

MINUTES OF REGULAR MEETING

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CHAMPAIGN COUNTY ZONING BOARD OF APPEALS  
1776 E. Washington Street  
Urbana, IL 61801

DATE: September 15, 2016 PLACE: John Dimit Meeting Room  
1776 East Washington Street  
TIME: 7:00 p.m. Urbana, IL 61802

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MEMBERS PRESENT: Catherine Capel, Frank DiNovo, Debra Griest, Jim Randol, Eric Thorsland,  
Marilyn Lee, Brad Passalacqua

MEMBERS ABSENT : None

STAFF PRESENT : Connie Berry, Susan Chavarria, John Hall

OTHERS PRESENT : Katie Hatfield, Roy Hatfield, Lawrence Griest, Maryann Childers, Cody  
Cundiff, Bill Morfey, Brian Taylor, Jon Hasselbring, Matt Deering, Darrel  
Siuts, Steven T. Appl, Raymond Griest, Robert Lakey

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1. Call to Order

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

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

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

3. Correspondence

None

4. Approval of Minutes

None

1 Mr. Thorsland entertained a motion to rearrange the agenda and hear Cases 845-AM-16 and 846-S-16 and  
2 Case 848-V-16 prior to Cases 828-S-16 and 834-V-16.

3  
4 **Mr. Passalacqua moved, seconded by Ms. Griest, to rearrange the agenda and hear Cases 845-AM-16**  
5 **and 846-S-16 and Case 848-V-16 prior to Cases 828-S-16 and 834-V-16. The motion carried by voice**  
6 **vote.**

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8 **5. Continued Public Hearing**

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10 **Case 828-S-16 and Case 834-V-16 Petitioner: Jonathan Hasselbring, Planning Director for the**  
11 **Champaign County Forest Preserve Request: Authorize as a Special Use as a “public park or**  
12 **recreational facility” those portions of the Kickapoo Rail Trail that are proposed in the**  
13 **unincorporated area only, and that shall connect to those portions of the Kickapoo Trail that are**  
14 **proposed to be located inside the Village of St. Joseph and the City of Urbana, in the AG-1 and AG-2**  
15 **Agriculture Zoning Districts and subject to the variance summarized below but fully described in the**  
16 **legal advertisement, on property that is commonly known as the inactive CSX railroad line located on**  
17 **the south side of U.S. Route 150 and that is described more fully in the legal advertisement but is**  
18 **summarized here as follows: Part A. Subject Property: A 13.2 acre tract in the AG-1 District in**  
19 **Sections 10 and 15 of St. Joseph Township and subject to a variance from parking requirements; and**  
20 **Part B Subject Property: An 11.6 acre tract in the AG-1 District in Sections 9 and 16 of St. Joseph**  
21 **Township and subject to a variance for setback of 61 feet in lieu of the minimum required 85 feet; a**  
22 **rear yard of 20 feet in lieu of the minimum required 25 feet, and from parking requirements; and Part**  
23 **C Subject Property: A 9.2 acre tract in the AG-1 District in Section 8 and 17 of St. Joseph Township**  
24 **and subject to a variance for setback of 53 feet in lieu of the minimum required 85 feet; a front yard of**  
25 **27 feet in lieu of the minimum required 35 feet, and from parking requirements; and Part D Subject**  
26 **Property: A 12.4 acre tract in the AG-1 District in Section 7 and 18 of St. Joseph Township and**  
27 **subject to a variance for setback of 58 feet in lieu of the minimum required 85 feet; and from parking**  
28 **requirements; and Part E Subject Property: A 12.1 acre tract in the AG-2 District in Sections 12 and**  
29 **13 of Urbana Township and subject to a variance for setback of 65 feet in lieu of the minimum**  
30 **required 85 feet; and from parking requirements; and Part F Subject Property: A 12.1 acre tract in**  
31 **the AG-2 District in Sections 11 and 14 of Urbana Township and subject to a variance for setback of**  
32 **65 feet in lieu of the minimum required 85 feet; a front yard of 22 feet in lieu of the minimum required**  
33 **35 feet, and from parking requirements; and Part G Subject Property: A 2.1 acre tract in the R-2**  
34 **Residential Zoning district in Section 10 and 15 of Urbana Township and subject to a variance for**  
35 **setback of 69 feet in lieu of the minimum required 85 feet; a front yard of 0 feet in lieu of the**  
36 **minimum required 35 feet, and from parking requirements. Location: Generally, 9 different tracts of**  
37 **land totaling 72.7 acres (as amended) comprised of the various Parts described above and commonly**  
38 **known as the inactive CSX railroad line between the City of Urbana and the Village of St. Joseph and**  
39 **that shall connect to those portions of the Kickapoo Rail Trail that are proposed to be located inside of**  
40 **the Village of St. Joseph and the City of Urbana, Illinois and more specifically described in the legal**  
41 **advertisement.**

1  
2 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign  
3 the witness register for that public hearing. He reminded the audience that when they sign the witness  
4 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this  
5 time.

6  
7 Mr. Thorsland informed the audience that Cases 828-S-16, 834-V-16 are Administrative Cases, and as such,  
8 the County allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he  
9 will ask for a show of hands for those who would like to cross-examine, and each person will be called upon.  
10 He requested that anyone called to cross-examine go to the cross-examination microphone to ask any  
11 questions. He said that those who desire to cross-examine are not required to sign the witness register, but  
12 are requested to clearly state their name before asking any questions. He noted that no new testimony is to  
13 be given during the cross-examination. He said that attorneys who have complied with Article 7.6 of the  
14 ZBA By-Laws are exempt from cross-examination.

15  
16 Ms. Lee disclosed that in the last two years she and her husband contributed minimal amounts to the  
17 Champaign County Forest Preserve.

18  
19 Mr. Thorsland stated that he does not believe that the Board has any reason to feel uncomfortable with Ms.  
20 Lee's disclosure, and the Board agreed.

21  
22 Ms. Lee also disclosed that, after the last public hearing regarding these cases, she had a discussion with Mr.  
23 Steven Appl about the case. She said that during the public hearings she has indicated her belief that the  
24 Quit Claim Deed does not give the Champaign County Forest Preserve full warranty deed/access of  
25 ownership and that the landowners do have access of ownership other than the easements. She said that she  
26 and Mr. Appl discussed a topic that had been addressed during the open meetings regarding field tiles. She  
27 said that Mr. Appl told her that when he tried to discuss access to his field tiles with Mr. Dan Olson he was  
28 informed that he would be arrested if he trespassed onto Forest Preserve property.

29  
30 Ms. Thorsland asked Ms. Lee if she understands that she is not to discuss any case outside of the public  
31 hearing. He said that he appreciates Ms. Lee's disclosure, but he would advise her to not partake in any  
32 discussions regarding cases outside of the public hearing.

33  
34 Ms. Lee stated yes. She said that any further information regarding Mr. Appl's discussion with Mr. Olson or  
35 anything else could be presented tonight by Mr. Appl.

36  
37 Mr. Thorsland thanked Ms. Lee for her disclosure.

38  
39 Ms. Lee informed members of the audience that if there is anything that they want to discuss with her that  
40 they will have to do it at the public meeting.

41

1 Mr. Thorsland stated that the Board understands the situation and it is easy to get caught up in conversations,  
2 but when it relates to a specific case it must be done during the public hearing and not in private.

3  
4 Ms. Lee stated that before tonight's meeting she informed Mr. Hasselbring that she had many questions, but  
5 they could not discuss them outside of the meeting.

6  
7 Mr. Thorsland stated that if Ms. Lee would like to discuss those issues with Mr. Hasselbring she should do  
8 so during this public hearing.

9  
10 Mr. Thorsland asked the Board if they were still comfortable with Ms. Lee's disclosures and the Board stated  
11 that they were comfortable.

12  
13 Mr. Thorsland called Jonathan Hasselbring to testify.

14  
15 Mr. Jonathan Hasselbring, who resides at 606 South Mahomet Road, Mahomet, stated that he sent an email  
16 to Ms. Chavarria regarding the homework that was required from the Board during the last public hearing.  
17 He said that after the last hearing he contacted his design engineer and requested that they indicate their  
18 method and basis for which they established property lines on the construction maps. He said that the  
19 memorandum that he emailed Ms. Chavarria was from Daniel J. Olson, Executive Director, and it basically  
20 summarizes the Fehr-Graham design engineering team's land survey. He said that Fehr-Graham used maps  
21 from the Illinois Department of Transportation for Route 150 that show the centerline of Route 150 and the  
22 centerline of the rails. He said that Route 150 monuments were located and a centerline of Route 150 was  
23 found, and from that, the centerline of the track was established. He said that in areas where the Route 150  
24 map was not able to be used, the centerline was determined using the rail bed. He said that the boundary  
25 edges were then determined by referencing the railroad valuation maps and then measuring the distance from  
26 the established centerline of the rails to the north and south boundaries.

27  
28 Mr. Thorsland asked Mr. Hall if he had anything to add to Mr. Hasselbring's testimony.

29  
30 Mr. Hall stated that he had no new information to add at this time.

31  
32 Mr. Thorsland said that the homework request included the submittal of engineering drawings and Mr.  
33 Hasselbring was able to supply those drawings. He said that the other items requested by the Board were  
34 included in the mailing packet. He said that the Board can do their own research, but the petitioner provided  
35 the Board with good information regarding rail banking and the *National Trails Systems Act*. He said that as  
36 one Board member, he is very comfortable with the petitioner's request. He said that in general, other than  
37 Ms. Lee, the Board members are not lawyers, but it appears that the *National Trails Systems Act* provides the  
38 petitioner the right to create the trail. He said that he is sure that the petitioner is aware that it is possible that  
39 the railroad may need to re-establish rail service on the rail banked corridor.

40  
41 Mr. Thorsland asked Mr. Hasselbring if he had any new information to add at this time.

1

2 Mr. Hasselbring stated that he had no new information.

3

4 Mr. Thorsland stated that Ms. Lee has indicated that she is uncomfortable with the Quit Claim Deed and the  
5 possible liability to the County, but he does not intend to revisit those long conversations again tonight. He  
6 asked Ms. Lee if she is still uncomfortable or whether all of the submitted documentation has eased her  
7 concerns.

8

9 Ms. Lee stated that Black's Law Dictionary defined a Quit Claim Deed as follows: A deed of conveyance  
10 operating by way of release; that is, intended to pass any title, interest, or claim which the grantor may have  
11 in the premises, but not professing that such title is valid, nor containing any warranty or covenants for title.  
12 She said that she feels that the CCFPD does not have a warranty deed; therefore, they do not have full title.  
13 She said that the only thing that the CCFPD has is what the railroad had before, and according to previous  
14 testimony, that is only an easement.

15

16 Mr. DiNovo stated that he does not remember any testimony to that effect.

17

18 Ms. Lee stated that Steven Appl and Barbara Hill testified to that effect. She said that page 3 of the recorded  
19 Quit Claim that was recorded indicates the following: By Decision and Notice of Interim Trail Use or  
20 Abandonment served February 7, 1998, in STB Docket No. AB-167 (Sub.-No, 1161X), the STB imposed a  
21 180-day period for Grantee to negotiate an interim trail use/rail banking agreement with Grantor for the  
22 Premises. She said that the decision was in 1997 and the agreement was in 2012, which is more than a 180-  
23 day period. She said that from her reading of 16 U.S.C. 1247(d) she does not see that it grants them the rail  
24 trail rights either.

25

26 Mr. Thorsland asked Ms. Lee if she has any additional key concerns.

27

28 Ms. Lee stated that previously when she spoke with Ms. Chavarria, Ms. Lee had a Northwest Land Law  
29 forum that discussed the U.S. Supreme Court Rail to Trail legislation. She said that it appeared that the Rail  
30 to Trail legislation was overturned to a certain extent in the Supreme Court. She said that one of the things  
31 that she has wanted to see is the actual documentation as to when the original railroad was granted the  
32 easement. She said that she came across a 1991 case, which discussed the actual language of the old railroad  
33 easements, created in the 1800s, and how they are applicable.

34

35 Mr. Thorsland stated that it is very clear that Ms. Lee has concerns regarding ownership and the CCFPD's  
36 right to create the rail trail. He encouraged Ms. Lee to vote according to what she believes is right or wrong,  
37 but this Board could spend years trying to sort out every piece of land that the Board believes may or may  
38 not be applicable to the CCFPD. He said that it is his assumption that everyone knows that the CCFPD can  
39 proceed with the rail trial along the rail bank. He said that it is understood that Ms. Lee is concerned with  
40 the cost to the County and CCFPD, but there are pros and cons to having the petitioner dig through records  
41 that could be very hard to locate.

