

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street  
Urbana, IL 61801

DATE: July 28, 2011 PLACE: Lyle Shields Meeting Room  
1776 East Washington Street  
Urbana, IL 61802

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

MEMBERS ABSENT : Paul Palmgren

STAFF PRESENT : Connie Berry, John Hall

OTHERS PRESENT : Rollae D. Keller, Joanne Keller, Kevan Parrett, Kelly Dillard,  
Ramona Dillard, Charles P. Thompson, Ryan Beckley, Byron  
Beckley, Melody Pinks, Bruce Pinks

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 with one member absent.

3. Correspondence

None

4. Approval of Minutes

None

Ms. Capel moved, seconded by Mr. Courson to acknowledge the Addendum to the Agenda and re-arrange the agenda by hearing Case 692-V-11, Rollae Keller first. The Board will then move into Closed Session. Upon completion of Closed Session the Board will hear Case 695-I-11, Zoning Administrator and then hear Case 685-AT-11, Zoning Administrator as the last case of the meeting. The motion carried by voice vote.

5. Continued Public Hearing

1  
2 **Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the**  
3 **Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions**  
4 **required for any County Board approved special use permit for a Rural Residential**  
5 **Development in the Rural Residential Overlay district as follows: (1) require that each**  
6 **proposed residential lot shall have an area equal to the minimum required lot area in the**  
7 **zoning district that is not in the Special Flood Hazard Area; (2) require a new public street to**  
8 **serve the proposed lots in any proposed RRO with more than two proposed lots that are each**  
9 **less than five acres in area or any RRO that does not comply with the standard condition for**  
10 **minimum driveway separation; (3) require a minimum driveway separation between**  
11 **driveways in the same development; (4) require minimum driveway standards for any**  
12 **residential lot on which a dwelling may be more than 140 feet from a public street; (5) require**  
13 **for any proposed residential lot not served by a public water supply system and that is located**  
14 **in an area of limited groundwater availability or over a shallow sand and gravel aquifer other**  
15 **than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and**  
16 **contract the services of the Illinois State Water Survey (ISWS) to conduct or provide a review**  
17 **of the results; (6) require for any proposed RRO in a high probability area as defined in the**  
18 **Illinois State Agency Historic Preservation Agency (ISHPA) about the proposed RRO**  
19 **development undertaking and provide a copy of the ISHPA response; (7) require that for any**  
20 **proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois**  
21 **Department of Natural Resources and provide a copy of the agency response.**

22  
23 Mr. Hall distributed a new Supplemental Memorandum dated July 28, 2011, for the Board’s review.  
24 He said that the new memorandum has the following four attachments: A. Comparison of proposed  
25 RRO SUP Conditions to Existing Requirements; and B. excerpts from the Champaign County  
26 Subdivision Ordinance; and C. excerpt from NFPA Publication 1141; and D. Proposed site plan for  
27 Case 565-AM-06 (withdrawn). He reviewed Attachment A. with the Board. He said that the table  
28 lists the standard conditions that are proposed and then compares it to any similar requirement in the  
29 Ordinance for by-right uses. The table then compares it to the Subdivision Ordinance for any similar  
30 requirements for a subdivision and then it lists the proposed RRO SUP Standard in more detail. He  
31 said that the last column of the table is for notes. He said that at the previous meeting for this case  
32 the Board discussed how, in regards to the floodplain, someone could do some things by-right and  
33 there are things that the Subdivision Ordinance has as part of the minimum subdivision standards  
34 and now we are establishing a third tier for the RRO. He said that by-right someone could build  
35 anywhere provided that they build so that they minimize flood damage. He said that someone could  
36 build where the flood waters are 12 feet deep provided that they minimize flood damage. He said  
37 that the minimum subdivision standards in the Subdivision Ordinance indicate that a requirement for  
38 a subdivision is that no part of the minimum required lot area is more than one foot below the base  
39 flood elevation. He said that there are a lot of places in Champaign County where it is more than one  
40 foot below so in order to get a subdivision lot a waiver of that standard would be required. He said  
41 that the Board may ask why someone would need a subdivision lot versus doing something by-right

1 and that can be answered by understanding that the Zoning Ordinance only allows so many lots to be  
2 created without going through the rezoning process. He said that of those lots the Illinois Plat Act  
3 allows only certain lots to be created by means of a written legal description or a survey or a  
4 subdivision plat which the County Board must approve. He said someone would not want to take a  
5 subdivision plat to the County Board if it is more than one foot below the base flood elevation and  
6 that is true even before this standard because there will be questions. He said that for an RRO where  
7 someone has to go through the rezoning process where there is a higher level of scrutiny, staff  
8 proposed to the County Board to just establish a condition that any lot requiring RRO approval has to  
9 have the entire minimum lot area outside of the special flood hazard area which is to say high enough  
10 so that it never floods. He said that someone may have a two acre lot but there had better be one acre  
11 of the two acres that is above the base flood elevation and the County Board agreed with this  
12 standard. He said that this standard will be more restrictive than the subdivision standard and if an  
13 RRO is approved then there should be no issues in getting the plat approved.  
14

15 Mr. Hall stated that the second standard condition requires minimum driveway separations for new  
16 lots on existing streets. He said that currently there are no standards in the Ordinance for driveways.  
17 He said that there is a standard that if a lot is a flag lot that the thin portion of the lot be wide enough  
18 to physically be wide enough to install a ten foot wide driveway but the ten foot wide driveway is not  
19 required. He said that the only thing about driveways in the Subdivision Ordinance is that driveways  
20 must be centralized as much as possible and many times when only one lot is being proposed it is not  
21 possible so it is not required. He said that for the RRO staff proposes that the driveways be  
22 centralized and requiring that the driveway locations be at least 600 feet apart. He said that  
23 originally when this was being proposed to the County Board the 600 feet separation was taken out  
24 of the air but something about it seemed to make sense. He said that the notes column indicates the  
25 following in regards to the minimum driveway separations: 1. The proposed RRO standard  
26 condition is more restrictive than any existing requirement; and 2. "the same development" is  
27 intended to mean "the same RRO: and even "all RRO's from the same parent tract;" and 3. A  
28 separation of 600 feet will result in 8 driveway locations per mile per side of roadway for a total of  
29 16 driveway locations that is equivalent to one driveway location per 40 acres. Since each driveway  
30 location can contain two driveways that allows up to 32 lots per square mile which is the equivalent  
31 of 20 acre lots. He said that if driveways occurred in one per 40 acres twice as many driveways  
32 could be squeezed in with the 600 foot separation. He said that some people would like to see lot  
33 development limited to one lot per 40 acres but that is not going to happen any time soon but if it did  
34 it would be roughly equivalent to one driveway every 600 feet. He said that the development would  
35 be meeting a very restrictive standard but recognizing that another driveway can be slipped in at  
36 every location therefore it is not as restrictive. He said that this only applies to RRO's and it is very  
37 unlikely that anyone is going to divide a two acre lot by means of an RRO but it may happen. He  
38 said that if a two acre lot, created by the RRO process, was purchased it could be further divided by  
39 an RRO although it probably does not have 600 feet of frontage therefore it would require a waiver.  
40 He said that he believes that more specification is required for this condition.  
41

1 Mr. Hall stated that the standard condition requiring a new street is required in an RRO. He said that  
2 the Zoning Ordinance does not require this and the Subdivision Ordinance doesn't require a street  
3 but does give the standards for the street when it is required. He said that the proposed standard  
4 condition will make clear when a street is required.  
5

6 Mr. Hall stated that Attachment D of the Supplemental Memorandum is a map of a withdrawn RRO  
7 case. He said that the map indicates a narrow 30 acres that was proposed to be divided into the  
8 maximum number of lots possible for approval. He said that the minimum lot size is one acre  
9 therefore the engineer began drawing one acre lots with access to new streets where required and  
10 because it is a narrow tract of land they were able to squeeze in two lots between the proposed street  
11 and the existing street and some of the lots will front on the existing street and at the time there was  
12 no prohibition against that. He said that with the new standard all of the lots which are proposed to  
13 front on an existing street would either need waivers or the Board could deny them. He said that if  
14 you are a landowner with a narrow tract of land you will want to know what the County really wants  
15 to have happen if they are going to approve your request. He said it is not clear what the County  
16 wants to have happen on a narrow tract of land but he does know that Lots 13 and 14 could be  
17 combined into a two acre lot which would meet all of the maximum lot size requirements and would  
18 front on the new proposed road. He said that if Lots 14 and 15 were combined it would create a lot  
19 that fronts on two parallel streets and double frontage lots are not allowed in the Subdivision  
20 Ordinance. He said that he does not know why double frontage lots are not allowed but they are not  
21 allowed. He said that on a narrow tract of land a double frontage lot is not allowed and now a  
22 requirement is being added that each lot less than five acres has to front on a new street along with  
23 the two acre maximum lot area on best prime farmland. He said that a set of regulations may be  
24 proposed which have no easy resolution and perhaps that is okay because the County is not in the  
25 business of selling off best prime land for lots but it would be nice if the regulations were  
26 coordinated. He said that he is not sure what the resolution should be for this group of requirements  
27 and there may not be a resolution which could be okay because the purpose of the RRO is to limit the  
28 numbers of new lots that are created. He said that there are a thousand square miles out there to  
29 create new lots upon so he does not believe that we are going to be short on lots. He said that it  
30 would be good if the Subdivision Ordinance and the Zoning Ordinance coordinated as well as  
31 possible.  
32

