

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61802

DATE: October 27, 2016

PLACE: John Dimit Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 7:00 p.m.

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

MEMBERS ABSENT : Brad Passalacqua

STAFF PRESENT : Connie Berry, Susan Chavarria, John Hall

OTHERS PRESENT : Keith Padgett, Caleb Burton, Wayne Schwaiger, Steve Koester, Lloyd Allen, Andrew Fell, Robert Frazier, Richard Beasley, Dave Jackson, Morris Wingler, Christina Schultz, William Schultz, Greg Stanton, Margaret Stanton

1. Call to Order

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

2. Roll Call and Declaration of Quorum

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

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

Mr. Thorsland entertained a motion to rearrange the agenda and move Case 792-V-14, Robert Frazier, as the last case to be heard for tonight's hearing.

Ms. Griest moved, seconded by Ms. Capel to rearrange the agenda and move Case 792-V-14, Robert

1 Frazier, as the last case to be heard for tonight’s hearing. The motion carried by voice vote.

2

3 **5. Continued Public Hearing**

4

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

24

25 Mr. Thorsland stated that the Zoning Administrator has requested that Case 685-AT-11 be continued to a
26 later date.

27

28 Mr. DiNovo asked Mr. Hall to indicate at which point Case 685-AT-11 would require re-advertisement.

29

30 Mr. John Hall, Zoning Administrator, stated that the case has complied with all of the requirements and
31 continuing it over and over again without working on it is not good. He said that if the Board desires he
32 could withdraw the case tonight.

33

34 Ms. Griest asked Mr. Hall to indicate his preference.

35

36 Mr. Hall stated that his preference is the Board’s preference.

37

38 Mr. Thorsland asked Mr. Hall to indicate the cost of re-advertising the case with no changes. He asked if
39 there would be a bigger cost to the County in just continuing the case or re-advertise.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

Mr. DiNovo asked Mr. Hall if there was an initial hearing for Case 685-AT-11.

Mr. Hall stated yes.

Mr. DiNovo stated that if all parties who are interested in the case have been notified then he has no problem in continuing the case to a later date.

Mr. Thorsland requested a continuance date.

Mr. John Hall, Zoning Administrator, requested that Case 685-AT-11 be continued to the January 12, 2017, tentative meeting date.

Ms. Griest moved, seconded by Ms. Capel, to continue Case 685-AT-11 to the January 12, 2017, tentative meeting. The motion carried by voice vote.

Mr. Thorsland stated that the Board will now hear Case 823-S-15.

Case 792-V-14 (Reactivated) Petitioner: Robert Frazier Request to authorize the following Variance from the Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District: Part A. Variance for 62 parking spaces in lieu of the minimum required 89 parking spaces as required by Section 7.4.1 of the Zoning Ordinance. Part B. Variance for 16 on-site parking spaces in lieu of the minimum required 89 parking spaces as required by Section 7.4 of the Zoning Ordinance. Part C. Variance for allowing 46 off-street parking spaces on an adjacent lot in lieu of requiring all off-street parking spaces to be located on the same lot or tract of land as the use served, as required by Section 7.4.1 of the Zoning Ordinance. Part D. Variance for a setback of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by Section 5.3 of the Zoning Ordinance; and Part E. Variance for parking spaces that are at least 8 feet 6 inches by 18 feet 6 inches in lieu of the minimum required 9 feet by 20 feet as per Section 7.4.1.B. of the Zoning Ordinance. Location: Lot 4 of the Stahly Subdivision in the Southeast Quarter of Section 8 of Champaign Township and commonly known as the former LEX building located at 310 Tiffany Court, Champaign.

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. He asked the audience if anyone desired to sign the witness register at this time.

Mr. Thorsland informed the audience that Case 792-V-14 is an Administrative Case and as such, the County

1 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for
2 a show of hands for those who would like to cross-examine and each person will be called upon. He
3 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.
4 He said that those who desire to cross-examine are not required to sign the witness register but are requested
5 to clearly state their name before asking any questions. He noted that no new testimony is to be given during
6 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
7 exempt from cross-examination.

8
9 Mr. Thorsland asked the petitioner if he would like to make a statement regarding his case.

10
11 Mr. Robert Frazier, who resides at 3909 Farmington Drive, Champaign, and whose business address is 310
12 Tiffany Court, Champaign, stated that new drawings have been submitted and he will be happy to address
13 any questions that the Board and staff may have.

14
15 Ms. Chavarria stated that Steve Koester submitted a letter dated October 14, 2016, from Larry E. Isaacs. She
16 said that the letter reads as follows: "The land south of our west building was NOT SOLD, and WILL NOT
17 BE SOLD to Bob Frazier. However, he does have an option to buy the west building which includes the
18 parking lot on the south side. He has this option until June of 2018; but as of this date, nothing has been
19 sold."

20
21 Ms. Chavarria stated that Mr. Frazier submitted a Contract for Sale and Purchase of Real Estate and an
22 Option Contract for Purchase of Real Estate. She said that the Option Contract for Purchase of Real Estate
23 indicates an end date of July 1, 2017, and indicates that Mr. Frazier has the option of buying the property that
24 is the west building of the Isaacs' property as well as the parking area associated with it. She said that while
25 no purchase has been made the option is still there to do so.

26
27 Mr. Thorsland stated that item #2 of the Contract for Sale and Purchase of Real Estate, indicates a total sum
28 of \$425,000, but \$400,000 is in parenthesis. He asked Mr. Frazier if the letter from Mr. Isaacs is accurate
29 regarding west building and the parking lot on the south side.

30
31 Mr. Frazier stated that the Board has two contracts before them. He said that one contract is for the lot and
32 the other is for the building and the lot. He said that he hopes that the purchase will provide the required
33 parking spaces without counting the 15% reduction that the City of Champaign would allow. He said that he
34 is trying to cover all of the bases between the County and the City of Champaign so that he ends up with the
35 correct amount of parking spaces.

36
37 Mr. Thorsland stated that Mr. Frazier should keep in mind that the City of Champaign is not the governing
38 body over his property. He said that if Mr. Frazier meets the County's requirements for parking then it
39 would meet the City of Champaign's parking requirement.

1
2 Mr. Frazier stated that his purchase of the west building would provide him more rental real estate.

3
4 Ms. Chavarria noted that if Mr. Frazier obtains more rental space then he would require more parking.

5
6 Mr. Hall stated that the west building is located within the City of Champaign.

7
8 Mr. Frazier stated that the Isaacs' property is totally located within the City of Champaign. He said that he
9 has the City of Champaign to the north and east of his property and in time the City of Champaign will take
10 over Tiffany Court. He said that the whole area along Staley Road is currently under construction and a
11 sewer system will be installed soon because they are pushing development to the west towards Bondville.

12
13 Mr. Thorsland stated that the Board received new photographs tonight and he asked Ms. Chavarria to
14 indicate who submitted the photographs.

15
16 Ms. Chavarria stated that the photographs were submitted by Lloyd Allen. She said that she annotated the
17 photographs because she could not obtain a perspective of their location. She said that she indicated their
18 location in writing on each photograph.

19
20 Mr. Thorsland stated that Photograph #1 indicated "NE Corner facing South." He said that the photograph
21 indicates the east side where Mr. Frazier is proposing parallel parking along the building where the concrete
22 is located. He asked Mr. Frazier if the property line is located along the hedgerow.

23
24 Mr. Frazier stated that he does not have a copy of the photographs therefore, he cannot correctly answer Mr.
25 Thorsland's question. He said that he believes that there is 40 feet between the east side of the building and
26 the property line.

27
28 Mr. Thorsland stated that page A1 of the submitted drawings dated October 9, 2016, by Andrew Fell,
29 indicates that there is 32 feet between the building and the eastern property line.

30
31 Mr. Thorsland called Andrew Fell to the witness microphone.

32
33 Mr. Andrew Fell, Architect for Mr. Frazier, whose office is located at 515 N. Hickory Street, Suite 101,
34 Champaign, stated that 32 feet is an accurate measurement to the eastern property line. He said that the
35 dimension of 28'-3" is an incorrect measurement. He said that some of the dimensions on the drawing
36 become skewed because the plans are drawn at full scale and when it is scaled down to print on a smaller
37 page the dimensions are sometimes scaled down automatically but sometimes they are not. He said that he
38 tries to go through the dimensions to double check them, but there are occasions when he will miss one.

1 Mr. Thorsland asked Mr. Frazier where the 40 feet dimension came from.
2
3 Mr. Frazier stated that he was reading it off of the drawings, which, as Mr. Fell indicated, must have been
4 miscued. He apologized for the error.
5
6 Mr. Thorsland asked Mr. Frazier if he is proposing parallel parking spaces along the wall against the doors
7 for the storage units.
8
9 Mr. Frazier stated yes.
10
11 Mr. Thorsland asked Mr. Frazier to indicate what would happen if someone had their vehicle parked in front
12 someone else's storage unit.
13
14 Ms. Griest stated that they would have to work that out themselves.
15
16 Mr. Thorsland stated that the Photograph #2 indicates the Southeast corner of the subject property facing
17 North and Northeast. He said that a dumpster is still located in its original location. He said that the
18 photograph is mainly indicating where the concrete ends and the location of the hedgerow.
19
20 Mr. Frazier stated that it appears that he needs to install "No Trespassing" signs on his property for Mr.
21 Allen because it is obvious that Mr. Allen was on his property when he took these pictures. Mr. Frazier
22 stated that the oil tanks are indicated in Photograph #3 and those oil-recycling tanks were previously
23 discussed with the Board.
24
25 Mr. Thorsland stated that Photograph #4 indicates the septic system located along the fence.
26
27 Mr. Frazier stated that the location of the septic system is indicated on the submitted drawings.
28
29 Mr. Thorsland asked Mr. Frazier if the building indicated in Photograph #5 is the building owned by Mr.
30 Isaacs.
31
32 Mr. Frazier stated that the building is owned by Mr. Isaacs and it is the building that he will be purchasing.
33 He said that anyone that is parked on that lot would be under Mr. Frazier's supervision and not Mr. Isaacs.
34
35 Mr. Thorsland stated that if the transaction between Mr. Isaacs and Mr. Frazier takes place, then Mr. Frazier
36 is correct regarding any parking being under Mr. Frazier's supervision.
37
38 Mr. Frazier stated that there is a written contract, which has been submitted to the Board for review.
39

1 Mr. Thorsland stated that Photograph #6 indicates the proposed north parking lot. He asked Mr. Frazier if
2 the fence would be removed.
3
4 Mr. Frazier stated that it would be his choice as to remove or keep the fence in its current location.
5
6 Mr. Thorsland stated that Photograph #7 indicates the proposed parking lot. He asked Mr. Frazier if the
7 building in the photograph is owned by Mr. Isaacs.
8
9 Mr. Frazier stated yes.
10
11 Mr. Thorsland stated that Photograph #8 indicates the proposed North parking area. He asked Mr. Frazier if
12 the white van is parked in the area of the circle drive on Tiffany Court.
13
14 Mr. Frazier stated yes.
15
16 Mr. Thorsland stated that the photograph labeled, “view from West side of Tiffany Court facing the subject
17 property,” and the photograph labeled, “facing east to the proposed North parking lot,” are full views of the
18 subject property.
19
20 Mr. Frazier stated that the recycled oil containers will be removed for the proposed parking area.
21
22 Mr. Thorsland stated that real estate contracts are not part of the ZBA’s business, although Mr. Frazier has
23 submitted the contract as a Document of Record for this case. He said that in order to achieve the required
24 parking Mr. Frazier has made the real estate contract part of this case. He said that Mr. Isaacs indicated in
25 his letter that Mr. Frazier has the option of purchasing the west building and the parking lot on the South side
26 until June of 2018. He said that he understands that Mr. Frazier is in a difficult position, because he does not
27 know if Case 792-V-14 will be approved or not.
28
29 Mr. Frazier stated that he does not want to purchase Mr. Isaacs’ property if his request is denied. He said
30 that if his request is approved then he will purchase the property and he will go to the City of Champaign for
31 their approvals.
32
33 Mr. Thorsland stated that the Board cancelled the last meeting because there were too many members of the
34 Board who were going to be absent. He said that the Board did not cancel the meeting in order to give Mr.
35 Frazier more time. He said that there was a deadline of September 08, 2016, given to Mr. Frazier for
36 submittal of required documentation and that deadline was ignored. He said that this case has been before
37 this Board for two years, and due to no fault of Mr. Frazier, the previous meeting was cancelled, but if the
38 meeting had been held with no documentation submitted by Mr. Frazier, the outcome of the meeting would
39 not have been favorable. He said that Mr. Frazier has continuously asked the Board for direction and the

1 Board and staff has provided that direction numerous times. He said that staff provided correspondence with
2 detailed listings of what needed to be submitted to the Board before the previous deadline. He said that the
3 drawings that were submitted is a step in the right direction, but the drawings, which have since been
4 revised, were still submitted past the deadline.