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Ms. Lee stated that the information is available. She said that some of the easements are 40 feet.

Mr. DiNovo pointed out that the abutting landowners have had months to come forward to raise any issues about this title. He said that currently we only have speculation that the title may be insufficient, but not one of the adjacent landowners has come forward to dispute whether or not the CCFPD has a clear title.

Ms. Lee stated that testimony was received regarding what was included in the original abstract.

Mr. Passalacqua asked Ms. Lee if she read the information regarding rail banking.

Ms. Lee stated yes.

Mr. Passalacqua stated that the information is an exact mirror of this program's intended use. He said that the second paragraph on page 2 of Attachment F. reads as follows: A corridor that is rail banked, on the other hand, precludes abandonment, and rail banking preserves the railroad's right to transfer all forms of ownership, including easements, to a trail group. This arrangement can be very beneficial to the railroad company because it's able to sell the entire corridor instead of pieces; therefore, reducing transactions costs, and allows the railroad to avoid the expense of removing railroad structures such as trestles and culverts. It also prevents time consuming and costly inquiries or litigation to resolve ownership. He said that the request is an exact mirror of what this program is supposed to be and this paragraph should answer all of Ms. Lee's concerns.

Mr. Thorsland stated that Ms. Lee's concerns are well documented. He said that her concerns were to prevent future problems with the County.

Ms. Lee asked Mr. Thorsland if Mr. Deering would have the opportunity to answer her questions.

Mr. Thorsland stated that he will call Mr. Deering to testify. He said that Ms. Lee is only one vote for the Board, but he wants her to feel comfortable with whichever direction she decides to go, but it is a great cost to the County to continue and continue and continue cases until everyone is satisfied. He said that staff has done a very good job in preparing the informational packets for the case so that the Board can comfortably proceed with the case. He said that he understands that there is a question as to whom the Board will be granting this use to, but after much discussion, the Board will hopefully be able to move forward to a final determination.

Mr. Thorsland called Matt Deering to testify.

Mr. Matt Deering stated that he is an attorney with Meyer, Capel Law Firm, 306 West Church Street, Champaign, and he is present tonight to represent the Champaign County Forest Preserve District. He said that he wrote down three primary questions that he would like to address very quickly. He said that Ms. Lee

1 asked whether the CCFPD received a Quit Claim Deed or a Warranty Deed. He said that the CCFPD did not  
2 receive a Warranty Deed and they do not own the fee title to the property, but based on the Quit Claim Deed  
3 they do have what the railroad had and the right-of-way that he assumes would be made up of variety of  
4 ownership and some of those may be easements. He said that to answer Ms. Lee's question as to whether  
5 the CCFPD has a Warranty Deed or not, he would indicate that they do not.  
6

7 Mr. Deering stated that the history that led up to *National Trails System Act* is the presumption that there are  
8 very little, if any, railroads in the United States that could trace fee ownership of their rail lines. He said that  
9 they were all pieced together and some were fee ownership and some were just easements. He said that the  
10 point of the *Act* was because it was assumed that the fee title underneath the rail could not be traced back due  
11 to the age of some of the documents. He said that since one of the reasons why the CCFPD does not have a  
12 Warranty Deed to the rail is because the trail could be reverted back to a railroad if in the event it is required  
13 in the future.  
14

15 Mr. Deering stated Ms. Lee referred to the 180-day negotiation. He said that further in the statute, an  
16 extension of that time is allowed if it is mutually agreed to by the railroad and the trail manager. He said that  
17 when this first started it was between Conrail and the Champaign County Design and Conservation  
18 Foundation (CCDCF) and after the first 180-day period, it was extended to another 180-day period and so on  
19 until 2005. He said that after CSX obtained the property, they entered into a long-term lease with CCDCF to  
20 place the property into the rail bank and later on, the Champaign County Forest Preserve District (CCFPD)  
21 substituted CCDCF for the lease.  
22

23 Ms. Lee stated that the landowners and their successors in interest who had the actual fee, except for the  
24 easement, still have their ownership.  
25

26 Mr. Deering stated that he would have to see those documents before he could comment, but he would be  
27 under the assumption that the easement would have a purpose.  
28

29 Ms. Lee stated that the two witnesses who testified indicated that language was included in their abstracts,  
30 which indicated that when the railroad ceased to exist the land would revert back to them.  
31

32 Mr. Deering stated that the railroad has not ceased to exist and the triggering mechanism has not occurred.  
33 He said that the Brandt case was created under different statute, but what it basically says is that if the  
34 purpose of the easement ceased to exist, it would revert back to the owners, but the *Act* says that the rail  
35 bank must be abandoned and that has not occurred.  
36

37 Mr. Thorsland asked Ms. Lee if Mr. Deering's testimony has made her more comfortable.  
38

39 Ms. Lee asked Mr. Deering if he had any documents in their file showing any of the conveyances of the  
40 railroad to get the easements from the landowners.  
41

1 Mr. Deering stated that he does not have any of those documents.  
2  
3 Ms. Lee asked Mr. Hasselbring to indicate how Mr. Olson was able to indicate the width of the easements.  
4  
5 Mr. Hasselbring stated that Mr. Olson would need to accurately answer Ms. Lee's question, but he may have  
6 been referring to the width of the property itself. He said that in some cases the property is only 40 feet  
7 wide, but in other cases it is 100 or 200 feet wide. He said that the widths do vary.  
8  
9 Mr. Thorsland stated that the *Act* was created in 1983 and he would imagine that every county that the rail  
10 line went through had a board just like this with its own rules. He said that the *Act* basically states that all of  
11 the rules are good, but we are going to just freeze the land so that the railroad can have it back if it is needed.  
12 He said that in his mind the *Act* provides the CCFPD the right to make their improvements for the bike trail  
13 knowing that they do not actually own the land, but are preserving it in case it needs to be turned back into a  
14 railway. He said that he does not expect Ms. Lee to agree, but he would like to move forward with the case.  
15  
16 Ms. Lee stated that she would like Mr. Appl to have the opportunity to testify. She said that she is concerned  
17 about his field tiles.  
18  
19 Mr. Thorsland stated that Mr. Appl has already discussed his field tiles during previous testimony and the  
20 CCFPD agrees that maintenance of those tiles is important. He said that Mr. Appl is welcome to sign the  
21 witness register to present new testimony only.  
22  
23 Mr. Thorsland asked Ms. Lee she had any additional questions or comments at this time.  
24  
25 Ms. Lee stated that she did not have any additional questions or comments at this time.  
26  
27 Mr. Thorsland asked Mr. Hasselbring if he had any new testimony for the Board tonight.  
28  
29 Mr. Hasselbring stated that he had no new testimony for the Board tonight.  
30  
31 Mr. Thorsland asked Mr. Deering if he had any new testimony for the Board tonight.  
32  
33 Mr. Deering stated that he had no new testimony for the Board tonight.  
34  
35 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Hasselbring and there was no one.  
36  
37 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony  
38 regarding Cases 828-S-16 and 834-V-16.  
39  
40 Mr. Thorsland called Raymond Griest to testify.  
41

1 Mr. Raymond Griest, who resides at 1802 Cindy Lynn, Urbana, stated that he is present tonight as a  
2 representative of the Saline Drainage District. He said that the district has a tile that crosses the railroad  
3 twice. He said that this summer the Saline Drainage District had a meeting with Dan Olson in regards to the  
4 district tile and on two occasions, the Drainage District has requested a drainage study regarding the culvert  
5 that runs under the rail bed. He said that the Forest Preserve District was provided a study from Farnsworth  
6 Group, and two weeks ago, the Drainage District was assured that the study would be provided. He said that  
7 the study would indicate if the culvert is large enough to handle the surface water. He requested that Mr.  
8 Hasselbring indicate when the study would be finalized and submitted to the Saline Drainage District for  
9 review.

10  
11 Mr. Hasselbring stated that he recalled the meeting that he attended which was held in the field with Mr.  
12 Griest, Dan Olson and another gentleman. He said that the Saline Drainage District requested that the  
13 CCFPD speak with the construction engineers about the specific culvert, and they did do that. He said that  
14 along with that review the construction engineers reviewed approximately 20 other culverts that were along  
15 the rail line. He said that he has received some response from the construction engineers regarding some of  
16 the culverts, but the engineers are reviewing the culverts individually. He said that he spoke with  
17 Farnsworth Group on August 26<sup>th</sup> and requested the study again, but he has not received it to date. He said  
18 that he did receive notification from the project engineer that they are working on the study and that they are  
19 going through the process of review internally before they respond. He said that from what he understands it  
20 appears that the culvert is appropriately sized, but he is hesitant to say anything yet until he receives the final  
21 determination.

22  
23 Mr. Thorsland stated that the CCFPD is somewhat at the mercy of the engineering firm. He requested that as  
24 soon as the engineering firm finalizes the drainage study that they forward it to the Saline Drainage District  
25 as requested.

26  
27 Mr. Hasselbring stated that he would absolutely do so.

28  
29 Mr. Griest stated that the Saline Drainage District has been waiting on the study since mid-summer.

30  
31 Mr. Thorsland stated that this is a large project. He asked Mr. Hasselbring if Farnsworth Group is contracted  
32 for the entire length of the project, extending into other counties, or are they only contracted for Champaign  
33 County's portion of the project.

34  
35 Mr. Hasselbring stated that the Farnsworth Group is contracted for the trail in Vermillion County as well.  
36 He said that he is sure that this is not the only job that Farnsworth Group is working on as they are  
37 contracted by other groups.

38  
39 Mr. Thorsland requested that the CCFPD make every effort to provide the drainage study to the Saline  
40 Drainage District.

41

1 Mr. Hasselbring stated that they will continue to request the drainage study and will send it to the Saline  
2 Drainage District as soon as possible.  
3

4 Mr. Thorsland stated that he appreciates the Saline Drainage District's frustration.  
5

6 Mr. Griest stated that while the Saline Drainage District awaits the delivery of the drainage study, the  
7 CCFPD continues to build up the rail bed.  
8

9 Mr. Thorsland stated that in continuing to build up the rail bed, without the results of the drainage study, the  
10 CCFPD is causing its own expense should anything require replacement.  
11

12 Mr. Hasselbring stated that if the drainage study indicates that something needs replaced they would  
13 absolutely rectify the situation.  
14

15 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Griest and there was no one.  
16

17 Ms. Griest stated that Mr. Olson testified at the last meeting that he had been working with the Saline  
18 Drainage District and had everything in order. She said that she encouraged Mr. Griest to testify tonight so  
19 that he could clarify that point.  
20

21 Mr. Thorsland called Steven Appl to testify.  
22

23 Mr. Steven Appl, who resides at 221 East Ethel Street, St. Joseph, stated that he spoke with Dan Olson in  
24 April regarding the tiles and requested that larger tiles be installed because the existing tiles do not work  
25 well. He said that he had not heard from Mr. Olson since their discussion in April. He said that in June the  
26 CCFPD was digging, so he stopped to talk to them and they informed him that they were installing a small  
27 culvert. He said that he was told that the CCFPD was going to work with him regarding the tile, but that is  
28 not how it happened. He said that he watched the workers for four days and he was told that if he interfered  
29 with the installation that he would be arrested. He said that the tile drains the water from his field and he  
30 agreed to help pay for a larger culvert, but when he was threatened with being arrested he backed off.  
31

32 Mr. Thorsland informed Mr. Appl that the ZBA has no authority over such situations.  
33

34 Mr. Appel stated that when the tile was stopped up he spent thousands of dollars to open it up.  
35

36 Mr. Thorsland asked Mr. Appl if he was preparing to install a larger tile.  
37

38 Mr. Appl stated no. He said that he was going to keep the existing tile open. He said that he had words with  
39 the CCFPD when they started working on the trail. He said that a railroad representative stopped to talk to  
40 Mr. Appl while he was trying to clean out the tile to determine what Mr. Appl was exactly trying to do. Mr.  
41 Appl stated that he informed the railroad representative that he was trying to get the surface water to run off

1 of his field. He said that a larger culvert was finally installed, but he wasted four days watching them install  
2 it.

3  
4 Mr. Thorsland asked Mr. Appl if he was going through where the rail was located.

5  
6 Mr. Appl stated yes. He said that he has tried to keep the culvert open, but it finally got so blocked up that it  
7 would not drain.