33 Mr. Hall stated that the fourth proposed standard requires minimum driveway standards when a  
34 dwelling is more than 140 feet from a public street. He said that staff received approval from the  
35 County Board to proceed with the proposed text amendments therefore the amendment has to be  
36 drafted before staff seeks direction because there are so many questions about what is being asked.  
37 He said that staff missed the ball during the early work for this amendment. He read the note section  
38 of the table for the fourth proposed standard: 1. The proposed standard is intended to provide  
39 adequate emergency access to the dwelling. The 140 feet is intended to be roughly equivalent to  
40 three times the length of a fire protection district truck and is presumably a length at which it is  
41 quicker to turnaround than back up to get back to the street; and 2. NFPA 1141 *Fire Protection in*

1 *Planned Building Groups 1985* requires at least three perimeter walls of structures and all exterior  
2 doors into structures constructed as part of a planned building group to be within 200 feet of an  
3 approved fire lane. An approved fire lane shall be at least 20 feet wide and come no closer than to  
4 within 10 feet of a structure. See the excerpt from NFPA 1141. He said that planned building  
5 groups are not discussed in the Zoning Ordinance and in fact planned building groups are not  
6 allowed. He said that this is a NFPA standard for when you are building buildings on one tract of  
7 land so there is not good street access and they have a standard to guarantee that there is good fire  
8 truck access. He said that the NFPA standard requires at least three perimeter walls of structures and  
9 all exterior doors that are part of a planned building group to be within 200 feet of an approved fire  
10 lane which is at least 20 feet wide and comes no closer than within 10 feet of a structure. He said  
11 that the minimum driveway standard is 20 feet wide with six inches of all weather paving. He said  
12 that NFPA 1141 does not deal with driveway length but it is a similar situation. He said that the  
13 NFPA limits fire lane length to 200 feet and that is not what is being discussed because we are trying  
14 to find what is a good standard for a driveway width for when there is a house more than a certain  
15 distance from a public street. He said that he believes that the distance should be increased from 140  
16 feet to 200 feet. He said the typical depth of a minimum size lot is 215 feet and 200 feet wide. He  
17 said that if there is a lot in the back of another lot 200 feet is a good point to indicate that a 20 foot  
18 wide driveway is required. He said that it is longer than 140 feet therefore it is less restrictive and  
19 the case does not need to be re-advertised and perhaps it will get better support at the County Board  
20 because he believes that it provides adequate protection therefore the driveway length should be  
21 changed from 140 feet to 200 feet.

22  
23 Mr. Hall stated that the other three standard conditions are the exact same things that are required  
24 during the RRO process therefore they are not a duplication but one copy that applies to both the  
25 map amendment and special use permit. He said that eventually he believes that things like this  
26 should not be required for the map amendment once the special permit is in place. He said that  
27 based on this, if the Board accepts what he is suggesting the driveway length would go from 140 to  
28 200 feet and there is a good basis for that, provided that people understand what is being said. He  
29 said that he does not know what to do about this thing about every lot less than five acres having to  
30 access a new street but on one hand he does not believe that it is a big issue but it will be criticized.  
31 He said that it will be criticized everything doesn't work out clean and easy when laying out the  
32 division of a narrow tract of land. He said that if the Board desires to have him work on this issue  
33 then he can but he already has and he doesn't see how those problems can be resolved. He said that  
34 all this evidence needs to be added to the Finding of Fact so this case is not ready for final action. He  
35 said that the case could be continued to the October 13<sup>th</sup> meeting or continue it to August 11<sup>th</sup>. He  
36 said that at the August 11<sup>th</sup> meeting he could present the case to the Board with just the Finding of  
37 Fact for the case that it is currently and either the Board is ready to take action or not. He said that  
38 this case could be the last case of the meeting and if the Board does not get to it then it is not the end  
39 of the world.

40  
41 Mr. Thorsland asked Mr. Hall if the 200 foot change would be included in his presentation on

1 August 11<sup>th</sup>.

2  
3 Mr. Hall stated yes.

4  
5 Ms. Capel stated that she would like to continue this case to the October 13<sup>th</sup> meeting although it  
6 appears to be a very busy therefore perhaps November 10<sup>th</sup> would be a better continuance date.

7  
8 Mr. Hall stated that, if the Board suspended the 100-day limit, continuing this case to either meeting  
9 date would not be an issue.

10  
11 **Ms. Capel moved, seconded by Mr. Courson to suspend the 100-day limit for a continuance for**  
12 **Case 685-AT-11. The motion carried by voice vote.**

13  
14 **Mr. Courson moved, seconded by Ms. Capel to continue Case 685-AT-11 to the November 10,**  
15 **2011, meeting. The motion carried by voice vote.**

16  
17 **6. New Public Hearings**

18  
19 **\*Case 692-V-11 Petitioner: Rollae Keller Request: Authorize the division of a lot that is 4.03**  
20 **acres in area into two lots in total in lieu of the requirement that a lot to be divided must be**  
21 **more than five acres in area, in the AG-1 Zoning District. Location: A 4.03 acre lot in the**  
22 **North Half of the Northeast Quarter of Section 32 of Newcomb Township and commonly**  
23 **known as the house at 169 CR 2500N, Mahomet.**

24  
25 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the  
26 witness register. He reminded the audience that when they sign the witness register they are  
27 signing an oath.

28  
29 Mr. Hall stated that there is no new information regarding this case. He said that the Petitioner  
30 has obtained a permit to establish the decommissioned home on the property as a storage shed.  
31 He said that if the case is approved the home will be reconverted back into a dwelling. He said  
32 the Zoning Ordinance offers no guidance for what is at issue in this case and it is presumed that  
33 what is at issue are the same factors that are at issue in an RRO case which are the factors that the  
34 County reviews anytime someone desires to create a new lot beyond what they can create by right.  
35 He said that it is difficult to have one lot that is going to make or break one of those factors. He said  
36 that for this case staff determined that of the ten factors that are compared in an RRO, at a minimum,  
37 things were "typical" and there was one which was "nearly ideal" and three "much better than  
38 typical." He said that there are no conditions proposed for this case and the petitioner indicated that  
39 they were willing to have a shared driveway but as a practical matter each lot is required to have its  
40 own driveway. He said that the Zoning Ordinance requires that each lot must have its own right of  
41 access and the Board could limit the location as to where the new driveway is going to be located but

1 it is still going to be a new driveway and it isn't clear that there is any location that is better than any  
2 other. He said that no other possible special conditions occurred to him as he was preparing the  
3 memorandum although he was rushed and he could have overlooked something.  
4

5 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County  
6 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will  
7 ask for a show of hands for those who would like to cross examine and each person will be called  
8 upon. He requested that anyone called to cross examine go to the cross examination microphone to  
9 ask any questions. He said that those who desire to cross examine are not required to sign the  
10 witness register but are requested to clearly state their name before asking any questions. He noted  
11 that no new testimony is to be given during the cross examination. He said that attorneys who have  
12 complied with Article 6.5 of the ZBA By-Laws are exempt from cross examination.  
13

14 Mr. Thorsland called Rollae Keller to testify.  
15

16 Mr. Rollae Keller declined to speak at this time.  
17

18 Mr. Thorsland called Joanne Keller to testify.  
19

20 Ms. Joanne Keller, who resides at 378 CR 2425N, Mahomet, Illinois stated that the subject property  
21 for this case is property which they own but their other son lives there. She said that if an additional  
22 driveway is required then they will gladly put one in but if it is not then they plan to share the  
23 driveway. She said that they did have the property surveyed.  
24

25 Mr. Schroeder stated that someday the other son may decide that he would prefer his own driveway.  
26

27 Ms. Keller stated that she could imagine that in the future their son may prefer his own driveway but  
28 for now it is not an issue.  
29

30 Mr. Schroeder stated that he would prefer that the separate driveway be required for the second lot.  
31

32 Ms. Keller stated that if the Board requires a separate driveway then they will comply. She said that  
33 they would like to have the variance approved because their son is currently living with a friend and  
34 needs a place of his own to live. She said that they did not realize the circumstances of placing the  
35 modular home on the property until they were contacted by staff.  
36

37 Mr. Thorsland asked Ms. Keller if the original intention was to have someone live in the modular  
38 home.  
39

40 Ms. Keller stated yes. She said that once they realized that they could not have their son live in the  
41 modular home they decided to decommission the modular home and use it as a storage shed. She

