there is only one other person with
23 that full-time employee. He said that much like the previous case tonight, his operation is very seasonal. He
24 said that this winter has been very slow but during the last two previous winters were busy times. He said
25 that unfortunately in his type of business he cannot afford to pay a lot of full-time employees.

26

27 Mr. Thorsland asked Mr. Brian if the full-time employee normally takes the truck with the loaded trailer out
28 to the jobsite where the other employee meets them or does everyone meet at the shop.

29

30 Mr. Brian stated that during the mowing season there would be no more than four or five employees and
31 during the snow season the employees meet at the jobsite but it depends upon the weather.

32

33 Mr. Thorsland asked Mr. Brian if sometimes the mowing and snowing crew meets at the jobsite and not at
34 the shop.

35

36 Mr. Brian stated that his head employees and the two full-time employees always meet at the shop because
37 they are the ones that drive the vehicles and the equipment to the jobsite. He said that generally during the
38 lawn care season the crew will meet at the shop but during the snow removal season the seasonal employees
39 will meet the full-time employees at the jobsite.

40

41 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Brian. He noted that questions can

1 only be posed to Mr. Brian which relate to Mr. Brian's testimony.

2
3 Mr. Carl Webber stated that he is an attorney with Webber & Thies, P.C. in Urbana and he has been retained
4 by Jeff and Sara Carpenter. He said that his questions relate to the extent that Mr. Brian is intending to
5 proceed in the future as addressed by staff's memorandum. He asked Mr. Brian if he is willing to limit the
6 use of his property to "X" or is he not. He asked if Mr. Brian is willing to limit his number of employees,
7 buildings, and vehicles.

8
9 Mr. Thorsland informed Mr. Webber that he needs to base his question to Mr. Brian upon the comments that
10 Mr. Brian presented as testimony.

11
12 Mr. Webber stated that it would be very helpful and may reduce the amount of concern if Mr. Brian and his
13 attorney, by the next public hearing, would present a summary addressing his clients concerns. He said that
14 he could sit and ask Mr. Brian and his attorney each individual question.

15
16 Mr. Thorsland stated that the two parties could meet outside of this public hearing to resolve the concerns
17 and answer the questions that both sides obviously have. He said that he is positive that this case will not be
18 finalized tonight therefore there will be opportunity for both parties to meet outside of the meeting. He said
19 that cross examination is a very tricky thing and Mr. Brian had a limited amount of information that was
20 discussed therefore questions can only be posed to that information. He requested that Mr. Webber only ask
21 Mr. Brian questions that relate to his testimony.

22
23 Mr. Webber asked Mr. Brian if he is willing to limit the business to its current operations.

24
25 Mr. Brian asked Mr. Webber to indicate what kind of limits he is referring to.

26
27 Mr. Webber asked Mr. Brian is he is willing to limit the types of work, amount of work or size of the
28 buildings. He asked Mr. Brian if he is willing to limit the future of his business to the scope that he is
29 currently operating.

30
31 Mr. Brian stated yes. He said that as the property stands he is limited on land, due to the pipeline, and
32 nothing to the west of him can ever be built upon due to the amount of separation that is required from the
33 pipeline. He said that he is not violating any rules by the number of full-time employees that he has for the
34 business. He said that he does not believe that he is violating any rules regarding buildings either as
35 currently he only has one shed.

36
37 Mr. Webber stated that Mr. Brian was contemplating building another building on the property. He asked
38 Mr. Brian if he intends to proceed with that construction.

39
40 Mr. Thorsland informed Mr. Webber that Mr. Brian did not testify about construction of another building.
41 He informed Mr. Brian that he does not have to answer Mr. Webber's question.

1
2 Mr. Webber asked Mr. Thorsland if he is able to arrange a meeting with Mr. Brian and his attorney prior to
3 the next public hearing, would he still have an opportunity to cross examine Mr. Brian.

4
5 Mr. Thorsland stated that he gets the impression that Mr. Webber would like to bring forward questions
6 which he would like to have Mr. Brian answer. He said that the Board has a comprehensive memorandum
7 from Mr. Webber regarding his client's concerns and the Board will discuss many things throughout this
8 process. He said that all of this information and the proposed special conditions are very lengthy and they
9 will take time to review. He said that cross examination is a very tricky thing and questions must be limited
10 to Mr. Brian's testimony. He said that the Board is very rigid with protocol during cross examination. He
11 said that Mr. Webber is welcome to testify and at that time he can bring up a lot of the concerns and
12 questions that he would like Mr. Brian to address. He said that the Board is here to listen to the witnesses
13 and ask questions of the witnesses and not to ride through or monitor what type of questions are being asked.
14 He said that quality communication back and forth between the parties is always welcomed outside of the
15 meeting room. He said that if Mr. Webber has a question for Mr. Brian which relates to his testimony then
16 he may continue.

17
18 Mr. Webber asked Mr. Brian if he had farm equipment inside of the shed.

19
20 Mr. Brian stated yes.

21
22 Mr. Webber asked Mr. Brian to indicate what type of farm equipment he had inside of the shed.

23
24 Mr. Brian stated that every piece of equipment inside of the shed is used for the family farm and the
25 business. He said that there is a tractor, skid steer, trucks and mowers.

26
27 Mr. Webber asked Mr. Brian where his family farm is located.

28
29 Mr. Brian stated that the family farm is located between Champaign and Tuscola.

30
31 Mr. Webber stated the photographs indicate several trucks. He asked Mr. Brian if currently he only has two
32 trucks.

33
34 Mr. Brian stated that he has three trucks. He said that the photographs that were on Facebook were taken
35 over a period of time and there are dates and times on each picture post. He said that over a period of time
36 people trade and sell trucks.

37
38 Mr. Thorsland stated that Mr. Brian indicated through testimony that he has two trucks for the business and
39 one personal truck.

40
41 Mr. Webber asked Mr. Brian to indicate how many trucks he plans to have in the future.

1
2 Mr. Brian stated that he cannot honestly predict the future but he will probably stay with three trucks.
3
4 Mr. Webber asked Mr. Brian how many employees he will anticipate needing in the future.
5
6 Mr. Brian stated that he would guess that five employees will be his maximum amount.
7
8 Mr. Webber stated that in order to take less of the Board's time he will attempt a meeting with Mr. Brian and
9 his attorney.
10
11 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Brian at this time and there was no
12 one.
13
14 Mr. Thorsland called Carl Webber to testify.
15
16 Mr. Carl Webber stated that he is an attorney with Webber & Thies, P.C. in Urbana and he has been retained
17 by Jeff and Sara Carpenter. He said that the Board has had time to review the information that he submitted
18 to staff on February 22, 2016, therefore he will attempt to not be lengthy with his testimony. He said that
19 Mr. Brian's business is called Greenside Lawn Care although it really isn't just lawn care. He said that there
20 is some lawn care conducted although that is not the part of the business that he and his clients are most
21 concerned about but it is the snow and salt portion of the business. He said that they are concerned about the
22 delivery and storage of the salt and snow plows. He said that as a practical matter he does not understand
23 how Mr. Brian can have a snow and salt business and not operate in the middle of the night. He said that
24 whether he is talking about the beeping of a truck backing up or the circulating light on the top of the truck
25 or the sound generated by the loading of the salt and the diesel engines running back and forth from the
26 subject property. He said that Mr. Brian could receive a telephone call at 2:00 A.M. indicating that he needs
27 to plow snow and Mr. Webber does not believe that Mr. Brian will tell the caller that they will have to wait
28 until 7:00 A.M. Mr. Webber stated that he assumes that Mr. Brian will contact his employees, load the
29 trucks with salt and move the trucks out of the property to the job site in the middle of the night. Mr.
30 Webber stated that this is one of the problems that he has with Mr. Brian suggesting that his use is a
31 contractor's facility. Mr. Webber stated that he researched the definitions for a contractor and facility and
32 neither one are in the act and the only thing that he can find that sounds like what Mr. Brian is doing is a
33 truck terminal. He said that it seems that Mr. Brian's property is where trucks are stored and travel to and
34 from therefore if a truck terminal is the correct usage of the property then it too requires a special use permit
35 but is a special use in the AG-2 District.
36
37 Mr. Webber stated that what we are talking about tonight is something that not only requires a special use
38 permit but requires a change of zoning from AG-1 to AG-2. He said that the concept of lawn care with
39 mowers and such is one thing but the concept of the large trucks going in and out of the subject property
40 during all hours of the night is completely another issue in itself. He said that he and his clients would
41 respectfully suggest that the current special use permit request be denied at the ZBA in order to encourage

