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2
3 **6. New Public Hearings**
4

5 **Case 881-S-17** Petitioner: **Steve Gilbert, d.b.a. Shady Rest Materials, LLC, d.b.a. Gilbert Transport,**
6 **LLC.** Request: **Authorize an existing trucking, quarrying, and recycling of construction materials**
7 **Business as a “Mineral Extraction, Quarrying, topsoil removal and allied activities” Special Use in the**
8 **AG-1 Agriculture Zoning District, subject to the variance requested in related Case 887-V-17, and**
9 **subject to the following waivers of standard conditions required by Section 6.1.3 of the Zoning**
10 **Ordinance: Part A: Authorize a waiver for side and rear yards of 15 feet in lieu of the minimum**
11 **required 100 feet. Part B: Authorize a waiver for a setback from street centerline of 25 feet in lieu of**
12 **the minimum required 150 feet. Part C: Authorize a waiver for no wire mesh fence surrounding the**
13 **Special Use, in lieu of the minimum required 6 feet tall wire mesh fence. Location: A 23.71-acre tract**
14 **in the Northeast Quarter of the Northeast Quarter of Section 5 of Township 19 North, Range 8 East of**
15 **the Third Principal Meridian in Champaign Township.**
16

17 **Case 887-V-17** Petitioner: **Steve Gilbert, d.b.a. Shady Rest Materials, LLC, d.b.a. Gilbert Transport,**
18 **LLC.** Request: **Authorize the following Variance for an existing trucking, quarrying and recycling of**
19 **construction materials business in the AG-1 Agriculture Zoning District, subject to the request for**
20 **Special Use Permit approval and waivers in related Case 881-S-17: Part A: Authorize a Variance**
21 **from the *Champaign County Storm Water Management and Erosion Control Ordinance* for the**
22 **requirement of a stormwater drainage plan with detention. Part B: Authorize a variance from**
23 **Section 7.6.2 of the *Champaign County Zoning Ordinance* for no screening in lieu of a Type D screen**
24 **required for outdoor storage and operations within 1,000 feet of a major street. Location: A 23.71-**
25 **acre tract in the Northeast Quarter of the Northeast Quarter of Section 5 of Township 19 North,**
26 **Range 8 East of the Third Principal Meridian in Champaign Township.**
27

28 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
29 the witness register for that public hearing. He reminded the audience that when they sign the witness
30 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
31 time.
32

33 Mr. Thorsland informed the audience that Cases 881-S-17 and 887-V-17 are Administrative Cases and as
34 such, the County allows anyone the opportunity to cross-examine any witness. He said that at the proper
35 time, he will ask for a show of hands for those who would like to cross-examine and each person will be
36 called upon. He requested that anyone called to cross-examine go to the cross-examination microphone to
37 ask any questions. He said that those who desire to cross-examine are not required to sign the witness
38 register but are requested to clearly state their name before asking any questions. He noted that no new
39 testimony is to be given during the cross-examination. He said that attorneys who have complied with

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1 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.
2
3 Mr. Thorsland asked the petitioner if he would like to make a statement regarding his case.
4
5 Mr. Steve Gilbert, whose address is POB 491, Mansfield, IL, stated that 37 years ago, when he was 37 years
6 old, he purchased the subject property, from John Kenny who operated a quarry at that location. He said that
7 when he took over the property he operated a trucking business. He said that he began selling dirt and gravel
8 from the subject property for clients in Champaign County and as a lateral development the trucking
9 business expanded with more trucks, and they began recycling materials and excavating dirt on the subject
10 property.
11
12 Mr. Thorsland asked Mr. Gilbert if the operation has not changed a lot in the last 37 years, except that the
13 recycling operation is newer than the quarrying.
14
15 Mr. Gilbert stated that he began recycling materials in 1989 when the old Carle Hospital was being torn
16 down and drainage districts wanted to line their ditches with concrete chunks. He said that eventually there
17 were more concrete chunks from the hospital than there were ditches, so in 1993 he purchased a concrete
18 crusher to recycle the chunks. He said that the crusher is old now, but at its time it was the newest
19 technology.
20
21 Mr. Thorsland stated that Mr. Gilbert indicated in one of the documents that the quarrying operation has
22 been taken over a little bit by the recycling operation.
23
24 Mr. DiNovo asked Mr. Gilbert if any sand or gravel is being quarried from the property now.
25
26 Mr. Gilbert stated no.
27
28 Mr. DiNovo asked Mr. Gilbert to indicate how long it has been since any sand or gravel has been quarried
29 from the property.
30
31 Mr. Gilbert stated that he is not sure how long it has been since he has excavated any sand or gravel from the
32 property.
33
34 Mr. DiNovo stated that it is clear this case has not been properly presented to the Board, because there is no
35 way this business qualifies as “Mineral Extraction, Quarrying, topsoil removal and allied activities.” Mr.
36 DiNovo stated that Mr. Gilbert testified that he is not doing any extraction of topsoil and the allied activities
37 are to be activities that are allied to the principal use of the property, if it is mineral extraction and that is not
38 what is happening. Mr. DiNovo stated that this use is clearly a contractor’s facility.
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1 Mr. Thorsland stated that Mr. Gilbert should be allowed to finish his testimony.
2
3 Mr. DiNovo stated that this interpretation question must be resolved before the Board does anything else. He
4 said that this case was presented to the Board on the basis that this qualifies as mineral extraction and
5 quarrying and it is not, thus the Board cannot move forward.
6
7 Mr. Randol stated that he would like to hear the rest of Mr. Gilbert's testimony.
8
9 Mr. Thorsland agreed. He said that he does not know if there is a statute of limitations regarding the last
10 time quarrying was done on the subject property.
11
12 Mr. DiNovo stated that it doesn't matter whether quarrying was done on the property last year or ten years
13 ago, because the business does not fit into that category.
14
15 Mr. Thorsland stated that this case has just started so the Board should continue with testimony.
16
17 Mr. DiNovo stated that he does not want to waste the Board's time discussing screening, parking and
18 inoperable vehicles. He said that he would like to discuss whether this business fits into the presented
19 category and it obviously does not. He said that this Board is obliged to make a fair reading of the
20 Ordinance and the ZBA cannot interpret the language of the Ordinance any damn way they please.
21
22 Mr. Thorsland stated that Mr. DiNovo's point is well made, but he is going to continue with Mr. Gilbert's
23 testimony so that the Board can obtain more details about the business, and at that time, the Board can
24 decide if the presented description of the business supports Mr. DiNovo's position or Mr. Gilbert's. Mr.
25 Thorsland stated the Board is not going to stop the case for re-advertisement, because there are people who
26 have attended tonight's meeting and their testimony should be placed on record.
27
28 Mr. DiNovo stated that he does not believe that it is necessary, but he cannot stop Mr. Thorsland if he insists
29 on taking testimony tonight.
30
31 Mr. Gilbert stated that he would like to clarify the word "quarrying." He said that 37 years ago when he took
32 over the subject property he would remove topsoil and clay. He said that he still sells topsoil and clay today
33 and it is his understanding that this practice is under the term "quarrying." He said that he does not have a
34 dredge or fancy apparatus, but he is still doing what he did 37 years ago, which is selling material from the
35 property.
36
37 Mr. Thorsland asked Mr. Gilbert if he is still selling material that is being pulled from the property.
38
39 Mr. Gilbert stated yes.