1 said that the kitchen has been removed and nothing else has been done to it.  
2  
3 Mr. Thorsland asked Ms. Keller to indicate the location of the modular home.  
4  
5 Ms. Keller distributed copies of the survey for the Board's review and as a Document of Record.  
6  
7 Mr. Thorsland asked Ms. Keller if the modular home is located on the lot to the east.  
8  
9 Ms. Keller stated yes. She said that currently the modular home is sitting in the middle of the lot.  
10  
11 Mr. Thorsland asked Ms. Keller if the variance was approved what will be done in regards to a well  
12 and septic.  
13  
14 Ms. Keller stated that a separate septic system will be installed but the existing well will be shared  
15 between the two homes.  
16  
17 Mr. Thorsland asked if staff had any questions for Ms. Keller.  
18  
19 Mr. Hall asked Ms. Keller if the existing septic system for the existing home has any known issues  
20 that would suggest that the new septic system would have similar issues.  
21  
22 Ms. Keller stated that she is not sure but she can have the system checked.  
23  
24 Mr. Passalacqua asked Ms. Keller if she resides in the existing home.  
25  
26 Ms. Keller stated no. She said that her other son resides in the existing home.  
27  
28 Mr. Thorsland asked the Board if there were any questions for Ms. Keller and there were none.  
29  
30 Mr. Thorsland asked if staff had any questions for Ms. Keller and there were none.  
31  
32 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Keller and there was no  
33 one.  
34  
35 Mr. Thorsland called Kevan Parrett to testify.  
36  
37 Mr. Kevan Parrett, who resides at 180 CR 2400N, Mahomet, Illinois stated that his home is one mile  
38 south of the subject property. He said that he has several concerns regarding the requested variance.  
39 He said that there is a sizable livestock operation to the north of the subject property which serves 50  
40 to 100 cattle. He said that he is concerned with the increased road traffic that another household  
41 would add to the neighborhood. He said that even though the subject property is located on

1 CR2500N there has been considerable development in the area along 200N which is only one-quarter  
2 of a mile to the east. He said that four or five lots have been constructed upon 200N in the last four  
3 or five years which has added to his dismay because those lots are also five acres and it is possible  
4 that they too will request variances to divide their lots. He said that there is potential for ten  
5 additional lots for homes and the roads are not built to handle the additional traffic. He said that he  
6 would not like to see the ZBA set precedence that all of the lots could be subdivided.

7  
8 Mr. Thorsland asked the Board if there were any questions for Mr. Parrett and there were none.

9  
10 Mr. Thorsland asked if staff had any questions for Mr. Parrett.

11  
12 Mr. Hall asked Mr. Parrett how many of the existing lots which he referred to may be on land where  
13 there are easements for the gas company.

14  
15 Mr. Parrett stated that there are gas well lines in the area which was a concern when the lots were  
16 created. He said that he does believe that all of the lots are on the opposite side of the gas line  
17 therefore he is not sure if the easements would affect those lots or not.

18  
19 Mr. Hall stated that no RRO lot can be created within a Pipeline Impact Radius (PIR) although this is  
20 not an RRO process and is a variance process. He said that if someone had a lot like the subject  
21 property, located in the Pipeline Impact Radius, the Ordinance would allow it to be divided if a  
22 variance is approved. He said that there is a possibility that the ZBA would grant variances but his  
23 impression is that lots which are located in the Pipeline Impact Radius probably will not have much  
24 of a chance of having a variance granted. He said that the subject property is not affected by a  
25 Pipeline Impact Radius so to that extent it is different than the lots that are within the PIR but it  
26 would depend on the exact lots in question.

27  
28 Mr. Thorsland asked the Board if there were any questions for Mr. Parrett and there were none.

29  
30 Mr. Thorsland asked if staff had any questions for Mr. Parrett and there were none.

31  
32 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Parrett and there was no  
33 one.

34  
35 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony  
36 regarding this case and there was no one.

37  
38 Mr. Thorsland stated that after reviewing the soil types an additional septic system is a concern.

39  
40 Mr. Hall stated that if this was an RRO case there would be concerns raised about the creation of  
41 new lots on Drummer soil because septic systems on Drummer soil will almost certainly fail at some

1 point. He said that with a lot which is 4.03 acres to begin with the soil survey is most likely  
2 inaccurate due to the scale. He said that most of the new lot will be located on Drummer soil.

3  
4 Mr. Miller asked if the Board would be allowing the shed to become a residence by approving the  
5 variance.

6  
7 Mr. Hall stated no. He said that only a dwelling can be a residence but once a dwelling has a kitchen  
8 decommissioned it becomes a shed and not a dwelling. He said that if the necessary approvals are  
9 obtained the shed could be reconverted back into a dwelling. He said that it is very common for  
10 landowners to obtain a permit for a pole barn and include a dwelling unit inside it with hopes in the  
11 future of building a house and then decommissioning the kitchen in the pole barn.

12  
13 Mr. Thorsland clarified that the double wide that is in question was moved to the lot as a dwelling  
14 but the kitchen was decommissioned therefore it was permitted as a storage unit.

15  
16 Mr. Thorsland asked Mr. Schroeder if he desired to have a condition that a separate driveway is  
17 required.

18  
19 Mr. Schroeder stated yes.

20  
21 Mr. Thorsland stated that the petitioner indicated that they were willing to share the driveway,  
22 mailbox and the well.

23  
24 Mr. Hall stated that the Ordinance has no requirement for a driveway on lots which are created by-  
25 right. He said that the Board would not want to require a condition that there be no driveway. He  
26 said that as long as the Board allows a driveway the lot would be no different than any other lot  
27 therefore requiring a driveway would not be worth the effort.

28  
29 Mr. Schroeder stated that he does not want this issue to come back to the Board at a later date.

30  
31 Mr. Hall stated that if this was an RRO case the Board would normally receive a map of livestock  
32 facilities in the area and it would also indicate all non-farm dwellings in the area. He said that an  
33 RRO, where multiple lots would be created, could easily change the livestock management facility  
34 requirements for any existing facility or could inhibit the development of new facilities. He said that  
35 he has not put the time into this case that he would have for an RRO therefore the map is not  
36 available. He said that the livestock facility which Mr. Parrett referred to during his testimony was  
37 discussed during the Bateman RRO case and in fact there are several livestock facilities in the area as  
38 well as a lot of non-farm dwellings.

39  
40 Mr. Passalacqua asked if the creation of the proposed lot would create a larger buffer zone to the  
41 previously mentioned livestock facility.

1  
2 Mr. Hall stated that since the creation of the Bateman RRO he does not believe that one more lot  
3 would change any of the standards but it is one more dwelling which could file complaints about the  
4 livestock facility.

5  
6 Mr. Thorsland stated that he shares Mr. Hall's concern that this situation is not the only one in the  
7 area. He said that if 50% of the current property owners applied for a variance to divide their five  
8 acre parcels then it would have an effect on a lot of things such as traffic and the livestock facility.  
9 He said that at this point it appears that a condition for a separate driveway is not necessary because  
10 if the lot is approved the driveway would be implied.

11  
12 Mr. Thorsland asked the Board if they desired to have staff treat the creation of this one lot as if it  
13 were an RRO to find out what impacts it would have to adjacent agriculture.

14  
15 Mr. Passalacqua stated that he would like to know if the creation of the lot will change the buffer  
16 zone for the livestock facility.

17  
18 Mr. Thorsland stated that the tentative answer is no, but if a firm answer is required then staff can  
19 review this issue and report back to the Board at the next meeting.

20  
21 Ms. Capel requested a more specific site plan indicating the location of the home with dimensions,  
22 the location of the proposed septic system, setback information, etc.

23  
24 Mr. Hall stated that the site plan should indicate the location of the septic system and well, which is  
25 to be shared. He said that it appears that the case will be continued to a later date therefore the  
26 petitioner should be requested to provide information regarding septic system feasibility. He said  
27 that the petitioner can contact the County Health Department so that they can conduct their own  
28 percolation tests or they could contact a soil investigator to complete a soil investigation or they  
29 could contact a septic system installer and let that person do whatever they would do prior to  
30 installing a system. He said that when the Board meets again they will have the livestock  
31 information and the septic system information and those would be the principal concerns if this were  
32 an RRO. He said that staff could investigate where other lots are located within a one-mile radius  
33 which could be further divided and report back to the Board. He said that during that investigation  
34 staff could also determine if those lots are located in the Pipeline Impact Radius area because if they  
35 are it is his assumption that the Board will not be approving any variances in those areas.

36  
37 Mr. Thorsland noted that the submitted site plan does indicate where the existing well and septic are  
38 located.

39  
40 Mr. Passalacqua stated that he believes that this information is required so that the Board can make  
41 an accurate determination.

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Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony regarding this case and there was no one.