1 the petitioners to proceed with a request under the definition for a truck terminal. He said that the question
2 that the Board will be asking is whether this request conforms to the six special use criteria that the Board is
3 very familiar with. He said that rather than reviewing the criteria he will refer to his memorandum. He said
4 that it is disappointing to note that the petitioner has had two homes on his property and has been asked to
5 decommission the kitchen in one of those homes years ago by staff. Mr. Webber stated that it is his
6 understanding that Mr. Brian told staff that he would decommission one of the kitchens but has not done so
7 to date. Mr. Webber stated that it is his understanding that decommissioning the kitchen only involves
8 removing the stove, sink and refrigerator but Mr. Brian does not want to do so and would rather violate what
9 he already indicated to staff that he would do. Mr. Webber stated that the petitioner built the second home
10 without a special use permit. Mr. Webber stated that it is hard for him to imagine that anyone who purchases
11 a lot in a residential subdivision doesn't check into whether or not a special use permit is required so the
12 petitioner has been in violation since the day he started construction.

13
14 Mr. Webber stated that the petitioner is aware of the fact that the lights on the shed bother his neighbors
15 therefore he suggested different lights but they are not the right kind of lights. Mr. Webber stated that Mr.
16 Brian was burning debris from off-site locations and only by the insistence of this staff did Mr. Brian stop.
17 Mr. Webber stated that it is his understanding that Mr. Brian proposes to build another shed and that he has
18 already started moving dirt on his property without an approved permit to prepare for the construction. Mr.
19 Webber asked the Board at what point do they say that it is a privilege and not a right to have a special use
20 permit and do you want to give one to someone who has had a number of violations. Mr. Webber stated that
21 he hasn't addressed the Nuisance Ordinance, which could be looked upon as specific or general, and Mr.
22 Brian is violating all kinds of specific things in the Nuisance Ordinance. Mr. Webber stated that he does not
23 believe that this special use permit request should be granted to anyone and Mr. Brian has not proven that he
24 deserves to have this granted to him.

25
26 Mr. Webber stated that the restrictive covenants of the subdivision are not binding upon the ZBA but they do
27 indicate what was expected by people when they purchased their lots. He said that the covenants are like a
28 contract and when someone purchases the lot they are almost admitting what they will do with the lot and
29 Mr. Brian has violated those covenants without any authority. Mr. Webber stated that his letter dated
30 February 22, 2016, included a list of the types of things that a landscape contractor can do and it is his
31 client's concern, if Mr. Brian is granted this special use permit request, that Mr. Brian's business does not
32 slowly sneak over from lawn care to landscaper because a landscaper can do everything ranging from
33 installing drainage tile along the side of a highway to help develop new subdivisions. Mr. Webber stated
34 that he and his clients are suggesting that there be specific restrictions on what can be done. He said that his
35 letter included several suggestions regarding limitations but there could be twice as many. Mr. Webber
36 asked the Board how this special use could be limited so that his clients will know what is going to be on the
37 property. Mr. Webber stated that unfortunately the use cannot be too limited so that Mr. Brian will follow
38 those limitations because he hasn't followed anything to date but it could at least be placed on paper.

39
40 Mr. Webber stated that he appreciates staff addressing the issue of indoor and outdoor storage and suggested
41 that if Mr. Brian is granted this request that everything must be stored inside. He said that when Mr. and

1 Mrs. Carpenter purchased their lot, Mr. Brian's shed was already constructed but they were told that the shed
2 was being used for farm equipment. Mr. Webber stated that the previous owner of Mr. and Mrs. Carpenter's
3 lot filed a complaint regarding Mr. Brian's shed and activities but nothing came of the complaint. Mr.
4 Webber stated that the drawings, the parking lot, the number of employees, the number of vehicles, the
5 amount of buildings are all concerns and somehow there must be some kind of limitation on the use. He said
6 that he does not understand how a 24-hour business could be operated under this classification. He said that
7 his client's will continue to suggest that the current use is inconsistent with the subdivision. He said that
8 there are other businesses within the square mile but the 40 acre subdivision is clearly intended to be
9 residential and this could be opening the door for other similar requests. He said that what used to be a
10 residential subdivision is turning out to not being that at all.

11
12 Mr. Webber stated that he appreciated the Board's time and is available to answer any questions that the
13 Board may have.

14
15 Mr. Thorsland asked the Board if there were any questions for Mr. Webber.

16
17 Ms. Lee stated that on page 3 of Mr. Webber's letter he refers to the *Peet v. Bouie*, 268 Ill.App.3d 18 (1994)
18 and indicates that a Truck Depot cannot be interpreted as a Contractor's Facility. Ms. Lee stated she
19 researched the *Peet v. Bouie* case and she has a copy of it with her tonight. She said that in that case there
20 were 4 or 5 eighteen wheel dump body trailers and diesel tractors to pull them, 2 backhoes, 1 water truck, 1
21 mobile diesel filling tank, a 1,000 gallon diesel fuel tank, a tanker truck, a white paneled delivery truck, 8
22 pick-up trucks and 4 large yellow pieces of GOMAC road building equipment. She said that the *Peet* case
23 had completely different factual circumstances than what the Board has before them tonight due to the large
24 amount of equipment in that case. She said that she did not see anything where it said that a truck depot
25 could not be interpreted as a contractor's facility in the court case. She said that Mr. Webber may want to
26 check this out before he attends the next meeting.

27
28 Mr. Webber stated that he is concerned about what Ms. Lee suggested. He said that a truck depot is not in
29 his definition but only a truck terminal. He said that if one is going to try to determine whether Mr. Brian's
30 operation is closer to being a contractor's facility or a truck terminal then he would suggest that it is more
31 like a truck terminal. He said that he agrees that in the *Peet* case that there were more trucks involved than
32 there is with this case but if you have to choose between one or the other then it seems that it easily tips over
33 to being something other than merely a contractor's facility. He thanked Ms. Lee for her excellent research.

34
35 Mr. Thorsland asked the Board if there were any additional questions for Mr. Webber.

36
37 Mr. DiNovo asked Mr. Webber if compliance with the covenants requires a simple majority of the
38 architectural committee for required approvals.

39
40 Mr. Webber stated that the answer to that question would depend on who you ask.

