

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61802**

DATE:	July 28, 2022	PLACE:	Shields-Carter Meeting Room
			1776 East Washington Street
TIME:	6:30 p.m.		Urbana, IL 61802

MEMBERS PRESENT: Ryan Elwell, Lee Roberts, Tom Anderson, Nolan Herbert, Thaddeus Bates, Larry Wood, Jim Randol

STAFF PRESENT: John Hall, Susan Burgstrom, Stephanie Berry

OTHERS PRESENT: Jack James, Camille James, Dennis Toeppen

1. Call to Order

The meeting was called to order at 6:30 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.

3. Correspondence – None

4. Minutes – June 30, 2022

Mr. Elwell asked if there was any discussion on the June 30, 2022 minutes. Seeing none, he entertained a motion to approve the June 30, 2022 minutes.

Mr. Randol moved, seconded by Mr. Roberts, to approve the June 30, 2022 minutes. The motion carried by voice vote.

5. Audience Participation with respect to matters other than cases pending before the Board – None

6. Continued Public Hearings –

Case 058-AT-22

Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance as follows:

- 1. Revise Section 3.0 by adding, revising, and/ or removing defined terms from Section 3.0 per the legal advertisement.**
- 2. Add “SPECIFIC MATERIAL COLLECTION SITE” authorized as a second PRINCIPAL USE on a LOT as a SPECIAL USE Permit in AG-1 or AG-2**

Zoning Districts in Section 4.2.1.

- 3. **Add “POLLUTION CONTROL FACILITY/NEW POLLUTION CONTROL FACILITY” as exempt from Zoning Ordinance in Section 4.3.7.**
- 4. **Revise Section 5.2 TABLE OF AUTHORIZED PRINCIPAL USES as follows:**
 - A. **Change “AUTOMOBILE Salvage Yard (junkyard)” to “JUNK YARD or AUTOMOBILE SALVAGE YARD” as a listed PRINCIPAL USE.**
 - B. **Amend “Recycling of non-hazardous materials (all storage and processing indoors)” to be “RECYCLING CENTER with no Outdoor STORAGE nor Outdoor OPERATIONS” to be allowed By Right in the B-4, B-5, I-1, or I-2 Zoning Districts.**
 - C. **Add “RECYCLING CENTER with Outdoor STORAGE and/or Outdoor OPERATIONS” to be allowed by Special Use Permit in the B-4, or B-5 Zoning Districts and By Right in the I-1 or I-2 Zoning Districts.**
 - D. **Add “CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING FACILITY” to be allowed by Special Use Permit in the I-1 or I-2 Zoning Districts and add Special Use Standards to Table 6.1.3.**
 - E. **Add “LANDSCAPE WASTE COMPOSTING FACILITY” to be allowed by Special Use Permit in the AG-2, I-1, or I-2 Districts.**
 - F. **Add “PERMANENT COMPOSTABLE WASTE COLLECTION POINT” as a listed PRINCIPAL USE to be allowed by SPECIAL USE Permit in AG-2, B-1, B-4, B-5, I-1, or I-2 Zoning Districts.**
 - G. **Add “SPECIFIC MATERIAL COLLECTION SITE” as a listed PRINCIPAL USE to be allowed by SPECIAL USE Permit in AG-1, AG-2, B-1, B-4, B-5, I-1, or I-2 Zoning Districts.**
- 5. **Add Standard Conditions to Section 6.1.3 SCHEDULE OF STANDARD CONDITIONS FOR SPECIFIC TYPES OF SPECIAL USES: “CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING FACILITY”, “PERMANENT COMPOSTABLE WASTE COLLECTION POINT”, and “LANDSCAPE WASTE COMPOST FACILITY, or LANDSCAPE WASTE PROCESSING FACILITY.”**
- 6. **Remove Standard Conditions to Section 6.1.3 SCHEDULE OF STANDARD CONDITIONS FOR SPECIFIC TYPES OF SPECIAL USES: Public or Commercial SANITARY LANDFILL**
- 7. **Revise Section 7.1.2(J)3 to indicate “JUNK YARD or AUTOMOBILE SALVAGE YARD” as prohibited STORAGE or OPERATIONS for a RURAL HOME OCCUPATION.**

Mr. Elwell asked Mr. Hall if he would like to tell the Board a little bit more about Case 058-AT-22.

Mr. Hall said yes, the Board may have noticed in the Finding of Fact from Attachment B, page three of 26 in the Supplemental Memo #1, that Ms. Burgstrom has added justification for each of the changes and

1 he thinks that is a good addition to the Finding of Fact – it explains the logic. He referred to page 21 of 26
2 next and said that staff had made a clarification on the definition of landscape waste processing facility.
3 He said the point is that this amendment will let someone do landscape waste processing without
4 composting. He said if someone is going to do composting then that raises other issues and that is going
5 to be treated as a composting facility. He said that is one of the problems with our current Ordinance; they
6 don't segregate composting from landscape waste processing and there is a lot of landscape waste
7 processing that needs done when people cut down limbs and trim trees. He said sometimes there is also
8 composting, but generally not, because most people take limbs to be composted to the landscape recycling
9 center. He said this brings the Ordinance into conformance with the way the world actually functions and
10 frees things up. He referred to page 23 of 26 next and said that was more information about the difference
11 between composting and processing. He said the biggest change here is in the table of uses for specific
12 material collection site; previously that was proposed to be done as a Special Use Permit in the AG-1
13 Zoning District as a second principal use. He doesn't think they want to encourage specific material
14 collection sites throughout the AG-1 Zoning District – it makes no sense. He said the only place in AG-1
15 where it really makes sense is at existing township garages, because that is an obvious place where a
16 township might host a collection event much like Champaign Township or Urbana Township does. He
17 said one of the changes they are proposing is a specific material collection site that can only be done in
18 the AG-1 Zoning District when there is also a township highway maintenance garage on the property. He
19 said the number of business uses out there in the AG-1 Zoning District is very limited and it is unlikely
20 any grain elevator would be doing material collection for a one day event or something like that. He said
21 they think that is a good change and a necessary change.

