

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61802

DATE: April 27, 2017

PLACE: John Dimit Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 7:00 p.m.

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

MEMBERS ABSENT : Debra Griest

STAFF PRESENT : Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT : Phillip VanNess, Kate Day, Scott Day, Carol Shallenberger, Tom Shallenberger, Garry Collett, Tom Walker, James Cottrell, Keith Padgett, Scott Blakeney, Deb Blakeney, Mary Schwenk,, Carmen Schwenk, Don Wauthier, Scott Miller, Mary Jo Miller, Diane Cooper, Kevin Cooper, Sharlyn Franzen, Duane Deters, Heather Bradham, Eric Bradham,

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 (March 2, 2017)

Mr. Thorsland stated that a revised version of the March 2, 2017, minutes was distributed at the March 30, 2017, meeting, for the Board's review. Mr. Thorsland stated that the revised version of the March 2, 2017, minutes is the version for the Board's approval tonight.

1 Mr. Thorsland entertained a motion to approve the March 2, 2017, revised minutes.

2

3 Ms. Lee abstained from the vote due to her absence from the March 2, 2017, meeting.

4

5 **Mr. DiNovo moved, seconded by Mr. Passalacqua, to approve the March 2, 2017, revised minutes.**
6 **The motion carried by voice vote.**

7

8 Mr. Thorsland entertained a motion to rearrange the agenda and hear Case 866-V-17 prior to Cases 863-V-
9 16 and 864-S-16.

10

11 **Mr. Passalacqua moved, seconded by Ms. Capel, to rearrange the agenda and hear Case 866-V-17**
12 **prior to Cases 863-V-16 and 864-S-16. The motion carried by voice vote.**

13

14 **5. Continued Public Hearing**

15

16 None

17

18 **6. New Public Hearings**

19

20 **Case 863-V-16 Petitioner: Scott Blakeney, Derek Wagner and Tyler Wakefield Request to authorize**
21 **the following Variance in the R-1, Single Family Residence Zoning District for an existing residence**
22 **and existing garage and a proposed patio and a proposed detached shed and unauthorized earth fill,**
23 **all located in an existing storm water drainage easement: Part A. Authorize a variance from Section**
24 **4.2.2D. of the Champaign County Zoning Ordinance that no use shall be established, construction**
25 **undertaken, nor fill placed in any recorded drainage or utility easement. Part B. Authorize the**
26 **following Variance from the Champaign County Storm Water Management and Erosion Control**
27 **Ordinance: 1. Authorize a variance from Section 6.1A. requiring that no fill shall be placed nor grad**
28 **altered in such a manner to create a nuisance; and 2. Authorize a variance from Section 6.3G.**
29 **prohibiting the destruction or obstruction of the operation of a storm water drainage system or storm**
30 **water storage area; and 3. Authorize a variance from Section 9.1E. for a freeboard of 0 feet in lieu of a**
31 **freeboard of one foot; and 4. Authorize a variance from Section 9.1.C.1. for a release rate for the 50-**
32 **year precipitation event far in excess of the maximum otherwise allowed that would be no greater**
33 **than a rate of discharge from a 5-year return period precipitation event and an assumed row crop**
34 **agricultural land cover; and 5. Authorize a variance from Section 9.1.C2. for a release rate for**
35 **frequent storm events that exceeds the maximum otherwise allowed that would be no greater than the**
36 **rate of discharge from 1-year, 2-year, and 5-year return period precipitation events and an assumed**
37 **row crop agricultural land cover. Location: Lot 100 in Rolling Hills Estates V Subdivision that is in**
38 **the Northwest Quarter of the Northeast Quarter of Section 12, Township 20N, Range 7 East of the**
39 **Third Principal Meridian in Mahomet Township and commonly known as the residence at 2312**

1 **Pheasant Ridge Road, Mahomet.**

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

6
7 Mr. Thorsland informed the audience that Case 863-V-16 is an Administrative Case and as such, the County
8 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for
9 a show of hands for those who would like to cross-examine and each person will be called upon. He
10 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.
11 He said that those who desire to cross-examine are not required to sign the witness register but are requested
12 to clearly state their name before asking any questions. He noted that no new testimony is to be given during
13 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
14 exempt from cross-examination.

15
16 Mr. DiNovo raised a point of order. He stated that Case 863-V-16 is not properly presented to the Board and
17 the Board lacks the jurisdiction to rule on the case. He said that Section 3.2.M. of the Champaign County
18 Public Nuisance Ordinance prohibits impairing a function of a detention basin, so there is an outstanding
19 nuisance violation on the property. He said that Section 9.1.9B(5) of the Champaign County Zoning
20 Ordinance, citing Section 13.2.1.A.(6) of the Champaign County Zoning Ordinance, prohibits the Zoning
21 Board of Appeals from granting a variance for any construction that would constitute a nuisance. He said
22 that if there is a nuisance on the property the ZBA cannot grant a variance, but if there is not a nuisance on
23 the property then the detention basin is not impaired and Part B. of the variance request is not necessary. He
24 said that he does not see how the Board can proceed because they are expressly barred from granting a
25 variance when there is an outstanding nuisance violation. He said that the Board has no jurisdiction with
26 respect to the Nuisance Ordinance and cannot make determinations about nuisance violations or approve
27 measures to correct violations. He said that if the Board is comfortable he would propose the following
28 motion: Dismiss the case with respect to Part B. or dismiss the case in its entirety, or refer this case to the
29 State's Attorney's Office before the Board goes any further.

30
31 Ms. Burgstrom indicated Section 3.2.M. of the Champaign County Public Nuisance Ordinance on the
32 projection screen for the Board's review.

33
34 Mr. Thorsland requested that the Board review the text on the projection screen, and take Mr. DiNovo's
35 comments into consideration during that review.

36
37 Mr. DiNovo noted that the ZBA is not authorized to interpret the provisions included in the Champaign
38 County Public Nuisance Ordinance, because they have no authority in that regard. He said that the ZBA can
39 draw up conclusions about it, but nothing that the ZBA would say about it is official.

