

AS APPROVED JUNE 30, 2011

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: May 26, 2011

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

TIME: 7:00 p.m.

Urbana, IL 61802

MEMBERS PRESENT: Catherine Capel, Thomas Courson, Roger Miller, Melvin Schroeder, Eric Thorsland, Paul Palmgren, Brad Passalacqua

MEMBERS ABSENT : None

STAFF PRESENT : Lori Busboom, John Hall, Susan Monte

OTHERS PRESENT : Brandon Roberts, Herb Schildt, Sherry Schildt, Alan Singleton

1. Call to Order

The meeting was called to order at 7:00 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

3. Correspondence

None

4. Approval of Minutes (April 28, 2011)

Mr. Courson moved, seconded by Ms. Capel to approve the April 28, 2011, minutes as submitted. The motion carried by voice vote.

Mr. Courson moved, seconded by Mr. Palmgren to rearrange the agenda and hear Case 686-V-11 prior to Cases 683-AT-11, 684-AT-11, and 685-AT-11. The motion carried by voice vote.

5. Continued Public Hearing

Case 683-AT-11 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning Ordinance as follows: 1. Add definitions for ‘parcel,’ ‘best prime farmland,’ ‘suited overall’ and, ‘well suited overall.’ 2. Revise paragraph 5.4.3C.2 as follows: (a) In item a., add ‘an infrastructure to

1 support the development' and give examples of relevant infrastructure; and (b) In item h., replace
2 'emergency, with 'public' and add 'to support the proposed development' and give examples of
3 relevant services; and (c) In item j., delete 'effects on' and replace with 'the amount of disturbance to.'

4 **3. Revise paragraph 9.1.11.B. by addition criteria that apply to special use permits in the AG-1, AG-2,**
5 **and CR zoning districts in addition to the existing criteria for any special use permit as follows: (a)**
6 **The property is either best prime farmland and the property with proposed improvements is well**
7 **suited overall or the property is not best prime farmland and the property with proposed**
8 **improvement is suited overall; and (b) The existing public services are available to support the**
9 **proposed special use effectively and safely without undue public expense; and (c) The existing public**
10 **infrastructure together with proposed improvements is adequate to support the proposed**
11 **development effectively and safely without undue public expense.**

12
13 Ms. Susan Monte, Champaign County Regional Planning Commission Planner, stated that at the April 28,
14 2011, meeting the Board discussed adding a definition to Section 3.0 for the terms: 'by right' and
15 'discretionary'. She said that at the April 28, 2011, meeting she suggested adding a third term, 'discretionary
16 development' to Section 3.0. She noted that the Supplemental Memorandum dated May 18, 2011, includes
17 the definitions for the terms 'by right,' discretionary,' and 'discretionary development.'

18
19 Ms. Monte stated that a task that was not included in the Supplemental Memorandum was to adjust and
20 clarify the definition of 'well suited overall,' so that it could be better distinguished from the definition 'well
21 suited' or 'suited overall.' She said that the Preliminary Memorandum dated April 19, 2011, indicates five
22 criteria listed under the term 'suited overall' and two criteria listed under the term 'well suited overall. She
23 said that she would like to propose that the term 'well suited overall' must not only meet the two listed
24 criteria in the Preliminary Memorandum dated April 19, 2011, but also the five criteria listed under 'suited
25 overall.' She said that 'well suited overall' represents a higher standard than 'suited overall.' She said that
26 the public notice will have to be republished notifying the public that more defined terms are being added to
27 the Zoning Ordinance for clarification of the new terms.

28
29 Mr. Thorsland asked the Board if there were any questions for Ms. Monte and there were none.

30
31 Mr. Thorsland asked if staff had any questions for Ms. Monte and there were none.

32
33 Mr. Thorsland asked Mr. Hall if he had any additional information to present and Mr. Hall did not.