5
6 Mr. Thorsland stated that Mr. Frazier has indicated numerous times that the Board has not provided clear
7 direction regarding what documentation is required for their review and determination. Mr. Thorsland stated
8 that the Board has been very patient and clear and one point that the Board has repeated numerous times to
9 Mr. Frazier is the replacement of the curb on Tiffany Court. Mr. Thorsland stated that the Board has not
10 seen any information regarding the replacement of the curb, such as, bids regarding the curbs replacement.
11 Mr. Thorsland stated that the curb was removed and it is still gone and Mr. Frazier has made it clear that he
12 is responsible for the curb's removal. Mr. Thorsland stated that the Board is very concerned about the
13 replacement of the curb, and whether this case is approved or denied, it behooves Mr. Frazier to put back
14 that curb. He said that there is a proposed special condition, which indicates that Mr. Frazier has six months
15 to replace the curb, but we are getting into the wrong six months to complete that work. He said that the
16 Board would like Mr. Frazier to submit documentation indicating that he is working towards replacement of
17 that curb.

18
19 Mr. Frazier stated that someone sent something to Mr. Hall regarding construction of a standard curb. He
20 said that this is not a rocket science type of curb, but is a standard curb.

21
22 Mr. Thorsland asked Mr. Frazier if he has contacted anyone to provide an estimate for the curb's
23 replacement.

24
25 Mr. Frazier stated that there is a concrete contractor across the street from his property and he could contact
26 them. He said that he is sure that they know how to build a curb.

27
28 Mr. Thorsland stated clearly that this Board has wanted to see some sort of tangible progress regarding
29 replacement of the curb and no information has been received.

30
31 Mr. Frazier stated that he has never indicated that he will not replace the curb. He said that he would expect
32 Mr. Steve Koester would need to replace the curb that he removed as well.

33
34 Mr. Thorsland noted that Mr. Koester is not a petitioner before this Board, but Mr. Frazier is.

35
36 Ms. Chavarria stated that at the last public hearing regarding this case, the Board and staff clarified that what
37 was distributed were the design specifications by I.D.O.T. regarding a standard curb design. She said that
38 the Board and staff also clarified that Mr. Frazier was to prepare an actual set of plans for replacement of the
39 curb so that the designed plans could be approved by Keith Padgett, Champaign Township Highway

1 Commissioner, Jeff Blue, Champaign County Highway Engineer, and the Champaign County Department of
2 Planning and Zoning. She said that it has already been clarified what specific information was required and
3 that information should have already been submitted by now.
4
5 Mr. Frazier asked Ms. Chavarria is the standard curb design came from I.D.O.T.
6
7 Ms. Chavarria stated that the information were design specifications from the Stahly Subdivision about the
8 types of curbs and not the specific curb information that was beside his property. She said that the Board was
9 very clear regarding their direction related to the curb replacement.
10
11 Mr. Thorsland stated that page A1 of the submitted drawings indicates the following, “install new street curb
12 at location shown (Reference Civil Drawings for Details). He said that there are no dimensions related to the
13 curb on page A1.
14
15 Mr. Frazier stated that he understands that the curb is an issue, but he does not understand if curbs are part of
16 the ZBA’s venue. He said that it is obvious that the Board is making it part of the zoning case, but he has
17 never heard of a curb being part of zoning. He said that if Champaign Township had a problem with the
18 curb then it would have been a civil action rather than a zoning action. He said that if zoning wants to get
19 into the business of curbs then he would replace the curb in the same condition that he tore it out.
20
21 Mr. Thorsland stated that the Board would like to see a real designed plan and perhaps a person who can
22 come to the Board to indicate that they were contacted by Mr. Frazier for reconstruction of the curb on a date
23 certain. He said that the Board not only wants a designed plan for replacement of the curb but also a contract
24 by a professional contractor.
25
26 Ms. Lee stated that over one year ago, she mentioned that snow is going to fly before the curb is replaced,
27 and here we are again in that same predicament. She said that the Board has been dealing with this issue over
28 and over again and it is unknown what it is going to take for Mr. Frazier to take some action on this specific
29 point.
30
31 Mr. Thorsland stated that the Board has provided specific direction regarding the Capital Development
32 Board and accessibility. He said that there has been some addressing of accessibility and ramps and doors
33 and things and those items are appreciated. He asked Mr. Frazier if he has any correspondence from the
34 Capital Development Board, which provided direction to do that stuff. He said that he saw a slope/landing
35 note, but was unsure if that direction came from the Capital Development Board in meeting their
36 requirements.
37
38 Mr. Frazier stated no.
39

1 Mr. Andrew Fell stated that the Capital Development Board will not approve drawings or projects unless
2 they are state funded. He said that he cannot send drawings to the Capital Development Board for review.
3 He said that he did receive direction from the Capital Development Board's accessibility expert in regards to
4 what is required for accessibility on the second floor. He said that in this case it is required that the second
5 floor be accessible and he and Mr. Frazier have addressed that requirement on the submitted drawings. He
6 said that their choices are to either install an elevator or a really long ramp and a really long ramp would cost
7 1/10th of an accessible elevator, so we went with the ramp option.

8
9 Mr. Thorsland stated that this is a case where the direction that the Board has been giving Mr. Frazier has
10 finally been followed through with and the Board appreciates that.

11
12 Mr. Frazier stated that he has provided access for wheelchairs to the second story. He said that if a client
13 who is in a wheelchair comes in and indicates that they need to rent a storage unit he can indicate that they
14 could rent a first or second floor unit because the second floor has a compliant access ramp. He said that he
15 will always assume that the client will choose to rent a first floor unit.

16
17 Mr. Thorsland stated that the ZBA has no authority over accessibility requirements.

18
19 Mr. Frazier stated that if a handicapped person would come to him indicating that they would like to rent a
20 second floor storage unit, he could accommodate their request by providing the long ramp to the second
21 floor units.

22
23 Mr. Thorsland asked the Board if there were any questions for Mr. Frazier.

24
25 Mr. Frazier stated that the Contract for Sale and Purchase of Real Estate and the Option Contract for
26 Purchase of Real Estate describes Lot 7 of a Replat of Lot 5 of Stahly Subdivision. He said that the letter
27 from Mr. Isaacs only discusses the west building. He said that if he understands correctly, Lot 7 of a Replat
28 of Lot 5 of Stahly Subdivision includes both buildings. He asked Mr. Frazier if the contract is only for the
29 West half of Lot 7.

30
31 Mr. Frazier stated yes. He said that there is an easement for the north part of that lot. He said that he would
32 purchase the entire west portion of that property and an easement on the east property to install that circle.

33
34 Mr. DiNovo asked Mr. Frazier to indicate the dimensions of the western portion.

35
36 Mr. Hall stated that he might have misunderstood what Mr. Frazier just stated. He said that the new plan
37 indicates 49 parking spaces on property that is north of his current property. He asked Mr. Frazier if it is his
38 intention to purchase the land that contains those 49 parking spaces.

39

1 Mr. Frazier stated yes. He said that it is his intention to purchase the building and the land, which is north of
2 his property.

3
4 Mr. DiNovo stated that Mr. Frazier would essentially be purchasing an “L” shaped property.

5
6 Mr. Frazier stated that he had previously discussed the option of purchasing a little bit of land with Mr.
7 Isaacs, but after the last hearing, it was suggested that it would be better if perpendicular parking were
8 provided in lieu of parallel parking. Mr. Frazier stated that he discussed the suggestion with Mr. Isaacs and
9 he indicated that he would consider selling the entire property, including the building, to Mr. Frazier. Mr.
10 Frazier stated that if that is what it going to take to meet the County’s requirements, then that is what he will
11 have to do.

12
13 Ms. Griest stated that even though the submitted drawing indicates Mr. Frazier purchasing the parking area,
14 that parking area dimension could be assumed that the eastern half would go to the North end of the existing
15 parcel. She asked if that property becomes part of this use, because for her this complicates the parking
16 issue. She said that if Mr. Frazier is going to take the new building and add it into the use.

17
18 Ms. Chavarria stated that since the property is within the City of Champaign’s jurisdiction the parking issue
19 might be up to the City of Champaign.

20
21 Mr. Hall agreed.

22
23 Ms. Griest stated that it would with the exception of, if it is utilized this parking. She said that part of this
24 parking that is proposed to be utilized is in the City of Champaign. She said that if we are going to add
25 additional storage units, there could be potentially be forty or fifty more located within that new building.
26 She said that depending upon how those units are divided up could compound the parking issue even further.
27 She said that for her decision point, she has to consider whether she is comfortable in approving the use of
28 these parking spaces for property that is located in the County.

29
30 Ms. Lee stated that item # 3.A.(2) on page 2 of the Summary of Evidence, indicates the following: In an
31 email received July 18, 2016, Mr. Andrew Fell, architect contracted by Mr. Frazier, stated “At this point I
32 also believe that Mr. Frazier will not elect to be annexed into the City, so discussions and approval from the
33 City Planning Department is not being pursued at this time.” She stated that this statement is contrary to
34 testimony that has been provided at the public hearings. She asked if the current property, not the proposed
35 contract sale, is proposed to be annexed into the City of Champaign or not.

36
37 Mr. Thorsland stated that information that is new testimony that was added to the Summary of Evidence and
38 in indicated in red underline text. Mr. Thorsland stated that previous testimony has been provided that the
39 property will not be annexed into the City of Champaign within the near future, but tonight it has been

1 indicated that the property will be absorbed into the City of Champaign.
2

3 Mr. Frazier stated that he would like to weigh out his options. He said that obviously, the County has less
4 real estate taxes, but he would still be paying taxes for the City of Champaign for the new property.
5

6 Mr. Thorsland asked Mr. Frazier if he purchases the land and the building from Mr. Isaacs to achieve the
7 required parking spaces, will he put a use in the building and if so, will the parking area be utilized only for
8 that building. He said that he would assume that the answer would be no, because the land is necessary to
9 satisfy the parking requirements for the property that is in the County.
10

11 Mr. Hall stated that regarding Ms. Lee's concern, annexation or no annexation is not relevant. He said what
12 is relevant is that a Plat of Subdivision must be approved at some point and the contract is valid until June
13 2018; therefore, the Subdivision Plat would have to be approved prior to that deadline. He said that
14 regarding Ms. Griest's concern about the impact of including the new building with the existing use,
15 coordination with the City of Champaign staff ensure that the new subdivision would include the west
16 building and that there is enough parking area in the end to satisfy the municipal requirements so that this
17 Board is confident that the County requirements are satisfied. He said that more information is required at
18 this point about that before the Board could act on the case. He said that he does not believe that it would
19 take too terribly long to find that out from the staff at the City of Champaign because they are pretty
20 responsive when the County poses a question.
21

22 Mr. Thorsland stated that new documents would always create new problems and concerns.
23

24 Ms. Lee stated that the Supplemental Memorandum dated October 20, 2016, includes a Decision Point for
25 the ZBA. She said that if we are not to be concerned about whether Mr. Frazier will be annexed into the
26 City of Champaign, the Board is still making a decision whether we will accept the City of Champaign's
27 parking requirements. She said that the annexation is still a little bit relevant because if the Board is not
28 going to worry about whether Mr. Frazier's property is annexed into the City of Champaign and the Board
29 will abide by the County's requirements, which is a lesser standard than what the City of Champaign
30 requires.
31

32 Mr. Hall stated that the proposal by Mr. Frazier is to go with the lower amount of parking that the City of
33 Champaign would find acceptable. He said that the Board could indicate that this is acceptable or indicate
34 that the Board is not going to require that, but it isn't contingent upon annexation.
35

36 Mr. DiNovo stated that the we will grant a variance from the County's regulations; therefore, this is a
37 relevant consideration of the variance, but it doesn't affect the standards that are being varied. He said that if
38 the Board approves the submitted site plan, it would become an enforceable element for the variance. He
39 said that if the transaction goes through and another business is established in the building that is within the

1 City of Champaign and the Board determines that the required parking is no longer available, because it is
2 being used by the use on the lot within the City of Champaign, it violates the County's requirement and it
3 becomes an enforceable zoning violation in the County even though the land is not in the County's
4 jurisdiction. He said that just because it is not within the County's jurisdiction does not void the
5 enforceability of this site plan.

6
7 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Frazier or Mr. Fell.

8
9 Mr. Thorsland called Lloyd Allen to the cross-examination microphone. He reminded Mr. Allen that he
10 could only ask Mr. Frazier and Mr. Fell questions regarding their testimony.

11
12 Mr. Lloyd Allen, who resides at 3222 Stoneybrook, Champaign, stated that his question goes to Mr. Fell. He
13 said that there is one reason why he took the picture of the property of the existing concrete. He said that he
14 took the picture because there is an assumption that there is existing concrete all of the way to the back, but
15 the property line goes to the power pole.

16
17 Mr. Thorsland informed Mr. Allen that he is leaning towards testimony rather than cross-examination.

18
19 Mr. Allen asked Mr. Fell why he indicated that the area on the drawings as being in concrete rather than
20 what is existing.

21
22 Mr. Thorsland asked Mr. Fell to indicate the dimensions for the existing concrete on the east side of the
23 property as it is not indicated on the drawing. He said that if vehicles are going to be parked next to the
24 storage building, the only space available is on the existing concrete. He asked Mr. Fell if he has an
25 architectural plan to bring the concrete out to the property line.