22

23 Mr. Elwell asked him if he could give him an example of a specific material collection.

24

25 Mr. Hall said one that has been mentioned so far in this case is a possibility that a township might do glass
26 collection at their highway facility on a part-time or temporary basis. He said that they know of one
27 township that is interested in doing that, they know that glass recycling in their county is an obvious kind
28 of recycling that doesn't really happen, because there is no good collection site. He said they know there
29 is interest in developing a collection site and this Amendment would allow for that, but obviously that is
30 only going to happen when the township is interested in doing it, so that is the one example he can give.
31 He said that is in one township out of 30, so this is not like this going to happen everywhere; it's probably
32 going to happen near population centers, so it is relatively close to the population center of the county, but
33 again, this is to primarily serve the unincorporated area.

34

35 Mr. Elwell asked if it needs to be specifically defined as someone can do this as long as it is a township
36 highway maintenance garage.

37

38 Mr. Hall said that is the effect of these limits; it has to be on the same property as the township highway
39 maintenance garage.

40

41 Mr. Herbert said otherwise couldn't people start saying it was a drop off location and then they may never
42 do anything with it other than accumulate it; he thinks a township maintenance garage would be a
43 responsible way to recycle. He said whether they extend out to tires, paint, or whatever they have there,
44 at least they know it is dealt with properly from there.

45

46 Mr. Elwell asked if they were painting themselves into a corner when it is a maintenance garage or a
47 township property.

48

49 Mr. Hall said it is very rare to find township property that doesn't house the highway maintenance garage.

1 He said what has been discussed in the case of glass recycling would require equipment they would find
2 at a township highway maintenance garage and storage area. He doesn't think it would be limiting and
3 agrees with Mr. Herbert, they actually do want to make sure there is no unintended consequences of pop-
4 up material collection sites that get out of hand, so this is one way. He said in the future as recycling
5 becomes a little more common they might expand this, but so far township highway maintenance garages
6 are really the only feasible location they could see for something like this to happen.
7

8 Mr. Herbert said the rural areas would be the only public area in general because he is trying to think of
9 his township other than going inside the Village of Philo and the township garage is really the only public
10 place in the township.
11

12 Mr. Hall said agreed.
13

14 Mr. Randol asked if another government entity wanted to do a special collection, let's just say for glass
15 during a certain time period, and he will use a public water district as an example or volunteer fire
16 department.
17

18 Mr. Hall said that is a good question, the fire department in particular seems like a good possibility, so he
19 guesses they could generalize this to a facility owned by a government entity; they could come back with
20 revised language that would allow that flexibility. He said for example, the Zoning Ordinance has a phrase
21 municipal or government building, which in the old days is what they did the highway maintenance
22 garages under, but he thinks they could incorporate both of those into this to provide a greater flexibility.
23

24 Mr. Elwell said he thinks something like that would achieve their goal of not having a tire collection site
25 in his front yard, but if it is not a maintenance garage then it would still provide flexibility and he
26 appreciates that. He asked if that would be for electronics too like how Parkland College does for their
27 recycling stuff.
28

29 Mr. Hall said he doesn't envision the consumer electronic recycling to move outside of the urbanized area,
30 but it is possible that some township or small village might be able to host a recycling event at some point,
31 although it seems unlikely now but going forward who knows.
32

33 Mr. Herbert said he was going to put his two cents in on the recycling deal and the paint recycling would
34 be a good example. He said his complaint on the paint recycling is that he had a whole bunch of paint that
35 he had brought up to the recycling day in Champaign and they had asked him where he had gotten the
36 paint from, and he had told them from some barns and sheds, and when they found out he was a farmer
37 they considered that a business and would not take the paint. He said if they are going to put stuff in the
38 AG-1, that is kind of a restriction, because he tried to do the right thing and now he is sitting on all the
39 paint because he doesn't know what to do with it.
40

41 Mr. Hall said he was surprised they didn't accept the paint and asked if they were oil-based paints.
42

43 Mr. Herbert said they were oil-based paints.
44

45 Mr. Hall said that was news to him, but on the other hand, the hauler at those events they have no control
46 over.
47

48 Mr. Herbert said he agreed, he just doesn't want someone to get into a situation where if they are trying
49 to do the right thing, even if they have a business or not, on trying to get that to the proper place then it

1 needs to be accepted. He said that he encourages the pickup sites and stuff like that, but he doesn't want
2 them to tell someone if they are a business they aren't going to take it.
3
4 Mr. Hall said that Susan Monte still answers questions from them even though she is retired, and he will
5 ask her about that.
6
7 Mr. Herbert said maybe that was just the entity that was doing that event. He said it was a bunch of paint.
8
9 Mr. Hall said that it wasn't because they were concerned that there might be something in the paint, they
10 accepted that it was paint.
11
12 Mr. Herbert said yes, he was considered a business from farming, and they weren't going to take it. He
13 said they don't take stuff from businesses, which he could see coming from a company and could
14 understand that.
15
16 Mr. Elwell said don't take my corn or soybeans then.
17
18 Mr. Randol said he trusts these changes in their Ordinance have the blessings of the ELUC committee.
19
20 Mr. Hall said yes, the one last thing he would like to do on this amendment, in addition to the changes
21 they have discussed tonight, is to add important evidence about where all of those conditions for the
22 demolition debris recycling and permeant compostable waste collection point came from; he thinks those
23 are all right out of the statutes. He asked Ms. Burgstrom if they currently had a citation to where those
24 requirements came from.
25
26 Ms. Burgstrom said she would have to look back at previous memos and things to see.
27
28 Mr. Hall said that is not in the Finding of Fact yet.
29
30 Ms. Burgstrom said correct.
31
32 Mr. Hall said one thing he would like to add if case questions come up in the future, that all of these
33 conditions came from State requirements and if not, the requirement is something they want to make sure
34 they are happy with.
35
36 Mr. Randol asked if any of these changes in wording would have any effect on current operations.
37
38 Mr. Hall said no.
39
40 Mr. Randol said it was just wording issues.
41
42 Mr. Hall said yes.
43
44 Mr. Elwell said he was trying to envision what a recycling center with no outdoor storage or no outdoor
45 operations might be.
46
47 Mr. Hall said he understood presumably it would be inside buildings, which would be a good thing.
48
49 Mr. Wood said something like where they collect cardboard out here on University Avenue in Urbana. He

1 asked if a junkyard and an automobile should be in two separate categories. He said one is fairly specific,
2 it is just automobiles, and the other covers everything. He asked if a junkyard is specifically limited to
3 metal.

