

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: August 30, 2012
Time: 7:00 P.M.
Place: Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802

*Note: NO ENTRANCE TO BUILDING
FROM WASHINGTON STREET PARKING
LOT AFTER 4:30 PM.
Use Northeast parking lot via Lierman Ave.
and enter building through Northeast
door.*

*If you require special accommodations please notify the Department of Planning & Zoning at
(217) 384-3708*

EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (July 12, 2012)
5. Continued Public Hearings

*Note: The full ZBA packet is now available
on-line at: www.co.champaign.il.us.*

*Case 715-V-12 Petitioner: John Behrens Estate and Anne and Denny Anderson

Request: **Authorize the following in the R-1 Single Family Residence Zoning District.**
Part A. Variance for a side yard and rear yard of an existing shed of 1 foot in lieu of the minimum required side yard and rear yards of 5 feet;
Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet.
Part C. Variance from Section 4.2.D. requirement that no construction shall take place in a recorded utility easement.
Part D. Variance from a minimum separation from a rear property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.

Location: Lot 1 of Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and commonly known as the home at 1 Willowbrook Court, Champaign.

Case 685-AT-11 Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required for any County Board approved special use permit for a Rural Residential Development in the Rural Residential Overlay district as follows:

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

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Case 710-AT-12 Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance by amending the Champaign County Land Evaluation and Site Assessment (LESA) System that is referred to in Section 3; and Footnote 13 in Section 5.3; and subsection 5.4, as follows:

Part A. Revise the Land Evaluation (LE) part as follows:

1. Revise all soil information to match the corresponding information in the *Soil Survey of Champaign County, Illinois* 2003 edition.
2. Revise all existing soil productivity information and replace with information from *Bulletin 811 Optimum Crop Productivity Rating for Illinois Soils* published August 2000 by the University of Illinois College of Agricultural, Consumer and Environmental Sciences Office of Research.
3. Delete the 9 existing Agriculture Value Groups and existing Relative Values ranging from 100 to 0 and add 18 Agriculture Value Groups with Relative LE ranging from 100 to 0.

Part B. Revise the Site Assessment (SA) part as follows:

1. Add definitions for “agriculture”; “agricultural production”; “animal units”; “best prime farmland”; “farm dwelling”; “livestock management facility”; “non-farm dwelling”; “principal use”; and “subject site”.
2. Delete SA Factors A.2.; A.3; B.2.; B.3; C.2; D.2.; D.3.; E.1.; E.2.; E.3.; E.4.; F.1.; F.2.; F.3.; F.4.; and F.5.
3. Revise SA Factor A.1. to be new Factor 8; Factor B.1. to be new Factor 7.; Factor C.1. to be new Factor 5.; Factor D.1. to be new Factor 1.; and revise scoring guidance for each revised Factor, as described in the legal advertisement.
4. Add new SA Factors 2a; 2b. 2c; 3; 4; 6; 9; 10; and scoring guidance for each new Factor, as described in the legal advertisement.

Part C. Revise the Rating for Protection as described in the legal advertisement.

Part D. Revise the general text and reformat.

Case 711-AT-12 Petitioner: Zoning Administrator

Request: Amend the Champaign County Zoning Ordinance as follows:

Part A. In Section 3, revise the definition of “best prime farmland” as follows:

- a) delete “Relative Value of 85” and “Land Evaluation rating of 85” and replace with “average Land Evaluation rating of 91 or higher”; and
- b) add “prime farmland soils that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*”; and
- c) add “soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation and Site Assessment (LESA) System”; and
- d) add “Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils”.

Part B. Revise Footnote 13 of Section 5.3 to strike references to “has a Land Score greater than or equal to 85 on the County’s Land Evaluation and Site Assessment System” and replace with “is made up of soils that are BEST PRIME FARMLAND”

Part C. Revise paragraph 5.4.4 to strike references to “has a Land Evaluation score greater than or equal to 85 on the County’s Land Evaluation and Site Assessment System” and replace with “is made up of soils that are BEST PRIME FARMLAND”

6. New Public Hearings
7. Staff Report
8. Other Business
 - A. Review of Docket
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

* Administrative Hearing. Cross Examination allowed.

1 **MINUTES OF REGULAR MEETING**
2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**
3
4 **1776 E. Washington Street**
5 **Urbana, IL 61802**
6

7 **DATE:** July 12, 2012 **PLACE:** Lyle Shields Meeting Room
8 **TIME:** 7:00 p.m. **1776 East Washington Street**
9 **Urbana, IL 61802**

10 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren, Brad
11 Passalacqua
12

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14 **MEMBERS ABSENT :** Roger Miller
15

16 **STAFF PRESENT :** Connie Berry, John Hall, Lori Busboom
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18 **OTHERS PRESENT :** Esther Lindsey, Joan Hardwick, Gene Hardwick, Aly Jackson, Roger
19 Jackson, Susan Thomas, Norman Stenzel, Susan Carr, Roganne Murray,
20 Mike Murray, Jason Watson, Birgit McCall, Ben McCall, Angela Wyatt, Ben
21 Miller, Adam Sharp, Jacob Kesler, Ryann Kesler, Lauren Valentino, Mary L.
22 Gannaway, Brett Leevy, Jeremy Leevy, Aaron Elzy, Roger Babb, Marilyn
23 Babb, John Collins, Elizabeth Buck, Robert Dorsey, Rhonda Kesler, Kurt
24 Kesler, Maggie Kirby, Renee Willcoxon, Lucy Sparks, Chris Murray, Peggy
25 Anderson, Anne Murray, Nina Johnson, Celeste Eichelberger, Donna Kesler,
26 Melissa Doll, Lisa Kesler, Lois Wood, Donald Wood, Kelli Tedlock,
27 Catharine Ehler, Kevin Babb, Betty Murray, John Murray, Terri Kirby, Aaron
28 Zuercher, Jerry Wallace, Chris Wallace, Shaina Kolzow, Judy
29 Swartzendruber, David Swartzendruber, Linden Warfel, Chris Lehman,
30 Brenda Keith, Connie Arnold, Mary Keith Stocks, Nancy Bussell, Leonard
31 Stocks, Eric Bussell, Emille Kieke, Jane Kieke, Page Kirby, Lauren Miller-
32 Murray, Jack Murray, Patty Murray, Rodney Kieke
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35 **1. Call to Order**
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37 The meeting was called to order at 7:01 p.m.
38

DRAFT

39 **2. Roll Call and Declaration of Quorum**
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41 The roll was called and a quorum declared present with one member absent and one vacant seat.
42

43 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
44 sign the witness register for that public hearing. He reminded the audience that when they sign the
45 witness register they are signing an oath.
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48 **3. Correspondence**

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None

4. Approval of Minutes

None

5. Continued Public Hearing

Case 699-AM-11 Petitioner: L.A. Gourmet Catering, LLC, with owners Annie Murray, Lauren Murray and landowner John Murray Request to amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the AG-2, Agriculture Zoning District in order to operate the proposed Special Use in related zoning case 700-S-11. Location: A 10 acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E, Champaign.

Case 700-S-11 Petitioner: L.A. Gourmet Catering, LLC, with owners Annie Murray, Lauren Murray and landowner John Murray Request to authorize the construction and use of an Event Center as a “Private Indoor Recreational Development” as a Special Use on land that is proposed to be rezoned to the AG-2, Agriculture Zoning District from the current AG-1, Agriculture District in related Case 699-AM-11. Location: A 10 acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E, Champaign.

Mr. Thorsland called Cases 699-AM-11 and 700-S-11 concurrently.

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

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

Mr. Thorsland asked if the petitioner would like to make a statement outlining the nature of their request.

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2 Ms. Anne Murray, who resides at 2150 CR 1000E, Champaign, and Ms. Lauren Murray-Miller, who resides
3 at 105 Meadowcreek Ct, Lexington, approached the witness stand.

4

5 Ms. Anne Murray submitted a photograph of the subject property as well as an aerial photograph of the
6 subject property with an overlay indicating the location of the proposed special use on the subject property as
7 Documents of Record. She said that the photograph indicating the subject property, minus the overlay, was
8 taken from the northeast corner of her yard and the event center would be built in the northeast corner where
9 the flowers are located. She said that she and her sister would like to thank the Board for their consideration
10 and the time that they have invested for the review of this project. She said that it has been a long seven
11 months on their part as well as on the part of the Board and staff. She said that she hopes that the facts and
12 materials that have been submitted by experts will speak for themselves. She said that there are a lot of
13 people in attendance tonight that may not choose to take up the Board's time by speaking and there are some
14 that will speak to the Board but they all have something in common which is that they all believe in the
15 proposed project. She said that the people in attendance support the project and are behind it 100% and in
16 each zoning case she is sure that the Board takes away something that they have learned and there have
17 certainly been many lessons that she and Lauren have learned during this process. She said that the one
18 lesson that she and Lauren have been reminded of time and time again is to treat their neighbor as they
19 would want to be treated. She said that it gives her chills how the neighbors have supported them time and
20 time again by opening up their doors to listen to the plans so that they truly understand what they want to do
21 and they support them. She said that the neighbors have signed petitions, attended numerous meetings on
22 their behalf, written letters, prayed for them and opened up their doors as many times as they need to so that
23 this project will happen and it is humbling and amazing and tonight is no different. Ms. Anne Murray
24 requested that the Board look around the meeting room and view everyone who supports the project and she
25 and her sister cannot help but be overwhelmed at the number of people who support them. She said that
26 each one of the people that are present tonight are directly affected by the Board's decision tonight and they
27 stand behind them and they will continue to stand behind them.

28

29 Ms. Anne Murray stated that it is her hope that after the facts are all spelled out tonight that the ZBA
30 supports this beautiful project. She said that the room is filled with supporters because they are directly
31 affected by the decision regarding this building but for each one of the supporters there are supporters who
32 just want to see this project happen. She invited the Board to ask any of their clients, colleagues in the
33 industry, neighbors in the room, their college professors or their first grade teacher and they will tell the
34 Board that she and Lauren are perfectionists and that they stand behind all of their work because their
35 company stands for quality. She said that not only does their company stand for quality but they have an
36 unmatched desire to impress in Champaign County and this project will be no different because the building
37 will be amazing and the gardens and ponds that will surround the building will be so exquisite that the
38 building will appear to be part of the landscape. She said that this project can happen and someday she
39 hopes that the Board will be able see all of the architectural drawings and hundreds of pages of
40 documentation that became a reality and that the Board will be proud to say that they supported that project.
41 She asked the Board to remember that she and Lauren have done everything that the Board has requested and
42 they are happy and willing to continue to do what is necessary to make this project happen. She said that

1 they will work in the same manner with the same high level of excellence.
2
3 Mr. Thorsland called Mr. John Hall to testify.
4
5 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated July 12, 2012, for
6 Case 700-S-11, for the Board's review. He said that the new memorandum truly applies to both cases. He
7 said that on the back page of the memorandum is a map that was supposed to have been sent out in the
8 mailing with highlighting although the original map was submitted in black and white. He said that the
9 petitioners submitted the highlighted map to staff today and it indicates the properties owned by the people
10 who signed the Petition of Support of the Petitioners and the area indicated in red is the subject property.
11
12 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.
13
14 Mr. Courson asked Mr. Hall what bearing does the Petition of Support serve for the cases. He said that it is
15 his view that the ZBA is not a political board that makes its decision because they personally do or do not
16 want a project to be approved. He said that the ZBA is required to apply an Ordinance that was approved by
17 the County Board therefore all of the signatures of support on the petition has no bearing on the Board's
18 decision.
19
20 Mr. Hall stated that it is up to each individual Board member as to what bearing the Petition of Support has
21 on the case. He said that if every parcel in Hensley Township was covered in yellow highlight it wouldn't
22 change anything other than it does give a good indication whether or not the project is seen by the larger
23 neighborhood of fitting in or not fitting in. He said that the Petition of Support does not trigger any approval
24 standard and it takes four members of the ZBA to recommend approval of the map amendment and the
25 special use.
26
27 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall and there were none.
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29 Mr. Thorsland asked the Board if there were any questions for Anne Murray or Lauren Murray-Miller.
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31 Mr. Thorsland called Anne Murray and Lauren Murray-Miller back to the witness stand.
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33 Mr. Thorsland asked Anne Murray where the products used in the catering business are sourced from.
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35 Ms. Anne Murray stated that they do use various food suppliers but they also have 1/10th of an acre behind
36 the current kitchen where they grow seasonal herbs and vegetables and they have a chef that has a garden
37 that she uses fruits and vegetable from. She said that the subject property has a greenhouse on it as well and
38 their landscape plan has a place where herbs and vegetables will be grown as part of the natural landscape.
39
40 Mr. Thorsland asked if other local producers will be utilized in the project.
41

1 Ms. Anne Murray stated that the food suppliers provide local produce as well.
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3 Mr. Thorsland asked the Board if there were any additional questions for the petitioners.
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5 Mr. Palmgren asked Ms. Anne Murray when they purchased the subject property.
6
7 Ms. Anne Murray stated that they purchased the property in December, 2011.
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9 Mr. Palmgren asked Ms. Anne Murray if they were familiar with the Champaign County Zoning Ordinance
10 at the time of their purchase.
11
12 Ms. Anne Murray stated yes. She said that they conducted research and it appeared that the subject property
13 would work for their proposed project because it does not hurt public safety, agricultural use and continue
14 around the property and they have a majority of the neighbor's support. She said that people desire to have a
15 gathering area for rural people and this is a place where that need can be fulfilled.
16
17 Ms. Capel asked if other than the local foods that they produce themselves are there other food suppliers that
18 they utilize that are local farmers.
19
20 Ms. Anne Murray stated that their food suppliers work with local farmers to provide the company with local
21 produce.
22
23 Ms. Capel asked what percent of the food is grown locally.
24
25 Ms. Anne Murray stated it varies on season. She said that the weather affects a lot therefore if there is a
26 drought like what we are experiencing now it is hard to obtain produce from Central Illinois right now and it
27 is not very cost effective to get dried up basil.
28
29 Mr. Thorsland asked the Board if there were any additional questions for Ms. Anne Murray or Ms. Lauren
30 Murray-Miller and there were none.
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32 Mr. Thorsland asked if staff had any questions for Ms. Anne Murray or Ms. Lauren Murray-Miller and there
33 were none.
34
35 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Anne Murray or Ms. Lauren
36 Murray-Miller and there was no one.
37
38 Mr. Thorsland called David Swartzendruber to testify.
39
40 Mr. David Swartzendruber, who resides at 2129 CR 1000E, Champaign, stated that many of the people who
41 are in attendance tonight indicating support of the project are also his neighbors and he would like to share a
42 few of his thoughts regarding the project. He said that he and his wife moved to their current residence in

1 1992 and at the time there was only one business on the corner which was originally the old Hensley School
2 building and he was not concerned about the business because it was better than having a deteriorating
3 school building. He said that within a couple of years 70 acres of prime farmland became a housing
4 development and he and his wife had concerns about that project but it happened anyway. He said that it
5 seems that nationally, state-wide and in Champaign County, appointed and elected officials have a way of
6 making simple things not simple. He said that the question is not about Anne and Lauren and how nice they
7 are or how well they run their business and it is not about the distance that it takes to stop a car or how many
8 cars that go past the subject property during the daytime or the number of parking spaces that are proposed
9 on the lot. He said that it seems that irrelevant things become the point of discussion rather than the simple
10 fact which is that the subject property is rated as best prime farmland. He said that he attended a number of
11 meetings held by the Champaign County Regional Planning Commission regarding the Land Resource
12 Management Plan where they asked the populous about their concerns on how things are developed and the
13 two biggest issues were the loss of prime farmland and urban sprawl. He said that we have to remember
14 how absolutely valuable and limited the land is and once the land is taken out of production it is not
15 available anymore. He said that during a year like this when we are experiencing a drought and the farmers
16 are baling their corn crops you realize how valuable the land is and how if it continues to be reduced and
17 reduced eventually we will not have the productive land that we are accustomed to having.

18
19 Mr. Swartzendruber stated that rather than discussing stopping distances, drainage systems and where the
20 driveways should be located and other irrelevant items there should be discussion as to whether the project
21 fits into the neighborhood. He said that he and his wife now look out their east window to view a very ugly
22 concrete building which is the new home of the Hindu Temple which has taken the place of a beautiful
23 sunrise or a field of beans or corn. He said that the Hindu Temple does not provide any particular benefit to
24 the people who utilize the temple by its location and its location would be much better if it were closer to
25 where they live and the temple does not benefit anyone in the neighborhood and it does not fit in the
26 neighborhood. He said that the temple project was approved because other issues became more important
27 than the protection of best prime farmland. He said that he will admit that the proposed event center will be
28 less obtrusive than the Hindu Temple and that the subject property is not being farmed to the best of its
29 production but it is still AG-1 land and it should be protected and he urged the Board to consider that fact
30 rather than the other irrelevant issues.

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32 Mr. Thorsland asked the Board if there were any questions for Mr. Swartzendruber and there were none.

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34 Mr. Thorsland asked if staff had any questions for Mr. Swartzendruber and there were none.

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36 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Swartzendruber.

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38 Mr. Thorsland called Eric Bussell to the cross examination microphone.

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40 Mr. Thorsland reminded Mr. Bussell that he can only ask Mr. Swartzendruber questions which are based on
41 his testimony and requested that Mr. Bussell not present testimony himself.

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2 Mr. Eric Bussell asked Mr. Swartzendruber if he was a farmer.
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4 Mr. Swartzendruber stated no.
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6 Mr. Bussell asked Mr. Swartzendruber to indicate where he lives.
7
8 Mr. Swartzendruber stated that he resides at 2129 CR 1000E which is approximately one-eighth of a mile
9 south of the subject property.
10
11 Mr. Bussell asked Mr. Swartzendruber how many acres he resides upon.
12
13 Mr. Thorsland reminded Mr. Bussell that he can only ask Mr. Swartzendruber questions based on his
14 testimony.
15
16 Mr. Swartzendruber stated that he owns approximately four acres which was an existing farmstead and they
17 have no intentions to change the property. He said that they desired to live in the country but it is becoming
18 less rural all of the time.
19
20 Mr. Bussell stated that Mr. Swartzendruber's testimony indicated that he is concerned that the proposed
21 project will take away farm ground that is in production.
22
23 Mr. Swartzendruber stated that he did indicate such and he realizes that the subject property is not fully
24 farmed and does have a house on it but rezoning could cause a domino effect. He said that if you change the
25 zoning for one then it will make it easier for another to request the same in the area.
26
27 Mr. Bussell asked Mr. Swartzendruber if it is fair to assume that his concern may be that the message that
28 the rezoning could create would impact the neighborhood.
29
30 Mr. Swartzendruber stated yes, he is concerned about the future.
31
32 Mr. Bussell asked Mr. Swartzendruber if he is aware that the subject property is not taking farmland out of
33 production.
34
35 Mr. Swartzendruber stated yes.
36
37 Mr. Bussell stated that Mr. Swartzendruber's testimony indicated that the proposed project does not fit the
38 neighborhood. Mr. Bussell asked Mr. Swartzendruber if large shed like structures are unusual in Hensley
39 Township.
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41 Mr. Swartzendruber stated that large sheds are not uncommon because directly across the section is a new
42 home and farm shed with extremely bright lights which are on all night long.

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2 Mr. Thorsland asked the audience if anyone else desired to cross examine Mr. Swartzendruber and there was
3 no one.

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5 Mr. Thorsland called Lisa Kesler to testify.

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7 Ms. Lisa Kesler, who resides at 1801 W. Hensley Rd, Champaign, read a written statement and submitted
8 the statement as a Document of Record. Ms. Kesler stated that her residence is located at the northwest
9 corner of the intersection of Hensley and the Dewey-Fisher Road therefore she is approximately one-third of
10 a mile south of the subject property. She said that living in Hensley Township is a choice that comes with a
11 few trade-offs due to its unique location. She said that there are other locations in the County that are quieter,
12 more peaceful, less traffic and fewer neighbors but she chose to live in the home that she resides in currently
13 because it is her grandparent's farm. She said that her residence is close to Champaign, the county highway
14 is always clear in the winter and it is easy to get out for the daily commute. She said that living in the
15 neighborhood is a trade-off and yes it is busier and more congested but there are also a lot of conveniences
16 that you do not have when you live further out in the rural areas.

