

AS APPROVED JUNE 13, 2019

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street
Urbana, IL 61801

DATE: May 16, 2019

PLACE: Lyle Shields Meeting Room
1776 East Washington Street

TIME: 6:30 p.m.

Urbana, IL 61802

MEMBERS PRESENT: Tom Anderson, Frank DiNovo, Ryan Elwell, Marilyn Lee, Jim Randol, Larry Wood

MEMBERS ABSENT: None

STAFF PRESENT: Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT: Jolene Gensler, Jeff Gensler, Mike Anderson, Darlene Kloeppel

1. Call to Order

The meeting was called to order at 6:34 p.m.

2. Roll Call and Declaration of Quorum

The roll was called, and a quorum declared present.

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

3. Correspondence - None

4. Approval of Minutes (March 28, 2019 and April 25, 2019)

Mr. Elwell entertained a motion to approve the March 28, 2019, minutes.

Mr. Wood moved, seconded by Ms. Lee, to approve the March 28, 2019, minutes.

Mr. Elwell asked the Board if there were any required corrections or additions to the March 28th minutes.

Mr. DiNovo stated that the following sentence beginning on line 45 on page 32 of the March 28, 2019, minutes should be revised as follows: "He said that he believes that the intent of Case 792-AT-92, although it was 27 years ago when it was adopted, hinged on the fact that the preponderant work of the contractor was done off site and the contractor's facilities were appropriate in the agricultural zoning district because the

1 work that was done onsite was incidental, like assembling trusses for offsite construction.”

2
3 Mr. Wood amended his original motion, seconded by Ms. Lee as follows:

4
5 **Mr. Wood moved, seconded by Ms. Lee, to approve the March 28, 2019, minutes, as amended. The**
6 **motion carried by voice vote.**

7
8 Mr. Elwell entertained a motion to approve the April 25, 2019, minutes.

9
10 **Ms. Lee moved, seconded by Mr. DiNovo, to approve the April 25, 2019, minutes. The motion carried**
11 **by voice vote.**

12
13 **5. Continued Public Hearing - None**

14
15 **6. New Public Hearings**

16
17 Mr. Elwell called Cases 936-AM-19, 937-S-19, and 938-V-19 concurrently.

18
19 **Case 936-AM-19 Petitioner: Jeff and Jolene Gensler Request to amend the Zoning Map to change the**
20 **zoning district designation from the AG-1 Agriculture Zoning District to the AG-2 Agriculture Zoning**
21 **District in order to allow a two-family dwelling as a proposed Special Use in related Zoning Case 937-**
22 **S-19, and subject to the variance in related zoning case 938-V-19. Location: A 0.69 acre tract in the**
23 **Northwest Quarter of the Southwest Quarter of Section 16, Township 21 North, Range 9 East of the**
24 **Third Principal Meridian in Rantoul Township and commonly known as the farmstead with an**
25 **address of 2740 CR 1400E, Rantoul.**

26
27 **Case 937-S-19 Petitioner: Jeff and Jolene Gensler Request to authorize the construction and use of an**
28 **existing unauthorized two-family swelling as a Special Use on land that is proposed to be rezoned to**
29 **the AG-2, Agriculture Zoning District from the current AG-1, Agriculture Zoning District in related**
30 **Zoning Case 936-AM-19 and subject to the requested variance in related Zoning Case 938-V-19.**
31 **Location: A 0.69 acre tract in the Northwest Quarter of the Southwest Quarter of Section 16,**
32 **Township 21 North, Range 9 East of the Third Principal Meridian in Rantoul Township and**
33 **commonly known as the farmstead with an address of 2740 CR 1400E, Rantoul.**

34
35 **Case 938-V-19 Petitioner: Jeff and Jolene Gensler Request: Part A. Authorize a variance from**
36 **Section 5.3 of the Zoning Ordinance for an existing principal structure with a side yard of 2.5 feet and**
37 **rear yard of 2.5 feet in lieu of the minimum required 15 feet side yard and 25 feet rear yard that is**
38 **also the subject of related cases 936-AM-19 and 937-S-19; and Part B. Authorize a variance from**
39 **Section 4.3.4 B. for a lot size of 25,950 square feet in lieu of the minimum lot area of 30,000 square feet**
40 **for a lot with two dwelling units that is also the subject of related cases 936-AM-19 and 937-S-19.**
41 **Location: A 0.69 acre tract in the Northwest Quarter of the Southwest Quarter of Section 16,**
42 **Township 21 North, Range 9 East of the Third Principal Meridian in Rantoul Township and**
43 **commonly known as the farmstead with an address of 2740 CR 1400E, Rantoul.**

44
45 Mr. Elwell informed the audience that Cases 937-S-19 and 938-V-19 are Administrative Cases and as such,
46 the County allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he
47 will ask for a show of hands for those who would like to cross-examine, and each person will be called upon.

