

1 *AS APPROVED MARCH 16, 2017*

2
3 **MINUTES OF REGULAR MEETING**

4 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

5 **1776 E. Washington Street**

6 **Urbana, IL 61802**

7
8
9 **DATE: January 26, 2017**

PLACE: Lyle Shields Meeting Room
1776 East Washington Street

10
11 **TIME: 6:30 p.m.**

Urbana, IL 61802

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13 **MEMBERS PRESENT:** Catherine Capel, Frank DiNovo, Debra Griest, Jim Randol, Eric Thorsland

14
15 **MEMBERS ABSENT :** Marilyn Lee, Brad Passalacqua

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

18
19 **OTHERS PRESENT :** Abigail Frank, Timothy Voelker, Richard Riddle, Elizabeth Riddle, Kenneth
20 Brown

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22
23 **1. Call to Order**

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

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27 **2. Roll Call and Declaration of Quorum**

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

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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.

34
35 **3. Correspondence**

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37 None

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39 **4. Approval of Minutes (August 25, 2016 and January 12, 2017)**

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1 Mr. Thorsland stated that staff has been informed that Ms. Lee, absent tonight, has required edits to the
2 August 25, 2017, minutes; therefore, approval of the August 25, 2016, minutes will be postponed so that
3 Ms. Lee’s edits can be inserted into the draft document.

4
5 Mr. Thorsland entertained a motion to approve the January 12, 2017, minutes.

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7 **Mr. Randol moved, seconded by Ms. Capel, to approve the January 12, 2017, minutes as amended.**

8
9 Mr. Thorsland stated that Mr. DiNovo provided minor edits for the August 25, 2016, and January 12, 2017,
10 minutes and staff has a copy of those edits if anyone desires to review them.

11
12 Mr. DiNovo asked staff if his edits were inserted into the minutes.

13
14 Ms. Berry stated that staff did insert Mr. DiNovo’s edit into the minutes.

15
16 **The motion carried by voice vote.**

17
18 Mr. Thorsland entertained a motion to rearrange the agenda and hear Case 861-V-16, Richard and Elizabeth
19 Riddle prior to Cases 858-AM-16 and 859-S-16, Abigail Frank, Amber Barnhart, Trent Barnhart and
20 Donald
21 Barnhart.

22
23 **Ms. Capel moved, seconded by Ms. Griest, to rearrange the agenda and hear Case 861-V-16, Richard**
24 **and Elizabeth Riddle prior to Cases 858-AM-16 and 859-S-16, Abigail Frank, Amber Barnhart, Trent**
25 **Barnhart and Donald Barnhart. The motion carried by voice vote.**

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27 **5. Continued Public Hearing**

28

1 **Case 858-AM-16** Petitioner: **Abigail Frank, Amber Barnhart, Trent Barnhart, and Donald Barnhart**
2 **Request: Authorize the Zoning Map to change the zoning district designation from the AG-1**
3 **Agriculture Zoning District to the AG-2 Agriculture Zoning District in order to operate the proposed**
4 **Special Use with waiver in related Zoning Case 859-S-16. Location: Four different tracts of land**
5 **totaling 35.15 acres in the East Half of the Northwest Quarter of Section 4 of Township 18 North,**
6 **Range 9 East of the Third Principal Meridian in Philo Township and commonly known as the**
7 **farmstead located east of Barnhart Prairie Restoration at 1433 East Old Church Road, Urbana.**

8
9 **Case 859-S-16** Petitioner: **Abigail Frank, Amber Barnhart, Trent Barnhart, and Donald Barnhart**
10 **Request: Authorize the remodeling of existing farm buildings for the establishment and use of an**
11 **Event Center as a combination “Private Indoor Recreational Development” and “Outdoor**
12 **Commercial Recreational Enterprise” as a Special Use on land that is proposed to be rezoned to the**
13 **AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related**
14 **Zoning Case 858-AM-16, on the following property, with the following waiver to the standard**
15 **conditions for an Outdoor Commercial Recreational Enterprise: Authorize a waiver for an Outdoor**
16 **Commercial Recreational Enterprise that is 185 feet from a residential use in lieu of the minimum**
17 **required 200 feet separation distance. Location: Four different tracts of land totaling 35.15 acres in**
18 **the East Half of the Northwest Quarter of Section 4 of Township 18 North, Range 9 East of the Third**
19 **Principal Meridian in Philo Township and commonly known as the farmstead located east of**
20 **Barnhart Prairie Restoration at 1433 East Old Church Road, Urbana.**

21
22 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
23 the witness register for that public hearing. He reminded the audience that when they sign the witness
24 register they are signing an oath.

25
26 Mr. Thorsland informed the audience that Case 859-S-16 is an Administrative Case and as such, the County
27 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for
28 a show of hands for those who would like to cross-examine and each person will be called upon. He

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

6
7 Mr. Thorsland commended Ms. Frank for her outstanding presentation and response to the Board's
8 homework assignments for these cases. He requested that Ms. Frank summarize the new information
9 presented tonight for her two cases.

10
11 Mr. Thorsland asked the petitioner if she desired to make a statement regarding her request.

12
13 Ms. Frank, who resides at 1413 East Old Church Road, Urbana, stated that the City of Urbana had their
14 meeting one week ago and when she spoke with the City of Urbana's staff on Monday, January 23, 2017,
15 they indicated that they would forward the information to the Department of Planning and Zoning. She said
16 that the City of Urbana decided to not protest the map amendment and that there was a simple way for her to
17 move forward. She said that the City of Urbana informed Ms. Frank that a simple way to remedy the lot
18 division issue is to rename the plot as an outlot, which would require no access drive. She said that her
19 mother, Amber Barnhart, is buying part of her brother's property; therefore, it will not be a standalone
20 parcel any more. Ms. Barnhart stated that she has contacted Ed Clancy, Engineer with Berns, Clancy and
21 Associates, and they have the application in process for the land division approval with the City of Urbana.

22
23 Ms. Frank stated that she contacted Chief Jay Miller with the Philo Fire Protection District, and he indicated
24 that he would like a width of 10 feet for the driveway and a 25 feet diameter turnaround. She said that the
25 proposed plans indicate a width of 20 feet for the driveway and 30 feet diameter turnaround, thus compliant
26 with Chief Miller's requirements.

27
28 Ms. Griest stated that that the documentation indicates a proposed 50 feet diameter turnaround.

1

2 Ms. Burgstrom clarified that the Philo Fire Protection District requests a turnaround that has a 25 feet radius
3 or a 50 feet diameter. She said that the proposed plans indicate more than what Chief Miller requested.

4

5 Ms. Frank stated that she submitted a revised lighting plan for the new parking lot.

6

7 Ms. Frank stated that she contacted Brian Meharry, Philo Township Highway Commissioner, and discussed
8 the concerns that arose at the last public hearing, but he indicated that he had no concerns regarding the
9 proposed use. She said that Ms. Burgstrom told her that Mr. Meharry contacted her as well and that he
10 indicated no great concerns regarding the proposed use.

11

12 Ms. Frank stated that regarding any potential traffic concerns, she created a PDF document outlining the
13 possible signage that could be used to alert vehicular traffic regarding farm machinery, bicycle traffic and
14 the prairie animal crossing. She said that she intends to use the signs on the property for people who are
15 exiting, as well as, including two signs located one-half mile from the entrance of the property to alert
16 people of the traffic entering and existing the entrance. She said that she intends to use the website for the
17 event center to inform people about farm life and rural driving conditions.

18

19 Ms. Frank stated that at the last public hearing the Board indicated that any future uses should be indicated
20 on the site plan. She said that she and Mr. Reber, design architect for the project, separated the uses into
21 phases, which includes the addition of pavers for structural support on the parking lot, fences and/or
22 boulders as a boundary to the prairie for protection of the prairie, and a gate at the end of the entrance for
23 security purposes.

