

CASE NO. 823-S-15

SUPPLEMENTAL MEMORANDUM #1

July 7, 2016

Petitioner: William and Christina Schultz, d.b.a. A1 Pavement Maintenance, d.b.a. BillyCo Properties LLC

Request: Authorize a Contractor's Facility with Outdoor Storage and Outdoor Operations as a Special Use in the B-4 General Business Zoning District with the following waivers:

Part A: A waiver for a side yard of 0 feet in lieu of the minimum required 10 feet as per Section 5.3 of the Zoning Ordinance.

Part B: A waiver for a rear yard of 0 feet in lieu of the minimum required 20 feet as per Section 5.3 of the Zoning Ordinance.

Location: A tract of land comprised of Lots 4 and 5 of Van Winkle Subdivision in the Northeast Quarter of the Northeast Quarter of Section 33 of Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township and commonly known as the contractor business A1 Pavement Maintenance, 3809 North Cunningham Avenue, Urbana.

Site Area: 2.13 acres

Time Schedule for Development: Already in use

Prepared by: **Susan Chavarria**
Senior Planner

John Hall
Zoning Administrator

STATUS

Staff received a revised Site Plan on June 29, 2016. The Site Plan shows that all stockpiles and structures are at least 10 feet from the property line. The southern fence has been moved so that it is 10 feet south of the temporary recycling stockpile. These changes reflect the phone conversation between Chris Schultz and Susan Chavarria on June 23, 2016, during which Mrs. Schultz stated that all stockpiles have already been moved to be at least 5 feet from the property lines, and the southern fence was moved to cover the temporary recycling stockpiles. Staff visited the property on June 29, 2016 and noted the same conditions. The waivers listed in the legal description for the case are no longer necessary because these changes were made.

The Zoning Administrator has determined that a Special Use Permit is still necessary. As per Footnote 5 of Section 5.2, a contractor's facility with outdoor storage and/or operations is a by-right use in the B-4 General Business Zoning District if all materials are stored in the rear yard and surrounded with a Type D screen. However, the subject property has employee parking and some equipment stored east of what staff has determined to be the rear yard.

PARKING

The subject property still must comply with off-street parking requirements established in Section 7.4, including having space for 40 vehicles in addition to one 12 feet by 40 feet loading berth. The revised Site Plan indicates 19 marked spaces and a large "Parking" area east of the shop. Staff recommends that the Site Plan be revised to indicate all required parking.

DISCUSSION FROM APRIL 14, 2016 ZBA HEARING

Regarding Type D screening, Mr. Hall stated that the slats in the fence are required at the entire perimeter where the outdoor storage is located. He said that the slats could be placed in the fence along the right-of-way, as long as they are not in the visibility triangle of the driveway. He said that rather than having the fence on the inner part of the property the petitioner could just install the slats where the exterior storage is located, whichever works best for the petitioner. Ms. Schultz stated that they did not want to install the slats in the front. Mr. Hall stated that new fencing will then be required to screen the exterior storage on the south.

Upon further study, Mr. Hall has determined that privacy slats are needed on the rear fence and on the north side fence up to approximately the east end of the shop building and if the fence on the east is not slatted, a new slatted fence is needed between the north fence and the north side of the shop building. Slats will also be required on the new south fence and the east side of the new fence area.

PROPOSED SPECIAL CONDITIONS

Staff proposes the following Special Conditions :

- A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and Operations) until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the Special Use meets applicable state requirements for accessibility.

- B. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

- C. **By the end of 2016, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

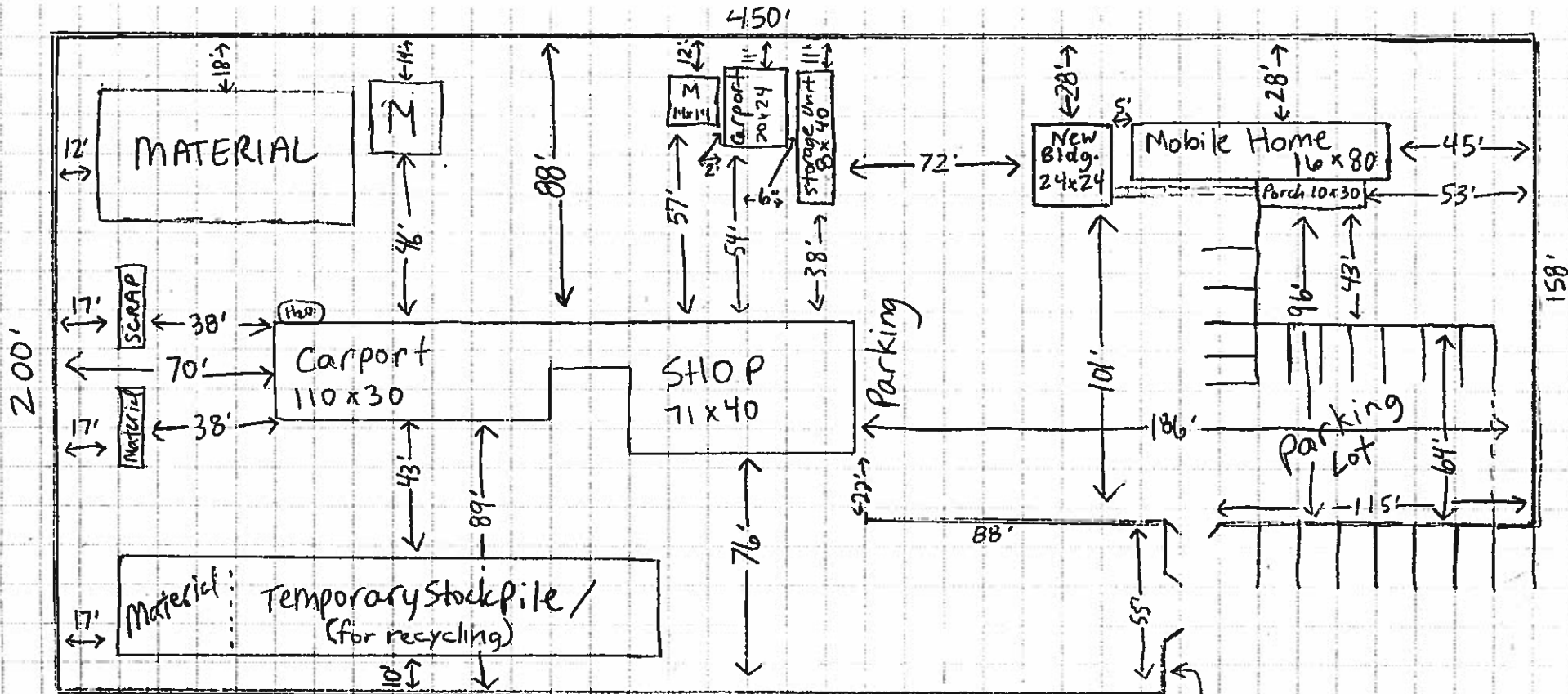
- D. **Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer used paint cans stored outdoors must be properly disposed of or stored indoors.**

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

That outdoor storage and operations are in compliance with the Champaign County Nuisance Ordinance.

ATTACHMENTS

- A Revised Site Plan received June 29, 2016
- B Revised Summary of Evidence, Findings of Fact and Final Determination dated July 7, 2016
- C Approved minutes from April 14, 2016 ZBA Public Hearing



Property Line

↑ Proposed New Fence w/ Privacy Slats

RECEIVED

JUN 29 2016

CHAMPAIGN CO. P & Z DEPARTMENT

- = 12x12
- == = Fence
- |||| = sidewalk
- M = material

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**SUMMARY OF EVIDENCE, FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED}*

Date: *{July 14, 2016}*

Petitioners: William and Christina Schultz, d.b.a. A1 Pavement Maintenance, d.b.a. BillyCo Properties LLC

Request: Authorize a Contractor’s Facility with Outdoor Storage and Outdoor Operations as a Special Use in the B-4 General Business Zoning District with the following waivers:

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 14, 2016** and **July 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioners William and Christina Schultz, d.b.a. BillyCo Properties LLC, d.b.a. A1 Pavement Maintenance, own the subject property.
2. The subject property is a 2.13 acre tract comprised of Lots 4 and 5 of Van Winkle Subdivision in the Northeast Quarter of the Northeast Quarter of Section 33 of Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township and commonly known as the contractor business A1 Pavement Maintenance, 3809 North Cunningham Avenue, Urbana, Illinois.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ; however, they do receive notice of such cases and they are invited to comment.
 - (1) Regarding the City of Urbana Comprehensive Plan: The City of Urbana Comprehensive Plan adopted April 11, 2005 shows the subject property in the Light Industrial/Office future land use area, with a notation that it is in a Rural/Agri Business Opportunities area along US 45 North.
 - B. The subject property is located within Somer Township, which does not have a Plan Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity adjacent to the subject property are as follows:
 - A. The subject property is zoned B-4 General Business and is in use as a pavement contractor's business with a caretaker's dwelling. The caretaker's dwelling was authorized under Permit #249-09-02.
 - B. Land on the north, south, east, and west of the subject property is zoned and is in use as follows:
 - (1) Land to the north and south is zoned B-4 General Business and is in commercial use.
 - (2) Land to the west is zoned B-3 Highway Business and is in agricultural production.
 - (3) Cunningham Avenue (US 45 North) abuts the subject property to the east. Land east of Cunningham Avenue is zoned AG-2 Agriculture and is in agricultural production with a farmstead.