1 He requested that anyone called to cross-examine go to the cross-examination microphone to ask any
2 questions. He said that those who desire to cross-examine are not required to sign the witness register but are
3 requested to clearly state their name before asking any questions. He noted that no new testimony is to be
4 given during the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA
5 By-Laws are exempt from cross-examination.
6

7 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign the
8 witness register for that public hearing. He reminded the audience that when they sign the witness register
9 they are signing an oath. He asked the audience if anyone desired to sign the witness register and there was
10 no one.
11

12 Mr. Elwell asked the petitioners if they would like to make a statement regarding their requests.
13

14 Ms. Jolene Gensler, who resides at 2740 CR 1400E, Rantoul, stated that the addition to their home was
15 constructed approximately nine or ten years ago because her parents had become displaced and had to live
16 with Mr. and Mrs. Gensler for a short while. She said that her 82 year old mother has been on dialysis for
17 sixteen years and only weighs 90 pounds, and when both her parents lived with them the only bathroom that
18 had a shower in it was upstairs, and it was very hard for her mother to navigate those stairs. She said that she
19 and her husband decided to convert their existing garage into a mother-in-law suite for her parents, which
20 was very helpful because she did not have to run to town to take care of her mother and take her to doctor
21 appointments. She said that since they had sacrificed their garage for her parent's dwelling, they decided to
22 construct a new garage which would not only replace the old one but would allow her parents to have
23 attached parking because the weather gets pretty bad in the rural areas. She said that everything that is
24 installed in her mother's dwelling is pretty much ADA compliant because they installed 36-inch doors, a
25 walk-in shower with no threshold, the kitchen accommodates her occasional wheelchair use, and there is
26 plenty of room to navigate through the rest of the space.
27

28 Mr. Elwell asked the Board and staff if there were any questions for Ms. Gensler.
29

30 Mr. Wood asked Ms. Gensler if both portions of the house are common areas to everyone who resides there.
31

32 Ms. Gensler stated that there is a breezeway which connects the new garage and the original home. She said
33 that in order to enter her mother's residence you have to walk through the garage, but the entire structure is
34 connected. She said that the reason why she refers to the mother-in-law suite as her mother's residence is
35 because her father passed away in 2012.
36

37 Mr. DiNovo asked Ms. Gensler when they purchased the subject property.
38

39 Ms. Gensler stated that they purchased the property approximately 16 years ago. She noted that the new
40 garage was continued so that it attached seamlessly to the wall of the old garage, and being ignorant to the
41 zoning requirements, and not knowing that a variance was required for the first garage, they knew that they
42 were constructing on their property but did not realize that they needed the required 15 feet. She said that
43 the location of the new garage was chosen because there is a leach field, septic tank and water pump that are
44 located on the east, west and south sides of the original house.
45

46 Ms. Lee asked staff if the fact that the propane tanks are not located on the subject property is a zoning issue.
47

1 Mr. Hall stated it is an interesting fact and he would like to know why the propane tanks are located in their
2 current location, but it is up to the Board to determine how important their location is, although he assumes
3 that there is some sort of an agreement allowing those propane tanks to sit on the adjacent land.
4

5 Ms. Gensler stated that they did not realize that the location of the two propane tanks was not part of their
6 property. She said that they have maintained 20 or 25 feet of the grass along the side of their garage and
7 since it has always been done that way they thought it was their property.
8

9 Mr. Hall stated that the grass area is almost exactly the rear yard that is normally required in the AG-1
10 district. He said that the odd thing in this case is that there is land that is not being farmed and if it could be
11 acquired, it would relieve the petitioners from requiring some of the variances, especially since the propane
12 tanks are already there.
13

14 Ms. Gensler stated that she wonders if the older propane tank was also located on Mr. Anderson's land as
15 well, because if you were to draw a line to where it used to be, it would almost be the same setback.
16

17 Mr. Hall asked Ms. Gensler if the two propane tanks were installed when they purchased the property.
18

19 Ms. Gensler stated that one propane tank is for her mother's dwelling and the other if for the main residence.
20 She said that her mother's dwelling is self-sufficient as it has its own mechanicals, thus it needed its own
21 propane tank.
22

23 Mr. Hall stated that it is up to the Board to determine what is the best solution for the propane tanks.
24

25 Ms. Burgstrom stated that if the Board is interested, Mr. Mike Anderson, the adjacent landowner, is present
26 at the meeting tonight. She said that Mr. Anderson may have some historical information that could be added
27 to the case.
28

29 Mr. Elwell asked the Board if there were any additional questions for Ms. Gensler.
30

31 Mr. Tom Anderson asked Ms. Gensler if she has attempted to purchase the additional land from Mr. Mike
32 Anderson, or obtain first right of refusal in case the land is sold.
33

34 Ms. Gensler stated that she did speak with Mr. Anderson about purchasing the additional land and he was
35 very adamant that he wanted to keep the land in the family, and after speaking to him again tonight, Mr.
36 Anderson mentioned that since he did not have any family he was going to leave the land to his nieces and
37 nephews and is going to indicate that the heirs are not allowed to sell it because he wants it kept in the
38 family.
39

40 Mr. Tom Anderson asked Ms. Gensler what would happen if the tenant farmer decided to farm the land that
41 she has been maintaining and plant crops within 2.5 feet of her structures.
42

43 Ms. Gensler asked if they could really do that if the Board approves her request without any protest from Mr.
44 Mike Anderson.
45

46 Mr. DiNovo stated yes, because this Board cannot grant someone rights to someone else's land.
47

1 Ms. Gensler stated that other than the propane tanks, it is her understanding that all of the structures are
2 located on her land, although they only have 2.5 feet of side yard. She said that she supposed that if Mr.
3 Anderson wanted his tenant farmer to use their ground that close to her structures then they could, but she
4 would prefer that they don't.

