

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 **1776 E. Washington Street**

4 **Urbana, IL 61802**

5 **DATE: August 27, 2020**

6 **PLACE: ZOOM Meeting**

7 ~~**Lyle Shields Meeting Room**~~

8 ~~**1776 East Washington Street**~~

9 ~~**Urbana, IL 61802**~~

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

11 **MEMBERS PRESENT:** *Using Zoom in Lyle Shields:* Ryan Elwell, Larry Wood  
12 *Remotely via Zoom:* Tom Anderson, Marilyn Lee, Lee Roberts

13 **MEMBERS ABSENT:** Jim Randol

14 **STAFF PRESENT:** *Using Zoom in Lyle Shields:* Lori Busboom, Susan Burgstrom, John Hall

15 **OTHERS PRESENT:** *Remotely via Zoom:* Bruce Block, Brody Block, Kyle Beck, Bob Lewis, Ben  
16 Goeckner, Gary Jacobson, Sandra Jacobson, Andrew Bequette, Andrew  
17 Hall

18 **1. Call to Order**

19 The meeting was called to order at 6:35 p.m.

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

21 The roll was called, and a quorum declared present. Jim Randol was absent.

22 Mr. Elwell 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 **3. Correspondence - None**

26 **4. Approval of Minutes – None**

27 **5. Continued Public Hearing**

28 **Case 967-S-19** Petitioner: **Bruce and Brody Block, d.b.a. Block Field Tiling, LLC. Request to**  
29 **authorize a Contractor’s Facility with Outdoor Storage and Outdoor Operations as a Special Use**  
30 **in the AG-1 Agriculture Zoning District. Location: A 35-acre tract in the South Half of the Southeast**  
31 **Quarter of Section 7, Township 17 North, Range 11 East of the Third Principal Meridian in Ayers**  
32 **Township with an address of 2460 CR 400N, Broadlands.**

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

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

5  
6 Mr. Elwell asked the petitioners if they would like to make a statement regarding their request.  
7

8 Mr. Bruck Block, 200 W Diller St, Broadlands, stated that they are trying to get a Special Use Permit to  
9 run a demolition and concrete crushing business. He said they have been doing it for some time, but didn't  
10 realize they needed a permit to do that. He said they appreciate the Board's consideration to go ahead  
11 with this.

12  
13 Mr. Elwell thanked Mr. Block and asked if there were any questions from the Board.  
14

15 Mr. Tom Anderson stated that there are a number of special conditions before the ZBA tonight, and asked  
16

17 Mr. Bruce Block what he thought about them.  
18

19 Mr. Bruce Block said he had questions about some of the conditions that he needs to have clarified.  
20

21 Mr. Anderson asked if Mr. Block thinks they are basically alright.  
22

23 Mr. Bruce Block said that he thinks some are pretty constraining. He said one of the main questions he  
24 has is about running a concrete crusher inside a building. He said that other crushing operations he knows  
25 about in Champaign County do not have to crush inside. He asked if those operations are not under County  
26 jurisdiction.

27  
28 Mr. Anderson asked Mr. Block why he thinks concrete crushing operations require four walls.  
29

30 Mr. Bruce Block responded that he doesn't think it can be done with the building totally shut. He said that  
31 crushing requires ventilation.

32  
33 Mr. Anderson said that the problem is that an open crushing creates problems for neighbors.  
34

35 Mr. Bruce Block said that as he has said before, his neighbor is quite a ways away, and that they have  
36 avoided crushing when the wind is going in the neighbor's direction. He said they just crushed concrete  
37 yesterday; the wind was out of the south, away from the neighbor.  
38

39 Mr. Anderson stated there is not a special condition for that.  
40

41 Mr. Bruce Block stated the Board could make it a special condition; that would be better than crushing  
42 inside a building. He said that a door would need to be left open to move the machine and materials into  
43 the building.  
44

45 Mr. Anderson asked if there is some kind of technology available to put within the crusher building to  
46 filter air.  
47

48 Mr. Bruce Block stated that he didn't know, but he bets it would be pretty expensive.

1 Mr. Anderson said that based on the letters he's been reading from the neighbor, it has been aggravating  
2 when it happens, especially in the middle of the night.

3  
4 Mr. Block said that they have not been crushing any concrete in the middle of the night. He said that they  
5 only crush during the day, they do not crush every day, and his neighbor tends to exaggerate. He said his  
6 neighbor says he has dust over at his place, and he does not see any dust over there or even in the grass  
7 up by the road by his own place.

8  
9 Mr. Anderson stated that it sounds like Mr. Block is refuting the neighbor's claim of a couple of weeks of  
10 concentrated crushing where Mr. Block did crush past 5 p.m.

11  
12 Mr. Bruce Block said that they do not crush before 8 a.m. or after 5 p.m., and they have not been crushing  
13 concrete on the weekends.

14  
15 Mr. Anderson said that certainly some of the reports say that Mr. Block has.

16  
17 Mr. Block stated that if that is what the neighbor is reporting, then he is not telling the truth, because Mr.  
18 Block has not been crushing after 5 p.m.

19  
20 Mr. Anderson asked Ms. Burgstrom if the neighbor who made the complaints is on the program tonight.

21  
22 Ms. Burgstrom replied yes.

23  
24 Mr. Anderson said he does not know what to do with the conflicting information.

25  
26 Ms. Burgstrom stated that one possibility is that maybe there is a misnomer for what the loud noise was  
27 that the neighbor heard, whether it was crushing, or a truck dumping, or some other machinery, but it was  
28 still a loud noise to them. She said she cannot speak for the complainant, but that is a possibility. She  
29 said we would like to hear directly from Mr. Jacobson and Mr. Lewis, but will leave that up to the Chair  
30 to see when they should speak.

31  
32 Ms. Marilyn Lee asked the petitioner if Cody Clem does hauling for him. She said that Mr. Clem testified  
33 on February 27, 2020 that he hauls materials to the subject property.

34  
35 Mr. Bruce Block responded that Mr. Clem has hauled material to the property in the past. He said that  
36 they have a few local haulers. He said that Mr. Clem hauls materials sometimes, and also hauls for the  
37 Blocks sometimes. He said that he does not allow outside haulers there without permission. He said they  
38 have a friend who brings a little concrete at a time, and he recently brought three loads in a small truck.  
39 He said that it is nice for him to be able to bring it to the property instead of hauling it 30 miles. He said  
40 that the Board wants him to build a building and plant vegetation to block the view from the neighbor,  
41 which is fine. He said the Board wants him to spend money in the place, but then limit what he can do.  
42 He said it is a volume game, and you can't make much on a ton of concrete.

43  
44 Ms. Lee said she visited the site today, and asked Mr. Block if the several trailers and vehicles onsite are  
45 all his.

46  
47 Mr. Bruce Block said yes.

48

1 Ms. Lee said that one trailer had a truck attached, and asked if it was his.

2

3 Mr. Bruce Block said yes.

4

5 Mr. Larry Wood stated that he noticed there are four Illinois Environmental Protection Agency (IEPA)  
6 violations that have been out there for some time. He asked Mr. Bruce Block what his plans are to resolve  
7 those issues.

8

9 Mr. Bruce Block said that the Illinois EPA has been checking on them for over five years, since Mr.  
10 Jacobson called when he dumped the first load of stuff out there. He said that what violations are there  
11 are minor. He said that the EPA will say one loose board is a violation, so they are cleaning up everything  
12 that is in violation. He said they are getting rid of any small boards and stuff out there that is not clean  
13 debris, and that they are working on that all the time.

14

15 Mr. Wood said that it doesn't sound to him like things have changed much in the last five years.

16

17 Mr. Bruce Block said that it is hard when you are tearing a house down to get every piece of board out of  
18 the concrete before you haul it in there. He said that some of them they sort out right there. He said that  
19 some of the things they were talking about four years ago have already been cleaned up. He said that if  
20 she (IEPA staff) is out there and you have a couple boards out, then it is a violation. He said that he  
21 imagines that everyone around has an EPA violation at their own place if you have one loose board. He  
22 said that EPA finds something wrong every time they come out.

23

24 Mr. Ryan Elwell asked Mr. Bruce Block if he believes IEPA is too stringent.

25

26 Mr. Bruce Block stated yes, and that he has told the girl (from IEPA) that every time she comes out. He  
27 said that IEPA says you are supposed to sort everything onsite, and Mr. Block tries to sort everything that  
28 they can onsite, but sometimes when you're at the bottom of a building digging the foundation out, you  
29 get a little bit of wood and bring it to the property to run it through the crusher. He said that the crusher  
30 separates it out, they put it in a plastic tote, and they haul it to the landfill.

31

32 Mr. Anderson asked Mr. Block which of the strategies that was suggested in the packet he has used to  
33 document that he moves 25% of the stockpile each year.

34

35 Mr. Bruce Block stated that he has not documented that; he can tell by looking at it if they have 25% off.  
36 He said that in the first couple of years, they probably didn't haul off 25% because they just had a small  
37 crusher; now they have a bigger crusher and definitely haul off more than 25%. He said that some materials  
38 get hauled out one month after being hauled in there.