Mr. Thorsland closed the witness register for tonight's meeting.

Mr. Thorsland stated that the Board has requested that staff investigate the location of other potential lots that might be in the Pipeline Impact Radius area, existing livestock facilities in the area. He requested that staff remind the petitioner that a complete site plan is required.

Mr. Hall stated that the septic system information should be submitted by the petitioner for review by staff and the Board.

Mr. Thorsland stated that it appears that this case will be continued to a later date and the next available date on the ZBA Docket is October 13<sup>th</sup> which is past the 100 day limit for a continuance.

**Ms. Capel moved, seconded by Mr. Schroeder to suspend the 100 day rule for a continuance date for Case 692-V-11. The motion carried by voice vote.**

**Ms. Capel moved, seconded by Mr. Courson to continue Case 692-V-11, Rollae Keller to the October 13, 2011, meeting. The motion carried by voice vote.**

Mr. Thorsland requested a motion for the Board to go into closed session.

**Mr. Miller moved that the Board enter into closed session pursuant to 5 ILCS 120/2 (c) (11) to consider pending litigation against Champaign County. Mr. Miller further moved that the following individuals remain present: County's legal counsel, John Hall, Planning and Zoning Administrator, Connie Berry, Planning and Zoning Technician and Lori Busboom, Planning and Zoning Technician. The motion was seconded by Ms. Capel and carried by voice vote.**

**The Board entered into closed session at 7:35 p.m. and resumed open session at 7:57 p.m.**

**The roll was called and a quorum declared present.**

**Case 695-I-11 Petitioner: Zoning Administrator Request: Determine if the requirement of paragraph 7.1.2 E. limiting vehicles that may be used in a Rural Home Occupation is as follows: (1) Considers a vehicle to be any motorized or non-motorized device used to carry, transport, or move people, property or material either on road or primarily off road; or a piece of mechanized equipment on which a driver sits; and (2) Limits the number of non-farm vehicles to no more than 10 vehicles in total, including vehicles under 8,000 pounds gross vehicle weight, including trailers and off-road vehicles but excluding patron or employee**

1 **personal vehicles; and (3) Limits the number of vehicles weighing more than 8,000 pounds**  
2 **gross vehicle weight to no more than three self-propelled vehicles. Location: Lot 1 of Orange**  
3 **Blossom Estates in Section 18 of Hensley Township and commonly known as the house and**  
4 **shed at 700 County Road 2175N, Champaign.**  
5

6 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the  
7 witness register. He reminded the audience that when they sign the witness register they are  
8 signing an oath.  
9

10 Mr. Hall stated that the Board does not hear interpretation cases often and in this case he offered to  
11 bring this case to the Zoning Board because he agrees with Mr. Kelly Dillard, the owner of the  
12 property in question, that 7.1.2 E. of the Ordinance is very poorly written. Mr. Hall said that  
13 Paragraph 7.1.2 E. is attached to the Preliminary Memorandum dated July 22, 2011. He said that he  
14 implements Paragraph 7.1.2 E. the way that the request was read and it would be fair to say that  
15 when Paragraph 7.1.2 E. is read it isn't clear what is meant. He said that Attachment B. of the  
16 Preliminary Memorandum reviews the background of why this case is before the ZBA. He said that  
17 understanding why the interpretation is before the Board is partly related to the background of the  
18 case. He said that Mr. Dillard has a Rural Home Occupation and Rural Home Occupations are one  
19 of the most difficult uses. He said that staff asks the applicant many questions which eventually  
20 appears to be prying into their business although staff does not pry any more than they are allowed.  
21 He said that staff has the right to pose the questions to the applicant to assure conformance with the  
22 Ordinance. He said that Attachment C-H are various documents related to the background included  
23 in Attachment B.  
24

25 Mr. Hall stated that color photographs were distributed to the Board for review which indicates the  
26 things that he is calling vehicles, although Mr. Dillard disagrees. He said that black and white  
27 photographs were marked up to indicate the number of vehicles on the subject property. He said that  
28 the photographs indicate that there are more vehicles on the property than what is allowed under a  
29 Rural Home Occupation and three times staff has requested that the applicant indicate the number of  
30 vehicles on the property. Mr. Hall stated that finally the applicant submitted the number of vehicles  
31 and staff disagreed therefore triggering this interpretation case.  
32

33 Mr. Hall stated that the current Rural Home Occupation requirements were added in Case 794-AT-  
34 92 and adopted in 1993. He said that he was not the Zoning Administrator in 1992 and was not the  
35 current planner but he was on staff with little involvement in that case. He said that the amendment  
36 was adopted in 1993 and Frank DiNovo was the Zoning Administrator at the time and continued to  
37 be until 2002. Mr. Hall stated that he, Jamie Hitt, Zoning Officer, and Lori Busboom, Zoning  
38 Technician have been in the department since 1993 and the rules have not been changed since they  
39 were adopted. He said that this is the first time that there has been a disagreement like this due to the  
40 number of vehicles on a property. He said again, that he agrees that Paragraph 7.1.2 E. is poorly  
41 written but he believes that Paragraph 7.1.2 E. is so poorly written that the way that staff has always

1 administered it is legal. He said that Paragraph 7.1.2 E. starts off by suggesting that the paragraph  
2 relates to all non-farm, second division vehicles as defined by the Illinois Vehicle Code. He said that  
3 Kelly Dillard wrote a letter to Pius Weibel, Champaign County Board Chair that included an excerpt  
4 from the Illinois Vehicle Code which reads as follows: Those motor vehicles which are designed for  
5 carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor  
6 vehicles which are designed for pulling or carrying freight, cargo or implements of husbandry, and  
7 those motor vehicles of the First Division remodeled for use and used as motor vehicles of the  
8 Second Division.

9  
10 Mr. Hall stated that a pick-up painted with a company name becomes a Second Division vehicle. He  
11 said that Paragraph 7.1.2 E. includes three subparagraphs and subparagraph iii. begins with all  
12 Second Division vehicles which is confusing because it was thought that all three of the  
13 subparagraphs relates to Second Division vehicles therefore why do they point out in the third  
14 subparagraph that all Second Division vehicles shall be stored indoors. He said that there are a lot of  
15 inconsistencies in Paragraph 7.1.2 E. He said that subparagraph ii indicates that no more than 10  
16 vehicles in total, including vehicles under 8,000 pounds gross vehicle weight, trailers and off-road  
17 vehicles shall be permitted excluding patron or employee personal vehicles. He said that again  
18 subparagraph ii indicates no more than 10 vehicles in total and it discusses vehicles which weigh less  
19 than 8,000 pounds and it makes it clear that trailers and off-road vehicles are included but not  
20 exempted and they fall into the limit of 10 vehicles. He said that if subparagraph ii only discussed  
21 Second Division vehicles then why exclude personal vehicles because personal vehicles are by  
22 definition not Second Division vehicles. He said that subparagraph i indicates that no more than  
23 three self propelled vehicles over 8,000 pounds gross vehicle weight shall be permitted. He said that  
24 it is his interpretation that a self-propelled vehicle could be a semi-tractor, pick-up truck with the  
25 business name painted on the side, caterpillar, bulldozer, road grader, and a trailer for hauling  
26 equipment for the business. He said that the term vehicles is not capitalized in Paragraph 7.1.2 E  
27 because it is not being used as the defined term in the Ordinance. He said that the Ordinance has the  
28 definition of motor vehicle which is a very restrictive definition. He said that Paragraph 7.1.2.E does  
29 not use the term motor vehicle and it is not capitalized.

30  
31 Mr. Hall stated that he previously informed the Board that since 1993 three people have worked in  
32 the office under Frank DiNovo and this is how Mr. DiNovo operated. Mr. Hall said that he  
33 distributed the information from Case 794-AT-92 and in the Preliminary Memorandum he referred to  
34 four places in that attachment. He said that page 6, Line 17 of the minutes from the December 14,  
35 1992, meeting indicates the following statement from Frank DiNovo: What is now being proposed  
36 is to limit the number of self-propelled vehicles over 8,000 lbs to 3; to limit the total number of  
37 vehicles, including trailers, off-road vehicles and pick-up trucks, to 10. Mr. Hall stated that he  
38 believes that off-road vehicles is not a good phrase but he does know that staff was not concerned  
39 about dune-buggies. He said that the off-road vehicles that were being considered in 1992 were  
40 referring to equipment which was being driven off-road such as bull-dozers, road graders,  
41 excavators, etc.

1  
2 Mr. Hall stated that page 7, Line 9 of the December 14, 1992, meeting indicates that Mr. DiNovo  
3 stated that if the person is operating from the home premises, they can have 3 tractors and 7 trailers,  
4 which is consistent with having one family member as a driver and 2 employees. Mr. Hall stated that  
5 within the same paragraph there is discussion if a Special Use Mechanism was necessary and that  
6 violation of this provision would not be likely be a problem unless it became a regular occurrence  
7 and the office would probably only become aware of the violation if it was reported as a complaint.  
8 Mr. Hall stated that at the bottom of page 7, Line 40 begins a discussion between Ms. Weckel and  
9 Mr. DiNovo regarding Section E regarding the number of vehicles allowed. Mr. Hall stated that Mr.  
10 DiNovo explains that in Section E, it is proposed that there can be 3 trucks over 8,000 and up to 7  
11 more under 8,000 pounds. Mr. Hall stated that the same paragraph indicates that there was  
12 discussion of deleting 7.1.2 I (iv) which created what is before the Board tonight.

13  
14 Mr. Hall stated that what he has shown the Board with the previous hearing minutes is a discussion  
15 that is consistent with the way that he administers this portion of the Ordinance and it has been  
16 administered this way since 1993. He said that Second Division as defined in the Illinois Vehicle  
17 Code would not relate to equipment such as bulldozers and road graders that are not Second Division  
18 Vehicles but they are motorized things that people ride on that are used in Mr. Dillard's Rural Home  
19 Occupation therefore it is Mr. Hall's belief that it is reasonable to consider those things in the  
20 number of vehicles allowed on the property.

21  
22 Mr. Hall stated that if the Board is interested in viewing the types of vehicles that are in question  
23 then he would suggest that the Board review the staff photographs.

24  
25 Mr. Hall noted that Jamie Hitt, Zoning Officer sends her apologies for not being in attendance  
26 tonight but she had a vacation scheduled prior to the scheduling of the docket for this case. He said  
27 that Lori Busboom, Zoning Technician, who has been with the department since 1993, is present  
28 tonight to answer any questions. He said that the Board is aware that the Zoning Technicians are  
29 aware of the rules as well as anyone else in the department.

30  
31 Mr. Thorsland stated that it is his understanding that the Board received a letter from Mr. Dillard  
32 which was similar to Mr. Weibel's letter.

33  
34 The Board agreed that they did indeed receive Mr. Dillard's letter.

35  
36 Mr. Thorsland called Mr. Kelly Dillard to testify.

37  
38 Mr. Dillard, who resides at 700 CR 2175N, Champaign, Illinois, stated that he is not sure how to  
39 address the Board regarding this case because Mr. Hall has made the issue at hand about him rather  
40 than how staff interprets the Ordinance. Mr. Dillard said that if the case is going to be about me then  
41 we need to talk about the other 21 omissions and errors that the zoning staff has made in regards to

1 this issue. He said that there have been mistakes and misstatements by staff and he can either go into  
2 that or just keep it to the Ordinance.

3  
4 Mr. Thorsland asked Mr. Dillard if when he talks about misstatements if he is discussing the  
5 particular paragraph that is in discussion.

6  
7 Mr. Dillard stated that some of the misstatements are in regards to the paragraph.

8  
9 Mr. Thorsland asked Mr. Dillard if he has his comments in written form which could be entered as  
10 Documents of Record.

11  
12 Mr. Dillard stated yes.

13  
14 Mr. Thorsland asked Mr. Dillard to summarize the ones that pertain to Paragraph 7.1.2.

15  
16 Mr. Dillard stated that the Rural Home Occupation handout that he received from staff indicates the  
17 following under Item D: Non-farm commercial vehicles (Second Division vehicles are defined by the  
18 Illinois Vehicle Code), used in any rural home occupation are limited to. He said the Ordinance that  
19 this speaks to says nothing about commercial vehicles therefore staff has changed the statement to  
20 include commercial vehicles. He said that there are at least four other places in the paperwork that  
21 he was given refers to commercial vehicles although, again, the Ordinance does not. He said that the  
22 Ordinance is very clear for anyone who wants to read it unless it doesn't say what they want it to say.

23  
24 Mr. Dillard stated that the letter that he sent to the Board members indicated his concerns regarding  
25 Paragraph 7.1.2 E.

26  
27 Mr. Hall noted that the Board received a copy of the Rural Home Occupation handout as well as a  
28 copy of the regulations so that the Board can compare the information within the two documents.

29  
30 Mr. Dillard stated that Mr. Hall refers to the Ordinance in Paragraphs and Subparagraph although the  
31 Ordinance is not in paragraphs but is all in one sentence. He said that he knows how to read the  
32 English language and the sentence, Non-farm, Second Division vehicles as defined by the Illinois  
33 Vehicle Code, used in any Rural Home Occupations shall be limited as follows, has a colon after it.  
34 He said that a colon, as defined in the dictionary, as a rule informs the reader that what follows the  
35 colon proves, explains or simply provides elements of what comes before the colon. He said that  
36 everything after the colon in 7.1.2 E refers to Second Division vehicles. He said that a Second  
37 Division vehicle is a motor vehicle that operates on a highway therefore the only thing that can be a  
38 Second Division vehicle has to have a motor and cannot be a trailer.

39  
40 Mr. Dillard stated that Mr. Hall stated that the Ordinance exempts personal vehicles and that they  
41 cannot be Second Division vehicles although it is very clear in the Ordinance that any pick-up truck

1 can be a Second Division vehicle because it hauls cargo. He said that a pick-up is not taxed in the  
2 State of Illinois as a Second Division vehicle but it is considered a Second Division vehicle. He said  
3 that each portion of 7.1.2 of the Ordinance can be read with Second Division in each of its sentences.  
4 He said that since the issue is about Second Division vehicles, and Second Division vehicles are  
5 motor vehicles, the Ordinance indicates that a motor vehicle is a vehicle that operates on a highway,  
6 a licensed vehicle. He said that a licensed vehicle is not a bulldozer or a road-grader because there is  
7 nothing in the Ordinance which refers to heavy equipment because they wanted to exempt farm type  
8 equipment. Mr. Dillard stated that all of his equipment is equipment that some farmers use on their  
9 farm. He said that if the Board intends to say that a backhoe or excavator are not farm equipment  
10 then the farmers of Champaign County will have to told that they cannot have that equipment either.  
11 He said that the Ordinance is very clear and he is operating within the Ordinance as he understands  
12 it. He said that he has three Second Division vehicles which are over 8,000 pounds, two parked in  
13 his shed and one parked outside in a parking area that is 50 feet from any property line. He said that  
14 he has spent several thousands of dollars installing a tree berm around the parking area so that all of  
15 the vehicles will eventually be hidden from view. He said that the Ordinance required screening  
16 therefore he planted 20 arborvitae trees around the parking area in a position that was approved by  
17 Mr. Hall. Mr. Dillard stated that the screening would take care of any outdoor storage issues and  
18 vehicle parking issues therefore he was very surprised when staff contacted him for an inspection and  
19 indicated that they were concerned about the number of vehicles that were stored inside the shop and  
20 outside. He said that he has nine vehicles outside and only one is a Second Division vehicle.

21  
22 Mr. Dillard stated that from the time that he constructed the building on his property until now every  
23 time he receives a letter from staff it has some new unexpected requirements. He said that originally  
24 he received letters regarding garbage and debris outside of the building but there was no garbage  
25 only building materials, rock piles, normal items that would be seen that a contractor might have. He  
26 said that they worked diligently to clean up what they called garbage and debris and currently there is  
27 nothing stored outside other than a few Bobcat buckets, some equipment and one Second Division  
28 vehicle. He said that they have moved all of the building materials, bricks and blocks, inside the  
29 building. He said that it was his understanding, until the time of the inspection, that the zoning  
30 department did not care what was inside the building but once the inspection was completed he was  
31 informed that the lift, forklift, Bobcat, etc. were vehicles although there is nothing in the Ordinance  
32 which discusses this type of equipment.

33  
34 Mr. Dillard stated that he is asking the Board to interpret 7.1.2 as it was written. He said that 7.1.2  
35 does not consist of four paragraphs but is only one sentence with a period at the end. He said that  
36 7.1.2 discusses Second Division vehicles only.

37  
38 Mr. Dillard stated that Mr. Hall included the minutes from a previous hearing in the mailing packet.  
39 He said that the minutes only indicate a discussion about this Ordinance. Mr. Dillard stated that a  
40 trailer, in any sense of the word, is not a motor vehicle under the *Champaign County Zoning*  
41 *Ordinance* or the Illinois Vehicle Code therefore a trailer cannot be a Second Division vehicle.

1  
2 Mr. Dillard stated that during discussions with staff it was indicated that his property is located in a  
3 residential area although his property is located in the AG-1 Zoning District therefore the area is not  
4 residential but rural. He said that the area was rural when he built his home in 1972. He said that it  
5 is true that other homes were built around his property but those houses were being built at the same  
6 time that he built his shed. He said that the area is rural in that there are corn and soybean fields  
7 surrounding the properties. He said that his property is not trashy and it is true that he has heavy  
8 equipment due to his excavation business and he indicated such in his Rural Home Occupation  
9 application.

10  
11 Mr. Dillard stated that when he applied for a Zoning Use Permit to build his shed he was told that the  
12 *American's with Disabilities Act (ADA)* applied although it does not. He said that he has a storage  
13 building and a repair shop that he works in with no retail. He said that no public customers visit the  
14 site. He said that he spent several thousands of dollars to make his building *ADA* accessible that he  
15 should not have had to spend but he did so because he was told by the zoning department that he was  
16 required to do so. He said that staff informed him that the building had to be set back 100 feet from  
17 the road which is also incorrect because the building only needs to be set back 15 feet from the road.  
18 He said that staff assumed that the east side of his building was his front yard and it is not. He said  
19 that the Ordinance indicates that when you live on a corner you can only have one front lot line and  
20 his front lot line is located on CR 2175N. He said that he brought this matter to Mr. Hall's attention  
21 and Mr. Hall informed him that he needed to decide which lot line was his front lot line and he  
22 indicated such. He said that after this matter was completed he received a letter indicating that he  
23 should not park vehicles at the east side of his building because it appeared that the east side was a  
24 front yard even though it was a side yard. He said that the letter specifically indicated that even  
25 though the east side was a side yard it was still considered a front yard.

26  
27 Mr. Dillard stated that three years and six months after the building was complete and it was  
28 assumed that everything was fine he was notified by staff that he was supposed to have the building  
29 substantially completed within 365 days. He said that each time he receives a letter from the zoning  
30 department the letter is mean spirited indicating that if he does not do what staff indicates in the  
31 letter they will send the matter to the State's Attorney for an injunction. He said that the entire time  
32 he has done nothing but accommodated staff's requests.

33  
34 Mr. Dillard stated that on September 24, 2010, he received a letter that there was garbage piled up  
35 around his property but there was no garbage anywhere on his property. He said that the garbage that  
36 was indicated in the letter was on the property to the north of his property and had nothing to do with  
37 him. He said that they cleaned up the property and it looked good. He said that the brick piles that  
38 were included in a complaint were used to trim around his building which was their intended use.  
39 He said that upon staff's request he built a berm and a parking lot although it was covered with the  
40 wrong type of material. He said that he then planted the screening to hide the re-ground asphalt  
41 because it was not considered an appropriate look for the neighborhood. He said that the area is a

1 rural area and he uses re-ground asphalt on a weekly basis upon driveways around the County.

2  
3 Mr. Dillard stated that the Ordinance indicates that his building had to be substantially completed  
4 within 365 days and it was substantially completed long before 365 days. He said that staff's  
5 interpretation of substantial was completely done with everything as they wanted it to be but that is  
6 not what substantial means. He said that four years after he built the building this was not an issue at  
7 all but now there is a threat that he cannot operate out of the building because he doesn't have his  
8 compliance certificate and the reason why he doesn't have his compliance certificate is because he  
9 believes staff is misinterpreting 7.1.2.

10  
11 Mr. Dillard stated that he again received a letter from staff indicating that there was garbage and  
12 debris on his property although there was not.

13  
14 Mr. Dillard stated that the Rural Home Occupation application requests a list of commercial  
15 vehicles. He asked why a list of commercial vehicles is necessary because there is no mention in the  
16 Ordinance about commercial vehicles and what should be listed are Second Division vehicles.

17  
18 Mr. Dillard stated that on May 5, 2011, he was notified that he was required to screen licensed  
19 vehicles that were located on the east side of his building. He said that there is no reason why he has  
20 to screen these vehicles because the licensed vehicles are not considered outside storage although he  
21 did move everything, other than one or two trailers, to the west side of the building. He said that up  
22 to this meeting he has done everything that staff has asked and has done his best to get through this  
23 matter but he now has a fear that since he is opposing Mr. Hall's determination that he will receive  
24 even more harassment.

25  
26 Mr. Dillard stated that on June 7, 2011, he received a letter indicating that the only violation that was  
27 unresolved was the number of vehicles on the lot. He said that the letter indicated that there were as  
28 many as 22 vehicles on his lot which is untrue. He said that he does not own 22 vehicles or 22 of  
29 anything. He said that the letter also indicated that a 20,000 pound trailer was considered a Second  
30 Division vehicle but he disagrees because obviously if it is not self-propelled it is not a Second  
31 Division vehicle. He said that in the same letter staff misquoted 7.1.2 E(2) by leaving out the text  
32 indicating that trailers and off-road vehicles shall be permitted.

33  
34 Mr. Dillard stated that the last letter that he received from staff was dated July 24, 2011, which  
35 indicated that there were 17 vehicles located on his property which was again untrue. He said that  
36 there are two vehicles on the property next door which is not his property and is not his concern. He  
37 said that his neighbor was using two pieces of his equipment, which are not vehicles, and if staff  
38 desires to count all of his equipment then they will have to go to Vermilion and Piatt counties to do  
39 so. He said that Mr. Hall has indicated that he has been on staff for twenty years therefore he should  
40 know the Ordinance inside and out and part of his job is to read and understand the English  
41 language. He said that the Ordinance is written very clearly and all you have to do is put the

1 punctuation in the right location. He said that it is very clear that 7.1.2 is only about Second Division  
2 vehicles which is defined in the letter that he sent the Board for review.

3  
4 Mr. Dillard stated that after several thousands of dollars, which he should not have had to spend to  
5 begin with, and many sleepless nights worrying about whether or not Mr. Hall is going to shut down  
6 his business or send this matter to the State's Attorney, he is requesting that the Board apply the law  
7 as the Ordinance is written in regards to Second Division vehicles.

8  
9 Mr. Thorsland asked the Board if there were any questions for Mr. Dillard and there were none.

10  
11 Mr. Thorsland asked if staff had any questions for Mr. Dillard.

12  
13 Mr. Hall stated that he has many questions although he is not sure where he would begin therefore he  
14 will hold them for now.

15  
16 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony  
17 regarding this case.

18  
19 Mr. Thorsland called Ms. Melody Pinks to testify.

20  
21 Ms. Melody Pinks, who resides at 696 CR 2175N, Champaign, Illinois, stated that her property  
22 borders the Dillard property on the west side. She said that she grew up on a farm and she never saw  
23 farm equipment like Mr. Dillard's equipment. She said that her farm had cultivators, disks, manure  
24 spreaders and tractors but not bulldozers, backhoes and road graders. She said that the heavy  
25 equipment creates damage to the Hensley Township roads and there was a lot of unsightly stuff next  
26 to her lot line for several years and it was horrible to look at it every morning. She said that there  
27 was an unlicensed vehicle that said "Dig It" on the side of it which sat there for three years. She said  
28 that she was not the original person who complained to the Board and did not even know that she  
29 had that opportunity until she was informed by someone else. She said that after she filed her  
30 complaint the unlicensed vehicle was moved which is a blessing and the property does look 100%  
31 better than when the business originally started there. She said that as to the neighbor next to Mr.  
32 Dillard's property there was a lot of construction material on both properties because it appeared that  
33 they were sharing their lot lines for storage. She said that there were tires, construction materials,  
34 broken concrete and things of that nature between the two properties and it was very depressing to  
35 look at every morning. She said that many times she would sit and cry over the situation. She said  
36 that she contacted Mrs. Dillard and she indicated that she understood her complaint and at one time  
37 she had discussed the situation with her husband but he got very upset therefore she does not  
38 mention it anymore. Ms. Pinks stated that due to the unfortunate situation they are no longer on  
39 speaking terms with the Dillards. She said that all they would like the Dillards to do is to abide by  
40 the Ordinance regulations. She said that she did not realize that the Dillard property was going to be  
41 built up but numerous semi-loads of dirt were brought on to the property and now their home is in

1 the valley in comparison to the Dillard property. She said that the building which is located on the  
2 Dillard property is much higher than the property lines. She said that when Mr. Dillard built the  
3 asphalt lot to the west of the building she did not realize that it was because he was required to move  
4 the equipment to the back. She said that where Mr. Dillard planted the eight foot arborvitae trees the  
5 tips of those trees barely gets to the tires. She said that Mr. Dillard informed Mr. Hall that the  
6 arborvitae trees are fast growing and they should be screening everything within a few years but a tag  
7 off of her arborvitae trees indicates that the growth rate is slow. She said that she has been very  
8 disappointed and has tried to speak with the Dillards about the situation and the matter only seems to  
9 gets worse. She requested the Board's assistance with this matter.

10  
11 Mr. Thorsland asked the Board if there were any questions for Ms. Pinks.

12  
13 Mr. Courson asked Ms. Pinks if the site is cleaned up.

14  
15 Ms. Pinks stated yes and it looks much better.

16  
17 Mr. Courson asked Ms. Pink to indicate what else she would like to see done on the site.

18  
19 Ms. Pinks stated that she does not like seeing the 17 pieces of equipment sitting on the property.  
20 She said that once Mr. Dillard received the letter he moved some of the pieces of equipment to a  
21 different location.

22  
23 Mr. Courson asked Ms. Pinks if her main concern right now is the equipment on the property.

