

2 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 1776 E. Washington Street

5 Urbana, IL 61801

7 **DATE:** March 24, 2016

PLACE: John Dimit Meeting Room
1776 East Washington Street

8 **TIME:** 6:30 p.m.

Urbana, IL 61802

10 **MEMBERS PRESENT:** Catherine Capel, Frank DiNovo, Debra Griest, Jim Randol, Eric Thorsland,
11 Marilyn Lee, Brad Passalacqua

12 **MEMBERS ABSENT :** None

13 **STAFF PRESENT :** Lori Busboom, John Hall

14 **OTHERS PRESENT :** Lloyd Allen, Robert Frazier, Caleb Burton, Steve Koester, Dustin Ehler,
15 David Ehler, Keith Padgett

16 **1. Call to Order**

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

DRAFT

18 **2. Roll Call and Declaration of Quorum**

19 The roll was called and a quorum declared present.

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

23 **3. Correspondence**

24 None

25 **4. Approval of Minutes**

26 None

27 **5. Continued Public Hearing**

28 Case 824-AM-15 Petitioner: Dustin Ehler, d.b.a. Ehler Bros. Co. Request to amend the Zoning Map to

1 **change the zoning district designation from the AG-1, Agriculture Zoning District to the B-1, Rural**
2 **Trade Center Zoning District in order to expand operations of a Farm Chemicals and Fertilizer Sales**
3 **Business including incidental storage and missing of blended fertilizer. Location: A 1.4 acre tract in**
4 **the Northeast Quarter of the Northwest Quarter of Section 19, Township 20N, Range 11E of the Third**
5 **Principal Meridian in Ogden Township located immediately east of the existing Ehler Brothers facility**
6 **with an address of 2475E CR 2100N, Thomasboro.**
7

8 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
9 the witness register for that public hearing. He reminded the audience that when they sign the witness
10 register they are signing an oath.
11

12 Mr. Thorsland asked Mr. Ehler if he desired to make a statement regarding his request.
13

14 Mr. Dustin Ehler, who address is PO Box 194, Gifford, stated that he has submitted all of the required
15 information. He said that the updated site plan includes the setbacks from the proposed building to the
16 county road and the location of the catch basin.
17

18 Mr. Thorsland called John Hall to testify.
19

20 Mr. John Hall, Zoning Administrator, stated that the consultation fee was sent out on March 11, 2016, and a
21 reply was received from IDNR and the environmental consultation was terminated, which is actually an
22 affirmative thing and means that there were no recommendations. He said that the March 21, 2016,
23 Supplemental Memorandum #2, attempts to catch the Board up on all of the little bits of evidence
24 documenting that the environmental consultation was terminated affirmatively and that all previous decision
25 points are recommendations. He said that new evidence concerning the LESA was inserted into the Finding
26 of Fact and the support from the drainage district.
27

28 Mr. Thorsland asked the audience if anyone desired to present testimony regarding this case and there was
29 no one.
30

31 Mr. Thorsland asked the Board if there were any questions for Mr. Ehler or staff.
32

33 Mr. DiNovo asked if the proposed changes on the site would trigger the requirement for a new permit from
34 the Department of Agriculture.
35

36 Mr. Ehler stated yes, and the amendment to the current permit application was submitted to the Illinois
37 Department of Agriculture indicating the proposed changes and the the amendment is being reviewed by the
38 Illinois Department of Agriculture and the Illinois EPA. He said that once the Illinois Department of
39 Agriculture and the IEPA review the application they have 90 days to respond and within those 90 days he

1 will know whether or not his permit has been issued. He said that he is working with a consultant to assure
2 that everything is compliant.

3
4 Mr. DiNovo asked Mr. Hall if the IDNR Consultation that was received truly cost \$500.

5
6 Mr. Hall stated yes and staff received the consultation within four days of sending in the fee therefore staff
7 had fantastic turnaround. He said that it is his opinion that the consultation was worth every penny spent.

8
9 Mr. DiNovo stated that he would ask for the money back. He asked if staff knows whether the consultation
10 considered the secondary permit or is the consultation only in reference to the current disturbance.

11
12 Mr. Hall stated that he did not know.

13
14 Mr. DiNovo asked Mr. Hall how much information was provided to IDNR for the consultation. He asked if
15 they knew anything beyond where the site was located.

16
17 Mr. Hall stated that Ms. Chavarria sent the case maps but he does not know whether she sent the Finding of
18 Fact and he does not know if IDNR would have known what to do with the Finding of Fact if they had
19 received it. He said that what IDNR saw was enough information to know that it was this size of an
20 expansion of an existing facility in Champaign County. He said that the new tank is actually not part of the
21 proposed rezoning and is part of the whole facility that is proposed and Mr. Ehler indicated that they have
22 already applied for the new Illinois Department of Agriculture permit. He said that he would hope that one
23 state agency would check with another to assure that the necessary permits are being applied for, at least that
24 would be his expectation. He said that everyone needs to remember how far this site is from that part of the
25 Spoon River that is unprotected, and in his mind this might be one reason why there were no
26 recommendations in the IDNR Consultation. He said that the site is not protected so why should there be any
27 recommendation but that is not how the LRMP is written and in order to comply with our own plan the
28 County has to go through the consultation process.

29
30 Mr. Thorsland asked Mr. DiNovo if there is an action item that staff may need to discuss with IDNR.

31
32 Mr. DiNovo stated no.

33
34 Mr. Thorsland asked the Board and staff if there were any additional questions and there were none.

35
36 Mr. Thorsland stated that there are decision points, beginning on page 7 of 30 of the Preliminary
37 Memorandum dated March 10, 2016, which the Board must review.

38
39 Mr. Hall stated that there are no decision points for the Board unless they want to change staff's

1 recommendations.

2
3 Mr. Thorsland asked the Board if there were changes to staff's recommendations and there were none.

4
5 Mr. Thorsland read the special condition as follows:

6
7 **The owners of the subject property hereby recognize and provide for the right**
8 **of agricultural activities to continue on adjacent land consistent with the Right**
9 **to Farm Resolution 3425 (see attached).**

10
11 The above special condition is necessary to ensure the following:
12 **Conformance with Policy 4.2.3.**

13
14 Mr. Thorsland asked Mr. Ehler if he agreed to the special condition.

15
16 Mr. Ehler stated that he agreed to the special condition.

17
18 Mr. Thorsland entertained a motion to approve the special condition as read.

19
20 **Mr. Passalacqua moved, seconded by Mr. Randol to approve the special condition as read. The**
21 **motion carried by voice vote.**

22
23 Mr. Hall stated that the following new items should be added to the Documents of Record: #13.
24 Supplemental Memorandum dated March 10, 2016, with Attachments A, B, C, D and E; and #14.
25 Supplemental Memorandum dated March 16, 2016, with Attachments A, B, C, and D; and #15
26 Supplemental Memorandum dated March 21, 2016, with Attachment A.

27
28 Mr. Thorsland entertained a motion to adopt the Summary Finding of Fact.

29
30 **Mr. Passalacqua moved, seconded by Ms. Lee to adopt the Summary Finding of Fact. The motion**
31 **carried by voice vote.**

32
33 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Summary
34 Finding of Fact as amended.

35
36 **Ms. Capel moved, seconded by Mr. Passalacqua to adopt the Summary of Evidence, Documents of**
37 **Record and Finding of Fact as amended. The motion carried by voice vote.**

38
39 **Final Determination for Case 824-AM-15:**

1
2 **Mr. Passalacqua moved, seconded by Ms. Capel that pursuant to the authority granted by Section 9.2**
3 **of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
4 **determines that:**

5
6 **The Zoning Ordinance Amendment requested in Case 824-AM-15 should BE ENACTED**
7 **by the County Board in the form attached hereto.**

8
9 **SUBJECT TO THE FOLLOWING SPECIAL CONDITION:**

10
11 **A. LRMP Policy 4.2.3 requires discretionary development and urban development to explicitly**
12 **Recognize and provide for the right of agricultural activities to continue on adjacent land.**
13 **The following condition is intended to provide for that:**

14
15 **The owners of the subject property hereby recognize and provide for the right of**
16 **agricultural activities to continue on adjacent land consistent with the Right to Farm**
17 **Resolution 3425 (see attached).**

18
19 **The above special condition is necessary to ensure the following:**
20 **Conformance with Policy 4.2.3.**

21
22 **Mr. Thorsland requested a roll call vote.**

23
24 **The roll was called as follows:**

25
26 **Capel – yes DiNovo-no Griest – yes**
27 **Lee – yes Passalacqua-yes Randol – yes**
28 **Thorsland – yes**

29
30 **Mr. Hall informed Mr. Ehler that he has received a recommendation of approval and the case will be**
31 **forwarded the Environment and Land Use Committee at its meeting on April 7th.**