17

18 Ms. Kesler stated that another thing that is special about living in Hensley Township is that it is adjacent to
19 the City of Champaign corporate limits. She said that there are other townships which are also adjacent to
20 the corporate limits of the City of Champaign but Hensley Township has the county highway which runs
21 through the township and two interstates which intersect within its borders therefore it will always be a
22 desirable location for businesses and that fact will probably never change. She said that it is the
23 responsibility of the residents of Hensley Township and the Hensley Township Board to be open to any new
24 business that approaches us and wants to be located here and to give them due respect and take an honest
25 look at what their goals are, especially when the business owners come from within our own community.

26

27 Ms. Kesler stated that she would also like to point out that when you grow up on a farm in Champaign
28 County you learn a lot more than how to put corn and soybeans in the ground. She said that you also learn
29 how to be self-employed and independent and run your own business. She said that you learn the kind of
30 work ethic and dedication it takes to succeed and today's farmers are raising a new generation of
31 entrepreneurs. She said that some of them will take what they have learned from their parent's example and
32 go into farming and some will apply what they have learned to start a different kind of business. She said
33 that either way, what they are doing is a direct outcome of being raised by independent, self-employed
34 farmers. She said that regardless of whether or not these young men and women choose agriculture or
35 another type of business she wants them to know that they will be welcome here in the township and the
36 county where they were raised and will not be sent away and told that their business isn't wanted here.

37

38 Ms. Kesler stated that tonight we have a room full of neighbors who represent several generations of farmers
39 in Hensley Township and they all live or own farm ground within one mile of Anne Murray's property. She
40 said that Don and Lois Wood, the County's largest beef producers have been farming in our township for
41 four generations and Roger, Marilyn and Kevin Babb are raising their fourth generation now and are

1 concerned about what the future holds for them in Hensley Township. She said that the Hammel brothers,
2 Bernie, Ron, Rich and Steve and their family have been farming here for 100 years and are wondering why
3 anyone will want to buy farm ground in our township when a few of the residents will try to keep future
4 business opportunities out. She said that the Murray's ancestors bought their first farm in Hensley Township
5 over 100 years ago and the Ehlers have farmed here just as long and the Kesler family represents four
6 generations of farmers in Hensley and Condit Townships.
7

8 Ms. Kesler stated that the farmers know about progress and change and you can't be a farmer today if you
9 are afraid of progress. She said that her grandpa would hardly recognize today's farm operation as being the
10 same thing he did for a living because farming changes all the time and the farmers adapt and change along
11 with it. She said that the families that are here tonight are here to say that they are not afraid of a little
12 change and progress and they welcome it when it provides an opportunity for a new generation of
13 entrepreneurs who were raised in our farming community. She said that these people who own and farm the
14 ground in Hensley Township should have a say about whom and what will provide future tax money in their
15 township and shouldn't they be able to support a local family that they know and trust and who has been an
16 important part of the community for generations.
17

18 Ms. Kesler stated that not only is this catering company owned by women who were raised on a Champaign
19 County farm but it also meets all the criteria any community would look for when welcoming a new
20 business. She said that the company is already established with a proven track record and it will provide
21 jobs to residents of the County and tax revenue to the Township. She said that the company will not take
22 any farm ground out of production and the owner will live on the property which means one less car on the
23 road adding to the morning and afternoon commuter traffic. She said that there are a lot of other benefits to
24 having the owner on site. She said that the building is well designed and attractive and is made of natural
25 materials and will be situated back away from the road in a nicely landscaped setting which represents a
26 huge improvement to a property that had been somewhat neglected. She said that the company will provide
27 a needed service to the community and she has checked around and it is true that there are many weekends
28 when every single venue in town is booked and young couples have to go someplace else to find a location
29 for their wedding reception, which takes business outside of our County. She said that having another venue
30 available here means more events can be held in our county bringing in guests from out of town and who
31 will stay in our hotels, eat at our restaurants and shop in our stores. She said that the business is owned by a
32 local resident which is something that she thinks should be given a high priority for all the reasons that she
33 has already stated.
34

35 Ms. Kesler stated that most communities would be thrilled to have such a successful and highly regarded
36 business located within their borders and she is amazed that there is any opposition to this project at all. She
37 said that she hopes that the Board will consider the issues she has brought to their attention and make their
38 decision and realize that the opposing view presented by a few of the residents by no means represents the
39 opinion of the majority of the property owners in the area.
40

41 Mr. Thorsland asked if staff had any questions for Ms. Kesler and there were none.
42

1 Mr. Thorsland asked the Board if there were any questions for Ms. Kesler.

2
3 Mr. Courson stated Ms. Kesler commented that Hensley Township is unique and we should allow businesses
4 to come into the township. He asked Ms. Kesler if she would support a larger rezoning of property in
5 Hensley Township that would allow businesses to come into Hensley Township and not have to come to
6 meetings for approval like this meeting tonight.

7
8 Ms. Kesler stated that the property should not be rezoned in advance but should be reviewed on a case by
9 case basis. She said that everyone knows that accidents occur on County Highway 1 and accidents will
10 always occur on County Highway 1 but the area is very suitable for business use and she has no problem
11 with it. She said that she does not want to see a solid line of businesses up and down County Highway 1 but
12 she does support a locally owned business such as the one proposed. She said that classifying a parcel of
13 ground as farm ground served a purpose but there is also another element which is preserving the legacy of
14 farming in the area which includes entrepreneurship. She said that the nature of farming is entirely different
15 than it was 50 or 75 years ago and part of farming is being an independent business owner and that legacy
16 should be preserved as well and there are a lot of generations in our County who leave because there is no
17 place for them. She said that a business such as the one proposed is requested in our neighborhood and it is
18 a business that would fit in the neighborhood and the owners are from the neighborhood then she feels that it
19 should be allowed.

20
21 Mr. Courson stated that there is nothing in the Ordinance that gives more weight to people who live in
22 Champaign County and in the area. He said that the Ordinance gives no bearing on where you are from and
23 it is not taken into consideration. He said that people will believe that the Board is for or against the
24 proposed event center but the biggest issue that he sees is allowing spot zoning to allow a business on a
25 property that would not be allowed unless the zoning was changed. He said that he does not feel that the
26 County should have this designation of land if someone wants to do a business in this district and can simply
27 request to have it rezoned to allow it.

28
29 Ms. Kesler stated that the Board does have that flexibility.

30
31 Mr. Courson stated that the ZBA makes a recommendation and the case is forwarded to the County Board.
32 He said that the process is very detailed and it is not an automatic approval.

33
34 Mr. Thorsland asked the Board if there were any additional questions for Ms. Kesler and there were none.

35
36 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Kesler and there was no one.

37
38 Mr. Thorsland called Gene Hardwick to testify.

39
40 Mr. Gene Hardwick, Architect for the project, stated that he is available for any questions regarding the
41 architecture or plans that have been submitted for the proposed event center.

1
2 Mr. Thorsland asked the Board if there were any questions for Mr. Hardwick and there were none.
3
4 Mr. Thorsland asked if staff had any questions for Mr. Hardwick and there were none.
5
6 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Hardwick.
7
8 Mr. Thorsland called Mr. John Collins to the cross examination microphone.
9
10 Mr. Thorsland reminded Mr. Collins that he can only ask Mr. Hardwick questions based on his testimony.
11
12 Mr. John Collins stated that he would like to ask Mr. Hardwick about the plan.
13
14 Mr. Thorsland stated that Mr. Hardwick did not testify about the plan and only indicated that he was
15 available if there were any questions. He said that he will allow Mr. Hardwick to answer any questions at his
16 comfort.
17
18 Mr. Collins stated that the proposed plans indicate that there are basically three acres of land, which includes
19 a home, and approximately one and one-half acres of impervious surface will be added to the property.
20
21 Mr. Hardwick asked Mr. Collins if he was referring to the parking area.
22
23 Mr. Collins stated that he is indicating the parking, the event center and the pond. He said that when the
24 pond is full up to its discharge level it too is an impervious surface because it will no longer absorb water.
25
26 Mr. Hardwick stated that Mr. Collins is correct.
27
28 Mr. Collins stated that the 15 inch storm sewer will discharge across the property line across another resident
29 to adjacent farmland.
30
31 Mr. Hardwick stated that it discharges into the existing waterway. He asked Mr. Collins if he is familiar
32 with the subject property.
33
34 Mr. Collins stated that he is very familiar with the property.
35
36 Mr. Thorsland stated that Mr. Hardwick can answer any questions he desires but he is not required to do so
37 because the site plan is a Document of Record and there are conditions regarding Stormwater Management.
38
39 Mr. Hardwick stated that he is not the expert regarding the stormwater retention but he will try to explain the
40 detention basin very simply. He said that the basin does not discharge any more water but simply holds the
41 water so that there is not an excess amount. He said that it is basically holding the water in the pond and
42 allowing it to stay there during a big rain.

1

2 Mr. Collins stated that he has thirty years of drainage experience.

3

4 Mr. Thorsland informed Mr. Collins that he is now presenting testimony and in order to do so he must sign
5 the witness register and present his testimony when he is called upon but not during cross examination of
6 Mr. Hardwick.

7

8 Mr. Collins asked Mr. Hardwick if he sees any ramifications of forcing all of the stormwater from the
9 impervious area out a 15" tile to adjacent farm ground.

10

11 Mr. Hardwick stated that the idea is to slow it down.

12

13 Mr. Thorsland reminded Mr. Collins again that he is presenting testimony.

14

15 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Hardwick.

16

17 Mr. Passalacqua asked Mr. Hardwick if the grass area of the overflow parking will be constructed of any
18 type of textile. He said that grass is not always a great parking spot.

19

20 Mr. Hardwick stated that the grass area is for overflow parking and they feel that the proposed parking will
21 be adequate for most events and that the overflow parking will receive very minimal use. He said that if the
22 grass proves to not hold up then the area may require some sort of paving. He said that they had hoped to
23 use a new fiberglass product called "Grass Pave" and it used to be made out of concrete but unfortunately in
24 our climate the summers are too hot and the grass is killed out however the fiberglass product is a lot thinner
25 and provides the same support for the vehicles and does not burn out the grass. He said that it was hoped to
26 pave the center strip of the proposed parking area and use the "Grass Pave" for the parking spaces so that the
27 surface would be more permeable.

28

29 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Hardwick and there
30 were none.

31

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

34

35 Mr. Thorsland called Catharine Ehler to testify.

36

37 Ms. Catharine Ehler, who resides at 1078 CR 2200N, Champaign, stated that she lives in Section 11 in
38 Hensley Township which abuts Section 14 and she owns a farm in Section 12. She said that she is offended
39 by the testimony that was given at the June 14, 2012, public hearing by Ms. Birgit McCall. Ms. Ehler stated
40 that Line 21 on Page 10 of the Excerpt of Draft Minutes for Cases 699-AM-11 & 700-S-11 reads as follows:
41 Ms. McCall stated that for many of the people who have written or verbally supported the event center, it is

1 clearly more about the petitioners than the zoning and she makes that statement for a couple of reasons. The
2 first is that some of the people who are supporting the Murrays were opposed to the Hindu Temple because
3 they along with 87 other residents of Hensley Township attended protest meetings or signed a petition
4 opposing it. Ms. Ehler stated that she was one of the landowners who opposed the Hindu Temple and it was
5 not because of her respect of the Hindu work ethic or culture because her parents went to India in the early
6 60's to set up the College of Engineering and she could provide anyone a slide show on the Hindu culture if
7 they desire to see it. She said that she has respect for the Hindu culture and what the Murrays are trying to
8 do but her only contention was that when the Hindu Temple purchased 39 acres they took a good chunk of it
9 for their temple therefore taking the land out of agricultural production. She said that the decision to take the
10 ten acre plot that the Murray family wants to make into an event center, out of agricultural production was
11 made in 1984 when the strip was sold off and developed with a house and trees. She said that she wanted to
12 clarify why she opposed the Hindu Temple and why she has no problem with the proposed event center. She
13 said that the event center is a different use for land that has already been taken out of production and she
14 believes that it is a very good use.

15

16 Mr. Thorsland asked if staff had any questions for Ms. Ehler and there were none.

17

18 Mr. Thorsland asked the Board if there were any questions for Ms. Ehler and there were none.

19

20 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Ehler and there was no one.

21

22 Mr. Thorsland called John Collins to testify.

23

24 Mr. John Collins, who resides at 893 CR 2125N, Champaign, stated that he is not present tonight to argue
25 the public safety aspects, number of accidents or whether or not this development is needed but he is going
26 to argue about some of the drainage concerns that the Hensley Township Board and the Hensley Township
27 Plan Commission have regarding the proposed development. He said that anytime a parcel of ground with
28 impervious surface receives a one inch rain a good portion will absorb into the ground and some of it will
29 eventually run off. He said that if a three acre parcel of ground which predominately flows to the north
30 receives an inch of rain, in its existing condition, some of the rain will absorb and some of it will gently flow
31 to the north to the existing waterway. He said that if one and one-half acres is taken out of the three acre
32 parcel and is made impervious and receives a one inch rain that is forced through a 15 inch storm water tile
33 to someone else's property erosion problems will be created. He said that he has not seen an erosion
34 construction plan and has only seen a 15 inch storm sewer that outlets to an existing adjacent property with
35 productive farmland. He said that the drainage issues need to be addressed before any final decisions are
36 made for this development.

37

38 Mr. Thorsland asked if staff had any questions for Mr. Collins.

39

40 Mr. Hall asked Mr. Collins if he was familiar with the Champaign County Stormwater Management Policy.

41

42 Mr. Collins yes.

1

2 Mr. Hall asked Mr. Collins if he has reviewed Subsection 7.2.H. which indicates the following: All surface
3 runoff water shall exit the development in nonerosive velocities.

4

5 Mr. Collins stated that any stormwater that runs off of the property must run off of the property at the same
6 location that it did before it was developed. He said that this requirement is stated in the Illinois drainage
7 law. He said that forcing or centralizing any stormwater runoff to another location across someone else's
8 property violates the Illinois drainage law and doing so will also create an enormous erosion problem for not
9 only the adjacent property owner but also for the property which is located to the east. He said that there is a
10 concrete spillway and short section of grass but the rest of the farmland is productive farm ground.

11

12 Mr. Hall asked Mr. Collins if he believes that a complete stormwater plan designed for the construction
13 should be received and approved by this Board prior to approval of the special use permit.

14

15 Mr. Collins stated that there needs to be at least a stormwater plan that will release the same amount across
16 the same area to the adjoining property.

17

18 Mr. Hall asked Mr. Collins if he has reviewed the letter from Berns, Clancy and Associates.

19

20 Mr. Collins stated that he has copies from Berns, Clancy and Associates and Phoenix Consulting Engineers.
21 He said that the letter from Phoenix Consulting Engineers indicates that in any storm event, whether it is a
22 one year or 100 year, that peak discharge is going to be less due to the proposed plan. He said that Berns,
23 Clancy and Associates states that the proposed development will increase the total volume of runoff from the
24 site but will likely result in an increase from an approximate 2.7 square mile watershed of less than 1%. He
25 said that he will agree with the engineering study in that the amount of excess runoff that comes off of the
26 property will not affect the floodplain but what it will do is concentrate the storm water runoff to the
27 adjacent property creating erosion problems and take away productive farm ground from someone else that is
28 an adjoining neighbor.

29

30 Mr. Hall asked Mr. Collins if he does not believe that Phoenix Consulting Engineers or Berns, Clancy and
31 Associates computed adequately.

32

33 Mr. Collins stated that Berns, Clancy and Associates indicated that the concept drainage plan appears to be
34 feasible. He said that he does not want to hear that it appears to be feasible and would prefer to hear that
35 something is feasible and will not affect the neighboring properties.

36

37 Mr. Hall asked Mr. Collins if he believes that the Board should require that more engineering be completed
38 for this project.

39

40 Mr. Collins stated yes.

41

1 Mr. Thorsland asked the Board if there were any questions for Mr. Collins and there were none.
2
3 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Collins.
4
5 Mr. Thorsland called Kelly Ford to the cross examination microphone.
6
7 Ms. Kelly Ford asked Mr. Collins to indicate the nature of his experience with drainage.
8
9 Mr. Collins stated that roughly he has 30 years of experience in farm drainage to residential development and
10 public works.
11
12 Ms. Ford asked Mr. Collins to indicate his occupation.
13
14 Mr. Collins stated that he has 30 years of field experience and is currently he employed with the City of
15 Urbana as the Operation's Manager for their Public Works Department.
16
17 Ms. Ford asked Mr. Collins if he was a licensed engineer.
18
19 Mr. Collins stated no.
20
21 Mr. Thorsland asked the audience if anyone else desired to cross examine Mr. Collins.
22
23 Mr. Thorsland called Jerry Wallace to the cross examination microphone.
24
25 Mr. Jerry Wallace asked Mr. Collins if he owns the property which is adjacent to the property that he
26 referred to during his testimony.
27
28 Mr. Collins stated yes. He stated that he owns the one acre parcel that he lives upon and manages 40 acres
29 of farm ground with his father.
30
31 Mr. Wallace asked Mr. Collins if the 40 acres is the parcel that will receive the runoff from the subject
32 property.
33
34 Mr. Collins stated no but he has been in communication with the landowner to the north which is adjacent to
35 the Murray property.
36
37 Mr. Wallace stated that Mr. Collins indicated that he is concerned about water going on to a property but he
38 does not own or farm that property.
39
40 Mr. Collins stated that Mr. Wallace is correct.
41
42 Mr. Thorsland asked the audience if anyone else desired to cross examine Mr. Collins and there was no one.

1

2 Mr. Thorsland called Kelly Ford to testify.

3

4 Ms. Kelly Ford, attorney for the Murray family, stated that she was called by the Murrays several months ago
5 to see if she was interested in helping them with this project and during her typical checklist of what she
6 would look for in terms of what she could possibly do for them she was surprised at how organized the
7 petitioners were. She said that Anne and Lauren Murray had taken all of the steps that she would initially
8 take to counsel clients. Ms. Ford stated that she originally informed the Murrays that they did not need her
9 services but they could call her if things went bad during the public hearing process and now here we are.
10 She said that she has reviewed the case and is still confused why they are where they are today because it
11 appears that during each step of the process Anne and Lauren have complied. She said that the petitioners
12 have provided the requested materials and have probably gone over and beyond what is required. She said
13 that the petitioners have provided the requested drainage studies and they paid for the CUUATS traffic
14 analysis and at every turn they have tried to respond to any concerns that have been raised by the public. She
15 said that rezoning a property of this nature is a serious matter and the petitioners have been conscience of
16 their neighbor's concerns. She said that the AG-1 District's list of uses is very broad and the AG-2 only
17 stretches the uses a bit further and there have been comments that the requested rezoning could be
18 considered spot zoning. She said that if the Board would review the zoning map as a whole it could be said
19 that a lot of spot zoning has occurred in the County but the fact that the subject property is within two miles
20 of the City of Champaign's boundary and the proximity to other properties which are not zoned AG-1
21 confirms that it would not be spot zoning.

22

23 Ms. Ford stated that the important thing that the Board should be considering is whether or not the Finding
24 of Facts meets the criteria. She said that the Board has to ask itself if the requested map amendment will
25 achieve the Land Resource Management Plan because of the proposed criteria and it does. She asked the
26 Board, that at this point with everything that has been provided, what have her clients not provided or failed
27 to answer that would give the Board concern. She said that in reviewing the materials her clients have
28 responded to every concern professionally and in detail therefore she is at a loss as to what may be missing at
29 this point. She said that if there is something that her clients have missed or presents concern to the Board
30 she would appreciate notification so that they can be addressed. She said that everyone can question the
31 traffic study and the engineering reports but the fact of the matter is that the people who prepared the
32 information are professionals and they believe that these items are in concert with what has been requested
33 by the County.