5
6 Mr. Randol stated that the location of the propane tanks should be an issue between the two landowners.

7
8 Mr. DiNovo stated that he would like to add the following special condition: "A letter from Mike Anderson,
9 adjacent landowner, outlining that the petitioners have a license to use the land and what permissions that
10 license grants, and that the license could be revoked and is not transferrable." He said that this condition
11 would be helpful for Mr. and Mrs. Gensler, Mr. Mike Anderson, and any future heirs, because it would be
12 memorialized in writing.

13
14 Mr. Hall asked Mr. DiNovo to indicate what license they would be obtaining.

15
16 Mr. DiNovo stated that the license would give Mr. and Mrs. Gensler permission to use his land.

17
18 Ms. Lee stated that this would not be a license, but an easement.

19
20 Mr. DiNovo stated that it could be an easement, but he is not requiring it to be easement. He said that an
21 easement requires a conveyance and creates an actual interest in the real estate. He said that a license is just
22 providing permission. He said that he gives people a license to hunt on his property and some licenses are
23 just done verbally or with a handshake. He said that the reason why he is suggesting that a letter from Mr.
24 Anderson is required is because the letter is more durable than a human being and a handshake agreement
25 could become a source of future friction. He said that the best way to do this would be to convince Mr.
26 Anderson to allow them to acquire an easement that is permanent and transferrable to their heirs, or assigns,
27 or whomever they sell the property to, but if Mr. Anderson is not willing to do that, then the second best
28 thing would be to get the license memorialized in writing so that everyone knows what the deal was.

29
30 Mr. Hall stated that if the special condition could be written tonight and the Board could take action, then the
31 writing of the license could be constructed later.

32
33 Mr. DiNovo stated that it is just a letter stating that Mr. Anderson understands that Mr. and Mrs. Gensler
34 have been maintaining the land and the propane tanks are located there, and unless conditions change they
35 are welcome to continue using the lands, but if he chooses to revoke the license then it is not transferrable,
36 and the propane tanks would need to be relocated.

37
38 Ms. Lee stated that this would be a special condition for the petitioner, but Mr. Anderson may not agree to
39 the license or would want to discuss this with his attorney.

40
41 Mr. Wood stated that he does not know if the location of the propane tanks is a Board issue, but if there is a
42 disagreement in the future between the two landowners, then the propane tanks can always be relocated. He
43 said that it would be in the Gensler's best interest to have some sort of written agreement drawn up by the
44 attorney which acknowledges what is already there, but if the future owners do not desire the propane tanks
45 in that location, then they will have to be moved. He said that he is not sure if a special condition is
46 necessary.

47

1 Mr. Randol stated that he does not think that it should be a special condition, because it is an issue between
2 the two property owners.

3 Mr. Wood stated that it appears that the additional distance around the house, with the additional area that
4 the Genslers mow that is not theirs, is just a barrier between the homestead and the farm field.

5

6 Mr. DiNovo stated that it probably would not be that easy to relocate the propane tanks because they are full
7 of fuel.

8

9 Ms. Lee stated that the propane company can remove the fuel from the propane tanks and then refuel them
10 when they are relocated.

11

12 Mr. DiNovo asked how long of a hose is practical for the propane company to run a hose to fuel the tanks.

13

14 Ms. Gensler stated that the old propane tank was located in the southeast corner of the lot and the truck
15 would have to pull into the yard to fuel the tank, but now they park along the garage because the tanks are
16 more accessible to the propane truck. She said that if the propane tanks were relocated, the truck would have
17 to drive onto the twenty or twenty five foot side yard.

18

19 Mr. Wood stated that his propane company fills his tank and they have a 100 foot hose to get to it. He said
20 that he would like to discuss the conformance of the residence to the administrative interpretation. He said
21 that the petitioner's use complies with four of the six items indicated on page 2 of the Supplemental
22 Memorandum dated May 16, 2019. He said that it appears that regarding #4, there was no other feasible
23 location for a mother-in-law suite due to the location of the well and septic system and making it separately
24 would have required some sort of breezeway to get to the suite. He said that in this particular circumstance it
25 does not make a lot of sense to call it a two-family dwelling when it is just a mother-in-law and two other
26 adults, because it is a family operation. He said that they had to locate the structure in its current location as
27 well due to the disability of the mother not being able to go through the main entrance of the house. He said
28 that the main entrance to his house is his garage.

29

30 Mr. DiNovo stated that the point of item #4 is due to the fact that these things routinely come up in the
31 context that people want to be able to provide for their family, sometimes it is a parent or an adult child, and
32 for the most part no one sees that as being problematic, but those instances are generally temporary and
33 eventually the structure ends up being a rentable apartment with no one in it. He said that the concern is that
34 the structures do not become rental units in the future, and the point of item #4 is that you can do this as an
35 accessory provided that it is physically arranged in such a way that it could never be rented out to a stranger.
36 He said that the reason why the Special Use Permit is required is because this structure could be rented out to
37 a stranger.

38

39 Mr. Wood stated that the only access to the suite is through the garage.

40

41 Ms. Gensler stated that there is a door that goes out to the backyard. She said that there are two doors to the
42 garage, one off of the bedroom for emergency exit during a fire, and a second to the shared patio.