4
5 Mr. Randol said one example while he heard them talking might be up there by the Ameren facility over
6 by the railroad tracks where a guy collects appliances sky-high, that would be a junkyard, but it wouldn't
7 be automobiles.

8
9 Mr. Wood said yes.

10
11 Mr. Hall asked them if they thought they should differentiate between a salvage yard and a junkyard in
12 their Ordinance.

13
14 Mr. Wood said yes, one is a lot broader than the other in terms of dealing with the issues around
15 automobiles like the fluids that are in it, the tires, and things like that. He asked if there was anything
16 specific that defines what they are required to do with those things or was that all that was required by the
17 EPA.

18
19 Mr. Hall said their Ordinance has none of those requirements and that would all be required under EPA.
20 He said as a practical matter both categories are only allowed in the I-2 Zoning District and the Ordinance
21 takes a rather simplified approach to it.

22
23 Mr. Wood said they are just establishing where they could be located, not necessarily how they run.

24
25 Mr. Hall said right.

26
27 Mr. Wood asked him if he thought a 500 feet setback was sufficient for noise coming from construction
28 and demolition or does the Ordinance require them to meet the IPCB regulations.

29
30 Mr. Hall said he thought the minimum of a 500 feet setback came from the State but that is one of the
31 things he wants to double check even if that is what the State requires; the County could require more if
32 it is necessary. He said those things not only generate noise, but they are aware of one location where they
33 generate a lot of dust, and they are really not very good neighbors.

34
35 Mr. Wood said it is not really just the noise but also dust and other things.

36
37 Mr. Hall said if the Board thinks it should be more then they could increase that.

38
39 Mr. Wood said he doesn't know if it should necessarily be more as long as it meets the requirements for
40 noise and dust control. He said just like running a grain elevator, he has to manage dust and can't let it go
41 all over the place even though it is organic, but in this type of situation it is not organic and could be very
42 dangerous. He asked if that was an issue that EPA controls.

43
44 Mr. Hall said yes, they found that many times the operator of these things is supposed to be keeping
45 records, and they have checked back later and found they don't have records and it is difficult for them to
46 prove they are complying with the EPA. He said the way they control dust is by limiting the amount of
47 throughput of the crushing machine, but for noise, they know the EPA doesn't go out and measure noise,
48 and they know noise can be quite variable. He said they know what the noise standard is, which is Class
49 A to Class C, but it is difficult to enforce noise standards. He said they had one location in the southern

1 part of the county where noise was one of the complaints; it didn't happen all the time, but at times it was
2 quite noisy.

3
4 Mr. Wood asked if it was more than 500 feet away from a house.

5
6 Mr. Hall said he was.

7
8 Mr. Wood said that his concern was the setback and whether that is sufficient for both for noise and dust.

9
10 Mr. Hall said at this point he wouldn't know what distance might be adequate.

11
12 Mr. Wood said off the top of his head he wouldn't have any guess either, but 500 feet is the distance from
13 his house to the corner of his property and he wouldn't want something that close right on the corner of
14 his property like that.

15
16 Mr. Elwell asked if there is anything that could be layered on top of that if it was in compliance to their
17 Zoning Ordinance. He said at 500 feet if there was no noise pollution or whatever, then it would be okay;
18 he just wants to provide a little flexibility, but to ensure that at his property line or whatever there would
19 be no excessive noise or whatever.

20
21 Mr. Hall said unless they establish a different noise limit than what the noise standard would be and maybe
22 what he wants is a noise analysis for any facility like this that models the kind of noises they are going to
23 create, and they can document if the noise at neighboring property lines is going to be within that noise
24 limit.

25
26 Mr. Wood said anything that creates dust needs to be enclosed, that would be the best way to control it.

27
28 Mr. Elwell asked them if they thought that would be an undue burden on that future petitioner.

29
30 Mr. Hall said no.

31
32 Mr. Elwell said he thinks he would be on board with something that tells him how loud the facility is
33 going to be and if the 500 feet setback would be enough or would it have to be 550 feet or something like
34 that, but he thinks that would be the most prudent thing for the Board to be able to provide insurance to
35 future homeowners.

36
37 Mr. Herbert asked to help him understand, if a concrete crusher or whatever was coming in and they are
38 talking about noise, do they have that by right or would they still have to come before the Board to get a
39 Special Use Permit.

40
41 Mr. Hall said the construction and demolition debris recycling is always a Special Use Permit even in the
42 I-2 Zoning District, so it is never by right.

43
44 Mr. Herbert said that is what he was after, so if it came in with a Special Use Permit then at that point
45 couldn't they ask what the petitioner was going to be doing, how loud the noise was going to be, the dust
46 situation, and talk about their setbacks at that point as well. He said if someone came in and said they were
47 going to be crushing concrete and it was going to be this loud, then at that point the Board would say 500
48 feet may not be far enough, or this is what needs to be done for the neighbors next door.

49 Mr. Wood said with a Special Use Permit the Board could establish special conditions depending on where

1 it was located, how close it was to any residential, or anybody else.