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2 Mr. Hall asked Mr. Gilbert if he is pulling the clay from the ground on the subject property, or is he hauling
3 in the clay and topsoil from other construction sites and stockpiling it until it is sold.
4
5 Mr. Gilbert stated that the topsoil is pulled from the ground, but the clay is brought in from other locations.
6 He said that the other materials, like bricks, are sorted and sold. He said that this is not a full-fledged quarry
7 operation, but it is the same operation that it was 37 years ago.
8
9 Mr. Hall stated that he would assume that the topsoil is under the same operation as the clay, in that it is
10 brought onto the property from various locations and stockpiled until it is sold and trucked elsewhere. He
11 asked Mr. Gilbert if he is quarrying topsoil from the subject property.
12
13 Mr. Gilbert stated that he dug out a pond in the location where he quarried the topsoil and people are not
14 happy that he has not filled in the pond, because they are worried about mosquitos.
15
16 Mr. Hall stated that once the topsoil is removed from the only space where there is topsoil, it is gone and
17 once no topsoil is available it must be brought in from other locations and stockpiled.
18
19 Mr. Gilbert stated that the topsoil pile that is currently on the property is 3 to 3-1/2 feet deep. He said that
20 the University of Illinois and the State of Illinois sends people out to test the soil for pesticides, insecticides,
21 fungicides, etc. to make sure that there are no contaminants in it. He said that he sent a lot of topsoil to the
22 Chanute Air Force Base.
23
24 Mr. Hall asked Mr. Gilbert if the topsoil that is being marketed is topsoil that is brought from other
25 locations.
26
27 Mr. Gilbert stated that if the demand is high for topsoil, he can manufacture his own topsoil, because he has
28 acreage left for topsoil removal.
29
30 Mr. Hall requested that Mr. Gilbert indicate on the site plan the topsoil stockpiles and the unexcavated area
31 available for future topsoil removal. Mr. Hall stated that he does not understand where the area for future
32 topsoil excavation is located, but Mr. Gilbert knows his property better than Mr. Hall.
33
34 Mr. Thorsland asked Mr. Gilbert to indicate the part of the property where the topsoil is being excavated.
35
36 Mr. Gilbert stated that topsoil is being excavated from the southwest corner of the property, near the sod
37 farm.
38
39 Mr. Thorsland asked Mr. Gilbert if the topsoil sold to the University of Illinois is from the subject property.

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1
2 Mr. Gilbert stated yes. He said that if someone needs topsoil for their yard, he will sell them topsoil that has
3 been generated by a highway commissioner cleaning out his ditch.
4
5 Mr. Thorsland stated that if Mr. Gilbert has an ordinary customer who needs a little topsoil for his yard, he
6 may purchase reclaimed topsoil from a different source, but if the University of Illinois requires topsoil it
7 will come from the subject property.
8
9 Mr. Gilbert stated yes.
10
11 Mr. Thorsland asked Mr. Gilbert if the standing water complaint is stemmed by the digging in the southwest
12 corner of the subject property.
13
14 Mr. Gilbert stated yes.
15
16 Mr. Thorsland asked Mr. Gilbert if he stores the trucks for the business at the subject property.
17
18 Mr. Gilbert stated yes. He said that he used to store the trucks at his Mansfield location, but due to the
19 change in demand for the Champaign, Urbana and Rantoul area and the cost of fuel, he now stores them at
20 the subject property. He said that he stored the trucks at the Mansfield location when there was high demand
21 in the Bloomington and Decatur areas.
22
23 Mr. Thorsland asked Mr. Gilbert if the trucks are used for the full line of materials that he sells from the
24 property.
25
26 Mr. Gilbert stated yes.
27
28 Mr. Thorsland asked John Hall to discuss the Supplemental Memorandum dated October 26, 2017.
29
30 Mr. John Hall, Zoning Administrator, distributed a Supplemental Memorandum dated October 26, 2017, to
31 the Board for review. He said that the memorandum has a supplemental site plan as an attachment, because
32 staff was not aware of the 20 inoperable vehicles being stored outside on the property until Ms. Burgstrom
33 visited the property. He said that Champaign County only allows one inoperable vehicle to be stored outside
34 unless you are considered a junk yard in the I-2 district; therefore, compliance would require that 19 of the
35 20 inoperable vehicles and parts be removed from the property or stored inside. Mr. Hall stated that Mr.
36 Gilbert noted a statement on the new site plan dated October 19, 2017, indicating the following: It is my
37 intent that all inoperable vehicles, except one, will either be removed from 4403 Cardinal Road or stored
38 inside a fully enclosed building. Mr. Hall noted that Mr. Gilbert believes that the requirement regarding
39 inoperable vehicles is an extreme requirement. Mr. Hall stated that Mr. Gilbert can always change his mind,

1 but staff has made it very clear that if this statement and intent is not part of the case, then the case will be
2 dismissed. He said that the special conditions listed in the Supplemental Memorandum are the same special
3 conditions included in the Preliminary Memorandum and remain unchanged. He said that the last page of
4 the Supplemental Memorandum includes a copy of an index card which indicates that in 1981 the property
5 was referred to the State's Attorney's Office because a Special Use Permit was required. He said that the
6 1973 aerial, although the quality of the aerial is poor, indicates a quarry on the subject property and the pool
7 of the quarry is very evident. He said that the 1988 aerial indicates a totally different view and the quarry
8 pool is larger than the one evident in the 1973 aerial and the new pool is much larger and the pool in the
9 1973 aerial has been somewhat filled in. He said that the 2008 aerial indicates that the original pool in 1973
10 is much smaller and the 2014 and 2017 aerials indicates the original pool being much smaller than the 2008
11 aerial. He said that deciding whether quarrying is occurring on the property is difficult to tell by the aerials,
12 but a good indication of quarrying would be the pool and it has gotten smaller since 1988. He said that he is
13 not sure if the size of the pool is a good indication of whether quarrying is occurring on the subject property,
14 but it does raise a good question. He said that he does not know the result of the 1981 referral to the State's
15 Attorney's Office, but they may have decided that since the quarry and operations existed prior to zoning
16 there was no violation and the use was non-conforming, but there is no record of that decision.

17

18 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.

19

20 Mr. DiNovo asked Mr. Hall if the petitioner's testimony that minor topsoil removal was occurring is enough
21 evidence to judge the use of the property.

22

23 Mr. Hall stated that before he could make an actual determination he would need to know the number of
24 cubic yards generated from the quarry each year so that he can establish that. He said that in terms of what is
25 the greatest generator of activity on the property, it is probably not the quarry. He said that it is customary
26 for the Board to obtain numbers and percentages, not tax records, regarding the activities on the property, but
27 he is pretty sure the biggest income generator is not quarrying.

28

29 Mr. Thorsland asked Mr. Hall if there is a percentage of income or activity which makes the quarrying the
30 principal use.

31

32 Mr. Hall stated that normally more than 50% for what is being claimed as the principal use and if it is not
33 more than 50% on any of the uses on the subject property, perhaps it could be 50% overall.

34

35 Mr. DiNovo stated that if topsoil removal is the only extraction from the property and is the principal use
36 then the case is not presented to the Board properly. He said that more evidence is needed to answer the
37 question of what is really the principal use on the subject property. He said that there may be a case to be
38 made for this property to be rezoned to AG-2 with a Special Use Permit for a contractor's facility.

