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MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61802**

**DATE: March 10, 2016 PLACE: John Dimit Meeting Room
1776 East Washington Street
TIME: 6:30 p.m. Urbana, IL 61802**

MEMBERS PRESENT: Frank DiNovo, Marilyn Lee, Brad Passalacqua, Jim Randol, Eric Thorsland

MEMBERS ABSENT : Catherine Capel, Debra Griest

STAFF PRESENT : Connie Berry, John Hall, Susan Chavarria

OTHERS PRESENT : Ryan Duncan, Kent Jurgersen, Dustin Ehler, David Ehler

1. Call to Order

The meeting was called to order at 6:31 p.m.

2. Roll Call and Declaration of Quorum

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

3. Correspondence

None

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.

4. Approval of Minutes

None

5. Continued Public Hearing

None

1 **6. New Public Hearings**

2

3 Mr. Thorsland entertained a motion to rearrange the agenda and hear Case 825-V-16 prior to Case 824-AM-
4 15. He said that the petitioner for Case 825-V-16 has traveled a very long distance in order to attend
5 tonight's meeting and intends to travel back to his home state yet tonight.

6

7 **Mr. Passalacqua moved, seconded by Mr. Randol to rearrange the agenda and hear Case 825-V-16**
8 **prior to Case 824-AM-15. The motion carried by voice vote.**

9

10 **Case 824-AM-15 Petitioner: Dustin Ehler, d.b.a. Ehler Bros. Co. Request to amend the Zoning Map to**
11 **change the zoning district designation from the AG-1, Agriculture Zoning District to the B-1, Rural**
12 **Trade Center Zoning District in order to expand operations of a Farm Chemicals and Fertilizer Sales**
13 **Business including incidental storage and missing of blended fertilizer. Location: A 1.4 acre tract in**
14 **the Northeast Quarter of the Northwest Quarter of Section 19, Township 20N, Range 11E of the Third**
15 **Principal Meridian in Ogden Township located immediately east of the existing Ehler Brothers facility**
16 **with an address of 2475E CR 2100N, Thomasboro.**

17

18 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
19 the witness register for that public hearing. He reminded the audience that when they sign the witness
20 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
21 time.

22

23 Mr. Thorsland asked the petitioner if he desired to make a statement regarding his request.

24

25 Mr. Dustin Ehler, whose address is POB 194, Gifford, IL, stated that he appreciates the Board's
26 consideration for his request for a map amendment. He said that the intent is to erect a structure on the land
27 to house fertilizer equipment for Ehler Bros. Co. He said that this is Ehler Bros. Co. which is entering into
28 its 50th year of business. He said that the business and equipment have both grown therefore they require
29 more facilities for storage.

30

31 Mr. Thorsland asked Mr. Ehler if this property is for storage of the equipment and not for storage of
32 fertilizer.

33

34 Mr. Ehler stated that there will be no fertilizer/chemical storage on the property.

35

36 Mr. Thorsland called John Hall to testify.

37

38 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum #2, dated March 10,
39 2016, to the Board for review. He said that the Supplemental Memorandum #2 summarizes an email
40 received from Jeff Blue, County Engineer. Mr. Hall stated that Mr. Blue indicated in his email that he is fine
41 with the driveways and what he expects for the driveways in general. Mr. Hall stated that there is a LESA

1 score for the map amendment. He apologized for not having a LESA score for previous map amendments
2 but all along the map amendments have been in the CUGA (Contiguous Urban Growth Area) and they have
3 been very simple site cases. He said that this site is not as simple as the LESA score is 254 out of 300 and
4 anything between 250 to 300 falls in the highest protection rating. He said that the reason for LESA is to
5 protect farmland for agriculture and this is a business that supports agriculture and it would logically follow
6 that this LESA rating would have no effect on this rezoning particularly since this is only 1.4 acres of land.
7 He said that this would minimize the amount of land required for conversion and even the new and improved
8 LESA does not have a provision for businesses like this which is probably a good idea as it would be a
9 challenge to write a LESA that would provide for uses like this. He said from a staff perspective this is not a
10 problem provided that the ZBA and the County Board agree.

11
12 Mr. Hall stated that the Spoon River is not a protected site and the Land Resource Management Policy does
13 not distinguish between protected sites and non-protected sites. He said that Ms. Chavarria has been
14 working hard in getting a response from the Illinois Department of Natural Resources without actually
15 paying the \$500 fee for consultation but if staff needs to pay the fee it will be done as it is required by law.
16 He said that it is staff's feeling that this amendment causes no threat to Spoon River Illinois Natural Areas
17 Inventory (INAI) but unfortunately staff does not have a response from IDNR to support that. He said that
18 this case is ready for final action tonight but if the Board requires more information on what effect that this
19 use will have on the Spoon River INAI site then staff can apply and pay the fee in the morning for the
20 consultation and provide those results to the Environment and Land Use Committee for its April meeting.
21 He said that the Board could continue this case to March 24th for final action and still have time to forward
22 the case to ELUC for its April meeting.

23
24 Mr. Hall stated that staff received a letter on March 10, 2016, signed by Ogden #10 Drainage District
25 Trustees in support of the rezoning permitting for the Ehler Bros. expansion. He said that staff also received
26 a call today from former ZBA member Doug Bluhm, who also supported the project.

