

AS APPROVED MAY 14, 2009

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2
3 **MINUTES OF REGULAR MEETING**

5 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

6 1776 E. Washington Street

7 Urbana, IL 61801

8
9 **DATE:** April 16, 2009

PLACE: Lyle Shields Meeting Room
1776 East Washington Street

10
11 **TIME:** 7:00 p.m.

Urbana, IL 61802

13 **MEMBERS PRESENT:** Doug Bluhm, Catherine Capel, Roger Miller, Eric Thorsland, Paul Palmgren

14
15 **MEMBERS ABSENT :** Thomas Courson, Melvin Schroeder

16
17 **STAFF PRESENT :** John Hall, Leroy Holliday, J.R. Knight

18
19 **OTHERS PRESENT :** Albert Knox, Barbara Knox, Ben McCall, Birgit McCall, Philip Hult, Lenny
20 Grussing

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22
23 **1. Call to Order**

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25 The meeting was called to order at 7:04 p.m.

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

28
29 The roll was called and a quorum declared present.

30
31 **3. Correspondence**

32
33 None

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35 **4. Approval of Minutes (Closed Session: November 22, 2005)**

36
37 **Mr. Thorsland moved, seconded by Mr. Miller to approve the November 22, 2005, Closed Session**
38 **Minutes and that those minutes shall remain closed. The motion carried by voice vote.**

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40 Mr. Bluhm requested a motion to rearrange the agenda and hear Case 634-AT-08, Part A, Zoning
41 Administrator prior to Case 632-AM-08, Mike Trautman.

42
43 **Ms. Capel moved, seconded by Mr. Miller to rearrange the agenda and hear Case 634-AT-08, Part A,**
44 **Zoning Administrator prior to Case 632-AM-08, Mike Trautman. The motion carried by voice vote.**

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47 **5. Continued Public Hearing**

48

1 **Case 632-AM-08** Petitioner: **Mike Trautman Request: Amend the Zoning Map to allow for the**
2 **development of one single family residential lot in the AG-1, Agriculture Zoning District by adding**
3 **the Rural Residential Overlay (RRO) Zoning District. Location: A 1.66 acre tract that is in the East**
4 **Half of the Southwest Quarter of the Southwest Quarter of Section 35 of Newcomb Township and**
5 **commonly known as the land east of Trautman’s Section 35 Subdivision approximately at 420 CR**
6 **2425N.**

7
8 Mr. Hall stated that neither the Petitioner nor his representative is present at tonight’s meeting. He said that
9 staff has not heard anything from the petitioner but staff did contact the Illinois Department of Natural
10 Resources – Office of Water Resources, the state agency that enforces the state dam safety regulations. He
11 said that the IDNR-Office of Water Resources requested that staff send out notices to the four landowners to
12 contact their office and staff prepared and mailed those letters.

13
14 Mr. Knight stated that the IDNR-Office of Water Resources spoke to Mr. Ploeger and they indicated that
15 they were preparing a letter to be sent to Mr. Trautman which detailed what information was needed.

16
17 Mr. Hall stated that at the last hearing Phil Hult raised some questions as to if the proposed lot met the
18 minimum requirement of 30,000 square feet above the water line and staff confirmed that the lot does meet
19 the minimum requirement. He said that at a staff level he still has concerns about the remainder of the street
20 frontage of the property and the dam. He said that if the Board approves the lot as requested it would leave
21 nothing done about the remainder of the dam. He said that a dam has to be cared for and there has to be
22 someone who has a clear description of how they are suppose to take care of the dam and presumably that
23 will be part of the resolution of the dam safety requirements by the state. He said that since there is no one
24 present tonight to represent the petitioner the Board could dismiss this case at tonight’s public hearing
25 although he would recommend that the Board continue this case. He noted that there is a maximum
26 continuance date of 100 days. He said that staff may find out that the Petitioner has decided to withdraw the
27 case but no communication has been received recently about this case.

28
29 Mr. Bluhm asked the Board if there were any questions for Mr. Hall.