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- 1 Mr. Hall stated that the biggest problem that staff had with this property was the recycling of concrete, which
2 could be done in AG-2 with a Special Use Permit and must be done indoors, which is not a special
3 condition, but a requirement of the Zoning Ordinance and there is no flexibility.
4
- 5 Mr. DiNovo stated if there was a reason why quarrying and mineral extraction was permitted in the AG-1
6 zoning district and that is because that is where the materials are available. He said that recycling is limited
7 to industrial districts for a good reason and that is where noisy and dusty activities should be located.
8
- 9 Mr. Thorsland stated that quarrying and mineral extraction are permitted in the AG-1 district and testimony
10 has been received that not a giant amount of income is from quarrying and mineral extraction, but there is
11 topsoil existing on the property regardless of whether it came from the property or a different location.
12
- 13 Mr. DiNovo stated if that was all that was going on with this property then there would be no question, but
14 the topsoil is a very small part of what is going on.
15
- 16 Mr. Passalacqua stated that crushing concrete is not allied to topsoil removal.
17
- 18 Mr. DiNovo stated that bringing material from offsite is not quarrying. He said that washing, grading,
19 weighing, storage and shipping is allied to quarrying and the current uses would be a stretch of the language
20 in calling them allied.
21
- 22 Mr. Passalacqua stated that the Board had a previous case near Rantoul which included recycling of concrete
23 for paving onsite. He said that the recycling was a one-time occurrence and included a lot of special
24 conditions for it to be allowed. He said that he agrees with Mr. DiNovo in that the crushing of concrete is
25 not allied to removal of topsoil.
26
- 27 Mr. Randol stated that the quarry existed prior to zoning and it is still a quarry regardless of whether Mr.
28 Gilbert is using it or not.
29
- 30 Mr. Hall stated that quarrying is only related to the topsoil and there may only be a few acres of land that is
31 available for topsoil removal. He said that the Special Use Permit for quarrying could be limited to those
32 few acres.
33
- 34 Mr. Randol stated that a quarry still exists regardless of whether the existing quarry is being used as a quarry.
35
- 36 Mr. Hall stated that the fact that the property used to be a quarry and now is only a body of water does not
37 still make it a quarry.
38
- 39 Ms. Lee stated that the numbers would speak for themselves. She said that the pond used to be part of the

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1 quarry, but the property is not being used as a quarry now. She said that there are abandoned mines in
2 Vermilion County, but because the mines existed 50 years ago does not mean that they are mines today.

3

4 Mr. Thorsland asked the Board if they would be more comfortable if this case was presented as an AG-2
5 Special Use Permit with a Contractor's Facility.

6

7 Mr. Passalacqua stated yes.

8

9 Mr. Thorsland asked the Board if they want Mr. Gilbert to present percentages of his business as they relate
10 to topsoil removal, concrete recycling, truck terminal, etc.

11

12 Mr. DiNovo stated that numbers regarding percentages and income are not necessary, because the Board can
13 make a judgement regarding what activities constitute the bulk of the impacts on surrounding property. He
14 said that the physical characteristics of the operation makes it preponderately evident that the use has nothing
15 to do with the topsoil. He said that the aerial photographs of the property indicate machinery and stockpiled
16 materials and those photographs indicate that the preponderate use has nothing to do with topsoil and unless
17 that topsoil is as valuable as platinum it could not constitute a preponderate income stream for this business.

18

19 Mr. Thorsland asked the Board again if they would be more comfortable with this request to be as an AG-2
20 Special Use Permit with a Contractor's Facility.

21

22 Mr. Passalacqua stated yes.

23

24 **Mr. DiNovo moved that the existing trucking, quarrying, and recycling of construction materials**
25 **business is not a "Mineral Extraction, Quarrying, topsoil removal and allied activities" and the case**
26 **should be represented in a different way. The motion failed due to lack of a second.**

27

28 Mr. Thorsland stated that there are people in attendance tonight who have signed the witness register and
29 they may have valuable testimony regarding the existing use. He asked the Board if they would like to
30 continue to hear witness testimony tonight.

31

32 Mr. Passalacqua stated yes.

33

34 Mr. Thorsland asked Mr. Gilbert if he had any additional information to add. He said that if this case
35 changes in nature, it does not mean that what he is doing cannot occur, but it may have to be approached in a
36 different way.

37

38 Mr. Gilbert stated that he is not fully prepared and he may need to hire an attorney to clarify all the language.
39 He said that he is 74 years old and when he purchased the property he originally started out with the City of

1 Champaign to give him a couple of years to clean it up, move on and retire, but the operation has snowballed
2 ever since. He said that he isn't intending to build a new operation like Kraft Foods or anything like that, but
3 he does know that he is doing what he has been doing for the last 43 years.

4
5 Mr. Thorsland stated that he is certain that if the case takes a different turn and is reviewed under a different
6 approach, that he will be contacted by staff to discuss the changes. He said that staff is always available to
7 answer any questions and to assist the petitioner with his decision as to how to proceed.

8
9 Mr. Gilbert stated that staff has been very helpful with this process.

10
11 Mr. Randol asked Mr. Gilbert if the subject property is the only trucking yard that he has now.

12
13 Mr. Gilbert stated that he has a facility in Mansfield, where he started his operation in the 1960's.

14
15 Mr. Randol asked Mr. Gilbert if the trucks that are on the subject property are used throughout his trucking
16 business.

17
18 Mr. Gilbert stated yes. He said that once he was notified of the nuisance violation, he began taking the
19 inoperable, unlicensed trucks to Mansfield. He said that it doesn't make sense to spend \$5,000 to license an
20 inoperable truck. He said that the only trucks that will be on the subject property currently will be operable
21 trucks and the inoperable trucks without a license are now located at the Mansfield facility.

22
23 Mr. Thorsland stated that Mr. Gilbert is slowly moving the inoperable trucks to his Mansfield facility so that
24 he can be compliant.

25
26 Mr. Gilbert stated that he wants to be compliant with the County so that he can continue to operate his
27 business.

28
29 Mr. Thorsland stated that Mr. Gilbert indicated a written statement indicating the following: It is my intent
30 that all inoperable vehicles except one will either be removed from 4403 Cardinal Road or stored inside a
31 fully enclosed building. He said that a better solution for Mr. Gilbert would be to move all the vehicles to
32 Mansfield and not construct a building.

33
34 Mr. Gilbert stated that it would be financially impossible to construct a large enough building to store all the
35 vehicles.

36
37 Mr. Thorsland stated that perhaps Mr. Gilbert should indicate on record that his intent is to move as many
38 vehicles, as much as possible, to the Mansfield facility.

1 Mr. Gilbert agreed.

2

3 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Gilbert.