34
35 **Case 684-AT-11 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
36 **Ordinance as follows: 1. Revise Section 5.2 by indicating that a subdivision in the CR, AG-1 or AG-2**
37 **zoning districts that totals more than three lots or with new streets or private access ways requires a**
38 **County Board approved special use permit for Rural Residential Development in addition to the**
39 **Rural Residential Overlay District. 2. Revise Section 5.4.3 as follows: (a) Add a requirement for a**
40 **County Board approved special use permit for Rural Residential Development in accordance with**

1 **Section 9.1.11.; and (b) Add a requirement that the public hearing for a map amendment for a Rural**
2 **Residential Overlay and the public hearing for the related special use permit for Rural Residential**
3 **Development must be concurrent.**

4
5 Ms. Monte stated that Case 684-AT-11 is primarily an update of Section 5.2, Table of Authorized Principal
6 Uses that appears in the Zoning Ordinance. She said that the table includes categories of land uses and under
7 Residential Uses there are two subcategories, ‘Subdivision(s) totaling three lots or less,’ and ‘Subdivision(s)
8 totaling more than three lots or with new streets or private accessways.’ She said that these are the two
9 subcategories that are currently in use that describe residential development on lots and these two
10 subcategories are what are being updated. She said that in addition to the Rural Residential Overlay District
11 these two subcategories would require a County Board approved special use permit.

12
13 Ms. Monte stated that the revision to Section 5.4.3 would add a requirement for a County Board approved
14 special use permit for a rural residential development and add a requirement that the public hearing for a
15 map amendment for an RRO rezoning and the public hearing for the related special use permit must be
16 concurrent. She said that the Supplemental Memorandum dated May 18, 2011, includes information about
17 previous RRO cases that have been requested therefore giving the Board an overview of what has occurred
18 over the past 10 or 12 years.

19
20 Mr. Thorsland asked the Board if there were any questions for Ms. Monte.

21
22 Mr. Courson asked Ms. Monte if adding the County Board approval was redundant.

23
24 Ms. Monte stated no, it is an added necessary provision that has been recommended to Planning and Zoning
25 staff to add the special use requirement to Rural Residential Overlays requests so that sites can be considered
26 on a more individual basis. She said that special uses allow for a more site specific analysis and review
27 therefore the State’s Attorney’s office has advised staff that in addition to a zoning amendment a special use
28 should also be required anytime there is an RRO request.

29
30 Mr. Hall stated that the RRO is a rezoning but it is specific to a plan. He said that the County Board makes
31 the zoning decision therefore the County Board needs the flexibility to approve or change the conditions of
32 the special use permit. He said that the intent is that the County Board will support the recommendation of
33 the ZBA but they really need to have complete control because both decisions should be done by the County
34 Board.

35
36 Mr. Thorsland asked the Board if there were any further questions for Mr. Hall or Ms. Monte and there were
37 none.

38
39 **Case 685-AT-11 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
40 **Ordinance by revising Section 6.1 by adding standard conditions required for any County Board**

1 approved special use permit for a Rural Residential Development in the Rural Residential Overlay
2 district as follows: (1) Require that each proposed residential lot shall have an area equal to the
3 minimum required lot area in the zoning district that is not in the Special Flood Hazard Area; and (2)
4 Require a new public street to serve the proposed lots in any proposed RRO with more than two
5 proposed lots that are less than five acres in area or any RRO that does not comply with the standard
6 condition for minimum driveway separation; and (3) Require a minimum driveway separation
7 between driveways in the same development; and (4) Require minimum driveway standards for any
8 residential lot on which a dwelling may be more than 140 feet from a public street; and (5) Require for
9 any proposed residential lot not served by a public water supply system and that is located in an area
10 of limited groundwater availability or over a shallow sand and gravel aquifer other than the Mahomet
11 Aquifer, that the petitioner shall conduct groundwater investigations and contract services of the
12 Illinois State Water Survey (ISWS) to conduct or provide a review of the results; and (6) Require for
13 any proposed RRO in a high probability area as defined in the Illinois State Agency Historic
14 Preservation (ISHPA) about the proposed RRO development undertaking a provide a copy of the
15 ISHPA response; and (7) Require that for any proposed RRO that the petitioner shall contact the
16 Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of
17 the agency response.
18