34

35 Mr. Thorsland asked if staff had any questions for Ms. Ford and there were none.

36

37 Mr. Thorsland asked the Board if there were any questions for Ms. Ford.

38

39 Mr. Courson stated that Ms. Ford indicated that when she met with her clients it appeared that they were
40 very prepared therefore her services were not required at that time. He asked Ms. Ford if it is her general
41 practice to recommend that people purchase property for business ventures that is not properly zoned for

1 such businesses.
2
3 Ms. Ford stated that she did inform her clients that she would not recommend such and her clients
4 understood that their purchase would come with some risk. She said that her clients are not before the Board
5 so that the Board feels sorry for them because they purchased the property with an intent therefore the Board
6 should allow their request but they are requesting that the Board consider the rezoning due to the issues that
7 have been raised during the public hearing process.
8
9 Mr. Courson stated that the petitioners are requesting a map amendment so that they can utilize the property.
10
11 Ms. Ford stated that her clients would have done so whether they only had a contract to purchase the
12 property or whether they had already acquired the property. She said that if her clients had not purchased the
13 property they would have the ability to terminate their contract and if they do not receive approval of the
14 map amendment then the Murray family owns a home and ten acres. She said that, if she may characterize
15 the situation, her clients are not asking that the Board should feel sorry for them because they have acquired
16 this property for a specific reason therefore since they are in a pinch the Board should approve their request.
17
18 Mr. Courson stated that he would agree with Ms. Ford's characterization of the situation.
19
20 Ms. Ford stated that her clients are indicating that they believe that their proposal is a fair use of the property
21 and that an amendment would be appropriate.
22
23 Mr. Courson asked Ms. Ford to indicate her definition of spot zoning.
24
25 Ms. Ford stated that she did not come to the meeting prepared to answer such a question.
26
27 Mr. Courson stated that Ms. Ford was very specific that the request should not be considered spot zoning.
28
29 Ms. Ford stated that if she were further out in the County and she requested a map amendment to put a more
30 dense or incompatible use on the property then that would be considered spot zoning. She asked Mr.
31 Courson why he believes that the requested map amendment constitutes spot zoning.
32
33 Mr. Thorsland stated that the discussion between Ms. Ford and Mr. Courson regarding spot zoning is not the
34 issue at hand.
35
36 Mr. Thorsland asked the Board if there were any additional questions for Ms. Ford and there were none.
37
38 Mr. Thorsland called Ben McCall to testify.
39
40 Mr. Ben McCall, who resides at 1085 CR 2200N, Champaign, stated that he resides in the northern portion
41 of Section 14 of Hensley Township and is approximately one-half mile from the subject property. He said
42 that he is speaking tonight as an individual and not as a representative of the Hensley Township Plan

1 Commission and is only testifying tonight in regard to the map amendment case.

2
3 Mr. McCall stated that throughout this case he has felt that it is fundamentally unfair to rezone a single piece
4 of property for the benefit of a developer at the expense of the surrounding property owners. He said that in
5 the July 6, 2012, Supplemental Memorandum there was a discussion about spot zoning which was a term
6 that he was unfamiliar with. He said that in the memorandum staff indicates that the Ordinance does not
7 limit AG-2 to 1.5 miles from cities, which is true, and that the zoning map has always had AG-2 more than
8 1.5 miles from the cities, which is also true but generally contiguous. He said that staff goes on to suggest
9 that there is nearby isolated AG-2, specifically the soil testing service, and implies that this makes it okay but
10 that case was clearly an infill development whereas the present case is neither infill nor contiguous to other
11 development. He said that staff goes on to say that we shouldn't worry about rezoning a single lot to AG-2 if
12 it is as close to cities as other AG-2 although he sees no basis for this claim. He said that staff correctly
13 states that previous AG-2 rezonings do not obligate the Board to approve this rezoning and he believes that
14 this is a key point to remember.

15
16 Mr. McCall stated that he looked up the term spot zoning on the web and the second link on Google was an
17 article in the *Planning Commissioners Journal* which appears to be a professional journal for the planning
18 community. He said that the article was written by an attorney with experience as an assistant city attorney
19 and as a legal counsel to a planning commission. He said that for what it is worth the author also has a
20 master's degree in Urban and Regional Planning.

21
22 Mr. McCall distributed a copy of the article titled, "Understanding Spot Zoning" to the Board as a Document
23 of Record and read the article as follows:

24 Most planning commissioners have heard the impassioned cry that a particular rezoning decision will
25 constitute an invalid spot zoning. This allegation typically arises where the community is
26 considering the rezoning of a single lot or small parcel of property held by a single owner and the
27 rezoning will permit land uses not available to the adjacent property. Because spot zoning often
28 focuses on the single parcel without considering the broader context, that is, the area and land uses
29 surrounding the parcel, it is commonly considered the antithesis of planned zoning. While rezoning
30 decisions that only affect a single parcel or small amount of land are most often the subject of spot
31 zoning claims, as opposed to rezoning of larger areas, a locality can lawfully rezone a single parcel if
32 its action is shown to be consistent with the community's land use policies. As I will discuss shortly,
33 courts look to the community's comprehensive plan or to other planning studies in determining
34 whether the rezoning is, in fact, consistent with local land use policies.

35
36 Of course, whether a particular rezoning constitutes an unlawful spot zoning depends largely upon
37 the facts surrounding the zoning decision and upon the judicial decisions of each state. However,
38 courts commonly note that the underlying question is whether the zoning decision advances the
39 health, safety, and welfare of the community. A zoning decision that merely provides for individual
40 benefit without relationship to public benefit cannot be legally supported. Where a particular zoning
41 decision is not supported by a public purpose the zoning decision is arbitrary and may be subject to

1 invalidation as unlawful spot zoning. Although courts throughout the nation differ in their specific
2 approaches when reviewing spot zoning claims the majority consider the following: 1. the size of
3 the parcel subject to rezoning; and 2. the zoning both prior to and after the local government's
4 decision; and 3. the existing zoning and use of the adjacent properties; and 4. the benefits and
5 detriments to the landowner, neighboring property owners, and the community resulting from the
6 rezoning; and 5. the relationship between the zoning change and the local government's stated land
7 use policies and objectives.

8
9 This last factor, the relationship of the rezoning decision to the community's land use policies and
10 objectives, is perhaps the most important one. As a result, when a planning commission or
11 governing body initially considers a rezoning request it should determine whether the request is
12 consistent with the comprehensive or master plan. Many communities' zoning codes also require a
13 separate planning study that examines the merits of the proposed rezoning which further ensures that
14 any rezoning is consistent with the community's land use objectives and not a case of spot zoning.
15 The bottom line is that courts will give considerable weight to evidence that the locality's rezoning
16 decision reflects thoughtful consideration of planning factors.

17
18 It should be noted that there is one situation where a rezoning decision that does not conform to the
19 comprehensive plan may nevertheless be upheld and that is where there is evidence showing
20 significant changes in the community since the adoption of the plan that would justify a rezoning of
21 the property. This is especially true where a review of other factors, such as benefit to the
22 community and the size of the rezoned parcel, indicate that the rezoning was not merely intended to
23 confer a benefit to the property owner.

24
25 Mr. McCall continued his individual testimony. He said that to paraphrase, spot zoning, which staff admits
26 this case represents, is almost certainly illegal unless it is clearly demonstrated to be in the public interest and
27 not just the interest of the developer and is consistent with the LRMP. He said that this proposed spot
28 zoning clearly does not provide a public benefit in the sense of advancing the health, safety, welfare of the
29 community. He said that having a wedding reception hall in a rural setting, in general, cannot be claimed to
30 be a public benefit, although perhaps a public park could but not an upscale private event center, and it is
31 even more clear that having one at this particular location does not offer a public benefit.

32
33 Mr. McCall stated that this proposed spot zoning also does not advance the goals of the LRMP and he does
34 not understand why staff felt compelled to propose arguments that it does. He said that he will examine
35 staff's arguments one by one. He said that staff indicates that Goal 1 and Goal 2 are not relevant and he will
36 agree. He said that staff indicates that Goal 3 is not directly relevant to any of the objectives in Goal 3, but
37 for some reason goes on to say that it would partially achieve Goal 3 simply because it would benefit a local
38 business. He said that staff was correct that this Goal is not relevant and should not claim that the rezoning
39 helps achieve this goal. He said that in regards to Goal 4, Objective 4.1, this objective is to minimize the
40 fragmentation of the County's agricultural land base. He said that staff indicates some technical arguments
41 about two of the policies in 4.1 and recommends that the rezoning achieves Objective 4.1, which makes no
42 sense. He asked how approving this rezoning can be construed to minimize the fragmentation of agricultural

1 land. He said that perhaps one can argue that approving the rezoning would not fragment agricultural land
2 very much but approving this rezoning is not the way to minimize the fragmentation. He said that denying
3 the rezoning is the way to minimize the fragmentation and approving the rezoning would impede Objective
4 4.1.

5
6 Mr. McCall stated that in regards to Goal 4, Policy 4.2.1. staff correctly points out that it is up to the Board
7 to determine whether an upscale event center is a service that is better provided in a rural area than in an
8 urban area. He said that he believes that it is not but if the Board determines that it is all this policy says is
9 that the County may authorize a development in a rural area and does not say that such development should
10 be encouraged or that it is desirable to develop rural area. He said that even if the Board determines this is a
11 service better provided in a rural area, the proposed rezoning would not “achieve” Policy 4.2.1 but rather
12 “conform” to it. He said that if the Board determines otherwise it would not conform.

13
14 Mr. McCall stated that Goal 4, Policy 4.2.3 should be “conforms” and not “achieves”. He said this is an
15 important distinction because “achieves” suggests that the rezoning is a good thing and advances the cause
16 of the LRMP. He said that “conforms” just means that it isn’t explicitly violating the LRMP. He said that
17 the same applies to Policies 4.3.2, 4.3.3. and 4.3.4 because they all “conform” and not “achieves”.

18
19 Mr. McCall stated that Goal 5, Objective 5.1 is where he finds the arguments getting even more interesting.
20 He said that this objective basically says that the County should try to ensure that most of the growth and
21 development is concentrated in and adjacent to existing population centers. He said that this objective
22 makes a lot of sense to him and he believes it represents a widely held view in both the planning community
23 and the public at large in that growth should be compact and contiguous. He said that he would like to take
24 a look at how staff uses technical arguments to recommend that rezoning a single lot to enable development
25 far from a population center achieves the goal of ensuring that most development occurs in or adjacent to
26 population centers.

27
28 Mr. McCall stated that Policy 5.1.1 stated that the County will encourage new urban development to occur
29 within the boundaries of incorporated municipalities. He said that staff indicates that an Appendix to
30 Volume 2 of the LRMP essentially defines urban development as land uses that are connected to a sewer or
31 ought to be. He said that since the proposed use will have a septic system instead of a sewer connection staff
32 believes that the proposed rezoning helps achieve the goal of the LRMP. He said that only if it were a
33 stadium or a coliseum would it be considered urban development and thereby not achieve the goal of the
34 LRMP. He said that it is his opinion that the proposed rezoning pretty clearly impedes this policy and more
35 generally Goal 5 of the LRMP by enabling non-contiguous development relatively far from existing cities.

36
37 Mr. McCall stated that Objective 5.2 indicates that new development should demonstrate good stewardship
38 of natural resources. He said that staff recommends that the proposed rezoning achieves that objective
39 because of Policy 5.2.1 which states the following: The County will encourage the reuse and redevelopment
40 of older and vacant properties within urban land when feasible. He said that staff goes on to say that the
41 petitioners had trouble finding a suitable property and that the proposed use is not urban anyway so the

1 proposed rezoning conforms to this policy and therefore somehow achieves the objective of demonstrating
2 good stewardship of natural resources. He said that it is not clear to him how this objective is relevant
3 because the property in question is a residence not a vacant or older business and would almost certainly
4 have been purchased by somebody else and used as a residence.

5
6 Mr. McCall stated that Goal 6 states that the County will ensure protection of the public health and safety in
7 land resource management decisions. He said that staff indicates that the proposed rezoning will help
8 achieve this goal because wastewater will be properly treated, outdoor lighting will comply with the
9 Ordinance and building codes will be followed. He said that this seems to conform to Goal 6 but not really
10 achieves it. He said that Goal 7 indicates that the County will coordinate land use decisions in the
11 unincorporated area with the existing and planned transportation infrastructure and services. He said that
12 staff indicates that the proposed rezoning achieves this goal because a traffic impact analysis was done. He
13 said that he would respectfully suggest that this conforms and not achieves this goal.

14
15 Mr. McCall stated that staff indicates that Goals 8, 9 and 10 are not relevant and he agrees.

16
17 Mr. McCall asked that with all of the mumbo-jumbo out of the way where does that leave us? He said that
18 everyone agrees that LRMP Goals 1, 2, 8, 9 and 10 are not relevant and it seems pretty clear that Goal 3 is
19 also not relevant. He said that this brings us to Goals 4 and 7 and it is his opinion that it's pretty clear that
20 the proposed rezoning only conforms to Goals 6 and 7, rather than achieving them, and in the most favorable
21 view it also only conforms to Objectives 4.2 and 4.3. He said that it also seems to him that it clearly
22 impedes Objective 4.1, minimizing fragmentation of agricultural land, and Goal 5, compact and contiguous
23 growth. He said that the article from the *Planning Commissioner's Journal* pretty much said that spot
24 zoning is generally found to be illegal unless it advances the health, safety and welfare of the community and
25 is consistent with the LRMP.

26
27 Mr. McCall stated that he would respectfully suggest to the Board that despite the heroic efforts of staff to
28 try to justify this rezoning request it simply does not advance the health, safety and welfare of the community
29 and it is clearly inconsistent with the LRMP. He said that it is also probably an example of illegal spot
30 zoning and the County might well be challenged in court if it approved it. He said that as he has testified
31 before it also makes no sense in terms of the intent of the Zoning Ordinance itself.

32
33 Mr. McCall stated that he would like to close with the following question: What harm would come if this
34 request is rejected and what harm would come if it is approved? He said that if it is rejected the developers
35 will be out some money for their planning costs and the traffic impact analysis. He said that he would guess
36 that they would sell the property, perhaps after dividing it into three lots as suggested by staff, and probably
37 make a profit. He said that they would then try a little harder to find a suitable location that is properly
38 zoned and would then likely start up a very successful event center there which may be a little bit less of the
39 rural character that they yearn for.

40
41 Mr. McCall stated that if it is approved, the surrounding property owners will lose that same rural character
42 that they have vested so much in over the years and they will lose the ability to enjoy the peace and

1 tranquility of the country. He said that before too long staff will be championing another development
2 adjacent to this one arguing that there is already a lot of development in this area and it is not really rural
3 anymore. He said that over time the rural character the residents moved there for, that the Hindu Temple
4 was established to appreciate, and that the current petitioners will profit from will be completely gone and
5 the area will be just another example of urban sprawl into the country.
6

7 Mr. McCall urged the Board to not simply accept the recommendation of the staff at face value but instead to
8 carefully consider whether it believes the proposed rezoning provides a public benefit and is consistent with
9 both the letter and the spirit of the LRMP. He said that the Board should err on the side of rejecting the
10 rezoning unless it is entirely convinced that approval would be in the public interest and consistent with the
11 LRMP otherwise the Board may leave the County in an indefensible legal position.
12

13 Mr. Thorsland asked if staff had any questions for Mr. McCall and there were none.
14

15 Mr. Thorsland asked the Board if there were any questions for Mr. McCall and there were none.
16

17 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. McCall and there was no one.
18

19 Mr. Thorsland called Peggy Anderson to testify.
20

21 Ms. Peggy Anderson, who resides at 2172 CR 1000E, Champaign, stated that she is the property owner to
22 the north that was alluded to during earlier testimony. She said that she is concerned about the drainage
23 because the Murray property slopes down towards her property and is one of the first points of the drainage
24 from the subject property. She said that the Berns, Clancy and Associates' engineering report contained
25 many words like "should", "could", "appears", and "if" and these words do not leave you with a wonderful
26 100% feeling of assurance. She said that things should not go wrong but just in case they do it would impact
27 her property. She said that at one time she hired Berns, Clancy and Associates to design a parking lot for a
28 group that she worked for on campus and oddly enough the drainage design did not work and had to be
29 redone therefore she is a little concerned with their findings.
30

31 Ms. Anderson stated that she is also concerned about traffic. She said that for more than one day she
32 traveled on a particular country road that had a business located upon it and she noticed a speed limit that
33 was placed around the business along the road. She said that with two different areas of possible high
34 impact traffic a speed limit might be appropriate for County Highway 1. She said that one beautiful Sunday
35 afternoon she was outside a lot on her property and she noticed that the Hindu Temple was having a
36 gathering and when she looked towards the temple the sun kept reflecting off of the vehicles which gave her
37 the feeling of living near a parking lot and not in a rural setting.
38

39 Mr. Thorsland asked if staff had any questions for Ms. Anderson and there were none.
40

41 Mr. Thorsland asked the Board if there were any questions for Ms. Anderson and there were none.

- 1
2 Mr. Courson commented that he specifically requested that the County consider reducing the speed limit in
3 this area during the traffic impact analysis. He asked if his request was ignored or if it just fell through the
4 cracks.
5
- 6 Mr. Hall stated that the posted speed limit in the area is 55 miles per hour. He said that a speed limit cannot
7 be lowered just because someone requests it.
8
- 9 Mr. Courson stated that he was informed that a reduced speed limit would have to be examined during the
10 traffic study and he requested that a speed reduction be considered in this location.
11
- 12 Mr. Hall stated that the traffic analysis did not see any need for a speed reduction.
13
- 14 Mr. Courson stated that the traffic analysis did not address the speed limit.
15
- 16 Mr. Hall stated that the traffic analysis indicated that all of the parameters were adequate for a 55 mile per
17 hour speed limit.
18
- 19 Mr. Thorsland asked the Board and staff if there were any further questions for Ms. Anderson and there were
20 none.
21
- 22 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Anderson and there was no one.
23
- 24 Mr. Thorsland asked the audience if anyone else desired to sign the witness register to present testimony
25 regarding these cases and there was no one.
26
- 27 Mr. Thorsland stated that he had one additional question for Anne Murray and requested that she return to
28 the witness stand.
29
- 30 Mr. Thorsland asked Anne Murray if she visited each of the property owners that are highlighted on the map.
31
- 32 Ms. Anne Murray stated yes. She said that the petition which was submitted was signed by landowners in
33 Hensley Township who support their project. She said that the landowners represent approximately 7,700
34 acres and most of those landowners are present tonight.
35
- 36 Mr. Thorsland stated that the point is taken that there is neighborhood support for the project but some of the
37 listed landowners on the map are not individuals but investors such as the Atkins Group.
38
- 39 Ms. Murray stated that Jim Goss, Director of Farm Management for the Atkins Group, would have been here
40 if he could have and they would be happy to address the Board if required.
41
- 42 Mr. Thorsland stated that the Board appreciates receipt of the petition of support although a petitioner could

- 1 submit such a record for an ice cream shop store on a particular corner but all of the petitions in the world
2 will not force approval.
3
- 4 Ms. Murray stated that it was important that she went out to speak to the neighbors so that they are informed
5 and supportive of a gathering place for rural clientele. She said that the landowners who signed the petition
6 are not about her family making money because the landowners are not going to make a dime off of the
7 project but they are proud to have this event center in their township and they look forward to having a place
8 to gather for rural people.
9
- 10 Mr. Thorsland asked if staff had any questions for Ms. Murray and there were none.
11
- 12 Mr. Thorsland asked the Board if there were any questions for Ms. Murray.
13
- 14 Mr. Courson stated that there are properties which are not highlighted on the map in Section 14 therefore he
15 assumes that those properties are not in support of the project.
16
- 17 Ms. Murray stated that she spoke to Jim North of American Dowell last night and he indicated support of the
18 project. She said that she did not speak to Clyde Kesler, although Phil Kesler has indicated that they are not
19 in support of the project. She said that Peggy Anderson has attended the public hearings and has voiced her
20 concerns about the project and has indicated that she is not in support.
21
- 22 Mr. Courson asked Ms. Murray if she spoke to a representative of the land owned by Tend Trust No. 24 in
23 Section 15.
24
- 25 Ms. Murray stated that she did not speak to a representative of the land owned by Tend Trust No. 24 because
26 she was not sure who to contact.
27
- 28 Mr. Courson stated that there are several direct neighbors who are indicated as supporting the project.
29
- 30 Ms. Murray asked Mr. Courson if he does not believe that it matters who does support the project.
31
- 32 Mr. Courson stated yes. He said that there are neighbors who are in support but there are also 14 or so who
33 are not in support.
34
- 35 Ms. Murray stated that the glass is either half empty or half full.
36
- 37 Mr. Courson stated that he does not have any issues with the proposed business or the landowners but he did
38 feel that it was important to point out that there are several landowners who are in support of the project and
39 those who oppose the project.
40
- 41 Mr. Thorsland asked if staff had any questions for Ms. Murray and there were none.

