

1 **MINUTES OF REGULAR MEETING**
 2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**
 3 **1776 E. Washington Street**
 4 **Urbana, IL 61801**

7 **DATE:** January 14, 2021 **PLACE:** ZOOM MEETING
 8 Jennifer Putman Meeting Room
 9 1776 East Washington Street
 10 **TIME:** 6:30 p.m. Urbana, IL 61802

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

15 **MEMBERS ABSENT:** None

17 **STAFF PRESENT:** *Using Zoom in Lyle Shields:* Lori Busboom, Susan Burgstrom, John Hall

19 **OTHERS PRESENT:** *Remotely via Zoom:* John Kindt

22 **1. Call to Order**

24 The meeting was called to order at 6:33 p.m.

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

28 The roll was called, and a quorum declared present.

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

34 **3. Correspondence - None**

36 **4. Approval of Minutes – August 13, 2020, September 17, 2020, and October 15, 2020**

38 Mr. Elwell entertained a motion to approve the minutes from August 13, 2020, September 17, 2020, and
 39 October 15, 2020.

41 **Mr. Randol moved, seconded by Mr. Wood, to approve the minutes from August 13, 2020,**
 42 **September 17, 2020, and October 15, 2020.**

44 Mr. Elwell requested a roll call vote.

46 The vote was called as follows:

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

50 **The motion carried.**

52 **5. Continued Public Hearings - None**

1 **6. New Public Hearings**

2
3 **Case 994-V-20: Petitioner: John Kindt Request: Authorize a variance for a proposed division of a lot**
4 **less than five acres in area in the AG-2 Agriculture Zoning District, per Section 5.4.2 A.3. of the**
5 **Zoning Ordinance. Location: The 2.83-acre Lot 18 of Westbrook Estates Subdivision Plat 1 in the**
6 **Southeast Quarter of Section 8, Township 20 North, Range 7 East of the Third Principal Meridian**
7 **in Mahomet Township, with an address of 1503 W Brookside Ln, Mahomet.**

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.

12
13 Mr. Elwell informed the audience that this Case is an Administrative Case and as such, the County allows
14 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
15 show of hands or a verbal indication from those who would like to cross-examine, and each person will
16 be called upon. He said that those who desire to cross-examine will be asked to clearly state their name
17 before asking any questions. He noted that no new testimony is to be given during the cross-examination.
18 He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross-
19 examination. He asked Mr. Kindt to outline the nature of his request.

20
21 Mr. John Kindt, 1503 W Brookside Lane, Mahomet, thanked the Board and staff for their time. He said
22 that he stands on the paperwork provided; he read through it and thought that the summary the office
23 prepared precisely states all the salient facts and their reasons after living at their residence for over 38
24 years that they request this variance. *(Lee Roberts entered the meeting at this time.)* He said that the only
25 other thing he would mention is that Ameren lost their power earlier in the day; they are hoping to continue
26 having power, but if all the sudden they go blank, you'll know why.

27
28 Mr. Elwell asked if there were any questions from the Board.

29
30 Mr. Randol asked how long Mr. Kindt has owned this property.

31
32 Mr. Kindt said that they bought it in May of 1982, so it is about 38.5 years. He said that when they bought
33 it, they thought they might be buying two lots together, but when they closed, they found out that was not
34 the case. *(Marilyn Lee entered the meeting at this time.)*

35
36 Mr. Anderson said that when he was looking over the lots a couple of days ago, the lot on which they want
37 to build looks awfully low, with a creek running through it. He said that Mr. Kindt has lived there 38
38 years, and asked if Mr. Kindt had ever seen water and muck down there.

39
40 Mr. Kindt said that it is actually a drainage area, and yes, they do get water down there in the spring. He
41 said that he had Galen Litwiller come out, who was recommended by Champaign County Public Health
42 Department, and he forwarded the report to the P&Z Department. He said that they are not located in a
43 floodplain, and it does not appear that there are any significant problems in pursuing the action, and of
44 course they will comply with whatever the County and Village of Mahomet say to do.

45
46 Mr. Anderson asked where on the lot they are thinking about building this house.

47
48 Mr. Kindt said that there is a great deal of land, so there is a lot of flexibility. He said that they have
49 checked with various administrative groups to see where the optimal place would be to build and how to

1 Mr. Wood said that special conditions and circumstances DO exist which are peculiar to the land or
2 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
3 the same district, because: the minimum lot size of a lot created after September 21, 1993 that has access
4 to a public water supply system is 20,000 square feet (0.46 acre). He said that both of the proposed lots
5 would be at least one acre each. He said that the Village of Mahomet approved a similar lot split when it
6 allowed a replat of Westbrook Estates in 2013, to split a 1-acre lot from the original 5.07-acre Lot 11 so
7 that two dwellings would be allowed.
8

9 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
10 **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**
11 **structure or construction.**
12

13 Mr. Wood said that practical difficulties or hardships created by carrying out the strict letter of the
14 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
15 structure or construction because: without the proposed variance, a new house could not be built on the
16 property without tearing down a house worth approximately \$250,000, and the 2.83-acre property could
17 only have one residence even though that acreage would be more than sufficient to create two new lots in
18 the AG-2 Agriculture District.
19