19 Ms. Monte stated at the April 28, 2011, the Board reviewed the draft Standard Conditions 1, 2, and 3. She
20 distributed a new Supplemental Memorandum dated May 26, 2011, to the Board for review. She said that
21 the new memorandum examines all approved RROs and includes an assessment of whether the approved
22 RRO conformed to the proposed standard conditions and if not what changes might have been necessary.
23 She said that Standard Condition 1 requires that each proposed residential lot shall have an area equal to the
24 minimum required lot area that is located outside of the Special Flood Hazard Area. She said that Oak
25 Grove Subdivision is a good example of Special Condition 1 in that there were five lots each with slightly
26 over one acre lot area located outside of the floodplain. She said that Oak Grove Subdivision is also an
27 example of proposed Special Conditions 2 and 3 but Oak Grove Subdivision would not meet those
28 requirements and could not be approved without a waiver of those two standard conditions.
29

30 Ms. Monte stated that the May 26, 2011, Supplemental Memorandum includes Attachment A. Approved
31 Rural Residential Overlay (RRO) Zoning Map Amendment Cases and Conformance with Proposed Standard
32 Conditions. She reviewed Attachment A with the Board. She said that Case 253-AM-00 (Oak Grove
33 Subdivision) consisted of five lots and did comply with proposed Standard Condition 1 in that each lot did
34 have more than one acre of buildable area outside of the Special Flood Hazard Area but it did not meet
35 proposed Standard Conditions 2 and 3. She said that Case 343-AM-02 (Widholm Subdivision) does not
36 conform to the proposed standard conditions because it did not include a new street and did not centralize
37 driveways nor did it require any minimum driveway standards. She said that the Widholm Subdivision
38 would have required a waiver of proposed Standard Conditions 2 and 3 for approval. She said that and the
39 only proposed Special Condition that would apply to Case 398-AM-03 (Brock Subdivision) would be
40 proposed Special Condition 2. She said that Case 459-AM-04 (Summerfield Subdivision) does meet

1 proposed Standard Conditions 1 and 3 but it does not meet proposed Standard Condition 2.
2

3 Mr. Hall stated that Summerfield Subdivision was originally created as four lots by-right and then the fourth
4 lot was divided into the RRO. He said that the attached diagram indicates the original the floodplain area
5 and the area where there was a significant density of archaeological resources. He said that the original plan
6 was just a rectangular grid of 12 proposed lots but once the floodplain and historic resources were identified
7 it was decided that the rectangular grid was not going to work. He said that the approved plan would not
8 meet the proposed standards because three of the lots which front the existing street are less than five acres
9 and if the acreage of the lots that front the existing street were added together there would be enough acreage
10 to get two five acre lots and two lots less than five acres. He said that it may have been possible for the plan
11 to have been mildly revised to meet the standard condition. He said that the driveway standard condition for
12 the long driveways would have simply been a condition that the Board could have added without changing
13 the layout. He said that the distance from the street for Lots 9 and 10 are necessitated due to the floodplain.
14 He said that the plan that was submitted and approved does not meet the proposed conditions but it probably
15 could have been revised to do so.
16

17 Ms. Monte stated that Case 468-AM-04 (Greenwood Lake Fourth Subdivision) consisted of six lots on 10.5
18 acres and floodplain concerns did not apply nor did the minimum driveway standards.
19