24  
25 Ms. Pinks stated yes.

26  
27 Mr. Thorsland asked the Board if there were any additional questions for Ms. Pinks and there were  
28 none.

29  
30 Mr. Thorsland asked if staff had any questions for Ms. Pinks and there were none.

31  
32 Mr. Thorsland closed the witness register for tonight's meeting.

33  
34 Mr. Hall stated that he can appreciate the fact that the Board may have many questions based on Mr.  
35 Dillard's testimony. He said that he does have the case file with him tonight and the Board is  
36 welcome to review any notice that staff has sent Mr. Dillard. He requested questions from the Board  
37 because there were many statements made by Mr. Dillard that could be flushed out.

38  
39 Mr. Passalacqua stated that some of the vehicles are being described as farm vehicles but the  
40 definition of Second Division vehicles includes implements of husbandry. He said that he would  
41 categorize implements of husbandry as a backhoe and road-grader.

1  
2 Mr. Hall stated that over the past few weeks he spent a lot of time reviewing the Motor Vehicle Code  
3 and he can say that he is not expert on that code. He said that whatever the outcome of this case may  
4 be he would like to see the County strike "Second Division" vehicles and talk about "vehicles that  
5 are used in a business" because that is what is being discussed tonight. He said that there is no need  
6 to use Second Division vehicles and then make everyone decide what it means. He said that he  
7 assumes that the way that he has been enforcing this is the way that the County wants it enforced.  
8 He said that regardless of the Board's decision regarding this case the issue is what are the rules that  
9 the County wants to enforce. He said that the rules must be as clear as possible because currently  
10 they are not clear.

11  
12 Mr. Passalacqua stated that if the Board gets to the bare simplicity the RHO indicates that no more  
13 than 10 vehicles in total are allowed.

14  
15 Mr. Courson stated that 7.1.2E.ii needs to be defined more clearly because a bicycle could be  
16 considered a vehicle. He said that the definition needs to be more specific. He asked Mr. Hall if he  
17 contacted IDOT requesting the definition of a vehicle.

18  
19 Mr. Hall stated that he printed off pages and pages of definitions therefore he knows what the  
20 definitions are. He said that Mr. Dillard provided the Board the two most important definitions in  
21 his letter. He said that a Second Division vehicle can be a First Division vehicle used in the course  
22 of business but it is very clear that the author of this amendment intended it to apply to trailers. He  
23 said that the minutes from the previous hearing regarding this issue are the minutes which went to  
24 the County Board when they voted on this amendment and there is no question that the County  
25 Board wanted trailers to be part of this.

26  
27 Mr. Thorsland asked Mr. Hall if there is a definition of a vehicle in the Ordinance.

28  
29 Mr. Hall stated that the Ordinance has a definition for motor vehicle and, as the Board is aware,  
30 when defined terms are used in the Ordinance they are capitalized.

31  
32 Mr. Thorsland stated that early on Mr. Hall stated that the description of the case was more in line of  
33 what he thought 7.1.2 E should say and that he took out Second Division vehicles.

34  
35 Mr. Hall stated yes.

36  
37 Mr. Thorsland stated that case description is how Mr. Hall is interpreting it.

38  
39 Mr. Hall stated that his error is that he worked under Frank DiNovo from 1990 to 2002 and he  
40 witnessed how Mr. DiNovo interpreted what he wrote. He said that if he was a new Zoning  
41 Administrator coming in and read 7.1.2 E, he would still have questions and he might have reacted

1 differently. He said that even a new Zoning Administrator could read the minutes of the case that  
2 went to the County Board prior to adoption of the amendment and understand that they were  
3 referring to all kinds of vehicles and not just literally Second Division vehicles. He said that he  
4 would argue that he has been speaking the English language for at least 55 years and he knows what  
5 a colon means and that most things are not that simple. He said that he believes it is fair to interpret  
6 this amendment as 10 vehicles in total that are used in the course of business.

7  
8 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall.

9  
10 Mr. Hall stated that if the Board supports his decision then there needs to be a variance or special use  
11 permit required for Mr. Dillard or a change in the total number of vehicles. He said that the total  
12 number of vehicles does not matter if they are stored in the shed or not and it doesn't matter if they  
13 are screened or not but what does matter is how many vehicles are on the property that are used in  
14 the business.

15  
16 Ms. Capel asked Mr. Hall to indicate what options are available for Mr. Dillard.

17  
18 Mr. Hall stated that Mr. Dillard could apply for a contractor's facility which is a special use in the  
19 AG-1 District.

20  
21 Mr. Hall stated that what is really at issue, regardless of all of the other testimony that the Board has  
22 heard tonight, is has this issue regarding the number of vehicles been enforced properly. He said that  
23 this interpretation is not about the *ADA* requirements or screening but again is about the number of  
24 vehicles and has it been enforced properly.

25  
26 Mr. Miller asked Mr. Hall if this was a farmstead and the equipment was tillage tools, tractors and  
27 combines then the equipment would be exempt from zoning.

28  
29 Mr. Hall stated yes.

30  
31 Mr. Courson stated that he visited the site and noticed that one house had a trailer in the driveway  
32 and some houses had debris and trash around the houses. He said that one house had an outbuilding,  
33 boat and camper and down the road there is a trucking company which had several trucks and trailers  
34 parked outdoors. He said that one of the homes in the neighborhood had a motor-grader sitting in the  
35 yard as well as a boat and another trailer. He said that almost everyone in the neighborhood has  
36 either boats or trailers parked outside. He said that he does not believe that a backhoe or road-grader  
37 is a Second Division vehicle because he cannot see that equipment being any different than someone  
38 having 10 lawnmowers in their shed for a mowing business. He said that he considers the difference  
39 for a Second Division vehicle is that it is something that can be driven on the highway. He said that  
40 many of the definitions regarding Second Division vehicles has to do with buses or semi-trailers but  
41 not a backhoe or road-grader.

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Mr. Hall asked Mr. Courson to describe off-road vehicles.

Mr. Courson stated that he is at a loss as to what an off-road vehicle would be unless it was a quad-runner and he would not consider it to be a Second Division vehicle either. He said that he would like clarification of the definition for an off-road vehicle but he cannot see where a bulldozer would be considered as such.

Mr. Hall asked Mr. Courson if he thinks that the Ordinance does not limit how many bulldozers someone could have at their home occupation.

Mr. Hall noted that enforcement action has been taken against the trucking company and they are well aware of where they are supposed to be parking on the property. He said that the Second Division vehicles are required to be parked 50 feet from the lot line.

Mr. Courson stated that the trucks and trailers appeared to be further than 50 feet from the lot line.

Mr. Thorsland stated that he drives by the subject property everyday and he will say that the property has been greatly improved. He said that the number of vehicles seems to fluctuate and he did realize that when new homes were built to the east there would probably be conflict and unfortunately he was correct. He said that the Board has worked very diligently on other cases, such as the producing of smoked meat in the CR District, and the Board managed to find a way to satisfy everyone involved whether or not that was the course that the petitioner wanted to take to get their approval. He said that the details of the Illinois Vehicle Code may be something that this Board will work on in the future in implementing that code into the Ordinance more clearly.

Mr. Courson stated that the definition of off-road vehicles must be clarified.

Mr. Passalacqua stated that a pick-up cannot be considered in the same class as a backhoe.

Mr. Courson stated that he believes that the State of Illinois only finds a trailer as a vehicle when it is hooked up to a truck but not when it is sitting alone.

Ms. Capel stated that it appears that the other issue at hand is whether this business qualifies as a home occupation or a contractor's facility. She said that the intent of the Ordinance is clear but the semantics however confuses the issue. She said that to be consistent with the RHO 15 graders and bulldozers on a property is more than just a RHO and is a contractor's facility.

Mr. Thorsland stated that there is a question if the business has moved from a home occupation into a contractor's facility and that question may exist due to the confusion of the definitions. He said that the Board needs to decide whether staff's interpretation of 7.1.2 E to mean 10 vehicles total and

1 not so much the list of 17 existing vehicles on the property is truly 17 or is it 10. He said that he  
2 only counts 10 vehicles because he would argue that where he lives there are a lot of people who  
3 have a lot of equipment and trailers on their property and they have not applied for a home  
4 occupation. He asked the Board if they desired to make a final determination tonight or continue the  
5 case to a future date.

6  
7 Mr. Schroeder stated that with all of the information that has been received tonight he believes that  
8 Mr. Hall is trying to keep these types of uses under control. He said that he has seen some messes in  
9 the County that the County cannot control but for those that the County can control we must make  
10 sure that we are controlling them in the right way.

11  
12 Mr. Hall stated that if the Board upholds his decision then Mr. Dillard can apply for a variance and  
13 pursue the argument that everything is properly screened and what other issues may come up. He  
14 said that it is not like that there can absolutely be no more than 10 vehicles but if there are to be more  
15 than 10 vehicles then the owner needs to be authorized by a variance or special use permit. He said  
16 that people go through this process every two weeks of the year before this Board. He said that this  
17 is not the end of Dig It Excavation but there is one more step to go through. He said that he  
18 informed Mr. Dillard that it appears that his screening will work and he planted a different type of  
19 arborvitae than what one would normally find and if the nursery information is accurate there should  
20 be a beautiful screen there in the future. He said that if the Board does not believe that Mr. Dillard  
21 needs a variance then that is a different thing and if the Board believes that the business is fine the  
22 way it is then the issue is settled.

23  
24 Mr. Schroeder stated that he is confused about what Mr. Dillard has done and what he should have  
25 already done or what could be done. He said that he would like information as to what Mr. Dillard  
26 must do to be in compliance with the Ordinance.

27  
28 Mr. Miller stated that it is obvious that the Board is not ready to make a final determination  
29 regarding this case at tonight's meeting.

30  
31 Mr. Passalacqua stated that the Board needs more information as to what trucks and backhoes count  
32 as under the vehicle code.

33  
34 Mr. Hall stated that he does not know how the Board is going to get any more information. He said  
35 that the Board has what the Ordinance indicates and what the County Board reviewed when they  
36 voted on the amendment. He said that it has been established that this thing is very confusing but he  
37 can appreciate that the Board needs more time.

38  
39 Mr. Thorsland stated that staff has submitted all of the information that is available for the Board to  
40 review for this case. He said that he does not believe that staff can give the Board anything further  
41 because they have provided the Board with everything that they can and in addition Mr. Dillard and

1 Ms. Pinks have given their testimony. He said that Mr. Courson has visited the area and he drives by  
2 the property everyday therefore two Board members are aware of the property. He said that he does  
3 not believe that no course of events will be changed if the Board does not make a final determination  
4 at tonight's meeting.

5  
6 Mr. Schroeder asked Mr. Hal if he could give the Board any more direction for their determination.  
7

8 Mr. Hall stated that the Board has everything in front of them to make a determination. He said that  
9 the Board has a copy of the Ordinance and the minutes of the adoption of the amendment. He said  
10 that the Board needs to determine how they would enforce this issue and vote the way the Board  
11 feels. He said that the fact that he has been on staff for 20 years is irrelevant and if the Board  
12 believes that he is wrong then the Board owes it to him to tell him that.

13  
14 Mr. Schroeder stated that it appears that the Ordinance is pretty cut and dry.  
15

16 Mr. Hall stated that he disagrees because there is a lot of room in the Ordinance for disagreement.  
17 He said that he may be putting too much emphasis on the minutes but that is why minutes are sent to  
18 the County Board, which is to see the ZBA's discussion.

19  
20 Mr. Schroeder asked Mr. Hall if he feels that the Board has discussed this issue enough to make a  
21 decision or does he believe that the Board is just pussy-footing around.  
22

23 Mr. Hall stated that he sees this Board reacting the way it normally reacts when it has a difficult  
24 decision in front of them. He said that it is reasonable for the Board to make sure that they are  
25 comfortable with their decision but he cannot bring back any further information that would  
26 enlighten the Board any further. He said that the County could hire a consultant to interpret the  
27 Illinois Vehicle Code but he does not believe that is the issue although the Board may. He said that  
28 he would like to stay away from the Illinois Vehicle Code because it is very complicated.  
29

30 Mr. Passalacqua stated that the original application for the RHO, which Mr. Hall approved, it  
31 describes three commercial vehicles and then describes 9 more at the bottom.  
32

33 Mr. Hall stated that when the application was approved it was his opinion that there were 10 vehicles  
34 involved in the business. He said that under Item #8 of the application there were three commercial  
35 vehicles listed and at the time of approval the four trailers were not listed. He said that listed at the  
36 bottom, per a phone call to Kelly Dillard on April 24, 2007, by Jamie Hitt the following equipment is  
37 listed: Bobcat, backhoe, grader, tractor, 2-excavator, small excavator, trencher, etc. He said that  
38 when the application was approved he counted nine vehicles in total and he did not count small  
39 excavating equipment. He said that in error he did overlook the Cat311 which would make the total  
40 10 but it does state that the large excavator would never be stored on the property. He said that at the  
41 time he believed that the home occupation was in conformance with the Ordinance.

1  
2 Mr. Passalacqua stated that Item #11 of the application indicates text which was stricken which  
3 stated that nothing will be stored outside.  
4

5 Mr. Hall stated yes, but subsequently Mr. Dillard did decide to store things outside.  
6

7 Mr. Thorsland stated that if the Board does not desire to make a final determination tonight then a  
8 continuance date must be determined. He said that the docket is very full until October 13<sup>th</sup>, which is  
9 beyond the 100-day limit for a continuance.  
10

11 **Mr. Courson moved, seconded by Mr. Passalacqua to suspend the 100-day limit for a**  
12 **continuance for Case 695-I-11. The motion carried by voice vote.**  
13

14 **Mr. Courson moved, seconded by Mr. Schroeder to continue Case 695-I-11 to the October 13,**  
15 **2011, meeting. The motion carried by voice vote.**  
16

17 Mr. Courson asked Mr. Hall if staff presented the applicant with other options.  
18

19 Mr. Hall stated yes, staff presented the applicant with other options several times.  
20

21 Mr. Passalacqua asked Mr. Hall what would be involved in making the business a contractor's  
22 facility and would it be very prohibitive.  
23

24 Mr. Hall stated that such a decision will be up to the Board because there are no standard conditions  
25 for a contractor's facility.  
26

27 Mr. Thorsland stated that at this time the Board will take a five minute recess.  
28

29 **The Board recessed at 9:07 p.m.**

30 **The Board resumed at 9:16 p.m.**  
31

32 Mr. Thorsland stated that the Board will now hear Continued Case 685-AT-11. Zoning  
33 Administrator.  
34

### 35 **7. Staff Report**

36 Mr. Hall stated that August 25<sup>th</sup> is the first meeting date for the special use hearing for the proposed  
37 wind farm. He said that the legal advertisements were sent in today for publication. He said that  
38 there are four hearings scheduled for the wind farm case therefore he is not sure what the Board's  
39 September is shaping up to be but it is real, here and moving.  
40

41 He thanked Connie Berry and Lori Busboom for the assistance over the past two weeks because for

1 the past two weeks they have worked almost entirely on the wind farm. He said that Connie and Lori  
2 are Zoning Technicians and not planners but they have been doing an admirable job and the legal  
3 advertisements would not have been sent today if it were not for them. He said that when a County  
4 has zoning it is required to submit a legal advertisement which is accurate for what is met and what  
5 is not met therefore all of the work has to be done before sending in the legal and luckily we were  
6 able to meet that high standard.  
7

8 Mr. Thorsland noted that the Board should review the docket and make the necessary adjustments to  
9 their schedule so that a full Board can be in attendance.  
10

11 Mr. Hall stated that as part of the RPC's services to their member agencies, Champaign County  
12 being one of those agencies, has arranged for a Planning and Zoning Institute on Wednesday,  
13 September 14<sup>th</sup>, with a buffet dinner by Minneci's and a presentation starting at 6:00 p.m. He  
14 said that there is no charge for the buffet dinner or the presentation and hopefully the County's  
15 ZBA will be in attendance. He said that the plan commissions for the cities of Urbana and  
16 Champaign and the Villages of Mahomet and St. Joseph are invited. He said that this is an  
17 unusual event because these institutes do not occur often. He said that Michael Blue, FAICP,  
18 Director of Community Development for the City of Highland Park, Illinois and currently the  
19 Planning Officials Development Officer for the Illinois Chapter of the APA will be a speaker at  
20 the 2.5 hour workshop as well as City of Champaign Attorney Joe Hooker.

## 21 **8. Other Business**

### 22 **A. Proposed ZBA Bylaws Amendments**

23 Mr. Hall stated the State's Attorney has reviewed the ZBA Bylaws therefore if there are no further  
24 questions the Board will make a final determination at the August 11<sup>th</sup> meeting. He said that there is  
25 plenty of time for the Bylaws to be adopted prior to the wind farm hearings therefore if the Board  
26 notices something that needs tweaked a little more the Board needs to notify staff immediately  
27 otherwise the Bylaws will be adopted at the next meeting. He said that if the Board finds something  
28 between now and the next meeting the Bylaws could be adopted on August 25<sup>th</sup> and it wouldn't be  
29 the end of the world.  
30

31  
32 Mr. Thorsland stated that Board members should contact staff with any questions or comments  
33 regarding the Bylaws.  
34

### 35 **B. Review of Docket**

## 36 **A.9. Closed Session**

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39 The Board entered into closed session at 7:35 p.m. and resumed open session at 7:57 p.m.  
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**10. Audience Participation with respect to matters other than cases pending before the Board.**

None

**11. Adjournment**

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

The meeting adjourned at 9:47 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

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