

1 **MINUTES OF REGULAR MEETING**
2
3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**
4 **1776 E. Washington Street**
5 **Urbana, IL 61802**
6

7 **DATE:** April 28, 2016 **PLACE:** John Dimit Meeting Room
8 **TIME:** 7:00 p.m. **1776 East Washington Street**
9 **Urbana, IL 61802**

10 **MEMBERS PRESENT:** Catherine Capel, Frank DiNovo, Debra Griest, Marilyn Lee, Brad
11 Passalacqua, Jim Randol, Eric Thorsland
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14 **MEMBERS ABSENT :** None
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16 **STAFF PRESENT :** Connie Berry, Susan Chavarria, John Hall
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18 **OTHERS PRESENT :** Nick Trotter, Neil Trotter, Barbara Hill, B.J. Hackler, Steven Appl, Jon
19 Hasselbring, Brian Taylor
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21 **1. Call to Order**
22

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24 The meeting was called to order at 7:00 p.m.
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26 **2. Roll Call and Declaration of Quorum**
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28 The roll was called and a quorum declared present.
29

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

34 **3. Correspondence**
35

36 None
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38 **4. Approval of Minutes**
39

40 None
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42 **5. Continued Public Hearing**
43

44 None
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47 **6. New Public Hearings**
48

1 **Case 827-V-16** Petitioner: **Nicholas Trotter** Request: **Authorize the following variances in the R-1**
 2 **Single Family Residence Zoning District: Part A: A detached shed with a side yard of 3 feet in lieu of**
 3 **the minimum required 5 feet for accessory structures; and Part B. A detached shed with a setback of**
 4 **48 feet 6 inches in lieu of the minimum required 55 feet from the centerline of a local street.** Location:
 5 **The north half of Lot 7 of Block 2 of B.R. Hammer’s Addition in the Northwest Quarter of Section 34**
 6 **of East Bend Township and commonly known as the residence at 317 Independence, Dewey.**

7
 8 Mr. Thorsland informed the audience that Case 827-V-16 is an Administrative Case and as such the County
 9 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
 10 show of hands for those who would like to cross examine and each person will be called upon. He requested
 11 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
 12 that those who desire to cross examine are not required to sign the witness register but are requested to
 13 clearly state their name before asking any questions. He noted that no new testimony is to be given during
 14 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
 15 exempt from cross examination.

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

21
 22 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding the request.

23
 24 Mr. Nick Trotter, who resides at 317 Independence, Dewey, stated that he is petitioning for the variance
 25 because his lot is very small and he does not have a very large garage. He said that the size of shed that he
 26 would like to place on his property is basically a two-car garage and in order to maintain a decent size back
 27 yard he is pushing the garage forward towards the front of his property. He said that he wanted to have more
 28 distance between the house and the shed than three feet so he has moved it closer to the side of his property
 29 thus giving him five feet between the house and garage.

30
 31 Mr. Thorsland called John Hall, Zoning Administrator to testify.

32
 33 Mr. John Hall, Zoning Administrator, stated that the lot was approved for a separate use in April 2013. He
 34 said that because the variance was so great there was a requirement that a Miscellaneous Document be filed
 35 with the Recorder of Deeds making any new purchaser aware that this is a very small lot which may cause
 36 some issues in the future. He said that staff believes the Board should have Mr. Trotter verify what he would
 37 have to do should he have to replace his current septic system so that he knows what road he is going down
 38 if the variance is approved. Mr. Hall stated that the septic rules have changed since the hearing in 2013 and

- 1 currently you can no longer get a permit for a surface discharge septic system which is a really big deal for
2 this lot, but that is just staff recommendation.
3
- 4 Mr. Thorsland asked the Board if there were any questions for Mr. Trotter or Mr. Hall.
5
- 6 Mr. Thorsland stated that in 2013 there was a proposal for a unit to replace the existing system. He said that
7 in 2013 the two houses shared one system.
8
- 9 Mr. Trotter stated that the old system is not located on his property.
10
- 11 Mr. Thorsland asked staff if Mr. Trotter has enough room on his property to install a system. He said that
12 the Health Department completely changed the nature of receiving a permit for a wastewater system. He
13 suggested that Mr. Trotter contact the Champaign County Public Health Department to review if a new
14 wastewater system could be installed on his property. He requested that Mr. Trotter submit a written
15 statement from the CCPHD to staff. He asked Mr. Trotter if he had a good idea where the septic system is
16 located for his house.
17
- 18 Mr. Trotter stated yes.
19
- 20 Mr. Passalacqua asked Mr. Trotter if the site plan from the previous cases is correct in its depiction of the
21 location of the septic system and tanks.
22
- 23 Mr. Trotter stated that when he purchased the property he was told that a large rock in the yard was where
24 the existing septic tank was located.
25
- 26 Mr. Thorsland stated that perhaps when the CCPHD personnel visits the property they could properly locate
27 the existing system and tanks.
28
- 29 Mr. Passalacqua asked staff what would happen if Mr. Trotter's system, which is located on the adjacent
30 property, fails and needs to be replaced. He asked staff if a new system could be replaced back on to the
31 adjacent property.
32
- 33 Mr. Hall stated no.
34
- 35 Mr. Thorsland stated that the CCPHD's determination would confirm that there is not as much space on the
36 lot as believed.
37
- 38 Mr. Trotter stated that when he purchased the property he had the system inspected and it passed.

1
2 Ms. Capel asked Mr. Trotter when he purchased the property.
3
4 Mr. Trotter stated that he purchased the property in 2014.
5
6 Mr. Thorsland stated that item 7.B of the Summary of Evidence indicates evidence from Cases 736-V-12
7 and 737-V-12 as follows: the size of the tank is 1,000 gallons and is located 25 feet from the house on the
8 south side of the house; the type of drainage is field tile; the home was vacant in 2013; the tee/baffle and
9 outlet tee/baffle are acceptable; no water was observed flowing back into the tank from the lateral field; the
10 system function was acceptable; the tank was pumped; one septic tank previously served both homes,
11 however, each home is now served by separate tanks; the tank that serves the home at 318 Railroad Street
12 was pumped a month ago; and” both tanks appear to be working but there is no guarantee on system life.”
13 Mr. Thorsland asked Mr. Hall if this information was provided for the seller.
14
15 Mr. Hall stated yes.
16
17 Mr. Thorsland asked Mr. Hall if the homes were constructed prior to the adoption of zoning.
18
19 Mr. Hall stated yes.
20
21 Mr. Thorsland asked Mr. Trotter when he would like to begin on the proposed garage.
22
23 Mr. Trotter stated yesterday.
24
25 Mr. Thorsland stated that he would like to have an accurate location of the existing septic system and tanks.
26
27 Ms. Lee asked Mr. Trotter if he has had the tank pumped since his purchase.
28
29 Mr. Trotter stated no.
30
31 Mr. DiNovo asked staff if the CCPHD has a policy for replacement systems on lots that are too small.
32
33 Mr. Hall stated that this is one of the big problems with the new rules but if you do not already have an
34 aerobic, surface discharge, system then you have to prove that you have no other way to install a septic
35 system. He said that as far as he knows no one has gone through that process yet and proving that may be
36 difficult. He said that the Board should know this information before granting a variance for the removal of
37 more lot area for a new system. He said that currently the system discharges to a farm tile and that may have
38 been the most reliable means possible and the system may never need to be replaced but if it had to be

1 replaced he has no idea what would be required.