20 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result**
21 **from actions of the applicant.**
22

23 Mr. Randol said that the special conditions, circumstances, hardships, or practical difficulties DO NOT
24 result from actions of the applicant because: the Zoning Ordinance only allows one dwelling per lot in the
25 AG-2 Agriculture Zoning District, even if there is sufficient lot area for more than one dwelling.
26

27 **4. The requested variance IS in harmony with the general purpose and intent of the Ordinance.**
28

29 Mr. Wood said that the requested variance IS in harmony with the general purpose and intent of the
30 Ordinance because: the proposed lot would not take any agricultural land out of production. He said that
31 summarizing the Rural Residential Overlay (RRO) factors, compared to “common conditions” found at
32 rural sites in Champaign County, the subject property is “ideal or near ideal” for 6 of the 12 RRO factors,
33 “much better than typical” for 4 of the 12 RRO factors, and “more or less typical” for the other 2 RRO
34 factors.
35

36 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
37 **detrimental to the public health, safety, or welfare.**
38

39 Mr. Randol said that the requested variance WILL NOT be injurious to the neighborhood or otherwise
40 detrimental to the public health, safety, or welfare because: the Township and Fire Protection Districts
41 have been notified, and no comments have been received. He said that the petitioner requested and
42 received an amendment to the Westbrook Estates Subdivision covenants that allows him to split the lot,
43 which was not previously allowed by the covenants. He said that the petitioner received support via
44 petition from three-quarters of the landowners in the subdivision, and only needed two-thirds of them to
45 approve. He said that while subdivision covenants are not in the purview of the ZBA, it is worth noting
46 that there is general support in the neighborhood for allowing the lot split.
47

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

1 Mr. Wood said that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS the
2 minimum variation that will make possible the reasonable use of the land/structure because: the variance
3 allows a piece of property to be split into two lots, and both would be similar in size to the lots that are
4 adjacent to that property.

5
6 **7. THE SPECIAL CONDITION IMPOSED HEREIN IS REQUIRED FOR THE**
7 **PARTICULAR PURPOSES DESCRIBED BELOW:**
8

9 Mr. Elwell reviewed special condition A:

- 10
11 A. **A Zoning Use Permit shall not be approved for construction on the proposed east lot**
12 **unless and until a Plat of Subdivision has been duly approved by the Village of**
13 **Mahomet and filed with the Champaign County Recorder of Deeds.**
14

15 The special condition stated above is required to ensure the following:
16 **That the proposed land division is in compliance with the relevant**
17 **subdivision requirements.**
18

19 Mr. Elwell asked Mr. Kindt if he agreed with special condition A.

20
21 Mr. Kindt asked if someone could explain this condition in a more practical manner, because it kind of
22 sounds like we are going back and forth between the Village and the County. He said that he already
23 talked with the Village, and they said they needed the County ZBA to make this approval first.

24
25 Ms. Burgstrom said that because the property is located within the zoning jurisdiction of the County, we
26 have to have this variance in place before the Village of Mahomet can then have their subdivision
27 jurisdiction to approve the subdivision of the lot. She said that any subdivision that gets created with a
28 Plat of Subdivision, whether it is County or a municipality, has to be recorded at the County Recorder's
29 Office. She said there is kind of a back and forth, but it is a linear process that we are doing.

30
31 Mr. Kindt said that he does not have a problem with that the way it was explained. He said he just wants
32 to make sure we are crossing all the T's and dotting all the I's so that we are not putting some kind of
33 restriction where he has to come back after the Village says something.

34
35 Ms. Burgstrom said that we are all looking for the same thing, and this is definitely the way we have been
36 doing this kind of process. She said there should not be any issues moving forward.

37
38 Mr. Kindt said that when we say that a Zoning Use Permit shall not be approved for construction, it
39 sounds like the Village of Mahomet has kind of a veto power over the Board's decision here. He asked if
40 this was incorrect.

41
42 Ms. Burgstrom said not quite; another complicating factor is that even though the Village of Mahomet has
43 the subdivision jurisdiction, where they will be the ones to approve the subdivision, the property is still in
44 the County's zoning jurisdiction. She said that Mr. Kindt has to get the variance they are doing now, and
45 then once the Village approves the subdivision, he has to come back to the County P&Z Department for
46 any building permit because the property is still in the County zoning jurisdiction.

47
48 Mr. Kindt thanked Ms. Burgstrom for the clarification. He said that he agreed with the condition.
49

1 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings
2 of Fact, as amended for Case 994-V-20.

3
4 **Mr. Wood moved, seconded by Mr. Roberts, to adopt the Summary of Evidence, Documents of
5 Record, and Findings of Fact, as amended.**

6
7 The vote was called as follows:

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

10
11 **The motion carried.**

12
13 Mr. Elwell entertained a motion to move to the Final Determination for Case 994-V-20.