4

5 Mr. Hall stated that before the case is re-advertised, Mr. Gilbert should tell staff if the business is best
6 described as a truck terminal or a contractor's facility. He said that a contractor's facility can be in the AG-1
7 district, the subject property's current zoning, or AG-2 which requires the same approvals. He said that a
8 truck terminal is not allowed in AG-1 but is allowed in the AG-2 district, and he believes that the subject
9 property could be rezoned to AG-2 for a truck terminal if that is what Mr. Gilbert believes is a better
10 description for his business. Mr. Hall stated that he does believe that there is a significant difference
11 between a contractor's facility and a truck terminal, but he does not operate either one, which may be the
12 reason why he has that line of thinking. He asked Mr. Gilbert to think about what description best fits his
13 operation, a truck terminal with some allied activities, or a contractor's facility with some allied activities.
14 Mr. Hall stated that a truck terminal would require the property to be rezoned to AG-2 and he believes that
15 the subject property is well suited for the AG-2 district. He said that the key question for Mr. Gilbert to
16 think about is the following: Is the business a truck terminal or a contractor's facility.

17

18 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Gilbert, and there was no one.

19

20 Mr. Thorsland called Shirley Dammerman to testify.

21

22 Ms. Shirley Dammerman declined to testify.

23

24 Mr. Thorsland called Lynn Chaney to testify.

25

26 Ms. Lynn Chaney, who resides at 2000 N. Staley Road, Champaign, stated that she and her husband own the
27 property that is directly adjacent to Mr. Gilbert's property to the south and he is also to the west of her
28 property. She thanked the Board for the opportunity to appear before them tonight, because she has been
29 rather insistent with the Department of Planning and Zoning, the Illinois Environmental Protection Agency
30 (IEPA) and the Illinois Department of Transportation (IDOT) in trying to obtain answers and support for the
31 concerns that she and her husband have regarding the Mr. Gilbert's operation.

32

33 Ms. Chaney stated that she and her husband are the only neighbors, homeowners, near the subject property
34 and their property is their home. She said that she and her husband operate a small organic landscaping
35 business on the five acres that they own. She said that her husband is the original owner of their property,
36 they were married in 1994, and he has been living there since the early 1980's. She said that her husband
37 may have some historical information about the subject property that he can share with the Board later. She
38 said that she does not have as much information with her tonight as she would like to have, but she and her
39 husband are very, very concerned about the business operation that is taking place on the subject property.

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1 She said that she is not sure if the Board knows exactly where her home is located, but she feels as though
2 they live in hell already. She said that Staley Road is much like the Autobahn and directly south of her home
3 is a property, an approved kennel by the County, which houses approximately 140 barking dogs. She said
4 that she is very adamant about preserving her constitutional right to quiet enjoyment, her health, safety and
5 the well- being of her family and their right to do business, and to co-exist in an environment in a safe and
6 amicable way.

7
8 Ms. Chaney stated that they have a lot of concerns about the information included in the mailing packet, but
9 they hope to provide the Board with information that will assist them in making an appropriate zoning
10 decision. She said that their concerns are more about their property value, health risks, and nuisance
11 violations that are occurring on the subject property. She said the request is for a zoning judgement for a man
12 who has been doing business outside of the Ordinance for many years, and now he is finally requesting that
13 everything should be made good.

14
15 Ms. Chaney stated that Mr. Gilbert is requesting a variance for side and rear yards in lieu of the minimum
16 100 feet. Ms. Chaney said that this request would be 15 feet from her trees and her property line and such a
17 request is utterly unacceptable. She said that a variance of 15 feet is dangerous to her crops, because if Mr.
18 Gilbert boxes her property in with piles of dirt the air flow of her plants will be interrupted and it puts Mr.
19 Gilbert's operation right on top of her family. She said that there is no fence on her or Mr. Gilbert's
20 property, and as the subject property has grown, it has become a dangerous site. She said that there are fuels;
21 heavy equipment; trucks; holes in the ground some full of water, some that are not; rocks, dust, etc. on the
22 subject property. She said that, today she took pictures of the subject property, but she was unable to print
23 them because she was reviewing Occupational Safety and Health Administration (OSHA) requirements
24 regarding concrete reclamation. She said that OSHA requirements indicate that the concrete for recycling
25 must be free of metal and glass and the concrete on the subject property is not free of these items; therefore,
26 she is concerned about the disposal of this concrete. She said that she is concerned about the dust in the air,
27 because her husband is two-time cancer, a two-time heart attack survivor, he has had open heart surgery and
28 he has sarcoidosis; therefore, she is very concerned about the quality of air. She said that she is not just
29 concerned about the quality of air for her family but also for the children in the neighborhood as there is a
30 park located within one-half mile from her property. She said that the subject property may be completely
31 compliant, but she has seen no documentation proving that anything has been done to investigate whether
32 there is any residual impact from the operation of this business.

33
34 Ms. Chaney stated that Mr. Gilbert's petition to not have the 100 feet barrier from her property line is not
35 acceptable and she would ask the Board to deny this request. She said that Mr. Gilbert has also asked for a
36 waiver for no wire mesh fence surrounding the Special Use, in lieu of the minimum required 6 feet tall wire
37 mesh fence. Ms. Chaney said that there should be a fence around the subject property, because Mr. Gilbert's
38 idea of a fence is a wire cable across the driveway. She said that she cannot tell the Board the number of
39 times that someone is on the subject property doing things when no one else is around to monitor those

1 activities. She said that because of this activity, the subject property has become a more dangerous property
2 than it was ten years ago. She said that if the Board decides that the entire subject property requires fencing
3 then that is their decision, but she would request that the subject property be required to have fencing near
4 her property. She said that she would also like to have vegetative screening required on the subject property,
5 because she does not want to see, hear or smell the uses on the Gilbert property. She said that the trees on
6 her property are not for screening, but are trees that are considered a product of their business and those trees
7 can be sold and replaced as part of their home business.

8
9 Ms. Chaney stated that she moved to her property in 1994 and the Gilbert property was quiet and was an
10 abandoned quarry and if any quarrying was being done, she was not aware of it. She said that she and her
11 husband used to walk around the outskirts of the subject property and it was beautiful and very serene, but
12 then some crushing started to occur on the north side and it was as far away from her property as it could be.
13 She said that some staging of dirt would occur on the subject property and dirt would appear and then be
14 hauled out. She said that Mr. Gilbert has filled at least 25% of the quarry and that was done by Mr. Gilbert's
15 choice. She said that there is a huge dirt pile in the southeast corner of the subject property which is well
16 within the 100 feet from her property, and that dirt pile is what she sees when she looks out her second story
17 window. She said that due to this dirt pile she does not see the cornfield or the topography of Champaign-
18 Urbana. She said that when it rains three days in a row, the silt and mud does not exactly flow directly into
19 the pond and there are rivers of mud coming down off the huge hill. She said that currently the river of mud
20 from the dirt pile does not affect her property, but if Mr. Gilbert could be within 15 feet of her property she
21 will guarantee that the river of mud will become her problem as well.