1
2 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Anne Murray.

3
4 Ms. Susan Thomas asked Ms. Murray if when she was communicating with the neighbors she obtained the
5 feeling that the neighbors believed that this would benefit the health and general welfare of the community.

6
7 Ms. Murray stated that all of the neighbors that she spoke with understood that they have done everything
8 possible to comply with the County's requirements. She said that the Murray family also farms in the
9 community therefore they respect their neighbors and they want the same level of comfort that their
10 neighbors have about what happens around them.

11
12 Mr. Thorsland asked the audience if anyone else desired to cross examine Ms. Murray and there was no one.

13
14 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
15 regarding Case 699-AM-11 or 700-S-11 and there was no one.

16
17 Mr. Thorsland closed the witness register.

18
19 Mr. Thorsland called for a five minute break.

20
21 **The Board recessed at 8:30 p.m.**

22 **The Board resumed at 8:37 p.m.**

23
24 Mr. Thorsland entertained a motion to rearrange the agenda to continue Cases 710-AT-12, 711-AT-12 and
25 685-AT-11 to the July 26, 2012, meeting.

26
27 **Ms. Capel moved, seconded by Mr. Passalacqua to continue Cases 710-AT-12, 711-AT-12 and 685-**
28 **AT-11 to the July 26, 2012, meeting. The motion carried by voice vote.**

29
30 Mr. Thorsland stated that the Board will now work through the Finding of Fact for Case 699-AM-11. He
31 asked staff if there was any witness that they would like to recall prior to continuing on to the Finding of
32 Fact.

33
34 Mr. Hall stated no.

35
36 Mr. Courson noted that there are 42 types of uses allowed in the AG-1 district by special use permit and
37 there are 76 types of uses allowed in AG-2 therefore 34 new uses will be added to the subject property if it is
38 rezoned from AG-1 to AG-2. He said that should the subject property be rezoned and the Murrays, for some
39 unforeseen reason, decide to not construct the event center, everything that is listed under AG-2 could be
40 proposed on the subject property by special use. He said that just because the Board could possibly approve
41 the rezoning for this one use does not mean that, in the future, anything else on this list could not be
42 proposed at this location.

1

2 Mr. Thorsland directed the Board to page 9 of 31 of the Revised Finding of Fact dated July 12, 2012, for
3 Case 699-AM-11. He said that LRMP Goal 1 indicates the following: Champaign County will attain a
4 system of land resource management planning built on broad public involvement that supports effective
5 decision making by the County. He said that staff has recommended that Goal 1 is NOT RELEVANT to the
6 proposed rezoning and the Board agreed with staff's recommendation.

7

8 Mr. Thorsland stated that LRMP Goal 2 indicates the following: Champaign County will collaboratively
9 formulate land resource and development policy with other units of government in areas of overlapping land
10 use planning jurisdiction. He said that staff has recommended that Goal 2 is NOT RELEVANT to the
11 proposed rezoning and the Board agreed with staff's recommendation.

12

13 Mr. Thorsland stated that LRMP Goal 3 is indicates the following: Champaign County will encourage
14 economic growth and development to ensure prosperity for its residents and the region. He said that staff
15 has recommended that Goal 3 PARTIALLY ACHIEVES Goal 3 and the Board agreed with staff's
16 recommendation.

17

18 Mr. Thorsland stated that LRMP Goal 4 indicates the following: Champaign County will protect the long
19 term viability of agriculture in Champaign County and its land resource base. He said that the Board is
20 required to make a decision whether the map amendment should HELP ACHIEVE or NOT HELP
21 ACHIEVE Goal 4. He said that the Board will begin with Policy 4.2.1 which states the following: The
22 County may authorize a proposed business or other non-residential discretionary review development in a
23 rural area if the proposed development supports agriculture or involves a product or service that is better
24 provided in a rural area than in an urban area.

25

26 Mr. Thorsland stated that the proposed rezoning ACHIEVES Policy 4.2.1 based on the evidence, the
27 proposed Event Center WILL NOT interfere with agricultural operations and is a service which is not
28 currently available in Champaign County and therefore IS a service better provided in a rural area than in
29 urban area.

30

31 Mr. Courson stated that he does not agree with Mr. Thorsland's recommendation for Policy 4.2.1.

32

33 Mr. Passalacqua stated that he also does not agree with Mr. Thorsland's recommendation for Policy 4.2.1.

34

35 Mr. Palmgren stated that he too does not agree with Mr. Thorsland's recommendation for Policy 4.2.1.

36

37 Mr. Hall encouraged the Board to be as specific as possible by either specifying why it will achieve Policy
38 4.2.1 unless it will interfere with agricultural operations and if the Board believes that it does he encouraged
39 the Board specify how it interferes. He said that if the Board believes that there is other relevant information
40 then he would appreciate it if the Board would indicate that. He said that he does not know a lot that can be
41 done with Policy 4.2.1 because if it doesn't interfere with agriculture then it achieves Policy 4.2.1 and if it

1 does interfere with agriculture then we need to get it on paper so that if this leads to a denial there will be a
2 clear reason why it was denied and not just that it will interfere with agriculture.

3
4 Mr. Passalacqua asked if there is any bearing to the fact that the subject property is not completely in
5 production right now. He said that his thought is that the subject property could be in production at a greater
6 level.

7
8 Mr. Hall asked Mr. Passalacqua what that has to do with Policy 4.2.1.

9
10 Mr. Passalacqua stated that he is trying to justify why the proposed special use would achieve Policy 4.2.1 if
11 not interfering with agricultural operations.

12
13 Mr. Thorsland stated that Policy 4.2.1 is about interference with other agricultural operations.

14
15 Ms. Capel stated that as far as she can see it does not interfere with other agricultural operations in Section
16 14.

17
18 Mr. Thorsland noted that this is about surrounding agriculture.

19
20 Mr. Courson stated that an example would be excess drainage onto neighboring properties or increased
21 traffic interfering with farming equipment during planting and harvest season.

22
23 Ms. Capel stated that there is a special condition indicating that the event center must conform to the
24 Champaign County Stormwater Policy.

25
26 Mr. Hall stated that the County's engineer has reviewed it and indicated that so far it looks great. He said
27 that if the Board is going to indicate that it doesn't meet the Champaign County Stormwater Policy then the
28 Board needs to tell the petitioner so that they can do more work so that it can meet the policy rather than
29 denying it because it doesn't.

30
31 Mr. Palmgren stated that the Board realizes that the rezoning is for the special use request for an event
32 center. He said that the Board is not just looking at a rezoning for the purpose of rezoning without knowing
33 that there is something else coming afterwards and has to consider that the rezoning is for a purpose.

34
35 Mr. Hall stated that if the rezoning is approved and the event center does not happen the only thing that can
36 happen without a public hearing is the same thing that can happen under the current zoning now without a
37 rezoning. He said that because the uses authorized by right in the AG-1 District are nearly identical to the by
38 right uses authorized in the AG-2 District, anything else requires a public hearing at which time the Board
39 can spend as much time or even more time analyzing that use as opposed to the event center. He said that
40 the only thing that can happen on the subject property without a public hearing is what could happen anyway
41 under current zoning because everything else requires a public hearing with perhaps a new traffic impact
42 analysis, stormwater drainage plan, a new septic system design, etc.

1

2 Mr. Thorsland asked if Mr. Courson, Mr. Passalacqua and Mr. Palmgren desired to adjust their input on
3 Policy 4.2.1 as to whether it ACHIEVES or not.

4

5 Mr. Passalacqua stated that he agrees with Mr. Thorsland's original indication that the proposed rezoning
6 ACHIEVES Policy 4.2.1, and WILL NOT interfere with agricultural operations and therefore IS a service
7 better provided in a rural area than in an urban area.

8

9 Mr. Palmgren agreed with Mr. Passalacqua.

10

11 Mr. Thorsland stated that the majority of the Board agrees that the proposed rezoning ACHIEVES Policy
12 4.2.1 and based on the evidence, the proposed Event Center WILL NOT interfere with agricultural
13 operations and is a service which is not currently available in Champaign County and therefore IS a service
14 better provided in a rural area than in and urban area.

15

16 Mr. Thorsland stated that Policy 4.1.6 states the following: Provided that the use, design, site and location
17 are consistent with County policies regarding: i. suitability of the site for the proposed use; and ii. adequacy
18 of infrastructure and public services for the proposed uses; and iii. minimizing conflict with agriculture; and
19 iv. minimizing the conversion of farmland and v. minimizing the disturbance of natural areas.

20

21 Mr. Hall stated that before the Board decides Policy 4.1.6 the Board has to decide the rest of Policy 4.2.2 and
22 4.2.3 and if it meets those then it probably meets Policy 4.1.6.

23

24 Mr. Thorsland stated that Policy 4.2.2 indicates the following: The County may authorize discretionary
25 review development in a rural area if the proposed development: a. is a type that does not negatively affect
26 agricultural activities; or b. is located and designed to minimize exposure to any negative affect caused by
27 agricultural activities; and c. will not interfere with agricultural activities or damage or negatively affect the
28 operation of agricultural drainage systems, rural roads, or other agriculture-related infrastructure.

29

30 Mr. Hall stated that when the petitioners moved the trees from the property line, from a staff level, the
31 concern about shading neighboring property went away. He said that staff recommends that subparagraph
32 (a) be revised as follows: trees will be planted on the subject property to screen the parking areas from view
33 of neighboring properties and to provide a buffer between agricultural activities and the activities of the
34 property and the screening should not shade nearby farmland.

35

36 Mr. Capel stated that the proposed rezoning ACHIEVES Policy 4.2.2 because based on the evidence, the
37 proposed event center DOES NOT negatively affect agricultural activities, or IS located and designed to
38 minimize exposure to negative effects of agricultural activities, and WILL NOT interfere with agricultural
39 activities and the Board agreed with Ms. Capel's recommendation.

40

41 Mr. Thorsland stated that Policy 4.2.3 indicates the following: The County will require that each proposed

1 discretionary development explicitly recognize and provide for the right of agricultural activities to continue
2 on adjacent land. He said that staff has recommended that the proposed rezoning ACHIEVES Policy 4.2.3.
3 He said that a special condition of approval has been proposed as follows: The owners of the subject
4 property hereby recognize and provide for the right of agricultural activities to continue on adjacent land
5 consistent with the Right to Farm Resolution 3425.
6

7 Mr. Passalacqua asked if the special condition to the subsequent owner actually limits what could happen in
8 AG-2.
9

10 Mr. Hall stated that anything that has been authorized in AG-2 could happen in AG-2.
11

12 Ms. Capel stated that there are eleven by-right uses in AG-1 and there are two more in AG-2.
13

14 Mr. Passalacqua stated that any other use would require a special use permit.
15

16 Ms. Capel stated that each one of them requires a public hearing.
17

18 The Board agreed with staff's recommendation that the proposed rezoning ACHIEVES Policy 4.2.3.
19

20 Mr. Thorsland stated that Policy 4.2.4 indicates the following: To reduce the occurrence of agricultural land
21 use and non-agricultural land use nuisance conflicts, the County will require that all discretionary review
22 consider whether a buffer between existing agricultural operations and the proposed development is
23 necessary. He said that staff has recommended that the proposed rezoning ACHIEVES Policy 4.2.4 and the
24 Board agreed with staff's recommendation.
25

26 Mr. Thorsland stated that Policy 4.3.2 indicates the following: On best prime farmland, the County may
27 authorize a discretionary review development provided the site with proposed improvements is well-suited
28 overall for the proposed land use. He said that staff recommends that the proposed rezoning ACHIEVES
29 Policy 4.3.2 and the Board agreed with staff's recommendation.
30

31 Mr. Thorsland stated that Policy 4.3.3 indicates the following: The County may authorize a discretionary
32 review development provided that existing public services are adequate to support the proposed development
33 effectively and safely without undue public expense. He noted that there was a request made for a dry
34 hydrant by the Thomasboro Fire Department and the petitioners agreed to that request. He said that staff
35 recommends that the proposed rezoning ACHIEVES Policy 4.3.3 and the Board agreed with staff's
36 recommendation.
37

38 Mr. Thorsland stated that Policy 4.3.4. indicates the following: The County may authorize a discretionary
39 review development provided that existing public infrastructure, together with proposed improvements, is
40 adequate to support the proposed development effectively and safely without undue public expense. He said
41 that staff recommends that the proposed rezoning ACHIEVES Policy 4.3.4 and the Board agreed with staff's
42 recommendation.

1
2 Mr. Thorsland stated that the Board should now return to page 12 of 31 and determine if the proposed
3 rezoning ACHIEVES or DOES NOT ACHIEVE Policy 4.1.6. He said that Policy 4.1.6 has to do with being
4 consistent with the County's policies. He suggested that the proposed rezoning ACHIEVES Policy 4.1.6 and
5 the Board agreed with Mr. Thorsland's recommendation.
6
7 Mr. Thorsland stated that Board needs to determine if the proposed rezoning ACHIEVES or DOES NOT
8 ACHIEVE Objective 4.2. He said that Objective 4.2 indicates the following: Champaign County will
9 require that each discretionary review development will not interfere with agricultural operations.
10
11 Ms. Capel recommended that the proposed rezoning ACHIEVES Objective 4.2 and the Board agreed with
12 Ms. Capel's recommendation.
13
14 Mr. Thorsland stated that Objective 4.3 indicates the following: Champaign County will require that each
15 discretionary review development is located on a suitable site. He said that staff recommends that the
16 proposed rezoning ACHIEVES Objective 4.3 and because of all of the other ACHIEVES the Board finds
17 that it HELPS ACHIEVE Goal 4.
18
19 Mr. Thorsland stated that Board will now review Goal 5.
20
21 Ms. Capel requested that the Board review the LRMP definition of Urban Land Use before proceeding to
22 any recommendations. She said that the LRMP defines Urban Land Use as follows: generally land use that
23 is connected to and served by a public sanitary sewer system.
24
25 Mr. Thorsland stated that Goal 5 indicates the following: Champaign County will encourage urban
26 development that is compact and contiguous to existing cities, villages, and existing unincorporated
27 settlements. He said that Goal 5 is relevant to the proposed rezoning because the subject property is to be
28 rezoned AG-2, Agriculture. He said that staff's recommendation is that the proposed rezoning ACHIEVES
29 Goal 5 because of the following: Objective 5.1 is entitled "Population Growth and Economic Development"
30 and indicates that Champaign County will strive to ensure that the preponderance of population growth and
31 economic development is accommodated by new urban development in or adjacent to existing population
32 centers. He said that staff recommends that the proposed rezoning ACHIEVES Objective 5.1. He said that
33 Policy 5.1.1 indicates the following: The County will encourage new urban development to occur within the
34 boundaries of incorporated municipalities. He said that staff recommends that the proposed rezoning
35 CONFORMS to Policy 5.1.1 because the subject property is not served by sanitary sewer. He said that
36 Objective 5.2 is entitled, "Natural Resources Stewardship" and indicates the following: When new urban
37 development is proposed Champaign County will encourage that such development demonstrates good
38 stewardship of natural resources. He said that staff recommends that the proposed amendment ACHIEVES
39 Objective 5.2 because of the following: Policy 5.2.1 states that the County will encourage the reuse and
40 redevelopment of older and vacant properties within urban land when feasible. He said that staff
41 recommends that the proposed rezoning CONFORMS to Policy 5.2.1.

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Mr. Hall stated that CONFORMS would be a better overall recommendation for Objective 5.1. and 5.2.

Mr. Thorsland suggested that all of the ACHIEVES in Goal 5 be revised to indicate CONFORMS and the Board agreed with the revision and staff’s recommendation for Goal 5.

Mr. Thorsland stated that Goal 6 is entitled “Public Health and Safety” and indicates the following: Champaign County will ensure protection of the public health and public safety in land resource management decisions. He said that Goal 6 has 4 objectives and 7 policies. He said that Objective 6.1 indicates the following: Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety. He said that staff recommends that the proposed rezoning ACHIEVES Objective 6.1. because Policy 6.1.2 states that the County will ensure that the proposed wastewater disposal and treatment systems of discretionary development will not endanger public health, create nuisance conditions for adjacent uses, or negatively impact surface or groundwater quality. He said that staff recommends that the proposed rezoning ACHIEVES Policy 6.1.2 because the petitioner’s have received a permit for a wastewater system from the Champaign County Health Department.

Mr. Thorsland stated that Policy 6.1.3 indicates that the County will seek to prevent nuisances created by light and glare and will endeavor to limit excessive night lighting, and to preserve clear views of the night sky throughout as much of the County as possible. He said that there is a special condition on all special use permits that requires full cut-off lighting as a standard and this development will be held to that same standard. He said that staff recommends that the proposed rezoning ACHIEVES Policy 6.1.3. He said that Objective 6.3 indicates that Champaign County will seek to ensure that all new non-agricultural construction in the unincorporated area will comply with a building code by 2015. He said that a special condition of approval has been proposed in related Case 700-S-11 to ensure that the proposed event center will comply with applicable building codes. He said that staff recommends that the proposed rezoning ACHIEVES Objective 6.3. He said that overall staff recommends that the proposed amendment should HELP ACHIEVE Goal 6 although he would only recommend ACHIEVES and the Board agreed with the overall recommendation.

Mr. Thorsland stated that Goal 7 indicates that Champaign County will coordinate land use decisions in the unincorporated area with existing and planned transportation infrastructure and services. He said that Objective 7.1 indicates that Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted. He said that staff recommends that the proposed rezoning ACHIEVES Objective 7.1 because Policy 7.1.1 indicates that the County will include traffic impact analyses in discretionary review development proposals with significant traffic generation. He said that staff recommends that the proposed rezoning ACHIEVES Policy 7.1.1 because a traffic impact analysis was completed. He said that overall staff recommends that the proposed amendment ACHIEVES Goal 7 and the Board agreed with staff’s recommendation.

Ms. Capel noted that item# 17.A(1)(a) indicated that the proposed event center will accommodate up to 400 people and the site plan includes 84 parking spaces. She said that it was her understanding that there were

1 97 parking spaces.

2
3 Mr. Hall stated that there are 84 parking spaces with additional spaces for the overflow parking. He said that
4 staff can revise item #17.A.(1)(a) to indicate 97 overflow parking spaces.

5
6 Mr. Thorsland stated that Goal 8 indicates that Champaign County will strive to conserve and enhance the
7 County's landscape and natural resources and ensure their sustainable use. He said that staff recommends
8 that the proposed amendment is NOT RELEVANT to Goal 8 because it will not be harmful to natural
9 resources.

10
11 Mr. Thorsland stated that Goal 9 indicates that Champaign County will encourage energy conservation,
12 efficiency, and the use of renewable energy sources. He said that staff recommends that the proposed
13 amendment is NOT RELEVANT to Goal 9 because the proposed amendment does not address energy
14 efficiency or the use of renewable energy sources.

15
16 Mr. Thorsland stated that Goal 10 indicates that Champaign County will promote the development and
17 preservation of cultural amenities that contribute to a high quality of life for its citizens. He said that staff
18 recommends that the proposed amendment is NOT RELEVANT to Goal 10.