41

1 Mr. Thorsland noted that the ZBA has no authority over any homeowner's association covenants.
2
3 Mr. DiNovo stated that he understands.
4
5 Mr. Webber stated that there is a reference to a majority and there is a reference to 80% and there is a
6 reference to unanimous. He said that he is not sure who wrote the covenants but we are going to have to sort
7 those out.
8
9 Mr. Thorsland stated that this Board is not going to sort out the homeowner's association covenant.
10
11 Mr. Webber stated that he meant to say he and his clients are going to have to sort out those differences not
12 this Board.
13
14 Mr. Thorsland asked staff if they had any questions for Mr. Webber and there were none.
15
16 Mr. Thorsland called Bonita Blue to testify.
17
18 Ms. Bonita Blue, who resides at 4008 Lindsey Road, Champaign, stated that she has no problem with Mr.
19 Brian's current building or a proposed shed to store his machinery. She said that Mr. Brian's property is
20 very nice and is well kept and is better than some of the other properties in the subdivision. She said that
21 there are other homes in the subdivision that are not kept as well as Mr. Brian's therefore she does not see
22 any reason why he can't build another shed.
23
24 Mr. Thorsland noted that if someone is in the AG-1 District they do not need a permit to move dirt around
25 on the property.
26
27 Ms. Blue stated that Mr. Brian was probably moving dirt around on his property and no one knew what he
28 was doing.
29
30 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Blue and there were none.
31
32 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Blue. He reminded everyone that
33 they can only ask Ms. Blue questions about her testimony and nothing else.
34
35 Mr. Deering asked Ms. Blue if she is indicating that she is in favor of Mr. Brian building a new shed.
36
37 Ms. Blue stated yes.
38
39 Mr. Deering noted that this case is specifically about Mr. Brian continuing to use his existing shed for his
40 landscape business. He asked Ms. Blue if she is also in favor of Mr. Brian using the existing shed for this
41 use.

1
2 Ms. Blue stated yes, because he keeps everything inside.
3
4 Mr. Thorsland asked the audience if anyone else desired to cross examine Ms. Blue.
5
6 Mr. Webber asked Ms. Blue what causes her to believe that Mr. Brian moving the dirt on his property was
7 not for the start of a new building.
8
9 Ms. Blue stated that Mr. Brian moving the dirt on his property could have been for anything, a new building
10 or repairing drainage.
11
12 Mr. Webber asked Ms. Blue if she does not know why Mr. Brian was moving the dirt.
13
14 Ms. Blue stated that perhaps Mr. Brian didn't like the berm that was there and he was going to move it.
15
16 Mr. Webber asked Ms. Blue if she knows why Mr. Brian was moving the dirt.
17
18 Ms. Blue stated no.
19
20 Mr. Thorsland asked the audience if anyone else desired to cross examine Ms. Blue and there was no one.
21
22 Mr. Thorsland called Jeff Carpenter to testify.
23
24 Mr. Jeff Carpenter, who resides at 725 CR 2200N, Champaign, stated that a lot of his concerns have been
25 covered by Mr. Webber's printed material. He said that when he and his wife purchased the property they
26 were expecting a purely residential subdivision and that is what they observed and that is what the covenants
27 indicate and that is what the owners agree to. He said that they were told that Mr. Brian's shed was used for
28 agricultural purposes.
29
30 Mr. Carpenter stated that he grew up on a farm which is about one and one-half hours northwest of here
31 which has grain bins and sheds and his family still operates the farm. He said that he has not seen any farm
32 activity associated with Mr. Brian's shed. He said that he has seen end loaders, a skid steer, a backhoe, and
33 trucks which are in the 1 to 5 ton range but he has never seen any agricultural use on the property. Mr.
34 Carpenter said that he will note that there was about five acres of soybeans that were planted on the property
35 and a combine came in to harvest the soybeans and left the property.
36
37 Mr. Carpenter stated that his family moved into his property on July 24th and at that time there were probably
38 4+ employee vehicles parked along the east side of Mr. Brian's property, bordering the Carpenter's property
39 on the east. He said that the work day on the Brian property started between 6:00 and 6:30 a.m. and the
40 noise from the activity on the Brian property is heard very clearly inside of the Carpenter's house and the
41 noise is loud enough to wake up his family from the master bedroom and the upstairs' bedroom, where his

1 15-year old sleeps. He said that Mr. Brian's business is a 7 days per week operation and people are coming
2 and going from the property through the day and each day there is hydraulic noise, equipment noise and it is
3 understandable as that is pursuant to the business although it is also affecting their house beginning between
4 6:00 and 6:30 a.m. He said that during the winter the process of loading a minimum of two large trucks with
5 salt, sometimes there is a third party truck, can take an hour or more and during a bad winter storm this
6 process can continue until 12:30 a.m.

7
8 Mr. Carpenter stated that the burning was evident immediately upon their purchase of their property. He
9 said that approximately two times per week a 5 ton dump truck would bring in landscape waste, cardboard
10 and plastic onto the Brian property and a backhoe would unload the waste onto a burn pile. He said that
11 burning would occur every week and the burning process would be a multi-day event. He said that the
12 smoke from the burn pile would be very invasive onto his property and many of the neighbors' properties.
13 He said that within one week from moving into their home they received a phone call from their children
14 indicating that the house smelled like smoke and that ash was landing on their property. He said that he
15 went to the Brian property and introduced himself and inquired about the scope of the operation in general
16 regarding the operation in the shed and the burning and referenced the covenants of the subdivision but Mr.
17 Brian did not provide a lot of information. Mr. Carpenter stated that Mr. Brian did indicate that he would try
18 to do a better job but did not discuss anything else that was ongoing with his operation or any future plans
19 for his operation. Mr. Carpenter stated that burning occurred non-stop into December, the operation
20 continued to operate during the same hours and there was truck activity in and out of the property. He said
21 that on December 3rd a bulldozer showed up on Mr. Brian's property and Mr. Carpenter understood that
22 there has been dirt work performed on the Brian property prior to Mr. Carpenter's purchase of his home
23 which changed the flow of the water and lead to some flooding issues. Mr. Carpenter stated that he again
24 went to the Brian property and asked Mr. Brian what was going on with the dirt work and Mr. Brian stated
25 that he was doing ground work for a new shed. Mr. Carpenter stated that he stepped off the area of dirt
26 removal, and an imprecise measurement is 320 feet of dirt work south of the existing shed and yard. He said
27 that this 320' takes up the majority of their border to the Brian property and is essentially down to the line of
28 sight from Mr. Carpenter's front door. He said that the dirt on the Brian property is worked about to the
29 edge of the north side of his home. He said that he would like to know what is going on with the Brian
30 property.

31
32 Mr. Carpenter stated that Mr. Brian informed him that a new shed was going to be built but he did not offer
33 any further information. Mr. Carpenter stated that he asked Mr. Brian if he could see the building plans for
34 the new building and Mr. Brian told him that he would bring the plans over for review and he took Mr.
35 Carpenter's phone number but did not offer his phone number in return. Mr. Carpenter stated that the next
36 day the bulldozer continued to operate on the Brian property and no phone call was received from Mr. Brian.
37 Mr. Carpenter stated that his wife, Sarah, called the County to see if any permits had been applied for and
38 staff indicated that Mr. Brian had submitted an application that morning. Mr. Carpenter said that he and his
39 wife did not understand what the permit meant therefore they contacted their attorney and one week later
40 they still had not heard from Mr. Brian. Mr. Carpenter stated that it is his understanding that previous
41 occupants of his property along with others in the neighborhood have voiced concerns regarding different

1 aspects of Mr. Brian's business and it is his understanding that those complaints have been ignored. He said
2 that from his standpoint there has been a negative impact on the quality of life with the existing operation.
3 He said that currently there are two trailers parked outside along with a dumpster and several blades which
4 are used for snow removal and grading and at times trucks are parked outside and none of it is terribly
5 attractive to view. He said that the noise between 6:00 and 6:30 a.m., the burning and the uncertainty of the
6 intent of the dirt work should be clarified as to what is going on. He said that it is his understanding that
7 there has been a continued increase in commercial activity on the Brian property over the years and from
8 speaking to previous owners there was no burning occurring three years ago therefore there has been an
9 increase in activity and a continued disregard of County regulations. He said that it is his understanding that
10 there have been ongoing violations on the property as well as Mr. Brian's disregard to the subdivision
11 covenants and neighborhood concerns. He said that he is concerned about the continued unchecked growth
12 of this business and further negative impacts on the quality of life and property values.