32
33 **Mr. DiNovo stated that he has no concerns about the existing operation and in principal he has no concerns**
34 **about the expansion or the addition. He said that his concern is that if he were looking at the 1.4 acres on the**
35 **adjacent tract, independent of everything else, he would not see this as an appropriate place to rezone to B-1.**
36 **He said that the tract is located within the mapped floodplain and is near the ditch; therefore, he does not see**
37 **this as an appropriate place to establish an area where commercial uses are permitted as of right and because**
38 **the project could be accommodated with a special use permit without rezoning. He said that he believes that**
39 **this would be a more appropriate way of doing this and he would be happier doing it as a special use permit.**

1 He said that he does not want to take the position that he objects to the use because he took a lot of time
2 going through the Illinois Administrative Code and he is satisfied that the Department of Agriculture
3 regulations are adequate and sufficient to protect the interest that we have here. He said that the rezoning
4 does not feel right and he is concerned about the other uses which are permitted by right in the B-1 District
5 which do not have to go through any state agency for permits. He said that if we could start over from
6 scratch a rezoning case is not what he would have recommended.
7

8 Mr. Hall stated that when a petitioner comes in and they need to do something as Mr. Ehler needed to do on
9 the subject property and there are no adjacent dwellings that would raise a concern about rezoning he feels
10 obligated to recommend the option of rezoning rather than a special use permit. He said that in order for him
11 to convey what Mr. DiNovo recommended to applicants the Ordinance would have to be amended.
12

13 Mr. DiNovo agreed. He said that the reason why he wanted his remarks in the record is because this is an
14 issue for the County Board to deal with in providing clearer guidance.
15
16

17 **Case 792-V-14 (REACTIVATED) Petitioner: Robert Frazier Request to authorize the following**
18 **variance from the Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District:**
19 **Part A. Variance for 48 on-site parking spaces in lieu of the minimum required 67 parking spaces as**
20 **required by Section 7.4 of the Zoning Ordinance; and Part B. Variance for a setback of 50 feet and a**
21 **front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum**
22 **required setback of 55 feet and the minimum required front yard of 25 feet as required by Section 5.3**
23 **of the Zoning Ordinance; and Part C. Variance for parking 0 feet from the front property line in lieu**
24 **of the minimum required 10 feet from the front property line as required by Section 7.4.1 of the**
25 **Zoning Ordinance; and Part D. Variance for allowing at least 19 off-street parking spaces on an**
26 **adjacent lot in lieu of requiring all off-street parking spaces to be located on the same lot or tract of**
27 **land as the use served, as required by Section 7.4.1 of the Zoning Ordinance. Location: Lot 4 of the**
28 **Stahly Subdivision in the Southeast Quarter of Section 8 of Champaign Township and commonly**
29 **known as the former LEX building located at 310 Tiffany Court, Champaign.**
30

31 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
32 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
33 of hands for those who would like to cross examine and each person will be called upon. He requested that
34 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
35 those who desire to cross examine are not required to sign the witness register but are requested to clearly
36 state their name before asking any questions. He noted that no new testimony is to be given during the cross
37 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
38 from cross examination.
39

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

2
3 Mr. Frazier stated that he has hired Andrew Fell, a registered architect, who has completed drawings which
4 the Board should have. He said that he requests approval from the Zoning Board for parking in relation to
5 the property that was at one time considered rented and the Board did not like the idea of the word rented, so
6 he has a legal contract to purchase the property. He hired an engineering firm to plot the property and it has
7 been plotted by that engineering firm. It was sent to the City of Champaign for approval; it has not been
8 totally approved because of the process with the County. He stated that we have a property that is going to be
9 under his name attached to his existing property that is approved by the City of Champaign to cover
10 hopefully the parking problem that we have been discussing. We have a building drawn which should, he
11 hopes, according to Mr. Hall's opinion have no hidden spots in it, maybe there is he doesn't know, but Mr.
12 Hall will tell him if there is or is not. He stated that he would like to proceed with any questions the Board
13 may have.

14
15 Mr. Thorsland asked Mr. Hall to introduce the information in the handout they received tonight.

16
17 Mr. Hall stated he will try to be positive tonight in this case because he thinks bringing Mr. Fell in and
18 producing the drawings was the best thing to happen to this case yet. Unfortunately, through Mr. Fell's hard
19 work we know that this need for parking is much greater than we ever suspected. The extent of second floor
20 construction in these buildings was very disturbing. The fact that someone would expand a building so much
21 without even consulting with the local zoning office is unimaginable to him but it has happened. He stated
22 that the Board now has better information than they have ever had. As a result of that, better information
23 generally indicates more problems, not fewer. In the memo that went out on March 22, 2016, he reviewed
24 those problems. Number one, the number of self-storage units is much greater than we previously understood
25 which increased the need for parking by at least an extra 15 spaces. He stated that it is hard to get a handle on
26 the amount of parking that is required; for example, there are still buses on the property. Those buses are in
27 the area where it is said the arborist's vehicles would be parked. Until the buses are moved and the arborist's
28 vehicles are moved, we need much more offsite parking than we currently have.

29
30 Mr. Frazier stated that the buses are being moved off the property this week.

31
32 Mr. Hall stated that what especially concerns him is that we have extensive second floor construction in
33 complete violation of the Illinois Accessibility Code. Mr. Hall is subject to a \$1,000 fine if they think he
34 approved any of that. Obviously, he did not and that is easy to prove, but nonetheless maybe there will be a
35 way for Mr. Fell to work with the Capital Development Board and come up with a solution that will require
36 at least one elevator, or two in the worst case. Mr. Hall believes that is going to be a very big deal. He stated
37 that Mr. Frazier will not get a permit from the Zoning Department until the Capital Development Board has
38 signed off completely on this. He stated that he is not going to risk a \$1,000 fine on this project. Mr. Hall
39 said that it is not simply the second floor areas. Mr. Fell is challenged on how to provide accessible parking

1 on this property and he knows Mr. Fell can do that, but it is not going to be easy and is going to take time
2 and time has to be paid for. Mr. Hall stated that we do have a proposal to have at least one accessible
3 restroom and he hopes that will also be a part of the Capital Development Board review on accessibility. Mr.
4 Hall stated that the street curb has not yet been replaced. He stated that we do not have a single drawing that
5 shows the entire property that is proposed. He believes this Board should require a single site plan with both
6 the existing lot and the existing land that is proposed for purchase. Obviously that land can't be purchased
7 until there is a plat that has been approved by the City of Champaign, but if there is a signed agreement that's
8 wonderful. If there is a signed agreement, he would like to get a copy of that. He also recommended that
9 somehow we have Mr. Frazier's agreement to tell this Board if that agreement is voided at any time prior to
10 actual sale. Regarding to the number of parking areas, Mr. Hall stated that he has not actually been on the
11 property since June of 2014, when we first realized what was going on. He did not realize that there had been
12 steps constructed on the west side; those steps, small though they are, reduce the clearance between the front
13 of the building and the property line. With the steps that are currently there, you cannot fit the parallel
14 parking and a traffic aisle on the west side. He recommends that the Board have those steps removed. He
15 said that at the north end of the proposed parallel parking and traffic aisle there is a ramp from the days when
16 it was LEX. That ramp is going to encroach into the traffic aisle and into the parking; he believes the Board
17 should have that ramp removed. He knows that Mr. Fell is completely capable of coming up with an efficient
18 parking layout that is also feasible. He stated that Mr. Fell has not had direction from Mr. Frazier in order to
19 do that. For example, going back to the parking on the east side of the property, there is room for some
20 parking spaces back there but there also needs to be a traffic aisle and all of that needs to be paved. Right
21 now there is only about half as much pavement as there should be. There is also a grade change back there;
22 hopefully, a grade change is not going to interfere with that, but there has been so much done on this site
23 plan to date that he wants to be positive. Unfortunately, there is a tremendous amount left to be done. Mr.
24 Hall stated that we have complaints from the neighbors that the garbage truck had to go over their property
25 to get to Mr. Frazier's dumpster. The reason for that is that the dumpster is at the far east edge of the
26 property past the stairway, so there is barely 10 feet of clearance on the property for the garbage truck to get
27 back to that dumpster. He recommends that the Board require the dumpster to be moved up to the west side
28 of the middle portion of the building. He stated that still does not explain how a fire truck would get back to
29 the east side, but that's Mr. Frazier's problem he believes. If this case is continued, Mr. Hall intends to
30 contact the fire protection district to make sure they know the access limitations on this property. Mr. Hall
31 was happy to see that the outdoor stairway is proposed to be removed and replaced with an interior stair. He
32 believes that this Board should require that the outdoor stair be removed so as to create as much possible
33 access to the east side of the property. Mr. Hall referred to photos of the property so the Board could see all
34 these problem areas. He said that he spent some time today with the drawing from Phoenix Engineers and he
35 believes that if Mr. Frazier can come to some agreement with the Capital Development Board allowing the
36 second floor rental areas to remain, he could add the necessary parking by acquiring more land from Isaacs
37 going on the south edge of the property all the way back and hopefully tying in with the parking that is
38 already on the east side. This would provide space for at least smaller vehicles a way to circumnavigate the
39 whole property; he believes 14 spaces can fit in there. He sees that the Isaacs septic system is in there and he

1 does not have any information on how large that is. Mr. Hall stated that he would like to see this Board
2 require the minimum number of parking spaces, and that would require this to be expanded. Mr. Hall
3 referred to the memo that went out March 18th; he reviewed some significant changes to the proposed special
4 conditions. He stated that he does not know why the Board would have to take action before the curb is
5 replaced, but for sure the Board has to take action before the plat can be approved, so before the sale can
6 happen. He stated that we have to have a special condition that governs the provision of those parking spaces
7 between the time of the final action and the time of the recording of the plat. In summary, Mr. Hall believes
8 this Board should see a copy of the signed contract, have that in the file, and the signed contract should have
9 a condition to make the Board aware if the contract is void at any time within a 72 hour period of it being
10 voided. He believes that the Board should not take action until we see the actual plat document that has been
11 verified by City of Champaign staff to be complete, and in fact received before the application of the
12 subdivision plat approval so that the Board absolutely knows there has been an application for plat approval.
13 He stated that City staff is willing to hold that application for up to 12 months, which tells him that this thing
14 is going to be finished within 12 months. He stated that this is only when Mr. Frazier has those supplemental
15 documents approved, and the Board does not have those in front of them.