20 Mr. Hall stated that the Greenwood Lake Fourth Subdivision was unique in that Greenwood Drive and CR
21 850E had been constructed by the same developer in the earlier phases of Greenwood Lake. He said that
22 following the literal wording of the proposed special conditions Greenwood Lake Fourth Subdivision did not
23 meet that standard because the lots front an existing street. He said that he would argue that it met the intent
24 of the standard because the street itself had been built by the same developer in an earlier phase of the
25 subdivision therefore the Board could consider either revising the way that the condition is worded or keep
26 an open mind. He said that he would recommend revising the wording to make clear that if the street that is
27 being fronted was constructed either by the same developer or an earlier subdivision after a certain date the
28 expectation is that there will be lots fronting it. He said that the point is that Greenwood Drive is not a
29 public road which would be carrying agricultural traffic. He said that another standard that the Board may
30 want to consider is that if a street does not carry agricultural traffic perhaps new lots could be fronted upon
31 that street. He noted that all of narrative that he is adding is part of the memorandum.
32

33 Ms. Monte stated that Case 520-AM-05 (Bateman Subdivision) consisted of 3 lots on 12 acres. She said that
34 centralized driveways and minimum driveway standards of more than 140 feet from the street did exist
35 therefore the RRO met the proposed standard conditions.
36

37 Ms. Monte said that Case 546-AM-06 (Brickhouses Road Subdivision) consisted of 12 lots on 25 acres and
38 it met all of the existing conditions at the time as well as the proposed standard conditions.
39

40 Ms. Monte said that Case 571-AM-06 (Brock) consisted of one lot on 8.8 acres. She said that the only

1 standard condition that would apply would be the centralized driveways and minimum spacing from the
2 road.

3
4 Ms. Monte said that Case 573-AM-06 (Cope Subdivision) consisted of 6 lots and 3 outlots from on 18.96
5 acres. She said that there were floodplain issues and the proposed Standard Condition 1 was not met.
6

7 Mr. Hall stated that Lot 4 of the Cope Subdivision was 2.53 acres in area and had less than one acre outside
8 of the floodplain. He said that in order to meet the standard the developer may decide to add fill where they
9 intend Lot 4 to be located therefore certifying that all of the elevations are above the base flood elevation.

10 Mr. Hall stated that Lot 4 is not located in the floodway therefore obtaining a permit would be entirely
11 keeping with the Special Flood Hazard Ordinance. He said that another thing that the Board may want to
12 consider goes back to the letter versus the intent of the condition about the minimum required lot area
13 outside of the special flood hazard area and does the Board want to allow the addition of fill to meet that
14 area. He said that as Ms. Monte reviewed, the Subdivision Regulations will not allow a lot to be created
15 where the natural ground elevation was more than one foot below the base flood elevation. He said that the
16 Cope Subdivision is not within the County's subdivision jurisdiction but he believes that even if it were the
17 flood depths on proposed Lot 4 could be achieved with no more than one foot of fill. He said that the
18 conditions can be tightened up to make them more specific and rule certain options out or just make it clear
19 that certain options can be pursued in meeting the condition. He asked if the Board had any thoughts
20 regarding allowing or disallowing fill when an RRO is approved and explained that it is not a necessity that
21 the RRO be more restrictive than the subdivision regulations.
22

23 Ms. Capel stated that the RRO should not be less than the subdivision regulations.
24

25 Mr. Hall stated that allowing more than one foot of fill is being less restrictive and in each case the fill would
26 be approved by the Special Flood Hazard Area Ordinance.
27

28 Ms. Capel stated that there are engineering standards for the fill.
29

30 Mr. Hall stated yes, it all has to pass the engineering review. He said that this was intended to establish a
31 higher standard so that there would be less controversy with the RRO but when it comes to fill in the
32 floodplain as long as the petitioner is meeting the Special Flood Hazard Area Ordinance there is not a
33 problem. He said that under the Subdivision Regulations, if it takes more than one foot of fill, then a waiver
34 of the Subdivision Regulations will be required. He said that a subdivision that becomes a subdivision after
35 it went through the RRO process is a different thing than someone who walks into the office with a plat for
36 some lots by-right. He said that before this case is finished the Board should revisit all of the subdivision
37 standards that Ms. Monte reviewed in the first memorandum and make sure that it is real clear if the RRO
38 standards are always higher and more restrictive and if it isn't, why and is it justified, so that at least the
39 County Board will understand it when the case gets to them.
40

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1 Ms. Monte stated that perhaps staff can provide additional information regarding proposed Standard
2 Condition 1. She said that if the Board has any questions they are welcome to call staff. Ms. Monte
3 reminded the Board that the proposed standard conditions are optional and can be waived.