13

14 Mr. Thorsland stated that the Zoning Board does ignore the covenants during their review.

15

16 Mr. DiNovo stated that the Board cannot enforce the covenants but it is not appropriate to ignore them.

17

18 Mr. Thorsland stated that it is not the Board's job to have a big discussion regarding the covenants as they
19 are within the realm of the property owners and it is not something that he will have hashed out at this
20 meeting. He asked Mr. Carpenter if the burning is still ongoing.

21

22 Mr. Carpenter stated that the burning ceased after December 3rd. He said that it is his understanding that the
23 County informed Mr. Brian that he was in violation thus the burning events ceased.

24

25 Mr. Thorsland stated that the property is zoned AG-1, Agriculture and he can move dirt on his property. He
26 said that second shed is allowed if Mr. Brian receives an approved Zoning Use Permit for construction. He
27 said that it is his understanding that Mr. Carpenter is from a farm operation background but was it before or
28 after Mr. Carpenter purchased the property was he informed that Mr. Brian's shed was agriculturally related.

29 Mr. Thorsland stated that he has the impression that this use was going on at some level well before Mr.
30 Carpenter purchased the property. He said that he travels the road very well and watched the property evolve
31 and assumed that this day would come but in this area this is not the only business operation that has storage
32 sheds with equipment inside or outside and he can think of several that are within very close proximity to
33 Mr. Brian's property. He said that on average this is what happens in the rural area although he is not
34 excusing the burning or invasive lights. He said that the County has very restrictive requirements for a
35 special use permit. He said that the attorneys really need to get together to discuss these concerns and the
36 homeowner's association or architectural committee needs to work out the covenant violations with Mr.
37 Brian and then come back to this Board with some sort of a solution. He said that the Zoning Board attempts
38 to make as many people happy with as little pain as possible and this Board is pretty good with that process.
39 He said that he would like to see some progress with communication between all parties and he would
40 encourage that communication.

41

- 1 Mr. Passalacqua asked Mr. Thorsland if he is insinuating that if everyone else is doing it then that is okay.
2
- 3 Mr. Thorsland stated no. He said that a quick drive through the unincorporated areas of the County will give
4 a person a pretty good idea of what is typical.
5
- 6 Mr. Passalacqua stated that many of the properties which appear to be typical uses have been before this
7 Board for approval. He said that he does not want anyone guided down the path that if it is there then it is
8 okay.
9
- 10 Mr. Di Novo stated that this is where the covenants are relevant and important.
11
- 12 Mr. Passalacqua stated that he totally disagrees as the Board is talking about variances and a special use
13 permit which is based on the County's rules. He said that it may demonstrate character but it has nothing to
14 do with this Board's jurisdiction.
15
- 16 Mr. DiNovo stated that he agrees that the covenants have nothing to do with the Board's jurisdiction but it is
17 a relevant fact of the case because there are a lot of small scale commercial uses in the agricultural districts.
18 He said that there are people who seek out and purchase real estate and land that is subject to covenants and
19 they are making choices. He said that this is not just an 11 acre tract that was cut out of a farm but is an 11
20 acre tract that is in a subdivision therefore the question is if there are reasonable expectations by purchasers
21 of developed land.
22
- 23 Mr. Thorsland stated that if everyone agreed with the covenants ahead of time and everyone was behaving
24 then this Board would not be hearing this case but that is not the case and the Board cannot make the two
25 parties get together any more than what he has encouraged them to do so.
26
- 27 Mr. DiNovo stated that it is relevant to the Board's decision for a special use permit.
28
- 29 Mr. Carpenter stated that how the special use might affect the integrity or continuity of the current
30 environment of the subdivision, there is always a logical slippery slope where expanding the arc of
31 comparison and whether we look at the 40 acre subdivision, the County, the state. He said that covenants,
32 from his standpoint, are relevant in terms of comparison. He said that Dig-it Excavation is located across the
33 road from the subdivision but it is not part of the subdivision.
34
- 35 Mr. Thorsland stated that he owns farm ground which also had covenants on it but it was discussed amongst
36 the homeowners. He said that generally, all of the problems which the covenants brought up were settled
37 amongst the homeowners and not this Board. He said that he would like, as much as possible, to see the
38 concerns addressed and settled between the two parties at an outside meeting.
39
- 40 Mr. Thorsland asked the Board if there were any questions for Mr. Carpenter.
41

1 Ms. Lee asked Mr. Carpenter to indicate how long he has owned his current property.

2
3 Mr. Carpenter stated that he has owned his current property for approximately seven months.

4
5 Mr. Randol asked Mr. Carpenter if he could indicate the distance from the shed to his home.

6
7 Mr. Carpenter stated that he would say that, as the crow flies, an estimate to his front door is approximately
8 400 feet.

9
10 Mr. Randol stated that by using the scale that the Board has he would estimate 600 feet.

11
12 Mr. Carpenter stated that he would not dispute that measurement but it is close enough to hear all of the
13 activity on the Brian property. He said that the dirt work area is much closer to the house.

14
15 Mr. Hall stated that staff tries to help people understand that a simple Rural Home Occupation can go in by-
16 right and no matter how upset the neighbors are it has no need to come before this Board. He said that Mr.
17 Carpenter has commented tonight about sound and the activities and the time of day that it occurs and if it
18 were a simple a Rural Home Occupation, processes employed shall not create noise, discernible at the
19 property line other than such a nature, quantity, intensity, duration, or time of occurrence customarily
20 associated with exclusive residential use of a similar dwelling. He said that as he hears Mr. Carpenter
21 describe the noise from the early morning mobilization of the lawn mowing activities which he assumes
22 occurs only during the mowing season to the night time activities of loading salt when it is necessary and
23 those sounds are not related to agriculture. Mr. Hall said that the noise that is associated with agriculture is
24 planting around the clock until the crop is in and harvesting around the clock until the crop is in and during
25 both of those seasons there is equipment being mobilized and taken to fields. He said that Mr. Carpenter has
26 given the Board another reason tonight why this exceeds what would be allowed by a Rural Home
27 Occupation and the more that the Board can understand how much that gets exceeded the more he could
28 come to an agreement to rein in the business activities so that they do not exceed a commonly understood
29 standard of agriculture. He said that as he hears Mr. Brian describe the business service that he is being
30 asked to provide, some of the activities will need to happen at night and it is unknown if some sort of an
31 agreement can be made between Mr. Brian and Mr. Carpenter about that. Mr. Hall said that the mobilizing
32 of the mowing equipment prior to 7:00 a.m. is absolutely required but there is some amount of mowing that
33 they want to get done each day but he is not sure that it has to happen prior to 7:00 a.m. He said that the
34 more that limits can be agreed upon on these issues so that staff could bring this special use permit in to what
35 would be permissible as a Rural Home Occupation but not beyond would be appreciated.