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5. Regarding the site plan and operations of the proposed Special Use:
- A. The Site Plan received December 23, 2015 indicates the following:
- (1) A 16 feet by 80 feet manufactured home with a 10 feet by 30 feet porch (caretaker's dwelling);
 - (2) A 24 feet by 24 feet "new building" under construction just west of the mobile home, with a sidewalk connecting the two buildings;
 - (3) An 8 feet by 40 feet storage unit west of the new building;
 - (4) A 20 feet by 24 feet carport;
 - (5) A 71 feet by 40 feet "shop";
 - (6) A 30 feet by 110 feet carport west of the shop;
 - (7) A chain-link fence surrounding most of the subject property;
 - (8) 13 parking spaces on the south side of the mobile home; and
 - (9) A partially paved open area outside the gated entrance to the fenced part of the business, approximately 0.6 acre in area as measured by CCGIS aerial photography.
 - (10) The Site Plan received December 23, 2015 did not indicate the outdoor storage that is occurring on the property, all required parking, or the septic system. Staff has created an Annotated Aerial photo to assist with some of these elements that were not included in the Site Plan received December 23, 2015.
- B. A revised Site Plan was received June 29, 2016, and indicates the following:
- (1) All buildings and structures shown in the December 23, 2015 site plan;
 - (2) Proposed new fence with privacy slats extended to the south property line toward the east main entrance;
 - (3) 19 marked parking spaces on the east end of the property;
 - (4) Temporary stockpile for recycling on the southwest corner of the property;
 - a. At the April 14, 2016 ZBA public hearing, the petitioners testified that sometimes the recycling center they use is not open during A1 Pavement's hours of operation. They stated that they generally remove the recycling materials weekly when the recycling center is open.
 - (5) Five material piles and one scrap pile along the rear and north property lines.
 - a. The petitioners use these stockpiles in their paving projects.

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- C. The following are previous Zoning Use Permits on the subject property:
- (1) ZUP application #304-15-01, submitted November 20, 2015, for the 576 square feet “new building” prompted the current Special Use Permit case.
 - a. Two previously installed structures (the carport and the storage pod) that were not permitted were amended to this permit application on December 23, 2015.
 - b. During a site visit on January 26, 2016 to take photos for the Special Use case, staff noted that the building was under construction (without permit approval). Approval of the post-construction permit is contingent upon the property being compliant with the Zoning Ordinance.
 - c. During a site visit on March 14, 2016, it was clear that the “new building” was not a detached garage as the permit application indicates; rather, it is a building with two man-doors and two windows and no garage door access.
 - (2) Permit #245-09-02 approved September 14, 2009 was to place a manufactured home on the subject property and build a detached garage for a caretaker’s dwelling. The permit was amended on October 27, 2009 to add a covered porch to the manufactured home.
 - a. As per a staff note to file dated September 9, 2009, staff spoke with Petitioner Chris Schultz, who indicated the following:
 - (a) The pod that is presently on the property houses her personal items which would be off the premises once the home is in place.
 - (b) The trucks are part of their use and it was their understanding that those trucks could stay parked outside.
 - (c) Staff faxed her the screening requirements and outdoor storage requirements the same day.
 - (3) Permit #110-07-01 approved May 22, 2007 was to change the use to establish a seal coat business and to construct an addition to enclose a portion of an existing lean-to.
 - (4) Permit #167-03-07 was to construct a lean-to addition to an existing storage building for Riley Homes (prior owners). The lean to was not built until permit #110-07-01 was issued to BillyCo d.b.a. A1 Pavement & Maintenance.
- D. There was one previous zoning case on the subject property:
- (1) Case 130-AM-98 was approved on October 29, 1998 and rezoned 4.55 acres that included the subject property (Lots 4 & 5 in Van Winkle Sub) and Lots 6 & 7 to the south from B-3 Highway Business to B-4 General Business.
- E. There have been no other zoning cases adjacent to the subject property. The North Cunningham Avenue/US45 North corridor has been a commercial area for many years and most zoning cases in the area have involved rezoning to B-3 or B-4 Districts and/or obtaining Special Use Permits for retail and service businesses.

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Page 5 of 27**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS**

6. Regarding authorization for contractors' facilities with outdoor operations and storage in the AG-1 Agriculture Zoning DISTRICT in the *Zoning Ordinance*:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) "ACCESS" is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
 - (2) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE.
 - (3) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT within the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
 - (4) "ACCESSORY USE" is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
 - (5) "AREA, BUILDING" is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and nonpermanent CANOPIES and planters.
 - (6) "AREA, LOT" is the total area within the LOT LINES.
 - (7) "BERTH, LOADING" is a stall of dimensions herein specified, adjacent to a LOADING DOCK for the maneuvering and parking of a vehicle for loading and unloading purposes.
 - (8) "BUILDING" is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
 - (9) "BUILDING, DETACHED" is a BUILDING having no walls in common with other BUILDINGS.
 - (10) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
 - (11) "BY RIGHT" is a term to describe a USE permitted or allowed in the DISTRICT involved, without review by the BOARD or GOVERNING BODY, and complying

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with provisions of the Zoning Ordinance and with other applicable ordinances and regulations.

- (12) “CONSTRUCTION” is the excavation of earth to provide for a foundation, basement or cellar; and/or, the addition to or removal from a LOT or tract of land of earth or water so as to prepare said LOT or tract of land for the CONSTRUCTION of a STRUCTURE: and/or, the act of placing or affixing a component of a STRUCTURE upon the ground or upon another such component; and/or, the placing of CONSTRUCTION materials in a permanent position and fastening in a permanent manner; and /or, the demolition, elimination, and/or removal of an existing STRUCTURE in connection with such CONSTRUCTION.
- (13) “COVERAGE” is the percentage of the LOT AREA covered by the BUILDING AREA.
- (14) “DOCK, LOADING” is a platform-like STRUCTURE adjacent to a LOADING BERTH from which goods are loaded on and on which goods are unloaded from a vehicle parked in such LOADING BERTH.
- (15) “DWELLING UNIT” is one or more rooms constituting all or part of a DWELLING which are used exclusively as living quarters for one FAMILY, and which contains a bathroom and kitchen.
- (16) “ESTABLISHMENT” is a business, retail, office, or commercial USE. When used in the singular this term shall be construed to mean a single USE, BUILDING, STRUCTURE, or PREMISES of one of the types here noted.
- (17) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (18) “LOT DEPTH” is the distance between the midpoint of the FRONT LOT LINE and the midpoint of the REAR LOT LINE or LINES.
- (19) “LOT LINE, FRONT” is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
- (20) “LOT LINES” are the lines bounding a LOT.
- (21) “NONCONFORMING LOT, STRUCTURE or USE” is a LOT, SIGN, STRUCTURE, or USE that existed on the effective date of the adoption or amendment of this ordinance which does not conform to the regulations and standards of the DISTRICT in which it is located.
- (22) “OPERATIONS” are processing, assembly, fabrication, or handling of materials or products or movement of bulk materials or products not in containers or pipelines.