43

44 Mr. Wood stated that the main entrance is through the garage, which admits into the rest of the house.

45

46 Mr. DiNovo stated that the door to the breezeway could be locked.

47

1 Mr. Elwell asked the audience if anyone desired to cross-examine Ms. Gensler, and there was no one.

2
3 Mr. Elwell asked the audience if anyone desired to sign the witness register to present testimony regarding
4 these cases, and there was no one.

5
6 Mr. Elwell closed the witness register.

7
8 Ms. Burgstrom stated that new Supplemental Memorandum #1 dated May 16, 2019, was distributed to the
9 Board and staff for review. She said that the memorandum includes new items from Ms. Gensler received
10 after the Board's packet was mailed. She said that the memorandum includes Conformance of the Residence
11 to the Administrative Interpretation, located on page 2, and how four of the six items are conforming to the
12 interpretation that was made in 1991. She said that staff has received new septic information, and in the
13 Preliminary Memorandum dated May 9, 2019, there was a decision point for Case 936-AM-19 regarding
14 whether the septic was sufficient to achieve Goal 6 of the Land Resource Management Plan. She said that
15 Ms. Gensler had Gulliford Septic and Sewer come out to the property and review the system and clean it out
16 on May 10th and found that there was a 1,250 gallon capacity tank on the property, which was generally in
17 good working order but needed repair to the cracked lid. Ms. Burgstrom stated that the invoice from
18 Gulliford Septic and Sewer is Attachment C. page 2 of 2 and their notes indicate that the tank was last
19 cleaned out in 2014 and 1,235 gallons were removed from 1,250 gallon tank, thus it took almost five years to
20 fill up the septic system and the tank is almost empty today. She said that the Illinois Private Sewage
21 Disposal Code requires, for a four bedroom residence, a minimum septic tank size of 1,250 gallons, which is
22 the same size that the Genslers have for their home and it is thus compliant with that Illinois code. She said
23 that with that reasoning, staff determined that a few of the decision points that were previously listed for the
24 Board should be revised to HELP ACHIEVE, and if the Board agrees, then there are no decision points for
25 the Board to determine. She said that there are no changes to the proposed special conditions. She said that
26 Attachment D. to the Supplemental Memorandum includes a letter from the Champaign County Soil and
27 Water Conservation District, and in lieu of completing a Natural Resource Information Report, they thought
28 that it was pretty cut and dry that there were no significant natural resource concerns for the property.

29
30 Mr. Hall stated that regarding Special Condition B. for Case 936-AM-19, he believes that the map
31 amendment could stand on its own even if there is no two-family dwelling. He said that Special Condition
32 B. seems unnecessary.

33
34 Ms. Burgstrom stated that that it may not be necessary, but without the need for the duplex, there would be
35 no need for the rezoning.

36
37 Mr. Elwell asked the Board how they would like to proceed.

38
39 Mr. DiNovo stated that following text should replace the text indicated in subparagraph (3) under G. on page
40 10 of 25 of the Preliminary Draft Summary of Evidence dated May 16, 2019, for Cases 937-S-19 and 938-V-
41 19: (3) The petitioner submitted an invoice from Gulliford Septic and Sewer that indicates that the existing
42 septic tank has a capacity of 1,250 gallons or more meeting the requirements of the Champaign County
43 Health Ordinance and the Illinois Private Sewage Disposal Code.

44
45 Mr. Elwell read the special conditions for Case 937-S-19 as follows:

46
47 **A. The petitioner shall apply for a Zoning Use Permit within 30 days of approval of**

rezoning Case 936-AM-19, to include any unauthorized existing structures, and pay associated permit fees for the existing structures.

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

That all structures on the subject property have the required Zoning Use Permits.

Mr. Elwell asked Ms. Gensler if she agreed with Special Condition A.

Ms. Gensler stated that she agreed with Special Condition A.

Mr. Elwell read Special Condition B.

B. The Special Use Permit is contingent upon approval of Case 936-AM-19.

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

That the Special Use is consistent with Part 13.2.1 of the Zoning Ordinance and ZBA recommendations.

Mr. Elwell asked Ms. Gensler if she agreed with Special Condition B.

Ms. Gensler stated that she agreed with Special Condition B.

Mr. Elwell read Special Condition A. for Case 938-V-19.

A. The Variance is contingent upon approval of Case 936-AM-19.

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

That the variance is consistent with Part 13.2.1 of the Zoning Ordinance.

Mr. Elwell asked Ms. Gensler if she agreed with Special Condition A.

Ms. Gensler stated that she agreed with Special Condition A.

Mr. Elwell entertained a motion to approve the special conditions for Cases 937-S-19 and 938-V-19.

Mr. Randol moved, seconded by Ms. Lee, to approve the special conditions for Cases 937-S-19 and 938-V-19. The motion carried by voice vote.

Ms. Gensler noted that her husband is mentioned in the Champaign County Soil and Water Conservation District information as being John Gensler, but his name is Jeff Gensler.

Mr. Randol moved, seconded by Ms. Lee, to move to the Findings of Fact for Cases 937-S-19 and 938-V-19.

Mr. Elwell entertained a motion to move the Findings of Fact for Cases 937-S-19 and 938-V-19.

Mr. Randol moved, to move to the Findings of Fact for Cases 937-S-19 and 938-V-19.