24

25 Ms. Frank stated that the Board requested an estimate of the usage for the property, but that task was
26 difficult. She said that she contacted a business mentor to assist her in developing the numbers, and even
27 though it is hard to predict the most positive number would be 10,000 visitors per year and a negative
28 number would be 3,000 visitors per year.

1

2 Mr. Thorsland stated that the Board appreciates the estimated range of visitors for the use.

3

4 Ms. Frank stated that she anticipates the peak season for the event center to be during the months of May
5 through October, with the shoulder season being in April, November and December. She said that she
6 anticipates the off-season to be during the months of January through March.

7

8 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Frank.

9

10 Mr. Hall stated that, in regards to Ms. Frank's optimistic number of visitors, it looks like the number of
11 events that could occur on average is more than one event per week.

12

13 Ms. Frank stated yes. She said that she built those numbers based on the idea of two categories, weddings
14 and educational events and/or business retreats, where a smaller amount of people would attend each event.
15 She said that she broke the numbers down attempting to determine the amount of people that she would
16 expect for a weekend wedding and one or two events throughout the week.

17

18 Mr. Hall stated that, as the Zoning Administrator, he was glad to see that the greater number of events would
19 occur during the months of June through August, because these are not particularly busy farm traffic
20 months. He asked Ms. Frank if she envisions any problems with events held during her peak months of
21 operation, if planting season comes before June and harvest occurs after August.

22

23 Ms. Frank stated that she spoke with farmers who own farm ground near the subject property, Jeremy Ayers,
24 Roy Douglas. She said that Mr. Ayers, who farms on East Old Church Road, indicated that the traffic has
25 been functioning smoothly with farm traffic for a long time and East Old Church Road is a busy road
26 anyway. She said that she spoke with her neighbor, Roy Douglas, who is a farmer, and he asked her if she
27 had any dust concerns for patrons, because the event center is near productive farmland. She said that in
28 being forthcoming, if anyone has a real problem with agricultural dust she would suggest that they go to the

1 Hilton. She said that the dust is part of the charm and reality of the rural area.

2

3 Mr. Thorsland stated that the Board had a previous case with a similar use and he is not aware of any
4 conflicts with the neighboring farmers or traffic.

5

6 Mr. Hall stated that Mr. Douglas farms the farm ground to the north and east of the subject property.

7

8 Ms. Frank stated that Mr. Hall was correct.

9

10 Mr. Hall stated that Ms. Frank contacted a few farmers in all directions of the subject property and her
11 testimony is good evidence to add to the Summary of Evidence.

12

13 Mr. Thorsland asked Ms. Frank if there was any new information that she would like to add at this time.

14

15 Ms. Frank stated that she had no new information to add at this time.

16

17 Mr. Thorsland commended Ms. Frank for the nice job that she has done for these cases.

18

19 Mr. Thorsland read the proposed special conditions as follows:

20

21 Mr. Thorsland stated that the following proposed special condition is for Case 858-AM-16 only:

22

23 **A. The owners of the subject property hereby recognize and provide for the right of**
24 **agricultural activities to continue on adjacent land consistent with the Right to Farm**
25 **Resolution 3425.**

26

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

28 **Conformance with Policy 4.2.3 of the Land Resource Management Plan.**

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2 Mr. Thorsland asked Ms. Frank if she agreed with Special Condition A. for Case 858-AM-16.

3

4 Ms. Frank stated that she agreed with Special Condition A. for Case 858-AM-16.

5

6 Mr. Thorsland stated that the following proposed special conditions are for Case 859-S-16:

7

8 Mr. Thorsland read proposed Special Condition A. as follows:

9

10 A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case**
11 **858-AM-16 by the County Board.**

12

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

14 **The establishment of the proposed use shall be properly documented as**
15 **required by the Zoning Ordinance.**

16

17 Mr. Thorsland asked Ms. Frank if she agreed with Special Condition A. for Case 859-S-16.

18

19 Ms. Frank stated that she agreed with Special Condition A. for Case 859-S-16.

20

21 Mr. Thorsland read proposed Special Condition B. as follows:

22 B. **A Zoning Compliance Certificate certifying compliance with all special conditions in**
23 **this zoning case shall be received within 12 months of receiving a Zoning Use Permit**
24 **for construction of the additions to the events center.**

25

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

27 **The establishment of the proposed use shall be properly documented as**
28 **required by the Zoning Ordinance.**

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Mr. Thorsland asked Ms. Frank if she agreed with Special Condition B. for Case 859-S-16.

Ms. Frank stated that she agreed with Special Condition B. for Case 859-S-16.

Mr. Thorsland read proposed Special Condition C. as follows:

C. 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 Ms. Frank if she agreed with Special Condition C. for Case 859-S-16.

Ms. Frank stated that she agreed with Special Condition C. for Case 859-S-16.

Mr. Thorsland read proposed Special Condition D. as follows:

D. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Private Indoor Recreational Development/Outdoor Commercial Recreational Enterprise until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.

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

That the proposed Special Use meets applicable state requirements for accessibility.

1 Mr. Thorsland asked Ms. Frank if she agreed with Special Condition D. for Case 859-S-16.

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3 Ms. Frank stated that she agreed with Special Condition D. for Case 859-S-16.

4

5 Mr. Thorsland read proposed Special Condition E. as follows:

6

7 **E. All onsite Special Use activities shall be in compliance at all times with the**
8 **Champaign County Health Ordinance, the Champaign County Liquor Ordinance,**
9 **and the Champaign County Recreation and Entertainment Ordinance.**

10

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

12 **That the proposed Special Use is in ongoing compliance with all applicable County**
13 **requirements.**

14

15 Mr. Thorsland asked Ms. Frank if she agreed with Special Condition E. for Case 859-S-16.

16

17 Ms. Frank stated that she agreed with Special Condition E. for Case 859-S-16.

18

19 Mr. Thorsland read proposed Special Condition F. as follows:

20

21 **F. The Petitioner shall ensure that the guests are made aware of the County Ordinance**
22 **prohibiting nuisance noise past 10 pm and that the use of the facility requires**
23 **compliance to avoid complaints from neighboring residences. Music and other**
24 **nuisance noise shall not be audible at the property line past 10 pm.**

25

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

27 **That events held on the subject property adequately consider prior noise**
28 **complaints and current neighbors.**

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Mr. Thorsland asked Ms. Frank if she agreed with Special Condition F. for Case 859-S-16.

Ms. Frank stated that she agreed with Special Condition F. for Case 859-S-16.

Mr. Thorsland read proposed Special Condition G. as follows:

G. No parking shall occur in the public street right of way.

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

That the proposed Special Use is not injurious to pedestrians and motorists on Old Church Road.

Mr. Thorsland asked Ms. Frank if she agreed with Special Condition G. for Case 859-S-16.

Ms. Frank stated that she agreed with Special Condition G. for Case 859-S-16.

Mr. Thorsland read proposed Special Condition H. as follows:

H. There are no limits to the number of events that may be held at the proposed special use and no limit as to when events may occur during the calendar year.

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

A clear understanding that there are no limits on the number of events or limits on when events may occur.

Mr. Thorsland asked Ms. Frank if she agreed with Special Condition H. for Case 859-S-16.