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- (23) “PARKING SPACE” is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
- (24) “SCREEN” is a STRUCTURE or landscaping element of sufficient opaqueness or density and maintained such that it completely obscures from view throughout its height the PREMISES upon which the screen is located.
- (25) “SCREEN PLANTING” is a vegetative material of sufficient height and density to filter adequately from view, in adjoining DISTRICTS, STRUCTURES, and USES on the PREMISES upon which the SCREEN PLANTING is located.
- (26) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (27) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (28) “STORAGE” is the presence of equipment, or raw materials or finished goods (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and excluding the parking of operable vehicles.
- (29) “STREET” is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
- (a) MAJOR STREET: Federal or State highways.
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.
- (30) “STRUCTURE” is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
- (31) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
- (32) “YARD” is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

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- B. Section 4.3.3 H.1.d. defines a Type D screen as a landscaped berm, or an opaque fence or wall, or SCREEN PLANTING with a minimum HEIGHT of eight feet as measured from the highest adjacent grade.
- C. Section 5.2: Table of Authorized Principal Uses states that Contractors Facilities (with outdoor STORAGE and/or outdoor OPERATIONS) can be established with a Special Use Permit in the B-4 General Business Zoning District. Footnote 5 (specific to the B-4 district) states, “Outdoor STORAGE as an ACCESSORY USE is allowed by right when all outdoor STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN meeting the provisions of Section 7.6.3.”
- D. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - a. All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - b. No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - c. Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
 - d. The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - e. The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer’s documentation of the full-cutoff feature for all exterior light fixtures.
 - (2) Subsection 6.1.3 establishes the following standard conditions for Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS:
 - a. In all DISTRICTS other than the B-5 DISTRICT, outdoor STORAGE and/or outdoor OPERATIONS are allowed as an ACCESSORY USE subject to subsection 7.6.
 - b. Section 7.6 establishes the following conditions for Outdoor Storage and/or Outdoor Operations:
 - (a) Part 7.6.1 states that “Outdoor STORAGE and/or OPERATIONS shall be allowed in all DISTRICTS only as ACCESSORY USES unless permitted as a principal USE in Section 5.2 and shall be allowed in any YARD in all DISTRICTS subject to the provisions

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of Section 7.2 without a permit provided that outdoor STORAGE and/or outdoor OPERATIONS shall not be located in any required off-street PARKING SPACES or LOADING BERTHS.

- (b) Part 7.6.2 states that “a Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for outdoor STORAGE and/or outdoor OPERATIONS which is visible within 1,000 feet from any of the following circumstances:
 - i. Any point within the BUILDING RESTRICTION LINE of any LOT located in any R DISTRICT or any LOT occupied by a DWELLING conforming as to USE or occupied by a SCHOOL; church or temple; public park or recreational facility; public library, museum, or gallery; public fairgrounds; nursing home or HOSPITAL; recreational business USE with outdoor facilities; or
 - ii. Any designated urban arterial street or MAJOR STREET.”
 - (c) Part 7.6.3 A. states that “The screen shall meet the requirements of Sections 4.3.3 E, F and G.”
 - (d) Part 7.6.3 B. states that “when the HEIGHT of items to be stored is taller than eight feet, trees of a minimum three inch caliper shall be planted at a spacing sufficient to ensure that once the trees achieve maturity the taller items will be screened in addition to screening required by Section 7.6.2.
- E. Section 7.4 establishes requirements for off-street PARKING SPACES and LOADING BERTHS:
- (1) Section 7.4.1 A. states, “All off-street PARKING SPACES shall be located on the same LOT or tract of land as the USE served”.
 - (2) Section 7.4.1 C.1. states, “Parking spaces for heavy motor trucks, motor buses or other vehicles shall be of dimensions specified for off-street loading berths.
 - (3) Section 7.4.1 C.2. states, “The number of such PARKING SPACES shall be the sum of the individual requirements of the various individual ESTABLISHMENTS computed separately in accordance with this section. Such PARKING SPACES for one such ESTABLISHMENT shall not be considered as providing the number of such PARKING SPACES for any other ESTABLISHMENT.”
 - (3) Section 7.4.1 C.3.e. states, “Any other establishments than specified will provide one parking space for every 200 square feet of floor area.”
 - (4) Section 7.4.1 C.4. states, “Required parking SCREENS for commercial ESTABLISHMENTS shall be provided as follows:

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- a. Parking areas for more than four vehicles of no more than 8,000 pounds gross vehicle weight each, excluding any vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials, located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type A SCREEN except that a TYPE B SCREEN may be erected along the rear LOT LINE of the business PROPERTY.
 - b. Parking areas for any number of vehicles exceeding 8,000 pounds in gross vehicle weight each or any number of vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type D SCREEN.”
- (5) Section 7.4.2 refers to off-street LOADING BERTHS:
- a. All LOADING BERTHS shall have vertical clearance of at least 14 feet.
 - b. All LOADING BERTHS shall be designed with appropriate means of vehicular access to a STREET or ALLEY in a manner which will least interfere with traffic movement.
 - c. No VEHICLE repair or service work shall be performed on any LOADING BERTH.
 - d. No LOADING BERTH shall be located less than 10 feet from any FRONT LOT LINE and less than five feet from any side or REAR LOT LINE.
 - e. Section 7.4.2 C. states, “Off-street LOADING BERTHS for commercial ESTABLISHMENTS shall be provided as follows:
 - (a) All LOADING BERTHS shall be located on the same LOT or tract of land as the ESTABLISHMENT served except when serving adjacent ESTABLISHMENTS when the LOADING BERTH requirement is sufficient to serve both ESTABLISHMENTS.
 - (b) No such BERTH shall be located within any YARD abutting a residential DISTRICT or located less than 100 feet from the BUILDING RESTRICTION LINE of any LOT in the R DISTRICT or any LOT containing a DWELLING conforming as to USE unless such BERTH is screened from public view by a Type C SCREEN. If the berth is located adjacent to an elevated loading dock, however, a Type D SCREEN shall be used to screen both the loading berth and the loading dock.

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- (c) No LOADING BERTH shall be located within 50 feet of the nearest point of intersection of two STREETS.
 - (d) All LOADING BERTHS shall be improved with a compacted base at least six inches thick and shall be surfaced with at least two inches of some all-weather dustless material.
 - (e) Schedule of off-street LOADING BERTHS is provided under Section 7.4.2 C.5. on page 7-23 of the Zoning Ordinance.
- F. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
 - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:
 - a. The property is either BEST PRIME FARMLAND and the property with proposed improvements in WELL SUITED OVERALL or the property is not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.
 - b. The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
 - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
 - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
 - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
 - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- G. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
 - a. That the waiver is in accordance with the general purpose and intent of the ordinance; and

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- b. That the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
- (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
- a. Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.
 - b. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction.
 - c. The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- H. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioner has testified on the application, **“Growing and running out of room in existing buildings.”**
 - B. The subject property is located on US45 North (North Cunningham Avenue) approximately 1.6 miles northeast of the I-74 exit at Cunningham Avenue.
 - C. The petitioner’s business has operated from the subject property since 2007.

GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
- A. The Petitioner has testified on the application, **“It is just a building being added to existing business location. We’ve been in business here since 2007.”**

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- B. Regarding surface drainage:
- (1) No Natural Resources Report from Champaign County Soil and Water Conservation District was required because the property has been in commercial use for many years.
 - (2) The property drains to the south, east and west. There are large roadside ditches along North Cunningham Avenue (US45 North).
 - (3) Site images taken by staff show standing water in a number of locations in the areas where equipment and vehicles traverse.
- C. Regarding traffic in the subject property area:
- (1) The subject property has one shared access point on the west side of North Cunningham Avenue (US45 North).
 - (2) North Cunningham Avenue (US45 North) is a 4-lane divided highway. There is a median break directly across from the property access drive.
 - (3) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2013 near the subject property. North Cunningham Avenue (US45 North) had an ADT of 10,600 east of its intersection with Oaks Road.
 - (4) The subject property is located about 1.6 miles northeast of the I-74 Interchange at Cunningham Avenue.
 - (5) The Somer Township Road Commissioner has been notified of this case and no comments have been received.
- D. Regarding fire protection on the subject property, the subject property is located approximately 3.2 miles from the Carroll Fire Protection District station in Urbana. The FPD Chief was notified of this case and no comments have been received.
- E. No part of the subject property is located within a mapped floodplain.
- F. The subject property is considered BEST PRIME FARMLAND. The soil on the subject property consists of Drummer silty clay loam 152A, and has an average LE of 98 to 100. The property has not been in agricultural production for many years.
- G. Regarding outdoor lighting on the subject property:
- (1) The Petitioners did not provide this information with their application.
- H. Regarding wastewater treatment and disposal on the subject property:
- (1) The subject property has a septic system.
- I. Regarding outdoor storage of empty or no longer used paint cans, a special condition has been proposed for their proper storage or disposal.