19
20 Mr. Thorsland stated that the item #22 indicates the proposed special condition of approval as follows:
21 **The owners of the subject property hereby recognize and provide for the right of agricultural**
22 **activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

23
24 Mr. Thorsland asked the petitioners if they agreed to the proposed special condition as read and the
25 petitioners indicated yes.

26
27 Mr. Thorsland stated that the following items should be added to the Documents of Record: 35.
28 Supplemental Memorandum for Case 700-S-11 dated July 12, 2012, with attachments; and 36. Two
29 photographs submitted by Anne and Lauren Murray on July 12, 2012; and 37. Planning Commissioners
30 Journal Article submitted by Ben McCall on July 12, 2012; and 38. Written testimony submitted by Ben
31 McCall on July 12, 2012; and 39. Written testimony submitted by Lisa Kesler on July 12, 2012.

32
33 Mr. Thorsland entertained a motion to approve the special condition.

34
35 **Ms. Capel moved, seconded by Mr. Passalacqua to approve the special condition. The motion carried**
36 **by voice vote.**

37
38 Mr. Thorsland entertained a motion to approve the Findings.

39
40 **Ms. Capel moved, seconded by Mr. Passalacqua to approve the Findings as amended. The motion**
41 **carried by voice vote.**

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Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Finding of Fact as amended.

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

Mr. Thorsland entertained a motion to move to the final determination for Case 699-AM-11.

Ms. Capel moved, seconded by Mr. Courson to move to the final determination for Case 699-AM-11. The motion carried by voice vote.

Mr. Thorsland informed the petitioners that one Board member was absent and one Board seat was vacant therefore it is at their discretion to either continue Case 699-AM-11 until a full Board is present or request that the present Board move forward to the Final Determination. He informed the petitioners that four affirmative votes are required for approval.

The petitioners requested that Case 699-AM-11 be continued until such time when a full Board was present.

Mr. Thorsland requested a continuance date from staff for Case 699-AM-11 and 700-S-11.

Mr. Hall stated that both cases could be continued to the August 16, 2012, meeting.

Mr. Courson moved, seconded by Ms. Capel to continue Cases 699-AM-11 and 700-S-11 to the August 16, 2012, meeting. The motion carried by voice vote.

Mr. Hall asked the Board if they required additional information for Case 700-S-11 regarding the stormwater plan.

Mr. Passalacqua stated no.

6. New Public Hearings

Case 720-V-12 Petitioner: Robert Dorsey and Elizabeth Buck Request to authorize the following in the R-2 Single Family Residence Zoning District: Part A. Variance from Section 4.2.1G. requirement that no accessory use or structure be established prior to a main or principal use or structure; and Part B. Variance from a maximum height of an accessory structure of 18.5 feet in lieu of the maximum 15 feet. Location: Lots 4, 5, 6, 7 and 8 of Block 4 of S.H. Busey's First Addition to the Town of Penfield in the Southwest Quarter of Section 4 of Compromise Township and commonly known as the dwelling at 209 Main Street, Penfield and appurtenant property at the location formerly known as 216 East Street, Penfield.

1
2 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
3 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
4 of hands for those who would like to cross examine and each person will be called upon. He requested that
5 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
6 those who desire to cross examine are not required to sign the witness register but are requested to clearly
7 state their name before asking any questions. He noted that no new testimony is to be given during the cross
8 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
9 from cross examination.
10
11 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
12 sign the witness register for that public hearing. He reminded the audience that when they sign the
13 witness register they are signing an oath.
14
15 Mr. Thorsland asked if the petitioner would like to make a statement outlining the nature of their request.
16
17 Ms. Elizabeth Buck , 209 Main Street, Penfield, stated that they desire to place a shed on their property. She
18 said that they own five lots which consist of three lots on one side and two on the other side of the alley.
19 She said that when they inquired about building a shed on the property they did not realize that the zoning
20 regulations require that a home be on the property. She said that at one time there was a house on the
21 property but it had been vacant for several years and rather than investing money in to the house by fixing it
22 up they had the house torn down.
23
24 Mr. Thorsland asked if staff or the Board had any questions for Ms. Buck.
25
26 Mr. Hall asked Ms. Buck if they tore down the other house to clean up the property.
27
28 Ms. Buck stated that the old house that burned was torn down and cleaned up prior to their purchase.
29
30 Mr. Passalacqua asked Ms. Buck if the shed which is on the property currently received a variance for
31 height. He said that it appears that there are two sheds on the lot currently.
32
33 Ms. Buck stated yes. She said that the one lot is empty and the other two lots to the south have a shed and
34 garage on them. She said that they purchased a camper which will not fit in the shed because it is too tall
35 and they have equipment and supplies which need to be put inside.
36
37 Mr. Thorsland called John Hall to testify.
38
39 Mr. John Hall, Zoning Administrator, stated that until two months ago staff has never suggested that
40 someone apply for a variance from the requirement that there be a dwelling before building a shed. He said
41 that the petitioners have been trying to get this shed built for over one year and they discussed vacating the

1 alley with the Compromise Township Highway Commissioner and it is not his decision. Mr. Hall stated that
2 the Compromise Township Highway Commissioner indicated that people have tried unsuccessfully to have
3 an alley vacated in the past and personally the Highway Commissioner thought that it was a bad precedent to
4 start vacating alleys. Mr. Hall stated that he finally decided that while he would never encourage one to seek
5 a variance for an accessory building on the opposite side of the street, because those conditions are not
6 desirable, in this instance it is not across the street but across a dedicated alley that is only 14 feet wide. He
7 said that he hopes that the Board can find that the limitations that arise from the alley bisecting the property
8 are materially different than if it were a street with a 60 foot wide right of way and 20 feet of pavement and
9 cars going through it whenever they took a notion. He said that if the Board reviews the Table of
10 Authorized Uses they will not find a shed or an accessory building because they are not an authorized
11 principal use. He said that some may argue that this variance is prohibited because the Board would be
12 authorizing an accessory building as a principal use but the decision is up to the Board but he does not
13 believe this case is requesting that. He said that he does not want to make this request seem like it is a
14 simple little variance because it is not and he does not believe that the ZBA has ever been presented with as
15 complex a variance as this request. He said that the petitioners are basically requesting that they be allowed
16 to put up a new garage on their property on the other side of the alley. He said that legally the lots which are
17 located on the other side of the alley are a different zoning lot and could not be considered as part of the lot
18 area in determining the minimum lot area. He said that the Highway Commissioner was asked if a 20 foot
19 length of the alley could be vacated so that there would be a fig leaf connection or not vacate it but put in an
20 easement so that the trucks can be driven through the alley to plow snow and the Highway Commissioner
21 stated no. Mr. Hall stated that this is a serious variance that the Board need to be comfortable with and the
22 Summary of Evidence and Finding of Fact needs to be established so that when some future person, when
23 they request allowance to build a shed on the opposite side of the street from their property, will be able to
24 review this finding and know what to expect.

25
26 Mr. Passalacqua asked if the 10 x 12 structures were also storage sheds.

27
28 Ms. Buck stated yes.

29
30 Mr. Passalacqua asked Ms. Buck if the intention is to remove some of the smaller sheds once the larger shed
31 is constructed. He asked if there is a limit on the amount of sheds which are allowed on the property.

32
33 Mr. Hall stated that there is a limit on lot coverage but the petitioners are not near that limit at this point.

34
35 Mr. Thorsland asked if all of the sheds count for lot coverage.

36
37 Mr. Hall stated yes. He asked Ms. Buck if they would keep all of the sheds on the property once the larger
38 shed was constructed.

39
40 Ms. Buck stated that they would probably keep the sheds because they have invested money into them.

41
42 Mr. Thorsland read the proposed special condition as follows:

1 **A. The Variance shall be deemed void if any of the following occur: (1) If the petitioners**
2 **sell either the current home, or the garage property to a buyer who does not also**
3 **purchase the other property; and (2) If at least a 20 feet length of the alley between the**
4 **relevant properties is ever vacated; and (3) If any building on the eastern portion of the**
5 **property is ever converge to include a dwelling unit with a septic system.**

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

7 **That the variance is void should it not ever be necessary and ensures that the properties**
8 **will be in common ownership.**

9
10 **B. The garages on the subject property shall not be rented out as storage space.**

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

12 **That the storage buildings on the subject property do not become warehouses of any**
13 **kind, which are not authorized in the R-2 Zoning District.**

14
15 Ms. Buck agreed to the special condition as read.

16
17 Mr. Hall stated that if the petitioners do find someone in the future who is interested in purchasing the
18 property to the east and someone else purchasing the property to the west to place a house upon then that
19 would be an allowed sale. He said that the condition needs to provide for such a situation and the best way
20 to end this finally would be for someone to put a house on the east side.

21
22 Ms. Buck stated that if they both pass away their kids could still have the option to sell the properties.

23
24
25 Mr. Hall stated that in the event that the kids could find a buyer for one part and then the other then that
26 would be fine if they placed a house on the lot with the shed.

27
28 Ms. Capel stated that if homes were not placed on the lots with the accessory buildings then the entire
29 property would have to be sold and used as the Buck's intend to use the property currently.

30
31 Mr. Thorsland stated that a provision should be included in the condition that would allow for concurrent
32 sale of the two properties provided that the one lot includes a principal use.

33
34 Mr. Courson asked how such a condition would be enforced so that a potential buyer would be aware of the
35 special condition. He said that if the current owners passed away and the property was sold off as four
36 pieces of property to two different buyers they could come before the Board claiming ignorance.

37
38 Mr. Hall stated that the Board could require that a miscellaneous document be filed with the Recorder
39 of Deeds but he believes that in a small setting like Penfield that people will find out and if a house is not
40 placed on the property then it is a violation.

41

1 Mr. Thorsland stated that with the minimal recording fee that would be charged he would be in favor of
2 recording a miscellaneous document.
3
4 Mr. Hall stated that staff will revise the special condition.
5
6 Mr. Thorsland asked if staff or the Board had any additional questions for Ms. Buck and there were none.
7
8 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Buck and there was no one.
9
10 Mr. Thorsland called Robert Dorsey to testify.
11
12 Mr. Robert Dorsey, who resides at 209 Main Street, Penfield, stated his wife covered everything and he had
13 no new testimony to add at this time.
14
15 Mr. Thorsland asked if staff had any questions for Mr. Dorsey and there were none.
16
17 Mr. Thorsland asked the Board if there were any questions for Mr. Dorsey and there were none.
18
19 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Dorsey and there was no one.
20
21 Mr. Thorsland called Lucy Sparks to testify.
22
23 Ms. Lucy Sparks, who resides at 202 Busey, Penfield, stated that her home is next door to the subject
24 property. She said that her son-in-law owns her residence and when he received his letter he requested that
25 she attend the meeting to ask questions about the request. She said that the subject property is behind
26 Sandy Curtis' house and not the Buck's house and the shed will be so large that a home cannot be built on
27 the same lot. She said that if the shed is constructed there will be a double garage and two sheds which will
28 compromise the integrity of the neighborhood because it will appear commercial. She asked if the property
29 could be sold to someone for a commercial use or could the property be used for commercial use. She said
30 that her son-in-law is concerned that the shed might reduce the property values or increase the taxes of the
31 neighborhood because it would appear commercial. She said that she has lived at her residence since 1976
32 and people move to Penfield because it is very nurturing and everyone knows everyone else and she is
33 concerned about how the shed may change the nurturing appeal of the neighborhood.
34
35 Mr. Hall stated that the conditions that were proposed in the memorandum are intended to deal with a lot of
36 Ms. Sparks' concerns but the conditions will not make the building look like anything different than a huge
37 shed.
38
39 Ms. Sparks stated that the petitioners call the structure a shed but it is a huge building that is 18 feet tall and
40 there is another huge shed next to it and a double garage next to the first shed. She said that the property is
41 going to look very commercial.
42

- 1 Mr. Hall stated that the aesthetics is one of the results of a variance like this although no one is supposed to
2 be using the proposed shed for a business and he does not believe that the petitioners have that intention.
3 He said that if someone in the future they have the intention to use the shed as a business they will be
4 stopped by the County.
5
- 6 Mr. Thorsland stated that the variance will not allow the shed to be a commercial use but it won't stop
7 anyone from attempting to do something that they are not allowed to do.
8
- 9 Mr. Sparks stated that the variance will also not change the look of the shed. She asked if the property
10 values of the neighborhood will change.
11
- 12 Mr. Thorsland stated that discussion regarding property values is not the venue of this Board.
13
- 14 Mr. Hall asked if there is anything that she would suggest which would reduce the appearance of the shed
15 as a commercial building or is it just the fact that the building is large and that it is not a home.
16
- 17 Ms. Sparks stated that the building is so large that there will not be any room for a house.
18
- 19 Mr. Thorsland stated that it is common for some buildings to have an apartment inside of the building. He
20 said that an apartment inside of the building would not change the overall appearance of the building but it
21 would become a conforming structure.
22
- 23 Ms. Sparks asked if there would be continued overflow such as trailers, trucks, etc.
24
- 25 Mr. Thorsland stated that perhaps she should discuss her concerns with the property owners outside of this
26 public hearing so that she can gain answers to her questions. He asked Ms. Sparks if landscaping or
27 screening would assist her concerns about the appearance of the building.
28
- 29 Ms. Sparks stated that she is sure that it would help. She asked if the smaller sheds would remain on the
30 property.
31
- 32 Mr. Thorsland stated that Ms. Buck indicated that the sheds would remain on the property.
33
- 34 Mr. Hall stated that if the height of the building is the concern then trees would assist with that concern
35 although they do not grow overnight and it could take ten years before the trees shield the view of the
36 building. He said that the trees would be a condition therefore if the first planting died then the trees would
37 have to be replanted.
38
- 39 Mr. Thorsland asked if staff had any additional questions for Ms. Sparks and there were none.
40
- 41 Mr. Thorsland asked the Board if there were any questions for Ms. Sparks and there were none.

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Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Sparks and there was no one.

Mr. Thorsland called Renee Willcoxon to testify.

Ms. Renee Willcoxon, who resides at 121 East Street, Penfield, stated that she lives on the corner of Main Street and East Street. She said that she can see the subject property and the existing structures from her yard. She said that she and her husband have done extensive improvements to their home and they have put their entire life savings into their property. She said that she does not like the existing sheds that are already on the subject property. She said that there is a total of five sheds that can be seen from the alley as well as the large utility shed and the double car garage. She said that no one lives on the south side of the property that can contest. She said that one of the properties across the street is for sale and the other is anticipating moving. She said that she does not want to cause any bad feelings between herself and her neighbors but she does not want to see another large shed on the subject property. She said that her mother receives letters about property in town that she owns regarding its condition and they are attempting to clean it up. She said that she has put over \$60,000 into her own property to improve it therefore she is concerned about the properties that are around her.

Ms. Willcoxon stated that the petitioners have a lot of bricks, sand and tractors on the subject property and she is concerned that once this proposed shed is constructed the petitioners may ask for even something more. She said that she is sure that if this was her property someone would probably be at the microphone requesting the same things. She asked when the requests will end for this property. She said that from where the petitioner's house is located they have a row of trees that block the view of the sheds but when she walks out her front door she can see the sheds.

Mr. Thorsland asked if staff had any questions for Ms. Willcoxon.

Mr. Hall asked Ms. Willcoxon if the planting of more trees to obscure the view of the shed would help her concerns.

Ms. Willcoxon stated that the planting of trees would help but those trees would have to be planted along the west side of East Street.

Mr. Thorsland asked Ms. Willcoxon if the trees were required would it help screen the property from her view.

Ms. Willcoxon stated that if the trees blocked her view of the subject property then yes.

Mr. Courson informed Ms. Willcoxon that photographs would assist the Board in understanding her concerns.

Ms. Willcoxon stated that she does have photographs to submit which indicate her concerns. She submitted

1 the photographs as Documents of Record.
2
3 Mr. Thorsland asked if staff had any questions for Ms. Willcoxon and there were none.
4
5 Mr. Thorsland asked the Board if there were any questions for Ms. Willcoxon and there were none.
6
7 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Willcoxon and there was no one.
8
9 Mr. Thorsland entertained a motion for a ten minute extension of the meeting.
10
11 **Mr. Courson moved, seconded by Mr. Passalacqua to extend the meeting to 10:10 p.m. The motion**
12 **carried by voice vote.**
13
14 Mr. Thorsland called Betty Buck and Robert Dorsey back to the witness microphone.
15
16 Mr. Passalacqua stated that from the testimony received tonight it appears that there are materials that are
17 conducive to a work environment. He asked Ms. Buck if there was a business operating in the building.
18
19 Ms. Buck stated no. She said that they want the building to store the materials that were discussed. She said
20 that she had a brick sidewalk that she removed and she has the bricks piled up and hasn't had a chance to
21 pick them up.
22
23 Mr. Passalacqua stated that he just wanted to clarify whether the materials were for personal or commercial
24 purposes.
25
26 Mr. Courson asked Ms. Buck if the existing shed is a pole barn type structure.
27
28 Ms. Buck stated yes.
29
30 Mr. Courson asked Ms. Buck if she investigated altering the existing shed to store the camper.
31
32 Ms. Buck asked Mr. Courson to clarify.
33
34 Mr. Courson stated that the existing shed's roof could be raised to accommodate the camper.
35
36 Ms. Dorsey stated that it would cost as much to raise the roof on the existing shed as it would to build a new
37 building.
38
39 Mr. Courson stated that raising the roof is a possibility and is not uncommon therefore he wondered if the
40 petitioners had investigated this option.
41

1 Mr. Thorsland stated that even if they raised the roof of the building the petitioner would still be
2 before the Board with a variance request.
3
4 Mr. Hall stated that he understands Mr. Courson's point but the petitioners would require a variance for
5 height although it would be a variance on a nonconforming structure in lieu of a new shed and it would be a
6 better variance in that regard, if it were possible.
7
8 Mr. Courson stated that raising the roof of the shed would require less insurance, fewer property taxes, etc.
9 although he understands that the petitioners require more room for storage.
10
11 Mr. Thorsland asked if staff had any additional questions for Ms. Buck or Mr. Dorsey and there were none.
12
13 Mr. Thorsland asked the Board if there were any questions for Ms. Buck or Mr. Dorsey and there were none.
14
15 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Buck or Mr. Dorsey and there was
16 no one.
17
18 Ms. Capel asked Mr. Hall if all of the small sheds are conforming.
19
20 Mr. Hall stated yes. He said that the subject property is in a residential district therefore the yards
21 requirements are less than those in the agricultural districts.
22
23 Mr. Thorsland entertained a motion for a continuance to the September 13, 2012, meeting.
24
25 **Mr. Courson moved, seconded by Mr. Palmgren to continue Case 720-V-12 to the September 13, 2012,**
26 **meeting. The motion carried by voice vote.**
27
28 Mr. Hall asked the Board if there was any information that they would like to review prior to the next public
29 hearing for this case.
30
31 Mr. Courson stated that he would like to see a plan for screening.
32
33 Mr. Thorsland stated that perhaps staff should discuss screening options with the petitioner.
34
35 Mr. Hall asked the Board if they would like to see any cost estimates regarding raising the roof of the
36 existing building.
37
38 Mr. Courson stated no, because the petitioners have indicated that they require additional storage space.
39
40 Mr. Courson asked Mr. Hall if there will be a driveway up to the shed or will it be a grassy area.
41
42 Mr. Hall stated that he assumes that there will be a driveway.

1
2 Mr. Dorsey stated that there will be a driveway off of Main Street.

