

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: March 11, 2010
Time: 6:30 P.M.
Place: Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802

**Note: NO ENTRANCE TO BUILDING
FROM WASHINGTON STREET PARKING
LOT AFTER 4:30 PM.
Use Northeast parking lot via Lierman Ave.,
and enter building through Northeast
door.**

*If you require special accommodations please notify the Department of Planning & Zoning at
(217) 384-3708*

EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (February 25, 2010)
5. Continued Public Hearings

*Case 657-V-09 Petitioner: **Larry and Diane Lambright; and Scott Lambright**

Request: **Authorize the use of an existing two story detached accessory storage building with a second story deck with a side yard of three feet in lieu of the required ten feet side yard for accessory structures in the AG-2 Agriculture zoning district, and an average height of 16 feet in lieu of the maximum allowed 15 feet average height for residential accessory structures on lots less than one acre in area in the AG-2 Agriculture zoning district.**

Location: **Lot 1 of Cook's Replat of Tract B of the K.D. Headlee Subdivision in Section 14 of Mahomet Township and commonly known as the house at 206B Lake of the Woods, Mahomet.**

6. New Public Hearings

*Case 662-S-10 Petitioner: **Illinois District Council of the Assemblies of God, Gary Blanchard, Assistant Superintendent, and Jeff Scott, Station Manager**

Request: **Convert a use from a warehouse to a Radio Station as a Special Use in the I-1 Light Industry Zoning District.**

Location: **Lot 11 in Westwood Trace Subdivision in Section 9 of Champaign Township and commonly known as the building at 4101 Fieldstone Road, Champaign.**

7. Staff Report
8. Other Business
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

* Administrative Hearing. Cross Examination allowed.

2 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 1776 E. Washington Street
5 Urbana, IL 61801

7 **DATE:** February 25, 2010

PLACE: Lyle Shields Meeting Room
1776 East Washington Street
Urbana, IL 61802

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

11 **MEMBERS PRESENT:** Doug Bluhm, Thomas Courson, Roger Miller, Melvin Schroeder, Eric
12 Thorsland, Paul Palmgren

14 **MEMBERS ABSENT :** Catherine Capel

16 **STAFF PRESENT :** Connie Berry, John Hall, J.R. Knight

18 **OTHERS PRESENT :** Anne Ehrlich, Wendy Bauer, Taya Ross. Margaret Olson

21 **1. Call to Order**

23 The meeting was called to order at 6:32 p.m.

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

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

29 **3. Correspondence**

31 None

33 **4. Approval of Minutes (February 1, 2010 and February 11, 2010)**

35 **Mr. Thorsland moved, seconded by Mr. Palmgren to approve the February 1, 2010 and February 11,**
36 **2010, minutes as submitted. The motion carried by voice vote.**

38 **5. Continued Public Hearing**

40 None

42 **6. New Public Hearings**

44 **Case 660-V-10 Petitioner: Maria Salinas-Hayes Request to authorize the construction of an addition**
45 **to an existing house with a front yard of 20 feet and a setback of 50 feet in lieu of the required 25 feet**
46 **front yard and 55 feet setback, in regards to Pond Ridge Lane, a minor street in the R-1 Single Family**
47 **Residence Zoning District. Location: Lot 18 in Yankee Ridge A-Z Fourth Subdivision in Section 29 of**
48 **Urbana Township and commonly known as the house at 301 Pond Ridge Lane, Urbana.**

DRAFT
SUBJECT TO APPROVAL

1
2 Mr. Hall distributed a Supplemental Memorandum dated February 25, 2010, to the Board for review. He
3 said that the description of the variance is from the revised application. He said that the petitioner submitted
4 a more accurate site plan which has been included as an attachment to the Supplemental Memorandum dated
5 February 25, 2010. He said that the front yard has been measured at 20 feet rather than the 18 feet that was
6 previously reported. He said that based on the new site plan the Supplemental Memorandum dated February
7 25, 2010, has new items of evidence as follows: Item #5.C: On February 25, 2010, Wendy Bauer, the
8 petitioner's attorney submitted a revised site plan that indicated the setback from the center line of Pond
9 Ridge Lane is 50 feet, six inches and the front yard is 20 feet. No other revisions were indicated; and Item
10 #10.D: The proposed front yard of 20 feet is 80% of the required 25 feet for a variance of 20% and the
11 proposed setback of 50 feet, six inches is 92% of the required 55 feet for a variance of 8%. Although the
12 setback variance is less than 10% and could therefore be approved as an Administrative Variance, it is
13 unclear whether setback and front yard variances can be approved together as an Administrative Variance;
14 and Item 11.D: on February 25, 2010, Wendy Bauer, the petitioner's attorney, submitted three form letters
15 of support that indicted the neighbors signing the letter approved of the construction of the proposed
16 addition. The following neighbors signed form letters of support: (1) J.K. and Patricia Floess at 305 East
17 Sherwin Circle, Urbana, are located across Sherwin Drive from the subject property at the corner of Sherwin
18 Drive and Sherwin Circle; and (2) Eugene and Catherine Amberg at 305 Pond Ridge Lane, Urbana, are the
19 next door neighbors to the east of the subject property; and (3) Edwin and Carol Scharlau of 301 East
20 Sherwin Drive, Urbana, are located on Sherwin Drive just north of the lot on the northeast corner of Sherwin
21 Drive and Pond Ridge Lane. Mr. Hall stated that the last attachment to the Supplemental Memorandum
22 dated February 25, 2010, is an aerial photograph indicating the location of the neighbors, who signed the
23 letter of support, in relation to the subject property.

24
25 Mr. Hall stated that need for the variance became apparent when the applicant was beginning construction,
26 in fact some of the construction has begun, and realized the front setback issue and they immediately
27 submitted a variance application.

28
29 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.

30
31 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone
32 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands
33 for those who would like to cross examine and each person will be called upon. He requested that anyone
34 called to cross examine go to the cross examination microphone to ask any questions. He said that those
35 who desire to cross examine are not required to sign the witness register but are requested to clearly state
36 their name before asking any questions. He noted that no new testimony is to be given during the cross
37 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt
38 from cross examination.

39
40 Mr. Bluhm called Ms. Wendy Bauer to testify.

41
42 Ms. Wendy Bauer, attorney for the petitioner, stated that she does not desire to repeat everything that has
43 been included in the background information however she would like to review the critical criteria for

1 granting the variance from her client's perspective. She said that with respect to the special conditions that
2 may be present she would like to mention that this is an oddly shaped corner lot and the house was originally
3 built somewhat askew on the lot. She said that as a corner lot the front yard and the distance to the
4 centerline of the street requirements exist for both the west side of the lot and the north side. She said that
5 with the two street frontages and with the house being somewhat askew it really limits the ability of the
6 homeowner to add a modest addition. She said that the addition that is proposed runs along the existing
7 front line of the house and is the only configuration that makes sense based on a design perspective because
8 it is an extension of the bedroom area of the house. She said that it is important to mention that the lot
9 coverage is still significantly small because less than 17% of the lot area will be covered after the addition.
10 She said that since the R-1 zoning district allows no more than 30% lot coverage and her client is at about
11 one-half of what is required which speaks to the fact that there is still sufficient open space on the lot. She
12 said that the information provided by staff indicates that this is a lot that is smaller than the corner lots which
13 are immediately north and south of the subject property and the size of the lot restricts the building
14 configuration somewhat because of the overall lot area.

15
16 Ms. Bauer stated that with respect to any practical difficulties or hardships related to carrying out the strict
17 letter of the ordinance that relates primarily to the original configuration of the house. She said that since the
18 house is somewhat askew on the lot an extension takes the house closer to the front property line and the
19 centerline of Pond Ridge Lane than the ordinance requires. She said that there is no other land available for
20 purchase because the lot is connected to other developed lots. She said that if the addition were moved back
21 to conform to the setback requirements the addition would be significantly smaller, approximately one-third
22 smaller, than what has been designed and the interior arrangement of the addition would suffer significantly.

23
24 Ms. Bauer stated that with respect as to whether or not the practical difficulties or hardships result from the
25 actions of the applicant it is important to note the reference as stated on the application that the construction
26 had already begun. She said that the hardship is not caused as a result of the construction having begun but
27 the hardship is related to the fact that due to the original placement of the house and the configuration of the
28 lot there was no way to have the modest addition constructed in the proposed location without compromising
29 the zoning setback requirements.

30
31 Ms. Bauer stated that her client's position with respect to whether or not the variance is in harmony with the
32 general purpose and intent of the ordinance is that the addition would enhance the value of the property and
33 at its narrowest point the resulting side yard will still be greater than 23 feet (10 feet is required) and the
34 overall lot coverage will be less than 20% (30% allowed) so that the purposes of securing adequate light and
35 conserving values will be preserved. She said that the intensity of the use of the lot is consistent with the
36 neighborhood and the district and there are no traffic, safety or public health issues impacted.

37
38 Mr. Courson asked Ms. Bauer if a swimming pool with a concrete deck was located behind the home.

39
40 Ms. Bauer stated yes.

41
42 Mr. Bluhm asked the Board if there were any additional questions for Ms. Bauer and there were none.
43

1 Mr. Bluhm asked if staff had any questions for Ms. Bauer and there were none.

2
3 Mr. Bluhm called Ms. Taya Ross to testify.

4
5 Ms. Ross declined to testify at this time.

6
7 Mr. Bluhm called Ms. Anne Ehrlich to testify.

8
9 Ms. Ann Ehrlich, who resides at 303 Yankee Ridge Lane, Urbana stated that she received the public notice
10 of tonight’s meeting because her residence is located within a certain distance of the subject property. She
11 said that the request for the variance for Case 660-V-10 is caused by the unfamiliarity of the regulations
12 established by the Champaign County Department of Planning and Zoning and it is her view that such
13 unfamiliarity is a very poor reason to grant the requested variance. She asked if the Zoning Board of Appeals
14 habitually grants variances because people fail to learn the construction requirements or will this be the first
15 in the rural area which goes around the City of Urbana and is subject to dual control, city and county. She
16 asked if the general public throughout the area will assume that errors in design or implementation are valid
17 reasons for granting variances. She said that she believes that the requested variance in Case 660-V-10 is a
18 box of trouble just waiting to be opened and it should be denied. She added that the new information that
19 has been provided is very interesting but it does not change her concern about letting people ignore or by-
20 pass regulations. She said that the addition could have been designed differently to accommodate the
21 regulations that are in place.

22
23 Mr. Bluhm asked the Board if there were any questions for Ms. Ehrlich.

24
25 Mr. Miller asked Ms. Ehrlich to indicate on the aerial photograph the location of her residence in relation to
26 the subject property.

27
28 Ms. Ehrlich stated that her residence is located south of the subject property on both the triangular shaped lot
29 and the property east of the triangular shaped lot on Yankee Ridge Lane. She said that her home was
30 originally built by a different owner and when it was discovered that the home was too close to the property
31 line the property line was moved.

32
33 Mr. Bluhm asked the Board if there were any additional questions for Ms. Ehrlich and there were none.

34
35 Mr. Bluhm asked if staff had any questions for Ms. Ehrlich.

36
37 Mr. Hall asked Ms. Ehrlich to repeat her statement regarding the property lines for her property.

38
39 Ms. Ehrlich stated that her home was built before the road was constructed and the current house to the west
40 of her property, located in Yankee Ridge II Subdivision, was not constructed yet. She said that when her
41 home was completed the inspector indicated that the home was too close to the west property line because it
42 was within the 10 feet side yard. She said that because of this fact it was determined that the property line
43 would be changed resulting in the triangular lot and she now receives a tax bill for the triangular lot and the

1 lot which her home is located upon.

2

3 Mr. Bluhm asked the audience if there were any questions for Ms. Ehrlich and there were none.

4

5 Ms. Ross requested the opportunity to testify in response to Ms. Ehrlich's testimony.

6

7 Mr. Bluhm allowed Ms. Ross the opportunity to testify.

8

9 Ms. Taya Ross, designer of the addition for the petitioner, stated that she is working with the homeowner
10 and the contractor in coordinating the entire project. She said that she hired with the homeowner, a
11 contractor and engineer of the CAD drawings for the addition and the changes on the interior of the house.
12 She said that the contractor took his measurements to the County to obtain a building permit and additional
13 measurements were requested from the addition to the centerline of the street and the front property line.
14 She said that once the requested measurements were added to the submitted site plan the permit was
15 approved. She said that after the permit was issued and construction had begun she and the contractor re-
16 measured from the foundation for the addition to the centerline of the street and discovered the five foot
17 error. She said that if a measurement is taken from the front of house perpendicular to the centerline of the
18 street there are no issues but the curve on Pond Ridge Lane creates some shorter distances to the home and
19 the addition. She said that this was not an act that was attempted to sneak past the County nor was it
20 something that was intentionally done.

21

22 Mr. Bluhm asked the Board if there were any questions for Ms. Ross and there were none.

23

24 Mr. Bluhm asked if staff had any questions for Ms. Ross and there were none.

25

26 Mr. Bluhm asked the audience if there were any questions for Ms. Ross and there were none.

27

28 Mr. Hall stated that the approved revised site plan indicates the initials D.W. He asked Ms. Ross to indicate
29 the relationship of D.W. to the project.

30

31 Ms. Ross stated that D.W. is the general contractor/builder.

32

33 Mr. Bluhm asked the audience if anyone desired to sign the witness register at this time to present testimony
34 regarding Case 660-V-10 and there was no one.

35

36 Mr. Bluhm closed the witness register.

37

38 Mr. Bluhm stated the initial site plan attached to the Preliminary Memorandum dated February 19, 2010,
39 indicates that the Amberg's home, which is located east of the subject property, is only 51 feet from the
40 centerline of the street.

41

42 Mr. Hall stated that the plan attached to the Preliminary Memorandum dated February 19, 2010, has some
43 incorrect dimensions because it also indicates that the proposed addition to the subject structure is 48 feet

1 from the centerline of the street.

2

3 Mr. Bluhm stated that there is testimony included in the Draft Summary of Evidence indicating that other
4 homes in the neighborhood were built closer than the 55 foot setback.

5

6 Mr. Hall stated that the last sentence in Item #12, Page 7 of 10, of the Preliminary Draft Summary of
7 Evidence dated February 19, 2010, indicates the following testimony from the Petitioner: Other properties in
8 the neighborhood appear to also have been built with less than the 55' front setback to the centerline of the
9 street.

10

11 Mr. Bluhm asked the Board if there were any additional questions regarding this case.

12

13 Ms. Ehrlich asked Mr. Hall if the measurement is taken from the centerline of the road or the centerline of
14 the pavement.

15

16 Mr. Hall stated that the measurement is taken from the centerline of the pavement.

17

18 Mr. Courson stated that Item #10.F. indicates that the requested variance is not prohibited by the *Zoning*
19 *Ordinance*. He asked if this statement is being used as reason to grant the variance.

20

21 Mr. Hall stated that staff has not suggested that Item #10.F. is a reason to approved the variance. He said
22 that sometimes variances are prohibited by the *Zoning Ordinance* and this is a way for staff to indicate to the
23 Board that this request is not a prohibited variance.

24

25 Mr. Courson asked Mr. Hall if swimming pools are not considered buildable area on the lot.

26

27 Mr. Hall stated that swimming pools are not included in the lot coverage.

28

29 Mr. Courson asked Mr. Hall to explain what category swimming pools are considered under for zoning
30 purposes.

31

32 Mr. Hall stated that swimming pools are considered an accessory structure.

33

34 Mr. Courson asked if accessory structures are considered during the computation of lot coverage.

35

36 Mr. Hall stated no. He said that the yards for accessory structures in the residential districts are basically five
37 feet but are less than that within home rule municipalities such as City of Champaign and City of Urbana.
38 He said that in some instances in the City of Urbana's ETJ there can actually be less than five feet on one
39 side of the principal structure.

40

41 Mr. Bluhm stated that there are no special conditions recommended by staff therefore the Board will
42 continue to the Finding of Fact.

43

1 Mr. Hall stated that a new Item #5 should be added to the Documents of Record indicating the following:
2 Supplemental Memorandum dated February 25, 2010, with attachments.

3

4 **Finding of Fact for Case 660-V-10:**

5

6 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
7 660-V-10 held on February 25, 2010, the Zoning Board of Appeals of Champaign County finds that:

8

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

12

13 Mr. Courson stated that special conditions and circumstances DO exist which are peculiar to the land or
14 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
15 same district because the roads in the subdivision which are close to the intersections are crooked which
16 makes the right of way difficult to establish.

17

18 Mr. Thorsland stated that the subject property is a corner lot with two road frontages. The lot is smaller than
19 typical for the subdivision which reduces the available space for an addition to the dwelling.

20

21 Mr. Bluhm stated that the house which was built by previous owners was built in askew to the road.

22

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

26

27 Mr. Miller stated that practical difficulties or hardships created by carrying out the strict letter of the
28 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
29 or construction because construction has already begun and the intent is justified because of the application
30 and approval of the existing building permit.

31

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

34

35 Mr. Thorsland stated that the special conditions, circumstances, hardships or practical difficulties DO NOT
36 result from actions of the applicant because the lot was part of the original subdivision and the previous
37 owner selected the current structure's location.