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- J. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
 - a. The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
 - b. The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
 - c. The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
 - d. Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
 - e. Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
 - f. The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required.
 - g. The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - h. The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.

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- i. When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
 - j. Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.
- K. Other than as reviewed in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
- A. The Petitioner has testified on the application: **“Contractor’s business is compatible with B-4 Zoning District.”**
 - B. Regarding compliance with the *Zoning Ordinance*:
 - (1) Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS are authorized by right in the B-1, I-1, and I-2 Zoning DISTRICTS and by right in the B-4 DISTRICT provided that all Outdoor STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN.
 - a. Outdoor storage on the subject property is not limited to the REAR YARD.
 - b. A Type D SCREEN is a landscaped berm, or an opaque fence or wall, or SCREEN PLANTING with a minimum HEIGHT of eight feet as measured from the highest adjacent grade.
 - c. The chain link fence on the north side of the property has slats with some gaps. The rest of the chain link fence has no screening.
 - (2) A caretaker’s dwelling is allowed as an accessory use in the Business and Industrial Districts.
 - (3) Regarding parking on the subject property for the proposed Special Use:
 - a. The building area (not including the caretaker’s dwelling) totals 7,516 square feet, which will require 38 parking spaces at least 9 feet by 20 feet each.

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- b. The caretaker's dwelling requires 2 parking spaces, for a total of 40 spaces.
 - c. Commercial uses of less than 9,999 square feet require one 12 feet by 40 feet loading berth, which cannot overlap other required parking.
 - d. A preliminary review of potential parking completed by staff indicates there may be sufficient room for about 40 parking spaces beyond the general outdoor storage and operations activity area under current conditions. There is sufficient area for additional parking spaces if existing stockpiles could be removed on the south side of the fence.
 - e. As per Part 7.4.1 C.4., required parking screens for commercial establishments are for parking areas that are less than 100 feet from the nearest dwelling conforming as to use. The nearest dwelling conforming as to use is over 100 feet from the current parking area on the subject property. No parking screen is thus required.
- C. Regarding compliance with the *Stormwater Management and Erosion Control Ordinance*, the subject property is exempt from the Policy as per Section 4.2.C. because construction of additions to existing structures have increased the impervious area by less than 10,000 square feet relative to the impervious area that existed on February 20, 2003.
- D. Regarding the Special Flood Hazard Areas Ordinance, no portion of the subject property is located within the mapped floodplain.
- E. Regarding the Subdivision Regulations, the subject property is part of the City of Urbana subdivision jurisdiction and the subject property appears to be in compliance.
- F. Regarding the requirement that the Special Use preserve the essential character of the B-4-General Business Zoning District:
- (1) Contractors Facilities with Outdoor Storage and/or Operations are allowed with a Special Use Permit in the B-4 General Business Zoning District.
 - (2) Outdoor Storage and/or Operations are allowed by right when all outdoor storage is located in the rear yard and is completely screened by a Type D screen.
- G. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.
- (1) Accessibility requirements have yet to be determined for the new building currently under construction. A special condition has been proposed to ensure compliance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use be in harmony with the general intent and purpose of the Ordinance:

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- A. Section 5.2: Table of Authorized Principal Uses states that Contractors Facilities (with outdoor STORAGE and/or outdoor OPERATIONS) can be established with a Special Use Permit in the B-4 General Business Zoning District.
- B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
- (1) Subsection 5.1.12 of the Ordinance states the general intent of the B-4 General Business DISTRICT and states as follows (capitalized words are defined in the Ordinance):

The B-4, General Business DISTRICT is intended to accommodate a range of commercial USES and is intended for application only adjacent to the urbanized areas of the COUNTY.
 - (2) The types of uses authorized in the B-4 District are in fact the types of uses that have been determined to be acceptable in the B-4 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
- C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:
- (1) Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.
 - a. ~~The side and rear yard waivers seek to allow for existing construction material stockpiles, equipment, a storage pod, and a small carport. These items are pushed toward the property line in order to maintain a central access drive for equipment and vehicles.~~
 - a. The revised site plan received June 29, 2016 indicates that stockpiles, equipment, buildings and structures are at least 10 feet from the property lines.
 - b. The nearest building on an adjacent property is 25 feet north of the caretaker's dwelling.
 - (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The proposed Special Use will conserve the value of real estate throughout the COUNTY, based on the following:

 - a. It is not clear whether or not the proposed special use will have any impact on the value of nearby properties without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.

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- b. The proposed Special Use could only have an effect on the value of real estate in the immediate vicinity. Regarding the effect on the value of real estate in the immediate vicinity other than the subject property, no new construction is anticipated for the proposed Special Use, so adjacent property values should not be impacted.
 - c. In regards to the value of the subject property it also is not clear if the requested Special Use Permit would have any effect. Regarding the effect on the value of the subject property, the subject property has been in use as a contractor's facility with caretaker's dwelling for several years. Value of the subject property should not change due to the Special Use Permit.
- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.

The proposed Special Use will lessen and avoid congestion in the public streets, as follows:

- a. The petitioner states on their application that their business is growing, but did not quantify that in terms of changes to traffic related to the business.
 - b. The business has been there since 2007 and the most recent traffic volumes are within the capacity of the roadway.
- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.
- a. No Natural Resources Report from Champaign County Soil and Water Conservation District was required because the property has been in commercial use for many years.
 - b. The property drains to the south, east and west. There are large roadside ditches along North Cunningham Avenue (US45 North).
 - c. The subject property is exempt from the Champaign County *Stormwater Management and Erosion Control Ordinance*.
- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed Special Use will promote the public health, safety, comfort, morals, and general welfare as follows:

- a. In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
- b. In regards to public comfort and general welfare, no comments have been received from neighbors or other parties.

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- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.
- a. The proposed Special Use does not exceed the limit on lot coverage, which is 40% in the B-4 Zoning District. Lot coverage is 6%.

b. Stockpiles and equipment were placed along the property lines after the 2008 Champaign County aerial photography was taken; the petitioners purchased the lot in 2007. Aerial photography from 2008 shows a few vehicles/pieces of equipment, but no stockpiles. The next available photography from 2011 shows 15-20 vehicles/pieces of equipment, an improved drive looping through the west end of the property, and minimal stockpiling. The 2014 photography shows more than 30 vehicles/pieces of equipment and at least five stockpiles of various materials.

c. Despite staff sending the screening requirements and outdoor storage requirements on September 9, 2009, the petitioners continued to increase outdoor storage and operations without seeking the necessary permits.

(a) The petitioners installed the small carport and storage pod without first obtaining a Zoning Use Permit; those permits have since been added to the current building permit for construction of the "new building".

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate any problematic conditions.

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and

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alteration or remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District and the specific types of uses and the proposed Special Use will have to be conducted in compliance with those requirements.

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.

The proposed Special Use will not subject the most productive agricultural lands to haphazard and unplanned intrusions of urban uses as follows:

- a. Soils on the subject property are BEST PRIME FARMLAND. The subject property has not been in agricultural production for many years.
 - b. The proposed Special Use meets the definition of “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan because it is within the Urbana-Champaign Sanitary District service area.
 - c. The subject property is within the Contiguous Urban Growth Area (CUGA), which according to the Land Resource Management Plan should develop in conformance with the relevant municipal comprehensive plan.
 - (a) Regarding the City of Urbana Comprehensive Plan: The City of Urbana Comprehensive Plan adopted April 11, 2005 shows the subject property in the Light Industrial/Office future land use area, with a notation that it is in a Rural/Agri Business Opportunities area along US 45 North.
- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The subject property does not contain any natural features.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.
- a. The proposed Special Use meets the definition of “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan because it is within the Urbana-Champaign Sanitary District service area.
 - b. The proposed Special Use has existed since at least 2007 and will not require additional public utilities or transportation facilities.

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- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The subject property has not been in agricultural production for many years.

- (13) Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed Special Use will not hinder the development of renewable energy sources.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

- 11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
 - A. The Petitioner has testified on the application: **“Yes.”**
 - B. The existing use on the property is not a nonconforming use.