2

3 Mr. DiNovo stated that he assumed that the reference meant that the leach field was constructed with clay
4 tile and discharges into the drainage ditch.

5

6 Mr. Hall stated that such a scenario is not unusual. He said that the information that the Board needs is a
7 coordination problem between the Department of Planning and Zoning and the Champaign County Public
8 Health Department. He said that the CCPHD likes to deal with complete applications so that if they say yes,
9 then ,the property owner can come back later indicating that they are ready to do it as approved. He said that
10 the property owner has to incur all of the costs for soil tests and someone to design the system just like they
11 were ready to install the system prior to receiving approval. He said that if the Board requires this
12 information there will be costs associated with it and Mr. Trotter will certainly know if constructing the
13 building will create any future problems or not. He said that this is what staff recommends but the
14 Ordinance does not require it. He said that there is a pending amendment, if staff gets time to process it,
15 which will require this process.

16

17 Mr. Thorsland asked the Board how they would feel if a company like Gulliford Services came to the
18 property to properly locate the system and determine if there is enough space for a new wastewater system
19 on the property.

20

21 Mr. Hall stated that the CCPHD does not recommend probing for the old systems because if the system is
22 damaged a new system will be required. He suggested that Mr. Trotter contact the CCPHD as they are there
23 to help property owners and not create problems. He said that the last thing that they want to see happen is
24 Mr. Trotter to damage his current system.

25

26 Mr. DiNovo asked staff if there is a well on the property.

27

28 Mr. Hall stated that Dewey has a water district.

29

30 Mr. Thorsland stated that he does not know where else Mr. Trotter would want to locate the shed if required.

31

32 Mr. Randol stated that the site plans indicates the location of the proposed shed. He asked Mr. Trotter how
33 far the proposed shed is from the existing septic system.

34

35 Mr. Passalacqua stated that he is good with a determination from Berg Tanks or Gulliford Services providing
36 a statement regarding whether a new system would be feasible on the subject property.

37

38 Mr. Thorsland stated that it is up to Mr. Trotter to determine if he wants to incur the required costs to receive

1 a determination from the CCPHD, which eventually will be mandatory, or contact Berg Tanks or Gulliford
2 Services for a determination. He said that Board can continue this case to a later date to give Mr. Trotter
3 ample time to obtain this information and he can decide which way he wants to go.
4

5 Mr. DiNovo stated that there are other alternatives other than an aeration system for Mr. Trotter's lot. He
6 said that he sees no reason that building some sort of septic system on the property is technically infeasible.
7 He said that he sees no reason why Mr. Trotter needs to do this.
8

9 Mr. Thorsland stated given tonight's testimony it is possible that the septic tank is on another property. He
10 said that he would be more comfortable with better information. He said that it is possible that the rest of the
11 Board is comfortable with the current information.
12

13 Mr. Hall stated that he would recommend trying to get some statement or recognition from Mr. Trotter to the
14 effect that approving this variance for the accessory building should not be used as evidence towards
15 granting a variance to the health code in the future. He said that on one hand this evidence is relevant
16 because the Board allowed Mr. Trotter to build the building, therefore why wouldn't the Board grant a
17 variance for the new septic system.
18

19 Ms. Capel stated that the variance goes with the lot and evidence states that the lot is very small. Mr. Trotter
20 only wants to build a garage that technically does not fit and there is the issue with the septic system which
21 existed when the previous variance was approved but was indicated incorrectly on the approved site plan.
22 She said that it seems like there is a potential for an endless amount of variances for Mr. Trotter's lot.
23

24 Mr. DiNovo stated that it is in the best interest of the petitioner to get this straightened out now.
25

26 Mr. Passalacqua agreed. He said that he does not think that Mr. Trotter should incur the costs from the
27 CCPHD and he could contact Berg Tanks or Gulliford Services to provide the required information for
28 professional installation.
29

30 Ms. Griest and Ms. Capel agreed with Mr. Passalacqua.
31

32 Mr. Thorsland informed Mr. Trotter that the Board will leave it up to him as to what route he takes in
33 obtaining the accurate information that the Board is requiring. He said that Mr. Trotter is the motivator for
34 this project, therefore the Board can be assured that it will be done correctly because Mr. Trotter wants to
35 build his garage.
36

37 Mr. Passalacqua stated that whoever Mr. Trotter picks can help him with his complete site plan indicating
38 the location of the current septic system and septic tanks and any future system on the subject property.

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Mr. Thorsland entertained a motion to continue Case 827-V-16 to the May 26, 2016, meeting.

Ms. Griest moved, seconded by Ms. Capel to continue Case 827-V-16 to the May 26, 2016, meeting. The motion carried by voice vote with one opposing vote.

Mr. Hall informed Mr. Trotter that he should feel free to call staff with any questions.

Case 828-S-16 and Case 834-V-16 Petitioner: Jonathan Hasselbring, Planning Director for the Champaign County Forest Preserve Request: Authorize as a Special Use as a “public park or recreational facility” those portions of the Kickapoo Rail Trail that are proposed in the unincorporated area only, and that shall connect to those portions of the Kickapoo Trail that are proposed to be located inside the Village of St. Joseph and the City of Urbana, in the AG-1 and AG-2 Agriculture Zoning Districts and subject to the variance summarized below but fully described in the legal advertisement, on property that is commonly known as the inactive CSX railroad line located on the south side of U.S. Route 150 and that is described more fully in the legal advertisement but is summarized here as follows: Part A. Subject Property: A 13.2 acre tract in the AG-1 District in Sections 10 and 15 of St. Joseph Township and subject to a variance from parking requirements; and Part B Subject Property: An 11.6 acre tract in the AG-1 District in Sections 9 and 16 of St. Joseph Township and subject to a variance for setback of 61 feet in lieu of the minimum required 85 feet; a rear yard of 20 feet in lieu of the minimum required 25 feet, and from parking requirements; and Part C Subject Property: A 9.2 acre tract in the AG-1 District in Section 8 and 17 of St. Joseph Township and subject to a variance for setback of 53 feet in lieu of the minimum required 85 feet; a front yard of 27 feet in lieu of the minimum required 35 feet, and from parking requirements; and Part D Subject Property: A 12.4 acre tract in the AG-1 District in Section 7 and 18 of St. Joseph Township and subject to a variance for setback of 58 feet in lieu of the minimum required 85 feet; and from parking requirements; and Part E Subject Property: A 12.1 acre tract in the AG-2 District in Sections 12 and 13 of Urbana Township and subject to a variance for setback of 65 feet in lieu of the minimum required 85 feet; and from parking requirements; and Part F Subject Property: A 12.1 acre tract in the AG-2 District in Sections 11 and 14 of Urbana Township and subject to a variance for setback of 65 feet in lieu of the minimum required 85 feet; a front yard of 22 feet in lieu of the minimum required 35 feet, and from parking requirements; and Part G Subject Property: A 2.1 acre tract in the R-2 Residential Zoning district in Section 10 and 15 of Urbana Township and subject to a variance for setback of 69 feet in lieu of the minimum required 85 feet; a front yard of 0 feet in lieu of the minimum required 35 feet, and from parking requirements. Location: Generally, 9 different tracts of land totaling 72.7 acres (as amended) comprised of the various Parts described above and commonly known as the inactive CSX railroad line between the City of Urbana and the Village of St. Joseph and

1 **that shall connect to those portions of the Kickapoo Rail Trail that are proposed to be located inside of**
2 **the Village of St. Joseph and the City of Urbana, Illinois and more specifically described in the legal**
3 **advertisement.**

4
5 Mr. Thorsland informed the audience that Cases 828-S-16 and 834-V-16 are Administrative Cases and as
6 such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time
7 he will ask for a show of hands for those who would like to cross examine and each person will be called
8 upon. He 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 but
10 are requested to clearly state their name before asking any questions. He noted that no new testimony is to
11 be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the
12 ZBA By-Laws are exempt from cross examination.