14
15 **Mr. Wood moved, seconded by Mr. Roberts, to move to Final Determination for Case 994-V-20.**

16
17 The vote was called as follows:

18	Anderson – yes	Elwell - yes	Randol – yes
19	Roberts – yes	Wood - yes	Lee - yes

20
21 **The motion carried.**

22
23 **FINAL DETERMINATION FOR CASE 994-V-20:**

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

29
30 **The Variance requested in Case 994-V-20 is hereby GRANTED WITH ONE CONDITION to
31 the petitioner, John Kindt, to authorize the following variance:**

32
33 **Authorize a variance for a proposed division of a lot 5 acres or less in area, per Section
34 5.4.2 A.3 of the Zoning Ordinance.**

35
36 **SUBJECT TO THE FOLLOWING CONDITION:**

37 **A. A Zoning Use Permit shall not be approved for construction on the proposed east lot
38 unless and until a Plat of Subdivision has been duly approved by the Village of
39 Mahomet and filed with the Champaign County Recorder of Deeds.**

40
41 Mr. Elwell requested a roll call vote.

42
43 The vote was called as follows:

44	Anderson – yes	Elwell - yes	Randol – yes
45	Roberts – yes	Wood - yes	Lee - yes

46
47 **The motion carried.**

48
49 Mr. Elwell told Mr. Kindt that his variance has been approved.

1 Mr. Kindt thanked everyone for their time.

2

3 **7. Staff Report - None**

4

5 **8. Other Business**

6

7 Mr. Anderson asked Ms. Burgstrom if she could share why Case 993-S-20 did not make it to the Board
8 tonight.

9

10 Ms. Burgstrom said that the petitioner got an attorney and decided, after some discussion with our office
11 and the State’s Attorney’s Office, that they would like to withdraw their Special Use Permit request, and
12 in doing so they would be given until August 27, 2021 to clean up the property entirely and not take in
13 any new materials. She said that was the agreement established this morning, so staff went ahead and
14 removed the case from the agenda.

15

16 Mr. Anderson asked what the future is of the contractor out there.

17

18 Ms. Burgstrom said they do not know. She said that if August 27th comes and the cleanup is not acceptable
19 to the State’s Attorney’s Office and Mr. Hall, then enforcement proceedings will continue at that time.
20 She said that they do not know if the petitioner is going to apply again once everything is cleaned up.

21

22 Mr. Anderson said that he noticed that one of the requirements is that Mr. Hall and Ms. Burgstrom be
23 allowed to come on the property to inspect it. He asked if that has been a problem.

24

25 Ms. Burgstrom asked Mr. Hall if she was crossing the line with *ex parte* communication. She said she is
26 just trying to stick with the logistics of how staff works through things. She said that staff’s ability to
27 inspect a property is done all the time in collaboration with owners, not just for this particular case.

28

29 Mr. Anderson said that we shall see.

30

31 **A. Review of Docket**

32

33 Ms. Burgstrom said that we only have the three cases listed for January 28th. She said two of them are for
34 the Kimballs, who were here in August for self-storage warehouses down by Seymour. She said the other
35 case is from the Atkins Group and after that there are no new cases so far.

36

37 Mr. Elwell said that he believes there is already a sign up on the property.

38

39 Mr. Wood concurred.

40

41 Ms. Burgstrom asked if it was a billboard with four faces.

42

43 Mr. Elwell said that he noticed it in probably August or September.

44

45 Mr. Randol said it has been there for a while.

46

47 Ms. Burgstrom said this would be discussed at the next meeting. She said she did not hear if there were
48 any Board absences already discussed.

49

1 No absences were announced.

2

3 **B. 2021 ZBA Meetings Calendar for approval**

4

5 Ms. Burgstrom said that we now have the 2021 ZBA meeting calendar for approval. She thanked Mr.
6 Wood for pointing out errors she made on several dates last month. She said they since have received the
7 approved County Board dates and found out that they have been kicked out of their usual meeting space.
8 She referred to a revised list of the meeting dates from the packet, and another calendar showing the
9 revised meeting dates along with all of the other County Board meetings. She said that we are looking for
10 approval of the draft 2021 ZBA meetings calendar as the final calendar for this year.

11

12 Mr. Elwell asked if there was a motion.

13

14 **Ms. Lee moved, seconded by Mr. Randol, to approve the 2021 ZBA meetings calendar.**

15

16 Mr. Elwell requested a roll call vote.

17

18 The vote was called as follows:

19	Anderson – yes	Elwell - no	Randol – yes
20	Roberts – yes	Wood - yes	Lee - yes

21

22 **The motion carried.**

23

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

25

26 None

27

28 **10. Adjournment**

29

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

31

32 **Mr. Randol moved, seconded by Ms. Lee, to adjourn the meeting.**

33

34 Mr. Elwell requested a roll call vote.

35

36 The vote was called as follows:

37	Anderson – yes	Elwell - no	Randol – yes
38	Roberts – yes	Wood - yes	Lee - yes

39

40 **The motion carried.**

41

42 The meeting adjourned at 7:13 p.m.

43

44

45 Respectfully submitted

46

47

48

49 Secretary of Zoning Board of Appeals