~~**GENERALLY REGARDING OTHER CONSIDERATIONS RELATED TO THE WAIVERS OF STANDARD CONDITIONS**~~

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 12. Regarding proposed special conditions of approval:
 - ~~A. **In the event that the Contractor’s Facility ceases to exist, the right to a second dwelling unit will become void.**~~
 - ~~The special condition stated above is necessary to ensure the following:
That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.~~
 - A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and Operations) until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

- B. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

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That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

- C. **By the end of 2016, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

- D. **Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer used paint cans stored outdoors must be properly disposed of or stored indoors.**

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

That outdoor storage and operations are in compliance with the Champaign County Nuisance Ordinance.

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DOCUMENTS OF RECORD

1. Application for Special Use Permit received December 23, 2015, with attachments:
 - Site Plan
 - Warranty Deed
2. Revised Site Plan received June 29, 2016
3. Zoning Use Permit Application 324-15-01 received November 20, 2015
4. File for Zoning Use Permit 110-07-01 with Approved Site Plan dated May 22, 2007
5. File for Zoning Use Permit 245-09-02 with Approved Site Plan dated September 14, 2009
6. File for Zoning Case 130-AM-98 Riley Manufactured Homes
7. Email from Petitioner Chris Schultz received March 14, 2016
8. Preliminary Memorandum dated April 7, 2016, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received December 23, 2015
 - C Approved Site Plan from Zoning Use Permit 110-07-01 dated May 22, 2007
 - D Approved Site Plan from Zoning Use Permit 245-09-02 dated September 14, 2009
 - E Annotated Aerial Photo dated April 14, 2016
 - F Aerial photos: 2008, 2011, 2014
 - G LRMP Appendix of Defined Terms
 - H Site Visit Photos taken January 26, 2016 and March 14, 2016
 - I Email from Petitioner Chris Schultz received March 14, 2016
 - J Preliminary Summary of Evidence, Finding of Fact, and Final Determination dated April 7, 2016
9. Supplemental Memorandum #1 dated July 7, 2016, with attachments:
 - A Revised Site Plan received June 29, 2016
 - B Revised Summary of Evidence, Findings of Fact and Final Determination dated July 7, 2016
 - C Approved minutes from April 14, 2016 ZBA Public Hearing

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FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **823-S-15** held on **April 14, 2016** and **July 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because: _____
2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
 - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because*}*:

 - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*:

 - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*:

 - e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because*}*:

 - f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because*}*:

(Note the Board may include other relevant considerations as necessary or desirable in each case.)

*The Board may include additional justification if desired, but it is not required.

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:
 - a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
 - b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
 - c. Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
 - a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit *{IS/ IS NOT}* necessary for the public convenience at this location.
 - c. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it

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{WILL / WILL NOT} be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

- d. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located.

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

6. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:***

~~A. In the event that the Contractor's Facility ceases to exist, the right to a second dwelling unit will become void.~~

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

~~That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.~~

A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and Operations) until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the Special Use meets applicable state requirements for accessibility.

B. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

C. **By the end of 2016, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

D. **Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer used paint cans stored outdoors must be properly disposed of or stored indoors.**

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

That outdoor storage and operations are in compliance with the Champaign County Nuisance Ordinance.

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval *{HAVE/ HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **823-S-15** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicant **William and Christina Schultz, d.b.a. BillyCo Properties LLC, d.b.a. A1 Pavement Maintenance**, to authorize **the following as a Special Use on land in the B-4 General Business Zoning District:**

Authorize a Special Use Permit for a Contractor’s Facility with outdoor storage and outdoor operations in the B-4 General Business Zoning District.

~~SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS FOR CONTRACTORS FACILITIES WITH OUTDOOR STORAGE AND/OR OUTDOOR OPERATIONS:~~

~~Part A: A waiver for a side yard of 0 feet in lieu of the minimum required 10 feet as per Section 5.3 of the Zoning Ordinance.~~

~~Part B: A waiver for a rear yard of 0 feet in lieu of the minimum required 20 feet as per Section 5.3 of the Zoning Ordinance.~~

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

~~A. In the event that the Contractor’s Facility ceases to exist, the right to a second dwelling unit will become void.~~

~~The special condition stated above is necessary to ensure the following:
That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.~~

A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and Operations) until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

B. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

The special condition stated above is required to ensure the following:
That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

07/07/16 REVISED DRAFT

**Case 823-S-15
Page 27 of 27**

- C. **By the end of 2016, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

- D. **Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer used paint cans stored outdoors must be properly disposed of or stored indoors.**

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

That outdoor storage and operations are in compliance with the Champaign County Nuisance Ordinance.

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

AS APPROVED JUNE 30, 2016

1
2
3 **MINUTES OF REGULAR MEETING**

4 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

5 **1776 E. Washington Street**

6 **Urbana, IL 61801**

7
8
9 **DATE: April 14, 2016**

PLACE: John Dimit Meeting Room

1776 East Washington Street

Urbana, IL 61802

10
11 **TIME: 7:00 p.m.**

12 **MEMBERS PRESENT:** Catherine Capel, Frank DiNovo, Debra Griest, Jim Randol, Marilyn Lee

13
14 **MEMBERS ABSENT :** Brad Passalacqua, Eric Thorsland

15
16 **STAFF PRESENT :** Lori Busboom, Susan Chavarria, John Hall

17
18
19 **OTHERS PRESENT :** Christina Schultz, Bill Schultz, Rod Vanous, Ellen Vanous

20
21
22 **1. Call to Order**

23
24 The meeting was called to order at 7:00 p.m.

25
26 Mr. Hall stated that due to the absence of Mr. Thorsland the Board needs to appoint a Chair for tonight's
27 meeting.

28
29 **Ms. Lee moved, seconded by Mr. Randol to appoint Catherine Capel as the Chair for the April 14,**
30 **2016, meeting. The motion carried by voice vote.**

31
32 **2. Roll Call and Declaration of Quorum**

33
34 The roll was called and a quorum declared present with two members absent.

35
36 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the
37 witness register for that public hearing. She reminded the audience that when they sign the witness register
38 they are signing an oath.

39
40 **3. Correspondence**

41
42 **None**

43
44 **4. Approval of Minutes**

45
46 **None**

47
48 **5. Continued Public Hearing**

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None

6. New Public Hearings

Case 823-S-15 Petitioner: William and Christina Schultz, d.b.a. A1 Pavement Maintenance, d.b.a. BillyCo Properties, LLC. Request: Authorize a Contractor’s Facility with Outdoor Storage and Outdoor Operations as a Special Use in the B-4, General Business Zoning District with the following waivers: Part A: A waiver for a side yard of 0 feet in lieu of the minimum required 10 feet as per Section 5.3 of the Zoning Ordinance. Part B: A waiver for a rear yard of 0 feet in lieu of the minimum required 20 feet as per Section 5.3 of the Zoning Ordinance. Location: A 2.13 acre tract comprised of Lots 4 and 5 of Van Winkle Subdivision in the Northeast Quarter of the Northeast Quarter of Section 33 of Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township and commonly known as the contractor business A1 Pavement Maintenance, 3809 North Cunningham Avenue, Urbana, Illinois.

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

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

Ms. Capel asked the petitioners if they desired to make a statement outlining the nature of their request.

Ms. Christina Schultz, who resides at 3809 N. Cunningham Ave, Urbana, stated that the request indicates Part A: a waiver for a side yard of 0 feet in lieu of the minimum required 10 feet as per Section 5.3 of the Zoning Ordinance and Part B: A waiver for a rear yard of 0 feet in lieu of the minimum required 20 feet as per Section 5.3 of the Zoning Ordinance. She requested clarification of Part A. and Part B.

Mr. William Schultz, who resides at 3809 N. Cunningham Ave, Urbana, stated that they have measured it several times and we have 28 feet from the fence to the building.

Ms. Capel stated that she believes that the waiver is in regard to the stockpiled material and not the building.

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1 Ms. Schultz stated that the memorandum indicates that they had installed buildings on the property before
2 without an approved permit. She said that the buildings were storage units/pods and a carport. She said that
3 she and her husband were not aware of the need for a permit for these structures because they were not
4 permanent structures and could be moved at any given time. She said that after being notified that they were
5 in violation she applied for a permit and paid the required fees.
6

7 Mr. Schultz stated that they store items in the pods and they were not aware that a permit was required for
8 the pods.
9

10 Ms. Schultz stated that the memorandum makes it sound as if they are regular violators, which is not the
11 case.
12

13 Mr. Schultz stated there are piles of dirt in the back, as indicated in the photographs, and the piles of dirt
14 were given to them by the state and his company uses the dirt for preparation of their asphalt driveway jobs.
15 He said that if the dirt needs to be moved then they will do so.
16

17 Ms. Capel called John Hall to testify.
18

19 Mr. John Hall, Zoning Administrator, stated that Parts A and B were advertised in error because waivers are
20 not what are required but actual variances and the case may need to be re-advertised for this reason alone. He
21 said that if the stockpiles can be moved to meet the 10 feet requirement from the property line then that is the
22 petitioner's choice. He said that staff dealt with what was in front of them.
23

24 Mr. and Mrs. Schultz stated that they understood staff's position because the County's rules are the rules that
25 they must follow.
26

27 Mr. Hall stated that Ms. Chavarria prepared the annotated aerial photograph so that everyone could gain a
28 sense of what an actual site plan would have to show and at this point he would recommend that the case be
29 re-advertised as soon as possible. He asked the Board if the case is re-advertised, do they want the petitioner
30 to submit a better site plan prior to the Board taking action or would the Board want to require a special
31 condition requiring a complete site plan prior to compliance. He said that if the Board requires a complete
32 site plan, staff would be happy to work with the petitioner. He said that preparing a complete site plan
33 provides the petitioner with knowledge as to what the Ordinance requires. He said that the Board can either
34 request the complete site plan from the petitioners before this case comes back to the Board or if the Board
35 believes that the case is ready for final action then a special condition could be prepared tonight.
36

37 Ms. Capel stated that it was her understanding that the case had to be re-advertised.
38

39 Mr. Hall stated that there is a technical difference between a variance and a waiver and his advice would be
40 that the petitioner's case should be re-advertised. He said that staff has not received any calls about this case
41 therefore it is not like adjacent neighbors are sitting out there with great concerns and frankly it is the

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1 Department of Planning and Zoning that is concerned more than anyone else. He said that the reason why
2 this needs to be re-advertised is due to staff error. He said that if this case were continued it could come
3 back to this Board on May 12, 2016. He said that it is up to the Board and it does not appear to be a big
4 issue with the petitioners as we are not asking them to change their operations and they may continue to
5 operate. He said that the biggest concern is what it would take for the Board to be comfortable for final
6 action and if the Board would be more comfortable in continuing this case to the May 12th meeting the Board
7 can be assured of having an accurate legal advertisement and receiving an accurate site plan.

8
9 Mr. Schultz stated that for the last three days they have been cleaning the property and it is spotless.

10
11 Ms. Capel informed Mr. Schultz that if the stockpile is moved to a location to be compliant, 10 feet from the
12 property line, then no variances would be required.

13
14 Mr. Schultz stated that the stockpile will be moved. He said that it would only take them 3 or 4 hours to do
15 it.

16
17 Mr. Hall stated that once the screening is installed and the huge stockpile is relocated the petitioner must
18 decide if 10 feet from the property line would work for their operation.

19
20 Mr. Schultz stated that a 10 feet side yard is not a problem because Ehler's Trailer Park is purchasing six
21 loads of the stockpile dirt tomorrow therefore a lot of it will be gone.

22
23 Ms. Schultz asked staff about the temporary stockpile outside of the fence. She said that the stockpile is
24 temporary because it is recyclable material and since they work on the weekend, and the recycling plant does
25 not the stockpile builds until they are able to take the recyclable material to the plant.

26
27 Mr. Hall stated that when the case is re-advertised the request could include a variance for that screening
28 with the Board's understanding that this is a temporary stockpile. He said that a temporary stockpile is
29 difficult to enforce but if the Board believes that this is a reasonable request then something could be worked
30 out. He said that currently the case is not advertised with any variance for screening so with what is
31 currently before the Board they could not approve temporary stockpiles.

32
33 Mr. Schultz stated that they could just move the temporary stockpile.

34
35 Mr. Hall stated that he is not aware of any complaints to staff about the temporary stockpile or screening. He
36 said that the Board is not here to impose unnecessary burdens on the petitioner but the property does need to
37 be brought into compliance.

38
39 Mr. Randol asked if a variance is needed regardless of whether the temporary stockpile is inside or outside of
40 the fence. He said that a 10 foot variance is not required on the fence if the stockpile is outside.

41

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1 Mr. Hall stated that if the stockpile that is outside is not going to be screened then it needs a variance for
2 screening. He said that the stockpile that is inside, it doesn't matter whether it is temporary or not as long as
3 it is 10 feet from the fence.

4
5 Mr. Randol stated that it still has to be screened, regardless.

6
7 Mr. Hall stated yes. He said that with the south fence, which is not really on the property line, the stockpile
8 could be placed against the fence as long as it is screened.

9
10 Mr. DiNovo asked Mr. Hall to clarify the situation with the vehicles parked against the fence line on the
11 north property line.

12
13 Mr. Hall stated that any vehicle must be 5 feet from the side lot line. He said that there are a lot of things
14 like this that must be discussed with the petitioner. He said that if the vehicles must be parked against the
15 property line because the 5 feet is needed to move around equipment then that should also be included in the
16 re-advertisement. He said that if the petitioner can live with parking the vehicles 5 feet from the property
17 line then no variance will be required.

18
19 Mr. DiNovo stated that he would like to have a complete site plan. He said that a complete site plan would
20 make it a lot easier for the Board to make their determination.

21
22 Mr. Schultz stated that he totally understands what staff and the Board are stating but they are a construction
23 company and no one visits their property. He said they do allow Serve-Pro to park on their lot during the day
24 if they need to.

25
26 Ms. Griest noted to Mr. Hall that she will not be attending the May 12th meeting. She said that she
27 understands the petitioner's anxiety about waiting but she does agree that the petitioners learn so much and it
28 is valuable to them to be able to have that time to discuss their future and what they are going to do and how
29 they need to use the site. She said that the petitioners would greatly benefit in preparing their own site plan
30 so that they have a clear understanding of what is allowed and what they need to do in the future on their
31 property. She said that the petitioner's property is in an industrialized area and it is a good location for this
32 particular business but the Board has seen someone's business in the perfect location yet they do not
33 understand how to make it work within the requirements of the Zoning Ordinance. She said that she would
34 like the petitioners to have the opportunity to work with staff on their own site plan so that all of their needs
35 are taken care of and prevent them from having to revisit the Board in one or two years. She said that the
36 petitioners have no restrictions in continuing to operate their business while the hearing process is continued.
37 She said that if the petitioners receive a variance for the 0 feet setbacks on the stockpile that will give them
38 the latitude to use that space but they would not be required to use that space.

39
40 Mr. DiNovo stated that the special use permit is based on an authoritative site plan that is entered into the
41 case record. He said that he would prefer that the case be continued and the prospect may be that the

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1 petitioners arrange things so that no variance is required at all therefore they would not need to come back
2 before this Board. He said that the petitioners may decide that they do want one or more of these variances.
3 He said that the complete site plan is important so that the Board can completely agree on what is being
4 allowed.

5
6 Ms. Lee agreed with Mr. DiNovo regarding the need for the case to be continued to a later date.
7

8 Mr. Hall stated there are two Board members who will not be present at the May 12th meeting but if the other
9 five Board members attend there will be more than enough necessary to take action. He said that the
10 meeting could be continued to May 12th but he is not sure if the petitioner will have their complete site plan
11 ready within the next few days so that staff knows what to include in the legal advertisement. He said that
12 the legal advertisement has to be no less than 15 days and no more than 30 days before May 12th. He said
13 that if the petitioner is starting to get busy they may want to continue their case to the May 26th hearing so
14 that they have more time to prepare the complete site plan.
15

16 Mr. Schultz stated that they are swamped right now but whether they request to continue the case on May
17 12th or May 26th it won't matter.
18

19 Mr. Randol stated that this hearing will not have any impact on the petitioner's business operation so the
20 case could be continued until fall.
21

22 Mr. Hall stated that currently the 100-day limit is July 14th, unless the Board suspends the 100-day rule. He
23 said that he realizes that July 14th is probably the worst time of the year for the petitioner. He noted that the
24 Board never asks someone to stop their business operation and if it is better for them to return before the
25 Board at a slower time of the year then the Board can accommodate that request.
26

27 Mr. Randol stated that it depends on the petitioner's timeframe more than the Board's.
28

29 Mr. Schultz stated that if the variances are approved they would not need to move that much dirt because
30 they have already moved most of it.
31

32 Ms. Capel stated that a complete site plan still needs to be submitted and the petitioner needs to decide on
33 the screening to the south.
34

35 Mr. Schultz stated that they are already going to do the south fence and have moved everything that they can
36 except for the concrete barriers which they will take care of tomorrow.
37

38 Ms. Lee asked Mr. Schultz to indicate their least busy time of the year is.
39

40 Ms. Schultz stated that it will not matter when the hearing is scheduled.
41

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1 Mr. Schultz stated that they will be in attendance when the Board decides to continue the hearing. He said
2 that they just want to get this done and get the building complete. He said that it looks terrible right now and
3 he wants everything to look nice when you drive past the property.

