

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **April 15, 2010**
Time: **7:00 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 (March 11, 2010)
5. Continued Public Hearings

***Case 645-S-09** Petitioner: **Robert and Barbara Gerdes**

Request: **Authorize the construction and use of a “Restricted Landing Area” as a Special Use in the AG-1 Agriculture Zoning District.**

Location: **An approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.**

6. New Public Hearings

***Case 663-V-10** Petitioner: **Dan and Debra Johnson**

Request: **Authorize the following variances in the R-3, Two Family Residence Zoning District:**

- A. Replacement and use of an existing dwelling with the following variances:**
1. **A front yard of 16 feet, six inches and a setback of 36 feet, six inches in lieu of the minimum required front yard of 25 feet and minimum setback of 55 feet in regard to Carroll Avenue, a minor street.**

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***Case 663-V-10 cont:**

2. A rear yard of 12 feet, six inches in lieu of the minimum required 20 feet rear yard.
 3. Lot coverage of 36% in lieu of the maximum allowed 30% lot coverage.
- B. Replacement and use of an existing detached garage with side and rear yards of zero feet in lieu of the minimum required side and rear yards of five feet for detached accessory buildings.**

Location: **An approximately 5,000 square foot lot that is the North 47 feet of the South 241 feet of Lot 46 of Fred c. Carroll's Subdivision of the East Half of the North-West Quarter of Section 9, Township 19 North, Range 9 East of the Third Principal Meridian, and commonly known as the manufactured home at 1507 Carroll Avenue, Urbana.**

***Case 667-S-10** Petitioner: **Leslie Cooperband and Wesley Jarrell, d.b.a. Prairie Fruits Farm**

Request: **Authorize a Major Rural Specialty Business in the AG-2 District with waivers of standard conditions including, but not limited to, the prohibition of sales of alcohol not produced on the premises.**

Location: **Lot 1 of Jamestown Subdivision in the Northeast Quarter of the Southeast Quarter of Section 29 of Somer Township and commonly known as Prairie Fruits Farm at 4410 North Lincoln Avenue, Champaign.**

7. Staff Report
8. Other Business
 - A. Cancellation of April 29, 2010, meeting
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

*** Administrative Hearing. Cross Examination allowed.**

1 MINUTES OF REGULAR MEETING
2 CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
3
4 1776 E. Washington Street
5 Urbana, IL 61801
6

7 **DATE:** March 11, 2010 **PLACE:** Lyle Shields Meeting Room
8 1776 East Washington Street
9 **TIME:** 6:30 p.m. **Urbana, IL 61802**

10
11 **MEMBERS PRESENT:** Doug Bluhm, Catherine Capel, Thomas Courson, Melvin Schroeder, Eric
12 Thorsland, Paul Palmgren
13

14 **MEMBERS ABSENT :** Roger Miller
15

16 **STAFF PRESENT :** Connie Berry, John Hall, J.R. Knight
17

18 **OTHERS PRESENT :** Scott Lambright, Larry Lambright, Diane Lambright, Jeff Johnson, Jeff Scott,
19 Alicia Helmick, Joshua Helmick
20

21
22 **1. Call to Order**
23

24 The meeting was called to order at 6:34 p.m.
25

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

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

30 **3. Correspondence**
31

32 None
33

34 **4. Approval of Minutes (February 25, 2010)**
35

36 **Mr. Thorsland moved, seconded by Mr. Palmgren to approve the February 25, 2010, minutes as**
37 **submitted. The motion carried by voice vote.**
38

39 **Mr. Thorsland moved, seconded by Mr. Courson to re-arrange the agenda and hear Case 662-S-10**
40 **prior to Case 657-V-09. The motion carried by voice vote.**
41

42 **5. Continued Public Hearing**
43

44 **Case 657-V-09 Petitioner: Larry and Diane Lambright and Scott Lambright. Request as amended on**
45 **February 11, 2010, authorize the use of an existing two story detached accessory storage building with**
46 **a second story deck with a side yard of nine feet in lieu of the required ten feet side yard for accessory**
47 **structures in the AG-2 Agriculture zoning district, and an average height of 16 feet in lieu of the**
48 **maximum allowed 15 feet average height for residential accessory structures on lots less than one acre**

DRAFT
SUBJECT TO APPROVAL

1 in area in the AG-2 Agriculture Zoning District. Location: Lot 1 of Cook’s Replat of Tract B of the
2 K.D. Headlee Subdivision in Section 14 of Mahomet Township and commonly known as the house at
3 206B Lake of the Woods Road, Mahomet.
4

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

14 Mr. Hall distributed a Supplemental Memorandum dated March 11, 2010, to the Board for review. He
15 clarified that staff has added new evidence to the Summary of Evidence supporting the argument that there
16 are limited locations on the subject property where the petitioner could place the building without disturbing
17 the existing easement or other things that were already on the property. He said that this evidence is
18 necessary to support whether or not the variance should be granted but whether or not the evidence is
19 sufficient is up to the Board. He said that he did not want to leave the Board with the impression that the
20 evidence should lead them to a conclusion. He said that the new memorandum indicates that the finding that
21 was adopted on December 17, 2009, could be re-opened to be modified. He said that the current finding of
22 fact consists of one finding that indicates that the variance should be denied. He said that the variance
23 cannot be approved if one of the findings is worded negatively. He said that if the Board is inclined to
24 change the finding, even after seeing all of the new evidence, it could be made clear in the minutes and re-
25 adopt the findings. He said that in order to approve the variance the existing findings will need to be re-
26 opened and change those which are worded for a denial.
27

28 Mr. Hall stated that the Supplemental Memorandum dated March 11, 2010, adds a new condition. He said
29 that staff spoke to the State’s Attorney about the new condition and they thought that it was a good idea. He
30 read the new Item 13.D as follows: The Shared Well Easement specifies that the “grantor” (the petitioner)
31 “...will not obstruct or interfere with the Grantee...” (the neighbor). The neighbor (grantee) has testified
32 that the deck on the subject accessory building will make it very difficult to maintain the well. If it is
33 determined that the deck does in fact obstruct any maintenance that may ultimately be required on the well,
34 the terms of the Shared Well Easement appear to require the petitioner (grantor) to remove the deck to allow
35 for maintenance. Another special condition clarifies that in that situation the deck can be rebuilt. The
36 following special condition is intended to make clear that the requested variance, if approved, is not intended
37 to change any rights or obligations established by the Shared Well Easement:
38

39 **This variance does not change any rights or obligations established in the Shared**
40 **Well Easement that applies to the water well on the subject property.**

41
42 The special condition stated above is necessary to ensure the following:
43

The variance is not intended to change any rights or obligations established in the Shared Well Easement.

Mr. Hall stated that whatever rights and obligations that are established in the Shared Well Easement, if the Board approves the variance, it is not the intention of the Board to change any of those rights or obligations. He said that he does not know if this will help the petitioner and the neighbor to come to terms over the building and the well and the other things that they have at issue but it does make clear that the Board is not intending to come down on either side in regards to the Shared Well Easement.

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

Mr. Courson stated that there are special conditions, trees and easements, which exist in regards to the side yard.

Mr. Hall stated yes.

Mr. Courson asked Mr. Hall what special conditions existed in regards to the height.

Mr. Hall stated that this may be a good question for the petitioner. He said that by building a two-story building there does not have to be as much footprint on the ground and in the building's current location, if it were made only one-story, it would not fit without cutting down one or both trees. He said that the height variance is only for six inches and trees, when in full foliage, screen the height of the building pretty well. He said he is not saying that these factors merit an approval but they are some of the factors that exist. He said that if these factors do not appear compelling to the Board then it is their call for approval or denial.

Mr. Courson stated that the petitioner built the structure larger than what was indicated on the approved permit and he built a two story structure rather than the indicated one-story.

Mr. Hall stated that Mr. Courson is correct. He said that if the logic that staff outlined does not support two-stories originally then the height variance cannot be approved. He cautioned the Board to keep in mind that if they deny the request for variance they need to understand that even though staff recommends that the Board not consider the costs of the improvements there is such a thing as an unreasonable denial of a variance.

Ms. Capel stated that the real question is if the variance had been brought before the Board first, would the Board have made the same decision.

Mr. Hall stated that the evidence that staff has provided is to be used by the Board as a guide but the Board should not approve the variance because the structure is already there. He said that if the Board cannot find some justification for the variance and the petitioner has not made the case that the need has been there all along then the indication would be that it should be a denial. He said that he does have this legal concern regarding an unreasonable denial.

1 Ms. Capel moved to re-open the December 17, 2009, findings for review and reconsideration.

2
3 Mr. Thorsland stated that the average height of the structure is 15.5 feet therefore the height variance is for ½
4 foot. He said that the petitioner wanted enough head room for the second story and if the variance had come
5 before the Board first it probably would have been approved.

6
7 Mr. Hall stated that this case has been a nightmare and staff has been put through the ringer. He said that
8 this case has been before the Board several times and staff receives several calls daily regarding the subject
9 property. He said that he cannot speak for the petitioner but he believes that the petitioner has also been put
10 through the ringer. He said that if the Board does not feel that the evidence supports approving the variances
11 then that is the Board's call. He said that there is a motion on the floor to re-open the findings.

12
13 Mr. Bluhm asked the Board if there was a second to Ms. Capel's motion.

14
15 Mr. Thorsland stated that he would appreciate it if the motion was tabled until the petitioner and the
16 audience submitted testimony.

17
18 Ms. Capel agreed.

19
20 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.

21
22 Mr. Bluhm called Mr. Larry Lambright to testify.

23
24 Mr. Larry Lambright, who resides at 2110 Pheasant Ridge, Mahomet stated that, with all due respect, it is his
25 opinion that this has nothing to do with any of the violations that have been brought forth but the fact that the
26 Helmicks want to use his driveway to turn their cars around, which he has no problem with because they
27 have an easement. He said that Helmicks also want to use the circular drive that runs around his house and
28 they constantly harass him about the ability to use that drive. He said that he has spent over \$15,000 in
29 attorney fees on this issue. He said that he has a number of pictures, which he would like to submit as
30 evidence, of the property that is east of the Helmick's property which has numerous violations and there has
31 been no mention about that property. He said that he does not know what else to do to satisfy his neighbors
32 so that they stop the continuous harassment.

33
34 Mr. Bluhm informed Mr. Lambright that the photographs of the neighboring property are not relevant to this
35 case.

36
37 Mr. Lambright stated that he understood that the photographs were not relevant. He said that he just wanted
38 to show the Board that there is another property adjacent to the Helmick's property which has numerous
39 violations and there is no mention of those violations. He said that the Helmick's continuously harass his
40 family about the denied use of the circular drive. He said that Ms. Helmick runs a daycare which produces
41 traffic in and out of the drive and he is concerned about the safety of his grandkids. He said that it is his
42 understanding that Mrs. Helmick does not have a license with the County for the daycare that is run out of
43 their home. He said that he would just like see this whole thing go away.