3
4 **7. Continued Text Amendment Public Hearings:**

5
6 **Case 710-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
7 **Ordinance by amending the Champaign County Land Evaluation and Site Assessment (LESA)**
8 **System that is referred to in Section 3; and Footnote 13 in Section 5.3; and subsection 5.4 as follows:**
9 **Part A. Revise the Land Evaluation (LE) part as follows: 1. Revise all soil information to match the**
10 **corresponding information in the *Soil Survey of Champaign County, Illinois* 2003 edition. 2. Revise all**
11 **existing soil productivity information and replace with information from *Bulletin 811 Optimum Crop***
12 ***Productivity Rating for Illinois Soils* published August 2000 by the University of Illinois College of**
13 **Agricultural, Consumer and Environmental Sciences Office of Research. 3. Delete the 9 existing**
14 **Agriculture Value Groups and existing Relative Values ranging from 100 to 0 and add 18 Agriculture**
15 **Value Groups with Relative LE ranging from 100 to 0. Part B. Revise the Site Assessment (SA) part**
16 **as follows: 1. Add definitions for “agriculture”; “agricultural production”; “animal units”; “best**
17 **prime farmland”; “farm dwelling”; “livestock management facility”; “non-farm dwelling”; “principal**
18 **use”; and “subject site”.; and 2. Delete SA Factors A.2.; A,3.; B.2.; B.3.; C.2.; D.2.; E.1.; E.2.; E.3.;**
19 **E.4.; F.1.; F.2.; F.3.; F.4.; and F.5.; and 3. Revise SA Factor A.1. to be new Factor 8; Factor B.1. to be**
20 **new Factor 7; Factor C.1. to be new Factor 5; Factor D.1. to be new Factor 1; and revise scoring**
21 **guidance for each revised Factor, as described in the legal advertisement; and 4. Add new SA Factors**
22 **2a.; 2b.; 2c.; 3.; 4.; 6.; 9.; 10.; and scoring guidance for each new Factor, as described in the legal**
23 **advertisement. Part C. Revise the Rating for Protection as described in the legal advertisement. Part**
24 **D. Revise the general text and reformat.**

25
26 **Case 711-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
27 **Ordinance as follows: Part A. In Section 3, revise the definition of “best prime farmland” as follows:**
28 **a) delete “Relative Value of 85” and “Land Evaluation rating of 85” and replace with “average Land**
29 **Evaluation rating of 91 or higher”; and b) add “prime farmland soils and under optimum**
30 **management have 91% to 100% of the highest soil productivities in Champaign County, on average,**
31 **as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*”; and c) add “soils**
32 **identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation**
33 **and Site Assessment (LESA) System”; and d) add “Any development site that includes a significant**
34 **amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3**
35 **and/or 4 soils:. Part B. Revise Footnote 13 of Section 5.3 to strike references to “has a Land Score**
36 **greater than or equal to 85 on the County’s Land Evaluation and Site Assessment System” and**
37 **replace with “is made up of soils that are BEST PRIME FARMLAND” Part C. Revise paragraph**
38 **5.4.4 to strike references to “has a Land Evaluation score greater than or equal to 85 on the County’s**
39 **Land Evaluation and Site Assessment System” and replace with “is made up of soils that are BEST**
40 **PRIME FARMLAND”**
41

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

20
21 **8. Staff Report**

22
23 None

24
25 **9. Other Business**

26 **A. Review of Docket**

27 **B. June, 2012 Monthly Report**

28
29 None

30
31 **10. Audience Participation with respect to matters other than cases pending before the Board**

32
33 None

34
35 **11. Adjournment**

36
37 Mr. Thorsland entertained a motion to adjourn the meeting.

38
39 **Mr. Courson moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice**
40 **vote.**

41
42 The meeting adjourned at 10:08 p.m.

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Respectfully submitted

Secretary of Zoning Board of Appeals

CASE NO. 715-V-12

SUPPLEMENTAL MEMORANDUM

August 24, 2012

Champaign
County
Department of

**PLANNING &
ZONING**

**Brookens
Administrative Center**
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Petitioner: John Behrens Estate & Anne and Denny Anderson

Request: Authorize the following in the R-1 Single Family Residence Zoning District:

- Part A. Variance for a side yard and rear yard of an existing shed of 1 foot in lieu of the minimum required side and rear yards of 5 feet;
- Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;
- Part C. Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement;
- Part D. Variance from a minimum separation from a rear property line for parking spaces of 1 foot in lieu of the minimum required 5 feet, on the following property:

Location: Lot 1 of Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and commonly known as the home at 1 Willowbrook Court, Champaign.

Site Area: 11,500 square feet

Time Schedule for Development: Existing Structures

Prepared by: **Andy Kass**
Associate Planner

John Hall
Zoning Administrator

STATUS

This case was continued from the June 28, 2012, public hearing. New evidence is proposed to be added to the Summary of Evidence and is included in the Revised Summary of Evidence attached (see the underlined text). A UCSD sewer map has been attached. A Special Condition of Approval has also been proposed and is included below.

UTILITIES WITHIN THE EASEMENT

At the June 28, 2012, public hearing Board members indicated that they would like more information regarding utilities located within the easement and if utilities would vacate the easement. As of August 23, 2012, the petitioner has not provided any information. The petitioner did indicate to staff in a phone conversation that he would call JULIE to determine if there were any buried utilities within the easement. Staff has conducted some research and has found that there is an interceptor

sewer line that is located within the easement on the property and a UCSD map has been attached. Staff also conducted a site visit on August 3, 2012, and found a manhole on the subject property.

Staff contacted Chris Elliott, Engineering Representative for Ameren. Mr. Elliott indicated that the shed meets all of the safety standards, but the shed was built around a guy wire and the wire will be cut and placed elsewhere. Mr. Elliott indicated that the petitioner will be charged for this. Mr. Elliott also indicated that although the shed meets safety standards, Ameren would prefer that it was not there, but they have no grounds to make the petitioner remove the shed.

Staff also contacted the Urbana-Champaign Sanitary District regarding the shed and spoke with Mark Radi, Director of Engineering Services. Mr. Radi indicated that he did not feel that the shed was something to worry about. Mr. Radi did indicate that if work had to be done on the sewer that is within the easement on the property and if any additional cost due to the shed were incurred that the Sanitary District would likely charge Mr. Anderson for the excess costs.

PROPERTY LINE VERIFICATION

At the June 28, 2012, public hearing ZBA members expressed concerns regarding the accuracy of the measurements provided by the petitioner. At the hearing the hiring of a surveyor or finding the property pins was suggested to the petitioner in order to provide accurate measurements. The petitioner has indicated to staff that he does not intend to have the property surveyed and that he has attempted to find the property pins, but has not been able to locate them. The petitioner has indicated that he believes the location of his neighbor's fence provides guidance on the location of the property lines.

ALTERNATIVES

The following three alternatives are presented for a way in which this case can be resolved:

- 1.) The ZBA could approve the variance but not allow reconstruction of either or both sheds. This could be a required condition of approval.
- 2.) The ZBA could deny the variance and require the removal of the sheds. In the Finding for the case the Board could include a recommendation that the petitioner be given a specific amount of time to remove the sheds.
- 3.) Regarding the outdoor storage, the petitioner could apply for a Neighborhood Home Occupation (NHO) as a "Scout Master" and then apply for a variance to allow outdoor storage on the property. The activities the petitioner participates in with the Boy Scouts is consistent with the activities of an NHO. An NHO is not allowed outdoor storage which would be the reason for the variance. A fence could be constructed to screen the materials or the materials could be moved to be within the existing fence if space is available. The case would have to be re-advertised. Alternatively, the petitioner would have to place all items currently stored outdoors (building materials, coolers, uninstalled hot tub, canoes) into indoor storage.

PROPOSED SPECIAL CONDITION

- A. This Variance does not authorize reconstruction or replacement of either or both of the sheds if any of the following occur:**
- (1) If the petitioner or any future owner of the subject property deconstructs either or both of the sheds for any reason.**
 - (2) If either or both of the sheds become dilapidated or are destroyed by fire, weather, or natural disaster.**
 - (3) If either or both of the sheds need to be deconstructed for the purpose of a public utility needing to access a buried utility line within the recorded utility easement.**

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

That either or both sheds are not replaced or reconstructed in the event of deconstruction or damage from weather, fire, or natural disaster.

ATTACHMENTS

- A Letters and emails submitted by Patricia Belleville at the June 28, 2012, public hearing**
- B Illustrative Site Plan (included separately)**
- C UCSD Sewer Map (2 sheets and included separately)**
- D August 3, 2012 Site Visit Photos (included separately)**
- E Photos submitted by Charlotte Padgett at June 28, 2012, public hearing (included separately)**
- F Revised Summary of Evidence, Finding of Fact, and Final Determination (included separately)**

From: "Dick Barker" <Dick.Barker@comcast.net>
Subject: **1 Willowbrook Ct Zoning**
Date: June 24, 2012 5:23:12 PM CDT
To: <pkbelleville@eiu.edu>
Reply-To: "Dick Barker" <Dick@dickbarker.com>
▶ 5 Attachments, 22.5 MB

Patti

I hope several Windsor Park residents are going to attend the hearing and object to the zoning variance. Unfortunately I will be unable to attend that evening. If you can, let me know if you know who may be attending. I hope to send an email to the Department of Planning and Zoning recommending that the variance not be allowed and at least ask that the hearing be continued to another time.

A few photos of the lot and building are attached. If you want me to print some copies, just let me know. The building is probably on the property line and may be over the line. It is actually built around a power pole and the support wire for the pole also goes through the roof and inside the building. If AmerenIllinois ever needs to work in that corner, they will have to have the building removed as it is certainly over the utility easement.

The property values of the homes around this property will be greatly depressed—if not make a sale impossible. Values could be decreased by \$20,000 to \$50,000 and may even make the properties virtually unsaleable. The house that adjoins 1 Willowbrook Ct on the east side has already been foreclosed because it could not be sold. The county will lose a lot of real estate tax income if properties like this are allowed to become junk yards.

Instead of wasting time considering this variance, the planning and zoning board should consider making tighter restrictions for subdivisions located in the county.

If you have trouble with the photos, let me know—I am leaving them as large files. I can reduce them if needed. I hope there is a big turnout for the meeting.

Dick B.

Dick Barker

REALTOR/Broker
RE/MAX Realty Associates
2009 Fox Drive
Champaign, IL 61820
Office - 217-352-5700
Mobile - 217-840-1632
Fax - 217-352-0108
Email - dick@dickbarker.com



From: Robert Weddle <robnangela@sbcglobal.net>
Subject: **1 Willowbrook ct.**
Date: June 28, 2012 4:02:41 PM CDT
To: pkbelleville@eiu.edu

Good afternoon -

We will not be able to make the meeting this evening, but I wanted to get this to you so you could hopefully pass it on to the board for us. We have several concerns about what has been going on. There are several vehicles and trailers parked in the two driveways and the side yard of the property. The driveway that they put in is right along side their neighbors property and was put in when the previous neighbor had moved out but was still trying to sell his house. The vehicles are also parked across the public sidewalk down to the curb with the sidewalks not being accessible at all. This also obstructs the view of motorists coming into our culdesac off of Windsor which is a very busy road. We have three children and there are other children that live on our street that all play in the culdesac. At times there is a school bus parked in their driveway which our previous neighbor had to pay him to keep out of the culdesac so he would have a better chance of selling his property. I'm not sure if he is running a business from his house but there are usually men with their trucks parked on the street and working at the home which causes more congestion.. We also feel the whole lot is a fire hazard and a storage/dumping area. There are structures being built, one of which is a large garage built around a utility pole. There have been structures put in on either side of the sidewalk and plantings put in down by Windsor road that will eventually obstruct your view. Not only is this place a fire hazard and unsafe for our children it is bringing every ones property value down and is going to be difficult for anyone to sell their home with this one looking the way that it does. I want to thank the board for their time and listening to our concerns.

Robert & Angela Weddle
3 Willowbrook ct.

From: mike.mckenzie@comcast.net
Subject: **Variance Case 715-V-12**
Date: June 22, 2012 9:52:58 AM CDT
To: pkbelleville@eiu.edu
Cc: Keith and Charlotte Padgett <cp1lynd@aol.com>

Ms. Belleville: We recently received a notice regarding the variance request filed by the residents at 1 Willowbrook Court. The purpose of this email is to express our feelings regarding this matter.

We strongly urge the Department of Planning and Zoning to reject this variance request. By-laws and zoning ordinances exist for a reason and that is to ensure that all subdivision residents follow the same rules and guidelines; thus assuring that property values and esthetics of an entire subdivision remain high. In addition, there is a process for individuals to request a variance prior to any changes being made to one's property. In this case, the owners at 1 Willowbrook Court did neither. The sheds in question impact the views and values of neighboring properties and were also built without prior approval. To now ask for a variance is not right.

We strongly urge that this variance petition be rejected and that the sheds in question be removed.

Mike and Terri McKenzie
2 Lyndhurst Pl.

From: "Diane Ore" <dianeore@att.net>
Subject: **Proxy**
Date: June 28, 2012 3:19:14 PM CDT
To: "Patricia Belleville" <pkbelleville@eiu.edu>

Hi Patty,

Please include my thoughts at the meeting tonight. Sorry I can't join you.

I am opposed to the variances for aesthetic reasons and for concerns about privacy. The lot sizes in Windsor park were designed to make our neighborhood look pleasing, with room for grass, trees and gardens. Sheds that occupy large portions of a yard make the yard, house and block look industrial and cramped.

The property lines were defined to give each property owner adequate space from neighbors. Moving a building to within a foot of property lines is both illegal and disrespectful of a neighbor's privacy. I would vote to keep the owner/s at 1 Willowbrook from keeping his/her/their sheds in the current locations.

Thank you,
Diane Ore

From: Dkromine@aol.com
Subject: **1 Willowbrook Court**
Date: June 27, 2012 7:36:44 PM CDT
To: pkbelleville@eiu.edu, cp1lynd@aol.com

Dear Patti and John,

i hope that this is the start of the clean up of the property at 1 Willowbrook Ct. As is evident to anyone that drives down Windsor Rd., this property is in need of extensive clean up. I can only imagine the hosts of varmints, not to mention standing water infested with mosquitos, that call the property home. I will bring to you tomorrow, a letter that some neighbors have signed that is against granting the request by the property owners for a variance by the zoning committee.

Debbie Romine
2505 Stanford Drive

From: dhdupre@comcast.net
Subject: **Comment on Varlance Petition**
Date: June 28, 2012 10:06:26 AM CDT
To: pkbelleville@eiu.edu

Hi Patti,

Thank you for taking your personal time to represent the neighborhood on this issue.

My view is that the Zoning Ordinances exist to inform folks of what expectations are prior to actions taking place. In this case, an after the fact remedy is being sought. I'm not certain what is the best solution. However, it seems that the highest consideration should be granted to those most-affected, the 3 adjacent property owners.

I would support the immediate neighbors' position foremost on whether to grant or deny the Variance. Any single neighbor that is not in favor should have their opinion weighed the most as it directly affects their property.

I also wonder about the severity of the encroachment into the utility easement? This is Part C of the Notice. The impact of any potential future access may also affect more than the immediate neighbors, however, I'm am not certain of these particulars. The type of utility and the needed easement should be given critical weight as well, as the influenced utility could impact hundreds or thousands of homes/businesses.

Hopefully this opinion adds to the discussion.

Thank you again,
David Dupre
2511 Lyndhurst Drive

June 27, 2012

Patricia and John Belleville
511 Park Lane Drive
Champaign IL 61820

Dear Pat and John:

I am writing with regard to petition Case 715-V-12 to be discussed at a meeting tomorrow at Brookings Center. My wife and I strongly feel that the request by the owners of 1 Willowbrook Court to "legalize" the moving of two existing sheds within a foot of their property line be denied, and that the County Assessments Office's notice be supported in full.

As it is now, the property is a definite eyesore, given large Boy Scout trailer and van on two separate driveways, old shabby canvass covered items along the house paralleling Windsor Road, and neglected weedy lawns. The property looks trashy and rundown, and at times almost abandoned. Thus, not only could the request set a bad precedent, but could also lower other Willowbrook Court property values, while possibly even degrading the image of The Boy Scouts of America.

Sincerely,

A handwritten signature in blue ink that reads "Sue Kovacs Tom Kovacs". The signature is written in a cursive style.

Sue and Tom Kovacs
2502 Stanford Drive

To: Patti Belleville, chair, Windsor Park Homeowners' Asso.

From: Gladys Hemp, Resident of Windsor Park and Board member

Date: June 27, 2012

Re: Residence, 1 Willowbrook Court request for variances

As residents of Windsor Park, we are deeply distressed at the condition of the property at 1 Willowbrook Court. The resident is already out of compliance. His shed is on the easement with the guide wire from the power line extending into the shed roof. How has Ameren permitted this? He has built a separate drive where he formerly parked a school bus. In general, the property has not been cared for.

We feel desperately sorry for the neighbors in the court who have had to put up with this mess. Please do not permit any further deterioration of this property and make him correct what he has done to comply with the rules.

Thank you.

A handwritten signature in cursive script that reads "Gladys and Paul Hemp". The ink is black and the signature is written in a fluid, connected style.

Gladys and Paul Hemp
711 Park Lane Drive, Champaign, 61820

June 27, 2012

Patricia and John Belleville
511 Park Lane Drive
Champaign IL 61820

Dear Pat and John:

I am writing with regard to petition Case 715-V-12 to be discussed at a meeting tomorrow at Brookings Center. My wife and I strongly feel that the request by the owners of 1 Willowbrook Court to "legalize" the moving of two existing sheds within a foot of their property line be denied, and that the County Assessments Office's notice be supported in full.

As it is now, the property is a definite eyesore, given large Boy Scout trailer and van on two separate driveways, old shabby canvass covered items along the house paralleling Windsor Road, and neglected weedy lawns. The property looks trashy and rundown, and at times almost abandoned. Thus, not only could the request set a bad precedent, but could also lower other Willowbrook Court property values, while possibly even degrading the image of The Boy Scouts of America.

Sincerely,

Sue and Tom Kovacs
2502 Stanford Drive

Larew Leek 2507 STANFORD DR. C.
Cynthia McKendall 2509 Stanford Drive
Greg Perkins 802 PARK LANE DR.
Ryan Squire
RYAN SQUIRE Elizabeth Squire 2504 STANFORD DRIVE
Deborah Hornum 2505 Stanford Drive
James Behr 2506 Stanford Drive

From: geon7lewis@aol.com
Subject: **Case 715-V-12, Request for Zoning Varlance for #1 Willowbrook Court, Champaign, IL**
Date: June 22, 2012 10:47:29 AM CDT
To: pkbelleville@eiu.edu

We were very happy to receive this notification for the above requested action. Hopefully the County Zoning and the Windsor Park Homeowners Association will finally do something about that property. We have lived in the same house in Windsor Park for 36 years and find that the vast majority of the other residents all are good neighbors and maintain the property to a certain standard. This property was well maintained in the past until it changed hands a few years ago. The property has steadily become run down and a total eye sore to the neighborhood with an old bus, trailers, railroad ties, bales of straw and sheds. It is ruining property values and a mess for the neighbors to have to look at, let alone maintain their property values. With the accumulation of junk there has to be pests and unsafe conditions. While we realize that the people on that property are very involved in Scouting, which is admirable, they should maintain all of the eye sore associated with it at another location. We drove by several weeks ago and every inch that could be used had become a Boy Scout camp, tents were everywhere. Their yard has become a neglected, weedy mess that the county and/or the Homeowners association should correct.

We do not live directly by these people or know them but we drive by daily and are appalled at the condition of the property. We strongly urge the County Planning and Zoning Board of Appeals to deny this varlance and force the removal of the sheds and cleaning up the property! I am certain that the property owner directly to the east of this residence that is renovating and trying to sell the home and the neighbors directly on Willowbrook Court would appreciate this action not to mention and get their property values up. I certainly would not buy a house where I had to look at this eye sore 24/7 and one would hope that they can be forced to clean it up and have a little respect for the rest of the homeowners.

If the County Board and Homeowners Association can clean up that mess it would be greatly appreciated.

From: "Jack W. Davis" <jackdavisgraphics@gmail.com>
Subject: **Re: Varlance**
Date: June 22, 2012 11:55:38 AM CDT
To: Patricia Bellville <pkbelleville@eiu.edu>

No, I haven't, but I believe a homeowner should be able to do what he/she wants on their own property.