30
31 Mr. Palmgren asked Mr. Hall if the case was dismissed would the Petitioner have to re-file with an another
32 fee.

33
34 Mr. Hall stated yes.

35
36 Mr. Bluhm stated that if this case is continued the Board will continue it to the maximum amount of time
37 available which is July 16, 2009.

38
39 Mr. Hall stated that he is at a loss as to why no one is present at tonight’s meeting therefore he is guessing
40 that there was some sort of miscommunication.

41
42 **Mr. Thorsland moved, seconded by Mr. Capel to continue Case 632-AM-08, Mike Trautman to the**
43 **July 16, 2009, public hearing. The motion carried by voice vote.**

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Case 634-AT-08: Petitioner: Zoning Administrator Request: Amend the Champaign County Zoning Ordinance as follows: Part B: Change the requirement for private wind turbines; and Part C: Add a requirement for a CBSUP for subdivisions in a Rural Residential Overlay District.

Mr. Hall stated that he plans to withdraw Part C. because it has been completely overshadowed by Part A and it will be some time before the Board will consider Part C. He said that Part B. is still needed and during the first public hearing, for the entire case, there was testimony received from Eric McKeever, Representative for Arends Bros. which requested a higher height than the 125 foot height that was advertised. Mr. Hall stated that he spoke to another private wind turbine retailer and they indicated that the 125 foot height requirement would be adequate therefore we have the issue of continuing with the legal advertisement that was published or re-advertise allowing a greater height with the Board potentially backing off with something less. He said that even with the ZBA taking action on Part A, staff has been completely occupied with preparing Part A for ELUC and have not done anything else on Part B. He said that he had hoped that Mr. McKeever would be in attendance tonight but he is currently out of town. Mr. Hall informed the Board that they could continue this case and if Mr. McKeever continues to request an increased height requirement then Part B could be re-advertised. He said that some of the same evidence could be reused after the advertisement therefore his recommendation would be to continue Part B. and once Part A. is put to rest at the County Board staff will be able to focus on Part B.

Mr. Bluhm asked the Board if there were any questions for Mr. Hall.

Mr. Thorsland asked Mr. Hall to explain the expected timeframe for re-advertisement of Part B.

Mr. Hall stated that he does not want to work on Part B. until the full County Board is truly finished with Part A. therefore the earliest docket date that Part B. could be heard is May 28th. He said that on the basis of previous testimony we could re-advertise with a higher height and lower it during the hearing if needed.

Mr. Thorsland stated that he believes that Part B. should be continued and re-advertised with an increased height.

Mr. Hall requested a height recommendation from the Board.

Mr. Bluhm asked Mr. Hall if Arends Bros. recommended a height.

Mr. Hall stated that it was a continuously changing height.

Mr. Miller asked Mr. Hall to indicate at what height Part A comes into consideration.

Mr. Hall stated 200 feet and above.

Mr. Miller stated that perhaps a recommendation could be 199 feet.

Mr. Thorsland asked Mr. Palmgren if 200 foot is the beginning of the F.A.A. requirement.

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Mr. Palmgren stated that it depends on where the turbine is located.

Mr. Hall stated that he was being optimistic about Part A. because it will not be completed by the County Board until May 21st He said that it is clear that staff will be busy with Part A. until it is completed therefore his recommendation for a continuance date for Part B. would be June 11th.

Mr. Bluhm called Mr. Ben McCall to testify.

Mr. Ben McCall, who resides at 1085 CR 2200N, Champaign stated that he has two concerns regarding Part B. which are the setbacks and the limitation of only allowing one private wind turbine per parcel. He said that he understands the intent of the setback requirement but he wondered if there was a way to craft the language such that if an adjacent landowner agrees to have a private wind turbine closer to their property line that they could sign a waiver. He said that if there is a 2,000 square foot house in the middle of your property and you want to put a tower 1.1 times away (137.5 feet for a 125 foot tower) from the home and another 137.5 to the property line that is a total of 300 feet from the center of the property which would make it physically impossible to site a windmill on any property which is less than 10 acres. He said that in his particular case he resides on a five acre parcel in rural Hensley township which is completely surrounded by farmland and he is pretty sure that the corn and beans would not mind the placement of a private wind tower near his property line. He said that he is fairly confident that his neighbor would agree to such placement therefore he would request that a private waiver be allowed for the adjacent property owner to reduce the required setback.