1 Ms. Frank stated that she agreed with Special Condition H. for Case 859-S-16.

2

3 Mr. Thorsland read proposed Special Condition I. as follows:

4

5 **I. The Special Use is subject to the approval of Case 858-AM-16.**

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

7 **That it is consistent with the intent of the ordinance and the ZBA**
8 **recommendation for Special Use.**

9

10 Mr. Thorsland asked Ms. Frank if she agreed with Special Condition I. for Case 859-S-16.

11

12 Ms. Frank stated that she agreed with Special Condition I. for Case 859-S-16.

13

14 Mr. Thorsland read proposed Special Condition J. as follows:

15

16 **J. The Event Center shall be served by a driveway that has a paved surface consisting**
17 **of at least six inches of rock that is at least 20 feet wide and a corner radius**
18 **approved by the Philo Fire Protection District, and the Zoning Administrator shall**
19 **verify the pavement prior to the issuance of any Zoning Compliance Certificate.**

20

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

22 **That the event center can be accessed by emergency vehicles.**

23

24 Mr. Thorsland asked Ms. Frank if she agreed with Special Condition J. for Case 859-S-16.

25

26 Ms. Frank stated that she agreed with Special Condition J. for Case 859-S-16.

27

1 Mr. Thorsland read proposed Special Condition K. as follows:

2

3 **K. A Zoning Use Permit shall not be approved for construction of the Events Center**
4 **unless and until a Plat of Subdivision has been duly approved by the City of Urbana**
5 **and filed with the Champaign county Recorder of Deeds.**

6

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

8 **That the proposed land division is in compliance with the relevant**
9 **subdivision requirements.**

10

11 Mr. Thorsland asked Ms. Frank if she agreed with Special Condition K. for Case 859-S-16.

12

13 Ms. Frank stated that she agreed with Special Condition K. for Case 859-S-16.

14

15 Mr. Thorsland entertained a motion to approve the special conditions for Cases 858-AM-16 and 859-S-16.

16

17 **Mr. Randol moved, seconded by Mr. DiNovo, to approve the special conditions for Cases 858-AM-16**
18 **and 859-S-16, as read. The motion carried by voice vote.**

19

20 Mr. Thorsland stated that all decision points have a suggested recommendation by staff, but rather than
21 reading through all of those decision points, the Board could review pages 47-50 of Attachment J., which
22 includes the Summary Finding of Fact for Case 858-AM-16.

23

24 The Board agreed to review the Summary Finding of Fact for Case 858-AM-16 in lieu of the Board
25 reviewing each individual decision point included in Attachment J.

26

27 Mr. Thorsland read the Summary Finding of Fact as follows:

28

1 From the documents of record and the testimony and exhibits received at the public hearing conducted
2 on **January 12, 2017, and January 26, 2017**, the Zoning Board of Appeals of Champaign County finds
3 that:

4
5 1. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the Land Resource
6 Management Plan because:

7 A. Regarding Goal 3:

8 (1) Although the proposed rezoning is **NOT DIRECTLY RELEVANT** to any of the
9 Goal 3 objectives, the proposed rezoning will allow the petitioner to utilize
10 the property somewhat more intensively and continue business operations in
11 Champaign County.

12
13 (2) Based on achievement of the above and because it will either not impede or is not
14 relevant to the other Objectives and Policies under this goal, the proposed map
15 amendment will **HELP ACHIEVE** Goal 3 Prosperity.

16
17 Mr. Thorsland asked the Board if they agreed with staff's recommendation for Goal 3.

18
19 The Board agreed.

20
21 Mr. Thorsland continued to reading the Summary Finding of Fact:

22
23 B. Regarding Goal 4:

24 (1) It will **HELP ACHIEVE** Objective 4.3 requiring any discretionary development
25 to be on a suitable site because it will **HELP ACHIEVE** the following:

26 a. Policy 4.3.5 requiring that a business or non-residential use establish on
27 best prime farmland only if it serves surrounding agriculture and is
28 appropriate in a rural area (see Item 13.A.(5)).
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- d. Policy 4.2.1 requiring a proposed business in a rural area to support agriculture or provide a service that is better provided in the rural area (see Item 13.B.(1)).

Mr. Thorsland asked the Board if they agreed with staff's recommendations regarding Objective 4.2.

The Board agreed with staff's recommendations regarding Objective 4.2.

(3) It will **HELP ACHIEVE** Objective 4.1 requiring minimization of the fragmentation of farmland, conservation of farmland, and stringent development standards on Best Prime Farmland because it will **HELP ACHIEVE** the following:

- a. Policy 4.1.8 requiring the County to consider the LESA rating for farmland protection when making land use decisions regarding discretionary development (see Item 13.C.(4)).
- b. Policy 4.1.6 requiring that the use, design, site and location are consistent with policies regarding suitability, adequacy of infrastructure and public services, conflict with agriculture, conversion of farmland, and disturbance of natural areas (see Item 13.C.(3)).
- c. Policy 4.1.1, which states that commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils (see Item 13.C.(2)).

Mr. Thorsland asked the Board if they agreed with staff's recommendations regarding Objective 4.1.

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The Board agreed with staff's recommendations regarding Objective 4.1.

- (4) Based on achievement of the above Objectives and Policies, the proposed map amendment will **HELP ACHIEVE** Goal 4 Agriculture.

Mr. Thorsland asked the Board if they agreed with staff's recommendation regarding Goal 4.

The Board agreed with staff's recommendation regarding Goal 4.

Mr. Thorsland continued to reading the Summary Finding of Fact:

C. Regarding Goal 5:

- (1) The proposed amendment will **HELP ACHIEVE** Goal 5 because it will **HELP ACHIEVE** the following:
 - a. Policy 5.1.1 requiring that the County will encourage new urban development to occur within the boundaries of incorporated municipalities (see Item 14.A.(2)).
- (2) Based on achievement of the above Objective and Policy, the proposed map amendment will **HELP ACHIEVE** Goal 5 Urban Land Use.

Mr. Thorsland asked the Board if they agreed with staff's recommendations regarding Goal 5.

Mr. Hall asked if the Board would prefer to see will NOT IMPEDE in lieu of staff's recommendation of will HELP ACHIEVE. He said that technically the map amendment is helping to achieve Goal 5, because this is actually not a use that has to be located in an urban area. He said that if the Board is happy with HELP ACHIEVE then that is what the Board should indicate.

1 The Board agreed with staff's recommendations of will **HELP ACHIEVE** regarding Goal 5.

2

3 Mr. Thorsland continued to reading the Summary Finding of Fact:

4

5 D. Regarding Goal 6:

6 (1) The proposed amendment will **HELP ACHIEVE** Goal 6 because it will **HELP**
7 **ACHIEVE** the following:

8 a. Policy 6.1.3 requiring that the County seek to prevent nuisances created by
9 light and glare and endeavor to limit excessive night lighting (see Item
10 15.A.(3)).

11

12 b. Policy 6.1.2 requiring that the County will ensure that the proposed
13 wastewater disposal and treatment systems of discretionary development
14 will not endanger public health, create nuisance conditions for adjacent uses,
15 or negatively impact surface or groundwater quality (see Item 15.A.(2)).

16

17 (2) Based on achievement of the above Objective and Policies, the proposed map
18 amendment will **HELP ACHIEVE** Goal 6 Public Health and Safety.

19

20 Mr. Thorsland asked the Board if they agreed with staff's recommendation regarding Goal 6.

21

22 The Board agreed with staff's recommendation regarding Goal 6.

23

24 Mr. Thorsland continued to reading the Summary Finding of Fact:

25

26 E. Regarding Goal 7:

27 (1) The proposed amendment will **HELP ACHIEVE** Goal 7 because it will **HELP**
28 **ACHIEVE** the following:

- 1 a. Policy 7.1.1 requiring traffic impact analyses for projects with significant
- 2 traffic generation (see Item 16.A.(1)).
- 3 (2) Based on achievement of the above Objective and Policy, the proposed map
- 4 amendment will **HELP ACHIEVE** Goal 7 Transportation.

5
6 Mr. Thorsland asked the Board if they agreed with staff’s recommendation regarding Goal 7.

7
8 The Board agreed with staff’s recommendation regarding Goal 7.