38

- 39 **4. The requested variance IS in harmony with the general purpose and intent of
40 the Ordinance.**

41

42 Mr. Thorsland stated that the requested variance IS in harmony with the general purpose and intent of the
43 Ordinance because there is no increase in traffic or change in use of the land and the property conforms to all

1 other zoning requirements.
2

3 Mr. Bluhm stated that the setback could have been considered as an Administrative Variance.
4

5 **5. The requested variance WILL NOT be injurious to the neighborhood**
6 **or otherwise detrimental to the public health, safety or welfare.**
7

8 Mr. Courson stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
9 detrimental to the public health, safety or welfare because it doesn't impact traffic patterns, visibility or
10 access to the property.
11

12 Mr. Bluhm stated that the lot coverage is still minimal compared to the requirements of the district.
13

14 **6. The requested variance IS the minimum variation that will make possible**
15 **the reasonable use of the land/structure.**
16

17 Mr. Palmgren stated that the requested variance IS the minimum variation that will make possible the
18 reasonable use of the land/structure because the construction has already been started and the house was
19 already set in its current location by the previous owner.
20

21 Mr. Thorsland stated that the requested variance is not prohibited by the *Zoning Ordinance*.
22

23 Mr. Miller stated that the Petitioner testified that the addition is a natural extension of the front line of the
24 house and the interior bedroom area. No adjacent land is available to purchase to mitigate the situation.
25

26 Mr. Courson stated that he is concerned about including text in the findings regarding structures that are
27 already constructed. He said that this is the third or fourth case since he has been on the ZBA that a
28 petitioner has come before the Board requesting a variance for a structure that has already been constructed.
29 He said that including text indicating that a hardship exists because the structure is already in place is setting
30 a bad precedence.
31

32 Mr. Bluhm stated that in most cases there has not been a request for a permit but in this case a permit was
33 requested and approved. He said that once the petitioner realized that they were too close to the front
34 property line and the centerline of the road they ceased construction.
35

36 Mr. Hall stated that Mr. Courson has made an excellent point.
37

38 Mr. Bluhm stated that Mr. Palmgren could amend his statement as follows: the requested variance IS the
39 minimum variation that will make possible the reasonable use of the land/structure because the construction
40 has already been started with an approved Zoning Use Permit and the owners ceased construction when it
41 was realized that the measurement to the front property line and centerline of the road was in error. He said
42 that the house was already set in its current location by the previous owner.
43

1 Mr. Palmgren agreed with revision to his statement.

2
3 Mr. Hall stated that when the Board is dealing with structures that are already in place it is staff's advice that
4 if the Board could go back in time, which is obviously impossible, when the structure was not there is there
5 justification for that location. He said that if the Board can find justification for that location then that is a
6 reasonable basis for granting the variance but if no justification can be found then the Board cannot grant the
7 variance just because it is already there.

8
9 Mr. Bluhm asked the Board if there were any additional changes or amendments to the Summary of
10 Evidence, Documents of Record or Finding of Fact and there were none.

11
12 **Mr. Thorsland moved, seconded by Mr. Courson to adopt the Summary of Evidence, Documents of**
13 **Record and Finding of Fact as amended. The motion carried by voice vote.**

14
15 **Mr. Palmgren moved, seconded by Mr. Schroeder to close the public hearing for Case 660-V-10. The**
16 **motion carried by voice vote.**

17
18 Mr. Bluhm informed Ms. Bauer that one Board member is absent from tonight's meeting therefore it is at her
19 discretion to either continue Case 660-V-10 until a full Board is present or request that the present Board
20 move forward to the Final Determination. He informed Ms. Bauer that four affirmative votes are required
21 for approval.

22
23 Ms. Bauer requested that the present Board proceed to the final determination.

24
25 **Final Determination for Case 660-V-10:**

26
27 **Mr. Thorsland moved, seconded by Mr. Miller that the Champaign County Board of Appeals finds**
28 **that, based upon the application, testimony and other evidence received in this case, that the**
29 **requirements of Section 9.1.9.C. HAVE been met, and pursuant to the authority granted by Section**
30 **9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign**
31 **County determines that the variance requested in Case 660-V-10 is hereby GRANTED to the**
32 **petitioner, Maria Salinas-Hayes, to authorize the construction of an addition to an existing house with**
33 **a front yard of 20 feet and a setback of 50 feet, six inches in lieu of the required 25 feet front yard and**
34 **55 feet setback, in regards to Pond Ridge Lane, a minor street in the R-1 Single Family Residence**
35 **Zoning District.**

36
37 The roll was called:

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

42
43 Mr. Hall informed Ms. Bauer that the variance has been approved therefore the builder can proceed with

1 construction. He said that staff will send out the appropriate paperwork as soon as possible.

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7. Staff Report

Mr. Hall informed the Board that there are three text amendments which staff is seeking direction from the Committee of the Whole at their meeting on Tuesday, March 2, 2010. He said that if the Committee gives staff direction to proceed the amendments will be before the ZBA within one month with hopefully more in April. He said that if no additional zoning cases are received the Board and staff will be busy with text amendments.

8. Other Business

None

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

None

10. Adjournment

The meeting adjourned at 7:16 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

CASE NO. 657-V-09

SUPPLEMENTAL MEMORANDUM

March 5, 2010

Champaign
County
Department of



Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Petitioners: **Larry & Diane
Lambright; and Scott Lambright**

Site Area: **approx. 27,000 feet**

Time Schedule for Development:
N/A

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

Request: **As amended on February 11, 2010, authorize the use of an existing two story detached accessory storage building with a second story deck with a side yard of nine feet in lieu of the required ten feet side yard for accessory structures in the AG-2 Agriculture zoning district, and an average height of 16 feet in lieu of the maximum allowed 15 feet average height for residential accessory structures on lots less than one acre in area in the AG-2 Agriculture Zoning District.**

Location: **Lot 1 of Cook's Replat of Tract B of the K.D. Headlee Subdivision in Section 14 of Mahomet Township and commonly known as the house at 206B Lake of the Woods Road, Mahomet.**

STATUS

This is the fourth meeting for this case. It was continued from the February 11, 2010, public hearing.

Staff has prepared a new special condition that is reviewed below. A new numbered paragraph regarding the finding that the proposed variance is the minimum variation necessary has been added to the Summary of Evidence. New evidence regarding the water well code and Public Health District enforcement has been prepared and is also listed below.

The wording of the Finding of Fact has been revised to reflect the position that the variance should be evaluated as if the subject building had not yet been constructed. There have also been other minor changes throughout the Summary of Evidence to reflect this position.

The Draft Findings of Fact that the Board prepared on December 17, 2009, is included as an attachment. The ZBA by-laws require the Board to amend those findings if the Board seeks to approve the variance.

NEW SPECIAL CONDITION

1. The following condition should be added as new Item 13.C:

The previous zoning use permit for the subject building expired more than two years ago. The applicant owes additional zoning use permit application fees because the building included more interior area than was indicated in the original application. The building will have to be modified to comply with the amended site plan and the Board should establish a date certain for the building to be compliant. Compliance will have to be verified in a new compliance inspection. The following condition makes it clear that a new zoning use permit application is required and provides specific deadlines for submission of the application and for compliance:

The petitioner shall submit a new Zoning Use Permit Application with fees within one month of the Zoning Board of Appeals decision in Case 657-V-09 and the necessary modifications to

the detached accessory building shall be verified in a compliance inspection no later than {three / six} months from the date of the ZBA decision.

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

The modified building complies with the approval in Case 657-V-09 in a reasonable and timely manner.

WATER WELL CONSTRUCTION CODE

1. The following should be added as new Items 11.F. and 11.G, renumbering as necessary:

- F. Regarding the intent of the well easement that the well be used for domestic purposes:
- (1) The Illinois Water Well Construction Code (415 ILCS 30 et seq) does not use the word "domestic.
 - (2) The Illinois Private Sewage Disposal Act (225 ILCS 225 et seq) defines "domestic sewage" to mean waste water derived principally from dwellings, business or office buildings, institutions, food service establishments, and similar facilities.
 - (3) The Private Sewage Disposal Code (77 Illinois Administrative Code 905) implements the Illinois Private Sewage Disposal Act. The Private Sewage Disposal Code uses the term "domestic sewage" but it is not defined.
- G. Regarding the proximity of the well to the subject building:
- (1) On March 2, 2010, J.R. Knight, Associate Planner, spoke with Jeff Blackford, sanitarian with the Champaign-Urbana Public Health District, who indicated that they do not enforce the Water Well Construction Code on existing wells.
 - (2) On March 3, 2010, J.R. Knight, Associate Planner, spoke with a well installer from Kingsley-Weburg Well Drilling who indicated that the codes require a well to be two feet from a building and also stated that the main concern with pulling a cased well is having adequate clearance for the boom lift to be used.
 - (3) On March 3, 2010, J.R. Knight, Associate Planner, spoke with a well installer from Sims Drilling Company who indicated that the code required new wells to be ten feet from buildings, and that he preferred to have between five feet and ten feet of clearance to work on a well.

ATTACHMENTS

- A Shared Well Easement submitted by Alicia Helmick on February 11, 2010
- B Excerpt from Water Well Construction Code (77 Ill. Admin. Code 920)
- C Staff field sketch of relative position of well and subject building, made on
- D Excerpt of February 11, 2010, ZBA minutes (included separately)
- E Draft Findings of Fact prepared on December 17, 2009
- F Revised Draft of Summary of Evidence for Case 657-V-09

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127
212
75

SHARED WELL AGREEMENT

This indenture, made and entered into this 12th day of August, 1994 by and between, EILEEN COOK, hereinafter referred to as Grantor, owner of Tract #1, and WILLIAM E. MUSTON, hereinafter referred to as Grantee, owner of Tract #2, own the following described tracts real estate, respectively:

TRACT I: Lot 1 in Cook's Replat in Champaign County, Illinois of Tract B of the K.D. Headlee Survey in the Southeast 1/4 of the Northwest 1/4 of Section 14, Township 20 North, Range 7 East of the Third Principal Meridian, in Champaign County, Illinois.

TRACT II: Lot 2 in Cook's Replat in Champaign County, Illinois of Tract B of the K.D. Headlee Survey in the Southeast 1/4 of the Northwest 1/4 of Section 14, Township 20 North, Range 7 East of the Third Principal Meridian, in Champaign County, Illinois.

WHEREAS, there is an existing water well on Tract I, to which Grantor agrees to grant access to Grantee, subject to certain covenants and conditions; and

NOW THEREFORE, for and in consideration of the sum of \$10.00 and in consideration of the promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor.

The parties agree as follows:

1. Grantor, the owner of Tract I, hereby conveys and grants unto Grantee, the owner of Tract II, access to the water well on Tract I for domestic water use purposes only, over the useful life of the well.
2. Grantee agrees to bear the cost to repair and maintain the water well, located on Tract I.
3. The Grantor shall have and retain all rights to the use occupation of the real estate, except as expressly granted and provided and such use and occupation by the Grantor shall not be unnecessarily interfered with by the Grantee.
4. The Grantee agrees to indemnify and save harmless the Grantor, its successors and assigns, from any loss, damage or expense in the nature of legal liability which the Grantor may suffer, incur or sustain or for which the Grantor may become legally liable arising or growing out of any injury or damage to persons, or to real or personal property, caused by any negligence of the Grantee or its contractors, subcontractors, agents or representatives, or any of them, in the repair, maintenance or operation of the water well or its appurtenances, and the Grantor will not obstruct or interfere with the Grantee, his contractors or subcontractors or with agents or employees of them or either of them, in the exercise of any rights, privileges, or authorities given and granted.
5. This indenture and covenants and agreements herein contained shall be binding upon both parties and their

lessees, successors, personal representatives, heirs, devisees and assigns, and any, either or all of the same, and shall be in full force and effect from the day and year first above written.

In Witness, the parties have caused this indenture to be executed as of the day and year first above written.

Eileen Cook
EILEEN COOK, Grantor

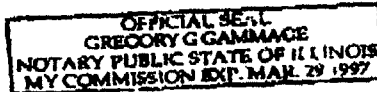
William E. Huston
WILLIAM E. HUSTON, Grantee

STATE OF ILLINOIS)
COUNTY OF DEWITT) SS.

I, GREGORY G. GAMMAGE, a notary public in and for the County and State aforesaid, do hereby certify that EILEEN COOK, Grantor, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed, sealed and delivered this instrument as her free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal on this 11th day of August, 1994.

G. Gammage
Notary Public

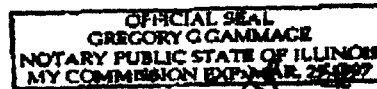


STATE OF ILLINOIS)
COUNTY OF CHAMPAIGN) SS.

I, GREGORY G. GAMMAGE, a notary public in and for the County and State aforesaid, do hereby certify that WILLIAM E. HUSTON, Grantor, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered this instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal on this 12th day of August, 1994.

G. Gammage
Notary Public



This document prepared by and return to:
GREGORY G. GAMMAGE
ATTORNEY AT LAW
223 S. MAIN ST., P.O. BOX 110
FARMER CITY, IL 61842-0110

REORDER

Gregory G. Gammage

2138-0661
AUG 15 AM 8 37

CHAMPAIGN COUNTY, ILL

Doc # 94R21689

94R21689

private water system and a potential secondary source or a potential route, the well shall be no closer than 75 feet from the potential route or potential secondary source, unless some other distance is allowed or required in subsection (b)(1).

- 4) Where the owner of a water well is the same owner of a potential primary source, potential secondary source, or a potential route, the Department shall allow a variance to the minimum separation distances required between a water well and a potential primary source, potential secondary source or a potential route if a demonstration is provided by the owner of the potable water well that applicable protective measures will be utilized to minimize the potential for contamination of the well, and if the resulting well installation can be expected to provide a continuously safe and sanitary water supply in compliance with the Act, this Part and the Department's Drinking Water Systems Code (77 Ill. Adm. Code 900). Applicable protective measures may include ensuring sources of contamination are down grade from the water source or isolation of the potential source of contamination in such a manner as to prevent a route of contamination of the ground water, or isolating the potential source of contamination to prevent accidental introduction of contaminants into ground water. In order to obtain a variance the owner must comply with Section 920.30(c). (Section 6(a) of the Act).
- c) **Flood Water.** Locations subject to flooding shall be avoided. If no reasonable alternate site exists, wells may be constructed in flood zones providing special protective construction is included. The casing of the well shall terminate not less than two feet above the maximum known flood water elevation.
- d) **Relation to Building.** With respect to buildings, pits, and basements the location of a well shall be as follows:
 - 1) **Adjacent to Building.** When a well must be located adjacent to a building, it shall be so located that the center line of the well extended vertically will clear any projection from the building by not less than two feet.
 - 2) **Pits and Basements.** New wells shall not be constructed in pits or basements.

(Source: Amended at 18 Ill. Reg. 17684, effective November 30, 1994)

Section 920.60 Drilled Wells in Unconsolidated Formations

- a) **General.** Unconsolidated formations such as sand and gravel may extend to or near the ground surface. Generally, however, they lie below the ground surface at varying depths and are covered by an overburden of earth. The kind, nature and depth of the overburden are factors in determining how a well shall be constructed.

↑ N

shed

21.5'



wellhead

Site Visit 2/23/10
J.R. Knight, Associate Planner
James Knight

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 657-V-09 held on **November 12, 2009, December 17, 2009, February 11, 2010, and March 11, 2010**, 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 because the building is sited in its current location due to the location of the existing driveway. He said that a portion of the building that is too close to the property line is only an open deck therefore it is less of a fire hazard. The building is located 18 feet from the nearest structure on the adjacent lot which provides adequate access for fire fighters.
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 because the petitioner requires the shed for storage for his business which is permitted in the zoning district and the other two sheds are used for personal storage.
3. The special conditions, circumstances, hardships, or practical difficulties **DO** result from actions of the applicant because the petitioner built the deck without originally obtaining a building permit and they not only constructed the shed above the height allowance but constructed a two-story structure rather than a one-story structure as indicated on the original permit. The building is a two-story building rather than the permitted one-story building and the loading deck would not have been required if the structure had been built at its original specifications. She said that the way that the building is sited on the property allows no room to build the deck in conformance with the ordinance.
4. The requested variance **SUBJECT TO THE PROPOSED CONDITION IS** in harmony with the general purpose and intent of the *Ordinance* because the variance is allowed and it is a minimal variance in regard to the height and the deck is an open deck which is too close to the property line.
5. The requested variance **SUBJECT TO THE PROPOSED CONDITION WILL NOT** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the open deck which will cause fewer problems for emergency services and air conflagration than if it were enclosed.
6. The requested variance **SUBJECT TO THE PROPOSED CONDITION IS** the minimum variation that will make possible the reasonable use of the land/structure because of the driveway, size of the building and the way that it is situated on the property with an open deck.
7. **THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**
 - a. **The space underneath the second story deck shall not be fully or partially enclosed.**

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

The nonconformity of the reduced side yard will not be increased unless authorized by another variance.

- b. The deck on the storage shed may be rebuilt (without requiring a permit) to its existing dimensions if it needs to be removed to allow maintenance access to the well.**

The above condition is necessary to ensure the following:

All parties understand that approval of the variance authorizes reconstruction of the shed if necessary for any reason.

657-V-09

FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals

Final Determination: { *GRANTED / DENIED* }

Date: March 11, 2010

Petitioners: Larry & Diane Lambright; and Scott Lambright

Request: As amended on February 11, 2010, authorize the use of an existing two story detached accessory storage building with a second story deck with a side yard of ~~three~~ nine feet in lieu of the required ten feet side yard for accessory structures in the AG-2 Agriculture zoning district, and an average height of 16 feet in lieu of the maximum allowed 15 feet average height for residential accessory structures on lots less than one acre in area in the AG-2 Agriculture Zoning District

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted **November 12, 2009, December 17, 2009, February 11, 2010, and March 11, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The co-petitioners, Larry & Diane Lambright, own the subject property. Co-petitioner Scott Lambright lives and operates Lambright Construction and Maintenance, Inc. as a Neighborhood Home Occupation (NHO) on the subject property.
2. The subject property is Lot 1 of Cook's Replat of Tract B of the K.D. Headlee Subdivision in Section 14 of Mahomet Township and commonly known as the house at 206B Lake of the Woods Road, Mahomet.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet. Municipalities do not have protest rights in variance cases and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned AG-2 and is a duplex in use as a single family dwelling, the duplex being authorized in Case 373-S-80, and Lambright Construction and Maintenance, Inc. operated as a Neighborhood Home Occupation (NHO-07-09).
-

- B. Land to the north of the subject property is zoned CR Conservation-Recreation and is in use as single family dwellings.
- C. Land to the east is zoned R-1 Single Family Dwelling and is in use as single family dwellings.
- D. Land to the west is inside the corporate limits of the Village of Mahomet.
- E. Land to the south is zoned AG-2 Agriculture and is in use as a single family dwelling with a daycare being operated as an unregistered Neighborhood Home Occupation.