8  
9 Mr. Thorsland asked Mr. Appl to indicate whom he tried to contact when he would try to open the culvert so  
10 it would drain.

11  
12 Mr. Appl stated that he tried to contact Conrail, but no one would respond to his calls.

13  
14 Mr. Thorsland asked Mr. Appl to indicate how long ago this was.

15  
16 Mr. Appl stated that it was years ago, because his father worked on the culvert before he passed away. He  
17 said that the trees blocked up the drain.

18  
19 Mr. Thorsland stated that the CCFPD has indicated that they are taking responsibility for this area and even  
20 though they may have a disagreement regarding the size of the culvert.

21  
22 Mr. Appl stated that he invested more of his own money in the situation, because he hired an engineer. He  
23 said that anyone could stand there and see that the culvert was not allowing water to drain.

24  
25 Mr. Thorsland stated that he has no doubt that there was a water issue and that he tried to fix it. He asked  
26 Mr. Appl if he believed that the water would be better since he only has to contact the CCFPD when there is  
27 a problem.

28  
29 Mr. Appl stated that he thought that it would be better, but he has gotten the run-around ever since.

30  
31 Mr. Thorsland requested that Mr. Appl discuss his concerns with the Board during the public hearing and not  
32 outside of the public hearing.

33  
34 Mr. Appl stated that he understands the rules and he apologized for his mistake in discussing the case with  
35 Ms. Lee outside of the public hearing.

36  
37 Mr. Thorsland stated that the Board understands, but it is important to have all discussions during the public  
38 hearing so that it is included in the minutes.

39  
40 Mr. Appl stated that the new culvert has been installed.

41

- 1 Mr. Thorsland stated that he would like Mr. Hasselbring to address the Board regarding Mr. Appl's  
2 concerns.  
3
- 4 Mr. Jonathan Hasselbring stated that they were approached by Mr. Appl indicating that he had some  
5 concerns with the size of the tile that was indicated on the plans. He said that they informed Mr. Appl that,  
6 per the engineering documents, the current plan was to re-install that tile back as it was and if Mr. Appl was  
7 still concerned he should consult with an engineer and present contrary information, and that is what Mr.  
8 Appl did do. Mr. Hasselbring stated that the CCFPD requested that their engineer, Farnsworth Group, rerun  
9 the numbers to see if the culvert is sized appropriately. He said that their engineer's first indication was that  
10 the culvert was sized appropriately, but when they reran the numbers and reviewed Mr. Appl's engineer's  
11 report, they discovered that the culvert was not sized appropriately. He said that CCFPD requested that their  
12 engineer review the plans again and the engineer recommended that the culvert be more than doubled in size.  
13 Mr. Hasselbring stated that the CCFPD installed the new appropriately sized culvert.  
14
- 15 Mr. Passalacqua asked if the plans were reviewed twice in error.  
16
- 17 Mr. Hasselbring stated that he believes that the plan was first reviewed by the design engineer and then again  
18 by the construction engineer.  
19
- 20 Mr. Thorsland stated that the Board could only take this testimony as speculation. He said that currently  
21 there is a larger culvert that has been installed, thus solving Mr. Appl's drainage concern.  
22
- 23 Mr. Hasselbring stated yes.  
24
- 25 Mr. Appl stated that he was never informed that he should hire an engineer, but was threatened to be arrested  
26 if he interfered.  
27
- 28 Mr. Thorsland stated that there will always be concerns regarding drainage, but it appears that the CCFPD  
29 did cooperate in installing a larger culvert. He said that it is unfortunate that the numbers had to be reviewed  
30 numerous times, but since a representative from the Farnsworth Group is not present tonight, that testimony  
31 is speculation.  
32
- 33 Mr. Appl stated that he has an issue with the Canadian Thistle that exists in the weeds and grass along the  
34 rail bed.  
35
- 36 Mr. Thorsland stated that the CCFPD has testified that they intend to address the weeds, grass and Canadian  
37 Thistle. He said that it is very important that open communication exists between the CCFPD and concerned  
38 citizens and landowners.  
39
- 40 Mr. Hasselbring stated that he understands Mr. Appl's frustrations and encouraged him to contact him at any  
41 time with present or future concerns.

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Mr. Thorsland entertained a motion to extend the meeting to 10:15.

**Ms. Capel moved, seconded by Mr. DiNovo, to extend the meeting to 10:15 p.m. The motion carried by voice vote.**

Mr. Thorsland asked Mr. Appl if he had any additional questions or concerns that he would like to voice tonight.

Mr. Appl stated no.

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

Ms. Lee asked Mr. Appl if he brought a copy of the previously mentioned abstract for the Board’s review.

Mr. Appl stated no.

Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony regarding these cases and there was no one.

Mr. Thorsland closed the witness register.

Mr. Thorsland asked the Board if they had any additional questions for Mr. Hasselbring and there were none.

Mr. Thorsland read the proposed special conditions for the special use as follows:

**A. The Petitioners must apply for a Floodplain Development Permit in conjunction with a standard Zoning Use Permit Application.**

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

**That the proposed use complies with the Champaign County Special Flood Areas Ordinance.**

Mr. Thorsland asked Mr. Hasselbring if he agreed to Special Condition A.

Mr. Hasselbring stated that he agreed to Special Condition A.

**B. The Petitioners must comply with the Champaign County Storm Water Management and Erosion Control Ordinance.**

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

1                   **That the proposed use provides for adequate drainage for the development site before,**  
2                   **during, and after construction.**

3  
4 Mr. Thorsland asked Mr. Hasselbring if he agreed to Special Condition B.

5  
6 Mr. Hasselbring stated that he agreed to Special Condition B.

7  
8 Mr. Thorsland asked the Board if they want a special condition regarding the drainage tile, or does the Board  
9 want to rely on the Storm Water Management and Erosion Control Ordinance to manage it.

10  
11 The Board indicated that no special condition is necessary.

12  
13 Mr. Thorsland asked staff if a special condition regarding the Right to Farm Act is required.

14  
15 Ms. Griest stated that such a condition is not necessary, because no farmland is being taken out of  
16 production.

17  
18 Mr. Thorsland read that proposed special condition for the variance as follows:

19  
20           **A.     All fences constructed on the subject properties will comply with visibility requirements**  
21           **established in Section 4.3.3 F. of the Zoning Ordinance.**

22  
23           The special condition stated above is necessary to ensure the following:

24           **That the proposed use complies with the Zoning Ordinance.**

25  
26 Mr. Thorsland asked Mr. Hasselbring if he agreed to Special Condition A.

27  
28 Mr. Hasselbring stated that he agreed to Special Condition A.

29  
30 Mr. Thorsland entertained a motion to approve the proposed special conditions for the special use and  
31 variance cases.

32  
33 **Ms. Griest moved, seconded by Mr. DiNovo, to approve the proposed special conditions for the special**  
34 **use and the variance cases. The motion carried by voice vote, with one opposing vote.**

35  
36 Mr. Thorsland stated that there are no new Documents of Record.

37  
38 **Findings of Fact for Cases 828-S-16 and 834-V-16:**

39  
40 **Case 828-S-16:**

1 From the documents of record and the testimony and exhibits received at the public hearing for  
2 zoning cases 828-S-16 and 834-V-16 held on April 28, 2016, August 25, 2016, and September 15,  
3 2016, the Zoning Board of Appeals of Champaign County finds that:  
4

- 5 1. The requested Special Use Permit IS necessary for the public convenience at this location.  
6

7 Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this  
8 location because there are no other comparable opportunities to build a trail of this kind in the County.  
9

- 10  
11 2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
12 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL  
13 NOT be injurious to the district in which it shall be located or otherwise detrimental to the  
14 public health, safety, and welfare because:  
15

- 16 a. The street has ADEQUATE traffic capacity and the entrance location has  
17 ADEQUATE visibility.  
18

19 Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has  
20 ADEQUATE visibility.  
21

- 22 b. Emergency services availability is ADEQUATE.  
23

24 Mr. Passalacqua stated that emergency services availability is ADEQUATE.  
25

- 26 c. The Special Use WILL be compatible with adjacent uses.  
27

28 Mr. Passalacqua stated that the Special Use WILL be compatible with adjacent uses.  
29

30 Ms. Lee disagreed due to the noxious weeds that are present.  
31

32 Mr. Thorsland stated that testimony has been received that the CCFPD will maintain the rail trail with a  
33 focus on restoring the prairie in its proper form.  
34

35 The majority of the Board agreed with Mr. Passalacqua’s statement that the Special Use WILL be  
36 compatible with the adjacent uses.  
37

- 38 d. Surface and subsurface drainage will be ADEQUATE.  
39

40 Mr. Passalacqua stated that surface and subsurface drainage will be ADEQUATE because per testimony  
41 it should be improved.

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**e. Public safety will be ADEQUATE.**

Mr. Passalacqua stated that public safety will be ADEQUATE.

**f. The provisions for parking will be ADEQUATE.**

Ms. Capel stated that provisions for parking will be ADEQUATE.

Mr. Thorsland stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

**3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.**

Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

**3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located because:**

**a. The Special Use will be designed to CONFORM to all relevant County ordinances and codes.**

Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County ordinances and codes.

**b. The Special Use WILL be compatible with adjacent uses.**

Mr. Randol stated that the Special Use WILL be compatible with adjacent uses.

Ms. Lee disagreed.

The majority of the Board agreed with Mr. Randol’s statement that the Special Use WILL be compatible with the adjacent uses.

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**c. Public safety will be ADEQUATE.**

Ms. Capel stated that public safety will be ADEQUATE.

Mr. Thorsland stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the character of the DISTRICT in which it is located.

**4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance because:**

**a. The Special Use is authorized in the District.**

**b. The requested Special Use Permit IS necessary for the public convenience at this location.**

Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this location.

**c. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.**

Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

Ms. Lee disagreed.

The majority of the Board agreed with Mr. Randol’s statement that the Special Use WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.

**d. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.**

Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

Ms. Griest stated the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance

1 **5. The requested Special Use IS NOT an existing nonconforming use.**

2 **6. Regarding the variance:**

3 **a. Special conditions and circumstances DO exist which are peculiar to the land or**  
4 **structure involved, which are not applicable to other similarly situated land and**  
5 **structures elsewhere in the same district.**

6  
7 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or  
8 structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
9 the same district because Zoning Ordinance provisions were not drafted with the intent of regulating  
10 railroad right-of-way.

11  
12 **b. Practical difficulties or hardships created by carrying out the strict letter of the**  
13 **regulations sought to be varied WILL prevent reasonable or otherwise permitted**  
14 **use of the land or structure or construction.**

15  
16 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of  
17 the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or  
18 structure or construction because by nature, rail banked land was intended for this use.

19  
20 **c. The special conditions, circumstances, hardships, or practical difficulties DO NOT**  
21 **result from actions of the applicant.**

22  
23 Mr. Passalacqua stated that special conditions, circumstances, hardships, or practical difficulties DO  
24 NOT result from actions of the applicant because it was a pre-existing rail line.

25  
26 **d. The requested variance, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**  
27 **HEREIN, IS in harmony with the general purpose and intent of the Ordinance.**

28  
29 Mr. Passalacqua stated that the requested variance, SUBJECT TO THE SPECIAL CONDITIONS  
30 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

31  
32 **e. The requested variance, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED**  
33 **HEREIN, WILL NOT be injurious to the neighborhood or otherwise detrimental**  
34 **to the public health, safety, or welfare.**

35  
36 Ms. Capel stated that the requested variance, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED  
37 HEREIN, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health,  
38 safety, or welfare.

39  
40 Ms. Lee disagreed.

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The majority of the Board agreed with Ms. Capel’s statement that the requested variance, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.

- f. **The requested variance, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS the minimum variation that will make possible the reasonable use of the land/structure.**

Ms. Griest stated that the requested variance, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS the minimum variation that will make possible the reasonable use of the land/structure.

**7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**

**For the Special Use Permit:**

- A. **The Petitioners must apply for a Floodplain Development Permit in conjunction with the standard Zoning Use Permit Application.**

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

**That the proposed use complies with the Champaign County Special Flood Areas Ordinance.**

- B. **The Petitioners must comply with the Champaign County Storm Water Management and Erosion Control Ordinance.**

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

**That the proposed use provides for adequate drainage of the development site before, during, and after construction.**

**For the Variance:**

- A. **All fences constructed on the subject properties will comply with the visibility requirements established in Section 4.3.3 F. of the Zoning Ordinance.**

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

**That the proposed use complies with the Zoning Ordinance.**

Mr. Thorsland entertained a motion to extend the meeting to 10:30 p.m.