36
37 Mr. Thorsland stated that Mr. Carpenter indicated that after some contact with Mr. Brian the burning
38 stopped.

39
40 Mr. Carpenter stated that the contact was made by the County or the EPA in July. He said that it was
41 commercial burning that was occurring and not brush from the Brian property.

1
2 Mr. Thorsland stated that there are a few things that the Board isn't allowed to be flexible about and one of
3 those things is the Accessibility Codes and EPA requirements. He said that it is good that the burning
4 stopped as it proves that the system works. He said that the Board has discussed screening requirements
5 before and it appears that screening will be necessary and it would be wonderful if Mr. Brian could comply
6 with the architectural committee for the subdivision.
7
8 Ms. Griest asked Mr. Carpenter to indicate the size of his property.
9
10 Mr. Carpenter stated that his property is approximately 10.4 acres.
11
12 Ms. Griest asked Mr. Carpenter if his lot is located at the back of the subdivision or does he own the land to
13 the other road.
14
15 Mr. Carpenter stated that he owns from CR 2200 North to half way to CR 2175 to the south.
16
17 Ms. Griest asked Mr. Carpenter if his rear property line is even with Mr. Brian's property.
18
19 Mr. Carpenter stated that his lot is deeper and extends further to the south than Mr. Brian's property.
20
21 Mr. Thorsland asked the Board if there were any additional questions for Mr. Deering and there were none.
22
23 Mr. Thorsland asked if staff had any questions for Mr. Deering and there were none.
24
25 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Carpenter at this time.
26
27 Mr. Deering stated that Mr. Carpenter made several comments by indicating the following, "it's my
28 understanding." Mr. Deering said that Mr. Carpenter stated that it is his understanding that the dirt
29 movement caused flooding problems on the Brian property. He asked Mr. Carpenter to indicate the basis of
30 his understanding.
31
32 Mr. Carpenter stated that comments from other neighbors provided that understanding about the dirt
33 movement and the flooding issue.
34
35 Mr. Deering asked Mr. Carpenter if he would indicate which neighbors relayed this information to him.
36
37 Mr. Carpenter stated that Mr. and Mrs. Stutsman and Mr. and Mrs. Bailey would need to speak for
38 themselves about the change in the flow of water.
39
40 Mr. Thorsland stated that Mr. Carpenter does not have to indicate who gave him this information.
41

1 Mr. Deering stated that this could just be hearsay and not admissible evidence.
2
3 Mr. Thorsland stated that the Board does not accept hearsay.
4
5 Mr. Carpenter stated that the neighbors can testify if they desire.
6
7 Mr. Deering asked Mr. Carpenter to indicate who told him that Mr. Brian's toolshed was used for
8 agricultural purposes.
9
10 Mr. Carpenter stated that the realtors gave him this information. He said that he and his family just recently
11 moved back to the area as they were living overseas for the last five years. He said that he traveled back to
12 the area during the first week of May 2015 to look at properties, including the property where they currently
13 reside, and during his visit to the subdivision he noticed the shed and at that time there were no trucks,
14 trailers or equipment parked on the Brian property. He said that there was no salt spilling out of the lean-to
15 but there may have been mulch.
16
17 Mr. Deering informed Mr. Carpenter that he is getting beyond the scope of his original question.
18
19 Mr. Carpenter stated that he is contextualizing.
20
21 Mr. Thorsland stated that a short answer to Mr. Deering's question would be that the realtor provided
22 information to Mr. Carpenter regarding Mr. Brian's shed.
23
24 Mr. Deering stated that Mr. Carpenter stated that it was his understanding that other neighbors had
25 complained but those complaints had gone unheard or not responded to.
26
27 Mr. Carpenter stated that Brian Bradshaw, the initial owner of his property, had received something in
28 writing regarding the lighting and the other members of the subdivision were copied but beyond that if any
29 of the other neighbors who are present tonight would like to present testimony then Mr. Deering could
30 question them.
31
32 Mr. Deering stated that Mr. Carpenter indicated that Mr. Bradshaw received something in writing about the
33 lighting. He asked Mr. Carpenter how he knew that.
34
35 Mr. Carpenter stated that he believes that there was something in writing.
36
37 Mr. Thorsland noted that a letter to Mr. Bradshaw was not part of Mr. Carpenter's original testimony but if a
38 letter happens to materialize then that may be something that could be brought to the Board next time.
39
40 Mr. Deering stated that Mr. Carpenter estimated the distance from his front door to Mr. Brian's shed to be
41 approximately 400 feet.

1
2 Mr. Carpenter stated that 400 feet was just an estimate. He said that if it is 500 or 600 feet then that is
3 possible but he estimated 400 feet. He said that it is still within ear shot.
4
5 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Carpenter and there were none.
6
7 Mr. Thorsland called Sarah Carpenter to testify.
8
9 Ms. Sarah Carpenter, who resides at 725 CR 2200N, Champaign, stated that her husband and Mr. Webber
10 have discussed their concerns. She said that there seems to be a lot of discussion regarding the distance
11 between the shed and their front door although this is a relatively new subdivision and the photographs may
12 not reflect it well but there is nothing blocking it. She said that regardless of what the distance is between
13 the two structures it is what she sees when she looks out her front door.
14
15 Mr. Thorsland stated that the reason why the Board requests this information is because there are different
16 types of screening required therefore the distance is important.
17
18 Ms. Carpenter stated that aesthetically it is very unpleasing with the rusty dumpster and the rusty blades.
19 She said that on the petition Mr. Brian indicated that there are two employees but there are regularly more
20 vehicles than that parked on their side of where the property line meets.
21
22 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Carpenter and there were none.
23
24 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Carpenter and there was no one.
25
26 Mr. Thorsland called Kelly Dillard to testify.
27
28 Mr. Kelly Dillard, who resides at 700 CR 2175N, Champaign, stated that he is present tonight in two
29 capacities, as a neighbor to the subject property and as the Hensley Township Supervisor. He said that Mr.
30 Brian's property is clean and well-kept and is an asset to the County and the neighborhood. He said that he
31 personally supports the special use request. He said that the request leans toward Goal 3 of the Champaign
32 County Land Resource Management Plan (LRMP) to encourage economic growth and assure prosperity for
33 its residents. He said that this is a rural district and it should not be treated as a residential area and it has
34 been spoken that it is a residential area because it is obviously a farm community and not a residential
35 community. He said that Special Condition F. indicates no outdoor storage. He said that Special Condition
36 F. seems to be redundant if screening is also required between the subject property and the neighboring
37 property.
38
39 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Dillard and there were none.
40
41 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Dillard and there was no one.

1

2 Mr. Thorsland called Crystal Bailey to testify.

3

4 Ms. Crystal Bailey, who resides at 710 CR 2175N, Champaign, stated that her property is north of the
5 subject property and is probably the second most property affected by what occurs on Mr. Brian's property.
6 She said that she would agree with Mr. Dillard in that the Brian property is well-kept although there are a lot
7 of things which go on outside but it too is kept in one area and as a neighbor she does appreciate that. She
8 said that there are some concerns for her family as they are an outdoor family and they live in the outdoors.
9 She said that they are one of the original owners in the subdivision and they built their house, the second in
10 the neighborhood, and they set up their home so that they can live in the backyard. She said that their
11 children play in the backyard and everything is sort of in the back part of their house and is their space. She
12 said that since it was unknown as to what would go in behind them they planted evergreens to preserve some
13 privacy and area. She said that their lot is the lowest of the five lots and one issue that they have had with
14 the Brian property is the lighting. She said that they like to take their kids outside at night so that they can
15 see the stars and with the lighting issue it is almost impossible.