16

17 Ms. Lee asked Mr. Hall if the bus garage has been torn down.

18

19 Mr. Hall stated that the bus garage has been made smaller than it once was.

20

21 Ms. Lee asked if the Board should strongly suggest that the curb replacement be done before it finalizes the
22 case.

23

24 Mr. Hall stated that he thinks the Board can do that; however, he wants to be very clear that there should be
25 no curb replaced until there is a drawing showing what is going to be done. The drawing has to be reviewed
26 by the Champaign Township Highway Commissioner and approved, preferably in writing. He stated that
27 when that curbing is replaced, there should be extensive coordination with the Champaign Township
28 Highway Commissioner to allow him to see the construction as it is occurring. He stated that at the end, the
29 Champaign Township Highway Commissioner gets to accept or reject that curb. He stated that is exactly
30 what happened in the beginning, and it is what should happen now. He stated that is his recommendation.

31

32 Ms. Lee asked if Mr. Hall sees any reason why that couldn't be done before our next hearing.

33

34 Mr. Thorsland stated that Mr. Frazier removed this curb without any approval from anybody, and he thinks
35 one of the things that would probably help a lot is to restore the thing that should not have been removed in
36 the first place and as quickly as possible. He stated that he would not make it a condition to where it has to
37 be done by next time. He would want to see it with a lot of the parameters Mr. Hall talked about. He thinks
38 we have a representative hearing tonight and everyone who is here and did not get to talk before is going to
39 get to talk tonight. Mr. Thorsland stated that some have waited literally months to speak because Mr. Frazier

1 did not attend the last hearing. In deference to those who attended and were not allowed to testify due to his
2 absence, he apologized, but he thought it was only fair for Mr. Frazier to be in attendance when they testify.
3 He stated that as it turned out later it was the correct decision even though it did not seem like the correct
4 decision at the time. He wants to make it as fair as possible for everyone involved.
5

6 Mr. Thorsland called Lloyd Allen from the Witness Register.
7

8 Mr. Lloyd Allen, 4400 West Springfield Avenue, owns the building across the street from 310 Tiffany Court.
9 He stated that he has been involved in this case from day 1, and wanted to thank Mr. Hall for his countless
10 hours towards this case. He stated that he has problems with the drawings; being in construction his whole
11 life, if he had seen drawings without a stamp, there is nothing anyone is going to stand behind without a
12 stamp. They technically did not verify anything; they are not putting their license on the line. If he reads
13 these drawings correctly, what is drawn is not what is there.
14

15 Mr. Hall clarified that he has only drawn what is there, not what should be there. He has not figured out how
16 to make the property accessible.
17

18 Mr. Allen stated that when he looks at the ramps and such, they are not showing an improvement over what
19 is there.
20

21 Mr. Hall stated that these drawings are not in any way to be construed as what Andrew Fell Architecture
22 proposes to be done at this point.
23

24 Mr. Allen stated that under the Illinois Building Code, you couldn't have the blocks in the front as high as
25 they are without a bannister railing going across there so you don't fall off that side. That was never
26 indicated on any of the drawings whatsoever. He stated that he is also confused by the drawing received
27 tonight, drawing A1, about parking in front of the building.
28

29 Mr. Hall clarified that the drawing in question shows the existing condition, and that is still going on and has
30 not been changed to date. He stated that drawing A2 is the proposed, and even though Mr. Fell has drawn it
31 that way, he has provided the dimensions there for the traffic aisle and the parking space. The parking spaces
32 do not meet our standard and there is no way the 8 feet 6 inch wide traffic aisle shown would be acceptable.
33 He stated that to be fair, the Zoning Ordinance does not specify the minimum width of traffic aisles, but he
34 recommends that the Board not accept the traffic aisle as proposed at 8 feet 6 inches wide.
35

36 Mr. Allen referred to the fire trucks discussion, and commented that not only do the fire trucks not have
37 access to Mr. Frazier's property; his customers cannot access his property. He stated that he saw someone try
38 to get in there about 3 weeks ago and they could not get in, back in, to unload without driving on the
39 property to the south. He stated that just as Mr. Frazier's buses cannot get out of the property without driving

1 on the property to the south, his own tenant does not have enough access on the south side to get to the space
2 he uses. Mr. Allen stated that he is happy to see a lot of non-truths coming out about enough parking spaces
3 compared to the parking and that kind of thing. He stated what is disappointing is that the Board had to ask
4 for an architect to see what some of this actually was and couldn't get done. You have drawings, but not
5 what you truly asked for. He stated there were questions about the restrooms, but that information has not
6 been provided. He stated that is one of the reasons for having an architect. You do not have that information
7 or whether it complies with the Illinois Plumbing Code. He said that you can see out in the parking areas,
8 and he doesn't know if EPA shouldn't get involved with the storage tanks in the back corner of the property.
9

10 Mr. Hall stated that they did refer that to the EPA. When there is something like that on a property before the
11 Zoning Board, they are not going to ignore that.
12

13 Mr. Allen again stated that he has been involved in this from day one, and still does not think this should be
14 allowed. You have someone who repeatedly adds on, builds on, without checking to see if it is even legal. As
15 far as the buses, he thinks almost a year ago, Mr. Frazier said the buses would be gone in a week. The buses
16 are still there; in a week or two, he will let the Board know if they are still there.
17

18 Mr. Thorsland called Mr. Steve Koester from the Witness Register.
19

20 Mr. Steve Koester stated that he owns the property located at 305 and 314 Tiffany Court, Champaign. He
21 said that he is not going to rehash everything and he appreciates all of the pain that the Board has suffered
22 through this process. He said that he is not feeling 100% tonight so he plans to keep his testimony short. He
23 said that there have been no changes or improvements to the subject property and the frustration level is
24 getting to its peak as Mr. Koester is still dealing with Mr. Frazier's tenants parking on Mr. Koester's
25 property. He said that Mr. Frazier's tenants are dumping their garbage in Mr. Koester's dumpsters. He said
26 that if you have ever heard of having a bad neighbor, well he has one. Mr. Koester stated that he is going to
27 install a fence down the property line and hopefully the buses will be relocated before the fence is
28 constructed. He said that he does realize that there will probably be damage and run over and that type of
29 thing but he is willing to put with that so that the buses are out of there.
30

31 Mr. Koester stated that at one time he had tried to work with Mr. Frazier and allowed Mr. Frazier additional
32 space while he was pouring concrete on his property. Mr. Koester stated that if Mr. Frazier was willing to
33 pave the other side then Mr. Frazier could have access onto his property because a truck could not be turned
34 around without encroaching onto Mr. Koester's property. Mr. Koester stated that Mr. Frazier agreed to pave
35 the other side but never actually did it which is another issue which has never been resolved.
36

37 Mr. Thorsland asked Mr. Koester if he is indicating that the paving was never done.
38

39 Mr. Koester stated yes, the same way that the buses never got moved. He said that this time one year ago

1 Mr. Frazier indicated that two buses would be gone but they are still there. Mr. Koester stated that it would
2 have been easier for him to stay home tonight but the Board had to show up and everyone else showed up so
3 it is obvious that everyone wants this resolved. He said that it appears that we are working in the right
4 direction because Mr. Frazier is going to have to make the structure meet the County's requirements.

5
6 Mr. Thorsland asked the Board if there were any questions for Mr. Koester.

7
8 Mr. Randol asked Mr. Koester if the vehicles parked to the south of Mr. Frazier's building are employee
9 vehicles for Mr. Koester's business or are they vehicles which belong to Mr. Frazier's tenants.

10
11 Mr. Koester stated that the original photos indicate vehicles which belong to Mr. Frazier's tenants.

12
13 Mr. Thorsland noted that Mr. Randol is referring to the March 8, 2016, photographs.