13
14 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
15 the witness register for that public hearing. He reminded the audience that when they sign the witness
16 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
17 time.

18
19 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding the request.

20
21 Mr. Jonathan Hasselbring, Planning Director for the Champaign County Forest Preserve District, stated that
22 he is here to request a special use permit for the construction of the Kickapoo Rail Trail along the former
23 CSX railroad line. He said that he is also requesting variances for the minimum front and rear yards and the
24 minimum parking requirements per the Champaign County Zoning Ordinance. He said that he is requesting
25 the variances due to the size and depth of the existing lot which was used as a railroad line. He said that it
26 makes the most sense to construct the trail on the centerline of the railroad bed, therefore not requiring
27 excessive grading work and replacement of existing culverts. He said that they will clean out existing
28 culverts and install new culverts where necessary to improve the drainage.

29
30 Mr. Thorsland asked Mr. Hasselbring if they will generally take out the tracks and put down gravel to
31 improve the grade of the track area. He asked Mr. Hasselbring to explain what they will do with the bridges.

32
33 Mr. Hasselbring stated that there is one bridge at the Salt Fork River crossing and the plan is to maintain all
34 of the structural elements which support the bridge. He said that 20 foot sections of a pre-engineered bridge
35 will be brought in and placed on the I-beams of the bridge. He said that the super-structure of the bridge will
36 remain intact and the top will be modified with the pedestrian type structure.

37
38 Mr. Thorsland asked if the old bridge profile will still be visible.

1

2 Mr. Hasselbring stated yes.

3

4 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated April 28, 2016,
5 to the Board for review. He said that the new memorandum basically documents that staff re-evaluated the
6 variances and in most cases the variances are lesser variances than what was originally advertised. He said
7 that this was a huge project and it was difficult trying to put together all of the information for the variances.
8 He said that since the beginning staff has had the construction documents, which were very clear that it is a
9 100 foot right-of-way for the most part, and it is centered in the right-of-way. He said that staff started
10 getting some calls about landowners' concerns as to whether this was actually going to be constructed on
11 their land, so staff called the Forest Preserve District and received better information regarding the width of
12 the existing right-of-way. He said that the descriptions for Parts B and C in comparison to the other parts are
13 on smaller portions of land. He said that Parts A, D, E, and F are all for parcels which are larger than 12
14 acres and in each case staff is describing something that is about one mile long but in the case of Parts B and
15 C it is less than 12 acres. He said that yesterday, staff received excerpts from the Notice of Assignment from
16 CSX Railroad to the petitioner, which documented why the right-of-way of the trail changes width in
17 Sections 16 and 17 of St. Joseph Township.

18

19 Ms. Lee stated that the Board does not have the Notice of Assignment for review.

20

21 Mr. Hall stated that an excerpt of the Notice of Assignment was included in the new Supplemental
22 Memorandum which was distributed to the Board tonight. He said that the excerpts show the maps that
23 CSX provided and he would agree that the maps do not provide a lot of information, but they do serve to
24 support what was indicated as the right-of-way on the construction drawings. He said that the tax records do
25 not show the narrowing of the right-of-way width but only one right-of-way, which is actually narrower than
26 what it is at the widest part and wider than what it is at the narrowest part. He said that this is why staff was
27 so confused for some time and that may have contributed to some of the confusion from landowners. He
28 said that he maintains that the tax parcel maps are still inaccurate because he does not believe that the
29 County ever had information that was this detailed and staff will certainly pass this information on to the
30 GIS Department but they may want to hear from the Champaign County Forest Preserve District before they
31 make any changes. He said that staff is comfortable that the trail will be on the land that is described but
32 there are a lot of things to consider. He said that Mr. Hasselbring described how they will be reusing the
33 existing rail bed therefore all of the nonconformities that exist are continuing to exist. He said that he does
34 not believe that any of the requested variances are unreasonable or problematic.

35

36 Mr. Hall stated that he wants to make sure that the Board is comfortable with the safety issues which are
37 related to this trail. He said that the Forest Preserve District has had professional trail planners work on this
38 trail and they believe that it is following all of the recommended guidelines, and that is good but, he wants to

1 make sure that the ZBA believes that. He said that from a staff level, we do not see anything that raises an
2 issue.

3
4 Mr. Thorsland asked the Board if there were any questions for Mr. Hall or the petitioner.
5

6 Ms. Lee stated that for some of the easements for the railroad, once the land was no longer used for the
7 railroad it goes back to the adjoining landowners. She requested information from the title policy indicating
8 that the original easements that CSX acquired more than 150 years ago would revert back to the adjoining
9 landowner when CSX no longer required it. She said that some easements do not have this language
10 regarding the land reverting back to the adjoining landowner and some may indicate that the adjoining
11 landowner purchases the land within the easement so that they have all of the rights to the railroad and they
12 can do what they want. She said that the Forest Preserve acquired the land for the Rail Trail but all states
13 have their own rules regarding real estate and she does not believe that a federal program can pre-empt
14 something that was done 150 years ago. She said that this could be an issue of taking property without
15 compensation. She said that she recalls a case in Illinois which is currently dealing with this type of an issue
16 and it has been within the last six months. She said that she feels that she has to mention this because she
17 will be damned if she does and damned if she doesn't and she does not want to see her tax rate for the
18 Champaign County Forest Preserve increase due to a lawsuit and she believes that all other taxpayers in
19 Champaign County would feel the same way. She said that sometimes it may seem that there are additional
20 costs incurred to avoid a lawsuit but it may be cheaper than a lawsuit in the long run. She requested the
21 original easement document before the railroad started operating and the title company should be able to
22 assist with producing that document.
23

24 Mr. Thorsland asked Ms. Lee if she wants the original document that may have given the land back to the
25 adjoining landowner.
26

27 Ms. Lee stated that she wants to know how the original railroad acquired the authority to operate on the land.
28 She said that it could have been an outright purchase or an easement that reverted back to the landowner.
29 She said that it would be prudent for the Forest Preserve to find out what that original document indicated.
30

31 Mr. Thorsland asked Mr. Lee if she is talking about going through all of the landowners that are all of the
32 way along the trail.
33

34 Ms. Lee stated that the title company should have documentation of an easement where the railroad was
35 originally.
36

37 Mr. DiNovo stated that as he understands it, the land was conveyed by a Quit Claim Deed therefore it is
38 probable that no title work was completed.

1
2 Ms. Lee stated that she has railroad running through her property that she does not believe will ever be
3 discontinued. She said that it is her recollection that the land for that railroad will revert back to the
4 adjoining landowner.