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2 Mr. Bluhm asked the Board if there were any questions for Mr. Lambright.
3
4 Mr. Thorsland asked Mr. Lambright if he could make the Board feel confident that the requested variance for
5 the additional ½ foot in height is necessary.
6
7 Mr. Lambright stated that the paperwork that he received from the office indicated a height of 15 feet and it
8 is obvious that he misunderstood its meaning. He said that he is not a contractor which builds homes but
9 only remodels kitchens and bathrooms. He said that 80% of the items that are stored in the shed are personal
10 items.
11
12 Mr. Thorsland asked Mr. Lambright to describe what the shed was place upon and could it be moved.
13
14 Mr. Lambright stated that the shed was built on 6’ x 6’ timbers and it would be extremely costly to move it
15 because it would require the use of a crane.
16
17 Mr. Bluhm asked the Board if there were any additional questions for Mr. Lambright and there were none.
18
19 Mr. Bluhm asked if staff had any questions for Mr. Lambright and there were none.
20
21 Mr. Bluhm asked the audience if there were any questions for Mr. Lambright and there were none.
22
23 Mr. Bluhm called Ms. Alicia Helmick to testify.
24
25 Ms. Alicia Helmick, who resides at 206A South Lake of the Woods Road, Mahomet stated she and her
26 husband are not harassing the Lambrights. She said that over two years ago they started calling staff about all
27 of the junk that is located on the property. She said that there is a lot of room on the property to relocate the
28 shed. She submitted a photograph, of what the property used to look like before the Lambrights purchased
29 the property. She said that the site plan which was submitted with the original, approved permit indicated
30 where the subject structure would be located and that is not where Mr. Lambright placed it. She said that if
31 Mr. Lambright would have come to the Board for a variance at the time of the shed’s original construction
32 the variance would have been for the location that was approved on the permit’s site plan. She said that if
33 the Board were to have approved the variance at the time then where would we be at right now because that
34 is not the location that he placed the shed. She said that Mr. Lambright is a contractor which does different
35 things other than kitchen and bathroom remodeling. She said that Mr. Lambright brings rubbish from other
36 sites and brings it to his property. She said that he is a contractor and she does not care which way it is
37 described he is a contractor. She said that if someone is a contractor then he should know the ordinances in
38 Champaign County because they are readily available. She said that she has a copy of the Champaign
39 County Zoning Ordinance and she has read it many times and picked it apart because they have dealt with
40 this issue for the past two years. She said that she and her husband have been put through the ringer as well
41 and they would like it to go away also. She said that she believes that the only reason why Mr. Lambright
42 has cleared up all of his violations, which she does not believe that he has done, is because of this variance
43 request. She asked why the Zoning Ordinance was adopted if people can just go and violate the ordinances

1 of Champaign County. She said that she called staff about this property in January 2008 and that complaint
2 had nothing to do with the driveway whatsoever but all of the stuff that Scott had brought to the property
3 from his previous property. She said that five acres of junk cannot fit onto a one-half acre lot. She said that
4 Mr. Lambright should not have purchased the property to begin with because it is too small for his desired
5 use. She said that it is her opinion that the shed should not have been allowed to be built in the first place
6 because it looks like a barn that should be on some farmland rather than a residential area.

7
8 Mr. Bluhm reminded Ms. Helmick that the property is located in the AG-2 Agricultural Zoning District and
9 is not a residential zoning district.

10
11 Ms. Helmick stated that she understands the zoning of the area. She said that the Item #4.B. of the summary
12 of Evidence states that land to the north of the subject property is zoned CR Conservation-Recreation and is
13 in use for single family dwellings. She said that the land to the north of the subject property is a park and not
14 a single family dwelling it is Lake of the Woods Park.

15
16 Mr. Thorsland asked Ms. Helmick if her property is the single family dwelling with a daycare being operated
17 as an unregistered Neighborhood Home Occupation.

18
19 Ms. Helmick stated that since Mr. Thorsland brought this subject to light she would like to address his
20 question. She said that before she became a licensed daycare provider she called Champaign County
21 Planning and Zoning and did not state her name or her address but asked if she needed to register with the
22 County. She said that the woman that answered the phone asked her what she was doing and she told her
23 that she was a licensed daycare provider operating out of her home. Ms. Helmick stated that the female staff
24 person told her that she did not have to register unless a complaint was filed with the office. She said that
25 after the lawsuit occurred her attorney told her to call the Champaign County Planning and Zoning office
26 again and ask if she needed to register with the County and when she did she was again told the same thing.
27 She said that a few weeks ago she received a letter from Jamie Hitt, Zoning Officer, informing her that she
28 was in violation for not registering her home daycare with the County. She said that she immediately filled
29 out the paperwork and called Ms. Hitt informing her that she was not happy about receiving her threatening
30 letter. She said that she has had no complaints filed on her home daycare operation and was previously told
31 that she did not need to register with the County unless a complaint was filed. She said that she informed
32 Ms. Hitt that not only had she called her office once but called twice and was told the exact same thing.

33
34 Mr. Bluhm informed Ms. Helmick that her registering with the County for her home daycare operation is not
35 related to this case.

36
37 Mr. Thorsland stated that the whole reason why everyone is present tonight is due to the shed. He asked Ms.
38 Helmick if the shed was six inches shorter would she be happy with it.

39
40 Ms. Helmick stated no, due to the location of the shed. She said that the shed is right next to her well. She
41 asked the Board how they would feel if someone built a structure right next to their well.

42
43 Mr. Thorsland stated that the well is in an unfortunate location, to say the least.

1

2 Ms. Helmick stated that what irritates her and her husband is that there are laws for Champaign County and
3 those laws are what people are supposed to follow but as we can see people do not like following those laws.

4 She said that if people can obtain variances every time they don't follow the laws then why have the laws in
5 the first place.

6

7 Mr. Bluhm stated that the Zoning Ordinance allows variances.

8

9 Ms. Helmick stated that Mr. Lambright is a contractor and he built the shed too tall. She said that he
10 indicated on the approved permit that he was building a one-story building at a different location and he
11 knew what was approved. She said that she believes that Mr. Lambright knew what he was doing and tried
12 to get away with it and even went as far as adding a two-story deck without obtaining a permit.

13

14 Mr. Courson asked Ms. Helmick if she has spoken to a well person about access to the well and the amount
15 of distance that is needed for maintenance.

16

17 Ms. Helmick stated that she has not. She said that Mr. Knight spoke to someone and they indicated that five
18 to ten feet is required for access.

19

20 Mr. Courson stated that there are actually two opinions and one indicated two feet and one indicated ten feet.
21 He said that currently the building is two and one-half inches away from meeting the two foot access.

22

23 Ms. Helmick stated that it was indicated that the distance between the building and well is 21-1/2". She said
24 that she wants Mr. Lambright to move the shed to the location that was originally approved.

25

26 Mr. Courson stated that he understands that she does not want the shed on the property at all and asked her if
27 she has an issue with the height also.

28

29 Ms. Helmick stated yes.

30

31 Mr. Courson stated that the shed is six inches taller than what is allowed. He asked Ms. Helmick again if
32 she has an objection to the shed's current height.

33

34 Ms. Helmick stated yes.

35

36 Mr. Thorsland asked Mr. Knight to describe the minor violations that are still on the property.

37

38 Mr. Knight stated that there is a dresser sitting next to a trailer and the upper story of the shed has a window
39 that is covered with plastic.

40

41 Mr. Hall noted that the window that is covered with plastic is not a violation.

42

43 Mr. Knight stated that Ms. Hitt spoke to Mr. Scott Lambright and he indicated that the dresser is going to be

1 removed next weekend. Mr. Knight stated that the only reason he mentioned the window is because the
2 plastic covering is supposed to be a temporary thing.
3
4 Mr. Thorsland stated that the minor violations are very minimal. He informed Ms. Helmick that the Board
5 does not discriminate based on the occupation of the petitioner requesting the variance. He said that if a
6 variance is requested or required the Board tries to work it out. He asked Mr. Knight if the deck had been
7 modified yet.
8
9 Mr. Knight stated no.
10
11 Mr. Thorsland asked Ms. Helmick if once the deck is shortened will there still be an issue.
12
13 Ms. Helmick stated that her biggest objection is the location.
14
15 Mr. Courson asked Ms. Helmick if she would be satisfied if the shed was moved two and one-half inches
16 from the well.
17
18 Ms. Helmick stated that she cannot say yes or no. She said that she would have to have a well person come
19 out to view the area so that he knows exactly what she is dealing with before he gives an opinion.
20
21 Mr. Courson stated that this was requested at the last meeting.
22
23 Ms. Helmick stated that it was her understanding that staff would be contacting well people. She said that
24 she would like an actual well person to visit the property to see first hand what is being discussed.
25
26 Mr. Thorsland stated that he is happy with the information that Mr. Knight received. He said that the
27 minutes indicate that the well is not the Helmick's primary source of water.
28
29 Ms. Helmick stated that the minutes are correct however they do use the well for their swimming pool.
30
31 Mr. Thorsland stated that the time that it would take to remove the deck for repair of the well for swimming
32 would not prevent the Helmick's from having their primary source of water because the well is not their
33 primary source. He said that there is a condition regarding removal of the deck for maintenance of the well
34 and it is unfortunate that their well is located in an awkward location on another property.
35
36 Ms. Helmick stated that she is not knowledge about wells but she is concerned about the lawnmowers which
37 are stored in the shed leaking into the well.
38
39 Mr. Bluhm asked the Board if there were any additional questions for Ms. Helmick and there were none.
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41 Mr. Bluhm asked if staff had any questions for Ms. Helmick and there were none.
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43 Mr. Bluhm asked the audience if anyone had any questions for Ms. Helmick and there were none.

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Mr. Bluhm asked Mr. Hall if the 15-1/2 foot height versus the required maximum 15 foot height requirement could have been treated as an Administrative Variance, in a normal situation.

Mr. Hall stated yes.

Mr. Bluhm asked Mr. Hall if the 9 foot side yard in lieu of the required 10 foot side yard could also have been treated as an Administrative Variance.

Mr. Hall stated yes. He said that it has always been the practice of the Zoning Administrator that two Administrative Variances makes one full variance. He said that this practice is not written into the Zoning Ordinance but is administrative practice. He said that the only thing that the Ordinance states about Administrative Variances is deviation of 10% or less of the regulations or standards related to the location of structures or bulk requirements. He said that the Zoning Administrator has always been conservative and taken the approach were if there is more than one Administrative Variance then a full variance is required before the Board at a public hearing. He said that in this case if these were Administrative Variances the Lambrights would have been before the Board anyway because all it takes is one neighbor to oppose for whatever reason.

Mr. Bluhm stated that he was trying to make the point that both of the variances are 10% or less of the requirements of the Zoning Ordinance. He reminded the Board that they have seen similar cases in the past.

Mr. Palmgren asked how far off is the shed's current location from the location indicated on the original site plan

Mr. Hall stated that the original site plan was attached to the December 17, 2009, Supplemental Memorandum. He said that the footprint of the enclosed portion of the shed is accurate but it does not include the deck and the proximity to the well is off by approximately ten feet. He said that the trees are not indicated on the site plan, which they very seldom are indicated, but the circular drive is indicated. He said that the easement is indicated on the site plan but it is not dimensioned.