1
2 Mr. Thorsland asked staff if Mr. Blakeney received a nuisance violation report.
3

4 Mr. Hall stated yes, Mr. Blakeney did receive a violation notice. Mr. Hall said that he disagrees with Mr.
5 DiNovo, because the whole point of this hearing is because there is destruction or obstruction of the drainage
6 ditch. He said that clearly, there is a problem that has been created, and he has never expected that the ZBA
7 would approve this variance as it is proposed. He said that as with every zoning case, it is a process of
8 someone coming to the Board and they realize that the Board meant what they said, thus having their
9 engineer prepare a new analysis. He said that presumably before this case could be approved there is no
10 longer a problem because there is no longer any destruction or obstruction, and that is his thinking on the
11 matter.
12

13 Mr. DiNovo stated that Part A. of the variance request is theoretically within the ZBA's jurisdiction and the
14 ZBA can address the question of fill placed in the drainage easement because it is included as part the
15 Champaign County Zoning Ordinance. He said that the determination as to whether or not the Champaign
16 County Public Nuisance Ordinance has been violated is completely out of the ZBA's jurisdiction, because
17 the ZBA has no authority with respect to anything related to the Champaign County Public Nuisance
18 Ordinance. He said that even if the Board did have that authority, if there is an outstanding violation of the
19 Champaign County Public Nuisance Ordinance the Board cannot grant any variance, even for Part A. He
20 said that if there is not a violation of the Champaign County Public Nuisance Ordinance, then why are we
21 here. He said that if there is a violation the ZBA is barred from acting and if there is no violation there is
22 nothing for the Board to act upon, so on that basis, he would move to dismiss this case for lack of
23 jurisdiction.
24

25 **Mr. DiNovo moved to dismiss Case 863-V-16 for lack of jurisdiction by the ZBA.**
26

27 **The motion failed for lack of a second.**
28

29 Mr. Thorsland stated that rather than dismiss, the Board could continue the case until staff receives an
30 opinion from the State's Attorney's Office regarding the ZBA's authority to effectively work on this case, as
31 presented, or as Mr. DiNovo points out, if there is a violation of the Champaign Public Nuisance Ordinance,
32 is it out of the ZBA's jurisdiction. He said that he would prefer to continue the case until an opinion is
33 received regarding whether or not this is a case that the ZBA should be reviewing, in particular Part A, and
34 not dismiss the entire case. He said that Mr. DiNovo raises a reasonable question as to whether or not the
35 ZBA should take testimony tonight, or wait until the State's Attorney's opinion is received.
36

37 Mr. DiNovo revised his motion.
38

39 **Mr. DiNovo moved to continue Case 863-V-16 until guidance is received from the State's Attorney's**

1 **office with respect to the ZBA's jurisdiction on this matter and authority to grant any variance.**

2
3 Mr. Thorsland stated that he would allow Mr. DiNovo's motion, but it is up to the Board as to whether
4 anyone wants to second the motion. He said that Mr. DiNovo is requesting a State's Attorney's opinion,
5 which will either provide the ZBA permission to work on the case as presented, or indicate that the ZBA has
6 no jurisdiction.

7
8 **Ms. Lee seconded the motion.**

9
10 Mr. Passalacqua asked Mr. DiNovo if the ZBA does not hear this case, he is suggesting that this is a drainage
11 district issue.

12
13 Mr. DiNovo stated that the only entity that has the authority to approve a plan to correct a violation of the
14 Champaign County Public Nuisance Ordinance is the Zoning Administrator and/or the circuit court. He said
15 that it is his understanding that there was a thought that the two lots could be replatted and the stormwater
16 detention facility could be redesigned, pursuant to the Village of Mahomet's Subdivision Ordinance, so that
17 this could be moved forward. He said that he does not see how this Board could address it as a zoning issue.

18
19 Mr. Thorsland asked Mr. Hall if staff has received any input from the Village of Mahomet.

20
21 Mr. Hall stated that staff originally referred Mr. Blakeney to the Village of Mahomet and they indicated that
22 they did not want any part of this and wanted the County to address it. He said that if this case is heard and
23 the fill is revised to the performance that is acceptable by the ZBA, a special condition of approval could be
24 to require plat approval by the Village of Mahomet, if the Village of Mahomet sees it as a plat issue. He said
25 that the County cannot tell the Village of Mahomet to do something, and all that can be said is that there may
26 be a platting issue that must be taken up with the Village of Mahomet. He said that he could assure the Board
27 that the Village of Mahomet does not want any part of this until the County has resolved the issue regarding
28 drainage.

29
30 Mr. DiNovo stated that he does not see any way that the ZBA is empowered to deal with this as a zoning
31 issue. He said that it has to be resolved as a nuisance issue, which is enforced under the Champaign County
32 Public Nuisance Ordinance upon which the ZBA has no authority.

33
34 Mr. Thorsland asked Mr. Hall to indicate an approximate time period for receipt of an opinion from the
35 State's Attorney.

36
37 Mr. Hall stated that lately, the State's Attorney's response has been quickly received, but it depends on the
38 issue. He noted that staff has been receiving very good support from the State's Attorney recently.

1 Mr. Thorsland asked staff if they were comfortable in asking the State’s Attorney about this issue.

2
3 Mr. Hall stated that if the Board is requesting staff to pose the question to the State’s Attorney, he will be
4 joyful in doing so.

5
6 Mr. Thorsland requested a roll call vote.

7
8 The vote was called as follows:

9			
10	Capel – yes	DiNovo – yes	Lee – yes
11	Passalacqua – no	Griest – absent	Randol – no
12	Thorsland – yes		
13			

14 Mr. Thorsland requested a continuance date for Case 863-V-16. He suggested that, due to anticipated
15 absences by the Board, the case should not be continued to the June 15th meeting. He said that since it is
16 unknown as to when staff will receive the State’s Attorney’s opinion, perhaps the July 13th meeting should
17 be considered.

18
19 Mr. Thorsland entertained a motion to continue Case 863-V-16 to the July 13th meeting.

20
21 **Mr. DiNovo moved, seconded by Ms. Capel, to continue Case 863-V-16 to the July 13th meeting. The**
22 **motion carried by voice vote.**

23
24 Mr. Thorsland thanked the audience who attended the meeting to participate in Case 863-V-16 and he
25 encouraged them to attend the July 13th meeting. He informed the audience that if they signed the attendance
26 sheet and the witness register, they would be included in the mailing for the July 13th meeting. He said that
27 the Board anticipates an answer from the State’s Attorney prior to the July 13th meeting, and if it is
28 determined that the request in Case 863-V-16 is not part of the ZBA’s venue, then a notice will be mailed
29 indicating dismissal of the case.

30
31
32 **Case 864-S-16 Petitioner: Heather Bradham and Kevin Cooper Request to authorize a Dog Training**
33 **Facility as a Kennel, as a Special Use in the AG-1 Agriculture Zoning District, with the following**
34 **waiver: A waiver for a side yard of 117 feet in lieu of the minimum required 200 feet side yard for a**
35 **Kennel, as per Section 6.1 of the Zoning Ordinance. Location: A 10 acre tract comprised of Lots 16**
36 **and 17 of a Plat of Survey in the West Half of the Northwest Quarter and the West Half of the**
37 **Southwest Quarter of Section 7, Township 19N, Range 8E of the Third Principal Meridian in**
38 **Champaign Township and commonly known as the residence at 6001 West Bradley Road,**
39 **Champaign.**

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

5
6 Mr. Thorsland informed the audience that Case 864-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 asked the petitioner if they desired to make a statement regarding their request.