On Fri, Jun 22, 2012 at 10:58 AM, Patricia Bellville <pkbelleville@eiu.edu> wrote:

Jack,
Thanks! I'll present your email at the board meeting.

Just one question. Have you walked over to look at the property?
Patti

On Jun 22, 2012, at 9:29 AM, Jack W. Davis wrote:

As a homeowner in the Windsor Park Subdivision, I have absolutely no objection to the Variance at 1 Willowbrook Court.

Jack W. Davis

--

Jack W. Davis / Graphic Designer
JackDavisGraphics@gmail.com / JackDavis.com
Phone: [217-356-1809](tel:217-356-1809)

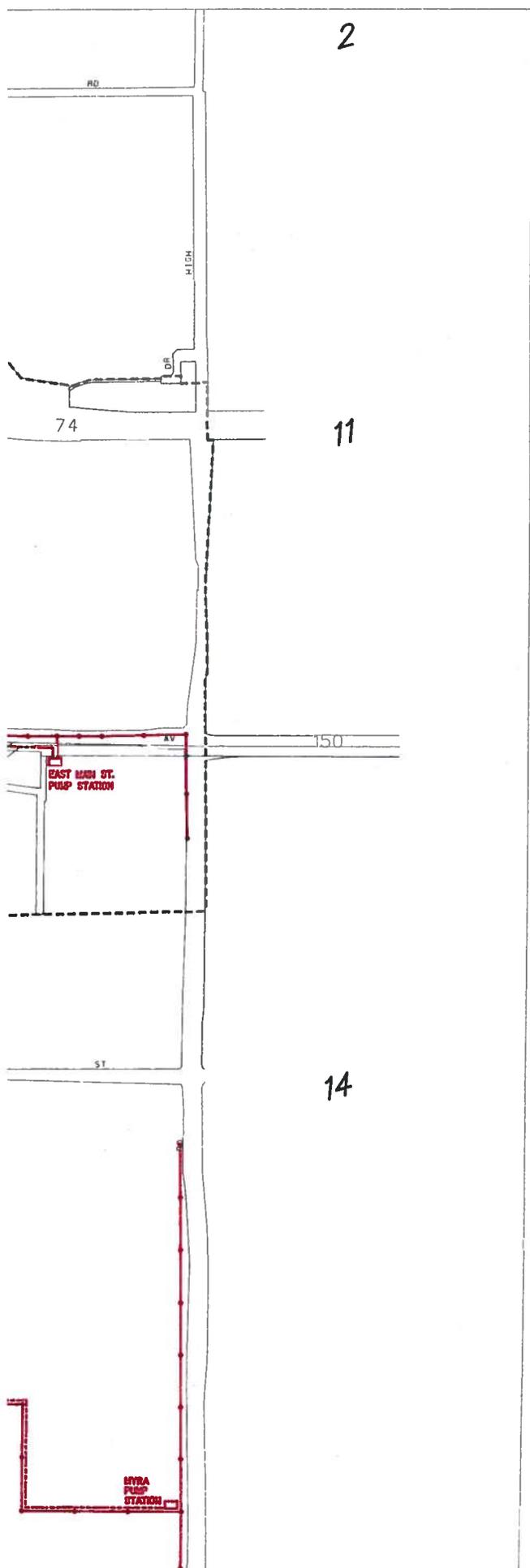
CONFIDENTIALITY NOTICE: This e-mail message, including attachments if any, is intended only for the person to which it is addressed and may contain confidential and /or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited.

--

Jack W. Davis / Graphic Designer
JackDavisGraphics@gmail.com / JackDavis.com
Phone: 217-356-1809

CONFIDENTIALITY NOTICE: This e-mail message, including attachments if any, is intended only for the person to which it is addressed and may contain confidential and /or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited.

URBANA & CHAMPAIGN SANITARY DISTRICT MAP



These maps have been created by Sodemann and Associates to fulfill the terms of the agreement between The Urbana and Champaign Sanitary District, the cities of Champaign and Urbana and the village of Savoy. The maps are intended to depict only the approximate location of various sanitary sewers within the district. Linetypes and colors are intended to identify types of sewers and the entities that maintain them. Any other graphical information on these maps is shown only for clarity. The maps are not recommended for any other use.

LEGEND

	ANNEXATION BOUNDARY LINE
	MUNICIPAL BOUNDARY LINE
	COMMON BOUNDARY LINE
	STREET R.O.W. AND NAME
	COLLECTOR SEWER (MUNICIPAL)
	MUNICIPAL APPROVED COLLECTOR SEWER
	DISTRICT APPROVED COLLECTOR SEWER
	FORCE MAIN (DISTRICT)
	INTERCEPTOR SEWER (DISTRICT)
	UNIVERSITY OF ILLINOIS SEWER
	UNIVERSITY OF ILLINOIS FORCE MAIN
	PRIVATELY MAINTAINED SEWER
	ABANDONED SEWER
	MANHOLE

REVISIONS

DATE	DESCRIPTION
1-7-94	PRELIMINARY DRAFT
9-15-94	SECOND EDITION



SOUTH 845
PUMP STATION

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MCCULLOUGH

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Subject
Property

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R 8 E | R 9 E

08/03/2012

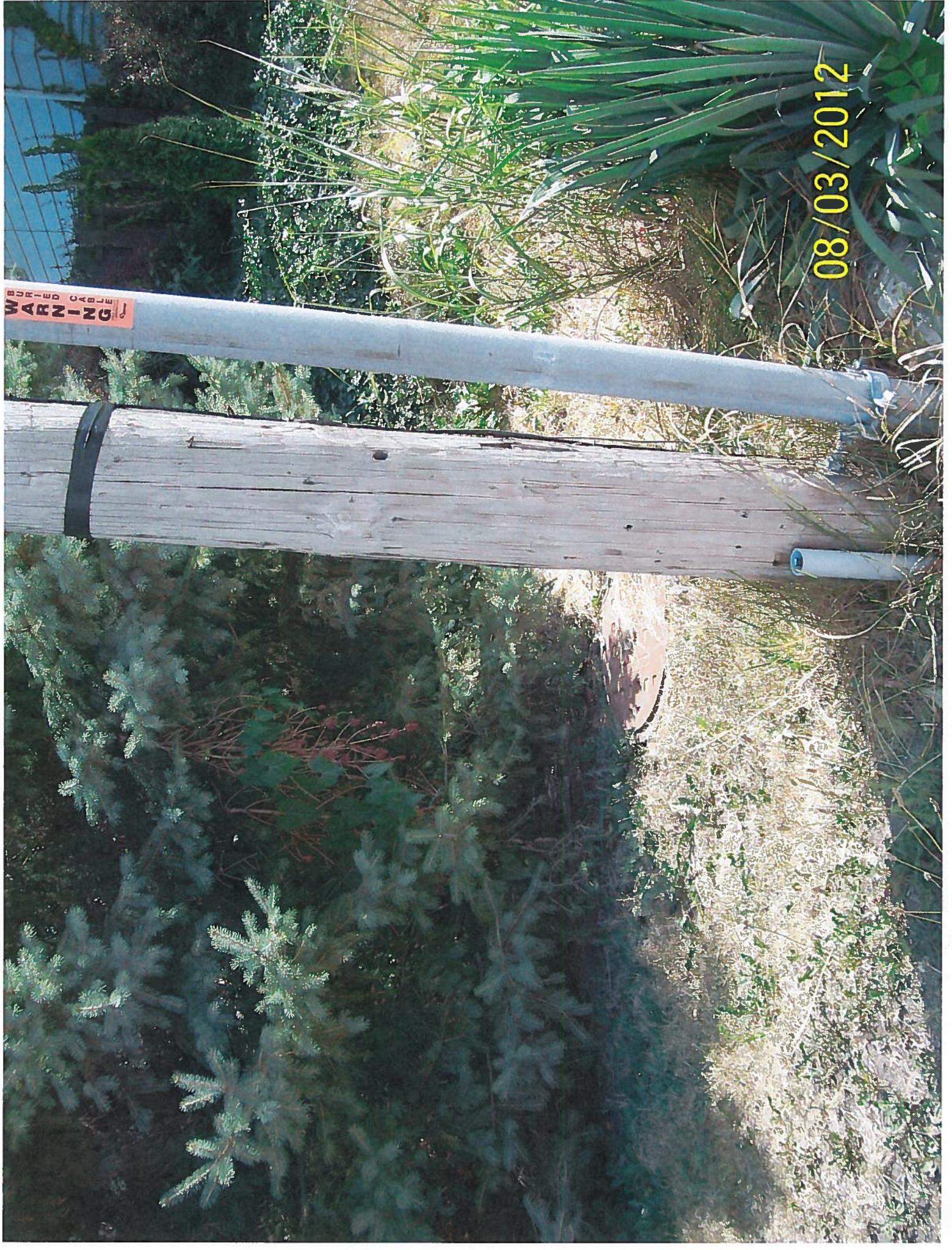




08/03/2012

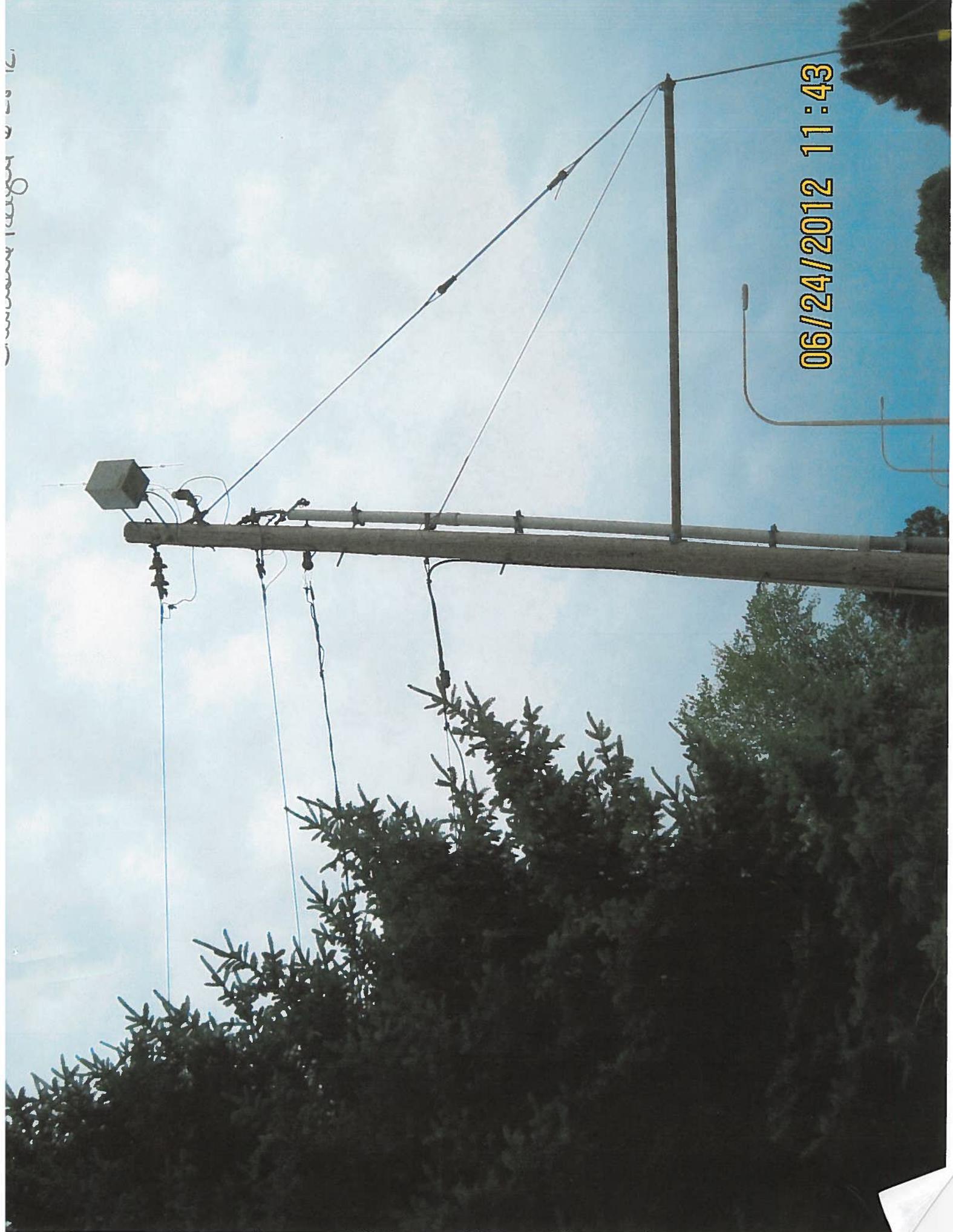
WARNING

08/03/2012



www.1000.com

06/24/2012 11:43





06/20/2012 18:29



06/20/2012 18:29

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06/24/2012 11:44

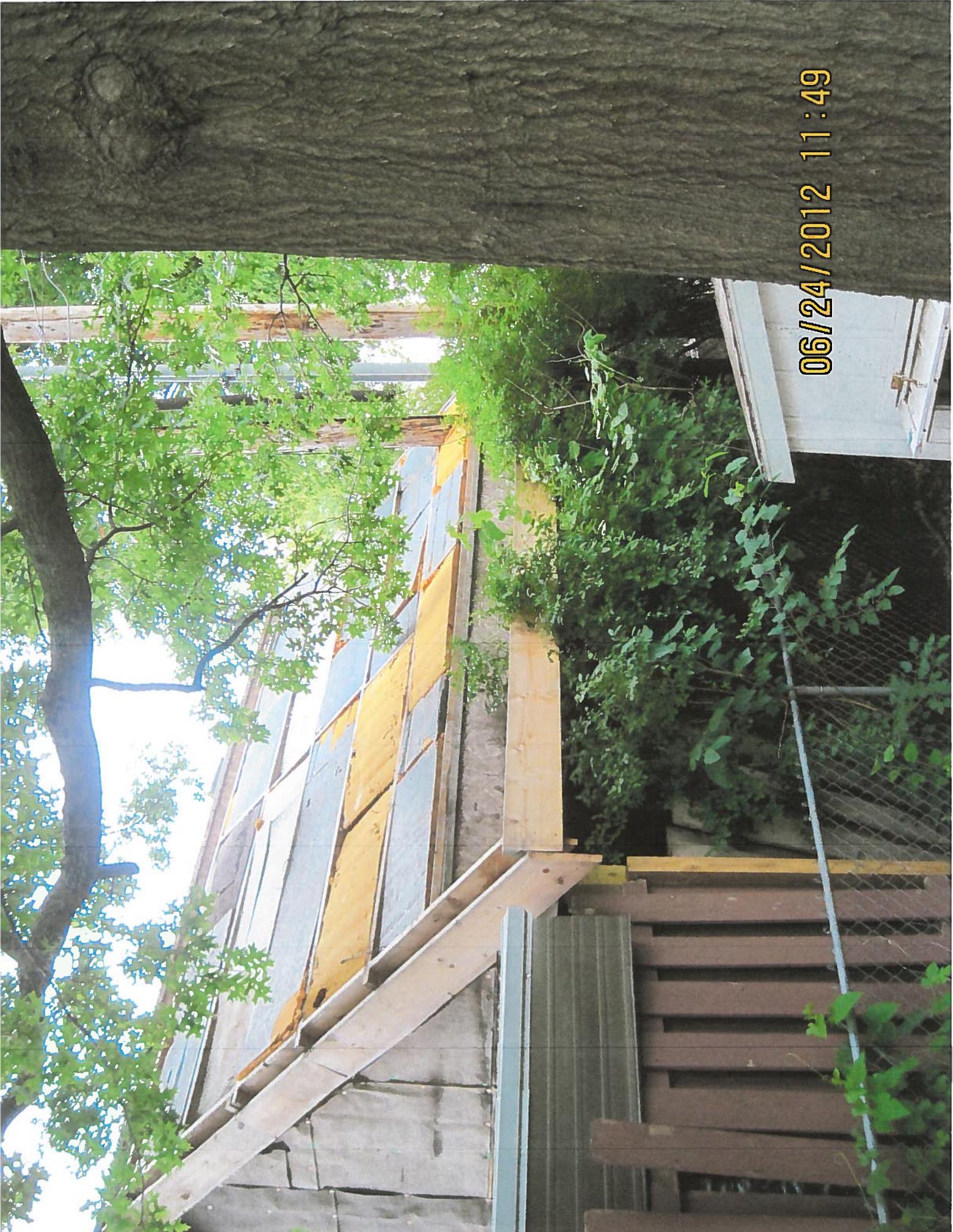


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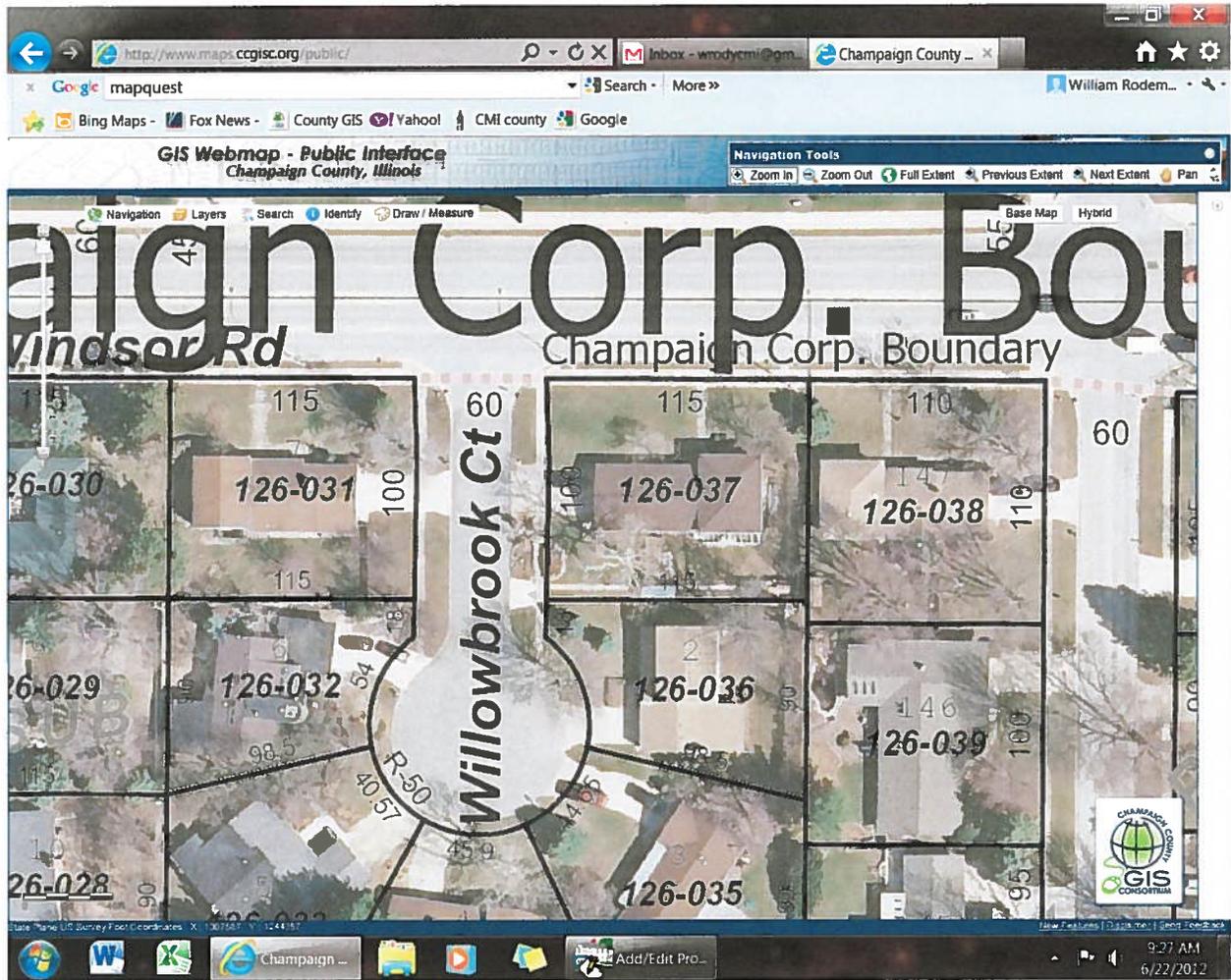


06/20/2012 18:05



HAY BALES

06/24/2012 12:00



100 foot x 115 foot
CK property pins

2008

REVISED DRAFT

715-V-12

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: **{GRANTED / GRANTED WITH SPECIAL CONDITIONS/ DENIED}**

Date: ~~June 28, 2012~~ August 30, 2012

Petitioners: **The Estate of John Behrens and Anne and Denny Anderson**

Request: Authorize the following in the R-1 Single Family Residence Zoning District:

Part A. Variance for a side yard and rear yard of an existing shed of 1 foot in lieu of the minimum required side and rear yards of 5 feet;

Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;

Part C. Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement;

Part D. Variance from a minimum separation from a rear property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 28, 2012, and August 30, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioner, Denny Anderson is married to Anne Anderson, a daughter of former owner John Behrens who is deceased. Anne Anderson expects to eventually acquire the property from the John Behrens estate. Anne and Denny Anderson currently reside on the property.
2. The subject property is Lot 1 of Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and commonly known as the home at 1 Willowbrook Court, Champaign.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign, a municipality with zoning. Municipalities do not have protest rights regarding variances, and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned R-1 Single Family Residence, and is in residential use.
 - B. Land to the north is in the City of Champaign and is in commercial use.
 - C. Land to the south of the subject property is zoned R-1 Single Family Residence, and is in residential use.
 - D. Land to the east and west of the subject property is zoned R-1 Single Family Residence, and is in residential use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject site:
 - A. The subject property is a 11,500 square feet (.26 acre) lot.
 - B. The Site Plan received March 15, 2012, and amended June 8, 2012, includes the following:
 - (1) Location of the existing 1,850 square feet home.
 - (2) Location of an existing 20'×12' deck that is currently being used to store building materials under a tarp.
 - (3) Location of an existing 25' × 16' shed that is the subject of Parts A and C of the variance.
 - (4) Location of an existing 33' × 4½' wood storage shed that is the subject of Part B of the variance.