1 **Mr. Passalacqua moved, seconded by Ms. Griest, to extend the meeting to 10:30 p.m. The motion**  
2 **carried by voice vote.**

3  
4 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and  
5 Findings of Fact for Cases 828-S-16 and 834-V-16, as amended.

6  
7 **Ms. Griest moved, seconded by Mr. DiNovo, to adopt the Summary of Evidence, Documents of**  
8 **Record and Findings of Fact for Cases 828-S-16 and 834-V-16, as amended. The motion carried**  
9 **by voice vote with one opposing vote.**

10  
11 Mr. Thorsland entertained a motion to move to the Final Determination for Cases 828-S-16 and 834-V-  
12 16.

13  
14 **Ms. Griest moved, seconded by Ms. Capel to move to the Final Determination for Cases 828-S-16**  
15 **and 834-V-16. The motion carried by voice vote.**

16  
17 Mr. Thorsland noted that a full Board is present.

18  
19 **FINAL DETERMINATION FOR CASE 828-S-16:**

20  
21 **Ms. Capel moved, seconded by Mr. DiNovo that the Champaign County Zoning Board of Appeals**  
22 **finds that, based upon the application, testimony, and other evidence received in this case, the**  
23 **requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted**  
24 **by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

25 **The Special Use requested in Case 828-S-16 is hereby GRANTED WITH SPECIAL**  
26 **CONDITIONS to the applicant Jonathan Hasselbring, Planning Director for the**  
27 **Champaign County Forest Preserve District, to authorize the following as a Special Use on**  
28 **land in the AG-1 and AG-2 Agriculture Zoning Districts, subject to the variance detailed in**  
29 **the Final Determination for Case 834-V-16:**

30  
31 **Authorize those portions of the Kickapoo Rail Trail that are proposed in the**  
32 **unincorporated area only, and that shall connect to those portions of the Kickapoo**  
33 **Rail Trail that are proposed to be located inside the Village of St. Joseph and the**  
34 **City of Urbana, as a Special Use as a “public park or recreational facility” in the**  
35 **AG-1 and AG-2 Agriculture Zoning Districts.**

36  
37 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

- 38  
39 **A. The Petitioners must apply for a Floodplain Development Permit in conjunction**  
40 **with the standard Zoning Use Permit Application.**

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**B. The Petitioners must comply with the Champaign County Storm Water Management and Erosion Control Ordinance.**

Mr. Thorsland requested a roll call vote.

The vote was called as follows:

DiNovo – yes	Griest – yes	Lee – no
Randol – yes	Capel – yes	Passalacqua – yes
Thorsland - yes		

**FINAL DETERMINATION FOR CASE 834-V-16:**

Ms. Capel moved, seconded by Mr. Randol, that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Variance requested in Case 834-V-16 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicant Jonathan Hasselbring, Planning Director for the Champaign County Forest Preserve District, to authorize the following Special Use on land in the AG-1 and AG-2 Agriculture Zoning Districts:

Authorize those portions of the Kickapoo Rail Trail that are proposed in the unincorporated area only, and that shall connect to those portions of the Kickapoo Rail Trail that are proposed to be located inside the Village of St. Joseph and the City of Urbana, as a Special Use as a “public park or recreational facility” in the AG-1 and AG-2 Agriculture Zoning Districts,

**SUBJECT TO THE FOLLOWING VARIANCE:**

**Special Use Part A Subject Property:**

A 13.2-acre tract in the AG-1 District in the North Half of the North Half of Section 15 and the South Half of the South Half of Section 10, Township 19N Range 10E of the Third Principal Meridian in St. Joseph Township, commonly known as the inactive CSX railroad line located on the south side of U.S. Route 150 and subject to the following variance:

**Variance Part A:**

**Part A1: A variance from the parking requirements of Section 7.4 of the Zoning Ordinance.**

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**Special Use Part B Subject Property:**

**An 11.6-acre tract in the AG-1 District in the North Half of the North Half of Section 16 and the South Half of the South Half of Section 9, Township 19N Range 10E of the Third Principal Meridian in St. Joseph Township, commonly known as the inactive CSX railroad line located on the south side of U.S. Route 150 and subject to the following variance:**

**Variance Part B:**

**Part B1: A variance from Section 5.3 of the Zoning Ordinance for a front setback of 65 feet in lieu of the minimum required 85 feet from the centerline of a Federal or State Highway in the AG-1 District;**

**Part B2: A variance from Section 5.3 of the Zoning Ordinance for a rear yard of 23 feet in lieu of the minimum required 25 feet in the AG-1 Agriculture District;**

**Part B3: A variance from the parking requirements of Section 7.4 of the Zoning Ordinance.**

**Special Use Part C Subject Property:**

**A 9.2-acre tract in the AG-1 District in the North Half of the North Half of Section 17 and the South Half of the South Half of Section 8, Township 19N Range 10E of the Third Principal Meridian in St. Joseph Township, commonly known as the inactive CSX railroad line located on the south side of U.S. Route 150 and subject to the following variance:**

**Variance Part C:**

**Part C1: A variance from Section 5.3 of the Zoning Ordinance for a front setback of 59 feet in lieu of the minimum required 85 feet from the centerline of a Federal or State Highway in the AG-1 District; and**

**Part C2: A variance from Section 5.3 of the Zoning Ordinance for a front yard of 23 feet in lieu of the minimum required 35 feet in the AG-1 Agriculture District; and**

**Part C3: A variance from Section 5.3 of the Zoning Ordinance for a rear yard of 23 feet in lieu of the minimum required 25 feet; and**

**Part C4: A variance from the parking requirements of Section 7.4 of the Zoning Ordinance.**

**Special Use Part D Subject Property:**

**A 12.4-acre tract in the AG-1 District in the North Half of the North Half of Section 18 and the South Half of the South Half of Section 7, Township 19N Range 10E of the Third**

1 Principal Meridian in St. Joseph Township, commonly known as the inactive CSX railroad  
2 line located on the south side of U.S. Route 150 and subject to the following variance:  
3

4 Variance Part D:

5 Part D1: A variance from Section 5.3 of the Zoning Ordinance for a front setback of  
6 61 feet in lieu of the minimum required 85 feet from the centerline of a Federal or  
7 State Highway in the AG-1 District;  
8

9 Part D2: A variance from the parking requirements of Section 7.4 of the Zoning  
10 Ordinance.  
11

12 Special Use Part E Subject Property:

13 A 12.1-acre tract in the AG-2 District in the North Half of the North Half of Section 13 and  
14 the South Half of the South Half of Section 12, Township 19N Range 9E of the Third  
15 Principal Meridian in Urbana Township, commonly known as the inactive CSX railroad  
16 line located on the south side of U.S. Route 150 and subject to the following variance:  
17

18 Variance Part E:

19 Part E1: A variance from Section 5.3 of the Zoning Ordinance for a front setback of  
20 65 feet in lieu of the minimum required 85 feet from the centerline of a Federal or  
21 State Highway in the AG-2 District;  
22

23 Part E2: A variance from the parking requirements of Section 7.4 of the Zoning  
24 Ordinance.  
25

26 Special Use Part F Subject Property:

27 A 12.1-acre tract in the AG-2 District in the North Half of the North Half of Section 14 and  
28 the South Half of the South Half of Section 11, Township 19N Range 9E of the Third  
29 Principal Meridian in Urbana Township, commonly known as the inactive CSX railroad  
30 line located on the south side of U.S. Route 150 and subject to the following variance:  
31

32 Variance Part F:

33 Part F1: A variance from Section 5.3 of the Zoning Ordinance for a front setback of  
34 56 feet in lieu of the minimum required 85 feet from the centerline of a Federal or  
35 State Highway in the AG-2 District;  
36

37 Part F2: A variance from Section 5.3 of the Zoning Ordinance for a front yard of 26  
38 feet in lieu of the minimum required 35 feet in the AG-2 Agriculture District; and  
39

40 Part F3: A variance from the parking requirements of Section 7.4 of the Zoning  
41 Ordinance.  
42

**Special Use Part G Subject Property:**

**A 2.1-acre tract in the R-2 Residential District in the North Half of the North Half of Section 15 and the South Half of the South Half of Section 10, Township 19N Range 9E of the Third Principal Meridian in Urbana Township, commonly known as the inactive CSX railroad line located on the south side of U.S. Route 150 and subject to the following variance:**

**Variance Part G:**

**Part G1: A variance from Section 5.3 of the Zoning Ordinance for a front setback of 69 feet in lieu of the minimum required 85 feet from the centerline of a Federal or State Highway in the R-2 Residential District;**

**Part G2: A variance from Section 5.3 of the Zoning Ordinance for a front yard of 0 feet in lieu of the minimum required 35 feet in the AG-2 Agriculture District; and**

**Part G3: A variance from the parking requirements of Section 7.4 of the Zoning Ordinance.**

**SUBJECT TO THE FOLLOWING SPECIAL CONDITION:**

**A. All fences constructed on the subject properties will comply with the visibility requirements established in Section 4.3.3 F. of the Zoning Ordinance.**

Mr. Thorsland requested a roll call vote.

The roll was called as follows:

<b>DiNovo – yes</b>	<b>Griest – yes</b>	<b>Lee – no</b>
<b>Randol – yes</b>	<b>Capel – yes</b>	<b>Passalacqua – yes</b>
<b>Thorsland – yes</b>		

Mr. Hall informed the petitioner that he has received an approval of his requests. He said that staff will be in contact regarding the CCFPD’s next step.

Mr. Hasselbring thanked the Board and staff for their assistance with these requests.

Mr. Thorsland thanked Ms. Lee for her participation during these hearings.

Ms. Lee stated that Mr. Appl indicated that he did not bring his abstract to the meeting. She said that, as an attorney, she is very interested in reviewing the abstract and Mr. Appl has given her permission to do so. She said that she wanted to disclose this information to the Board so that it could be placed on record.

1 Ms. Lee stated that she did not appreciate Mr. Hall’s comment indicating that the Forest Preserve cases were  
2 going to go through any way.

3  
4 Mr. Hall stated that he did not say what Ms. Lee accused him of saying.

5  
6 Mr. Thorsland encouraged all parties to work out their differences outside of the public hearing.

7  
8 Mr. Thorsland stated that if Ms. Lee’s statement is not accurate, she will have an opportunity to retract her  
9 statement at a later time.

10  
11 Ms. Lee stated no.

12  
13  
14 **6. New Public Hearings**

15  
16 **Case 845-AM-16 Petitioner: Kevin Modglin and Jeff Swan and Jeff Dazey, d.b.a. Advantage**  
17 **Trucking, LLC. Request to amend the Zoning Map to change the zoning district designation from the**  
18 **R-4 Multiple Family Residence Zoning District to the B-4 General Business Zoning District in order**  
19 **to establish and operate the proposed Special Use in related Zoning Case 846-S-16. Location: A 7.97**  
20 **acre tract in Rantoul Township that is part of the Southwest Quarter of the Southwest Quarter of**  
21 **Section 15 and a part of the Southeast Quarter of the Southeast Quarter of Section 16, Township 21**  
22 **North, Range 9 East of the Third Principal Meridian in Rantoul Township and formerly known as**  
23 **the Cherry Orchard Apartments property with an address of 1512 CR 2700N, Rantoul.**

24  
25 **Case 846-S-16 Petitioner: Kevin Modglin and Jeff Swan and Jeff Dazey, d.b.a. Advantage**  
26 **Trucking, LLC. Request: Part A: Authorize multiple principal uses and buildings on the same lot**  
27 **consisting of a Truck Terminal, Contractor’s Facility with Outdoor Storage and/or Operations, and**  
28 **144 Self Storage Warehouse Units as a Special Use on land that is proposed to be rezoned to the B-4**  
29 **General Business Zoning District from the current R-4 Multiple Family Residence Zoning District in**  
30 **related zoning case 845-AM-16 on the subject property described below and Part B. Authorize the**  
31 **following waiver to the standard conditions of the “Truck Terminal” special use as per Section 6.1.3**  
32 **of the Zoning Ordinance: A separation distance of 55 feet in lieu of the minimum required 200 feet**  
33 **between any Truck Terminal and any adjacent residential district or residential use on the subject**  
34 **property described below; and Part C. Authorize the following waiver to the standard conditions of**  
35 **the “Truck Terminal” special use as per Section 6.1.3 of the Zoning Ordinance: No wire mesh fence**  
36 **surrounding the Truck Terminal in lieu of the minimum required 6 feet tall wire mesh fence on the**  
37 **subject property described below. Location: A 7.97acre tract in Rantoul Township that is part of the**  
38 **Southwest Quarter of the Southwest Quarter of Section 15 and a part of the Southeast Quarter of the**  
39 **Southeast Quarter of Section 16, Township 21 North, Range 9 East of the Third Principal**  
40 **Meridian in Rantoul Township and formerly known as the Cherry Orchard Apartments property**

1 with an address of 1512 CR 2700 N, Rantoul.