Mr. McCall stated that the requirement of allowing only one private wind tower per parcel appears too restrictive because the larger the wind turbine the more expensive it becomes. He said that he has investigated the possibility of locating a wind turbine on his property and was hoping to go with two smaller wind turbines rather than just one large turbine because he could save a lot of money in doing such. He said that he understands the intent of the *Ordinance* but he wonders if the allowance of only one private turbine is too restrictive especially in the AG-1 district. He said that he does not know if it is normal to have such a restriction in the agricultural districts because there are properties around him that has more than one grain bin therefore he should be able to have more than one wind turbine.

Mr. Bluhm asked the Board if there were any questions for Mr. McCall and there were none.

Mr. Bluhm stated that wind turbines can interfere with aerial applications for a neighbor's crops. He said that one neighbor may grant a waiver for one turbine but if two or three turbines are desired then he could be interfering with the other neighbor's ability to maintain their crops.

Mr. McCall stated that he understands Mr. Bluhm's point but it would be nice if the option was there if the adjacent property owners did agree to a smaller setback rather than having an absolute setback requirement.

Mr. Hall stated that he will check with the State's Attorney regarding a private waiver. He said that the County does not allow this option in any other context other than with a County Board Special Use Permit for a wind farm which has just been proposed. He said that if this option is allowed then it should be

1 included in the legal advertisement. He asked Mr. McCall if he believes that some property owners may
2 desire to locate three private wind turbines on their property.

3
4 Mr. McCall stated that of the main commercially available wind turbines there is difference between the
5 power rating for smaller and larger models therefore it is big jump going from something that has a 500 watt
6 output to 2 kilowatts. He said that he is not sure how many someone would want to place on their property
7 but it appears that the allowance of only one seems too restrictive. He asked if this restriction would apply
8 to “old school” windmills as well.

9
10 Mr. Thorsland stated that he has considered locating small turbines on his property to power different
11 facilities on his farm and he could picture three small units on his parcel. He said that his property consists
12 of 38 acres but it is an oddly shaped parcel.

13
14 Mr. Bluhm asked the Board if there were any further questions for Mr. McCall and there were none.

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16 Mr. Bluhm asked if staff had any questions for Mr. McCall and there were none.

17
18 Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony for this
19 case and there was no one.

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21 **Mr. Miller moved, seconded by Ms. Capel to close the witness register for Case 634-AT-08, Part B.**
22 **and Part C. The motion carried by voice vote.**

23
24 Mr. Hall suggested that Case 634-AT-08 be continued to the June 11, 2009, public hearing and have this
25 case be the only case for that hearing.

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27 **Mr. Thorsland moved, seconded by Ms. Capel to continue Case 634-AT-08, Part B. to the June 11,**
28 **2009, public hearing with Case 634-AT-08, being the only case on the docket. The motion carried by**
29 **voice vote.**

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31 Ms. Capel asked Mr. Hall if an old-fashioned windmill would also fall under this amendment.

32
33 Mr. Hall stated that currently the whole idea with Part B. is if the windmill is less than 100 feet in height it is
34 by-right therefore a permit needs to be submitted, reviewed and approved. He said that the Board has
35 indicated that they desire to bump the height requirement up therefore if a windmill is under that
36 requirement then it will be allowed by-right.

37
38 Mr. Bluhm requested a motion to rearrange the agenda and hear Case 643-V-08, Albert and Barbara Knox
39 prior to Case 632-AM-08, Mike Trautman.

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41 **Mr. Thorsland moved, seconded by Mr. Miller to hear Case 643-V-08, Albert and Barbara Knox**
42 **prior to Case 632-AM-08, Mike Trautman. The motion carried by voice vote.**

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1 6. New Public Hearings
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3 **Case 643-V-08:** Petitioner: **Albert and Barbara Knox** Request: **Authorize the construction and use of**
4 **an existing, unauthorized carport with a side yard of five feet in lieu of the required side yard of 10**
5 **feet for an accessory building in the AG-1, Agriculture Zoning District.** Location: **Lot 105 in**
6 **Claybaugh Subdivision in Section 10 of Somer Township and commonly known as the house at 2207**
7 **CR 1600E, Urbana.**

8
9 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone
10 the opportunity to cross examine any witness. He said that at the proper time she will ask for a show of
11 hands for those who would like to cross examine and each person will be called upon. He requested that
12 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
13 those who desire to cross examine are not required to sign the witness register but are requested to clearly
14 state their name before asking any questions. He noted that no new testimony is to be given during the cross
15 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt
16 from cross examination.

17
18 Mr. Hall stated that there is no new information regarding this case except for the fact that the carports are
19 not open but actually have walls. He said that when it comes time to review the Finding of Fact we need to
20 remove the items which incorrectly indicate that there are no sidewalls.

21
22 Mr. Thorsland stated that the front page of the Preliminary Memorandum dated April 9, 2009, indicates that
23 the property is located within the one-and-one half mile ETJ of the City of Urbana but Item #3 of the
24 Preliminary Draft of the Finding of Fact indicates that the subject property is not located within the mile and
25 half ETJ of the City of Urbana. He asked Mr. Hall which statement is correct.

26
27 Mr. Hall stated that the subject property is not located within the one-and-one half mile ETJ of the City of
28 Urbana.

29
30 Mr. Palmgren asked if the carports are on a foundation.

31
32 Mr. Miller stated no.

33
34 Mr. Hall stated that the carports are all metal with no concrete floor. He said that the Board should clarify
35 what the carport structure can become in the future.

36
37 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.

38
39 Mr. Bluhm called Mr. Knox to testify.

40
41 Mr. Albert Knox, who resides at 2207 CR 1600E, Urbana stated that he is present to answer any questions
42 that the Board may have regarding his case.

43
44 Mr. Miller asked Mr. Knox if the carports could be re-located to the north to meet the required 10 foot

1 setback.
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3 Mr. Knox stated that he spoke to the contractor who built the carports and he indicated that there would be a
4 \$400 charge per carport to move them and he cannot afford it.
5
6 Mr. Palmgren asked Mr. Knox what his long term plan was for the carports.
7
8 Mr. Knox stated that the only thing that he plans to do is add more rock if it gets wet underneath the
9 carports. He said that he does not anticipate placing any concrete under the carports.
10
11 Mr. Bluhm stated that if the Board approves the request the carports would remain as they appear today.
12
13 Mr. Knox stated yes, other than perhaps some gravel.
14
15 Mr. Hall asked Mr. Knox if the contractor requested the location of his property line or did he just determine
16 that for himself.
17
18 Mr. Knox stated that he spoke to the contractor about permits and the contractor indicated that no permits
19 were needed because he installs them all of the time therefore he took them at their word.
20
21 Mr. Hall asked Mr. Knox if the contractor questioned the location of the property lines.
22
23 Mr. Knox stated that the contractor asked him where he wanted the carports and he told him. He said that at
24 that time he again asked the contractor about any required permits and the contractor stated that he did not
25 need one. He said that they never asked him about the location of his property lines.
26
27 Mr. Bluhm asked the Board if there were any additional questions for Mr. Knox and there were none.
28
29 Mr. Bluhm asked if staff had any additional questions for Mr. Knox and there were none.
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31 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Knox and there was no one.
32
33 Mr. Miller stated that there is a letter in the packet from the adjacent neighbor indicating that they do not
34 oppose the current location of the carport and since the Board would be granting the variance at this time it
35 doesn't matter what any future neighbors think about the location of the carports.
36
37 Mr. Hall stated that Mr. Miller was correct. He said that in the residential districts within the one-and-one
38 half mile jurisdiction of Urbana the side yard for a detached structure would be five feet. He said that the
39 carport is not adjacent to farmland but is adjacent to another residential lot therefore there is no fear about
40 interference with farming and in the residential district a five foot side yard setback is what would be
41 required for an accessory structure. He noted that this information should be included in the Summary of
42 Evidence and Finding of Fact.
43
44 Mr. Miller asked if the Claybaugh Subdivision would be approved under today's standards.

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2 Mr. Hall stated that the unique thing about this subdivision is that Mr. Claybaugh owned two adjacent
3 parcels therefore under the current *Ordinance* and based on the size of those parcels Mr. Claybaugh could
4 do three new parcels from the existing tracts. He said that the subdivision was a County subdivision that
5 was created by-right and could happen again under today's standards.
6
7 Mr. Bluhm called Barbara Knox to testify.
8
9 Ms. Knox declined to speak.
10
11 Mr. Bluhm asked the audience if anyone else desired to sign the witness register and present testimony
12 regarding this case.
13
14 Mr. Lenny Grussing, who resides at 2205 CR 1600E, Urbana stated that he is the adjacent neighbor that
15 submitted the letter indicating approval of the location of the carport. He said that the carport is located five
16 feet from the property line and it is far enough away from his home that it does not bother him.
17
18 Mr. Bluhm asked the Board if there were any questions for Mr. Grussing and there were none.
19
20 Mr. Bluhm asked if staff had any questions for Mr. Grussing and there were none.
21
22 Mr. Bluhm closed the witness register for Case 643-V-08.
23
24 Mr. Miller asked Mr. Hall if within a few years the property changes hands and the new owner desires to
25 erect a permanent garage on the property, in the same location, would the ten foot side yard setback be
26 required for the structure or would the five foot setback be sufficient.
27
28 Mr. Hall stated that any new structure would require a permit but the Board needs to be specific in the
29 Finding of Fact if the five foot setback is reasonable for any permanent structure with this footprint. He said
30 that the Board could allow this structure to be replaced with a traditional type garage, provided that it is the
31 same footprint and the same site plan or the Board could take the approach that the variance will be granted
32 provided that the structure is made no more permanent than it is today. He said that any new structure would
33 require a permit but if that structure doesn't increase the area and is the same footprint it could go as just a
34 replacement and be authorized by the variance or the Board could indicate that any reconstruction would not
35 be authorized by the variance.
36
37 Mr. Bluhm stated that he is concerned that perhaps the carports are destroyed and the current or future
38 landowners indicate that they rather than reconstructing the two individual units they desire to construct one
39 large unit to encompass the entire area.
40
41 Mr. Hall stated that such a request would be a problem.
42
43 Mr. Bluhm stated that it would but a five foot variance has already been granted.
44

1 Mr. Hall stated that historically staff takes the view that the variance is specific to the site plan therefore the
2 only way the variance would be honored in the future would be if the new structure was the same exact
3 footprint. He noted that the variance is not a blanket five foot variance but for just that footprint.
4

5 Mr. Miller stated that too often the Board grants a variance for these types of issues and at some point there
6 won't be any need for an *Ordinance*. He said that if the current neighbor is okay with this request and he
7 desires to put a building five feet from the property line then there is only a five foot clearing between the lot
8 lines. He said that he does not want the Board to be too lenient in regards to variances.
9

10 Mr. Bluhm asked what would happen if the new construction was placed on the same footprint but it was
11 two stories.
12

13 Mr. Hall stated that this would allow a 20 foot high accessory building. He said that in the Board's finding
14 they may want to be very specific about the height of the building in this location.
15

16 Mr. Bluhm stated that a special condition could be inserted into the Finding of Fact that no further
17 improvements can be made to make this a more permanent structure. He said that such a special condition
18 would limit the use to what structure is currently there and not allowing it to become more permanent than
19 what it currently is. He said that if the carport blows away and the owner desires to reconstruct the same
20 size structure the special condition would prohibit such construction.
21

22 Mr. Hall stated that he assumes that the Board would not have a problem if Mr. Knox desired to place a door
23 on the structure because it would not make the structure any more permanent.
24

25 Mr. Bluhm asked the Board if they would like Mr. Hall to construct a special condition regarding further
26 improvements.
27

28 Mr. Miller asked Mr. Knox if he purchased the carports from Shaff Implement.
29

30 Mr. Knox stated that the carports were manufactured by American Steel Incorporated but Shaff Implement
31 is their agent.
32

33 Mr. Bluhm requested that Mr. Hall construct a special condition regarding future use of the carport.
34

35 Mr. Bluhm asked if there were any changes or additions to the Summary of Evidence.
36

37 Mr. Hall recommended that Item #7.B. of the Summary of Evidence be deleted and add a new Item #7.C. as
38 follows: The adjacent property to the south is a residential property and so no clearances are required for
39 farm equipment. He said that a new Item #7.D. should be added as follows: the landowner to the south has
40 submitted a statement to the effect that they do not see a need for the petitioner to move the carport.
41

42 Mr. Hall asked the Board if the second sentence in Item #8.B. appears accurate. He said that during his
43 review of the site plan it appears that both carports could have constructed without angling and being so
44 close to the property line but if the Board feels that the sentence is accurate then it should remain as written.

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Mr. Hall requested the Board's permission to address Mr. Knox and the Board agreed.

Mr. Hall asked Mr. Knox if both carports were constructed at the same time.

Mr. Knox stated that the larger carport was installed on the property first. He said that the reason that he angled the carports was because he desired to have a turn-around.

Mr. Hall stated that the last sentence in Item #10.B(2) indicating that the subject structure is a carport that is not enclosed with walls should be deleted.

Mr. Knight stated that the second sentence in Item #10.B(1) also indicates that the subject structure is a carport and is not enclosed with walls therefore it should also be deleted.

Mr. Hall stated that the last sentence in Item #11.B. has a similar statement indicating that the carport has no enclosed walls and should be deleted.

Mr. Bluhm asked if Item #11.B. should include a description of the carport.

Mr. Hall stated that the following text should be added to Item #11.B: The existing carport is a light weight metal frame with metal skin and a gravel floor.

Mr. Bluhm stated that he agreed with Mr. Hall's description of the existing carport. He said that Item #8.B. should include Mr. Knox's testimony regarding the reason why the carport was placed at an angle on the property.

Mr. Hall stated that the following text could be added to Item #8.B: The Petitioner testified at the public hearing on April 16, 2009, that the carports were angled to provide a turn-around area. He said that a new Item #12 should read as follows: The following special condition will ensure that the existing building is not made more permanent or increased in size: The garage shall not be made into a more permanent type of structure other than the current type of metal shell construction with a gravel floor to ensure that the effects of the reduced side yard will not be further pronounced than what currently exists. He said that the way this condition is written if the carport is blown away in wind storm Mr. Knox could replace it with the exact type of structure but a wooden garage in the same location would not be permissible.

Mr. Bluhm asked Mr. Knox if he agreed to the special condition as stated.

Mr. Knox stated yes.

**Mr. Thorsland moved, seconded by Mr. Palmgren to accept the following special condition:
The garage shall not be made into a more permanent type of structure other than
the current type of metal shell construction with a gravel floor to ensure that the effects
of the reduced side yard will not be further pronounced than what currently exists.**

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The motion carried by voice vote.

Mr. Hall stated that the staff photographs should be added to the Documents of Record as Item #3.

Mr. Bluhm requested a motion to adopt the Summary of Evidence, Finding of Fact and Documents of Record as amended.

Ms. Capel moved, seconded by Mr. Palmgren to adopt the Summary of Evidence, Finding of Fact and Documents of Record as amended. The motion carried by voice vote.

Mr. Bluhm requested a motion to close the public hearing for Case 643-V-08.

Mr. Thorsland moved, seconded by Ms. Capel to close the public hearing for Case 643-V-08. The motion carried by voice vote.

Mr. Bluhm informed Mr. Knox that two Board members are absent from tonight’s meeting and he will need four positive votes in his favor for an approval. He asked Mr. Knox if he desired to continue to the Final Determination at tonight’s meeting or request a continuation of his case until there is a full Board present.

Mr. Knox requested that the current Board proceed to the Final Determination.

Mr. Bluhm stated that, in error, he prematurely requested adoption of the Summary of Evidence, Finding of Fact and Documents of Record and to close the public hearing for Case 643-V-08, therefore the Board will move to completion of the Finding of Fact.

Findings of Fact for Case 643-V-08:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 643-V-08 held on April 16, 2009, the Zoning Board of Appeals of Champaign County finds that:

- 1. 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. Thorsland stated that the 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 carport is in line with the southern most located driveway and angled to provide a turn around area. He said that the carport is not located near structures located on the adjacent neighbor’s lot.

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

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Mr. Palmgren stated that practical difficulties or hardships created by carrying out the strict letter of the regulations south to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because it would be expensive to move the carport and the adjacent neighbor has indicated that they agree to the current location of the carport.

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

Mr. Thorsland stated that the special conditions, circumstances, hardships or practical difficulties DO NOT result from action of the applicant because the contractor was unaware of the required setback and placed the carport in line with the existing driveway.

4. The requested variance, subject to the proposed special condition, IS in harmony with the general purpose and intent of the Ordinance.

Ms. Capel stated that the requested variance, subject to the proposed special condition, IS in harmony with the general purpose and intent of the Ordinance because the adjacent residential neighbor has indicated that they have no concern with the existing location of the carport and there is no concern regarding conflict with farm equipment.

Mr. Thorsland stated that the structure meets all other zoning requirements.

Mr. Miller stated that a five foot setback is not uncommon in other residential areas even though this subdivision is located in a suburban area located in the AG-1 district.

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

Mr. Palmgren stated that the requested variance, subject to the proposed special condition, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because a letter has been submitted indicating that the residential neighbor is okay with the placement of the carport. He said that there are no concerns related to interference with agricultural equipment and no comments were received from the fire protection district or the highway commissioner.

Mr. Miller stated that the setback pertains the side yard rather than the front yard which alleviates any safety concerns from the township.

6. The requested variance, subject to the proposed special condition, IS the minimum variation that will make possible the reasonable use of the land/structure.

Ms. Capel stated that the requested variance, subject to the proposed special condition, IS the minimum variation that will make possible the reasonable use of the land/structure because anything less would

1 require that the shed be moved.

2
3 Mr. Thorsland stated that the requested variance is 50% of the required distance although the carport meets
4 all other *Zoning Ordinance* requirements.

5
6 Mr. Bluhm requested a motion to adopt the Summary of Evidence, Documents of Record and Finding of
7 Fact as amended.

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

11
12 **Mr. Miller moved, seconded by Mr. Capel to close the public hearing for Case 643-V-08. The motion
13 carried by voice vote.**

14
15 Mr. Bluhm asked Mr. Knox if he still desired to proceed to the Final Determination.

16
17 Mr. Knox stated yes.

18
19 **Final Determination for Case 643-V-08:**

20
21 **Mr. Miller moved, seconded by Mr. Thorsland that the Champaign County Zoning Board of Appeals
22 finds that , based upon the application, testimony and other evidence in this case, that the
23 requirements of Section 9.1.9.C HAVE been met, and pursuant to the authority granted by Section
24 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign
25 County determines that the variance requested in Case 643-V-08 is hereby GRANTED WITH
26 CONDITIONS, to the petitioners Albert and Barbara Knox, to authorize the construction and use of
27 an existing, unauthorized carport with a side yard of five feet in lieu of the required side yard of 10
28 feet for an accessory building in the AG-1, Agriculture Zoning District.**

29
30 **Subject to the following condition:**

31
32 **The garage shall not be made into a more permanent type of structure other than
33 the current type of metal shell construction with a gravel floor to ensure that the effects
34 of the reduced side yard will not be further pronounced than what currently exists.**

35
36 The roll was called:

37
38 **Capel-yes Courson-absent Miller-yes**
39 **Palmgren-yes Thorsland-yes Schroeder-absent**
40 **Bluhm-yes**

41
42 Mr. Hall informed Mr. and Mrs. Knox that their variance has been approved and staff will send out the
43 appropriate paperwork as soon as possible.

1 Mr. Bluhm stated that the Board will now return to Case 632-AM-08, Mike Trautman.
2
3

4 **7. Staff Report**
5

6 Mr. Hall stated that ELUC held their first meeting regarding Case 634-AT-08, Part A. and had no
7 reservations in amending what the ZBA had recommended. He said that staff sent notices to the townships
8 and municipalities advising them what ELUC's recommendation was and the case will go back to ELUC on
9 May 11, 2009. He said that staff assumes that ELUC will make a final recommendation to the County
10 Board at the May 11, 2009, meeting and hopefully Part A. will be finalized at the May 21, 2009, County
11 Board meeting.
12

13 Mr. Hall stated that ELUC reduced the separation to non-participating dwellings to 1,200 feet and adjusted
14 one of the pipeline separations to 1.1 times the height of the turbine. He set that ELUC deleted all of the
15 visual assessment, which was not much of a requirement to begin with.
16

17 Mr. Miller asked Mr. Hall if the setbacks still apply to the dwellings and not the property line.
18

19 Mr. Hall stated yes. He said that ELUC allowed testimony although not many people testified. He said the
20 Committee took a lot of time reviewing all of the various parts and raised a concern regarding the shadow
21 flicker requirements and requested that staff report back with additional information regarding this issue.
22 He said that it is clear that ELUC desires to keep the shadow flicker study but they are concerned that as it
23 comes back to them it provided no flexibility as to roads and homes.
24

25 Mr. Hall stated that two of the wind developers did attend the ELUC meeting and presented testimony
26 therefore no one could say that Champaign County is not showing interest in wind farm development.
27

28 Mr. Miller stated that it appears that since two of the wind farm developers were present at the ELUC
29 meeting that they are still interested in pursuing Champaign County. He said that the Newcomb Township
30 Plan Commission will probably protest the amendment.
31

32 Mr. Hall stated that a copy of Newcomb Township's Plan Commission filed protest was received today.
33

34 Mr. Miller asked how that protest would effect the amendment since there is no proposed wind development
35 in Newcomb Township.
36

37 Mr. Bluhm stated that there is a proposed wind development project for Newcomb Township.
38

39 Mr. Miller stated that their protest will be presented at the County Board meeting when the *Ordinance* is
40 presented for approval.
41

42 Mr. Bluhm stated yes and their protest will require a ¾ majority vote for approval.
43

44 Mr. Thorsland stated that it was his understanding that the Newcomb Township Plan Commission violated

1 the Open Meetings Act.

2
3 Mr. Bluhm stated that he has had two other townships request information as to how they can set up a plan
4 commission.

5
6 Mr. Hall stated that he would be happy to speak to them but his advice would be to have them contact their
7 attorney. He requested that if those townships did set up a plan commission that they contact the
8 department.

9
10 **8. Other Business**

11
12 None

13
14 **9. Audience Participation with respect to matters other than cases pending before the Board**

15
16 None

17
18 **10. Adjournment**

19
20 **Mr. Thorsland moved, seconded by Mr. Palmgren to adjourn the April 16, 2009, meeting. The motion**
21 **carried by voice vote.**

22
23 The meeting adjourned at 8:25 p.m.

24
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26
27 Respectfully submitted

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32 Secretary of Zoning Board of Appeals

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ZBA //

DRAFT SUBJECT TO APPROVAL DRAFT

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DRAFT SUBJECT TO APPROVAL DRAFT

ZBA //

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