27
28 Mr. Hall stated that a site plan was received February 29, 2016, which entailed more information than usual
29 however staff noticed that the site plan does not point out what exists and what is proposed. He said that
30 it is important for the Board and the petitioner to understand that, tonight, on the basis of the submitted site
31 plan staff is not prepared to say what conforms and what doesn't because staff is not clear as to what is
32 proposed versus what exists. He said that the primary concern is that the new Stormwater Management and
33 Erosion Control Ordinance establishes that a 50 foot separation distance from the top of the bank of the ditch
34 and the nearest land disturbance. He said that the proposed building, the large rectangular building indicated
35 as being north and south on the eastern portion of the new property, appears to be outside of the 50 foot
36 buffer. He said that staff realized today that this is not the existing liquid fertilizer tank but is a new and
37 larger tank that is apparently proposed where there is an existing tank. He said that it is not clear whether the
38 new tank needs to be considered new disturbance or not but he would believe that it would be because the
39 existing tank must be removed.

40
41 Mr. Hall stated that when staff reviewed the relevant policies under Goal 8, policies which the Board has

1 never reviewed during any previous case, the 50 foot minimum separation is very crucial because it
2 guarantees that that there will be no land disturbance within 50 feet of the top of the ditch bank. He said that
3 if there is no land disturbance that close there will probably not be any erosion and sedimentation near the
4 stream and there will always be a buffer to filter out pollutants and it provides all of the evidence that would
5 be needed to approve this case. He said that everything that is on the existing property may be
6 nonconforming so replacing it may raise some issues but at a staff level the building that is proposed on the
7 subject property is entirely fine and does not raise any issues with the policies, although staff has not
8 completed the consultation with IDNR.

9
10 Mr. Passalacqua asked Mr. Hall if agriculture is exempt from the 50 foot minimum separation from the top
11 of the ditch bank.

12
13 Mr. Hall stated that agriculture is exempt from that requirement.

14
15 Mr. Passalacqua asked Mr. Hall if this use is not considered agricultural.

16
17 Mr. Hall stated that if this use was agriculture the Board would not be hearing this case tonight. He said that
18 staff has completed its best efforts in trying to report on this without paying the \$500 consultation fee, staff
19 has found various stated sizes for the Spoon River Natural Area and the Headwater's Area Assessment refers
20 to a 165 acre area that plats out the relevant length of the Spoon River where that natural area is. He said
21 that Ms. Chavarria used that area to define the 1.25 miles on either side of the main stream and this property
22 is on a small unnamed tributary of the Spoon River and it appears to fall within those 1.25 miles. He said
23 that he wished staff had more declarative information on that but in order to obtain that information staff
24 must pay the \$500 consultation fee. He said that staff received an email from Jonathon Manuel, Resource
25 Conservationist, Champaign County Soil and Water Conservation District, and Mr. Manuel's statements
26 cannot be taken to replace the consultation, but Mr. Manuel stated that he would be very surprised if there
27 were any endangered species at this location.

28
29 Mr. Thorsland stated that Mr. Ehler submitted his safety plan for Ehler Bros. He said that the Board may
30 have questions regarding what is new and what is not new but the safety plan cannot replace the Board's
31 requirement for a complete site plan.

32
33 Mr. Hall stated that in a map amendment case a site plan is really just general information and it is never
34 specific to the site plan and is the petitioner's best guess as to what they are going to do. He said that the
35 petitioners have a higher degree of freedom than in a special use permit case.

36
37 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

38
39 Mr. Thorsland asked the Board if there were any questions for Mr. Ehler.

40
41 Ms. Lee asked Mr. Ehler if there is any possibility of a different purpose for the building after it is

1 constructed.

2

3 Mr. Ehler stated no. He said that the building is only being constructed for equipment storage.

4

5 Mr. DiNovo stated that we know the Base Flood Elevation of the subject property. He asked staff if there
6 was any information regarding the actual elevations of the proposed building.

7

8 Mr. Hall stated that there is a lot of information on the survey but the survey was emailed to staff and it is
9 difficult to read. He said that all construction on the adjacent property has been in conformance with the
10 Special Flood Hazard Area Ordinance. He said that the area where the existing buildings are located is
11 indicated to be outside of the mapped floodplain.

12

13 Mr. DiNovo stated that perhaps it was the Natural Resource Report which indicated the property differently.

14

15 Mr. Hall stated that the Natural Resource Report indicated the same thing. He said that the property that is
16 before the Board tonight has significant portions that are located within the mapped floodplain. He asked
17 Ms. Chavarria if a larger copy of the survey had been submitted indicating the elevations.

18

19 Ms. Chavarria stated that an 11" x 17" version of was submitted. She said that the lowest elevation on the
20 property was 670' msl. and the highest elevation is 671.5' msl.

21

22 Mr. Hall stated that any new construction will have to comply with the Special Flood Hazard Ordinance.
23 He said that construction in the mapped floodplain is not prohibited but it will need the proper approvals.

24

25 Mr. Thorsland asked Mr. Ehler to explain the replacement of the tank.

26

27 Mr. Ehler stated that they do intend to replace the older existing tank. He said that the old tank is still there
28 and is immediately south of the load out referenced on the drawings. He said that the existing 500,000
29 gallon tank is being replaced with a one million gallon capacity tank. He said that the new tank will be on
30 the existing parcel and the only structure that will be on the new land will be the storage building.