2  
3 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign  
4 the witness register for that public hearing. He reminded the audience that when they sign the witness  
5 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this  
6 time.

7  
8 Mr. Thorsland informed the audience that Case 846-S-16 is an Administrative Case and as such, the County  
9 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for  
10 a show of hands for those who would like to cross-examine and each person will be called upon. He  
11 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.  
12 He said that those who desire to cross-examine are not required to sign the witness register but are requested  
13 to clearly state their name before asking any questions. He noted that no new testimony is to be given during  
14 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
15 exempt from cross-examination.

16  
17 Mr. Hall, Zoning Administrator, stated that on page four of the Preliminary Memorandum dated September  
18 8, 2016, Special Conditions D. and E. should be revised to read as follows:

19  
20 **D. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until**  
21 **the petitioner has demonstrated that any new or proposed exterior lighting on the**  
22 **subject property will comply with the lighting requirements of Section 6.1.2.**

23  
24 The special condition stated above is to ensure the following:  
25 **That any proposed exterior lighting is in compliance with the Zoning Ordinance.**

26  
27 **E. The Zoning Administrator shall not authorize a Zoning Compliance Certificate for the**  
28 **proposed development until the petitioner has demonstrated that a 6 feet tall wire mesh**  
29 **fence has been installed around the outdoor storage and operations area for the Truck**  
30 **Terminal.**

31  
32 The special condition stated above is to ensure the following:  
33 **That the proposed uses are in compliance with the Zoning Ordinance.**

34  
35 Mr. Hall stated that the Board received a new Supplemental Memorandum #1 dated September 15, 2016, for  
36 review. He said that the new supplemental memorandum includes a new Item 22.A. in the Case 845-AM-16  
37 Finding of Fact and Item 8.J.(2) for Case 846-S-16. He said that the new evidence is based on a phone  
38 conversation on September 9, 2016, between Susan Chavarria, Senior Planner, and Roy and Kathryn  
39 Hatfield, 1516A CR 2700N, Rantoul, who are neighbors with a residence directly east of the subject  
40 property.

41

1 Mr. Hall stated that staff received an email on September 14, 2016 (Attachment A), from Julie Krattz, Roy  
2 and Kathryn Hatfield's daughter, regarding her concerns that will be written as evidence 22.B in the Case  
3 845-AM-16 Finding of Fact and Item 8.J.(3) in the Case 846-S-16 Summary of Evidence. Mr. Hall stated  
4 that Mr. and Mrs. Hatfield are concerned about the separation distance between the proposed special use and  
5 their property line and are concerned that their property value will decrease because of the close proximity.  
6 He said that Mr. and Mrs. Hatfield would prefer that the 200 feet minimum be maintained as per the Zoning  
7 Ordinance. He said that Mr. and Mrs. Hatfield are also concerned that there will be more empty warehouses  
8 if the petitioners construct the self-storage units because there are already numerous empty warehouses in the  
9 area and they wonder why they would build more. Mr. Hall said that Mr. and Mrs. Hatfield are concerned  
10 about the earth berm and the site aesthetic and that the earth berm will be an eyesore and will not be  
11 maintained. Mr. Hall said that Mr. and Mrs. Hatfield expressed that there are already weeds over their heads  
12 on the property line that they share with the petitioners.  
13

14 Mr. Hall stated that the email from Attorney Julie Krattz, daughter of Mr. and Mrs. Hatfield, poses several  
15 detailed questions, but he is not going to summarize those questions. He said that the Board might want to  
16 make a special effort to review Ms. Krattz's email.  
17

18 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.  
19

20 Mr. Thorsland called Kevin Modglin to testify.  
21

22 Mr. Kevin Modglin, who resides at 425 Glenwood Drive, Rantoul, stated that his office is located in Urbana  
23 and he drives from Rantoul to Urbana every day. He said that he would drive by the Cherry Orchard  
24 apartment complex for many years and he always thought that it was such a shame that the property sat in  
25 such a poor condition. He said that approximately two years ago he began researching the ownership for the  
26 subject property and was finally able to contact the owners so that they could purchase the property. He said  
27 that he and his partners spent a considerable amount of their own money, and received assistance from the  
28 Thomasboro Fire Protection District, for demolition of the buildings. He said that they were required to  
29 abate the asbestos material. He said that the property looks a lot better, but it is a work in progress.  
30

31 Mr. Modglin stated that he and his partners own a trucking business and that business shares a location in  
32 Urbana with another company that they own, a concrete excavating company, and they foresee requiring  
33 more space in the future for the trucking company. He said that it is their hope that they would be able to  
34 relocate their trucking company at the subject property. He said that when he speaks about their trucking  
35 company he is not discussing a business that has trucks coming in and out of the property delivering  
36 material. He said that for the most part the trucks would come onto the property at the end of the day and  
37 will go out of the property each morning. He said that there are currently trucks coming in and out of the  
38 property because they are dropping dirt off so that the berms can be constructed to screen the property. He  
39 said that after the berms are constructed the trucks would only come and go during normal intervals.  
40

41 Mr. Modglin stated the trucks that they have are mainly associated with the excavating company. He said

1 that they are requesting approval of the self-storage warehouses as a means for them to generate revenue to  
2 assist with paying the real estate taxes.  
3  
4 Mr. Thorsland asked Mr. Modglin if the berm is the only construction that has occurred on the property.  
5  
6 Mr. Modglin stated that the berm is the only construction that has occurred.  
7  
8 Mr. Thorsland asked Mr. Modglin when he realized that the current zoning of the property did not allow  
9 their intended use.  
10  
11 Mr. Modglin stated that they were aware that the zoning would require amending when they purchased the  
12 property. He said that they contacted staff and filed the appropriate paperwork, and if the use is denied, they  
13 will do whatever is allowed in order to conform to the Zoning Ordinance.  
14  
15 Mr. Hall asked Mr. Modglin if they have brought in any offsite concrete onto the subject property for  
16 crushing.  
17  
18 Mr. Modglin stated yes.  
19  
20 Mr. Hall asked Mr. Modglin if it is their intent to bring in more concrete.  
21  
22 Mr. Modglin stated yes, although they are at the mercy of the crushing company as to when the crushing will  
23 occur. He said that it is to their benefit if they can add more concrete to the pile so that they can have more  
24 rock.  
25  
26 Mr. Hall asked Mr. Modglin if the intent is to perform concrete crushing on the property beyond the current  
27 pile.  
28  
29 Mr. Modglin stated no.  
30  
31 Mr. Hall asked Mr. Modglin how they would control the dust that will be generated by the concrete crushing.  
32  
33 Mr. Modglin stated that when the concrete crushing operation occurs they have a water source on site that  
34 basically keeps the dust down.  
35  
36 Mr. Hall asked Mr. Modglin if the concrete crushing would generate more noise than what is expected by the  
37 trucks when they bring in loads of dirt for the berm.  
38  
39 Mr. Modglin stated that the noise from machine itself is pretty much just the motor. He said that the most  
40 noise that will be made is from the machine that jackhammers the concrete into smaller pieces.  
41

- 1 Mr. Hall stated that it appears that the crushing and jackhammering will be noisier than what the long term  
2 use of the property will likely be.  
3
- 4 Mr. Modglin stated that during the period of crushing there might be more noise but when that is complete  
5 their will be minimal noise generated.  
6
- 7 Mr. Hall asked Mr. Modglin if he is aware of the time period that the concrete crushing will last.  
8
- 9 Mr. Modglin stated that should take no longer than one week.  
10
- 11 Mr. Thorsland asked Mr. Modglin if the concrete that is being crushed would be utilized on the property.  
12
- 13 Mr. Modglin stated yes. He said that the rock would be spread out on the site as the aggregate base.  
14
- 15 Mr. Thorsland asked Mr. Modglin if most of the concrete came from the demolition of the previous  
16 buildings.  
17
- 18 Mr. Modglin stated that 75% of the concrete came from the demolition of the previous buildings.  
19
- 20 Mr. Thorsland asked Mr. Modglin if they have already contracted with the concrete crushing company or is  
21 it a contract that is in the works.  
22
- 23 Mr. Modglin stated that they have not signed a contract with the concrete crushing company but it is in the  
24 works.  
25
- 26 Mr. Thorsland asked Mr. Modglin if during the time of contract negotiations with the concrete crushing they  
27 would continue to bring in concrete onto the subject property.  
28
- 29 Mr. Modglin stated that they would only bring concrete onto the subject property if it comes from a source  
30 that is close to the area; otherwise, the concrete will go to the recycle facilities.  
31
- 32 Mr. Thorsland stated that the finding of fact explains the crushing as a one-time event. He said that there are  
33 concerns about noise and dust during the crushing and the possibility of more crushing at a later date. He  
34 asked Mr. Modglin if there is a possibility that more crushing will occur on the property.  
35
- 36 Mr. Modglin stated no. He said that it is not their intent to perform more crushing on the property.  
37
- 38 Mr. Thorsland stated that the Board may want a special condition regarding the crushing, in that, it is only a  
39 one-time event and not a continuous proposed use. He asked Mr. Modglin to indicate the intended  
40 vegetation for the berm.  
41

1 Mr. Modglin stated that they intend to sow grass on the berm and keep it mowed.  
2  
3 Mr. Thorsland asked Mr. Modglin if the berm is intended to shield the property from the adjacent residents.  
4  
5 Mr. Modglin stated yes.  
6  
7 Mr. Thorsland stated that the two items which concern him the most are the separation distance and the  
8 fence. He said that the Board has become very knowledgeable about self-storage facilities and they know  
9 what a good facility looks like and what a bad one looks like. He asked Mr. Modglin if there is another use  
10 that they might be thinking about for the future that has not been discussed with staff. He informed Mr.  
11 Modglin that now is the time to expose any future plans so that he does not have to come back before the  
12 Board for approval. He asked Mr. Modglin to consider what they will do if the map amendment and special  
13 use are denied.  
14  
15 Mr. Modglin stated that they would have to investigate what uses were allowed in the current zoning district.  
16  
17 Mr. Thorsland asked Mr. Modglin if there is a specific reason why the shop area will be located on the east  
18 side of the property.  
19  
20 Mr. Modglin stated that they thought that the plan would present the best layout for their intended use.  
21  
22 Mr. Thorsland asked Mr. Modglin if the berm is the only construction that has occurred on the property.  
23  
24 Mr. Modglin stated that the berm is the only thing that has occurred.  
25  
26 Mr. Thorsland asked Mr. Modglin why there is no berm on the east side of the property.  
27  
28 Mr. Modglin stated that they did not believe that the berm was necessary on the east side of the property.  
29  
30 Mr. Thorsland asked Mr. Modglin if the closest resident to the property is located on the east side.  
31  
32 Mr. Modglin stated yes.  
33  
34 Ms. Lee asked Mr. Modglin if the shop buildings could be relocated to the west side of the property towards  
35 Route 45, thus providing more separation distance from the adjacent residence.  
36  
37 Mr. Modglin stated that there is an existing drive between the warehouses and the shop and to move the  
38 shop, truck terminal, to the west would require reconfiguration of the location of the self-storage  
39 warehouses. He said that relocation is possible, but they would have to reconfigure the entire plan.  
40  
41 Mr. Thorsland asked Mr. Modglin if the intention for the detention location is due to the natural slope of the

1 property.

2

3 Mr. Modglin stated yes.

4

5 Ms. Griest asked Mr. Modglin to indicate the separation distance between the storage units and the shops.

6

7 Mr. Modglin stated that it is 40 feet.

8

9 Ms. Griest stated that Mr. Modglin stated that the crushing of the concrete would be a one-time event. She  
10 asked Mr. Modglin what the aggregate storage area would be used for in the future.

11

12 Mr. Modglin stated that they hope to stack concrete blocks which are 4 feet long, 10 feet wide and 2 feet tall,  
13 to use as bins for different types of rock for small job sites.