GENERALLY REGARDING THE PROPOSED SITE PLAN

- 5. The proposed site plan was submitted on October 19, 2009, and describes the property as follows:
 - A. A staff memorandum dated March 21, 1980, for Case 373-S-80 states that the building that is the dwelling was originally built in 1954 as a restaurant on the first floor and an upstairs apartment with an outside entrance but at the time (in 1980) the upstairs apartment had not been rented for approximately 20 years. Case 373-S-80 came about because the nonconforming rights to a duplex had been exhausted and a prospective purchaser claimed that the structure did not lend itself to being a SF dwelling because of the separate stairway leading to the upstairs and the prospective purchaser wanted to convert the dwelling to a duplex. Case 373-S-80 was approved on March 3, 1980.
 - B. A two-story house with an attached garage is located centrally on the subject property, and a detached garage is located six feet south of the existing house.
 - C. The east 60 feet of the subject property is covered by an easement allowing access to the property south of the subject property. A play set and sand box and propane tank are located on the east side of the driveway covered by the easement, but conform to the requirements of the *Zoning Ordinance*.
 - D. Two personal storage sheds are located 14 and 11.5 feet from the south property line, respectively. They are both less than 150 square feet in area and are currently conforming with all requirements of the *Zoning Ordinance*.
 - E. The existing 12' x 22' (264 square feet) detached accessory storage building is located approximately 55 feet from the south property line and 13 feet from the west property line and situated between two mature trees. However, it was modified after it was constructed by adding a second story with an approximately 15' x 10' (150 square feet) deck, on the west side which extends to approximately three feet from the west property line, which is nonconforming with the requirements of the *Zoning Ordinance*. The petitioners have also indicated the average height of the building is 16 feet which is also nonconforming with regards to the *Zoning Ordinance*.
 - F. Copetitioner Larry Lambright testified at the December 17, 2009, public hearing that the subject storage building does not sit on a foundation and could be moved.
-

- G. The circular driveway appears in the Supervisor of Assessments' 1973 aerial photo.
- H. Co-petitioners Larry and Diane Lambright amended the petition at the February 11, 2010, ZBA Meeting where they submitted a signed description of the proposed variance which indicated the changes they wished to make. They proposed to alter the existing deck to make the proposed side yard nine feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

- 6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
 - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variance (capitalized words are defined in the Ordinance):
 - (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.
 - (2) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT with the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either DETACHED from or ATTACHED to the MAIN or PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
 - (3) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
 - (4) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
 - (5) "HOME OCCUPATION, NEIGHBORHOOD" is any activity conducted for gain or support by a member or members of the immediate FAMILY, residing on the premises, as an ACCESSORY USE entirely within the resident's DWELLING UNIT or ACCESSORY BUILDING not exclusively devoted to such activity.
 - (6) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (7) "LOT LINES" are the lines bounding a LOT.
 - (8) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.

- (9) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
- (10) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.

B. Paragraph B. in Subsection 7.2.1 of the *Zoning Ordinance* specifies the required minimum side yard for detached accessory buildings or structures in the AG-1, AG-2, and CR Districts as follows:

SIDE YARD

No DETACHED ACCESSORY BUILDING or STRUCTURE shall be located less than 10 feet from any side LOT LINE.

C. The Department of Planning and Zoning measures yards and setbacks to the nearest wall line of a building or structure and the nearest wall line is interpreted to include overhanging balconies, projecting window and fireplace bulkheads, and similar irregularities in the building footprint. A roof overhang is only considered if it overhangs a property line.

D. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:

- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.

- (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- E. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioners have testified on the application that, **“Requesting variance for height restriction and sideline setback for deck on shed.”**
 - B. Regarding the sequence of events that lead to Case 657-V-09:
 - (1) On November 6, 2007, the petitioners applied for Zoning Use Permit Application (ZUPA) 310-07-01. The permit authorized a detached garage 12 feet in height with no deck on it, and was approved on November 20, 2007.
 - (2) On November 20, 2007, the petitioners submitted an application (NHO-07-29) to register Lambright Construction and Maintenance, Inc. as a Neighborhood Home Occupation (NHO). The registration was approved on December 12, 2007.
 - (3) On February 19, 2008, staff received a complaint regarding the subject property, which indicated that a rusty propane tank was delivered to the subject property and outdoor storage of construction materials was also occurring. The complaint also indicated that a newly constructed storage building was taller than the two story house.
 - (4) On February 26, 2008, staff received another complaint regarding the subject property, which indicated that an old flat bed truck with a flat tire was sitting on the property and was loaded with junk. The complaint indicated that there was still a great deal of outdoor storage occurring on the subject property and that the shared driveway on the subject property was blocked.
 - (5) On July 1, 2009, staff received another complaint regarding the subject property, which indicated that outdoor storage was still occurring on the subject property and that access via the shared driveway was still limited.
 - (6) On July 6, 2009, staff was notified that co-petitioner Scott Lambright was building a second story deck onto the existing detached accessory storage building.
-

- (7) On July 10, 2009, Jamie Hitt, Zoning Officer, performed a compliance inspection for ZUPA 310-07-01, which originally permitted a one-story detached accessory storage building, and found that the storage building authorized by the permit had been constructed to be taller than authorized in the permit and that the second story deck, which was not part of the original permit appeared to be only three feet from the property line. She also discovered outdoor storage occurring on the property.
 - (8) On July 15, 2009, Jamie Hitt, Zoning Officer, spoke with co-petitioner Scott Lambright on the phone to inform him that he needed to either apply for a variance for the second story deck or modify it so that it conformed to the accessory structure side yard requirement of 10 feet. She also told Mr. Lambright that no outdoor storage should occur on the property.
 - (9) On July 21, 2009, Jamie Hitt, Zoning Officer, sent a letter to co-petitioners Scott and Larry Lambright as a follow-up to her phone conversation with Scott Lambright on July 15, 2009. The letter reiterated the need for a variance for the second story deck and indicated August 5, 2009, would be the deadline to clean up the subject property.
 - (10) On August 7, 2009, Jamie Hitt, Zoning Officer, inspected the subject property and found that significant progress was being made towards correcting all the violations. She spoke with Scott Lambright and again reminded him of the necessity to apply for a variance. Based on the progress made at this time the petitioners were given some additional time to continue making progress towards correcting all the violations before enforcement was started.
 - (11) On September 2, 2009, the Zoning Officer re-inspected the property and was told that the petitioners were now proposing to modify the deck so that a variance would not be necessary.
 - (12) On September 11, 2009, staff received a new complaint regarding large chunks of concrete that had been dumped on the subject property.
 - (13) On September 18, 2009, due to the lack of progress in modifying the second story deck or completing the clean up of the subject property a First Notice of Violation was sent to the petitioners.
 - (14) On October 5, 2009, a Variance application was submitted by the petitioners. The site plan was found to be inadequate and a request was made on October 7, 2009, to the petitioners to provide a clearer and more accurate site plan.
 - (15) On October 13, 2009, as part of the continuing enforcement action against the petitioners a Final Notice of Violation was sent to the petitioners.
 - (16) On October 19, 2009, the petitioners submitted a revised and clearer site plan of the subject property.
-

- (17) On December 1, 2009, Jamie Hitt, Zoning Officer, inspected the subject property and found that except for the matters in the proposed variance all violations identified in the Final Notice appear to have been resolved. Complaints have been received that the petitioners are not fully complying with all requirements. The Zoning Officer is continuing to work with the petitioners to secure more complete compliance.
- C. Regarding the variance for the height of the detached accessory storage building, the variance is within the amount that could be authorized by administrative variance if another variance were not also required.
- D. If the second story deck was shortened to three feet in depth there would be no need for a variance.
- E. Regarding the side yard variance:
- (1) The second story deck is located 18 feet from the nearest structure on a neighboring property which is the minimum amount of total separation two structures would have if authorized by administrative variance. This amount of separation should provide adequate access for fire-fighting.
 - (2) The enclosed portion of the structure is located 13 feet from the west lot line, which is a conforming distance, and the portion of the structure that is nonconforming is an open structure that creates less danger in terms of conflagration of structures, collapse, etc.
- F. At the November 12, 2009, public hearing, co-petitioner Scott Lambright testified as follows:
- (1) He requires the indoor storage because he needs to move his items indoors and he wished to eliminate one of the smaller sheds currently located on the property.
 - (2) He only uses the two smaller sheds on the property for personal storage.
- G. The subject shed is used for storage in a Neighborhood Home Occupation. Neighborhood Home Occupations are only authorized in a dwelling and no more than one accessory building.
- H. Prior to the subject construction, the following considerations limited the possible locations where a detached accessory storage building could be located:
- (1) The east 60 feet of the subject property is covered by an easement that prohibits construction, which eliminates the east side of the property as a building site.
 - (2) The 25 feet between the rear of the dwelling and the rear property line is not deep enough to allow both the construction of an accessory building with the required 10 feet rear yard and the continued use of the driveway.
 - (3) The only area on the subject property with enough clearance for ~~the~~ a detached accessory building is the west side.
-

- (4) There is a barbecue/sitting area and two personal storage buildings in the southwest corner of the subject property.
 - (5) Paragraph 7.2.1 A. of the Zoning Ordinance requires that detached accessory buildings can be no closer to the front lot line than the principal building. In this case a detached accessory building can be no closer to the south line of Lake of the Woods Road than the dwelling.
 - (6) The circular driveway has existed since before the Zoning Ordinance was adopted in 1973 and limits the proximity of a detached accessory building to the dwelling.
 - (7) There are two large trees west of the circular drive which ~~flank the~~ limit the location of a detached accessory storage building on either side.
- I. Copetitioner Larry Lambright testified at the December 17, 2009, and February 11, 2010, public hearings that the subject storage building does not sit on a foundation and could be moved, but it would be very costly.
 - J. Regarding the height variance, staff measurement of the detached accessory storage building indicated that the average height is approximately 15.5 feet.
 - K. The subject storage building is partially screened by large trees on either side and the screening effect of the trees may offset the ½ foot of height that requires the variance.

GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
 - A. The Petitioners have testified on the application that, **“The average height of the shed is 16’. It was built for head clearance for 2nd story. Peak does not exceed 2-story house on lot. When built, it was our understanding that it was not to exceed the height of the house. Regarding the lot line variance, the deck was built to be used for moving material in and out of the 2nd story of shed.”**
 - B. The petitioners constructed the subject building in a conforming location and then altered it after construction so that it was no longer conforming to its original permit or the *Zoning Ordinance* in the misunderstanding they had done everything that was required of them. However, they did not contact the Department at the time of the modification of the accessory building.
 - C. Regarding the side yard variance:
 - (1) The second story deck is located 18 feet from the nearest structure on a neighboring property which is the minimum amount of total separation two structures would have if

authorized by administrative variance. This amount of separation should provide adequate access for fire-fighting.

- (2) The enclosed portion of the structure is located 13 feet from the west lot line, which is a conforming distance, and the portion of the structure that is nonconforming is an open structure that creates less danger in terms of conflagration of structures, collapse, etc.
- D. Regarding the height, if not allowed the shed would have ~~to be a~~ larger footprint and it would be difficult to locate a larger building in this location without cutting down one of the trees.
- E. At the November 12, 2009, public hearing, co-petitioner Scott Lambright testified as follows:
 - (1) He requires the indoor storage because he needs to move his items indoors and he wished to eliminate one of the smaller sheds currently located on the property.
 - (2) He only uses the two smaller sheds on the property for personal storage.
- F. At the February 11, 2010, public hearing co-petitioner Larry Lambright testified that with the deck reduced to a depth of four feet that would increase the side yard to nine feet (for a variance of 10%) and would still make the deck large enough to be functional.

GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

- 9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioners have testified on the application that, **“The guidelines for height restrictions for the shed and setback restrictions for the deck were misunderstood. It was our understanding that the height should not exceed the height of the house. We did not realize there was a setback requirement for a deck.”**
 - B. The petitioners constructed the subject building in a conforming location and then altered it after construction so that it was no longer conforming to its original permit or the *Zoning Ordinance* in the misunderstanding they had done everything that was required of them. However, they did not contact the Department at the time of the modification of the accessory building.
 - C. The *Zoning Ordinance* does not require a Zoning Use Permit for an open deck. However, a deck that is high enough above the ground to allow the underneath space to be enclosed for some other use is required to have a permit.
 - D. At the November 12, 2009, public hearing, co-petitioner Scott Lambright testified as follows:
 - (1) He requires the indoor storage because he needs to move his items indoors and he wished to eliminate one of the smaller sheds currently located on the property.
 - (2) He only uses the two smaller sheds on the property for personal storage.
-

- E. At the November 12, 2009, public hearing, Kent Follmer, attorney for neighbors Joshua & Alicia Helmick, testified that the Lambrights claim they misunderstood the *Ordinance* even though they are contractors in Champaign County.
- F. Prior to the ownership of the petitioners areas on the subject property where a detached accessory storage building can reasonably be built were restricted ~~prior to the ownership of the petitioners~~ by the easement over the eastern 1/3 of the property and the location of the existing dwelling and the circular driveway and mature trees.

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

- 10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
 - A. The Petitioners did not provide any testimony on the application.
 - B. The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In general, the side yard is presumably intended to ensure the following:
 - (1) Adequate light and air: The detached accessory structure is an accessory structure and does not appear to negatively affect the amount of light and air available on the subject property or the neighboring property.
 - (2) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is in the Cornbelt Fire Protection District and the station is approximately two road miles from the subject property. The storage building is located away from other structures on the subject property and is 18 feet from the nearest structure on the neighboring property.
 - (3) Aesthetics may also play a part in minimum yard requirements.
 - C. The proposed side yard of ~~three~~ nine feet is ~~39~~90% of the required 10 feet for a variance of ~~71~~10%, and the proposed height of 16 feet is 106.7% of the maximum allowed 15 feet for a variance of 6.7%.
 - D. The subject property meets all other requirements of the *Zoning Ordinance*.
 - E. The requested variance is not prohibited by the *Zoning Ordinance*.
 - F. Paragraph 4.2.2 D. of the Ordinance requires that no USE shall be established, CONSTRUCTION undertaken, nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement and does not apply to well easements.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioners have testified on the application that, **“The height of the shed nor the deck are detrimental to the neighborhood or public health, safety or welfare. The adjoining neighbors to the west have told us they do not have any problems with the shed or the deck.”**
 - B. The detached accessory structure is located away from other structures on the subject property and is 18 feet from the nearest structure on a neighboring property.
 - C. On November 12, 2009, two letters of support for the proposed variance were received as follows:
 - (1) The first was from Robert Burack, 210 South Lake of the Woods Road, the neighbor across the lot line from the subject building. He indicated that he had no objection to the location of the subject building and that co-petitioner Scott Lambright is a good neighbor.
 - (2) The second letter was from Stephen Robinson, landlord of 214 South Lake of the Woods Road, indicated he had no issues with the height or width of the subject building.
 - D. Two letters of opposition have been received, as follows:
 - (1) On November 12, 2009, a letter was received from Ray & Donna Parkinson, 204 South Lake of the Woods Road that indicated the Parkinson’s disagreed to any and all proposed changes to the subject property and believed all changes made since the petitioners purchased the property have been to the detriment of the subject property and the neighborhood.
 - (2) On December 14, 2009, a letter was received from Stephanie Amabeli, 1505 Summit Ridge Road, that indicated her property shared a lot line with the subject property and that the variance should not be approved because the petitioners did not obtain a correct permit for the detached storage building in the first place.
 - (3) Mrs. Amabeli’s property does not share a lot line with the subject property, it is divided from the subject property by the flag pole portion of the flag lot south of the subject property.
 - E. At the November 12, 2009, public hearing Alicia Helmick, 206A South Lake of the Woods Road, testified that if the water well required maintenance then her husband would perform the maintenance but with the deck over the well head it would be very difficult for any maintenance to be done.
 - F. Regarding the intent of the well easement that the well be used for domestic purposes:
 - (1) The Illinois Water Well Construction Code (415 ILCS 30 et seq) does not use the word “domestic.”
-

- (2) The Illinois Private Sewage Disposal Act (225 ILCS 225 et seq) defines “domestic sewage” to mean waste water derived principally from dwellings, business or office buildings, institutions, food service establishments, and similar facilities.
 - (3) The Private Sewage Disposal Code (77 Illinois Administrative Code 905) implements the Illinois Private Sewage Disposal Act. The Private Sewage Disposal Code uses the term “domestic sewage” but it is not defined.
 - G. On March 2, 2010, J.R. Knight, Associate Planner, spoke with Jeff Blackford, sanitarian with the Champaign-Urbana Public Health District, who indicated that they do not enforce the Water Well Construction Code on existing wells.
 - H. The Fire Protection District has received notice of this variance, but no comments have been received.
 - I. The Township Highway Commissioner has also received notice of this variance, but no comments have been received.
12. Elsewhere on the application the petitioners testified that, **“It would be a major cost and a large project to lower the roof and the shed would be less functional for our needs. The depth of the deck makes it more convenient to handle material.”**

GENERALLY PERTAINING TO WHETHER OR NOT THE PROPOSED VARIATION IS THE MINIMUM NECESSARY TO MAKE POSSIBLE THE REASONABLE USE OF THE LAND OR STRUCTURE INVOLVED

13. Generally regarding the Zoning Ordinance requirement for a finding that the proposed variation is the minimum necessary to make possible the reasonable use of the land or structure involved:
- A. The possible location of a detached accessory storage building on the lot was restricted prior to the subject construction as follows:
 - (1) The entire east 60 feet of the subject property is covered by an easement that does not allow any construction on that portion of the subject property.
 - (2) There is a circular drive that was existing before the petitioners purchased the subject property that prevents an accessory storage building from being placed closer to the existing dwelling.
 - (3) Along the west property line there are two locations where an accessory storage building could be located:
 - (a) The southwest corner of the subject property which would place it very close to the property to the south; or
 - (b) The location between two mature trees and located more or less across the driveway from the attached garage on the rear of the existing duplex. The mature trees can provide some screening for the building as well.
-

- B. The size of an accessory storage building is restricted by the two mature trees, as follows:
- (1) At the November 12, 2009, public hearing, co-petitioner Scott Lambright testified that he needs the indoor storage for his Neighborhood Home Occupation, Lambright Construction and Maintenance.
 - (2) If the building were only one story it would have to be approximately 650 square feet in area to provide the same amount of indoor storage. A building that size could not be accommodated in the subject building's current location without removing one of the mature trees.