5
6 Mr. Thorsland stated that Ms. Lee's request appears to be reasonable. He said that it might be helpful for
7 Ms. Lee to remember the case that she previously referred to and relay that information to staff.

8
9 Ms. Lee stated that she does have some deadlines to meet but the title company should have some
10 documentation.

11
12 Mr. Thorsland asked Mr. Hasselbring if the Forest Preserve has title work which indicates this information.

13
14 Mr. Hasselbring stated that he is not sure as he has only been with the Forest Preserve District for one year.
15 He said that Mr. DiNovo is correct in that the land was acquired by a Quit Claim Deed and with that sales
16 agreement came close to 100 lease and easement agreements for mostly utilities. He said that some of the
17 leases and agreements were for the allowance of the interurban line to cross the freight line. He said that
18 there are a lot of former uses and many of them are still necessary, but some of them have lapsed. He said
19 that he will be happy to go back and find any information that is required by the Board.

20
21 Ms. Lee stated that the title company would know what documentation exists for the railroad to be a railroad.

22
23 Mr. DiNovo stated that he agrees that this should be clarified and that some title information should be
24 obtained. He said that he is uncomfortable with this Board evaluating the sufficiency of that evidence. He
25 asked if the information should be evaluated by the State's Attorney's Office or should the Board just accept
26 the Forest Preserve's attorney's opinion for sufficiency of title. He said that he does not feel that the ZBA is
27 competent to judge whether there is good title or not.

28
29 Ms. Lee stated that the title company is the one to provide that information.

30
31 Mr. DiNovo asked Ms. Lee if the title company would indicate that the Forest Preserve has clear title.

32
33 Ms. Lee stated that the title company should be able to supply the original documentation from the first
34 railroad that operated on the property.

35
36 Mr. DiNovo asked Ms. Lee what the ZBA is supposed to do with that information. He said that he is
37 uncomfortable with this Board looking at those documents and determining sufficiency of the title. He said
38 that this seems to be beyond the Board's competence and is a job for the State's Attorney.

1
2 Mr. Passalacqua asked if any protests have been received from adjoining landowners indicating that the
3 Forest Preserve is taking their land.
4
5 Mr. Hall stated that there are landowners who have such a concern. He said that he does not know how
6 much it would cost for something like this, but he would suspect that it would cost a lot. He said that if the
7 Forest Preserve has a title insurance policy then who needs to question it because it is insurance.
8
9 Mr. Thorsland stated that at some level the title company is stating that to the best of their knowledge.
10
11 Mr. Hall stated that this is not what the Board has asked for and although he does not know how much it
12 would cost, he would assume that if the Forest Preserve District thought that they needed it they would have
13 already paid for it.
14
15 Ms. Lee stated that the Forest Preserve may have this type of a title policy.
16
17 Mr. Thorsland suggested that Mr. Hasselbring discuss this matter with his Board to see if they have this
18 document and if so, he could bring it to the next public hearing.
19
20 Mr. DiNovo stated that he does not see how the original documents will help this Board. He asked the
21 Board if they would be willing to accept an opinion from the Forest Preserve's attorney.
22
23 Mr. Thorsland asked Ms. Lee to indicate what comfort level she seeking.
24
25 Ms. Lee stated that in other cases, the Board has asked the question as to who is the actual landowner. She
26 said that if originally there was an actual purchase then that is one thing but if it was an easement then she
27 wants to know what type of easement it was and was it an easement that reverted back to the landowners
28 when it was no longer operated as a railroad. She said that she does not want the Forest Preserve to spend a
29 lot of money and then end up with a lawsuit. She said that many of the railroad easements were 66 feet
30 wide.
31
32 Mr. Hall stated that Ms. Lee's concern is in regards to the Special Use Permit not just the variance. He said
33 that the Board could be approving a Special Use Permit on property whose ownership may be contested. He
34 said that maybe this concern is only relevant to that part of the right-of-way that is only 60 feet wide as
35 maybe that was an easement at one time. He said that it is his understanding that part of this right-of-way
36 was only an easement.
37
38 Mr. DiNovo stated that the bottom line is that the Board wants the Forest Preserve District to submit

1 evidence demonstrating that they have good title for the purpose of this trail.

2
3 Mr. Thorsland stated that the Board will have to judge the evidence. He said that this may be something that
4 just hasn't been considered.

5
6 Mr. Hasselbring stated that he will discuss this with their Executive Director to discover what information he
7 does have.

8
9 Ms. Lee stated that the title company should have something in their records.

10
11 Ms. Griest stated that as she understands the memorandum, the Forest Preserve was going to purchase all of
12 the land that they are planning to have the Special Use and Variances related to and not cross that land in the
13 form of an easement. She asked Mr. Hasselbring if the Forest Preserve will actually hold title and own the
14 land.

15
16 Mr. Hasselbring stated that it is his understanding that the Forest Preserve District does own the real estate.
17 He said that the Champaign County Forest Preserve and the Vermilion County Conservation District are
18 buying the real estate by Quit Claim Deed and CSX is the seller.

19
20 Ms. Lee stated that the Quit Claim Deed only gives the title that the original owner had and if they only have
21 the easement, the Quit Claim doesn't include anything more than that easement.

22
23 Mr. Thorsland stated that this issue needs to be clarified.

24
25 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Hasselbring and there was no one.

26
27 Mr. Passalacqua asked Mr. Hasselbring to indicate the cost of the project.

28
29 Mr. Hasselbring stated that the project cost for the 6.7 mile stretch (Phase One of the Champaign County
30 portion of the trail) is approximately \$2.7 million. He said that the Forest Preserve owns approximately half
31 of the proposed trail right-of-way. He said that the full right-of-way is 24.5 miles to the Vermilion County
32 fairgrounds. He said that the Vermilion County Conservation District owns the other 12 miles.

33
34 Mr. Passalacqua asked Mr. Hasselbring if this is comparable to the trail near Bloomington.

35
36 Mr. Hasselbring stated that he believes so, with similar concepts.

37
38 Mr. Randol asked Mr. Hasselbring if there will be any additional construction other than just the trail.

1
2 Mr. Hasselbring stated that at this point in time, the construction is limited to the actual trail surface itself
3 and improving the trail surface with tree and brush removal for construction of the right-of-way and
4 stormwater structure improvements.

5
6 Mr. Randol asked Mr. Hasselbring if restrooms will be constructed along the trail.

7
8 Mr. Hasselbring stated not at this point in time but it is part of their master plan. He said that it will take two
9 years to determine where the restrooms should be placed, parking lots appropriated, fences, signage, and
10 benches for rest areas. He said that they are hoping to use existing infrastructure wherever possible, such as
11 an existing parking lot in an urban environment. He said that Kolb Park which is located in St. Joseph is a
12 perfect example as it has restrooms, a parking lot and water facilities. He said that opportunities that they are
13 looking for are with other public agencies that they can partner with to minimize the cost of additional
14 infrastructure.

15
16 Ms. Capel asked Mr. Hasselbring if any lighting is proposed along the trail.

17
18 Mr. Hasselbring stated that no lighting is proposed at this phase. He said that they are still trying to
19 determine if they will have lighting at all as the trail is only open between dawn and dusk. He said that there
20 has been a lot of discussion to maintain natural lighting and from a conservation side this approach would be
21 best.