31

32 Mr. Thorsland asked Mr. Hall if everything on the existing property has been grandfathered.

33

34 Mr. Hall stated that the new tank has not been grandfathered and it has to be 50' from the top of the bank of
35 the ditch. He said that with the GIS topography staff has a good idea as to where the top of the ditch is
36 located. He said that the required 50 feet is measured perpendicular to the ditch. He said that staff has
37 discussed the new tank with Mr. Ehler and if the new tank can meet the 50' separation from the ditch then no
38 variance will be required but if the new tank is closer than 50' to the ditch then a variance will be required.

39

40 Mr. Ehler stated that he has an existing site plan that he can email to staff.

41

1 Mr. Thorsland stated that it appears that additional information is required for the Board's review therefore
2 this case will need to be continued to a later date.
3

4 Mr. Hall stated that if this case is continued to the March 24, 2016, meeting he would hope that this case
5 would be the first case heard.
6

7 Mr. Thorsland agreed.
8

9 Ms. Lee suggested that the March 24th meeting be scheduled to begin at 6:30 p.m. instead of 7:00 p.m.
10

11 Mr. Thorsland stated that the Board could approve a time change for the March 24th meeting although all
12 interested parties would need to be notified of that time change. He requested that Mr. Ehler submit a
13 complete site plan for review.
14

15 Mr. Hall stated that if the case is continued staff will pay the \$500 consultation fee so that staff will have the
16 results prior to the next meeting. He said that he does not want the Board to continue this case just because
17 of concerns with the site plan. He said that he would like to discuss the amount of impervious area that is
18 proposed. He said that if the new project adds one acre of impervious area then a detention basin will need
19 to be constructed. He said that even if there is not one acre of impervious area added and the Board felt that
20 there was a drainage issue then the Board could require a detention basin but he is not aware of any drainage
21 issues for the property and the letter from the drainage district states the same thing. He said that if a
22 drainage basin is required it cannot go within the 50 foot buffer and that may create a challenge. He said that
23 if this case is complete the Board could require a map indicating all impervious areas so that the Board is
24 aware of what is proposed.
25

26 Mr. Passalacqua asked if the existing facility has a gravel surface and if so, is gravel considered impervious.
27

28 Mr. Ehler stated that the existing facility does have a gravel surface.
29

30 Mr. Hall stated that gravel surfaces are considered impervious areas. He said that the aerial history indicates
31 that everything on the existing facility property has been impervious since 2002 with the exception of a few
32 thousand square feet of the southern apex. He said that 2003 was when stormwater detention was required
33 therefore the vast majority of what exists is grandfathered.
34

35 Mr. Ehler stated that there are two catch basins on the existing facility property that drain into the ditch.
36

37 Mr. Thorsland stated that it would be nice to have those two drainage basins indicated on the site plan.
38

39 Mr. Ehler stated that after a huge rain on December 29, 2015, he took some digital pictures of the property
40 and those pictures indicate that there was no water standing.
41

1 Mr. Thorsland requested that Mr. Ehler forward the digital pictures to staff.
2
3 Mr. Ehler stated that he believes that he has already submitted those pictures to staff. He said that he does
4 have another site plan which indicates the 50 foot setback for the tank.
5
6 Mr. Thorsland asked Mr. Ehler if the new storage building has been constructed.
7
8 Mr. Ehler stated no.
9
10 Mr. Thorsland stated that staff and the Board appreciated Mr. Ehler's answer to the question.
11
12 Mr. DiNovo asked Mr. Ehler if the drainage ditch is under the jurisdiction of the drainage district.
13
14 Mr. Ehler stated that the drainage ditch is under the jurisdiction of the Ogden #10 Drainage District.
15
16 Mr. DiNovo asked Mr. Ehler if they have a right-of-way.
17
18 Mr. Ehler stated that he does not know.
19
20 Mr. Thorsland asked staff if the Ogden #10 Drainage District has been notified.
21
22 Mr. Ehler stated that he contacted them first.
23
24 Mr. Thorsland stated that perhaps a signed document is necessary.
25
26 Ms. Chavarria stated that a letter dated March 7, 2016, was received from the Ogden #10 Drainage District
27 indicating that they had no issues with the request.
28
29 Mr. Thorsland asked the Board if there are other documents that the Board would like to review other than
30 the complete site plan and the full consultation results.
31
32 Mr. DiNovo stated that perhaps it would be good if staff contacted the Natural History Survey.
33
34 Ms. Chavarria stated that she did contact the Natural History Survey today but received no response.
35
36 Mr. Hall stated that staff will still pay the fee for the full consultation.
37
38 Mr. Thorsland stated that the complete site plan should indicate the driveways.
39
40 Ms. Lee asked Mr. Ehler if there is some sort of containment for the new tank.
41

1 Mr. Passalacqua stated that the new tank is not relevant to this case.

2

3 Ms. Lee stated that it is if the tank is required to have the 50 foot separation from the ditch.

4

5 Mr. Hall stated that the tank is by-right because it has proper zoning and if Mr. Ehler does not desire to
6 answer Ms. Lee's question then that is fine. He said that the Board cannot impose a condition on the new
7 tank.

8

9 Mr. Ehler stated that the tanks are all regulated by the Illinois Department of Agriculture and the IEPA. He
10 said that the steel structure on the tank is the containment and a rubber liner is inside of the tank and it is
11 actually the first container.

12

13 Mr. Thorsland stated that the tanks are very different than what they used to be as the rubber liner is the first
14 container and the steel structure is the containment system. He said that the tanks are monitored.

15

16 Mr. Ehler stated that every five years the tanks are monitored and an ultra-sound is done on the steel. He
17 said that in 1998 the fertilizer plant was struck by lightning and it was burnt to the ground. He said that the
18 plant was rebuilt and due to the container system that was in place they were able to rebuild quickly.

19

20 Mr. Thorsland stated that the Board needs to see the following things on the complete site plan: driveways,
21 impervious area, and the existing catch basins. He said that the Board would also like to see the digital
22 photographs and any additional information that Mr. Ehler has to present to the Board for review.

23

24 Mr. Thorsland agreed with Ms. Lee regarding the 6:30 p.m. start time for the March 24th meeting.

25

26 Mr. Thorsland asked Mr. Ehler if he was available on March 24th.

27

28 Mr. Ehler stated that he will make himself available for the March 24th meeting.

29

30 Mr. Thorsland asked the Board if there was any additional information required by Mr. Ehler.

31

32 Mr. DiNovo asked Mr. Ehler if the new tank is contingent on the new building and additional acreage.

33

34 Mr. Ehler stated that the last inspection of the existing tank indicated signs of metal degradation. He said
35 that they do not tag out the tank but de-rate it so for Ehler Bros. the tank has to be replaced so that they can
36 maximize their volume. He said that Ehler Bros. is already filling the 500,000 gallon twice per year due to
37 the volume of demand therefore they are replacing the current tank with the new one million gallon tank.

38

39 Mr. DiNovo asked Mr. Ehler, if they already wanted to replace the tank.

40

41 Mr. Ehler stated that yes. He said that if for some reason they cannot install a one million gallon tank they

1 will install a 500,000 gallon tank in the same location.

2
3 Mr. DiNovo asked Mr. Ehler if the proposed building is constructed then they would replace the current
4 tank.

5
6 Mr. Ehler stated that there is a current 30' x 90' building for existing equipment storage at the existing
7 facility and that building is indicated on the CAD drawing. He said that in order to achieve a larger footprint
8 to install the one million gallon tank the 30' x 90' building has to come down.

9
10 Mr. Hall asked the Board if there were any concerns regarding any of the decision points in the finding.

11
12 Mr. Thorsland suggested that the Board read the section in the Finding regarding Goal 8 prior to the next
13 meeting.

14
15 Mr. Hall noted that there are no decision points for Goal 4 other than Objective 4.1 because it refers to Goal
16 8.

17
18 Ms. Lee asked Mr. Ehler if there is a possibility that the new tank may require to be placed more towards the
19 new building. She asked Mr. Ehler if the new building will need to be moved further towards CR 2100N.

20
21 Mr. Ehler stated that knowing that the eastern line of the property from CR 2100N to the ditch is 420 feet
22 therefore if there is a setback of 50' from the bank of the ditch and the new building is 160' long there is still
23 200 feet left. He said that one reason why they want to keep the one million gallon tank in the current
24 location is because they have to install stainless steel pipe to the loadout and they have to be able to maintain
25 the flow and pressure.

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

29
30 Mr. Ehler entertained a motion to continue Case 824-AM-15 to the March 24, 2016, meeting.

31
32 **Mr. DiNovo moved, seconded by Mr. Randol to continue Case 824-AM-15 to the March 24, 2016,**
33 **meeting. The motion carried by voice vote.**

34
35 Mr. Hall noted that it is the Board's direction to have Case 824-AM-15 as the first case heard on March 24th.

36
37 The Board agreed.

38
39
40 **Case 825-V-16 Petitioner: Kent Jurgensen, d.b.a. CAT Scale Co. Request to authorize a variance**
41 **from Section 7.3.6 of the Zoning Ordinance for a freestanding sign that is 110 square feet in area in**

1 **lieu of the maximum allowed 75 square feet that is required for a second sign on a premise for**
2 **interstate oriented business in the B-3, Highway Business Zoning District. Location: A 4.48 acre tract**
3 **of land located in the Southwest Quarter of the Southeast Quarter of Section 9, Township 18N, Range**
4 **8E of Tolono Township of the Third Principal Meridian, commonly known as the Marathon Gas**
5 **Station with an address of 872 CR 1000 North, Champaign.**
6

7 Mr. Thorsland informed the audience that Case 825-V-16 is an Administrative Case and as such the County
8 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
9 show of hands for those who would like to cross examine and each person will be called upon. He requested
10 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
11 that those who desire to cross examine are not required to sign the witness register but are requested to
12 clearly state their name before asking any questions. He noted that no new testimony is to be given during
13 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
14 exempt from cross examination.
15

16 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
17 the witness register for that public hearing. He reminded the audience that when they sign the witness
18 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
19 time.
20

21 Mr. Thorsland asked the petitioner if he would like to make a brief statement regarding the request.
22

23 Mr. Kent Jurgensen, representative for CAT Scale Co., stated that his business address is 515 Sterling Drive,
24 Walcott, Iowa. He said that he is requesting a variance for placement of a sign over the top of their proposed
25 scale on the property located at 872 CR 1000 North, Champaign (Marathon Gas station). He said that the
26 sign is a free standing sign which is approximately 106 square feet. He said that the sign is used to identify
27 that the scale is present on the property. He said that the scale is located between 4 to 6 inches in the ground
28 and without a sign the scale blends in with all of the existing concrete and other items on the property and
29 visual aids are required for entering the scale for an accurate weight. He said that the sign indicates "enter"
30 and "do not enter" therefore directing drivers safely onto the scale. He said that two cameras are placed on
31 the sign, one camera facing forward and one camera facing backwards, so that the person operating the scale
32 inside of the building can make sure that the truck is parked on the scale correctly. He said that there is also
33 an intercom on the sign so that the person inside the building and the driver can communicate regarding
34 company identification, truck and tractor number and can assure that the right person receives the correct
35 weigh ticket. He said that there are three or four other locations in the Champaign area which have CAT
36 Scales and they have same standard 5'4" x 20' sign. He said that once a year a crew comes to the scale
37 location for cleaning and repair. He said that everything is standardized so that things stay simple.
38

39 Mr. Thorsland asked Mr. Jurgensen if the sign is illuminated on the inside.
40

41 Mr. Jurgensen stated yes.

1
2 Mr. Thorsland asked the Board if there were any questions for Mr. Jurgersen.
3
4 Mr. DiNovo asked Mr. Jurgersen to indicate what direction the sign is facing.
5
6 Mr. Jurgersen stated that if the trucks enter the property from the south they would see the sign as they head
7 north.
8
9 Mr. DiNovo asked Mr. Jurgersen if the trucks would enter the scale from the south.
10
11 Mr. Jurgersen stated yes.
12
13 Mr. DiNovo asked Mr. Jurgersen who customarily uses the scale. He asked if the majority of the traffic
14 using the scale is trucks who are traveling the interstate for the first time at this location or are they trucks
15 who are in mid-journey and coming off to weigh.
16
17 Mr. Jurgersen stated that anyone who has a load origination in Champaign or the surrounding area or any
18 farmer who needs to weigh hay for sale, etc. He said that in some jurisdictions in order to register a trailer it
19 must be weighed first. He said that most of the weights that they are looking for are local load originations
20 that will come to the scales and weigh to see how much fuel can be put on the truck before they head down
21 the interstate and be legal.
22
23 Mr. DiNovo stated that he just wanted to know if this scale would be serving the local market.
24
25 Mr. Thorsland asked Mr. Jurgersen if anyone could use the scale.
26
27 Mr. Jurgersen stated yes.
28
29 Mr. Thorsland stated that many people would use the scale to weigh livestock, hay, racing vehicles, etc.
30
31 Mr. Jurgersen stated that typically the scales do experience some public use and not just commercial trucks.
32
33 Mr. DiNovo stated that he is assuming that the State Bank of Illinois Trust Department is not the owner of
34 the property but are the trustees for the actual owners.
35
36 Ms. Chavarria stated that she would need to verify the ownership.
37
38 Mr. DiNovo stated that perhaps it is a blind trust.
39
40 Mr. Hall asked Ms. Chavarria if the State Bank of Illinois Trust Department is who appears on the real estate
41 tax bill record.

1
2 Ms. Chavarria stated yes.
3
4 Mr. Hall asked Ms. Chavarria if there is a trust number associated with the property.
5
6 Ms. Chavarria stated that she did not see a trust number but she could check.
7
8 Mr. DiNovo stated that the real estate bill will only identify who is responsible for paying the taxes and not
9 ownership. He asked Mr. Jurgersen who actually owns the scale.
10
11 Ms. Lee stated that the deed would indicate the ownership of the property.
12
13 Mr. Jurgersen stated that CAT Scale Company has a long term lease with the property to place the scale. He
14 said that CAT Scale Company owns, builds and maintains their own scales and CAT Scale has a long term
15 lease with the property owner for placement of the scale.
16
17 Mr. Randol asked Mr. Jurgersen if the scale is currently in operation on the property.
18
19 Mr. Jurgersen stated that the scale is not on the property. He said that they do not typically move forward
20 with a scale project until all approvals are received for the sign because it is that important to the scale.
21
22 Mr. Thorsland stated that the sign is not just a sign but a guide or alignment device for the scale.
23
24 Mr. Jurgersen stated yes.
25
26 Mr. DiNovo asked if the Zoning Administrator has determined that this is an appropriate accessory use to a
27 gas station.
28
29 Mr. Hall stated yes.
30
31 Mr. Thorsland asked Mr. Jurgersen if there was any additional information that he would like to provide to
32 the Board.
33
34 Mr. Jurgersen stated not at this time.
35
36 Mr. Thorsland stated that there are no proposed special conditions for this case therefore the Board will
37 move to the Findings of Fact.
38
39 **Findings of Fact for Case 825-V-16:**
40
41 From the documents of record and the testimony and exhibits received at the public hearing for zoning case

1 825-V-16 held on March 10, 2016, the Zoning Board of Appeals of Champaign County finds that:

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41

- 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. Passalacqua 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 the Ordinance limits the size of the sign and for the scale to be effective it needs to be larger not only as a wayfinding device but also as an alignment device.

Mr. Randol stated that the variance will keep the signs consistent with the other signs that they have in the area.

- 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.**

Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because the site is already developed for gas station purposes and the scale will serve a principal local market.

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

Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because for the applicant’s sign to be effective it needs to be larger than the ordinance permits.

Mr. DiNovo stated that the standards are part of the original Ordinance which was drafted in 1971 or 1972.

Mr. Thorsland stated that the typical sign size has outgrown the Zoning Ordinance.

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

Mr. Thorsland stated that the requested variance IS in harmony with the general purpose and intent of the Ordinance because it will serve the public as well as has the potential to protect the local roads from overweight vehicles.

1 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
 2 **detrimental to the public health, safety, or welfare.**
 3

4 Mr. Randol stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
 5 detrimental to the public health, safety, or welfare.
 6

7 **6. The requested variance IS the minimum variation that will make possible the**
 8 **reasonable use of the land/structure.**
 9

10 Mr. Thorsland stated that the requested variance IS the minimum variation that will make possible the
 11 reasonable use of the land/structure.
 12

13 **7. No Special Conditions are hereby imposed.**
 14

15 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
 16 of Fact as amended.
 17

18 **Mr. Passalacqua moved, seconded by Mr. Randol to adopt the Summary of Evidence, Documents of**
 19 **Record and Findings of Fact as amended. The motion carried by voice vote.**
 20

21 Mr. Thorsland entertained a motion to move to the Final Determination for Case 825-V-16.
 22

23 **Ms. Lee moved, seconded by Mr. Passalacqua to move to the Final Determination for Case 825-V-16.**
 24 **The motion carried by voice vote.**
 25

26 Mr. Thorsland informed the petitioner that currently the Board has two absent Board members therefore it is
 27 at his discretion to either continue Case 825-V-16 until a full Board is present or request that the present
 28 Board move to the Final Determination. He informed the petitioner that four affirmative votes are required
 29 for approval.
 30

31 Mr. Jurgensen requested that the present Board move to the Final Determination.
 32

33 **Final Determination for Case 825-V-16:**
 34

35 **The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony,**
 36 **and other evidence received in this case, that the requirements for approval of Section 9.1.9.C HAVE**
 37 **been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning**
 38 **Ordinance, the Zoning Board of Appeals of Champaign County determines that the Variance**
 39 **requested in Case 825-V-16 is hereby GRANTED to the petitioner Kent Jurgensen, d.b.a. CAT Scale**
 40 **Co., to authorize the following in the B-3 Highway Business Zoning District as per Section 7.3.6 of the**
 41 **Zoning Ordinance:**

1
2 Mr. DiNovo asked Mr. Hall if the Zoning Board of Appeals is required to have the owner of the real estate to
3 be part of this variance. He said that the Board could take action with the understanding that the ownership
4 is clarified on the parcel.
5
6 Mr. Hall stated that perhaps Mr. DiNovo is thinking about the section regarding a special use in which it
7 requires that the owner of the real estate be part of the special use. He said that there is no similar
8 requirement for a variance.
9
10 Ms. Lee asked Mr. Jurgersen to indicate the length of the lease.
11
12 Mr. Thorsland stated that he does not want to short circuit this discussion but this case has been advertised
13 and the Board has moved to the Final Determination. He said that perhaps this question should have been
14 posed to the petitioner prior to this point in the hearing and made a special condition.
15
16 Mr. Hall stated that if there is any question about the ownership then it should be clarified.
17
18 Mr. DiNovo asked if the owner of the real estate and CAT Scale Company decides to terminate the lease,
19 does the owner of the real estate have the right to maintain the sign.
20
21 Mr. Jurgersen stated that if the scale is pulled from the real estate then the sign will go as well.
22
23 Mr. Thorsland stated that even with larger projects the Board does not get into the contract between the two
24 owners and many times the Board does not know who the owners of the real estate are, such as in the wind
25 farm case. He said that the Board is only giving a variance for the sign.
26
27 Mr. Jurgersen stated that part of the land lease agrees for the placement of the scale and the on-premises
28 sign, installation of electric and plumbing and permission to obtain the permits for the scale and the sign.
29
30 Mr. DiNovo stated that normally variances run with the land and this situation creates an ambiguity if a
31 variance is granted to the parcel and not the owner of the parcel. He said that if the owner of the parcel
32 terminates the land lease agreement with CAT Scale Company they could go out and find another scale and
33 put in another sign.
34
35 Mr. Thorsland stated that many times the Board does not clarify ownership of the land.
36
37 Mr. DiNovo stated that he is just concerned with future owners.
38
39 Ms. Lee stated that a 20 year lease is a long lease.
40
41 Mr. Thorsland stated that he assumes that if the property ceases being a gas station then the scale will be

1 removed any way.

2

3 Mr. Jurgersen stated that Mr. Thorsland was correct.

4

5 Mr. DiNovo stated that this Board will be granting a variance for a second free-standing sign thus should
6 there be a special condition restricting the use that the sign be associated with a scale.

7

8 Mr. Thorsland stated that these are valid points but he would have appreciated this information at an earlier
9 point during the hearing.

10

11 Mr. Thorsland continued reading the final determination as follows:

12

13 **A variance from Section 7.3.6 of the Zoning Ordinance for a freestanding sign that is 110**
14 **square feet in area in lieu of the maximum allowed 75 square feet that is required for a second**
15 **sign on a premise for interstate oriented business.**

16

17 **Ms. Lee moved that the Champaign County Zoning Board of Appeals finds that, based upon the**
18 **application, testimony, and other evidence received in this case, that the requirements for approval of**
19 **Section 9.1.9.C HAVE been met, and pursuant to the authority granted by Section 9.1.6.B of the**
20 **Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
21 **determines that the Variance requested in Case 825-V-16 is hereby GRANTED to the petitioner Kent**
22 **Jurgersen, d.b.a. CAT Scale Co., to authorize the following in the B-3 Highway Business Zoning**
23 **District as per Section 7.3.6 of the Zoning Ordinance:**

24

25 **A variance from Section 7.3.6 of the Zoning Ordinance for a freestanding sign that is 110**
26 **square feet in area in lieu of the maximum allowed 75 square feet that is required for a second**
27 **sign on a premise for interstate oriented business.**

28

29 Mr. DiNovo offered a friendly amendment to the motion by adding the following: **Subject to the inclusion**
30 **of the name of the actual property owner as a recipient of the variance.**

31

32 Ms. Lee stated that a 20 year lease is a long term lease and the variance is being granted to the leasee.

33

34 Mr. Thorsland asked Ms. Lee if she will accept Mr. DiNovo’s friendly amendment to her motion.

35

36 Ms. Lee accepted Mr. DiNovo’s friendly amendment.

37

38 Mr. Randol does not believe that Mr. DiNovo’s friendly amendment is required in the Final Determination.

39

40 Mr. Passalacqua stated the Board has a lease and testimony indicating that if this fails to be a sign but is
41 actually a piece of the scale.

1

2 Mr. DiNovo stated that the variance is for a sign which is not required to be part of a scale.

3

4 Mr. Hall reminded the Board that the petitioner must accept any conditions.

5

6 Mr. DiNovo stated that he was not suggesting that his amendment be added as a special condition but added
7 to the verbage of the final determination.

8

9 Mr. Thorsland stated that Ms. Lee accepted Mr. DiNovo's friendly amendment but other members of the
10 Board, including himself, believe that this information should have been included prior to the Final
11 Determination.

12

13 Mr. DiNovo stated that he apologizes but this information did not occur to him until now.

14

15 Mr. Thorsland suspended the motion so that the Board could go back and craft a special condition for
16 approval by the petitioner. He said that if the Board chooses to add the name of the property owner or
17 trustee then perhaps this case should be continued to a later date so that they can be present at the next
18 hearing.

19

20 Mr. DiNovo stated that it is his understanding that the owner of the lease has delegated the authority to seek
21 the variance by CAT Scale Company. He said that the only thing that he is saying that the property owner's
22 name be added to the variance so that in the future it is clear that the recipient of the variance and future
23 owners will have the right for a second sign on the property.

24

25 Mr. Passalacqua asked if a copy of the lease is entered into the Documents of Record would satisfy the
26 concern.

27

28 Mr. Thorsland stated that a copy of the lease entered into the Documents of Record would satisfy his concern
29 but he is not sure if it will satisfy Mr. DiNovo's concern.

30

31 Mr. Passalacqua stated that the lease agreement is not this Board's business and he is not sure if it should be
32 part of the Documents of Record but it would indicate the owner's name.

33

34 Mr. Jurgensen stated that he does not have a copy of the lease with him tonight.

35

36 Ms. Chavarria stated that she would be happy to research the ownership and insert her findings into the file
37 as to the ownership of the property.

38

39 Mr. DiNovo stated that he does not see the problem with inserting the owner's name along with Mr.
40 Jurgensen's name. He said that once the name of the owner is discovered staff could edit the Finding of Fact
41 as instructed by the Board.

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Ms. Lee stated that instead of inserting the name of the owner the Finding of Fact could indicate “lessor” and Kent Jurgersen, d.b.a. CAT Scale Company.

Mr. Hall stated that the Board is well aware that the only thing that we ever do during any zoning case at any time is identify who receives the tax bill and legally that is all that we are required to do and that is what is ever done.

Mr. DiNovo withdrew his friendly motion.

Ms. Lee moved, seconded by Mr. Passalacqua, that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval of Section 9.1.9.C HAVE been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the Variance requested in Case 825-V-16 is hereby GRANTED to the petitioner Kent Jurgersen, d.b.a. CAT Scale Co., to authorize the following in the B-3 Highway Business Zoning District as per Section 7.3.6 of the Zoning Ordinance:

A variance from Section 7.3.6 of the Zoning Ordinance for a freestanding sign that is 110 square feet in area in lieu of the maximum allowed 75 square feet that is required for a second sign on a premise for interstate oriented business.

Mr. Thorsland requested a roll call vote.

The roll was called as follows:

Passalacqua – yes	Randol – yes	Capel – absent
DiNovo – yes	Griest – absent	Lee – yes
Thorsland - yes		

Mr. Hall informed Mr. Jurgersen that he has received an approval of his request. He noted that staff will mail out the final paperwork as soon as possible.