14

15 Ms. Griest asked Mr. Modglin if the storage of the trucks and equipment would occur inside the storage area  
16 and the buildings.

17

18 Mr. Modglin stated that the storage of the trucks and equipment would occur inside of the storage area and  
19 the buildings.

20

21 Ms. Griest asked Mr. Modglin if they are building the berm to contain the noise. She asked Mr. Modglin  
22 why a berm is not being constructed on the east side of the property between the facility and the residences.  
23 She said that the residents on the east side of the subject property are the ones who are closest to the subject  
24 property as opposed to separating the activities from the road noise that is already there.

25

26 Mr. Modglin stated that the berm was primarily constructed to basically screen the proposed facility from the  
27 road. He said that there is a hedgerow on the east side of the truck terminal shop space and along the hedge  
28 row there is a row of bushes located on the Hatfield's property. He said that there is an access drive off of  
29 the township road and they intended to install the septic field in that area.

30

31 Mr. Thorsland stated that if the if septic system is installed in the access drive area, then the access drive  
32 would not be utilized any more.

33

34 Mr. Modglin stated that Mr. Thorsland was correct. He said that they would like to leave the hedgerow and  
35 plant more bushes/shrubs along their east line and the Hatfield's west line.

36

37 Mr. Thorsland asked Mr. Hall if there is a minimum separation distance between the storage facility and a  
38 residence.

39

40 Mr. Hall stated that there is no minimum separation distance between a storage facility and a residence. He  
41 said that not even a contractor's facility requires a 200 feet separation as a standard condition, but the Zoning

1 Ordinance requires a 200 feet separation for a truck terminal. He said that at a staff level this case was  
2 advertised as both a truck terminal and as a contractor's facility. He said that since the relationship of the  
3 companies is that they are owned by the same entities, and it seems that the use is more like a contractor's  
4 facility than a truck terminal, but the Zoning Ordinance does not require a minimum separation between a  
5 contractor's facility and an adjacent residential use. He said that the Zoning Ordinance has always required a  
6 200 feet separation between a truck terminal and an adjacent residential use, but what is important is that no  
7 matter what the Ordinance requires, that this Board finds that the proposed separation is adequate. He said  
8 that the Board could determine that given the specifics of the particular truck terminal, more than a 200 feet  
9 separation is required.

10  
11 Mr. DiNovo asked Mr. Hall if the property is zoned B-4 and a truck terminal is permitted as of right, where  
12 does the 200 feet separation come in.

13  
14 Mr. Hall stated that it comes in when there are multiple principal buildings proposed. He said that when  
15 there is a special use permit for a truck terminal, it has to meet the 200 feet separation.

16  
17 Mr. DiNovo stated that since a special use permit is involved the provisions for a truck terminal apply.

18  
19 Mr. Passalacqua stated that Mr. Modglin indicated that there would not be any vehicular traffic on the east  
20 side of the property due to the installation of the septic system. He asked Mr. Modglin if there would be any  
21 doors or windows on the east side of the shop.

22  
23 Mr. Modglin stated that they have not reached the final design phase of the shop building. He said that their  
24 intent was to leave the hedgerow on the east side; therefore, no windows or doors would be feasible other  
25 than to just let light in at the top of the building.

26  
27 Mr. Thorsland asked Mr. Modglin if the north shop space would have large doors to the north.

28  
29 Mr. Modglin stated yes. He said that their intent is to have a couple of overhead doors facing to the north  
30 and then have one facing south in the open area and the other doors will face to the west.

31  
32 Mr. Thorsland stated that the memorandum indicates that any major repairs to the equipment will be  
33 completed offsite, but general maintenance and repairs would happen on site during the workweek.

34  
35 Mr. Modglin stated that it is not typical for them to work past 6:00 p.m.

36  
37 Mr. Thorsland stated that the storage units would have 24-hour, seven days per week access.

38  
39 Mr. Modglin stated yes.

40  
41 Mr. Thorsland asked Mr. Modglin to indicate what security measures would be utilized, such as access

1 control.

2

3 Mr. Modglin stated that they do not intend to have access control. He said that he currently rents two storage  
4 units at a facility in Rantoul and there is no fence or gate at that facility.

5

6 Mr. Thorsland asked Mr. Modglin if he understands the full cut-off lighting requirement.

7

8 Mr. Modglin stated yes. He said that it is his understanding that the lighting will be reviewed during the  
9 permitting process.

10

11 Mr. Thorsland stated that it would be nice for the plans to indicate the lighting, full cut-off, and any signs  
12 that may be proposed.

13

14 Mr. Modglin stated that at this point he does not even know if he can acquire the proper zoning for the  
15 property so that he can build the intended buildings, let alone know the details of the buildings.

16

17 Mr. Thorsland stated that the Board needs to know everything that is intended in order to approve the  
18 requests. He said that it is good that nothing has been constructed yet; therefore, he is ahead of the game.  
19 He asked Mr. Modglin if he visited staff with his intent, thus discovering that a map amendment and special  
20 use was required.

21

22 Mr. Modglin stated yes.

23

24 Mr. Thorsland asked the Board if there were any questions for Mr. Modglin.

25

26 Mr. Randol asked Mr. Modglin to indicate the number of trucks that the operation owns.

27

28 Mr. Modglin stated that currently they own three tandems and one semi-truck. He said that they have three  
29 trailers for the semi-truck.

30

31 Mr. Randol asked Mr. Modglin if they intend to make their fleet of trucks larger.

32

33 Mr. Modglin stated that currently four trucks are sufficient.

34

35 Mr. Randol asked Mr. Modglin why they do not desire to install a chain link fence around the property.

36

37 Mr. Modglin stated that a chain link fence is a headache to maintain because weeds grow up inside the fence  
38 links and they tend to become unsightly.

39

40 Mr. DiNovo asked Mr. Modglin if he knows how long the property was on the market.

41

1 Mr. Modglin stated that the property was not on the market and it took two years for him to receive a  
2 response from the owner.

3  
4 Mr. Hall stated that the property was theoretically on the market because staff would receive calls from  
5 prospective buyers that received the same results as Mr. Modglin. He said that for a property that was  
6 supposedly on the market, it was not being marketed very aggressively.

7  
8 Mr. Hall stated that in the beginning this seemed like such a simple case, but now that there is a required  
9 separation, things are not as simple as it might have been thought. He asked Mr. Modglin if it might be  
10 feasible to simply flip the location of the self-storage warehouses with the two shop spaces because there is  
11 no required minimum separation from the self-storage warehouses but there is a separation for shop space.  
12 He said that the shop space and the self-storage warehouses take up almost identical amounts of the site and  
13 yet flipping them does not get entirely rid of the separation issue but it does get rid of a large part of it. He  
14 said that he could understand why there is not a berm in the vicinity of where the septic system is located,  
15 but could not there be a berm east of the aggregate storage area if nothing else is proposed there. He said  
16 that a berm might help with some of the issues related to noise and it might help mitigate less than the 200  
17 feet separation. He said that even though some things in this case are very subtle it might benefit from some  
18 further study to make sure that this is the plan that has to happen, or there may be some adjustment that can  
19 be made.

20  
21 Mr. Modglin stated that the plan is not set in stone. He said that they sat down and drew out what made the  
22 most logical sense to them at the time. He said that if he lived where Mr. and Mrs. Hatfield live, he would  
23 rather have the self-storage units farther away than having them in next to them. He said that he and his  
24 partners thought about having the self-storage units next to the Hatfield property, but they wanted to keep the  
25 hedgerow and they might have been required to remove the hedgerow to make it work. He said that as they  
26 prepared their plan they took the neighbors into account and they thought that placement of the shop at its  
27 proposed location would be more acceptable.

28  
29 Mr. Hall stated that if he were a neighbor he would prefer to have two hundred feet of blank wall more so  
30 than self-storage warehouses.

31  
32 Mr. Modglin stated that with the hedgerow and shrubs the blank wall will not be as visible.

33  
34 Mr. Hall asked Mr. Modglin if a berm along the east side of the aggregate storage area was possible.

35  
36 Mr. Modglin stated that a berm in that area is not out of the question. He said that there is a one-acre lot that  
37 sits between the Hatfield's residence and the square that bumps out on the east side. He said that there is an  
38 access drive on the other side of the Hatfield's lot that is for sale right now.

39  
40 Mr. Hall stated that he understands that the aggregate area is in the "L" shape of the lot and the south leg is  
41 within the 200 feet separation; therefore, a berm at that location may help mitigate having less than 200 feet

1 separation.

2  
3 Mr. Thorsland stated that the aggregate that is being discussed is the area behind the aggregate bins;  
4 therefore, the back of the bins could be utilized as a berm that would place a visual and noise barrier. He  
5 said that he would like to hear the testimony from the other witnesses before we get too detailed. He said  
6 that the existing drive is the reason why it might be hard to flip the site plan.

7  
8 Mr. Modglin stated that they are not married to the layout, but they did take the neighbors into account when  
9 they designed their plan.

10  
11 Mr. Thorsland asked Mr. Modglin if the storage units would have storage availability on both sides.

12  
13 Mr. Modglin stated that the storage units would have storage availability on both sides.

14  
15 Mr. Thorsland stated that the double-sided storage units would be more intrusive on the Hatfield property,  
16 because there would be activity close to the property line.

17  
18 Mr. DiNovo asked Mr. Modglin to indicate the height of the shop building.

19  
20 Mr. Modglin stated that the 60' x 120' building will have a 12 feet overhead door and the shop would have a  
21 16 feet overhead door.

22  
23 Mr. Thorsland asked the Board if there were any additional questions for Mr. Modglin and there were none.

24  
25 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Modglin and there was no one.

26  
27 Mr. Thorsland called Katie Hatfield to testify.

28  
29 Ms. Katie Hatfield, who resides at 1516 CR 2700N, Rantoul, stated that her property is next door to the  
30 proposed truck terminal. She said that the 200 feet separation has been discussed and from the information  
31 included in the Preliminary Memorandum, the proposed use would be 15 inches from her property, but  
32 according to the map, there will be 75 feet before there is a building.

33  
34 Mr. Thorsland asked Ms. Hatfield if it was her understanding that the building would be on the property line.

35  
36 Ms. Hatfield stated yes. She said that she is concerned about the statement in the memorandum, which  
37 indicates that Mr. Modglin will have outdoor storage and/or operations. She said that she would like Mr.  
38 Modglin to explain what outdoor storage and/or operations actually means. She said that she has a concern  
39 about the concrete crushing and grinding, because such operations could create a health problem.

40  
41 Mr. Thorsland stated that Mr. Modglin testified that water is utilized to mitigate any dust that is created

1 during the concrete crushing. He said that the Board could request additional information from Mr. Modglin  
2 regarding certifications, dust mitigation and time period.

3  
4 Ms. Hatfield stated that it sounds like it may be an EPA issue.

5  
6 Mr. Thorsland stated that Mr. Modglin has discussed a short, but intense, period of time for the crushing of  
7 the concrete. He said that he assumes that staff will receive complaints from the adjacent neighbors if the  
8 dust issue is not remedied during the crushing.

9  
10 Ms. Hatfield stated that Mr. Modglin did answer many of her questions, other than, the grinding process and  
11 the “and/or” statement in the memorandum.

12  
13 Mr. Thorsland stated that Special Condition K. indicates the following: Outdoor operations may involve  
14 nothing louder than loading and unloading earth, sand, rock, and gravel, and any noise must comply with the  
15 Champaign County Nuisance Ordinance. Mr. Thorsland stated that the Nuisance Ordinance clearly states  
16 that any noise may not occur before 7:00 a.m. or after 10:00 p.m.

17  
18 Mr. Hall stated that the Nuisance Ordinance does protect things in the district, but it is not very useful when  
19 there are several districts side by side, because the expectations in one district may be different than the  
20 expectations in another. He encouraged the Board to not rely on the Nuisance Ordinance for this situation  
21 and that the Board should establish their own parameters.

22  
23 Mr. Thorsland stated that this type of short-term use is a hard thing to quantify.

24  
25 Mr. DiNovo stated that the worst noise may be from the back-up alarms on the equipment.

26  
27 Ms. Hatfield stated that the proposed septic system is very close to her driveway. She asked if the petitioners  
28 could install their septic system farther back on the subject property.

29  
30 Mr. Thorsland stated that the rules for wastewater management have become very strict and the petitioners  
31 will not be able to install their septic system until they meet all of the regulations. He said that the  
32 Champaign County Health Department will review the permit application for compliance and will not  
33 approve the application until all of the regulations are met.