22
23 Ms. Chaney stated that in 2015, she noticed that there was a large hole dug on the subject property and it was
24 directly behind her property. She said that the field where this large hole was dug used to have sunflowers
25 and other plantings, because Mr. Gilbert and his family are avid hunters and it was just left to grow. She
26 noted that the neighboring kennel is very good in working with them regarding standing water and other
27 abatement, and if they have a concern, they negotiate so that they both are good neighbors. She said because
28 of her husband's health situation, when Mr. Gilbert started digging the hole behind her home, she called the
29 Champaign County Public Health Department to see if a mosquito abatement had been done and they
30 indicated that it had not, but apparently someone did come out to look at the pond. She said that Mr. Gilbert
31 destroyed drainage tiles that were in the field where he was digging the large hole and for the first time since
32 1994, she has had water backing up into the high part of her basement, and once the hole was filled she never
33 had water backing up in her basement again. Ms. Chaney said that she can't definitively say that the water in
34 her basement was caused by the pond. She said that if Mr. Gilbert is going to dig on the subject property,
35 then he should be cognitive of the existing drainage tile and where the water and erosion from the big piles
36 of dirt travels. She said that Mr. Gilbert has indicated that he has acres of dirt available, although she is not
37 sure where that dirt might be located, but it may be right up to her property line and that is not acceptable.
38 She asked the Board to consider what type of business Mr. Gilbert is conducting on the subject property and
39 to consider her family during their deliberation. She said that she and her family did not have an opportunity

1 to come before the Board when the dog kennel was approved so they deal with that as best they can.

2
3 Ms. Chaney stated that she is very concerned with truck traffic that occurs on the subject property. She said
4 that Mr. Gilbert indicated what time the trucks begin and end, although she has a photograph of two trucks
5 that were coming onto the subject property off Cardinal Road at 6:15 p.m. that reeked of asphalt. She said
6 that the trucks did not end their job at 3:00 p.m., but arrived at 6:15 p.m. and she understands that sometimes
7 business operations work over their normal time, but excellent communication with the neighbors should be
8 a reasonable request. She said that the truck traffic begins at 6:00 a.m. as they travel on the driveway that is
9 next to her property to the dirt hill so that they can dump their dirt load and then bang the bed of the truck.
10 She said that the banging sounds much like an M-80 and her family is bolting out of bed to see what is going
11 on. She said that Mr. Gilbert starting his business day at 6:00 a.m. is an unreasonable time to start business
12 and if there is some sort of ordinance requirement that prohibits it, she expects Mr. Gilbert to abide by it.
13 She asked the Board to consider what are reasonable business hours and if there is some project that needs
14 some special attention, then Mr. Gilbert should communicate such with the neighbors. She said that while
15 she was on vacation she counted over 30 trips of trucks traveling up and down Staley Road loaded with
16 concrete and dirt arriving at the subject property. She said that she asked the Sheriff why there were no signs
17 indicating the business and she was told that if she desired to have a sign that she would have to pay for it.
18 Ms. Chaney stated that the Sheriff is incorrect because Mr. Gilbert should pay for any required signage
19 regarding entrances and exits from the subject property. She said that Staley Road is a busy road and again
20 there are no signs indicating a business entrance or exit on a property that already has limited visibility to the
21 north. She said that with the addition of Carle and Christie Clinic along Staley and Windsor Road there will
22 be more arterial traffic on Staley Road.

23
24 Ms. Chaney stated that Mr. Gilbert's business not only operates during the week, but also on the weekends
25 and they start early in the morning and work late at night. She said that she has a full-time job and assists her
26 husband with the landscaping/tree business on the weekends and she would certainly like to enjoy her
27 weekends and evenings, and have the ability to sit outside on her patio in the morning to enjoy her coffee
28 without having to listen to banging trucks, dirt and dust. She said that her constitutional right to quiet
29 enjoyment of her property has been obliterated. She said that they have their air conditioning unit cleaned
30 more often due to the dust that is generated from the subject property. She said that she read reports
31 indicating that the presence of noise, dirt and dust are normal for comparable companies who do concrete
32 and brick crushing, there are OSHA regulations. She said that she does not know if Mr. Gilbert is taking
33 steps to make sure that the dust and noise are minimized, but she doesn't believe that he is. She said that
34 during the Board's deliberation regarding Mr. Gilbert's requests, that they require that he comply with
35 OSHA's requirements for dust and noise.

36
37 Ms. Chaney stated that she has spoken with the Illinois EPA at length regarding her concerns and the fact
38 that no impact study has been completed. She said that she is concerned about chemical leaching into the
39 soil because Mr. Gilbert's trucks are not parked on concrete. She said that if asphalt is stored on dirt it is

1 supposed to be contained and is not supposed to be able to cross and contaminate other materials, but that is
2 not the case with Mr. Gilbert's property as the asphalt is just stored on dirt. She said that she is very
3 concerned about many things that may be easily addressed if Mr. Gilbert provides that information, but if
4 not, she feels that her family's well-being is at risk. She said that her house has been standing in Champaign
5 County since the early 1890's and the property has always been a home to someone, including her family.
6 She said that she has a copy of a recent appraisal of her property when she intended to refinance her home
7 and the appraiser indicated how the view to the south, the dog kennel, and the view to the north, Mr.
8 Gilbert's property, negatively impacts her property value.

9
10 Mr. Thorsland requested that Ms. Chaney submit a copy of the appraisal to staff so that it can be included in
11 the next mailing packet.

12
13 Ms. Chaney stated that she also has a copy of the assessor's letter indicating that her neighborhood had
14 improved therefore the real estate taxes would be increased. She said that she filed a complaint indicating
15 that her quality of life has decreased due to the surrounding properties. She said that she appreciates the
16 Board's time and other agencies' support, but legislatively the IEPA's hands are tied. She said that she is at
17 her wits end and she does not know where else to go to assure that her family will be okay with these
18 surrounding uses. She said that the uses are okay if her family is okay, regardless of what it takes.

19
20 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Chaney, and there were none.

21
22 Ms. Chaney added that the digging and removal of the topsoil did not start until three years ago. She said
23 that the operation was mainly grinding and crushing. She said that the removal of the topsoil caused the hole
24 and why it has not been filled back in is unknown, but it has not been a long-term activity on the property.

25
26 Mr. Thorsland asked the audience if anyone desired to cross-examine Ms. Chaney, and there was no one.

27
28 Mr. Thorsland called Jeff Chaney to testify.

29
30 Mr. Jeff Chaney, who resides at 2000 N. Staley Road, Champaign, asked the Board if the variance is granted,
31 would there be a time limit or would it transfer with the ownership of the property. He asked the Board to
32 indicate what could happen in the future.

33
34 Mr. Thorsland stated that the Board is not certain if the Special Use Permit or the Variance request is valid,
35 but the request may change direction. He said that it is not unusual for a Special Use Permit to expire when
36 the property ownership changes. He said that the Board could impose a special condition indicating that the
37 Special Use Permit becomes void once the property ownership changes.

38
39 Mr. Chaney stated that the property has been on the market various times with no success. He said that he

1 did not know if the Special Use Permit would expire once transfer of ownership occurs or if it remained
2 valid as long as the use was the same.

3
4 Mr. Thorsland stated that staff could answer Mr. Chaney's question better than the Board. He said that the
5 property is zoned AG-1, and any agricultural related uses can occur without any special approvals from this
6 Board and if the property is sold, the new owner would need to contact staff regarding their intended use of
7 the property. He said that if the intended use is a quarry, then he would imagine that the new owner would
8 need to appear before this Board for approval. He informed Mr. Chaney that staff is always available to
9 address any concerns or questions that he may have regarding the subject property and its impacts on his
10 property.

11
12 Mr. Chaney stated that AG-1 allows many uses by-right. He said that his home business is agriculture and it
13 is his only means of income.

14
15 Mr. DiNovo stated that Dr. Corbin took Champaign County to court and won on the basis that raising
16 beagles was agriculture and therefore exempt from the Champaign County Zoning Ordinance.