39

40 Mr. Anderson asked Mr. Block if he has decided to use either of the strategies about weighing trucks.

41

42 Mr. Bruce Block stated that he does not have a scale for materials coming in, but normally when he goes  
43 out he goes to the local elevator and weighs it.

44

45 Mr. Anderson stated that this leaves the Board to make a decision about Mr. Block's operation based only  
46 on Mr. Block's word, without any backup data.

47

48 Mr. Bruce Block said that he guesses he'll have to keep weight tickets and put in a scale there at the place

1 to weigh what is going in and what is going out, if that's what it takes.

2  
3 Mr. Anderson said that if decisions are based on the in/out properties of Mr. Block's business, then he  
4 believes that is in line, to be so that Mr. Block can provide data for important things like taxes, and  
5 represent the storage around the property.

6  
7 Mr. John Hall asked Mr. Bruce Block why he continues to bring painted block and brick onto the property,  
8 and asked if he plans to test those before he disposes of them. He asked if Mr. Block couldn't separate  
9 those at the job site to begin with.

10  
11 Mr. Bruce Block responded that they have had a few painted bricks, but sometimes they don't see them.  
12 He said to be honest, there's so few of them that sometimes he does not see them. He said that one time  
13 the EPA lady thought some were painted and he thinks they just had mold on the outside of them. He said  
14 that he will separate painted materials out on the work site, not bring them to the property, and haul them  
15 to the landfill in the future.

16  
17 Mr. Hall said that is what he would recommend. He asked Mr. Block why he did not mention the May 6,  
18 2020 letter from EPA to Susan Burgstrom. He said that she had asked Mr. Block if he had new information  
19 on May 27, 2020, and Mr. Block did not mention the May 6<sup>th</sup> letter.

20  
21 Mr. Bruce Block said that he sent that letter.

22  
23 Mr. Hall said that Mr. Block did not send the EPA report from the site visit.

24  
25 Mr. Block said that he sent the letter to Ms. Burgstrom about the land use permit, not the EPA report.

26  
27 Mr. Hall said right, but when Ms. Burgstrom asked Mr. Block if he had any new information on May 27<sup>th</sup>,

28  
29 Mr. Block did not mention the May 6<sup>th</sup> letter.

30  
31 Mr. Bruce Block said ok, and that he did not know that he needed to give that information, and he's sorry.  
32 He said that that they have gotten letters from EPA for the last five years, and IEPA comes by for an  
33 inspection about every six months.

34  
35 Mr. Hall said yes, that is what we now know; we did not know that ahead of time.

36  
37 Mr. Bruce Block said that IEPA has told them that they are doing a good job of getting the property where  
38 it needs to be.

39  
40 Mr. Hall said that IEPA has told Mr. Block that he continues to have violations.

41  
42 Mr. Hall stated that he would like to go back to the testimony from the first meeting, in which Mr. Block  
43 stated he had measured a sound level of 62 decibels on the road between his property and the Lewis  
44 property. He said that Mr. Block said that was similar to a neighbor. He said that this Board has received  
45 testimony from sound engineers in other public hearings stating that the Illinois Pollution Control Board  
46 daytime noise limit from Class C to Class A land is 60.7 decibels on the A level. He said that he would  
47 not trust a cell phone as evidence of a violation, but it does seem as if there are valid concerns about the  
48 noise levels, particularly when the breaking of the concrete happens. He said that jackhammers may be

1 the noisiest thing in our society, and to have a business use jackhammers as a regular operation should  
2 concern this Board.

3  
4 Mr. Bruce Block stated that he bought a new piece of equipment about two weeks ago that goes on the  
5 end of their excavator. He said that it grabs a piece of concrete and just breaks it. He said it is much  
6 quieter than a jackhammer. He said that is what they have been using now and will continue to use because  
7 it is faster and it is a lot quieter.

8  
9 Mr. Hall asked the name of the equipment.

10  
11 Mr. Bruce Block stated that it is from the Bodine company, and they bought it used from Mr. Ennis on  
12 Cunningham Avenue in Urbana. He said that he cannot recall the exact name of it.

13  
14 Ms. Busboom stated that it is called a concrete pulverizer.

15  
16 Mr. Bruce Block stated that when Mr. Hall was talking about the decibels, the audio cut out and he could  
17 not hear what the number was.

18  
19 Mr. Hall said that the daytime limit is 60.7 dBA from Class C to Class A land, and the nighttime limit is  
20 51.2 dBA.

21  
22 Mr. Bruce Block said that he measured 62 decibels on the road by his property, not clear over at Mr.  
23 Jacobson's house.

24  
25 Mr. Hall stated that the noise measurement must be done at the property line, and he knows Mr. Jacobson's  
26 property line goes out to the middle of the road.

27  
28 Mr. Block said okay.

29  
30 Mr. Elwell asked Mr. Block what machinery was running when he measured 62 decibels.

31  
32 Mr. Bruce Block responded that the concrete crusher and two skid loaders were running.

33  
34 Mr. Elwell asked if this was normal operating procedure.

35  
36 Mr. Bruce Block replied yes.

37  
38 Mr. Elwell asked if this is what would be expected going forward, or would we expect a decrease in noise  
39 by using the pulverizer instead of the jackhammer.

40  
41 Mr. Bruce Block replied that the pulverizer would make a lot less noise than the jackhammer, and if we're  
42 running the pulverizer, we're not usually running the other machinery at the same time. He said they might  
43 have a guy running the pulverizer with someone gathering material for it on one day, and the next day  
44 they would run the crusher.

45  
46 Mr. Elwell asked if there were any more questions from the Board or staff.

47  
48 Mr. Anderson asked how Mr. Block is coming along with storm water improvements.

1 Mr. Bruce Block stated that he just got the form to file the Notice of Intent for IEPA, and that it is not easy  
2 to figure out.

3  
4 Mr. Anderson said that he had to do more than fill out forms.

5  
6 Mr. Block agreed, and said that he thinks he has to have a survey done, although he thinks they had a  
7 survey done from Champaign County Soil and Water Conservation District when he applied for the  
8 Special Use Permit.

9  
10 Ms. Burgstrom stated that to be fair, she had just notified Mr. Bruce Block just this week. She said she  
11 had visited the site with Mr. Block last week and could see that there had been enough impervious area  
12 created by the gravel and other piles that we now need to look at the requirements from another County  
13 ordinance, the Storm Water Management and Erosion Control Ordinance. She said that the Blocks need  
14 to have a Storm Water Drainage Plan, which is a pretty significant set of documents that would have to  
15 be created by an engineer. She said that in addition, he would have to work with IEPA on the Notice of  
16 Intent for an NPDES permit. She said that the Blocks are looking at two different levels of permitting for  
17 those two things.

18  
19 Mr. Anderson said that he realizes it could get complicated, and understands Ms. Burgstrom's explanation  
20 that Mr. Block has not had ample time to decide what needs to be done and who would do that work.

21  
22 Mr. Elwell asked Mr. Hall if the petitioners would be allowed to continue operations without having an  
23 approved Special Use Permit.

24  
25 Mr. Hall stated that as long as the Board is deliberating, operations can continue so long as there is  
26 continued progress toward getting the necessary approvals.

27  
28 Mr. Elwell asked about the timeline.

29  
30 Mr. Hall said that this time of year, we could expect engineering to provide a Storm Water Drainage Plan  
31 and the necessary technical information for the ILR10 within six months, with some possible slack time  
32 due to the pandemic. He said that once the P&Z Department gets the materials, then we have our engineer  
33 review it to make sure they are in agreement to what it says.

34  
35 Mr. Hall said that the concern about the Block property is that there are piles of concrete and need to have  
36 swales to carry the stormwater to a basin, and where you would like to see the basin, there is the asphalt  
37 millings pile and other concrete. He said that to do the Storm Water Drainage Plan on this property,  
38 without moving a lot of equipment, is going to be an engineering challenge. He said that might add extra  
39 time for the preparation. He said at this point he is just really concerned about feasibility.

40  
41 Mr. Elwell asked if anyone would like to cross-examine Mr. Bruce Block.

42  
43 Mr. Gary Jacobson stated that Mr. Bruce Block said he was not crushing after 5 p.m. or on weekends. He  
44 asked Mr. Block if he was receiving concrete and unloading trucks after 5 p.m. or on Saturday and Sunday.

45  
46 Mr. Block said that yes, they unloaded some trucks after 5 p.m. He said he does not know how many, but  
47 it was not every day. He does not recall unloading on Saturdays, and he doesn't think they unloaded on  
48 Sundays.

1 Mr. Jacobson said that with the new equipment to replace the jackhammer, do you use this to pick up large  
2 pieces of concrete and then smash them.  
3

4 Mr. Block said that it will only pick up so big of a piece, and it squeezes the concrete block and drops  
5 pieces to the ground.  
6

7 Mr. Jacobson asked if that makes a loud noise.  
8

9 Mr. Block said he did not think it was making that much noise, not near the noise that the jackhammer  
10 makes.  
11

12 Mr. Jacobson asked if Mr. Block has brush piles, other yard waste, or miscellaneous wood piles on the  
13 property.  
14

15 Mr. Block said yes, he has a brush pile, which they will have to run through a shredder, and he has some  
16 wood.  
17

18 Mr. Jacobson asked Mr. Block if he has any boards or other accumulation of wood.  
19

20 Mr. Block said that they have some boards out by the shed that they were taking apart and saving some of  
21 the boards.  
22

23 Mr. Jacobson asked Mr. Block if he has any tree stumps or large pieces of wood.  
24

25 Mr. Elwell said that Mr. Block did not testify to any wood other than what was brought in for the trucks,  
26 so this is not relevant in the cross-exam. He said that we would not cover that question right now, but if  
27 he would like to testify later in the meeting, we can do that.  
28

29 Mr. Jacobson said he thought Mr. Block said he only had concrete, bricks, and asphalt.  
30

31 Mr. Elwell said that he did not remember Mr. Block stating anything about tree trunks or the like. He  
32 suggested that Mr. Jacobson ask Mr. Block about what he did say instead of what he did not say and have  
33 him clarify.  
34

35 Mr. Jacobson asked Mr. Block what he has in piles at the property.  
36

37 Mr. Block said that he has concrete, brick, and some asphalt. He mentioned the brush pile, and also some  
38 logs that someone was going to pick up to burn for firewood. He said that there was nothing else he could  
39 think of.  
40

41 Mr. Elwell opened the witness register and called on Mr. Jacobson to testify.  
42

43 Mr. Gary Jacobson, 2475 CR 400N, Broadlands, stated that regarding him exaggerating or being mistaken  
44 about the noise coming from the subject property, Mr. Block was referencing the use of the crushing  
45 machine. He said that his complaints have been about other things. Regarding the crushing machine and  
46 the decibels, the crushing is the least noisy thing they do there. He said that the unloading of the trucks is  
47 horrendously loud; he said that the semitrucks that come have very large pieces of concrete, and they don't  
48 slide out of the truck until the truck bed goes all the way up, and then they come sliding down, crashing.

1 He said then the truck has to pull forward, they slide out some more, and then crash and the tailgate slams  
2 shut. He said that is all very noisy. He said that with the new piece of equipment, he has seen them pick  
3 up concrete as big as a table and drop it, slam it, and smash it with this thing, and it is also very loud. He  
4 said that skid steers run often that make a lot of noise; they have alarms on them when they back up, and  
5 they squeak and squeal when they lift the buckets. He said they often run those beyond dark and on  
6 weekends. He said they have had many trucks out there on Saturdays and Sundays, and he has video of  
7 all of these things, which he has not submitted, but if he needs to back up what he says, he has pictures  
8 and video. He said he has security cameras set up in front of his house to take a picture of every truck that  
9 goes by, so he could tell us dates and times. He said they have been out there on Saturdays and Sundays  
10 running back and forth. He said they had more than a week when they had a continuous stream of trucks;  
11 it was not the Block's trucks; they were somebody else's trucks dropping stuff off. He has a picture of a  
12 pile of garbage – rebar, trash, household appliances, he doesn't know what else - which was submitted as  
13 evidence. He said that Mr. Block did not mention that he has a very large pile of trash, which has been  
14 there for a very long time and is one of the things EPA has cited them for.

15  
16 Mr. Jacobson said that he had not mentioned that his property has a dug well before; all of their drinking  
17 water is from water seeping into a hole from surrounding land. He said that now they have piles of  
18 concrete, piles of asphalt, and he does not know what else, and there is no protection for them from what  
19 might be seeping into the ground on the Block property. He said he will have to be testing his water, and  
20 they do not have another way to get water. He said the reason they have a dug well is that they are not  
21 over an aquifer that they can tap into or one that would be economically feasible to find. He said it is  
22 concerning now we are getting to a discussion after four or five years, and it might be another six months  
23 or more waiting for engineering. He said that he is unhappy with how much time it is taking, and there  
24 has been little or no evidence that the Blocks are working to mitigate the violations or make things better.

25  
26 Mr. Anderson asked Mr. Jacobson if he has noticed dust created by Mr. Block's operation. He said that  
27 Mr. Bruce Block claimed that he does not crush when the wind is coming out of the north.

28  
29 Mr. Jacobson said that it is ludicrous to think they only operate when wind is from a certain direction. He  
30 said the concrete crusher makes a lot of dust, and so does loading concrete into trucks and moving their  
31 equipment back and forth over the debris that is there. He can't say there's a specific day or date, but they  
32 are moving materials and are thus moving dust.

33  
34 Mr. Anderson said that it would be handy to note when particularly strong dust heads toward Mr.  
35 Jacobson's property and we can check the wind direction for those days.

36  
37 Mr. Jacobson stated that is not something he has really been paying attention to, because there are a lot of  
38 other things that are of greater concern to him, but he can do that.

39  
40 Mr. Elwell asked Ms. Burgstrom to remind him of where Mr. Jacobson's property is in relation to the 5-  
41 acre site on Block's property. Ms. Burgstrom showed the location map on Zoom.

42  
43 Mr. Elwell called on Bob Lewis to testify.

44  
45 Mr. Bob Lewis, 410 Independence Drive, Savoy, stated that he owns the land across from the Blocks. He  
46 wants to make sure that the Blocks understand that he is not wanting to cause friction with them, but he  
47 has a very serious issue with what is going on. He said he is at the farm five to six days per week. He said  
48 he was unable to make the previous meeting in February. He said he is here today to testify why he strongly

1 disagrees in allowing this property to be rezoned or be approved for a Special Use Permit. He said that  
2 one of the conditions for the permit to be approved is “to minimize nuisance conditions for neighbors.”  
3 He said that by allowing this property to operate as a concrete and asphalt recycling facility along with  
4 dumping of materials is not what he considers minimizing nuisance conditions for the neighbors. He said  
5 this is a big nuisance to him and his family, and that he considers this a dumping facility, not a recycling  
6 facility. He said he would list in order his reasons for not approving this request. He said the first is noise;  
7 this is a very loud operation, with breaking concrete, jack hammering, trucks unloading material, tailgates  
8 slamming into the bed, bulldozers, alarms, etc. He said he has run out of his shop at times thinking there  
9 was an explosion or car wreck. He said the second complaint is the dust. He said that dust is not healthy;  
10 it comes from breaking concrete, jack hammering and grinding, among other things, such as wind blowing  
11 over the piles, vehicles driving over the gravel, etc. He said there have been many times this summer that  
12 his vehicles and equipment have had a layer of dust on them. This is due to the work being done at the  
13 facility and their vehicular traffic. He said there is mud, gravel, dust and debris on the road, but this has  
14 gotten a lot better. He mentioned the EPA violations, which he would leave to this Board to figure out.  
15 He said that traffic is an issue; there are many days that multiple semis or dump trucks are on the road. He  
16 said that due to the nature of this business, he feels they are putting himself, wife, kids, their spouses, and  
17 grandchildren at risk from the dust and traffic. He said that in the past, there have been a lot of  
18 miscellaneous materials from demolition projects hauled in that are not concrete or asphalt. He said that  
19 the business is an eyesore. He said he believes that having this property across the street from him will  
20 devalue his property, and that if his kids, grandchildren, or whoever, would want to purchase the property  
21 or build a home, he believes by allowing this facility, it would hinder anyone doing so. He said that he  
22 knows for a fact that the Blocks have demolished property containing asbestos; it is in just about  
23 everything in old houses or properties. He said he see no permits anywhere for removal of asbestos, and  
24 asked where did it go.

25  
26 Mr. Lewis said that overall, his concerns are that if the Special Use Permit is approved, who is going to  
27 make sure the guidelines and restrictions listed in the packet are enforced since this has already gone on  
28 for five to six years without anyone overseeing the operations. He asked what happens if these conditions  
29 are not followed. He said they’ve already been in violation of the codes, but yet they have been allowed  
30 for six years to continue to run their business without any penalties. If this permit is approved, what makes  
31 you think they will follow the established special conditions. He said that lastly, he would just like to  
32 express his disappointment if this permit is granted. He said there were complaints over five years ago  
33 regarding this operation; yet nothing was ever done by the County. He said that the County has given the  
34 Blocks more than ample time to meet its requests and yet they’re still not completely met. He asked what  
35 about the requests and complaints from the people who live across the street and farm here; this parcel is  
36 zoned for agriculture. He asked do their requests and/or concerns not matter.

37  
38 Mr. Lewis said he has seen trucks dumped after 5 p.m. and on Saturdays and Sundays. He said that they  
39 have dumped junk, tires, stumps, corn stalks, and trees, among other things. He said that he has measured  
40 noise with his phone from the front of his machine shed which faces the subject property. On August 11,  
41 2020, at 3:36 p.m. he measured for 52 seconds, and found the average decibel reading to be 79.1,  
42 maximum 99.7, and minimum 37.2.

43  
44 Mr. Anderson stated that Mr. Lewis just gave evidence that there was a lot of dust headed his way.

45  
46 Mr. Lewis said he has seen dust on vehicles from semis driving by, big piles of concrete, and dust in roads.  
47 He said that dust is dust.

48

1 Mr. Elwell asked Mr. Lewis if trucks dumped on Saturdays and Sundays and after 5 p.m.  
2  
3 Mr. Lewis stated that one week ago on Sunday, a truck came in and dumped material.  
4  
5 Mr. Elwell asked if anyone would like to cross-examine Mr. Lewis.  
6  
7 Mr. Bruce Block asked Mr. Lewis what was running when he recorded the noise reading.  
8  
9 Mr. Lewis stated he thought it was the breaker and the high hoe.  
10  
11 Mr. Bruce Block stated that regarding dumping on Sunday, he doesn't think it was one of theirs, and he  
12 would have to lock the gate.  
13  
14 Mr. Lewis said that he did not think it was a Block truck. He said that sometimes it is so loud it is like an  
15 explosion, when the tailgate hits the bed of the truck, or other noises occur.  
16  
17 Mr. Brody Block asked Mr. Lewis about the dust he has on his vehicle. He asked if Mr. Lewis drives on  
18 a rock lane to get to his shop.  
19  
20 Mr. Lewis replied yes.  
21  
22 Mr. Brody Block asked Mr. Lewis if he knew what kind of lane he has on the subject property.  
23  
24 Mr. Lewis replied that there is an asphalt drive going back to the pile.  
25  
26 Mr. Brody Block said yes, they put it in to try to eliminate dust going to the neighboring properties. He  
27 said regarding the explosion they have mentioned, he said he doesn't think they know what an explosion  
28 sounds like.  
29  
30 Mr. Bruce Block commented that Mr. Jacobson had sent a video of a truck dumping, and it did not sound  
31 like an explosion.  
32  
33 Ms. Burgstrom stated that noise levels that are taken with a phone should be taken with a grain of salt,  
34 and only a professional noise study would accurately portray the noise. She said that opinions are valid,  
35 but facts are what is lacking here.  
36  
37 Mr. Hall stated to Mr. Block that the special conditions can be modified, but condition E in tonight's  
38 memo has the purpose of limiting others dumping at his site. He said that a site that accepts from any  
39 contractor would be a recycling facility, which is not allowed in this district. He said that the only reason  
40 we are here discussing this business is because it was our understanding that the only material was clean  
41 construction debris and landscape waste from demolition projects done by the Blocks. He said we are  
42 talking about the difference between an accessory use, which is what we think we were dealing with  
43 originally, versus a principal use, which is something that could accept waste from any demolition  
44 contractor. He asked Mr. Block to estimate how much debris on his property is from his company, and  
45 whether the Blocks accept debris from other companies.  
46  
47 Mr. Bruce Block stated that he did not know it would be a permit issue to receive from others, but he has  
48 not taken much in other than his own projects. He said that he accepts materials from a few local guys,

1 but mostly it is from his own projects. He said he had to cut some people off who were bringing in concrete  
2 with a lot of dirt on it.

3  
4 Mr. Hall said that it sounds like the operation can still be considered as an accessory use to your demolition  
5 business, Block Field Tiling LLC. He said that the Board will have to review these conditions before they  
6 are adopted, and they will ask you for comments.

7  
8 Mr. Bruce Block said that one of his main questions is about crushing inside a building.

9  
10 Mr. Hall stated that the doors can be open per the condition.

11  
12 Mr. Bruce Block asked if a hoop building was still acceptable if it has four walls.

13  
14 Mr. Hall replied yes.

15  
16 Mr. Elwell asked Mr. Block if he is going to continue to accept loads from third parties, or will he only  
17 accept loads from his own company going forward.

18  
19 Mr. Bruce Block responded that from what he hears the Board saying, he will only be able to bring in his  
20 own loads and would have to cut everybody else off.

21  
22 Ms. Lee asked if there were other people who come in their own vehicles dump materials after 5 p.m. and  
23 on Saturday and Sunday.

24  
25 Mr. Bruce Block stated apparently so according to Mr. Lewis, although that was not their intent, and that  
26 he did not know that was going on. He said there have been times where they have gone to the site on a  
27 Saturday and loaded up some rock and hauled it out of there, but they have not been dumping loads. He  
28 said they have not had the gate shut, but will have to do that on the weekend because he has some people  
29 taking advantage of that.

30  
31 Mr. Elwell asked if right now they don't have anything to stop people from dumping refuse.

32  
33 Mr. Bruce Block said they have a fence and will have to lock the gate.

34  
35 Mr. Elwell asked if there was anyone else who would like to cross-examine the witness. Seeing no one,  
36 he called Mr. Brody Block to testify.

37  
38 Mr. Brody Block, 201 S Harris, Philo, stated that no one else in Champaign County or Illinois has to crush  
39 inside a building, so why would it be different for them if he can name five guys in Champaign that don't  
40 have to crush inside a building.

41  
42 Mr. Hall stated that he hopes that Mr. Block knows of no one in the County's jurisdiction that is crushing,  
43 period. He said that the only legal crushing operations he knows of are in the City of Urbana, which has  
44 different regulations. There is one west of Champaign operating illegally in the County's jurisdiction that  
45 has been referred to the State's Attorney's Office.

46  
47 Mr. Brody Block stated that it is asking a lot not to take in other's items and to put up a building. He said  
48 that by not taking people's loads, there will be more illegal dumping. He said he thinks it would be better

1 to have them dump at his place rather than in a ravine. He asked if there is a different zoning district they  
2 should be looking at, like commercial or industrial.

3  
4 Mr. Hall said they could look at B-4 or the two Industrial zones, but operations are still only allowed  
5 indoors. He said that he can guarantee those would not be allowed where this property is, and he knows  
6 that the Blocks do not want to process only indoors as those zoning districts require. He said that the  
7 Zoning Ordinance should be updated regarding recycling of hazardous materials. He said that if a  
8 recycling business is accessory to a demolition contractor, that it doesn't necessarily have to be held to  
9 the same standards as a standalone recycling business. He said that is kind of a double-edged sword; you  
10 are held to a lower standard, but you are also not supposed to take in products from other demolition  
11 contractors.

12  
13 Mr. Brody Block asked what the neighbors want them to do; they can't just go talk to them.

14  
15 Mr. Bruce Block asked the Board if he is working on a demo project and he hires someone to haul stuff  
16 to his business, and Mr. Jacobson reports it to the County Board, is he going to have to prove that he hired  
17 the trucker.

18  
19 Mr. Hall stated that if the P&Z Department receives a complaint, they will follow up on it. He said that he  
20 would have to know that he hired that person, and would want it in writing. He said that if it seemed like  
21 we were not getting the requested information, we might have to change the protocol.

22  
23 Mr. Bruce Block stated that he planted 15 trees this spring along the southeast property line that should  
24 grow three to five feet per year. He said one to two feet tall trees sell for \$20 apiece, and they have grown  
25 about six inches this summer. He said they should be four feet taller in another year. He said it will take  
26 him another 60 trees to make a screen, and it is more expensive to plant the four feet tall trees that the  
27 condition requires. He said it would be about \$1,200 to get another 60 trees that are 1-2 feet tall, versus  
28 \$6,000 for getting trees that meet the 4-6 feet tall minimum required, and that's quite a difference. He  
29 asked if they have to be hard and fast to this 4 foot minimum when they are planted, or are we going to  
30 give them a chance to grow, because that's quite a difference in cost.

31  
32 Mr. Elwell asked Mr. Hall what the Ordinance says about the screening.

33  
34 Mr. Hall stated that the screen has to be there. He said that a previous Zoning Administrator's  
35 interpretation was reasonable in that the screen does not have to be established immediately. He said that  
36 going with a four to six feet tall tree, requiring a 50% screen in two years, was the previous Zoning  
37 Administrator's way of averaging things out.

38  
39 Mr. Elwell asked if we would be asking something of Mr. Block different than what we have asked of  
40 other petitioners.

41  
42 Mr. Hall stated that he would not want to see the Board do that, because once we give up that standard,  
43 that becomes our new standard. He said that he knows it is expensive, and he knows it takes a lot of water  
44 and care, but you have to have a screen for a reason.

45  
46 Mr. Bruce Block said that he sees that it needs to provide 50% screen in two years. He said that with these  
47 trees he is going to plant, if they grow like they are supposed to, should do that, but it also says that they  
48 need to be 4 to 6 feet at the time of planting. He said that on one hand, you need to be 50% in two years,

1 and then it says they need to be 4 to 6 feet at the time of planting.

2  
3 Ms. Burgstrom said that is a standard that we have not seen a deviation from in the five or so years she  
4 has been here. She said that the only thing she has seen, more recently, is that in a couple of situations,  
5 when there was not nearly as much material on site, we allowed the petitioners to hold off creating  
6 screening until a complaint was received. She said however, we already have multiple complaints about  
7 your facility, and so that just doesn't apply here and we would hold fast to the four feet minimum as well  
8 as the 50% over two years.

9  
10 Mr. Bruce Block asked if a four feet tall berm with grass with shorter trees on top would be acceptable.

11  
12 Mr. Hall stated that would be a reasonable alternative, but we would need to have that detailed in a drawing  
13 so that the Board could approve that and we would have a new standard for this particular use.

14  
15 Mr. Jacobson stated he would gladly have anyone who wants to come sit in his sunroom to hear trucks  
16 dumping. He said that, regarding the special conditions, if this business had started in its proper zoning,  
17 these concerns would not exist and we would not have to be here at all.

18  
19 Mr. Elwell called Mr. Bequette to testify.

20  
21 Mr. Andrew Bequette, 508 S Broadway, Urbana, stated he is an attorney for Gary and Sandra Jacobson,  
22 who live across the street from the Block property. He said that the Jacobson's bought their home long  
23 before the Blocks started their operations. He asked that the Board deny the Special Use Permit and have  
24 the Blocks cease operations, clean up the property, and return it to the currently zoned agricultural purpose.  
25 He said that no evidence has been presented to refute the evidence presented at the last hearing that the  
26 Jacobson's had an appraisal done that showed a \$40,000 decrease in their property value as a result of Mr.  
27 Block's business. He said that the Board heard Mr. Lewis's concerns about property values as well.

28  
29 Mr. Bequette said that at the last hearing, he stated that the Blocks do not have a contractor's facility, they  
30 have an open air landfill facility; the EPA doesn't call it that, they call it an open dump. He said that the  
31 IEPA report from November 1, 2019 states, "I conducted an open dump inspection. I observed apparent  
32 continuing violations." He said that the Board should not be treating this as an application for a concrete  
33 crushing facility, you should be treating this as an application for a new dump in Champaign County. He  
34 said that the Blocks did not come get permits and apply for a Special Use Permit before starting this  
35 project. He said they turned this whole process on its head; Mr. Block never asked if the project could be  
36 at this site. He said that for five years, they have done whatever they want because it is easier to ask for  
37 forgiveness than permission.

38  
39 Mr. Bequette said the question should not be what licenses and permits does Mr. Block need to continue  
40 doing what he has been doing; the question is should this be happening in an agricultural district. He said  
41 that if the Board grants the Special Use Permit, Mr. Block will show it to the IEPA, arguing that the  
42 County is okay with the project, and then he will amp up what he is doing. He said that Mr. Block has not  
43 even treaded water during this process, waiting to see what the Board was going to do – he has accelerated  
44 his activities. He said that Ms. Burgstrom noted when she visited the site on August 17, 2020, that the  
45 amount of land disturbed has increased to greater than one acre. He said that the Supplemental Memo  
46 dated August 19, 2020 states there has been a significant increase in materials storage at the site that  
47 occupies almost half of the 5 acre proposed Special Use Permit area; however the petitioners have not  
48 indicated what their expansion plans are. He asked if you give Mr. Block a Special Use Permit, how much

1 further is he going to go after that. He said that the County's plans and discussions give about a year to  
2 do some of the things asked, and with the vegetation discussion we just had talked about two years. He  
3 said therefore the Jacobson's have to live with this for another year or two, during which the Blocks can  
4 do what they want. He asked how much will the amount of land disturbed increase during that time period.  
5 He said that looking at the proposed conditions for the Blocks, the debris brought to the site would be  
6 limited to Block Field Tiling LLC projects. He asked how many projects would the Blocks become the  
7 subcontractor on, because if you hire him, you won't have to pay for the same waste disposal charges. He  
8 asked how many projects can the Blocks underbid other contractors on, who are going to have to pay for  
9 waste disposal, when Mr. Block can just haul the debris out by the Jacobson's property. He asked how  
10 will the County monitor that the Blocks are only taking in waste from their own projects, and will they  
11 require him to regularly present documentation. He said that if you notice in the memo, Mr. Block told  
12 IEPA that he does not keep records for what he processes. He said the County is putting itself in the  
13 position of policing compliance with the terms of the Special Use Permit. He said that is going to be  
14 difficult; look at how much time and effort the IEPA has already spent. He said that the Block property  
15 has had IEPA violations since at least August 3, 2016, and they still have not been corrected. He said that  
16 if the County grants the Special Use Permit, it is going to be an enforcement nightmare.

17  
18 Mr. Bequette said that the County has Special Use Permit criteria, and the burden is on the applicant to  
19 show that each and every one of those criteria are met. He said that he is not going to review all of them,  
20 but one of the requirements is that the project has to be necessary for the public convenience at that  
21 location. He said that only if the Blocks can bring in their own materials, then that is not convenient to the  
22 public – it is convenient to the Blocks. He said at the February hearing, we heard a lot of testimony about  
23 how far it is to other waste sites; none of that testimony matters, because the Blocks can bring it all to their  
24 site, but the public can't. He said you are already failing on that first condition.

25  
26 Mr. Bequette said that the second criteria is that a project has to be designed, located and proposed to be  
27 operated so that it will not be injurious to the district. He said that it already does not match IEPA terms;  
28 the IEPA has already told you that there are violations at the site. He said that in addition to the noise,  
29 dust, appearance, and the loss of property values, the project is currently being run with four EPA  
30 violations and has caused the Jacobson's property to lose value. He said the Ordinance says that in granting  
31 a Special Use Permit, the site should be one on which the proposed development can be safely and soundly  
32 conducted with no unacceptable negative effects on neighbors and the general public. He said that if you  
33 grant this, you will be saying, "well, we think it's okay, the neighbors can live with it" but that is not what  
34 the Ordinance says. He said that the site creates a risk to the health and safety of the occupants, neighbors,  
35 and the general public. He said that if you read the County Ordinance on what you have to do to get a  
36 Special Use Permit, then this project just fails on element after element. He said that even if you were  
37 going to grant the Special Use Permit and require all the list of conditions in the memo, it only works if  
38 you trust the petitioner to do what they promised. He said on pages 12 and 13 of the excerpted minutes  
39 from the February 27, 2020 ZBA hearing, it summarizes an exchange that Mr. Bequette had with Bruce  
40 and Brody Block. He said that he asked Mr. Bruce Block if there were any piles of garbage at the site; Mr.  
41 Block said no. He said that Mr. Brody Block stated that the IEPA representative was at the site two weeks  
42 ago; Mr. Bequette asked Mr. Block to provide the name of the IEPA representative, and Mr. Block stated  
43 that he could not remember the name of the representative. He said that Mr. Brody Block said that the  
44 IEPA representative was from Champaign. He said that he had asked Mr. Bruce Block if the IEPA had  
45 conducted a site visit, and Mr. Block said yes. He said that Mr. Brody Block had stated that the IEPA  
46 representative informed them that what the Blocks were doing was perfectly legal. Mr. Bequette said that  
47 he asserts that the Blocks were not forthcoming with the Board during their February testimony. He said  
48 he does not know why the Board would give them the benefit of the doubt on anything that they are

1 testifying to tonight.

2  
3 Mr. Bequette said that on February 11, 2020, just 16 days before the February 27<sup>th</sup> hearing, Jennifer  
4 O'Hearn of IEPA conducted an open dump inspection, and she noted four IEPA violations had been  
5 observed on the property on August 3, 2016, December 14, 2016, May 16, 2017, September 21, 2017,  
6 April 20, 2018, Dec 10, 2018, and on November 1, 2019 – the violations include the open dumping of  
7 waste; disposing or dumping any waste, or transporting any waste, except at a site complying with the  
8 requirements of the Environmental Protection Act; allowing the open dumping of waste resulting in litter;  
9 and causing or allowing the open dumping of any waste in a manner which results in construction or  
10 demolition debris. He said that Mr. Block just told us that he has a few loose boards out there, it's just  
11 minor violations, the EPA just always picks on him. He said that the IEPA report notes no signs of  
12 improvement north and east of the barn, with around 120 cubic yards of concrete that have been at the site  
13 since August 11, 2015. He said that as he noted a minute ago, Ms. Burgstrom said that the piles are  
14 expanding. He said that it just keeps getting bigger, so just a moment ago, Mr. Block was not forthcoming  
15 with the Board about how the EPA really views this. He says this is astonishing to him because all he has  
16 been reading is in the case packets; he didn't discover it through great detective work. He said that now,  
17 the campus bar Kam's is out at the site after being demolished in December 2019, and EPA notes that the  
18 debris of the demolished Kam's is now at the site. He said that the Blocks have not been able to keep up  
19 with the materials they have brought to the site since 2015, and now they have brought Kam's. He said  
20 that as Ms. Burgstrom noted, the footprint of the site just keeps growing. He said don't let it be that any  
21 building torn down within several counties can just be hauled to the Block property, and then someday  
22 you folks are going to have to deal with it. He said that the EPA noted that there is now painted concrete  
23 and bricks, and that any painted concrete or brick should be tested to confirm that the paint does not exceed  
24 groundwater quality standards for arsenic, lead, and mercury before recycling the material. He said don't  
25 make the Jacobson's live with this for another year or two while we keep sorting this out. He said that he  
26 raised groundwater concerns before we ever had this EPA report; please read this as a possible  
27 environmental hazard in Champaign County, not a business that just needs to get the property permitting  
28 before it continues doing what it is already doing. He said the Jacobson's have to live there; none of the  
29 rest of us in this Zoom meeting have to live there with everything the Blocks decide to do. He said the  
30 Blocks haven't chosen to live there, they didn't build a house on the site, they haven't decided to try to do  
31 this project at their house. He said they want the Jacobson's and Bob Lewis to deal with it, and they can  
32 go home every night and on their weekends they don't have to hear loud trucks.

33  
34 Mr. Bequette said that he has represented municipalities, and he represents Tuscola, Arcola, and Sullivan  
35 right now. He said in the end, governments end up cleaning up and paying for environmental hazards,  
36 because private citizens cannot afford to do it. He said that corporations just die and walk away. He said  
37 that the Blocks have not made any sort of decommissioning plan, there's no funded place to clean up this  
38 site if operations ever cease. He said that if the Block LLC decides to go away, you folks are going to  
39 have a site in Champaign County that heaven knows how long you're going to have to spend cleaning up.  
40 He said that with all respect to the Board, which he thinks is incredibly important, he thinks that the  
41 Champaign County Board might be kind of alarmed to discover that tonight, this Board could bless the  
42 next environmental cleanup site for Champaign County. He asked that the Board not give them any more  
43 time, to please shut it down; that's what he thinks they should do tonight. He said at a minimum, he just  
44 can't understand why the Board would consider this, at all, while there are pending EPA violations that  
45 have been going on since 2016. He said that at a minimum, Mr. Block should be told to stop work, clean  
46 up the site, and show us the EPA is truly satisfied, and only then are we even going to consider a permit  
47 for this. He said that he will warn you, if you consider it later, he will show up again, because he doesn't  
48 think this is the place for the project. He said this is an agricultural place in Champaign County; it is not

1 an industrial district and it is certainly not a dump. He said that your decision tonight should be easy; it  
2 should simply say that Champaign County is not going to grant a Special Use Permit to a property with  
3 pending EPA violations. He thanked the Board for their time.

4  
5 Mr. Elwell asked if anyone else would like to testify in this case. Seeing no one, he asked how the Board  
6 would like to proceed.

7  
8 Mr. Elwell said that for him personally, there were a lot of “I don’t knows” given in testimony today, such  
9 as how much material goes in and out, and this is quite alarming to him. He said there has to be a lot more  
10 evidence in front of him before he can consider a vote for this case.

11  
12 **Mr. Wood made a motion to go to the Final Determination.**

13  
14 Mr. Brody Block asked to speak briefly, and stated that over the last week they have moved six hundred  
15 tons out, based on the number of trucks he has loaded.

16  
17 Mr. Hall stated that they would have to move to the Findings of Fact before they can move to the Final  
18 Determination, because the determination has to be supported by the findings.

19  
20 Mr. Elwell asked Mr. Wood if he would like to revise his motion.

21  
22 **Mr. Wood revised his motion to go to the Findings of Fact.**

23  
24 Ms. Lee stated that in a previous case for a contractor’s facility near I-57, one of the comments that Mr.  
25 Hall made was that they were not performing services there; they were just using the property as storage,  
26 and doing their services elsewhere. She said that this is not the situation we are in now, so she has difficulty  
27 seeing this as a contractor’s facility, it seems to her to be more industrial than anything else.

28  
29 **Mr. Anderson seconded Mr. Wood’s motion to move to the Findings of Fact.**

30  
31 Mr. Elwell requested a roll call vote.

32  
33 The vote was called as follows:

34	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – absent</b>
35	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - yes</b>

36  
37 **The motion carried.**

38  
39 **FINDINGS OF FACT FOR CASE 967-S-19:**

40  
41 From the documents of record and the testimony and exhibits received at the public hearing for zoning  
42 case 967-S-19 held on February 27, 2020 and August 27, 2020, the Zoning Board of Appeals of  
43 Champaign County finds that:

- 44
- 45 **1. The requested Special Use Permit IS NOT necessary for the public convenience at this**
- 46 **location.**
- 47

48 Mr. Wood stated that the requested Special Use Permit IS NOT necessary for the public convenience at

1 this location because: the petitioners are only established to deal with their particular jobs that they are  
2 doing individually, and it is not available to the public to dump materials there.

3  
4 Mr. Elwell added that due to zoning, it is not open to the public.

5  
6 **2. The requested Special Use Permit is so designed, located, and proposed to be operated so  
7 that it WILL be injurious to the district in which it shall be located or otherwise detrimental  
8 to the public health, safety, and welfare because:**

9 **a. The street has ADEQUATE traffic capacity and the entrance location has  
10 ADEQUATE visibility.**

11  
12 Mr. Wood said that traffic capacity and visibility would be adequate. Mr. Anderson stated that there are  
13 no obstructions. Mr. Elwell added that the facility has been in operation for over five years and we have  
14 heard no reports of semi drivers having difficulty or accidents.

15  
16 **b. Emergency services availability is ADEQUATE.**

17  
18 Mr. Wood stated that emergency services availability is ADEQUATE, because it is within 2.5 miles of  
19 Broadlands and any emergency services there. Ms. Lee said that the Township Road Commissioner  
20 comments that there would be an increased need for road maintenance, but he had no other concerns about  
21 the facility.

22  
23 **c. The Special Use WILL NOT be compatible with adjacent uses.**

24  
25 Ms. Lee stated that it WILL NOT be compatible because it does not meet the LaSalle criteria regarding  
26 noise, dust, and it is her opinion that this is an industrial use, not an agricultural use or related to an  
27 agricultural use.

28  
29 Mr. Hall stated that normally we consider the LaSalle criteria when we are rezoning property; the  
30 ordinance doesn't require us to consider the LaSalle case for a Special Use Permit. He said he believes  
31 that a lot of the underlying considerations in the LaSalle criteria are probably relevant with a special use,  
32 but he is uncomfortable with just referring to the LaSalle criteria. He said he thinks the issues of noise and  
33 dust are very sound issues of incompatibility, as is the appraisal for the Jacobson's property documenting  
34 a decline in value, the non-compliance with EPA regulations, and the fact that a lot of the self-enforcement  
35 and record keeping relies on the good actions of the owner, and the owner has admitted he doesn't keep  
36 records.

37  
38 Mr. Anderson asked what are the adjacent uses that we have in mind – is it agriculture.

39  
40 Mr. Elwell responded yes, to his knowledge.

41  
42 Mr. Hall stated that he thinks that more importantly, adjacent uses are residential. He said that  
43 incompatibility with agriculture is probably not as serious as incompatibility with a residential use causing  
44 a loss of value in residential use. He said we have no evidence to suggest that this has caused any loss in  
45 agricultural value, although Mr. Lewis was sort of hinting at that in his comments. He said that as far as  
46 if it an agricultural use or related to an agricultural use, it doesn't have to be; that's not a requirement.

47  
48 Mr. Hall said that you might get more comment tonight about the findings, because any time we see

1 negative findings, you will not be able to approve the Special Use Permit. He said we want to make sure  
2 we have findings that are as sound as possible, and if it goes to court, it would stand up to a court review.  
3

4 **d. Surface and subsurface drainage will be INADEQUATE.**  
5

6 Mr. Anderson asked how we were supposed to answer that when we don't see the plan.  
7

8 Mr. Elwell stated that may be one reason that answering "inadequate" would be appropriate.  
9

10 Mr. Wood agreed, and stated that surface and subsurface drainage will be INADEQUATE because there  
11 is no plan for managing storm water and subsurface drainage relative to the residence next to it.  
12

13 Ms. Burgstrom stated that however, you do have special conditions that would require a Storm Water  
14 Drainage Plan and Notice of Intent with IEPA. She said this would be adequate should the petitioners  
15 follow through as the condition states.  
16

17 Mr. Elwell stated that he thinks if this is ever revisited, and a drainage plan is produced as evidence, he  
18 thinks that would carry a lot of weight. He said that as of right now, he cannot say with any degree of  
19 certainty that surface and subsurface drainage is adequate.  
20

21 Mr. Anderson agreed, and stated it should be INADEQUATE.  
22

23 **e. Public safety will be ADEQUATE.**  
24

25 Mr. Elwell stated that he typically thinks of first responders when discussing public safety, but wanted to  
26 know if things like inhaling contaminants could also be considered in this category.  
27

28 Mr. Hall stated that these categories are just what the Board customarily reviews, and public safety  
29 customarily includes the things you described first. He said that we always include this additional  
30 statement that the Board may include additional justification if desired. He said if you want to either  
31 modify public safety here to include the concerns about dust and water impacts, that is your prerogative.  
32 He suggested that they make it as clear as they can, so that if your public safety concern is about dust,  
33 then it needs to be that clear.  
34

35 Mr. Elwell asked the thoughts of the Board.  
36

37 Mr. Wood said that similar to what Ms. Burgstrom was mentioning about the storm water drainage system,  
38 dust can also be managed. He said that he believes you have conditions out there to manage that; he does  
39 not think it is as serious as the issue with the storm water being managed. He said that in this particular  
40 case, he would therefore say it is probably ADEQUATE.  
41

42 Mr. Elwell concurred.  
43

44 **f. The provisions for parking will be ADEQUATE.**  
45

46 Mr. Wood stated that the provisions for parking will be ADEQUATE given the special conditions that are  
47 required.  
48

1           **g.       The property IS NOT WELL SUITED OVERALL for the proposed improvements.**

2  
3 Mr. Anderson stated that we have evidence that it is not because of piles of material interfering with the  
4 area.

5  
6 Mr. Wood stated that the property IS NOT WELL SUITED OVERALL for the proposed improvements  
7 because: of the proximity to residential property.

8  
9 Ms. Burgstrom asked if there were any other comments applicable based on the definition of WELL  
10 SUITED OVERALL, which has several different topics. She referred to the definition on the screen.

11  
12 Mr. Wood said that it is specific under part A of the definition that it should have no negative effects to  
13 the neighbors or the general public.

14  
15           **h.       Existing public services ARE available to support the proposed SPECIAL USE**  
16 **without undue public expense.**

17  
18 Mr. Wood stated that existing public services ARE available to support the proposed SPECIAL USE  
19 without undue public expense.

20  
21           **i.       Existing public infrastructure together with the proposed development IS NOT**  
22 **adequate to support the proposed development effectively and safely without undue**  
23 **public expense.**

24  
25 Mr. Elwell said that the only comment that relates to undue public expense is Ms. Lee's comments  
26 regarding what the Township Road Commissioner said regarding increased maintenance needs.

27  
28 Mr. Wood stated that existing public infrastructure together with the proposed development IS NOT  
29 adequate to support the proposed development effectively and safely without undue public expense  
30 because: there will be increased wear and tear to the roads due to the heavy trucks.

31  
32 Mr. Anderson agreed that eventually there will be some cost to fix the road there, even if is for a very  
33 short distance.

34  
35 Mr. Wood stated that the requested Special Use Permit is therefore so designed, located, and proposed to  
36 be operated so that it WILL be injurious to the district in which it shall be located or otherwise detrimental  
37 to the public health, safety, and welfare.

38  
39           **3a.       The requested Special Use Permit DOES NOT conform to the applicable regulations and**  
40 **standards of the DISTRICT in which it is located.**

41  
42 Mr. Wood stated that it does if the special conditions are followed.

43  
44 Mr. Anderson agreed.

45  
46 Mr. Elwell asked Mr. Hall about the special conditions.

47  
48 Mr. Hall said that so far, the Board had not voted to deny or include the special conditions as shown in

1 the packet. His understanding was that they should go ahead and include the conditions, because we have  
 2 talked about them tonight. He said he got the impression that the Board was leaning toward a certain  
 3 determination, even with the special conditions, but there is that gray area. He said the Board did not work  
 4 through them like they normally would, but they have been proposed.

5  
 6 Ms. Burgstrom asked if the Board couldn't still work through them as part of the Finding of Fact because  
 7 the Finding of Fact has not been adopted along with the Summary of Evidence.

8  
 9 Mr. Hall replied yes, you could work through the conditions.

10  
 11 Mr. Elwell stated that he thinks that at this point they should. He asked how the Board felt.

12  
 13 Mr. Hall stated that he believes Mr. Elwell could just ask for a motion regarding the special conditions,  
 14 and just vote on them all at once, if you think that is appropriate for this instance.

15  
 16 Mr. Elwell asked if there was a motion to accept the special conditions, and no one offered.

17  
 18 Ms. Lee asked what if the Board doesn't think that the special conditions are really adequate to take care  
 19 of the situation.

20  
 21 Mr. Hall said that you could just make a motion not to accept the special conditions, and make it clear that  
 22 all of these findings do not include special conditions.

23  
 24 Mr. Elwell asked if we needed a motion to deny the special conditions, in reference to Ms. Lee's comment.

25  
 26 Mr. Hall said that the Board could vote on that.

27  
 28 Mr. Elwell asked Ms. Lee if she wanted to propose a motion to deny the proposed special conditions.

29  
 30 Ms. Lee said she did not know which is the best way to proceed.

31  
 32 Ms. Burgstrom asked if it had to be black and white, or can it be a motion saying that the special conditions  
 33 are insufficient.

34  
 35 Mr. Hall stated that he would prefer the motion to say if there are special conditions or there are no special  
 36 conditions.

37  
 38 **Mr. Wood moved, seconded by Mr. Roberts, to NOT to adopt the special conditions as proposed.**

39  
 40 Mr. Elwell requested a roll call vote.

41  
 42 The vote was called as follows:

43                   **Anderson – yes**                   **Elwell - yes**                   **Randol – absent**  
 44                   **Roberts – yes**                   **Wood - yes**                   **Lee – yes**

45  
 46 **The motion carried.**

47  
 48 Ms. Burgstrom stated that under finding #2.f., the Board did give a reasoning that said the provisions for

1 parking would be adequate due to the special conditions. She said that now that you don't have special  
2 conditions, how do you want to handle that finding. She reminded the Board that the Zoning Ordinance  
3 requires paved portions for accessibility and parking in general. She said with no special condition to  
4 change that, you don't have adequate parking.

5  
6 Mr. Wood said it would thus be changed to inadequate.

7  
8 Ms. Burgstrom said it is what she feels the facts show. She said it would be ideal if the Board could add a  
9 reason that would be so.

10  
11 Mr. Elwell said that he does not have Ordinance in front of him, but he thinks what it says about parking  
12 for industrial uses would be important to add here.

13  
14 Ms. Burgstrom said that we have the requirement for loading berths that is not being dealt with through  
15 special conditions, per Section 7.4.1 D.2.

16  
17 Mr. Elwell stated that Finding 2.f should be revised to say that the provisions for parking will be  
18 INADEQUATE because for an industrial use, all parking and loading berths must be paved.

19  
20 **3b. The requested Special Use Permit DOES NOT preserve the essential character of the**  
21 **DISTRICT in which it is located because:**

22 **a. The Special Use will be designed to NOT CONFORM to all relevant County**  
23 **ordinances and codes.**

24  
25 Mr. Wood stated that the Special Use will be designed to NOT CONFORM to all relevant County  
26 ordinances and codes.

27  
28 Mr. Hall pointed out that in finding 3a., the Board had just stated that the Special Use will be designed to  
29 CONFORM.

30  
31 Ms. Burgstrom added that this was before the special conditions were removed.

32  
33 Mr. Elwell stated that the Board would go back to finding 3a.

34  
35 **3a. The requested Special Use Permit DOES NOT conform to the applicable regulations and**  
36 **standards of the DISTRICT in which it is located.**

37  
38 Ms. Lee stated that the requested Special Use Permit DOES NOT conform to the applicable regulations  
39 and standards of the DISTRICT in which it is located.

40  
41 Mr. Elwell stated that the Board would now return to finding 3b.b.

42  
43 **b. The Special Use WILL NOT be compatible with adjacent uses.**

44  
45 Ms. Lee stated that the Special Use WILL NOT be compatible with adjacent uses.

46  
47 **c. Public safety will be INADEQUATE.**

48

1 Mr. Wood stated that public safety will be INADEQUATE.

2  
3 Mr. Hall pointed out that in finding 2e., the Board had just stated that it would be adequate.

4  
5 Ms. Lee stated that she would make 2e. inadequate because of the water issue mentioned in the EPA site  
6 visit report, saying that some materials on site could contaminate the water.

7  
8 Mr. Wood added that it was possible contamination from painted bricks and concrete.

9  
10 Ms. Burgstrom stated that the Board has now said INADEQUATE for item 2e.

11  
12 Mr. Wood stated that the requested Special Use Permit therefore DOES NOT preserve the essential  
13 character of the DISTRICT in which it is located.

14  
15 **4. The requested Special Use Permit IS NOT in harmony with the general purpose and intent**  
16 **of the Ordinance because:**

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

18  
19 **b. The requested Special Use Permit IS NOT necessary for the public convenience at**  
20 **this location.**

21  
22 Mr. Wood stated that the requested Special Use Permit IS NOT necessary for the public convenience at  
23 this location.

24  
25 **c. The requested Special Use Permit is so designed, located, and proposed to be operated**  
26 **so that it WILL be injurious to the district in which it shall be located or otherwise**  
27 **detrimental to the public health, safety, and welfare.**

28  
29 Mr. Wood stated that the requested Special Use Permit is so designed, located, and proposed to be operated  
30 so that it WILL be injurious to the district in which it shall be located or otherwise detrimental to the  
31 public health, safety, and welfare.

32  
33 **d. The requested Special Use Permit DOES NOT preserve the essential character of the**  
34 **DISTRICT in which it is located.**

35  
36 Mr. Wood stated that the requested Special Use Permit DOES NOT preserve the essential character of the  
37 DISTRICT in which it is located.

38  
39 Mr. Wood stated therefore, the requested Special Use Permit IS NOT in harmony with the general purpose  
40 and intent of the Ordinance.

41  
42 **5. The requested Special Use IS NOT an existing nonconforming use.**

43  
44 Mr. Elwell asked if there was a motion to adopt the Summary of Evidence, Documents of Record, and  
45 Finding of Fact.

46  
47 Ms. Burgstrom added that there are new Documents of Record: Supplemental Memos #3 and #4, and Bob  
48 Lewis's submittals.

1 **Ms. Lee made a motion, seconded by Mr. Wood, to adopt the Summary of Evidence, Documents of**  
 2 **Record as amended, and Findings of Fact.**

3  
 4 Mr. Elwell requested a roll call vote.

5  
 6 The vote was called as follows:

7	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – absent</b>
8	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee – yes</b>

9

10 **The motion carried.**

11

12 Mr. Elwell asked how the Board would like to proceed.

13

14 **Mr. Wood made a motion, seconded by Ms. Lee, to move to the Final Determination.**

15

16 Mr. Elwell requested a roll call vote.

17

18 The vote was called as follows:

19	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – absent</b>
20	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee – yes</b>

21

22 **The motion carried.**

23

24 Mr. Elwell explained to the petitioners that with one Board member absent, they can proceed to the Final  
 25 Determination or they can continue the case to another date in the hope of having a full Board to vote. He  
 26 said that four affirmative votes are necessary for a determination, and approval requires all Findings of  
 27 Fact to be affirmative.

28

29 Mr. Bruce Block said to go to a later date. He then asked how many Board members are present tonight.

30

31 Mr. Elwell said there are 5 present. He said that the Findings will not change by waiting until a later date.

32

33 Mr. Bequette stated that he believes there has been a vote to go to Final Determination. He said he would  
 34 guess that if people voted no on that, then that would mean that maybe it would be done on another night,  
 35 but if they voted yes, then he would guess that they would do the Final Determination tonight.

36

37 Mr. Bruce Block stated that he guesses it is not really his call.

38

39 Mr. Hall stated that it is Mr. Block's call; in the cases where there is a missing Board member, the Board  
 40 customarily asks the petitioner if they would like to wait and get a decision at a later meeting. He said  
 41 that we do not want to treat Mr. Block differently than we treat other petitioners. He said however, the  
 42 reality is that there is only one Board member missing, and he thinks it is pretty clear how the Board  
 43 members have all been supportive of these negative findings, and he would not expect that to change if it  
 44 is continued. He said if Mr. Block wants to continue to a later date when we have a full Board, we can do  
 45 that.

46

47 Mr. Bruce Block said that they have waited several months already, so they might as well wait until they  
 48 have a full Board. He said he doubts if it will change it any.

1 Mr. Hall said that he can guarantee it is not going to change anything, and in fact, the one problem with  
2 this approach is that he can guarantee to Mr. Block that whenever this is continued to, the Board member  
3 who isn't here tonight will say that they weren't at tonight's meeting, did not hear all that testimony, and  
4 they probably will recuse themselves.

5  
6 Mr. Bruce Block said I see.

7  
8 Mr. Brody Block stated that they will do it at a later date.

9  
10 Mr. Bruce Block asked Mr. Brody Block what good would that accomplish.

11  
12 Mr. Brody Block responded everything that it needs to.

13  
14 Mr. Bruce Block said that he doesn't think it will change anything, and they would do just as well to have  
15 them decide tonight.

16  
17 Mr. Brody Block said that he thinks the Board gave the Blocks all these proposals, and they just threw  
18 them all out the door.

19  
20 Mr. Bruce Block said that he guessed they had not voted on them yet. He said that he didn't know how  
21 they came up with those, and asked Mr. Hall if a committee had put them together.

22  
23 Ms. Burgstrom asked if he was referring to the special conditions.

24  
25 Mr. Bruce Block responded yes.

26  
27 Mr. Hall stated that the conditions were put together by staff, and that staff does not talk to the Board  
28 outside of the public hearing.

29  
30 Ms. Burgstrom said that these are conditions that we have seen in many other cases prior to this case, so  
31 it is not something done for just this case in particular. She said that if the Blocks proceed with having  
32 the Board make a determination tonight, they can come back and re-apply for a Special Use Permit under  
33 different conditions that they think might be more successful with this Board at a later date. She said that  
34 would be a new process, not something that just continues on from the current case.

35  
36 Mr. Bruce Block asked the Board to proceed with the vote tonight.

37  
38 **Final Determination for Case 967-S-19**

39  
40 **Mr. Wood moved, seconded by Mr. Anderson, that the Champaign County Zoning Board of**  
41 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**  
42 **the requirements of Section 9.1.11B. for approval HAVE NOT been met, and pursuant to the**  
43 **authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

44  
45 **The Special Use requested in Case 967-S-19 is hereby DENIED to the applicants, Bruce and**  
46 **Brody Block, d.b.a., Block Field Tiling, LLC, to authorize the following:**

47  
48 **Authorize a Contractor's Facility with Outdoor Storage and Outdoor Operations as a**

1           **Special Use in the AG-1 Agriculture Zoning District.**

2  
3 Mr. Elwell requested a roll call vote.

4  
5 The vote was called as follows:

6           **Anderson – yes**

**Elwell - yes**

**Randol – absent**

7           **Roberts – yes**

**Wood - yes**

**Lee – yes**

8  
9 **The motion carried.**

10  
11 Mr. Elwell asked if Mr. Hall could get in touch with Mr. Block if there is anything going forward.

12  
13 Mr. Hall said yes.

14  
15 Mr. Elwell told Mr. Block that his case 967-S-19 was denied.

16  
17 Mr. Bruce Block said yes, he heard that.

18  
19 Ms. Burgstrom told Mr. Block that staff would be in touch, and that we appreciated their time and patience  
20 tonight.

21  
22 **6. New Public Hearings - None**

23  
24 **7. Staff Report - None**

25  
26 **8. Other Business**

27       **A. Review of Docket**

28  
29 Mr. Hall asked the Board if there were any absences, and there were none.

30  
31       **B. Discussion: Importance of preparing written minutes for ZBA meetings**

32  
33 Mr. Hall stated that as the Board knows, Connie Berry retired, and she was our minutes preparer. He said  
34 that he is inclined to say that we need to go ahead and prepare the minutes from this hearing. He said that  
35 going forward, he wants Board members to consider whether minutes need to be prepared for all hearings,  
36 or if it is sufficient just to retain a recording of the hearing. He said that finding an employee to do minutes  
37 has always proven to be a challenge. He said that Connie was very good at it, Lori is excellent, but Lori  
38 is busy doing other things; we are not going to ask her to prepare minutes. He said the planners will prepare  
39 the minutes from this hearing, but going forward, it would be his recommendation that we don't normally  
40 prepare minutes unless it is for cases that are continued from meeting to meeting, to help retain the content  
41 from one meeting to the next. He wonders if we are at a point where we don't need to do that for all  
42 hearings. He said he does not want a decision tonight; we will probably have this on the agenda for the  
43 next few meetings so you can discuss it, and maybe we can get a formal determination. He said that going  
44 forward, for cases that are determined in one meeting, he does not plan to prepare minutes unless it seems  
45 to be absolutely necessary.

46  
47 Mr. Anderson asked Mr. Hall if the minutes are used in ways that the Board does not know.

48

1 Mr. Hall replied that they used to be used as a record of the determination, but we found that the courts  
 2 really did not like that, which is why we do these detailed findings. He said that once you do the detailed  
 3 findings, like you do in most cases, that’s the end of it; you don’t need to go back to the minutes to review  
 4 something. He said for a case like we had tonight, having the minutes to review from previous meetings,  
 5 as far as he is concerned, are critical to know what was said and to follow up on various aspects of the  
 6 testimony. He said that for this case, or any case that would go to court, minutes would be helpful. He  
 7 said that minutes are not required by law as long as we have the recordings, and we keep the recordings  
 8 for five years.

9  
 10 Mr. Wood asked if staff would be able to pull those recordings out when they need to; as long as they are  
 11 available he is fine with that.

12  
 13 Mr. Hall responded yes.

14  
 15 Mr. Wood asked if they would be available for people to just click on them and listen to them online.

16  
 17 Ms. Burgstrom replied, yes they are available online, subject to the County’s discretion of how long they  
 18 choose to keep things online.

19  
 20 Ms. Lee asked what about the issue of the Freedom of Information Act – will that be a detriment to not  
 21 being typed up.

22  
 23 Mr. Hall replied no.

24  
 25 Mr. Elwell said that if someone needed them typed up, they could always go back to the recordings and  
 26 have them in text form at some point, correct.

27  
 28 Ms. Burgstrom replied yes, if there was an accessibility concern, staff would type those; it would just take  
 29 some time.

30  
 31 Mr. Woods said that technology could probably transcribe them anyway.

32  
 33 Mr. Hall said that one thing about their minutes is that they are not verbatim, because we want them to be  
 34 understandable, and he does not know of any software that makes modifications.

35  
 36 **9. Audience participation with respect to matters other than cases pending before the Board**

37  
 38 None

39  
 40 **10. Adjournment**

41  
 42 Mr. Elwell entertained a motion to adjourn the meeting.

43  
 44 **Mr. Wood moved, seconded by Mr. Roberts, to adjourn the meeting.**

45  
 46 The vote was called as follows:

47	<b>Anderson – yes</b>	<b>Elwell - no</b>	<b>Randol – absent</b>
48	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee – yes</b>

1 The meeting adjourned at 9:35 p.m.

2

3

4 Respectfully submitted

5

6

7

8

9 Secretary of Zoning Board of Appeals

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48