4
5 Ms. Capel asked if the proposed standard conditions would be waived at the County Board level.

6
7 Ms. Monte stated yes.

8
9 Mr. Thorsland requested a continuance date for Cases 683-AT-11, 684-AT-11 and 685-AT-11.

10
11 **Ms. Capel moved, seconded by Mr. Courson to continue Cases 683-AT-11, 684-AT-11 and 685-AT-11**
12 **to July 14, 2011. The motion carried by voice vote.**

13
14 **6. New Public Hearings**

15
16 **Case 686-V-11 Petitioner: Brandon Roberts Request to authorize the connection of an existing garage**
17 **to an existing house with a resulting side yard of 10 feet instead of the minimum required side yard**
18 **of 15 feet for a house in the AG-1 Zoning District. Location: A tract of land located in the Southwest**
19 **Quarter of the Northwest Quarter of Section 21 of Township 20 North, Range 14 West of the Second**
20 **Principal Meridian in Ogden Township and commonly known as the house at 2706 CR 2050N,**
21 **Ogden.**

22
23 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
24 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
25 of hands for those who would like to cross examine and each person will be called upon. He requested that
26 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
27 those who desire to cross examine are not required to sign the witness register but are requested to clearly
28 state their name before asking any questions. He noted that no new testimony is to be given during the cross
29 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt
30 from cross examination.

31
32 Mr. Hall distributed a new Supplemental Memorandum dated May 26, 2011, to the Board for review. He
33 said that the new memorandum includes the site plan which was omitted from the Preliminary Memorandum
34 dated May 19, 2011. He said that the site plan indicates the house with the attached garage and a detached
35 garage to the west and highlights the area between the area where the connection is going to be constructed.
36 He said that the site plan does not indicate the location of the septic system and the well. He said that the
37 Supplemental Memorandum also includes the following new items of evidence which should be added to the
38 Summary of Evidence: New Evidence proposed to be added to item 5 regarding the site plan: A. The site
39 plan is the same plan as was used in Zoning Use Permit Application No. 88-05-01 on 4/8/05 except that it
40 shows the proposed connection between the existing garage and existing dwelling; and New Evidence

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1 proposed to be added to item 8 regarding practical difficulties or hardships: B. If the requested variance is
2 not authorized the petitioner would have to make an addition(s) to the north and or south side of the existing
3 home which would increase the cost of the addition because it would require the construction of more
4 exterior wall surface and could intrude onto the septic system if on the north side; and New evidence
5 proposed to be added to item 13 regarding whether the requested variance is the minimum necessary: A.
6 The requested variance is the minimum variation necessary to authorize the use of the subject garage as
7 proposed.

8
9 Mr. Courson asked Mr. Hall if the petitioner previously obtained a variance for the 13 foot setback on the
10 east side of the dwelling.

11
12 Mr. Hall stated that the existing dwelling is nonconforming which means that it existed on the day of
13 adoption of the Zoning Ordinance.

14
15 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall and there were none.

16
17 Mr. Thorsland called Mr. Brandon Roberts to testify.

18
19 Mr. Brandon Roberts, who resides at 2706 CR 2050N, Ogden, IL, stated that he has no new information to
20 add to the case at this time.

21
22 Mr. Thorsland asked the Board if there were any questions for Mr. Roberts and there were none.

23
24 Mr. Thorsland asked if staff had any questions for Mr. Roberts.

25
26 Mr. Hall stated that there is a greater side yard on the east side of the structure but he assumes that what Mr.
27 Roberts desires is somewhat related to the floor plan of the house. He asked Mr. Roberts if it makes more
28 sense to add the construction to the west side of the home rather than converting the attached garage which is
29 located on the east side of the structure.