14
15 Mr. Koester stated that the vehicles that are located in the center of the lot appear to be his employee's
16 vehicles although he does not know every employee's individual vehicle. He said that typically Mr.
17 Frazier's employees and tenants will pull beside the paved area and park out in the street on Mr. Koester's
18 property along the north side of his lot.

19
20 Mr. Hall stated that on the south side of the western portion of Mr. Frazier's buildings there is a new
21 walkway that has been added and there are three or four steps with pretty steep sloping concrete. He asked
22 Mr. Koester if the new walkway and the sloping concrete steps create an obstruction for garbage trucks and
23 people coming to unload at the Frazier property.

24
25 Mr. Koester stated that he watched Mr. Frazier construct those items and aesthetically it does make the
26 building look better because it was very plain. He said that he cannot testify about seeing any garbage trucks
27 or anything go down that side but he does know that the vehicles are challenged by the driveway on the
28 south side of the property because it is always blocked therefore they encroach over onto Mr. Koester's lot.
29 He said that until he sat through some of the hearings he did not realize how far Mr. Frazier was in violating
30 the setback requirements.

31
32 Mr. Hall stated that he is discussing the south side.

33
34 Mr. Koester apologized as he was discussing the west side.

35
36 Mr. Hall stated that he does agree that the new construction does improve the aesthetics of the building but
37 he does not understand why there are steps which go beyond the veranda. He said that normally in a special
38 use permit with a public use building, the Board will assure that there are fire lanes, as much as possible;
39 therefore, he is wondering if those steps should be removed so that there is an adequate fire lane there. He

- 1 said that he understands that a fire truck can drive over and through almost anything if it needs to.
2
- 3 Mr. Koester stated that he has seen a lot of people go south of the paved area onto his lot to get to the rear
4 portion of Mr. Frazier's property because Mr. Frazier's tenants are always parked in the middle of the road.
5 He said that he cannot testify about any garbage trucks but there are dumpsters that sit at the rear of the lot
6 on the east side.
7
- 8 Mr. Thorsland asked the Board if there were any additional questions for Mr. Koester and there were none.
9
- 10 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Koester and there was no one.
11
- 12 Mr. Thorsland called Caleb Burton to testify.
13
- 14 Mr. Caleb Burton stated that his business address is 305 Tiffany Court, Champaign. He stated that he is
15 concerned with the parking issue. He said that anytime a vehicle is parked on the south side of the building
16 no one can get in or out of the property. He said that if you review photos #9080170 and 9080171 you can
17 see that the arborist's truck and equipment are located on Mr. Burton's property. He said when a truck and
18 trailer are parked along the staircase, which only has a separation of 15 feet to the property line, there is little
19 room to travel without crossing over to Mr. Burton's property. He said that they are installing a fence along
20 the south property to keep Mr. Frazier's tenants and employees from crossing over onto Mr. Burton's
21 property.
22
- 23 Mr. Burton stated that he has a dumpster located at the rear of his property and it is not unusual for Mr.
24 Frazier's tenants to use that dumpster.
25
- 26 Mr. Burton stated that if he installs a fence along his property and there was a fire on the Frazier property the
27 fire truck would either have to sit on his property and spray over the fence or they would need to drag
28 vehicles out of the way to access the Frazier property.
29
- 30 Mr. Burton stated that regarding Mr. Frazier's proposed parking on the south side, Mr. Frazier only has 15
31 feet to the property line so there is no way for traffic to get in and out.
32
- 33 Mr. Thorsland asked Mr. Burton if he is sure that Mr. Frazier only has 15 feet from the edge of the building
34 to the property line and if so does that measurement include the slope.
35
- 36 Mr. Burton stated that it measures 20 feet from the edge of the building.
37
- 38 Mr. Thorsland stated that the five foot of slope takes out useable space. He said that there is a suggested
39 dimension drawing, submitted on March 07, 2016, indicating the idea of what they want to do.

1

2 Mr. Burton stated that page A1 of the drawing indicates 20 feet to the edge of the property.

3

4 Mr. Thorsland stated that they will still have the concrete handicap access.

5

6 Mr. Burton stated that there is proposed parking on the north side of the property measures 18 feet from the
7 edge of the building to the property line but to the best of his knowledge the regulated parking space is 20
8 feet. He said that the property which Mr. Frazier is purchasing is on the north side of Mr. Frazier's building
9 and there is another access lane which leads back to two or three other buildings. He said that this property
10 is further to the north and any vehicles that Mr. Frazier has sticking out into the access lane will make it
11 difficult for people to access the new property. He said that the along the west side of the building there is
12 only 32 feet from the mini-storage building to the property line. He said that page A1 indicates parking
13 spaces and assuming that the only way that someone could travel to get out of the parking spaces is south he
14 does not know how anyone could back out of the other parking spaces in a 12 foot area when parking spaces
15 1, 2 and 3 are full. He said that the Board should keep in mind that the property line is impassable due to the
16 grade on the adjacent property and there is no way it can be accessed. He said that the proposed parking is
17 insufficient.

18

19 Mr. Thorsland stated that the issue is not just with parking but also access to the parking spaces.

20

21 Mr. Burton stated that there is not a single side of the building that is going to offer a passing lane so in the
22 event of an emergency, there is no access for emergency vehicles. Mr. Burton stated that the Board is doing
23 their due diligence with this project but he feels like every time he attends a public hearing everyone is
24 beating a dead horse. He said that this project is just ongoing and ongoing and every time he shows up to a
25 hearing the blatant insubordination on Mr. Frazier's part is accepted and the Board continues to allow him to
26 operate. He said that until a decision is made Mr. Frazier is allowed to continue to operate as he has for over
27 time.

28

29 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Burton and there were none.

30

31 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Burton and there was no one.

32

33 Mr. Thorsland called Mr. Keith Padgett to testify.

34

35 Mr. Keith Padgett, Champaign Township Highway Commissioner, stated that his jurisdiction only goes from
36 sidewalk to sidewalk but part of that area is gone without permission, a permit, or a request. He said that
37 when the curb is replaced he would like to know about it. He said that his engineering comes from
38 Champaign County and everything has to be built to the specifications that the Champaign County engineer
39 requires, which is also what the state requires.

- 1
2 Mr. Thorsland asked Mr. Padgett if he knows when the curb was actually removed.
3
4 Mr. Padgett stated no.
5
6 Mr. Thorsland asked Mr. Padgett if there has been any conversation regarding the replacement of the curb.
7
8 Mr. Padgett stated no.
9
10 Mr. Thorsland stated that as one member of the Board he would like the conversation regarding replacement
11 of the curb start to happen as soon as possible because it would be one positive thing that would happen
12 regardless of what happens with the rest of it. He said that it will be one item that will be corrected as
13 removing the curb was incorrect and it is his opinion that it should have never been taken out in the first
14 place.
15
16 Mr. Padgett stated that in a world of what ifs, what if a car travels down that street and rams into something
17 else. He said that the township could be at fault because the curb is gone.
18
19 Mr. Thorsland stated that the he would like the Board's input on this issue.
20
21 Ms. Lee stated that she feels similar to Mr. Padgett. She said that this case has gone on so long and now is
22 the time to replace the curb before snow starts falling again. She said that as she stated at a previous hearing,
23 destruction of public property is a crime therefore the curb needs to be replaced correctly and as soon as
24 possible.
25
26 Mr. Thorsland asked Mr. Padgett if there was also a sidewalk which was removed.
27
28 Mr. Padgett stated that as far as he knows the sidewalk is still there but he does not know what condition it is
29 in. He said that normally Champaign County, along with Champaign Township, requires that the apron be
30 poured 6 inches thick along with the sidewalk because of the heavy loads that travel the street. He said that
31 the 6 inch thick requirement is due to this area being commercial property. He said that if this was a
32 residential area the apron and the sidewalk is normally only 4 inches thick but if it has to be replaced it will
33 also be made 6 inches thick to accommodate heavy loads as well.
34
35 Mr. Thorsland asked Mr. Padgett if the original sidewalk and apron was 6 inches thick.
36
37 Mr. Padgett stated that in a commercial area it should have been 6 inches.
38
39 Mr. Thorsland asked Mr. Padgett if the sidewalk and apron was installed by the township.

1
2 Mr. Padgett stated that it is still township property.
3
4 Mr. Hall stated that Stahly Subdivision was a subdivision with the City of Champaign and staff has a copy of
5 the engineering drawings but he does not recall the sidewalk thickness but he can double check it. He said
6 that he is glad that the Board is urging reconstruction but no one should lose site of the fact that the goal is to
7 make this property work better so that there are fewer impacts on neighbors and he too would like to see the
8 curb replaced. He said that he would like to see a plan that provides for a good traffic situation and at this
9 point the architect has not developed that yet.
10
11 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Padgett and there were none.
12
13 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Padgett and there was no one.
14
15 Mr. Randol stated that he would like to see a drawing from the architect indicating how the curb will be
16 reconstructed so that it is in black and white rather than a verbal indication of what it will be.
17
18 Mr. Thorsland stated that Mr. Padgett indicated in his testimony what the current specifications are for the
19 replacement sidewalk and curb.
20
21 Mr. Randol stated that if it was indicated on the plans the Board would know that it will be reconstructed
22 correctly using the required specifications.
23
24 Mr. Thorsland called Robert Frazier to the witness microphone.
25
26 Mr. Thorsland asked Mr. Frazier to indicate when he removed the curb.
27
28 Mr. Frazier stated that he would guess that it has been over one year since he took out the curb.
29
30 Mr. Thorsland asked Mr. Frazier if he took out the curb himself or did he hire someone to do it.
31
32 Mr. Frazier stated that he hired someone to take out the curb.
33
34 Mr. Thorsland asked Mr. Frazier if he had a record of that service that could be entered as evidence.
35
36 Mr. Frazier stated he can check.
37
38 Mr. Thorsland asked Mr. Frazier if he checked with the township when he had the curb removed.
39

- 1 Mr. Frazier stated no, because he did not realize that he had to but he understands that it is a poor excuse for
2 breaking the law.
3
- 4 Mr. Thorsland stated that the Board will require that the curb be replaced meeting today's requirements. He
5 said that it would be a good idea for Mr. Frazier to work with his architect to figure out how to replace the
6 curb properly. He said that there are probably 30 or 40 things which need to be finalized and suggested that
7 Mr. Frazier and his architect work with staff in getting things squared away. He said the Board cannot rule
8 on this case with the information that is before them today. He said that the Board has the architect's new
9 drawings.
10
- 11 Mr. Frazier stated that Mr. Fell worked off an original plan that the original architect prepared for the ZBA
12 to approve sixteen years ago.
13
- 14 Mr. Thorsland stated that what was originally thought to be one building is actually two and the second story
15 was never mentioned.
16
- 17 Mr. Frazier stated that the second story was constructed over sixteen years ago. He said that he moved the
18 mini-warehouses from a different location over sixteen years ago and he built the second story at that time.
19
- 20 Mr. Thorsland asked Mr. Frazier if he obtained an approved permit for the second story.
21
- 22 Mr. Frazier stated that he did have a building permit allowing the placement of the buildings.
23
- 24 Mr. Hall stated that he would be happy to submit a copy of the permit file which includes an explicit
25 statement from Mr. Frazier indicating that there would be no second story constructed.
26
- 27 Mr. Frazier stated that he does not remember explicitly stating that but he is glad that Mr. Hall was there to
28 note that.
29
- 30 Mr. Hall stated that he has Mr. Frazier's initials on the statement.
31
- 32 Mr. Frazier stated that even though not everyone agrees with what is on his property, what is there is there.
33 He said that it seems to him that this is going to be an ongoing process therefore we need to really roll up our
34 sleeves and get to work on solving one problem at a time.
35
- 36 Mr. Hall stated that Mr. Frazier is the one who needs to solve these problems.
37
- 38 Mr. Frazier agreed.
39

- 1 Mr. Hall stated that it sounds like Mr. Frazier is attempting to turn the issues around 180 degrees.
2
- 3 Mr. Frazier stated that it sounds like he must first obtain an engineering drawing that must be approved for
4 the replacement of the curb. He said that once the drawing is approved then he should go ahead and replace
5 the curb but he cannot replace it without the Board's approval of the engineering drawing. He asked Mr.
6 Hall if this process would be a nice first step.
7
- 8 Mr. Thorsland stated that this is like the many layers of an onion. He said that the Board needs to know
9 what is in the tanks and what is Mr. Frazier going to do about them. He said that regarding the curb, Mr.
10 Fell should begin the process of creating engineered plans for reconstructing the curb and then fold in the
11 other issues that need corrected. He said that yes, the buildings are on the property but there is inadequate
12 parking area on the property to accommodate everything that Mr. Frazier is doing on the property. He said
13 that to put it simply Mr. Frazier does not have enough room to do what Mr. Frazier is doing on the property.
14 Mr. Thorsland stated that he does admire Mr. Frazier's efficient use of space in trying to maximize what he
15 is doing but when the fence goes up between S&K Fence and Mr. Frazier's property and someone lights a
16 dumpster on fire Mr. Frazier will be paying for a new fence for S&K because no one can access the dumpster
17 to put out the fire. Mr. Thorsland stated that he does not know how to describe Mr. Frazier's self-storage
18 business. Mr. Thorsland stated that the Board has seen a lot of self-storage operations recently and the Board
19 is aware of what the accessways look like and the Board is semi-particular about the operations and how they
20 are accessed by the public and emergency vehicles and currently he does not know how anyone can access
21 the storage units without crossing over onto the property owned by S&K Fence. Mr. Thorsland stated that it
22 is nice to say that an engineered drawing is going to be constructed to put back the curb but in two months
23 when Mr. Fell is trying to include enough parking for the uses on the property it is discovered that the curb is
24 in the way and must be removed with the correct approvals. He said that it is not the curb which just needs
25 to be addressed and Mr. Frazier needs to really look at his property and decide how many uses he can
26 realistically operate on the property with the required amount of parking spaces and with the appropriate
27 approvals. He said that the buses that were out by the railroad tracks a year ago are now back in the garage.
28 He said that if S&K Fence installs their fence, the buses are not going to be able to be removed from the
29 garage.
30
- 31 Mr. Frazier stated that he is not in the bus business and he really wishes that the Board would get off the
32 topic of the buses because he doesn't have anything to do with buses anymore.
33
- 34 Mr. Thorsland stated that the buses are where the arborist vehicles are supposed to park.
35
- 36 Mr. Frazier stated that he thought that the Board told him that it was okay for the buses to be parked inside
37 the garage but if they need moved then he will move them.
38
- 39 Mr. Thorsland stated that it is hard to know what is going on at the property because things are being moved

1 around all of the time and the only thing that is not moving around is progress.

2
3 Mr. Frazier stated that he has new drawings for a new parking space to the north and he has produced a
4 contract for sale and he has produced an architect to draw everything and he has spent a substantial amount
5 of money to get to this point.

6
7 Mr. Thorsland stated that he wants a picture of the new and old lot together and how he proposes how the
8 traffic will flow up to the existing buildings to have access to that lot. He said that the Board has testimony
9 that people are back there.

10
11 Mr. Frazier stated that his engineer prepared the drawings with an access and that access was approved by
12 the City of Champaign.

13
14 Mr. Thorsland stated that Mr. Fell can put those two drawings together on one drawing.

15
16 Mr. Frazier stated that an engineering firm completed the plat and the design.

17
18 Mr. Passalacqua stated that the City of Champaign had a conditional approval if everything else was brought
19 into compliance. He said that the City of Champaign would not approve anything that Mr. Frazier is
20 proposing unless he had compliance with the Champaign County Zoning Board of Appeals.

21
22 Mr. Frazier stated that when he purchased the property he submitted a request to the City of Champaign to
23 annex his property away from the County. He said that the City of Champaign indicated that they want to
24 make sure he receives approval from the County and at that point they will annex him into the City of
25 Champaign.

26
27 Mr. Passalacqua stated that as far as annexation with the City of Champaign, they will not approve the
28 annexation request until Mr. Frazier receives the County's approval.

29
30 Mr. Frazier stated yes but as far as his building and the parking lot he can move forward. He asked why
31 should he move forward when Mr. Hall has made it very clear that the property needs to be extended. He
32 said that he would like to know exactly what he is supposed to do to satisfy this Board.

33
34 Mr. Passalacqua stated that the September 10, 2015, minutes indicate a discussion between himself and Mr.
35 Frazier regarding Mr. Passalacqua's guess that Mr. Frazier would lose rentable square footage of at least
36 3,000 square feet and his opinion at that time was that everything was at a halt unless Mr. Frazier could
37 afford to lose rentable space and Mr. Frazier responded that he had built the garage for LEX when it was in
38 business and that it was currently vacant. Mr. Frazier said that he has already taken half of the garage down
39 and it is not closed in due to the pending decision that this Board will make. Mr. Frazier said that he is

1 comfortable taking the rest of the building down and going back to the original buildings that was granted
2 over 20 years ago by Champaign County. Mr. Frazier said that if we are talking about a simple wooden
3 structure with some metal on the roof then he is willing to remove it.
4

5 Mr. Passalacqua stated that at the September 10th meeting the Board extensively discussed the removal of the
6 curb, encroachment onto other properties, etc. and the general frustration is that there are some beginnings of
7 some drawings which indicate no progress. He said that Mr. Frazier stated that he is working in good faith
8 by demonstrating his willingness to lose the square footage and taking care of some of the other concerns yet
9 nothing has happened to date. Mr. Passalacqua stated that Mr. Frazier has mentioned that staff and the
10 Board need to roll up their sleeves and address this but the neighbors have put a lot of effort into their
11 concerns, this Board has put a lot of effort in discussing what it will take to make the use happen. Mr.
12 Passalacqua said that Mr. Frazier has hired an architect to prepare the drawings which are not feasible at this
13 point and personally he does not see any good faith effort by Mr. Frazier in moving forward. He asked Mr.
14 Frazier if he is just buying time or is he truly in good faith attempting to make this work. Mr. Passalacqua
15 stated that there is a lot of money that needs to be spent to even get close to what needs to be done. He asked
16 Mr. Frazier if he is only going to do one thing and meet in a year and then find that he needs time to do the
17 next step or is he going to roll up his sleeves and move forward.
18

19 Mr. Frazier stated that he would like to roll up his sleeves and move forward if the Board would just give
20 him a clear path as to what it wants.
21

22 Mr. Thorsland stated that Mr. Frazier has made an aesthetic improvement to the building and it looks good
23 but there is only 15 feet behind the building. He said that if Mr. Frazier had that building and a couple of
24 others and the whole back lot was parking then it would be an easy thing to say that the Board would
25 approve a variance on the little slope and perhaps five feet could be purchased from S&K Fence. He said
26 that the County requires that a cornfield is 20 feet wide so that a fire truck can access it but Mr. Frazier only
27 has 15 feet currently and less than that when S&K's fence is constructed. He said that Mr. Frazier needs to
28 determine how to have proper access and Mr. Passalacqua is correct in that Mr. Frazier is going to have to
29 remove something to have adequate parking.
30

31 Mr. Frazier asked Mr. Hall to indicate the required amount of parking spaces for his property.
32

33 Mr. Hall stated that the information was included in the March 22, 2016, Supplemental Memorandum and
34 Mr. Frazier should carefully read that memorandum but Mr. Frazier is required to have a total of 81 parking
35 spaces.
36

37 Mr. Thorsland stated that the required 81 parking spaces is based on the amount of square footage on the
38 property and much of that property is not accessible and really should not be there. He said that if Mr.
39 Frazier removed second story stuff, which he does not understand how Mr. Fell will be able to make

1 accessible, that would reduce the amount of parking.

2
3 Mr. Hall stated that if Mr. Frazier needs the second story stuff then he should keep it but the second story is
4 the reason why there is additional parking required. He said that the second story is not accessible and it
5 needs to be accessible.

6
7 Mr. Frazier stated that he totally understands that the second story is not accessible by wheelchair and he also
8 understands that second and third story buildings in Champaign and Urbana do not have elevators to the
9 second and third floors because handicaps go to the first floor.

10
11 Mr. Hall stated that those buildings were not constructed within the last twelve years.

12
13 Mr. Frazier stated that all three story buildings that are constructed currently do not all have elevators to
14 those floors because there is an exemption.

15
16 Mr. Hall stated that he does not know what Mr. Frazier is talking about.

17
18 Mr. Thorsland stated that this requirement is part of the Illinois Accessibility Code which is one of Mr.
19 Frazier's first steps. He said that the Board can't do anything until Mr. Frazier addresses the accessibility
20 and the Board has no power to waive any of that stuff.

21
22 Mr. Frazier asked why he needs 81 parking spaces if he cannot get the approval. He said that he just sent out
23 the letter to the state and if they come back and indicate that we can figure out a way to be exempt then he
24 can have the second floor.

25
26 Ms. Griest stated that she has sat through the meeting quietly and now she is going to weigh in on this
27 discussion. She said that she applauds Mr. Frazier for finally after one year in submitting a drawing of what
28 he actually has on the site. She said that it is so disconcerting that it has taken one year for us to get to this
29 point and she can not only see Mr. Frazier's frustration but she can also feel his frustration. She said that
30 only now has Mr. Frazier given the Board the basic information to really get started on the project as far as
31 what he needs and where we go from here. She said that there is nothing in this architectural drawing which
32 shows his as-built final product because he has no accessibility approval, no indication of accessible parking
33 that will be approved, no proposal regarding removal or maintaining any unauthorized buildings, no
34 indication of eliminating the second floor or maintaining it, clean-up of the hazardous materials in the back
35 of the property. She said that from repeated testimony Mr. Frazier has not worked with the township road
36 commissioner and before she can give Mr. Frazier any kind of approval she must have a road agreement in
37 hand which indicates that he has gone out and positively and constructively addressed those issues and has a
38 complete plan as to what he has to do. She said that frankly, in her opinion, if Mr. Frazier's buildings caught
39 on fire the fire personnel will stand on the street and watch it burn because they have no access and they will

- 1 not risk their lives and equipment to come and put out a fire somewhere where they have no chance of
2 success. She said that Mr. Frazier needs to submit a complete plan to the Board and not little pieces. She
3 said that the Board will not overlook anything and Mr. Frazier has to address all issues and not just bits and
4 pieces. She said that she would like to have a list, A., B. C., etc. of what operations are being conducted on
5 the property.
6
- 7 Ms. Lee asked Mr. Frazier to indicate what is in the tanks.
8
- 9 Mr. Frazier stated that vegetable oil is stored in the tanks.
10
- 11 Mr. Thorsland asked Mr. Frazier if he had a bio-diesel process in mind.
12
- 13 Mr. Frazier stated that it has nothing to do with bio-diesel. He said that the tanks have basic vegetable oil in
14 them.
15
- 16 Mr. Thorsland asked Mr. Frazier if the tanks are full.
17
- 18 Mr. Frazier stated that only one or two of the tanks are full and they are syphoned out by a company who
19 comes out and picks it up.
20
- 21 Mr. Thorsland asked Mr. Frazier if the oil is part of a tenant's work or is the collection Mr. Frazier's.
22
- 23 Mr. Frazier stated that it is something that he does and it is not part of a tenant's work.
24
- 25 Ms. Lee stated that at a previous meeting Mr. Frazier indicated that the tanks were in a building. She said
26 that in reviewing the pictures the tanks are not inside of a building.
27
- 28 Mr. Frazier stated that he may have misconstrued the location of the tanks but they have never been located
29 inside of a building. He said that the tanks can be stored inside of a building if the Board requires it.
30
- 31 Mr. DiNovo asked Mr. Hall if he knows what the vegetable oil is used for.
32
- 33 Mr. Hall stated that he assumes it is for recycling.
34
- 35 Mr. Thorsland stated that he does not want to go into a tangent about what vegetable oil can be used for.
36
- 37 Mr. DiNovo stated that one of the things that is not clear but needs to be clear is a list of all of the actual uses
38 that are being conducted on this property.
39

1 Mr. Thorsland stated that the Board needs to know what is going on. He said that Mr. Frazier rents space for
2 tenants, storage and businesses and he needs to provide them something reasonably adequate for their
3 customers or he will lose his lease.
4

5 Mr. DiNovo stated that he is thinking that there may be uses conducted on the property that are not permitted
6 in the zoning district. He said that the Board cannot give Mr. Frazier any administrative relief to do
7 something that is not permitted in the zoning district. He said that Mr. Frazier may be de-occupying part of
8 the building simply because he does not have any legal right to be doing those things on the property at all.
9

10 Mr. Frazier asked Mr. DiNovo what he is doing other than renting space for storage.
11

12 Mr. DiNovo asked Mr. Frazier to indicate what he is doing with the vegetable oil.
13

14 Mr. Frazier stated that he collects the vegetable oil and he sells it, is that a problem.
15

16 Mr. Thorsland stated that the Board is going to find out if it is a problem.
17

18 Mr. Frazier stated that it is not a problem with the Illinois Environmental Protection Agency.
19

20 Mr. Thorsland stated that if it is a business that is allowed in the zoning district then it is up to Mr. Frazier to
21 make it look better at its current location. He said that he is not clear as to where the tanks are located.
22

23 Mr. Frazier stated that the tanks are located in the very far back of the property.
24

25 Mr. Thorsland stated that Mr. DiNovo brought up a very good point in that if it is a use that is not allowed
26 then either the zoning needs to be changed, the use needs to cease or perhaps a variance would be in order.
27

28 Ms. Lee stated that at a previous meeting Mr. Frazier stated that he only had a few uses on the property but
29 during additional testimony it came out that there were more uses than what Mr. Frazier had originally
30 indicated. She asked Mr. Hall that originally it was thought that there was only one building but now there
31 are two buildings, are two buildings allowed.
32

33 Mr. Hall stated that originally it was required to be one building and it was all connected but that connection
34 has been removed. He said that now there is a building that is also storage and a larger building that is
35 primarily self-storage and he believes that this is completely fine with the Ordinance. He said that normally,
36 in the Champaign County Zoning Ordinance, we don't think of the I-1 District as a district where office
37 space can be rented but there is a provision in the Ordinance that allows a certain amount of office space and
38 this use has not exceeded that. He said that he has talked to Mr. Frazier very extensively about what his
39 tenants at the time were and they were all acceptable in terms of the Ordinance but now that has changed and

1 a condition has been proposed discussing that anytime there is a change in tenant it has to be approved with a
2 Change of Use Permit to ensure that the proposed use is an allowed use in the zoning district. He said that
3 the Board has this under control as long as there is compliance.
4

5 Mr. Frazier stated that he is concerned about the comment regarding the fire truck access. He said that 15 or
6 16 years ago these buildings were built and they have not been moved. He said that he will be moving the
7 staircase to the middle building to the inside therefore the distance from the building to the property line has
8 not changed for 16 years.
9

10 Mr. Hall stated that Mr. Frazier is correct and there is not a standard in the Ordinance that keeps someone
11 from building a building that can't be burned down because they leave that up to the owner.
12

13 Mr. Frazier stated that such an instance is why property owners have insurance. He said that he does not
14 understand why he has to change something that was approved 16 years ago.
15

16 Mr. Hall stated that this Board has to make a finding regarding public safety for this case and they will be
17 challenged in making a positive decision on public safety when half of the building cannot be accessed in the
18 event of a fire. He said he will advise them that this is a nonconforming situation. He said that if the Board
19 finds it necessary they can require that part of the building be removed but he is going to contact the fire
20 protection district before the next hearing and will provide the Board with some sort of reassurance from the
21 fire protection district. He said that he would imagine that all along the south side of this property will be
22 marked "Fire Lane –No Parking" and it will have to be as open as possible and the slope will have to be
23 removed so that it is level so that a fire truck can travel on the lane. He said that Mr. Frazier can contact the
24 fire protection district himself.
25

26 Mr. Frazier stated that the current Board wants to change what the County approved over 16 years ago.
27

28 Mr. Hall stated that what was approved over 16 years ago was by-right over the counter which is a
29 completely different situation than what is before us today. He said that today everything is up for grabs
30 because Mr. Frazier is asking the Board for a variance and when you ask the Board for a variance anything
31 related to that variance has to be sorted out and found to be acceptable and it is a completely different
32 standard than 16 years ago and hopefully this time the approval, if received, will be conforming.
33

34 Mr. Frazier asked if in 16 years from now he will have to go through this all over again if he asks for a
35 variance because things change.
36

37 Mr. Thorsland stated that the following things need to be submitted: 1. 2nd floor accessibility; and 2. total
38 site plan indicating the required 81 spaces; and 3. south side access improvements (removal of the stairs); 4.
39 relocation of the dumpster.

1
2 Mr. Frazier stated that he has never discussed the dumpster location with the garbage company but he is sure
3 that their opinion will be that the distance between his property and Mr. Koester's property is unidentifiable
4 and he was not aware that there was a difference in ownership because Mr. Frazier owned the property for
5 years. Mr. Frazier stated that he will have to talk to the garbage man and indicate where the property line is
6 located. He said that he can install parking blocks so that Mr. Koester does not have to install a fence but
7 parking blocks will not stop everybody.
8
9 Mr. DiNovo stated that he is not finding that there is any evidentiary value to any of this conversation. He
10 said that the Board is at a point that there is a clear list of issues and problems that can be generated by the
11 Zoning Administrator that can be forwarded to Mr. Frazier. Mr. DiNovo stated that the issue that the Board
12 should consider is, given the 18 month history of this case, how much more time will the Board ask the
13 neighboring landowners to be patient. He said that justice also requires that the Board consider the concerns
14 of the other landowners and not just the concerns of the petitioner. He said that the Board is not going to be
15 able to resolve all of the issues that Mr. Frazier has to deal with tonight but the Board could try to scope out
16 this mess before the court tries to figure it out.
17
18 Mr. Thorsland stated that the Board has already indicated that Mr. Frazier needs to define what he is doing
19 on the property and then present an architectural drawing of that so that the Board and staff can understand
20 it. He said that after receiving this precise drawing staff can determine how much parking will be required
21 and the architect can indicate that required parking on a revised plan. He said that in the meantime the
22 Capital Development Board needs to review it and either Mr. Frazier needs to either receive a waiver for
23 accessibility for the second floor or it needs to be removed. He said that even the farmer's market has to
24 have a concrete pad in front of it because accessibility is required. He said that the case will be continued
25 but he does not want to continue it to 100 days because there are other people, adjacent neighbors and
26 tenants that will be affected who are also concerned as to whether these issues will be rectified. He informed
27 Mr. Frazier that he needs to work with staff and provide the Board with some positive quick steps in getting
28 this stuff moving forward and rectified.
29
30 Mr. Frazier stated that he could place parking blocks along the south side which would allow cars.
31
32 Mr. DiNovo informed Mr. Frazier that the site plan is not going to be done here tonight.
33
34 Mr. Thorsland stated that a complete site plan needs to be submitted indicating what occurs on every inch of
35 the property so that the Board knows what to tell him to rectify. He said that the Board would not be upset if
36 the buses were gone by the next meeting.
37
38 Mr. Frazier stated that the buses will be gone but the bus business was 15 years of very hard work on his part
39 and it is a very sore spot to talk about.

- 1
2 Mr. Thorsland stated that to be clear, the Board needs to know what is occurring on every inch of the
3 property and Mr. Frazier should discuss the vegetable oil recycling with Mr. Hall to assure that everything is
4 compliant. He said that Mr. Frazier needs to give a tenant count and things need to stop changing so that the
5 Board isn't shooting at a moving target. He said that a decision needs to be received regarding accessibility
6 to the second story. He said that Mr. Frazier needs to bring the Board more than what he has now.
7
- 8 Mr. Passalacqua asked Mr. Frazier to indicate how many businesses he has in the complex.
9
- 10 Mr. Frazier stated that five tenants rent space for simple businesses such as a recording studio, t-shirt
11 producer, photographer and a printer.
12
- 13 Mr. Thorsland asked Mr. Frazier to indicate how many businesses he has.
14
- 15 Mr. Frazier stated that he only has real estate and vegetable oil. He said that he wouldn't call the vegetable
16 oil a business because it is something that he has always done since the LEX days and he has continued to do
17 because it brings in a little money and it isn't hard to do.
18
- 19 Mr. Randol stated that if it brings in a little money it is a business. He asked Mr. Frazier if he has motor oil
20 in any of the tanks.
21
- 22 Mr. Frazier stated no and he has nothing to do with any hazardous waste.
23
- 24 Mr. Thorsland stated that for the last time, the Board needs a clear picture of the entire property and
25 accessibility requirements must be determined.
26
- 27 Mr. Frazier stated that he has already sent a letter to the state but he cannot control how long it takes them to
28 respond.
29
- 30 Mr. Thorsland stated that it is important that Mr. Frazier stay on top of the status of his request regarding the
31 requirements for accessibility on his property.
32
- 33 Mr. Frazier stated that he will start with the parking and satisfy the township regarding the curb. He said that
34 he will have an engineering plan prepared and he will submit it to the township and staff.
35
- 36 Mr. Thorsland stated that it would be a good idea to discuss the curb with the township and perhaps have
37 everyone in the room during that discussion. He said that the curb needs to be replaced.
38
- 39 Mr. DiNovo stated that this case should not come back to this Board until all of the questions are answered.

1 He said that he does not want to talk about solutions anymore but he does want to know exactly what the
2 situation on the ground is and exactly what variances are being requested and how the whole thing is going
3 to be played out. He said that it is not this Board's job to come up with solutions but to decide whether the
4 solutions that the petitioner comes up with are adequate.

5
6 Mr. Frazier asked if he provides 81 parking spaces.

7
8 Mr. DiNovo stated that this Board is not going to get into this with Mr. Frazier tonight. He said that the
9 Zoning Administrator can inform Mr. Frazier what is required and Mr. Frazier can figure what is possible
10 and staff can figure out what variances are needed. Mr. DiNovo stated that he does not want Mr. Frazier to
11 sit here tonight and attempt to work this out with the Board.

12
13 Mr. Thorsland said that Mr. Frazier needs to determine exactly what he is doing and then he can find out
14 exactly what he needs.

15
16 Mr. Frazier stated that if he provides 81 parking spaces he will not need a parking variance.

17
18 Mr. Hall stated that Mr. Frazier needs a variance because he does not have 81 parking spaces until he has a
19 plat approved by the City of Champaign and he will not have a plat approved by the City of Champaign until
20 he gets an approval from this Board thus he needs a variance for parking spaces.

21
22 Mr. DiNovo asked Mr. Hall if the plat is an administrative approval by the City of Champaign or does it
23 have to go through the city council.

24
25 Mr. Hall stated that the City of Champaign will not approve a plat until the property conforms to County
26 zoning. He said that he has discussed with Jeff Marino, Senior Planner for the City of Champaign, that
27 while someone could argue that since there is a condition it doesn't yet comply but Mr. Marino responded
28 that they would understand that the petitioner has gone through the process and there is an interim
29 arrangement and upon final approval it would comply. He said that City of Champaign staff is comfortable
30 with this.

31
32 Mr. DiNovo asked if it is correct that this tract of land is not contiguous.

33
34 Mr. Hall stated that the land that Mr. Frazier is proposing to purchase is already in the City of Champaign.

35
36 Mr. DiNovo stated that the Board has testimony indicating that it is not contiguous.

