

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61802

DATE: August 30, 2012

PLACE: Lyle Shields Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 7:00 p.m.

MEMBERS PRESENT: Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren, Brad Passalacqua

MEMBERS ABSENT : Roger Miller

STAFF PRESENT : Connie Berry, John Hall, Andrew Kass

OTHERS PRESENT : Tod Satterthwaite, John Belleville, Patti Belleville, Charlotte Padgett, Norman Stenzel, Kevin Donoho

1. Call to Order

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

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with one member absent and one Board seat vacant.

3. Correspondence

None

4. Approval of Minutes (July 12, 2012)

Ms. Capel moved, seconded by Mr. Courson to approve the July 12, 2012, minutes as submitted. The motion carried by voice vote.

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.

5. Continued Public Hearing

Case 715-V-12 Petitioner: John Behrens Estate and Anne and Denny Anderson Request to authorize the following in the R-1 Single Family Residence Zoning District: Part A. Variance for a side yard

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1 **and rear yard of an existing shed of 1 foot in lieu of the minimum side yard and rear yard of 5 feet;**
2 **and Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear**
3 **yard of 5 feet; and Part C. Variance from Section 4.2.D. requirement that no construction shall take**
4 **place in a recorded utility easement; and Part D. Variance from a minimum separation from a rear**
5 **property line for parking spaces of 1 foot in lieu of the minimum required 5 feet. Location: Lot 1 of**
6 **Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and**
7 **commonly known as the home at 1 Willowbrook Court, Champaign.**
8

9 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
10 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
11 of hands for those who would like to cross examine and each person will be called upon. He requested that
12 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
13 those who desire to cross examine are not required to sign the witness register but are requested to clearly
14 state their name before asking any questions. He noted that no new testimony is to be given during the cross
15 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
16 from cross examination.
17

18 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.
19

20 Mr. Denny Anderson, who resides at 1 Willowbrook Ct, Champaign, stated that in an attempting to comply
21 with not only his wishes but the neighborhood's wishes in getting the property cleaned up. He said that it is
22 his understanding that the neighbors are concerned about the materials that are being stored outside and his
23 intent is to get the scouting materials and equipment indoors. He said that he would like to make reasonable
24 use of the property as it exists and the proposal complies with that desire. He said that noted on the site plan
25 is the location of a 60 foot Sycamore tree and it is the biggest tree in the neighborhood. He said that during
26 the last wind storm a 400 pound limb, as well as others, fell on the ground and it is not sensible to place a
27 structure or vehicles underneath it therefore his request is consistent. He said that there is a square in the
28 back of his property which is approximately 15' x 45' which would not require a variance although it is the
29 only backyard that he has and to construct in that area is not desirable. He said that he has taken the time to
30 look around the neighborhood and of the 20 closest homes near his property there are six storage sheds
31 located within the five foot easement. He said that people do not want to place a storage area in the middle
32 of their yard and waste the strip along the outside edge of the yard. He said that his neighbor to the east has a
33 utility shed which is located within one foot of their 20-30 year old fence. He said that his neighbors to the
34 south also have a 6 foot by 6 foot utility shed which is within one foot of their property line and several other
35 neighbors in the community have similar situations and at least one of those neighbor's sheds is also in the
36 utility easement. He said that he sees no reason why his request should be denied if there is equitable
37 application of the rules of the law. He said that the Ameren representative has indicated that locating his
38 shed underneath the utility area is not a problem but if there is a problem, such as placement of a guy wire,
39 then Ameren will bill him. Mr. Anderson stated that Ameren wanted to make sure that the height of the

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1 building was not within 15 feet of the main power line, which is at the top of the pole, and Ameren
2 Representative Chris Estes determined that it was not. Mr. Anderson stated that Ameren indicated that at
3 most a guy wire may be required and if so he would be happy to pay for that installation.
4

5 Mr. Anderson stated that a photograph in the mailing packet indicates his neighbor's to the east storage area
6 and his storage area. Mr. Anderson stated that his storage area appears huge next to the neighbor's storage
7 area but his property is also three feet higher than the neighbor's. He said that another photograph dated
8 August 3, 2012, indicates the pole, the neighbor's property where the sewer's manhole is located, and his
9 property which is obviously three feet higher. He said that the neighbor to the south, whose property is even
10 higher than his, has four dogs and he is trying to create a buffer between the two properties by installing a six
11 foot fence. He said that while he was installing the fence one of the dogs jumped up and grabbed his sleeve
12 and ripped it therefore a barrier in that area is required and there is no sense in having a five foot corridor
13 along that side of the building. He said that the utility companies do not object to the shed being in the
14 easement area and have indicated that if there is a problem that they will bill him for any services to remedy
15 the problem and he is fine with that arrangement.
16

17 Mr. Anderson stated that three photographs indicate his vehicles which are clearly across the sidewalk
18 although this was a once in a blue moon occasion and he does not know how someone managed to
19 photograph that occasion without the inclusion of the neighbor's two cars as well. He said that if anyone
20 sees his van blocking the sidewalk again then he would encourage them to call the Sheriff. He said that his
21 neighbors, who consists of four guys, park their cars on the sidewalk every day which blocks the view of the
22 cul-de-sac.
23

24 Mr. Anderson stated that testimony was previously given indicating concern about exposed insulation. He
25 said that the insulation would have been covered up although he was ordered by the County to stop
26 construction. He said that he has no desire to have the insulation exposed for his neighbor's viewing but he
27 was told to stop construction and he complied, although he would prefer to have it covered.
28

29 Mr. Anderson stated that item 6.E on page 5 of 19 of the Revised Draft Summary of Evidence dated August
30 30, 2012, refers to Section 4.2.2D and indicates the requirement that no use shall be established, construction
31 undertaken nor fill placed in any recorded drainage or utility easement that would interfere with the function
32 of the easement. He said that Ameren has indicated that there will be no interference with the function of the
33 easement, which was proven when they replaced the pole, and the sewer company also has also indicated
34 that they have no issue with the placement of the shed near their auxiliary line and if there is an issue they
35 will send him the bill. He said that to move the shed and utilize the little bit of his backyard does not seem
36 reasonable because it is wasted property.
37

38 Mr. Anderson stated that item 8.D(3) on page 7 of 19 of the Revised Draft Summary of Evidence dated
39 August 30, 2012, states that although the shed meets the distance requirements Ameren would prefer that the

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1 shed not be within the easement, but they have no ground to require Mr. Anderson to move the shed. Mr.
2 Anderson stated that item 8.E(1) on the same page indicates that Mark Radi, Director of Engineering
3 Services for the Urbana-Champaign Sanitary District (UCSD) conveyed on August 22, 2012, that the shed is
4 not a big concern for them because they do not consider it a permanent structure. Mr. Anderson stated that
5 this is proof that there is no concern from the two utilities that would use the easement and they have clearly
6 indicated that if there is a problem that they will bill him for those services and he is willing to pay for those
7 services.

8
9 Mr. Anderson stated that he concreted over a graveled two-track which was located on the south edge of his
10 property so that vehicles could be parked on the southern portion of his property. He said that item 10.C on
11 page 9 of 19 of the Revised Draft Summary of Evidence states that one of the things that the side yard is
12 intended to do is ensure adequate light and air. He said that he designs and builds energy efficient homes
13 and he has a lot of glass on the south side of the home and any structure which is built or moved in front of
14 the home will block the light and air that helps heat the home and would also violate the separation distance
15 between structures. He said that having the structure in its current placement keeps it away from anything
16 else should there be a problem.

17
18 Mr. Anderson stated that item 10.D on page 10 of 19 states that a rear yard is presumably intended to ensure
19 a minimum amount of onsite recreational area. He said that if the shed is moved within the 15' x 40' vacant
20 area in his yard it would eliminate the only recreational area that he has for his property. He noted that item
21 10.F indicates that the requested variance is not prohibited by the Zoning Ordinance.