2
3 Mr. Hall said it would be ideal to have those standards in the Ordinance, so someone wanting to do that
4 knows they have to do a noise analysis, or they only have to do a noise analysis if they are within a certain
5 proximity to a residence. He said going back to the location in the southern part of county; he thinks if the
6 location is within a quarter mile of a residence, then they should have to do a noise analysis and a quarter
7 mile may not provide enough separation.

8
9 Mr. Wood said when he was out there it was at least a quarter mile from that guy's house.

10
11 Mr. Elwell said he would prefer if the Board set the expectation of whatever the petitioner is going to be
12 planning on doing and they are able to provide that information to the Board. He could say a 500 feet
13 setback is not enough, but a 1,000 feet setback is too much; he is just pulling it out of his back pocket. He
14 said if there was a noise study done or some sort of evidence to present to the Board, he thinks it would
15 only be fair to do it up front rather than going through a whole bunch of stuff and then figure out the
16 petitioner is not able to do it months into the potential project.

17
18 Mr. Hall said staff would come back with some additional standards and documenting where these came
19 from.

20
21 Mr. Elwell said he is personally offended that he can't use the house that he owns right across the street
22 for a junkyard as a Rural Home Occupation.

23
24 Mr. Hall said sorry about that.

25
26 Mr. Wood asked if that would clean up Malik.

27
28 Mr. Hall said that is nonconforming and he thought it was getting smaller all the time, isn't it.

29
30 Mr. Elwell said if they are not going to be able to take any action tonight on Case 058-AT-22, then when
31 would be a good opportunity for the Board to extend this case to a different meeting date.

32
33 Mr. Hall said he would like to extend this case at least month, which would be August 25, 2022, and asked
34 Ms. Burgstrom if she would like to see the case extended longer.

35
36 Ms. Burgstrom said that she doesn't have an opinion on that and thinks August 25, 2022 would be fine,
37 but they do have two cases just like they did tonight, but those two cases are going to be more involved
38 than the cases they had tonight.

39
40 Mr. Hall said if it not too long for the Board, they would recommend extending Case 058-AT-22 to
41 October 27, 2022 or move it up to October 13, 2022, but he hates extending cases that long, because the
42 train of thought gets kind of lost. He said they are anticipating some busy meetings the next couple of
43 meetings and a busy time at ELUC for the next two months, so he knows from a staff level that October
44 13, 2022 would be better if that is acceptable to the Board.

45
46 Mr. Elwell said he doesn't know if it pertains to them or not, or for this particular case, but the continuance
47 limit is October 27, 2022.

48
49 Mr. Hall said yes, the Board could do it to October 27, 2022, but he personally would rather move it up to

1 October 13, 2022.

2
3 Mr. Elwell entertained a motion to move Case 058-AT-22 to October 13, 2022.

4
5 **Mr. Randol moved, seconded by Mr. Wood, to move Case 058-AT-22 to October 13, 2022. The**
6 **motion carried by voice vote.**

7
8 **7. New Public Hearings –**

9
10 **Case 059-AM-22**

11 **Petitioner: Dennis Toeppen**

12
13 **Request: Amend the Zoning Map to change the zoning district designation from the B-3**
14 **Highway Business District to the B-4 General Business Zoning District.**

15
16 **Location: A 5-acre tract in the Northeast Quarter of the Northeast Quarter of Section 24,**
17 **Township 20 North Range 8 East of the Third Principal Meridian in Hensley**
18 **Township with an address of 73 East Hensley Road, Champaign.**

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

23
24 Dennis Toeppen, 73 East Hensley, Champaign, said he bought this property a little while ago and hasn't
25 had a chance to do anything with it. He said the B-3 Zoning District really constrains his use; for instance,
26 a structure on that parcel would not be permitted under the B-3 Zoning District if it included a business or
27 professional office for self-storage warehouses and other low intensity uses that are relevant to him. He
28 has been renting space at 1502 Airport Road in Urbana, which is Own Your Own Storage, since 1987. He
29 has had a space there since 2005 that is 28 feet by 64 feet, and he could probably compress his usage down
30 to about a third of that. He said part of that storage is a refrigerated room where he has a film archive, and
31 it doesn't make a lot of sense from him to continue renting space there when he has a piece of property
32 where he could build a structure. He would like to build a structure at 73 East Hensley Road in Champaign
33 that will contain his personal property, an office where he can go about his personal affairs and have
34 leasable space so he could produce some cash flow. He has a building engineered that has a footprint of
35 40 feet wide and 70 feet long with two 20-foot bays. His plan would be to build half the length of that
36 building to occupy himself and lease the other half of the building out. He doesn't have a specific tenant
37 in mind at this point, but he would be fairly picky about who he would allow to lease space there because
38 he wouldn't want any concerns about runoff hydrocarbons going into the soil, anyone who would produce
39 a lot of effluent, or anything like that, so the kind of tenants that would be acceptable to him would be on
40 the low intensity use end of the spectrum. He said the land is currently improved for fairly heavy use. He
41 said they stripped the topsoil down to clay and placed about 300 truckloads of grey clay from the retention
42 basin across from Garcia's Pizza on Mattis Avenue in Champaign back in 2007, so they have a good solid
43 base for parking and would put the building floor well above the elevation of the street, which makes it
44 pretty floodproof. He said the site is ready to go, but he is reluctant to invest any money in a building
45 before he has the approval from the Zoning Board, because like he said he could even have a business
46 office in a structure there under B-3 Zoning District, so that is kind of his situation.

47
48 Mr. Elwell thanked Mr. Toeppen and asked if there were any questions from the Board.

1 Mr. Anderson asked him about the statue of the chicken on his property or close to it and what is it intended
2 for.

3
4 Mr. Toeppen said he has bicycled the full length of Route 66 three times and kind of liked the fiberglass
5 statues that he had seen in different towns. He said the chicken was the cheapest one he could find, so he
6 bought it and stuck it on his property.

7
8 Mr. Wood said there was a previous case about this same piece of property and there was a complaint
9 filed by Hensley Township about the road or traffic issues.