37
38 Mr. Hall stated that it is contiguous but the testimony was about the no-man's land on the north side of Mr.
39 Frazier's building.

1
2 Mr. Thorsland stated that the testimony was about the easement to allow access to the other buildings
3 through this piece that is contiguous to Mr. Frazier's property. He informed Mr. Frazier that he has made
4 some progress but he needs to continue in that direction.

5
6 Mr. Hall stated that Mr. Frazier's architect needs a little more guidance because he does not know what Mr.
7 Frazier wants him to do and staff cannot tell the architect what to do because Mr. Frazier is paying the bill.
8 He said that if Mr. Frazier, Mr. Hall and Mr. Fell need to arrange a meeting and meet in the same room to
9 discuss this then he is willing to arrange that meeting. He said that Mr. Fell needs more guidance on what he
10 needs to do.

11
12 Mr. Frazier stated that it would be nice if all three of them could get together because he needs more
13 guidance as to what the Board wants. He said that tonight Mr. Hall indicated that the stairs which face the
14 west are not acceptable. He said that the steps have been there for seventeen years.

15
16 Mr. Hall stated that he does not want to hear that the steps have been there for seventeen years because he
17 has a photograph from June 2006 which indicates that there were no steps there.

18
19 Mr. Frazier asked Mr. Hall if he wants him to turn it all back into gravel.

20
21 Mr. Hall stated that Mr. Frazier is the one who is going to propose parallel parking and a traffic aisle and if
22 he is proposing that those things only be eight feet six inches wide then they will not be approved therefore
23 he will need to provide more space. He said that Mr. Frazier can propose some other alternative but to date
24 it has only been discussed as parallel parking and a traffic aisle and that needs to be at least 19 feet wide.

25
26 Mr. Frazier stated that parallel parking is what was originally approved seventeen years ago.

27
28 Mr. Hall stated that seventeen years ago there was 25 feet at that location and there is not 25 feet there today
29 and there is not even 20 feet there today.

30
31 Mr. Frazier stated that the existing wall of that building has not moved.

32
33 Mr. Hall stated that the wall has been moved out.

34
35 Mr. Frazier asked how people walked around the building to begin with.

36
37 Mr. Thorsland stated that the best comment that he has heard so far is that Mr. Hall, Mr. Frazier and Mr. Fell
38 meet to discuss the issues and receive guidance. He asked Mr. Frazier to not come and bother the Board
39 until he has a much better idea as to what he wants to do and what the Board will be giving a variance for.

1 He said that currently there are too many things in question.

2
3 Mr. Passalacqua asked if there is any way that staff can prepare some sort of timeframe for this to come a
4 finale. He said that we are one year into this case with negative progress therefore there must be a realistic
5 expectation for performance.

6
7 Mr. Hall stated that this depends on what the understanding is between Mr. Frazier and Mr. Fell and how
8 many hours they are willing to spend on this project. He said that we have made a lot of progress in
9 understanding what is there and if Mr. Fell receives the guidance that he needs as to what his client wants
10 then significant progress can be made but based on the fact the one office in the State of Illinois that deals
11 with accessibility has to provide Mr. Frazier guidance and Mr. Fell has to structure the plan accordingly. He
12 said that he does not see how this could come back with any significant progress before June 30th.

13
14 Mr. Passalacqua stated that he is just trying to establish a realistic target date.

15
16 Mr. Thorsland stated that staff or the Board cannot make any decisions regarding accessibility.

17
18 Mr. Hall stated that we are finally at a point where Mr. Frazier and the architect could really get something
19 done.

20
21 Mr. Thorsland suggested that the case be continued to June 30th and he apologized to anyone who does not
22 believe that the Board is getting anything done with this case. He said that many times in a case like this it is
23 always helpful when the people in this room deal with each other off line. He said that this Board is pretty
24 good about getting things done and are pretty tolerant in squeezing in things that don't easily fit in the bag
25 but the Board is not tolerant about the lack of information, change in targets and people wanting to just play
26 Perry Mason all night. He said that this is not a dialogue about what a petitioner wants to do as it is the
27 petitioner's responsibility to figure out what they want to do, figure out accessibility requirements, discuss
28 with staff and then come to the Board with something to vary so that he has a viable piece of property.

29
30 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Frazier and there was no one.

31
32 Mr. Thorsland asked the audience if anyone desired to present testimony regarding Case 792-V-14.

33
34 Mr. Lloyd Allen stated that we are still dealing with a lot of mistruths as this has been going on for 21
35 months not 18 months. He said that during one of the first meetings Mr. Frazier gave the comment that his
36 vegetable oil was for bio-diesel and he had a permit for it by the state and the County. He said that the
37 vegetable oil is nothing new other than what his intent is for it now. Mr. Allen stated that Mr. Frazier has
38 indicated that he has been at that location for 16 years and there has never been a problem but he also rented
39 the property to the south which Mr. Koester now owns. Mr. Allen said that it wasn't a problem then because

1 he had his buses parked there and he had plenty of access but today he does not own that property nor does
2 he own it so now there are issues with access for the fire protection district. He said that as someone
3 mentioned before, if the property catches on fire the fire personnel will probably watch it burn because they
4 are not going to endanger their staff or their equipment when they can't access it. He said that he appreciates
5 what the Board has done in trying to get this resolved but during the October meeting when the Board
6 requested the services of an architect and someone asking if a continuance to November would be sufficient
7 time Mr. Frazier stated yes but Mr. Frazier did not make an effort to show up at that November meeting.
8

9 Mr. Thorsland stated that the Board received an explanation regarding Mr. Frazier's absence from the
10 November meeting.
11

12 Mr. Allen stated that no explanation was provided to him. He said that the Board requested a continuance
13 date, Mr. Frazier agreed to that date and he did not attend that meeting. He said that currently the Board has
14 architect drawings but has had to ask for more architect drawings. He asked why the Board did not receive
15 an accurate architectural drawing as asked for in the beginning. He said that he asked for a drawing which
16 indicated what was approved by the state and what could be improved. He asked the Board how long they
17 are going to keep asking for more and not getting it. He said that it is very frustrating.
18

19 Mr. Passalacqua stated that it is very frustrating for the Board as well.
20

21 Mr. Allen stated that he understands and this Board has put up with more than he would ever have because
22 he would not put up with half the crap that is going on.
23

24 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Allen and there were none.
25

26 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Allen and there was no one.
27

28 Mr. Thorsland thanked everyone for attending tonight.
29

30 Mr. Thorsland entertained a motion to continue Case 792-V-14 to the June 30th meeting.
31

32 **Ms. Capel moved, seconded by Mr. Passalacqua to continue Case 792-V-14 to the June 30, 2016,**
33 **meeting. The motion carried by voice vote.**
34

35 **6. New Public Hearings**
36

37 None
38

39 **7. Staff Report**

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None

8. Other Business

A. Review of Docket

Mr. Hall requested that the Board indicate any meeting dates that they will not be in attendance.

Mr. Thorsland stated that he will not be attending the May 26, 2016, meeting.

Mr. DiNovo stated that he will not be attending the May 26, 2016, meeting.

B. Review of Revised 2016 Calendar

Mr. Hall stated that hopefully this is the final calendar. He said that all ZBA meetings will be held on Thursday and will be held in the John Dimit Meeting Room. He said that other uses in the Lyle Shields Meeting Room have been indicated because there may come a time when the ZBA needs a larger space than the John Dimit Room and it is unknown where the meeting will be held if that situation occurs. He said that when staff discussed the ZBA's situation with the RPC staff they were very sympathetic and accommodating.

Ms. Lee asked Mr. Hall if Crop Production Services, which is two miles west of Sidney, has contacted the office for a permit.

Mr. Hall stated no but staff will drive out there to check it out.

Ms. Lee stated that they are doing a lot of grading and it looks like they are getting ready to build.

Mr. Randol asked if Gire Roofing has contacted the office about doing anything on the Champaign/Piatt County line. He said that he has been told that there are huge dumpsters on the property.

Ms. Busboom stated that perhaps the dumpsters are on the Kim Young property.

Mr. Hall asked Ms. Lee if she is talking about the old Pierce Fertilizer property.

Ms. Lee stated yes.

Ms. Busboom stated that the old Pierce Fertilizer Company has an annexation agreement with the Village of

1 Sidney.
2
3 Mr. Hall stated that staff will check out both properties.
4
5 Mr. Passalacqua asked Mr. Hall if Mr. Gire received all of the appropriate permits for the land next to his
6 old location.
7
8 Mr. Hall stated yes and everything was submitted in a timely fashion.
9
10 **9. Audience participation with respect to matters other than cases pending before the Board**
11
12 None
13
14 **10. Adjournment**
15
16 Mr. Thorsland entertained a motion to adjourn the meeting.
17
18 **Ms. Griest moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice vote.**
19
20 The meeting adjourned at 8:35 p.m.
21
22
23
24 Respectfully submitted
25
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29 Secretary of Zoning Board of Appeals
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DRAFT SUBJECT TO APPROVAL DRAFT ZBA //

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