22
23 Mr. Anderson stated that a little bit of mudslinging has been done during the public hearing process which is
24 normal when someone objects to a request. He said that it was mentioned that the exposed insulation is a
25 fire hazard however if he had not been ordered to stop construction the current exposed insulation would
26 have been covered. He said that it was mentioned that he blocks the public sidewalk and his vehicles extend
27 out into the cul-de-sac however it is not him that does this practice but it is his neighbors who routinely do
28 this. He said that it was also mentioned that his property his hurting property values in the neighborhood
29 especially the property to the east of the subject property. He said that three years ago the family who
30 resided in the property to the east was evicted because they could not make their payments and a notice was
31 posted to the front door and remained there for three years. He said that the yard was not mowed and no care
32 was taken for the house.

33
34 Mr. Thorsland informed Mr. Anderson that this portion of the public hearing is to indicate his intent only
35 and not to present addition testimony. He said that at a later time during the public hearing he will be called
36 upon again to present any new testimony relevant to his case. He asked Mr. Anderson if there was anything
37 that he would like to summarize at this point.

38
39 Mr. Anderson stated that things were previously mentioned at the public hearings that he needs to address,

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1 such as, inoperable vehicles. He said that he does not have any inoperable vehicles or stored tires.

2
3 Mr. Thorsland thanked Mr. Anderson for his comments and requested that he present his additional
4 testimony during a later time during the public hearing.

5
6 Mr. Thorsland called John Hall.

7
8 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum A. date August 30,
9 2012, for the Board's review. He said that the memorandum reviews accessory structures in the surrounding
10 neighborhood and a map indicates staff's quick assessment. He said that it appears that Mr. Anderson is
11 correct regarding other accessory structures in the surrounding area which appear to be located in the
12 easement area. He said that the Champaign Township Map, titled "Neighborhood Analysis Map", identifies
13 nine accessory structures within the blue line that appear to have been built within a recorded utility
14 easement and nine other accessory structures appear to be too close to a property line and the shed which is
15 located east of Mr. Anderson's property is also in the same utility easement. He said that the utility shed
16 which is east of Mr. Anderson's property appears to be the type of shed which, at one time, could be moved
17 although sheds such as this tend to stay in one place and somewhat grow in to that location therefore it could
18 probably not be moved in one piece.

19
20 Mr. Hall stated that page 2 of the memorandum indicates the impact of the larger shed on the utility
21 easement. He said that if the shed has a concrete floor and a concrete footing it will be very difficult to move
22 or dismantle at any point that perhaps the UCSD needs to get to the interceptor sewer, not side sewer that is
23 within the easement. He said that there is only a few square feet of concrete slab inside the shed at this point
24 and there is no perimeter of concrete footing which may be the reason why Mark Radi, of the UCSD, did not
25 consider it as a permanent structure. Mr. Hall stated that if the Board is inclined to allow the structure to
26 stay in its current location an important condition would be to prohibit any more concrete but as a practical
27 matter he is not sure how this condition could be enforced. He said that the more concrete that is within the
28 structure the more public costs that are incurred if it ever needs to be removed although Mr. Anderson has
29 indicated that he is willing to incur those costs although if the structure remains for fifty years it will
30 probably not be Mr. Anderson who owns it at that point and that owner may not be aware of the situation.
31 He said that at a staff level he could imagine a lot of conditions that staff would recommend to impose if the
32 Board is contemplating on leaving the structure in its current location and one of those being a miscellaneous
33 document recorded with the Champaign County Recorder of Deeds so that anyone who may purchase this
34 property in the future would be aware of the variance.

35
36 Mr. Hall stated that the new memorandum proposes new evidence and revisions for items 7, 8, 10.C(2), and
37 10.G. He said that item 7 is regarding special circumstances therefore a new item 7.I is proposed as follows:
38 The adjacent property to the east also has a shed that is located in the same utility easement. That shed
39 appears to be approximately 10 feet by 12 feet in area and may not be anchored into the ground by footings.

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1 Sheds smaller than 150 square feet in area are only exempt from the fees for a Zoning Use Permit but they
2 are required to meet all other requirements of the Zoning Ordinance. He said that item 8 is regarding the
3 criteria that discusses practical difficulties or hardships in carrying out the strict letter of the regulations
4 therefore a new item 8.J is proposed as follows: An aerial photo analysis of the surrounding neighborhood
5 of the subject property was conducted, during this analysis staff found 9 accessory structures that appear to
6 have been built within a recorded utility easement, including a shed which is immediately to the east of the
7 subject property. Staff also found 9 accessory structures that appear to have been built too close to a
8 property line. Without a field survey staff could not verify this, but it appears that the sheds that are subject
9 to Parts A, B, and C of this variance are likely not the only sheds in the neighborhood built within a recorded
10 utility easement or too close to a property line. He noted that he cannot stress enough that there are other
11 zoning violations in the neighborhood and staff will follow up on those violations after this hearing and it
12 may be that the Board will see many of those property owners for variances. He said that regardless of the
13 outcome of this case staff will be completing that follow-up.

14
15 Mr. Hall stated that item 10 is in regard to the criteria whether the variance is in harmony with the general
16 purpose and intent of the Ordinance therefore item 10.C.(2) is proposed as follows: Separation of structures
17 to prevent conflagration: The subject property is within the Savoy Fire Protection District and the station is
18 approximately 2 miles from the subject property. The nearest structure to the largest shed (Parts A and C of
19 the Variance) is a shed on the property to the east. The shed is in close proximity and it is difficult to
20 estimate how close the shed is from an aerial photograph, based on a site visit to the subject property on
21 August 29, 2012, staff estimated that there is approximately 2 to 3 feet between the two shed. The nearest
22 structure to the smaller shed (Part B of the Variance) is the dwelling on the property to the south and the
23 dwelling is approximately 14 feet (estimated from an aerial photo) from the smaller shed. The minimum
24 separation required by the Ordinance in the R-1 District between an accessory building on one lot and a
25 principal building on an adjacent lot is 15 feet. He said that there is almost a minimum expected separation
26 there even though of that approximately 13 feet is on the property to the south, the point being, that the
27 concern about conflagration is not valid because there is enough separation already.

28
29 Mr. Hall stated that new item 10.G is in regard to the considerations related to the prohibition on
30 construction in drainage easements and utility easements and is proposed as follows: (1) The prohibition on
31 construction in drainage easements and utility easements in paragraph 4.2.2 D. were added to the Zoning
32 Ordinance in Ordinance No. 544 (Case 105-AT-97 Part D) that was adopted on November 18, 1997. The
33 evidence, testimony, and Finding of Fact for Case 105-AT-97 Part D merely discussed that the amendment
34 gave the Zoning Administrator the authority to prevent construction in these areas where construction is not
35 supposed to occur; and (2) If the larger shed is allowed to remain in the utility easement the shed may result
36 in additional costs for any utility that needs to access something within the easement such as the interceptor
37 sewer line. And, provided that the property owner reimburses that utility for any additional costs incurred,
38 allowing the shed to remain may be acceptable. However, the presence of the shed in the utility easement is
39 a hidden cost for any future owner of the property and a future owner might be less agreeable about paying

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1 those costs. If the Zoning Board allows the shed to remain in the easement the Board may require a
2 Miscellaneous Document to be filed with the Recorder of Deeds and the Document could make any future
3 owner of this property aware of this zoning case and any and all conditions that apply to the shed. The actual
4 text of that Document should be established in the public hearing.
5