1
 2 Mr. DiNovo recommended that the previously mentioned addition to item G.(3) on page 10 of 25 of the
 3 Summary of Evidence for Cases 937-S-19 and 938-V-19 read as follows: (3) The petitioner submitted an
 4 invoice from Gulliford Septic and Sewer that indicates that the existing septic tank has a capacity of 1,250
 5 gallons or more, meeting the requirements of the Champaign County Health Ordinance and the Illinois
 6 Private Sewage Disposal Code,” and he would like to add the following text to new item E.(2)d. on page 11
 7 of 25 of the same Summary of Evidence, as follows: “The lot was created prior to May 21, 1991 and so is
 8 lawfully none-conforming with respect to the Illinois Plat Act per Section 13.2.2 of the Zoning Ordinance.”

9
 10 Ms. Lee asked why Mr. DiNovo is using the date of May 21, 1991, because the lot was created in 1974 and
 11 recorded in 1980.

12
 13 Mr. DiNovo stated that the lot was created prior to May 21, 1991. He said that the County determined that
 14 any Plat Act violation that occurred prior to May 21, 1991, was grand-fathered, and he is documenting the
 15 fact that the subject property was created prior to May 21, 1991, and the Plat Act is not an issue.

16
 17 **Mr. Randol withdrew his motion.**

18
 19 **Mr. Wood moved, seconded by Ms. Lee, to accept Mr. DiNovo’s amendments to the Summary of**
 20 **Evidence and move to the Findings of Fact for Cases 937-S-19 and 938-V-19. The motion carried by**
 21 **voice vote.**

22
 23 Ms. Burgstrom noted that a new item #13 should be added to the Documents of Record for Cases 936-AM-
 24 19, 937-S-19 and 938-V-19, as follows: 13: Supplemental Memorandum #1 dated May 16, 2019, with
 25 attachments.

26
 27 **FINDING OF FACT FOR CASE 938-V-19:**

28
 29 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
 30 **938-V-19** held on **May 16, 2019**, the Zoning Board of Appeals of Champaign County finds that:

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

34
 35 Mr. Randol stated that special conditions and circumstances DO exist which are peculiar to the land or
 36 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
 37 same district because when the farmland was separated from the homestead, it left no further room for
 38 expansion on the subject property.

- 39
 40 2. **Practical difficulties or hardships created by carrying out the strict letter of the regulations**
 41 **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**
 42 **structure or construction.**

43
 44 Mr. Randol stated that practical difficulties or hardships created by carrying out the strict letter of the
 45 regulations south to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or
 46 construction because without the variance, it would leave no safe or practical way for an elderly family
 47 member to reside.

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

Mr. Randol stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because of the way the property was divided from the farmland did not allow for further expansion. The locations of the well, septic and leach field also allow little room for expansion.

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

Mr. Randol stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS in harmony with the general purpose and intent of the Ordinance because the use does not affect surrounding farmland, complying with the Right to Farm Resolution.

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

Mr. Randol stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the infrastructure for utilities is in place and the improved road meets the traffic count with no additional traffic created.

Mr. Elwell stated that an additional door was added to the mother-in-law suite for use as an exit during an emergency.

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

Mr. Randol stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure because of the minimum lot size and no adjacent land is available for purchase.

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

A. **The Variance is contingent upon approval of Case 936-AM-19.**

The special condition stated above is required to ensure the following:
That the variance is consistent with Part 13.2.1 of the Zoning Ordinance.

Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record and Finding of Fact, as amended.

Mr. DiNovo moved, seconded by Ms. Lee, to adopt the Summary of Evidence, Documents of Record and Finding of Fact, as amended. The motion carried by voice vote.

1
2 Mr. Elwell entertained a motion to move to the Final Determination for Case 938-V-19.

3 **Ms. Lee moved, seconded by Mr. Randol, to move to the Final Determination for Case 938-V-19. The**
4 **motion carried by voice vote.**

5
6 **FINAL DETERMINATION FOR CASE 938-V-19:**
7

8 **Mr. Randol moved, seconded by Ms. Lee, that the Champaign County Zoning Board of Appeals finds,**
9 **based upon the application, testimony, and other evidence received in this case, that the requirements**
10 **for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted by Section**
11 **9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign**
12 **County determines that:**

13
14 **The Variance requested in Case 938-V-19 is hereby GRANTED WITH ONE SPECIAL CONDITION**
15 **to the applicants, Jeff and Jolene Gensler, to authorize the following variance in the AG-2 Agriculture**
16 **Zoning District:**
17

18 **Part A. Authorize a variance from Section 5.3 of the Zoning Ordinance for an existing principal**
19 **structure with a side yard of 2.5 feet and a rear yard of 2.5 feet in lieu of the minimum**
20 **required 15 feet side yard and 25 feet rear yard that is also the subject of related cases**
21 **936-AM-19 and 937-S-19.**
22

23 **Part B. Authorize a variance from Section 4.3.4 B. for a lot size of 25,950 square feet in lieu of**
24 **the minimum lot area of 30,000 square feet for a lot with two dwelling units that is also**
25 **the subject of related cases 936-AM-19 and 937-S-19.**
26

27 Mr. Elwell requested a roll call vote.

28
29 The roll was called as follows:

30
31 **Wood – yes Anderson – yes DiNovo – yes**
32 **Lee – yes Randol – yes Elwell – yes**
33

34 Mr. Elwell entertained a motion to move to the Finding of Fact for Case 937-S-19.

35
36 **Ms. Lee moved, seconded by Mr. DiNovo to move to the Finding of Fact for Case 937-S-19. The**
37 **motion carried by voice vote.**
38

39 **FINDING OF FACT FOR CASE 937-S-19:**
40

41 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
42 **937-S-19** held on **May 16, 2019**, the Zoning Board of Appeals of Champaign County finds that:

- 43
44 **1. The requested Special Use Permit IS necessary for the public convenience at this location.**
45

46 Mr. DiNovo stated that the requested Special Use IS necessary for the public convenience at this location
47 because it provides economic and safe housing for an elderly and handicapped family member.

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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 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 traffic capacity and the entrance location has ADEQUATE visibility.

Mr. Randol stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.

b. Emergency services availability is ADEQUATE.

Mr. Randol stated that emergency services availability is ADEQUATE because there are two Fire Protection Districts in the area that average 4 miles road distance for both.

c. The Special Use WILL be compatible with adjacent uses.

Ms. Lee stated that the Special Use WILL be compatible with adjacent uses because the adjacent use Existed prior to the adoption of zoning.

d. Surface and subsurface drainage will be ADEQUATE.

Mr. Wood stated that surface and subsurface drainage will be ADEQUATE because there is no effect on the drainage to the adjacent property.

e. Public safety will be ADEQUATE.

Mr. Randol stated that public safety will be ADEQUATE.

f. The provisions for parking will be ADEQUATE.

Mr. Randol stated that the provisions for parking will be ADEQUATE.

g. The property IS WELL SUITED OVERALL for the proposed improvements.

Mr. Wood stated that the property IS WELL SUITED OVERALL for the proposed improvements because the surrounding parcel is considered best prime farmland and no additional farmland will be taken out of production.

h. Existing public services ARE available to support the proposed SPECIAL USE without undue public expense.

Mr. Randol stated that the existing public services ARE available to support the proposed SPECIAL USE without undue public expense because the structures already exist.

i. Existing public infrastructure together with the proposed development IS adequate to

1 support the proposed development effectively and safely without undue public expense.

2
3 Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
4 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious
5 to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
6

7 3a. **The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
8 **HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in**
9 **which it is located.**

10
11 Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
12 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in which
13 it is located.
14

15 3b. **The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
16 **HEREIN, DOES preserve the essential character of the DISTRICT in which it is located**
17 **because:**

18 a. **The Special Use will be designed to CONFORM to all relevant County ordinances and**
19 **codes.**

20
21 Mr. Randol stated that the Special Use will be designed to CONFORM to all relevant County ordinances and
22 codes.
23

24 b. **The Special Use WILL be compatible with adjacent uses.**

25
26 Mr. Randol stated that the Special Use WILL be compatible with adjacent uses.
27

28 c. **Public safety will be ADEQUATE.**

29
30 Mr. Randol stated that public safety will be ADEQUATE.
31

32 Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
33 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.
34

35 4. **The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**
36 **HEREIN, IS in harmony with the general purpose and intent of the Ordinance because:**

37 a. **The Special Use is authorized in the District.**

38
39 The Special Use is authorized in the District.
40

41 b. **The requested Special Use Permit IS necessary for the public convenience at this**
42 **location.**

43
44 Mr. Randol stated that the requested Special Use Permit IS necessary for the public convenience at this
45 location.
46

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

Ms. Lee stated that 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 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 preserve the essential character of the DISTRICT in which it is located.

Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

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

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

A. The petitioner shall apply for a Zoning Use Permit within 30 days of approval of rezoning Case 936-AM-19, to include any unauthorized existing structures, and pay associated permit fees for the existing structures.

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

That all structures on the subject property have the required Zoning Use Permits.

B. The Special Use Permit is contingent upon approval of Case 936-AM-19.

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

That the Special Use is consistent with Part 13.2.1 of the Zoning Ordinance and ZBA recommendations.

Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings of Fact for Case 937-S-19.

Ms. Lee moved, seconded by Mr. Randol, to adopt the Summary of Evidence, Documents of Record, and Findings of Fact for Case 937-S-19. The motion carried by voice vote.

Mr. Elwell entertained a motion to move to the Final Determination for Case 937-S-19.

Ms. Lee moved, seconded by Mr. Randol, to move to the Final Determination for Case 937-S-19. The motion carried by voice vote.

FINAL DETERMINATION FOR CASE 937-S-19:

Mr. Randol moved, seconded by Ms. Lee, that 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 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 937-S-19 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicants, Jeff and Jolene Gensler, to authorize the following as a Special Use on land in the AG-2 Agriculture Zoning District:

Authorize the construction and use of an existing unauthorized two-family dwelling as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related Zoning Case 936-AM-19 and subject to the requested variance in related Zoning Case 938-V-19.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

- A. The petitioner shall apply for a Zoning Use Permit within 30 days of approval of rezoning Case 936-AM-19, to include any unauthorized existing structures, and pay associated permit fees for the existing structures.
- B. The Special Use Permit is contingent upon approval of Case 936-AM-19.

Mr. Elwell requested a roll call vote.

The roll was called as follows:

| | | |
|------------|----------------|--------------|
| Wood – yes | Anderson – yes | DiNovo – yes |
| Lee – yes | Randol – yes | Elwell – yes |

SUMMARY FINDING OF FACT FOR CASE 936-AM-19:

From the documents of record and the testimony and exhibits received at the public hearing conducted on May 16, 2019, the Zoning Board of Appeals of Champaign County finds that:

- 1. The proposed Zoning Ordinance map amendment will HELP ACHIEVE the Land Resource Management Plan because:
 - A. Regarding Goal 4:
 - (1) It will HELP ACHIEVE Objective 4.1 requiring minimization of the fragmentation of farmland, conservation of farmland, and stringent development standards on best prime farmland because of the following:
 - a. Policy 4.1.1, which states that commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils (see Item 13.A.(1)).

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- b. Policy 4.1.6 requiring that the use, design, site and location are consistent with policies regarding suitability, adequacy of infrastructure and public services, conflict with agriculture, conversion of farmland, and disturbance of natural areas (see Item 13.A.(2)).
 - c. Policy 4.1.8 requiring that the County consider the LESA rating for farmland protection when making land use decisions regarding a discretionary development (see Item 13.A.(3)).
- (2) It will NOT IMPEDE Objective 4.2 requiring discretionary development to not interfere with agriculture because of the following:
- a. Policy 4.2.2 requiring discretionary development in a rural area to not interfere with agriculture or negatively affect rural infrastructure (see Item 13.B.(1)).
 - c. Policy 4.2.3 requiring that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land (see Item 13.B.(2)).
 - d. Policy 4.2.4 requiring that all discretionary review consider whether a buffer between existing agricultural operations and the proposed development is necessary (see Item 13.B.(3)).
- (3) It will HELP ACHIEVE Objective 4.3 requiring any discretionary development to be on a suitable site because of the following:
- a. Policy 4.3.2 requiring a discretionary development on best prime farmland to be well-suited overall (see Item 13.C.(1)).
 - b. Policy 4.3.3 requiring existing public services be adequate to support the proposed development effectively and safely without undue public expense (see Item 13.C.(2)).
 - c. Policy 4.3.4 requiring existing public infrastructure be adequate to support the proposed development effectively and safely without undue public expense (see Item 13.C.(3)).
- (4) It will HELP ACHIEVE Objective 4.7 requiring affirmation of the Champaign County Right to Farm Resolution (see Item 13.D.(1)).
- (5) Based on achievement of the above Objectives and Policies, the proposed map amendment will HELP ACHIEVE Goal 4 Agriculture.
- B. Regarding Goal 6:**
- (1) It WILL HELP ACHIEVE Objective 6.1 regarding public health and safety (see Item 15.A.(1)).
- C. Regarding Goal 8:**
- (1) It will HELP ACHIEVE Objective 8.1 requiring Champaign County to only

1 approve discretionary development when there is a sufficient supply an
2 adequate supply of water (see Item 17.A.(1)).
3

4 (2) It will HELP ACHIEVE Objective 8.2 requiring Champaign County to strive to
5 conserve its soil resources (see Item 17.B.(1)).
6

7 D. The proposed amendment will NOT IMPEDE the following LRMP goal(s):

- 8 • Goal 1 Planning and Public Involvement
- 9 • Goal 2 Governmental Coordination
- 10 • Goal 3 Prosperity
- 11 • Goal 5 Urban Land Use
- 12 • Goal 7 Transportation
- 13 • Goal 9 Energy Conservation
- 14 • Goal 10 Cultural Amenities

15
16 E. Overall, the proposed map amendment will HELP ACHIEVE the Land Resource
17 Management Plan.
18

19 2. The proposed Zoning Ordinance map amendment IS consistent with the LaSalle and Sinclair
20 factors because of the following:

21 A. This area has a mix of agricultural and residential land uses.
22

23 B. The rezoning will still be an agricultural zoning district, and therefore is not expected
24 to affect the value of nearby properties.
25

26 C. The gain to the public of the proposed rezoning would be insignificant because the
27 types of uses that could be established are mostly low intensity due to the small lot size.
28

29 D. The ZBA has recommended that the proposed rezoning will HELP ACHIEVE Policy
30 4.3.2 regarding whether the site with proposed improvements is well-suited overall for
31 the proposed land use.

32 E. The ZBA has recommended that the proposed rezoning will HELP ACHIEVE the
33 Champaign County Land Resource Management Plan.
34

35 3. The proposed Zoning Ordinance map amendment will HELP ACHIEVE the purpose of the
36 Zoning Ordinance because:

37 A. Establishing the AG-2 District in this location will NOT WORSEN hazards to persons
38 and damage to property resulting from the accumulation of runoff of storm or
39 floodwaters because the subject property is not in the flood hazard area and the
40 proposed Special Use is exempt from the Storm Water Management and Erosion
41 Control Ordinance (Purpose 2.0 (d), see Item 21.D.).
42

43 B. Establishing the AG-2 District at this location WILL help classify, regulate, and restrict
44 the location of the uses authorized in the AG-2 District (Purpose 2.0 (i), see Item 21.G.).
45

46 C. Establishing the AG-2 District at this location WILL NOT impact the protection of
47 natural features (Purpose 2.0 (o), see Item 21.J.).

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- D. Establishing the AG-2 District at this location WILL NOT change the agricultural nature or character of the area (Purpose 2.0 (q), see Item 21.L.).**
- E. The proposed rezoning and proposed Special Use WILL NOT hinder the development of renewable energy sources (Purpose 2.0(r), see Item 21.M).**

Mr. Elwell read the special conditions of approval for Case 936-AM-19 as follows:

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

**The special condition stated above is required to ensure the following:
Conformance with Land Resource Management Plan Policy 4.2.3.**

Mr. Elwell asked Ms. Gensler if she agreed with Special Condition A.

Ms. Gensler stated that she agreed with Special Condition A.

Mr. Elwell read Special Condition B. as follows:

- B. The map amendment is contingent upon approval of Cases 937-S-19 and 938-V-19.**

The special condition stated above is required to ensure the following:
That the Special Use is consistent with the Zoning Ordinance and ZBA recommendations.

Mr. Elwell asked Ms. Gensler if she agreed with Special Condition B.

Ms. Gensler stated that she agreed with Special Condition B.

Ms. Burgstrom stated that since the Board has approved Cases 937-S-19 and 938-V-19, Special Condition B. could be stricken.

Ms. Lee moved, seconded by Mr. Randol, to strike Special Condition B. for Case 936-AM-19. The motion carried by voice vote.

Mr. DiNovo moved, seconded by Ms. Lee, to approve Special Condition A. for Case 936-AM-19. The motion carried by voice vote.

- 4. The proposed Zoning Ordinance map amendment is subject to the following special conditions:**

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

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

Conformance with Land Resource Management Plan Policy 4.2.3.

Mr. Elwell asked the Board if they agreed with the decision points in the Summary Finding of Fact, as amended, and the Board agreed.

Mr. Elwell entertained a motion to adopt the Finding of Fact, Documents of Record, and Summary Finding of Fact, as amended.

Mr. Randol moved, seconded by Ms. Lee, to adopt the Finding of Fact, Documents of Record, and Summary Finding of Fact, as amended. The motion carried by voice vote.

Mr. Elwell entertained a motion to move to the Final Determination for Case 936-AM-19.

Ms. Lee moved, seconded by Mr. Randol, to move to the Final Determination for Case 936-AM-19. The motion carried by voice vote.

FINAL DETERMINATION FOR CASE 936-AM-19;

Ms. Lee moved, seconded by Mr. Wood, that pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County recommends that:

The Zoning Ordinance Amendment requested in Case 936-AM-19 should BE ENACTED by the County Board in the form attached hereto.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

- A. The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

Mr. Elwell requested a roll call vote.

The roll was called as follows:

| | | |
|---------------------|-------------------|-----------------------|
| Randol – yes | Wood – yes | Anderson – yes |
| DiNovo – yes | Lee – yes | Elwell – yes |

Ms. Burgstrom explained to Ms. Gensler that Case 936-AM-19 does not stop with this Board, but the other two cases have been approved and are final. She said that Case 936-AM-19 will be forwarded to the Environment and Land Use Committee and they will make a recommendation to approve or deny the rezoning, and then the case will go to the full County Board for final approval.

Mr. Hall informed the petitioners that the Environment and Land Use Committee will review this case at its June 6th meeting, and he recommended that Ms. Gensler attend that meeting. He said that the Environment and Land Use Committee will make their recommendation and forward the case to the County Board for

1 their June 20th meeting. He said that he hopes that the case will be included on the consent agenda, at which
2 time their time before the Board could be very short.

3 Ms. Gensler asked if after the County Board makes their determination, that is the time when she can apply
4 for a building permit.

5

6 Mr. Hall stated yes.

7

8 Ms. Gensler thanked the Board for taking the time to review her requests.

9

10 **7. Staff Report - None**

11

12 **8. Other Business**

13 **A. Review of Docket**

14

15 Mr. Hall noted that during the week of the scheduled July 11th ZBA meeting, Ms. Burgstrom is on vacation,
16 and he will hopefully be training the new Zoning Officer. He requested that the July 11, 2019, meeting be
17 cancelled.

18

19 Mr. Elwell entertained a motion to cancel the July 11, 2019, Zoning Board of Appeals meeting.

20

21 **Mr. Randol moved, seconded by Ms. Lee, to cancel the July 11, 2019, Zoning Board of Appeals**
22 **meeting. The motion carried by voice vote.**

23

24 Mr. DiNovo stated that he would be absent from the May 30, 2019, meeting.

25

26 Mr. Elwell asked the Board to indicate any additional future absences from meetings.

27

28 Mr. Wood indicated that his vacation schedule has changed; therefore, he will be attending the June 13,
29 2019, meeting, but will be absent from the September 26, 2019 meeting.

30

31 Mr. Elwell indicated that he would be absent from the June 27, 2019 meeting.

32

33 Ms. Lee noted that due to the anticipated absences of two members for the June 27, 2019, the Board would
34 be at a bare quorum.

35

36 Mr. DiNovo stated that he will be attending the June 27, 2019, meeting, but he will be absent from a meeting
37 in August or September, and he would provide those dates to staff.

38

39 **9. Audience participation with respect to matters other than cases pending before the Board**

40

41 None

42

43 **10. Adjournment**

44

45 Mr. Elwell entertained a motion to adjourn the meeting.

46

47 **Ms. Lee moved, seconded by Mr. Wood, to adjourn the meeting. The motion carried by voice vote.**

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The meeting adjourned at 7:58 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals