

AS APPROVED JULY 28, 2016

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3 **MINUTES OF REGULAR MEETING**

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5 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

6 **1776 E. Washington Street**

7 **Urbana, IL 61802**

8  
9 **DATE: May 26, 2016**

**PLACE: John Dimit Meeting Room**

**1776 East Washington Street**

**Urbana, IL 61802**

10  
11 **TIME: 7:00 p.m.**

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

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15 **MEMBERS ABSENT :** Frank DiNovo, Eric Thorsland

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17 **STAFF PRESENT :** Connie Berry, Susan Chavarria, John Hall

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19 **OTHERS PRESENT :** Nick Trotter, Neil Trotter, Nick Brian, Bonita Blue, Steve Blue, Carl Webber,  
20 Robert Sherman, Matt C. Deering, Sarah Carpenter, Jeff Carpenter, Crystal  
21 Bailey

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23  
24 **1. Call to Order**

25  
26 The meeting was called to order at 7:00 p.m.

27  
28 Mr. Hall stated that due to the absence of Eric Thorsland, Chairman of the Zoning Board of Appeals, the  
29 Board needs to appoint an interim Chair for tonight's meeting.

30  
31 **Ms. Lee moved, seconded by Mr. Passalacqua to appoint Catherine Capel as interim Chair for**  
32 **tonight's meeting. The motion carried by voice vote.**

33  
34 **2. Roll Call and Declaration of Quorum**

35  
36 The roll was called and a quorum declared present with two members absent.

37  
38 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the  
39 witness register for that public hearing. She reminded the audience that when they sign the witness register  
40 they are signing an oath.

41  
42 **3. Correspondence**

43  
44 None

45  
46 **4. Approval of Minutes (February 25, 2016 and March 10, 2016)**

47  
48 Ms. Capel entertained a motion to approve the annotated minutes for February 25, 2016, and revised March

1 10, 2016, minutes.

2

3 **Ms. Griest moved, seconded by Mr. Randol to approve the annotated minutes for February 25, 2016,**  
4 **and revised March 10, 2016, minutes.**

5

6 Ms. Lee and Ms. Capel stated that they gave minor corrections to staff.

7

8 **The motion carried by voice vote.**

9

10 **5. Continued Public Hearing**

11

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

31

32 Ms. Capel entertained a motion to re-arrange the agenda and hear Case 685-AT-11 as the last case of the  
33 meeting.

34

35 **Mr. Randol moved, seconded by Ms. Griest to re-arrange the agenda and hear Case 685-AT-11 as the**  
36 **last case of the meeting. The motion carried by voice vote.**

37

38 Mr. Hall requested that Case 685-AT-11 be continued to the August 25, 2016, meeting.

39

40 Ms. Capel entertained a motion to continue Case 685-AT-11 to the August 25, 2016, meeting.

41

1 Mr. Passalacqua moved, seconded by Mr. Randol to continue Case 685-AT-11 to the August 25, 2016,  
2 meeting. The motion carried by voice vote.

3  
4 **Case 827-V-16 Petitioner: Nicholas Trotter Request: Authorize the following Variances in the R-1**  
5 **Single Family Residence Zoning District: Part A: A detached shed with a side yard of 3 feet in lieu of**  
6 **the minimum required 5 feet for accessory structures; and Part B. A detached shed with a setback of**  
7 **48 feet 6 inches in lieu of the minimum required 55 feet from the centerline of a local street. Location:**  
8 **The north half of Lot 7 of Block 2 of B.R. Hammer's Addition in the Northwest Quarter of Section 34**  
9 **of East Bend Township and commonly known as the residence at 317 Independence, Dewey.**

10  
11 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the  
12 witness register for that public hearing. She reminded the audience that when they sign the witness register  
13 they are signing an oath. She asked the audience if anyone desired to sign the witness register at this time.  
14

15 Ms. Capel informed the audience that Case 827-V-16 is an Administrative Case and as such the County  
16 allows anyone the opportunity to cross examine any witness. She said that at the proper time she will ask for  
17 a show of hands for those who would like to cross examine and each person will be called upon. She  
18 requested that anyone called to cross examine go to the cross examination microphone to ask any questions.  
19 She said that those who desire to cross examine are not required to sign the witness register but are requested  
20 to clearly state their name before asking any questions. She noted that no new testimony is to be given  
21 during the cross examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-  
22 Laws are exempt from cross examination.

23  
24 Ms. Capel asked the petitioner if he would like to make a brief statement regarding the request.

25  
26 Mr. Nick Trotter, who resides at 317 Independence, Dewey, stated that he is requesting a variance to place a  
27 shed in the required side and front yards. He said that the reason that he would like to move the shed  
28 forward and more or less centered is so that he has more useable room in his backyard.

29  
30 Mr. Hall, Zoning Administrator, distributed a Supplemental Memorandum dated March 26, 2016, to the  
31 Board for review. He said that Mr. Trotter contacted a professional septic installer and was told that with or  
32 without the proposed shed, there is no room for a new septic system with today's standards because he needs  
33 a curtain drain. Mr. Hall said that this is the problem with the new standards on these very small lots as they  
34 become almost unworkable. He said that going into the future, the statement that the Board had required to  
35 be filed with the Recorder of Deeds for Cases 736-V-12 and 737-V-12 indicating how small the lot is and  
36 the difficulty in installing a new septic system will always be in the Recorder's office so that anyone in the  
37 future is aware of that situation. He said that from a staff view, the amount of protection that the ZBA can  
38 provide has already been put in place and it is now a matter of whether the Board believes that Mr. Trotter  
39 should be able to place his proposed structure in its intended location.

40  
41 Mr. Passalacqua asked Mr. Hall if there is a revised site plan indicating the location of the existing septic

1 system.

2  
3 Mr. Trotter stated that the location of the existing septic system is indicated on the site plan which is  
4 included as Attachment C Page 1 of 1.

5  
6 Ms. Capel asked the Board and staff if there were any additional questions for Mr. Trotter and there were  
7 none.

8  
9 Ms. Capel asked the audience if anyone desired to cross examine Mr. Trotter and there was no one.

10  
11 Ms. Capel called Neil Trotter to testify.

12  
13 Mr. Neil Trotter, who resides in Coal City, IL, stated that he is Nick Trotter's father. He said that the  
14 original petition for Cases 736-V-12 and 737-V-12 included a site plan that indicated the existing septic  
15 systems which would not meet today's standards, and that site plan was approved. He said that Nick cannot  
16 do anything about the existing septic system not meeting today's standards. He said that if Nick moves the  
17 shed back further on the property he would cut off a portion of the property where perhaps he could do  
18 something with it, and if Nick locates the shed up by the house the backyard would be available. He said  
19 that if the shed is brought up adjacent from the house the whole length of the back of the lot would be  
20 available for a new system if it ever becomes necessary and would not be cut off by the building.

21  
22 Ms. Capel asked Mr. Neil Trotter with the new standards, what they will do if the existing septic system  
23 fails.

24  
25 Mr. Neil Trotter stated that he is not sure what they will do because it is a pre-existing condition. He said  
26 that in his area there are many, many homes connected to field tiles and those systems have existed for over  
27 one hundred years. He said that the septic tank for Nick's property was originally shared by the properties  
28 located at 317 and 318 Independence and then it was separated off when the two lots were separated. He  
29 said that the tank can always be pumped and for it to become unworkable there would have to be a lot of  
30 damage to the tiles in the field. He said that his septic system is connected to a field tile and he has never  
31 had an issue with it other than he has to have the tank pumped every couple of years.

32  
33 Mr. Hall stated that he agrees with Mr. Neil Trotter in suggesting that the shed be pushed forward. He said  
34 that he is wondering if the Board would be okay with the shed being pushed up to the minimum required  
35 front yard of 25 feet. He said that it is not much of an improvement but the case was not advertised for a  
36 variance for the front yard but it would reduce the setback by one foot and a one foot adjustment to improve  
37 the situation as much as possible would not be a bad idea. He said that this would be up to Mr. Trotter, but it  
38 is up to the Board if they are comfortable in doing that. He said that if Mr. Trotter decided not to, but if he  
39 decides later that he would like to reserve as much rear yard as possible, then he might decide to do so.

40  
41 Mr. Randol stated that he did not see a problem with it.

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Mr. Trotter stated that he would be good with it and in fact that was his original plan but he did not want to deviate too much from the requirements. He said that the shed being even with the house would be ideal.

Mr. Hall stated that this discussion will be noted in the minutes and kept on file.

Ms. Capel asked the Board and staff if there were any additional questions for Mr. Nick Trotter or Mr. Neil Trotter and there were none.

Ms. Capel asked the audience if anyone desired to cross examine Mr. Nick Trotter or Mr. Neil Trotter and there was no one.

Ms. Capel closed the witness register.

Ms. Capel stated that there are no proposed special conditions.

Ms. Chavarria noted that a new item #7 indicating Supplemental Memorandum #1, dated May 26, 2016, should be added to the Documents of Record.

Ms. Capel stated that the Board will now move to the Findings of Fact.

**Findings of Fact for Case 827-V-16:**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **827-V-16** held on **April 28, 2016**, and **May 26, 2016**, the Zoning Board of Appeals of Champaign County finds that:

- 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, 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 lot size and the location of the septic line.

- 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.**

1 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of  
2 the regulations to be varied WILL prevent reasonable or otherwise permitted use of the land or structure  
3 or construction because it will impede on an already small space.

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

6 Mr. Passalacqua stated that special conditions, circumstances, hardships, or practical difficulties DO  
7 NOT result from actions of the applicant because it was an existing condition when the petitioner  
8 purchased the property.

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

11 Mr. Passalacqua stated that the requested variance IS in harmony with the general purpose and intent of  
12 the Ordinance because it allows for a functional shed and better use of the rear of the lot.

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

15 Mr. Passalacqua stated that the requested variance WILL NOT be injurious to the neighborhood or  
16 otherwise detrimental to the public health, safety, or welfare because no objections have been received  
17 from neighbors and there is no testimony in the negative.

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

20 Ms. Capel stated that the requested variance IS the minimum variation that will make possible the  
21 reasonable use of the land/structure.

22 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**

23 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings  
24 of Fact as amended.

25 **Ms. Griest moved, seconded by Mr. Randol to adopt the Summary of Evidence, Documents of Record**  
26 **and Findings of Fact as amended. The motion carried by voice vote.**

27  
28 Ms. Capel entertained a motion to move to the Final Determination for Case 827-V-16.

29  
30 **Ms. Griest moved, seconded by Ms. Lee to move to the Final Determination for Case 827-V-16. The**  
31 **motion carried by voice vote.**

1  
 2 Ms. Capel informed the petitioner that currently the Board has two absent Board members therefore it is at  
 3 his discretion to either continue Case 827-V-16 until a full Board is present or request that the present Board  
 4 move to the Final Determination. She informed the petitioner that four affirmative votes are required for  
 5 approval.

6  
 7 Mr. Trotter requested that the present Board move to the Final Determination.

8  
 9 **Final Determination for Case 827-V-16:**

10  
 11 **Ms. Griest moved, seconded by Mr. Passalacqua, that the Champaign County Zoning Board of**  
 12 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**  
 13 **that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority**  
 14 **granted by Section 9.1.B.B of the Champaign County Zoning Ordinance, the Zoning Board of**  
 15 **Appeals for Champaign County determines that:**

16  
 17 **The Variances requested in Case 827-V-16 are hereby GRANTED to the petitioner**  
 18 **Nicholas Trotter to authorize the following in the R-1 Single Family Residence Zoning District:**

19  
 20 **Part A: A detached shed with a side yard of 3 feet in lieu of the minimum**  
 21 **required 5 feet for accessory structures.**

22  
 23 **Part B: A detached shed with a setback of 48 feet 6 inches in lieu of the minimum**  
 24 **required 55 feet from the centerline of a local street.**

25  
 26 Ms. Capel requested a roll call vote.

27  
 28 The roll call vote was called as follows:

29  
 30 **Lee –yes** **Passalacqua – yes** **Randol – yes**  
 31 **Thorsland – absent** **DiNovo – absent** **Griest – yes**  
 32 **Capel - yes**

33  
 34 Mr. Hall informed the petitioner that he has received an approval of his request and staff will send out the  
 35 final paperwork as soon as possible.

36  
 37 **Case 822-S-15 Petitioner: Nick Brian, d.b.a. Greenside Lawn Care Request: Authorize a Special**  
 38 **Use Permit for a Contractor’s Facility (with or without outdoor storage and/or outdoor**  
 39 **operations) and an office that contains a dwelling unit that is not used as a dwelling in addition to**  
 40 **an existing single family dwelling in the AG-1 Agriculture Zoning District. Location: An 11.09**  
 41 **acre tract comprised of Lot 1 of Meadow Ridge Subdivision in the Southwest Quarter of the**

1 **Northwest Quarter of Section 17 of Township 20 North, Range 8 East of the Third Principal**  
2 **Meridian in Hensley Township and commonly known as the contractor business Greenside Lawn**  
3 **Care, located at 707 CR 2200 North, Champaign, Illinois.**  
4

5 Ms. Capel informed the audience that Case 822-S-16 is an Administrative Case and as such the County  
6 allows anyone the opportunity to cross examine any witness. She said that at the proper time she will ask for  
7 a show of hands for those who would like to cross examine and each person will be called upon. She  
8 requested that anyone called to cross examine go to the cross examination microphone to ask any questions.  
9 She said that those who desire to cross examine are not required to sign the witness register but are requested  
10 to clearly state their name before asking any questions. She noted that no new testimony is to be given  
11 during the cross examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-  
12 Laws are exempt from cross examination.  
13

14 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the  
15 witness register for that public hearing. She reminded the audience that when they sign the witness register  
16 they are signing an oath. She asked the audience if anyone desired to sign the witness register at this time.  
17

18 Ms. Capel asked the petitioner if he would like to make a brief statement regarding the request.  
19

20 Mr. Matt Deering, Attorney for the petitioner, stated that his business address is Meyer, Capel Law Firm,  
21 306 W. Church Street, Champaign. He said that Mr. Brian is ready to essentially accept the Summary of  
22 Evidence and Special Conditions subject to a few questions and clarifications. Mr. Deering said that in  
23 regards to Special Condition D, he would like confirmation that the replacement lights that are on the  
24 existing shed meet the requirements and are appropriate for the proposed shed, if approved.  
25

26 Ms. Chavarria stated that according to the specification sheet that Mr. Brian submitted to staff for the new  
27 lights and confirmation from Mr. Brian indicating that he installed the lights according to those  
28 specifications, the lights comply with the Zoning Ordinance requirements.  
29

30 Mr. Deering stated that Special Condition G. sets the hours of indoor storage from 10PM to 7AM. Mr.  
31 Deering asked if the intent of Special Condition G. would capture a scenario, for example, if an employee  
32 arrived on site at 6:45 AM and did whatever work that was required inside the shed. He asked if a crew  
33 foreman arriving early to start on paperwork and an employee arrived early to begin his work inside was  
34 prohibited due to Special Condition G. He said that clarification of these two special conditions will prevent  
35 arguments in the future.  
36

37 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated May 26, 2016, to  
38 the Board for review. He said that staff has not proposed a condition indicating that employee's vehicles are  
39 required to be parked indoors.  
40

41 Ms. Chavarria stated that the reference to indoors was all storage and operations. She said that at one time it

1 did say that all vehicles were required to be parked indoors.  
2  
3 Mr. Hall asked Ms. Chavarria for clarification, that even the employee's vehicles had to be parked indoors.  
4  
5 Mr. Deering stated that it just states vehicles.  
6  
7 Mr. Hall stated that it states vehicles used in the Special Use Permit.  
8  
9 Ms. Chavarria stated that Mr. Hall is correct and the employee's vehicles would not be there if it were not  
10 for the Special Use Permit.  
11  
12 Mr. Hall stated that if the Board wants employees' vehicles to be parked inside, then the Board needs to  
13 delineate that.  
14  
15 Mr. Deering stated that they hope that employees who arrive prior to 7 AM are conscious of any additional  
16 noise and would be allowed to work inside of the shed.  
17  
18 Mr. Deering stated that Special Condition J. indicates that a door must be installed on the salt storage shed  
19 that will be closed completely when the salt is not being accessed. He requested additional specificity on the  
20 door and whether it can be a gate or a heavy curtain that provides coverage but also air circulation for the salt  
21 and mulch. He said that they will comply with whatever the Board requires but they are trying to not block  
22 the door so that proper circulation can remain.  
23  
24 Mr. Randol stated that he has never seen a salt building with a door and there is a reason for that. He said  
25 that a heavy curtain that allows air to circulate may serve the same purpose. He said that since the salt is in a  
26 confined area it is not desirable for the salt to draw moisture.  
27  
28 Mr. Deering stated that Mr. Randol is correct. He said that proposed Special Condition K. is in regards to  
29 the requirement of a vegetative screen. He said that Mr. Brian is agreeable to installing a vegetative screen  
30 but they would like some clarification as to when the vegetation had to be planted. He said that their hope is  
31 that the vegetation could be planted in the fall so that it has a better chance of survival.  
32  
33 Mr. Hall asked Mr. Deering if it is his client's intent to provide the minimum height of screening required by  
34 the Zoning Ordinance or would Mr. Deering's client be willing to provide, at the time of full height, eight  
35 feet high screening.  
36  
37 Mr. Nick Brian, who resides at 707 CR 2200N, Champaign, stated that he is proposing to plant 4 to 6 foot  
38 Norway Spruce trees pretty close together but at a staggered design for a better chance of survival. He said  
39 that he has estimated that it will take 80 to 100 Norway Spruce trees to provide for a thick screen.  
40  
41 Mr. Hall asked Mr. Brian if he is proposing 4 to 6 foot Norway Spruce trees at the time of planting.

1  
2 Mr. Brian stated yes.  
3  
4 Mr. Hall stated that Norway Spruce are fairly slow growing trees, so if the Board establishes that the trees  
5 must be 6 foot at the time of planting then that would provide adequate screening.  
6  
7 Mr. Brian stated that the screening is proposed to be located north of the proposed shed to where it will meet  
8 the south portion of the existing shed so that the view of his property is blocked from the Carpenters. He  
9 said that if it would make everyone happy if he planted a few taller trees in the short distance between the  
10 two sheds then he could plant 8 foot trees. He said that he could plant 4 to 6 foot trees behind the proposed  
11 shed and the taller trees between the two sheds.  
12  
13 Ms. Lee stated that Mr. Hall has indicated that 6 foot trees are required but Mr. Brian keeps referring to 4 to  
14 6 foot trees.  
15  
16 Mr. Brian stated that trees are not always at precise measure when they are sold as they may range between  
17 four to six foot.  
18  
19 Mr. Hall asked Mr. Brian if there is a two foot range when trees are purchased.  
20  
21 Mr. Brian stated yes. He said that every tree doesn't grow the same. He said that the larger the tree is when  
22 replanted, the less likely that it will survive, and it will cost more money to purchase larger trees.  
23  
24 Mr. Hall asked Mr. Brian if he intends to stagger the trees by planting them in double rows.  
25  
26 Mr. Brian stated yes, because it would eliminate the gray areas in two years.  
27  
28 Mr. Hall stated that if the Board agrees with what Mr. Brian has described, he would recommend that the  
29 Board revise Special Condition K.(2) as follows: the actual plants must be 4 to 6 feet in height at the time of  
30 planting.  
31  
32 Mr. Brian stated that it is best to plant the trees in the fall.  
33  
34 Mr. Hall stated that achieving the required height within two years is always a difficult thing to monitor and  
35 achieve therefore it may be that the Board is happy with 4 to 6 feet at the time of planting.  
36  
37 Mr. Passalacqua stated that the trees will not grow much in the first year.  
38  
39 Mr. Brian stated that it is generally the third year before they begin their real growth.  
40  
41 Ms. Capel asked if the Special Condition should indicate Norway Spruce trees.

1  
2 Mr. Hall asked Mr. Brian if he is confident that he will be planting Norway Spruce trees.  
3  
4 Mr. Brian stated yes.  
5  
6 Mr. Hall read revised Special Condition K. as follows: As per standard Department practice, a Norway  
7 Spruce vegetative screen must be four to six feet high at the time of planting and will be planted in staggered  
8 rows and must be planted in the fall of 2016.  
9  
10 Mr. Hall read revised Special Condition J. as follows: Within six months of the approval of the Special Use,  
11 a door or heavy curtain must be installed on the salt storage shed that will be closed more or less completely  
12 but still allow some air circulation when the salt is not being accessed.  
13  
14 Mr. Randol stated that the salt shed should not be completely closed so that there is some type of circulation.  
15  
16 Mr. Brian stated that he is open to suggestions but like Mr. Randol previously stated, every state, city and  
17 county salt shed does not have a closed door.  
18  
19 Mr. Passalacqua stated that this all may be true but they do not have neighbors that don't like the way it  
20 looks.  
21  
22 Mr. Brian asked if a rubber flap would work.  
23  
24 Mr. Passalacqua stated that he does not believe that a rubber flap would be the best idea. He said that he  
25 does not know if there is a slatted door that would work and he is not sure how much the screening will  
26 cover up. He said that he would rather see something with longevity rather than a curtain that only lasts for  
27 six months. He said that he has used arborvitae for screening and you can't see through them.  
28  
29 Ms. Lee stated that the salt storage shed is also being used for mulch storage.  
30  
31 Mr. Brian stated yes but not at the same time.  
32  
33 Ms. Lee stated that Attachment I., Exhibit G. discusses bulk fuel and chemical storage. She said that mulch  
34 could come under the term chemical.  
35  
36 Mr. Passalacqua stated that mulch will not be considered under the term chemical.  
37  
38 Mr. Deering stated that the Attachment I., Exhibit G. came from Mr. Webber, not staff.  
39  
40 Ms. Lee stated that she just wants to make sure that the mulch and fuel storage will not be a problem.  
41

1 Mr. Randol asked Ms. Lee if she is concerned about the proximity of the mulch to the fuel storage.  
2  
3 Ms. Lee stated no. She said that the fuel storage concern has been taken care of with the State Fire Marshal.  
4 She said that the evidence indicates that complaints have been received from the neighbors regarding the  
5 mulch not being stored in the lean-to.  
6  
7 Ms. Chavarria asked Mr. Brian if he could provide comments on the mulch delivery.  
8  
9 Mr. Brian stated that in March the mulch was delivered to his property for his personal use on his property.  
10  
11 Ms. Chavarria asked Mr. Brian if the mulch has been removed.  
12  
13 Mr. Brian stated that the salt is still in the salt shed and the mulch is gone.  
14  
15 Ms. Chavarria asked Mr. Brian to elaborate on what occurs during a typical year when the salt is gone and  
16 the mulch is moved in to the building.  
17  
18 Mr. Brian stated that during the winter of 2015-2016 they did not use as much salt which is why it is still in  
19 the shed.  
20  
21 Ms. Chavarria stated that if the area has a similar winter in 2016-2017 there is a possibility that the mulch  
22 would sit outside again.  
23  
24 Mr. Brian stated no. He said that typically the mulch is delivered on the job site. He said that the mulch that  
25 was delivered at his property was for his personal use on his own property. He said that the mulch was not  
26 there for a long period of time.  
27  
28 Mr. Deering stated that with the assumption that this goes through, the mulch for Mr. Brian's personal use  
29 would not be visible from the neighbor's property.  
30  
31 Ms. Griest stated that it would be difficult for any owner/operator to use the exact quantity of mulch or salt  
32 during any given year. She asked Mr. Brian to indicate what he does with the excess salt and mulch at the  
33 end of the year. She said that since Mr. Brian has testified that the salt is switched with the mulch in the  
34 storage shed, Mr. Brian must have an outlet for both products at the end of the seasons.  
35  
36 Mr. Brian stated that towards the end of the winter he will switch to bagged salt and he won't order another  
37 semi-load. He said that towards the end of the year he will order bagged salt by the pallet so that the bulk  
38 salt is not sitting in the shed.  
39  
40 Ms. Griest asked Mr. Brian if he does the same with the mulch.  
41

- 1 Mr. Brian stated that generally the mulch is all gone by the end of the year and if they require more they will  
2 go to the supplier in their own trucks and take it to the job site.  
3
- 4 Mr. Hall reminded the Board that Special Condition J has not been resolved.  
5
- 6 Ms. Griest noted that the special conditions included in the Summary of Evidence and the Findings of Fact  
7 do not match.  
8
- 9 Ms. Chavarria apologized for the error.  
10
- 11 Ms. Lee stated that the screening will actually screen the salt storage shed.  
12
- 13 Ms. Capel asked the Board if they would be willing to accept the vegetative screening in lieu of a door.  
14
- 15 Ms. Lee stated that it seems reasonable since air circulation is a requirement for the salt and the mulch  
16 storage.  
17
- 18 Ms. Capel asked the Board if they wanted to strike Special Condition J and the Board agreed.  
19
- 20 Mr. Deering stated that he would like to address some of the items that were discussed at the last public  
21 hearing. He said that the waterway that was farmed over at one point has been re-established by Mr. Brian  
22 and no farming will occur in the waterway in the future. He said that he has not had sufficient time to have  
23 the appraisal documents reviewed by similarly qualified parties of their own; however, based on the limited  
24 review that he has made himself it is apparent that there are material differences in the comparison properties  
25 included in the appraisal and Mr. Brian's property and those difference question the credibility of their  
26 accuracy. He said that the opinions of the appraiser and the realtors seem to accept and rely heavy on claims  
27 that there has been a material or significant increase in the business' activity on Mr. Brian's property since  
28 the Carpenter's purchased their property and there is some expectation that there will be an increase in the  
29 business activity once the new building is constructed. He said that Mr. Brian's business has been operating  
30 from the existing shed for six years which is significantly longer than the Carpenters have lived on their  
31 property. He said that Mr. Brian has indicated that there has been no significant increase in his business  
32 operation over the last few years and has also indicated that he is not intending to increase or change his  
33 business activity with the new shed. He said that the appraisals do not appear to recognize that the proposed  
34 shed will allow additional room for organized storage of the vehicles and equipment used in the business.  
35 He said that the orientation of the new shed will open it away from the Carpenter property and the screening  
36 will decrease the visibility for the Carpenters of any activity on the Brian property.  
37
- 38 Mr. Deering stated that it is fair to say that he and Mr. Brian interpret the covenants of the subdivision  
39 differently than the Carpenters and their attorney, and there is obviously a disagreement as to certain factual  
40 assertions. He said that Mr. Brian has received signatures from the three of five property owners in support  
41 for the use of the existing shed and the proposed new shed for the lawn care and snow removal business. He

1 said that approval of the existing shed is not required and it would be redundant at this time, considering no  
2 objection was raised before it was completed or thereafter. Mr. Deering stated that Mr. Webber has asserted  
3 that the existing and proposed Graber shed are clearly not constructed from residential construction  
4 materials. Mr. Deering submitted copies of a couple of webpages from Graber Buildings Inc. and Morton  
5 Buildings which clearly market that their buildings are constructed as residential buildings. He said that with  
6 those materials meeting the definition of residential construction, the materials for Mr. Brian's new shed  
7 cannot be disqualified as suitable construction for the accessory use of a residence. He said that as  
8 previously discussed by other parties, they do not believe that it is the charge of the ZBA to make the legal  
9 interpretation of the covenants and consequently they would encourage that this interpretation be left to the  
10 court system in the event that someone decides to push the issue.

11  
12 Mr. Deering stated that the previous claim that someone is living in the existing shed has been denied by Mr.  
13 Brian and they invite staff to visit the site to confirm Mr. Brian's denial. Mr. Deering stated that at this point  
14 they have nothing further to present and they suggest that they are ready to adopt staff's proposed special  
15 conditions and Summary of Evidence as presented.

16  
17 Ms. Capel asked the Board and staff if there were any questions for Mr. Deering and there were none.

18  
19 Ms. Capel asked the audience if anyone desired to cross examine Mr. Deering or Mr. Brian and there was no  
20 one.

21  
22 Ms. Capel called Carl Webber to testify.

23  
24 Mr. Carl Webber, attorney for Mr. and Ms. Carpenter, requested that Mr. Jeff Carpenter be allowed to testify  
25 first.

26  
27 Ms. Capel called Jeff Carpenter to testify.

28  
29 Mr. Jeff Carpenter, who resides at 725 CR 2200N, Champaign, stated that he lives on the property to the east  
30 which adjoins the Brian property. He said that their property is the closest to the Brian property therefore  
31 they receive the largest impact from the lawn care and snow removal business conducted on Mr. Brian's  
32 property as opposed to other property owners within their subdivision. He said that he and his wife have two  
33 main concerns that he would like to share with the Board tonight. He said that the first concern is in regard  
34 to the requirement for the special use permit to continue to allow a commercial business in a residential  
35 subdivision; and the second concern is how the proposed new shed would raise the intensity of the business.  
36 He said that he submitted his opposition of, at the time, the proposed 60' x 80' shed to the zoning office but  
37 currently the proposed shed is 80' x 112'. He said that after the zoning meeting they got together with Mr.  
38 and Mrs. Brian, Mr. and Mrs. Bailey and some of the other property owners at the Brian property and they  
39 were presented with an architectural drawing of the proposed shed, which was basically a rectangle with  
40 dimensions, but there were not a lot of details provided in terms of how the shed would look, where the shed  
41 would be located or how it would be used. He said that they did have a good visit and they left the meeting

1 very appreciative of receiving the some details. He said that it was an unfortunate meeting as this was the  
2 first time that he and his wife had the opportunity to meet some of the other neighbors.

3  
4 Mr. Carpenter stated that he called Mr. Brian on the phone and they had additional chats. He said that his  
5 primary concern is the purpose of the new shed and how it will be used. He said that it has been noted that a  
6 12 feet yard size cultivator will be stored in the shed but there is no agricultural activity occurring on the  
7 Brian property. Mr. Carpenter said that he did ask Mr. Brian what the shed would be used for and Mr. Brian  
8 mentioned that his landscaping vehicles would be stored in the new shed, such as the snowplow trucks and  
9 possibly a wash bay. Mr. Carpenter said that he asked Mr. Brian about the number of employees because  
10 their initial thoughts were a limitation to the existing business in line with what was suggested by the zoning  
11 office at the first hearing. Mr. Carpenter said that he asked Mr. Brian if he plans to limit the number of  
12 employees to two full-time employees and Mr. Brian told him that it may be six. Mr. Carpenter stated that it  
13 was his understanding that there was intent from Mr. Brian to expand his landscaping business. Mr.  
14 Carpenter said that during his phone call with Mr. Brian he was told by Mr. Brian that he had purchased an  
15 option on the 40 acres which is directly east of Mr. Carpenter's property because one way or the other, the  
16 shed is going to be built. Mr. Carpenter said that he suggested that the new shed be placed on the 40 acres to  
17 the east of his property but Mr. Brian stated that he could not do that because it would be added expense. Mr.  
18 Carpenter asked Mr. Brian to indicate the agreed price with the Atkins Group to purchase the land because  
19 Mr. Carpenter told Mr. Brian that he would be interested in purchasing the property himself and selling or  
20 leasing Mr. Brian whatever amount of land he required for his business and to sweeten the deal he offered to  
21 cash rent the remaining portion of the 40 acres to Mr. Brian for ag production. Mr. Carpenter stated that Mr.  
22 Brian indicated that he was interested in his offer but the next day Mr. Carpenter received a text message  
23 from Mr. Brian stating that the added expense that would be incurred was not feasible for moving his  
24 business to the 40 acres. Mr. Carpenter stated that he remained interested in purchasing the 40 acres so he  
25 called Jim Goss, Farm Manager for the Atkins Group, and he indicated that he had not spoken with Mr.  
26 Brian regarding any option for the 40 acres ever being granted to anyone. Mr. Carpenter stated that perhaps  
27 he had misunderstood Mr. Brian so he sent a letter to Mr. Brian requesting something in writing clarifying  
28 his plans for the new shed so that a compromise could be worked out but no response was received. Mr.  
29 Carpenter said that on May 15<sup>th</sup> he received a letter from Mr. Brian with the site plan indicating the physical  
30 dimensions, proposed screening or placement of the shed but no information was included regarding how the  
31 new shed would be incorporated into the existing landscaping business.

32  
33 Mr. Carpenter stated that there is a history of the existing business being in violation of the Champaign  
34 County Zoning Ordinance since it was constructed and the special use permit is basically requesting  
35 absolution for past sins and it looks to be a blank check because there is no discussion for limiting the  
36 commercial activities, etc. He said that since the last public hearing, since he did not have an appraisal  
37 prepared when he purchased his property, he contacted appraiser Jim Webster to complete an appraisal. Mr.  
38 Carpenter stated that he also contacted realtors Nick Taylor and John Albee for their professional opinions  
39 regarding the effect that the neighboring commercial business would have on their property values. Mr.  
40 Carpenter stated that Mr. Albee noted that the use of the property is different than what they witnessed one  
41 year ago. Mr. Carpenter said that Mr. Taylor was very familiar with their property because he has sold their

1 home twice and represented the two previous sellers. Mr. Carpenter stated that Mr. Taylor clearly stated that  
2 the commercial business in a predominately residential area would likely negatively affect the value and  
3 chances of a sale for their property. Mr. Carpenter stated that James Webster estimated a 5% reduction in the  
4 value of his home due to the current activity on the adjacent property with the possibility of further reduction  
5 if the activity expands. He said that Mr. Albee indicated that if a commercial project is allowed to be built in  
6 their residential neighborhood, it may reduce the value of the adjoining properties by as much as 25%. Mr.  
7 Carpenter noted that Nick Taylor, John Albee and James Webster are highly respected individuals in their  
8 fields.

9  
10 Mr. Carpenter stated that this is a rural residential area with large lots but there is a reason why Mr. Brian is  
11 before this Board tonight requesting approval of a special use. He said that the intensity of activity on Mr.  
12 Brian's property is extraordinary and it requires special approval. He said that from his standpoint, the  
13 realtors' standpoint and the appraiser's standpoint, Meadow Ridge Subdivision is a purely residential  
14 subdivision and allowing commercial activity inside that subdivision has a negative impact on the value of  
15 the properties within that subdivision. He noted that he and his wife oppose the requested special use.

16  
17 Mr. Passalacqua asked Mr. Carpenter to indicate how close his property is to the Dig-It Excavation property.  
18 He asked Mr. Carpenter if he could also see the Dig-It Excavation property.

19  
20 Mr. Carpenter stated that he could see the Dig-It Excavation property.

21  
22 Mr. Hall stated that Dig-It Excavation is basically across the road.

23  
24 Mr. Passalacqua asked Mr. Hall to indicate how long Dig-It Excavation has existed on that property.

25  
26 Mr. Hall stated that he does not know.

27  
28 Mr. Carpenter stated that he knows that the ZBA is not here to enforce the covenants of Meadow Ridge  
29 Subdivision, but the covenants set the Meadow Ridge Subdivision aside as its own comparison and  
30 delineates a 40 acre subdivision that is separate from the surrounding non-subdivision properties.

31  
32 Mr. Hall stated that he wants to make sure that Mr. Carpenter and Mr. Brian understands Special Condition  
33 H. which reads as follows: All Zoning Ordinance requirements for a Rural Home Occupation, except for the  
34 fuel tanks and ice melt and salt storage, apply to this Special Use Permit, except where other special  
35 conditions on the Special Use Permit are more restrictive. He said that if Mr. Brian contemplates having six  
36 employees on site at one time then that would be a violation of the Rural Home Occupation for the numbers  
37 of employees. Mr. Hall stated that this is the only limit that is easy for him to recall. He said that staff has  
38 prepared a table that attempts to compare the proposed special use to a Rural Home Occupation. Mr. Hall  
39 stated that any place where the special use exceeds a Rural Home Occupation is not permissible unless it is  
40 has been explicitly permitted, as in the case of the salt storage and the fuel tanks, and in every other way the  
41 use has been limited to what a home occupation permits. He said that someone can do a Rural Home

1 Occupation anywhere in the rural district except in lots that completely front a street wholly within a  
2 recorded subdivision or within 500 feet of a residential street. He said that people's expectations of what  
3 they are getting when they purchase 10 acres in the country may be different than what is actually allowed in  
4 the Ordinance. He said that he wants to make sure that everyone understands that what is being approved  
5 here is a Rural Home Occupation, except for salt and ice melt storage and the fuel tanks but in every other  
6 respect it is a Rural Home Occupation.  
7

8 Mr. Carpenter stated that he appreciates Mr. Hall's clarification. He asked Mr. Hall to indicate the  
9 constraints regarding the use of the proposed shed. He said that his family farms land which is located  
10 approximately one and one-half hours from here and he is familiar with typical farm uses. He asked if a  
11 large shed in AG-2 can store landscaping equipment therefore allowing expansion of the existing business  
12 activity at the other facility with the special use permit.  
13

14 Mr. Hall stated that it can be done under the Rural Home Occupation and presently the entire proposed shed  
15 is under this special use permit.  
16

17 Mr. Carpenter stated that both sheds will be limited to the approved use under the special use.  
18

19 Mr. Hall stated yes. He said that the Board could limit the special use if they desire.  
20

21 Mr. Carpenter stated that they would prefer that the special use be limited to the existing shed because it is  
22 difficult to enforce these things. He said that the negative impact on the value of their property is pretty clear  
23 right now and the primary concern is that potential for more traffic, employees, etc. would increase that  
24 negative impact.  
25

26 Mr. Passalacqua asked Mr. Carpenter if he does not believe that the new shed would actually make the  
27 current operation better because it would place more equipment inside rather than outside.  
28

29 Mr. Carpenter stated that he believes that it is a possibility, but the history of the business is that it has been  
30 in violation of the Ordinance since it started.  
31

32 Mr. Passalacqua stated that when it gets before the ZBA, the Board will place rules and parameters in place  
33 that will give Mr. Carpenter more rights and leeway because they are a complaint driven department. He  
34 said that the Board can make a clean set of rules; if Mr. Brian violates those rules and a complaint is  
35 received, staff can do something about it. He said that this case is far from over and he is not taking any  
36 sides, but one good thing that will come out of this process is that it gives the neighbors somewhere to stand  
37 if there are limitations in place.  
38

39 Mr. Carpenter stated that he does not expect the ZBA to enforce the covenants of the subdivision and they  
40 only bring up the issue of the covenants to delineate the residential nature of the subdivision.  
41

1 Mr. Passalacqua stated that he will not decide the case based on the subdivision's covenants but on the  
2 Ordinance.

3  
4 Mr. Carpenter stated that this process is what they are looking for from the Board. He said that they do not  
5 want any of the violations to have a negative impact on the value of their property and they do not want this  
6 to continue. He said that he understands that it is allowable for someone to build a shed in the AG-2 Zoning  
7 District for agricultural use, but his concern is if Mr. Brian's proposed shed is actually for agricultural use.  
8 He said that there is a special use permit and the proposed shed and within their context of realtor and  
9 appraiser opinion and personal experience, he wants to make sure that the special use permit is given due  
10 consideration. He said that they also want assurance that the activity allowable under the special use permit  
11 is clearly defined so as to avoid unintended expansion into this very large second shed.

12  
13 Ms. Capel asked Mr. Hall if this was merely a Rural Home Occupation, would the second shed require a  
14 special use.

15  
16 Mr. Hall stated that there are no limits on the number of accessory buildings that can be had in a Rural Home  
17 Occupation.

18  
19 Ms. Capel stated that the only reason why Mr. Brian is here is due to the salt storage and the fuel tanks. She  
20 said that in a Rural Home Occupation both of the buildings would be legitimate and would not require a  
21 special use permit.

22  
23 Mr. Hall stated that the Board would have to have some kind of evidence to limit only the accessory building  
24 as a special use permit when you could have an unlimited number of buildings by-right.

25  
26 Ms. Lee asked Mr. Carpenter why he did not have an appraisal completed when he purchased his property.  
27 She said that normally the lender will have an appraisal done during the mortgage process.

28  
29 Mr. Carpenter stated that there is no lender for their property as it was a cash purchase.

30  
31 Ms. Griest stated that the document that was submitted by email by Mr. John Albee indicated that he is a  
32 broker in McLean County. She asked Mr. Carpenter if Mr. Albee does business in Champaign County  
33 because she hasn't heard of Mr. Albee before and all of his credentials indicate that he specializes in McLean  
34 County.

35  
36 Mr. Carpenter stated that Mr. Albee does mainly focus on McLean County and his comments are general as  
37 to what he has seen professionally in terms of other situations in other counties.

38  
39 Ms. Griest stated that the Zoning Ordinance in Champaign County is substantially different than the  
40 Ordinance in McLean County and that could impact his valuation estimate.

41

1 Mr. Carpenter stated that he understands Ms. Griest's concern but Mr. Albee's valuation is more of a  
2 commercial opinion, so whether it is more the opinion of the potential neighbor's reaction to the neighboring  
3 activity. He said that it is not county zoning specific.  
4

5 Ms. Griest stated that if the evaluation is based on the zoning use then it will impact that evaluation. She  
6 said that Mr. Albee is indicating that the use that Mr. Brian is proposing, which is currently unauthorized,  
7 will impact the value. She said that the use didn't impact the value when Mr. Carpenter purchased his  
8 property, therefore Mr. Albee's comments do not hold as much weight with her as Mr. Carpenter may have  
9 hoped it would. Ms. Griest stated that Mr. Carpenter stated that he is concerned with the construction and  
10 use of the second shed. She said that she would favor a larger shed to ensure that there are no vehicles  
11 outside as opposed to a smaller shed, or limiting the use of the shed, so that items that are allowed by-right  
12 are stored outside. She said that she is a tidy person and she would prefer that everything is stored inside so  
13 that it has a lesser impact on the neighborhood. She said that, not that her opinion matters to Mr. Carpenter,  
14 she wanted to put another alternative in looking at the larger shed out there on the table because it may seem  
15 like a big shed but once Mr. Brian starts storing things in it the space will get used up quickly. She said she  
16 considers that having a larger size shed, similar to what Mr. Brian is proposing, would be a substantial  
17 change. She said that she has driven by the property for review and she still believes that more storage  
18 inside of a building is always better.  
19

20 Mr. Carpenter stated that Mr. Albee's comment regarding the large reduction of value is predicated on the  
21 expansion and intensity of the landscaping business attached to the second shed. He said that he is not anti-  
22 agriculture because he grew up on a farm and agriculture is still a big part of what he does for a living. He  
23 said that he has a landscaping business which is two hours north of here that a friend is still operating. He  
24 said that is pro in protecting the integrity of the subdivision and also making sure the history of violations do  
25 not bleed into the proposed shed and unintended expansion of activity.  
26

27 Ms. Griest assured Mr. Carpenter that the Board takes everything very seriously and they do their job quite  
28 thoroughly. She said the Board's objective at the end of the day is to find a winning solution for everyone  
29 involved and sometimes that means everyone gets what they want although sometimes people only get a  
30 little of what they want and most people don't get everything they wanted. She said that she does not see  
31 much of any of Mr. Brian's equipment being considered farm equipment nor does she see any farm  
32 operations going on at the property. She said that putting a green or red tractor in your barn does not qualify  
33 someone as a farmer or a farm operation, therefore this Board is not mystified by that.  
34

35 Ms. Capel asked Mr. Hall if staff has any information regarding Mr. Brian's number of employees.  
36

37 Mr. Hall stated that the limit on the number of employees for a Rural Home Occupation is five. He said that  
38 five employees means two working on site and an additional three employees reporting for work to be done  
39 offsite.  
40

41 Ms. Griest stated that the memorandum stated that Mr. Brian has indicated that no more than six employees

1 would be required. She said that six employees is a violation under the current requirements unless Mr.  
2 Brian received a variance for the number of employees.

3  
4 Mr. Hall stated that unless the Board approves six employees as part of the special use permit.

5  
6 Ms. Capel stated that she does not see anything that specified the number of employees in the special use  
7 permit.

8  
9 Mr. Hall stated that the way that it has been presented to the Board thus far is, if there isn't a special  
10 condition that allows a greater number of employees than the Rural Occupation allows then the number of  
11 employees that Mr. Brian can have are five. He said that he is not aware that there has been an actual request  
12 for six employees, but by all means everyone needs to be on the same page regarding the number of  
13 employees.

14  
15 Ms. Capel stated that page 2 of the May 19, 2016, Supplemental Memorandum indicates that Mr. Brian does  
16 not foresee ever having more than six employees.

17  
18 Mr. Hall stated that if that is still the case, then the Board will need to have a special condition that will  
19 allow for six employees, unless the Board is not willing to entertain allowing six employees.

20  
21 Ms. Griest stated that this allowance is open for discussion.

22  
23 Mr. Passalacqua asked if the current number of employees is four.

24  
25 Ms. Griest stated that there are five employees currently.

26  
27 Ms. Capel asked the audience if anyone desired to cross examine Mr. Carpenter and there was no one.

28  
29 Mr. Webber requested a five minute recess.

30  
31 Ms. Capel granted Mr. Webber's request.

32  
33 The Board recessed at 8:27 p.m.

34 The Board resumed at 8:35 p.m.

35  
36 Ms. Capel called Carl Webber to testify.

37  
38 Mr. Carl Webber, attorney representing Mr. and Mrs. Carpenter, stated that he and his clients have discussed  
39 some of the items that the Board has discussed tonight and everyone agrees that this is a difficult issue. He  
40 said that he understands the concept of the home occupation and the comparison table was very much  
41 appreciated. He said that fuel tanks and salt storage are not small items and they are not allowed in a home

1 occupation therefore we are in the middle of a special use permit. He said that when the fuel tanks, salt  
2 storage, trucks, and snow plows are put together the operation goes to a new level of intensity. He said that  
3 if there is intent to allow something it seems that there could be an ability to have some sort of limitation on  
4 the amount of square footage under roof, the number of trucks, allowance of no more than two employee  
5 vehicles on site. He said that the concept of a home occupation means 7:00 a.m. to 7:00 p.m. and the  
6 responses from Mr. Brian regarding the salt storage and plowing snow in the winter indicate that he does not  
7 know what the hours will be because he never knows when it is going to snow. Mr. Webber stated that he  
8 agrees with Mr. Brian regarding the knowledge of when it is or isn't going to snow except for the fact that  
9 the amount of noise that is generated from the business during snow events is not excusable. Mr. Webber  
10 stated that he and his clients are against the special use permit, but if there is going to be one approved that  
11 will allow this significant intensity, there should be some pretty strict regulations that go along with that  
12 approval. He said that the Board could limit the number of trucks, plows, piles of landscape material, piles  
13 of fertilizer, the amount of salt stored, outdoor storage, employees, etc. He said that Mr. Brian's operation  
14 will be a huge facility which started with approximately 5,000 square feet and was illegal and now he  
15 proposes a 9,000 square foot facility. He said that it appears that it would be very reasonable to suggest that  
16 a business such as this, when you combine the salt, fuel tanks, trucks and required operations during the  
17 middle of the night, does not fit at this location. He said that Mr. Brian could move his operation down the  
18 street a bit and Mr. Brian could take an entire five acres to use for his business and not disrupt anyone in the  
19 neighborhood, but there is no alternative at this location but to disrupt the entire area. Mr. Webber stated  
20 that if this use is to allowed, then there should be limits on the number of employees, the number of  
21 employee vehicles, non-resident parking overnight, outside storage of dumpsters, trailers, commercial  
22 operations limited to 7:00 a.m. to 7:00 p.m. unless snow removal is required during the night, the number of  
23 trucks, and a limit on the number of piles of fertilizer, mulch and gravel.

24

25 Mr. Hall noted that the submitted site plan does not indicate any outdoor storage.

26

27 Mr. Webber asked if the two deliveries of mulch that was previously discussed would not be allowed.

28

29 Mr. Hall stated that Mr. Brian discussed the mulch delivery during his testimony and he indicated how he  
30 handles mulch for the operation.

31

32 Ms. Chavarria stated that there seems to be two different phrases being discussed tonight. She said that Mr.  
33 Brian has mentioned several times that he is operating a lawn care and snow removal business but Mr.  
34 Webber continues to refer to a landscaping business. She said that there are huge differences between the  
35 two businesses and Mr. Brian has not mentioned the need for using fertilizer or piles of rock because it is a  
36 lawn care business.

37

38 Mr. Webber stated that it would be wonderful if this issue could be clarified to indicate that no fertilizer or  
39 stones will be required or stored on the subject property and that the operation is strictly a lawn care and  
40 snow removal business. He said that if the lawn care operation expands to landscaping, then it could turn  
41 into a very big business.

1  
2 Ms. Lee stated that item 8.J.(1) on page 13 of the February 25, 2016, Summary of Evidence which is  
3 attached to the February 17, 2016, Preliminary Memorandum, states the following: In an email received  
4 February 11, 2016, Mr. Brian noted that there is a 500 gallon dual wall tank that holds diesel fuel and  
5 gasoline used for the farm equipment. She asked Mr. Hall if the fuel tanks are allowed by-right.  
6  
7 Mr. Hall stated that the tanks are allowed by-right if Mr. Brian is a farmer and the tanks have been approved  
8 by the State Fire Marshal.  
9  
10 Mr. Webber stated that this is a perfect example why this type of a request just sets itself up for problems  
11 down the road. He said that if the fuel tanks are approved or allowed by the State Fire Marshal, it does not  
12 mean that they are allowed under the Champaign County Zoning Ordinance. He said that all that the State  
13 Fire Marshal's approval means is that the fuel tanks are not a fire hazard. He asked if Mr. Brian has one  
14 piece of farm machinery stored in the big shed, does that mean that he can have a fuel tank for the use of his  
15 trucks involved in his operation. He asked if he was going to have to submit photographs of what Mr. Brian  
16 is fueling and then file a complaint with the zoning office every time Mr. Brian uses the tank for his snow  
17 plows. He said that this operation is a square hole with a round peg that is just setting everyone up for  
18 problems.  
19  
20 Ms. Lee stated that if fuel tanks have farm diesel in them it cannot be used for other vehicles due to the dye.  
21 She said that use of farm fuel in vehicles is illegal.  
22  
23 Mr. Webber asked Ms. Lee how this could be prevented or enforced.  
24  
25 Mr. Passalacqua stated that the Board has not received any information regarding the type of diesel stored in  
26 the fuel tanks.  
27  
28 Ms. Lee stated that perhaps the Board should ask Mr. Brian what type of diesel is being stored in the tank.  
29  
30 Mr. Webber stated that the County does not have fuel police to determine what type of diesel fuel that Mr.  
31 Brian is using.  
32  
33 Ms. Griest stated that if one of the operators of the truck is stopped by a policeman, the type of fuel will be  
34 checked.  
35  
36 Mr. Webber stated that then the designation of the trucks being used for farm equipment should be required.  
37  
38 Ms. Griest stated that the fuel tanks are included in the special use permit and are not being requested as a  
39 farm exemption, therefore the idea of Mr. Brian obtaining a farm exemption for the fuel tanks is completely  
40 off the table. She said that it is up to the Board to determine whether or not the fuel tanks will be approved  
41 in the special use permit, but evidence has been received indicating that the State Fire Marshal inspected and

1 approved the fuel tanks.

2

3 Mr. Webber stated that it was discussed that the fuel tanks were used for the farm operation; therefore they  
4 would not need to be part of the special use permit approval. He said that he and his clients suggest that the  
5 concept presents a significant intensity compared to a typical home occupation; they therefore they request  
6 that the special use permit be made specific so that his clients and Mr. Brian know whether the operation is  
7 being operated correctly and no one needs to contact staff. He said that the special use should be very  
8 specific and if the home occupation is one of the reasons why we are here, then they do not believe that  
9 anything other than what is allowed in the home occupation requirements should be allowed, such as no  
10 more than two employees on site and three off-site employees.

11

12 Mr. Hall stated that two on-site full-time employees are allowed as well as three employees who report to the  
13 site for work off-site are allowed, thus there could be five employees at the site at one time. He said that an  
14 interpretation like this is difficult to keep track of as we go through all of the parameters during the public  
15 hearing. He said that at this point the petitioner has proposed up to six employees, which is one more than  
16 what is allowed under a home occupation, so the Board will need to pass judgement on that at some point  
17 and document that with a special condition.

18

19 Mr. Passalacqua stated that Mr. Brian's attorney testified that Mr. Brian had no intention in growing the  
20 business due to the new shed and construction of the shed would only make the business more efficient. He  
21 said that the Board needs a clear definition of the number of employees for the operation and he is leaning  
22 towards the Rural Home Occupation business as a compromise for both parties.

23

24 Mr. Hall stated that if the Board decides to stay with that, the Board should still document it.

25

26 Mr. Passalacqua asked Mr. Webber if the proposed screening satisfies his client's initial concerns. He said  
27 that the Board has received testimony regarding proposed tree plantings of Norway Spruce and arborvitae in  
28 the fall. Mr. Passalacqua stated that it is his view that more screening is better.

29

30 Mr. Randol asked Mr. Hall if the number of employees includes Mr. Brian and any family members.

31

32 Mr. Hall stated that the number of employees is for non-resident employees.

33

34 Ms. Griest asked if the employee was a relative that did not live on site then they are counted as an  
35 employee.

36

37 Mr. Hall stated that if the relative does not live on site, then they are counted as an employee.

38

39 Ms. Capel asked the audience if anyone desired to sign the witness register to submit testimony regarding  
40 this case.

41

1 Ms. Capel called Crystal Bailey to testify.

2  
3 Ms. Crystal Bailey, who resides at 710 CR 2175N, Champaign, stated that her family is in support of the  
4 information that was presented in the May 19, 2016, Supplemental Memorandum with the exception of the  
5 screening but that concern has been remedied by the proposed rows of screening that was discussed tonight.  
6 Ms. Bailey stated that she and her husband are more comfortable with the screening in that it will  
7 camouflage the lawn care and snow removal operation, thus making the area more residential.

8  
9 Ms. Capel asked the Board and staff if there were any questions for Ms. Bailey and there were none.

10  
11 Ms. Capel asked the audience if anyone desired to cross examine Ms. Bailey and there was no one.

12  
13 Ms. Capel asked the audience if anyone desired to sign the witness register to submit testimony regarding  
14 this case and there was no one.

15  
16 Ms. Griest stated that it was her understanding that Mr. Deering had a comment disputing testimony and the  
17 Board requested that Mr. Deering provide his comment later in the hearing.

18  
19 Ms. Capel called Matt Deering to testify.

20  
21 Mr. Deering declined to testify.

22  
23 Mr. Passalacqua requested Nick Brian to return to the witness microphone for questions from the Board.

24  
25 Mr. Nick Brian, who resides at 707 CR 2200N, Champaign, returned to the microphone to address questions  
26 from the Board.

27  
28 Mr. Passalacqua asked Mr. Brian if it is his plan to keep everything stored inside the proposed shed.

29  
30 Mr. Brian stated that there are two trailers, snow plows and the field cultivator which sit outside currently  
31 because the existing shed is full. He said that when the new shed is built, the trailers, snow plows and the  
32 field cultivator will be moved in the shed for storage.

33  
34 Mr. Passalacqua asked Mr. Brian if he would be willing to expand the screening beyond the two rows of  
35 Norway Spruce trees and plant something like arborvitae as well.

36  
37 Mr. Brian stated that the only gap that the Carpenter family will be able to see is between the two sheds. He  
38 said that he is not a big fan of arborvitae but he would be willing to plant more than two rows of trees  
39 between the two sheds, although he is limited on space because over time the trees will get bigger and if he  
40 plants them too close now, they will not survive later. He said that he is willing to do whatever the Board  
41 requires him to do between the two sheds.

1

2 Mr. Passalacqua stated that knowing that this case is not going to be finished at this public hearing, he would  
3 suggest that Mr. Brian update his site plan regarding placement of the trees for screening and indicate the  
4 type of trees that will be planted. Mr. Passalacqua said that generally we all have a pretty good idea of when  
5 a snow storm is coming, therefore if it is evident that the storm will arrive during the night, it would be a  
6 good idea to have the employees load the trucks with salt and fuel so that they are ready to move out when  
7 the time arrives. He asked Mr. Brian how much activity, loading and reloading, actually goes on during a  
8 storm event.

9

10 Mr. Brian stated that they do pre-load the trucks, but during an 8 to 10 hour storm they are required to reload  
11 once during the night and it was only three times last winter that the area received that type of storm.

12

13 Ms. Chavarria stated that the second bulleted item on page 2 of the Supplemental Memorandum dated May  
14 19, 2016, indicates the following: Regarding annual estimates for salt delivery and loading for winter  
15 weather events: "2 or 3 semi loads of salt per year delivered to the salt/mulch bin; and night time loading for  
16 winter weather events has been about 4-5 times in the past few years, but it always depends on the number  
17 and severity of weather events."

18

19 Mr. Brian stated that the reloading process only consists of two or three skid steer buckets to load the truck  
20 and it is back on the road.

21

22 Mr. Passalacqua stated that he believes that the screening and the new building will limit some of the noise  
23 as well.

24

25 Mr. Brian stated that the new building will block the neighbor's view.

26

27 Mr. Passalacqua stated that he is satisfied that the aggressive planting of the screening will be very helpful.

28

29 Ms. Griest asked Mr. Brian if the employee's vehicles will be parked inside of the new building.

30

31 Mr. Brian stated that there will be room in the new shed for the employee's to park inside of the new  
32 building.

33

34 Ms. Griest stated that if the Board approves a special condition indicating that the employee's vehicles will  
35 be parked inside then that is exactly what has to happen.

36

37 Mr. Brian stated that he would prefer not to have that as a special condition but if that is what the Board  
38 requires then that is what he will do.

39

40 Ms. Griest stated that the Board would prefer that the employee's vehicles are parked inside and if a special  
41 condition is approved then the vehicles will have to park inside.

- 1  
2 Mr. Brian asked Ms. Griest if the Board could indicate that no more than two of the employee's vehicles  
3 must be parked inside the shed.  
4  
5 Ms. Griest stated that the Board could consider it.  
6  
7 Mr. Passalacqua stated that the screening will take care of that concern.  
8  
9 Ms. Griest stated that the screening will help immensely. She said that, for her, during the day it is not a big  
10 deal but at night the issue is more about the headlights shining on the adjacent properties. She said that once  
11 the screening is planted and the building is in place, the light issue will probably be remedied but the noise  
12 impact may still be an issue.  
13  
14 Mr. Brian stated that there are multiple trucking companies in the general area that begin work at 4:00 a.m.  
15 so there is a lot noise.  
16  
17 Ms. Griest stated that she only saw one trucking company in the area when she drove by Mr. Brian's  
18 property. She said that Mr. Brian has a nice looking property and she was very impressed by it.  
19  
20 Mr. Brian stated that once the new shed is built, it will block the vision and noise issue along with the  
21 screening.  
22  
23 Ms. Lee asked Mr. Brian to indicate the height of the new building.  
24  
25 Mr. Brian stated that the new building will have 18 foot walls.  
26  
27 Ms. Lee asked Mr. Brian if the screening will be on the east side of the building. She asked Mr. Brian if the  
28 graveled area is where he intends to have employees park, if they are allowed to have their vehicles parked  
29 outside.  
30  
31 Mr. Brian stated that the graveled area is just for the trucks and trailers to turn around. He said that  
32 originally he had put the shed back towards the south but he moved it further north and faced it to the west  
33 so that the door faces away from the Carpenter's property. He said that he doesn't want to crowd himself so  
34 much that he can't even turn around a trailer. He said that with the way that he turned the shed to  
35 accommodate the Carpenters is really going to limit him in backing trailers and stuff in the shed.  
36  
37 Mr. Hall asked Mr. Brian, if he proposes to have his employees park on the west side of the proposed shed.  
38  
39 Mr. Brian stated that it would be best if employees park north of the proposed shed.  
40  
41 Ms. Griest stated that the revised site plan should indicate where the employee parking area will be located.

1 She asked Mr. Hall if the employee parking area is required to have ADA compliance.  
2  
3 Mr. Brian stated that he called the Capital Development Board and was told that since it is a storage facility  
4 and not a retail business he does not have to install ADA requirements. He said that this information, which  
5 was confirmed by staff, was included in the May 26, 2016, Supplemental Memorandum as Attachment D,  
6 page 1 of 1.  
7  
8 Mr. Hall asked the Board if they are comfortable with the employees parking outside on the north side of the  
9 building.  
10  
11 Mr. Passalacqua stated that as long as the employee vehicles fall behind the screening, he is happy with it.  
12  
13 Ms. Capel stated that she does not think it is fair that Mr. Brian has to take up space in the new building for  
14 employee's vehicles.  
15  
16 Ms. Lee and Ms. Griest agreed with Ms. Capel.  
17  
18 Ms. Griest stated that she does believe that the trailers would be better off being stored inside the building.  
19  
20 Mr. Brian agreed, because he does not want his trailers to be stored outside either.  
21  
22 Mr. Hall asked the Board to indicate their comfort with the proposed number of employees.  
23  
24 Ms. Griest stated that Mr. Brian has indicated that he is not expanding the operation therefore she does not  
25 lean to six employees.  
26  
27 Mr. Passalacqua noted that the five employees will not count Mr. Brian.  
28  
29 Mr. Brian stated that the only reason why he indicated five to six employees is because the Board told him to  
30 think ahead so that he wouldn't have to come back before the Board in the future.  
31  
32 Ms. Griest stated that the biggest thorn in her side about the entire operation is that the onsite salt and mulch  
33 storage that is delivered by semi-truck is the largest impact in the area and she would like to see some  
34 limitations so that deliveries do not expand to other items.  
35  
36 Mr. Hall stated that if the site plan shows no outdoor storage, then there shall never be any outdoor storage  
37 allowed.  
38  
39 Ms. Griest stated that the Mr. Brian will have to schedule his deliveries so that his salt is gone when the  
40 mulch is delivered. She said that she does not expect the deliveries to expand to other items.  
41

- 1 Mr. Passalacqua asked Mr. Brian if he has to take the salt deliveries for purchase price or can he schedule his  
2 deliveries. He asked Mr. Brian if he contracts for 60 tons of salt, does he have to take the entire 60 tons in  
3 one delivery.  
4
- 5 Mr. Brian stated that he purchases 20 tons of salt at a time.  
6
- 7 Mr. Hall stated that Rural Home Occupations do not limit the hours of operation but the Neighborhood  
8 Home Occupation does limit the hours of operation. He said that in regards to the hours of operation the  
9 only limits included in the special conditions have to do with limits on loading and unloading. He asked the  
10 Board if they want a limit on general business operations.  
11
- 12 Mr. Passalacqua stated that this is an issue that Mr. Brian should discuss with his neighbors so that there is  
13 some sort of compromise on both sides.  
14
- 15 Mr. Hall stated that someone recently mentioned 7:00 a.m. to 7:00 p.m.  
16
- 17 Mr. Brian stated that their normal hours of operation are 7:00 a.m. to 5:00 p.m. He said that there are rainy  
18 days, therefore jobs get backed up. He said that there is no set schedule to work late and it is not his goal,  
19 but he cannot honestly tell the Board that there will not be a day when their work day will go past 7:00 p.m.  
20
- 21 Ms. Griest asked Mr. Brian if they work after dark.  
22
- 23 Mr. Brian stated no. He said that usually their work hours are 7:00 a.m. to 5:00 p.m. He said that some days  
24 after 7:00 p.m. he may be washing lawnmowers because they came back muddy.  
25
- 26 Ms. Lee stated that Special Condition G. on page 36 of 39 indicates the following: With the exception of  
27 vehicles being used for late night snow removal and deicing events, all vehicles, trailers, and equipment used  
28 in the Special Use Permit must be parked indoors when onsite between the hours of 10:00 p.m. and 7:00  
29 a.m. She said that after 10:00 p.m. is when Mr. Brian will be violating the Nuisance Ordinance.  
30
- 31 Mr. Hall stated that the special condition was focused on vehicles. He asked the Board if the special  
32 condition serves to control all other business activities as well.  
33
- 34 Ms. Griest stated that his brings the Board back to employee parking. She said that the special condition  
35 indicates all vehicles.  
36
- 37 Mr. Hall stated that the special condition is discussing only vehicles involved in the special use and he does  
38 not consider employee vehicles to be part of the special use.  
39
- 40 Ms. Griest stated that previously she thought that Mr. Hall indicated that the employee's vehicles might be  
41 included. She said that she may have interpreted Mr. Hall's statement incorrectly.

1  
2 Ms. Capel asked the Board if they are comfortable with not indicating the hours of operation as a special  
3 condition.  
4  
5 Mr. Randol stated that he is pretty sure that Mr. Brian does not mow at night. He said that winter is a  
6 different story when a storm event occurs in regards to hours of operation required at night.  
7  
8 Ms. Passalacqua stated that generally Mr. Brian will know when a winter storm is coming and those events  
9 are limited. He asked Mr. Brian if the vehicles are always fueled at the subject property.  
10  
11 Mr. Brian stated yes. He said that the only time that the trucks come back to the property is if they need salt.  
12 He said that the trucks are pre-loaded before they go out. He said that on occasion the area will receive two  
13 or three 24 hour winter storm events.  
14  
15 Mr. Passalacqua asked Mr. Brian if he is clear as to what the Board is requiring.  
16  
17 Mr. Brian stated yes. He said that he needs to revise the site plan to indicate the parking area for the  
18 employees, the type of trees that are going to be used for the screening, and indicate the placement of the  
19 rows of trees on the site plan.  
20  
21 Mr. Passalacqua stated that it would be awesome if Mr. Brian could draw every blade of grass on the site  
22 plan.  
23  
24 Mr. Brian stated that he thought that he had everything indicated on the site plan but those were two items  
25 that he missed.  
26  
27 Mr. Passalacqua stated that anything that Mr. Brian can think of should be on the site plan.  
28  
29 Ms. Capel stated that Mr. Brian needs to indicate the staggered rows of Norway Spruce trees.  
30  
31 Ms. Capel asked the audience if anyone desired to cross examine Mr. Brian.  
32  
33 Mr. Jeff Carpenter stated that from his family's standpoint they would like Mr. Brian's property as visibly  
34 non-commercial as possible so he really appreciates Mr. Brian's efforts. He asked Mr. Brian how many  
35 trucks are being run from the subject property to the job sites.  
36  
37 Mr. Brian stated two, maybe three trucks. He said generally two trucks but there may be a third truck every  
38 now and then.  
39  
40 Mr. Carpenter asked Mr. Brian if he has two or three trucks on the property.  
41

1 Mr. Brian stated that he has three trucks on the property.  
2  
3 Mr. Carpenter asked Mr. Brian if all three of the trucks plow snow in the winter.  
4  
5 Mr. Brian stated that he runs the third truck when required.  
6  
7 Mr. Carpenter asked Mr. Brian if he would be willing to limit the number of trucks to three.  
8  
9 Mr. Brian stated that only two trucks come back at night during snow events. He said that he is the third  
10 truck with the salt spreader so since he doesn't do as much as the other two trucks he does not generally  
11 come back to the property during the night.  
12  
13 Mr. Carpenter asked Mr. Brian if he would be willing to limit the operation to three trucks.  
14  
15 Mr. Passalacqua stated that two people live at his house but he has five vehicles which are stored inside, so  
16 only two vehicles are driven at one time because there are only two drivers. He said that if the truck is inside  
17 the shed, and the number of employees is limited, he is not comfortable in telling Mr. Brian how many  
18 trucks he can purchase. He said that he understands Mr. Carpenter's concern, but many homes have more  
19 vehicles than they do licensed drivers.  
20  
21 Mr. Randol stated that if one of the trucks breaks down it would be good if Mr. Brian had another truck to  
22 use.  
23  
24 Mr. Carpenter stated that he understands Mr. Randol's comment and he has been around this type of  
25 situation but he is still asking the question.  
26  
27 Mr. Brian stated that he would rather not limit the operation to three trucks.  
28  
29 Mr. Passalacqua stated that he is satisfied with the number of trucks that Mr. Brian has or may have as long  
30 as they are stored inside.  
31  
32 Mr. Carpenter stated that Mr. Brian has a limit to a certain number of employees and without any limits on  
33 the hours of operation but if there are more trucks and more growth means more loading times and means  
34 more loading times and more overnight disruption.  
35  
36 Mr. Hall stated that the limit for the number of vehicles in a Rural Home Occupation is ten.  
37  
38 Ms. Griest stated that Mr. Carpenter may have the understanding that there are three trucks now therefore  
39 Mr. Brian is limited to those three trucks. She said that Mr. Brian is not limited to three trucks because he  
40 could have 10 trucks under the authorization but he will only have a maximum of five drivers. She said that  
41 economics will limit the quantity.

1  
2 Mr. Webber asked if it is true that Mr. Brian can have five employees that can start from the site, and then  
3 Mr. Brian could pick up other employees off site, then Mr. Brian could have 15 drivers as long as only five  
4 of those employees are at the site at any given time.  
5  
6 Mr. Hall stated that five employees can only be at the site at one time, three of which work off-site. He said  
7 that this doesn't mean that Mr. Brian can only have five employees and this is a gray area. He said that Mr.  
8 Brian can have employees who report off site but there can never be more than three of those employees on  
9 site at any one time.  
10  
11 Mr. Webber stated that Mr. Brian could literally have 20 employees that come to the site at different times in  
12 shifts.  
13  
14 Mr. Hall noted that the Zoning Ordinance does have a gray area regarding this issue.  
15  
16 Mr. Webber stated that we have gone from two trucks and sometimes three to what amounts to at least 10  
17 trucks with 10 drivers. He said that instead of only having five employees, we can only have five employees  
18 at the site at one time. He said that this is turning out to be an entirely different ballgame than he had  
19 expected.  
20  
21 Mr. Randol stated that Mr. Webber brought this issue up, not the Board and not Mr. Brian.  
22  
23 Mr. Webber stated that the problem is that we need to know what is and is not possible, because if Mr. Brian  
24 is hesitant to limit the number of trucks, how will that affect the Carpenters? He said that he and his clients  
25 are thinking that there will be a limited number of people and a limited number of trucks but that does not  
26 seem to be the case unless it is restricted.  
27  
28 Mr. Passalacqua stated that he does not intend to go down that road and that issue may be a matter for a  
29 judge.  
30  
31 Ms. Capel informed Mr. Webber that his point has been taken by the Board.  
32  
33 Mr. Passalacqua asked Mr. Brian how many employees he is comfortable with having for the business.  
34  
35 Mr. Brian stated that he is comfortable with five employees.  
36  
37 Mr. Passalacqua stated that the limit of vehicles for a Rural Home Occupation is ten and that includes all  
38 vehicles.  
39  
40 Mr. Brian asked if that number includes his personal vehicles.  
41

1 Mr. Passalacqua stated no.  
2  
3 Ms. Capel informed Mr. Brian that when the special condition is written it will indicate five employees total.  
4  
5 Ms. Lee stated that this is not what Mr. Hall indicated.  
6  
7 Ms. Capel agreed.  
8  
9 Mr. Deering asked why it would matter how many employees Mr. Brian has off site if the goal is to limit the  
10 activity on site.  
11  
12 Ms. Griest stated that it matters for the intensity and the volume of traffic that comes on and off site related  
13 to the equipment to serve those employees. She said that the employees cannot mow unless they have a  
14 mower and they cannot plow snow unless they have a truck with a plow.  
15  
16 Mr. Deering stated that he understands but is that answered by the maximum amount of vehicles that are  
17 allowed. He said that theoretically Mr. Brian could have 50 employees but if he could only have ten vehicles  
18 how would this ever happen.  
19  
20 Ms. Capel stated that the intensity of ten trucks is a lot different than the intent but the potential for that  
21 difference is what is being debated.  
22  
23 Mr. Passalacqua stated that Mr. Brian may have vehicles that leave the shed once a week if that.  
24  
25 Mr. Capel asked if trailers are vehicles.  
26  
27 Ms. Griest stated no. She said that this does bring up the question based upon the table that staff provided  
28 because on the equipment line where the ten vehicles come into play discussion has occurred about tractors,  
29 skid steers and three to four mowers. She asked Mr. Hall if mowers, tractors and skid steers are counted as  
30 vehicles.  
31  
32 Mr. Hall stated no.  
33  
34 Ms. Capel asked the Board if there were any additional questions for Mr. Brian and there were none.  
35  
36 Ms. Capel asked Mr. Brian if he clearly understands what the Board requires on the site plan.  
37  
38 Mr. Brian stated yes.  
39  
40 Ms. Griest stated that Mr. Brian should check the number of vehicles that he has to make sure that he is not  
41 over ten.

- 1  
2 Mr. Brian stated that he does not need to count the number of vehicles because he is not over ten.  
3  
4 Ms. Lee asked if the restriction of five employees means five employees on any given day. She said that  
5 perhaps Mr. Brian has seven employees total but two of those employees don't report to work every day.  
6 She said that Mr. Brian may employ the two extra people to work on a different day but he will never have  
7 more than five employees at any given time.  
8  
9 Mr. Deering stated that this is their understanding as well.  
10  
11 Ms. Griest requested that Mr. Hall review the revised special conditions.  
12  
13 Mr. Hall stated that the Board eliminated Special Condition J. regarding the door on the salt storage shed.  
14 He said that the Board revised text in red for Special Condition K. as follows: As per standard Department  
15 practice, a vegetative screen must consist of a Norway Spruce vegetative screen that must be four to six feet  
16 in height at the time planting with staggered rows and must be planted in the fall of 2016.  
17  
18 Mr. Hall stated that Mr. Brian recently agreed to also planting a row of arborvitae between the two sheds.  
19  
20 Ms. Griest stated that Mr. Brian indicated that adding arborvitae was discussed but Mr. Brian preferred to  
21 add another row of the same species in lieu of arborvitae.  
22  
23 Mr. Passalacqua stated that Mr. Brian stated that he was not a fan of arborvitae.  
24  
25 Mr. Deering agreed.  
26  
27 Mr. Hall stated that there will be three rows of Norway spruce between the two sheds.  
28  
29 Mr. Deering stated that Mr. Hall was correct.  
30  
31 Mr. Brian asked the Board if they are requiring a specific distance between the trees.  
32  
33 Mr. Passalacqua stated that it depends on the species of the tree because each one has a certain spread. He  
34 said that Mr. Brian should probably get an arborist's recommendation regarding that question.  
35  
36 Mr. Randol stated that three rows of Norway Spruce trees will be pretty blocking.  
37  
38 Mr. Brian stated that the trees are going to get large, therefore he wanted to know if the distance between the  
39 trees at planting was a gray area.  
40  
41 Mr. Hall stated that 50% of the screen should be evident in two years. He said that Norway Spruce trees

1 grow pretty slow.  
2  
3 Ms. Griest asked Mr. Hall if the 50% is in regards to height, width or both.  
4  
5 Mr. Hall stated that in this instance it is really only the width.  
6  
7 Mr. Brian stated that if he plants two staggered rows of trees six feet apart it would meet the width  
8 requirement. He said that he doesn't want to plant the trees ten feet apart and told that they are not close  
9 enough in two years.  
10  
11 Mr. Passalacqua stated that Mr. Brian should look at the spread of that particular species because they could  
12 be too close. He said that two staggered rows will fill the gap. He said that the Board had information on  
13 this type of trees during a different case so this information would be easy for staff to find.  
14  
15 Mr. Hall stated that staff and Mr. Brian should coordinate on this issue so that it is nailed down prior to the  
16 next meeting. He said that it would be good for the Board to know what a professional arborist would  
17 recommend.  
18  
19 Mr. Brian stated that he will email Ms. Chavarria when he has the information.  
20 Mr. Hall stated that the only other change that he had regarding the special conditions was to add, "including  
21 the number of employees," in Special Condition H. so that it is very specific that, under the Rural Home  
22 Occupation, Mr. Brian is limited to the number of employees.  
23  
24 Ms. Capel requested a continuance date for Case 822-S-16.  
25  
26 Mr. Hall stated that the Board could continue Case 822-S-16 to the July 28<sup>th</sup> meeting because there are too  
27 many cases for the June 16<sup>th</sup> meeting and the June 30<sup>th</sup> meeting will have no time for this case to be heard.  
28  
29 Ms. Griest stated that it is possible that the petitioner for the June 30<sup>th</sup> meeting will not show up.  
30  
31 Ms. Chavarria stated that the petitioner for the June 30<sup>th</sup> meeting has submitted information this week  
32 therefore staff expects the case to be heard at that meeting.  
33  
34 Mr. Hall stated that if the Board thinks that there is time to hear this case on June 30<sup>th</sup> then it could be placed  
35 on the docket for that meeting. He said that the July 14<sup>th</sup> meeting is tied up with the rail trail cases therefore  
36 he would still recommend the July 28<sup>th</sup> meeting for a continuance date for Case 822-S-16.  
37  
38 Ms. Lee asked if the case could be continued to the June 16<sup>th</sup> meeting.  
39  
40 Mr. Passalacqua stated that the July 28<sup>th</sup> meeting would give the petitioner time to discuss his business  
41 operations with his neighbors in more detail so that when they return to the Board all of those matters are

1 clear to everyone.

2  
3 Mr. Hall stated that staff would not have time to prepare for this case for the June 16<sup>th</sup> meeting.

4  
5 Ms. Capel entertained a motion to continue Case 822-S-16 to the July 28<sup>th</sup> meeting.

6  
7 **Ms. Griest moved, seconded by Mr. Passalacqua to continue Case 822-S-16 to the July 28, 2016,**  
8 **meeting. The motion carried by voice vote.**

9  
10 Ms. Capel asked Mr. Brian if he available on July 28<sup>th</sup>.

11  
12 Mr. Brian stated yes.

13  
14 Ms. Capel stated that the Board will now return to Case 685-AT-11.

15  
16 **6. New Public Hearings**

17  
18 None

19  
20  
21 **7. Staff Report**

22  
23 None

24  
25 **8. Other Business**

26  
27 A. Review of Docket

28  
29 Mr. Hall stated that staff is currently docketing cases for the October 27<sup>th</sup> meeting. He said that given the  
30 limitations of the budget this year and the number of ZBA meetings that were cancelled, if two more cases  
31 are submitted the October 27<sup>th</sup> meeting will be full and the next available meeting will be December 8<sup>th</sup>. He  
32 said that the Board needs to consider whether they should re-instate some of the cancelled meeting dates.  
33 He said that the staff has taken in enough cases this year that he believes that the ZBA could justify re-  
34 instating at least one of those meetings to the County Board.

35  
36 Ms. Lee asked Mr. Hall if he would prefer the additional meeting in September or October.

37  
38 Mr. Hall stated that he would imagine that it will be in October. He said that if staff has the same number of  
39 cases come in during the last half of this year, like we had last year, we will have more than 40 cases in  
40 2016.

41

1 Ms. Griest asked Mr. Hall if two meetings should be re-instated because they were already included in the  
2 budget and were removed from the ZBA calendar.

3  
4 Mr. Hall stated that Ms. Griest is correct and staff will consider re-instating two meetings.

5  
6 **9. Audience Participation with respect to matters other than cases pending before the Board**

7  
8 None

9  
10 **10. Adjournment**

11  
12 Ms. Capel entertained a motion to adjourn the meeting.

13  
14 **Ms. Lee moved, seconded by Ms. Griest to adjourn the meeting. The motion carried by voice vote.**

15  
16  
17 The meeting adjourned at 9:43 p.m.

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20  
21 Respectfully submitted

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28 Secretary of Zoning Board of Appeals

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