4
5 Ms. Schultz stated that as of now they have put a hold on the building.

6
7 Mr. Schultz stated that they cancelled the permit for the building when they found out that they needed this
8 hearing.

9
10 Mr. Hall stated that staff could consider that permit if the petitioners are willing to abide by the Zoning
11 Board.

12
13 Mr. Schultz stated that he and his wife will do whatever the Board tells them what they can do.

14
15 Ms. Schultz asked Mr. Hall to clarify the statement regarding lighting.

16
17 Mr. Hall stated that the Zoning Ordinance was amended to require special use permits to always use a certain
18 kind of lighting on the exterior. He said that going back to how long the petitioners have been on their
19 property, if they have ever added any new exterior lighting that lighting should be full cut-off. He said that if
20 no new lighting has been added or will be added then whatever is currently on the property is nonconforming
21 and is fine. He said that the Ordinance only talks about any lighting required when a special use permit is
22 needed. He said that this would be something that will only apply in the future when the petitioners need to
23 replace their lights. He said that full cut-off light fixtures are easy to find and the petitioners will need to
24 remember this requirement when replacing their exterior lighting in the future.

25
26 Ms. Schultz asked Mr. Hall if the slats in the fence are only required up to the front of the building or are the
27 slats required for the entire perimeter of the property.

28
29 Mr. Hall stated that the slats in the fence are required at the entire perimeter where the outdoor storage is
30 located. He said that the slats could be placed in the fence along the right-of-way, as long as they are not in
31 the visibility triangle of the driveway. He said that rather than having the fence on the inner part of the
32 property the petitioner could just install the slats where the exterior storage is located, whichever works best
33 for the petitioner.

34
35 Ms. Schultz stated that they did not want to install the slats in the front.

36
37 Mr. Hall stated that new fencing will then be required to screen the exterior storage on the south. He asked
38 the Board if they would be open to temporary stockpiles on the south without screening.

39
40 Mr. Randol stated that he does not have a problem with it. He said that the petitioners indicated that they
41 bring in the temporary stockpiles on the weekends and then dispose of it the following week.

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1
2 Mr. Hall stated that the understanding would be that at the end of the season no stockpiles may be present on
3 the property without screening.
4
5 Ms. Schultz stated that she understands.
6
7 Mr. Schultz stated that the bad thing about being at this location is that it is not unusual for someone to
8 dump stockpiles where they are not supposed to be dumped. He said that he still takes care of the disposal of
9 the stockpile because it is on their property.
10
11 Mr. Hall stated that the Board might be willing to re-advertise the case but that will require the petitioners to
12 come back.
13
14 Mr. DiNovo stated that it seems that the stockpile storage is an issue within the City of Urbana's ETJ. He
15 asked if staff could get any expression or views from the City of Urbana regarding this issue.
16
17 Mr. Hall stated that he would agree that outdoor screening is one of staff's tougher enforcement issues in that
18 area. He said that staff sent notice to the City of Urbana regarding this case and no comments were received.
19
20 Mr. DiNovo stated that if no protest was received from the City of Urbana then the issue is silent.
21
22 Mr. Hall stated that there are some issues which appear to merely be outdoor storage issues in that part of the
23 County and there are a lot more difficult issues which staff has wrestled with at a staff level.
24
25 Mr. DiNovo stated that he is not making objections to anything but was just thinking that this is something
26 that is more common within the City of Urbana's ETJ and he is surprised that they did not voice an opinion.
27
28 Mr. Hall stated that staff received no comments from the City of Urbana but they are one municipality who
29 does not hesitate in sharing their concerns with staff.
30
31 Ms. Griest asked if the temporary storage always consists of recyclable materials used in the operation or is it
32 brush, gravel or ground asphalt.
33
34 Ms. Schultz stated that the material is from a ripped out driveway or road and they have to stockpile it on the
35 property because the recycling plant is not open on the weekends. She said that the stockpile mainly consists
36 of asphalt and concrete.
37
38 Ms. Griest stated that she has no objection to a temporary stockpile as long as the stockpile is not there year
39 around. She said that perhaps the Board could propose a special condition regarding the temporary stockpile.
40
41 Mr. Randol stated that the petitioners easily have room inside the fenced area to place the recyclable

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1 materials that are compiled on the weekends.

2

3 Mr. Schultz stated yes.

4

5 Mr. Randol asked if the temporary stockpile could be placed in that area to prevent other people from
6 dumping on the property. He said that many times people see that a pile has already been started so they
7 decide that they can just add to it. He said that the petitioners would not be under the gun so fast to get rid of
8 the temporary stockpile if they placed it in the location that is already fenced.

9

10 Mr. Schultz stated that the stockpile is located outside of the fence but if he has to go to the trouble of
11 installing a fence he will have S & K Fence Company install the new fence on the other property line
12 therefore making them 100 feet from that property line.

13

14 Ms. Griest stated that the stockpile would not be 100 feet from the property line but would be inside the
15 fence.

16

17 Mr. Schultz stated yes, the stockpile would be inside of the fenced area. He said that if he moves the fence
18 there will be more than enough room and the fence with the green slats would be on the other side of the
19 stockpile.

20

21 Mr. Randol stated that if the petitioners return before this Board with a complete site plan, the Board could
22 place stipulations for completion in 90 days so that the petitioners do not feel like they are under the gun
23 during their busiest time of the year.

24

25 Mr. Schultz stated that he appreciates the Board's consideration.

26

27 Mr. Hall stated that the site plan should indicate the petitioner's decisions regarding whether they are going
28 to keep the vehicles 5 feet from the north property line, move the fence down around the south stockpiles or
29 add new fence with the slats to the middle of site, etc. He said that when all of these decisions are made the
30 petitioners can submit the site plan to staff for review and staff can prepare the new legal advertisement.

31

32 Mr. Schultz stated that he would appreciate it if the Board could continue the hearing to July 14th.

33

34 Mr. Randol stated that continuing the case to the July 14th meeting would give the petitioners more time to
35 prepare the site plan rather than rushing around.

36

37 **Mr. Randol moved, seconded by Ms. Griest to continue Case 823-S-15 to the July 14, 2016, meeting.**
38 **The motion carried by voice vote.**

39

40 Mr. Hall informed the petitioners that staff will be in touch with them regarding the new site plan.

41

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1
2 **Case 826-V-16** Petitioner: **Rodney and Ellen Vanous** Request: **Authorize the following variance in the**
3 **AG-2, Agriculture Zoning District: A detached shed with a rear yard of 2 feet 6 inches in lieu of the**
4 **minimum 10 feet for accessory structures.** Location: **Lot 34 of the Willowdale 2nd Subdivision in**
5 **Section 11 of St. Joseph Township and commonly known as the residence at 1699 Willow Park St, St.**
6 **Joseph, Illinois.**

7
8 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the
9 witness register for that public hearing. She reminded the audience that when they sign the witness register
10 they are signing an oath.

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

20
21 Ms. Capel asked the petitioners if they desired to make a statement outlining the nature of their request.

22
23 Mr. Rodney Vanous, who resides at 1699 Willow Park St, St. Joseph, asked if the 10 foot requirement is due
24 to the need for access to the utilities, if required.

25
26 Mr. Hall stated yes, that is the purpose of the requirement.

