

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 **1776 E. Washington Street**

4 **Urbana, IL 61801**

5 **DATE: July 16, 2020**

6 **PLACE: Lyle Shields Meeting Room**
7 **1776 East Washington Street**

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

9 **Urbana, IL 61802**

10 **MEMBERS PRESENT:** *Using Zoom in Lyle Shields:* Ryan Elwell, Jim Randol, Larry Wood
11 *Remotely via Zoom:* Tom Anderson, Lee Roberts

12 **MEMBERS ABSENT:** Marilyn Lee

13 **STAFF PRESENT:** Lori Busboom, Susan Burgstrom, John Hall *(using Zoom in Lyle Shields)*

14 **OTHERS PRESENT:** *Remotely via Zoom:* Jeff Ault, Travis Heath, Rex Bradfield

15 **1. Call to Order**

16 The meeting was called to order at 6:31 p.m.

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

18 The roll was called, and a quorum declared present. Marilyn Lee was absent.

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

22 **3. Correspondence - None**

23 **4. Approval of Minutes – February 27, 2020 and March 12, 2020**

24 Mr. Elwell entertained a motion to approve the February 27, 2020 and March 12, 2020 minutes.

25 **Mr. Roberts moved, seconded by Mr. Randol, to approve the February 27, 2020 and March 12, 2020**
26 **minutes.**

27 Mr. Elwell asked the Board if there were any required additions or corrections to either set of minutes,
28 and there were none.

29 Mr. Elwell requested a roll call vote.

30 The vote was called as follows:

31 **Anderson – yes**

32 **Elwell - yes**

33 **Randol – yes**

34 **Roberts – yes**

35 **Wood - yes**

36 **Lee - absent**

37 **The motion carried.**

1 Mr. Elwell entertained a motion to rearrange the agenda and hear Case 970-V-19 first and then resume
2 back to the order of the agenda.

3
4 **Mr. Randol moved, seconded by Mr. Wood, to rearrange the agenda and hear Case 970-V-19 first**
5 **and then resume back to the order of the agenda.**

6
7 The vote was called as follows:

8	Anderson – yes	Elwell - yes	Randol – yes
9	Roberts – yes	Wood - yes	Lee - absent

10
11 **The motion carried.**

12
13 **5. Continued Public Hearing**

14 *Note: Case 960-S-19 now has concurrent Case 975-V-20, and both will be transcribed under this section.*

15
16 **Cases 960-S-19 and 975-V-20 Petitioner: Travis Heath**

17 **Case 960-S-19 Request to authorize a Special Use Permit for construction of an artificial lake of 1**
18 **or more acres in area in the AG-1 Agriculture Zoning District. Case 975-V-20 Request to authorize**
19 **a variance from Section 9.1 A.2. of the Storm Water Management and Erosion Control Ordinance**
20 **for an artificial lake in the AG-1 Zoning District for using the Rational Method rather than the TR-**
21 **55 Method for calculating required storm water storage for a development watershed area more**
22 **than 10 acres in area but less than 2,000 acres in area.**

23 **Location: An 18.93 acre tract that is part of the West Half of the Northeast Quarter and part of the**
24 **Northwest Quarter of the Southeast Quarter of Section 23, Township North, Range 7 East of the**
25 **Third Principal Meridian in Newcomb Township, and commonly known as the vacant tract just**
26 **west of the residence with an address of 485 CR 2675N, Mahomet.**

27
28 Mr. Elwell 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 and
31 there was no one.

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

41
42 Mr. Elwell asked Petitioner Travis Heath to outline the nature of his request.

43
44 Mr. Travis Heath, 2653 CR 500E, Mahomet, stated that his wife and he would like to construct an
45 approximately 4-acre pond behind their house.

46
47 Mr. Elwell if there were any questions from the Board.

48

1 Mr. Randol referred to the map with the elevations shown, and asked Mr. Heath who owns the property
2 directly south of his house.
3
4 Mr. Heath replied that it is owned by Mr. Mumm.
5
6 Mr. Randol asked if it wasn't the house that adjoins that property, which has a machine shed and he
7 believes the resident has a wheelchair.
8
9 Mr. Heath said that is Rob Whitaker's house.
10
11 Mr. Randol asked if the vacant property behind Mr. Whitaker's property is also owned by Mr. Whitaker.
12
13 Mr. Heath said no, the property belongs to him (Mr. Heath).
14
15 Mr. Randol said that Mr. Heath basically has land surrounding the pond.
16
17 Mr. Heath said 100%.
18
19 Ms. Burgstrom said that in the time since the memo was mailed, Don Wauthier with Berns, Clancy &
20 Associates (BCA), the consulting engineer for the P&Z Department, has had time to comment on the
21 petitioner's drainage plan created by Engineer Bradfield. She said that Mr. Wauthier remarked that Mr.
22 Bradfield has made updates to everything such that BCA finds that this pond's design is good to go.
23
24 Mr. Anderson referred to Summary of Evidence page 9 of 24, and said that BCA lists 13 tasks that must
25 be done in association with constructing this pond. He asked who is going to do this work.
26
27 Ms. Burgstrom stated that the 13 items were what BCA told Mr. Bradfield he would need to correct, and
28 he did make those corrections to the design. She asked Mr. Anderson if he was referring to the design or
29 the construction of the pond.
30
31 Mr. Anderson replied that he was referring to who is going to do the construction.
32
33 Mr. Heath stated that Midstate Excavation would be building the pond.
34
35 Mr. Anderson asked who will inspect the pond and make sure it is done right.
36
37 Mr. Heath responded that Mr. Bradfield would inspect the pond once it is built, and he is sitting with Mr.
38 Heath to answer any questions regarding inspection or design.
39
40 Mr. Anderson said that the thing that struck him when he read the design documents was the specifics of
41 these 13 requirements; in fact, they were so explicit, any one of them that is not done correctly could spell
42 trouble along the way. He wondered about the oversight and evaluation of these 13 requirements, who is
43 going to say they are through, and that the pond is up to specs.
44
45 Ms. Burgstrom said that part of the Zoning Use Permit approval is that the engineer provide as-built plans
46 once the pond is done, which are then reviewed by P&Z Staff, and that Mr. Hall is very thorough in
47 reviewing those documents. She said that if something needs to be remedied, the project will not receive
48 a Zoning Compliance Certificate until the issue is resolved. She added that P&Z Staff are available during

1 construction to go out and monitor that, and if they have things they see with potential red flags, then they
2 can review that with the consulting engineer to make sure things are going the way they are supposed to.

3
4 Mr. Elwell asked if there were any other questions from the Board.

5
6 Mr. Wood stated that there is a dry fire hydrant running from the lake up to his house.

7
8 Mr. Heath said that Mr. Bradfield added that for the Heaths' benefit, but that to his understanding it is
9 completely optional as it relates to County requirements.

10
11 Mr. Elwell asked if there were any other questions from the Board.

12
13 Mr. Randol asked if the fire district needed to access water out in that area, would Mr. Heath allow that.

14
15 Mr. Heath replied perhaps, but he lives about one-quarter mile off the road and couldn't imagine the fire
16 district having a need to access it. He said that if his neighbor's house was burning down and they need
17 the water, he is not going to tell them no.

18
19 Mr. Elwell asked if there were any questions from Staff, and there were none.

20
21 Mr. Elwell asked if there was anyone who would like to cross-examine Mr. Heath, and there was no one.

22
23 Mr. Elwell asked if there was anyone who would like to testify.

24
25 Ms. Burgstrom asked Mr. Bradfield if there was anything he wanted to add to Mr. Heath's testimony.

26
27 Mr. Rex Bradfield, design engineer for the pond, stated that he has spoken with Mr. Hall and Mr. Wauthier
28 at BCA at length, and everything seen on the plans are a result of Mr. Wauthier's list and the things they
29 talked about. He said there are some things he has put in the plans that Mr. Wauthier is well aware of,
30 such as the check valve on the fire hydrant, and Mr. Wauthier is in agreement with it. He said that the
31 drain pipe is larger than the usual 2-inch standard; he made it bigger so that it would drain down faster,
32 and gave him the option to build it in a trench that is only a couple of feet deep, or he could just lay it on
33 the ground and build the berm over it. He said that either way, the berm will be built over it, which cuts
34 down on the chance of seepage.

35
36 Mr. Elwell asked the Board how it would like to proceed.

37
38 **Mr. Randol moved, seconded by Mr. Roberts, to review the special conditions and move on to the**
39 **Findings of Fact.**

40
41 The vote was called as follows:

42	Anderson – yes	Elwell - yes	Randol – yes
43	Roberts – yes	Wood - yes	Lee - absent

44
45 **The motion carried.**

46
47 Mr. Elwell referred to the conditions starting on page 18 of 24 of the Summary of Evidence for Case 960-
48 S-19. He read special condition A as follows:

1 A. **Construction of the pond shall be consistent with the Revised Engineering Plans**
 2 **received July 6, 2020, and all required certifications shall be submitted after**
 3 **construction prior to issuance of the Zoning Compliance Certificate.**
 4

5 The special condition stated above is required to ensure the following:
 6 **The construction of the pond conforms to the approved plans in Zoning Case**
 7 **960-S-19 and the requirements of the Storm Water Management and Erosion**
 8 **Control Ordinance, subject to the variance authorized in Case 975-V-20.**
 9

10 Mr. Elwell asked Mr. Heath if he agreed with special condition A.

11
 12 Mr. Heath said yes.

13
 14 B. **A Zoning Use Permit application shall be submitted within two weeks after approval**
 15 **of Zoning Cases 960-S-19 and 975-V-20.**
 16

17 The special condition stated above is required to ensure the following:
 18 **The establishment of the proposed use shall be properly documented as**
 19 **required by the Zoning Ordinance.**
 20

21 Mr. Elwell asked Mr. Heath if he agreed with special condition A.

22
 23 Mr. Heath said yes.

24
 25 **Mr. Randol moved, seconded by Mr. Wood, to approve the special conditions.**
 26

27 The vote was called as follows:
 28 **Anderson – yes Elwell - yes Randol – yes**
 29 **Roberts – yes Wood - yes Lee - absent**
 30

31 **The motion carried.**
 32

33 Mr. Elwell asked if there was a motion to continue to the Findings of Fact for case 960-S-19.

34
 35 **Mr. Wood moved, seconded by Mr. Randol, to continue to the Findings of Fact.**
 36

37 The vote was called as follows:
 38 **Anderson – yes Elwell - yes Randol – yes**
 39 **Roberts – yes Wood - yes Lee - absent**
 40

41 **The motion carried.**
 42

43 **FINDINGS OF FACT FOR CASE 960-S-19:**
 44

45 **From the documents of record and the testimony and exhibits received at the public hearing for**
 46 **zoning case 960-S-19 held on October 31, 2019, December 12, 2019, and for cases 960-S-19 and 975-**
 47 **V-20 on July 16, 2020, the Zoning Board of Appeals of Champaign County finds that:**
 48

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

2
3 Mr. Wood stated that the requested Special Use Permit IS necessary for the public convenience at this
4 Location because the topography of the area would be better suited for a pond than growing row crops.
5

6 **2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
7 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL**
8 **NOT be injurious to the district in which it shall be located or otherwise detrimental to the**
9 **public health, safety, and welfare because:**

10 **a. The street has ADEQUATE traffic capacity and the entrance location has**
11 **ADEQUATE visibility.**

12
13 Mr. Wood stated that the street has ADEQUATE traffic capacity and the entrance location has
14 ADEQUATE visibility.
15

16 **b. Emergency services availability is ADEQUATE.**

17
18 Mr. Randol stated that emergency services availability is ADEQUATE.
19

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

21
22 Mr. Randol stated that the Special Use WILL be compatible with adjacent uses.
23

24 **d. Surface and subsurface drainage will be ADEQUATE.**

25
26 Mr. Wood stated that surface and subsurface drainage will be ADEQUATE because of the significant
27 work and coordination done in completing the plans for the pond.
28

29 **e. Public safety will be ADEQUATE.**

30
31 Mr. Randol stated that public safety will be ADEQUATE.
32

33 **f. The provisions for parking will be ADEQUATE.**

34
35 Mr. Wood stated that the provisions for parking will be ADEQUATE because: there is no need for
36 parking.
37

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

39
40 Mr. Wood stated that the property IS WELL SUITED OVERALL for the proposed improvements.
41

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

44
45 Mr. Wood stated that existing public services ARE available to support the proposed SPECIAL USE
46 without undue public expense.
47

48 Mr. Wood added that he would note they are not necessary because there is no need for utilities.

- 1 **i. Existing public infrastructure together with the proposed development IS adequate**
- 2 **to support the proposed development effectively and safely without undue public**
- 3 **expense.**

4

5 Mr. Wood stated that existing public infrastructure together with the proposed development IS adequate

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

7

8 Mr. Wood stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS

9 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be

10 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,

11 and welfare.

12

- 13 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
 - 14 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**
 - 15 **DISTRICT in which it is located.**
- 16

17 Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS

18 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in

19 which it is located.

20

- 21 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
- 22 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**
- 23 **is located because:**

- 24 **a. The Special Use will be designed to CONFORM to all relevant County ordinances**
 - 25 **and codes.**
- 26

27 Mr. Wood stated that the Special Use will be designed to CONFORM to all relevant County ordinances

28 and codes.

29

- 30 **b. The Special Use WILL be compatible with adjacent uses.**
- 31

32 Mr. Wood stated that the Special Use WILL be compatible with adjacent uses.

33

- 34 **c. Public safety will be ADEQUATE.**
- 35

36 Mr. Randol stated that public safety will be ADEQUATE.

37

38 Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS

39 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

40

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

- 43 **a. The Special Use is authorized in the District.**
- 44

45 Mr. Wood stated that the Special Use is authorized in the District.

46

- 47 **b. The requested Special Use Permit IS necessary for the public convenience at this**
- 48 **location.**

1 Mr. Randol stated that the requested Special Use Permit IS necessary for the public convenience at this
2 location.

3
4 **c. The requested Special Use Permit, *SUBJECT TO THE SPECIAL CONDITIONS***
5 ***IMPOSED HEREIN*, is so designed, located, and proposed to be operated so that it**
6 ***WILL NOT* be injurious to the district in which it shall be located or otherwise**
7 **detrimental to the public health, safety, and welfare.**
8

9 Mr. Randol stated that the requested Special Use Permit, *SUBJECT TO THE SPECIAL CONDITION*
10 *IMPOSED HEREIN*, is so designed, located, and proposed to be operated so that it *WILL NOT* be
11 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
12 and welfare.

13
14 **d. The requested Special Use Permit, *SUBJECT TO THE SPECIAL CONDITIONS***
15 ***IMPOSED HEREIN*, DOES preserve the essential character of the DISTRICT in**
16 **which it is located.**
17

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

20
21 Mr. Randol stated that the requested Special Use Permit, *SUBJECT TO THE SPECIAL CONDITIONS*
22 *IMPOSED HEREIN*, IS in harmony with the general purpose and intent of the Ordinance.

23
24 **5. The requested Special Use IS NOT an existing nonconforming use.**
25

26 **6. *THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE***
27 ***COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE***
28 ***PARTICULAR PURPOSES DESCRIBED BELOW:***
29

30 **A. Construction of the pond shall be consistent with the Revised Engineering Plans**
31 **received July 6, 2020, and all required certifications shall be submitted after**
32 **construction prior to issuance of the Zoning Compliance Certificate.**
33

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

35 **The construction of the pond conforms to the approved plans in Zoning Case**
36 **960-S-19 and the requirements of the Storm Water Management and Erosion**
37 **Control Ordinance, subject to the variance authorized in Case 975-V-20.**
38

39 **B. A Zoning Use Permit application shall be submitted within two weeks after approval**
40 **of Zoning Cases 960-S-19 and 975-V-20.**
41

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

43 **The establishment of the proposed use shall be properly documented as**
44 **required by the Zoning Ordinance.**
45

46 Ms. Burgstrom stated that there is a new Document of Record; item #15 is an email received July 13, 2020
47 from Don Wauthier at Berns, Clancy & Associates, with an attached short memo.
48

1 Mr. Elwell asked if there was a motion to adopt the Summary of Evidence, Documents of Record, and
2 Findings of Fact as amended for Case 960-S-19.

3
4 **Mr. Randol moved, seconded by Mr. Roberts, to adopt the Summary of Evidence, Documents of
5 Record, and Findings of Fact as amended for Case 960-S-19.**

6
7 The vote was called as follows:

8	Anderson – yes	Elwell - yes	Randol – yes
9	Roberts – yes	Wood - yes	Lee - absent

10
11 **The motion carried.**

12
13 Mr. Elwell told Mr. Heath that there is not a full Board here tonight, so he has two options. He said that
14 there needs to be four affirmative votes and all Findings of Fact affirmative, which they were. He asked
15 Mr. Heath if he would like the Board to vote tonight or to continue the hearing to another date when a full
16 Board would be present.

17
18 Mr. Heath asked the Board to go ahead with the vote.

19
20 **Mr. Wood moved, seconded by Mr. Roberts, to move on to the Final Determination for Case 960-
21 S-19.**

22
23 The vote was called as follows:

24	Anderson – yes	Elwell - yes	Randol – yes
25	Roberts – yes	Wood - yes	Lee - absent

26
27 **The motion carried.**

28
29 **FINAL DETERMINATION FOR CASE 960-S-19:**

30
31 **Mr. Wood moved, seconded by Mr. Randol, that the Champaign County Zoning Board of Appeals
32 finds that, based upon the application, testimony, and other evidence received in this case, the
33 requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority
34 granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

35
36 **The Special Use requested in Case 960-S-19 is hereby GRANTED WITH SPECIAL
37 CONDITIONS to the applicants, Travis and Amanda Heath, to authorize the following as a
38 Special Use on land in the AG-1 Agriculture Zoning District:**

39
40 **Authorize a Special Use Permit for construction of an artificial lake of 1 or more acres
41 in area in the AG-1 Agriculture Zoning District.**

42
43 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

- 44
- 45 **A. Construction of the pond shall be consistent with the Revised Engineering Plans**
- 46 **received July 6, 2020, and all required certifications shall be submitted after**
- 47 **construction prior to issuance of the Zoning Compliance Certificate.**
- 48

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

The construction of the pond conforms to the approved plans in Zoning Case 960-S-19 and the requirements of the Storm Water Management and Erosion Control Ordinance, subject to the variance authorized in Case 975-V-20.

B. **A Zoning Use Permit application shall be submitted within two weeks after approval of Zoning Cases 960-S-19 and 975-V-20.**

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

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

The vote was called as follows:

Anderson – yes	Elwell - yes	Randol – yes
Roberts – yes	Wood - yes	Lee - absent

The motion carried.

Mr. Elwell told Mr. Heath that case 960-S-19 was approved.

Mr. Roberts moved, seconded by Mr. Wood, to move to the Findings of Fact for Case 975-V-20.

The vote was called as follows:

Anderson – yes	Elwell - yes	Randol – yes
Roberts – yes	Wood - yes	Lee - absent

The motion carried.

FINDINGS OF FACT FOR CASE 975-V-20:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 975-V-20 held on July 16, 2020, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Wood stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: the land is in a low-lying area that is better suited for a pond than for row crop production.

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

Mr. Wood stated that practical difficulties or hardships created by carrying out the strict letter of the

1 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
2 structure or construction because of the additional cost of doing a more complete TR-55 analysis for such
3 a small project.

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

7
8 Mr. Wood stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
9 result from actions of the applicant because: the analysis is determined by the engineer.

10
11 **4. The requested variance IS in harmony with the general purpose and intent of the Ordinance.**

12
13 Mr. Wood stated that the requested variance IS in harmony with the general purpose and intent of the
14 Ordinance because: it is adequate to meet the requirements of the Ordinance for this project.

15
16 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
17 **detrimental to the public health, safety, or welfare.**

18
19 Mr. Wood stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
20 detrimental to the public health, safety, or welfare because: the location is private and does not have easy
21 access by the public.

22
23 **6. The requested variance IS the minimum variation that will make possible the reasonable use**
24 **of the land/structure.**

25
26 Mr. Wood stated that the requested variance IS the minimum variation that will make possible the
27 reasonable use of the land/structure because: using the Rational Method as opposed to TR-55 is acceptable
28 for a project of this size.

29
30 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings
31 of Fact, as amended.

32
33 **Mr. Randol moved, seconded by Mr. Roberts, to adopt the Summary of Evidence, Documents of**
34 **Record, and Findings of Fact, as amended.**

35
36 The vote was called as follows:
37 **Anderson – yes** **Elwell - yes** **Randol – yes**
38 **Roberts – yes** **Wood - yes** **Lee - absent**

39
40 **The motion carried.**

41
42 Mr. Elwell explained that like in the previous case, that we do not have a full Board present tonight, so
43 Mr. Heath can decide if he would like the Board to vote tonight or continue the case to a later date when
44 a full Board can be present. Mr. Elwell said that four affirmative votes are needed for a determination, and
45 an approval requires all findings to be affirmative, which they have been. He asked Mr. Heath if he would
46 like the Board to move forward with the vote tonight.

47
48 Mr. Heath responded yes.

1 Mr. Elwell entertained a motion to move to the Final Determination for Case 975-V-20.

2

3 **Mr. Roberts moved, seconded by Mr. Wood, to move to the Final Determination for Case 975-V-**
4 **20.**

5

6 The vote was called as follows:

7	Anderson – yes	Elwell - yes	Randol – yes
8	Roberts – yes	Wood - yes	Lee - absent

9

10 **The motion carried.**

11

12 **FINAL DETERMINATION FOR CASE 975-V-20:**

13

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

19

20 **The Variance requested in Case 975-V-20 is hereby GRANTED to the petitioners, Travis & Amanda**
21 **Heath, to authorize the following variance in the AG-1 Agriculture Zoning District:**

22

23 **Authorize a variance from Section 9.1 A.2. of the Storm Water Management and Erosion**
24 **Control Ordinance for an artificial lake in the AG-1 Zoning District for using the Rational**
25 **Method rather than the TR-55 Method for calculating required storm water storage for a**
26 **development watershed area more than 10 acres in area but less than 2,000 acres in area.**

27

28 Mr. Elwell requested a roll call vote.

29

30 The vote was called as follows:

31	Anderson – yes	Elwell - yes	Randol – yes
32	Roberts – yes	Wood - yes	Lee - absent

33

34 **The motion carried.**

35

36 Mr. Elwell told Mr. Heath that his variance has been approved.

37

38 Mr. Heath thanked the Board for their time.

39

40 **6. New Public Hearings**

41

42 **Case 970-V-19 Petitioner: Jeff Ault Request to authorize a variance for a side yard of 8 feet in lieu**
43 **of the minimum required 15 feet for an existing residence in the AG-1 Agriculture Zoning District,**
44 **per Section 5.3 of the Zoning Ordinance. Location: Two lots totaling 8.18 acres in the East Half of**
45 **the East Half of Section 18, Township 21 North, Range 14 West of the Second Principal Meridian**
46 **in Compromise Township, and commonly known as the residence at 2739 CR 2600E, Penfield.**

47

48 Mr. Elwell informed the audience that this Case is an Administrative Case and as such, the County allows

1 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
2 show of hands for those who would like to cross-examine, and each person will be called upon. He
3 requested that anyone called to cross-examine go to the cross-examination microphone to ask any
4 questions. He said that those who desire to cross-examine are not required to sign the witness register but
5 are requested to clearly state their name before asking any questions. He noted that no new testimony is
6 to be given during the cross-examination. He said that attorneys who have complied with Article 7.6 of
7 the ZBA By-Laws are exempt from cross-examination.
8

9 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
10 the witness register for that public hearing. He reminded the audience that when they sign the witness
11 register, they are signing an oath. He asked the audience if anyone desired to sign the witness register and
12 there was no one.
13

14 Mr. Elwell asked Petitioner Jeff Ault to outline the nature of his request.
15

16 Jeff Ault, 2739 CR 2600E, Penfield, stated that they built the house in 1996. Mr. Ault said that he was
17 told by his father-in-law that because it was Agriculture, they did not need a permit, which they later found
18 out was wrong when they tried to build a shed. He said that the pictures that Ms. Burgstrom took show
19 that the side yard has more than fifteen feet; they have 25 feet of grass. He said that he has talked with his
20 brother-in-law who at sometime in the future is willing to sell them an additional ten feet if needed, but it
21 may be a few years before that could happen.
22

23 Mr. Elwell asked if there were any questions from the Board.
24

25 Mr. Wood asked the petitioner if there was any reason the land transfer could not take place now.
26

27 Mr. Ault stated that his father-in-law still controls it, and he is not interested in selling right now. He said
28 that his brother-in-law, and his heir, that farms it said he would take care of it at some point.
29

30 Mr. Wood asked if the house that was built on the property before it was transferred to Mr. Ault.
31

32 Mr. Ault replied that Mr. Ault and his father-in-law were involved in building the home, and he does not
33 recall if the property was deeded to him before or after building the house, although he thinks the property
34 was deeded after.
35

36 Mr. Wood asked staff if the house was built before it was deeded over to Mr. Ault, did it need a permit.
37

38 Mr. Hall stated that if it was built as a residence for a farmer or his employee, it would be agriculture-
39 exempt and would not need a variance. He said that in this instance, it sounds like the house was originally
40 constructed for Mr. Ault's residence, who is not a farmer, and that is why we believe a variance is needed.
41

42 Mr. Elwell asked if there were any more questions from the Board. Hearing none, he asked if there were
43 any more questions from staff. There were none.
44

45 Mr. Elwell asked if there was anyone who would like to cross-examine Mr. Ault. Hearing no one, he asked
46 if anyone else would like to testify. Hearing no one, he closed the Witness Register.
47

48 Mr. Wood stated that in the Site Plan in Attachment B of the packet, it looks like the driveway runs into

1 the farm ground on the adjacent lot.

2
3 Ms. Burgstrom stated that it does appear to be the case, but the parcel lines shown do not always overlay
4 exactly on the aerial photography due to the flyover height and angle when the aerials are taken.

5
6 Mr. Wood stated that one of the problems he sees with that is they're not in the family. He said that in
7 addition, he is personally not in favor of the variance; he thinks the family should figure it out and add the
8 extra 8 or 10 feet, whatever the petitioners need.

9
10 Ms. Burgstrom stated that Mr. Wood's question was if there would be an issue later on because this
11 driveway is on the adjacent land.

12
13 Mr. Wood added that you also have the grass extending behind the house into the farm ground as well.
14 He said there is also a tree planted there that looks like it might be on the farm ground side.

15
16 Mr. Ault stated that all of this ground has not been touched since they moved into the house in 1996. He
17 said that his brother-in-law told him that he would work things out at some point, but it is not going to be
18 until the father-in-law has no say-so.

19
20 Mr. Elwell asked Staff what would happen if the Board did not recommend the variance.

21
22 Mr. Hall replied that might be a better question to ask Mr. Ault. He said that frankly, there is evidence that
23 the present property lines are not an impediment to the farming, and that being our main concern on
24 something like this, some might say there is not really grounds for denying the variance. He said he thinks
25 Mr. Wood raises good points, but this land has been in this family for a long time, and there are no plans
26 for that to change. He said he agrees with some of Mr. Wood's concerns, but we have not heard any
27 testimony that this is a problem for tillage of the land.

28
29 Mr. Randol stated that his understanding is that just getting the variance we are not moving anything on
30 the ground.

31
32 Mr. Ault stated that he would hope at some point that between his brother-in-law, himself and his wife,
33 they could work this out. He said that nothing has changed since they have moved, as can be seen in the
34 aerial views; he has been taking care of all the grass since 1996.

35
36 Mr. Randol stated that the Board is not asking to take any of the farmland; we are just asking for a variance
37 for the eight feet instead of the 15 feet side yard. He said we are not dealing with property lines or anything
38 else.

39
40 Mr. Elwell asked the Board how they would like to proceed.

41
42 **Mr. Randol moved, seconded by Mr. Wood, to proceed to the Findings of Fact. Mr. Elwell requested**
43 **a roll call vote.**

44
45 The vote was called as follows:

46	Anderson – yes	Elwell - yes	Randol – yes
47	Roberts – yes	Wood - yes	Lee - absent

1 The motion carried.

2

3 **FINDINGS OF FACT FOR CASE 970-V-19:**

4

5 From the documents of record and the testimony and exhibits received at the public hearing for
6 zoning case 970-V-19 held on July 16, 2020, the Zoning Board of Appeals of Champaign County finds
7 that:

8

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

12

13 Mr. Randol stated that special conditions and circumstances DO exist which are peculiar to the land or
14 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
15 the same district because: when the petitioner first bought the property, according to the records, they
16 were told the property was exempt from zoning because it was farmland.

17

18 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
19 **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**
20 **structure or construction.**

21

22 Mr. Randol stated that practical difficulties or hardships created by carrying out the strict letter of the
23 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
24 structure or construction because: they want to build a new shed that was destroyed and they cannot do
25 that without this variance being approved.

26

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

29

30 Mr. Randol stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
31 result from actions of the applicant because: the land was set up previous to the current owner who built
32 the house, who was told he did not have to have permits.

33

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

35

36 Mr. Randol stated that the requested variance IS in harmony with the general purpose and intent of the
37 Ordinance because: the home is surrounded by farmland, and it sits one-eighth of a mile off the road, so
38 granting the variance would not interfere with anyone.

39

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

42

43 Mr. Randol stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
44 detrimental to the public health, safety, or welfare because: there have been no objections from the
45 Highway Department or the Fire Department, and the nearest residence is over one-quarter mile away.
46 There are no changes needed to utilities or other similar issues.

47

48 **6. The requested variance IS the minimum variation that will make possible the reasonable use**

1 of the land/structure.

2
3 Mr. Randol stated that the requested variance IS the minimum variation that will make possible the
4 reasonable use of the land/structure because: there are no other options other than purchasing land, which
5 is not available at this point in time.

6
7 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings
8 of Fact, as amended.

9
10 **Mr. Wood moved, seconded by Mr. Randol, to adopt the Summary of Evidence, Documents of**
11 **Record, and Findings of Fact, as amended.**

12
13 The vote was called as follows:

14	Anderson – yes	Elwell - yes	Randol – yes
15	Roberts – yes	Wood - yes	Lee - absent

16
17 **The motion carried.**

18
19 Mr. Elwell entertained a motion to move to the Final Determination for Case 970-V-19.

20
21 **Mr. Wood moved, seconded by Ms. Lee, to move to the Final Determination for Case 970-V-19.**

22
23 The vote was called as follows:

24	Anderson – yes	Elwell - yes	Randol – yes
25	Roberts – yes	Wood - yes	Lee - absent

26
27 **The motion carried.**

28
29 Mr. Elwell explained to Mr. Ault that we do not have a full Board present tonight, so Mr. Ault can decide
30 if he would like the Board to vote tonight or continue the case to a later date when a full Board can be
31 present. Mr. Elwell said that four affirmative votes are needed for a determination, and an approval
32 requires all findings to be affirmative, which they have been. He asked Mr. Ault if he would like the Board
33 to move forward with the vote tonight.

34
35 Mr. Ault responded yes.

36
37 **FINAL DETERMINATION FOR CASE 970-V-19:**

38
39 **Mr. Randol moved, seconded by Mr. Wood, that the Champaign County Zoning Board of Appeals**
40 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
41 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority**
42 **granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of**
43 **Appeals of Champaign County determines that:**

44
45 **The Variance requested in Case 970-V-19 is hereby GRANTED to the petitioner, Jeff Ault, to**
46 **authorize the following variance in the I-1 Light Industry Zoning District:**

47
48 **Authorize a variance for a side yard of 8 feet in lieu of the minimum required 15 feet for an**

1 existing residence in the AG-1 Agriculture Zoning District, per Section 5.3 of the Zoning
2 Ordinance.

3
4 Mr. Elwell requested a roll call vote.

5
6 The vote was called as follows:

7	Anderson – yes	Elwell - yes	Randol – yes
8	Roberts – yes	Wood - yes	Lee - absent

9
10 **The motion carried.**

11
12 Mr. Elwell told Mr. Ault that his variance has been approved.

13
14 Mr. Ault thanked the Board for their time.

15
16 Mr. Elwell referred back to new cases 960-S-19 and 975-V-20 for Travis Heath.

17
18 **7. Staff Report**

19
20 Mr. Hall stated that Connie Berry retired on July 2nd.

21
22 Mr. Elwell said that he received correspondence from Ms. Berry that she misses the Board and staff.

23
24 Mr. Hall said that the feeling was mutual.

25
26 **8. Other Business**

27 **A. Review of Docket**

28
29 Mr. Wood noticed that there is nothing on the July 30, 2020 meeting.

30
31 **Mr. Randol moved, seconded by Mr. Wood, to cancel the July 30, 2020 meeting.**

32
33 Mr. Elwell requested a roll call vote.

34
35 The vote was called as follows:

36	Anderson – yes	Elwell - no	Randol – yes
37	Roberts – yes	Wood - yes	Lee - absent

38
39 **The motion carried.**

40
41 **9. Audience participation with respect to matters other than cases pending before the Board**

42
43 None

44
45 **10. Adjournment**

46
47 Mr. Elwell entertained a motion to adjourn the meeting.

48

1 **Mr. Randol, seconded by Mr. Roberts, to adjourn the meeting.**

2

3 Mr. Elwell requested a roll call vote.

4

5 The vote was called as follows:

6 **Anderson – yes**

Elwell - no

Randol – yes

7 **Roberts – yes**

Wood - yes

Lee - absent

8

9 **The motion carried.**

10

11 The meeting adjourned at 8:00 p.m.

12

13

14 Respectfully submitted

15

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17

18

19 Secretary of Zoning Board of Appeals

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