17
18 Mr. Chaney stated that originally Dr. Corbin had English Pointers at his research facility, but currently there
19 are Beagles, or all of the above, on the property.

20
21 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Chaney.

22
23 Ms. Lee asked Mr. Chaney to indicate when he first resided on his property.

24
25 Mr. Chaney stated that it was 1981 or 1982, but he could check for an accurate date if Ms. Lee would prefer.

26
27 Mr. Thorsland asked Mr. Chaney if he was the purchaser of the property at that time and the quarry existed.

28
29 Mr. Chaney stated yes. He said that when he purchased his property, the Gilbert property was an abandoned
30 quarry with no equipment, there was only a lake that was constructed during the excavation of the rock or
31 sand. He said that part of the quarry has been filled in and part of it has been expanded. He said that when
32 Mr. Gilbert originally purchased the property, he added a drag line and pulled out sand and gravel.

33
34 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Chaney, and there was no one.

35
36 Mr. Thorsland called Keith Padgett to testify.

37
38 Mr. Keith Padgett, Champaign Township Highway Commissioner, whose office is located at 3900 Kearns
39 Drive, Champaign, stated that he did not know why he received an agenda for this meeting, but as this case

1 has progressed tonight he thought that he would indicate that he does not maintain the road in front of the
2 quarry, as it is a Hensley Township Road. He said that staff should notify Robert Sherman, Hensley
3 Township Highway Commissioner, regarding this case so that he could provide input. Mr. Padgett stated
4 that the road in front of the quarry is not the most passable road and he would suggest to Mr. Gilbert that
5 when he is removing the vehicles from the subject property, that he recognize the load limit. Mr. Padgett
6 stated that he does not believe that Mr. Gilbert will take the inoperable vehicles to Mansfield by taking the
7 rural roads to the west and attempt to get over the Rising Road elevator railroad track, but will stay on Staley
8 until he gets to US 150. He said that he does not see Mr. Gilbert damaging the road in relocating the trucks
9 to Mansfield. He said that this information is the only information that he can supply to the Board about this
10 case and his concern is for Mr. Gilbert to preserve the road as he relocates his trucks. Mr. Padgett stated that
11 the relocation will take a while and if it is conducted during the winter, the road will be preserved, but if it is
12 done during the summer months, Mr. Gilbert should contact Robert Sherman to see if he could place more
13 rock on the road to help cushion the road from the heavy use of moving so many vehicles within a short
14 period of time.

15
16 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Padgett.

17
18 Ms. Lee asked Mr. Padgett if County Road 1800 North is not within his jurisdiction, but Staley Road is his
19 jurisdiction.

20
21 Mr. Padgett stated no. He said that Staley Road is under the jurisdiction of the City of Champaign ranging
22 from Curtis Road to US150. He said that he has jurisdiction on Cardinal Road, but it stops in the curve and
23 Hensley has the rest of the road up to US150. He said that the road has 5,000+ vehicles traveling on it per
24 day and it is a highly traveled road. He said that when vehicles travel 40+ miles per hour and they stop
25 quickly at every stop sign on the asphalt, they create a ripple effect that had to be repaired. He said that the
26 repair consisted of approximately 450 feet of asphalt pavement that was a safety hazard to anyone who
27 traveled the road. He said that a lot of speed and weight causes the deconstruction of the rural roads.

28
29 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Padgett, and there
30 were none.

31
32 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Padgett, and there was no one.

33
34 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
35 regarding this case, and there was no one.

36
37 Mr. Thorsland stated that the Board needs to be clear and decide whether the case needs to change direction.
38 He said that Mr. Gilbert should consult with staff to determine what category this use fits into, and is it a
39 contractor's facility or a truck terminal.

1
2 Mr. DiNovo stated that the Board is also confronting another possible interpretation question. He asked if
3 pavement recycling qualifies as a contractor's facility. He said that the ZBA had a previous case for a
4 temporary concrete batch plant near Pesotum for the resurfacing of I-57. He said that the ZBA conditionally
5 rezoned a property to I-2 to accommodate that need. He said that it seems that concrete recycling is very
6 comparable to a concrete batch plant as it is manufacturing a product and is not the sort of activity that
7 would customarily be a contractor's facility which stores tools, equipment and materials. He said that the
8 Board has allowed some assembly with contractor's facilities, assembling trusses, and he wonders if the
9 Board wants to deal with that question. He said that the Board could request an interpretation case, the
10 Zoning Administrator can present the pros and cons, and the Board can decide whether concrete recycling
11 should be permitted as a contractor's facility, some other category, or whether the Board wants to
12 recommend a text amendment to specifically address the use. He said that he is uncomfortable just saying,
13 off the cuff, a contractor's facility is the appropriate category and he probably suggested that category too
14 quickly. He said that he is not ready to take the position that this is a contractor's facility because it allows a
15 variety of activity under a category that is permissible over a wide preponderance of the county.

16
17 Ms. Lee stated that she does not see a special condition regarding the *Right to Farm Act*, and there should be
18 one because Mr. and Mrs. Chaney have a tree farm which is considered agriculture. She said that a variance
19 is requested from the Champaign County *Storm Water Management and Erosion Control Ordinance* for the
20 requirement of a Storm Water Drainage Plan for detention, and that request must be addressed before this
21 case is presented to the Board again. She said that based on the testimony received at tonight's meeting,
22 there is concern about chemicals flowing onto the adjacent farm fields. She said that the Board should also
23 address concerns regarding damage to existing farm tiles and the effect of that damage on the drainage
24 system for the adjacent farms.

25
26 Mr. DiNovo stated that Ms. Lee touches on a good point. He said that there must be a 500-acre watershed
27 contributing to the site. He said that it appears that a lot of water moves to and across the subject property
28 and it should be considered how the use of the subject property affects that water.

29
30 Mr. Thorsland asked the Board if they prefer an interpretation by the Zoning Administrator prior to the next
31 mailing package, and have staff generate a fact or flow sheet to determine what is exactly needed for this use.

32
33 Mr. DiNovo stated that he would like an interpretation regarding the concrete processing.

34
35 Mr. Thorsland asked the Board if they would be comfortable in having staff and Mr. Gilbert work on this
36 offline of a meeting and bring it back to the Board under a re-advertisement.

37
38 Mr. DiNovo stated that it is his understanding that an interpretation case does not have to be advertised or
39 under a public hearing, but it is a matter of the Board addressing a technical question about the Zoning

1 Ordinance, and that may be useful before a final decision is made on how Mr. Gilbert wishes to proceed.
2
3 Mr. Thorsland asked Mr. DiNovo if he would be comfortable with the interpretation and this case being run
4 parallel.
5
6 Mr. DiNovo stated that the interpretation could be heard at the next meeting and the case cannot be
7 republished for a while anyway. He said that there is no reason to run a case, have neighbors attend, go
8 through the case and then decide that the Board does not want the case run as a contractor's facility. He said
9 that it is better to have resolved the question before entering the public hearing side of it.
10
11 Mr. Hall stated that he is concerned that the Board could be working on an interpretation case for months,
12 whereas, Mr. Gilbert's only concern is gaining compliance. He said that if Mr. Gilbert does his best, and
13 staff does their best in bringing a package back to the Board that would allow a decision to be made, and if
14 part of that decision is that some of the uses cannot be accommodated, that would be a more useful
15 determination for Mr. Gilbert rather than waiting a month or two while the interpretation case gets
16 completed.
17
18 Mr. DiNovo stated that an interpretation case does not require a lot of research.
19
20 Mr. Hall stated that he does not agree with Mr. DiNovo's statement.
21
22 Mr. Thorsland stated that Mr. DiNovo does not know staff's workload and it may be onerous to expect this
23 to return at the next public hearing.
24
25 Ms. Lee stated that she understands that some matters require a lot of time and she understands Mr. Hall's
26 response. She asked Mr. Hall if he would want to pass some of these questions on to the State's Attorney.
27
28 Mr. Hall stated that he is not interested in giving these questions to the State's Attorney when he is fully
29 capable of answering those questions, although he will involve the State's Attorney when there are any legal
30 questions. He said that Mr. DiNovo has a good point in this issue about recycling and whether it is
31 reasonable to have it as part of a contractor's facility. He said that if someone is a pavement contractor, then
32 it makes a lot of sense, but as far as he knows, the Board does not have a pavement contractor before them.
33 He said that there are more questions regarding recycling that he wished he could get to the County Board
34 and return to the ZBA with those answers, but right now we are interested in the recycling of pavement and
35 whether it is a reasonable thing to do with a contractor's facility. He said that he does not know if Mr.
36 Gilbert would characterize his use as a contractor's facility, or it is trucking because they haul a lot of things,
37 including road paving products.
38
39 Mr. DiNovo stated that an interpretation that the County Board needs to make is what is a contractor's

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1 facility and what constitutes a contractor. He said that Mr. Gilbert testified that he has cleaned out ditches.
2
3 Mr. Thorsland stated that Mr. Gilbert testified that he only lined the ditches.
4
5 Mr. Passalacqua asked staff if the North Lincoln Street recycling facility was in Urbana or the County.
6
7 Mr. Hall stated that the North Lincoln Street recycling facility is in Urbana.
8
9 Mr. Passalacqua asked Mr. Hall to indicate the zoning of the North Lincoln Street facility.
10
11 Mr. Hall stated that he does not know for sure, but he would guess that the property is zoned heavy industry.
12
13 Ms. Lee asked if Mr. Gilbert's facility only recycles pavement or other things too.
14
15 Mr. Passalacqua stated that they also recycle concrete and brick.
16
17 Ms. Lee stated that bricks are not pavement.
18
19 Mr. DiNovo asked if a material supplier is considered a contractor or does the Ordinance intend to restrict
20 the word contractor to be someone who makes or builds something.
21
22 Mr. Thorsland stated that Mr. Gilbert is contracted to haul the material that is recycled at his facility. He
23 said that he assumes that Mr. Gilbert hauls material in and out of his facility.
24
25 Mr. DiNovo stated that the word for someone who hauls things is trucker.
26
27 Mr. Thorsland stated that we keep pointing towards a truck terminal with allied activities, but the big issue
28 for everybody is the crushing of materials. He said that the Board tightly capped the crushing activity at the
29 Rantoul facility.
30
31 Mr. Passalacqua stated that even though the Board has received limited testimony, he has heard complaints
32 regarding the nuisance of the trucking with no regard to the crushing activity. He said that from previous
33 cases, the Board is aware that the crushing is offensive to everyone because it is loud and dirty and there are
34 tons of regulations imposed so that it is done correctly. He said that the company that was contracted at the
35 Rantoul site used water baths and other dust prohibitive procedures, but we do not know if this is occurring
36 at the Gilbert facility.
37
38 Mr. Hall stated that it is his understanding that the IEPA has visited the site and has issued a permit for the
39 crushing. He said that that the IEPA permit is for a certain amount of crushing in any given year.

1
2 Mr. Thorsland asked Mr. Hall if the Board should ask Mr. Gilbert if he has a permit.

3
4 Mr. Hall stated that staff has contacted the IEPA and they confirmed that a permit was issued.

5
6 Mr. Passalacqua stated that if the crushing is injurious to the neighbors, then he could care less about the
7 IEPA permit.

8
9 Mr. DiNovo stated that he does not like the idea of cases coming to the Board when we do not know the
10 intent of the Ordinance. He said that at a minimum, this case should not come back to this Board until the
11 Zoning Administrator has decided that he is going to interpret it this way and if the petitioner objects to that
12 interpretation then he can file an appeal. He said that the Board should not review a Special Use Permit that
13 may or may not be this use. He said that he would like the Zoning Administrator to bring this case to the
14 Board indicating that this is a contractor's facility, this is a truck terminal, or whatever, and that should be
15 resolved at some level before the Board sees this case again.

16
17 Mr. Thorsland stated that Mr. Hall tried to have this conversation with the Board 45 minutes ago. He said
18 that Mr. Hall asked the Board if this should be considered a contractor's facility with some activities that fall
19 under the AG-1 district, or is this a truck terminal and the property be rezoned from AG-1 to AG-2. He said
20 that Mr. DiNovo would like the Zoning Administrator to determine the appropriate use and represent the
21 case to the Board. He said that there are two side to this, because there are neighbors who would like to be
22 assured of their quality of life and protected from any use that is next door, and then there is the petitioner
23 would like to continue his operation and be compliant.

24
25 Mr. DiNovo stated that the interpretation question is the key component. He said that we are talking about
26 whether concrete crushing can occur or not on this property without a rezoning, or if this is a truck terminal
27 that requires the property to be rezoned to AG-2. He said that if the property is to be rezoned, then the
28 neighboring property owners can file a protest for the rezoning. He said that if this use only requires a
29 Special Use Permit, then there are no frontage protest rights. He said that the legal rights of the parties
30 involved are seriously affected by this interpretation, so it needs to be made thoughtfully and seriously and in
31 the context of the larger picture of how it may be applied in other instances and locations of the County. He
32 said that this is a huge question that is important to the petitioner and the neighbors and it needs to be made
33 in a serious manner and not on the fly by the Board in the context of trying to decide whether to approve a
34 Special Use Permit.

35
36 Mr. Thorsland stated that the Board needs staff to do some investigation into this matter and decide how to
37 represent this case to the Board and the Board needs to provide staff with enough time to do that.

38
39 Mr. DiNovo stated that Mr. Hall needs to be sure of the use before it comes back before this Board and he

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1 should be ready to argue for his interpretation. He said that if Mr. Hall wants to kick the ball into the board's
2 lap then that is fine because it is part of the Board's job, but if that is the case it should be under an
3 interpretation case.

4
5 Mr. Thorsland asked Mr. Hall if would like to continue or dismiss the current cases.

6
7 Mr. Hall stated that the Board should pose that question to Mr. Gilbert. Mr. Hall stated that he would
8 recommend that the cases be withdrawn, either way there will be a re-advertisement fee, but if the case is not
9 withdrawn, then the Board will have to continue to a date certain. He said that he agrees that there are a lot
10 of uncertainties and picking a date certain seems like a bad idea and he is not suggesting that the case should
11 be withdrawn because someone is mad or they chose to go elsewhere, but withdrawing the cases seems like
12 the most convenient thing to do. He said that staff will talk to Mr. Gilbert about what exactly he believes his
13 use is and apparently, he will come back to the Board with an interpretation case regarding concrete
14 recycling, because the Board does not want any uncertainties on future cases.