- (5) Parking area in the southeast corner of the property that is the subject of Part D of the variance.
- (6) Location of a 5' × 25' greenhouse.

C. The requested variance is as follows:

- (1) Variance for a side yard and rear yard of an existing shed of 1 foot in lieu of the minimum required side and rear yards of 5 feet;
- (2) Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;
- (3) Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement;
- (4) Variance from a minimum separation from a rear property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:

A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):

- (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.
- (2) "AREA, LOT" is the total area within the LOT LINES.
- (3) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
- (4) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (5) "LOT LINES" are the lines bounding a LOT.

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- (6) "RIGHT-OF-WAY" is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
 - (7) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
 - (a) MAJOR STREET: Federal or State highways
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.
 - (8) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
 - (9) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
 - (10) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- C. Minimum side and rear yards for DETACHED ACCESSORY BUILDINGS and STRUCTURES in the R-1 District are established in Section 7.2.2 of the *Zoning Ordinance* as follows:
- (1) The minimum side yard in the R-1 Zoning District is listed in Section 7.2.2B. as 5 feet.
 - (2) The minimum rear yard in the R-1 Zoning District is listed in Section 7.2.2C. as 5 feet.
- D. Minimum separation distances for parking spaces from a side rear property line are established in Section 7.4.1A. of the *Zoning Ordinance* as follows:
- (1) No such space shall be located less than five feet from any side or REAR LOT LINE.

- E. Section 4.2.2D. establishes the requirement that no USE shall be established, CONSTRUCTION undertaken, nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement.
- F. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- G. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The petitioner has testified on the application, **“Corner lot setbacks seriously limit backyard space. East side yard is narrow and sloped down to the North and East 30 degrees down making it inaccessible and unbuildable.”**

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- B. The subject property is a corner lot and the visibility triangle requirements require that 1,250 square feet of a corner lot not be encroached upon by development to keep the corner of two intersecting streets free from sight obstruction. The subject property is 11,500 square feet in area.
- C. The sheds are used to store building materials. At least some of the building materials are used by Denny Anderson to construct structures at Camp Drake for the Boy Scouts (see Attachment D to the Preliminary Memorandum). Building materials are also stored on the deck under tarpaulins and uncovered in the side and rear yard. Other items are also stored outdoors on the property such as canoes and coolers.
- D. Staff conducted a site visit on May 8, 2012, and at that time the petitioner indicated that the utility company does not use the 5 feet wide recorded utility easement along the east property line, but rather accesses the utility pole at the southeast corner of the property from a neighboring property. The petitioner also indicated that the utility company has installed a new utility pole and has vacated the original utility pole which the large shed has been built around. No evidence has been received that affirms the vacation of the utility pole.
- E. The south parking area is used to park a Boy Scout trailer and a work trailer.
- F. At the June 28, 2012, public hearing Denny Anderson, petitioner, testified:
- (1) A few years ago the utility pole was replaced and at that time Ameren discovered that they could not access the front of the property because of the 30 degree slope of the area within the easement therefore they had to access the backyard through a neighbors yard.
 - (2) Ameren has not vacated the easement, but he spoke with Chris Elliott, Engineering Representative with Ameren and he indicated that there was no issue.
- G. The Urbana-Champaign Sanitary District (UCSD) sewer map indicates that an interceptor sewer line is located within the recorded utility easement on the subject property.
- H. On August 3, 2012, staff conducted a site visit and verified that a manhole does exist on the subject property as indicated on the UCSD sewer map.

GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The petitioner has testified on the application, **“Proposed structure will not fit any other area reasonably. Reduced size will make it unusable for intended storage. Existing power line would touch proposed shed roof if moved any further West. Line cannot be further tensioned. All adjacent land is fenced and storage building occupied.”**
 - B. Without the proposed variance, the large shed (Part A and C of the variance) on the subject property could be no larger than approximately 12' × 21'. This is the size of a shed that would not require variance from side and rear yard requirements or from construction within a recorded utility easement. The shed could be moved 4 feet to the west and shortened by 4 feet on the south to not require any variance although the shed would be approximately 1 foot away from the greenhouse attached to home on the subject property. The shed could also be expanded or deconstructed and a new shed could be built in the backyard west of the existing shed that would meet all yard requirements and not be within the easement. Staff estimates that this shed could be as large as 45' × 15' which would be an increase in square footage compared to the existing shed.
 - C. The smaller shed (Part B of the variance) would not have to be reduced in size, but moved 4 feet to the north in order for the variance to not be required.
 - D. In a phone conversation between Chris Elliott, Engineering Representative for Ameren and Andy Kass, Associate Planner, on August 22, 2012, Mr. Elliott conveyed the following information:
 - (1) The shed meets all of the minimum distances from power lines.
 - (2) The shed is built around a guy wire, but the wire will be cut and re-routed at the expense of Mr. Anderson.
 - (3) Although the shed meets the distance requirements. Ameren would prefer that the shed not be within the easement, but they have no grounds to require Mr. Anderson to move the shed.
 - E. In a phone conversation between Mark Radi, Director of Engineering Services for the Urbana-Champaign Sanitary District (UCSD), and Andy Kass, Associate Planner, on August 22, 2012, Mr. Radi conveyed the following information:
 - (1) The shed is not a big concern for them because they do not consider it a permanent structure.

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(2) In the event that the U-CSD would have to access the easement to do work Mr. Anderson could be charged for any work that would be required because of the location of the shed.

F. At the June 28, 2012, public hearing Denny Anderson, petitioner, testified:

(1) He builds tree houses for the Boy Scouts and the materials located on his property are for the next tree house. There are plans to build more tree houses, but because of the Variance process he does not want to be a storage facility so all of the materials will be moved to Camp Drake in Vermilion County.

(2) After the next tree house is built all of the building materials will be removed from the property.

(3) The shed will still be required because he has a lot of Boy Scout troop equipment and a trailer.

GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The petitioner has testified on the application, “No.”
 - B. The subject property is a corner lot and the visibility triangle requirements require that 1,250 square feet of a corner lot not be encroached upon by development to keep the corner of two intersecting streets free from sight obstruction. The subject property is 11,500 square feet in area.
 - C. On May 8, 2012, staff conducted a site visit to the subject property and at that time the Petitioner indicated that the parking area along the rear property line was constructed because a narrow strip of pavement existed and then he added the strip of pavement closest to rear property line to allow for additional parking. Staff researched the petitioner’s claim and found that aerial photos from 1973 do not indicate a paved parking area along the rear property line.
 - D. A Notice of Violation was sent to the petitioner after complaints were received from neighbors and an off-site inspection by the Zoning Officer (see Attachment E to the Preliminary Memorandum). The violations cited were as follows:
 - (1) Construction without a permit.
 - (2) Parking too close to the lot line.
 - (3) Outdoor storage (a *Nuisance Ordinance* violation).

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The petitioner has testified on the application, **“Granting variance will: a.) provide buffer for neighbors; and b.) allow backyard room to park Boy Scout trailer four dogs and work trailer; and c.) allow enclosed storage space for construction materials; and d.) allow sunlight to greenhouse; and e.) allow runoff water to North and East.”**
- B. The requested variance is as follows:
- (1) A side and rear yard of 1 foot for an existing shed is 20% of the minimum required 5 feet for a variance of 80% (Part A).
 - (2) A rear yard of 1 foot for an existing shed is 20% of the minimum required 5 feet for a variance of 80% (Part B).
 - (4) The requested variance from Section 4.2.2D. requirements is a 100% variance (Part C).
 - (5) The requested variance from minimum separation distance of a parking space from a rear property line of 1 foot is 20% of the minimum required 5 feet for a variance of 80% (Part D).
- C. The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In general, the side yard is presumably intended to ensure the following:
- (1) Adequate light and air: The subject property is in residential use. The properties to the south, east, and west are in residential use.
 - (2) Separation of structures to prevent conflagration: The subject property is within the Savoy Fire Protection District and the station is approximately 2 miles from the subject property. The nearest structure to the largest shed is on the property to the east is approximately 11 feet from the shed. The nearest structure to the smaller shed is on the property to the south and is approximately 14 feet from the smaller shed.
 - (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.

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- D. The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In addition to all of the considerations listed for a side yard, a rear yard is presumably also intended to ensure the following:
- (1) A minimum amount of onsite recreational area.
 - (2) Area for a septic system, when necessary. The subject property is in an area with sewers and this consideration does not apply.
- E. The subject property looks very similar to a building contractor facility and should be registered as a home occupation but as a home occupation the outdoor storage is not authorized unless approved as a variance. The current variance does not include any request for outdoor storage.
- F. The requested variance is not prohibited by the *Zoning Ordinance*.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner has testified on the application that, **“Fences and hedge buffer the area, Power Company replaced corner pole in 2007 thru unsloped east backyard, runoff will be unaffected, no traffic or visibility negatives, only positive effects.”**
 - B. The Township Road Commissioner has received notice of this variance but no comments have been received.
 - C. The Fire Protection District has been notified of this variance but no comments have been received.
 - D. As reviewed in Item 9.D. the petitioner received a Notice Violation based on complaints from neighbors.
 - E. At the June 28, 2012, public hearing Charlotte Padgett a resident of Windsor Park and Deputy Assessor for Champaign Township testified. Her testimony is summarized as follows:
 - (1) The roof of the large shed appears to be a fire hazard because of exposed insulation.
 - (2) The petitioner parks a van which blocks the public sidewalk and extends out into the cul-de-sac.
 - (3) The subject property is hurting property values in the neighborhood.

- F. At the June 28, 2012, public hearing Patricia Belleville, Chair of the Windsor Park Homeowners Association testified. Her testimony is summarized as follows:
- (1) Concerns and complaints have been submitted to the homeowners association regarding the subject property.
 - (2) She spoke with Steve Estes with Ameren and Mr. Estes indicated that Ameren would be happy to see the buildings removed because it restricts access to the lines and they prefer to not have any structures under the power lines.
 - (3) Residents of Windsor Park are concerned about property values being affected by the condition of the subject property.
 - (4) The neighborhood covenants state that no storage of building materials is allowed on the property and that similar to the County Ordinance the covenants indicate that structures must be placed away from power lines and property lines.
- G. At the June 28, 2012 public hearing Patricia Belleville submitted 10 letters in opposition (one letter provided no name or address) to the granting of the variance request. The following people provided letters or signed a letter of opposition:
- (1) Dick Barker, 2501 Bedford Drive, Champaign.
 - (2) Robert and Angela Weddle, #3 Willowbrook Court, Champaign.
 - (3) Mike and Teri McKenzie, 2 Lyndhurst Place, Champaign.
 - (4) Diane Ore, 2508 Bedford Drive, Champaign.
 - (5) Debbie Romine, 2505 Stanford Drive, Champaign.
 - (6) David Dupre, 2511 Lyndhurst Drive, Champaign.
 - (7) Sue and Tom Kovacs, 2502 Stanford Drive, Champaign.
 - (8) Gladys and Paul Hemp, 711 Park Lane Drive, Champaign.
 - (9) Karen Peck, 2507 Stanford Drive, Champaign.
 - (10) Cynthia McKendall, 2509 Stanford Drive, Champaign.
 - (11) Greg Perkins, 802 Park Lane Drive, Champaign.
 - (12) Ryan and Elizabeth Squire, 2504 Stanford Drive, Champaign.
 - (13) Janice Bahr, 2506 Stanford Drive, Champaign.
- H. At the June 28, 2012, public hearing Patricia Belleville submitted one letter of no objection to the granting of variance from Jack Davis, 408 Park Lane Drive, Champaign.
- I. At the June 28, 2012, public hearing Denny Anderson, petitioner, testified the following:
- (1) The first thing he will do if he is given permission to finish the shed is to install a metal roof on the shed.

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- (2) When he has time to get everything situated and the troop trailer parked in back, the van will be relocated so as to not block the sidewalk.
- (3) The sponsor organization for the Boy Scout troop is Thrivent Financial for Lutherans and they have no property for the troop to store equipment and materials at.

J. A letter written by Robert and Angela Weddle, nearby residents of the subject property was submitted by Patricia Belleville at the June 28, 2012, public hearing and is summarized as follows:

- (1) Several vehicles and trailers park in the two driveways on the property and in the side yard.
- (2) The driveway along their neighbors property line was put in when the previous neighbor had moved out, but was still trying to sell the property.
- (3) The vehicles park across the side walks and down to the curb which makes it difficult to see.
- (4) A school bus is sometimes parked in the driveway and the previous neighbor had to pay Mr. Anderson to keep it out of the cul-de-sac so that he would have a better chance of selling the property.

J. A letter written by Dick Barker, 2501 Bedford Drive, Champaign, was submitted by Patricia Belleville at the June 28, 2012, public hearing and is summarized as follows:

- (1) Property values of homes around the subject property will be greatly depressed and could make a sale impossible.
- (2) The home immediately east of the subject property was foreclosed because the home could not be sold.

K. There is an existing Zoning Enforcement Case (ZN-12-07/20) on the property. The variance can be approved by the ZBA per Section 13.2.1 of the *Zoning Ordinance* because the Variance will facilitate correction of some part of the violation. The following violations on the subject property are as follows:

- (1) A Zoning Use Permit has not been issued or authorized by the Zoning Administrator for accessory structures and buildings on the subject property.
- (2) The off-street parking area along the rear property line is 1 foot from the rear property line in lieu of the minimum required 5 feet. In addition vehicles parked in this parking area park too close to the front property line. Vehicle may be parked no closer than 10 feet from a front property line.

- (3) A shed has been built where it has a 1 foot side and rear yard in lieu of the minimum 5 feet side and rear yard for an accessory building or structure. In addition this same shed has also been built within recorded utility easement which the Zoning Ordinance prohibits in Section 4.2.2 D.
- (4) An additional shed has been constructed with a rear yard of 1 foot in lieu of the minimum required 5 feet.
- (5) Outdoor storage of building materials, equipment, and other materials occurs onsite.
- (6) Outdoor storage of inoperable vehicles, and equipment or parts occurs onsite.

L. In order to resolve the existing violations and Zoning Enforcement Case ZN-12-07/20 on the property the following action is required to correct the violations:

- (1) Apply for and receive a Zoning Use Permit authorizing the structures and buildings of the subject property. The petitioner has submitted a Zoning Use Permit Application but no fee has been paid and if the Variance is approved the Permit fee must be paid.
- (2) Remove, obtain a Variance from the Zoning Board of Appeals, or move the parking area along the rear property line to be at least 5 feet from the rear property line and not park vehicle within 10 feet of the front property line. This is Part D of the Variance.
- (3) Remove and properly store inside a fully enclosed building all building materials, recyclable materials, equipment, fire wood (except in reasonable quantities for domestic use on-site), packaging materials and similar items.
- (4) Remove and properly store inside a fully enclosed building all vehicle equipment and/or vehicle parts including any tires stored outdoors.
- (5) Move, deconstruct, or obtain a Variance from the Zoning Board of Appeals for two accessory structures that do not meet side and rear yard requirements. This is Parts A and B of the Variance.
- (6) Move, deconstruct, or obtain a Variance from the Zoning Board of Appeals for an accessory structure built within a recorded utility easement. This is Part C of the Variance.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:

A. This Variance does not authorize reconstruction or replacement of either or both of the sheds if any of the following occur:

(1) If the petitioner or any future owner of the subject property deconstructs either or both of the sheds for any reason.

(2) If either or both of the sheds become dilapidated or are destroyed by fire, weather, or natural disaster.

(3) If either or both of the sheds need to be deconstructed for the purpose of a public utility needing to access a buried utility line within the recorded utility easement.

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

That either or both sheds are not replaced or reconstructed in the event of deconstruction or damage from weather, fire, or natural disaster.

DOCUMENTS OF RECORD

1. Variance Application received on March 15, 2012, with attachment:
 - A Site Plan
 - B Newspaper Article
2. Site Plan amended June 8, 2012
3. Preliminary Memorandum dated June 22, 2012, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received March 15, 2012 and amended June 8, 2012
 - C Annotated Site Plan
 - D Photos of Subject Property
 - E News-Gazette Article regarding Denny Anderson's activities with the Boy Scouts, dated October 23, 2011
 - F First Notice of Violation for Enforcement Case ZN-12-07/20
 - G Draft Summary of Evidence, Finding of Fact, and Final Determination (attached separately)
4. Email and photos from Dick Barker received June 27, 2012
5. Supplemental Memorandum dated June 28, 2012, with attachments:
 - A Email from Dick Barker with photos
6. Letters of support and objection submitted by Patricia Belleville at the June 28, 2012, public hearing
7. Photos submitted by Charlotte Padgett at the June 28, 2012, public hearing
8. Site Visit Photos from May 8, 2012 and August 3, 2012
9. Supplemental Memorandum dated August 24, 2012, with attachments:
 - A Letters and emails submitted by Patricia Belleville at the June 28, 2012, public hearing
 - B Illustrative Site Plan
 - C UCSD Sewer Map (2 sheets)
 - D August 3, 2012 Site Visit Photos
 - E Photos submitted by Charlotte Padgett at June 28, 2012, public hearing
 - F Revised Summary of Evidence, Finding of Fact, and Final Determination

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 715-V-12 held on **June 28, 2012, and August 30, 2012**, the Zoning Board of Appeals of Champaign County finds that:

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

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

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

4. The requested variance **{SUBJECT TO THE PROPOSED CONDITION}** **{IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because: _____

5. The requested variance **{SUBJECT TO THE PROPOSED CONDITION}** **{WILL / WILL NOT}** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

6. The requested variance ***{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure because: _____

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 715-V-12 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **John Behrens Estate & Anne and Denney Anderson** to authorize the following in the R-1 Zoning District:

- Part A. Variance for a side yard and rear yard of an existing shed of 1 foot in lieu of the minimum required side and rear yards of 5 feet;**
- Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;**
- Part C. Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement;**
- Part D. Variance from a minimum separation from a rear property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.**

{SUBJECT TO THE FOLLOWING CONDITION(S):}

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

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Date