16
17 Mr. Phillip VanNess, attorney for Heather Bradham, and whose office is located at 202 Lincoln Square,
18 Urbana, stated that he is here tonight on behalf of the petitioner, Heather Bradham. He said that he would
19 attempt to keep his testimony short, because he believes this is a very straightforward case. He said that Ms.
20 Bradham is not proposing to make any changes to the physical layout of the property. He said that staff has
21 informed Ms. Bradham that the facility must be handicapped accessible; therefore, Ms. Bradham has
22 contacted the appropriate people so that she can comply with the requirement.

23
24 Mr. VanNess stated that the request is not for a kennel, but there is nothing else in the Ordinance to call it.
25 He said that the facility will be a dog training and grooming facility and will be entirely within the existing
26 structure, utilizing the entire infrastructure from top to bottom, including the lighting. He said that there
27 would be no barking dogs outside, because there are no outdoor kennels or runs proposed. He said that the
28 animals would not be brought to the facility to be boarded, but are to be trained and groomed; therefore, the
29 facility should not have an impact on the neighborhood. He said that the building is ideal for Ms. Bradham's
30 needs and is large enough and arranged in such a way that it will meet all of her needs currently and in the
31 future. He said that Ms. Bradham is aware of the fact that if, in the future she would expand the facility for
32 outdoor use, that she would need to return to the ZBA for approval, but currently no outdoor use is planned.

33
34 Mr. Thorsland asked the Board and staff if there were any questions for Mr. VanNess.

35
36 Ms. Lee asked Mr. VanNess if Ms. Bradham is proposing a fence now or later.

37
38 Mr. VanNess stated that Ms. Bradham currently has no plans for a fence. He said that if there is going to be
39 a fence, it would be later and Ms. Bradham understands that she would need to return to the Board for

1 approval, but currently Ms. Bradham does not need a fence to operate the facility. He said that at one time
2 Ms. Bradham did discuss the possibility of a fence with staff, but she decided that the fence was not
3 necessary.

4
5 Mr. Thorsland stated that the petitioner has indicated that all operations would be conducted within the
6 confines of the building. He asked Mr. VanNess if the building has an open floor plan.

7
8 Mr. VanNess stated yes.

9
10 Mr. Thorsland asked if the clients will arrive only for their session for training or grooming and would leave
11 after that session. He asked if any animals would stay overnight.

12
13 Ms. Bradham stated that the only animals kept at the facility overnight are her personal dogs. She said that
14 agility training would be conducted inside so that weather and an uneven surface are not factors. She said
15 that the flat surface within the building is ideal for agility training. She said that only one dog would be
16 trained at a time and other dogs that are present either would be leashed or in kennels and will only be taken
17 outdoors to use the bathroom or to go home. She said that classes are usually one hour in length and once
18 the class is over the dogs go home.

19
20 Mr. Thorsland asked Ms. Bradham to indicate the size of the classes.

21
22 Ms. Bradham stated that classes consist of seven to eight dogs and they take turns in the order of their agility
23 experience. She said that dogs that are in agility training are used to being around other dogs and are
24 accustomed to this type of environment.

25
26 Mr. Thorsland asked Ms. Bradham if she anticipates holding special events, competitions, club shows, etc.,
27 at the property.

28
29 Ms. Bradham stated that she hopes to be able to accommodate special events. She said that the same rules
30 would apply regarding the dogs, as they either will be crated or on a leash at all times until their turn for the
31 agility course. She said that there is adequate parking areas on the property and the accessible parking
32 spaces will be located near the building. She said that outdoor lighting already exists on the facility and she
33 has the information regarding the current lighting from the existing owner. She said that the current outdoor
34 lighting is adequate for her needs and she sees no reason to add any additional lights.

35
36 Mr. Thorsland asked Ms. Bradham if she understands that one of the special conditions of approval will
37 require full cut-off lighting.

38
39 Ms. Bradham stated that she does understand the special condition of approval.

1
2 Mr. Thorsland asked Ms. Bradham if the possibility of a fence is completely off the table.

3
4 Ms. Bradham stated yes.

5
6 Mr. Passalacqua asked Ms. Bradham if all activities will be completely held inside of the facility and the
7 only outside activity will be the clients parking their vehicles and bathroom breaks for the dogs.

8
9 Ms. Bradham stated yes.

10
11 Mr. Thorsland asked the Board and staff if there were any additional questions for Ms. Bradham and there
12 were none.

13
14 Mr. Thorsland asked the audience if anyone desired to cross-examine Ms. Bradham and there was no one.

15
16 Mr. Thorsland called Eric Bradham to testify.

17
18 Mr. Eric Bradham declined to testify. He said that he attended the meeting tonight so that he could provide
19 moral support to his daughter.

20
21 Mr. Thorsland called Keith Padgett to testify.

22
23 Mr. Keith Padgett, Champaign Township Highway Commissioner, 3900 Kearns Drive, Champaign, stated
24 that being the highway commissioner for Bradley Avenue, he has some questions for Ms. Bradham. He
25 asked Ms. Bradham if her facility would be in operation year-around.

26
27 Mr. Bradham stated yes.

28
29 Mr. Padgett stated that if Ms. Bradham anticipates less than 40 people per day going in and out of the
30 driveway accessing the blue building. He said that the driveway access is close to the bridge abutment and
31 he hopes that Ms. Bradham's clients drive safely when they anticipate that turn. He said that there is not a
32 lot of traffic out there, but in the summer and fall there is farm equipment that travels the road and during the
33 school year, there are school buses traveling the road. He said that this request was news to him, but he
34 wished Ms. Bradham the best of luck with her facility. He said that Ms. Bradham will need to have adequate
35 parking near the building, but maintenance of the driveway is the property owner's responsibility and the
36 road is the township's responsibility.

37
38 Ms. Bradham stated that she plans to educate her clients about the rural road traffic, safety precautions
39 regarding school buses and seasonal farm equipment.

1
2 Mr. Padgett stated that there was an occurrence on this road, where a young man was messing with his cell
3 phone and ended up with the guardrail through the center of his vehicle. He said that he would not say that
4 this road is a hazardous road, but in the evenings it is a faster way out of town and the Sheriff's office has
5 had a good time out there catching speeders. He cautioned Ms. Bradham to be aware of the surroundings
6 when entering and exiting the property, because that road can be a pretty fast track.
7

8 Mr. Thorsland stated that, many times with a special use permit that could be utilized by people who are not
9 familiar with a rural road, the Board would request that the petitioner educate their clients about rural driving
10 hazards.
11

12 Mr. Padgett stated that he had to place "STOP" signs at the corner of Bradley and Rising roads to slow down
13 the traffic. He said that he really was not supposed to do it, but it worked to slow the traffic down.
14

15 Mr. Thorsland stated that previous petitioners for a special use have placed information on their website or
16 in a brochure informing their clients about driving precautions that they should take on the rural roads,
17 especially in regards to seasonal farming traffic. He said that the information could just be a note indicating
18 that you are located on a rural road, which could be hazardous during seasonal inclement weather and during
19 farming season.
20

21 Mr. Thorsland asked Mr. Padgett if he would like Ms. Bradham to install a sign cautioning drivers of the
22 approaching driveway for the facility.
23

24 Mr. Padgett stated that he is not sure.
25

26 Mr. Thorsland asked Ms. Bradham if she intends to install a sign on the property indicating the entrance for
27 the facility.
28

29 Ms. Bradham stated yes, because she would like her clients to enter the driveway to the facility and not the
30 driveway to her home.
31

32 Mr. Thorsland stated that Ms. Bradham should discuss the possibility of a sign along Bradley Road
33 cautioning drivers of the approaching driveway for the facility with Mr. Padgett.
34

35 Mr. Padgett stated that a sign back off the road between the lane and creek indicating the facility would be
36 advisable. He said that a sign along the road would require the Champaign County Highway Engineer's
37 approval. He said that a sign at the entrance would probably accommodate the need.
38

39 Mr. Thorsland stated that it appears that Ms. Bradham will direct her clients through informational means

- 1 that would hopefully resolve these concerns.
2
- 3 Ms. Lee asked Mr. Padgett if he had any additional concerns.
4
- 5 Mr. Padgett stated no. He said that the facility is in the rural area and when it snows, the roads do become
6 impassible, because it is flat and windy out there and if a client is at the facility they may have to wait until
7 the snowplow comes by to open the road.
8
- 9 Ms. Bradham stated that if inclement weather occurs she would cancel classes.
10
- 11 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Padgett and there were none.
12
- 13 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Padgett and there was no one.
14
- 15 Mr. Thorsland asked the Board to indicate their preference regarding signs.
16
- 17 Ms. Capel asked Ms. Bradham to indicate her understanding of full cut-off lighting.
18
- 19 Ms. Bradham stated that the lights have to be shut off at dark.
20
- 21 Ms. Capel explained that full cut-off lighting means that the light must shine straight down to the ground and
22 not spray onto adjacent properties.
23
- 24 Mr. Thorsland stated that the existing lighting does not need to comply, but any future lighting is required to
25 be full cut-off and the manufacturers' information indicating such will need to be submitted to staff for
26 compliance. He asked Ms. Bradham to indicate the distance of the facility to the closest neighbor.
27
- 28 Ms. Bradham indicated that her closest neighbor is three-quarters of a mile down the road.
29
- 30 Mr. Thorsland stated that any plans for the subject property should be indicated on the site plan and
31 discussed by the Board tonight. He said that such a discussion tonight could prevent Ms. Bradham from
32 being required to return to this Board for further approvals.
33
- 34 Ms. Bradham stated that she could not have found a better place for her intended use, and she has looked a
35 very long time.
36
- 37 Mr. Thorsland called Kevin Cooper to testify.
38
- 39 Mr. Kevin Cooper, who resides at 6001 W. Bradley Ave, Champaign, stated that he is the current owner of

1 the subject property. He said that the building was originally constructed as a horse stable/riding arena and
2 there is almost 12,000 square feet under roof. He said that the shed is a steel structure with no interior
3 beams. He said that it is his personal opinion that this would be a great place for Ms. Bradham's intended
4 use. He said that when the water plant was constructed, the road was reconstructed so that it would
5 accommodate vehicles that weigh 80,000 pounds. He said that the township road ends at Barker Road and is
6 then wider to Staley Road.

7
8 Mr. Thorsland asked Mr. Cooper if the road is plowed quickly due to the new water plant.

9
10 Mr. Cooper stated that a lot of it depends on the weather. He said that since the house was removed near
11 Rising Road, they have not been snowed in since.

12
13 Mr. Thorsland stated that Ms. Bradham's operation is a year-around operation, weather permitting. He
14 asked Ms. Bradham if classes would occur during the course of the day, certain times of the day, or
15 continuously during the day.

16
17 Ms. Bradham stated that classes are in the evenings. She said that holding a trial would require a large
18 amount of work and she would need help to do it. She said that trial events are not something that she would
19 say would occur a lot because there are only so many hours in the day that she is willing to work. She said
20 that trials would occur on a Friday, Saturday, or Sunday.

21
22 Mr. Thorsland asked Ms. Bradham if there would be any employees.

23
24 Ms. Bradham stated no, just volunteers.

25
26 Mr. Thorsland asked Mr. Cooper if he had any additional information to share with the Board.

27
28 Mr. Cooper stated no. He said that he was only trying to provide the Board a scope of how large the
29 buildings really were.

30
31 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Cooper and there were none.

32
33 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Cooper and there was no one.

34
35 Mr. Thorsland asked the Board if there were any additional questions for Mr. VanNess or Ms. Bradham and
36 there were none.

37
38 Mr. Thorsland stated that the Board would now review the proposed special conditions with the petitioner.

39

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

2
3 **A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
4 **until the petitioner has demonstrated that any new or proposed exterior lighting**
5 **on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

8
9 **That any proposed exterior lighting is in compliance with the Zoning Ordinance.**

10
11 Mr. Thorsland asked Ms. Bradham if she agreed with Special Condition A.

12
13 Mr. Bradham stated that she agreed with Special Condition A.

14
15 Mr. Thorsland read proposed Special Condition B. as follows:

16
17 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
18 **or issue a Zoning Compliance Certificate on the subject property until the Petitioner**
19 **has ensured compliance with the Illinois Accessibility Code.**

20
21 The special condition stated above is required to ensure the following:

22
23 **That all state accessibility requirements have been met.**

24
25 Mr. Thorsland asked Ms. Bradham if she agreed with Special Condition B.

26
27 Mr. Bradham stated that she agreed with Special Condition B.

28
29 **C. For any future construction, including a fenced activity area for the dog training**
30 **facility, the petitioner shall apply for a Floodplain Development Permit through the**
31 **Zoning Department.**

32
33 The special condition stated above is required to ensure the following:

34
35 **That any construction on the property complies with the Champaign County Special**
36 **Flood Hazard Areas Ordinance.**

37
38 Mr. Thorsland asked Ms. Bradham if she agreed with Special Condition C.

39

1 Mr. Bradham stated that she agreed with Special Condition C.
2
3

4 **D. This Special Use Permit shall expire if no dog training occurs during any consecutive**
5 **365- day period, except when the dog training facility is actively marketed for sale or**
6 **rent by posting a sign on the front LOT LINE of the property.**
7

8 The special condition stated above is required to ensure the following:
9

10 **That there is an experienced and qualified resident operator that has been involved in**
11 **the public hearing for this case.**
12

13 Mr. Thorsland asked Ms. Bradham if she agreed with Special Condition D.
14

15 Mr. Bradham stated that she agreed with Special Condition D.
16

17 Mr. DiNovo questioned the need for Special Condition D. He stated that the reference to a person
18 participating in the hearing for this case amounts to granting a Special Use Permit for this individual rather
19 than granting a Special Use Permit for the land. He stated that he does not see how the way you advertise a
20 property for sale relates at all to the qualifications of the person who might buy it. He said that the property
21 might be better marketed by other means. He said that this special condition does not serve any purpose at
22 all.
23

24 Mr. Thorsland stated that he assumes that the property will be marketed by other means. He asked staff to
25 indicate the thought process behind Special Condition D.
26

27 Mr. Hall stated that the thought process was that a dog training facility, much like a kennel, is something that
28 once it goes silent for a while, people forget about it. He said that people will purchase property nearby the
29 silent dog training facility and very soon the dog training facility goes back into operation and people wonder
30 where it came from. He said that this is the only intent in this condition and he cannot explain why there is
31 something in the justification clause regarding an experienced and qualified resident operator, because it has
32 nothing to do with the special condition. He said that the reason for the posting of a sign on the property is
33 because staff has no way of knowing if the property is being marketed otherwise. He said that, as always,
34 the special conditions are here for the Board's review and approval, and if the Board does not like it they
35 could remove it.
36

37 Mr. Thorsland stated that the Board typically has the 365-day clause regarding expiration of the special use,
38 but he agrees with Mr. Hall that perhaps the justification clause should be edited. He said that the Board
39 could insert a better reason for the posting of an advertising sign on the property. He said that Mr. Hall

1 suggested that people should know what the parcel is being used for currently, and should the property be
2 marketed for sale and not be in operation while it is marketed, people are aware that dog training is an
3 authorized use on the property. He said that the Board could strike the entire special condition if so desired.
4

5 Mr. DiNovo stated that he is in favor of striking the special condition, but if the Board does not agree, he
6 would revise the ensure portion of the special condition as follows: The special condition stated above is
7 required to ensure the following: Future purchasers of nearby property are aware of the existing facility.
8

9 Ms. Burgstrom indicated the revision on the screen for the Board's review.
10

11 Mr. Randol asked Ms. Bradham if she currently owns the property, renting or attempting to purchase the
12 property.
13

14 Ms. Bradham stated that she is attempting to purchase the property.
15

16 Mr. Thorsland stated that the point of the special condition is to make people aware that if Ms. Bradham
17 would decide to upgrade or retire and people do not see the vehicles coming to the property anymore, the
18 special use still exists and for a period of one year someone else could purchase the property and operate a
19 dog training facility. He said that the Board could either revise the special condition or strike the entire
20 thing. He said that Ms. Bradham would place a sign on the property indicating her business; therefore,
21 people will know that it exists.
22

23 Mr. Passalacqua stated that he understands the intent and has no problem with the special condition as
24 written.
25

26 Mr. Randol stated that he too agrees with the original version of Special Condition D. and the Board should
27 move on.
28

29 Ms. Capel stated that she agrees with the revision of Special Condition D.
30

31 Ms. Lee agreed with Ms. Capel.
32

33 Mr. Thorsland read revised Special Condition D. as follows:
34

- 35 **D. This Special Use Permit shall expire if no dog training occurs during any consecutive**
36 **365- day period, except when the dog training facility is actively marketed for sale or**
37 **rent by posting a sign on the front LOT LINE of the property.**
38

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

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Future purchasers of nearby property are aware of the existing facility.

Mr. Thorsland asked the Board if they agreed with revised Special Condition D. and the Board agreed.

Mr. Thorsland asked Ms. Bradham if she agreed with revised Special Condition D.

Ms. Bradham stated that she agreed with revised Special Condition D.

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

- E. No outdoor training or dog exercise related to the Special Use shall occur on the subject property if a dwelling is established on any part of the west parcel (Lot 16).**

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

That the Special Use will continue to comply with Section 6.1.3 regarding standard conditions for a Kennel.

Mr. DiNovo stated that the petitioner has not proposed any outdoor dog training or dog exercise areas and has indicated that she understands that she would have to return to the Board for approval of those areas are added. He said that for subsequent owners of the property it would be nice to have the special condition indicate that a new special use permit would be required in order to add outdoor activities.

Mr. Thorsland stated that basically, the special condition states that.

Mr. DiNovo stated no, it does not state that. He said that the special condition states that if someone established a residence on the adjacent west parcel then no outdoor dog training or dog exercise related to the special use shall occur on the subject property. He said that the special condition is pre-judging the issue, because someone could purchase part of the west parcel and still assure the 200 feet separation. He said that this was written with the expectation of outdoor exercise, although no outdoor activities are proposed.

Mr. Hall stated that Ms. Bradham has enough land to accommodate an outdoor dog training or dog exercise area; therefore, why would Ms. Bradham be required to return to the Board to add an outdoor exercise area when they already have all of the land that they need to have an outdoor exercise area. He said that the Board talks about useless conditions, making someone come back for a second hearing for no good reason is a useless way to go.

Mr. DiNovo stated that this was not his idea, but the petitioner stated that an outdoor dog training and

1 exercise areas were not part of the proposal. He said that he would be perfectly happy if Ms. Bradham
2 decides to put the outdoor dog training and exercise areas back in the proposal. He said that he believes that
3 there is room on the property to put the dog exercise area on the east side of the property beyond the required
4 200 feet separation boundary of any lot with a residential use.

5
6 Mr. Hall stated that if Ms. Bradham is willing to return to the Board when she wants an outdoor dog training
7 or dog exercise area the Board could document that testimony in the findings and strike Special Condition E.

8
9 Mr. Thorsland stated that Special Condition E. could be revised as follows: No outdoor dog training or dog
10 exercise area related to the special use shall occur on the subject property within 200 feet of an established
11 dwelling on the adjacent property to the west. He said that Ms. Bradham would not have to come back
12 before the Board if anything that she does is not within 200 feet of a dwelling on the west parcel.

13
14 Mr. DiNovo stated that the Ordinance states that any outdoor animal exercise and/or training area shall be
15 200 feet from any adjacent residential structure and/or use.

16
17 Mr. Thorsland asked staff if the separation is from the residence or the boundary line.

18
19 Ms. Lee stated that she sees no reason in not letting Ms. Bradham have this matter resolved tonight at this
20 hearing.

21
22 Mr. Randol stated that with the Right to Farm, this is farmland and they could do anything that they wanted
23 to do on the lot. He said that if Ms. Bradham wanted to place cattle in the building and construct a fence for
24 the cattle she would not be here tonight.

25
26 Mr. Thorsland noted that the property is located in the mapped floodplain, which is why fencing is an issue.

27
28 Mr. DiNovo stated that any outdoor exercise area cannot be within 200 feet from any adjacent residential
29 structure or use.

30
31 Mr. Thorsland asked why Special Condition E. is necessary if the requirement is already in the Ordinance.

32
33 Mr. DiNovo stated that Special Condition E. is necessary so that the petitioner and subsequent owners of the
34 subject property are aware of the separation requirement.

35
36 Mr. Thorsland asked Ms. Bradham if, in the future, she has any thoughts about having an outdoor dog
37 training or dog exercise area on the subject property.

38
39 Ms. Bradham stated that it is possible, and if she did, she would comply with the Ordinance requirements.

1
2 Ms. Burgstrom indicated revised Special Condition E. on the screen for the Board's review.

3
4 Mr. Thorsland read revised Special Condition E as follows:

5
6 **E. No outdoor dog training or dog exercise area shall be established within 200 feet of the**
7 **boundary of any lot with a residential use.**

8
9 The special condition stated above is required to ensure the following:

10
11 **That the Special Use will continue to comply with Section 6.1.3 regarding standard**
12 **conditions for a Kennel.**

13
14
15 Mr. Thorsland asked the Board if they agreed with revised Special Condition E. and the Board agreed.

16
17 Mr. Thorsland asked Ms. Bradham if she agreed with revised Special Condition E.

18
19 Ms. Bradham stated that she agreed with revised Special Condition E.

20
21 Mr. Thorsland entertained a motion to approved special conditions as amended.

22
23 **Ms. Capel moved, seconded by Mr. Randol, to approve the special conditions as amended. The**
24 **motion carried by voice vote.**

25
26 Mr. DiNovo stated that item 8.B.(4) of the Summary of Evidence should be amended to include Keith
27 Padgett's testimony.

28
29 Mr. Thorsland stated that Mr. Padgett requested that the petitioner inform her clients that the facility is
30 located on a rural road that is not serviced, unlike a road located within the city limits is serviced, and Mr.
31 Padgett suggested a location for the facility's sign. Mr. Thorsland stated that Ms. Bradham indicated that
32 during inclement weather the facility would be closed until the roads are clear for safe travel. Mr. Thorsland
33 stated that the petitioner testified that after an exhaustive search the petitioner finally found a property with
34 structures to accommodate her intended use. Mr. Thorsland stated that Keith Padgett's testimony should be
35 included under item #16 of the Summary of Evidence.

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

38
39 Mr. Thorsland stated that there are no new Documents of Record.

1
2 Mr. Thorsland stated that the Board would now move to the Findings of Fact for Case 864-S-16.
3

4 **Findings of Fact for Case 864-S-16:**
5

6 **From the documents of record and the testimony and exhibits received at the public hearing for**
7 **zoning case 864-S-16 held on April 27, 2017, the Zoning Board of Appeals of Champaign County finds**
8 **that:**
9

- 10 **1. The requested Special Use Permit IS necessary for the public convenience at this**
11 **location.**
12

13 Mr. Passalacqua stated that the requested Special Use Permit is necessary for the public convenience at
14 this location because after a long an exhaustive search, the petitioner has indicated that this is the perfect
15 location for a dog agility training school.
16

17 Mr. Thorsland stated that the subject property has good access for the general public.
18

- 19 **2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
20 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it**
21 **WILL NOT be injurious to the district in which it shall be located or otherwise**
22 **detrimental to the public health, safety, and welfare because:**
23

- 24 **a. The street has ADEQUATE traffic capacity and the entrance location has**
25 **ADEQUATE visibility.**
26

27 Mr. Randol stated that the street has ADEQUATE traffic capacity and the entrance location has
28 ADEQUATE visibility.
29

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

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

34 Mr. DiNovo stated that there is a fire station located within 3 miles in Bondville, which is typical of any
35 rural location.
36

- 37 **c. The Special Use WILL be compatible with adjacent uses.**
38

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

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Mr. DiNovo stated that the nearest residence is ¾ mile away.

d. Surface and subsurface drainage will be ADEQUATE.

Mr. Thorsland stated that surface and subsurface drainage will be ADEQUATE because no significant changes will be made to the property.

e. Public safety will be ADEQUATE.

Mr. Thorsland stated that public safety will be ADEQUATE because of the following testimony provided at the April 27, 2017, public hearing by Keith Padgett, Champaign Township Highway Commissioner: a. Place a directional sign about halfway between the entrance lane and the Kaskaskia Ditch; and b. To get signs to place down the road that say there is a business down the way will take County approval, and no signs can be posted on the telephone poles and he suggested starting with just the sign at the entrance to the property; and c. Make customers aware that it is a rural road, not a city road; and d. Out in the country, people may have to wait for a snow plow to go through before they can get back to town, and he wished her customers luck.

Mr. Thorsland stated that no response was received from the Scott Fire Protection District.

Mr. DiNovo stated that the use poses no special hazards.

f. The provisions for parking will be ADEQUATE

Mr. DiNovo stated that the provisions for parking will be ADQUATE because the existing gravel area exceeds the area needed for required parking.

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

Mr. Passalacqua stated that the property is WELL SUITED OVERALL for the proposed improvement

Mr. DiNovo stated that no farmland will be taken out of production.

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

Mr. Randol stated that existing public services ARE available to support the proposed SPECIAL USE without undue public expense because fire protection is 3 road miles away.

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

Mr. Thorsland stated that existing public infrastructure together with the proposed development IS adequate to support the proposed development effectively and safely without undue public expense because fire protection is 3 road miles away.

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

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

Ms. Capel 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.**

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

- c. Public safety will be ADEQUATE.**

Mr. Thorsland stated that public safety WILL be ADEQUATE.

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

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

7 **a. The Special Use is authorized in the District.**
8

9 Mr. Thorsland stated that the Special Use IS authorized in the District.

10
11 **b. The requested Special Use Permit IS necessary for the public convenience at this**
12 **location.**
13

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

16
17 **c. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
18 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it**
19 **WILL NOT be injurious to the district in which it shall be located or otherwise**
20 **detrimental to the public health, safety, and welfare.**
21

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

26
27 **d. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
28 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in**
29 **which it is located.**
30

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

33
34 Mr. Thorsland stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL
35 CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the
36 Ordinance.

37
38
39 **5. The requested Special Use IS NOT an existing nonconforming use.**

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6. SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:

A. Regarding the waiver of Section 6.1 of the Zoning Ordinance, for a side yard of 117 feet in lieu of the minimum required 200 feet side yard for a Kennel:

(1) The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.

Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare because it involves an existing building that has been there for some time.

(2) Special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

Mr. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the waiver allows for the repurposing of the existing structure for the proposed use.

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

Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because the existing facilities are very well suited to the proposed use.

(4) The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.

Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.

(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure.

1 Mr. Thorsland stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL
2 CONDITIONS, IS the minimum variation that will make possible the reasonable use of the
3 land/structure.

4
5 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE**
6 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE**
7 **PARTICULAR PURPOSES DESCRIBED BELOW:**

- 8
- 9 **A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
10 **until the petitioner has demonstrated that any new or proposed exterior lighting**
11 **on the subject property will comply with the lighting requirements of Section 6.1.2.**
- 12
- 13 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
14 **issue a Zoning Compliance Certificate on the subject property until the Petitioner**
15 **has ensured compliance with the Illinois Accessibility Code.**
- 16
- 17 **C. For any future construction, including a fenced activity area for the dog training**
18 **facility, the petitioner shall apply for a Floodplain Development Permit through the**
19 **Zoning Department.**
- 20
- 21 **D. This Special Use Permit shall expire if no dog training occurs during any**
22 **consecutive 365 day period, except when the dog training facility is actively**
23 **marketed for sale or rent by posting a sign on the front LOT LINE of the property.**
- 24
- 25 **E. No outdoor dog training or dog exercise area shall be established within 200 feet of the**
26 **boundary of any lot with a residential use.**
- 27

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

30
31 **Mr. Randol moved, seconded by Ms. Lee, to adopt the Summary of Evidence, Documents of Record**
32 **and Findings of Fact, as amended. The motion carried by voice vote.**

33
34 Mr. Thorsland entertained a motion to move to the Final Determination for Case 864-S-16.

35
36 **Mr. Passalacqua moved, seconded by Ms. Capel, to move to the Final Determination for Case 864-S-**
37 **16. The motion carried by voice vote.**

38
39 Mr. Thorsland informed the petitioner that currently the Board has one member absent; therefore, it is at
40 the petitioners' discretion to either continue Case 864-S-16 until a full Board is present or

1 request that the present Board move to the Final Determination. He informed the petitioners that four
2 affirmative votes are required for approval.
3

4 Ms. Bradham requested that the present Board move to the Final Determination.
5

6 **FINAL DETERMINATION FOR CASE 864-S-16:**
7

8 Ms. Capel moved, seconded by Ms. Lee, that the Champaign County Zoning Board of Appeals finds
9 that, based upon the application, testimony, and other evidence received in this case, the requirements
10 of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted by Section
11 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:
12

13 The Special Use requested in Case 864-S-16 is hereby GRANTED WITH SPECIAL
14 CONDITIONS to the applicants, Heather Bradham and Kevin Cooper, to authorize the
15 following:
16

17 Authorize a Dog Training Facility as a Kennel, as a Special Use in the AG-1
18 Agriculture Zoning District.
19

20 SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:
21

22 Authorize a waiver for a side yard of 117 feet in lieu of the minimum required 200 feet
23 side yard for a Kennel, as per Section 6.1 of the Zoning Ordinance.
24

25 SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:
26

- 27 A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate
28 until the petitioner has demonstrated that any new or proposed exterior lighting on
29 the subject property will comply with the lighting requirements of Section 6.1.2.
30
- 31 B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or
32 issue a Zoning Compliance Certificate on the subject property until the Petitioner
33 has ensured compliance with the Illinois Accessibility Code.
34
- 35 C. For any future construction, including a fenced activity area for the dog training
36 facility, the petitioner shall apply for a Floodplain Development Permit through the
37 Zoning Department.
38
- 39 D. This Special Use Permit shall expire if no dog training occurs during any
40 consecutive 365 day period, except when the dog training facility is actively
41 marketed for sale or rent by posting a sign on the front LOT LINE of the property.

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E. No outdoor dog training or dog exercise area shall be established within 200 feet of the boundary of any lot with a residential use.

Mr. Thorsland requested a roll call vote.

The roll was called as follows:

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

Mr. Hall informed the petitioners that the Board has approved their special use request and that they should contact Ms. Burgstrom regarding any questions regarding the next step.

Case 866-V-16 Petitioner: Scott Miller Request to authorize the following variance from the Champaign County Zoning Ordinance in the AG-2 Agriculture Zoning District: Authorize an existing detached shed with a side yard of 2 feet in lieu of the minimum required 10 feet side yard for an accessory structure, per Section 7.2.1 of the zoning Ordinance. Location: Lot 12 in Hudson Acres Subdivision in Section 11, Township 19N, Range 9E of the Third Principal Meridian in Urbana Township and commonly known as the residence with an address of 3408 East University Avenue, Urbana.

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.

Ms. Lee noted that the agenda indicates Case 866-V-17 and the Preliminary Memorandum indicates Case 866-V-16. Ms. Lee asked staff to indicate the correct case number.

Ms. Burgstrom stated that the correct case number for Scott Miller’s request is 866-V-16. She noted that the minutes would reflect the error on the agenda.

Mr. Thorsland informed the audience that Case 866-V-16 is an Administrative Case and as such, the County allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a show of hands for those who would like to cross-examine and each person will be called upon. He requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions. He said that those who desire to cross-examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. He noted that no new testimony is to be given during

1 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
2 exempt from cross-examination.

3
4 Mr. Thorsland asked the petitioner if he desired to make a statement regarding his request.

5
6 Mr. Scott Miller, who resides at 3408 W. University Avenue, Urbana, stated that approximately ten years
7 ago he purchased the subject property. He said that he and his wife decided to remodel the home and when
8 he submitted his Zoning Use Permit for the proposed construction it was discovered that the detached
9 storage shed was too close to the property line. He noted that he had no clue that there were any issues with
10 the shed.

11
12 Mr. Thorsland asked Mr. Miller if the shed existed prior to his ownership and is the shed on a foundation.

13
14 Mr. Miller stated that the shed did exist prior to his ownership and the shed was constructed on a concrete
15 floor, thus making it a permanent structure.

16
17 Mr. Thorsland asked Mr. Miller if he had any neighbor discussion regarding the shed.

18
19 Mr. Miller stated no. He said that when he purchased the property he assumed that all structures were
20 legally constructed and he had no clue that he would have this issue.

21
22 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Miller.

23
24 Mr. DiNovo asked Mr. Miller if he had located the property pin at the corner of the lot near the shed.

25
26 Mr. Miller stated that he has not. He said that he does know where the property pin is located in the front
27 yard, but he has been unsuccessful in finding the rear property pin. He said that he does believe that the
28 fence that was installed prior to his purchase is just inside of the property line and he is basing that on the
29 location of the power poles. He said that he is assuming that the power pole is located on the property line
30 and it is approximately six feet from the fence. He said that when he aligns the power pole with the front
31 property pin he knows that his not within the 10 foot boundary.

32
33 Ms. Lee stated that Attachment B. of the Preliminary Memorandum dated April 20, 2017, indicates that the
34 shed is eight feet from the property line, but the description of the case indicates that the shed is only two
35 feet from the property line.

36
37 Ms. Burgstrom stated that at application Mr. Miller did indicate that the shed was eight feet from the
38 property line, but when staff measured the shed via aerial photography and a site visit the distance between
39 the shed and the property line was determined to be two feet, thus the need for the variance. She noted that

1 staff was also unable to discover the property pin during their site visit.
 2
 3 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Miller and there were
 4 none.
 5
 6 Mr. Thorsland asked Mr. Miller if he had any additional testimony for the Board.
 7
 8 Mr. Miller stated that he has no intention to do anything with the garage other than store his lawnmower in
 9 it.
 10
 11 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Miller and there was no one.
 12
 13 Mr. Thorsland asked staff if there were any new Documents of Record and there were none.
 14

15 **FINDINGS OF FACT for CASE 866-V-16:**
 16

17 **From the documents of record and the testimony and exhibits received at the public hearing for**
 18 **zoning case 866-V-16 held on April 27, 2017, the Zoning Board of Appeals of Champaign County**
 19 **finds that:**
 20

- 21 **1. Special conditions and circumstances DO exist which are peculiar to the land or structure**
 22 **involved, which are not applicable to other similarly situated land and structures elsewhere**
 23 **in the same district.**
 24

25 Mr. Passalacqua stated that special conditions and circumstances DO exist which are peculiar to the
 26 land or structure involved, which are not applicable to other similarly situated land and structures
 27 elsewhere in the same district because it was already in place before the petitioner bought the property.
 28

29 Mr. DiNovo stated that the lot exceeds the minimum lot size required in the District.
 30

- 31 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
 32 **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**
 33 **structure or construction.**
 34

35 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
 36 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
 37 structure or construction because given the Ordinances, he cannot proceed with the renovations on his
 38 house without bringing the shed into compliance with the Variance.
 39

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

4 Mr. Randol stated that the special conditions, circumstances, hardships, or practical difficulties DO
5 NOT result from actions of the applicant because the shed was already in place before the petitioner
6 bought the property and the Petitioner has made no changes to the shed.
7

8 Mr. DiNovo stated that the shed existed approximately 20 years prior to the petitioner’s purchase of the
9 property.
10

11 **4. The requested variance IS in harmony with the general purpose and intent of the**
12 **Ordinance.**
13

14 Ms. Capel stated that he requested variance IS in harmony with the general purpose and intent of the
15 Ordinance because the lot is narrow and it allows the lot to be used efficiently.
16

17 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
18 **detrimental to the public health, safety, or welfare.**
19

20 Mr. Passalacqua stated that the requested variance WILL NOT be injurious to the neighborhood or
21 otherwise detrimental to the public health, safety or welfare because it has posed no threat in 20 years
22 and there are no complaints on file.
23

24 **6. The requested variance IS the minimum variation that will make possible the reasonable**
25 **use of the land/structure.**
26

27 Mr. DiNovo stated that the requested variance IS the minimum variation that will make possible the
28 reasonable use of the land/structure because the structure is existing.
29

30 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**
31

32 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and
33 Findings of Fact as amended.
34

35 **Mr. Passalacqua moved, seconded by Ms. Lee, to adopt the Summary of Evidence, Documents of**
36 **Record and Findings of Fact as amended. The motion carried by voice vote.**
37

38 Mr. Thorsland entertained a motion to move to the Final Determination for Case 866-V-16.
39

1 Ms. Lee moved, seconded by Mr. Randol, to move to the Final Determination for Case 866-V-16.
2 The motion carried by voice vote.

3
4 Mr. Thorsland informed the petitioner that currently the Board has one member absent; therefore, it is at
5 Mr. Miller’s discretion to either continue Case 866-V-16 until a full Board is present or request that the
6 present Board move to the Final Determination. He informed the petitioner that four affirmative votes are
7 required for approval.

8
9 Mr. Miller requested that the present Board move to the Final Determination.

10
11 **FINAL DETERMINATION FOR CASE 866-V-16:**

12
13 **Mr. Passalacqua moved, seconded by Ms. Capel, that the Champaign County Zoning Board of**
14 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**
15 **that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the**
16 **authority granted by Section 9.1.6.B of the Champaign county Zoning Ordinance, the Zoning**
17 **Board of Appeals of Champaign County determines that:**

18
19 **The Variance requested in Case 866-V-16 is hereby GRANTED to the petitioner Scott Miller to**
20 **authorize the following variance in the AG-2 Agriculture Zoning District:**

21
22 **A detached shed with a side yard of 2 feet in lieu of the minimum required 10 feet for**
23 **detached accessory structures.**

24
25 Mr. Thorsland requested a roll call vote.

26
27 The roll was called as follows:

28
29 **Randol – yes Capel – yes DiNovo – yes**
30 **Griest – absent Lee – yes Passalacqua – yes**
31 **Thorsland – yes**

32
33 Mr. Hall informed the petitioner that the Board has approved his variance request and that he should
34 contact Ms. Burgstrom regarding any questions.

35
36 Mr. Miller thanked the Board and staff for their assistance regarding this matter.

37
38 Mr. Thorsland stated that the Board would now hear Case 863-V-16.

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7. Staff Report

None

8. Other Business

A. Review of Docket

Mr. Hall stated that the cases that were scheduled for the April 13th meeting need to be continued to a date certain. He asked Ms. Burgstrom if she has received any information from the petitioner’s attorney for Cases 854-S-16 and 855-V-16.

Ms. Burgstrom stated no.

Mr. Thorsland stated that no Board members are scheduled to be absent for the May 11th or May 25th meeting dates. He requested that the Board members contact staff immediately if they will be absent for any meeting. He requested a full Board for the May 25th meeting. He asked if staff had received any new information from the petitioner for Case 792-V-14.

Ms. Burgstrom stated no.

Mr. Randol stated that he is an adjacent landowner from the petitioner related to Cases 868-S-17 and 874-V-17. He said that he does have some issues with the request; therefore, he will need to recuse himself as a Board member during those two cases.

Mr. Passalacqua agreed that Mr. Randol should recuse himself as a Board member during the public hearings for Cases 868-S-17 and 874-V-17.

Ms. Lee asked staff if any application has been received for the proposed fertilizer plant that will be owned by the Allen family.

Ms. Burgstrom stated that they have discussed their proposal with her, but no application has been received to date.

Mr. Passalacqua requested a status of the Denny Anderson property. He asked if the Anderson property complied with the Board’s requests.

Mr. Hall stated that staff visited the property several times, but the property is still noncompliant.

1 Mr. Passalacqua stated that it is hard to see the backyard of the property due to the van, bales of straw and
2 building materials. He asked staff if Mr. Anderson is one of Mr. Padgett's neighbors.

3
4 **9. Audience Participation with respect to matters other than cases pending before the Board**

5
6 None

7
8 **10. Adjournment**

9
10 Mr. Thorsland entertained a motion to adjourn the meeting.

11
12 **Mr. Passalacqua moved, seconded by Mr. Randol, to adjourn the meeting. The motion carried by**
13 **voice vote.**

14
15 The meeting adjourned at 8:35 p.m.

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17
18 Respectfully submitted

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23 Secretary of Zoning Board of Appeals

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