10
11 Mr. Toeppen said he didn't really understand that because it made reference to a truck terminal and at no
12 point was there a truck terminal ever planned there as far as he knows, so he was rather puzzled by that.
13 He said the street there is kind of a puzzling situation, because the street is marked with a load limit of
14 five tons from about 80 to 100 feet into Hensley Township. He said beyond that is Tire Central, which
15 receives tires by semis routinely and Atlantic Services, which has a power washing facility that is visited
16 by semis all day long, so that five-ton limit is apparently not enforced or relevant anymore. He said in the
17 fall there is a lot of grain truck traffic there that clearly exceeds five tons, so the road already has a lot of
18 traffic on it and he doesn't think his traffic activity is going to create any substantial percentage increase
19 with that kind of traffic there.

20
21 Mr. Wood asked if they have heard anything from Hensley Township.

22
23 Ms. Burgstrom said they sent notice to Hensley Township and there have been no comments received.

24
25 Mr. Toeppen said that he noticed in the prior case they waited until around three days before the County
26 Board meeting to voice their objections, so he doesn't know whether they will hear from them or not, but
27 the situation has changed a bit since then.

28
29 Mr. Wood asked him if he was the owner at the time of the previous case.

30
31 Mr. Toeppen said that it was owned by Tom Courson who had the tree nursery there, then it was owned
32 by Jim Battle, and now it is owned by him. He said at that time Atlantic Services didn't have their facility,
33 so the traffic situation was much different than it is now; he thinks there is sort of a new normal there.

34
35 Mr. Elwell asked if there were any further questions from the Board.

36
37 Mr. Wood said his understanding was that the B-4 Zoning District was generally adjacent to residential
38 property and asked if that was how it was defined. He said around that intersection there are several other
39 pieces of property that are already designated as a B-4 Zoning District.

40
41 Ms. Burgstrom said they have had several properties in the area rezoned to the B-4 Zoning District from
42 other zoning districts in that area. She said North Cunningham Avenue is another area they see quite a bit
43 of the B-4 Zoning District, so it's not necessarily highway related, but general business, that is where they
44 tend to see it in the county.

45
46 Mr. Elwell asked if there were any further questions from the Board or Staff. Seeing none, he asked if
47 anyone would like to cross-examine this witness. Seeing no one, he asked if anyone would like to testify
48 in this case. Seeing no one, he entertained a motion to close the Witness Register for Case 059-AM-22.

49

1 **Mr. Herbert moved, seconded by Mr. Bates, to close the Witness Register for Case 059-AM-22. The**
2 **motion carried by voice vote.**

3
4 Mr. Wood said there was one special condition.

5
6 Mr. Elwell said that is correct.

7
8 Mr. Elwell asked Mr. Toeppen to please answer in the affirmative if he agrees after he reads the special
9 condition for Case 059-AM-22 from Attachment H, page 20 of 25 in the Preliminary Memorandum, as
10 follows:

11
12 **REGARDING SPECIAL CONDITIONS OF APPROVAL**

13 23. Proposed Special Conditions of Approval:

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

17 The above special condition is necessary to ensure the following:
18 **Conformance with LRMP Policy 4.2.3.**

19
20 Mr. Elwell asked Mr. Toeppen if he was in agreement with that special condition.

21
22 Mr. Toeppen agreed.

23
24 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and move to
25 the Finding of Fact for Case 059-AM-22.

26
27 **Mr. Wood moved, seconded by Mr. Roberts, to adopt the Summary of Evidence, Documents of**
28 **Record, and move to the Finding of Fact for Case 059-AM-22. The motion carried by voice vote.**

29
30 Mr. Elwell said that he would be reading the Finding of Fact for Case 059-AM-22 from Attachment H,
31 page 22 of 25 in the Preliminary Memorandum, as follows:

32
33 **FINDING OF FACT FOR CASE 059-AM-22**

34 From the documents of record and the testimony and exhibits received at the public hearing conducted on
35 **July 28, 2022**, the Zoning Board of Appeals of Champaign County finds that:

36
37 Ms. Burgstrom said that it has been quite a while since they have done a Map Amendment, so with the
38 Summary Finding of Fact if there is anything that people want to discuss, they can bring those items up
39 and discuss them, but there is no need to read through all of this otherwise.

- 40
41 1. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the Land Resource
42 Management Plan because:

- 43 A. Regarding Goal 4:
- 44 (1) It will **HELP ACHIEVE** Objective 4.1 requiring minimization of the
- 45 fragmentation of farmland, conservation of farmland, and stringent development
- 46 standards on best prime farmland because it will **HELP ACHIEVE** the following:

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- 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 14.C.(2)).
 - b. Policy 4.1.4, guaranteeing landowners of a lawfully created lot, the by-right development allowance to establish a new single family dwelling or non-agricultural land use on each such lot, provided that current public health, safety, and transportation standards are met (see Item 14.C.(3)).
 - c. 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 14.C.(4)).
 - d. Policy 4.1.7 requiring a maximum lot size limit on new lots established as by right development on best prime farmland (see Item 14.C.(5)).
- (2) It will **HELP ACHIEVE** Objective 4.2 requiring discretionary development to not interfere with agriculture because it will **HELP ACHIEVE** the following:
- a. Policy 4.2.1 requiring a proposed business in a rural area to support agriculture or provide a service that is better provided in the rural area (see Item 14.B.(1)).
 - b. Policy 4.2.2 requiring discretionary development in a rural area to not negatively affect or be negatively affected by agricultural activities, and not interfere or negatively affect the operation of ag-related infrastructure (see Item 14.B.(2)).
 - 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 14.B.(3)).
 - 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 14.B.(4)).
- (3) It will **HELP ACHIEVE** Objective 4.3 requiring any discretionary development to be on a suitable site because it will **HELP ACHIEVE** the following:
- a. Policy 4.3.2 requiring a discretionary development on best prime farmland to be well-suited overall (see Item 14.A.(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 14.A.(2)).