16

17 Mr. Thorsland asked Ms. Bailey to clarify, but it is his understanding that the petitioner's property is directly
18 north of her property.

19

20 Ms. Bailey apologized and indicated that Mr. Thorsland was correct. She said that Mr. Brian's shed is
21 directly in line with their house. She said that she informed Mr. Carpenter about a notice from the Bradshaw
22 family, the original owners of the Carpenter's home, which stated that the lighting was an issue with the
23 shed. She said that she recalls that something was done with the lighting to reduce the encroachment but it
24 was not enough to reduce the intensity.

25

26 Mr. Thorsland asked Ms. Bailey if she has a copy of the letter that she could submit as a Document of
27 Record.

28

29 Ms. Bailey stated that she does not have a copy of the letter with her tonight but she will look for it in her
30 files when she goes home. She said that it is her understanding that Mr. Brian is intending to build another
31 shed which she assumes will have additional lighting. She said that her family owns approximately 50% of
32 the grass waterway which runs through the subdivision and more water than there ever was flows through
33 their property. She said that Mr. Brian planted soybeans along the edge of their property and they farmed
34 through the waterway and after heavy machinery traveled through it the water started backing up. She said
35 that the original owner of the acreage, prior to the subdivision's development, used an EPA program to fund
36 a reworking of the entire waterway and there were very specific requirements for maintenance. She said
37 since so much of it is on their property they are very cautious as to what happens to it. She said that they
38 have to mow it at certain times of the year, etc. She said that to have someone come in and plow through the
39 waterway was very frustrating. She said that when they saw a lot of dump trucks come onto the Brian
40 property they were concerned that the flow of the water was going to be changed further. She said that they
41 are not against or for the petition but would like more information.

1
2 Ms. Bailey stated that she and her husband are concerned about how Mr. Brian's operation could grow in the
3 future or is it going to stay as it is. She said that if there is anticipated growth perhaps some provisions could
4 be put in place that perhaps everyone could live with it. She said that she and her husband would prefer that
5 the Mr. Brian's business does not double in size to where there is a lot more activity on the property
6 therefore they would appreciate more information.

7
8 Ms. Bailey stated that one day after a heavy rain her family was outside and heard loud roaring from a
9 vehicle. She said that when they investigated the noise they believed that one of Mr. Brian's employees in
10 their black truck was doing donuts in the waterway. She said that they became more curious and got in their
11 car to further investigate and discovered that the truck was not in the waterway but on the edge of the
12 waterway on the Brian property. She said that it does not show a lot of respect to the neighbors when one of
13 the employees acts like this on his employer's property. She said that she is still concerned about the growth
14 of the operation and does not want more events like this happening but it seems unlikely since the petitioners
15 have a very nice house and property that they keep well-kept. She said that the employee's actions did only
16 happen one time but another event like this is a concern.

17
18 Mr. Thorsland asked Ms. Bailey if, since she has been part of the neighborhood since day one, has the scope
19 of Mr. Brian's operation changed.

20
21 Ms. Bailey stated yes. She said that it does seem to have changed over time.

22
23 Mr. Thorsland asked staff if they could provide information regarding the waterway. He said that he was a
24 recipient of one of the grants for a waterway on his own 20 acre parcel and there are rules regarding what
25 you can and can't do. He said that there is a timeframe on waterways therefore he would like to have
26 information regarding the timeframe on the subject waterway. He said that when you take land out of
27 agricultural production and change it to residential it changes the land. He said that without getting into a
28 big discussion regarding the climate he would like to point out that the area has had water deeper than what
29 we had before.

30
31 Mr. Thorsland asked Ms. Bailey if she could construct a list of things that would make Mr. Brian a better
32 neighbor such as screening, hours of operation, burning, etc. He suggested to the audience that everyone
33 compile this list for the Board's review but he highly recommended communication between all parties prior
34 to the next public hearing regarding this case.

35
36 Mr. Thorsland asked the Board if there were any questions for Ms. Bailey.

37
38 Ms. Lee stated that she did not hear Ms. Bailey indicate her address.

39
40 Ms. Bailey stated that her address is 710 CR 2175N, Champaign.

41

- 1 Mr. Thorsland stated that Ms. Bailey's property is due south of Mr. Brian's shed.
2
- 3 Mr. Passalacqua asked Ms. Bailey if she hears the noises that Mr. and Mrs. Carpenter discussed.
4
- 5 Ms. Bailey stated that they do not hear the noises.
6
- 7 Mr. Passalacqua asked Ms. Bailey if she noticed the burning on the Brian property.
8
- 9 Ms. Bailey stated yes.
10
- 11 Mr. DiNovo asked Ms. Bailey if Mr. Bradshaw distributed a letter to all of the home owner's.
12
- 13 Ms. Bailey stated that a letter to Mr. and Mrs. Brian was sent from either Mr. Bradshaw or his attorney and
14 the homeowner's association was copied.
15
- 16 Mr. Thorsland asked the Board and staff if there were any additional questions for Ms. Bailey and there were
17 none.
18
- 19 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Bailey.
20
- 21 Mr. Deering stated that Ms. Bailey mentioned that she did not hear the noise but did see the burning. He
22 asked Ms. Bailey what it was about the burning that made her notice it.
23
- 24 Ms. Bailey stated that the smoke and the smell generated from the burning is what made her notice it.
25
- 26 Mr. Thorsland called Robert Sherman to testify.
27
- 28 Mr. Robert Sherman, who resides at 689 CR 2225N, Champaign, stated that his property is located to the
29 east of the subject property. He noted that he is also the Hensley Township Highway Commissioner. He
30 said that when Mr. and Mrs. Bradshaw built their home they hauled in over 1,000 loads of dirt with tandems
31 and semi-trucks. He said that the dirt that was hauled in behind their house, now the Carpenter's residence,
32 didn't allow the waterway to work properly from the beginning. He said that the waterway flows past his
33 house and when the area received a six and one-half inch rain someone could have taken a boat down the
34 waterway which begins at the highest point of Hensley Township. He said that by building up the dirt on the
35 Bradshaw property the water was not able to flow to the east or to the north. He noted that Mr. Brian was
36 not the first property owner in the neighborhood to alter the waterway.
37
- 38 Mr. Thorsland asked Mr. Sherman if he knows if a grant was received for the construction of the waterway.
39
- 40 Mr. Sherman stated that several years ago there was a grant provided for the waterway that flows by his
41 house and he believes that the waterway in the neighborhood was constructed under that same grant. He said

1 that the waterway used to be farmed. He said that it may have been the late Richard Dean that constructed
2 the waterway. He said that in regards to the noise concern, when the wind is out of the south he can hear the
3 vehicles on I-74 and the semi-trucks running when they sit at the gas station all night long. He said that Mr.
4 Brian keeps his property well-kept and is in support of his request. He said that in regards to the salt storage,
5 there may be a time when he needs a load of salt himself.
6

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

9 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Sherman and there were none.
10

11 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
12 regarding this case.
13

14 Mr. Thorsland called Gene Myers to testify.
15

16 Mr. Gene Myers, who resides at 724 CR 2175N, Champaign, stated that along with the Bailey family he was
17 one of the original homeowners in the area. He said that they purchased their property from John Foley and
18 Mr. Foley developed the 40 acres. He said that Mr. Foley worked with the Soil and Water Conservation
19 District and the Illinois Department of Natural Resources and they planted over 1,000 trees on the property
20 for a windbreak. He said that Mr. Foley had the waterway widened from CR 2175N to 700E.
21