9
10 Mr. Thorsland continued to reading the Summary Finding of Fact:

- 11 F. Regarding Goal 8:
- 12 (1) The proposed amendment will **HELP ACHIEVE** Goal 8 because it will **HELP**
- 13 **ACHIEVE** the following:
- 14 a. Policy 8.6.4 requiring implementation of IDNR recommendations
- 15 regarding protection of endangered or threatened species (see Item
- 16 17.A.(1)).
- 17
- 18 b. Policy 8.6.3 requiring use of the Illinois Natural Areas Inventory and
- 19 other scientific sources of information to identify priority areas for
- 20 protection (see Item 17.A.(2)).
- 21
- 22 c. Policy 8.6.2 requiring land use patterns, site design standards and land
- 23 management practices to minimize the disturbance of existing areas that
- 24 provide habitat for native and game species, or to mitigate the impacts of
- 25 unavoidable disturbance to such areas (see Item 17.A.(3)).
- 26
- 27 d. Policy 8.1.1 requiring adequate supply of water for a proposed
- 28 discretionary development (see Item 17.B.(1)).
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Mr. Thorsland asked the Board if they agreed with staff’s recommendation regarding Goal 8.

The Board agreed with staff’s recommendation regarding Goal 8.

Mr. Thorsland continued to reading the Summary Finding of Fact:

G. The proposed amendment will **NOT IMPEDE** the following LRMP goal(s):

- Goal 1 Planning and Public Involvement
- Goal 2 Governmental Coordination
- Goal 9 Energy Conservation
- Goal 10 Cultural Amenities

Mr. Thorsland asked the Board if they agreed that the proposed amendment will NOT IMPEDE LRMP Goals 1, 2, 9 and 10.

The Board agreed that the proposed amendment will NOT IMPEDE LRMP Goals 1, 2, 9 and 10.

Mr. Thorsland continued to reading the Summary Finding of Fact:

H. Overall, the proposed map amendment will **HELP ACHIEVE** the Land Resource Management Plan.

Mr. Thorsland asked the Board if they agreed that the proposed map amendment will HELP ACHIEVE the Land Resource Management Plan.

The Board agreed that the proposed map amendment will HELP ACHIEVE the Land Resource Management Plan.

1 Mr. Thorsland continued to reading the Summary Finding of Fact:

2
3 2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair*
4 factors because of the following:

5 A. It is impossible to establish values without a formal real estate appraisal, which has not
6 been requested nor provided and so any discussion of values is necessarily general.

7
8 B. This is primarily an agricultural area; the 8.23-acre part of the subject property has been a
9 farmstead for over a century. Land surrounding the 8.23-acre tract was in agricultural
10 production until 2005, when the Barnhart Prairie Restoration, a private Illinois Preserve,
11 was created. Land that was not integrated into the Preserve continues to be maintained as
12 prairie or is in agricultural production.

13
14 C. In regards to the value of nearby residential properties, the requested map amendment
15 should not have any effect. Regarding the effect on nearby properties:

16 (1) One residence is adjacent to the proposed Special Use, but there is approximately
17 $\frac{1}{4}$ mile between the residence and the Hall to be converted to an Events Center.
18 The next closest residence to the Hall is 0.4 miles to the southeast and separated
19 by farmland.

20
21 (2) The traffic generated by the proposed use will primarily occur on weekends.

22
23 D. The gain to the public of the proposed rezoning could be positive because the proposed
24 amendment would allow the Petitioner to provide a service to the community while
25 preserving agricultural and prairie land uses and activities.

26
27 E. Regarding whether the site is well suited to the proposed land use, the ZBA has
28 recommended that the proposed rezoning will **HELP ACHIEVE** Policy 4.3.2
29 regarding whether the site with proposed improvements is well-suited overall for the
30 proposed land use.

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- F. The 8.23-acre part of the subject property is zoned AG-1, is occupied and is residential in use.
- G. The ZBA has recommended that the proposed rezoning will **HELP ACHIEVE** Policy 4.2.1 regarding whether the proposed use **IS** a service better provided in a rural area.
- H. The ZBA has recommended that the proposed rezoning will **HELP ACHIEVE** the Champaign County Land Resource Management Plan.
- I. The 2005 Urbana Comprehensive Plan does not extend south of Old Church Road; the closest notation for future land uses in the area is “Institutional – University Ownership” and the University of Illinois properties only extend south to Old Church Road in the vicinity of the subject property.
- J. Overall, the proposed map amendment **IS** consistent with the LaSalle and Sinclair factors.

Mr. Thorsland asked the Board if they agreed that the proposed Zoning Ordinance map amendment IS consistent with the *LaSalle* and *Sinclair* factors.

The Board agreed that the proposed Zoning Ordinance map amendment IS consistent with the *LaSalle* and *Sinclair* factors.

Mr. Thorsland continued to reading the Summary Finding of Fact:

- 3. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the purpose of the Zoning Ordinance because:

- 1 A. Establishing the special use as originally proposed by the Petitioner, which requires rezoning
- 2 to AG-2, **WILL** lessen and avoid congestion in the public streets (Purpose 2.0 (c) see Item
- 3 21.C.).
- 4
- 5 B. The proposed rezoning **WILL** lessen and avoid hazards to persons and damage to
- 6 property resulting from the accumulation of runoff of storm or flood waters (Purpose
- 7 2.0 (d) see Item 21.D.).
- 8
- 9 C. Establishing the AG-2 District in this location **WILL** help protect the most productive
- 10 agricultural lands from haphazard and unplanned intrusions of urban uses ((Purpose 2.0
- 11 (n) Item 21.I).
- 12
- 13 D. Establishing the AG-2 District at this location will maintain the rural character of the site
- 14 (Purpose 2.0 (q) Item 21.L).
- 15
- 16 E. The proposed rezoning and proposed Special Use will not hinder the development of
- 17 renewable energy sources (Purpose 2.0(r) Item 21.M).

18

19 Mr. Thorsland asked the Board if they agreed with the staff recommendation that the Zoning Ordinance

20 map amendment will HELP ACHIEVE the purpose of the Zoning Ordinance.

21

22 The Board agreed that the Zoning Ordinance map amendment will HELP ACHIEVE the purpose of the

23 Zoning Ordinance.

24

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

26

27 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony

28 regarding Case 858-AM-16 and there was no one.

29

1 Mr. Thorsland entertained a motion to adopt the Finding of Fact, Documents of Record and Summary
2 Finding of Fact, as amended.

3
4 **Ms. Capel moved, seconded by Mr. Randol, to adopt the Finding of Fact, Documents of Record
5 and Summary Finding of Fact, as amended. The motion carried by voice vote.**

6
7 Mr. Thorsland entertained a motion to move to the final determination for Case 858-AM-16.

8
9 **Ms. Griest moved, seconded by Ms. Capel, to move to the final determination for Case 858-AM-
10 16. The motion carried by voice vote.**

11
12 Mr. Thorsland informed the petitioner that currently the Board has two members absent; therefore, it is at
13 her discretion to either continue Case 858-AM-16 until a full Board is present or request that the present
14 Board move to the Final Determination. He informed the petitioners that four affirmative votes are required
15 for approval.

16
17 Ms. Frank requested that the present Board move to the Final Determination.

18
19 **FINAL DETERMINATION FOR CASE 858-AM-16:**

20
21 **Ms. Griest moved, seconded by Ms. Capel, that pursuant to the authority granted by Section 9.2
22 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County
23 determines that:**

24
25 **The Zoning Ordinance Amendment requested in Case 858-AM-16 should BE ENACTED
26 by the County Board in the form attached hereto.**

27
28 **SUBJECT TO THE FOLLOWING SPECIAL CONDITION:**

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A. The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.

Mr. Thorsland requested a roll call vote.

The roll was called as follows:

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

Mr. Thorsland asked the Board and staff if there were any questions for Ms. Frank regarding Case 859-S-16, and there were none.

Mr. Thorsland asked Ms. Frank if she had any additional information to add regarding Case 859-S-16.

Ms. Frank stated that she had no new information to add regarding Case 859-S-16.

Mr. Thorsland stated that the Board will now complete the Findings of Fact for Case 859-S-16.

FINDINGS OF FACT FOR CASE 859-S-16:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **859-S-16** held on **January 12, 2017**, and **January 26, 2017**, the Zoning Board of Appeals of Champaign County finds that:

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

2
3 Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this
4 location because the proposed facility is complementary to the adjacent nature preserve and is
5 convenient to the Champaign and Urbana market for these facilities that can be accessed by multiple
6 routes.

7
8 Ms. Capel stated that the Special Use Permit allows the petitioner to make use of an existing building
9 that has historic value to their family.

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

15
16 **a. The street has ADEQUATE traffic capacity and the entrance location has**
17 **ADEQUATE visibility.**

18
19 Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has
20 ADEQUATE visibility.

21
22 **b. Emergency services availability is ADEQUATE.**

23
24 Mr. Thorsland stated that emergency services availability is ADEQUATE.

25
26 **c. The Special Use WILL be compatible with adjacent uses.**

27
28 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

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d. Surface and subsurface drainage will be ADEQUATE.

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

e. Public safety will be ADEQUATE.

Ms. Capel stated that public safety will be ADEQUATE.

f. The provisions for parking will be ADEQUATE.

Mr. Thorsland stated that provision for parking will be ADEQUATE.

g. The property IS WELL SUITED OVERALL for the proposed improvements.

Mr. Thorsland stated that the property IS WELL SUITED OVERALL for the proposed improvements.

h. Existing public services ARE available to support the proposed SPECIAL USE without undue public expense.

Mr. Thorsland stated that existing services ARE available to support the proposed SPECIAL USE without undue public expense.

i. Existing public infrastructure together with the proposed development IS adequate to support the proposed development effectively and safely without undue public expense.

1 Mr. Thorsland stated that existing public infrastructure together with the proposed development IS
2 adequate to support the proposed development effectively and safely without undue public expense.

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

7

8 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
9 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**
10 **DISTRICT in which it is located.**

11

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

16

17 **3b. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS**
18 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**
19 **is located because:**

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

22

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

25

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

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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.

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

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

a. The Special Use is authorized in the District.

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

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

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

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

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

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

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

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

Mr. Thorsland stated that the requested Special Use IS NOT an existing nonconforming use.

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

- A. A Change of Use Permit shall be applied for within 30 days of the approval of Case 858-AM-16 by the County Board.**

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

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

- B. A Zoning Compliance Certificate certifying compliance with all special conditions in this zoning case shall be received within 12 months of receiving a Zoning Use Permit for construction of the additions to the events center.**

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

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

- C. **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.

- D. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Private Indoor Recreational Development/Outdoor Commercial Recreational Enterprise until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the proposed Special Use meets applicable state requirements for accessibility.

- E. **All onsite Special Use activities shall be in compliance at all times with the Champaign County Health Ordinance, the Champaign County Liquor Ordinance, and the Champaign County Recreation and Entertainment Ordinance.**

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

That the proposed Special Use is in ongoing compliance with all applicable County requirements.

1 F. **The Petitioner shall ensure that the guests are made aware of the County Ordinance**
 2 **prohibiting nuisance noise past 10 pm and that the use of the facility requires**
 3 **compliance to avoid complaints from neighboring residences. Music and other**
 4 **nuisance noise shall not be audible at the property line past 10 pm.**

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

7 **That events held on the subject property adequately consider prior noise**
 8 **complaints and current neighbors.**

9

10 G. **No parking shall occur in the public street right of way.**

11

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

13 **That the proposed Special Use is not injurious to pedestrians and motorists**
 14 **on Old Church Road.**

15

16 H. **There are no limits to the number of events that may be held at the proposed special**
 17 **use and no limit as to when events may occur during the calendar year.**

18

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

20 **A clear understanding that there are no limits on the number of events or**
 21 **limits on when events may occur.**

22

23 I. **The Special Use is subject to the approval of Case 858-AM-16.**

24

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

25 **That it is consistent with the intent of the ordinance and the ZBA**
 26 **recommendation for Special Use.**

27

28 J. **The Event Center shall be served by a driveway that has a paved surface consisting**

1 **of at least six inches of rock that is at least 20 feet wide and a corner radius**
 2 **approved by the Philo Fire Protection District, and the Zoning Administrator shall**
 3 **verify the pavement prior to the issuance of any Zoning Compliance Certificate.**

4
 5 The special condition stated above is necessary to ensure the following:

6 **That the event center can be accessed by emergency vehicles.**

7
 8 **K. A Zoning Use Permit shall not be approved for construction of the Events Center**
 9 **unless and until a Plat of Subdivision has been duly approved by the City of Urbana**
 10 **and filed with the Champaign county Recorder of Deeds.**

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

13 **That the proposed land division is in compliance with the relevant**
 14 **subdivision requirements.**

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

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

21
 22 Mr. Thorsland entertained a motion to move to the final determination for Case 859-S-16.

23
 24 **Ms. Griest moved, seconded by Mr. Randol to move to the final determination for Case 859-S-16.**
 25 **The motion carried by voice vote.**

26
 27 Mr. Thorsland informed the petitioner that currently the Board has two members absent; therefore, it is at
 28 her discretion to either continue Case 859-S-16 until a full Board is present or request that the present

1 Board move to the Final Determination. He informed the petitioners that four affirmative votes are required
2 for approval.

3

4 Ms. Frank requested that the present Board move to the Final Determination.

5

6 **Final Determination for Case 859-S-16:**

7

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

12

13 **The Special Use requested in Case 859-S-16 is hereby GRANTED WITH SPECIAL**
14 **CONDITIONS to the applicants, Abigail Frank, Amber Barnhart, Trent Barnhart, and**
15 **Donald Barnhart, to authorize the following as a Special Use on land that is proposed to be**
16 **rezoned to the AG-2 Agriculture Zoning District from the current AG-1, Agriculture**
17 **Zoning District in related Zoning Case 858-AM-16:**

18

19 **Authorize the remodeling of existing farm buildings for the establishment and use of**
20 **an Event Center as a combination “Private Indoor Recreational Development” and**
21 **“Outdoor Commercial Recreational Enterprise” as a Special Use on land that is**
22 **proposed to be rezoned to the AG-2 Agriculture Zoning District from the current**
23 **AG-1 Agriculture Zoning District in related Zoning Case 858-AM-16.**

24

25 **SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:**

26

1 **Authorize a waiver for an Outdoor Commercial Recreational Enterprise that**
2 **is 185 feet from a residential use in lieu of the minimum required 200 feet**
3 **separation distance.**

4
5 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

6
7 **A. A Change of Use Permit shall be applied for within 30 days of the approval of Case**
8 **858-AM-16 by the County Board.**

9
10 **B. A Zoning Compliance Certificate certifying compliance with all special conditions in**
11 **this zoning case shall be received within 12 months of receiving a Zoning Use Permit**
12 **for construction of the additions to the events center.**

13
14 **C. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
15 **issue a Zoning Compliance Certificate on the subject property until the lighting**
16 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

17
18 **D. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
19 **proposed Private Indoor Recreational Development/Outdoor Commercial**
20 **Recreational Enterprise until the petitioner has demonstrated that the proposed**
21 **Special Use complies with the Illinois Accessibility Code.**

22
23 **E. All onsite Special Use activities shall be in compliance at all times with the**
24 **Champaign County Health Ordinance, the Champaign County Liquor Ordinance,**
25 **and the Champaign County Recreation and Entertainment Ordinance.**

26
27 **F. The Petitioner shall ensure that the guests are made aware of the County Ordinance**
28 **prohibiting nuisance noise past 10 pm and that the use of the facility requires**

1 **compliance to avoid complaints from neighboring residences. Music and other**
2 **nuisance noise shall not be audible at the property line past 10 pm.**

3

4 G. **No parking shall occur in the public street right of way.**

5

6 H. **There are no limits to the number of events that may be held at the proposed special**
7 **use and no limit as to when events may occur during the calendar year.**

8

9 I. **The Special Use is subject to the approval of Case 858-AM-16.**

10

11 J. **The Event Center shall be served by a driveway that has a paved surface consisting**
12 **of at least six inches of rock that is at least 20 feet wide and a corner radius**
13 **approved by the Philo Fire Protection District, and the Zoning Administrator shall**
14 **verify the pavement prior to the issuance of any Zoning Compliance Certificate.**

15

16 K. **A Zoning Use Permit shall not be approved for construction of the Events Center**
17 **unless and until a Plat of Subdivision has been duly approved by the City of Urbana**
18 **and filed with the Champaign county Recorder of Deeds.**

19

20 Mr. Thorsland requested a roll call vote.

21

22 The vote was called as follows:

23

24	DiNovo – yes	Griest – yes	Lee – absent
25	Passalacqua – absent	Randol – yes	Capel – yes
26	Thorsland - yes		

27

28 Mr. Hall informed Ms. Frank that she has received a recommendation for approval for Case 858-AM-16 and

1 an approval for Case 859-S-16. He stated that Case 858-AM-16 will be forwarded to the Environment and
2 Land Use Committee (ELUC) for their February 9, 2017, meeting and then, presumably, to the County
3 Board for final action at their meeting to be held on February 23, 2017. He said that Ms. Burgstrom will be
4 in touch regarding final paperwork and she should contact Ms. Burgstrom regarding any questions. He
5 recommended that Ms. Frank attend the ELUC and the County Board meetings so that she can answer any
6 questions or address any concerns that may arise.

7
8 Mr. Randol thanked Ms. Frank for her outstanding presentation of both cases.

9
10 The Board agreed with Mr. Randol.

11
12 **6. New Public Hearings**

13
14 **Case 861-V-16 Petitioner: Richard and Elizabeth Riddle Request to authorize the following Variance**
15 **in the AG-1, Agriculture Zoning District: Part A. Variance for an existing non-conforming dwelling**
16 **with a setback of 47 feet in lieu of 55 feet from the street centerline of CR 2600E, as per Section 5.3 of**
17 **the Zoning Ordinance; and Part B. Variance for a lot area of 37,750 square feet (0.867 acre) in lieu of**
18 **the minimum required 1 acre, as per Section 5.3 of the Zoning Ordinance. Location: A 0.867 acre**
19 **tract in the West Half of the Northwest Quarter of Section 5, Township 19 North, Range 14 West of**
20 **the Second Principal Meridian in Ogden Township, and commonly known as the residence at 1776**
21 **CR 2600E, Ogden.**

22
23 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
24 the witness register for that public hearing. He reminded the audience that when they sign the witness
25 register they are signing an oath.

26
27 Mr. Thorsland informed the audience that Case 861-V-16 is an Administrative Case and as such, the County
28 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for

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

7

8 Mr. Thorsland asked the petitioners if they desired to make a statement regarding their request.

9

10 Mr. Richard Riddle, who resides at 405 S. Glover, Urbana, stated that he and his wife are requesting a
11 variance for a lot that is less than one acre. He said that they are purchasing the lot on contract from Mr.
12 Kenneth Brown, who is in attendance tonight. He said that he was under the impression that he was
13 purchasing a one-acre lot, but due to the 30-foot right-of-way, the lot is actually less than one acre. He said
14 that he applied for a permit to construct an addition to the east side of the existing home and during that
15 process staff notified him that a variance was required for the lot area.

16

17 Mr. Thorsland asked Mr. Riddle if they were remodeling the existing home.

18

19 Mr. Riddle stated yes. He said that once the remodeling is complete, the property would be their primary
20 residence.

21

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

23

24 Mr. DiNovo stated that a statement included in the petition indicated that there were three previous owners
25 of the subject property.

26

27 Mr. Riddle stated that he does not understand Mr. DiNovo's question, but he believes that the property was
28 created in the 1980s. He said that if Mr. DiNovo's question were whether there have been three separate

1 owners then Mr. Riddle's response would be yes.

2

3 Mr. DiNovo asked staff if the conveyance of a deed to someone created the subject property. He asked staff
4 to indicate what constitutes the creation of this parcel.

5

6 Mr. Thorsland asked Mr. DiNovo if his question is relevant to the variance request.

7

8 Mr. DiNovo stated yes. He asked staff to indicate how the lot came into existence.

9

10 Mr. Hall asked Mr. Riddle if he signed a contract with Mr. Brown to purchase the property.

11

12 Mr. Riddle stated yes.

13

14 Mr. Hall asked Mr. Riddle if the contract included a legal description of the property.

15

16 Mr. Riddle stated yes.

17

18 Mr. Hall asked Mr. Riddle if he submitted a copy of the contract to staff.

19

20 Mr. Riddle stated no, but he does have the contract if a copy is required.

21

22 Mr. Hall asked Mr. Riddle if he had the contract with him tonight.

23

24 Mr. Riddle stated yes.

25

26 Mr. DiNovo asked staff if they had documentation indicating that the subject property was created as a legal
27 lot.

28

1 Ms. Burgstrom stated yes. She said that staff has a Warranty Deed recorded in 1983 indicating the larger
2 tract; and a Quit Claim Deed recorded in 1987 for the one-acre tract; and a Warranty Deed also identifying
3 the same acreage; and then another Warranty Deed identifying the same tract.

4

5 Mr. DiNovo asked Ms. Burgstrom who currently owns the one-acre parcel.

6

7 Ms. Burgstrom state that Kenneth Brown currently owns the one-acre parcel.

8

9 Mr. Thorsland asked Mr. DiNovo how the ownership of the one-acre tract is relevant to the variance.

10

11 Mr. DiNovo stated that if the one-acre tract is in common ownership with the adjacent property, a single
12 owner is capable of revising the sale contract and making the subject property a lawful parcel, which
13 conforms to the Zoning Ordinance.

14

15 Mr. Thorsland stated that item 2.B. of the Summary of Evidence indicates that Mr. Riddle asked the adjacent
16 landowner if more land could be purchased to remedy the need for the variance. He said that this situation is
17 a common problem before this Board.

18

19 Mr. DiNovo stated that this situation is a common problem, but in this instance, a common owner owns the
20 substandard lot and the surrounding farmland; therefore, having the ability to make the subject property a
21 conforming lot.

22

23 Mr. Thorsland stated that Mr. Brown does not own the surrounding farmland and the substandard lot.

24

25 Mr. Riddle stated that Randy Loschen owns the surrounding farmland and not Mr. Brown.

26

27 Mr. DiNovo stated that this is what he was trying to establish.

28

1 Mr. Thorsland asked the Board if there were any additional questions for Mr. Riddle and there were none.

2

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

4

5 Mr. Thorsland read proposed Special Condition A. as follows:

6

7 **A. Within 30 days of Final Action of Case 861-V-16, the petitioners shall file a**
8 **miscellaneous document with the Champaign County Recorder of Deeds that**
9 **documents the following:**

10 **(1) A variance was granted in Zoning Case 861-V-16 to authorize a lot less than**
11 **one acre in area.**

12

13 **(2) Because of the size of the lot, there are concerns whether a replacement**
14 **wastewater (septic) system can be installed on the lot in the future.**

15

16 **(3) Any new wastewater (septic) system will need to be authorized by the**
17 **Champaign County Health Department.**

18

19 **(4) For further information interested parties should contact the Champaign**
20 **County Department of Planning and Zoning.**

21

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

23 **That potential buyers of the property are aware of how the lot was created**
24 **and the possible limitations regarding the replacement of wastewater systems**
25 **on the property.**

26

27 Mr. Thorsland asked Mr. Riddle if he agreed to Special Condition A.

28

29 Mr. Riddle stated that he agreed to Special Condition A.

1

2 Mr. Riddle stated that historically, the subject property has always been sold as a one-acre parcel and the
3 real estate taxes are figured on a one-acre parcel; therefore, he does not understand why the 30 feet right-of-
4 way does not count during permitting.

5

6 Mr. Thorsland stated he understands Mr. Riddle's concern. He said that the Board has had previous cases
7 with the same variance request for a lot area less than one-acre.

8

9 Mr. Hall stated that Mr. Riddle purchased a one-acre parcel, but by definition of the Champaign County
10 Zoning Ordinance, the one-acre parcel does not include the road right-of-way. He said that Mr. Riddle
11 could not acquire more land, so he will not be taxed on more land, but the only way that Mr. Riddle's lot can
12 become a good lot is if the ZBA approves his variance request.

13

14 Ms. Griest stated that in the rural area a property owner does own land to the center of the road, whereas in
15 the city, a lot is platted and does not include the road right-of-way and only extends to the edge of the road.
16 She said that there is a big difference between a platted subdivision and a rural area and that is where
17 confusion may occur. She noted that if Mr. Brown does not own the surrounding farmland, page 2 of the
18 Preliminary Memorandum should be revised to indicate that Mr. Brown does not own the land surrounding
19 the subject property, because she had the same confusion as Mr. DiNovo and believed that Mr. Brown had
20 the capability of making the subject property conforming.

21

22 Mr. Hall stated that the information in the Preliminary Memorandum was not included in the Summary of
23 Evidence; therefore, the correct information should be added to the Summary of Evidence. He
24 recommended a new Item 7.C.(2) as follows: Contrary to what the Preliminary Memorandum dated January
25 19, 2017, stated, Mr. Brown does not own the surrounding land. Mr. Hall stated that there is only an
26 assumption that Mr. Riddle has asked Randy Loschen if additional land could be purchased in order to make
27 the subject property conforming.

28

1 Mr. Riddle stated that he asked Randy Loschen if he could purchase the additional land so that the lot would
2 be conforming and Randy Loschen told him that his father owned the property and at this point, he was not
3 willing to sell.

4
5 Mr. Hall stated that the Summary of Evidence should include Mr. Riddle's testimony.

6
7 Mr. Thorsland stated that Item #2.B. includes this information.

8
9 Mr. Hall stated that he thought that Item 2.B. was referring to Mr. Brown. He said that Item 2.B. should be
10 revised to indicate the following: The petitioner told staff that he asked the owner, Randy Loschen, if he
11 could purchase more land, in order to create a proper 1-acre good zoning lot that would officially verify
12 where the property lines are. Mr. Loschen denied Mr. Riddle's request. The petitioner is working with an
13 attorney to verify where the property lines actually are. The variances are still needed, independent of the
14 outcome of this verification.

15
16 Ms. Griest stated that the Preliminary Memorandum dated January 19, 2017, should also be revised
17 indicating that Mr. Brown does not own the surrounding property.

18
19 Mr. Thorsland stated that the findings are the official document and even though the memorandum is
20 incorrect, it is only a summary of the case and is used as cliff notes during the review of the case. He said
21 that he too read the statement in the Preliminary Memorandum and believed that Mr. Brown owned the
22 surrounding property, but rather than correcting the memorandum, the Board could accept the error and
23 strike the sentence.

24
25 The Board agreed.

26
27 Mr. Thorsland noted that the petitioner has agreed to the special condition.

28

1 Mr. Thorsland asked the Board if there were any additional questions for Mr. Riddle.

2

3 Mr. DiNovo asked if the legal description discrepancy was rectified.

4

5 Mr. Riddle stated that he has hired an attorney and he is hiring a surveyor to correct an ongoing error. He
6 said that the legal description includes 60 feet of the field, which is incorrect, as it should include the grassy
7 area of the subject lot, which is 60 feet to the north of the house. He said that, as he understands, Mr.
8 Loschen agreed to swap the 60 feet of grassy area that is north of the house with the 60 feet of farmland that
9 is south of the house. He said that apparently this was never completed, which is why he has hired an
10 attorney to document that all of the grassy area will still be .867 acre, one-acre including the road right-of-
11 way, and that the grassy area belongs to him and the surrounding field will be owned by Randy Loschen.
12 He said that he discussed the swap with Mr. Loschen and Mr. Loschen agreed with the swap because he
13 does not want the grassy area with the mature trees and Mr. Riddle does not want the farm field. He said
14 that the attorney is correcting the legal description to indicate that all of the grassy area where the house is
15 located is owned by Mr. Riddle and comprises .867 acres.

16

17 Mr. Thorsland stated that land swaps occur frequently.

18

19 Mr. Riddle stated that he spoke with his attorney regarding the survey and the attorney indicated that the
20 survey had not been completed yet. Mr. Riddle stated that the survey is necessary to indicate the correct lot
21 configuration.

22

23 Mr. Thorsland asked Mr. Riddle if this process has begun.

24

25 Mr. Riddle stated yes. He said that the attorney was supposed to have already hired a surveyor, but it
26 appears that he has not done so yet.

27

28 Mr. Thorsland asked the Board if a special condition is necessary.

1

2 Mr. DiNovo stated that the finding of fact should include the information regarding the attorney and the
3 survey. He said that ultimately the variance that will be granted is not going to be on the lot as it exists at
4 this point and time and will apply to a property that is 60 feet further to the north.

5

6 Mr. Thorsland stated that the variance is for the lot area and the street setback; therefore, regardless of the
7 fact that the lot will move 60 feet to the north, the variance is still required. He said that the Board could
8 note that the lot lines will be moved to reflect what is apparent on the aerial, but the variance will not
9 change.

10

11 Mr. Hall stated that a future Zoning Administrator could look at this case and if it is not abundantly clear
12 that the Board approved the variance anticipating that the lot lines would shift, it could be another problem
13 for Mr. Riddle.

14

15 Mr. DiNovo stated that the type of thing that drives zoning administrators crazy is when a property is not in
16 the same configuration that it was when the variance was approved.

17

18 Mr. Hall recommended that information regarding the land swap should be included under Item #7 of the
19 Summary of Evidence. He said that the Board is approving the variance whether or not the 60 feet shift
20 occurs, because it may never be done.

21

22 Mr. Thorsland recommended the following text under new Item #7.C.(3).: The Variance will not be affected
23 by any shift in the property line due to the surveying and legal verification being conducted by Mr. Riddle
24 and his attorney, as long as the property measures no smaller than the current lot.

25

26 Mr. Hall stated that Item #3, Case file for ZUPA 287-16-01, should be deleted from the Documents of
27 Record, because staff does not normally circulate the case file for the Board's review.

28

1 Mr. Thorsland entertained a motion to approve the special condition.

2

3 **Ms. Griest moved, seconded by Mr. Randol, to approve the special condition as read. The motion**
4 **carried by voice vote.**

5

6 **Findings of Fact for Case 861-V-16:**

7

8 From the documents of record and the testimony and exhibits received at the public hearing for zoning
9 case **861-V-16** held on **January 26, 2017**, the Zoning Board of Appeals of Champaign County finds
10 that:

11

12 **1. Special conditions and circumstances DO exist which are peculiar to the land or structure**
13 **involved, which are not applicable to other similarly situated land and structures elsewhere**
14 **in the same district.**

15

16 Ms. Griest stated that special conditions and circumstances DO exist which are peculiar to the land or
17 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
18 the same district because the residence was constructed prior to adoption of the Zoning Ordinance on
19 October 10, 1973, and when the subject property was created it included the street right-of-way which
20 should have been excluded for zoning purposes, and there is no additional land available for purchase.

21

22

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

26

27 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the
28 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or

1 structure or construction because the non-conformity of the house and the substandard dimensions of
2 the lot place a substantial economic burden on the property, which could result in it becoming blighted.

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

7
8 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
9 result from actions of the applicant because the lot was created and the house was built long before the
10 petitioner entered into contract for purchasing the property.

11
12 **4. The requested variance, SUBJECT TO THE PROPOSED CONDITION, IS in harmony**
13 **with the general purpose and intent of the Ordinance.**

14
15 Mr. DiNovo stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS in
16 harmony with the general purpose and intent of the Ordinance because it is an isolated lot, unlikely to be
17 surrounded by adjacent development in the foreseeable future, and the substandard dimensions of the lot
18 are a common error found throughout the county that are reflected in numerous similar variances
19 granted
20 in the past.

21
22
23 **5. The requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL NOT be**
24 **injurious to the neighborhood or otherwise detrimental to the public health, safety, or**
25 **welfare.**

26
27 Mr. Randol stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, WILL
28 NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare
29 because there has been no reply from the Fire Protection District or the Highway Commissioner.

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Mr. Thorsland stated that this variance would put no additional burden on the infrastructure of the area.

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

Ms. Capel stated that the requested variance, SUBJECT TO THE PROPOSED CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure.

7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:

A. Within 30 days of Final Action of Case 861-V-16, the petitioners shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:

- (1) A variance was granted in Zoning Case 861-V-16 to authorize a lot less than one acre in area.**
- (2) Because of the size of the lot, there are concerns whether a replacement wastewater (septic) system can be installed on the lot in the future.**
- (3) Any new wastewater (septic) system will need to be authorized by the Champaign County Health Department.**
- (4) For further information interested parties should contact the Champaign County Department of Planning and Zoning.**

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

2 **That potential buyers of the property are aware of how the lot was created**
3 **and the possible limitations regarding the replacement of wastewater systems**
4 **on the property.**

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

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

11
12 Mr. Thorsland entertained a motion to move to the Final Determination for Case 861-V-16.

13
14 **Ms. Griest moved, seconded by Ms. Capel, to move to the Final Determination for Case 861-V-16.**
15 **The motion carried by voice vote.**

16
17 Mr. Thorsland informed the petitioners that currently the Board has two members absent; therefore, it is at
18 their discretion to either continue Case 861-V-16 until a full Board is present or request that the present
19 Board move to the Final Determination. He informed the petitioners that four affirmative votes are required
20 for approval.

21
22 Mr. and Mrs. Riddle requested that the present Board move to the Final Determination.

23
24 **Final Determination for Case 861-V-16:**

25
26 **Ms. Griest moved, seconded by Mr. Randol, that the Champaign county Zoning Board of Appeals**
27 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
28 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted**

1 by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of
2 Champaign County determines that:

3
4 The Variance requested in Case 861-V-16 are hereby GRANTED WITH CONDITIONS to the
5 petitioners, Richard and Elizabeth Riddle, to authorize the following variance in the AG-1,
6 Agriculture Zoning District:

7 **Part A: Variance for an existing non-conforming dwelling with a setback of 47 feet in lieu**
8 **of 55 feet from the street centerline of CR 2600E as per Section 5.3 of the Zoning**
9 **Ordinance; and**

10 **Part B: Variance for a lot area of 37,750 square feet (0.867 acre) in lieu of the minimum**
11 **required 1 acre, as per Section 5.3 of the Zoning Ordinance.**

12
13 **SUBJECT TO THE FOLLOWING CONDITION:**

14
15 **A. Within 30 days of Final Action of Case 861-V-16, the petitioners shall file a**
16 **miscellaneous document with the Champaign County Recorder of Deeds that**
17 **documents the following:**

18 **(1) A variance was granted in Zoning Case 861-V-16 to authorize a lot less than**
19 **one acre in area.**

20
21 **(2) Because of the size of the lot, there are concerns whether a replacement**
22 **wastewater (septic) system can be installed on the lot in the future.**

23
24 **(3) Any new wastewater (septic) system will need to be authorized by the**
25 **Champaign County Health Department.**

26
27 **(4) For further information interested parties should contact the Champaign**
28 **County Department of Planning and Zoning.**

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Mr. Thorsland requested a roll call vote.

The roll was called as follows:

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

Mr. Hall informed the petitioners that they have received an approval of their request. He said that Ms. Burgstrom would be in contact regarding the final documentation.

Mr. Thorsland stated that the Board would now hear Cases 858-AM-16 and 859-S-16.

7. Staff Report

None

8. Other Business

A. Review of Docket

Mr. Thorsland stated that there is a potential that he may be absent from the February 16, 2017, Zoning Board of Appeals (ZBA) meeting. He noted that previously Ms. Griest and Ms. Capel have indicated their absences from the February 16, 2017, meeting. Mr. Thorsland stated that the scheduled cases for the February 16, 2017, ZBA meeting are not light cases that should be heard without a full Board in attendance. He said that he will not be able to confirm his absence from the February 16, 2017, ZBA meeting until next week, but it is very probable that he will not attend. He said that the Board could cancel the February 16, 2017, meeting due to the potential lack of a quorum and staff could notify the petitioners and anyone listed

1 as a special for those cases.

2

3 Mr. Hall stated that there is a possibility that the ZBA could hold a special meeting on March 2, 2017, in the
4 Lyle Shields Meeting Room at 6:30 p.m. He said that the meeting room should be available, but it is
5 unknown if the petitioner will be available and that has been an issue in the past.

6

7 Mr. Thorsland stated that the Board could activate the March 2, 2017, special meeting with the provision
8 that the petitioner is available and if the petitioners are not available, the case could be continued to a later
9 date. He said that the Board could wait until he has an affirmative answer regarding his absence from the
10 February 16, 2017, meeting or they could cancel the meeting tonight.

11

12 Mr. Randol asked Mr. Thorsland when he would have confirmation regarding his absence.

13

14 Mr. Thorsland stated that he anticipates confirmation within the next two or three days.

15

16 Ms. Griest stated that Cases 830-AM-16 and 831-S-16 are big cases and even if Mr. Thorsland does attend
17 the February 16, 2017, meeting there will only be five Board members present. She said that the petitioner
18 might lack confidence in moving forward and wrapping up their cases without a full Board. She said that
19 her preference would be to open up the March 2, 2017, special meeting date and contact the petitioners to
20 see if they are available, and if not Cases 830-AM-16 and 831-S-16 could be continued to a later date. She
21 said that it does not serve the petitioners well if they attend a meeting on February 16, 2017, without a full
22 Board.

23

24 Mr. Thorsland stated that the By-laws are not specifically clear, but they are clear enough that this Board
25 should orally approve a special meeting to be held on March 2, 2017, and if that meeting is not required, he,
26 as Chair, can cancel the meeting.

27

28 Mr. Hall stated that oral approval means that the Board could call and obtain approval of the cancellation of

1 the February 16, 2017, meeting outside of this meeting tonight. He said that if the Board is comfortable with
2 this then that is what we will do and it saves time for now.

3

4 Ms. Griest stated that she would be happy to approve a special meeting for March 2, 2017, for Cases 830-
5 AM-16 and 831-S-16, if needed.

6

7 **Ms. Griest moved, seconded by Mr. DiNovo to approve a special meeting for March 2, 2017, for Cases**
8 **830-AM-16 and 831-S-16, if needed. The motion carried by voice vote.**

9

10 Mr. Thorsland assured the Board that staff will be in contact regarding the possible cancellation of the
11 February 16, 2017, regular meeting and the tentative March 2, 2017, special meeting.

12

13 Mr. Thorsland stated that staff has distributed a revised contact list for the Board's review. He stated that
14 the Board should contact Ms. Berry with any corrections to addresses or contact numbers.

15

16 Mr. Thorsland requested a full Board for the March 16, 2017, meeting.

17

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

19

20 None

21

22 **10. Adjournment**

23

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

25

26 **Ms. Griest moved, seconded by Ms. Capel, to adjourn the meeting. The motion carried by voice vote.**

27

28 The meeting adjourned at 8:00 p.m.

ZBA

AS APPROVED MARCH 16, 2017

1/26/17

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2

3

4 Respectfully submitted

5

6

7

8

9 Secretary of Zoning Board of Appeals