34  
35 Mr. Thorsland asked Ms. Hatfield if she had any additional concerns.

36  
37 Ms. Hatfield stated that she had no additional concerns to discuss at this time.

38  
39 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Hatfield.

40  
41 Mr. Hall stated that even though the shops are closer than the required 200 feet separation from the

1 Hatfield's property, the wall that faces the Hatfield's property is blank and no activity will take place in that  
2 location. He said that previous testimony mentioned the possibility of flipping the site plan and locating the  
3 self-storage warehouses near the Hatfield's property versus the shop/warehouse building. He said that if the  
4 site plan is flipped, the self-storage warehouses could be as close as 25 feet from the Hatfield's property with  
5 no waiver required. He asked Ms. Hatfield if the blank wall of the warehouse, located 75 feet from her  
6 property line, would be better than having self-storage warehouses 25 feet from her property. He said that it  
7 is true that the petitioners require a waiver for placing the shop/warehouse building closer than 200 feet from  
8 the property line, but given the terms of the Zoning Ordinance, the self-storage warehouse could be 25 feet  
9 from her property line. He requested comments from Ms. Hatfield regarding her preference for the type of  
10 use she would rather have next to her residence.

11  
12 Ms. Hatfield stated that once the self-storage warehouses are constructed there would be a lot of increased  
13 activity; therefore, it will probably be better for everyone if the self-storage warehouses are constructed in  
14 their current proposed location. She said that it appears that the self-storage units will be very close together.

15  
16 Mr. Passalacqua stated that the size of the shop/warehouse building should assist in eliminating noise  
17 generated on the subject property.

18  
19 Mr. Thorsland stated that he is assuming that the buildings will be much like an agricultural building or  
20 average pole shed. He said that there is an existing driveway on the subject property and testimony has  
21 indicated that more vegetative plantings are proposed. He asked Ms. Hatfield if, based on the testimony  
22 tonight, she is more comfortable with the location of the proposed buildings and the proposed uses.

23  
24 Ms. Hatfield stated that she thinks she is more comfortable. She said that it does not appear that they will be  
25 using the property on a daily basis. She said that she is still concerned about the proposed grinding because  
26 it could be a terrible health issue.

27  
28 Mr. Thorsland stated that the Board could indicate a one-time limit.

29  
30 Ms. Hatfield stated that such a limit would be wonderful, but even one week of grinding is still a long time  
31 and will create a lot of dust.

32  
33 Mr. Thorsland stated that he believes that the petitioners are required by the EPA to mitigate the dust  
34 pollution created by the grinding. He said that it might be a week of a lot noise for the grinding of the  
35 concrete for the driveways versus not having any material on the ground, thus creating dust pollution. He  
36 asked Ms. Hatfield if there was a lot of noise created by the apartment complex.

37  
38 Ms. Hatfield stated that when they purchased their home the apartments were fine, but it went downhill and  
39 the police were called to the property often.

40  
41 Mr. Thorsland stated that there is a possibility that Mr. and Mrs. Hatfield will have better neighbors with the

1 current owners.

2  
3 Ms. Hatfield stated that she and her husband would like to believe that the new owners of the property will  
4 be better neighbors. She said that there were no apartments near the road and the one unit that was behind  
5 their property was the one that caused the most problems.

6  
7 Mr. DiNovo stated that the Board should remember that there are two cases before the Board tonight for the  
8 subject property. He said that the special use permit allows the Board to discuss the details of the use and  
9 the map amendment will rezone the property to B-4, General Business. He said that it is possible that the  
10 petitioner's project may not move forward, but the property is rezoned to B-4. He asked Ms. Hatfield if she  
11 has any concerns about what could occur in the B-4 District.

12  
13 Ms. Hatfield stated yes. She said that the lot that is behind her property always concerned them and the  
14 property is now vacant. She said that if the petitioner's project does not transpire he might not want to keep  
15 the property; therefore, there has to be some control over what can occur there.

16  
17 Mr. Thorsland stated that if the property is rezoned to B-4, General Business, other types of businesses and  
18 uses could be proposed on the property. He said that if, for some reason, the current owners decide not to  
19 finalize the project, there are other types of businesses, which could occur next to Ms. Hatfield's property.

20  
21 Mr. Passalacqua asked if the Border Magic property is zoned B-4.

22  
23 Mr. Thorsland stated that he recalled that there are portions of the Border Magic that is for sale.

24  
25 Ms. Chavarria stated that there are warehouses, which are part of the use on the property, and those  
26 warehouses are available for rent. She said that Border Magic is still operating on the property.

27  
28 Mr. Thorsland asked the audience if anyone desired to cross-examine Ms. Hatfield and there was no one.

29  
30 Mr. Thorsland called Bill Morfey to testify.

31  
32 Mr. Bill Morfey, who resides at 1520 CR 2700N, Rantoul, stated that his property is approximately two  
33 football field lengths from the subject property. He said that many of his questions have been answered at  
34 tonight's meeting, but he would like to know hours of operation for the business and whether those hours are  
35 for seven days per week. He said that he is concerned with the crushing that will occur on the property. He  
36 said that he would assume that two thirds of the pile of concrete was hauled in from off-site. He said that he  
37 has no issue with the proposed self-storage warehouses or the truck terminal, but the petitioners have already  
38 jeopardized the neighbor's trust by hauling in concrete from other sites. He said that he does not believe that  
39 they should be able to crush on the subject property, and that if they hauled in the concrete, then they can  
40 haul it off.

41

- 1 Mr. Morfey stated that there is no berm proposed on the northeast corner of the subject property; therefore,  
2 the view that he has from his rear patio is a pile of concrete. He said that a berm would assist with noise  
3 control generated from the subject property. He said that currently, there is a cornfield north of their  
4 property, which assisted with the view, but soybeans will be planted next year and their view will not be as  
5 pleasant. He said that he appreciates what the new owners have done with the property regarding cleaning it  
6 up, but he does have concerns regarding the crushing.  
7
- 8 Mr. Thorsland asked Mr. Morfey if his biggest concern is the onsite crushing, but he has no issue with a  
9 stone driveway.  
10
- 11 Mr. Morfey stated that Mr. Thorsland is correct. He said that it was a mess from the subject property to US  
12 45 when dirt was being hauled in for the berm.  
13
- 14 Mr. Thorsland stated that perhaps the Board can impose a limit on the amount of additional concrete can be  
15 brought onto the property for crushing.  
16
- 17 Mr. Morfey stated that the property is probably not currently zoned for the crushing.  
18
- 19 Mr. Thorsland stated that he not sure what the rules are about temporary grinding of aggregate.  
20
- 21 Mr. Morfey stated that the crushing would be considered a nuisance.  
22
- 23 Mr. Thorsland stated that Mr. Modglin testified that the crushing would be a one-time event.  
24
- 25 Mr. Morfey stated that he wanted the Board to know that the petitioners are hauling more concrete onto the  
26 property from off-site locations for crushing. He said that if they want to crush the concrete that was  
27 generated from the subject property, but no more concrete from off-site.  
28
- 29 Mr. Thorsland noted that weather could be a contributing factor to the timing of the crushing.  
30
- 31 Mr. Morfey stated that he and his wife intend to be good neighbors to the petitioners and he would assume  
32 that the petitioners would like to be good neighbors to the adjacent residences. He said that he would like  
33 the Board and the petitioners to consider whether they would want these uses next to their home or families.  
34
- 35 Mr. Thorsland stated that there is a lack of screening on the northeast side of the property. He asked Mr.  
36 Morfey if he would appreciate the Board requiring screening on the northeast side of the property.  
37
- 38 Mr. Morfey stated that he would appreciate a requirement for screening and cleaning of the pile.  
39
- 40 Mr. Thorsland stated that the fence waiver is a huge request. He asked Mr. Morfey if he has any input  
41 regarding what type of fencing he would prefer.

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Mr. Morfey stated that his entire rear yard is fenced with a chain link fence and in the fall he is constantly cleaning out corn leaves out of it and the maintenance is huge, so he understands the petitioner's reluctance for a chain link fence.

Mr. DiNovo stated that the required fence is not a solid fence.

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

Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony regarding these cases.

Mr. Thorsland called Mr. Robert Lakey to testify.

Mr. Robert Lakey, who resides at 4014 Clubhouse Drive, Champaign, stated that he owns the farmland, which surrounds the subject property, and the petitioners have done a wonderful job in cleaning up the property. He said that the subject property, in its previous condition, was a total mess and the septic drained into his farm tiles and then to the ditch. He said that he is concerned that the berms may create a drainage issue for his field. He said that a multi-flow system may work great, but there still has to be an outlet for the water and he does not want it to outlet into his field.

Mr. Thorsland noted that multi-flow systems are not allowed anymore by the Champaign County Public Health Department (CCPHD). He said that the CCPHD is in charge of approving the proposed septic system's specifications and the petitioners will need to indicate a second site should the first site fail.

Mr. Lakey stated that the more that they build up the property the more runoff that will occur.

Mr. Thorsland stated that the roof of the buildings, the berm, and the impervious area would all create additional runoff. He said that the recycled concrete would be used for the driveway and parking area; therefore, there will be a net gain for keeping the water onsite, plus there is a detention basin proposed. He said that there is a stormwater management requirement that the petitioners must comply with to assure that the stormwater is handled properly.

Mr. Lakey stated that proper drainage is the main thing that he is concerned about because he does not want water standing in his fields.

Mr. DiNovo asked Mr. Lakey to explain how the water drains in that area.

Mr. Lakey stated that the water drains to the ditch that runs east and west to the middle of the property.

Mr. DiNovo stated that the water then runs to the north.

1  
2 Mr. Lakey stated that years ago, there was a waste system that was not functioning properly and sewage was  
3 found to be draining into the ditch.  
4  
5 Mr. Thorsland stated that the dry basin that is indicated on the site plan outlets to the ditch along US 45. He  
6 said that perhaps more detail is required on the site plan, but the intent appears to be that the water will be  
7 gathered up on the northwest corner of the property and will be sent to the ditch along US 45.  
8  
9 Mr. Passalacqua asked Mr. Lakey if the water generally drains to the west and then north.  
10  
11 Mr. Lakey stated that his tiles run north and south and the laterals run east and west that drain the ponds. He  
12 said that the main goes to the ditch.  
13  
14 Mr. Passalacqua asked Mr. Lakey if his main line drains to US 45.  
15  
16 Mr. Lakey stated no. He said that it drains directly to the north.  
17  
18 Mr. Thorsland stated that there are no facilities proposed for the storage units and there is no residence  
19 proposed on the property. He said that there is a septic system proposed which will be approved by the  
20 CCPHD.  
21  
22 Mr. Lakey stated that in comparison to what the subject property looked like before and how it looks now, he  
23 appreciates everything that the new owners have done thus far.  
24  
25 Mr. Thorsland stated that one of the special conditions of approval is in regards to the "*Right to Farm Act*".  
26  
27 Mr. Lakey stated that he is somewhat concerned about any garbage that may come onto his farmland. He  
28 said that bags, boxes, etc., are a nuisance and he does not want to have to deal with it.  
29  
30 Mr. Thorsland stated that the proposed use does not appear to be the type of a business that will generate a  
31 lot of garbage.  
32  
33 Mr. Lakey stated that this appears to be a first class organization and the property currently looks great. He  
34 said that his main concern was in regards to the drainage and septic.  
35  
36 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Lakey and there was no one.  
37  
38 Mr. Thorsland called Mr. Modglin back to the microphone.  
39  
40 Mr. Thorsland asked Mr. Modglin if the concrete crusher is someone who does this regularly, and if so, do  
41 they have to have a permit. He asked Mr. Modglin if the company that he is using for the crushing has a

- 1 brochure that he could submit as evidence regarding their dust mitigation.  
2
- 3 Mr. Modglin stated that a permit is not required to crush concrete on your property. He said that he is sure  
4 that he can obtain some information from the crushing company regarding dust concerns.  
5
- 6 Mr. Thorsland stated that no decision would be received tonight. He said that before the next meeting, the  
7 Board would like to receive documentation from the concrete crusher regarding dust mitigation and an  
8 estimate regarding the amount of concrete that is currently on the property for crushing. He said that a  
9 timeframe for the concrete crushing would be useful.  
10
- 11 Ms. Griest stated that the site plan should indicate the separation distance between the property line and the  
12 base of the berm. She said that the Board has seen cases where people will build a berm right up to their  
13 property line, causing drainage issues on the adjacent property. She said that the site plan should indicate the  
14 storage bins and aggregate storage areas.  
15
- 16 Mr. Thorsland stated that the petitioners might review the option of placing a berm behind the storage bins  
17 and aggregate storage areas. He said that the site plan should indicate any newly proposed berms and  
18 screening behind the topsoil pile. He said that the distance between the shop and the self-storage units  
19 should also be included on the site plan.  
20
- 21 Mr. DiNovo stated that the required parking spaces should be indicated on the site plan.  
22
- 23 Mr. Thorsland stated that a loading berth and handicapped parking spaces should be included on the site  
24 plan. He said that the Board cannot waive any requirements of the Capitol Development Board.  
25
- 26 Mr. Randol stated that employee parking should be included on the site plan.  
27
- 28 Mr. Modglin stated that he did indicate the handicapped parking spaces on the current site plan.  
29
- 30 Mr. Thorsland stated that the yellow areas on the site plan are very hard to read; therefore, he would  
31 appreciate it if a different color could be utilized.  
32
- 33 Mr. Modglin stated that the employee parking would be located in the open area, which is west of the 60' x  
34 120' shop area. He said that he currently has four hourly employees.  
35
- 36 Mr. Passalacqua stated that the site plan should indicate any proposed exterior lighting.  
37
- 38 Mr. Modglin stated that the proposed exterior lighting would consist of wall packs.  
39
- 40 Mr. Thorsland stated that many times the wall packs are not full cut-off. He informed Mr. Modglin that staff  
41 has detailed information regarding exterior lighting and what is required by the Zoning Ordinance.

1  
2 Mr. Passalacqua stated that the hours of operation should be clarified. He asked Mr. Modglin if the self-  
3 storage units would be available to the renters 24 hours per day and 7 days a week.  
4  
5 Mr. Modglin stated that the self-storage units would be available 24 hours per day and 7 days a week. He  
6 said that the shop/truck terminal operates Monday through Friday, 7:00 a.m. to 5:00 p.m. He said that there  
7 are some rare occasions when they will work on a Saturday morning, but they do not typically ever work on  
8 Sunday.  
9  
10 Ms. Griest stated that it appears that the full project will take years to complete. She said that it is in Mr.  
11 Modglin’s best interest to designate what will be done in the storage area during the interim construction  
12 stages. She said that if the area will be used for alternative parking or storage area then it should be  
13 indicated on the site plan.  
14  
15 Mr. Thorsland asked Mr. Hall for a suggested continuance date.  
16  
17 Mr. Hall stated that given the amount of new cases that have been received, he is wondering if the Board  
18 should consider re-instating the October 13<sup>th</sup> meeting and continuing Cases 845-AM-16 and 846-S-16 to that  
19 meeting.  
20  
21 Mr. Thorsland entertained a motion to re-instate the October 13<sup>th</sup> meeting.  
22  
23 **Ms. Griest moved, seconded by Mr. Randol, to re-instate the October 13<sup>th</sup> meeting. The motion**  
24 **carried by voice vote.**  
25  
26 Mr. Thorsland asked Mr. Modglin if he is available for the October 13<sup>th</sup> meeting.  
27  
28 Mr. Modglin stated yes.  
29  
30 Mr. Thorsland entertained a motion to continue Cases 845-AM-16 and 846-S-16 to the October 13, 2016,  
31 meeting.  
32  
33 **Ms. Griest moved, seconded by Mr. Randol, to continue Cases 845-AM-16 and 846-S-16 to the**  
34 **October 13, 2016, meeting. The motion carried by voice vote.**  
35  
36 Mr. Thorsland stated that the Board will take a five-minute recess.  
37  
38 **The Board recessed at 8:40 p.m.**  
39 **The Board resumed at 8:45 p.m.**  
40  
41 **Case 848-V-16 Petitioner: Lawrence Griest Request: Authorize the following variances from the**

1 **Champaign County Zoning Ordinance in the CR Conservation Recreation Zoning District: Part A:**  
2 **Authorize the use of an existing lot that does not abut and have access to either a public street right of**  
3 **way or a private accessway as required by Section 4.2.1.H of the Ordinance; Part B. Authorize a**  
4 **variance for the use of an existing lot with an average lot width of 169 feet in lieu of the minimum**  
5 **required 200 feet required by Section 5.3 of the Zoning Ordinance; and Part C. Authorize the**  
6 **construction and use of an accessory structure with a side yard of 5 feet and a rear yard of 5 feet in**  
7 **lieu of the minimum 10 feet side yard and the minimum 10 feet rear yard required by Section 7.2.1 of**  
8 **the Ordinance. Location: A 1.2-acre tract in the Southeast Quarter of the Southeast Quarter of**  
9 **Section 19, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township,**  
10 **and commonly known as the residence with an address of 88A CR 2000N, Mahomet.**

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

16  
17 Mr. Thorsland informed the audience that Case 848-V-16 is an Administrative Case and as such, the County  
18 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for  
19 a show of hands for those who would like to cross-examine and each person will be called upon. He  
20 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.  
21 He said that those who desire to cross-examine are not required to sign the witness register but are requested  
22 to clearly state their name before asking any questions. He noted that no new testimony is to be given during  
23 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
24 exempt from cross-examination.

25  
26 Ms. Debra Griest, ZBA Board Member, stated that she must abstain from participation in Case 848-V-16  
27 due to her family relationship with Mr. Lawrence Griest.

28  
29 Mr. Thorsland asked Mr. Griest if he would like to make a statement regarding his request.

30  
31 Mr. Lawrence Griest, who resides at 88A CR 2000N, Mahomet, stated that when he considered construction  
32 of a new building, he visited staff regarding the requirements for such construction. He said that he spoke  
33 with Ms. Chavarria and she indicated that his lot only had a lot width of 169 feet versus the minimum  
34 required 200 feet, and that he would need a variance. He said that at that point, he was considering  
35 constructing a 40' x 40' building, but currently he is proposing a 32' x 48' building with a 10 feet separation  
36 between the house and the garage. He said that when he received the Preliminary Memorandum, he noticed  
37 that his lot evidently has an issue with the access and that staff has included that variance with the case as  
38 well. He said that he is very glad that this process will hopefully correct the property issues as well as allow  
39 the placement of his proposed structure.

40  
41 Ms. Chavarria stated that she received an email today, September 15, 2016, from Brad Coats, adjacent

1 landowner, who indicated that he had no objections with Mr. Griest's variance requests.  
2  
3 Mr. Thorsland stated that the email should be added to the Documents of Record.  
4  
5 Mr. Thorsland asked the Board if there were any questions for Mr. Griest.  
6  
7 Mr. DiNovo asked Mr. Griest if he had located the corner pins for his property.  
8  
9 Mr. Griest stated that he had the property surveyed last fall by Berns, Clancy and Associates and their yellow  
10 survey posts are still in place.  
11  
12 Mr. DiNovo asked Mr. Griest if he had an alternate location for the shed.  
13  
14 Mr. Griest stated that he did not have an alternate location for the shed because the property slopes down  
15 into a bowl type situation. He said that Photographs 1 and 5 indicates the situation for his front yard as it  
16 drains down to a tile, which is located underneath his driveway.  
17  
18 Mr. Thorsland asked the Board if there were any additional questions for Mr. Griest and there were none.  
19  
20 Mr. Thorsland asked staff if there were any questions for Mr. Griest and there were none.  
21  
22 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Griest and there was no one.  
23  
24 Mr. Thorsland stated that email from Brad Coats should be added to the Documents of Record as new item  
25 #7.  
26  
27 Mr. DiNovo asked staff if they researched any deeds at the Recorder's Office regarding the easement of  
28 access.  
29  
30 Ms. Chavarria stated that there was an easement created but not to the benefit of the subject property. She  
31 said that the easement was created before the subject property was created, and the easement was created to  
32 benefit the lot, which is east of the subject property.

33  
34 **Finding of Fact for Case 848-V-16:**

35  
36 From the documents of record and the testimony and exhibits received at the public hearing for zoning case  
37 **848-V-16** held on September 15, 2016, the Zoning Board of Appeals of Champaign County finds that:

- 38  
39 **1. Special conditions and circumstances DO exist which are peculiar to the land or structure**  
40 **involved, which are not applicable to other similarly situated land and structures elsewhere in**  
41 **the same district.**

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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 shape and low area of water retention in the center of the lot.

Mr. DiNovo stated that the lot was created prior the change in frontage requirement.

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

Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because with respect to Part A, nothing could be done with the lot at all, Part B, there is no practical way to correct the lot, and Part C, there is no other practical location for the proposed garage.

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

Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the lot was created prior to Mr. Griest’s purchase and at the time that this lot was created, there was a lot of misrepresentation and lack of enforcement of the County’s Subdivision Ordinance requirements.

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

Mr. Passalacqua stated that the requested variance IS in harmony with the general purpose and intent of the Ordinance because it is not disruptive to the neighborhood and permits efficient use of the property. He said that the property has been in its current use for many years.

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

Mr. DiNovo stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because this is a longstanding use and the physical access that is available is comparable to what could be established today with an access strip.

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

1 Mr. DiNovo stated that the requested variance IS the minimum variation that will make possible the  
2 reasonable use of the land/structure because the lot dimensions are fixed.

3  
4 Mr. Thorsland stated that there is no practical alternative location for the garage.

5  
6 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings  
7 of Fact as amended.

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

11  
12 Mr. Thorsland entertained a motion to move to the Final Determination for Case 848-V-16.

13  
14 **Mr. Randol moved, seconded by Ms. Lee to move to the Final Determination for Case 848-V-16. The**  
15 **motion carried by voice vote.**

16  
17 **Final Determination for Case 848-V-16:**

18  
19 **Ms. Capel moved, seconded by Mr. Passalacqua, that the Champaign County Zoning Board of**  
20 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**  
21 **that the requirements for approval in Section 9.1.9C HAVE been met, and pursuant to the authority**  
22 **granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals**  
23 **of Champaign County finds that:**

24  
25 **The Variance requested in Case 848-V-16 is hereby GRANTED to the petitioner Lawrence Griest to**  
26 **authorize the following variance in the CR Conservation-Recreation Zoning District:**

- 27
- 28 **Part A: Authorize the use of an existing lot that does not abut and have access to**
- 29 **either a public street right of way or a private accessway as required by Section**
- 30 **4.2.1.H. of the Ordinance; and**
- 31 **Part B: Authorize a variance for the use of an existing lot with an average lot width of**
- 32 **169 feet in lieu of the minimum required 200 feet required by Section 5.3 of the**
- 33 **Ordinance; and**
- 34 **Part C: Authorize the construction and use of an accessory structure with a side yard of**
- 35 **5 feet and a rear yard of 5 feet in lieu of the minimum 10 feet side yard and the**
- 36 **minimum 10 feet rear yard required by Section 7.2.1 of the Ordinance.**
- 37

38 Mr. Thorsland requested a roll call vote.

39  
40 The roll was called as follows:

41

1	<b>DiNovo-yes</b>	<b>Griest-abstained</b>	<b>Lee-yes</b>
2	<b>Passalacqua-yes</b>	<b>Randol-yes</b>	<b>Capel-yes</b>
3	<b>Thorsland-yes</b>		

4  
 5 Mr. Hall informed Mr. Griest that he has received an approval of his requests and staff will be in contact  
 6 regarding final documentation and permitting.  
 7

8 Mr. Thorsland stated that the Board will now hear Cases 828-S-16 and 834-V-16.  
 9

10 **7. Staff Report**

11  
 12 None  
 13

14 **8. Other Business**

15 **A. Review of Docket**

16  
 17 Mr. Thorsland requested that the Board announce any anticipated absence from a future meeting.  
 18

19 Ms. Lee stated that she might not be in attendance to the September 29<sup>th</sup> meeting.  
 20

21 Mr. Thorsland requested that Ms. Lee contact staff when she can confirm her attendance or absence to the  
 22 September 29<sup>th</sup> meeting.  
 23

24 Ms. Berry noted that two Board members would be absent from the September 29<sup>th</sup> meeting.  
 25

26 **8. Audience participation with respect to matters other than cases pending before the Board**

27  
 28 None  
 29

30 **10. Adjournment**

31 Mr. Thorsland entertained a motion to adjourn the meeting.  
 32

33 **Mr. Randol moved, seconded by Ms. Lee to adjourn the meeting. The motion carried by voice vote.**  
 34

35 The meeting adjourned at 10:20 p.m.  
 36

37 Respectfully submitted  
 38

39 Secretary of Zoning Board of Appeals