6 Mr. Hall distributed a new Supplemental Memorandum B. dated August 30, 2012, to the Board for review.
7 He said that the memorandum corrects item 10.A of the Summary of Evidence as follows: The petitioner
8 has testified on the application, "Granting the variance will: a.) provide a buffer for the neighbors four dogs;
9 and b.) allow backyard room to park Boy Scout trailer and work trailer; and c.) allow enclosed storage space
10 for construction materials; and d.) allow sunlight to greenhouse; and 3.) allow runoff water to North and
11 East. Mr. Hall stated that staff had made a mistake in transcribing the petitioner's response in that the
12 petitioner had inserted the four dogs in the line above and staff thought that it applied to the line below
13 therefore it was an honest mistake.
14

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

17 Mr. Thorsland asked Mr. Hall if the 14 feet was within an Administrative Variance therefore the Board
18 would not need to address that issue.
19

20 Mr. Hall stated yes, however, staff has not granted an Administrative Variance and in an Administrative
21 Variance all it takes is one objecting neighbor, for no particular variance, and that objection would require a
22 full variance. He said that if the Board is inclined to only approve that portion of the variance it would raise
23 a legal question. He asked if that would mean that Mr. Anderson would have to agree to modify the petition
24 because the Board could approve that portion and deny the remaining otherwise the Board would have to
25 deny everything and require Mr. Anderson to apply for an Administrative Variance which could end up
26 being a another entire variance request. He said that this is a very complicated situation and he would not
27 want anyone to be surprised by the outcome therefore he would request that the Board consider this situation
28 carefully before taking any action.
29

30 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall and there were none.
31

32 Mr. Thorsland called Denny Anderson to testify.
33

34 Mr. Denny Anderson stated that as a point of clarification there is a main shed that has storage for the Boy
35 Scout materials and there is another shed that is the length of the fence, 4-1/2 feet wide and 20⁺ feet long and
36 that second lower shed is the shed that is within 14 feet of the house and it was never his intention make that
37 a permanent shed. He said that he is perfectly willing to withdraw that and he has already begun removing
38 materials and there is one photograph showing some materials being stored in the front of his home and
39 those materials are now gone. He said that if it would simplify the application process to simply remove that

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1 portion of it and a reasonable amount of time allowed for its removal he would be glad to do so and he has
2 received permission to begin moving the materials to Camp Drake. He said that will not build any more tree
3 houses for the Boy Scouts on his property.

4
5 Mr. Anderson stated that testimony included the existence of a school bus on his property. He said that there
6 was a situation, after purchasing the school bus for the Boy Scout Troop, that a neighbor came to him to
7 report an issue with the bus. Mr. Anderson stated that he is aware that the existence of the school bus on his
8 property is a potential problem for the neighbors although it is not illegal to own a school bus or have it
9 parked on his property. He said that four years ago he took the school bus to a storage area, AAA Storage,
10 and paid a monthly fee for that storage and if he was not trying to be a good neighbor he would not have
11 done such to mitigate the impact on his neighborhood by the existence of the school bus. He said that there
12 is no law that indicates that he to keep the school bus in a storage facility.

13
14 Mr. Anderson stated that he did mention during his previous statement that the house to the east of his
15 property is vacant. He said that the home has been vacant with no curtains and no lights for almost three
16 years and twice he had reported a sink hole on the property to the water company. He said that the home was
17 unkept and it was not desirable for him to live next to the property and the water company refused to fix the
18 sink hole in the front yard because it was the property owner's responsibility. He said that whoever recently
19 purchased the home has spent a lot of money on the home and they have fixed the sink hole. He said that a
20 grad-student knocked on his door the other day indicating an interest in the house and stated that new
21 windows, doors and new drywall had been installed and the interior had been painted. Mr. Anderson stated
22 that the reason that the house was vacant for three years was not due to wrong doing of his but because there
23 was no attempt to sell it. He said that there was an eviction notice on the front door and a swamp in the front
24 yard.

25
26 Mr. Anderson stated that he does not have any inoperable vehicles on his property. He said that he has read
27 the proposed special conditions for approval and he finds those special conditions reasonable.

28
29 Mr. Thorsland stated that it appears that the materials are being moved to indoor storage or are being
30 removed completely from the property therefore he assumes that the temporary small shed will also be
31 removed.

32
33 Mr. Anderson stated yes, the 4-1/2 foot shed will go way.

34
35 Mr. Thorsland stated that Mr. Hall indicated that the larger structure does have a partial concrete floor. He
36 asked Mr. Anderson if he agrees to the proposed special condition prohibiting further addition to the existing
37 concrete slab inside of the shed.

38
39 Mr. Anderson stated that if not continuing the floor is a condition for having the shed at least within the

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1 utility easement then that is fine. He said that he will not pour a permanent concrete floor in the shed.
2
3 Mr. Kass, Associate Planner, stated that he visited the property on August 29, 2012, and the concrete pad is
4 located in the northeast corner of the shed which would be part of the shed that is located in the utility
5 easement. He noted that the existing concrete pad is not a large pad.
6
7 Mr. Anderson stated that he agrees with the proposed special condition to not pour any additional permanent
8 concrete in the shed inside of the easement area.
9
10 Mr. Passalacqua asked Mr. Anderson if the temporary shed serves as a buffer between his property and the
11 four dogs.
12
13 Mr. Anderson stated that the fence, which was the back side of the temporary structure, would remain and
14 serve as a buffer.
15
16 Mr. Passalacqua asked Mr. Anderson if he had ever filed a complaint with Champaign County Animal
17 Control regarding the four dogs since one of the dogs jumped up upon the fence and attempted to bite him.,
18
19 Mr. Anderson stated no. He said that the dog only got grabbed his sleeve and did not bit him although it did
20 scare him.
21
22 Mr. Passalacqua asked Mr. Anderson if the only reason why he stopped construction and did not cover the
23 exposed insulation was because he was informed that he did not have a permit.
24
25 Mr. Anderson stated that Mr. Passalacqua was correct.
26
27 Mr. Passalacqua stated that the nature of much of Mr. Anderson's testimony indicated that everyone else has
28 sheds or structures, for reasonable purposes or not, in the easement therefore why can't he do the same.
29
30 Mr. Anderson stated no, he only wants equitable treatment.
31
32 Mr. Passalacqua stated that staff will also address those sheds and structures which are also in violation of
33 the Zoning Ordinance.
34
35 Mr. Anderson stated that if it is determined that any structure within five foot must be removed then it would
36 be reasonable for him to follow suit but it would be more reasonable to expect that people would place a
37 storage shed in places that are out of the way rather than in the middle of their yard to leave a five foot path
38 around it. He said that this situation is not occurring in just his neighborhood but in any neighborhood in the
39 County.

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1
2 Mr. Passalacqua stated that these situations is why zoning exists and just because these sheds are out of
3 compliance does not give justification for his shed to be located in its current location.
4
5 Mr. Anderson stated that he understands Mr. Passalacqua's comments.
6
7 Mr. Thorsland asked the Board if there were any additional questions for Mr. Anderson.
8
9 Mr. Courson asked Mr. Anderson if previously testified that he was a general contractor.
10
11 Mr. Anderson stated yes.
12
13 Mr. Courson asked Mr. Anderson if he had a business location.
14
15 Mr. Anderson stated that he provides services from his vehicle.
16
17 Mr. Courson asked Mr. Courson if he operates his business out of his home.
18
19 Mr. Anderson stated that he calls his vehicle his office. He said that he doesn't have an office in his home
20 although he does store some of his tools in his garage.
21
22 Mr. Thorsland asked the Board if there were any additional questions for Mr. Anderson and there were none.
23
24 Mr. Thorsland asked if staff had any questions for Mr. Anderson and there were none.
25
26 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Anderson.
27
28 Mr. Thorsland called Charlotte Padgett to the cross-examination microphone.
29
30 Ms. Charlotte Padgett asked Mr. Anderson if he testified that there was not much space along the east of his
31 house for a backyard.
32
33 Mr. Anderson stated that his home is located on a corner lot and his backyard is indicated on the site plan as
34 a 15' x 45' area.
35
36 Ms. Padgett asked Mr. Anderson if he believes that the 15' x 45' area is too small to really do anything upon.
37
38 Mr. Anderson stated that if the shed were built in that area it would eliminate the only recreational space that
39 is available on his lot.