26
27 Mr. Fell stated that bringing the concrete out to the property line is the plan. He said that it is difficult to
28 show all of the details on the drawing, but the intent of the drawing is to install concrete where the arrows
29 are indicated and it doesn't imply that the whole thing would be concrete, but only a strip of concrete.

30 Mr. Thorsland stated that part of the problem with the Board's copy is that he could not see the line until he
31 indicated the faint arrows that are pointing down to the pad.

32
33 Mr. Fell stated that it was not his intent to insinuate that the whole thing would be paved.

34
35 Mr. Thorsland asked Mr. Fell if there is a ditch along there that is part of the drainage for the property.

36
37 He said that there is a lot of civil work that must be completed by an engineer before this is done.

38
39 Mr. Thorsland stated that the turning radius for the fire truck uses the entire space all of the way to the

1 property line, and if there is a vehicle parked in that area, the turning radius for the fire truck would be very,
2 very tight.
3
4 Mr. Thorsland asked the audience if anyone else desired to cross-examine Mr. Fell and there was no one.
5
6 Mr. Thorsland called Keith Padgett to testify.
7
8 Mr. Keith Padgett, Champaign County Highway Commissioner, stated that he resides at 1 Lyndhurst Place
9 and the township office is located at 3009 Kearns Drive, Champaign. He said that he appreciates the Board
10 asking when the curb would be replaced and he will ask the same question. He asked when the curb would
11 be replaced. He said that it is his understanding that if the Tiffany Court area is annexed into the City of
12 Champaign a curb will be required, and if it remains in Champaign Township, he would like to see it
13 replaced.
14
15 Mr. Thorsland asked Mr. Padgett if he has had any contact from Mr. Frazier.
16
17 Mr. Padgett stated that he has heard nothing from Mr. Frazier. He said that he actually supplied the copy
18 from the County Engineer as to how to build a curb and what requests must be made to construct it.
19
20 Mr. Thorsland stated that Mr. Padgett previously indicated that he submitted plans for a curb. He said that
21 Mr. Padgett only submitted standard guidelines and that the curb would not have to be exactly as indicated in
22 the copy.
23
24 Mr. Padgett stated that in some areas the curb should have an eight or twelve-inch base. He said that all of
25 the work that Champaign Township has completed is approved by the Champaign County Engineer and is
26 not just constructed and then asked for approval.
27
28 Mr. Thorsland asked Mr. Padgett to indicate what the township has done in order to get Mr. Frazier to
29 reconstruct the curb.
30
31 Mr. Padgett stated that he has not done anything in hopes that through this process Mr. Frazier would have to
32 comply. He would rather not spend Champaign Township funds to sue Mr. Frazier for replacement of the
33 curb when he should be replacing it anyway.
34
35 Mr. Thorsland asked Mr. Padgett if it is Champaign Township's intent to have the curb replaced, as it
36 originally existed.
37
38 Mr. Padgett stated that the curb was originally constructed prior to his position as Township Highway
39 Commissioner and it may have been before the property was owned by Mr. Frazier. He said that there was

1 an ingress and egress for traveling in and out of the property and that is what concrete aprons are for, to drive
2 equipment across the easement where utilities are located. He said that the vehicles may not be heavy but
3 there have been buses driving across it.

4
5 Mr. Thorsland asked Mr. Padgett if he is aware of what utilities are located in that area.

6
7 Mr. Padgett stated no, but gas is usually on one side and water is on the other. He said that some utility is
8 usually underneath.

9
10 Ms. Lee asked Mr. Padgett if Mr. Frazier or his agents have ever contacted him during the process of these
11 public hearings regarding replacement of the curb.

12
13 Mr. Padgett stated no.

14
15 Mr. Thorsland stated that it might appear that the Board is fixating on the curb, but it seems like a time to
16 take the opportunity to try to make it right.

17
18 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Padgett and there
19 were none.

20
21 Mr. Thorsland called Caleb Burton to testify.

22
23 Mr. Caleb Burton, who resides at 2063 Shady Rest Road, Monticello, stated that he owns the property to the
24 south and west of the subject property. He said that there is a lot of concern regarding the additional
25 concrete that will be placed on Mr. Frazier's property and whether or not more detention will be installed for
26 stormwater drainage. He said that Tiffany Court already experiences flooding and he is concerned that if
27 more concrete is placed on Mr. Frazier's property there will be more water going into the cul-de-sac. He
28 said that the architectural plans were great because they do depict a lot of things, although in an email from
29 Mr. Fell, he indicated that the plans for the Board's review are more "Design Development" drawings
30 and they don't have enough information in them to place the compliance statement on them. Mr. Burton
31 stated that the Board has been requesting complete documents for two years, and two years later Mr. Frazier
32 continues to play a cat and mouse game and only gives the Board enough to justify one continuance after
33 another.

34
35 Mr. Thorsland informed Mr. Burton that he should not speculate about Mr. Frazier's motive, but he can
36 comment on the drawings and their lack of full detail.

37
38 Mr. Burton stated that on October 6, 2016, Ms. Chavarria requested more information, much of it repetitive,
39 in an email to Mr. Frazier and Mr. Fell. He said that this is the same information that has been requested

1 from Mr. Frazier during the last two years. Mr. Burton stated that it appears that Mr. Frazier is working on
2 additional access from the adjacent property so that additional parking can be gained. Mr. Burton stated that
3 all of the additional required parking that has been proposed by Mr. Frazier is all speculation. Mr. Burton
4 stated that the Board needs to know if the City of Champaign is going to grant approval of the division of
5 Mr. Isaac's property. Mr. Burton stated that there are so many unknowns.

6
7 Mr. Thorsland stated that the Board has a minimum amount of spaces that are required. He said that the
8 drawings and contracts that have been received appear to be an effort by Mr. Frazier to meet the required
9 parking. He said that the original lot does not have enough parking area, even with a variance.

10
11 Mr. Burton stated that Mr. Frazier is requesting a 69% variance for onsite parking.

12
13 Mr. Thorsland stated that the proposed purchase is an effort by Mr. Frazier to meet the requirement for the
14 original request, but the land that is involved in the proposed purchase is located in the City of Champaign
15 and that itself is yet another issue, which makes this messy.

16
17 Mr. Burton stated that at a previous meeting it was realized that Mr. Frazier had a one-year lease on that
18 same property. Mr. Burton said that Mr. Frazier made a payment for the first six months and then defaulted
19 on a \$1,500 second installment for the last six months of the contract. Mr. Burton said that Mr. Frazier is
20 now proposing a \$400,000 purchase of that same land which seems unbelievable when he didn't pay the
21 \$1,500.

22
23 Mr. Thorsland stated that the Board cannot speculate on Mr. Frazier's motives.

24
25 Mr. Burton asked the Board if they would just be taking Mr. Frazier's word that he is purchasing the
26 additional property and then continue the case to yet another meeting so that he can provide proof of
27 funding.

28
29 Mr. Thorsland stated that Mr. Frazier's funding is not part of this Board's business. He said that the Board
30 would require proof of Mr. Frazier's attempt to be compliant with the variance requirements.

31
32 Mr. Burton asked the Board if enforcement action would be taken if Mr. Frazier does not comply with
33 Special Condition A (4). Mr. Burton stated that he owns two properties in the vicinity of Mr. Frazier's
34 property and the Board appears to be setting a precedent that the owners can do what they want out there and
35 the County will deal with you later. He said that Mr. Frazier requires many variances and the Board is only
36 focusing on two of them.

37
38 Mr. Thorsland stated that this Board has requested many, many things on the other variance requests.
39

1 Mr. Burton stated that from his standpoint, if Mr. Frazier is granted the variances, Mr. Burton would do
2 whatever he wants on his properties, and if he requires a variance for any of those things, he will apply for
3 them later and he will reference the precedence that was created during these hearings.

4
5 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Burton and there were none.

6
7 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Burton and there was no one.

8
9 Mr. Thorsland asked Mr. Hall to indicate what happens if the variance is granted and Mr. Frazier does not
10 comply with the special conditions.

11
12 Mr. Hall stated that if the variance is not granted and there is no continuance granted, the Board would be
13 required to construct of Finding of denial within the next 40 minutes.

14
15 Mr. Thorsland stated that he would like the audience and the Board to be reminded of what actually happens
16 to Mr. Frazier's business if the variance is denied.

17
18 Mr. Hall stated that nothing happens until a court of law makes a decision and that will take a very, very long
19 time. He said that currently, staff has not sent Mr. Frazier a Notice of Violation, but that will be the first step
20 and Mr. Frazier will have two weeks to respond and correct the violation, which seems very unlikely, and
21 then a Final Notice of Violation is sent with an additional week to correct the violation. Mr. Hall said that if
22 correction to the violation is not possible, the case is referred to the State's Attorney's Office and at some
23 point, there will be a court case. He said that court cases are not done quickly and a decision may be made
24 within a couple of years.

25
26 Mr. Thorsland asked Mr. Hall if the Board was to go through the case and in some form approve it with
27 special conditions, what happens if the special conditions are not met.

28
29 Mr. Hall stated that a Notice of Violation is sent out and the same road will be traveled as previously stated.

30
31 Mr. Thorsland called Steve Koester to testify.

32
33 Mr. Steve Koester, whose business is located at 305 Tiffany Court, Champaign, stated that he is not going to
34 continue to beat the same mule tonight. He said that he and the other property owners care about their
35 neighborhood and Mr. Frazier has violated many of the ordinances and rules over and over again. He said
36 that he has previously testified that he would like to keep Mr. Frazier's people/clients off of Mr. Koester's
37 property. He said that there has been meeting after meeting after meeting and mandate after mandate after
38 mandate about Mr. Frazier's property and it appears that it is about time to get something done. He said that
39 it has been indicated by Mr. Frazier that an elevator is too expensive to install for accessibility to the second

1 floor, but it is not cost prohibitive to purchase additional land at \$400,000. Mr. Koester stated that he is
2 involved in some development and he does do some contracting and he recognizes that there is a lot of
3 money that must be spent to make the property compliant. He said that he has great respect for Mr. Fell, but
4 he does not believe that he has been fully engaged with this project because the plans do not fully reflect
5 what the neighbors are seeing.

6
7 Mr. Thorsland noted that the Board requested that Mr. Frazier provide drawings of the subject property and
8 that has been done.

9
10 Mr. Koester stated that in regards to this variance case, everyone is almost at the end of the second year and
11 it appears that this will continue into its third year. He said that he has invested a lot of time with his
12 attendance to these hearings and he will testify that he has been to more of the meetings than he ever
13 anticipated at the beginning. He said that enough is enough because nothing has changed during this entire
14 process and the conditions on the property are deteriorating, as the buildings are not being maintained. He
15 said that Mr. Frazier's uses are still encroaching upon Mr. Koester's property. He asked where we go from
16 here because this has been a long, long process.

17
18 Mr. Thorsland stated that Mr. Hall pointed out that regardless of the incremental nature of this case in that it
19 has to be continued, continued, continued, the process itself, on a case this complicated, the Board is in
20 agreement that it will not go past 10:00 p.m. tonight. He said that the Board could not take final action in
21 any direction within a 30-minute timeframe. He assured the audience that the Board would like to complete
22 this case as quickly as everyone else, but there was an unfortunate delay and there is a missing Board
23 member tonight. He said that when the Board does take final action on this case, he desires to have a full
24 Board. He noted that the Board does appreciate everyone's attendance to all of the meetings. He said that
25 the case has been reactivated and if it is denied, nothing stops the petitioner from applying again.

26
27 Mr. Hall stated that there would have to be changed conditions before he would accept a new application.

28
29 Mr. Thorsland stated that there is a lot of work that has to be done by the Board. He said that as with most
30 meetings, this would not be the only case on the agenda; therefore, this case will be heard as the last case of
31 the meeting.

32
33 Mr. DiNovo stated that the only justification that the Board has for treating this case as it has been treated is
34 due to the belief that this process will take shorter time for compliance than the court system. He said that he
35 is not sure that he shares that same belief and he said that the Board should not leave tonight unless they
36 truly believe that there will be a better outcome for all of the interested parties and the public interest by
37 continuing it. He said that eventually there is a point where it doesn't make sense to keep trying to do this.

38
39 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Koester and there were none.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

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

Mr. Thorsland called Lloyd Allen to testify.

Mr. Lloyd Allen, who resides at 3222 Stoneybrook Drive, Champaign, stated that he is the person who submitted the photographs of Mr. Frazier’s property that were distributed to the Board for review. He noted that he did not step on Mr. Frazier’s property while he took the pictures. He said that the first picture indicates the back of the building, but his copy of the drawing does not indicate any arrows pointing down along the existing concrete.

Mr. Thorsland clarified that the smaller copies of the drawings do not clearly indicate the directional arrows.

Mr. Allen asked why the drawings only indicate the existing concrete and does not show the drainage area that must be cut down or anything else that is required to be done. He asked the Board if the drawing is to be considered the official site plan.

Mr. Thorsland stated that it would become the official site plan when the Board makes it the official site plan.

Mr. Allen stated that the Board has asked for an official site plan numerous times and it appears that the Board still has not received one.

Mr. Thorsland stated that the Board makes a site plan the official site plan when the case is approved.

Mr. Allen stated that all of the documentation continuously discusses the need for an official site plan.

Mr. Thorsland stated that in the previous case tonight the petitioners were requested to add notation to the site plan prior to obtaining a Land Disturbance and Zoning Use Permit. He said that once those notations are added to their site plan and they submit it to staff along with their permit application, it would at that time become the official site plan.

Mr. Allen asked the Board to indicate how many site plans must be received and reviewed before they are approved.

Mr. Thorsland stated that it depends on the case. He said that the site plan that is before the Board tonight is the first detailed site plan that the Board has received. He said that before the Board gets into details as to what they will call this site plan, he would just consider it as progress right now. He said that he would like

1 to deviate from the details on the site plan and have Mr. Allen discuss the photographs that he submitted.

2
3 Mr. Allen stated that photograph #3 indicates the bio-diesel tanks. He said that at the second public hearing,
4 Mr. Frazier testified that the bio-diesel would be removed within the next couple of weeks, although the
5 photograph dated October 26, 2016, indicates otherwise. Mr. Allen stated that Mr. Frazier also indicated
6 that the buses would be gone.

7
8 Mr. Thorsland stated that there was a lot of information discussed at that meeting regarding the tanks other
9 than that they would be removed.

10
11 Mr. Allen stated that photograph #4 indicates the septic tank for the building that Mr. Frazier is considering
12 purchasing and also the building that he is not going to take on. Mr. Allen stated that he does not believe
13 that the Champaign County Public Health Department will allow someone else's septic tank to be located on
14 someone else's property. He said that if Mr. Frazier is purchasing the property then the septic tank would
15 have to be moved for that farthest east building. He said that if they are making driveways lower than the
16 building for head-in parking, that will be at quite a slope and it will create a water pit. He said that
17 photograph #5 indicates how Isaacs' tenants are currently using the property. He said that Mr. Frazier would
18 be able to dictate how the property will be used in the future if he purchases the property, but photograph #5
19 shows how it is used now. Mr. Allen stated that the next two photographs indicate the slope and the drop
20 where Mr. Frazier proposes an easement. He said that the photograph indicated as the proposed north
21 parking lot, shows vehicles being parked on the sidewalks. He said that it is unknown whether these
22 vehicles belong to clients of Mr. Frazier or not, but the Board previously discussed the issue of vehicles
23 being parked on the sidewalks with Mr. Frazier. Mr. Allen stated that photograph #8 indicates one of Mr.
24 Frazier's tenants parked on Mr. Koester and Mr. Burton's property while they were apparently accessing
25 their rental unit. Mr. Allen stated that he has seen Mr. Frazier pull into Mr. Koester's driveway with his
26 trailer attached and then backed into his own building.

27
28 Mr. Allen stated he has been involved in construction nearly his whole life and he has dealt with Andrew
29 Fell and if he attempts to submit this plan to any city for review it would be rejected for not having enough
30 information. He said that there is not enough information on the plan in regards to ADA because, as an
31 example, there are no banisters indicated for the second floor. He said that the submitted plan is a big
32 improvement in comparison to what we previous had but, if this was a drawing that a contractor would use
33 for construction, it has a long way to go. He noted that no civil drawings have been submitted either.

34
35 Mr. Thorsland informed Mr. Allen that the Board only requires a complete site plan and does not request
36 civil drawings.

37
38 Mr. Allen asked if it is the ZBA's responsibility for life safety.

1 Mr. Thorsland stated yes. He said that life safety is criteria that must be met which is why the optimistic
2 turn-around radius for the fire trucks is a concern for the Board. He said that this is a lot that has been filled
3 to the detriment of other things.

4
5 Mr. Allen stated that a lot seems to be based on the purchase of the other property. He said that the notes
6 from previous meetings indicated that Mr. Frazier had a previous option for purchase,

7
8 Mr. Thorsland stated that there has been a lot of different statements made regarding the additional land. He
9 said that there was previous testimony regarding Mr. Frazier's lease of the property, but testimony received
10 at tonight's public hearing indicated that the lease agreement had not gone as planned. He said that Mr.
11 DiNovo indicated that perhaps the Board has too much eternal optimism that the Board can make it
12 incrementally better than where we are currently. He said that the case will be continued to a later hearing,
13 but he would like the Board and staff to exclusively reserve that meeting for Mr. Frazier's case only. He said
14 that one entire meeting must be dedicated to this case so that the Board can render either an approval with
15 special conditions or a denial. He said that he had more questions than he received answers for tonight and
16 he is sure that the rest of the Board has the same issue. He said at the beginning of the meeting for this case
17 that the date on the new drawing is October 17, 2016, which is well past the required deadline for submittal.
18 He said that in regards to grading Mr. Frazier's homework, Mr. Thorsland would give him a zero.

19
20 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Allen and there were no one.

21
22 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Allen and there was no one.

23
24 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
25 testimony regarding this case, and there was no one.

26
27 Mr. Thorsland called Robert Frazier to the witness microphone.

28
29 Mr. Thorsland asked Mr. Frazier to indicate the use of the tanks located next to the blue building, as
30 indicated in photograph #6 dated October 27, 2016.

31
32 Mr. Frazier stated that the tanks are the recycled oil tanks.

33
34 Mr. Thorsland asked Mr. Frazier why the tanks do not look like the ones in photograph #3.

35
36 Ms. Griest stated that the tanks in photograph #6 appear taller.

37
38 Mr. Frazier stated that perhaps the Board should have Mr. Allen go back onto his property to take another
39 picture.

- 1
2 Mr. Thorsland asked Mr. Frazier if the tanks are to be removed.
3
4 Mr. Frazier stated that all of the tanks would be removed.
5
6 Ms. Lee asked Mr. Frazier to indicate when the tanks will be removed.
7
8 Mr. Frazier stated that the tanks would be removed when the Board indicates that the plan that he has
9 proposed indicating the 15% reduction in parking, is acceptable. He said that the 15% reduction in parking
10 from the County's requirement follows the City of Champaign's parking requirements. He said that this
11 acceptance would cover the parking issues.
12
13 Ms. Lee asked Mr. Frazier why the tanks cannot be removed immediately, and if not, what purpose are they
14 serving.
15
16 Mr. Frazier stated that he can remove them because he really doesn't use them anymore and they have been
17 sitting idle. He said that he could remove the tanks at any time.
18
19 Mr. Thorsland stated that he does not find the tanks relevant to whether this case moves forward or not, but
20 there are parking spaces proposed where the tanks are currently located. He asked Mr. Frazier if the tanks
21 would have any effect on the optimistic turning radius for the fire truck access.
22
23 Mr. Frazier stated that if the tanks remain the fire trucks would not have access, therefore; they have to be
24 removed as a safety issue. He said that the tanks have to be removed so that the parking can be closer to the
25 building in order for the fire trucks to be able to make the turn.
26
27 Mr. Thorsland stated that he has almost lost track of the list of items that the Board has asked Mr. Frazier to
28 provide.
29
30 Mr. Frazier asked Mr. Thorsland if the Board wants to continue his case for another 100 days, because it is
31 only time.
32
33 Mr. Thorsland stated no, and it is not just time. He said that the Board and many other people have spent a
34 lot of effort on this case which costs everyone money.
35
36 Mr. Frazier stated that it would be better for everyone if we take the time to get it right rather than making a
37 hasty judgement and getting it wrong.
38
39 Mr. Thorsland stated that at the beginning of tonight's public hearing regarding this case he provided very

1 clear information to Mr. Frazier. He said that he wants to see real progress related to the replacement of the
2 curb and evidence that he has contacted the appropriate people for that replacement. Mr. Thorsland said that
3 and he would like to see evidence that Mr. Frazier has gone to the trouble of providing adequate parking.
4

5 Mr. Frazier stated that he does not feel that replacement of the curb is a zoning issue. He asked when a curb
6 replacement became a zoning issue, because this is the Zoning Board of Appeals. Mr. Frazier requested text
7 from the Zoning Ordinance that indicates that the curb will require replacement, because if there is no such
8 text, an attorney is going to say that the ZBA has no basis in requiring the curb's replacement during this
9 case. He said this Board is fixating on the replacement of a curb.
10

11 Mr. Thorsland asked Mr. Frazier if he would disagree with the special condition related to the curb
12 replacement.
13

14 Mr. Frazier stated no, because he has already agreed to replace the curb.
15

16 Ms. Griest stated that where the curb replacement becomes an issue related to zoning is that the original
17 approved site plan for the development of this property included the curb being present. She said that Mr.
18 Frazier deviated from the original site plan that was approved which makes him non-compliant; therefore, it
19 becomes an issue for this Board. She said that everyone can sit in this room and bicker about this all night
20 long, but it is not going to get Mr. Frazier anywhere. She said that the way that the building was designed
21 without the overhang was part of his original approval.
22

23 Mr. Frazier asked Ms. Griest if she is discussing the approval that he received over twenty years ago.
24

25 Ms. Griest stated that she is discussing the approval in 2001.
26

27 Mr. Frazier stated that on the original site plan, he indicated parking where the overhang is located, but there
28 is no parking there now.
29

30 Ms. Griest stated that the walkway that Mr. Frazier added was in addition to the original plan. She said that
31 all new construction that occurred after the original site plan approval factors into this case. She said that the
32 quibbling all night long only takes more time for everyone. She said that the new construction and removal
33 of the curb deviated from the original approved site plan and that is an issue for the Board. She said that we
34 can agree to disagree and move forward.
35

36 Mr. Thorsland stated that the Board has received the tardy plans drawn by Mr. Fell for Mr. Frazier. He said
37 that the plan has more detail than anything that the Board has received for this case. He said that Sheet A1
38 indicates an attempt to make the parking compliant, which is a big part of this case, and it shows an effort to
39 meet the ADA requirements and some safety issues with the turning radius for the fire trucks. He asked the

1 Board if there is anything that they would like to see on the complete site before the next hearing. He said
2 that it is his intention that the next public hearing regarding this case will be the last public hearing for this
3 case.

4
5 Ms. Griest stated that she had a few questions for staff prior to addressing Mr. Thorsland's question
6 regarding additional information required for the site plan. She said that item #5. A (5) on page 3 of 49 of
7 the Summary of Evidence dated October 27, 2016, references a Zoning Use Permit Application to authorize
8 the construction a bus garage. She said that it is her understanding that no approved permit was issued for
9 the bus garage, therefore; it was constructed without a permit and is non-compliant.

10
11 Mr. Hall stated that the bus garage does not have an approved permit and to that extent, it is non-compliant.

12
13 Ms. Griest stated that item #5. J (7) a. on page 11 of 49 indicates that the petitioner wants to keep the bus
14 garage that was built without a permit. She said that in her mind, as a member of the Board, the unpermitted
15 bus garage adds additional required parking to the parking analysis where if the building was removed, as the
16 Board has required before in situations where buildings were constructed inappropriately. She asked staff, if
17 the bus garage was removed, how much would that reduce the parking requirement and how much onsite
18 parking would that provide the petitioner. She said that she would like to have this information provided for
19 the next meeting.

20
21 Ms. Griest stated that when the other storage buildings and the office building were constructed there was no
22 mention of second story; therefore, it is being utilized without being permitted. She said that she would like
23 to see the calculation for parking if Mr. Frazier was prohibited from utilizing the unpermitted space.

24
25 Mr. Hall stated that he could guarantee that any analysis of parking spaces that was completed previously is
26 different now. He said that the amount of time that staff has put into this case is astonishing, yet finally we
27 now have the information that was required in the beginning.

28
29 Ms. Griest stated that if the Board could have started with the information that is before them now, this case
30 would have been finalized long ago. She asked staff if they could provide that calculation so that she has in
31 her mind, as a member voting on this case, understand what she is or isn't giving approval for.

32
33 Mr. DiNovo stated that it would be helpful if the square footage totals are broken down by first and second
34 floor storage units, the office, and any other substantive uses.

35
36 Ms. Griest stated that she realizes that staff has probably completed this calculation multiple times, but it
37 keeps changing.

38
39 Mr. Thorsland stated that the arborist is gone and the bus garage now has the ramp.

- 1
2 Ms. Griest stated that she understands those two points, but if there is no second floor storage then the ramp
3 is not required.
4
- 5 Mr. Thorsland stated that he would like a clear depiction of Mr. Frazier's homework assignments and he
6 would like to continue this case to a night when it is the only case on the agenda.
7
- 8 Mr. DiNovo asked Ms. Chavarria if she would be able to print out the homework list and incorporated into
9 the next meeting packet.
10
- 11 Ms. Chavarria stated that she would be happy to do so, but it could not be explained within the next ten
12 minutes.
13
- 14 Ms. Griest stated that this like juggling Jello, because it keeps changing shape. She said that there is so
15 much impervious area, and having seen the property in person and in photographs, she is concerned about
16 the existing drainage way with the addition of more concrete. She said that she does not mean to put more
17 work on staff, but she does have questions and concerns.
18
- 19 Mr. Randol stated that he would like to know how many Board members were in favor of continuing this
20 case to a later meeting.
21
- 22 Mr. Thorsland stated that if the Board is not going to continue this case tonight then the Board has at least
23 another hour to prepare the findings.
24
- 25 Mr. DiNovo stated that he wants an engineering plan, if the Board is going to determine that this parking
26 drawing is feasible and believable. He said that during testimony, a legitimate concern was raised about the
27 grade on the north side of the property. He said that he is especially concerned about the fact that eventually
28 we will wind up with a situation split between two different jurisdictions. He said that the subdivision
29 jurisdiction, which will be considering all the engineering information and they will address the fact that part
30 of it, is not within their jurisdiction.
31
- 32 Mr. Frazier stated that he asked the Board if they wanted him to annex into the City of Champaign so that
33 they could approve the plan. He said that if that is what this Board wants him to do, and then he can be
34 annexed into the City of Champaign.
35
- 36 Mr. Padgett announced from the audience that Mr. Frazier cannot annex into the City of Champaign without
37 a curb.
38
- 39 Mr. Frazier stated that the curb has already been discussed. He said that if the Board wants to see this

1 situation disappear, which he strongly believes that they do, then he understands. He said that having this
2 situation go to the court system would not remove it from the ZBA because the members will be called as a
3 witness.

4
5 Mr. Thorsland asked Mr. Frazier if he really wants the Board to approve the submitted plan and then let the
6 City of Champaign hash it out.

7
8 Mr. Frazier stated that the City of Champaign indicated to him that if this Board approved the plan then they
9 would grant him an annexation.

10
11 Ms. Griest stated that she is not willing to approve the plan as submitted.

12
13 Mr. Randol stated that it somewhat appears that Mr. Frazier is holding a gun to the Board's head.

14
15 Mr. DiNovo stated that the only way that he would consider that is if Mr. Frazier came to the Board with an
16 executed annexation agreement with the City of Champaign, which obligated him to annex upon approval of
17 the variance.

18
19 Mr. Frazier stated that he has discussed this situation with the City of Champaign many times. He said that
20 the City of Champaign told him that once this variance is approved they would allow him to submit his
21 petition for annexation.

22
23 Mr. Hall informed Mr. Frazier that he does not believe that the property will be annexed into the City of
24 Champaign without the curb being replaced. He said that he has been told that the City of Champaign does
25 not want the property without the curb.

26
27 Mr. Frazier stated that he has told the Board many times that he has no problem with replacing the curb. He
28 asked Mr. Hall why he does not believe that Mr. Frazier desires to replace the curb.

29
30 Mr. Hall stated that he does not believe that Mr. Frazier desires to replace the curb because he hasn't done
31 so.

32
33 Mr. Thorsland stated that if Mr. Frazier desires the beautiful and clean solution that he has been talking
34 about, then an annexation agreement needs to be executed and presented to this Board. He said that the
35 Board is doubtful that an annexation agreement will be executed until the curb is replaced. He said that Mr.
36 Frazier would like a forward motion on this case to get where this Board is comfortable in granting the
37 variance so that he can be annexed into the City of Champaign. He said that the fundamental key that is
38 repeatedly discussed is the curb. He said that the Board is not going to approve this case without the curb
39 being replaced. He said that it would be fantastic if, before the next public hearing, Mr. Frazier would come

1 before this Board announcing that the curb has been replaced and is indicated on the final plan.
2
3 Mr. Frazier agreed.
4
5 Mr. Thorsland stated that Mr. Frazier has requested clear direction from the Board, yet at the beginning of
6 the meeting Mr. Thorsland started with the same discussion.
7
8 Mr. Thorsland entertained a motion to waive the 100-day rule for a continuance and continue Case 792-V-14
9 to the March 16th meeting as the only case for that public hearing.
10
11 Mr. Hall stated that none of the tentative dates for January 2017 have been promised to case applicants. He
12 said that this case could be the only case heard on the tentative January 12th meeting.
13
14 Mr. Frazier stated that he will be in Florida on January 12th.
15
16 Mr. Thorsland stated that the case could be dismissed tonight.
17
18 Mr. Thorsland asked Mr. Frazier if he would be out of town during the entire month of January.
19
20 Mr. Frazier stated that his plan is to be out of town during the entire month of January.
21
22 Mr. Thorsland stated that the Board could continue the case to the tentative January 26th meeting, and if Mr.
23 Frazier does not attend, the case could be dismissed. He said that Mr. Frazier would have to refile with new
24 conditions.
25
26 Mr. Frazier stated that he will be back in February.
27
28 Mr. Thorsland asked the Board for input regarding a continuance date. He asked the Board if they would
29 like to have the continuance date on a date where they can just dismiss the case and be done which would
30 provide Mr. Frazier the option to refile when conditions on the property have changed. He said that even
31 though the Board has every reason to justify dismissal he does not want to just toss the case out of
32 frustration. He asked Mr. Frazier if he is available for the tentative March 16th meeting.
33
34 Mr. Frazier stated that he will be available for the tentative March 16th meeting.
35
36 Mr. Thorsland asked the Board how they feel about the proviso that when Mr. Frazier attends the March 16th
37 meeting he should provide evidence that the curb has been replaced or is in the process of being replaced.
38 He said that he would like to finalize the case on March 16th.
39

1 Ms. Capel stated that she agreed with Mr. DiNovo's suggestion that engineering drawings must be submitted
2 to the Board for review.

3
4 Mr. Thorsland entertained a motion for a five-minute extension of the meeting.

5
6 **Ms. Griest moved, seconded by Ms. Capel, to continue the meeting to 10:05 p.m. The motion carried**
7 **by voice vote.**

8
9 Ms. Griest stated that an engineering drawing is a costly item, but without it, the Board is not convinced that
10 the proposal is even possible. She said that she is concerned about the drainage and the parking.

11
12 Mr. DiNovo asked if it would be possible for someone from the City of Champaign to attend the next public
13 hearing regarding this case. He said that he is concerned that what is happening is that the Board is being
14 interlocked between two separate regulatory systems, the Champaign County Zoning Ordinance and the City
15 of Champaign's Subdivision Ordinance. He said that the Board does not clearly understand what the City of
16 Champaign is going to demand and what they are going to take responsibility for in terms of enforcement.

17
18 Mr. Randol stated that what the City of Champaign is going to do has no bearing on the decision by this
19 Board.

20
21 Mr. Thorsland stated if what the City of Champaign is going to do has any bearing on the Board's decision
22 then it is up to Mr. Frazier to beg a member of the City of Champaign to attend the next hearing to discuss
23 those matters with the Board. He said that if the Board wants engineering drawings, which indicate drainage
24 and parking, then that is what should be submitted. He said that the submitted drawing is very nice, but it
25 does not have enough detail to tell the Board whether or not an adjacent landowner will end up with all of
26 the water from the back of Mr. Frazier's building on their lot.

27
28 Mr. DiNovo stated that another item that he would like to have information on is whether the City of
29 Champaign would require inclusion of Mr. Frazier's property so that they could deal with the engineering
30 aspects of the subdivision that involve all of the improvements on his property. He said that the curb would
31 definitely come up during the annexation process, but the whole feasibility of this notion of off-site parking
32 within another jurisdiction makes for a very complicated situation and he believes that the Board needs to
33 know how this would be handled.

34
35 Mr. Thorsland stated that he needs concrete items that Mr. Frazier needs to go home and return with. He
36 said that Mr. Frazier has all of the emails, letters and memorandums from staff. He said that there is a long
37 list of items that the Board has continuously requested from Mr. Frazier. He said that the Board has given
38 Mr. Frazier many deadlines that have not been met. He noted that at one time Mr. Frazier indicated that he
39 no idea what had happened to the curb and was very vague about how it disappeared. He informed Mr.

1 Frazier that if he required a refresher course regarding what items are required by the Board then he should
2 contact Ms. Chavarria and she can provide those items yet again. He suggested that Mr. Frazier brings all of
3 the required information to the Board at the next meeting.
4

5 Ms. Chavarria stated that the required information needs to be submitted to staff before the last week in
6 February so that it can be included in the mailing.
7

8 Mr. Thorsland stated that the deadline for Mr. Frazier to provide all of the required information is February
9 20th.
10

11 Ms. Griest noted that February 20th is a holiday.
12

13 Mr. Thorsland informed Mr. Frazier that all of the required items, including those from previous requests,
14 must be submitted to staff before February 21th.
15

16 Mr. Frazier stated that he is sure that Ms. Chavarria can provide that list.
17

18 Mr. Thorsland stated that Mr. Frazier could kindly ask Ms. Chavarria to provide a listing of those items. He
19 said all of those required items must be in staff's hands so that they can be included in the mailing packets
20 for the March 16th meeting. He said that he will expect a note from staff on February 21st as to whether all of
21 the information has been received or not.
22

23 Mr. DiNovo stated that he would like to exactly what property Mr. Frazier is proposing to purchase.
24

25 Mr. Thorsland entertained a motion for a five-minute continuation of the meeting.
26

27 **Ms. Capel moved, seconded by Ms. Lee, to continue the meeting to 10:10 p.m. The motion carried by**
28 **voice vote.**
29

30 Mr. Thorsland asked Mr. Frazier if he is clear enough regarding the long list of things that are required. He
31 said that the Board cannot make Mr. Frazier do anything, but it is highly suggested that Mr. Frazier jumps on
32 getting these things done.
33

34 Ms. Chavarria asked if it is fair to say that Mr. Frazier not meeting the deadline provides cause for dismissal
35 of the case.
36

37 Mr. Thorsland stated that if all of the required information is not submitted to staff before or on the February
38 21st deadline then the case would be dismissed.
39

1 Mr. Hall stated that the Board can deny the case but they cannot just dismiss it due to the lack of
2 information.

3
4 Mr. Thorsland stated that if everything is not submitted by the February 21st deadline, then the March 16th
5 meeting is not going to go well for Mr. Frazier. He highly recommended that Mr. Frazier attend the March
6 16th meeting with the expectation of a final decision.

7
8 Mr. Frazier asked if this would be the only meeting so that he doesn't have to sit around and wait for other
9 people to attend.

10
11 Mr. Thorsland stated that Mr. Frazier has every right to complain, but has no right to stand on that
12 complaint. He noted that the Board has sat around and had entire meetings when Mr. Frazier did not attend.

13
14 Mr. Thorsland entertained a motion to suspend the 100-day rule for continuance and continue Case 792-V-
15 14 to the March 16th meeting.

16
17 **Ms. Griest moved, seconded by Ms. Capel to suspend the 100-day rule for continuance and continue**
18 **Case 792-V-16 to the March 16th meeting. The motion carried by voice vote with two opposing votes.**

19
20 **Case 823-S-15 Petitioner: William and Christina Schultz, d.b.a. A1 Pavement Maintenance, d.b.a.**
21 **BillyCo Properties, LLC Request to authorize a Contractor's Facility with Outdoor Storage and**
22 **Outdoor Operations as a Special Use in the B-4, General Business Zoning District with the following**
23 **waivers: Part A: A waiver for a side yard of 0 feet in lieu of the minimum required 10 feet as per**
24 **Section 5.3 of the Zoning Ordinance; and Part B. A waiver for a rear yard of 0 feet in lieu of the**
25 **minimum required 20 feet as per Section 5.3 of the Zoning Ordinance. Location: A 2.13-acre tract**
26 **comprised of Lots 4 and 5 of Van Winkle Subdivision in the Northeast Quarter of the Northeast**
27 **Quarter of Section 33 of Township 20 North, Range 9 East of the Third Principal Meridian in Somer**
28 **Township and commonly known as the contractor business A1 Pavement Maintenance, 3809 North**
29 **Cunningham Avenue, Urbana, Illinois.**

30
31 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
32 the witness register for that public hearing. He reminded the audience that when they sign the witness
33 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
34 time.

35
36 Mr. Thorsland informed the audience that Case 823-S-15 is an Administrative Case and as such, the County
37 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for
38 a show of hands for those who would like to cross-examine and each person will be called upon. He
39 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.

1 He said that those who desire to cross-examine are not required to sign the witness register but are requested
2 to clearly state their name before asking any questions. He noted that no new testimony is to be given during
3 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
4 exempt from cross-examination.

5
6 Mr. Thorsland asked the petitioners if they would like to make a statement regarding their case.

7
8 Ms. Christina Schultz, who resides at 3809 N. Cunningham, Urbana, stated that she applied for a Zoning Use
9 Permit for a detached garage and it was determined by staff that a Special Use Permit was necessary. She
10 said that at the last public hearing, staff and the Board indicated a list of things that she and her husband
11 needed to do to the property to bring it into compliance, and that list has been completed except for the 40
12 required parking spaces, as they only have 25. She said that they only have a portion of the Type D
13 screening slats completed because she incorrectly ordered 50-foot sections rather than 100-foot sections.
14 She said that she placed a new order and the screening slats should arrive for installation on November 2,
15 2016.

16
17 Mr. Thorsland asked the Board if there were any questions for Ms. Schultz and there were none.

18
19 Mr. Thorsland asked the audience if anyone desired to cross-examine Ms. Schultz and there was no one.

20
21 Mr. Thorsland called William Schultz to testify.

22
23 Mr. William Schultz, who resides at 3809 N. Cunningham, Urbana, stated that they have complied with the
24 required 10 feet setback from the fence line and installed slats in the fencing for screening.

25
26 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Schultz and there were none.

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

29
30 Ms. Lee asked if the case actually requires re-advertisement.

31
32 Mr. Hall stated that the note regarding possible re-advertisement was in regards to parking. He said that if
33 the intent is to comply with screening and parking, then no re-advertisement is necessary. He said that there
34 is enough area on the property for parking and if those areas are kept open for parking then no re-
35 advertisement is necessary, but if those open areas are utilized for other things, then a variance for parking
36 will be required.

37
38 Mr. Schultz stated that they moved everything that was out front to the area that staff indicated. He said that
39 they have more than enough room to put marked parking spaces on the property, if required, but they do not

1 need 40 parking spaces. He said that they only have nine employees and they do not have members of the
2 public visiting the property, but if they need to install the parking spaces, they will.
3

4 Mr. Thorsland stated that this is a Special Use Permit and the site plan should include current, tentative and
5 future uses on the site plan. He said that if anything changes and it is not on the approved site plan, the
6 petitioners would have to come back to the Board for another special use permit. He said that the petitioners
7 have plenty of space on the property for parking as long as the space remains open. He said that at this time
8 the petitioners might not have any plan for future expansion of material storage in the open area.
9

10 Mr. Schultz stated that they have been in operation for 12 years and they have no future plans. He said that
11 the plan is as good as it is today and no changes are required.
12

13 Mr. Thorsland asked the petitioners if they would be comfortable with the Board approving the site plan with
14 no substantial changes.
15

16 Mr. Schultz stated yes.
17

18 Mr. Thorsland asked if a waiver is required for the parking. He said that the area is available for the parking
19 if the need became necessary.
20

21 Mr. DiNovo stated that it would be easier for everyone if the additional parking spaces were indicated on the
22 approved site plan at the time of permitting.
23

24 Mr. Thorsland asked the Board if they would be comfortable with Mr. DiNovo's suggestion. He said that if
25 the required parking spaces were drawn on the site plan at the time of permitting, the case would not require
26 re-advertisement and could be finalized tonight.
27

28 The Board agreed to Mr. DiNovo's suggestion in allowing the petitioners to indicate the required parking
29 spaces on the site plan.
30

31 Mr. Thorsland stated that if everyone is agreeable the Board could move forward with the case at this time.
32

33 Mr. Thorsland asked the Board if there were any questions for Mr. Schultz and there were none.
34

35 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Schultz and there was no one.
36

37 Mr. Thorsland read the proposed special conditions as follows:
38

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and Operations) until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

The special condition stated above is necessary to ensure the following:
That the Special Use meets applicable state requirements for accessibility.

Mr. Thorsland asked the Mr. and Mrs. Schultz if they agreed with Special Condition A.

Mr. and Mrs. Schultz stated that they agreed with Special Condition A.

B. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

The special condition stated above is required to ensure the following:
That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

Mr. Thorsland asked the Mr. and Mrs. Schultz if they agreed with Special Condition B.

Mr. and Mrs. Schultz stated that they agreed with Special Condition B.

C. **By the end of 2016, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

The special condition stated above is required to ensure the following:
That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

Mr. Thorsland asked the Mr. and Mrs. Schultz if they agreed with Special Condition C.

Mr. and Mrs. Schultz stated that they agreed with Special Condition C.

D. **Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer used paint cans stored outdoors must be properly disposed of or stored indoors.**

1 The special condition stated above is required to ensure the following:

2 **That outdoor storage and operations are in compliance with the Champaign**
3 **County Nuisance Ordinance.**

4
5 Mr. Hall stated that Special Condition D. could be revised to indicate that the paint cans have to either
6 be stored indoors or at least make sure that no water can get in to the can so that the paint can dry. He
7 said that revised Special Condition D. should read as follows:

8
9 D. **Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer**
10 **used paint cans stored outdoors must be properly disposed of or properly stored.**

11
12 The special condition stated above is required to ensure the following:

13 **That outdoor storage and operations are in compliance with the Champaign**
14 **County Nuisance Ordinance.**

15
16
17 Mr. Thorsland asked Mr. and Mrs. Schultz if they agreed with revised Special Condition D.

18
19 Mr. and Mrs. Schultz stated that they agreed with revised Special Condition D.

20
21 Mr. Hall stated that the Summary of Evidence indicates that the waivers are not necessary, but in fact,
22 the waivers are not overstated. He said that it is important to have some waivers and he believes that the
23 waivers, as currently stated, are fine. He said that the Board could either take the time to increase those
24 from zero to what the minimum is on the site plan or leave them at zero as the case was originally
25 advertised. He said that the Board has a site plan and if it is fine for the petitioner, it is in compliance
26 with those waivers.

27
28 Mr. Thorsland stated that he would like to leave the Summary of Evidence as written.

29
30 Mr. DiNovo stated that the site plan that was submitted with the Special Use Permit does not actually
31 show all of the parking. He said that a Special Condition E. should be added indicating that a site plan
32 indicating all of the required parking spaces be submitted at the time of obtaining a Zoning Use Permit.

33
34 Mr. Thorsland asked Mr. DiNovo if he would like the site plan to show actual parking today or future
35 parking thus meeting the Ordinance requirements.

36
37 Mr. DiNovo stated that the parking spaces could be rectangles that provide nine feet of width for every
38 10 spaces.

1 Mr. Thorsland informed the petitioners that staff is available to assist them with the parking
2 requirements. He said that future parking spaces can be shown on the site plan and that site plan will
3 become the official version of the approved site plan.

4
5 Ms. Chavarria asked Mr. DiNovo if, the revised site plan indicating future parking will be for the
6 approval of the Zoning Use Permit.

7
8 Mr. DiNovo stated yes. He said that the revised site plan would also become the Official Site Plan for
9 this zoning case.

10
11 Mr. Thorsland read Special Condition E. as follows:

12
13 **E. Adequate parking must be shown on the Site Plan for approval of the Zoning Use**
14 **Permit. This will become the Official Site Plan for Case 823-S-15.**

15
16 The special condition stated above is required to ensure the following:
17 **That adequate parking is provided for the Special Use and that it is clear**
18 **which site plan is the official site plan.**

19
20 Mr. Thorsland asked Mr. and Mrs. Schultz if they agreed with Special Condition E.

21
22 Mr. Schultz requested confirmation that the site plan must be revised at the permitting stage and not
23 tonight. He said that they have plenty of vacant area, which is 200' x 105', to provide the additional
24 parking.

25
26 Mr. Thorsland confirmed that the future parking must be indicated on the site plan that is submitted with
27 a permit application. He said that staff could assist the petitioners with the revised site plan in assuring
28 that the future parking is indicated correctly.

29
30 Mr. and Mrs. Schultz stated that they agreed with Special Condition E.

31
32 Mr. Thorsland entertained a motion to approve Special Conditions A-E.

33
34 **Ms. Griest moved, seconded by Ms. Lee, to approve Special Conditions A-E. The motion carried**
35 **by voice vote.**

36
37 Mr. Thorsland asked the audience if anyone desired to present testimony regarding this case and there
38 was no one.

39

1 Mr. Thorsland closed the witness register.

2

3 Mr. Thorsland asked staff if there were any new Documents of Record.

4

5 Mr. Hall stated that the following documents need to be added to the Documents of Record: #10:
6 Supplemental Memorandum dated October 20, 2016, with attachments; and #11: Supplemental
7 Memorandum dated October 27, 2016, with attachments.

8

9 **Findings of Fact for Case 823-S-15:**

10

11 From the documents of record and the testimony and exhibits received at the public hearing for zoning
12 case **823-S-15** held on **April 14, 2016** and **October 27, 2016**, the Zoning Board of Appeals of
13 Champaign County finds that:

14

15 **1. The requested Special Use Permit IS necessary for the public convenience at this location**
16 **because it is an existing business that has been at this location for the past 12 years.**

17

18 Ms. Griest stated that the requested Special Use Permit IS necessary for the public convenience at this
19 location because it is an existing business that has been at this location for the past 12 years.

20

21 **2. The requested Special Use Permit, subject to the special conditions imposed herein, is so**
22 **designed, located, and proposed to be operated so that it WILL NOT be injurious to the**
23 **district in which it shall be located or otherwise detrimental to the public health, safety,**
24 **and welfare because:**

25

26 **a. The street has ADEQUATE traffic capacity and the entrance location has**

27

28 **ADEQUATE visibility.**
29 Ms. Griest stated that the street has ADEQUATE traffic capacity and the entrance location has

30

31 **b. Emergency services availability is ADEQUATE.**

32

33 Ms. Capel stated that emergency services availability is ADEQUATE.

34

35 **c. The Special Use WILL be compatible with adjacent uses.**

36

37 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

38

39 **d. Surface and subsurface drainage will be ADEQUATE.**

40

Ms. Capel stated that surface and subsurface drainage will be ADEQUATE.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

e. Public safety will be ADEQUATE.

Ms. Capel stated that public safety will be ADEQUATE.

f. The provisions for parking will be ADEQUATE.

Ms. Capel stated that the 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.

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. Griest 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.

Ms. Griest stated that the Special Use WILL be compatible with adjacent uses.

c. Public safety will be ADEQUATE.

Ms. Griest 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 essential character of the DISTRICT in which it is located.

- 1 **4. The requested Special Use Permit, subject to the special conditions imposed herein, IS in**
- 2 **harmony with the general purpose and intent of the Ordinance because:**
- 3 **a. The Special Use is authorized in the District.**
- 4 **b. The requested Special Use Permit IS necessary for the public convenience at this**
- 5 **location.**

7 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
 8 location.

- 10 **c. The requested Special Use Permit, subject to the special conditions imposed herein,**
- 11 **is so designed, located, and proposed to be operated so that it WILL NOT be**
- 12 **injurious to the district in which it shall be located or otherwise detrimental to the**
- 13 **public health, safety, and welfare.**

15 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,
 16 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in
 17 which it shall be located or otherwise detrimental to the public health, safety, and welfare.

- 19 **d. The requested Special Use Permit, subject to the special conditions imposed herein,**
- 20 **DOES preserve the essential character of the DISTRICT in which it is located.**

21 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,
 22 DOES preserve the essential character of the DISRICT in which it is located.

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

- 24 **6. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE**
- 25 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE**
- 26 **PARTICULAR PURPOSES DESCRIBED BELOW:**

- 28 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
- 29 **proposed Contractors Facility (with or without Outdoor Storage and Operations)**
- 30 **until the petitioner has demonstrated that the proposed Special Use complies with**
- 31 **the Illinois Accessibility Code.**

33 The special condition stated above is necessary to ensure the following:
 34 **That the Special Use meets applicable state requirements for accessibility.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.

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

That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

C. By the end of 2016, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

D. Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer used paint cans stored outdoors must be properly disposed of or properly stored.

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

That outdoor storage and operations are in compliance with the Champaign County Nuisance Ordinance.

E. Adequate parking must be shown on the Site Plan for approval of the Zoning Use Permit. This will become the Official Site Plan for Case 823-S-15.

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

That adequate parking is provided for the Special Use and that it is clear which site plan is the official site plan.

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

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

Mr. Thorsland entertained a motion to move to the Final Determination for Case 823-S-16.

Ms. Capel moved, seconded by Ms. Lee, to move to the Final Determination for Case 823-S-15. The motion carried by voice vote.

1
 2 Mr. Thorsland informed the petitioners that currently the Board has one absent Board member therefore it is
 3 at their discretion to either continue Case 823-S-15 until a full Board is present or request that the present
 4 Board move to the Final Determination. He informed the petitioners that four affirmative votes are required
 5 for approval.

6
 7 Mr. and Mrs. Schultz requested that the present Board move to the Final Determination.
 8
 9

10 **FINAL DETERMINATION FOR CASE 823-S-15:**
 11

12 **Ms. Griest moved, seconded by Ms. Lee, that the Champaign County Zoning Board of Appeals finds**
 13 **that, based upon the application, testimony, and other evidence received in this case, the requirements**
 14 **of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted by Section**
 15 **9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

16 The Special Use requested in Case **823-S-15** is hereby **GRANTED WITH SPECIAL**
 17 **CONDITIONS** to the applicant **William and Christina Schultz, d.b.a. BillyCo Properties**
 18 **LLC, d.b.a. A1 Pavement Maintenance**, to authorize **the following as a Special Use on land**
 19 **in the B-4 General Business Zoning District:**
 20

21 **Authorize a Special Use Permit for a Contractor’s Facility with outdoor storage and**
 22 **outdoor operations in the B-4 General Business Zoning District.**
 23

24 **SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS FOR**
 25 **CONTRACTORS FACILITIES WITH OUTDOOR STORAGE AND/OR OUTDOOR**
 26 **OPERATIONS:**
 27

28 Part A: A waiver for a side yard of 0 feet in lieu of the minimum required 10 feet as per
 29 Section 5.3 of the Zoning Ordinance.
 30

31 Part B: A waiver for a rear yard of 0 feet in lieu of the minimum required 20 feet as per
 32 Section 5.3 of the Zoning Ordinance.
 33

34 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**
 35

36 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
 37 **proposed Contractors Facility (with or without Outdoor Storage and Operations)**
 38 **until the petitioner has demonstrated that the proposed Special Use complies with**
 39 **the Illinois Accessibility Code.**

- 1
- 2 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
- 3 **issue a Zoning Compliance Certificate on the subject property until the lighting**
- 4 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**
- 5
- 6 **C. By the end of 2016, all outdoor storage and operations, including stockpiles and**
- 7 **equipment, must be screened with a Type D Screen to obscure or conceal any part of**
- 8 **any yard used for outdoor storage and/or outdoor operations.**
- 9
- 10 **D. Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer**
- 11 **used paint cans stored outdoors must be properly disposed of or properly stored**
- 12 **.**
- 13
- 14 **E. Adequate parking must be shown on the Site Plan for approval of the Zoning Use**
- 15 **Permit. This will become the Official Site Plan for Case 823-S-15.**
- 16

17 Mr. Thorsland requested a roll call vote.

18
19 The roll was called as follows:

20			
21	Lee – yes	Passalacqua – absent	Randol – yes
22	Capel – yes	DiNovo – yes	Griest – yes
23	Thorsland – yes		
24			

25 Mr. Hall informed the Petitioners that they have received an approval for their request and staff will send
26 out the final paperwork as soon as possible.

27
28
29 **Cases 830-AM-16 and 832-S-16 Petitioner: Traci Lipps and Victor Fuentes, d.b.a. Lipps Family, Inc.,**
30 **d.b.a. Willow Creek Farm Request for Case 830-AM-16: Amend the Zoning Map to change the zoning**
31 **designation from the AG-1 Agriculture Zoning District to the AG-2 Agriculture Zoning District in**
32 **order to operate the proposed Special Use in related Zoning Case 831-S-16. Request for Case 831-S-16:**
33 **Authorize the remodeling of existing farm buildings for the establishment and use of an Event Center**
34 **as a combination “Private Indoor Recreational Development” and “Outdoor Commercial Enterprise”**
35 **as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from**
36 **the current AG-1 Agriculture Zoning District in related zoning case 830-AM-16. Location: A 37-acre**
37 **tract in Somer Township in the Southwest Quarter of the Northeast Quarter of Section 36 of**
38 **Township 20 North, Range 9 East of the Third Principal Meridian and commonly known as the**
39 **farmstead located at 1766 CR 1850N, Urbana.**

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

5
6 Mr. Thorsland informed the audience that Case 831-S-16 is an Administrative Case and as such, the County
7 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for
8 a show of hands for those who would like to cross-examine and each person will be called upon. He
9 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.

10 He said that those who desire to cross-examine are not required to sign the witness register but are requested
11 to clearly state their name before asking any questions. He noted that no new testimony is to be given during
12 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
13 exempt from cross-examination.

14
15 Mr. Thorsland stated that the Petitioners are not present tonight, but the Board does have a new
16 memorandum before them for review.

17
18 Mr. Hall, Zoning Administrator, stated that staff has received notice that there are neighbors who are
19 supporting a continuation of this case to a later date, but the question at hand is how long to continue it. He
20 said that some neighbors have requested that the case be continued to April and other neighbors have
21 requested that the continuation be as soon as possible. He said that he cannot explain why neither petitioner
22 could be present tonight and in light of that, the Board could dismiss this case. He said that since the
23 neighbors have requested a continuance, it may be best to continue but that is up to the Board. He asked Ms.
24 Chavarria if staff has received any reply from the petitioners.

25
26 Ms. Chavarria stated that she has not received a reply from the petitioners. She said that when she spoke
27 with the neighbors, she made it clear that they were more than welcome to submit their comments to her by
28 phone, email, personal visit, etc. She said that if the neighbors are unable to attend future meetings, she
29 intends to keep them up-to-date on the status of the case.

30
31 Mr. Thorsland stated that there is difficulty in scheduling a continuance without the petitioners present
32 because the Board has no idea as to when they are available. He said that the Board could continue the case
33 to a meeting that is not too far off and hope that the petitioners will submit some input regarding the
34 continuance date and their attendance. He said that he does have three names on the witness register for
35 these cases, but he cannot allow testimony tonight due to the absence of the petitioners. He said that since
36 Ms. Lipps and Mr. Fuentes are the petitioners for this case, they have the right to hear testimony from
37 witnesses. He said that there was correspondence between the Board and the petitioners.

38
39 Ms. Chavarria stated that at the August 11th public hearing Mr. Fuentes indicated that he could be at the

1 October 27th meeting. She said that Ms. Lipps was not present at the August 11th meeting so no input was
2 received from her regarding the October 27th meeting. Ms. Chavarria stated that on August 29th Ms. Lipps
3 notified staff that neither she or Mr. Fuentes would be able to attend the October 27th public hearing and
4 requested a continuance to a later date. Ms. Chavarria stated that she asked Mr. Fuentes and Ms. Lipps if
5 they could be present at either the November 10th or December 8th meeting and Ms. Lipps responded that
6 they would not be available and requested that the case be continued to after the first of the year 2017. Ms.
7 Chavarria stated that she emailed the petitioners yesterday, but she has not received any response yet.

8
9 Mr. Thorsland stated that Ms. Chavarria has made it very clear that people who are in attendance tonight and
10 people who have concerns in the future should contact staff either verbally or in writing. He said that any
11 correspondence that staff receives will be included in the memorandums for the Board. He said that he
12 would like to continue these cases to a tentative date in 2017. He asked staff and the Board if the cases
13 could be continued to the tentative meeting date of February 16, 2017. He said that a continuance to the
14 February 16, 2017, meeting would give the petitioners plenty of time to make sure that the petitioners and
15 witnesses could be in attendance. He said that if staff and the Board discovers within two or three weeks
16 before the continued public hearing that the petitioners are unable to attend, he would suggest that the Board
17 should hold the hearing and dismiss the cases at that time.

18
19 Mr. DiNovo stated that the Board should continue these cases to a date, which the Board deems appropriate
20 and convenient. He said that if the petitioners are unable to attend the continued meeting, then the Board
21 should dismiss the cases. He said that he does not see any reason for a second continuance date.

22
23 Mr. Thorsland agreed. He said that a continuance to February 16th provides enough time for the petitioners
24 to indicate whether they are able to attend or not and staff enough time to notify everyone that is on the
25 mailing list of the intended absence. He said that he wants the petitioners to understand that this is the last
26 continuance date that will be approved for these cases. He said that up to now, the petitioners have been
27 very good about attending the meetings and once he will always defer to the benefit of doubt because it is a
28 hardship to staff to re-advertise the cases and it costs the County money. He apologized to the witnesses and
29 interested parties for these cases who are in attendance tonight for not having enough time to notify them of
30 the petitioners' absence.

31
32 Mr. Thorsland entertained a motion to continue Cases 830-AM-16 and 831-S-16 to the tentative February
33 16, 2017, meeting.

34
35 Ms. Griest asked Mr. Thorsland why he is requesting a continuance the February 16th when the notes
36 indicate January. She noted that a continuance to February 16th would be over the 100-day limit for
37 continuances.

38
39 Mr. DiNovo stated that keeping a slot available on January 26, 2017, for a case that might be more time

1 demanding would not be advisable.

2

3 **Mr. DiNovo moved, seconded by Mr. Randol, to suspend the rules in respect to the 100-day limit for a**
4 **continuance of Cases 830-AM-16 and 831-S-16. The motion carried by voice vote.**

5

6 Mr. Thorsland entertained a motion to continue Cases 830-AM-16 and 831-S-16 to the tentative February
7 16, 2017, meeting.

8

9 **Mr. Randol moved, seconded by Mr. DiNovo, to continue Cases 830-AM-16 and 831-S-16 to the**
10 **tentative February 16, 2017, meeting. The motion carried by voice vote.**

11

12 Ms. Chavarria requested that everyone who has signed the witness register and the attendance record
13 regarding these cases that they provide their phone number, address or email address so that she can contact
14 them regarding these cases and include them in the next mailing regarding these cases.

15

16 Mr. Thorsland thanked the audience for coming to the meeting regarding these cases and being engaged in
17 the discussion.

18

19 **6. New Public Hearings**

20

21 **Cases 850-V-16 and 851-V-16** Petitioner: **Wayne Schwaiger, d.b.a. Reflection Holdings, LLC** Request:
22 **Authorize the following in the CR Conservation Recreation Zoning District: Request for Case 850-V-**
23 **16: Authorize a variance for a proposed division of a lot 4.02 acres in area in lieu of the minimum**
24 **required lot area of 5 acres; and Request for Case 851-V-16: Authorize a variance for a setback of 44**
25 **feet from street centerline and a front yard of 3 feet in lieu of the minimum required setback from**
26 **street centerline of 55 feet and minimum required front yard of 25 feet for the north 260.15 feet of the**
27 **subject property. Location: A 4.02acre tract in the Southeast Quarter of the Southeast Quarter of**
28 **Section 19, Township 20 North, Range7 East of the Third Principal Meridian in Mahomet Township**
29 **and commonly known as the residence at 2006 CR 125E, Mahomet.**

30

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

35

36 Mr. Thorsland informed the audience that Cases 850-V-16 and 851-V-16 are Administrative Cases and as
37 such, the County allows anyone the opportunity to cross-examine any witness. He said that at the proper
38 time he will ask for a show of hands for those who would like to cross-examine and each person will be
39 called upon. He requested that anyone called to cross-examine go to the cross-examination microphone to

1 ask any questions. He said that those who desire to cross-examine are not required to sign the witness
2 register but are requested to clearly state their name before asking any questions. He noted that no new
3 testimony is to be given during the cross-examination. He said that attorneys who have complied with
4 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

5
6 Mr. Thorsland asked the petitioner if he would like to make a statement regarding his request.

7
8 Mr. Wayne Schwaiger, who resides at 2006 CR 125E, Mahomet, stated that he is requesting a variance for
9 the division of a lot that is 4.02 acres in area in lieu of the minimum required lot area of 5 acres; and a
10 variance for a setback of 44 feet from the street centerline and a front yard of 3 feet in lieu of the minimum
11 required setback from the street centerline of 55 feet and minimum required front yard of 25 feet for the
12 north 260.15 feet of the subject property.

13
14 Mr. Schwaiger stated that he would like to divide the 4.02 acres into two lots for residences.

15
16 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Schwaiger.

17
18 Mr. Hall asked Mr. Schwaiger if he has had any soil investigations completed to determine if a septic system
19 could be installed on the new lot.

20
21 Mr. Schwaiger stated that he had Roger Winhorn, Geologist with the Illinois Natural Resource Conservation
22 Service, visit the property to obtain soil samples. He said that he does not have the results of the soil testing
23 with him tonight, but he will submit the documentation to staff and he will apply with the Champaign
24 County Public Health Department to satisfy their requirements for septic systems compliance.

25
26 Mr. Hall stated that Special Condition A., as indicated in the Preliminary Memorandum dated October 20,
27 2016, is not adequate because Mr. Schwaiger will be required to subdivide with the Village of Mahomet. He
28 said that he has a revised Special Condition A. for the Board's consideration. He read the revised condition
29 as follows:

- 30 A. A Zoning Use Permit shall not be approved for construction on proposed Lot 102
31 unless and until a Plat of Subdivision has been duly approved by the Village of Mahomet and
32 filed with the Champaign County Recorder of Deeds.

33
34 Mr. Thorsland asked the Board if there were any questions for Mr. Schwaiger.

35
36 Mr. DiNovo asked Mr. Schwaiger that given the house is non-conforming, what prompted him to be
37 concerned about the variance.

38
39 Mr. Schwaiger stated that Kelly Pfeifer, Village of Mahomet Community Development Director, suggested

1 that a variance be requested with the County at this time, so that, for future purposes down the road it is in
2 compliance. He said that knowing that he will have to go through the Village of Mahomet for a Plat of
3 Subdivision, he requested the variance with the County because the Village of Mahomet would require it
4 anyway.

5
6 Mr. Randol asked Mr. Schwaiger to indicate the age of the existing home.

7
8 Mr. Schwaiger stated that the home is at least 50 or 60 years old.

9
10 Mr. Thorsland stated that the house was constructed prior to the adoption of the ordinance.

11
12 Mr. Hall stated that a 40 feet right-of-way is the most that the Village of Mahomet could require and if they
13 can meet that requirement with less they will, but that is why it indicates a 40-foot dedication.

14
15 Mr. Randol asked Mr. Schwaiger if he recently acquired the property.

16
17 Mr. Schwaiger stated that he has owned the property for a couple of years.

18
19 Ms. Chavarria stated that the current variance is the minimum variance that could be allowed.

20
21 Mr. DiNovo asked Ms. Chavarria if the Village of Mahomet has an official map that shows street
22 classifications.

23
24 Ms. Chavarria stated that the Village of Mahomet recently updated their documents and she does not believe
25 that they have a street classification map, but if they do, she does not believe that it would extend out to this
26 area. She said that their focus area appears to be closer than this location, but she could double check with
27 Ms. Pfeifer.

28
29 Mr. DiNovo stated that the municipalities fight very hard for their extra-territorial jurisdiction, but it would
30 be nice if they would take responsibility for it.

31
32 Ms. Chavarria stated that there are geographical barriers out there that make it very unlikely that the Village
33 of Mahomet would ever annex that area.

34
35 Mr. Thorsland stated that the Board appreciates Mr. Schwaiger coming to the Board prior to any
36 construction.

37
38 Mr. Thorsland read the proposed special conditions as follows:
39

1 **A. A Zoning Use Permit shall not be approved for construction on proposed Lot 102**
 2 **Unless and until a Plat of Subdivision has been duly approved by the Village of**
 3 **Mahomet and filed with the Champaign County Recorder of Deeds.**

4
 5 The special condition stated above is required to ensure the following:
 6 **That the proposed land division is in compliance with the relevant subdivision**
 7 **requirements.**

8
 9 Mr. Thorsland asked Mr. Schwaiger if he agreed with Special Condition A.

10
 11 Mr. Schwaiger stated that he agreed with Special Condition A.

12
 13 Mr. Thorsland read proposed Special Condition B.

14
 15 **B. The Zoning Administrator shall not issue a Zoning Use Permit Application or a Zoning**
 16 **Compliance Certificate until the petitioner submits a soil analysis to determine if a**
 17 **septic system can be installed on the proposed lot.**

18
 19 The special condition stated above is required to ensure the following:
 20 **That there is an adequate wastewater system for both the existing and proposed lots.**

21
 22 Mr. Thorsland asked Mr. Schwaiger if he agreed with Special Condition B.

23
 24 Mr. Schwaiger stated that he agreed with Special Condition B.

25
 26 Mr. Thorsland entertained a motion to approve Special Conditions A. and B. for Case 850-V-16 as read.

27
 28 **Ms. Capel moved, seconded by Ms. Griest, to approve Special Conditions A. and B. for Case 850-V-16**
 29 **as read. The motion carried by voice vote.**

30
 31 Mr. Thorsland stated that there are no new Documents of Record.

32
 33 **Findings of Fact for Case 850-V-16:**

34
 35 From the documents of record and the testimony and exhibits received at the public hearing for zoning
 36 cases **850-V-16** held on **October 27, 2016**, the Zoning Board of Appeals of Champaign County finds
 37 that:

38
 39 1. **Special conditions and circumstances *DO* exist which are peculiar to the land or structure**

1 **involved, which are not applicable to other similarly situated land and structures elsewhere**
2 **in the same district.**

3
4 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
5 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
6 the same district because the house was built and located 50-60 years ago and the lot was created pre-
7 zoning.

8
9 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
10 **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**
11 **structure or construction.**

12
13 Ms. Capel stated that practical difficulties and hardships created by carrying out the strict letter of the
14 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
15 structure or construction because the lot can be split.

16
17 Mr. DiNovo stated that this is consistent with direction received from the Village of Mahomet.

18
19 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result**
20 **from actions of the applicant.**

21
22 Ms. Griest stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
23 result from actions of the applicant because the lot was created prior to zoning.

24
25 **4. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS in harmony**
26 **with the general purpose and intent of the Ordinance.**

27
28 Ms. Griest stated that the requested variance, *SUBJECT TO THE PROPOSED CONDITIONS*, IS in
29 harmony with the general purpose and intent of the Ordinance.

30
31 Mr. DiNovo stated that the property is surrounded on two sides by properties that are residential in use,
32 the property itself is not large enough to support commercial production.

33
34 Ms. Griest stated that it takes no land out of production.

35
36 **5. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, WILL NOT be**
37 **injurious to the neighborhood or otherwise detrimental to the public health, safety, or**
38 **welfare.**

39

1 Ms. Capel stated that the requested variance, *SUBJECT TO THE PROPOSED SPECIAL*
2 *CONDITIONS*, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public
3 health, safety, or welfare because direction was received from the Village of Mahomet, no comments
4 were received from the road or fire protection district.

5
6 Mr. DiNovo stated that there is ample groundwater in the area.

7
8 **6. The requested variance, *SUBJECT TO THE PROPOSED CONDITIONS*, IS the minimum**
9 **variation that will make possible the reasonable use of the land/structure.**

10
11 Mr. Thorsland stated that the requested variance, *SUBJECT TO THE PROPOSED*
12 *CONDITIONS*, IS the minimum variation that will make possible the reasonable use of the
13 land/structure.

14
15 **7. *THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE***
16 ***PARTICULAR PURPOSES DESCRIBED BELOW:***

17
18 **A. A Zoning Use Permit shall not be approved for construction on proposed Lot 102**
19 **unless and until a Plat of Subdivision has been duly approved by the Village of**
20 **Mahomet and filed with the Champaign County Recorder of Deeds.**

21
22 The special condition stated above is required to ensure the following:

23 **That the proposed land division is in compliance with the relevant**
24 **subdivision requirements.**

25
26 **B. The Zoning Administrator shall not issue a Zoning Use Permit Application or a**
27 **Zoning Compliance Certificate until the petitioner submits a soil analysis to**
28 **determine if a septic system can be installed on the proposed lot.**

29
30 The special condition stated above is required to ensure the following:

31 **That there is an adequate wastewater system for both the existing and**
32 **proposed lots.**

33 **FINDINGS OF FACT CASE 851-V-16:**

34
35 From the documents of record and the testimony and exhibits received at the public hearing for zoning
36 cases **851-V-16** held on **October 20, 2016**, the Zoning Board of Appeals of Champaign County finds
37 that:

38
39 **1. Special conditions and circumstances *DO* exist which are peculiar to the land or structure**

1 involved, which are not applicable to other similarly situated land and structures elsewhere
2 in the same district.

3
4 Ms. Capel stated that special conditions and circumstances *DO* exist which are peculiar to the land or
5 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
6 the same district because the house was sited before 1973 (pre-zoning).

7
8 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations
9 sought to be varied *WILL* prevent reasonable or otherwise permitted use of the land or
10 structure or construction.**

11
12 Ms. Capel stated that 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 use of the land or
14 structure or construction because the house won't be in compliance and the Village of Mahomet requires
15 compliance in order to move forward with the petitioner's request.

16
17 **3. The special conditions, circumstances, hardships, or practical difficulties *DO NOT* result
18 from actions of the applicant.**

19 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties *DO NOT*
20 result from actions of the applicant because the house was sited before zoning.

21
22 **4. The requested variance *IS* in harmony with the general purpose and intent of the
23 Ordinance.**

24
25 Ms. Capel stated that the requested variance *IS* in harmony with the general purpose and intent of the
26 Ordinance because it takes no land out of production, and similar residential properties are located on
27 two sides.

28
29 **5. The requested variance *WILL NOT* be injurious to the neighborhood or otherwise
30 detrimental to the public health, safety, or welfare.**

31
32 Ms. Griest stated that the requested variance *WILL NOT* be injurious to the neighborhood or otherwise
33 detrimental to the public health, safety, or welfare because no comments were received from the road or
34 fire protection district, and there is ample groundwater in the area.

35
36 **6. The requested variance *IS* the minimum variation that will make possible the reasonable
37 use of the land/structure.**

38
39 Ms. Griest stated that the requested variance *IS* the minimum variation that will make possible the

1 reasonable use of the land/structure.
2
3 Mr. DiNovo stated that the structure is where it is and the variance estimate is a worst case scenario that
4 is unlikely to be realized and the actual non-conformance of the structure is significantly less.
5
6 Mr. Thorsland stated that the proposed variance is the maximum possible variance needed.
7
8 Ms. Capel stated that it seems odd that the Board is justifying that it is the minimum variance by stating
9 that it is the maximum.
10
11 Mr. Thorsland stated that perhaps the Board should leave it as it is the minimum variation that will make
12 possible the reasonable use of the land/structure.
13
14 The Board agreed.
15

16 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**
17

18 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
19 of Fact for Cases 850-V-16 and 851-V-16, as amended.
20

21 **Ms. Capel moved, seconded by Ms. Griest, to adopt the Summary of Evidence, Documents of Record
22 and Findings of Fact for Case 850-V-16 as amended. The motion carried by voice vote.**
23

24 Mr. Thorsland entertained a motion to move to the Final Determination for Cases 850-V-16 and 851-V-16.
25

26 **Ms. Griest moved, seconded by Ms. Capel, to move to the Final Determination for Cases 850-V-16 and
27 851-V-16. The motion carried by voice vote.**
28

29 Mr. Thorsland informed the petitioner that currently the Board has one absent Board member therefore it is
30 at their discretion to either continue Cases 850-V-16 and 851-V-16 until a full Board is present or request
31 that the present Board move to the Final Determination. He informed the petitioner that four affirmative
32 votes are required for approval.
33

34 Mr. Schwaiger requested that the present Board move to the Final Determination for Cases 850-V-16 and
35 851-V-16.
36

37 **Final Determination for Case 850-V-16:**
38

39 **Ms. Griest moved, seconded by Mr. Randol, that the Champaign County Zoning Board of Appeals**

1 finds that, based upon the application, testimony, and other evidence received in this case, that the
2 requirements for approval in Section 9.1.9.C *HAVE* been met, and pursuant to the authority granted
3 by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of
4 Champaign County determines that:

5 The Variance requested in Case 850-V-16 is hereby *GRANTED WITH CONDITIONS* to the petitioner
6 Wayne Schwaiger, d.b.a. Reflections Holdings LLC, to authorize the following variance in the CR
7 Conservation Recreation Zoning District:

8
9 Authorize a variance for a proposed division of a lot 4.02 acres in area in lieu of the minimum
10 required lot area of 5 acres.

11
12 ***SUBJECT TO THE FOLLOWING CONDITIONS:***

13
14 **A. A Zoning Use Permit shall not be approved for construction on proposed Lot 102**
15 **unless and until a Plat of Subdivision has been duly approved by the Village of**
16 **Mahomet and filed with the Champaign County Recorder of Deeds.**

17
18 The special condition stated above is required to ensure the following:
19 **That the proposed land division is in compliance with the relevant**
20 **subdivision requirements.**

21
22 **B. The Zoning Administrator shall not issue a Zoning Use Permit Application or a**
23 **Zoning Compliance Certificate until the petitioner submits a soil analysis to**
24 **determine if a septic system can be installed on the proposed lot.**

25
26 The special condition stated above is required to ensure the following:
27 **That there is an adequate wastewater system for both the existing and**
28 **proposed lots.**

29
30 Mr. Thorsland requested a roll call vote.

31
32 The roll was called as follows:

- | | | | |
|----|-----------------|----------------------|--------------|
| 33 | | | |
| 34 | Lee – yes | Passalacqua – absent | Randol – yes |
| 35 | Capel – yes | DiNovo – yes | Griest – yes |
| 36 | Thorsland – yes | | |
| 37 | | | |

38 **Final Determination for Case 851-V-16:**

1
 2 **Ms. Capel moved, seconded by Ms. Lee, that the Champaign County Zoning Board of Appeals finds**
 3 **that, based upon the application, testimony, and other evidence received in this case, that the**
 4 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted**
 5 **by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
 6 **Champaign County determines that:**

7 **The Variance requested in Case 851-V-16 is hereby GRANTED to the petitioner Wayne Schwaiger,**
 8 **d.b.a. Reflections Holdings LLC, to authorize the following variance in the CR Conservation**
 9 **Recreation Zoning District:**

10
 11 **Authorize a variance for a setback of 44 feet from street centerline and a front yard of 3 feet in**
 12 **lieu of the minimum required setback from street centerline of 55 feet and minimum required**
 13 **front yard of 25 feet for the north 260.15 feet of the subject property.**

14
 15 Mr. Thorsland requested a roll call vote.

16
 17 The roll was called as follows:

18	DiNovo – yes	Griest – yes	Lee – yes
19	Passalacqua – absent	Randol – yes	Capel – yes
20	Thorsland – yes		

21
 22
 23 Mr. Hall informed the petitioner that he has received an approval for his two requests. He said that staff will
 24 send out the final paperwork as soon as possible.

25
 26 Mr. Thorsland stated that the Board will take a short recess prior to hearing Case 792-V-14.

27
 28 **The Board recessed at 8:10 p.m.**
 29 **The Board resumed at 8:20 p.m.**

30
 31 **7. Staff Report**

32
 33 None

34
 35 **8. Other Business**

36 A. Review of Docket

37
 38 Mr. Thorsland stated that he and Ms. Capel will be absent from the December 22nd meeting.

1
2 Ms. Capel stated that her plans have changed and that if the meeting is held she will be in attendance.
3
4 Mr. Thorsland stated that cancellation of the December 22nd meeting will be an agenda item on the
5 November 10th meeting agenda.
6
7 Mr. Randol noted that he will be absent from the November 10th meeting.
8
9 Ms. Chavarria stated that Mr. DiNovo previously indicated that he too would not be in attendance for the
10 November 10th meeting.
11
12 Mr. DiNovo stated that his plans have changed and that he will be in attendance for the November 10th
13 meeting.
14
15 Ms. Griest stated that she will be absent from the tentative April 27, 2017, meeting.
16
17 **9. Audience Participation with respect to matters other than cases pending before the Board**
18
19 None
20
21 **10. Adjournment**
22
23 Mr. Thorsland entertained a motion to adjourn the meeting.
24
25 **Ms. Griest moved, seconded by Ms. Capel, to adjourn the meeting. The motion carried by voice vote.**
26
27 The meeting adjourned at 10:10 p.m.
28
29
30 Respectfully submitted
31
32
33
34
35 Secretary of Zoning Board of Appeals
36
37
38
39

ZBA

AS APPROVED JANUARY 12, 2017

10/27/16

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30