15
16 Mr. Thorsland asked the Board if they would like to have the case withdrawn and have Mr. Hall bring back
17 an interpretation case.

18
19 Mr. DiNovo stated that, if the Zoning Administrator is comfortable making the call on his own, then there is
20 no need for a case.

21
22 Mr. Thorsland asked the Board to indicate their preference regarding staff coming back before the Board
23 with their interpretation of how to handle this.

24
25 Mr. Passalacqua stated that if this case comes back with an indication that 90% of the business is concrete
26 crushing he would think of this a little differently, but if the percentages indicate 40% of the business is
27 concrete crushing and 60% of the business is trucking, he would be happy with an interpretation that the
28 operation is a contractor's facility and 40% of the time they crush rock.

29
30 Mr. Hall stated that Mr. Gilbert's IEPA permit specifies how much crushing can occur during the year.

31
32 Mr. Passalacqua stated that if that is the case, then this should be presented to the Board as a contractor's
33 facility and if in the future the concrete crushing becomes a larger percentage of the business, the case will
34 have to be revisited. He said that the Board will still be looking at this case with scrutiny for the neighbors.

35
36 Mr. Thorsland stated he believes that Mr. Passalacqua has presented a reasonable position. He said that the
37 case could be re-advertised as a contractor's facility and part of the business will involve a percentage of
38 concrete crushing. He said that the IEPA permit regulates when and how much crushing can occur in the
39 given year and staff can request that Mr. Gilbert submits a copy of the IEPA permit.

1
2 Mr. Passalacqua stated that a copy of the IEPA permit would be very helpful.
3
4 Mr. Thorsland called Steve Gilbert to the witness microphone.
5
6 Mr. Thorsland asked Mr. Gilbert if he agreed with the idea to withdraw the current cases and work with staff
7 with a more suitable category for his business operations. He said that staff will request a copy of the permit
8 from the IEPA and other information so that staff can put together a better case that satisfies everyone's
9 concerns. He said that it appears that during the case, the crushing will be a topic and Mr. Gilbert should be
10 prepared for that discussion.
11
12 Mr. Gilbert agreed to withdraw the case in its current form.
13
14 Mr. Hall stated that Mr. Gilbert will be withdrawing the case and the new case could be back before the
15 Board in February or March of 2018. He said that if the case is not withdrawn, the case must return to the
16 Board within 100 days, which is early January 2018, and Mr. Hall does not feel that Mr. Gilbert or staff will
17 be ready for the first or second meeting in January.
18
19 Mr. Gilbert stated that there are probably five other crushing operations like his located in Champaign
20 County. He asked staff if there is something in the County's regulations which prohibits such a facility.
21
22 Mr. Hall stated that the *Champaign County Zoning Ordinance* is silent except for when recycling of non-
23 hazardous materials is the principal use and that use can only occur in the I-2, Heavy Industry or B-4,
24 General Business Districts, and can only occur indoors. He said that he is not aware of any concrete
25 crushing that occurs regularly in the County's jurisdiction, and just because he does not know about it does
26 not mean that it isn't occurring, but he does know that it has not been approved. He said that he does know
27 that there are other concrete crushers in the area, 1 or 2 in Urbana, 1 in Champaign, and 1 in Rantoul, and by
28 saying this he means that they are within those municipal boundaries.
29
30 Mr. Gilbert stated that there is a concrete crushing plant near the Champaign Township shed, but he does not
31 know if it is in or outside of the City of Champaign's municipal boundary.
32
33 Mr. Hall stated that he does not know either.
34
35 Mr. Keith Padgett indicated that it is inside of the City of Champaign's municipal boundary.
36
37 Mr. Hall thanked Mr. Padgett for his informative input.
38
39 Mr. Gilbert stated that he agrees that the best thing is to withdraw the cases so that he can work with staff to

1 find a proper category for his operation.

2

3 Mr. Hall informed Mr. Gilbert that staff will be in touch.

4

5 Mr. Randol stated that a determination needs to be made as to whether quarrying is even involved with this
6 case.

7

8 Mr. Hall stated that it might be determined to be a minor accessory use.

9

10 Mr. Randol stated that quarrying is not the principal use.

11

12 Mr. Hall stated that Mr. Gilbert and Mr. and Mrs. Chaney should call staff regarding any questions.

13

14 Mr. Thorsland informed the witnesses that they will be included on the mailing list for any meeting packets
15 for the next public hearing regarding Mr. Gilbert's operation.

16

17 Mr. Randol stated that the Seymour and Bondville Fire Protection Districts contract with Scott Fire
18 Protection District. He said that any correspondence should be mailed to either the Chief for the Seymour
19 Fire Protection District or the Chief for the Bondville Fire Protection District.

20

21 Ms. Berry stated that Kris Karr, President of the Scott Fire Protection District, has requested that he also be
22 copied on any correspondence regarding properties under their jurisdiction.

23

24 Mr. Randol stated that the Summary of Evidence indicates that notification was sent to the Chief for the
25 Scott Fire Protection District and there is no chief.

26

27 Ms. Berry stated that staff has received specific instructions regarding where notifications are to be sent
28 regarding the Scott Fire Protection District.

29

30 Mr. Hall stated that the Summary of Evidence will be revised to reflect the correct information.

31

32 **7. Staff Report**

33

34 None

35

36 **8. Other Business**

37 A. Review of Docket

38

39 None

ZBA
10/26/17

AS APPROVED JANUARY 25, 2018

1
2 Ms. Lee stated that a fertilizer plant is being constructed in Sidney Township on County Road 2400 East.
3 She said that the building was permitted as a farm storage building, but it appears that is not the case. She
4 noted that the exterior lights do not appear to be full cut-off lights and the information that was submitted
5 during the permitting process was not fully accurate. She said that it is not unusual for someone to construct
6 a building and then request a variance or special use permit for the intended use after the fact.

7
8 Mr. DiNovo stated that in the past, the ZBA members would make recommendations to the County Board
9 Chair regarding which member should be appointed as the new Chairman for the ZBA. He asked Mr. Hall if
10 that process is still occurring He said that the ZBA used to vote on a recommendation for a new Chair.

11
12 Mr. Hall stated that this would be good addition to the ZBA By-laws. He said that the County Board will
13 appoint a new ZBA Chair and there are six members available for the position. He said that if this Board
14 would like to make a recommendation, he could pass that information on to the County Board Chair.

15
16 Mr. DiNovo stated that he has no opinion.

17
18 Mr. Passalacqua and Ms. Lee indicated that they are not interested in being the ZBA Chair.

19
20 **9. Audience Participation with respect to matters other than cases pending before the Board**

21
22 None

23
24 **10. Adjournment**

25
26 Mr. Thorsland entertained a motion to adjourn the meeting.

27
28 **Ms. Lee moved, seconded by Mr. DiNovo, to adjourn the meeting. The motion carried by voice vote.**

29
30
31 The meeting adjourned at 8:40 p.m.

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35 Respectfully submitted

ZBA
10/26/17

AS APPROVED JANUARY 25, 2018

1 Secretary of Zoning Board of Appeals
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DRAFT SUBJECT TO APPROVAL DRAFT ZBA //

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