GENERALLY REGARDING ANY PROPOSED SPECIAL CONDITIONS OF APPROVAL

14. Regarding special conditions of approval:
- A. The following condition requires that the space under the deck not be fully enclosed, which would materially change the requested variance for side yard.

The space underneath the second story deck shall not be fully or partially enclosed.

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

The nonconformity of the reduced side yard will not be increased unless authorized by another variance.

- B. Unless the Board requires otherwise, any building authorized by variance can be rebuilt to the same dimensions. The deck on the storage shed is above a water well that the neighbors have an easement to use. The neighbors have expressed some concern regarding whether the deck could ever prevent necessary maintenance on the well. Whether or not the petitioner must remove the deck to provide maintenance access to the well is not an issue to be resolved by this variance. However, the following condition will clarify that the deck can be rebuilt if it is necessary to remove it for maintenance on the well:

The deck on the storage shed may be rebuilt (without requiring a permit) to its existing dimensions if it needs to be removed to allow maintenance access to the well.

The above condition is necessary to ensure the following:

All parties understand that approval of the variance authorizes reconstruction of the shed if necessary for any reason.

- C. The previous zoning use permit for the subject building expired more than two years ago. The applicant owes additional zoning use permit application fees because the building included more interior area than was indicated in the original application. The building will have to be modified to comply with the amended site plan and the Board should establish a date certain for the building to be compliant. Compliance will have to be verified in a new compliance
-

inspection. The following condition makes it clear that a new zoning use permit application is required and provides specific deadlines for submission of the application and for compliance:

The petitioner shall submit a new Zoning Use Permit Application with fees within one month of the Zoning Board of Appeals decision in Case 657-V-09 and the necessary modifications to the detached accessory building shall be verified in a compliance inspection no later than *{three / six}* months from the date of the ZBA decision.

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

The modified building complies with the approval in Case 657-V-09 in a reasonable and timely manner.

DOCUMENTS OF RECORD

1. Variance application from Larry & Diane Lambright; and Scott Lambright, received on October 5, 2009, with attachment:
 - A Site plan
2. Revised site plan received on October 19, 2009
3. Preliminary Memorandum for Case 657-V-09, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Revised site plan received on October 19, 2009
 - C Zoning Use Permit 310-07-01
 - D Final Notice of Violation sent to Scott and Larry Lambright on October 13, 2009
 - E Draft Summary of Evidence for Case 657-V-09
 - F Photographs of subject property taken by staff (included separately)
4. Supplemental Memorandum for Case 657-V-09 dated November 12, 2009, with attachments:
 - A Letter of support from Robert E. Burack, received November 12, 2009
 - B Letter of support from Stephen Robinson, received November 12, 2009
 - C Letter of opposition from Ray & Donna Parkinson, received November 12, 2009
5. Supplemental Memorandum for Case 657-V-09 dated December 11, 2009, with attachment:
 - A Letter to the petitioner from Jamie Hitt, Zoning Officer, dated December 4, 2009
6. Supplemental Memorandum for Case 657-V-09 dated December 17, 2009, with attachments:
 - A Zoning Use Permit Application 310-07-01
 - B Letter of Opposition from Stephanie Amabeli, received on December 14, 2009
 - C Revised Draft Summary of Evidence for Case 657-V-09
7. Supplemental Memorandum for Case 657-V-09 dated February 5, 2010
8. Supplemental Memorandum for Case 657-V-09 dated February 11, 2010, with attachments:
 - A 1973 Supervisor of Assessments aerial photograph
 - B Site plan from Zoning Case 373-S-80
 - C Site plan for ZUPA 86-07-01
 - D Staff notes regarding height of subject detached accessory storage building
9. Amended variance description, signed by co-petitioners Larry and Diane Lambright, submitted on February 11, 2010
10. Photographs submitted by Alicia Helmick on February 11, 2010
11. Shared Well Easement submitted by Alicia Helmick on February 11, 2010

12. Supplemental Memorandum for Case 657-V-09 dated March 5, 2010, with attachments:
 - A Shared Well Easement submitted by Alicia Helmick on February 11, 2010
 - B Excerpt from Water Well Construction Code (77 Ill. Admin. Code 920)
 - C Staff field sketch of relative position of well and subject building, made on
 - D Excerpt of February 11, 2010, ZBA minutes (included separately)
 - E Draft Findings of Fact prepared on December 17, 2009
 - F Revised Draft of Summary of Evidence for Case 657-V-09

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 657-V-09 held on **November 12, 2009, December 17, 2009, February 11, 2010, and March 11, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* 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, **prior to construction of the subject building:** _____

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because, **prior to construction of the subject building:** _____

3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because, **prior to construction of the subject building:** _____

4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION(S)} {IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because, **prior to construction of the subject building:** _____

5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION(S)} {WILL NOT / WILL}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because, **prior to construction of the subject building:** _____

6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because, **prior to construction of the subject building:** _____

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

- a. **The space underneath the second story deck shall not be fully or partially enclosed.**

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

The nonconformity of the reduced side yard will not be increased unless authorized by another variance.

- b. **The deck on the storage shed may be rebuilt (without requiring a permit) to its existing dimensions if it needs to be removed to allow maintenance access to the well.**

The above condition is necessary to ensure the following:

All parties understand that approval of the variance authorizes reconstruction of the shed if necessary for any reason.

- c. **The petitioner shall submit a new Zoning Use Permit Application with fees within one month of the Zoning Board of Appeals decision in Case 657-V-09 and the necessary modifications to the detached accessory building shall be verified in a compliance inspection no later than *{three / six}* months from the date of the ZBA decision.**

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

The modified building complies with the approval in Case 657-V-09 in a reasonable and timely manner.

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 643-V-08 is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioners, **Larry & Diane Lambright; and Scott Lambright**, to authorize as amended on February 11, 2010, the use of an existing two story detached accessory storage building with a second story deck with a side yard of nine feet in lieu of the required ten feet side yard for accessory structures in the AG-2 Agriculture zoning district, and an average height of 16 feet in lieu of the maximum allowed 15 feet average height for residential accessory structures on lots less than one acre in area in the AG-2 Agriculture Zoning District.

SUBJECT TO THE FOLLOWING CONDITIONS:

- a. The space underneath the second story deck shall not be fully or partially enclosed.
- b. The deck on the storage shed may be rebuilt (without requiring a permit) to its existing dimensions if it needs to be removed to allow maintenance access to the well.
- c. The petitioner shall submit a new Zoning Use Permit Application with fees within one month of the Zoning Board of Appeals decision in Case 657-V-09 and the necessary modifications to the detached accessory building shall be verified in a compliance inspection no later than *{three / six}* months from the date of the ZBA decision.

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

1 *AS APPROVED FEBRUARY 25, 2010*

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:** February 11, 2010

PLACE: Lyle Shields Meeting Room
1776 East Washington Street

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

Urbana, IL 61802

13 **MEMBERS PRESENT:** Doug Bluhm, Catherine Capel, Thomas Courson, Melvin Schroeder, Eric
14 Thorsland, Paul Palmgren

15
16 **MEMBERS ABSENT :** Roger Miller

17
18 **STAFF PRESENT :** Lori Busboom, John Hall, J.R. Knight

19
20 **OTHERS PRESENT :** Larry Lambright, Diane Lambright, Scott Lambright, Steve Burdin, Lisa
21 Burdin, Joyce Brumfield, Robert Brumfield, Alicia Helmick, Scott Helmick

22
24 **1. Call to Order**

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

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

29
30 The roll was called and a quorum declared present with one member absent.

31
32 **3. Correspondence**

33
34 None

35
36 **4. Approval of Minutes (December 17, 2009)**

37
38 Mr. Thorsland moved, seconded by Mr. Schroeder to approve the December 17, 2009, minutes as
39 submitted. The motion carried by voice vote.

40
41 **5. Continued Public Hearing**

42
43 Case 657-V-09 Petitioner: Larry and Diane Lambright; and Scott Lambright Request: Authorize the
44 use of an existing two story detached accessory storage building with a second story deck with a side
45 yard of three feet in lieu of the required ten feet side yard for accessory structures in the AG-2
46 Agriculture zoning district, and an average height of 16 feet in lieu of the maximum allowed 15 feet
47 average height for residential accessory structures on lots less than one acre in area in the AG-2
48 Agriculture zoning district. Location: Lot 1 of Cook's Replat of Tract B of the K.D. Headlee

Subdivision in Section 14 of Mahomet Township and commonly known as the house at 206B Lake of the Woods, Mahomet.

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

Mr. Hall stated that the Supplemental Memorandum dated February 5, 2010, and the draft minutes of the December 17, 2009, public hearing indicate that the public hearing for this case was closed at the December 17, 2009, public hearing. He said that Article 6.13 of the ZBA By-laws indicates that if any party wishes to have a public hearing re-opened then it may only be re-opened only upon a majority vote of those members present and not abstaining from the relevant vote. He said that for that reason there are some things that he would like the Board to be aware of and requested that the Board re-open this public hearing.

Mr. Bluhm asked Mr. Hall if he and Mr. Miller could vote to re-open the case since they were not present at the December 17, 2009, public hearing regarding this case.

Mr. Hall stated that the By-laws only discuss Board members who are abstaining from the final vote and not Board members who were absent. He said that the way that he would interpret the By-laws is that the majority of the Board members present at tonight's meeting, less any members who were present at the December 17, 2009, public hearing who abstained, could vote to re-open the case.

Ms. Capel moved, seconded by Mr. Thorsland to re-open the public hearing for Case 657-V-09. The motion carried by voice vote.

Mr. Hall clarified that the finding that the Board developed at the last public hearing is a finding under which the Board could only deny the request and in this case that does not just mean denying the side yard but also the height. He said that it is fair to say that the height is less than what was advertised and it would be very difficult for the petitioner to lower the height of the shed but if that is what the Board desires then that is what the Board can require with a complete denial. He said that if the Board is interested in new evidence there is significant evidence that needs to be added to the finding. He apologized for having more significant evidence to add at the third meeting for this case but staff does not do the maximum amount possible for each variance case because the evidence would overload the Board with data. He said that the first mailing includes preliminary information and the second mailing is supplemented with additional information. He said that the last meeting was the second meeting for this case and it is obvious that the Board was headed in a clear direction with the findings therefore if the Board is still comfortable with that direction then the case could be closed the final determination could be completed. He said that if the Board is interested in new evidence then staff has prepared a couple of pages of that new evidence to add to the finding.

1

2 Ms. Capel stated that it would only be fair to hear any new evidence that staff could present to the Board
3 regarding this case.

4

5 Mr. Thorsland stated that if there is new evidence which could indicate some changes to the finding then the
6 Board should hear such new evidence.

7

8 Mr. Hall stated that the petitioner may also have additional evidence to present to the Board.

9

10 Mr. Bluhm asked Mr. Hall if an Administrative Variance would have been appropriate for the height
11 violation because it is less than 10%.

12

13 Mr. Hall stated yes.

14

15 Mr. Bluhm explained to the Board that the height could have been under an Administrative Variance but it
16 has been included in this case because there was another variance which needed authorization.

17

18 Mr. Knight distributed a new Supplemental Memorandum dated February 11, 2010 and copy of the Revised
19 Draft Finding of Fact and Final Determination dated December 17, 2009, to the Board for review.

20

21 Mr. Hall stated that Item #4.A. of the Summary of Evidence should be revised as follows: The subject
22 property is zoned AG-2 and is a duplex in use as a single family dwelling, the duplex being authorized in
23 Case 373-S-80, and Lambright Construction and Maintenance, Inc. operated as a Neighborhood Home
24 Occupation (NHO-07-09). He said that the revised text corrects the description of property because there
25 was a special use permit for a duplex and a home occupation for the business therefore giving the Board a
26 correct understanding of the zoning approvals on the property.

27

28 Mr. Hall stated that the Supplemental Memorandum dated February 11, 2010, includes proposed new
29 evidence which the Board can take or leave. He said that new Item #5.A., renumbering subsequent items,
30 reads as follows: A staff memorandum dated March 21, 1980, for Case 373-S-80, states that the building
31 that is the dwelling was originally built in 1954 as a restaurant on the first floor and an upstairs apartment
32 with an outside entrance but at the time (in 1980) the upstairs apartment had not been rented for
33 approximately 20 years. Case 373-S-80 came about because the nonconforming rights to a duplex had been
34 exhausted and a prospective purchaser claimed that the structure did not lend itself to being a single family
35 dwelling because of the separate stairway leading to the upstairs and the prospective purchaser wanted to
36 convert the dwelling to a duplex. Case 373-S-80 was approved on March 3, 1980. He said that the first
37 sentence in new Item #5.E., indicated as existing Item #5.D. in the revised Draft Summary of Evidence dated
38 December 17, 2009, should be revised as follows: The existing detached accessory storage building is
39 located approximately 55 feet from the south property line and 13 feet from the west property line and
40 situated between two mature trees. He said that new Item #5.F. should read as follows: Co-petitioner Larry
41 Lambright testified at the December 17, 2009, public hearing that the subject storage building does not sit on
42 a foundation and could be moved. He said that Item #5.G. should read as follows: The circular driveway
43 appears in the Supervisor of Assessments' 1973 aerial photo. Mr. Hall noted that the first attachment to the

1 February 11, 2010, Supplemental Memorandum is the 1973 aerial photograph from the GIS survey and it
2 indicates Permanent Index #176-007 identifies the subject property with its current boundary dimensions and
3 the underlying background in the 1973 background. He said that it is evident that the circular driveway
4 existed in the 1973 aerial photograph.
5

6 Mr. Hall stated that new Items #7.H, 7.I and 7.J. should be added the Summary of Evidence as follows: 7.H:
7 Regarding the location of the existing detached accessory storage building: (1) The east 60 feet of the
8 subject property is covered by an easement that prohibits construction, which eliminates the east 1/3 of the
9 property as a building site; and (2) The 25 feet between the rear of the dwelling and the rear property line is
10 not deep enough to allow both the construction of an accessory building with the required 10 feet rear yard
11 and the continued use of the circular driveway; and (3) The only area on the subject property with enough
12 clearance for the detached accessory building is the west side; and (4) There is a barbecue/sitting area and
13 one personal storage building in the southwest corner of the subject property; and (5) There are two large
14 trees which flank the subject detached accessory storage building on either side; and 7.I: Co-petitioner
15 Larry Lambright testified at the December 17, 2009, public hearing that the subject storage building does not
16 sit on a foundation and could be moved; and 7.J: Regarding the height variance, staff measurement of the
17 detached accessory storage building indicated that the average height is approximately 15.5 feet. Mr. Hall
18 noted that the last page of the Supplemental Memorandum dated February 11, 2010, indicates the field notes
19 of Jamie Hitt, Zoning Officer during her recent inspection of the property and those notes indicate that the
20 building is 6 inches higher than the Zoning Ordinance allows. He said that a new Item #9.F. should be added
21 as follows: Areas on the subject property where a detached accessory storage building can reasonably be
22 built were restricted prior to the ownership of the petitioners by the easement over the eastern 1/3 of the
23 property and the location of the existing dwelling, mature trees and the circular driveway.
24

25 Mr. Hall stated that this is all of the relevant evidence regardless of which way the Board is inclined to make
26 their determination. He said that the Board could stop with this evidence or go further and try to argue
27 whether or not a case has been made for the building with its current dimensions at its current location. He
28 said that if more evidence is required by the Board then they can indicate such and request that the petitioner
29 provide it for review.
30

31 Mr. Bluhm asked the Board if there were any questions or comments for Mr. Hall and there was none.
32

33 Mr. Hall stated that the By-laws make it very clear that the Board can only approve the petition that it is
34 presented with. He said that in retrospect staff probably should have spent more time with the petitioners
35 advising them that the variance has two unrelated parts. He said that one part is the height which deals with
36 a certain aspect of the building and the other part is the separation from the lot line which deals with a
37 completely different aspect of it. He said that depending on how the Board is inclined to go they may feel
38 differently about one part than it does the other and staff should have given the petitioner a heads up about
39 such and advised them that they might have wanted to request a two part variance. He said that if they had
40 the Board could have approved one part and not the other, approved both or denied both. He said that staff
41 did inform the petitioners of this issue this week and informed them that they might want to be prepared
42 tonight to revise their petition in the hopes of having everything that they originally requested approved over
43 some lesser amount. He said that staff has a description of the variance available at the meeting tonight and

1 it can be modified and signed tonight if the petitioner chooses to do so.

2
3 Mr. Bluhm called Mr. Larry Lambright to testify.

4
5 Mr. Larry Lambright, who resides at 2110 Pheasant Ridge, Mahomet stated that they have reconsidered their
6 request and in order to make it easier on the Board they are proposing to cut the deck back to 9 feet off the
7 property line. He said that the height variance is a major issue because there would be a major cost to cut the
8 height down. He said that he did previously state that the building is not on a foundation and it could
9 possibly be moved but it would also be very costly. He noted that he did sign the revised request indicating
10 the modified yard.

11
12 Mr. Bluhm asked the Board if there were any questions for Mr. Lambright and there were none.

13
14 Mr. Bluhm asked if staff had any questions for Mr. Lambright and there were none.

15
16 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Lambright and there was no one.

17
18 Mr. Hall stated that the variance for the side yard is reduced from nine foot for a variance of one foot.

19
20 Mr. Bluhm called Alicia Helmick to testify.

21
22 Ms. Alicia Helmick, who resides at 206-A Lake of the Woods Rd, Mahomet stated that Mr. Lambright has
23 indicated that it was his impression that the well was abandoned. She submitted photographs to the Board
24 indicating that the well does work and how close the well is to the shed. She said that the well is
25 approximately one to two feet away from the back side of Lambright's shed. She said that Mr. Lambright
26 submitted a diagram dated November 19, 2007, which was included with the Zoning Use Permit that
27 indicates where the shed was going to be located in conjunction with where the well is located. She said that
28 the location indicated on this diagram is not where the shed is currently located and in fact the subject shed is
29 in front of their well instead of off to the side of their well. She said that there is ample space from the side
30 of the well for the location of the shed and that is where it was originally indicated on the diagram that was
31 submitted with the permit request.

32
33 Mr. Bluhm asked Ms. Helmick if she would like to submit the photographs as Documents of Record.

34
35 Ms. Helmick stated yes. She requested that the Board consider requiring Mr. Lambright to relocate the shed
36 because it is an obstruction and she has legal documentation of a shared well agreement which indicates that
37 the well cannot be obstructed. She said that if the shed was located in the area indicated on the submitted
38 and approved diagram then there would not be an obstruction and she would not have a problem with the
39 shed. She said that she does have a problem with the current location of the shed and the fact that she is not
40 able to access their well.

41
42 Mr. Bluhm asked the Board if there were any questions for Ms. Helmick and there were none.

1 Mr. Bluhm asked if staff had any questions for Ms. Helmick.

2

3 Mr. Hall asked Ms. Helmick if she requires greater access than a one to two foot diameter clear area.

4

5 Ms. Helmick stated that she cannot get to the well due to the deck and the items on one side of the well such
6 as bricks and a lawnmower. She said that if any equipment was required to do any work on the well it would
7 be very difficult to get it next to the well with the two-story shed and deck right next to it.

8

9 Mr. Hall stated that it has been established that Mr. Lambright shall provide access to the well.

10

11 Ms. Helmick stated that Mr. Lambright does have to provide access to the well but if there is any damage
12 done to Mr. Lambright's shed or his property who is obligated to take care of that damage. She said that it
13 should not her family who has the obligation for any damages during maintenance of the well because it was
14 Mr. Lambright who chose to locate the shed in its current location. She said that she is not going to pay
15 someone to move Mr. Lambright's deck because she needs to gain access to her own well.

16

17 Mr. Hall stated that this is a legal issue but if the well agreement requires Mr. Lambright to provide access to
18 the well then he would be required to move the deck for maintenance to the shed.

19

20 Ms. Helmick agreed but even if the deck is removed the shed remains next to the well.

21

22 Mr. Thorsland stated that Page 10, Item #13.B of the Revised Draft Summary of Evidence dated December
23 17, 2009, indicates a special condition as follows: The deck on the storage shed may be rebuilt (without
24 requiring a permit) to its existing dimensions if it needs to be removed to allow maintenance access to the
25 well.

26

27 Ms. Helmick that the Zoning Ordinance indicates that structures cannot be placed on an easement.

28

29 Mr. Hall stated that the only easement that the Zoning Ordinance protects is a drainage easement.

30

31 Mr. Bluhm asked Ms. Helmick if a copy of the well agreement has been submitted to the Board as a
32 Document of Record.

33

34 Ms. Helmick stated that she does not know but she would be happy to provide a copy to the Board.

35

36 Mr. Bluhm requested that a copy be submitted for review by the Board.

37

38 Ms. Helmick submitted the well agreement.

39

40 Mr. Bluhm asked the Board if there were any questions for Ms. Helmick and there were none.

41

42 Mr. Bluhm asked if staff had any questions for Ms. Helmick and there were none.

43

1 Mr. Bluhm stated that the Board will take a ten minute recess to allow staff time to return to the office to
2 obtain the *Champaign County Public Health Ordinance*.

3
4 **The meeting recessed at 7:05 p.m.**

5 **The meeting resumed at 7:15 p.m.**

6
7 Mr. Bluhm stated that there was some question as to what the *Champaign County Public Health Ordinance*
8 required for separation between a well and a building. He said that the Ordinance reads as follows: 1. When
9 a well must be located adjacent to a building, it shall be located that the centerline of well extended vertically
10 will clear any projection from the building by not less than two feet. He said that in reviewing the submitted
11 photographs the brick could be used to count the distance and he would approximate 20 inches to the
12 centerline of the well. He said that the Board needs an exact measurement from the well centerline to the
13 building and a clarification from the Champaign County Public Health Department as to what they consider
14 a projection and why the separation is required. He said that there are some unresolved issues that need
15 answered.

16
17 Mr. Bluhm allowed Mr. Lambright the opportunity to read a section of the shared well agreement.

18
19 Mr. Lambright stated that their property and the Helmick's property is connected to Sangamon Valley Water
20 and the well agreement specifically states the following, "water well on Tract 1 is for domestic water use
21 purpose only." He said that domestic water use purpose only is not filling a pool or watering flowers but for
22 drinking and cooking. He said that when he purchased his property he was informed that the water well was
23 not working. He said that he is not sure if the photographs submitted by Ms. Helmick are accurate because
24 he is not sure if the water is coming from the well that is located on his property because the well head that is
25 on his property has never worked. He said that he has tried to use the spigot and it hasn't worked and if it is
26 suppose to work then the power should be on all of the time because it is a shared well and he has the right
27 to also use it. He said that he has pulled wells before and there is no reason why the well could not be pulled
28 and he would be happy to do it if someone would like to come watch him do it.

29
30 Mr. Bluhm stated that the terminology of "domestic water use purpose only" should be clarified for the
31 Board.

32
33 Ms. Helmick requested the opportunity to respond.

34
35 Mr. Bluhm allowed Ms. Helmick to respond but informed the audience that the Board does not allow back
36 and forth testimony.

37
38 Ms. Helmick stated that when the easement was put into place there was public water provided to their home
39 in 1994.

40
41 Mr. Hall asked Ms. Helmick if her property is still served by public water.

42
43 Ms. Helmick stated yes. She said that they use the well water to fill their pool.

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Mr. Courson requested that staff obtain clarification of “domestic water use purpose only” and obtain information from a well drilling company as to how much room is required to pull a well for maintenance.

Ms. Capel stated that she would like to see an exact measurement from the centerline of the well to the building.

Mr. Thorsland stated that it appears that a continuance of this case is warranted to clarify these issues.

Mr. Bluhm stated that clarification is needed from the Public Health District regarding clarification of “domestic water use purpose only.” He said that the State’s Attorney’s Office should review the language in the shared well agreement. He said that a statement from a well drilling company regarding the amount of area required to pull the well for maintenance would be helpful to the Board although he does not believe that much area is needed because it is a case well. He said that he is not comfortable in approving anything regarding this case until clarification is received from the Public Health District.

Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony regarding Case 657-V-09, and there was no one.

Mr. Bluhm closed the witness register.

Mr. Bluhm requested a motion for a continuance date.

Mr. Thorsland moved, seconded by Mr. Courson to continue Case 657-V-09, to March 11, 2010. The motion carried by voice vote.

6. New Public Hearings

Case 659-V-09 Petitioner: Stephan and Lisa Burdin Request: Authorize the use of an existing non-conforming lot 0.94 acres in area with an average lot width of 140 feet in lieu of the minimum required lot area of one acre and minimum average lot width of 200 feet. Location: A 0.94 acre tract in the Southeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 26 of Newcomb Township and commonly known as the house at 2527 CR 450E, Mahomet.

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

CASE NO. 662-S-10

PRELIMINARY MEMORANDUM

March 5, 2010

Champaign
County
Department of



Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Petitioner: **Illinois District Council of the Assemblies of God, Gary Blanchard, Assistant Superintendent, and Jeff Scott, Station Manager**

Request: **Convert a use from a warehouse to a Radio Station as a Special Use in the I-1 Light Industry Zoning District**

Location: **Lot 11 in Westwood Trace Subdivision in Section 9 of Champaign Township and commonly known as the building at 4101 Fieldstone Road, Champaign.**

Site Area: **approx. 3.345 acres**

Time Schedule for Development:
Immediate

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

BACKGROUND

The subject property and other properties was subject to an annexation agreement with the City of Champaign that expired in 2009. When that agreement expired a new annexation agreement was negotiated by the City and the current owners at that time. The new annexation agreement did not include the subject property and when the petitioners purchased the subject property in December 2009 they were unaware the property's zoning status was changing.

City staff told the Department on February 2, 2010, that the subject property was no longer subject to annexation and would revert to the County zoning jurisdiction. The petitioners then contacted the Department regarding approval for a Radio Station on the subject property. The petitioners submitted their application on February 8, 2010.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign. Municipalities with zoning do not have protest rights in variance cases and they are not notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Warehouse and Office, proposed to be Radio Station	I-1 Light Industry
North	Horizon Hobby	I-1 Light Industry
East	Franchise Management	I-1 Light Industry
West	Vacant	I-1 Light Industry
South	Vacant	I-1 Light Industry

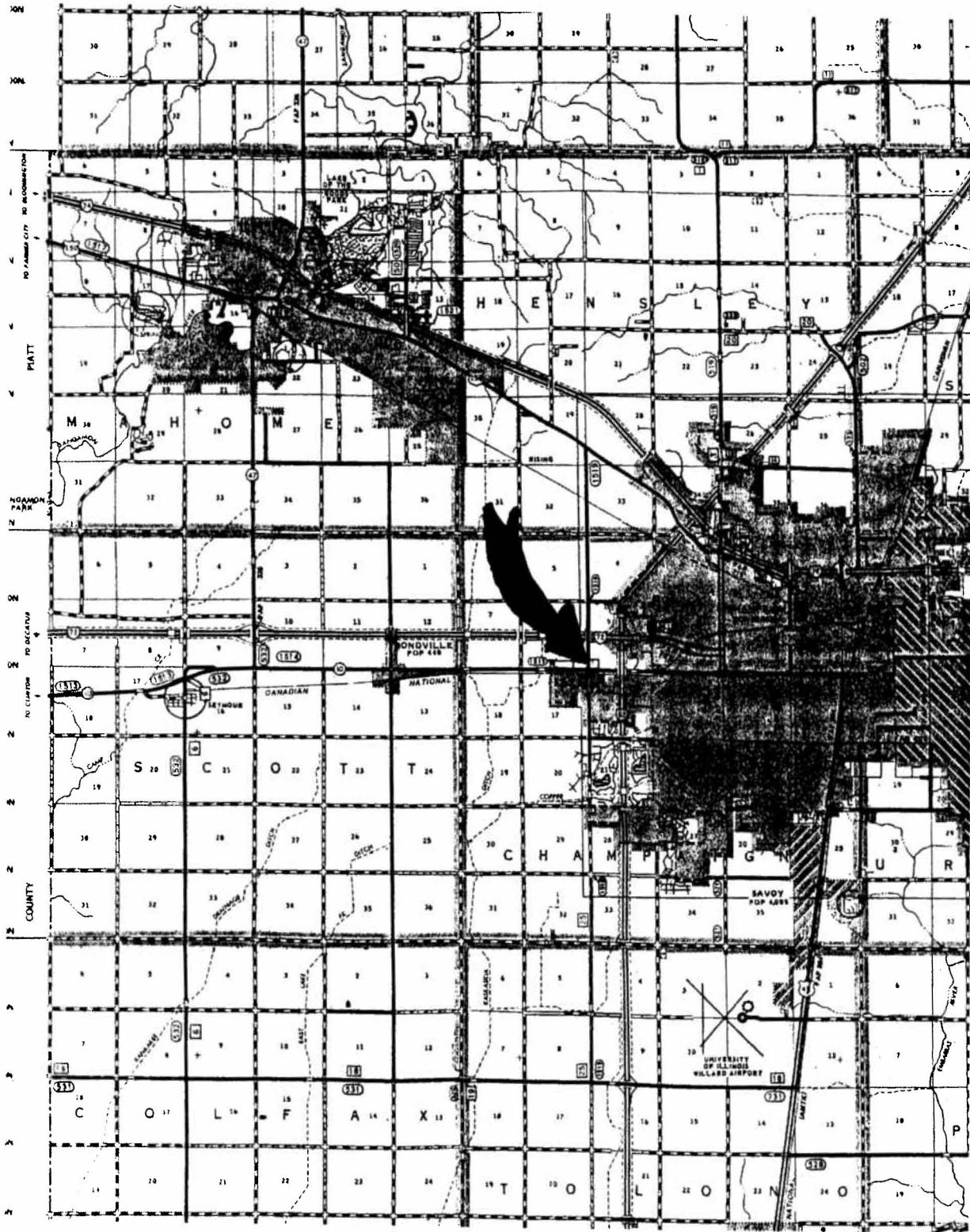
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Plat of Survey of the subject property, received on February 22, 2010
- C Construction Document EX101
- D Construction Document D101
- E Construction Document A101
- F ZUPA 223-88-01
- G Staff Parking Analysis
- H Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 662-S-10

ATTACHMENT A. LOCATION MAP

Case 662-S-10

MARCH 5, 2010

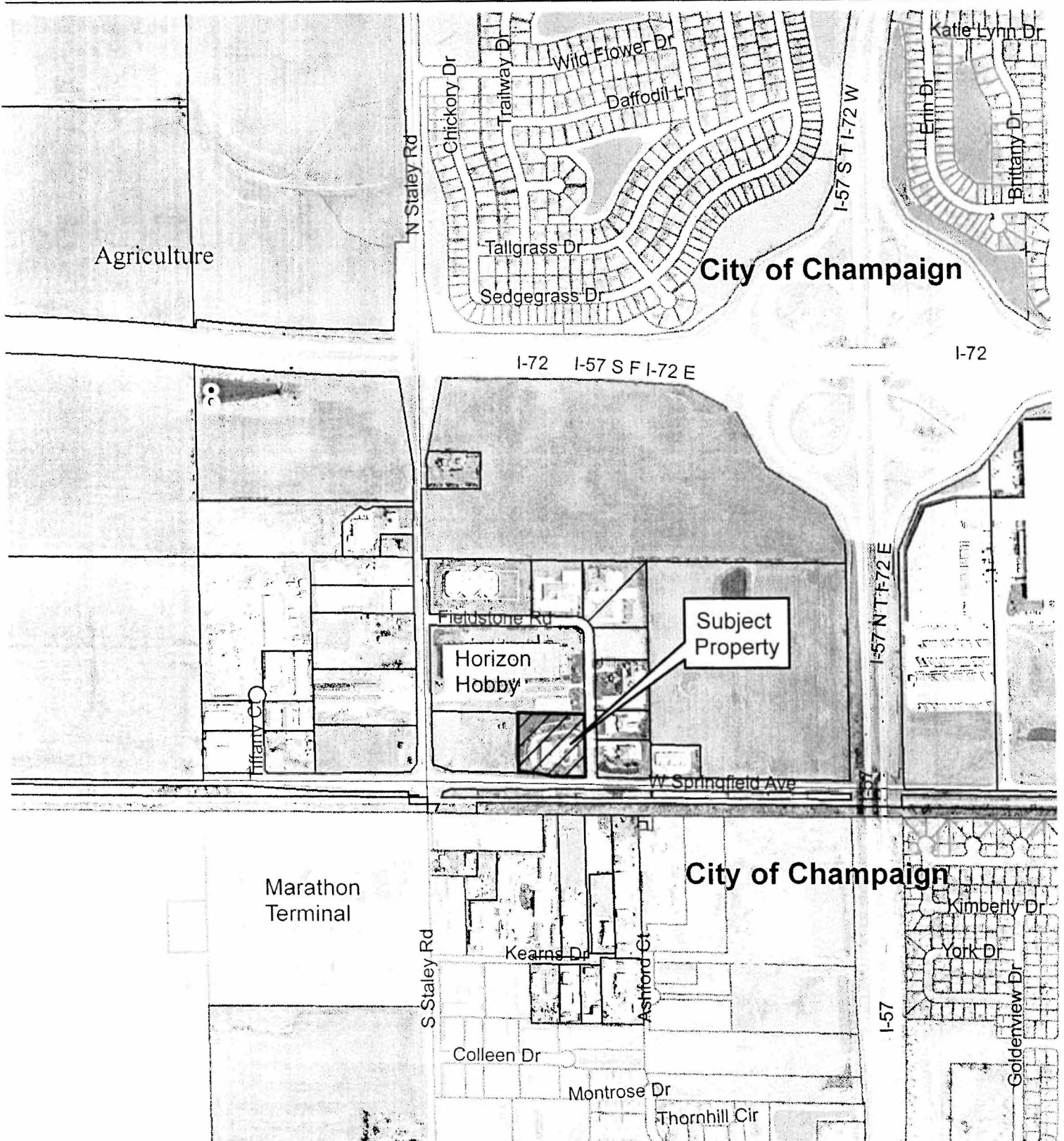


Champaign
County
Department of
**PLANNING &
ZONING**

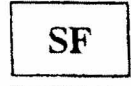
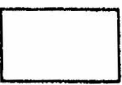
ATTACHMENT A. LAND USE MAP

Case 662-S-10

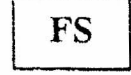
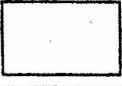
MARCH 5, 2010



Area of Concern



Single Family



Farmstead



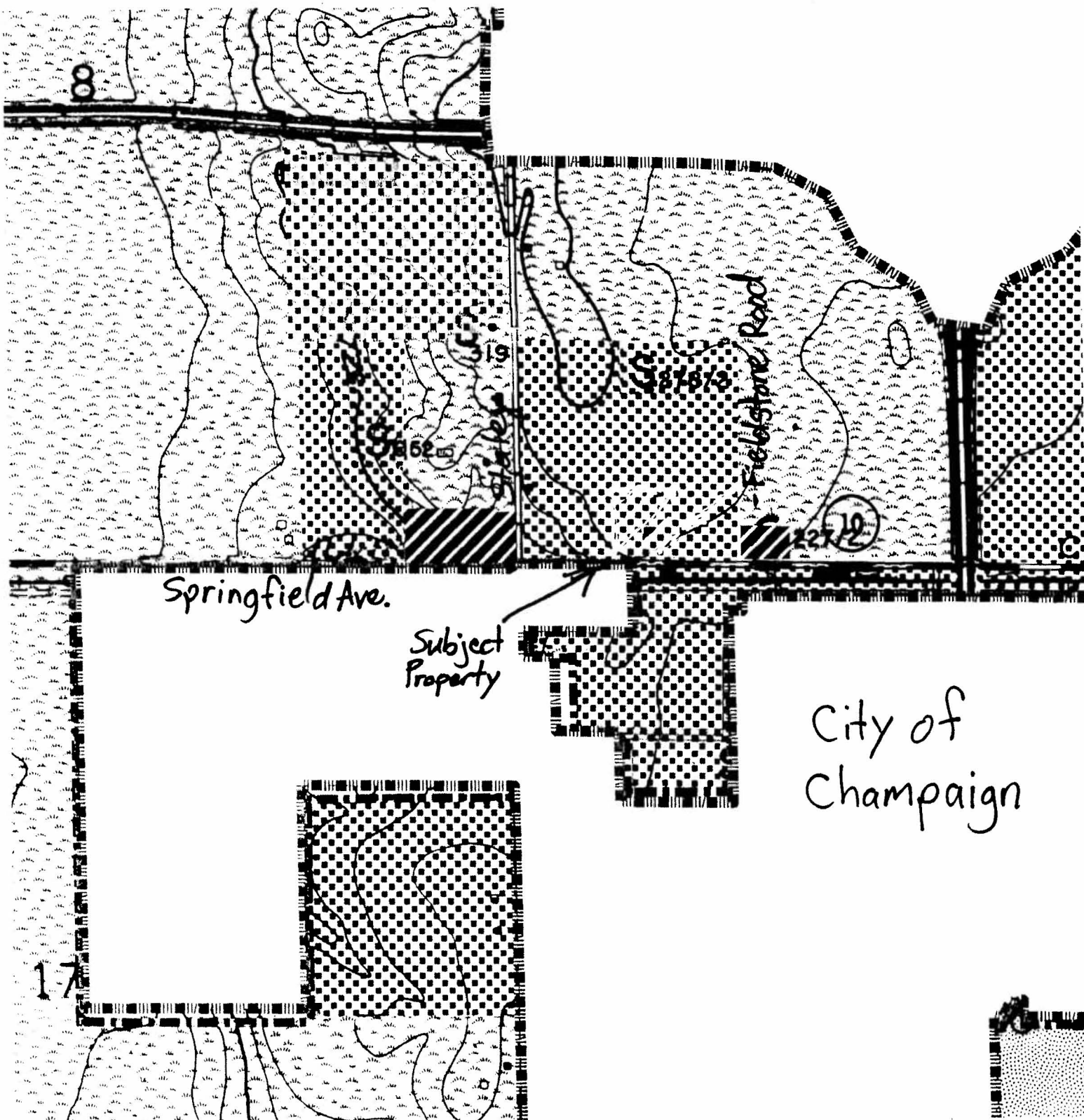
1 inch = 800 feet

Champaign
County
Department of
**PLANNING &
ZONING**

ATTACHMENT A. ZONING MAP

Case 662-S-10

MARCH 5, 2010



City of Champaign

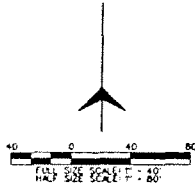
AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	NORTH
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	

RECEIVED

CHAMPAIGN SURVEY & ENGINEERING DEPARTMENT

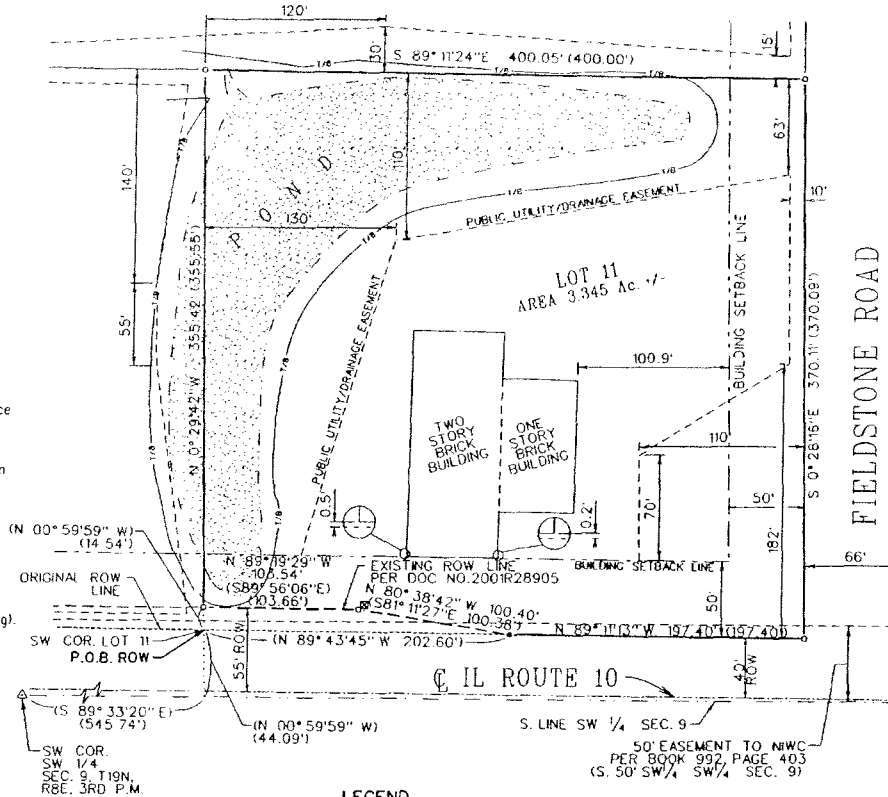
PLAT OF SURVEY

LOT 11 IN WESTWOOD TRACE, AN ADDITION TO
CHAMPAIGN COUNTY IN A PART OF THE SW 1/4
SECTION 9, TOWNSHIP 19 NORTH,
RANGE 8 EAST, 3RD P.M.



NOTES:

- No search was made as a part of this professional service for easements, recorded or unrecorded, encroachments or matters of ownership or title, that a current and accurate title search may disclose. (See title commitment)
- All improvements to the site are not shown on the attached plat.
- Environmental conditions, either surface or subsurface were not considered as a part of this survey and were not investigated.
- Utilities may or may not be located on the property surveyed. No effort was made as a part of this survey to determine the existence or location of utilities.
- Monument records referenced by document number at the corners of the Quarter Section may be found in the office of the Champaign County Recorder.
- Distances are shown in feet and decimal parts thereof.
- The current zoning classification of the property surveyed was not determined as a part of this survey.
- Based on my inspection of the Federal Emergency Management Agency Flood Insurance Rate Map, Panel 170894 0180 B, all of the property surveyed is located within Zone C, (Areas of minimal flooding).
- Bearings shown on the attached plat are referenced to the Illinois State Plane Coordinate System - East Zone (NAD 83/86).



LEGEND

- IRON PIN/PPE SURVEY MONUMENT FOUND
- 1/2" x 30" IRON PIN SET W/ PLS #2338 IDENT. CAP
- ⊗ RIGHT OF WAY MARKER FOUND
- () RECORD DIMENSION
- RIGHT OF WAY LINE
- - - - PUBLIC UTILITY/ DRAINAGE EASEMENT LINE
- - - - BUILDING SETBACK LINE
- - - - TOP OF BANK
- - - - EDGE OF WATER

LEGAL DESCRIPTION

Lot 11 in Westwood Trace, an Addition to Champaign County, Illinois, as per Plat recorded September 23, 1988, in Plat Book "AA" at Page 245 as Document Number 88R20752, situated in Champaign County, Illinois.

Except:

A parcel of land being a part of Lot 11 of Westwood Trace, an Addition to Champaign County, located in the Southwest Quarter of the Southwest Quarter of Section 9, Township 19 North, Range 8 East of the Third Principal Meridian, Champaign County, Illinois, more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said Section 9; thence South 89 degrees, 33 minutes, 20 seconds East, 545.74 feet along the South line of said Southwest Quarter; thence North 00 degrees, 59 minutes, 59 seconds West, 44.09 feet to the Southwest corner of said Lot 11 and the existing Northerly right of way line of FAU Route 7123 (Illinois Route 10), being the Point of Beginning; thence continue North 00 degrees, 59 minutes, 59 seconds West, 14.54 feet along the West line of said Lot 11; thence South 89 degrees, 56 minutes, 06 seconds East, 103.66 feet along a line parallel with and 55.00 feet Northerly of the centerline of Illinois Route 10; thence South 81 degrees, 11 minutes, 27 seconds East, 100.38 feet to the South line of said Lot 11 and the existing Northerly right of way line of Illinois Route 10; thence North 89 degrees, 43 minutes, 45 seconds West, 202.60 feet along the said South lot line and the said Northerly right of way line to the Point of Beginning. Situated in Champaign County, Illinois.

State of Illinois)
County of Champaign) S.S.

I, Orville Joseph Hewkin, II, Illinois Professional Land Surveyor Number 2338, do hereby state that at the request of Illinois District Council of the Assemblies of God, I have provided this Professional Service, and that said service conforms to the current Illinois Minimum Standards of Practice for Boundary Surveys, except as noted above. Further state that the field work, completed on October 27, 2009, and the attached PLAT OF SURVEY were made under my direct supervision and that the dimensions and survey monuments shown on the plat correctly represent conditions found in the field.

Signed and sealed this 2ND day of November, 2009.

Orville Joseph Hewkin II

Orville Joseph Hewkin, II
Illinois Professional Land Surveyor No 2338
Champaign, Illinois

License expires November 30, 2010



JOB #09118
Soderstrom and Associates, Inc.
240 NORTH HILL STREET
POST OFFICE BOX 357
CHAMPAIGN, ILLINOIS 61824-0357
TEL: 317-352-7608 FAX: 317-352-7922
ENGINEERING / ANALYSIS / MANAGEMENT



EX101

PROJECT: 10/20/08 4/08

EXISTING FLOOR PLANS

WBGL OFFICE REMODEL
CLASSROOM ADDITION
WBGL RADIO STATION

4101 FIELDSTONE RD., CHAMPAIGN, IL 61822



BLDD Architects, Inc.
17 East Taylor Street
Champaign, IL 61820
Phone: 217-356-9606
Fax: 217-356-8861

Design Firm
Registration
#198-000723

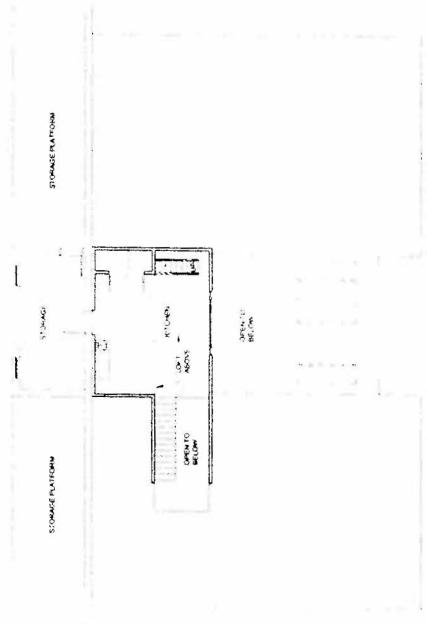
Professional Seal of the State of Illinois
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drawn by
checked by
date

JJJ
JJJ
3/11/08



1- FIRST FLOOR PLAN - EXISTING
1/8" = 1'-0"



2- SECOND FLOOR PLAN - EXISTING
1/8" = 1'-0"

CHAMPAIGN COUNTY, ILLINOIS
ZONING USE PERMIT

5630

App. # 223-88-01

Township Champaign Receipt # 5820 Tax Parcel Number _____

Section 9 Fee \$3,000.00

Location (Address, directions, etc.) 4101 Fieldstone Drive, Champaign, Illinois.

Owner/s Josef C. Hallbeck, P.O. box 3728, Champaign, Illinois.

Issued to Owner Agent: Zoning District 1-1 Lot Area (acres or sq. ft.) 1.50 acres

Legal Description of Parcel: Lot # 11 Block # _____ Subdivision Westwood Woods
or: (Metes and bounds description, etc.)

Project Is To: Construct a new office building and warehouse.

Use Is: Accessory Principal By Appeal # _____
Conforming Non-conforming Special # _____ By Variance # _____

Remarks: _____

Conditions

This permit is issued with the understanding that all construction, use and occupancy will be in compliance with the application as filed with the Zoning Office, and with all provisions of the Champaign County Zoning Ordinance.

Date August 10, 1988

Signed By: Tyler H. Chappin
 Zoning Administrator
 Authorized Agent

NOTE: A Zoning Compliance Certificate must be obtained from the Zoning Office, in writing, prior to occupancy or use of the work or structures covered by this permit (Section 9.1.3).

Zoning Compliance Certificate issued - Date _____ and Number _____

OFFICE OF THE ZONING ADMINISTRATOR
 1906 East Main Street
 Urbana, Illinois 61801
 384-3708

Township	Champaign
Section	9 11 12 13 14 15
Tax Parcel No.	11111
Permit Application No.	227-11-01
Receipt No.	5820 Date 1-10-81
Permit No.	51680
Zoning District	I-1
Occupancy Classification	
Lot Area (Acres/Sq. Ft.)	1.50 ACRES

ZONING USE PERMIT APPLICATION
 And/or APPLICATION FOR ZONING COMPLIANCE CERTIFICATE

1. INSTRUCTIONS TO APPLICANTS:

All information requested must be completed on this application. Applicants are encouraged to visit this office and assistance will be given in filling out this form. If possible, please call 217-384-3708 for an appointment to avoid delays.

Application is hereby made for a ZONING USE PERMIT and/or a ZONING COMPLIANCE CERTIFICATE as required under the Zoning Ordinance of the County of Champaign, Illinois for the erection, moving, or alteration, and use of buildings and premises. In making this application the applicant represents all the following statements and any attached maps and drawings as a true description of the proposed new or altered uses and/or building. The applicant agrees that the permit applied for, if granted, is issued on the representations made herein and that any permit issued may be revoked on any breach of representations of conditions.

It is understood that any permit issued pursuant to this application will not grant any right or privilege to erect any structure or to use any premises described for any purpose or in any manner prohibited by the Zoning Ordinance, or by other ordinances, codes or regulations of the County of Champaign, Illinois. The applicant further agrees to notify the Zoning Administrator at the completion of the construction stated on the permit, if granted. The Zoning Administrator shall, upon completion of construction, inspect the premises and issue or refuse a ZONING COMPLIANCE CERTIFICATE. It is further understood that unless a start of construction is made within One Hundred Eighty (180) days and unless substantially completed within Three Hundred Sixty-five (365) days, this permit shall become null and void according to Section 9.1.2(D) of the Zoning Regulations.

2. IDENTIFICATION - To be completed by all applicants:

	Name	Mailing Address	ZIP code	Tel. No.
1. Owner or Lessee	Joseph C. Hulbrook	P.O. Box 3728	61821	351-7777
2. Contractor	First U. Corp Champaign, IL	3000 Russell Road	61820	356-1455
3. Architect or Engineer	Lotzberg-Gard DeCarre's	415 DOWNSHIRE DR. J.	61220	306-3416

3. LOCATION OF PROPOSED CONSTRUCTION:

Address of Proposed Construction: 4101 Fieldstone Dr. C 61821

Legal Description of Property: Lot 11 of Westwood Trace, Subdivision
(description by metes and bounds or lot number, block number and name of subdivision - attach additional sheets if necessary)

4. Tax Parcel Number: 11111
 Construction is located in I-1 Zoning District.

Lot Area (Acres or Square Feet): 1.5 ACRES ± 400,187
 Estimated cost of construction: MATERIALS OF CONSTRUCTION \$1000

5. PROPOSED CONSTRUCTION:

A. New Buildings; B. () Alterations or additions to existing buildings;
 C. Other: _____

6. USE OF EXISTING AND PROPOSED STRUCTURES:

Existing Use: VACANT (INDUSTRIAL)
(Commercial, industrial, residential, agricultural, vacant lot.)

PROPOSED USE:

RESIDENTIAL

- One family
- Two or more family -
enter number of units _____
- Transient hotel, Motel, or
dormitory -
enter number of units _____
- Garage - attached
- Garage - detached
- Carport
- Other - specify _____
- BASEMENT: _____

NONRESIDENTIAL

- Amusement, recreational
- Church, other religious
- Office / Warehouse
- Parking garage
- Service station, repair garage
- Hospital, institutional
- Office, bank, professional
- Public utility
- School, library, other educational
- Stores, Mercantile
- Towers, tanks
- Other - specify _____

6. SPECIFICATIONS AND PLANS: READ CAREFULLY BEFORE FILLING IN

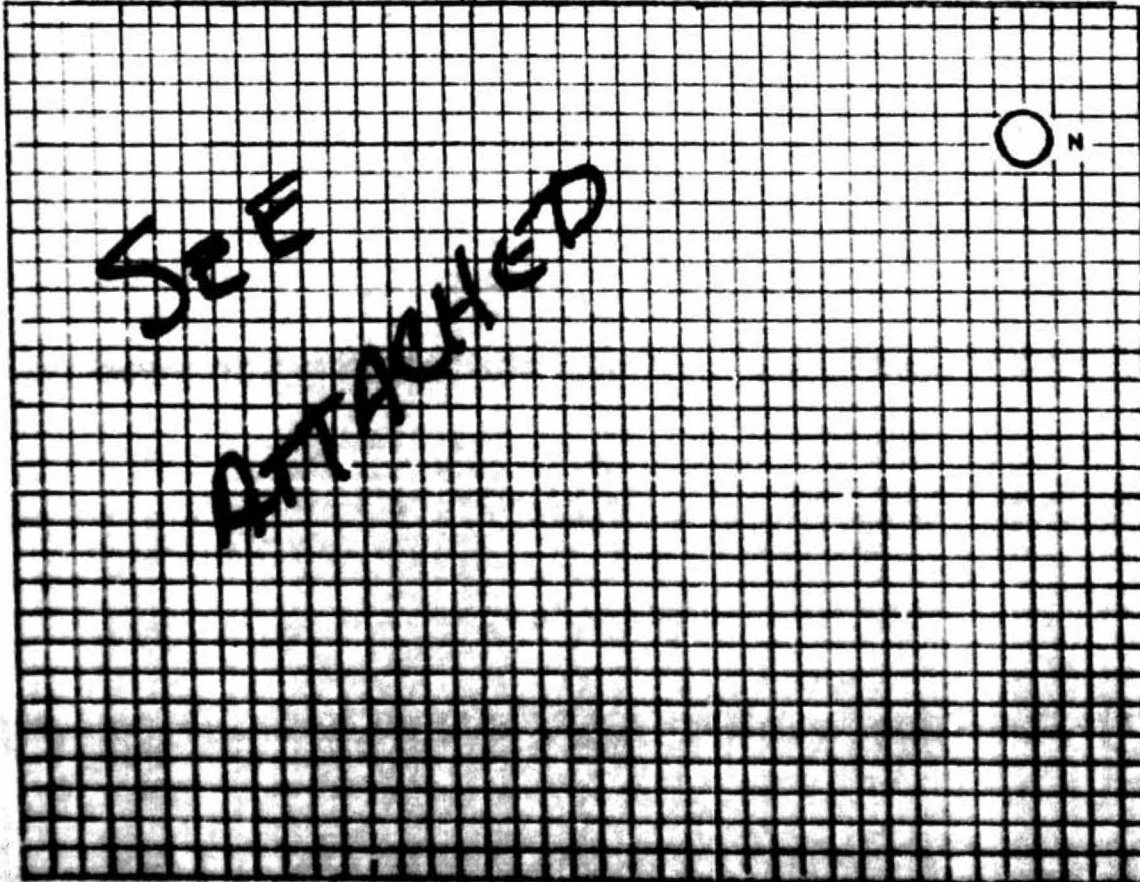
A. SPECIFICATIONS: For each building, structure, or use (existing and proposed) identified on the plat (See below) give the following information, if applicable:

Structure	Height in feet	No. of stories	No. of Dwelling Units	Area in Square Feet	No. of Parking Spaces	Source of Water Supply	Means of Disposal
Existing							
Proposed							
building	18	1	-	13,000	25	N.I.W.C.	PUBLIC

*****THE FOLLOWING INFORMATION MUST BE PROVIDED*****

- B. PLANS:** (A plat drawn to scale is attached and shows the following):
- (1) Actual shape and size of lot or property,
 - (2) Location, ground area, dimensions, and identification of use of all (existing and proposed) buildings, structure, driveways, parking areas,
 - (3) Dimensions of front, side and rear yards.
 - (4) Location of well (if any).
 - (5) Scale drawing of septic or private sewage disposal system.
- ** Include a copy of any permits from other agencies (e.g. Environmental Protection Agency) which may be required to approve these facilities.

B. SITE OR PLOT PLAN - For Applicant Use



7. I hereby certify that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and we agree to conform to all applicable laws of this jurisdiction.

x [Signature]
Signature of applicant (if other than owner)

3,000 ROZACCH RD. C. 61821
Address of applicant

CONTRASTAC
Property interest of applicant

8-10-88
DATE

Signature of owner or authorized agent

DO NOT WRITE BELOW THIS LINE

Permit issued () Permit Number 51690 Date 8-10-88
Permit denied () Cause: _____

for
\$3,000

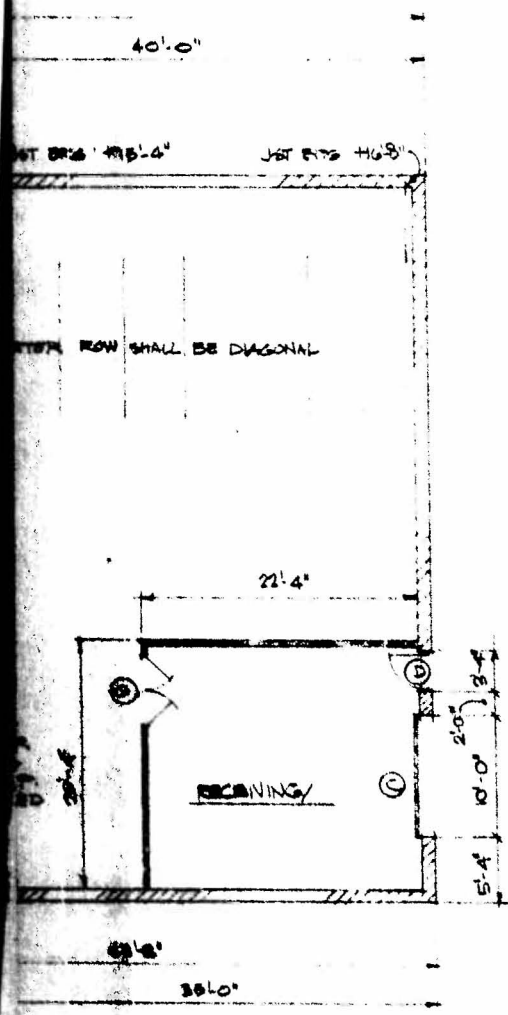
[Signature]
Signature of enforcing officer

ADDITIONAL COMMENTS:

NOTICE OF COMPLETION OF CONSTRUCTION: _____ Date _____
Zoning Compliance Certificate Issued () Certificate No. _____ Date _____
Zoning Compliance Certificate Denied () Cause: _____

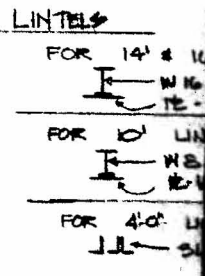
Signature of enforcing officer

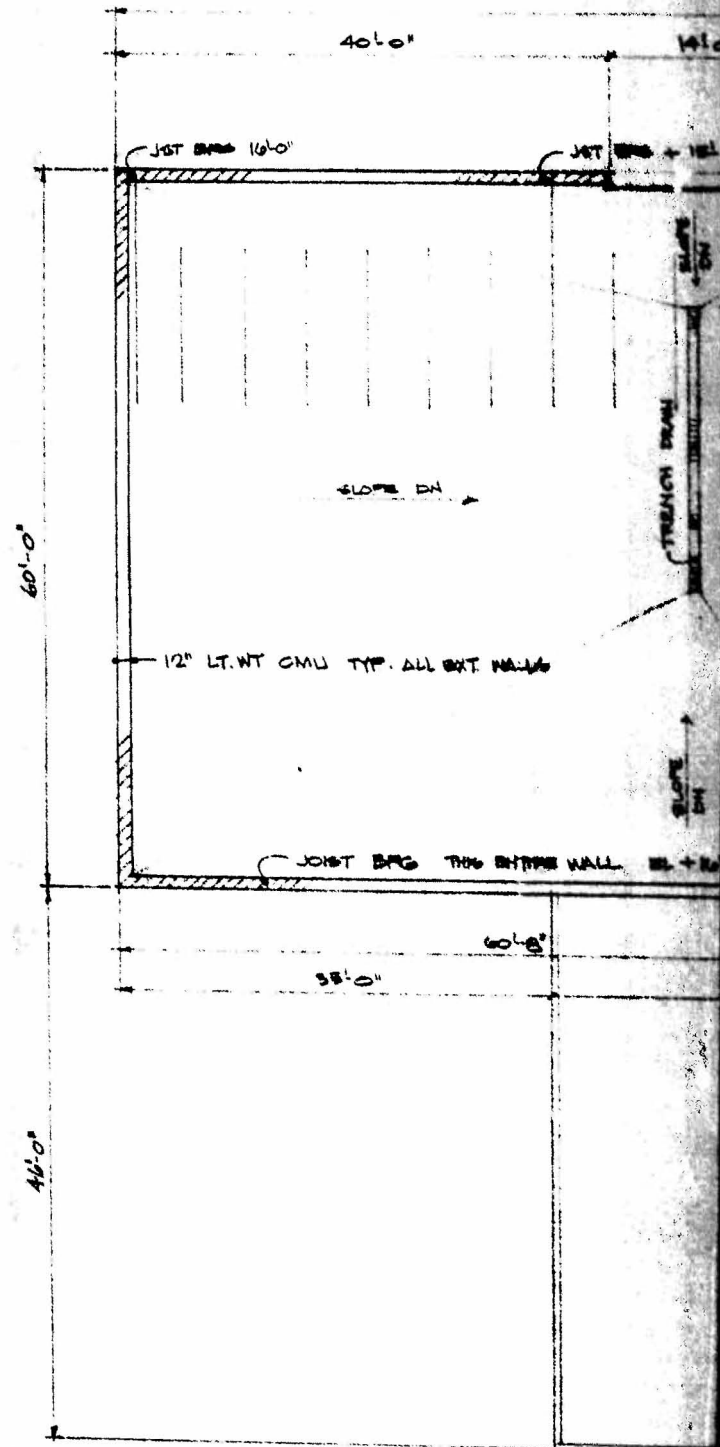
ADDITIONAL COMMENTS:



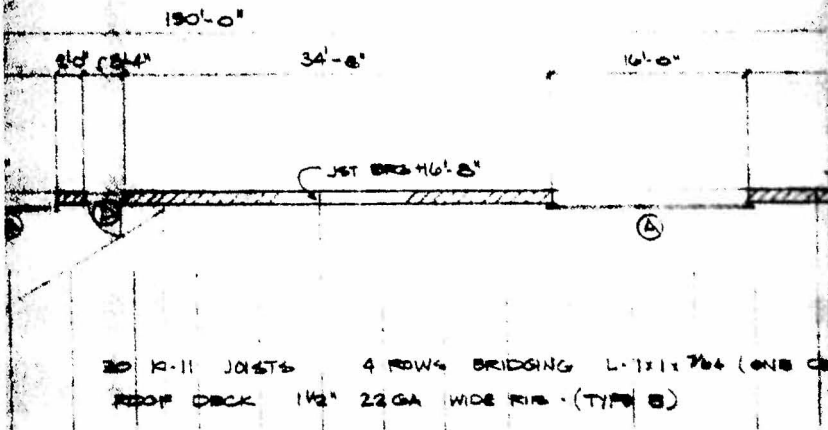
DOOR SCHEDULE

DOOR	
A	10' x 10'
B	10' x 10'
C	10' x 10'
D	8' x 7' W. H. LOCK
E	8' x 7' W. H. PAPER CLOSURE
F	8' x 7' W. H. OFFICE CLOSURE
G	DOOR



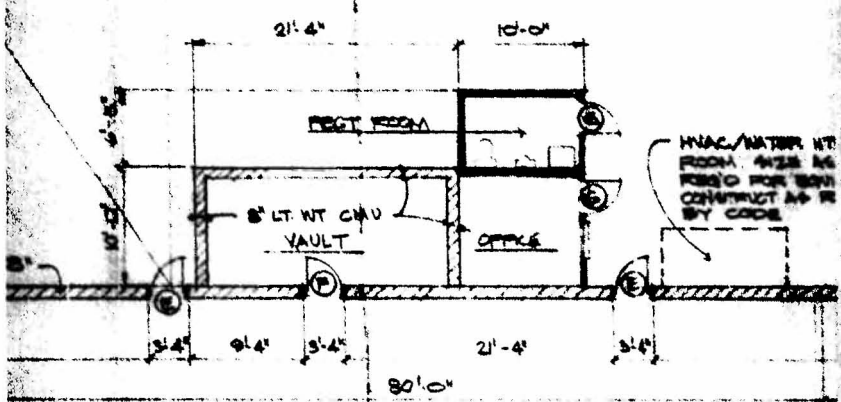


FLOOR P

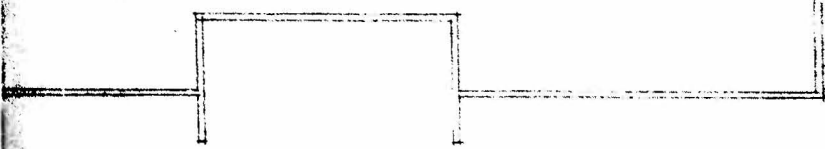


← SLOPE

WAREHOUSE



SALES - OFFICE BUILDING
PROVIDED BY OTHERS



AN
168'-11" O



RETTBERG - GRUBER ARCHITECTS

495 DEVONSHIRE DR. CHAMPAIGN, ILLINOIS 61820 TELEPHONE: 217/356-3414

FILE

DESCRIPTION

14' W. OVERHEAD DOOR

14' W. OVERHEAD DOOR

10' W. OVERHEAD DOOR

12' X 17 1/2' HM DOOR - INSULATED
6" FRAME (6" HEAD) - RATED
SET TO HAVE TURN-BUTTON INSIDE

12' X 17 1/2' HM DOOR - 2 HR FIRE RATING
6" FRAME (6" HEAD) - RATED
6" LOCKSET - RATED
6" W/ PUSHABLE LINK - RATED

12' X 17 1/2' HM DOOR - 2 HR FIRE RATING
6" FRAME (6" HEAD) - RATED
6" LOCKSET - RATED
6" W/ PUSHABLE LINK - RATED

BY OTHERS

WINTERS (12' MIN BEARING EA. END)

20
6' X 11'

WINTERS (8' MIN BEARING EA. END)

21
6' X 11'

WINTERS (6' MIN BEARING)

3/4" X 1 1/2" X 3/8" - LL VERT.

HALLBECK WAREHOUSE
WESTWOOD TRACE
CHAMPAIGN COUNTY, ILL.

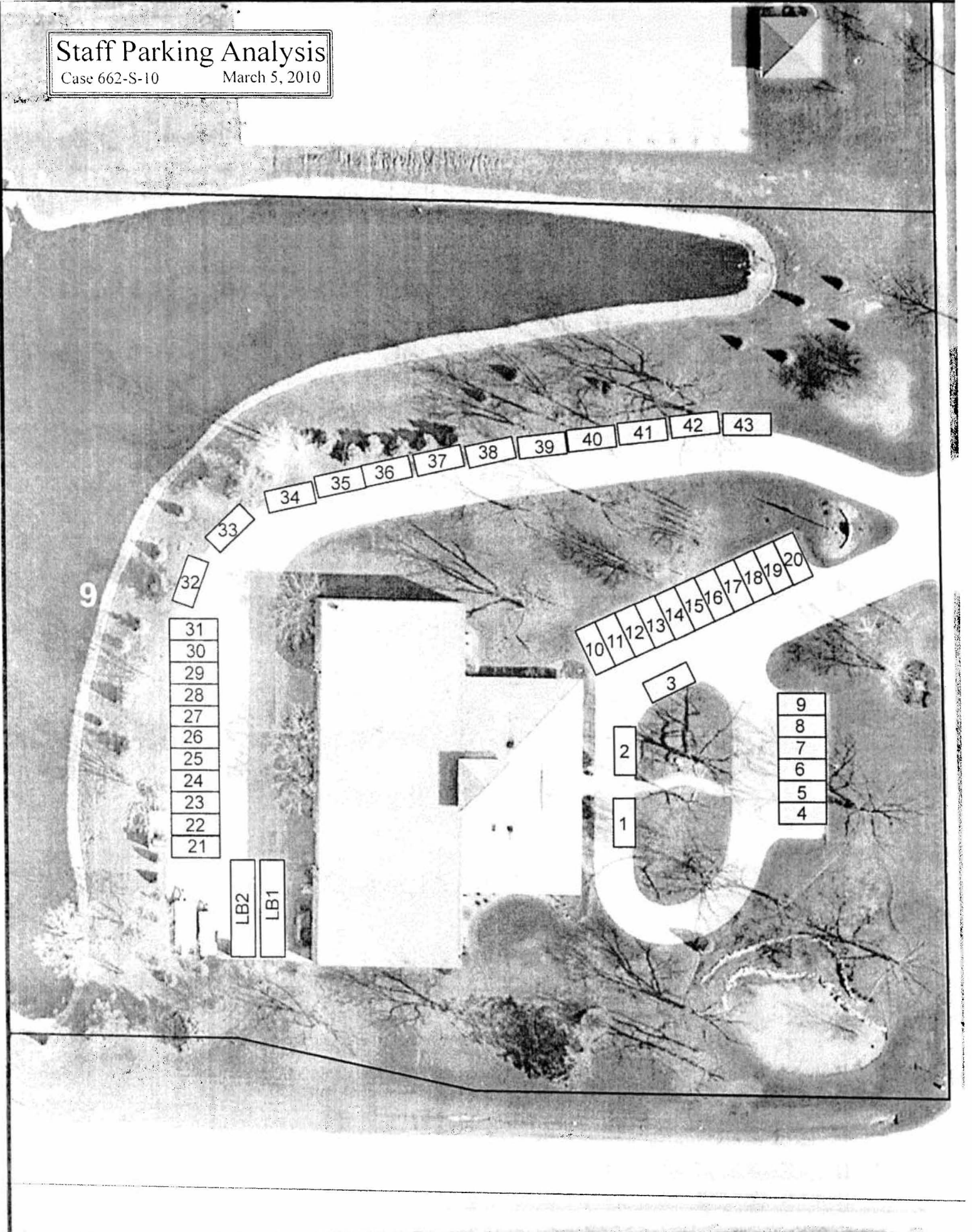
file:	job:
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2

Staff Parking Analysis

Case 662-S-10

March 5, 2010



- 31
- 30
- 29
- 28
- 27
- 26
- 25
- 24
- 23
- 22
- 21

LB2

LB1

- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20

2

1

3

- 9
- 8
- 7
- 6
- 5
- 4

1 inch = 50 feet

PRELIMINARY DRAFT

662-S-10

**SUMMARY OF EVIDENCE, FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: ***{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}***

Date: March 5, 2010

Petitioners: Illinois District Council of the Assemblies of God, Gary Blanchard, Assistant
Superintendent, and Jeff Scott, Station Manager

Request: Convert a use from a warehouse to a Radio Station as a Special Use in the I-1 Light
Industry Zoning District

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 11, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The co-petitioner, Illinois District Council of the Assemblies of God, recently purchased the subject property.
2. The subject property is Lot 11 in Westwood Trace Subdivision in Section 9 of Champaign Township and commonly known as the building at 4101 Fieldstone Road, Champaign.
3. The subject property is located within the one-and-one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign. Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ, however they do receive notice of such cases and they are invited to comment. No comment has been received from the City as yet.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is zoned I-1 Light Industry. ZUPA 223-88-01 authorized the construction of a warehouse and office building that was used by Hallbeck Homes as a warehouse and offices before the petitioners purchased the subject property. The existing building is proposed to be converted from a warehouse and offices to a Radio Station.
 - B. Land to the East of the subject property is zoned I-1 Light Industry and is in use as Franchise Management.
 - C. Land to the North of the subject property is zoned I-1 Light Industry and is in use as Horizon Hobby , Inc.

PRELIMINARY DRAFT

- D. Land to the South and West of the subject property is zoned I-1 Light Industry and is vacant.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding site plan of the proposed Radio Station:

- A. The proposed Radio Station is a relocation of an existing business, Family Friendly Radio WBGL from 2108 West Springfield Avenue inside the City of Champaign to the subject property.
- B. The subject property was subject to an annexation agreement with the City of Champaign until the previous owner did not renew the agreement. The current owners were working with the City of Champaign until the situation was recognized. The petitioners began working on a Special Use Permit Application and submitted the application and fee on February 8, 2010.
- C. A survey of the subject property was completed on November 2, 2009, and submitted by the petitioners on February 22, 2010. It describes the subject property, as follows:
- (1) The subject property is an approximately 400' x 370' corner lot 3.345 acres in area that has frontage on Springfield Avenue and Fieldstone Road.
 - (2) There is an existing wet detention basin inside a public utility/drainage easement that extends along the north and west property lines from the northwest corner of the subject property.
 - (3) There is an existing two story brick building attached to an existing one story brick building. The existing buildings were authorized by ZUPA 223-88-01 as a warehouse and office building for Hallbeck Homes.
- E. The petitioners submitted a floor plan on March 1, 2010, that shows the alterations necessary to convert the use into a Radio Station, as follows:
- (1) Construction document EX101 shows the existing interior arrangement of the building, as follows:
 - (a) The majority of the large, two-story building is a warehouse/storage area.
 - (b) The building described on the survey as a one-story building appears to have a partial second story, and is comprised entirely of office space.
 - (2) Construction document D101 is a demolition plan.
 - (3) Construction document A101 shows the proposed interior layout of the existing building, as follows:
 - (a) The warehouse storage area is relabeled "Bay Area" and indicated to have an area of 7109 square feet, but appears otherwise unchanged from the existing floor plans.

- (b) The office building will have some interior walls rearranged but will remain almost entirely office space except for two recording studios provided in the southeast corner of the smaller building.
- (c) The petitioner's architect, Jeff Johnson, with BLDD, has indicated that the transmitter for the proposed Radio Station will be located in the Server Room in the smaller building and there will be no tower or antenna exterior to the buildings.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

- 6. Regarding authorization for a Radio Station as a Special Use in the I-1 Zoning District in the *Zoning Ordinance*:
 - A. Section 5.2 authorizes Radio or Television Station as a Special Use only in the AG-1, AG-2, B-3, I-1, and I-2 Zoning Districts, and by-right in the B-4 and B-5 Zoning Districts.
 - B. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirement from Subsection 6.1 are as follows:
 - (1) Paragraph 6.1.2 A. indicated that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - (a) All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - (b) No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - (c) Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
 - (d) The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - (e) The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
 - (2) Subsection 6.1.3 does not indicate any standard conditions for Radio Stations.
 - C. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Waivers of standard conditions are subject to findings (1) that the waiver is in accordance with

PRELIMINARY DRAFT

the general purpose and intent of the ordinance and (2) will not be injurious to the neighborhood or to the public health, safety, and welfare.

- D. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) "ALTERATION" is any change in the bearing walls, columns, beams, girders, or supporting members of a STRUCTURE, any change or rearrangement in the floor area of a BUILDING, any enlargement of a STRUCTURE whether by extending horizontally or by increasing in HEIGHT, and/or any movement of a STRUCTURE from one location or position to another.
 - (2) "AREA, BUILDING" is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and non permanent CANOPIES and planters.
 - (3) "AREA, LOT" is the total area within the LOT LINES.
 - (4) "BERTH, LOADING" is a stall of dimensions herein specified, adjacent to a LOADING DOCK for the maneuvering and parking of a vehicle for loading and unloading purposes.
 - (5) "BUILDING" is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
 - (6) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (7) "LOT, CORNER" is a LOT located:
 - (a) At the junction of and abutting two or more intersecting STREETS; or
 - (b) At the junction of and abutting a STREET and the nearest shoreline or high water line of a storm or floodwater runoff channel or basin; or
 - (c) At and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.
 - (8) "PARKING SPACE" is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
 - (9) "PUBLIC SANITARY SEWER SYSTEM" is any system, other than an individual septic tank or tile field that is operated by a municipality, governmental agency, or a public utility for the collection, treatment, and disposal of liquid and solid sewage wastes, other than storm waters.

- (10) "PUBLIC WATER SUPPLY SYSTEM" is any system, other than an individual well, that is operated by a municipality, governmental agency, or a public utility for the purpose of furnishing potable water.
 - (11) "SIGN" is any name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a BUILDING, STRUCTURE or land which is placed out-of-doors and in view of the general public and which directs attention to a product, place, activity, person, institution, or business.
 - (12) "SPECIAL CONDITION" is a condition for the establishment of the SPECIAL USE.
 - (13) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- E. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
 - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
 - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
 - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
 - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- F. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
 - A. The Petitioner has testified on the application, **"The building is well suited for radio station use. There is already a group of 3 stations two blocks away."**

PRELIMINARY DRAFT

- B. Regarding the history of WBGL as described on www.wbgl.org:
- (1) The Illinois Bible Institute, an educational corporation of the Illinois District Council of the Assemblies of God, is dedicated to offering Christian radio throughout Illinois, Western Indiana, and Northwest Missouri.
 - (2) The Illinois Bible Institute started its Radio Department in 1974 with one station in Carlinville, IL.
 - (3) WBGL was the second station opened by the Illinois Bible Institute in 1982.
 - (4) Sister stations have been opened in Peoria, Morris, Springfield, Terre Haute, Ind., Decatur, and Mt. Vernon.
- C. The proposed Radio Station is currently an existing use in the City of Champaign.

GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
- A. The Petitioner has testified on the application, **“Traffic will not increase for the neighborhood.”**
 - B. Regarding surface drainage, the subject property is located in Westwood Trace Subdivision which was approved while the subject property was subject to an annexation agreement with the City of Champaign. There is a wet detention basin on the subject property and contours from the GIS database indicate the subject property drains generally to that basin.
 - C. The subject property is accessed from Fieldstone Road on the east side of the property. Regarding the general traffic conditions on Fieldstone Road at this location and the level of existing traffic and the likely increase from the proposed Special Use:
 - (1) The Illinois Department of Transportation (IDOT) measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT). The AADT of Fieldstone Road is not counted by IDOT. Fieldstone Road provides access to ten properties so it would appear that the traffic is not counted on Fieldstone Road because of the low level of traffic.
 - (2) The Township Road Commissioner has been notified of this case, but no comments have been received as yet.

- D. Regarding fire protection of the subject property, the subject property is within the protection area of the Bondville Fire Protection District and is located approximately three road miles from the fire station. The Fire Protection District Chief has been notified of this request, but no comments have been received at this time.
- E. The subject property is not located within a Special Flood Hazard Area, as indicated by Flood Insurance Rate Map Panel No. 1708940180B
- F. Regarding outdoor lighting on the subject property, there is no information on the current site plan regarding outdoor lighting for any purpose. It is unclear whether any outdoor lighting will be required.
- G. Regarding subsurface drainage, the subject property is located in Westwood Trace Subdivision, and does not appear to contain any agricultural field tile.
- H. Regarding hours of operation of the proposed Special Use Permit, no information has been provided regarding the hours of operation of the proposed Radio Station.
- I. Regarding wastewater treatment and disposal on the subject property, ZUPA 223-88-01 indicates the existing building on the subject property was constructed with a connected PUBLIC SANITARY SEWER SYSTEM and a connected PUBLIC WATER SUPPLY SYSTEM.
- J. The petitioners have indicated they may wish to have indoor concerts at the subject property in the future. While they have no specific plans at this time a special condition has been provided that would allow them to have indoor concerts so long as those uses don't exceed the requirements for a Temporary Use.
- K. Regarding the presence of a broadcast or repeater tower on the subject property, on March 5, 2010, Jeff Johnson, architect for the proposed Radio Station, in a phone conversation with J.R. Knight, Associate Planner, indicated that the transmitter for the Radio Station would be located in the server room inside the existing building and no tower or antenna would be present outside the building.
- L. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT

- 9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:

PRELIMINARY DRAFT

- A. The Petitioner has testified on the application, “Yes”
- B. Regarding compliance with the *Zoning Ordinance*:
- (1) Radio or Television Station is authorized by Special Use Permit only in I-1 Light Industry Zoning District.
 - (2) Regarding parking on the subject property:
 - (a) Paragraph 7.4.1C.3.e requires that commercial uses with no other specific requirement provide one parking space for every 200 square feet of floor area or portion thereof.
 - (b) However, the subject property is located in an industrial zoning district and a large portion of the existing buildings appears to be remaining in a warehouse type of use. Paragraph 7.4.1 D.1. requires industrial uses to have one space for each three employees based upon the maximum number of persons employed during one work period during the day or night, plus one space for each VEHICLE used in the conduct of such USE. A minimum of one additional space shall be designated as a visitor PARKING SPACE.

There is no information at this time regarding the number of employees that may work in the bay area.
 - (c) There are insufficient dimensions on the floor plan to determine the floor area of all areas of the subject buildings. However, the bay area is indicated as being 7,109 square feet in area.
 - (c) ZUPA 233-88-01 which permitted the existing buildings indicated the overall area of both buildings is 13,000 square feet. This would indicate the remaining office spaces appear to equal 5,891 square feet in area, which based on the requirement in paragraph 7.4.1 C.3.e. would require 30 parking spaces.
 - (d) The current site plan does not show any parking areas, however, staff has prepared a Parking Analysis on the basis of an aerial photograph of the subject property which is included as an attachment to the Preliminary Memorandum. The Parking Analysis indicates that as many as 43 parking spaces may be accommodated on the subject property.
 - (e) The following issues should be considered regarding the proposed use of the bay area for indoor concerts:

{Further information will be available at the meeting.}
 - (4) Regarding compliance with standard conditions of approval, there are no standard conditions of approval specifically for Radio Stations. Paragraph 6.1.2 A. establishes standard conditions for exterior lighting for all Special Uses, but it is unclear whether outdoor lighting will be necessary for the proposed Special Use.

- C. Regarding compliance with the *Stormwater Management Policy*:
- (1) Regarding the requirement of stormwater detention, there is an existing stormwater detention basin on the subject property that was provided as part of the subdivision platting process for Westwood Trace subdivision.
 - (2) Regarding the requirement to protect agricultural field tile, there does not appear to be any field tile on the subject property.
- D. Regarding the Special Flood Hazard Areas Ordinance and Subdivision Regulations:
- (1) The subject property is not located in the Special Flood Hazard Area.
 - (2) The subject property complies with the Subdivision Regulations.
- E. Regarding the requirement that the Special Use preserve the essential character of the I-1 Zoning District:
- (1) The petitioners have indicated there are several other Radio Stations nearby.
 - (2) There are several other office type uses immediately adjacent to the subject property.
 - (3) The subject property will be unchanged in appearance from the public street.
 - (4) The proposed special use will not generate nuisance conditions greater than those customarily associated with activities which take place in the I-1 District
- F. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings. The proposed floor plan of the existing building indicates accessible walkways on all sides of the building. However, there is no accessible parking indicated on the site plan.
- G. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
 - (a) The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
 - (b) The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.

PRELIMINARY DRAFT

- (c) The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
- (d) Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
- (e) Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
- (f) The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required. The proposed Radio Station will require modifications to the existing building that appear to exceed \$50,000 which will trigger the need for review of the Illinois Accessibility Code requirements.
- (g) The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
- (h) The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
- (i) When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
- (j) Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits are provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.

- (k) The proposed use of the bay area for indoor concerts raises concerns regarding life safety.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

- 10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
 - A. Radio or Television Stations may be authorized in the I-1 Light Industry Zoning District as a Special Use provided all other zoning requirements and standard conditions are met or waived.
 - B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.14 of the Ordinance states the general intent of the I-1 District and states as follows (capitalized words are defined in the Ordinance):

The I-1, Light Industry DISTRICT is established to provide for storage and manufacturing USES not normally creating a nuisance discernible beyond its PROPERTY lines.
 - (2) The types of uses authorized in the I-1 District are in fact the types of uses that have been determined to be acceptable in the I-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
 - C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:
 - (1) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.
 - (a) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan is in compliance with those requirements. The petitioners are not proposing to expand on the BUILDING AREA authorized by 223-88-01.
 - (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.
 - (a) In regards to the value of nearby properties, the proposed Special Use Permit will authorize a use with impacts that are similar to properties located in the vicinity of the subject property.
 - (b) With regard to the value of the subject property, without the Special Use Permit authorization the current owners of the subject property could not use the property for what they intended when they recently purchased the property.

PRELIMINARY DRAFT

- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.

There is no IDOT data for traffic on Fieldstone Road. It is unlikely that the daily operation of the subject property will contribute to traffic congestion on Fieldstone Road.

- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.

The requested Special Use Permit complies with the *Champaign County Stormwater Management Policy* and is outside of the Special Flood Hazard Area and there are no special drainage problems that appear to be created by the Special Use Permit.

- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.

(a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.

(b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.

- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan is in compliance with those limits as well as being essentially the same as what was authorized by ZUPA 233-88-01 when the building was constructed.

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or

USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions.

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose is not relevant to the proposed Special Use Permit because it relates to nonconforming buildings, structures, or uses that existed on the date of the adoption of the Ordinance and none of the current structures or the current use existed on the date of adoption.

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.

The subject property is located in the I-1 Light Industry Zoning District and is located in Westwood Trace Subdivision in an area that has been developed since the late 1980's.

- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

The subject property does not contain any natural features and there are no natural features in the vicinity of the subject property.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

This proposed Special Use Permit is a reuse of an existing building located on the urban fringe in an area with public sewer and water.

- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the Ordinance is encouraging the preservation of AGRICULTURAL belts surrounding urban areas, to retain the AGRICULTURAL nature of the COUNTY, and the individual character of existing communities.

PRELIMINARY DRAFT

This proposed Special Use Permit is a reuse of an existing building located on the urban fringe in an area with public sewer and water.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. The proposed Special Use is not an existing NONCONFORMING USE because it is a relocation of a use currently existing inside the City of Champaign that is changing the use of the existing building on the subject property. The Petitioner has testified on the application, "N/A."

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:
- A. The existing building was originally permitted as a warehouse and offices for Hallbeck Homes and is proposed to be converted into a Radio Station in this Special Use Permit. The following condition makes clear the requirement to get a Change of Use permit to document the conversion.

The petitioner shall submit a Zoning Use Permit Application for a Change of Use with fees within one month of the Zoning Board of Appeals decision in Case 662-S-10.

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

The Radio Station complies with the approval in Case 662-S-10 in a reasonable and timely manner.

- B. The petitioners have indicated that they may wish to have indoor concerts at the property at some point in the future. The following condition makes it clear that as long as the proposed concerts do not exceed the requirements of a Temporary Use they can be permitted as such.

{Staff is continuing to work on this condition and it will be available at the meeting.}

DOCUMENTS OF RECORD

1. Special Use Permit Application from Illinois District Council of the Assemblies of God, Gary Blanchard, Assistant Superintendent, and Jeff Scott, Station Manager, received on February 8, 2010
2. Plat of Survey of the subject property, received on February 22, 2010
3. WBGL Office Remodel Construction Documents received on March 1, 2010
4. Preliminary Memorandum for Case 662-S-10, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Plat of Survey of the subject property, received on February 22, 2010
 - C Construction Document EX101
 - D Construction Document D101
 - E Construction Document A101
 - F ZUPA 223-88-01
 - G Staff Parking Analysis
 - H Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 662-S-10

PRELIMINARY DRAFT

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 662-S-10 held on **March 11, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN {IS / IS NOT}}* necessary for the public convenience at this location because: _____

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

a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.

b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because¹}*: _____

c. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.

d. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because¹}*: _____

e. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because¹}*: _____

f. Public safety will be *{ADEQUATE / INADEQUATE}* *{because¹}*: _____

h. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because¹}*: _____

i. *(Note the Board may include other relevant considerations as necessary or desirable in each case.)* _____

3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.

1. The Board may include additional justification if so desired, but it is not necessary.

- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:
- a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
 - b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
 - c. Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because
- a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location.
 - c. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it **WILL NOT** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - d. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* **DOES** preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use *{IS / IS NOT}* an existing nonconforming use.
6. *{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW}*

PRELIMINARY DRAFT

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.11B. **HAVE** been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **662-S-10** is hereby { **GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED** } to the petitioners **Illinois District Council of the Assemblies of God, Gary Blanchard, Assistant Superintendent, and Jeff Scott, Station Manager** to authorize conversion of a use from a warehouse to a Radio Station as a Special Use in the **I-1 Light Industry Zoning District**.

{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:}

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date