30
31 Mr. Roberts stated that the attached garage is already set up to connect with a hallway which allows direct
32 transport from the vehicle to the interior of the house therefore if he turned around his plans it would be
33 totally opposite and require a lot more work to make it as easily accessible. He said that he has reviewed the
34 plans many times and this is the best and least expensive way to add on to the house and still use their yard
35 in the correct manner.

36
37 Mr. Hall asked Mr. Roberts how much of the detached garage would be converted into dwelling space. He
38 asked Mr. Roberts if he will still have adequate room to store the items that he had previously stored in the
39 garage without having to store those items outside.

40

1 Mr. Roberts stated that the entire garage will be converted and there will not be a problem with storage.

2
3 Mr. Courson asked Mr. Roberts if he planned to extend the roof height during construction.

4
5 Mr. Roberts stated no. He said that the outside appearance of the garage will not change other than the new
6 construction and the new windows which will replace the garage doors.

7
8 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
9 regarding Case 686-V-11 and there was no one.

10
11 Mr. Thorsland requested a motion to close the witness register.

12
13 **Mr. Courson moved, seconded by Ms. Capel to close the witness register for Case 686-V-11. The**
14 **motion carried by voice vote.**

15
16 Mr. Hall stated that a new item 10.E. should be added to the Summary of Evidence as follows: The
17 petitioner testified at the public hearing on May 26, 2011, that the height of the garage will not be increased
18 in the remodeling.

19
20 Mr. Hall stated that a new item 3 should be added to the Documents of Record as follows: Supplemental
21 Memorandum dated May 26, 2011, with attached site plan.

22
23 **Finding of Fact for Case 686-V-11:**

24
25 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
26 686-V-11 held on May 26, 2011, the Zoning Board of Appeals of Champaign County finds that:

- 27
28 **1. Special conditions and circumstances DO exist which are peculiar to the land**
29 **or structure involved, which are not applicable to other similarly situated land and**
30 **structures elsewhere.**

31 Mr. Courson stated that special conditions and circumstances DO exist which are peculiar to the land or
32 structure involved, which are not applicable to other similarly situated land and structures elsewhere
33 because of conflicts with the well and septic location behind the house should they want to expand that
34 direction and the lot is a nonconforming lot with a width of 133 feet.

35
36 Ms. Capel stated that due to the layout of the house and the existing attached garage the logical
37 expansion is into the detached garage versus the attached garage.

38
39 Mr. Thorsland added that the lot existed prior to 1973.

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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.

Ms. Capel stated that 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 because adding on to the rear of the home would encroach into the septic system and well.

Mr. Courson stated that extra expense would occur due to the addition of an extra wall.

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

Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the home is located on an existing nonconforming lot and the petitioner is applying for a variance prior to construction.

Mr. Thorsland stated that the setback of the existing structure is not being moved closer to the lot line.

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

Mr. Courson stated that the requested variance IS in harmony with the general purpose and intent of the Ordinance because the height of the structure is not being altered and it is currently in conformance with the required setbacks for an accessory building.

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

Mr. Miller stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the setback of the existing structure is not being changed. He said that the road commissioner and fire protection district were notified and no comments were received.

1 Mr. Courson stated that letters from neighbors have been received indicating that they are in support of
2 the proposed construction.

3
4 Mr. Thorsland stated that even though this is a small lot the variance will make an insignificant change
5 to the nonpermeable area.

6 **6. The requested variance IS the minimum variation that will make possible the**
7 **reasonable use of the land/structure.**
8

9 Ms. Capel stated that the requested variance IS the minimum variation that will make possible the
10 reasonable use of the land/structure because the classification of the building is changing not the setback.

11
12 **Mr. Miller moved, seconded by Mr. Courson to adopt the Summary of Evidence, Documents of**
13 **Record and Finding of Fact as amended. The motion carried by voice vote.**

14
15 **Mr. Palmgren moved, seconded by Mr. Schroeder to close the public hearing for Case 686-V-11.**
16 **The motion carried by voice vote.**

17
18 **Final Determination for Case 686-V-11:**

19
20 **Mr. Courson moved, seconded by Ms. Capel that the Champaign County Zoning Board of**
21 **Appeals find that, based upon the application, testimony and other evidence received in this case,**
22 **that the requirements of Section 9.1.9.C for approval HAVE been met, and pursuant to the**
23 **authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning**
24 **Board of Appeals of Champaign County determines that the Variance requested in Case 686-V-11**
25 **is hereby GRANTED to the petitioner, Brandon Roberts, to authorize the connection of an existing**
26 **garage to an existing house with a resulting side yard of 10 feet instead of the minimum required**
27 **side yard of 15 feet for a house in the AG-1 Zoning District.**

28
29 The roll was called:

30
31 **Capel-yes Courson-yes Miller-yes**
32
33 **Palmgren-yes Schroeder-yes Passalacqua-yes**
34
35 **Thorsland-yes**
36

37 Mr. Hall informed Mr. Roberts that he has received an approval for his variance request and staff will

1 send out the permit application within a few days.

2

3 Mr. Thorsland stated that the Board will now hear Case 683-AT-11.

4

5 **7. Staff Report**

6 **A. April, 2011 Monthly Report**

7 Mr. Hall distributed the April, 2011 Monthly Report to the Board for review. Mr. Hall stated that there have
8 been no new cases docketed in May which is less than last year and more than 2009 but still the third lowest
9 number of cases filed in the history of zoning.

10

11 **B. Status of Zoning Cases that have received Final Determination**

12

13 Mr. Hall distributed a document titled 'Zoning Case Wrap-up' dated May 26, 2011, for review. He said that
14 it is wonderful that we have a new Chair so that we can start with all of the cases determined under that
15 Chair and currently it appears that we are doing pretty good so far. He said that he would like to distribute
16 this report at every meeting or at least once a month. He said that it is important to let the Board know the
17 status of a case after the Board has finished its work and assure that staff is finishing their work on the case.

18

19

20 **8. Other Business**

21 **A. Proposed ZBA Bylaws Amendments**

22

23 Mr. Hall stated that previously he had completed enough research to verify that the phrase "close the public
24 hearing" was in place from the beginning through a copy of the 1975 Bylaws. He said that since the last
25 time that the Board reviewed the amendment he went back and did a little closer reading to better understand
26 why the phrase "close the public hearing" was used. He said that apparently during the earlier years of the
27 ZBA they would have one meeting where all of the evidence would be presented in one meeting and then the
28 ZBA would make a decision within 90 days after that meeting. He said that the Bylaws did specify that the
29 decision had to be made during a public session therefore even though they closed the public hearing at the
30 end of the first meeting they were still in public session when they made the decision. He said that obviously
31 procedures had not been perfected and they are still that way today. He said that the whole point of the
32 proposed amendment of the Bylaws is to eliminate the phrase "close the public hearing" because, by law, the
33 public hearing does not close but only ends or may close if there is suitable reason to go into closed session.
34 He said that at the same time the phrase "close the public hearing" is being eliminated there were many other
35 changes that were required throughout the Bylaws. He said that previously he was proposing to eliminate
36 the phrase "close the witness register" but as a result of his research he now understands that while you could
37 use a different phrase that point in the public hearing is very important because it is the point in which
38 witnesses can no longer just raise their hand to speak or sign the witness register. He said that to speak after
39 closing the witness register the Board has to vote and if the majority of the Board does not want to hear what

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1 that witness intends to say then that witness does not get to speak. He said that in Article 7 - Public Hearing
2 Procedures, Subsection 7.8, Presentation of Evidence discusses how evidence shall be presented unless
3 altered by the Chair or by motion. He said Item (i) indicates that the Board shall then vote to Close the
4 Witness Register which is a key point in the public hearing and it has been retained. He said that he will
5 always encourage the Board to allow anyone to speak and if it is repetitive or invalid testimony then the
6 Board can stop the testimony.
7

8 Mr. Hall stated that Article 6- Form and Character of Motions and Decisions, Subsection 6.2 refers to the
9 Appendix, previously distributed to the Board, and it is called the Rules of Order. He said that the title of
10 the Appendix is confusing because the table is just the Bylaws set in particular order so that the Board knows
11 when the Bylaw can be exercised. He recommended that the Board just have Bylaws and an Appendix –
12 Champaign County Zoning Board of Appeals Bylaws Summary of Actions. He said that the amendment
13 which is before the Board gets rid of the use of the term “Rules” and just talks about Bylaws. He said that
14 even the current Bylaws are not consistent when they refer to a meeting when they should be referring to a
15 public hearing. He said that many times the authors of the Bylaws have used the term “case” to refer to
16 something other than a zoning case but they are also using the term “case” to refer to a zoning case. He said
17 that he has tried to be consistent and only use the term “case” in reference to a zoning case and everything is
18 an “instance” or a “time” but not a case.
19

20 Mr. Hall stated that Article 12 – Amendments previously indicated that it took five affirmative votes to
21 change the rules even though it only takes four to do anything else therefore it is his recommendation to
22 change that to four affirmative votes. He said that this revision will be consistent in that it will only take
23 four affirmative votes to do anything. He said that he has not asked the State’s Attorney’s office to review
24 these revisions yet because he wanted to make sure that the Board was comfortable with the proposed
25 changes. He said that the table needs to be updated and he would also recommend a formal addition to the
26 Appendix titled “Meeting Notes.” He said that he would also like to include an example of the
27 Administrative Statement to the Appendix but he will request the State’s Attorney’s opinion in regards to
28 that addition.
29

30 Mr. Hall stated that at the next public hearing he would hope to have all of the Appendices formatted with all
31 of the recommended changes and if no further changes are deemed necessary by the Board then the Bylaws
32 could be sent to the State’s Attorney’s office for review. He said that the earliest date for adoption of the
33 Bylaws would be at the July 14, 2011, meeting. He said that the Board will be able to review the revised
34 table at the June 16th, meeting.
35

36 Mr. Thorsland asked the Board if there were questions for Mr. Hall.
37

38 Mr. Courson asked Mr. Hall if the witness register was closed could the Board recall a witness for questions
39 without voting to reopen the witness register.
40

1 Mr. Hall stated that the Bylaws indicate that the Board can ask anyone anything at anytime. He said that the
2 Board may want to make it explicit in the Bylaws although Subsection 7.13 indicates that the Board may
3 request any relevant information or evidence from any party only prior to any motion for a specific Final
4 Determination. He said that he will amend the text clarifying that the Board may ask request any relevant
5 information or evidence from any party at any time prior to any motion for Final Determination.
6

7 Mr. Schroeder stated that he agrees that it should be clarified because the Board may think of something that
8 they want to say or ask the petitioner or witnesses before the Final Determination and if that opportunity is
9 cut off the case will go to the County Board with unanswered questions. He said that relevant statements
10 and answers to all of the questions would be in the best interest to the County.
11

12 Mr. Thorsland stated that the Board is not attempting to make the Bylaws more restrictive but trying to
13 clarify that up to the point where the final vote for the Final Determination is made the Board can ask
14 questions to the petitioner or witnesses.
15

16 Mr. Thorsland asked the Board if there were any additional questions or comments regarding the Bylaws and
17 there were none.
18

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

20
21 None
22

23 **10. Adjournment**

24
25 **Mr. Schroeder moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried by**
26 **voice vote.**
27

28 The meeting adjourned at 8:20 p.m.
29
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31

32 Respectfully submitted
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37 Secretary of Zoning Board of Appeals
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