27
28 Mr. Vanous stated that the Zoning Ordinance was adopted in 1973 and the shed was built after that time. He
29 said that it appears that the existing shed was built in violation of the Zoning Ordinance when it was built by
30 the previous owners. He said that he desires to replace the old shed with a new shed and there will be two
31 feet added to both sides. He said that staff asked him if he could relocate the shed but he discussed two
32 issues with Ms. Chavarria. He said that the site plan indicates that the leach field is along one side of the
33 shed and the dotted line on the diagram indicates that it floods very easily on the property. He said that he
34 has received letters of support from the neighbors to the south and west and he submitted those letters to Ms.
35 Chavarria. He said that when J.U.L.I.E. flags the lot for any activity they never place any flags in the
36 easement area. He said that granting the variance will not be injurious to the neighborhood. He said that if
37 he placed the shed on the north side of his property it would block the view of the traffic coming from
38 County Road 1700N. He said that the old shed already existed on the property and the only thing that he
39 wants to do is replace it with a new shed. He said that the shed was constructed in the 70's and it has never
40 been a problem with the neighborhood before so he does not see why a new shed would be a problem now.
41 He said that he really has no room to work in relocating the shed and after checking with professionals he

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1 was told that he should never construct anything on the leach field.

2

3 Ms. Capel asked the Board if there were any questions for Mr. Vanous.

4

5 Ms. Lee asked staff if the shed is located in the R-1 or AG-2 District.

6

7 Mr. Hall stated that the shed is technically located within the residential portion which has a side yard of 5
8 feet but the lot overall is primarily AG-2. He said that the case was advertised with the side yard for the AG-
9 2 District but since it is in the R-1 District it is only a variance of 2 feet 6 inches in lieu of the minimum
10 required 5 feet for accessory structures. He said that staff tries to be as conservative as possible in the legal
11 advertisement so that the case does not have to be re-advertised and in case a neighbor was concerned about
12 this staff was being as restrictive as possible. He said that staff has not received any calls against this
13 variance and there are no outstanding issues with this request.

14

15 Mr. DiNovo stated that there are discrepancies between the GIS parcel layer and what is drawn on the
16 adopted zoning map. He said that given that the subdivision was platted in 1972, when the zoning map was
17 finalized, it would not be unreasonable in his estimation to interpret the zoning map to be such that the R-1
18 District corresponds to the east line of the subdivision.

19

20 Mr. Vanous asked staff why their lot does have two different zoning designations.

21

22 Mr. Hall stated that Mr. Vanous does have a valid question. He said that it goes back to when the
23 subdivision was platted, prior to the adoption of the Zoning Ordinance. He said that to be fair, the Zoning
24 Ordinance had been under development for some time prior to its adoption on October 10, 1973. He said
25 that for some reason, the lines in the subdivision did not match, which is why Ms. Chavarria asked the
26 petitioner if he could possibly get within 5 feet from the lot line so no variance would be required, but Mr.
27 Vanous had reasons why he could not be 5 feet from the lot line. He said that this is one of the problems with
28 the Zoning Ordinance and it is the rule until it is changed therefore this is why there is a variance process
29 available.

30

31 Mr. DiNovo stated that at the time when the zoning map was prepared there was limited information which
32 is why the Zoning Ordinance provides for granting interpretations about the map.

33

34 Mr. Vanous asked if the zoning for his lot could be changed in the future.

35

36 Mr. Hall stated that the zoning could be changed but it is not an easy process, in fact, the variance is the
37 easiest way to accommodate the property owner.

38

39 Mr. DiNovo asked Mr. Vanous if he knew where the southwest property pin is located.

40

41 Mr. Vanous stated that there is not a property pin but there is a cement stone dividing the properties. He said

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1 that the pin may be underneath the cement stone.
2

3 Ms. Chavarria stated that two new Documents of Record were submitted tonight by Mr. Vanous. She said
4 that new item #3 is a letter from the neighbor to the west and new item #4 is a letter from the neighbor to the
5 south and both letters voice support of the variance request. She said that Mr. Ribbe, neighbor to the west,
6 requested that the County review the boundary lines for the zoning of the property.
7

8 Mr. DiNovo asked Mr. Vanous if the new shed will be built on a slab or skids.
9

10 Mr. Vanous stated that the new shed will be built on wooden skids so that it can be moved if required.
11

12 Ms. Capel asked the Board if there were any additional questions for Mr. Vanous and there were none.
13

14 Ms. Capel asked the audience if anyone desired to present testimony regarding this case and there was no
15 one.
16

17 Ms. Capel asked the audience if anyone desired to cross examine Mr. Vanous and there was no one.
18

19 Ms. Capel closed the witness register.
20

21 **Finding of Fact for Case 826-V-16:**
22

23 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
24 826-V-16 held on April 14, 2016, the Zoning Board of Appeals of Champaign County finds that:
25

- 26 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
27 **structure involved, which are not applicable to other similarly situated land and**
28 **structures elsewhere in the same district.**
29

30 Mr. Randol stated that special conditions and circumstances DO exist which are peculiar to the land or
31 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
32 same district because of the location of the leach field and the flood area of the lot.
33

- 34 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
35 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
36 **the land or structure or construction.**
37

38 Mr. Randol stated that practical difficulties or hardships created by carrying out the strict letter of the
39 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
40 or construction because of the location of the leach field and the flood area of the lot.
41

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1 Ms. Capel stated that the property owner would be unable to replace the old shed.

2

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

5

6 Mr. Randol stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
7 result from actions of the applicant because the property was already developed when the petitioner
8 purchased the property.

9

10 Ms. Griest stated that the lot is only .37 acres in size.

11

12 **4. The requested variance IS in harmony with the general purpose and intent of the**
13 **Ordinance.**

14

15 Ms. Griest stated that the requested variance IS in harmony with the general purpose and intent of the
16 Ordinance because two letters of support have been received from the two adjoining neighbors.

17

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

20

21 Ms. Griest stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
22 detrimental to the public health, safety, or welfare because there is adequate separation from other structures
23 for air movement and there are no known utilities in the area.

24

25 Mr. DiNovo stated that the structure will be movable.

26

27 Ms. Capel stated that no comments have been received from the fire protection district.

28

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

31

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

34

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

37

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

40

41 Ms. Capel entertained a motion to move the Final Determination for Case 826-V-16.

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Ms. Griest moved, seconded by Ms. Lee to move to the Final Determination for Case 826-V-16. The motion carried by voice vote.

Ms. Capel informed the petitioners that currently the Board has two absent Board members therefore it is at their discretion to either continue Case 826-V-16 until a full Board is present or request that the present Board move to the Final Determination. She informed the petitioners that four affirmative votes are required for approval.

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

Final Determination for Case 826-V-16:

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

The Variance requested in Case 826-V-16 is hereby GRANTED to the petitioners Rodney and Ellen Vanous to authorize the following variance in the AG-2 Agriculture Zoning District:

A detached shed with a rear yard of 2 feet 6 inches in lieu of the minimum required 10 feet for accessory structures.

Ms. Capel requested a roll call vote:

The roll was called as follows:

Lee – yes	Passalacqua – absent	Randol – yes
Thorsland – absent	Griest – yes	DiNovo – yes
Capel – yes		

Mr. Hall informed the petitioners that they have received an approval of their request and staff will send out the appropriate paperwork as soon as possible. He said that since the new shed is less than 150 square feet no Zoning Use Permit is required for its construction.

7. Staff Report

None

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1 **8. Other Business**

2 **A. Review of Docket**

3
4 Mr. Hall stated that the County will be faced with new challenges within the coming year in regards to
5 compliance with the stormwater program and if the ZBA Docket gets any more than the current 14 pending
6 cases the Board may need to stretch these cases out, taking more time. He said that within the next year it
7 would be nice to have some of Ms. Chavarria’s time to work on the MS4 Program but it will not be her main
8 responsibility that will still be the ZBA. He said that during the summer we may have to use more of Ms.
9 Chavarria’s time than what we actually wanted to do. He said that Ms. Chavarria’s main responsibility is
10 and will always be to the ZBA but we have a really challenging time right now with our stormwater
11 program. He said the EPA has politely asked the County when they are going to get things done and thus far
12 the County has not received a violation notice. He said that he plans to discuss this issue with the
13 Environment and Land Use Committee.
14

15 Ms. Lee noted that her anticipated hand surgery will be on June 1st but nothing has been scheduled yet.

16
17 Ms. Griest reminded staff that she will be absent from the May 12th meeting.

18
19 Mr. DiNovo reminded staff that he will be absent from the May 26th meeting.

20
21 Ms. Berry stated that Mr. Thorsland will also be absent from the May 26th meeting.
22

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

24
25 None

26
27 **10. Adjournment**

28
29 Ms. Capel entertained a motion to adjourn the meeting.
30

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

32
33 The meeting adjourned at 8:06 p.m.
34
35

36 Respectfully submitted
37
38
39
40

41 Secretary of Zoning Board of Appeals