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1
2 Ms. Padgett asked Mr. Anderson to indicate how long he has resided on the subject property.
3
4 Mr. Anderson stated that he has resided upon the property for approximately five years.
5
6 Mr. Thorsland asked the audience if anyone else desired to cross examine Mr. Anderson at this time.
7
8 Mr. Thorsland called Patti Belleville to testify.
9
10 Ms. Patti Belleville, who resides at 511 Park Lane Drive, Champaign, stated that she is the Chair of the
11 Windsor Park Homeowner's Association and is present at the public hearing to represent the neighborhood.
12 She said that she received a call from Ms. Susan Marten, who resides at 2403 Lyndhurst Drive, Champaign,
13 and Ms. Marten indicated that she would not be able to attend tonight's meeting due to health issues. Ms.
14 Belleville stated that Ms. Marten indicated that she would be happy to testify by telephone if the Board
15 desired to call her during this meeting. Ms. Belleville stated that she informed Ms. Marten that she would
16 convey Ms. Marten's concerns to the Board.
17
18 Ms. Belleville stated that Ms. Marten indicated that she had called the Champaign County Planning and
19 Zoning office several times to complain about the construction of Mr. Anderson's shed. Ms. Belleville said
20 that Ms. Marten also indicated that in January she had a problem with her cable and when Comcast
21 responded to Ms. Marten's call Comcast could not get to the pole with their cable because Mr. Anderson's
22 shed had been built around the pole. She said that Comcast came back later and removed their cable lines
23 and buried them in the ground. Ms. Belleville stated that when Mr. Anderson built his shed he removed the
24 guy wires for the utility pole and Ameren has become aware of this removal and will be relocating the wires
25 but unfortunately Ameren is considering relocating those guy wires in Ms. Marten's back yard in her
26 goldfish pond which will destroy the landscaping that Ms. Marten's has had completed on her property.
27
28 Ms. Belleville stated that she would be happy to work with the County with informing the residents of her
29 community about any shed violations that may have occurred in the neighborhood. She said that a number
30 of the homes that were indicated on the map have changed ownership and many of those owners are
31 probably unaware that the sheds are in violation of the easements.
32
33 Mr. Thorsland asked the Board if there were any questions for Ms. Belleville and there were none.
34
35 Mr. Thorsland asked if staff had any questions for Ms. Belleville and there were none.
36
37 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Belleville.
38
39 Mr. Denny Anderson asked Ms. Belleville if she indicated that guy wires had been removed.

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1
2 Ms. Belleville stated yes. She said that Steve Estes, representative for Ameren, informed her that guy wires
3 which had supported the utility pole had been removed and would have to be replaced to support the power
4 pole.
5
6 Mr. Anderson asked Ms. Belleville if she is sure that the Ameren representatives name was Steve Estes.
7
8 Ms. Belleville stated yes.
9
10 Mr. Thorsland called Charlotte Padgett to testify.
11
12 Ms. Charlotte Padgett, who resides at 1 Lyndhurst Place, Champaign, stated that has a concern about the 14
13 feet between the structures although if the other structure is removed it would remove her concern. She said
14 that she does have concern regarding the size of the building, not the height, and how significantly different
15 it is in length in comparison to the size of a normal portable shed. She said that should the variance be
16 approved his property will be re-assessed.
17
18 Mr. Thorsland asked the Board if there were any questions for Ms. Padgett and there were none.
19
20 Mr. Thorsland asked if staff had any questions for Ms. Padgett.
21
22 Mr. Hall asked Ms. Padgett if the re-assessment would be the typical re-assessment that would be completed.
23
24 Ms. Padgett stated yes. She said that she and the Champaign Township Assessor would drive through the
25 neighborhood and review every property. She said that they typically review every property in the township,
26 which consists of approximately 5,000 properties, every four years and this is their quad year. She said that
27 she is currently inputting all of the property's information in Champaign Township into a new computer
28 system therefore she reviews the current records and compares those records to the GIS map and anything
29 that differs requires a site visit to the property.
30
31 Mr. Thorsland asked if anyone desired to cross examine Ms. Padgett and there was no one.
32
33 Mr. Thorsland asked Mr. Anderson if he would like to respond to Ms. Padgett's testimony or present further
34 information.
35
36 Mr. Anderson stated yes.
37
38 Mr. Thorsland called Denny Anderson to testify.
39

ZBA

1 Mr. Anderson stated that Ms. Belleville's testimony is inaccurate because there have been no guy wires
2 removed from the utility pole and the Ameren representative's name is Chris Estes not Steve Estes. He said
3 that Mr. Estes did visit the property several times and discussed alternatives in detail. He said that the top of
4 the pole shifts toward his property about five feet therefore a guy wire does come down through there and
5 two alternatives were discussed. He said that the guy wire could be exteriorized or a pocket made so that the
6 wire would come down and be seen. He said that he does not understand Ms. Belleville's comment because
7 he does not believe that Mr. Estes would have said such a thing therefore he believes that her statement is
8 false. He said that the one alternative, which would prevent ruining Ms. Marten's goldfish pond, is to extend
9 a wire to the north. He said there is a pole to the north and a horizontal wire to that pole would be the
10 desired route because that pole already has a guy wire therefore eliminating the guy wire on his property. He
11 said that he had the cable company and the other utility companies visit his property to mark their easements
12 and it was determined that nothing is located on the eastern portion of the property.

13

14 Mr. Thorsland asked the Board if there were any questions for Mr. Anderson.

15

16 Mr. Palmgren asked Mr. Anderson when the shed was constructed.

17

18 Mr. Anderson stated that he began construction a few months ago and was then notified that he had to have a
19 permit from the County.

20

21 Mr. Palmgren asked Mr. Anderson if discussed his plans with Mr. Estes prior to the construction.

22

23 Mr. Anderson stated no. He said that later Mr. Estes did approve the extension of a horizontal wire down to
24 the next pole therefore eliminating a guy wire on his property and the need for a pocket area.

25

26 Mr. Thorsland asked Mr. Anderson if he did call J.U.L.I.E. and they indicated utilities with markings on the
27 ground.

28

29 Mr. Anderson stated yes.

30

31 Mr. Hall asked Mr. Anderson if he had photographs of those markings.

32

33 Mr. Anderson stated that he does have photographs on his cell phone and he could e-mail them to staff
34 within the next few minutes.

35

36 Mr. Hall stated that there have been two people from Ameren which have been mentioned during testimony,
37 Chris Elliot and Steve Estes.

38

39 Mr. Thorsland asked the Board if there were any further questions for Mr. Anderson and there were none.

ZBA

1
2 Mr. Thorsland stated that if possible, the Board should review the photographs regarding the markings by
3 J.U.L.I.E. He said the staff has presented a couple of options: 1. Miscellaneous Document to be recorded at
4 the Recorder of Deeds. This would make any potential homeowner aware that they are responsible for
5 paying for any services that may be needed within the utility easements; and 2. At which point when Mr.
6 Anderson no longer owns the property the shed must be removed or if something were to happen to the shed
7 it could not be reconstructed in its current location.

8
9 Mr. Thorsland called for a five minute break.

10
11 **The Board recessed at 7:52 p.m.**

12 **The Board resumed at 8:02 p.m.**

13
14 Mr. Thorsland stated that Mr. Anderson has indicated that he is in agreement with the proposed special
15 conditions and he has indicated that he will not expand the concrete floor.

16
17 Mr. Hall stated that if the Board is contemplating allowing the shed to remain in the easement then a
18 condition should be included prohibiting further concrete from being placed in the easement and a condition
19 regarding the recording of a miscellaneous document. He said that apparently there are nine more structures
20 which are located in easements that require staff follow-up and he doubts that any of those structures are as
21 large as Mr. Anderson's and he doubts that any of those structures have concrete. He said that perhaps the
22 Board would rather wait until staff investigates these other structures.

23
24 Mr. Thorsland asked how long that review will take.

25
26 Mr. Hall stated that staff could prioritize that as much as they have prioritized flood map modernization in
27 the past 30 days which means that staff can do a lot if they only work on one thing.

28
29 Mr. Passalacqua stated that he is having a hard time in approving this request just because there are other
30 structures within the easements as well. He said that he understands that the other structures must be
31 addressed but it does not justify the violation.

32
33 Mr. Thorsland stated that his thoughts are not so much, "forgive me because."

34
35 Mr. Hall stated that Edgewood Subdivision has a lot of trouble with small sheds being placed too close to
36 the property lines and they have tried to deal with it and this is a common problem that is wide spread
37 throughout the County. He said that he is not sure if sheds being located in utility easements is a common
38 problem throughout the County but every subdivision does have utility easements around most of the lot
39 lines.

ZBA

- 1
- 2 Mr. Thorsland stated that if the Board decides to impose a condition regarding the floor it is a condition that
- 3 must be imposed on the other structures as well.
- 4
- 5 Mr. Hall stated that realistically preparing ten notices, sending them out in the mail and waiting two weeks
- 6 for a response would not indicate that a month is enough time to report any results to the Board. He said that
- 7 he would imagine that two months would be more than adequate and there is plenty of time on the docket for
- 8 this case to be continued. He said that he does not know if the side shed could be improved even further in
- 9 two months.
- 10
- 11 Mr. Thorsland asked Mr. Hall if a building permit has been submitted for the shed.
- 12
- 13 Mr. Hall stated yes, but staff only requires fees for those things that will remain.
- 14
- 15 Mr. Thorsland asked Mr. Hall if Mr. Anderson could be allowed to make the structure weather tight.
- 16
- 17 Mr. Hall stated that staff has never made a problem for any construction that is outside of the five foot
- 18 utility easement and placing a roof on anything outside of the easement is not an issue.
- 19
- 20 Mr. Thorsland asked Mr. Anderson if he understands Mr. Hall's statement.
- 21
- 22 Mr. Anderson stated yes.
- 23
- 24 Mr. Kass distributed the photographs indicating the results of the J.U.L.I.E. visit on Mr. Anderson's property
- 25 for the Board's review.
- 26
- 27 Mr. Courson stated if the City marked "ok" then it would appear that they do not have any lines in the area.
- 28 He said that it appears that someone just took some spray paint and painted "ok" for Ameren and the City.
- 29 He said that normally the paints would not match for each utility because they are painted by separate
- 30 people.
- 31
- 32 Mr. Hall stated that he does not believe that the City has jurisdiction over interceptor sewers and that
- 33 interceptor sewers were under the jurisdiction of the sanitary district.
- 34
- 35 Mr. Courson stated that there is no indication of "ok" by the sanitary district. He asked Mr. Hall if there is
- 36 indeed a sanitary line located within this easement because if there is he does not know how the photographs
- 37 could be accurate.
- 38
- 39 Mr. Hall stated yes.

ZBA

- 1
- 2 Mr. Thorsland stated that the yellow flag and paint is indicated in the photograph.
- 3
- 4 Mr. Thorsland asked Mr. Anderson to explain the photograph.
- 5
- 6 Mr. Anderson stated that a green flag, representing UCSD, is located near the fence in the vertical
- 7 photograph which is indicating the location of the sewer. He said that the red flag and paint indicates electric
- 8 service, orange indicates cable and yellow indicates gas.
- 9
- 10 Mr. Kass asked Mr. Anderson if he has a better photo of the green flag.
- 11
- 12 Mr. Anderson stated no, but the flag is still there and the green paint is still apparent.
- 13
- 14 Mr. Thorsland asked the Board if there were any additional questions for Mr. Anderson and there were none.
- 15
- 16 Mr. Thorsland asked if staff had any additional questions for Mr. Anderson and there were none.
- 17
- 18 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Anderson and there was no one.
- 19
- 20 Mr. Thorsland asked the Board if they would like to continue the case to a later date or move forward
- 21 tonight.
- 22
- 23 Mr. Passalacqua stated that he does not believe that the other sheds which are in violation will have any
- 24 bearing on this case.
- 25
- 26 Mr. Thorsland stated that the results of this case will have bearing on the other sheds which are in violation.
- 27
- 28 Ms. Capel stated that the Board will be setting a precedent with this case.
- 29
- 30 Mr. Thorsland stated that if there are other sheds with concrete the conditions which are approved for this
- 31 case will be relevant for those future cases as well.
- 32
- 33 Ms. Capel stated that this case will have bearing beyond this particular neighborhood.
- 34
- 35 Mr. Passalacqua stated that zoning exists and whether or not this shed was built or not there are other sheds
- 36 that are out of compliance. He said that maybe people do not have to obtain a permit for one that is less than
- 37 150 square feet but they still have to comply with the requirements of the Zoning Ordinance and if they are
- 38 outside of the Ordinance then they are outside of the Ordinance.
- 39

ZBA

1 Mr. Courson stated that he would imagine that most of the sheds are probably portable garden sheds and
2 should be relatively easy. He said that he is going to have a problem getting past Finding of Fact 3. He said
3 that if the petitioner had submitted a building permit prior to construction then he would have known about
4 all of the setbacks and could have worked around those setbacks before beginning construction. He said that
5 he is going to have a hard time getting past his asking for forgiveness after the fact on something that he
6 should have known about since he is a builder himself. He said that if this shed was built within the City of
7 Champaign, which is across the street to the north, the shed would not comply.

8
9 Mr. Thorsland asked the Board if they wanted to move forward or continue to a later date.

10
11 Mr. Hall stated that he can imagine three portions of this variance not being approved. He said that staff
12 advertised this case in parts to allow for flexibility for the Board and the petitioner but if the petitioner is not
13 willing to accept that flexibility then he does not believe that the Board can grant it. He said that if the
14 petitioner is not willing to drop those parts of the variance that the Board has made clear that they are not
15 inclined to approve then the entire variance will be denied. He said that the Board needs to ask the petitioner
16 if he is willing to modify his request.

17
18 Mr. Thorsland stated the perhaps the Board should walk through the finding to determine where there are
19 problems. He asked Mr. Courson if there is any condition which would assist with the parts of the request
20 that he has concerns about.

21
22 Mr. Courson stated that he cannot answer finding #3 in any other manner than DO.

23
24 Mr. Hall stated that, as staff always advises the Board in these situations, what if this had been presented to
25 the Board as a proposed plan with the justification being that the lot is a corner lot with not much backyard
26 and the desire to build in this area for these reasons. He said that if the reasons are sound then they are
27 sound now. He said that the fact that the shed currently exists is irrelevant and what the facts suggest that
28 whether this could have been approved if the proper process had been followed in the beginning. He said
29 that the fact the process wasn't followed is irrelevant.

30
31 Mr. Courson stated that he would not have approved it either way. He said that simply building around a
32 utility pole on a utility easement is not something that he would ever approve.

33
34 Mr. Passalacqua stated that this is very similar to the Wilbur Heights storage shed proposal that was before
35 the Board in that no space could be found to locate a functional building in the given space. He said that he
36 has a problem with the size of the shed and the placement being located around the utility pole and within
37 the easement.

38
39 Mr. Hall stated that the four feet that will be lost in the utility easement could be made up easily because it is

ZBA

1 a small amount of space. He said that the total area that is too close to both property lines could easily be
2 made up although there is a question in his mind if that is enough area to enclose everything on the property
3 but that remains to be seen.

4
5 Mr. Passalacqua stated that he does not believe that he could approve this regardless whether or not it is
6 already built. He said that does not believe that just because there are other structures in the neighborhood
7 which are in violation does not give reason to approve this request.

8
9 Mr. Thorsland asked Mr. Passalacqua if he would be willing to continue the case to see if Mr. Anderson can
10 reduce or eliminate the need for most of the variances.

11
12 Mr. Passalacqua stated that Mr. Anderson could probably answer that tonight.

13
14 Mr. Thorsland stated that if the Board moved forward and the first three findings were denied would he be
15 willing to modify the structure so that only Part D would be required.

16
17 Mr. Anderson stated that if the utility easement is the portion of the request that the Board has issue with
18 then he would be willing to move the building four feet west but still be within the five foot setback next to
19 the neighbor to the south because it would be no more of an intrusion than a six foot solid fence in that
20 location.

21
22 Mr. Thorsland stated that the utility easement is the portion that he is uncomfortable therefore would Mr.
23 Anderson's remediation be acceptable.

24
25 Mr. Courson stated yes.

26
27 Mr. Passalacqua stated yes. He asked if there is a functional square footage of the shed that will fit into the
28 perimeters of the Ordinance and does moving the shed to the west make it connected to the house.

29
30 Mr. Anderson stated that he could put the shed on rollers and move it to the west. He said that there will be
31 a small separation from the house.

32
33 Mr. Thorsland stated that the biggest problem is the utility easement and it appears that there are other sheds
34 in the neighborhood, although not as large, with the same problem and granting the variance for the other
35 side of the shed is not as big a problem because the Board does have a precedent for doing so. He said that
36 moving the shed four feet to the west and removing it from the utility easement would make this a much
37 simpler case.

38
39 Mr. Hall stated that with the site plan that the Board has in front of them currently the petitioner can expect

ZBA

1 either denial for complete approval. He said that the submitted site plan is not accurate enough to do
2 anything in between the two.

3
4 Mr. Passalacqua stated that he would not suggest that the petitioner move any sheds until he returns to this
5 Board with an updated site plan indicating what the setbacks will be after they would be moved. He said that
6 the petitioner has already spent enough money without having the sheds permitted and building out of
7 compliance so moving the sheds might be more money wasted therefore another hearing is very necessary.

8
9 Mr. Thorsland stated that a new site plan addressing the Board's concerns is very necessary. He said that it
10 the biggest concern is the utility easement so that could be the starting point and he would suggest that Mr.
11 Anderson discuss any questions for comments with staff . He said that perhaps the case could be continued
12 to the October 11, 2012, public hearing.

13
14 Mr. Hall stated that October 11th is a possibility.

15
16 **Mr. Passalacqua moved, seconded by Mr. Courson to continue Case 715-V-12 to the October 11, 2012,**
17 **meeting. The motion carried by voice vote.**

18
19 Mr. Courson asked if a condition should be imposed indicating that the structure should comply with the
20 National Building Code.

21
22 Mr. Hall stated that when the state law requires it is when staff adds it as a condition so that it is clear to the
23 petitioner. He said that the Residential Building Code Act only applies to new dwellings and does not apply
24 to accessory buildings. He said that this Board can add any special condition that it believes is warranted.
25 He said that there have been variances within the Urbana ETJ for very small side yards which required
26 fireproofing on that portion of the structure that was within three feet of the lot line. He said that staff could
27 check with the City of Champaign or the Village of Savoy to see what they would require. He noted that this
28 property is within the Village of Savoy annexation area therefore the property will never be within the City
29 of Champaign.

30
31 Mr. Courson would like staff to check with the Village of Savoy.

32
33 Mr. Thorsland entertained a motion to rearrange the docket and hear Cases 710-AT-12 and 711-AT-12 prior
34 to Case 685-AT-11.

35
36 **Mr. Palmgren moved, seconded by Ms. Capel to hear Cases 710-AT-12 and 711-AT-12 prior to Case**
37 **685-AT-11. The motion carried by voice vote.**

38
39 **Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the**

ZBA

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

19
20 **Case 710-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
21 **Ordinance by amending the Champaign County Land Evaluation and Site Assessment (LESA)**
22 **System that is referred to in Section 3; and Footnote 13 in Section 5.3; and subsection 5.4 as follows:**
23 **Part A. Revise the Land Evaluation (LE) part as follows: 1. Revise all soil information to match the**
24 **corresponding information in the *Soil Survey of Champaign County, Illinois* 2003 edition. 2. Revise all**
25 **existing soil productivity information and replace with information from *Bulletin 811 Optimum Crop***
26 ***Productivity Rating for Illinois Soils* published August 2000 by the University of Illinois College of**
27 **Agricultural, Consumer and Environmental Sciences Office of Research. 3. Delete the 9 existing**
28 **Agriculture Value Groups and existing Relative Values ranging from 100 to 0 and add 18 Agriculture**
29 **Value Groups with Relative LE ranging from 100 to 0. Part B. Revise the Site Assessment (SA) part**
30 **as follows: 1. Add definitions for “agriculture”; “agricultural production”; “animal units”; “best**
31 **prime farmland”; “farm dwelling”; “livestock management facility”; “non-farm dwelling”; “principal**
32 **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.;**
33 **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**
34 **new Factor 7; Factor C.1. to be new Factor 5; Factor D.1. to be new Factor 1; and revise scoring**
35 **guidance for each revised Factor, as described in the legal advertisement; and 4. Add new SA Factors**
36 **2a.; 2b.; 2c.; 3.; 4.; 6.; 9.; 10.; and scoring guidance for each new Factor, as described in the legal**
37 **advertisement. Part C. Revise the Rating for Protection as described in the legal advertisement. Part**
38 **D. Revise the general text and reformat.**

39

ZBA

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

16
17 Mr. Thorsland asked the petitioner if there was any new information to share with the Board regarding Cases
18 710-AT-12 and 711-AT-12.

19
20 Mr. John Hall, Zoning Administrator, distributed Supplemental Memorandums dated August 30, 2012, for
21 Cases 710-AT-12 and 711-AT-12 to the Board for review. He said that the memorandums include the
22 Preliminary Draft Finding of Facts for each case. He said that attached to the Supplemental Memorandum
23 for Case 710-AT-12 is the proposed amendment as it would go to the County Board. He said that both of the
24 findings have new evidence that has been added and is underlined. He said that the Board has seen most of
25 the evidence for Case 710-AT-12 previously but there is some new evidence for review. He said that the
26 Board has not seen formatted evidence for Case 711-AT-12 but has seen a lot of the information therefore
27 everything that is in the summary has been handed to the Board on memos and only the things that are
28 underlined are what the Board has not seen previously. He said that he does not believe that the Board is
29 ready for final action but the Finding of Facts are ready for final action. He said that if cases progress, which
30 he assumes they will, we will be adding to these findings.

31
32 Mr. Thorsland informed the audience that anyone wishing to testify in these cases must sign the witness
33 register by which they solemnly swear that the evidence that they present will be the truth, the whole truth,
34 and nothing but the truth. He asked the audience if anyone desired to sign the witness registers at this time.

35
36 Mr. Thorsland stated at a previous meeting Kevin Donoho discussed that the LESA is about the soil and he
37 agrees with Mr. Donoho. Mr. Thorsland stated that the SA portion is about the site and not just about the
38 soil that is on that site. He said that there are questions regarding how many houses are around the site and
39 there are questions whether or not the site is located in the CUGA. He said that these questions are not about

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1 soil but about site assessment and what that site entails. He said that at the last hearing he suggested
2 additional points for site management and Mr. Passalacqua suggested that he share those suggestions with
3 the Board tonight. Mr. Thorsland distributed a handout titled, LESA Score Suggestions, to the Board for
4 review.
5

6 Mr. Thorsland stated that in his handout he discusses production area which is stuff that is actually
7 happening on the site. He said that he has 38 acres but his actual production is only on approximately 25 of
8 those acres because he has a lot of waterway and stuff that he would call his own CRP. He said that as a
9 certified organic farmer he is required to have a 30 foot buffer around everything and his buffer is in grass
10 and hay. He said he does not consider the grass and hay as production but he could argue that it is because
11 he bales the grass and hay and feeds it to his animals. He said that he will begin with the addition of LE
12 section points based on certified organic production on all soil types. He said that if someone could show
13 that they have more than 50% of production area as certified organic, proven by the certificate issued by the
14 State, that 2 additional points should be added to the final LE score. He said that at a farmer's market many
15 people will indicate that they are organic although if you are unsure if this is true ask the producer to show
16 you their certificate. He said that if less than 50% of production area is certified organic then only 1
17 additional point should be added to the final LE score. He said that the additional points would give any soil
18 a boost for organic management and the only reference that he has for his suggestions is from what happens
19 on his farm.
20

21 Mr. Thorsland stated that his second suggestion is in regards to the addition of SA section points for
22 production specific infrastructure. He said that if someone can prove that their site is a food plot, not a large
23 garden on their site, with direct sales to consumers then 2 points should be added to the total score of Factor
24 5. He said that Factor 5 questions the distance the subject site is from the nearest village or city limits. He
25 said that his continuous argument has been that the food plots farms need to be close to the people who eat
26 the food. He said that there is no minimum acreage specified for a food plot but one could be easily added
27 such as someone who has a two acre plot with wild raspberries does not qualify as a food plot. He said that
28 if someone has irrigation available 365 days per year on their food plot for 50% or more of production area
29 then 2 points should be added to Factor 6. He said that there are a lot of people who have Equip Grants for
30 irrigation from the USDA for either livestock or food and that irrigation will stay with the ground because
31 someone will not come in and tear out an irrigation system that has been placed four foot underground. He
32 said that the irrigation is a benefit to food production. He said that he placed this suggestion with Factor 6
33 because Factor 6 has to do with production in the last five years. He said that if someone has installed an
34 irrigation system they are intending that the site be used for food production. He said that if there are
35 managed waterways on 50% or more of production area then 2 points should be added to Factor 6 as well.
36 He said that a managed waterway is very easy to verify and an active waterway is very important for the
37 water quality on the site as well as the surrounding area or watershed. He said that everyone who is
38 downstream from the subject site is benefited from a managed waterway. He said that his site takes in water
39 from non-organic farms and the only reason why he can keep his land certified organic is because he directs

ZBA

1 that water through a managed waterway from a non-organic field through his organic field. Mr. Thorsland
2 said that his certifier has indicated that if Mr. Thorsland would just allow the water from the non-organic
3 field meander through his organic field his recertification would be denied. He said that if a site has
4 permanent facilities for management of livestock intended for consumption then 1 point should be added to
5 Factor 10. He said that this could include fences, irrigation and buildings clearly used for livestock
6 management for consumption. He said that there are many people who call their property a farm because
7 they have two horses in the backyard and they would not be included in his suggestions. He said that this is
8 for people who raise livestock for food whether it is chickens, cattle, pigs, etc. He said that if all of the
9 points are added together there are not too many sites that would suddenly jump up from low protection to
10 very high protection but it is an acknowledgement of the importance of good practice and food production
11 and how it does not always have to occur on a large piece of land. He said that it is about the dirt and what is
12 practiced on top of the dirt and it is about the site.

13
14 Mr. Thorsland stated that Tod Satterthwaite, Chair of the Champaign County Local Food Policy Council
15 submitted Resolution 2012-1 from the Champaign County Local Food Policy Council. He read that
16 resolution as follows:

17 A resolution encouraging the protection of agricultural parcels in Champaign County, Illinois
18 that are suitable for local food production.

19 Whereas, the Illinois Food, Farm and Jobs Act of 2007 calls for “expanding and supporting a State
20 local and organic food system” as well as “assessing and overcoming obstacles to an increase in
21 locally grown food and local organic food production”; and,

22
23 Whereas, the Champaign County Board created the Champaign County Local Foods Policy Council
24 to “encourage the offering of better and fresher food available locally” and to “encourage the
25 efficient use of land, and preservation and conservation of agriculture”; and,

26
27 Whereas, good sites for farms that produce locally grown food may easily be less than 25 acres and it
28 can be an advantage for them to be close to populous or urbanized areas for easy access to markets.

29
30 Now, therefore, be it resolved by the Champaign County Local Foods Policy Council to encourage
31 the Champaign County Zoning Board of Appeals and the Champaign County Board to protect not
32 only large agricultural land parcels generally used for growing row crops, but also to protect
33 agricultural land parcels that could be best suited for local food production.

34
35 Passed by the Champaign County Local Food Policy Council this 22nd day of August, 2012. Signed
36 by Tod Satterthwaite, Chair of the Champaign County Local Foods Policy Council.

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38 Ms. Capel informed that she is on the Champaign County Local Foods Policy Council and abstained from
39 voting on the resolution.

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2 Mr. Thorsland called Norman Stenzel to testify.

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4 Mr. Norman Stenzel, who resides at 545A CR 1900N, Champaign, stated that he provided information at the
5 last public hearing regarding these cases which might coincide with the suggestions the Mr. Thorsland
6 previously provided regarding the nature certified type farming. He said that one of the documents that he
7 provided was a characterization in response to what had been happening in the LESA Committee. He said
8 that the characterization of productive farming only being row crop is probably very different than what
9 actually happens as far as farming is concerned. He said that at the last meeting Mr. Thorsland pointed out
10 that there is a variety of activities that a farm might incorporate and those activities may take place on a
11 variety of different soils and soil conditions. He said that pastures may not be on prime soil and may be on
12 rocky soil, which makes no difference to some livestock, but it doesn't mean that the site is not good for
13 being considered a farm. He said that it isn't just best prime farmland that makes up a farm and it isn't just
14 row crops that make viable farms. He said that the federal law asks you to consider the viability of farms
15 and what happens when a piece of land is converted and asks you to think about neighbors which is why one
16 of the ideas that he presented the Board dealt with the idea of neighbors. He said that it is not just the site
17 that has an impact or is impacted by a change but also how the neighboring properties are impacted
18 immediately or in the future. He said that the Federal LESA has examples of how the federal program tries
19 to consider the impact of conversion on neighboring properties and businesses that support agriculture. He
20 said that neither the state nor the local LESA's consider these kinds of things which is why he indicated that
21 they are not valid because they did not consider local food production. He said that the Board has raised
22 issues regarding the difference between row crop and local agriculture and those are not considered even
23 though the definition of agriculture presented in the local LESA includes food production. He said that if
24 that definition is used then the local instrument is not valid because it does not do what it is suppose to do
25 even in its own definition. He urged the Board to request a reconsideration of the whole thing and not just
26 piece meal it. He said that there are some contents of the present LESA that shouldn't be ignored such as the
27 2.C. He said that if someone has a large tract of super prime farmland then no points are awarded which is
28 an unfortunate conclusion in the proposed LESA. He said that the lack of consideration for enhanced soils
29 that organic agriculture provides is omitted. He said that tinkering around the edges will not do it and the
30 entire thing must be reconsidered and reconfigured.

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

33

34 Mr. Thorsland called Kevin Donoho to testify.

35

36 Mr. Kevin Donoho, District Conservationist with the CCNRCS, which is part of the USDA, stated that a lot
37 of issues have been brought up and we all have our opinions about all of the issues which are being
38 discussed. We said that we can talk about the differences amongst existing row crop production systems,
39 conventional tillage, reduced tillage, mulch tillage, ridge tillage, strip tillage, conservation tillage versus non-

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1 conservation tillage, etc. He said that all of those different types of management practices can be discussed
2 but they do not change the soil or the fact that Drummer is still Drummer, Dana is still Dana and the tools
3 that we have to identify those things exist and can be identified and referenced to *Bulletin 811* that was
4 referenced earlier in the reading. He said that management practices and things that we do to the soils such
5 as drainage introduction of cover crops, use of cover crops, green manure, regular crop manures, longer crop
6 rotations, introducing hay into rotations, can have lasting positive benefits to soils but they do not change the
7 soils. He said that you can make the same soils better by those management practices and those practices are
8 encouraged. He said that part of his job is to strongly promote cover crops and their use but it is hard to get
9 people with large acreages to think about something else that is going to take time to do therefore requiring
10 more management on their part. He said that excellent points have been made and he can see some value to
11 a lot of those points such as adding points to certain things within a category however there is a maximum
12 point score, period. He said that there is a maximum point score for the LE and the SA and the maximum
13 cannot be exceeded. He said that if anything were done in the future regarding the points within any one
14 particular category he would not be adverse to but it is beyond him and he cannot speak for the whole
15 Committee. He said that the Committee's decision was made as a Committee and that decision is before this
16 Board for review now. He said that the Board gets to hear the Committee's points and arguments as to how
17 they got to this point where the document can be at this Board. He said that the document is not perfect and
18 the Committee has indicated such many times but the tool that was developed years ago was also not perfect
19 because we are redoing it now. He said that a great deal of effort was put into the creation of the tool that is
20 before this Board and he encouraged the Board to discuss it as much as the Board desires but understand the
21 purpose of the tool, why it was developed, the purpose of its function and what is to gain by it in the end.

22
23 Mr. Donoho stated that adding points to categories is great but does it change after ten years after the land is
24 sold to someone else because they may not see things as the previous landowner did and they may not
25 choose to be organic and use a different practice. He said that regardless of the practice the soil remains as it
26 is and the land remains where it is.

27
28 Mr. Donoho stated that he is available to address any questions or comments that the Board may have.

29
30 Mr. Thorsland asked the Board if there were any questions for Mr. Donoho.

31
32 Ms. Capel asked Mr. Donoho if he is only addressing the LE with his comments.

33
34 Mr. Donoho stated no, he is addressing both the LE and the SA.

35
36 Ms. Capel stated that as people move in to the area your score will be changed although it will not be by the
37 property owner's choice.

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39 Mr. Donoho stated yes, but the land itself does not change and the location of the site does not change.

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Ms. Capel stated that the location itself does not change but the external factors that affect the site do change.

Mr. Hall stated that if someone is located on best prime farmland this system does not consider anything after 2011. He said that the “creep” is under control under item 8 of the SA.

Mr. Thorsland asked the Board if there were any additional questions for Mr. Donoho.

Mr. Thorsland stated that if someone else took over his property and they discontinued his current practice the next evaluation would be diminished.

Mr. Hall asked when a LESA assessment would be completed under one manager and not under another.

Mr. Donoho stated that this is his point in not being in favor of anything other than the way that the proposed LESA has been presented to this Board. He said that it addresses the issues that have been discussed about playing favorites to someone who manages well, does not manage well, etc. He said that the soil erosion that has occurred on a property has already been identified on the soil map. He said that erosion is a number indicated at the end and if there is no number then there is only slight erosion. He said that erosion is a crude way of measuring management over an extended period of time, such as fifty to seventy-five years.

Mr. Thorsland asked if this is the time frame that the erosion number indicates.

Mr. Donoho stated that the timeframe is since the land has been farmed because under natural conditions if it were all timber and/or grass there would be no numbers.

Mr. Thorsland stated that if Drummer soil washes on to his Xenia soil is his Xenia soil now Drummer soil.

Mr. Donoho stated no, he would have Xenia soil with Drummer soil on top.

Mr. Thorsland stated that there is a fair amount of new information and he believes that there is still a lot of discussion that is required. He said that he would like adequate time to read the information again prior to a final determination. He requested a continuance date for Cases 710-AT-12 and 711-AT-12.

Mr. Thorsland noted that he may absent for the September 27th meeting therefore he would prefer to not continue these cases to that date.

Mr. Thorsland entertained a motion to continue these cases to October 11th.

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1 **Ms. Capel moved, seconded by Mr. Palmgren to continue Cases 710-AT-12 and 711-AT-12 to the**
2 **October 11, 2012, meeting. The motion carried by voice vote.**

3
4 Mr. Passalacqua asked if continuing these cases to the October 11th meeting is being very bold since the
5 Anderson case is also scheduled for that meeting. He asked if the October 11th meeting will be held at 6:00
6 p.m. rather 7:00 p.m.

7
8 Mr. Thorsland stated that the time of the meeting will be discussed at a later time. He asked Mr. Passalacqua
9 if he would be more comfortable in continuing these cases to the September 13th meeting instead of the
10 October 11th.

11
12 Mr. Hall stated that regardless of when the case is continued he has no idea what staff is supposed to be
13 doing which is actually a good thing because the Board could have a special meeting at a different location
14 to deal with just Cases 710-AT-12 and 711-AT-12.

15
16 Mr. Thorsland asked Mr. Hall if the budget would allow for a special meeting.

17
18 Mr. Hall stated that he knows several County Board members who would like to see these cases at the
19 County Board no later than the October Committee meeting.

20
21 Mr. Thorsland asked if the Board could meet on September 6th.

22
23 Mr. Hall asked what one week gives the Board.

24
25 Ms. Capel stated that one week is not enough time.

26
27 Mr. Thorsland asked if the Board has to meet on a Thursday.

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29 Mr. Hall stated no.

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31 Mr. Thorsland asked the Board if they were available for September 18th.

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33 Mr. Palmgren stated that he would not be available for a meeting on September 18th.

34
35 Mr. Thorsland asked the Board if they were available for September 12th.

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37 Mr. Passalacqua stated that he would not be available for a meeting on September 12th.

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39 Mr. Thorsland asked the Board if they would be available for a meeting on September 19th.

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Mr. Hall noted that there have been ZBA meetings held on Friday mornings in the past.

Mr. Thorsland stated that perhaps those meetings were attended by people who did not have jobs. He asked the Board if they would be available for a special meeting to be held on Wednesday, September 19th at 7:00 p.m.

Mr. Thorsland entertained a motion to continue Cases 710-AT-12 and 711-AT-12 to a special meeting to be held on Wednesday, September 19th at 7:00 p.m.

Mr. Passalacqua moved, seconded by Mr. Courson to continue Cases 710-AT-12 and 711-AT-12 to a special meeting to be held on Wednesday, September 19th at 7:00 p.m. The motion carried by voice vote.

Mr. Thorsland called Case 685-AT-11. He entertained a motion to continue Case 685-AT-11 to the October 25th meeting.

Mr. Courson moved, seconded by Mr. Passalacqua to continue Case 685-AT-11 to the October 25th meeting. The motion carried by voice vote.

6. New Public Hearings

None

7. Staff Report

Mr. Hall stated that the two map amendments that were referred to the County Board last month were approved by the County Board on their Consent Agenda. He said that the Board received a copy of the Hensley Township Protest for the last map amendment, Case 699-AM-12. He said that the case has been placed on the Committee agenda for Tuesday evening.

8. Other Business

A. Review of Docket

Mr. Thorsland stated that staff has reviewed the docket with the Board during discussions of continuing cases for this meeting therefore no further review is necessary. He said that he would appreciate it if the Board would receive notification as soon as staff has confirmed the use of the meeting room for the special meeting.

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

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None

10. Adjournment

Mr. Thorsland entertained a motion to adjourn the meeting.

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

The meeting adjourned at 9:20 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

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DRAFT SUBJECT TO APPROVAL DRAFT ZBA //

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