22 Mr. Thorsland stated that perhaps staff can contact both entities regarding the waterway.
23

24 Mr. Passalacqua asked Mr. Myers if, in his opinion, is there anything happening on Mr. Brian's property
25 which is impeding the waterway's flow of water.
26

27 Mr. Myers stated that he is not sure. He said that where Mr. Brian planted the soybeans through the
28 waterway had an effect on the waterway. He said that he does not know if the slope or the grade of the
29 waterway was changed and he would not expect Mr. Brian running a disc through the waterway would have
30 changed it much but it could have added some back pressure.
31

32 Mr. Thorsland stated that if a grant was received there is to be no planting within the waterway. He said that
33 it would be helpful to know if the grant has expired or if it is still in existence.
34

35 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Myers and there were
36 none.
37

38 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Myers and there was no one.
39

40 Mr. Thorsland entertained a motion to extend the meeting time to 9:45 p.m.
41

1 **Mr. DiNovo moved, seconded by Ms. Lee to extend the meeting to 9:45 p.m. The motion continued by**
2 **voice vote.**

3

4 Mr. Thorsland called Mr. Brian and Mr. Deering to the witness microphone.

5

6 Mr. Thorsland asked Mr. Brian if he intends to construct a second shed.

7

8 Mr. Brian stated yes.

9

10 Mr. Thorsland asked Mr. Brian if the second shed is going to be located as indicated in the memorandum
11 which is in the south east quadrant of his property.

12

13 Mr. Brian stated yes.

14

15 Mr. DiNovo stated that there are conflicting locations in the information as to the location of the shed. He
16 said that the site plan indicates that the new shed will be at the graveled area and the photograph indicates
17 that it will be located further south.

18

19 Mr. Thorsland stated that he is referring to the plan which indicates the location further south.

20

21 Mr. Brian stated that he basically split the middle line of the property.

22

23 Mr. Passalacqua stated that Mr. Thorsland's question is angling at the fact that a complete site plan needs to
24 be submitted.

25

26 Mr. Thorsland stated that the Board would like to have a complete site plan which indicates everything that
27 the special use permit will encompass. He said that the site plan should indicate current and proposed
28 construction and operations. He said that anything that is added in the future that is not included on the site
29 plan for this special use will require Mr. Brian to come back before this Board for approval. He said that Mr.
30 Brian should think 10 or 15 years in the future.

31

32 Mr. Passalacqua asked Mr. Hall if staff could provide an example site plan for Mr. Brian to review.

33

34 Mr. Hall stated that staff could give Mr. Brian a copy of the site plan for the truck terminal that the Board
35 recently approved. He said that the site plan for the approved truck terminal is not showing a similar use but
36 it does indicate the amount of detail required for a special use permit. He said that the site plan should be
37 completed by licensed engineer indicating all of the existing buildings, proposed buildings, septic systems,
38 fuel tanks, salt storage shed, etc.

39

40 Mr. Passalacqua stated that he is not indicating the Mr. Brian needs to hire someone but the site plan that has
41 been provided to the Board is not sufficient.

1

2 Mr. Thorsland stated that more detail is required.

3

4 Mr. Hall asked the Board if they would require the site plan to be drawn to scale.

5

6 Mr. Passalacqua stated that drawn to scale would be helpful but it doesn't need to be drawn by an engineer,
7 it just needs to include much more detail.

8

9 Mr. Thorsland stated that it is up to the petitioner as to who prepares the site plan but a detailed drawing is
10 very helpful to the Board for review of his request. He said that if this was an agricultural use there are times
11 when operations are seasonal and are allowed at any time regardless of the covenants. He said that Mr.
12 Brian's operation is also seasonal but Mr. Brian needs to provide a better definition per year, outside of the
13 snow removal, as to how many times salt was loaded and how many times did the operation run a very long
14 time during the year, on average. He said that the Board needs this information because it is within the
15 Board's realm to put some brackets on operations. He said that it is recommended that all parties
16 communicate with each other.

17

18 Ms. Griest stated that she would like more information regarding the hour of operation. She said that these
19 hours must be something firm that Mr. Brian can live with and within and not a sort of depending on the day.
20 She said that she would like to receive more information on the number of employees, full-time and
21 seasonal. She said that the number of mowers and equipment that appear in the pictures and the number of
22 employees that have been reported does not compute in her mind as enough people to operate that
23 equipment. She said that she would like to have information regarding the number of employees, full-time,
24 part-time and seasonal, required during the mowing season and during the snow removal season. She said
25 that she is certain that with the number of plows, trucks and the volume of operation that Mr. Brian's facility
26 presents there are more employees than just three employees and Mr. Brian. She said that the Board has
27 limits on the number of employees allowed onsite and offsite therefore it should be clear to the Board what
28 they are authorizing Mr. Brian to do so that in six months Mr. Brian does not find himself in a pickle
29 because he has more employees than what the Board authorized.

30

31 Mr. Thorsland stated that he would also like Mr. Brian or Mr. Deering to contact staff to obtain the contact at
32 the Illinois Capitol Development Board regarding accessibility requirements.

33

34 Mr. DiNovo stated that the site plan contains all of the information which is required for a special use permit
35 to the extent that they can be specific about future plans. He said that the site plan should indicate any
36 outdoor storage, the type of screening, impervious areas, etc. He said that if the new shed is going to be
37 constructed 200 feet south of the current paved area then what connects to that.

38

39 Mr. Hall stated that the Board has heard the term agriculture tonight and the new shed is supposed to be for
40 agricultural use but there has been a lot of disagreement between the petitioner and staff as to what is
41 agriculture. He said that regarding the concerns of Ms. Griest regarding ending up down the road with

1 something that wasn't expected, he would like to know why Mr. Brian believes that this new building is for
2 agriculture on a 10 acre lot where agriculture is clearly not the principal use. He said that if the shed is for
3 agriculture then that will relieve everyone's concerns but right now his concern is if it is really agriculture or
4 part of this special use permit.

5
6 Ms. Capel stated that she would like to know how often Mr. Brian sells salt to other people.

7
8 Mr. Brian stated never.

9
10 Mr. DiNovo stated that it would be a huge thing for him if the architectural committee issue could be laid to
11 rest before the next public hearing.

12
13 Mr. Thorsland entertained a motion to continue Case 822-S-15 to the May 26, 2016, meeting. He asked the
14 petitioner and his attorney if they would be available for that meeting.

15
16 Mr. Brian and Mr. Deering stated that they would be available for the May 26, 2016, meeting.

17
18 **Ms. Griest moved, seconded by Ms. Capel to continue Case 822-S-15 to the May 26, 2016, meeting.**
19 **The motion carried by voice vote.**

20
21 **7. Staff Report**

22
23 Mr. Hall stated that he contacted Board members regarding the loss of the Lyle Shields Meeting Room on
24 any Thursday night for at least the next 18 months. He said that everyone but one Board member was
25 available on the second and fourth Monday. He said that the Lyle Shields Meeting Room is available on
26 every Monday except August 22nd due to Legislative Budget hearings. He said that the Lyle Shields Meeting
27 Room is not available every Monday but 99% of the Mondays. He said that the Board could agree to meet
28 on second Mondays acknowledging that the Board would be shy one member or the Board could meet on the
29 second Thursday in either the John Dimit Room, preference of staff, or the fourth Monday in the Lyle
30 Shields Meeting Room. He said that there will be some second Thursdays when the meeting will have to be
31 held in the conference room at the County Highway building because the John Dimit Room is not available
32 every Thursday. He said that the Lyle Shields Room will not be available for the ZBA and an alternative
33 meeting room has to be determined for meetings.