- 1 c. Policy 4.3.4 requiring existing public infrastructure be adequate to support
- 2 the proposed development effectively and safely without undue public
- 3 expense (see Item 14.A.(3)).
- 4
- 5 d. Policy 4.3.5 requiring that a business or non-residential use establish on best
- 6 prime farmland only if it serves surrounding agriculture or is appropriate in
- 7 a rural area (see Item 14.A.(4)).
- 8
- 9 (4) Based on achievement of the above Objectives and Policies, the proposed map
- 10 amendment will **HELP ACHIEVE** Goal 4 Agriculture.
- 11
- 12 C. Regarding Goal 6:
- 13 (1) It will **HELP ACHIEVE** Objective 6.1 regarding public health and safety because
- 14 it will **HELP ACHIEVE** the following:
- 15 a. Policy 6.1.2 requiring that proposed wastewater disposal and treatment
- 16 systems of discretionary development will not endanger public health,
- 17 create nuisance conditions for adjacent uses, or negatively impact surface
- 18 or groundwater quality (see Item 16.B.(1)).
- 19
- 20 (2) Based on achievement of the above Objective and Policy and because it will either
- 21 not impede or is not relevant to the other Objectives and Policies under this goal,
- 22 the proposed map amendment will **HELP ACHIEVE** Goal 6 Public Health and
- 23 Public Safety.
- 24
- 25 D. Regarding Goal 7:
- 26 (1) It will **HELP ACHIEVE** Objective 7.1 considering traffic impact in land use
- 27 decisions because it will **HELP ACHIEVE** the following:
- 28 a. Policy 7.1.1 requiring traffic impact analyses for projects with significant
- 29 traffic generation (see Item 17.A.(1)).
- 30
- 31 (2) Based on achievement of the above Objectives and Policies and because it will
- 32 either not impede or is not relevant to the other Objectives and Policies under this
- 33 goal, the proposed map amendment will **HELP ACHIEVE** Goal 7 Transportation.
- 34
- 35 E. The proposed amendment will **NOT IMPEDE** the following LRMP goal(s):
- 36 • Goal 1 Planning and Public Involvement
- 37 • Goal 2 Governmental Coordination
- 38 • Goal 3 Prosperity
- 39 • Goal 5 Urban Land Use
- 40 • Goal 8 Natural Resources
- 41 • Goal 9 Energy Conservation
- 42 • Goal 10 Cultural Amenities
- 43
- 44 F. Overall, the proposed map amendment will **HELP ACHIEVE** the Land Resource
- 45 Management Plan.
- 46
- 47 2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair*
- 48 factors because of the following:

- 1 A. The gain to the public of the proposed rezoning is positive because the proposed amendment
- 2 would allow for development that has not been realized with decades being zoned in B-3.
- 3
- 4 B. The subject property is suitable for the proposed zoned purposes; nothing developed on the
- 5 property under the current B-3 zoning, which has been in place since 1973.
- 6
- 7 C. The proposed use generally conforms to the goals and policies of the Champaign County
- 8 Land Resource Management Plan.
- 9
- 10 3. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the purpose of the
- 11 Zoning Ordinance because of the following:
- 12 A. The rezoning would achieve Purpose 2.0 (a) to secure adequate light, pure air, and safety
- 13 from fire and other dangers because the proposed development is a small portion of the 5-
- 14 acre lot.
- 15
- 16 B. The rezoning would achieve Purpose 2.0 (c) to lessen and avoid congestion in the public
- 17 streets because there would be no significant increase in traffic.
- 18
- 19 C. The rezoning would achieve Purpose 2.0 (d) of the Ordinance to lessen and avoid hazards
- 20 to persons and damage to property resulting from the accumulation of runoff of storm or
- 21 flood waters because the development does not trigger the need for a storm water detention
- 22 basin or storm water drainage plan.
- 23

24 Mr. Elwell asked if there was any further discussion from the Board or Staff. Seeing none, he entertained

25 a motion to adopt the Summary of Evidence, Documents of Record, and the Finding of Fact for Case 059-

26 AM-22, as amended.

27

28 **Mr. Bates moved, seconded by Mr. Wood, to adopt the Summary of Evidence, Documents of**

29 **Record, and the Finding of Fact for Case 059-AM-22, as amended. The motion carried by voice**

30 **vote.**

31

32 Mr. Elwell entertained a motion to move to the Final Determination for Case 059-AM-22.

33

34 **Mr. Roberts moved, seconded by Mr. Herbert, to move to the Final Determination for Case 059-**

35 **AM-22. The motion carried by voice vote.**

36

37 **FINAL DETERMINATION FOR CASE 059-AM-22**

38 **Mr. Wood moved, seconded by Mr. Roberts, pursuant to the authority granted by Section 9.2 of the**

39 **Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**

40 **determines that:**

41

42 **The Zoning Ordinance Amendment requested in Case 059-AM-22 should BE ENACTED by**

43 **the County Board in the form attached hereto.**

44

45 **The foregoing is an accurate and complete record of the Findings and Determination of the Zoning**

46 **Board of Appeals of Champaign County.**

47

48 Mr. Elwell requested a roll call vote.

1 The vote was called as follows:

2	Randol- yes	Roberts- yes	Anderson- yes	Herbert- yes
3	Elwell- yes	Wood – yes	Bates- yes	

4
5 **The motion carried.**

6
7 Mr. Elwell congratulated Mr. Toeppen on receiving his seven affirmative votes on Case 059-AM-22. He
8 said the P & Z Staff would be in touch with him with further information.

9
10 Mr. Toeppen thanked the Board and Staff.

11
12 **Case 060-V-22**

13 Petitioner: **Jack & Camille James**

14
15 Request: **Authorize a variance for an existing residence with a front yard along Buckthorn**
16 **Lane of 18 feet in lieu of the minimum required 25 feet in the R-1 Single Family**
17 **Residence Zoning District, per Section 5.3 of the Champaign County Zoning**
18 **Ordinance**

19
20 Location: **Lot 2 of Woodfield West Subdivision in Section 22, Township 20 North, Range 7 East**
21 **of the Third Principal Meridian in Mahomet Township, commonly known as the**
22 **residence with an address of 1607 Buckthorn Lane, Mahomet.**

23
24 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
25 the witness register for that public hearing. He reminded the audience that when they sign the witness
26 register, they are signing an oath.

27
28 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows
29 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
30 show of hands from those who would like to cross-examine, and each person will be called upon. He said
31 that those who desire to cross-examine do not have to sign the Witness Register, but will be asked to
32 clearly state their name before asking any questions. He noted that no new testimony is to be given during
33 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws
34 are exempt from cross-examination. He asked if the petitioner would like to outline the nature of their
35 request prior to introducing evidence.

36
37 Jack James, 1607 Buckthorn Lane, Mahomet, said it recently came to their attention that it appeared their
38 house was in violation of the right-of-way on Buckthorn Lane, and they were quite perplexed and just
39 found out today really. He said it appears there is no right-of-way on the east side of Buckthorn Lane, so
40 all of the right-of-way is on the west side of Buckthorn Lane, which gets into where their house is. He
41 said they didn't know that, and he doesn't know how they could have known it, because he doesn't think
42 a lot of people knew it and their contractors weren't aware of it either. He said their contractors measured
43 their setback distance from the center of the road to their house on Buckthorn Lane, but the contractors
44 would have made allowances if they had known about the right-of-way for their house. He said it is an
45 unusual case it seems to him of having all of the right-of-way on one side of the road. He asked the Board
46 if he had explained it clear enough for them to understand what he was talking about.

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

49

1 Mr. Wood asked if this case was to simply make it legal and asked if any new construction was planned.
2
3 Ms. Burgstrom said at this point staff doesn't know of any additions the petitioners would want to do or
4 anything; this is to correct the existing house, so the petitioners could replace it if something should happen
5 to the house.
6
7 Mr. Wood said they are probably not going to move the house or road.
8
9 Ms. Burgstrom said that's right.
10
11 Mr. Herbert asked what was on the east side of the road.
12
13 Mr. James said there is a house, but it stands about 100 yards from the road, and there is another house
14 down ways too, but all the houses on the east side of Buckthorn Lane sit a long way off from Buckthorn
15 Lane. He said there is a cul-de-sac on the west side that sits a little closer, but he doesn't think any of those
16 are in violation that they are aware of at this point.
17
18 Mr. Elwell asked if there were any other questions from the Board.
19
20 Mr. Anderson asked him why they were asking for a variance.
21
22 Mr. James said the corner of their house is inside the right-of-way on Buckthorn Lane because the right-
23 of-way on the west side is twice as wide as it normally would be on one side since there is none on the
24 right-of-way on the east side. He said that makes their right-of-way on the east side around 40 feet or
25 something like that, so their house is not in the right-of-way, but their house is too close to it.
26
27 Ms. Burgstrom said that Mr. and Ms. James were approached by her because she was doing their Zoning
28 Compliance Certificate to close out their case file on the construction of their house many years after it
29 had already been constructed unfortunately. She said that is when she found the right-of-way was closer
30 to the house than it should be, and she wrote them a letter and they responded by applying for the variance,
31 which would be required because of that short front yard.
32
33 Mr. Anderson said she was the culprit.
34
35 Ms. Burgstrom said yes, she was the culprit.
36
37 Mr. Elwell asked if there were any other questions from the Board or Staff. Seeing no one, he asked if
38 anyone would like to cross-examine this witness.
39
40 Ms. Burgstrom said the Village of Mahomet had reviewed this case and she received comment from them
41 stating they have no problem with the variance for the principal structure, but they would appreciate if
42 any future additions to the house or any accessory structures would meet the 25-foot front yard
43 requirement.
44
45 Mr. Randol asked if they needed to make that a special condition.
46
47 Ms. Burgstrom said she doesn't think so; they have it on file in the permit file, so that should be sufficient.
48
49 Mr. Elwell asked if anyone would like to testify in this case. Seeing no one, he entertained a motion to

1 close the Witness Register for Case 060-V-22.

2
3 **Mr. Randol moved, seconded by Mr. Wood, to close the Witness Register for Case 060-V-22. The**
4 **motion carried by voice vote.**

5
6 Mr. James asked the Board if they were done with them or should they stay there.

7
8 Mr. Elwell said yes, that's fine. He asked Mr. Hall if there were any special conditions.

9
10 Mr. Hall said no.

11
12 Mr. Elwell said he didn't think so and asked what the Board would like to do.

13
14 **Mr. Wood moved, seconded by Mr. Roberts, to accept the Preliminary Draft, Documents of Record,**
15 **the letter from the Village of Mahomet, and move to the Findings of Fact for Case 060-V-22. The**
16 **motion carried by voice vote.**

17
18 Mr. Elwell said that he would be reading the Findings of Fact for Case 060-V-22 from Attachment E, page
19 eight of nine in the Preliminary Memorandum, as follows:

20
21 **FINDINGS OF FACT FOR CASE 060-V-22**

22 From the documents of record and the testimony and exhibits received at the public hearing for zoning
23 case **060-V-22** held on **July 28, 2022**, the Zoning Board of Appeals of Champaign County finds that:

24
25 **1. Special conditions and circumstances {DO / DO NOT} exist which are peculiar to the land or**
26 **structure involved, which are not applicable to other similarly situated land and structures**
27 **elsewhere in the same district because:**

28
29 Mr. Randol said the special conditions and circumstances DO exist which are peculiar to the land or
30 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
31 the same district because: Buckthorn Lane was never centered within the 50-foot right-of-way. He said it
32 is a narrow road that is entirely in the east 20 feet of the right-of-way, leaving 30 feet in the west part of
33 right-of-way. He said that probably goes back to when the road was first constructed before there was any
34 subdividing taking place out there and the site plan has been approved with the correct measurement of
35 56.5 feet to the street centerline of Buckthorn Lane, but an incorrect front yard measurement of 25 feet to
36 the road's western right-of-way line; the contractor was not aware of this either.

37
38 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
39 **sought to be varied {WILL / WILL NOT} prevent reasonable or otherwise permitted use of**
40 **the land or structure or construction because:**

41
42 Mr. Wood said the practical difficulties or hardships created by carrying out the strict letter of the
43 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
44 structure or construction because: without the proposed variance, the petitioner could not rebuild the house
45 in a case where it needed to be rebuilt should it be damaged or destroyed.

46
47 Mr. Randol said it would also be cost prohibitive to relocate the house.

48
49 **3. The special conditions, circumstances, hardships, or practical difficulties {DO / DO NOT}**
50 **result from actions of the applicant because:**

1 Mr. Herbert said the special conditions, circumstances, hardships, or practical difficulties DO NOT result
 2 from actions of the applicant because: the petitioners relied on the expertise of their contractors to build
 3 the house.
 4

5 **4. The requested variance *{IS / IS NOT}* in harmony with the general purpose and intent of the**
 6 **Ordinance because:**
 7

8 Mr. Randol said the requested variance IS in harmony with the general purpose and intent of the Ordinance
 9 because: the requested variance is 72% of the minimum required, for a variance of 28%, and there are no
 10 known plans by Mahomet Township or the Village of Mahomet to widen Buckthorn Lane.
 11

12 **5. The requested variance *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise**
 13 **detrimental to the public health, safety, or welfare because:**
 14

15 Mr. Wood said the requested variance WILL NOT be injurious to the neighborhood or otherwise
 16 detrimental to the public health, safety, or welfare because: the relevant jurisdictions have been notified
 17 about the variance, and no comments have been received. He said no complaints have been received about
 18 the location of the house since its construction between 2016 and 2017.
 19

20 Mr. Elwell asked Ms. Burgstrom if the relevant jurisdiction was Mahomet and if so, they had received
 21 comments from them, correct.
 22

23 Ms. Burgstrom said they have received comments, but they are not a notified jurisdiction for this variance
 24 case. She said Buckthorn Lane is in the County and Mahomet Township jurisdiction, and they received
 25 no comments from Mahomet Township.
 26

27 Mr. Elwell said okay and thanked her.
 28

29 **6. The requested variance *{IS / IS NOT}* the minimum variation that will make possible the**
 30 **reasonable use of the land/structure because:**
 31

32 Mr. Herbert said the requested variance IS the minimum variation that will make possible the reasonable
 33 use of the land/structure because: the house cannot be moved.
 34

35 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**
 36

37 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and the
 38 Findings of Fact for Case 060-V-22, as amended.
 39

40 **Mr. Roberts moved, seconded by Mr. Wood, to adopt the Summary of Evidence, Documents of**
 41 **Record, and the Findings of Fact for Case 060-V-22. The motion carried by voice vote.**
 42

43 Mr. Elwell entertained a motion to move to the Final Determination for Case 060-V-22.
 44

45 **Mr. Randol moved, seconded by Mr. Roberts, to move to the Final Determination for Case 060-V-**
 46 **22. The motion carried by voice vote.**
 47

48 Mr. Elwell said that he would be reading the Final Determination for Case 060-V-22 from Attachment E,
 49 page nine of nine in the Preliminary Memorandum, as follows:
 50

FINAL DETERMINATION FOR CASE 060-V-22

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

The Variance requested in Case 060-V-22 is hereby GRANTED to the petitioners, Jack and Camille James, to authorize the following variance in the R-1 Single Family Residence Zoning District:

Authorize a variance for an existing residence with a front yard along Buckthorn Lane of 18 feet in lieu of the minimum required 25 feet in the R-1 Single Family Residence Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

Mr. Elwell requested a roll call vote.

The vote was called as follows:

Randol- yes	Roberts- yes	Anderson- yes	Herbert- yes
Elwell- yes	Wood – yes	Bates- yes	

The motion carried.

Mr. Elwell congratulated Mr. and Ms. James on receiving their seven affirmative votes on Case 060-V-22. He said the P & Z Staff would be in touch with them with further information.

Mr. James thanked the Board and Staff.

8. Staff Report - None

9. Other Business

A. Review of Docket

Mr. Anderson asked Mr. Hall if he took the Board’s wishes to the ELUC committee and told them that they don’t want to meet with them anymore and what was their response.

Mr. Hall said a little frustration but a little relaxation because now it is totally up to ELUC and that discussion at ELUC will start next Thursday night on August 4, 2022. He said they’ll be hopefully generating some ideas of what they would like to do, and they have accepted the fact that they need to change some requirements in the Ordinance. He said ELUC wants to increase the separation distance and lower the noise, but they haven’t decided by how much; that will be discussed next Thursday night on August 4, 2022. He said the presumption is that in September 2022 they will be presented with a draft amendment that will sit there until the October 6, 2022 meeting where ELUC may give direction on an actual text amendment to deal with separation, noise, and perhaps even height, but not the thing that came here previously, they are going to try and come up with a package that might be acceptable to everybody.

Mr. Elwell asked if there were going to be any upcoming absences.

1 Mr. Randol said October could be questionable because of farming.

2

3 **10. Adjournment**

4

5 Mr. Elwell entertained a motion to adjourn.

6

7 **Mr. Randol moved, seconded by Mr. Roberts, to adjourn the meeting. Mr. Elwell asked for a roll**
8 **call vote.**

9

10	Randol- yes	Roberts- yes	Anderson- yes	Herbert- yes
11	Elwell- no	Wood – yes	Bates- yes	

12

13 The meeting adjourned at 7:45p.m.

14

15 Respectfully Submitted

16

17

18

19 Secretary of the Zoning Board of Appeals

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