Mr. Thorsland stated that the Board will now hear Case 824-AM-15.

7. Staff Report

None

8. Other Business

1 A. Review of Docket
2

3 Mr. Hall stated that after the lengthy discussion regarding the ZBA Calendar at the last meeting it occurred
4 to staff that there is something to be said for having one regular room for each and every meeting. He said
5 that by the end of the discussion at the last meeting the Board agreed to have the ZBA meetings held in the
6 Lyle Shields Meeting Room on Mondays and the John Dimit Room on Thursdays. He said that there is a lot
7 to be said for having one meeting room and that would be the John Dimit Room.

8
9 Mr. Passalacqua asked Mr. Hall why the ZBA was bumped from the Lyle Shields Meeting Room.

10
11 Mr. Hall stated that the ZBA was bumped because this Board is more flexible than any other committee that
12 uses the Lyle Shields Meeting Room.

13
14 Mr. DiNovo stated that he made a complaint to the County Board Chair that the ZBA was the only body that
15 was willing to show any flexibility to accommodate the Racial Justice Task Force.

16
17 Mr. Passalacqua stated that he would like to be clear that the ZBA has no issue with the Racial Justice Task
18 Force.

19
20 Mr. DiNovo stated that he has no problem with the Racial Justice Task Force but he does have a problem
21 with every other committee that meets in this County Government and none of whom were willing to show
22 any flexibility.

23
24 Mr. Thorsland stated that he does not mind using the John Dimit Room but if a case was to have a large
25 crowd it would be tight.

26
27 Mr. Hall stated that the John Dimit Room is available every Thursday night.

28
29 Mr. Passalacqua stated that he would prefer having a permanent meeting room to hold meetings and if
30 accommodations need to be made for a particular case then that could be done. He said that he would prefer
31 holding the meetings on the same night, Thursday, rather than the first meeting on Thursday and the second
32 meeting on Monday.

33
34 Mr. DiNovo agreed that it is easier for everyone if the meeting night is always on the same night of the week
35 and, if possible, in the same meeting room.

36
37 Mr. Hall stated that the Board is being very clear that they prefer to hold the ZBA meeting in the same room,
38 John Dimit Meeting Room, on the same night of the week, Thursdays.

39
40 The Board agreed.

41

- 1 Ms. Chavarria asked the Board if they would prefer that the meetings always begin at 6:30 p.m. rather than
2 switching from 6:30 p.m. to 7:00 p.m. due to Daylight Savings Time.
3
- 4 Mr. Passalacqua stated that due to his work schedule he prefers that the meetings begin at 7:00 p.m. during
5 the summer.
6
- 7 Mr. Thorsland agreed. He said that there are certain meetings when the Board may choose to begin the
8 meeting at an earlier time due to the case load.
9
- 10 Mr. Thorsland stated that he would appreciate it if staff would notify all interested parties for Case 792-V-14
11 that the meeting time has been changed to 6:30 p.m. He said that he is well aware that some of the parties
12 are already miffed with him due to his decision at the last hearing.
13
- 14 Ms. Lee asked staff if the interested parties were correct regarding their comments at the last hearing
15 regarding Case 792-V-14.
16
- 17 Mr. Hall stated that the interested parties were wrong. He said that he did not just look up the information
18 but he contacted the State's Attorney's Office.
19
- 20 Mr. Passalacqua asked Mr. Hall to explain what the interested parties were miffed about.
21
- 22 Mr. Hall stated that the interested parties believed that they had a right to speak about Case 792-V-14 at the
23 previous hearing even though the petitioner was not present. He said that at a ZBA hearing if you intend to
24 speak about a case it has to be within the context of the case.
25
- 26 Ms. Lee asked Mr. Hall if he also asked the State's Attorney about reactivation of the case.
27
- 28 Mr. Hall stated that there wasn't any question regarding the reactivation of the case.
29
- 30 Mr. Thorsland stated that the petitioner submitted the appropriate fee and the case were reactivated and this
31 could continue to occur.
32
- 33 Mr. Passalacqua stated that at some point it would make sense in not allowing the reactivation to
34 continuously occur because at some point the application fee is not going to cover the other expenses that
35 will be incurred.
36
- 37 Ms. Lee asked staff if any information has been received from the petitioner for Case 792-V-14 since the last
38 public hearing for that case.
39
- 40 Mr. Hall stated that some information has been received.
41

1 Mr. Thorsland asked the Board if any member is aware of a meeting that they will be absent.

2

3 Mr. Thorsland stated that he will be absent from the March 24th and May 26th meeting.

4

5 Mr. DiNovo stated that he may be absent from the May 26, 2016, meeting.

6

7 Ms. Lee stated that she will be having surgery on her hand in the near future but no date has been set yet.

8 She will contact staff as soon as she has a scheduled date.

9

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

11

12 None

13

14 **10. Adjournment**

15

16 Mr. Thorsland entertained a motion to adjourn the meeting.

17

18 **Ms. Lee moved, seconded by Mr. Randol to adjourn the meeting. The motion carried by voice vote.**

19

20

21 The meeting adjourned at 7:50 p.m.

22

23

24

25 Respectfully submitted

26

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28

29

30 Secretary of Zoning Board of Appeals

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