34
35 Mr. Hall stated that notice has already been mailed for the March 10th meeting but the Board is required to
36 choose an alternative meeting room for that meeting. He said that the Board needs to inform staff as to
37 which room would be the preferred meeting location so that staff can send out new accurate notices. He said
38 that this is a lot of change to decide upon within the next ten minutes but the Board needs to get past this
39 issue so that all future legal advertisements and notices for new cases are accurate.

40
41 Mr. Thorsland asked if the John Dimit Room is available for the Board's use.

1

2 Mr. Hall stated that the John Dimit Room is available sometimes and perhaps most of the time but it will not
3 be available all of the time.

4

5 Mr. Passalacqua stated that the only issue that the Board will have with the John Dimit Room is when there
6 are large crowds attending the meeting, but he does not mind holding meetings in the John Dimit Room.

7

8 Mr. Thorsland stated that he also does not mind using the John Dimit Room. He said that it appears that the
9 first meeting of the month would be on the second Thursday in the John Dimit Room, most of the time, and
10 the second meeting of the month would be moved to the fourth Monday in the Lyle Shields Meeting Room.

11

12 Mr. Passalacqua stated that such a meeting schedule will be screwy.

13

14 Mr. Thorsland stated that it will be less screwy than holding the meetings in the County Highway building
15 because if the Board begins holding some meetings in the County Highway building and some meetings in
16 the Brookens building it will be very confusing for everyone.

17

18 Ms. Griest asked if the County Highway building would be available for all meetings.

19

20 Mr. Thorsland stated that the Board must remember that staff's office is inside the Brookens building and
21 not the County Highway building.

22

23 Mr. Hall stated that if the Board believes that having a single room for every meeting is better, staff will
24 accommodate that desire.

25

26 Mr. Thorsland stated that he does not want to limit the ZBA to one meeting room but he would like the
27 Board to be limited to one building.

28

29 Mr. Passalacqua stated that everyone that attends a meeting is going to receive a notice before the meeting
30 and if they do not read it then that is their own fault. He said that he would prefer not holding meetings in
31 the County Highway building.

32

33 Mr. Thorsland and Ms. Griest agreed.

34

35 Mr. Randol stated that he is the Board member who cannot attend all Monday meetings and he does not
36 mind the Board holding a meeting on the Monday that he cannot attend. He said that if it is a problem he
37 could resign his position on the Board and someone who is available for a Monday meeting could take his
38 place.

39

40 Mr. Hall asked the Board if at this point the Board is agreeable to schedule a ZBA meeting on the second
41 Thursday of the month in the John Dimit Room and a ZBA meeting on the fourth Monday of the month in

1 the Lyle Shields Meeting Room.
2
3 Mr. Thorsland stated that it appears that the Board's option is that the first meeting of the month will be held
4 on the second Thursday of the month in the John Dimit Room and the second meeting of the month will be
5 held on the fourth Monday of the month in the Lyle Shields Meeting Room.
6
7 Mr. Hall stated yes. He said that both meetings will at least be held in the same building.
8
9 Mr. Thorsland stated that it will be in the same building but on different nights.
10
11 Mr. DiNovo stated that he would prefer keeping the meeting date on the same night of the week.
12
13 Mr. Thorsland stated that Mr. Randol will be absent from the second meeting of the month if the Board
14 keeps the meeting date on consistent Monday nights.
15
16 Ms. Capel stated that if it is possible to accommodate Mr. Randol then the Board should do so as Mr. Randol
17 is an important part of the Zoning Board of Appeals.
18
19 Mr. Thorsland agreed because Mr. Randol brings a lot of experience to the Board. He said that the ZBA just
20 achieved a full Board.
21
22 Mr. Griest asked Mr. Hall if a Tuesday night would be an option.
23
24 Mr. Hall stated that the Lyle Shields Meeting Room is not available on a Tuesday night for a ZBA meeting.
25
26 Mr. Thorsland and Mr. Passalacqua indicated that a Tuesday night is not a good night for either of them for a
27 ZBA meeting.
28
29 Ms. Griest asked Mr. Hall to indicate what will work most effectively with all of the Board's availabilities.
30
31 Mr. Hall stated that he would follow the advice of the other long term Zoning Administrator who had a
32 different opinion than he did.
33
34 Mr. Thorsland stated that Mr. DiNovo requested that the meetings be held on the same night.
35
36 Mr. DiNovo stated that it is apparent that holding the meetings on the same night is not an option for the
37 ZBA.
38
39 Mr. Thorsland stated that it appears that the meetings will be held on the second Thursday of the month and
40 the fourth Monday of the month but in doing so the Board will lose the consistency of a full Board for the
41 second meeting.

- 1
2 Mr. DiNovo stated that he would like a letter sent to the County Board regarding the inconvenience that this
3 has caused the Zoning Board of Appeals and the public.
4
- 5 Mr. Hall asked Mr. DiNovo if he expects the County Board to change their decision. He said that staff is
6 going to take time to write a letter that will be an absolute waste of time. He said that Mr. DiNovo can write
7 such a letter.
8
- 9 Ms. Capel asked Mr. Hall if he would prefer to keep the meeting nights consistent.
10
- 11 Mr. Hall stated that staff may be able to ask the Regional Planning Commission if there is a possibility of the
12 ZBA holding their meetings in the John Dimit Room on consistent nights of the month.
13
- 14 Mr. Hall stated that staff could ask but he is certain that there will not be any guarantee. He said that he can
15 report the outcome of that request to the Board at the next public hearing.
16
- 17 Mr. DiNovo stated that he would like staff to make that request.
18
- 19 Mr. Hall stated that he is sure that the John Dimit Room is not available for every Thursday night that the
20 Board will require its use.
21
- 22 Ms. Chavarria stated that the Regional Planning Commission takes precedence over anyone else outside of
23 the RPC for use of the John Dimit Room. She said that it may be worth checking out the availability of the
24 room because the RPC does try to be accommodating.
25
- 26 Ms. Griest stated that since the ZBA was unexpectedly booted from the Lyle Shields Meeting Room the
27 RPC may be sympathetic and allow the use of the John Dimit Room.
28
- 29 Ms. Chavarria stated that she will do her best in discussing this with the RPC.
30
- 31 Mr. Hall stated that at this point it appears that the first meeting of the month will be held on the second
32 Thursday in the John Dimit Room and the second meeting of the month will be held on the fourth Monday in
33 the Lyle Shields Meeting Room. He said that the March 10th meeting will be held in the John Dimit Room.
34 He said that the March 24th meeting cannot be held in the Lyle Shields Meeting Room therefore staff will
35 contact the RPC to see if the John Dimit Room is available for that meeting and if it is not staff will find a
36 meeting room to hold the meeting on March 24th. He said that Ms. Chavarria spent a lot of time
37 coordinating with all of the interested parties for the continued case and they are all available on March 24th.
38
- 39 Ms. Lee requested clarification of the meeting dates and their locations.
40
- 41 Mr. Hall stated that for the next two meetings the rooms are not identified yet but staff will prepare a new

1 calendar which will reflect the new schedule and meeting locations for the ZBA. He said that staff will
2 check the availability of the John Dimit Room.

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8. Other Business

A. Review of Docket

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

None

10. Adjournment

Mr. Thorsland entertained a motion to adjourn the meeting.

Ms. Capel moved, seconded by Ms. Lee to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 9:45 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals