

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: January 16, 2014

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 6:30 p.m.

MEMBERS PRESENT: Catherine Capel, Debra Griest, Marilyn Lee, Brad Passalacqua, Jim Randol

MEMBERS ABSENT : Roger Miller, Eric Thorsland

STAFF PRESENT : Connie Berry, John Hall, Susan Monte (County Planner, RPC)

OTHERS PRESENT : Lars Johnson, Shawn Bickers, Larry Hall, Julia Hall, Jean Fisher, Mark Fisher

1. Call to Order

The meeting was called to order a 6:30 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with two members absent.

Mr. John Hall, Zoning Administrator stated that Mr. Thorsland is absent tonight due to a medical procedure that he has scheduled for tomorrow.

Mr. John Hall informed the Board that due to the absence of Mr. Thorsland the Board needs to appoint an acting Chair for tonight's meeting. He entertained a motion for appointment of an acting chair

Mr. Passalacqua moved, seconded by Mr. Randol to appoint Ms. Capel as acting Chair for tonight's meeting. The motion carried by voice vote.

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

3. Correspondence

None

1 **4. Approval of Minutes**

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3 None

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5 **5. Continued Public Hearing**

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7 **Case 764-V-13 Petitioner: Lars Johnson with agent Shawn Bickers Request to authorize the following**
8 **in the R-4 Multiple Family Residence Zoning District: Part A. Authorize the following variance for**
9 **an existing townhouse: (1) lot coverage of 44% in lieu of the maximum allowed 40%; and (2) a front**
10 **setback of 40 feet from the centerline of Briar Hill Drive in lieu of the minimum required 55 feet; and**
11 **(3) a front yard of 20 feet in lieu of the minimum required 25 feet. Part B. Authorize the following**
12 **variance for an addition to an existing townhouse: (1) authorize construction of a building addition in**
13 **a recorded utility easement in lieu of the requirement that no construction shall take place in a**
14 **recorded utility easement; and (2) a side yard of 1 foot in lieu of the minimum required 5 feet.**
15 **Location: Lot 1 of Wisegarver’s Subdivision in the Southeast Quarter of Section 21 of Champaign**
16 **Township and commonly known as the townhome at 2120 Briar Hill Drive, Champaign.**

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

26
27 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must
28 sign the witness register for that public hearing. She reminded the audience that when they sign the
29 witness register they are signing an oath.

30
31 Mr. Passalacqua stated that he has a few construction projects out for bid in which Mr. Shawn Bickers,
32 co-petitioner, will be a sub-contractor for those projects, therefore due to this conflict he must remove
33 himself from this case.

34
35 Ms. Capel asked the petitioners if they desired to make a statement outlining the nature of their request.

36
37 Mr. Lars Johnson, who resides at 1956 Berwyn, Chicago, stated that he had no new information to add
38 tonight.

39
40 Ms. Capel asked Mr. Hall if he had any new information to add to the case tonight.

41

1 Mr. Hall, Zoning Administrator, stated that he had no new information to add to the case. He said that the
2 information that was included in the mailing packet was very clear. He said that he would be happy to
3 answer any questions that Board members may have regarding the case. He said that extra copies of
4 Wisegarver's Subdivision were provided to the Board. He said that this was the same copy that was
5 included in the Preliminary Memorandum but since it was the subject of a lot of the discussion at the last
6 meeting staff thought that the Board might appreciate receiving fresh copies of the plat for review.
7

8 Ms. Capel asked Mr. Bickers if he had any new information to add to the case tonight.
9

10 Mr. Shawn Bickers, who resides at 4306 Summerfield Road, Champaign, stated that he had no new
11 information to add to the case tonight.
12

13 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony regarding
14 Case 764-V-13 and there was no one.
15

16 Ms. Capel closed the witness register.
17

18 Ms. Capel asked the Board if there were any questions for staff.
19

20 Ms. Griest stated the there is a proposed special condition relating to prohibition of rebuilding a structure
21 that is not yet built if it were destroyed by 50% or more. She said that the rationale behind this special
22 condition is a little bit askew to her.
23

24 Mr. Hall stated that he noticed in the minutes that there was a question regarding the proposed special
25 condition. He said that while he won't argue with Ms. Griest's view of the proposed special condition, but
26 when preparing the materials for the Board's review it is not known what state of mind the Board will be in
27 and one thing that staff has been very sensitive to lately is the irritated state that the Board gets in due to
28 unauthorized construction that subsequently requires a variance. He said that the proposed special
29 conditions were prepared early in the case and in his own mind if he had not proposed the special condition
30 so early he might have not proposed it at all. He said that in the beginning we were posed with unauthorized
31 construction and if it wasn't approved by the Board it would require removal and the fact that there may be
32 less than 50% in place now was not as important as thinking that the Board may not want this to stay
33 permanently unless there is a vacation of that part of the easement. He said that he would prefer no
34 conditions if possible but early in the process he believed that such conditions may be necessary for the
35 Board to make the necessary positive findings.
36

37 Ms. Lee stated that the petitioners are requesting a one foot side yard in lieu of the required five foot. She
38 said that the petitioners have indicated that the garage type door would be relocated to the west side of the
39 structure but in essence they will be moving their golf cart past the new addition and across the neighbor's
40 yard. She said that it appears strange that the Board would indicate that it is okay to have an easement across
41 the neighbor's yard to the extent that the golf cart exceeds one foot in width.

1
2 Mr. Hall stated that there is some question regarding how the golf cart will move from the storage area to the
3 street. He said that there may be some overlap over the property line and there has been some discussion
4 about maintenance of the lawn has always been based on an assumption that the lot line was down the
5 middle of the large open area when in fact the open area is all on the neighbor's lot. He said that he was
6 assuming that Mr. Johnson and the neighbors could come to some sort of mutual agreement regarding the
7 general maintenance of that part of the other lot in exchange for any golf cart traffic that occurs. He said that
8 if the Board is skeptical that such an agreement would work and desires to see information regarding how
9 the landscaping will be rearranged so that the golf cart can travel straight to the street and then down the
10 street to the golf course then the Board would be within its bounds to require such.

11
12 Mr. Johnson stated that the golf cart idea has been abandoned. He said that the storage area will be for the
13 personal storage of his lawnmower, tools, etc. He said that they realized that the Board had previous
14 questions regarding the golf cart access therefore they decided that the golf cart storage was not that
15 important and moved the access to the west towards the street. He said that Mr. Bickers resubmitted the new
16 plans indicating the change.

17
18 Mr. Hall stated that the plan that was received on December 11, 2013, still indicates "golf cart bay."

19
20 Mr. Johnson stated that Mr. Bickers was informed that he should not change the designation of the area.

21
22 Mr. Hall asked Mr. Johnson if he is testifying tonight that what was previously indicated as a "golf cart bay"
23 should now be understood to be "lawnmower and other equipment storage."

24
25 Mr. Johnson stated yes.

26
27 Ms. Lee thanked Mr. Johnson.

28
29 Ms. Capel asked the Board if there were any additional questions regarding the special conditions.

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31 Ms. Capel asked Mr. Johnson if he agreed with the proposed special conditions.

32
33 Mr. Johnson stated yes.

34
35 Ms. Capel entertained a motion to approve the proposed special conditions.

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37 **Mr. Randol moved to approve the proposed special conditions.**

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39 Ms. Capel called for a second for Mr. Randol's motion.

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41 Mr. Hall noted that a motion must be called three times before it fails.

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Ms. Capel called for a second to Mr. Randol's motion for a final time.

The motion failed due to the lack of a second.

Ms. Griest moved to approve proposed special conditions A.(1); A.(2); B and C and exclude A.(3).

Ms. Griest stated that she cannot support a special condition that allows building something that will not be allowed to be replaced. She said that she cannot ethically support building something that she would prohibit rebuilding should it be destroyed. She said that the structure is less than 50% built currently and she realizes that the contractor started work without authorization and that is unfortunate but she has an ethical dilemma in allowing them to continue building something that would not be allowed to be rebuilt if it were destroyed. She said that her position and the bottom line is whether the Board is going to allow the petitioner to build his structure and keep it or not to allow them to build it at all.

Mr. Hall stated that he would say that there is no need for a special condition if the Board is inclined to allow the structure to be completed and the structure to be used and there is no need for a special condition if the Board is inclined to think that there is not a special condition sufficient to allow construction to be completed therefore no special condition is needed for either one of those polar opposites. He said that somewhere in between there a special condition may be needed but it may not be any of the proposed conditions but if the option is either one of those two then he thinks it is real simple, no special condition is required.

Ms. Griest stated that she appreciates Mr. Hall's recommendation and withdrew her motion.

Ms. Capel stated that the Board will proceed with no special conditions.

Mr. Hall stated that he does not want to make this any more complicated than necessary but Ms. Lee asked a question about what the Board is approving regarding the use of the structure. He said that if the Board approves the variance the Board will be approving a site plan and currently the site plan does not indicate golf cart storage but unless the Board makes a condition that it cannot be used for golf cart storage there is no prohibition in the future that it can be used for such in the future. He said that if the Board is really concerned about the storage of a golf cart then a special condition should be considered. He said that he is not recommending such a condition but he is putting the option out there for the Board's consideration in case one member believes it is necessary.

Mr. Randol stated that at the last meeting there was discussion that there was a mutual agreement between Mr. Johnson and the neighbors to allow moving back and forth through the area between the two structures. He said that if that travel ever became an issue it would be an issue between the neighbors and would have no affect on the ZBA because the property was one foot where everyone thought it was in the middle of the yard. He said that there is a maintenance agreement in place between the neighbors.

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2 Mr. Johnson stated that there is a maintenance agreement in place and it has existed for almost 20 years. He
3 said that if the neighbors didn't like something they would voice their concerns.

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5 Mr. Hall stated that if the Board is comfortable with the neighbor's agreement then there is nothing else that
6 needs to be done in that regard.

7
8 Mr. Randol stated that he is comfortable with just the neighbor's agreement. He said that sometimes the
9 Board tries to get too involved in some of this stuff.

10
11 Ms. Capel stated that there is not a lot of difference between a riding lawnmower and a golf cart in terms of
12 width and driving over the neighbor's property.

13
14 Mr. Randol agreed.

15
16 Ms. Lee stated that the present neighbors may be willing to allow Mr. Johnson to go over the property line
17 but is the ZBA willing to, in effect, grant an easement of use. She said that a permanent easement could be
18 granted between the neighbors.

19
20 Mr. Hall stated that he does not consider granting this variance to be the same thing as acquiescing to
21 traveling over a neighbor's property because the door was moved and there is no need to travel over the
22 property and testimony received tonight indicates that traveling over the property will not be the situation
23 anyhow. He said that if the Board is so concerned that no golf cart storage should be allowed then the Board
24 can certainly impose such a condition. He said that he would not want to have to make inspections to see
25 what is being stored there but again, it is whatever the Board feels is necessary and justifiable. He noted that
26 any condition would have to be accepted by the petitioner and the petitioner has already stated that the site
27 plan doesn't indicate golf cart storage any longer. He said that the petitioner may accept a condition
28 prohibiting golf cart storage or the petitioner may believe that the Board is getting too detailed.

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30 Ms. Capel asked the Board if they were ready to proceed to the Finding of Fact.

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32 Ms. Capel entertained a motion to proceed to the Finding of Fact for Case 764-V-13.

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34 **Ms. Griest moved, seconded by Mr. Randol to proceed to the Finding of Fact for Case 764-V-13. The**
35 **motion carried by voice vote.**

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37 **Finding of Fact for Case 764-V-13:**

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39 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
40 764-V-13 held on November 14, 2013, December 12, 2013, and January 16, 2014, the Zoning Board of
41 Appeals of Champaign County finds that:

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1. Special conditions and circumstances DO 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.

Mr. Randol stated that special conditions and circumstances DO 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 of the undisputed boundary line for years and the unknown issues with utility easements and the sanitary district had no problem with the construction.

Ms. Capel stated that the buildable area on the subject property is significantly smaller than on the other lots.

Mr. Hall stated that at the end of Mr. Randol’s statement he mentioned that the utility companies had no problem with the construction. He asked Mr. Randol to explain his response.

Mr. Randol stated that at the last public hearing regarding this case there was a question whether or not there were sewer lines in the easement. He said that the Urbana Champaign Sanitary District indicated that there were no lines within the easement and that they had no problem with the structure being constructed.

Ms. Griest asked Mr. Randol if his statement intended to include all of the other utility companies that were involved. She said that although Illinois American Water stipulated that they have nothing running through the easement and that they would have no objection to vacating, Ameren was unwilling to vacate the easement.

Ms. Capel stated that what Ameren actually said was that the fact that they were willing to allow did not imply a vacation. She said that the wording that Ameren used did not constitute a vacation.

Mr. Hall stated that Ameren’s statement is included as item #11.E(3) in the Summary of Evidence.

Ms. Griest stated that item #11.E(3) does indicate that there are electric facilities within the easement along the north and east easement and that there is no immediate plan to use the south easement, but it is not a vacation of the south easement.

Ms. Capel stated that Ameren did not indicate their willingness one way or the other.

Ms. Griest stated that she would disagree and would interpret Ameren’s statement as their willingness to not object does not mean that they are vacating it in any way. She said that she has no problem with Mr. Randol’s statement indicating that the UCSD has no problem with the construction but it would be inaccurate if Ameren were included.

Ms. Griest stated that Illinois American Water had no interest in the easement and did not object to a

1 vacation of the easement.

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3 Mr. Hall read the Board’s findings as follows:

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- 5 • **Of the undisputed boundary line for years and the unknown issues with utility easements and the sanitary district had no problem with the construction; and**
- 6 • **Illinois American Water had no interest in the easement and did not object to the vacation of the easement; and**
- 7 • **The buildable area on the subject property is significantly smaller than on the other**
- 8 **lots; and**

9

10 Ms. Capel stated that an additional point to add to the finding is that there is adequate space for utility maintenance between the two buildings.

11

- 12 • **There is adequate space for utility maintenance between the two buildings.**

13

14 Ms. Capel asked the Board if they agreed with Finding #1 and the Board agreed.

15

- 16 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.**

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18 Mr. Randol stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction due to the open area between the two structures.

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20 Ms. Capel stated that the townhome could not be reconstructed in the event of damage without the variance. She said that the addition, which is required for Mr. Johnson’s business, would not obstruct the view to the golf course.

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22 Ms. Griest asked Ms. Capel if she would entertain a minor revision to her previous statement. She said that the finding could read as follows: There is no alternative buildable area on the side of the building without obstructing views to the golf course.

23

24 Ms. Capel stated that she agreed with Ms. Griest’s amended finding.

25

26 Mr. Hall read the Board’s findings for Finding #2 as follows:

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- 28 • **Of the open area between the two structures**
- 29 • **The townhome could not be reconstructed in the event of damage without the variance in Part A.**

30

- 1 • **There is no alternative buildable area on the side of the building without obstructing**
- 2 **the views to the golf course.**
- 3

4 Ms. Capel asked the Board if they agreed with the findings for Finding #2 and the Board agreed.

- 6 **3. The special conditions, circumstances, hardships, or practical difficulties DO result**
- 7 **from actions of the applicant.**
- 8

9 Ms. Griest stated that the special conditions, circumstances, hardships, or practical difficulties DO result
 10 from actions of the applicant because construction began prior to the issuance of a zoning use permit. She
 11 said that her recommendation would have been different if the construction had not begun and not moved
 12 forward with the request because the construction had begun. She said that this is a choice by the applicant
 13 to build this structure in this location and even if they had not begun the construction the applicant is
 14 choosing to place the structure in the proposed location therefore it would be an action on their part. She
 15 said that if someone has an opposing position on this finding and they would like to state that position she
 16 would be happy to hear it.

17
 18 Ms. Capel stated that Part A. does not fall under Ms. Griest’s finding. She said that Part A. involves the
 19 construction of the townhome itself and a permit that was issued in error. She said that Part A. includes lot
 20 coverage of 44% in lieu of the maximum allowed 40%; and a front setback of 40 feet from the centerline of
 21 Briar Hill Drive in lieu of the minimum required 55 feet; and a front yard of 20 feet in lieu of the minimum
 22 required 25 feet.

23
 24 Ms. Griest asked Mr. Hall how the Board should respond to a finding when some parts of the variance apply
 25 to DO and some parts apply to DO NOT.

26
 27 Mr. Hall stated that the Board does have to keep Part A. and Part B. in mind. He said that Finding #3 is
 28 talking about the special conditions which the Board has already said existed. He said that if the Board goes
 29 back and reviews Finding #1 the Board indicated that there was an undisputed boundary line and unknown
 30 issues with utility easements, two major utilities who have indicated that they do not have a problem with it,
 31 and smaller buildable area than on the other lots and adequate space for utility maintenance between the two
 32 buildings. He said that the Board could add that the project was begun without authorization but the Board
 33 needs to be careful with that because these findings are supposed to be about the property and building
 34 without a permit is not related to the property but is related to carelessness. He asked the Board to think
 35 about what it is about the property that DOES or DOES not support the variance. He said that the Board’s
 36 findings in Finding #1 are all related to the property and construction without a permit is not related to the
 37 property.

38
 39 Ms. Capel stated that the evidence states that the subcontractor was under the impression that there was a
 40 permit and stopped construction when it became apparent that there was no permit. She said that she would
 41 assume that the variance would have been applied for earlier had the misunderstanding not occurred.

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2 Mr. Hall stated that this could work here if there was unauthorized construction indicated under Finding #1
3 because it would be consistent but in his mind there is a legal question about the Board focusing on things
4 that are not related to the land. He said that he is not an attorney and he does not want to ever play like he is
5 an attorney but he will give the Board whatever advice that he can.

6

7 Ms. Griest stated that she is having difficulty because she understands the conditions for the property when
8 Mr. Johnson purchased it and the items in the variance that are related to the original construction but this is
9 also including a request for additional construction which are a choice by the petitioner to include in this.
10 She said that she is having difficulty being able to separate those two and if this was two separate cases it
11 would be much easier. She said that she has no problem with the lot coverage area and the setbacks in the
12 front yard but her problem is with the proposal for the construction on the utility easement and up to within
13 one foot of the side property line. She said that she can be flexible with the side yard variance but requesting
14 to build something within the utility easement isn't part of the original construction therefore she can see
15 both sides but there isn't a maybe or sort of in the DO and DO NOT.

16

17 Mr. Hall stated that this is why staff advertised this case in two parts. He said that if the evidence supports it
18 he could imagine approval of one part and denial of the other part.

19

20 Ms. Griest asked if the Board should be preparing their findings as related to Part A. and findings related to
21 Part B.

22

23 Mr. Hall stated yes. He said that if the Board wants to provide the possibility of clear approval of one part
24 and clear denial of another then the findings need to be prepared separately. He said that the Board can
25 return to Finding #1 and discuss Part A. and Part B. separately. He said that doing Parts A. and B separately
26 does not lock the Board into any definite outcome but provides flexibility for the Board and if the Board
27 needs that flexibility then that is what should be done.

28

29 Ms. Capel stated that there will be a finding for Part A. and Part B. She asked Mr. Hall if both findings have
30 to be either negative or positive or could the Board find a positive finding for one part and a negative finding
31 for the other part.

32

33 Mr. Hall stated yes, the Board could have different findings for each part.

34

35 Ms. Griest stated that there could be two final determinations, one on Part A. and one on Part B.

36

37 Mr. Hall stated yes. He asked the Board if they want to do anything else on Finding #3 or would they like to
38 return to Finding #1 and resort.

39

40 Ms. Lee stated that if the Board is dealing with Part A. we are just dealing with lot coverage of 44% in lieu
41 of the maximum allowed 40%; and the front setbacks which all go back to the original construction. She

1 said that the Board will also deal with the front yard of 20 feet in lieu of the minimum required 25 feet.
2
3 Ms. Griest asked if Part A.(1) is prior to the addition or after the addition. She said that she would think that
4 it is after the addition.
5
6 Mr. Randol stated that it is from the original construction.
7
8 Ms. Capel stated that there was an existing deck there and the construction is just taking the place of that
9 deck.
10
11 Mr. Hall stated that a deck would not have been counted as part of the lot coverage. He said that he does not
12 believe that the area of the addition is 4% of the lot area therefore he is pretty certain that it was over the lot
13 coverage in the beginning.
14
15 Mr. Randol stated that if the lot coverage is not taken as the original construction then the whole building
16 will need to be changed. He said that the building was built over 40 years ago.
17
18 Ms. Lee stated that there was a Supplemental Memorandum on November 14, 2013, which indicated the
19 following: Authorize the construction of an addition to an existing townhouse. She said that the
20 memorandum indicates that the lot coverage is 44% in lieu of the maximum allowed 40% therefore she
21 would believe that the original construction and the addition would be calculate to the 44%.
22
23 Ms. Griest asked Mr. Hall if the percentage does not include the addition is the variance adequate if the
24 addition were approved.
25
26 Ms. Lee stated that the memorandum indicates that the total lot area is 14,840 square feet and the original
27 square foot age of the house is 6,496.
28
29 Mr. Hall stated that the 264 square foot addition is nowhere near 4% of the lot area. He said that the existing
30 building with no addition already exceeds the lot coverage limit. He apologized for not having this specific
31 information included in the Summary of Evidence.
32
33 Ms. Griest stated that her calculations including the addition, indicates lot coverage of 45.55%. She said that
34 Part A. is without the addition and the pre-construction lot coverage is 44%.
35
36 Ms. Lee stated that Part A. is incorrect.
37
38 Mr. Randol asked why the Board is trying to approve a variance for a structure that was built over 40 years
39 ago rather than just taking care of what is proposed currently.
40
41 Ms. Capel stated that the building cannot be rebuilt if there was fire without a variance.

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2 Ms. Griest stated that the variance would make the existing building compliant which gives them the ability
3 to rebuild.

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5 Ms. Capel asked Mr. Hall if the Board needs to vote on separating the findings into Part A. and Part B.

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7 Mr. Hall stated that the Board only needs to vote on findings when there is reason to think that there are not
8 four Board members in support of the finding. He said that separating the finding into parts does make a lot
9 of sense. He said that the only way to provide the Board with the flexibility to approve one part and deny the
10 other is to actually make complete findings for each part and he does not see any way that this one finding
11 can apply to both parts. He asked the Board if they want to deal with each part separately or move through
12 both parts concurrently through all of the findings.

13
14 Ms. Capel stated that the Board should move through each part separately.

15
16 **Separation of Findings of Fact for Part A. and Part B of Case 764-V-13:**

- 17
18 **1. Special conditions and circumstances DO exist for Part A which are peculiar to the**
19 **land or structure involved, which are not applicable to other similarly situated land**
20 **and structures elsewhere in the same district.**

21
22 Ms. Lee stated that special conditions and circumstances DO exist which are peculiar to the land or structure
23 involved, which are not applicable to other similarly situated land and structures elsewhere in the same
24 district because a permit was issued even though the building did not comply with the Ordinance
25 requirements.

26
27 Ms. Capel stated that the lot has significantly smaller buildable area than any of the other lots in the
28 subdivision.

29
30 Ms. Griest stated that this unit is of similar size and shape to the adjoining three units on the subject
31 property.

32
33 Mr. Hall pointed out that other than the aerial photography there is no evidence specific to Ms. Griest's
34 finding.

35
36 **The Board's Findings for Finding 1, Part A.:**

- 37
38 • **The zoning use permit was approved even though the building did not comply with the**
39 **Ordinance requirements; and**
40 • **The buildable area on the subject property is significantly smaller than on the other**
41 **lots; and**

- 1 • This unit is of similar size and shape to the adjoining three units on the subject
- 2 property.
- 3

The Board’s Findings for Finding 1, Part B.:

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- 5
- 6 1. Special conditions and circumstances DO exist for **Part B** which are peculiar to the land
- 7 or structure involved, which are not applicable to other similarly situated land and
- 8 structures elsewhere in the same district because:
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- 10 • Of the undisputed boundary line for years and the unknown issues with utility
- 11 easements and the sanitary district had no problem with the construction; and
- 12 • Illinois American Water had no interest in the easement and did not object to the
- 13 vacation of the easement; and
- 14 • The buildable area on the subject property is significantly smaller than on the other
- 15 lots
- 16 • There is adequate space for utility maintenance between the two buildings.
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18 Mr. Hall asked the Board if they agreed to the findings for Finding 1 Parts A and B and the Board agreed.

The Board’s Findings for Finding 2, Part A.:

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- 22 2. **For Part A**, Practical difficulties or hardships created by carrying out the strict letter of
- 23 the regulations sought to be varied WILL prevent reasonable or otherwise permitted
- 24 use of the land or structure or construction because:
- 25
- 26 • The townhome could not be reconstructed in the event of damage without the variance
- 27 in Part A.
- 28

The Board’s Findings for Finding 2, Part B.:

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- 31 **For Part B**, Practical difficulties or hardships created by carrying out the strict letter of
- 32 the regulations sought to be varied WILL prevent reasonable or otherwise permitted
- 33 use of the land or structure or construction because:
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- 35 • Of the open area between the two structures; and
- 36 • There is no alternative buildable area on the side of the building without obstructing
- 37 the views to the golf course.
- 38

39 Mr. Hall asked the Board if they agreed to the findings for Finding 2 and the Board agreed.

The Board’s Findings for Finding 3, Part A.:

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For Part A, The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because:

Ms. Lee stated that for Part A, the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the structure was built in the 1970’s which was long before the applicant came into the picture.

- **The construction happened in the 1970’s long before the applicant owned the property.**

Ms. Lee asked Mr. Hall if the applicant had any idea that the structure was built out of compliance with the Zoning Ordinance.

Mr. Hall stated that he does not believe the applicant or anyone else was aware that the structure was built out of compliance with the Zoning Ordinance.

The Board’s Findings for Finding 3, Part B.:

For Part B, The special conditions, circumstances, hardships, or practical difficulties DO result from actions of the applicant.

Ms. Griest stated that for Part B, the special conditions, circumstances, hardships, or practical difficulties DO result from actions of the applicant because the petitioner has proposed building in a recorded utility easement and with a size that would yield a one foot side yard in lieu of the required five feet.

Ms. Capel stated that the Board needs to revisit Finding #1, Part B to review what special conditions exist.

Mr. Hall stated that in the terms of the logic of the findings the Board could have a special condition in Finding #1 that construction was begun without a zoning use permit then later Finding 3, Part B, could be indicated that the special conditions, circumstances, hardships, or practical difficulties DO result from actions of the applicant.

The Board agreed to add the following to Finding #1, Part B: Construction was begun without a zoning use permit.

Mr. Hall read the Board’s finding for Finding #3, Part B. as follows:

- **The proposed construction will reduce the side yard to one foot in lieu of the required five feet.**

Mr. Hall stated that the one thing that the Board should be thinking about is that this finding would indicate

1 that this is causing some injury to the district. He said that Finding #5 refers to injury to the district therefore
2 hopefully the Board will have some idea as to what injury has been done or will be caused.

3
4 Ms. Lee stated that Ms. Griest also mentioned that the petitioner was building within a recorded utility
5 easement.

6
7 Mr. Hall revised the Board's finding as follows:

- 8
9 • **The petitioner proposed construction within a recorded utility easement with a size that**
10 **would require a reduced side yard of one foot in lieu of the required five feet.**

11
12 Mr. Hall asked the Board if they agreed with the Finding for Finding 3, Part B.

13
14 Mr. Randol stated that he does not understand why this finding should be there when it has been agreed that
15 everyone involved in the utility easement has indicated that they have no problem with the proposed
16 construction.

17
18 Mr. Hall stated that Mr. Randol's concern is an important consideration.

19
20 Mr. Randol stated that the finding indicates a negative impact and everyone involved has indicated that they
21 have no problems with it.

22
23 Mr. Hall stated that the Board could move forward with the Finding of Fact and once completed the Board
24 could revisit all of the findings before they are adopted.

25
26 Ms. Capel asked if it would be appropriate to insert a contrary statement in the finding.

27
28 Mr. Hall stated that the Board could insert a contrary statement as long as the finding remains clear.

29
30 Ms. Griest asked Mr. Hall if this would be an appropriate place to reiterate the Summary of Evidence
31 information that the UCSD, Illinois American Water and Ameren have no existing utilities in the easement
32 and have no plans to place utilities in the easement however none of them have vacated the easement. She
33 said that it is significant information that none the three utility companies have vacated the easement even
34 though they do not have any utilities located in it.

35
36 Mr. Hall stated that the UCSD's position, as he understands it, is that they have no easement to vacate and
37 Illinois American Water indicated that they would be happy to support vacating the easement but Ameren
38 only made clear that even though they had nothing at risk they would not vacate the easement. He said that
39 he does not know what this information would do for the finding but he could certainly add it if the Board
40 desires.

41

1 Mr. Randol stated that a ten foot easement is not big enough for water and sewer both because there must be
2 a ten foot separation unless the sewer is two foot below the water. He said the water main is already located
3 in front of the subject property.

4
5 Mr. Hall read Item 11.E(3) as follows: In an email dated October 10, 2013, from Elmer Crawford, Ameren
6 Illinois Senior Engineering Representative, to Shawn Bickers, co-petitioner, Mr. Crawford indicated that
7 there are electric facilities within the easement along the north and east easement and that there is no
8 immediate plan to use the south easement, but is not a vacation of the south easement. He asked the Board if
9 that they believe that this is the same as saying that Ameren is opposed to vacation of the easement.

10
11 Ms. Capel stated no.

12
13 Ms. Griest stated that she disagreed with Ms. Capel.

14
15 Mr. Hall stated that the Board could vote on the interpretation.

16
17 Ms. Capel stated that the Board cannot vote on someone else's intent. She said that she and Ms. Griest are
18 interpreting Mr. Crawford's statement in two different ways.

19
20 Mr. Hall stated that the Board can vote on which interpretation the majority of the Board will support.

21
22 Ms. Lee stated that it is her opinion that if there is a recorded easement that the utility companies are not
23 vacating then there is still a recorded easement.

24
25 Mr. Hall stated that Ms. Griest has suggested evidence which is her understanding that Ameren is opposed to
26 the easement. He said that he wants the Board to be very careful because if this goes to court the Board does
27 not have an email from Ameren indicating that they were opposed to the vacation of the easement.

28
29 Ms. Capel stated that the only evidence that the Board has is the email which indicates that they have not
30 vacated the easement. She suggested that perhaps the finding should quote the email from Mr. Crawford.

31
32 Ms. Griest agreed that quoting the email would be appropriate.

33
34 Mr. Hall stated that quoting from the email will be difficult to do because the actual words are in the context
35 of a broader statement.

36
37 Mr. Hall stated that the finding would read as follows:

- 38
39 • **Even though the proposed construction is located within a recorded utility easement,**
40 **neither the UCSD nor Illinois American Water are opposed to vacation of the easement,**
41 **Ameren made clear in an email dated 10/10/13 from Elmer Crawford, Senior**

1 **Engineering Representative, that there is no immediate plan to use the south easement,**
 2 **but it is not a vacation of the south easement.”**
 3

4 Mr. Hall stated that he wants to make sure that the Board is comfortable with this being a finding related to
 5 whether or not the special conditions result from the applicant.
 6

7 **The Board’s Findings for Finding 4, Part A.:**
 8

9 **4. For Part A, the requested variance IS in harmony with the general purpose and intent**
 10 **of the Ordinance.**
 11

12 Ms. Lee stated that For Part A, the requested variance IS in harmony with the general purpose and intent of
 13 the Ordinance because the initial mistake in the permit should not bring consequences to bear in later years.
 14

15 Mr. Hall stated that legally, to allow something like this to go on for 40 years and then all of sudden deciding
 16 that it is so terrible to continue is very questionable.
 17

18 Ms. Capel stated that the variance corrects an error that was made during the original construction.
 19

20 Mr. Hall stated that the variance corrects the error and this criteria is the one the Board reviews why there is
 21 a lot coverage limit. He said that the requirement is to allow a certain amount of light and air into the units
 22 and the Board needs to decide if the units have adequate light and air.
 23

24 Ms. Lee asked if there have been previous cases regarding similar lot coverage issues.
 25

26 Mr. Hall stated yes, but each case is so unique that to try a draw some kind of rules from all of the previous
 27 cases is virtually impossible.
 28

29 Ms. Griest stated that the building has always been like this and there has never been any detriment to the
 30 public health, safety, or welfare caused by the building. She said that the Champaign Township Highway
 31 Commissioner has no objection to the variance and the Fire Protection District has not provided comments.
 32 She said that it should be noted that the structure shares a common wall with an adjoining housing unit.
 33

34 Mr. Hall stated that it may be appropriate to note that the structure is adjacent to a large golf course that
 35 provides ample light and air. He said that the variance is literally for the entire building and not just for Mr.
 36 Johnson’s portion of that building.
 37

38 Ms. Lee stated that she believes that it is appropriate to note that the structure is adjacent to a large golf
 39 course that provides ample light and air.
 40

41 Ms. Griest stated that the property is bordered by a golf course on two sides and an open space for the

1 interstate on a third side with a building on only one side that is 50 feet away from the subject building.

2

3 Ms. Lee asked if the open land to the south of Mr. Johnson’s property is entirely owned by the property
4 owner to the southeast.

5

6 Mr. Hall stated yes.

7

8 Ms. Capel stated that the subject property is at the end of Briar Hill Drive and it is very unlikely that the
9 street will ever be widened or extended.

10

11 Mr. Hall read the Board’s findings as follows:

12

- 13 • **The building has always been like this and there has never been any detriment to the**
- 14 **public health, safety, or welfare caused by the building; and**
- 15 • **The Champaign Township Highway Commissioner has no objection to the variance;**
- 16 **and**
- 17 • **The Fire Protection District has not provided any comments; and**
- 18 • **The property is bordered by a golf course on two sides and an open space for the**
- 19 **interstate on a third side with a building on only one side that is 50 feet away from the**
- 20 **subject building; and**
- 21 • **The property is at the end of Briar Hill Drive and it is unlikely that the street will ever**
- 22 **be widened.**
- 23 •

24 **The Board’s Findings for Finding 4, Part B.:**

25

26 **For Part B, the requested variance IS in harmony with the general purpose and intent of the**
27 **Ordinance.**

28

29 Mr. Randol stated that For Part B, the requested variance IS in harmony with the general purpose and intent
30 of the Ordinance because this is an established subdivision that has been in existence since 1976.

31

32 Ms. Capel stated that the construction will not disturb existing utilities. She said that the property is
33 bordered by a golf course on two sides and an open space for the interstate on a third side and the property is
34 at the end of Briar Hill Drive and further development requiring additional utilities in this area is very
35 unlikely.

36

37 Mr. Hall read the Board’s findings as follows:

38

- 39 • **This is an established subdivision; and**
- 40 • **The construction will not disturb existing utilities; and**
- 41 • **The property is bordered by a golf course on two sides and an open space for the**

1 interstate on a third side and the property is at the end of Briar Hill Drive; and
2 further development requiring additional utilities in this area is very unlikely;
3

4 Ms. Griest stated that there are two similar additions constructed on townhomes on the property to the south.
5

6 Mr. Hall read Ms. Griest’s finding as follows:
7

- 8 • There are two other similar additions constructed on townhomes on the property to the
9 south.

10
11 **The Board’s Findings for Finding 5, Part A.:**
12

13 For Part A, the requested variance WILL NOT be injurious to the neighborhood or otherwise
14 detrimental to the public health, safety, or welfare.
15

16 Ms. Capel stated that for Part A, the requested variance WILL NOT be injurious to the neighborhood or
17 otherwise detrimental to the public health, safety, or welfare because the building has always been like this
18 and there has never been any detriment to the public health, safety, or welfare caused by the building.
19

20 Ms. Griest stated that the Champaign Township Highway Commissioner has no objection to the variance
21 and the Fire Protection District has not provided any comments.
22

23 Mr. Hall read the Boards findings as follows:
24

- 25 • The building has always been like this and there has never been any detriment to the
26 public health, safety, or welfare caused by the building; and
- 27 • The Champaign Township Highway Commissioner has no objection to the variance;
28 and
- 29 • The Fire Protection District has not provided any comments; and
30

31 Ms. Capel stated that the following finding could be added: Adequate light and air is provided by the
32 abundant open space around the building.
33

34 Mr. Hall read Ms. Capel’s finding as follows:
35

- 36 • Adequate light and air is provided by the abundant open space around the building.
37

38 **The Board’s Findings for Finding 5, Part B.:**
39

40 For Part B, the requested variance WILL NOT be injurious to the neighborhood or otherwise
41 detrimental to the public health, safety, or welfare.

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Ms. Capel stated that for Part B, the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because similar additions exist on townhomes to the south and have not been found to be injurious to the neighborhood. She said that it is unlikely that the existing easement will be required for new utilities as there are currently no utilities within the easement.

Mr. Hall stated that the water lines are within the easement but are in a different location.

Ms. Capel stated that she thought that the water lines were across the property line and in the easement on the property to the south.

Mr. Hall stated that Ms. Capel is thinking of the sanitary sewer lines.

Ms. Capel stated that the water line runs across the front of the property.

Mr. Randol stated that the water line does run across the front of the property and is not in the easement on the side of the property and actually there is nothing within the side easement.

Ms. Capel stated that the Champaign Township Highway Commissioner has no objection to the variance and the Fire Protection District has not provided any comments.

Ms. Griest stated that two items of evidence could be added. She said that items 7.H (1) and (2) of the Summary of Evidence could be added as follows: (1) The subject property is a one lot subdivision that is unlikely to ever be expanded; and (2) The subject property is at the end of Briar Hill Drive and is bordered by the Lincolnshire Fields Golf Course on the east and north and Interstate 57 is on the opposite side of the street so it is unlikely that future development will occur in the vicinity or that new utilities will be needed in the existing utility easement.

Mr. Hall read the Board’s findings as follows:

- **There are two other similar additions constructed on townhomes on the property to the south which have not been injurious; and**
- **There are no utilities in the south utility easement; and**
- **The subject property is a one lot subdivision that is unlikely to ever be expanded; and**
- **The property is bordered by a golf course on two sides and an open space for the interstate on a third side and the property is at the end of Briar Hill Drive and further development requiring additional utilities in this area is very unlikely; and**
- **The Champaign Township Highway Commissioner has no objection to the variance; and**
- **The Fire Protection District has not provided any comments.**

1 Ms. Griest stated that she would like to return to Finding 1, Parts A and B and add items of evidence that she
2 believes is relevant. She said that Items 7.G (1) and (2) should be added to Parts A and B as follows: (1)The
3 subject property has an average lot width of only 140 feet and has a 10 feet wide utility easement on each
4 side lot line for an overall net buildable lot width of only 120 feet; and (2) The other five lots on the North
5 side of Briar Hill Drive have similar sized buildings and are similar in use to the subject property but the lots
6 are 145 feet wide or wider and 3 of the 4 shared lot lines have no utility easements and therefore the smallest
7 net buildable lot width among those five lots appears to be Lot 2 with a buildable lot width of 145 feet. She
8 said that both of these items speak to the overall coverage, setbacks, and utility easement issues. She said
9 that overall she believes that these findings add weight to won't be injurious to the neighborhood and the
10 general intent. She said that it shows the evolution of the development in that they made the changes but
11 continued to build the same sized structures.

12
13 Mr. Hall asked Ms. Griest if the recommendation is to add Items #7.G(1) and (2) from page 11 of the
14 January 10, 2014, Draft Summary of Evidence, these items have been added to Finding 1, Parts A and B.

15
16 Ms. Griest stated yes. She said that the fact that no utility easement exists on three of the four other shared
17 lines is a significant factor.

18
19 Mr. Hall added Items #7.G.(1) and (2) to Finding 1, Parts A and B.

20
21 **The Board's Findings for Finding 6, Part A.:**

22
23 **For Part A, the requested variance IS the minimum variation that will make possible the**
24 **reasonable use of the land/structure.**

25
26 Ms. Griest stated that for Part A, the requested variance IS the minimum variation that will make possible
27 the reasonable use of the land/structure because there is no additional land available for purchase. She said
28 that the Board has not received any evidence that indicates that no additional land is available for purchase
29 but the recorded plat and the current aerial indicates such.

30
31 Ms. Capel asked if the Board needs to address that the lot coverage is 44% without the proposed
32 construction and 46% with the proposed construction and does the case require re-advertisement.

33
34 Mr. Hall stated that he does not believe that the case requires re-advertisement.

35
36 Ms. Griest stated that the 44% is for the existing structure and if the Part B variance were approved that gave
37 approval for the additional 2% in lot coverage.

38
39 Ms. Capel agreed.

40
41 Ms. Griest stated that an additional finding could be as follows: it maintains the overall appearance of the

1 neighborhood.

2

3 Mr. Hall read the Board’s findings as follows:

4

- 5 • **There is no additional land available for purchase; and**
- 6 • **It maintains the overall appearance of the neighborhood.**

7

8 **The Board’s Findings for Finding 6, Part B.:**

9

10 **For Part B, the requested variance IS the minimum variation that will make possible the**
11 **reasonable use of the land/structure.**

12

13 Ms. Capel stated that for Part B, the requested variance IS the minimum variation that will make possible the
14 reasonable use of the land/structure because there is no additional land available for purchase and the
15 addition cannot be sited on any other part of the lot without blocking the view to the golf course.

16

17 Mr. Hall read the Board’s findings as follows:

18

- 19 • **There is no additional land available for purchase; and**
- 20 • **The addition cannot be sited on any other part of the lot without blocking the view to**
21 **the golf course.**

22

23 Ms. Griest stated that the addition is consistent in appearance with similar additions on townhomes to the
24 south.

25

26 Mr. Hall read Ms. Griest’s finding as follows:

27

- 28 • **The addition is consistent in appearance with similar additions on townhomes to the**
29 **south.**

30

31 **The Board’s Finding for Finding 7:**

32

33 **No Special conditions are hereby imposed.**

34

35 Ms. Capel stated that the Board found positive findings on the following: Finding 1, Parts A and B; and
36 Finding 2, Part A and B; and Finding 3, Part A; Finding 4, Parts A and B; and Finding 5, Parts A and B; and
37 Finding 6, Parts A and B; and Finding 7. She said that the Board found a negative finding on Finding 3, Part
38 B.

39

40 Ms. Lee asked if there was testimony regarding the one foot space and the neighbor not being opposed.

41

1 Mr. Hall stated that notices were sent out and staff did not receive any calls from the neighbors voicing
2 concerns therefore he believes that there were no concerns.

3
4 Ms. Lee said that the neighbor who believed that the lot line was located in a different area didn't voice
5 concerns regarding the addition either.

6
7 Mr. Hall stated that the Board has no evidence indicating that.

8
9 Ms. Griest that she does believe that the proposal by the applicant clearly is their action and the finding
10 should be negative however Items #7.G(1) and (2) speaks volumes towards the DO NOT finding for Finding
11 3, Part B. She said that there are no utility easements on the 3 of the 4 shared lot lines and the fact that this is
12 a smaller parcel. She said that the evidence for Finding 1, Parts A and B could also be appropriate for
13 Finding 3, Part B in support of a finding for DO NOT. She said that if the Board desires to change their
14 finding for Finding 3, Part B, to DO NOT there might be some alternatives to consider.

15
16 Mr. Hall stated that the Board must consider that even though construction was begun without a permit there
17 are other factors that really suggest that the variance is reasonable. He said that there are three findings
18 which indicate strong support for approval of the variance.

19
20 Ms. Griest stated that the Board originally included statements regarding the construction beginning without
21 a permit because it wasn't critical to the Board's findings. She said that the Board could indicate that even
22 though the construction would be located within a recorded utility easement neither the UCSD nor Illinois
23 American Water are opposed to a vacation of the easement.

24
25 Ms. Capel stated that a separate statement could indicate the following: Ameren made clear in an email
26 dated October 10, 2013, from Elmer Crawford, Senior Engineering Representative, that "there is no
27 immediate plan to use the south easement."

28
29 Ms. Griest stated that the last item would show that there are no similar easements on similar properties that
30 are adjacent to the subject property which gives a less likelihood that they would ever want to use them.

31
32 Mr. Hall read the Board's amended finding for Finding 3, Part B as follows:

33
34 **The Board's amended Findings for Finding 3, Part B:**

35
36 **For Part B, the special conditions, circumstances, hardships, or practical difficulties DO NOT**
37 **result from actions of the applicant because:**

- 38
39 • **The subject property has an average lot width of only 140 feet and has a 10 feet wide**
40 **utility easement on each side lot line for an overall net buildable lot width of only 120**
41 **feet; and**

- 1 • **The other five lots on the North side of Briar Hill Drive have similar sized buildings**
2 **and are similar in use to the subject property but the lots are 145 feet wide or wider and**
3 **3 of the 4 shared lot lines have no utility easements and therefore the smallest net**
4 **buildable lot width among those five lots appears to be Lot 2 with a net buildable lot**
5 **width of 145 feet; and**
6 • **Even though the proposed construction is located within a recorded utility easement,**
7 **neither the UCSD nor Illinois American Water are opposed to vacation of the**
8 **easement; and**
9 • **Ameren made clear in an email dated 10/10/13 from Elmer Crawford, Senior**
10 **Engineering Representative, that “there is no immediate plan to use the south**
11 **easement.” ; and**
12

13 Ms. Griest stated that Items 7.H.(1) and (2) could be added to the Finding as well to support a DO NOT
14 finding.
15

16 Mr. Hall read the findings as follows:
17

- 18 • **The subject property is a one lot subdivision that is unlikely ever to be expanded; and**
19
20 • **The subject property is at the end of Briar Hill Drive and is bordered by the**
21 **Lincolnshire Fields Golf Course on the east and north and Interstate 57 is on the**
22 **opposite side of the street so it is unlikely that future development will occur in the**
23 **vicinity or that new utilities will be needed in the existing utility easement.**
24

25 Ms. Lee stated that Item # 7.E(2)(j) indicates that the neighbors have been very cooperative in discussing the
26 addition. She asked if Item # 7.E(2)(j) is discussing the neighbors to the south.
27

28 Ms. Capel stated yes. She said that Item #7.#(2)(J) is evidence from a previous hearing. She said that the
29 other thing is that there is 50 foot distance between the two buildings. Ms. Capel stated that a new finding
30 for Finding #3, Part B, could read as follows: Even though the proposed construction will reduce the side
31 yard to one foot in lieu of the required five feet, Mr. Bickers, co-petitioner, testified that the neighbors have
32 been very cooperative in discussing the addition and the nearest building is approximately 50 feet away.
33

34 Mr. Hall read the Board’s finding as follows:
35

- 36 • **Even though the proposed construction will reduce the side yard to one foot in lieu of**
37 **the required five feet, Mr. Bickers, co-petitioner, testified that the neighbors**
38 **have been very cooperative in discussing the addition and the nearest building is**
39 **approximately 50 feet away.**

40 Ms. Capel asked the Board if they agreed with the amended Finding 3, Part B and the Board agreed,
41

1 Ms. Capel asked Mr. Hall if the Documents of Record included in the January 10, 2014, Draft Summary of
2 Evidence and Finding of Fact was current.

3
4 Mr. Hall stated yes.

5
6 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of
7 Fact as amended for Part A.

8
9 **Ms. Griest moved, seconded by Mr. Randol to adopt the Summary of Evidence, Documents of Record
10 and Findings of Fact as amended for Part A. The motion carried by voice vote.**

11
12 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of
13 Fact as amended for Part B.

14
15 **Ms. Griest moved, seconded by Mr. Randol to adopt the Summary of Evidence, Documents of Record
16 and Findings of Fact as amended for Part B. The motion carried by voice vote.**

17
18 Ms. Capel entertained a motion to move to the Final Determination for Case 764-V-13.

19
20 **Ms. Griest moved, seconded by Mr. Randol to move to the Final Determination for Case 764-V-13.
21 The motion carried by voice vote.**

22
23 Ms. Capel informed the petitioners that two Board members are absent and one Board member has abstained
24 from the case therefore it is at their discretion to either continue Case 764-V-13 until a full Board is present
25 or request that the present Board move forward to the Final Determination. She informed the petitioners that
26 four affirmative votes are required for approval.

27
28 Mr. Johnson and Mr. Bickers requested that the present Board move to the Final Determination.

29
30 **Final Determination for Case 764-V-13:**

31
32 **Ms. Griest moved, seconded by Mr. Randol that the Champaign County Zoning Board of Appeals
33 finds that, based upon the application, testimony, and other evidence received in this case, that the
34 requirements for approval in Section 9.1.9C HAVE been met, and pursuant to the authority granted
35 by Section 9.1.6B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of
36 Champaign County determines that the Variance requested in Case 764-V-13 is hereby GRANTED to
37 the petitioners Lars Johnson and Shawn Bickers (agent) to authorize the following in the R-4 Multiple
38 Family Residence Zoning District:**

- 39 **Part A. Authorize the following variance for an existing townhouse:**
40 **(1) lot coverage of 44% in lieu of the maximum allowed 40%; and**
41 **(2) a front setback of 40 feet from the centerline of Briar Hill Drive in lieu of**

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- the minimum required 55 feet; and
- (3) a front yard of 20 feet in lieu of the minimum 25 feet.

Part B. Authorize the following variance for an addition to an existing townhouse:

- (1) authorize construction of a building addition in a recorded utility easement in lieu of the requirement that no construction shall take place in a recorded utility easement; and
- (2) a side yard of 1 foot in lieu of the minimum required 5 feet; and
- (3) lot coverage of 45.5% in lieu of the maximum allowed 40%.

Ms. Capel requested a roll call vote:

Lee-yes	Randol-yes	Capel-yes
Griest-yes	Miller-absent	Passalacqua-abstained
Thorsland-absent		

Mr. Hall informed Mr. Johnson and Mr. Bickers that they have received an approval for their requested variance.

6. New Public Hearings

Case 768-AT-13 Petitioner: Zoning Administrator Request: Amend the Champaign Zoning Ordinance by adding the following standard conditions and special provisions to Section 6.1.3: Part A. Revise the use category “heliport/restricted landing area” to heliport-restricting landing area: and revise the existing standard conditions and special provisions for the use category “heliport-restricted landing area” and add new standard conditions and special provisions, as follows: (1) Number the existing standard condition and special provision 1. (2) Add the following standard conditions and special provisions for a limited time not to exceed 365 days from the date of adoption: (a) Add a standard condition and special provisions to require the Final Approach and Takeoff Area to be no closer than 800 feet from the nearest CR District when measured in a straight line from the Final Approach and Takeoff Area in an approach/takeoff path and no closer than 500 feet when measured from the Final Approach and Takeoff Area in other than an approach/takeoff path and that no part of the approach/takeoff path may be less than 100 feet above the nearest CR District. (b) Add a standard condition and special provision to require that the Final Approach and Takeoff Area may be no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport-restricted landing area. (c) Add a standard condition and special provision to require that the Final Approach and Takeoff Area may be closer than 300 feet from the nearest property under different ownership than the heliport-restricted landing area. Part B. Revise the existing standard conditions and special provisions for the use category “restricted landing area” and add new standard conditions and special provisions as follows: (1) Number the existing standard conditions and special provisions for the use category “restricted landing area” and add new standard conditions and special provisions

1 as follows: (1) Number the existing standard conditions and special provisions 1-4; and (2) Add the
 2 following standard conditions and special provisions for a limited time not to exceed 365 days from
 3 the date of adoption: (a) Add a standard condition and special provision to require the end of the
 4 runway to be at least 1,500 feet from the nearest CR District when measured in a straight line from
 5 the end of the runway and not less than 500 feet when measured from the edge of the runway and that
 6 no part of the approach surface may be less than 100 feet above the nearest CR District. (b) Add as
 7 standard condition and special provision to require that the runway may be no closer than 1,320 feet
 8 from the nearest dwelling under different ownership than the restricted landing area. (c) Add a
 9 standard condition and special provision to require that the runway may be no closer than 300 feet
 10 from the nearest property under different ownership than the restricted landing area.

11
 12 Ms. Capel entertained a motion to continue Case 768-AT-13 to the January 30, 2014, meeting and docket
 13 Case 768-AT-13 as the first case to be heard at that meeting.

14
 15 Ms. Griest moved, seconded by Ms. Lee to continue Case 768-AT-13 to the January 30, 2014, meeting
 16 and docket Case 768-AT-13. The motion carried by voice vote.

17
 18 Ms. Griest moved, seconded by Mr. Passalacqua to move Case 768-AT-13 as the first hearing on the
 19 January 30, 2013, agenda to be heard to accommodate those who attended tonight’s hearing. The
 20 motion carried by voice vote.

21
 22 **7. Staff Report**

23
 24 None

25
 26 **8. Other Business**

27 **A. Review of Docket**

28
 29 Mr. Randol asked Mr. Hall why Case 765-V-13 is not indicated on the docket.

30
 31 Mr. Hall stated that Case 765-V-13 has been withdrawn.

32
 33 **B. 2014 Zoning Board of Appeals Calendar**

34
 35 **9. Audience Participation with respect to matters other than cases pending before the Board**

36
 37 None

38
 39 **10. Adjournment**

40
 41 Ms. Capel entertained a motion to adjourn the meeting.

1
2 **Mr. Randol moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried by**
3 **voice vote.**
4
5 The meeting adjourned at 9:26 p.m.
6
7
8 Respectfully submitted
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12
13 Secretary of Zoning Board of Appeals
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15
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