22
23 Ms. Capel asked if lights would be provided closer to town.

24
25 Mr. Hasselbring stated that he would like to have a light at each destination point or where the trail ends. He
26 said that this would be important for people who are still on the trail after dusk.

27
28 Ms. Griest asked Mr. Hasselbring if the railroad has any reclaim rights to the property.

29
30 Mr. Hasselbring stated that as he understands it, the railroad does have reclaim rights to the property per the
31 *Railway Enabling Act*. He said that if this was determined to be a transportation line of significance to the
32 nation it would be turned back into a railway. He said that from that standpoint it would be sold to one
33 landowner and if it is to be converted back to a railway it will only be a transaction between two entities.

34
35 Mr. DiNovo stated that the correct terminology is that the Forest Preserve District has the rights to interim
36 trail use. He asked Mr. Hasselbring if since the bridge collects debris, has the Forest Preserve District had
37 any discussions with the drainage district about removing the debris. He asked if the plans grant access for
38 removal of that debris.

1
2 Mr. Hasselbring stated that Dan Olson, Executive Director for the Champaign County Forest Preserve
3 District, has been in discussions with the drainage district about that issue but he is not sure what has been
4 determined about any debris that accumulates at the railroad bridge and who is responsible for the debris
5 removal.

6
7 Mr. DiNovo asked Mr. Hasselbring if the designs provide for access by whoever is responsible for the
8 removal of the debris when required.

9
10 Mr. Hasselbring stated no.

11
12 Mr. DiNovo stated that it would not be preferable for large trucks to drive on the trail.

13
14 Mr. Hasselbring stated that large trucks could drive on the trail because the base is 6 to 9 inches of road
15 pack. He said that the super-structure of the bridge, I-beams, are capable of carrying the weight of a train.
16 He said that the ten foot wide bridge itself is constructed of dense hardwood that would allow for heavy
17 traffic use. He said that near the existing St. Joseph Township building along Old Policeman's Road there is
18 access for heavy equipment.

19
20 Mr. DiNovo stated that his biggest concern is CR 2075E, because this is the road that he uses to go home.
21 He said that in the last 20 years he has traveled this route over 7,000 times and the prevailing speed of
22 vehicles on Route 150 is 65 miles per hour and there have been a number of times when he has to continue
23 to go past CR 2075E and travel to St. Joseph because he has been tailgated by a vehicle who is traveling at
24 too high of speed for him to make a safe turn onto CR 2075E. He said that drivers who are traveling Route
25 150 are going to spend time looking in their review mirror and the other traffic on the highway which is
26 going to impair their ability to keep track of bicyclists on the parallel path. He said that he is not sure what
27 the solution to this concern is but when you turn off of the highway there is not room for any reaction time if
28 you look up and there happens to be a bicycle crossing. He said that he is uncomfortable as a driver to put
29 all of the responsibility for safety on the bicyclist. He said that the only thing that he can think of to mitigate
30 this safety concern is to clear vegetation between the highway and the trail for a sufficiently long distance so
31 that drivers have ample opportunity to see bicyclists on the path. He said that perhaps street lights at these
32 crossings would benefit this concern.

33
34 Mr. Thorsland stated that he remembers seeing something about signage at the crossings.

35
36 Mr. DiNovo stated that the signage was just on the path.

37
38 Mr. Hall stated that there are signs indicated on both Route 150 and CR 2075E.

1
2 Mr. Passalacqua stated that Mr. DiNovo's concerns are not unique to this trail or CR 2075E as these
3 conditions exist all over the County. He said that if we add this as criteria then it could scrap the whole
4 project. He said that there is a certain amount of liability when you ride your bicycle near a busy road and
5 there is always responsibility when you drive.

6
7 Mr. DiNovo stated that he does not want to be part of a lawsuit because he hit a bicyclist. He said that to
8 turn onto CR 2075E is already difficult and the addition of the trail adds a real problem. He said that he
9 remembers reading somewhere that parallel bike paths are more dangerous than street bike paths and the
10 reason is due to the fact that the drivers are continuously aware of the bicyclist because they see them as they
11 are driving. He said that when the bicyclists are on a separate path they are not within the focus of the
12 drivers.

13
14 Mr. Thorsland stated that he travels to work every day on a bicycle and there is some reasonable assumption
15 of maturity and experience on both the driver and the bicyclist. He said that he agrees with Mr. Passalacqua
16 in that this is not a unique situation in the County. He said that he sees this situation along Route 47 and he
17 understands Mr. DiNovo's concern with the parallel path but the plans indicate the I.D.O.T. requirements.

18
19 Mr. DiNovo stated that this is not just an issue for the crossing at CR 2075E but for all of the crossings. He
20 said that the problem is because of the prevailing speeds on the adjacent roads and drivers cannot devote
21 enough attention to ensure safety at these crossings. He said that this is not a reason to deny the Special Use
22 Permit.

23
24 Mr. Passalacqua stated that if the traffic study is accurate then everyone is already breaking the law because
25 the posted speed limit is 55 miles per hour.

26
27 Mr. Thorsland stated that the Forest Preserve District has worked with I.D.O.T. with someone who is an
28 expert with traffic and bike paths. He asked if the Board should consider themselves experts regarding this
29 issue or should the Board allow the experts who do this for a living every day determine the safety.

30
31 Mr. Hall stated that along CR 2075E there is 60 feet of space between Route 150 and the bike path. He
32 asked Mr. DiNovo if it would help if staff asked the local metropolitan planning agency if they could take a
33 look at the safety.

34
35 Mr. DiNovo stated that he cannot believe that this is an uncommon problem because there are a lot of travel
36 lanes that parallel highways.

37
38 Mr. Thorsland stated that the same argument could be noted for vegetation along a rail crossing.

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Mr. Passalacqua asked Mr. Hasselbring if a traffic study was completed.

Mr. Hasselbring stated that, to his knowledge, no traffic study was completed. He said that they worked with licensed engineers to design this trail to I.D.O.T. standards for signage and safety for the crossings.

Mr. Thorsland asked Mr. Hasselbring who is the authority for where the signs are located.

Mr. Hasselbring stated that I.D.O.T. is the authority for placement of the signs. He said that the drawing indicates that there are signs located 100' feet back indicating the approaching bike crossing and the same sort of signage is located on Route 150 to notify drivers of the approaching bike crossing.

Mr. Thorsland stated that it appears that the Forest Preserve has completed work on the bike crossing safety already but perhaps more work is necessary.

Mr. Thorsland called B.J. Hackler to testify.

Mr. B.J. Hackler, stated that he is the Mayor of the Village of St. Joseph, and he resides at 401 South Third Street, St. Joseph. He said that the Village of St. Joseph is looking forward to working with the Forest Preserve District and having the Kickapoo Trail going through their community. He said that this a great accomplishment for the Village of St. Joseph in having something like this go through it. He said that the trail will be a great asset for St. Joseph and it has been reported that approximately 60% of the use will come from St. Joseph. He said that the bike trail could be utilized by the school for cross country, therefore the participants will not be running on the streets. He said that the Village of St. Joseph's Planning and Zoning Department is working with the Forest Preserve District and they have agreed on most things. He said the Village of St. Joseph would like to see some upgrades to Kolb Park such as the restrooms, sidewalks, etc. and they have applied for a grant for those upgrades. He said that they are looking forward to the trail.

Mr. Thorsland asked Mr. Hackler if he indicated that the schools are planning to use the trail for their cross country students so that they are off of the streets.

Mr. Hackler stated yes.

Mr. Thorsland stated that when the Board is completing the Finding of Fact it should be noted that the general public will not only benefit from the trail but also the St. Joseph schools will benefit.

Mr. Hackler stated that they would like to have a parking lot constructed on the Forest Preserve's land behind the Casey's parking lot for use by the bicyclists to park their bikes or vehicles.

1
2 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Hackler and there was no one.

3
4 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Hackler and there was no one.

5
6 Mr. Thorsland called Barbara Hill to testify.

7
8 Ms. Barbara Hill, who resides at 1871 CR 1600N, Urbana, stated that she lives just outside of Mayview on
9 the south side. She said that for 35 years she has maintained an open space between her house and Route
10 150. She said that west of her driveway is a concrete base where there used to be a lumber yard and trees
11 and shrubs have been allowed to grow on the area and piles of railroad ties and asphalt exist in this area
12 which would make it impossible for her to see anything coming from the west when she travels up and over
13 her driveway to access Route 150. She said that she basically would have to park her car, get out and go
14 look and then get back in her car to creep out slowly. She said that she only has approximately one car
15 length between her house and the trail therefore she has safety concerns. She said that if a bicyclist is
16 traveling the trail and they are not paying attention, they will not yield at her drive, which causes a safety
17 concern for her and them. She said that her neighbor loves brush but she hates it and believes that it is a
18 detriment. She said that it is her understanding that maintenance for the trail will only be 15 feet from the
19 centerline of the rail trail. She asked who is going to take care of the rest of the property to their property
20 line. She said that since she has been mowing it for 35 years she doesn't mind taking care of it because she
21 will not wait for them to mow it but she is still concerned about the west side of her driveway because she
22 cannot see. She said that she has been attending meetings for the rail trail and she has her abstract which
23 indicates that the property will revert back to the property owner if the railroad was abandoned but she has
24 been told time and time again that she is just out of luck.

25
26 Mr. Thorsland asked Ms. Hill if the Forest Preserve District has discussed the visibility issue with her.

27
28 Ms. Hill stated yes, but when they are only going to clear 15 feet on each side it doesn't do any good. She
29 said that south of where the trail will be located it is all grown up.

30
31 Mr. Thorsland asked Ms. Hill if she has discussed with the Forest Preserve as to how they will handle the
32 private drives that cross the rail trail.

33
34 Ms. Hill stated that they have never indicated what they will do. She said that as far as she knows her
35 driveway is the only one that crosses the rail trail.

36
37 Mr. Thorsland stated that a special condition for approval could be that the Forest Preserve District
38 maintains the visibility for private drives.

1

2 Mr. Passalacqua asked Ms. Hill if she knows who owns the land that used to be the lumber yard.

3

4 Ms. Hill stated that she would guess that the railroad owns it.

5

6 Mr. Hasselbring stated that there are a significant number of railroad ties at this location that were left when
7 the railroad company removed the rails for recycling.

8

9 Mr. Thorsland asked Mr. Hasselbring if the Forest Preserve District has a plan to clean up those railroad ties.

10

11 Mr. Hasselbring stated that he does not know if the plan includes removal of those railroad ties but he does
12 know that it has been discussed. He said that if the railroad ties interfere with their conservation efforts, they
13 will deal with them. He said that visibility is a concern and they are removing some exotic plants and
14 overgrowth that have been determined invasive species. He said that the Natural Resources crew has been on
15 the sites conducting prescribed burns but some of the overgrowth may take many years to totally remove.
16 He said that he would be happy to review the plans with Ms. Hill. He said that the plan that he is discussing
17 is Sheet 144.

18

19 Mr. Thorsland stated that the Board would also like a copy of the plans and any driveway entrance plans as
20 well.

21

22 Mr. Hasselbring stated that he did not provide a driveway plan for Ms. Hill's particular crossing but he will.

23

24 Mr. Randol stated that a special condition of approval could be that the driveway location for Ms. Hill's
25 property would be cleaned up and signage provided indicating the private drive.

26

27 Mr. Hasselbring stated that private drive signs are standard as they treat private drives as an intersection.

28

29 Ms. Hill stated that there needs to be communication because she heard that they were taking up less ground
30 which, to her, meant that they will not be taking out as much brush. She said there is a concrete wall there
31 that comes up to her driveway which decreases her visibility.

32

33 Mr. Thorsland stated that the Board could insert a special condition that indicates that the visibility triangle
34 at the private drive must be clear and that will be something that the Forest Preserve must do.

35

36 Ms. Hill stated that she has maintained this area for years and she would have maintained the area where the
37 concrete wall and the railroad ties are but she was not capable of doing so. She said that she is not willing to
38 put money into this area because she has already been maintaining part of their right-of-way for years.

1
2 Mr. Thorsland stated that he believes that there is a plan in the works to make this area better and if there is
3 not the Board can make sure that there is a plan.
4
5 Ms. Hill stated that Mr. Hasselbring has indicated that they will maintain their area but 10 feet on either side
6 of the rail trail is no man's land. She asked if she is responsible for maintaining that 10 feet.
7
8 Mr. Hasselbring stated that they are responsible for maintaining their property and the contractors will
9 remove vegetation throughout the middle to make it possible to construct the trail and there are some areas
10 where they will have to remove even more than the 10 foot width. He said that they will be removing more
11 than just the 10 foot width and after that it will be their responsibility to maintain that land. He said that they
12 will either try to restore the area to a natural prairie or plant taller trees that will provide shade along the trail.
13 He said that they will make efforts to improve Ms. Hill's visibility.
14
15 Ms. Hill stated that she wants to make sure that she is not arrested for mowing up to the trail.
16
17 Mr. Hasselbring stated that Ms. Hill's property is one of two private entrances that cross the rail trail. He
18 said that the other entrance is owned by Steven Appl.
19
20 Mr. Thorsland asked Mr. Hasselbring if the two private drives will receive the same treatment as a County
21 Road intersection.
22
23 Mr. Hasselbring stated yes. He said that they will have the same signage as provided at the crossroads.
24
25 Mr. Thorsland requested that Mr. Hasselbring submit pages 144 and 148 of the plans to the Board as a
26 Document of Record.
27
28 Mr. Hasselbring agreed.
29
30 Mr. Thorsland called Brian Taylor to testify.
31
32 Mr. Brian Taylor, who resides at 2575 S. Homer Lake Road, Homer, stated that he is the site superintendent
33 for Homer Lake and caretaker of the 6.2 mile trail.
34
35 Mr. Thorsland requested that Mr. Taylor indicate the long term plan for vegetation.
36
37 Mr. Taylor stated that they do have a Natural Resource Director who can answer all of the Board's questions
38 that the Board may have regarding the long term plan. He said that they have had discussions about exotics

1 that exist on the proposed trail. He said some of the exotics are bush honeysuckle and mulberry trees. He
2 said that as far as identifying the extent of the removal they haven't gotten to that point just yet. He said that
3 over a period of the Forest Preserve's ownership there will be more native plants to Illinois and they will be
4 maintained.

5
6 Mr. Thorsland stated that the County has a 15-foot visibility triangle requirement for driveways and the
7 Board is very specific regarding the height of vegetation, fences, etc. He said that a special condition may be
8 required regarding the two private driveways and the County Road intersections regarding the visibility
9 triangle.

10
11 Ms. Lee asked Mr. Taylor if the Forest Preserve will avoid having invasive plants along the trail.

12
13 Mr. Taylor stated yes. He said that currently they are removing invasive and noxious weeds that have been
14 introduced to the Champaign County landscape. He said that there is any number of invasive and noxious
15 weeds that the Natural Resources crew or his crew works on every day and now that they have acquired this
16 it is a really nice showcase of what they are all about and what they do. He said that it will take additional
17 time to maintain this additional acreage but he knows that the Director of Natural Resources is aware of
18 these things and two years ago they walked the trail and identified the native species and the areas that are to
19 be restored.

20
21 Mr. Thorsland stated that there will be another meeting, therefore it would be nice if the Director of Natural
22 Resources could attend that meeting.

23
24 Mr. Thorsland requested a five minute recess.

25
26 The Board recessed at 8:35 p.m.

27 The Board resumed at 8:42 p.m.

28
29 Mr. Thorsland stated that the Special Use Permit is for any existing and proposed plans for the rail trail so
30 the petitioner should think about what they may envision in the future and indicate it on the plans so that
31 they do not have to return before this Board for approval. He said that staff is very helpful with any
32 questions that the petitioner may have prior to the next meeting. He said that if lights along the trail are
33 envisioned as a future phase then they should be indicated on the plans with details regarding full cut-off.
34 He said that there may be additional people from the Forest Preserve District who could answer questions
35 that the Board, staff or the public may have regarding the proposed trail.

36
37 Mr. DiNovo stated that the petitioner may consider whether or not it would be beneficial to have their
38 attorney attend the next meeting.

1
2 Mr. Passalacqua asked if it is realistic to plan this without one single restroom stop.
3
4 Mr. Hasselbring stated that they will address the installation of restrooms during the master plan phase. He
5 said that the master plan will review all of the amenities and accessory items to the trail but those items are
6 not included in the plan tonight. He said that they can do a similar study as to where they may locate lights
7 and/or restrooms. He said that they will notify early trail users that they are not building any amenities
8 during the first phase but there may be future opportunities for those amenities.
9
10 Mr. Passalacqua asked Mr. Hasselbring if during Phase One there will be no amenities at all, including port-
11 a-potties.
12
13 Mr. Thorsland stated that it was his impression that Phase One was just for the trail surface.
14
15 Mr. Hasselbring stated yes.
16
17 Mr. Thorsland stated that future plans for Phase Two and Three must include everything that the Forest
18 Preserve District can envision so that they do not need to come back again later. He said that it is up to them
19 to only have Phase One approved in this case and return to the Board for Phases Two and Three.
20
21 Ms. Chavarria asked Mr. Hasselbring if there has at least been one public meeting regarding the trail.
22
23 Mr. Hasselbring stated that they just had a series of three public meetings.
24
25 Ms. Chavarria stated that perhaps there were positive and negative public comments that were noted from
26 the meeting that would be beneficial for this Board.
27
28 Mr. Thorsland asked the Board if there was anything else that the Board would like to see before the next
29 meeting.
30
31 Ms. Lee asked Mr. Hasselbring how they will handle situations that involve replacement of existing drainage
32 tiles.
33
34 Mr. Hasselbring stated that they would be handled as the situations arise. He said that at this time they have
35 no plans to replace or modify any drainage tiles, but they are going to address the existing culverts as those
36 situations occur. He said that the tile locations have been mapped and there is one drainage tile located
37 underneath the rail trail, so they are aware of its location. He said that they will take comments from other
38 adjacent landowners regarding their plans but those plans do not involve any construction underground

1 except for the installation of culverts.

2
3 Mr. Thorsland asked Mr. Hasselbring to indicate what has been done since the three public meetings.

4
5 Mr. Hasselbring stated that they had one meeting on the Vermilion County side for the rail, one in the
6 Village of St. Joseph and the final one at the Salt Fork Center at Homer Lake. He said that they advertised
7 the public hearings and sent postcards out in the mail. He said that they worked with the Champaign County
8 GIS Consortium regarding adjacent landowners. He said that they will continue their outreach to inform the
9 public of what they are doing.

10
11 Mr. Thorsland called Steven Appl to testify.

12
13 Mr. Steven Appl, who resides at 221 East Ethel, St. Joseph, stated that he lives in town but he and his
14 brother own and farm Section 15 of St. Joseph Township. He said that there is a dead end from the old road
15 across from Pioneer back to the railroad and he has had several issues with Pioneer. He said that he would
16 like to put another easement on the land that he farms which is across from Pioneer's office. He said that
17 when they haul grain to the elevator he has to travel the easement. He said that there were three easements
18 of access on the land and one easement for the 40 acres beside the river existed when he and his brother
19 purchased the land and they would like to keep it but the Forest Preserve does not want them to travel over
20 the trail. He said that the reason he would like to keep the easement is because someone in his family may
21 want to build a home on the high spot someday.

22
23 Mr. Thorsland stated that access is a different issue if someone decides to build a house on the high spot one
24 day. He asked Mr. Appl if he has discussed the easements of access with the Forest Preserve.

25
26 Mr. Appl said yes. He said that he was told that he may or may not be able to keep the easement. He said
27 that he has had trouble with a tile that is located one-half mile down the road. He said that the railroad is
28 about six feet high and the water runs off of his field and across the old road and a 12 inch culvert is caved
29 in, therefore the water backs up into his field and has nowhere to drain. He said that he knew that there was
30 an existing tile and he had Franzen Excavating come out and assist with finding the exact location of that
31 tile. He had trouble with Pioneer but they finally got that issue fixed. He said that along Route 150 at the
32 stop sign, there was a tile plugged with roots and he discussed the issue with the railroad but never received
33 any answers, therefore he and his brother decided to clean out the 12" tile with a backhoe. He said that they
34 took out 75 feet of tile across the railroad property and put in 100 feet of new double wall tile. He said that
35 the tile was completely plugged up by the brush that existed on the railroad property. He said that some
36 young kid from the railroad came along while they were fixing the tile and informed Mr. Appl and his
37 brother that they could not work on the tile but after they told him that the tile was plugged he gave them
38 permission. Mr. Appl stated that Mr. Dan Olson from the Forest Preserve came to them to see what they

1 were doing and they told him that they were fixing the plugged tile. Mr. Appl said that Mr. Olson informed
2 them that the Forest Preserve was purchasing the old railroad and after some discussion Mr. Appl continued
3 to fix the tile. Mr. Appl stated that he informed Mr. Olson that he would leave the dirt from the tile repair
4 there. Mr. Appl stated that he knows that there are more tiles that come across from Urbana and Mayview
5 and there should not be any water standing in those areas. He said that he does not believe that anyone fixed
6 the plugged tiles, caused by the trees and brush of the railroad property, when they fixed the road.
7

8 Mr. Thorsland asked Mr. Appl if he would like have at least one access point to his field and if the Forest
9 Preserve finds any plugged tiles during their project that they repair those tiles to ensure proper drainage.
10

11 Mr. Appl stated yes.
12

13 Mr. Thorsland stated that he is sure that the Forest Preserve does not want any water on the trail. He said
14 that Mr. Hasselbring testified that a lot of brush and debris is being removed for the trail. He asked Mr. Appl
15 to indicate what he would like the ZBA to do for him.
16

17 Mr. Appl stated the tile goes south and drains his farm.
18

19 Mr. Thorsland stated that the issues between Mr. Appl and Pioneer are not issues which the Board can do
20 anything about. He said that the Board is always concerned about water and existing tiles.
21

22 Mr. Appl stated that the water is not moving correctly and even though it is not this Board's problem he
23 would like the Board to provide any review or assistance in getting the tiles repaired and the water moving
24 correctly.
25

26 Mr. Thorsland stated that the Board is always concerned about standing water.
27

28 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Appl.
29

30 Ms. Griest stated that there are a variety of tiles that run underneath the rail bed. She said that one of the
31 concerns that she has with the special use is that those landowners and drainage districts have continuous
32 access to repair and replace their tiles when they do any type of maintenance. She said that she is concerned
33 about the railroad or the Forest Preserve District attempting to prevent the drainage districts and the
34 landowners from accessing their property for that tile repair. She said that she would like to see something
35 in the special use, a special condition, which limits the Forest Preserve District's ability to place restrictions
36 on the landowners and drainage districts from access under the pathway for tile maintenance. She said that
37 she is sure that the Forest Preserve District will not obstruct the landowner's ability to farm but she would
38 like to see a condition that protects the farmers and the drainage tile so that it is not at the expense of the

1 pathway for which the special use is being granted.

2

3 Mr. DiNovo stated that the special condition should include that the farmers and drainage districts must
4 restore the public property back to its pre-existing condition.

5

6 Ms. Griest stated that she is not sure that she agrees with Mr. DiNovo because the farmers have the
7 responsibility and investment to assure that their property drains properly. She said that in doing this repair,
8 the farmers are not allowed to destroy the pathway while completing their tile maintenance and if they do,
9 they will incur the cost for putting the pathway back to its original condition. She said that she does not
10 know if it always the farmer's or the drainage district's sole responsibility for incurring that cost if the
11 plantings over the tile are of an invasive manner therefore it may also be a shared cost by the farmers,
12 drainage districts and the Forest Preserve District. She said that she does not believe that the farmers or the
13 drainage districts will knowingly destroy public property.

14

15 Mr. Appl stated that he has tried to get ahold of people regarding maintenance of the tile and no one would
16 return his calls.

17

18 Mr. Thorsland stated that the Forest Preserve District is the current owner of the property thus it should be
19 easy to contact them with any concerns.

20

21 Mr. Appl stated that he knew that the railroad owned the property but he couldn't get anyone to answer his
22 phone calls.

23

24 Ms. Capel asked if it would be difficult to have the tiles mapped.

25

26 Mr. Appl stated that it would be impossible.

27

28 Mr. Randol stated that Mr. Appl has three crossings to various fields therefore he needs to be able to keep
29 those access points.

30

31 Mr. Thorsland asked Mr. Appl if he has three accesses to one field.

32

33 Mr. Appl stated yes. He said that he would like to be able to keep at least one access.

34

35 Mr. Thorsland stated that perhaps there is some sort of compromise that can be made to ensure that you can
36 access your field.

37

38 Ms. Lee asked Mr. Appl to indicate the amount of acreage for his field.

1
2 Mr. Appl stated 300 acres.
3
4 Mr. Thorsland asked the Board if they would like to have the Forest Preserve District address the issue of
5 agricultural access points across the path. He asked Mr. Hasselbring if he could discuss the issue of
6 agricultural access with his Board prior to the next public meeting.
7
8 Mr. Hasselbring stated that anything related to easements or access agreements has been discussed at their
9 executive sessions and regular Board meetings. He said that Dan Olson, Executive Director for the Forest
10 Preserve, is typically the person who takes these types of requests to the Board of Commissioners. He said
11 that he would be happy to have Mr. Olson attend the next public meeting.
12
13 Mr. Thorsland asked Mr. Hasselbring if these types of private requests are reviewed on a case by case basis.
14
15 Mr. Hasselbring stated that their Board meetings are generally held on the third Thursday of each month.
16
17 Ms. Griest asked Mr. Hasselbring if the first meeting of the month would work better for the Forest Preserve
18 in regards to a continuance. She said that the Board is not requesting any confidential negotiations regarding
19 easements or rights of access, anywhere that involves the exchange of money, but at the same time the Board
20 wants to make sure that by granting the special use that it does not prevent someone an access that they
21 previously had.
22
23 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Appl and there were none.
24
25 Mr. Appl noted that they normally only use the accesses during the spring and fall.
26
27 Mr. Thorsland suggested that Mr. Appl discuss these issues with the Forest Preserve District for a remedy.
28 He said that Champaign County recognizes the *Right to Farm Act* and the Board frequently includes it as a
29 special condition.
30
31 Mr. Hasselbring stated that the Forest Preserve District does not wish to impede anyone from accessing their
32 properties or drainage tiles. He said that they hope to improve drainage situations but there are some
33 drainage issues which were caused from the roadwork on Route 150. He said that they cannot resolve all of
34 the drainage issues 100% but they will make their best effort certainly try to improve them. He said that they
35 understand the importance of agriculture in central Illinois.
36
37 Mr. Thorsland stated that Ms. Lee has requested original ownership documentation.
38

1 Ms. Lee asked Mr. Appl if he knew who was listed on the original abstract for the railroad.

2
3 Mr. Appl stated that he believes that it was Peoria Central.

4
5 Mr. Thorsland asked Mr. Hasselbring if he was clear regarding the items that the Board requires further
6 information on.

7
8 Mr. Hasselbring stated that he believes that he has everything.

9
10 Ms. Chavarria stated that staff will send a follow-up letter regarding the required information before the next
11 meeting.

12
13 Mr. Thorsland asked Mr. Hasselbring if he agrees to a continuance date of July 14th.

14
15 Mr. Hasselbring stated that at this time a continuance to July 14th is fine.

16
17 Mr. Thorsland entertained a motion to continue Cases 828-S-16 and 834-V-16 to the July 14, 2016, meeting.

18
19 **Ms. Griest moved, seconded by Mr. Randol to continue Cases 828-S-16 and 834-V-16 to the July 14,**
20 **2016, meeting. The motion carried by voice vote.**

21
22 **7. Staff Report**

23
24 None

25
26 **8. Other Business**

27 **A. Review of Docket**

28
29 Mr. Hall stated that staff has been receiving new cases almost by the minute.

30
31 Mr. Thorsland stated that he will be absent from the May 26th and July 14th meetings.

32
33 Mr. DiNovo stated that he will be absent from the May 26th meeting.

34
35 Ms. Lee stated that she will be having surgery soon but no final date has been scheduled. She said that she
36 will let staff know as soon as possible.

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

2
3 None

4
5 **10. Adjournment**

6
7 Mr. Thorsland entertained a motion to adjourn the meeting.

8
9 **Ms. Griest moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice vote.**

10
11 The meeting adjourned at 9:20 p.m.

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15 Respectfully submitted

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20 Secretary of Zoning Board of Appeals

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