Mr. Schroeder moved, seconded by Mr. Thorsland to recess the meeting for a five minute break.

The Board recessed at 7:50p.m.

The Board resumed at 7:57p.m.

Mr. Bluhm asked the Board if there were any other questions or comments regarding this case.

Mr. Thorsland seconded Ms. Capel's original motion to re-open the December 17, 2009 findings for review and reconsideration. The motion carried by voice vote.

Mr. Lambright requested the opportunity to address the Board.

1 Mr. Bluhm allowed Mr. Lambright the opportunity to address the Board.

2
3 Mr. Lambright stated that in regards to the height variance of six inches he could bring the grade around the
4 building up six inches therefore eliminating the need for the height variance. He said that he could also
5 bring the deck back three feet so that it is 10 feet off of the property line therefore eliminating the need for
6 the side yard variance. He said that perhaps this will make it easier on the Board.

7
8 Mr. Thorsland stated that those modifications would make it a lot easier on the Board

9
10 Mr. Courson asked Mr. Lambright if those modifications would cause any changes to the drainage.

11
12 Mr. Lambright stated no.

13
14 Mr. Thorsland stated that the Board must be assured that the new grade will not cause an issue with the well.

15
16 Mr. Lambright stated that he spoke to the previous owner and he informed him that he had never seen the
17 well work and didn't believe that it did work. He said that he also spoke to Mr. Jeff Blackford, Non-Food
18 Program Coordinator for the Environmental Health Division of the Champaign County Public Health
19 District of the Champaign County Health Department about the well and he indicated that even though he
20 has no jurisdiction over the well he saw no problem with the location of the well where it was located from
21 the building.

22
23 Mr. Bluhm asked Mr. Lambright if raising the grade would interfere with the back door.

24
25 Mr. Lambright stated that the door is on the front of the building.

26
27 Mr. Thorsland asked staff if the grade was raised and the deck was shortened three feet will the Board be
28 revisiting all of this or just dismiss the case.

29
30 Mr. Hall stated that he will have to see the grade raised and the deck brought back and then there would be
31 no variances needed. He recommended that the Board not dismiss the case until there is absolute evidence
32 that there is no need for a variance. He said that if the Board is willing to continue the case until these
33 modifications are complete then the Board should ask Mr. Lambright what a reasonable expectation would
34 be for completion. He said that previously the shortening of the deck was a condition for approval of the
35 variance but once both of the modifications are done there is no need for a variance but if the Board
36 dismisses the case tonight the Board will have no leverage. He said that he believes that the case should be
37 continued so that the modifications can be made and staff can report to the Board that there indeed is no need
38 for a variance.

39
40 Mr. Thorsland stated that there was a proposed condition requiring removal of the deck for maintenance of
41 the well.

42
43 Mr. Bluhm stated that maintenance of the well is covered under the easement.

1
2 Mr. Thorsland stated that the only thing that the Board would have to fall back on is the well agreement. He
3 said that the situation is unfortunate in that this is an agricultural area with houses and there are different
4 notions as to what should and should not be allowed. He said that the only reason that he is comfortable
5 about raising the grade and shortening the deck is because the well is not the primary water resource for the
6 Helmicks.
7
8 Mr. Courson asked Mr. Hall if a new Zoning Use Permit and fees would need to be submitted by the
9 Lambrights.
10
11 Mr. Hall stated yes. He stated that he would still recommend that the case be continued to a later date to
12 assure that the modifications were complete and that the property is in compliance.
13
14 Mr. Bluhm stated that the Board could continue the case to the 100 day limit.
15
16 Mr. Hall stated that 100 days is receipt of 100 more calls regarding this property but staff can handle it.
17
18 Mr. Thorsland stated that 100 days may also give both parties the opportunity to cool off and attempt to
19 make things amendable. He said that it may be an overused phrase but we should all really try to get along
20 with our neighbors.
21
22 Mr. Bluhm stated that the 100 day limit would be June 17, 2010.
23
24 Mr. Lambright asked Mr. Hall if the grade could be considered gravel so that it drains a lot better rather than
25 dirt.
26
27 Mr. Hall stated that the grade in the driveway is the grade of the gravel.
28
29 Mr. Lambright stated that gravel would alleviate any drainage concerns.
30
31 Mr. Hall stated that the definition of grade in the Zoning Ordinance is as follows: The average of the
32 elevations of the surface of the ground measured at all corners of building. He said that the keyword there is
33 ground therefore the soil.
34
35 Mr. Bluhm stated that one-half foot of slope is nothing so it probably does refer to dirt.
36
37 Mr. Palmgren asked Mr. Lambright if he was concerned about the runoff from the roof.
38
39 Mr. Lambright stated no. He said that Mr. Courson asked him about changing the drainage therefore he
40 thought that he would use gravel to alleviate that concern.
41
42 Mr. Courson asked Mr. Lambright if 100 days is acceptable.
43

1 Mr. Lambright stated yes and assured the Board that he will keep in contact with Mr. Hall.

2
3 **Mr. Courson moved, seconded by Mr. Thorsland to continue Case 657-V-09 to the June 17, 2010,**
4 **meeting. The motion carried by voice vote.**

5
6 **6. New Public Hearing**

7
8 **Case 662-S-10 Petitioner: Illinois District Council of the Assemblies of God, Gary Blanchard, Assistant**
9 **Superintendent and Jeff Scott, Station Manager. Request to convert a use from a warehouse to a**
10 **Radio Station as a Special Use in the I-1 Light Industry Zoning District. Location: Lot 11 in**
11 **Westwood Trace Subdivision in Section 9 of Champaign Township and commonly known as the**
12 **building at 4101 Fieldstone Road, Champaign.**

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

22
23 Mr. Hall distributed a new Supplemental Memorandum dated March 11, 2010, to the Board for review. He
24 said that the new memorandum reviews the issues that staff would have raised in regards to concerts. He
25 said that staff's final recommendation in regards to concerts is a condition to make it clear that no concerts
26 could take place on the subject property without a new special use permit. He said that staff was contacted
27 by staff from the City of Champaign regarding some concerns that they had about the concerts and requested
28 an opportunity to present this case to the City Council for comments. He said that staff informed the City's
29 staff that if concerts were allowed there would not be an anticipated decision at tonight's meeting. He said
30 that if no concerts were allowed then there would be no need for the City of Champaign to present this case
31 to their City Council for comments. He said that Bruce Knight, Planning Director for the City of Champaign
32 sent a letter dated March 11, 2010, indicating the subject property has been under an annexation agreement
33 with the City of Champaign until just recently. He said that Mr. Knight's letter warns staff that the subject
34 property may not be within the boundaries of any fire protection district, although the Bondville Fire
35 Department, Inc. has provided service to some properties in the area. Mr. Hall stated that Mr. Knight spoke
36 to the petitioner this afternoon and the petitioner indicated that they do have an agreement with the Bondville
37 Fire Department until the end of 2010 therefore they do have fire protection services.

38
39 Mr. Hall stated that the Supplemental Memorandum dated March 11, 2010, includes proposed new evidence
40 for the Summary of Evidence. He said that a revised Item #3 should read as follows: The subject property is
41 located within the one-and-one half mile extraterritorial jurisdiction (ETJ) of the City of Champaign.
42 Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ, however they
43 do receive notice of such cases and they are invited to comment. Comments have been received from the

1 City of Champaign, as follows: (1) On March 10, 2010, Lorrie Pearson, Land Development Manager with
 2 the City of Champaign, in a phone conversation with J.R. Knight, Associate Planner, indicated that the City
 3 wished to provide formal comments on the proposed Special Use Permit, but City staff has not yet had a
 4 chance to present this case to the City Council. However, she also indicated that the City’s comments were
 5 concerned with the concerts on the subject property; and (2) On March 11, 2010, Lorrie Pearson, Land
 6 Development Manager with the City of Champaign, in a phone conversation with J.R. Knight, Associate
 7 Planner, indicated that the City Council would not be reviewing the proposed Special Use but that she would
 8 be providing a letter with staff comments; and (3) In a letter received on March 11, 2010, Bruce Knight,
 9 Planning Director for the City of Champaign, indicated that the subject property is not located within the
 10 boundaries of any fire protection district, although the Bondville Fire Department has provided services to
 11 some properties in this area in the past. The city is uncertain that the Bondville Fire Department will
 12 continue to provide service in this area. He also indicates that the City can provide fire protection if the
 13 petitioners should choose to enter into a fire service contract with the City. Mr. Hall stated that the
 14 following evidence should be added to Item 5.3.(3)(c): The petitioner’s architect, Jeff Johnson, with BLDD
 15 indicated in an e-mail received on March 5, 2010, that the primary transmitter for the proposed Radio Station
 16 is a 10” satellite dish, and there will be a small backup tower on a skid on the roof. He said that the
 17 following evidence should be added to Item #8.D: Regarding fire protection of the subject property: (1) The
 18 subject property is within the protection area of the Bondville Fire Protection district and is located
 19 approximately three road miles from the fire station. The Fire Protection District Chief has been notified of
 20 this request, but no comments have been received at this time; and (2) In a letter received on March 11,
 21 2010, Bruce Knight, Planning Director for the City of Champaign, indicated that the subject property is not
 22 located within the boundaries of any fire protection district, although the Bondville Fire Department has
 23 provided services to some properties in this area in the past. The City is uncertain that the Bondville Fire
 24 Department will continue to provide service in this area. He also indicates that the City can provide fire
 25 protection if the petitioners should choose to enter into a fire service contract with the City.

26
 27 Mr. Hall stated that before staff received the new information regarding fire protection services from the
 28 petitioner staff constructed a special condition so that the Board could take action. He said that the condition
 29 is not necessary at this point and the Board could eliminate the special condition because the petitioner has
 30 asserted that they are covered by the Bondville Fire Protection District for the remained of 2010.

31
 32 Mr. Hall stated that the following evidence should be added to Item #8.J: The petitioners have indicated that
 33 they may wish to have concerts at the subject property in the future. They have no specific plans at this time,
 34 so a special condition has been provided that makes it clear that there should be no concerts on the subject
 35 property until authorized by a future Special Use Permit. He said that the following evidence should be
 36 added to Item #8.K: Regarding the presence of a broadcast or repeater tower on the subject property, Jeff
 37 Johnson, the petitioner’s architect, indicated in an e-mail received on March 5, 2010, that the primary
 38 transmitter for the proposed Radio Station is a 10” satellite dish, and there will be a small backup tower on a
 39 skid on the roof. He said that the following evidence should be added to Item #9.B.(2)(e): Paragraph
 40 7.4.2C.5 establishes the required number of loading berths for commercial uses and paragraph 7.4.2D.5
 41 establishes that industrial uses require the same number of loading berths as commercial uses. The total
 42 floor area for the existing building is 13,000 square feet as established by ZUPA 223-88-01. According to
 43 paragraph 7.4.2C.5. the building requires two 10’ by 40’ loading berths. There appears to be room to

1 accommodate two loading berths of the required size in the rear parking area.

3 Mr. Hall asked Mr. Knight if he verified that there is adequate necessary screening for the loading berths.

5 Mr. Knight stated that based on his review of the requirements for screening it appears that there is no screening requirement for the subject property.

8 Mr. Hall stated that the following special conditions of approval should be added as revised Items #12.A. and new Items #12. B, #12.C, and #12.D:

11 **12.A: The petitioner shall submit a Zoning Use Permit Application for a Change of Use with fees and a complete site plan within 30 days of the Zoning Board of Appeals approval of Case 662-S-10.**

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

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

20 Mr. Hall stated that staff sent this case to the Board before a complete site plan was received. He said that it was believed that staff would have a complete site plan before tonight’s meeting although that is not the case. He said that staff has been able to review by the use of a survey that was attached to the Preliminary Memorandum dated March 8, 2010, and a 2008 aerial photograph that the property appears to comply with all of the necessary setbacks and yards. He said that it is still necessary and a good idea to have a complete site plan therefore #12.B.has been proposed.

27 **12.B: The petitioners shall ensure that no parking related to the special use permit shall occur in any public right-of-way.**

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

32 **There is no unreasonable risk to public safety caused by on street parking.**

34 Mr. Hall stated that proposed Item #12.C. regarding fire protection service is no longer necessary because the petitioner has indicated that they have an agreement with the Bondville Fire Protection District. He recommended that the Summary of Evidence includes this latest information from the petitioner therefore Item #8.D. of the Summary of Evidence should be revised.

39 Mr. Hall stated proposed Item # 12.D. makes it very clear that no concerts are authorized on the subject. He said that Item #12.D reads as follows:

42 **12.D. No concerts are authorized on the subject property**

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

2
3 **There is no unreasonable risk to public safety caused by concerts held**
4 **on the subject property without proper approval.**
5

6 Mr. Hall stated that parking is probably one of the worst portions of the Zoning Ordinance because a
7 different approach is taken towards parking for industrial uses. He said that normally someone would not
8 think of a radio station as an industrial use. He said that the difference in parking in the industrial district is
9 that the Zoning Ordinance requires that the parking have an all weather surface. He said that the Board has
10 seen a lot of special use permits where the extreme parking was allowed on the grass where no
11 improvements are necessary but that is not supposed to happen in an industrial use. He said that generally a
12 different parking requirement is applied for warehouse areas and in this case the bay area that is in the
13 subject structure is actually based on the number of employees which work in that area. He said that he
14 assumes that the number of employees for the bay area would be zero or maybe one for a radio station. He
15 said that if this was a business district, according to the Ordinance, the bay area would be calculated just like
16 office area therefore requiring 1 parking space per 200 square feet in which case there would not be enough
17 parking spaces currently. He said that this is an industrial use and the bay is treated separately therefore it
18 appears that there is enough parking on all paved areas meeting all parking requirements for an industrial
19 use. He said that if the entire bay was going to be used for concerts there may be a different situation in
20 regards to parking but there would be also be other factors which would need to be considered.

21
22 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.

23
24 Mr. Bluhm called Mr. Jeff Scott to testify.

25
26 Mr. Jeff Scott, Station Manager thanked the Board for the opportunity to present their plans. He said that
27 what attracted them to the building was the fact that it was built by the Hallbecks and they have a great
28 reputation in the area for doing a great job. He said that this will be a phenomenal radio station and he does
29 not know what the future of the warehouse looks like at this point which is one of the reasons why he wanted
30 to hold off on any anticipated concerts for one to two years. He said that he would like to be able to come
31 back to the Board with a plan so that he can get their blessings and move forward. He said that this will be a
32 great facility for their use as a radio station.

33
34 Mr. Bluhm asked the Board if there were any questions for Mr. Scott and there were none.

35
36 Mr. Bluhm asked if staff had any questions for Mr. Scott.

37
38 Mr. Hall asked Mr. Scott to indicate the number of employees that will be in the bay area.

39
40 Mr. Scott stated that if there is any rental of the bay area there could be two employees but if there is no
41 rental there will be no employees in the bay area.

42
43 Mr. Hall stated that the last sentence in Item #9.B(2)(b) of the Summary of Evidence should be revised as

1 follows: Mr. Jeff Scott, Station Manager testified at the public hearing on March 11, 2010, that there would
2 be zero to two employees anticipated in the bay area.

3
4 Mr. Bluhm asked the audience if there were any questions for Mr. Scott and there were none.

5
6 Mr. Bluhm called Mr. Jeff Johnson, Architect for the Petitioner stated that he really had no new information
7 to add. He said that they are very sensitive to the concerns regarding the warehouse area because there are a
8 lot of issues to deal with.

9
10 Mr. Bluhm asked the Board if there were any questions for Mr. Johnson and there were none.

11
12 Mr. Bluhm asked if staff had any questions for Mr. Johnson and there were none.

13
14 Mr. Bluhm asked the audience if there were any questions for Mr. Johnson and there were none.

15
16 Mr. Bluhm asked the audience if anyone desired to sign the witness register at this time to present testimony
17 regarding Case 662-S-10 and there was no one.

18
19 Mr. Bluhm closed the witness register.

20
21 Mr. Bluhm asked the Board if they desired to strike the special condition regarding the fire protection
22 district.

23
24 **The consensus of the Board was to strike proposed Special Condition #12.C and renumber proposed**
25 **#12.D to new #12.C.**

26
27 Mr. Hall stated that revised Item #8.D(3) should read as follows: Mr. Jeff Scott, Station Manager informed
28 James R. Knight, Associate Planner on March 11, 2010, that the property is under a contract with the
29 Bondville Fire Protection District. He said that a new Item #5 should be added to the Documents of Record
30 as follows: Supplemental Memorandum for Case 662-S-10, with attachments dated March 11, 2010.

31
32 Mr. Bluhm asked Mr. Scott if he agreed to the proposed special conditions #12.A; #12.B; #12.D, which were
33 included in the March 11, 2010, Supplemental Memorandum. He noted that proposed special condition
34 #12.C. was stricken by the Board.

35
36 Mr. Scott stated that he agrees to the proposed special conditions.

37
38 Mr. Bluhm requested a motion to approve the following special conditions:

39
40 **12.A: The petitioner shall submit a Zoning Use Permit Application for a Change of**
41 **Use with fees and a complete site plan within 30 days of the Zoning Board of**
42 **Appeals approval of Case 662-S-10.**
43

3-11-10

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

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 matter.

12.B: The petitioners shall ensure that no parking related to the special use permit shall occur in any public right-of-way.

The above special condition is necessary to ensure the following:

There is no unreasonable risk to public safety caused by on street parking.

12.C. No concerts are authorized on the subject property

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

There is no unreasonable risk to public safety caused by concerts held on the subject property without proper approval.

Mr. Thorsland moved, seconded by Mr. Schroeder to accept the special conditions #12.A; #12.B; and #12.C. The motion carried by voice vote.

Finding of Fact for Case 662-S-10:

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 necessary for the public convenience at this location.**

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein IS necessary for the public convenience at this location because the radio station is currently in operation in the City of Champaign as an existing station and will be adjacent to similar uses and will compliment its existing sister station.

- 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 be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.**
 - a. The street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.**

1 Ms. Capel stated that the street has ADEQUATE traffic capacity because there will be no increase in traffic
2 and the entrance location has ADEQUATE visibility.
3

4 **b. Emergency services availability is ADEQUATE.**
5

6 Mr. Thorsland stated that emergency services availability is ADEQUATE because an agreement has been
7 made for fire protection services.
8

9 **c. The Special Use will be designed to CONFORM to all relevant County ordinances
10 and codes.**
11

12 Mr. Thorsland stated that the Special Use will be designed to CONFORM to all relevant County ordinances
13 and codes.
14

15 **d. The Special Use WILL be compatible with adjacent uses.**
16

17 Ms. Capel stated that the Special Use will be compatible with adjacent uses.
18

19 **e. Public safety will be ADEQUATE.**
20

21 Mr. Thorsland stated that public safety will be ADEQUATE.
22

23 **f. The provisions for parking will be ADEQUATE.**
24

25 Ms. Capel stated that the provisions for parking will be ADEQUATE.
26

27 Ms. Capel stated that the requested Special USE Permit, subject to the special conditions imposed herein, is
28 so designed, located and proposed to be operates so that it WILL NOT be injurious to the district in which it
29 shall be located or otherwise detrimental to the public health, safety and welfare.
30

31 **3a. The requested Special Use Permit, subject to the special conditions imposed
32 herein, DOES conform to the applicable regulations and standards of the District
33 in which it is located.**
34

35 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
36 DOES conform to the applicable regulations and standards of the District in which it is located.
37

38 **3b. The requested Special Use Permit, subject to the special conditions imposed
39 herein, DOES preserve the essential character of the DISTRICT in which it
40 is located because:**
41

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

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

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

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

- c. Public safety will be ADEQUATE.**

Mr. Palmgren stated that public safety will be ADEQUATE.

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.

- 4. The requested Special Use Permit, subject to the special conditions imposed herein IS in harmony with the general purpose and intent of the Ordinance.**

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

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

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

- c. The requested Special Use Permit, subject to the special condition 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 condition imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.**

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, IS in harmony with the general purpose and intent of the Ordinance.

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

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

- 6. The special conditions imposed herein are required to ensure compliance with the criteria for special use permits and for the particular purposes**

described below:

12.A: The petitioner shall submit a Zoning Use Permit Application for a Change of Use with fees and a complete site plan within 30 days of the Zoning Board of Appeals approval of 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 matter.

12.B: The petitioners shall ensure that no parking related to the special use permit shall occur in any public right-of-way.

The above special condition is necessary to ensure the following:

There is no unreasonable risk to public safety caused by on street parking.

12.C. No concerts are authorized on the subject property

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

There is no unreasonable risk to public safety caused by concerts held on the subject property without proper approval.

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

Mr. Palmgren moved, seconded by Mr. Courson to close the public hearing for Case 662-S-10. The motion carried by voice vote.

Mr. Bluhm informed Mr. Scott that one Board member is absent from tonight’s meeting therefore it is at his discretion to either continue Case 662-S-10 until a full Board is present or request that the present Board move forward to the Final Determination. He informed Mr. Scott that four affirmative votes are required for approval.

Mr. Scott requested that the present Board proceed to the final determination.

Final Determination for Case 662-S-10:

Mr. Thorsland moved, seconded by Mr. Courson that 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 9.1.6B of the *Champaign County Zoning Ordinance*, determines that the Special Use requested in Case 662-S-10 is hereby GRANTED WITH SPECIAL CONDITIONS to the petitioners Illinois District Council of 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:

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12.A: The petitioner shall submit a Zoning Use Permit Application for a Change of Use with fees and a complete site plan within 30 days of the Zoning Board of Appeals approval of 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 matter.

12.B: The petitioners shall ensure that no parking related to the special use permit shall occur in any public right-of-way.

The above special condition is necessary to ensure the following:

There is no unreasonable risk to public safety caused by on street parking.

12.C. No concerts are authorized on the subject property

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

There is no unreasonable risk to public safety caused by concerts held on the subject property without proper approval.

The roll was called:

Capel-yes	Courson-yes	Miller-absent
Palmgren-yes	Schroeder-yes	Thorsland-yes
Bluhm-yes		

Mr. Hall informed Mr. Scott that the special use has been approved and staff will contact him regarding the next step.

Mr. Bluhm stated that the Board will now hear Case 657-V-09.

7. Staff Report

Mr. Hall distributed the February, 2010 Monthly Report for the Board’s review. He said that it appears that zoning cases are picking up but it may be due to the number of text amendments that were proposed to ELUC. He said that the top portion of the docket indicates that the text amendment for small wind went to the Committee of the Whole on February 1, 2010, but they were so pre-occupied that they deferred it without discussion. He said that the Committee of the Whole made a tentative recommendation to support the Board’s recommendation regarding the RLA wind farm separation and this will go back for a full recommendation to the full County Board on April 6, 2010, with anticipation of adoption at the April full County Board meeting. He said that staff received direction from the Committee of the Whole to proceed with three text amendments at the March Committee of the Whole meeting. He said that staff hopes to also seek direction from the Committee of the Whole in April for another text amendment which will be a more difficult case.

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8. Other Business

Mr. Bluhm reminded the Board that due to the change to Daylight Savings Time the March 25, 2010, meeting will begin at 7:00 p.m.

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

None

10. Adjournment

The meeting adjourned at 8:15 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

CASE NO. 645-S-09

SUPPLEMENTAL MEMORANDUM

April 9, 2010

Champaign
County
Department of



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

(217) 384-3708

Petitioners: **Robert and Barbara
Gerdes**

Request: **Authorize the construction
and use of a "Restricted Landing
Area" as a Special Use in the AG-1
Agriculture Zoning District**

Site Area: **approx. 83 acres**

Location: **An approximately 83 acre
tract that is approximately the West
Half of the Southwest Quarter of
Section 33 of Ayers Township and
commonly known as the farm at 52 CR
2700E, Broadlands.**

Time Schedule for Development:
Immediate

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

STATUS

This is the fifth meeting for this case, it was continued from the January 14, 2010, ZBA meeting. At that meeting the petitioners' attorney requested the case be continued because they were appealing the Zoning Administrator's decision of what constituted an agricultural RLA in court.

This case was ready for final action on December 3, 2009, and no new information has been received from the petitioners or neighbors of the subject property regarding the zoning case since that time. The memos from November 25, 2009, and December 3, 2009, are included without their attachments.

Before taking final action the Board should obviously consider all evidence to date but especially the testimony from pilot Rick Reed at the June 11, 2009, public hearing, which is Item 8.K.(1) of the Summary of Evidence on page 13 of 27. This particular evidence may even conflict with the proposed condition 12.A. which was first proposed in the Supplemental Memorandum dated November 25, 2009, but was subsequently not discussed.

Although the court case is ongoing, staff does not see any reason why the Board could not take final action on the proposed SUP if it desires. Section 9.5 of the ZBA by-laws indicates that a request from the applicant or other interested party to continue the public hearing may be permitted only for good cause. The petitioners or their attorney may request a continuance due to the ongoing court case. It is up to the Board's discretion whether a continuation in this case is warranted.

NEW EVIDENCE

1. Add new item 8.U. on page 16 of 27 as follows:

- U. Regarding basic safety and land use compatibility concerns related to any RLA:
- (1) Footnote 11 to Section 5.3 of the Ordinance requires that no BUILDING or STRUCTURE be erected or vegetation be maintained that would create an obstruction in an approach slope or transition slope for an existing AIRPORT, RESIDENTIAL AIRPORT, HELIPORT, RESTRICTED LANDING AREA or HELIPORT-RESTRICTED LANDING

AREA permitted under the terms of this ordinance unless a SPECIAL USE permit is granted per Section 9.1.5 D.4.

- (2) The requirement of Footnote 11 in Section 5.3 cannot be enforced at the south end of the proposed RLA because the subject property abuts the south line of Champaign County and the approach slope for the south end of the proposed RLA is primarily in Douglas County on land apparently owned by Brian Wulff.
- (3) Notice of the proposed RLA was mailed to Douglas County landowner Brian Wulff in care of Greg Luth, 1285CR2580E, Newman IL, and no comments have been received.
- (4) If the proposed RLA is approved, protection of the south approach slope will be a private matter and the responsibility of the applicant.

EXISTING TESTIMONY REGARDING PUBLIC SAFETY

Item 8.K.(1) of the Summary of Evidence is testimony from Rick Reed, the petitioner's aerial applicator, from the June 11, 2009, public hearing, as follows:

- (1) This location would create safety concerns if the 3500 feet separation was not available and only standard separations from wind turbines were enforced.

In light of the evidence in Item 8.B. regarding how little of the surrounding area is actually within the County's wind farm zoning jurisdiction, this testimony would appear to support denial of the proposed SUP because any RLA at this location will not receive the full RLA wind farm separation due to other county and village wind farm jurisdictions overlapping the area of the RLA wind farm separation. It should be noted that Mr. Reed's testimony was given before the evidence in Item 8.B. was added to the Summary of Evidence. This testimony is very problematic given that it is from the petitioners' current aerial applicator and would appear to rule out proposed special condition of approval 12.A. (and Alternative C described in the November 25, 2009, memo) unless supplemented with new evidence in support of the special condition.

ATTACHMENTS

- A Supplemental Memorandum for Case 645-S-09, dated November 25, 2009, without attachments
- B Supplemental Memorandum for Case 645-S-09, dated December 3, 2009, with attachment B
- C Revised Draft Summary of Evidence for Case 645-S-09

CASE NO. 645-S-09

SUPPLEMENTAL MEMORANDUM

November 25, 2009

Petitioners: **Robert and Barbara Gerdes**

Request: **Authorize the construction and use of a "Restricted Landing Area" as a Special Use in the AG-1 Agriculture Zoning District**

Site Area: **approx. 83 acres**

Location: **An approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.**

Time Schedule for Development:
Immediate

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

STATUS

This is the third meeting for this case, it was continued from the July 30, 2009, ZBA meeting. Those minutes are included separately and are ready for approval.

As requested by the Board, the State's Attorney has submitted a memorandum reviewing the "necessary for public convenience" criterion. The memo is confidential but is briefly summarized below.

Since the last meeting staff has prepared additional information which has been inserted into the Summary of Evidence on pages 4, 8-10, and 12-13. A corrected diagram of all wind farm separations in the vicinity of the subject property will be available at the meeting.

In case the Board leans towards approval, two special conditions of approval have been included in the Summary of Evidence on page 19, and are reviewed below.

MEMORANDUM FROM STATE'S ATTORNEY

At their July 30, 2009, meeting the Zoning Board of Appeals (ZBA) requested some guidance from the State's Attorney regarding the Special Use Permit criteria which requires the proposed use to be "necessary for the public convenience at this location." The State's Attorney has prepared a memo that has been included with the packets for ZBA members and staff, but has not been included for common circulation because it is confidential information.

In general, the memo indicates that the petitioner must provide evidence that the community will gain some benefit from the proposed use, and that any decision made by the Board must be supported by the facts of the case. The State's Attorney did not provide guidance or evaluation on the sufficiency of any evidence.

ALTERNATIVES FOR THE BOARD

The Board appears to have the following alternatives depending upon how it interprets the available evidence:

- A. **Make the necessary findings of fact required to approve the RLA.** In this approach the Board would not hinder the RLA approval with speculation related to a wind farm. The Board should consider if any other special condition of approval is necessary for the proposed RLA at this location. None have been proposed at this time but any special condition of approval necessary for this alternative is probably also necessary under alternatives B and C.
- B. **Make the necessary findings of fact required to approve the RLA with a condition that the approval is contingent upon no wind farm turbine tower being located within 3,500 feet of the runway.** In this approach the Board would approve the RLA but require that if a wind farm is developed that no wind farm turbine tower be located within 3,500 feet of the runway. This condition is simple enough to draft at the hearing if required.
- C. **Make the necessary findings of fact required to approve the RLA and include conditions that will minimize the economic impact on neighbors and ensure minimal public safety in the event that a wind farm is developed.** In this approach the Board would approve the RLA but include conditions that would minimize the economic impact on neighbors and provide adequate safety if a wind farm is developed in the future. Draft conditions are proposed below.
- D. **Make the necessary findings of fact required to deny the RLA.** In this approach the Board would determine that this is not a suitable location for the proposed RLA and that no special condition could be imposed upon the petitioner to make the location suitable.

HARMONY WITH GENERAL PURPOSE AND INTENT OF THE ZONING ORDINANCE

Item 10 of the Summary of Evidence reviews relevant evidence regarding whether the proposed RLA is in harmony with the general purpose and intent of the Zoning Ordinance. Ensuring public safety is a basic purpose of the Zoning Ordinance and items 10.C.(1) and 10.C.(5) refer to paragraphs in the Zoning Ordinance where safety is mentioned as a purpose and are included below:

- 10.C.(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.
- 10.C.(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.

The Board should adopt evidence related to each of these items. Draft evidence for both of these items is proposed below and requires the Board to make a choice which is indicated in bold italics:

The proposed RLA *{ with the special conditions will provide adequate safety / will not provide adequate safety due to the inability to ensure adequate separation from a proposed wind farm in Douglas County and within one and one half miles of the Village of Allerton }.*

PROPOSED SPECIAL CONDITIONS OF APPROVAL FOR ALTERNATIVE C

It is not clear at this time which evidence the Board will find most compelling, but in case the Board leans toward approval of the RLA as explained in Alternative C the following conditions are proposed to minimize impact on the neighbors and maximize safety:

- The applicant is not a pilot and does not have a plane and does not plan to use the proposed RLA for recreational flying. The proposed RLA is intended to be used for the applicant's agricultural aerial applicator (and other agricultural aerial applicators) in servicing the surrounding farmland. Agricultural aerial applicators increasingly have to navigate around wind farms in conducting their aerial applications. The following special condition will ensure that the proposed RLA is used primarily only by agricultural aerial applicators:

The proposed RLA may only be used by agricultural aerial applicators except as may be necessary for emergency landings when it may be used by anyone.

The condition above is necessary to ensure that:

The proposed RLA is principally used by skilled agricultural aerial applicators.

- In the event that a wind farm is developed around the proposed RLA, requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one-half miles of the Village of Allerton. The following special condition will ensure that the RLA will not result in unreasonable limitations for the RLA neighbors in the Champaign County wind farm zoning jurisdiction:

The petitioner shall not oppose a waiver of the minimum required RLA wind farm separation (as otherwise required by subpar. 6.1.4 C. 11. of the Champaign County Zoning Ordinance) in any proposed wind farm county board special use permit.

The condition above is necessary to ensure that

The presence of the RLA does not unreasonably limit adjacent Champaign County landowners in their ability to host wind farm turbine towers.

ATTACHMENTS

- A Excerpt of Minutes ZBA meeting on January 26, 1989
- B Excerpt of Minutes of ZBA meeting on August 15, 1990
- C Mark up of imaginary surfaces submitted by Jed Gerdes on July 30, 2009 (included separately)
- D Gerdes Farm Map submitted by Jed Gerdes on July 30, 2009 (included separately)
- E Revised Draft Summary of Evidence for Case 645-S-09, dated November 25, 2009

CASE NO. 645-S-09

SUPPLEMENTAL MEMORANDUM

December 3, 2009

Petitioners: **Robert and Barbara Gerdes**

Request: **Authorize the construction and use of a "Restricted Landing Area" as a Special Use in the AG-1 Agriculture Zoning District**

Site Area: **approx. 83 acres**

Location: **An approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.**

Time Schedule for Development:
Immediate

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

STATUS

This is the third meeting for this case, it was continued from the July 30, 2009, ZBA meeting. Since the mailing staff has prepared additional evidence regarding the submittals from Paul Cole on November 25, 2009; and prepared a revised diagram of wind farm separations in the vicinity of the subject property.

An additional special condition of approval is also included to make clear the relationship between County and State approval.

NEW INFORMATION FOR SUMMARY OF EVIDENCE

1. Add new item 7.Q. on page 11 of 27, as follows:

- Q. In a note dated 11/19/09 that was forwarded by Attorney Paul Cole who represents Robert and Barbara Miller, neighboring landowners to the west of the proposed RLA, Ty Trisler stated the following:
- (1) Trisler Farms owns and operates an air strip in southern Vance Township in Vermilion County, IL.
 - (2) Trisler Farms allows custom applicators to use the air strip provided that they provide proof of insurance and list Trisler Farms as an additional insured and Trisler Farms will continue to provide this service for as long as the strip is in operation.

2. Add new item 8.B.(2) and renumber as necessary on page 11 of 27, as follows:

- (2) Of the 1208 acres covered by the RLA separation 560 acres are included in other separations that are part of the *Zoning Ordinance* and assumed minimum separations in other jurisdictions based on the model wind farm ordinance.

3. Add new item 8.O.(4) on page 14 of 27, as follows:

- (4) In a letter dated 11/24/09 that was forwarded by Attorney Paul Cole who represents Robert and Barbara Miller, neighboring landowners to the west of the proposed RLA, Andrew Larson, Superintendent of the Heritage School District #8, stated the following:
- (a) Heritage School District #8 is a small rural school district of 540 students that covers approximately 105 square miles.
 - (b) Heritage School District #8 must continue to look for funding avenues outside of state funding sources because of State of Illinois funding deficits.
 - (c) The development of wind farms would provide additional dollars to be generated that is not directly impacting property taxes of home and land owners.
 - (d) Each megawatt of wind turbine rated output will generate tax receipts equal to the fair cash value of \$360,000 per megawatt times the Consumer Price Index less the depreciation of 2 to 4% per year divided by $3\frac{1}{3}$ to get the assessed value multiplied by the tax rate which for Heritage is 4.53 which yields an estimated \$5,381 per megawatt in the second year of operation. This amount will vary by year depending upon the Consumer Price Index, depreciation, and the tax rate.
 - (e) Mr. Larson's fair cash value of \$360,000 per megawatt comes from Public Act 644 which established wind energy property assessment practices.
 - (f) Based on the example tax calculation for a wind turbine Superintendent Larson states that a 1.5MW wind farm turbine would generate approximately \$9,161.

PROPOSED SPECIAL CONDITION OF APPROVAL

The following condition is included only to make clear the relationship between the County's approval and the State's approval.

- The proposed RLA must receive a Certificate of Approval for operation from the Illinois Department of Transportation Division of Aeronautics (IDOT). Likewise, IDOT requires the RLA to have any necessary county zoning approvals. The following condition will ensure that the proposed RLA must be in conformance with IDOT in order to remain in conformance with the Champaign County Zoning Ordinance:

The Restricted Landing Area must be used in compliance with the approved Certificate of Approval for operation from the Illinois Department of Transportation Division of Aeronautics

The above condition is necessary to ensure that:

The proposed RLA is operated so as to ensure public safety.

ATTACHMENTS

- A Excerpt of Minutes ZBA meeting on March 28, 1991, for Case 750-S-91 (Routh RLA)
- B Revised Diagram of Wind Farm Separations in Vicinity of Gerdes' Property (included separately)

Revised Wind Farm Separations in Vicinity of Gerdes Property

DECEMBER 3, 2009



REVISED DRAFT – APRIL 9, 2010

645-S-09

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

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

Date: April 15, 2009

Petitioners: Robert and Barbara Gerdes

Request: Authorize the construction and use of a “Restricted Landing Area” as a Special Use in the AG-1 Agriculture Zoning District.

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 11, 2009, July 30, 2009, December 3, 2009, January 14, 2010, and April 15, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, Robert and Barbara Gerdes, own the subject property.
2. The subject property is an approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

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 currently zoned AG-1 Agriculture and is in use as a farmstead and associated farmland.
 - B. Land north, east, and west of the subject property is zoned AG-1 and is in use as farmland.
 - C. Land to the south of the subject property is in Douglas County, which does not have a zoning ordinance. The land is in use as farmland.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the proposed site plan for the proposed RESTRICTED LANDING AREA (RLA), as follows:

ITEM 5. CONTINUED.

- A. The runway is located along the east lot line of the subject property. It is a strip of land 100 feet wide and 1900 feet long. Based on comments on the application the actual runway is only 1600 feet long and is located 300 feet north of CR 0N.
- B. An amended site plan was received on June 19, 2009, that indicates the following:
 - (1) The runway surface is 100 feet wide and 1,871 feet long running north to south.
 - (2) There is a runway safety area located entirely on the subject property that is 120 feet wide, centered on the runway, and extending 240 feet north of the runway and 300 feet south of the runway.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

- 6. Regarding authorization for a “RESTRICTED LANDING AREA” as a Special Use in the AG-1 Zoning District in the *Zoning Ordinance*:
 - A. Section 5.2 authorizes a “RESTRICTED LANDING AREA” as a Special Use in the AG-1, AG-2, I-1, and I-2 Districts.
 - B. Section 6.1.3 establishes the following standard conditions for RESTRICTED LANDING AREAS:
 - (1) Must meet the requirements of the Federal Aviation Administration and Illinois Department of Transportation, Division of Aeronautics.
 - (2) The RESTRICTED LANDING AREA shall provide for a runway plus a runway safety area both located entirely on the LOT. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond each end of the runway.
 - (3) No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B District nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located:
 - (a) Within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or
 - (b) Within the Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the Primary Surface, 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the primary surface.
 - (4) After a RESTRICTED LANDING AREA is established, the requirements in Section 4.3.7 and Table 5.3 note (12) shall apply.
 - C. Ordinance No. 848 (Zoning Case 634-AT-08 Part A) was adopted on May 21, 2009, and added requirements for wind farms to the *Zoning Ordinance*. Part of those requirements included a 3500 feet separation between any wind turbine tower and an RLA.

ITEM 6. CONTINUED.

- 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) “AIRCRAFT” is any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.
 - (2) “RESTRICTED LANDING AREA” is any area described or defined as a Restricted Landing Area under the *Illinois Aviation Safety Rules (92 Ill. Admin. Code Part 14)* and as further regulated by the Illinois Department of Transportation, Division of Aeronautics.
 - (3) “SPECIAL CONDITION” is a condition for the establishment of the SPECIAL USE.
 - (4) “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:

ITEM 7. CONTINUED.

- A. The Petitioner has testified on the application, **“Our farming operation has used aerial spraying and/or seeding for 5 years. An air landing strip we have used to load is not available, the land has been tilled. Rye grass is bulky and requires frequent loading.”**
- B. The proposed RLA is intended for private use, but the owner does not fly and it is intended solely for use by the aerial applicator. The owner has other land approximately 13 ½ miles to the north.
- C. The subject property is located in an area where a wind farm is anticipated, as follows:
- (1) Horizon representative, Dwight Farber, has discussed the anticipated wind farm and its general location with Planning and Zoning staff on multiple occasions.
 - (2) At the June 11, 2009, public hearing, attorney Paul Cole, representing several neighbors to the west, indicated that if it were possible to place a wind turbine on their property then his clients would like to have that opportunity.
 - (3) At the June 11, 2009, public hearing, Carl Smith, tenant of the ground immediately to the east of the subject property, indicated he owned land in the vicinity and had signed a contract with Horizon Wind to place a turbine on his property.
 - (4) At the June 11, 2009, public hearing a letter from Mrs. Carole Horst was received and it indicated that she also had a contract on her property to place a wind turbine from Horizon Wind Farms.
- D. The subject property is located beyond the one and one-half mile wind turbine jurisdiction of the nearby Villages of Allerton and Broadlands. However, some neighboring property is located in those areas.
- E. Jed Gerdes, son of the petitioners, testified at the June 11, 2009, public hearing, as follows:
- (1) He and his parents farm together therefore he is assisting them with this request.
 - (2) Having a runway is not entered into lightly because if there is anything a farmer hates to do is mow grass all the time.
 - (3) The petitioners were using an RLA, which belonged to Steve Riggins, and was just a few miles away, but that RLA has now been plowed up and planted in crops. They need to establish a new landing strip so they can continue using rye grass to protect their fields from erosion.
 - (4) The old landing strip would also have been located in the area of the anticipated wind farm, therefore there would be no net effect on the number of turbines that could be located in the anticipated wind farm.

- (5) The main reason they need the proposed RLA is to allow aerial application of rye grass. He said that he is one of the only farmers in Central Illinois who has been working with rye grass.
- (6) Mike Plummer from the University of Illinois has been trying to promote rye grass because it is one of the best ways to preserve Champaign County farmground.
- (7) In early August when the corn and beans are beginning to turn the rye grass seed is flown on and when it receives a good one-inch rain it starts growing. By the time the corn and beans are ready to be harvested there is a good stand of rye grass on his fields and it is an excellent erosion preventer.
- (8) He has also experienced some significant yield boosts on thin Vermillion County ground. His corn fields have averaged around 200 bushels to the acre and up to 74 bushels for beans.
- (9) Working with rye grass is not very popular because it takes some trial and error, but he has been working with the National Rye Grass Association from Oregon and they have had some success.
- (10) He stated that when a field is tilled carbon is released into the atmosphere, but a no-till field actually sequesters carbon at the rate of 1300 kilograms per year. As compared to a tillage field, a no-tillage field can sequester the same amount of carbon that an average home would release from a coal powered plant. When you add rye grass to a no-tillage field the amount almost doubles because there is a crop growing on the field year round. The effect of this carbon sequestration is to help out the environment in the same way as wind turbines.
- (11) The main challenge with rye grass is that it is very bulky, and even spreading it at a light rate an airplane can only hold 70 acres worth of seed, and if urea fertilizer is mixed in only 35 acres worth can be carried. This is can make things quite difficult if the airplane has a long way to fly while loaded.
- (12) Spreading the seed has to be done early in the morning when the wind is very still, usually before 9 AM.
- (13) He stated that he raises good quality seed beans and he has to spray fungicides, which means he could save five to ten dollars per acre by providing a landing strip closer to where he farms. When you multiply those savings by thousands of acres that is a large financial incentive, and also helps with the cost of setting aside the ground for the RLA.
- (14) He understands there is a wind farm anticipated in this area, but Horizon has not applied for any permits to date.

- (15) The subject property is the home base of his and his family's farming operations.
 - (16) He and his partner, Charles Goodall, farm in six different counties, and the bulk of his farming area is in the Broadlands, Allerton, and Sidell area, encompassing approximately 2500 acres. He lives in his grandmother's old home near Ogden.
 - (17) It is possible that his spray applicator would load fungicides and he could install a loading pad if necessary. According to current regulations his applicator does not need a loading pad as long as there is permanent chemical storage at his main facility.
 - (18) He stated that his aerial applicator does not have an ownership interest in the proposed RLA, but he needs the RLA for rye grass application and to keep input costs down. He said he would make the RLA available for other pilots as well. He wants to benefit his neighbors as well.
 - (19) He said that he currently plants between 200 and 400 acres of rye grass and he hopes to increase that substantially over the years. He said that the farm where he applies the rye grass is in the anticipated wind farm area.
 - (20) He said that if the proposed RLA was not approved and not located on the subject property he would only be able to spread rye grass on 100 acres because it would take too long for the applicator to fly back and forth.
 - (21) Mr. Goodall is located primarily in the Sidell area, which is anticipated to be part of the same wind farm as in Mr. Gerdes's area. He also stated that the fields he spreads rye grass on are located next to Mr. Goodall's fields.
- F. Mr. John Richard Reed, 18 Stonegate, Charleston, testified at the June 11, 2009, public hearing, as follows:
- (1) He is the co-owner of Reed's Fly-On Farming and has been based out of Coles County Memorial Airport for 33 years.
 - (2) He feels that this RLA is a great idea because he has just lost the use of another RLA. He normally flies out of Mattoon, but he can also fly out of Danville and Tuscola. However, there are no other places in the middle of those hard surface airports that he can use.
 - (3) Rye grass is a difficult crop to apply and time is of the essence, so being able to load close is imperative. He said there is not a single helicopter in the State of Illinois that can apply rye grass.
 - (4) His business has tripled in the last few years and he plans to use the RLA in the spring for application of fungicides on corn and soybeans.

- (5) Over the past ten years the existing RLA's have been disappearing, but over the past two years there have been more and more applications for RLA's across the state, for reasons mostly similar to Mr. Gerdes's.
 - (6) The potential for Asian Rust to move into Illinois is a good possibility and the number of acres that would have to be covered in a short time is extremely high.
- G. Carl Smith, 214 CR 2700E, Allerton, testified at the June 11, 2009, public hearing, as follows:
- (1) Although he has an Allerton address he lives in Champaign County.
 - (2) He and his brother are the tenants of the farm directly on the east side of the subject property, and he submitted a letter from the land owner.
 - (3) Mr. Smith, Mrs. Horst, the land owner of the farm directly to the east, and her sister own considerable property in the area, and they all signed contracts with Horizon several months before the RLA was proposed.
 - (4) An airstrip to service agricultural uses is a good idea. Mr. Reed has sprayed thousands of acres that he farmed over the years, but to the best of his knowledge, Mr. Reed has always been able to service his farms out of Mattoon.
- H. Carole Smith Horst, landowner of the property directly bordering the subject property on the east, gave her tenant a letter that he submitted at the June 11, 2009, public hearing, which indicated the following:
- (1) Her nephews/tenants, Carl and Vic Smith, and Horizon Wind Farms are allowed to speak on her behalf against the placement of this landing strip.
 - (2) She has signed a contract to allow Horizon Wind Farms to place a turbine on her property.
 - (3) She feels that if the landing strip is approved she and her tenants and heirs should be reimbursed for the loss of income from the wind farm.
- I. Other than the petitioners and Jed Gerdes, no other farmer in the vicinity has asserted that the proposed RLA is necessary for public convenience.
- J. Other than Jed Gerdes, there is no evidence that any other farmer in the vicinity plants rye grass with row crops.
- K. Regarding previous SUP applications for RLA's in Champaign County:
- (1) The Special Use Permit requirements for RLA's were added to the *Zoning Ordinance* in Ordinance No. 320 (Zoning Case 642-AT-88) adopted on August 23, 1988. At that time there were many RLA's in operation in the County that became legal nonconforming uses at that time.

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- (2) Since the adoption of Ordinance No. 320, Champaign County has authorized three SUP's for RLA's, as follows:
 - (a) Case 672-S-88 was approved on for petitioner Stu Moment in Section 7 of Sidney Township, however, this RLA does not appear to be in use anymore. The SUP is attached to the land so an RLA could be reestablished on that location, presuming all the County zoning and IDOT requirements could still be met.
 - (b) Case 724-S-90 was approved on for petitioner Dean Schenk in Section 12 of Pesotum Township, and appears to still be in use.
 - (c) Case 750-S-91 was approved on for petitioner Lowell Routh in Section 36 of St. Joseph Township, and appears to still be in use.
- (3) In Cases 672-S-88 and 724-S-90 the Board included in its Finding of Facts that those RLA's were necessary for the public convenience because of their use for agricultural purposes.
- (4) Regarding other known RLA's in Champaign County on August 23, 1988:
 - (a) In Section 12 of Newcomb Township a Mr. Furtney established an RLA on July 1, 1986, but did not obtain a Zoning Use Permit (ZUP) for the use. It does not appear that this RLA is still in use.
 - (b) In Section 1 of Hensley Township, Riley McCulley established an RLA on June 21, 1973, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. This RLA appears to still be in use.
 - (c) In Section 12 of Mahomet Township, Voyle Spence established an RLA on June 26, 1969, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. However, this RLA was not in use as of August 23, 1988, and would have to be reestablished by way of a SUP.
 - (d) In Section 28 of Hensley Township, Frank Andrew established an RLA on January 18, 1949, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.
 - (e) In Section 28 of Mahomet Township, William Herriot established an RLA on April 8, 1977, but did not obtain a ZUP for the use. It does not appear that this RLA is still in use.
 - (f) In Section 31 of Somer Township, Roy Reifsteck established an RLA on September 9, 1959, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.

- (g) In Section 21 of Scott Township, Mark Igoe established a Heliport/RLA on March 17, 1988, but did not obtain a ZUP for the use. This RLA appears to still be in use.
 - (h) In Section 27 of Scott Township, John Litchfield established an RLA on September 5, 1980, but did not obtain a ZUP for the use. This RLA appears to still be in use.
 - (i) In Section 29 of Rantoul Township, Robert Schmidt established an RLA on July 21, 1983, but did not obtain a ZUP for the use. However, a ZUP was obtained at a later date and the lot containing the RLA was the subject of Zoning Case 528-V-05. This RLA appears to still be in use.
 - (j) In 6 of St. Joseph Township, Roscoe Knott established an RLA on November 29, 1949, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.
 - (k) In Section 16 of St. Joseph Township, Dale Busboom established an RLA on August 3, 1970, but did not obtain a ZUP for the use. This RLA appears to still be in use.
 - (l) In Section 22 of Sidney Township, Harry Justus established an RLA on August 23, 1966, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.
- (5) No Special Use Permit for an RLA has ever been authorized in Ogden, South Homer, Ayers, Raymond, Philo, Crittenden, or Tolono Townships.
- L. As noted above in Item 7.F.(21), Mr Gerdes testified at the June 11, 2009, public hearing that his farming partner, Mr. Goodall is also located in the anticipated wind farm area, and that the fields Mr. Gerdes plants with rye grass are near Mr. Goodall. If the rye grass fields are also located in the wind farm area it is possible that even if the RLA is approved wind turbine towers surrounding the rye grass fields could obstruct the spreading of the seed.
- M. Jed Gerdes, son of the petitioners, testified at the July 30, 2009, public hearing as follows:
- (1) As soon as he found out that the airstrip that he was previously utilizing was tilled under then he started his application for this request.
 - (2) He contacted Steve Riggins, owner of the previous airstrip, and asked why the air strip no longer existed and Mr. Riggins informed him that he had sold his airplane and no longer needed the airstrip.

- (3) He said that there are a lot of RLA's in Champaign County but they are all in the northern portion of the County and not within his area.
 - (4) He has also spoken to his local fertilizer dealer offering the airstrip to utilize their needs. He said that his local fertilizer dealer's pilot clipped a power line and had to fly back to Rantoul because there was no place for him to land in the area that he was serving therefore there is a safety concern in having no facility for those pilots to land in the southern portion of the County.
 - (5) Mr. Gerdes indicated on a map indicating the general location of his farm ground to show how the RLA is centrally located for his use. He said that the subject property is where the central hub of his operation is located because it is where he stores the seed, farming equipment, etc.
- N. Rick Reed, owner of Reed's Fly-On Farming, testified in a letter submitted by Jed Gerdes at the July 30, 2009, public hearing as follows:
- (1) He works a great deal between Villa Grove and Oakwood and there is no suitable place for me to land in that area. If I had a landing strip on Jed's ground today, it would have saved about three hours of extra flight time while working seed corn in the Oakwood area.
 - (2) He respectfully urges the Board to consider the potential good that will come from allowing the construction of this airstrip, good not just for the Gerdes family but for all the agricultural community.
- O. Paul Cole, attorney representing Robert and Barbara Miller, neighbors to the west, testified at the July 30, 2009, public hearing that none of his clients have a contract for a wind turbine to be placed on their property.
- P. Carl Smith, 214 CR 2700E, Allerton, testified at the July 30, 2009, public hearing as follows:
- (1) The fact that few pilots serve many farmers is absolutely true and Mr. Reed has sprayed several acres for him over the years.
 - (2) In all of the years that Mr. Reed has serviced his fields Mr. Reed has flown out of his Mattoon location although the Tuscola airport or Danville airport would have been much closer.
 - (3) Currently he is in the midst of having fields sprayed and the pilots are flying from Paris and Rantoul and do not choose Champaign, Danville or Tuscola. He said that they choose to fly out of their home location where their equipment is set up for their chemicals and everything else.
 - (4) If it were more economical for them to move to a closer location he would imagine that they would therefore the availability of this RLA will not act as a magnet to attract pilots to use as a base of operation.

- (5) There has been testimony that the RLA would save area farmers money although he has never been told from a pilot that if he could move to a closer location he would charge less.
- Q. In a note dated 11/19/09 that was forwarded by Attorney Paul Cole who represents Robert and Barbara Miller, neighboring landowners to the west of the proposed RLA, Ty Trisler stated the following:
- (1) Trisler Farms owns and operates an air strip in southern Vance Township in Vermilion County, IL.
 - (2) Trisler Farms allows custom applicators to use the air strip provided that they provide proof of insurance and list Trisler Farms as an additional insured and Trisler Farms will continue to provide this service for as long as the strip is in operation.

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, **“Dale Rust, Flight Safety Coordinator of Illinois Department of Transportation has inspected the site, stated it is satisfactory, and it follows his recommendations. It allows 1900’ for landing area (300’ for road). It is a positive tool for agriculture.”**
 - B. The proposed RLA is also located on the southern line of Champaign County, such that neither the required 3500 feet wind turbine separation nor the required Runway Clear Zones (see Item 6) can be fully enforced for the proposed RLA, as follows:
 - (1) Based on analysis of Attachment to the Supplemental Memorandum dated July 24, 2009, “IDOT Imaginary Surfaces and Zoning Standard Conditions” the area covered by the 3500 feet separation from the proposed RLA would include approximately 1208 acres.
 - (2) Of the 1208 acres covered by the RLA separation 560 acres are included in other separations that are part of the *Zoning Ordinance* and assumed minimum separations in other jurisdictions based on the model wind farm ordinance.
 - (3) Approximately 529 acres (or about 44%) of the area within 3,500 feet of the proposed RLA is within the Champaign County wind farm zoning jurisdiction due to the subject property’s location on the county line between Champaign and Douglas County, and its proximity to the Village of Allerton’s Wind Turbine Jurisdiction.
 - (4) Of the 529 acres that is within 3,500 feet of the proposed RLA and within the Champaign County wind farm zoning jurisdiction, about 285 acres (54%) is also within other required wind farm separations.

- C. Regarding surface drainage:
- (1) The subject property is located in the Union Drainage District.
 - (2) The existing amount of impervious area on the subject property does not trigger any requirement for stormwater detention under the *Champaign County Stormwater Management Policy*, and no new impervious area is proposed as part of the RLA.
 - (3) Notice was sent to the Union Drainage District, but no comments have been received to date.
- D. The subject property is located on CR 2700E, one-half mile from CR 0N. The subject property is accessed from CR 2700E on the west side of the property. Regarding the general traffic conditions on CR 2700E at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (1) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data, in the vicinity of the subject property, is from 2001, as follows:
 - (a) Along CR 2700E where it passes the subject property the ADT is 50 trips.
 - (b) The proposed RLA is for private use only and is proposed to be used for agricultural purposes making an increase in traffic unlikely.
 - (2) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design guidelines for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates the following pavement widths for the following traffic volumes measured in Average Daily Traffic (ADT):
 - (a) A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
 - (b) A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
 - (c) A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.
 - (d) A local road with a pavement width of 22 feet has a recommended maximum ADT of more than 400 vehicle trips.
 - (e) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines also recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet.

- (3) The width of CR 2700E was measured by J.R. Knight, Associate Planner, during a site visit on June 2, 2009, to be 16 feet wide.
 - (4) The Township Road Commissioner has been notified of this case, but no comments have been received at this time.
- E. Regarding fire protection of the subject property, the subject property is within the protection area of the Allerton 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.
- F. The subject property does not appear to be located within a Special Flood Hazard Area.
- G. Regarding outdoor lighting on the subject property, there is no indication on the site plan of outdoor lighting for any purpose.
- H. Regarding subsurface drainage, the site plan does not contain any information regarding agricultural field tile.
- I. Regarding wastewater treatment and disposal on the subject property, the proposed use has no need for any wastewater treatment and disposal.
- J. Paul Cole, attorney representing Hester L. Miles and Robert and Barbara Miller, adjacent landowners west of the subject property, testified at the June 11, 2009, public hearing that if it were possible to place a wind turbine on their property his clients would like the opportunity to do so.
- K. Mr. John Richard Reed, owner of Reed's Fly-On Farming, testified at the June 11, 2009, public hearing, as follows:
- (1) This location would create safety concerns if the 3500 feet separation was not available and only standard separations from wind turbines were enforced.
 - (2) In discussions with wind farm developers one of the items they are reviewing is a circle at least 3500 feet around landing strips.
- L. A letter from Mrs. Carole Horst was submitted at the June 11, 2009, public hearing which indicated that if the proposed RLA was approved she felt that she, her tenants, and heirs should be compensated for the lost income from no longer being able to take part in the anticipated Horizon wind farm.
- M. 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 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.

- N. Regarding the efficacy of the RLA wind farm separation required by the Champaign County Zoning Ordinance for the proposed RLA if a wind farm is also developed:
- (1) If the RLA is authorized and the anticipated wind farm is developed, about 56% of the required RLA separation from the wind farm would be under other zoning jurisdictions and not within the Champaign County zoning jurisdiction.
 - (2) Requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one-half miles of the Village of Allerton.
- O. Regarding the economic impact of proposed RLA versus the impact of the anticipated wind farm:
- (1) The average annual per acre value of wind farm lease payments is approximately \$50 per acre assuming a gross density of one turbine per 70 acres and a lease value of \$3,500 based on information about the first wind turbine developments in McLean County in 2002.
 - (2) Jed Gerdes, son of the petitioners, testified at the June 11, 2009, public hearing that he raises good quality beans which require fungicides to be sprayed, and he can save five to ten dollars an acre by providing a landing strip closer to where he farms. When that savings is multiplied over thousands of acres it provides a strong financial incentive to have a landing strip.
 - (3) There would also be a significant positive effect on local property tax revenues that staff has not tried to estimate.
 - (4) In a letter dated 11/24/09 that was forwarded by Attorney Paul Cole who represents Robert and Barbara Miller, neighboring landowners to the west of the proposed RLA, Andrew Larson, Superintendent of the Heritage School District #8, stated the following:
 - (a) Heritage School District #8 is a small rural school district of 540 students that covers approximately 105 square miles.
 - (b) Heritage School District #8 must continue to look for funding avenues outside of state funding sources because of State of Illinois funding deficits.
 - (c) The development of wind farms would provide additional dollars to be generated that is not directly impacting property taxes of home and land owners.

- (d) Each megawatt of wind turbine rated output will generate tax receipts equal to the fair cash value of \$360,000 per megawatt times the Consumer Price Index less the depreciation of 2 to 4% per year divided by 331/3 to get the assessed value multiplied by the tax rate which for Heritage is 4.53 which yields an estimated \$5,381 per megawatt in the second year of operation. This amount will vary by year depending upon the Consumer Price Index, depreciation, and the tax rate.
 - (e) Mr. Larson's fair cash value of \$360,000 per megawatt comes from Public Act 644 which established wind energy property assessment practices.
 - (f) Based on the example tax calculation for a wind turbine Superintendent Larson states that a 1.5MW wind farm turbine would generate approximately \$9,161.
- P. The applicant is not a pilot and does not have a plane and does not plan to use the proposed RLA for recreational flying. The proposed RLA is intended to be used by the applicant's agricultural aerial applicator (and other agricultural aerial applicators) in servicing the surrounding farmland. Agricultural aerial applicators increasingly have to navigate around wind farms in conducting their aerial applications.
- Q. The petitioner's agricultural aerial applicator may use the petitioner's land as a landing strip for aerial agricultural purposes without designation as an RLA. However, RLA designation provides the benefit of IDOT enforcement of the runway approach slopes for a distance of 3,000 feet off the ends of the runway.
- R. If a wind farm is developed around the proposed RLA the approach slopes that extend off the ends of the proposed RLA will apparently fall into typical wind farm separations and should limit placement of wind farm turbines, as follows:
- (1) The approach slope at the north end of the proposed RLA will be located in the separation around the petitioner's property as a non-participating landowner in relation to the wind farm and in the separation around a neighbor's dwelling (also expected to be a non-participating landowner in relation to the wind farm) that is located north of the proposed RLA along CR100N.
 - (2) The approach slope at the south end of the proposed RLA will be located in the separation around CR2750E in Douglas County which is assumed to be 550 feet wide on either side of CR2750E.
- S. If a wind farm is developed around the proposed RLA and no RLA wind farm separation is provided, a 1,000 feet wide wind turbine free zone would be centered on public roads CR100N in Champaign County at the north end of the RLA and along Illinois Route 49 located ¼ mile east of the RLA and along CR2750E in Douglas County.
- T. Jed Gerdes, son of the petitioners, testified at the July 30, 2009, public hearing regarding the Miles' farm property to the west, as follows:

- (1) He said that he spoke to the pilots and they indicated that just losing 300 foot on one side of the airstrip would not be a big deal and they could work with it.
- (2) The 3500 feet separation would only give the Miles' neighbor 350 feet away from a wind turbine and, with the Board's approval, it could be moved back to 3200 feet on the north/south line which would allow them 650 feet which would give ample room to set a wind turbine and give them at least a 100 foot leeway.
- (3) With this approval the Miles could have a wind turbine and he could have the rye grass flown on it.

U. Regarding basic safety and land use compatibility concerns related to any RLA:

- (1) Footnote 11 to Section 5.3 of the Ordinance requires that no BUILDING or STRUCTURE be erected or vegetation be maintained that would create an obstruction in an approach slope or transition slope for an existing AIRPORT, RESIDENTIAL AIRPORT, HELIPORT, RESTRICTED LANDING AREA or HELIPORT-RESTRICTED LANDING AREA permitted under the terms of this ordinance unless a SPECIAL USE permit is granted per Section 9.1.5 D.4.
- (2) The requirement of Footnote 11 in Section 5.3 cannot be enforced at the south end of the proposed RLA because the subject property abuts the south line of Champaign County and the approach slope for the south end of the proposed RLA is primarily in Douglas County on land apparently owned by Brian Wulff.
- (3) Notice of the proposed RLA was mailed to Douglas County landowner Brian Wulff in care of Greg Luth, 1285CR2580E, Newman IL, and no comments have been received.
- (4) If the proposed RLA is approved, protection of the south approach slope will be a private matter and the responsibility of the applicant.

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:
 - A. The Petitioner has testified on the application, **“Yes, Grass areas are part of agriculture, as pastures and waterways.”**
 - B. Regarding compliance with the *Zoning Ordinance*:
 - (1) The proposed RLA complies with all area and placement requirements for the AG-1 District in Section 5.3,

- (2) Regarding parking on the subject property, it is unclear what the exact parking requirements for an RLA would be, however, there appears to be more than adequate area around the farmstead to accommodate parking for the proposed use.
- (3) Regarding compliance with the standard condition requiring a proposed RLA must meet the requirements of the Federal Aviation Administration (FAA) and Illinois Department of Transportation, Division of Aeronautics (IDOT/DOA):
 - (a) The FAA requirements for RLA's mostly deal with operation of the RLA once it is established. However, the FAA does make an airspace determination before the RLA is established. This airspace determination must be favorable for the RLA to be established, the IDOT/DOA requirements incorporate this requirement.
 - (b) IDOT/DOA enforces the *Illinois Aviation Safety Rules (92 Ill. Admin. Code Part 14)* which contains regulations for establishment of a RLA.
 - (c) RLA's are required to be private use only, to provide a sufficient landing area taking into account the skill of the pilots using the facility and the type of aircraft used, and to meet minimum dimensional standards.

The petitioners submitted a letter from Dale Rust, Flight Safety Coordinator, with IDOT/DOA, dated April 21, 2009, that indicates the proposed location of the landing area provides sufficient length for a safe operation and takes into account other aeronautical facilities in the area.

- (d) RLA's are required to obtain a Certificate of Approval from IDOT/DOA, which involves an application process with an initial inspection of the proposed area, obtaining an FAA airspace determination, publication of notice in a local newspaper, the chance for concerned neighbors to request a hearing, and a final inspection.

The petitioners submitted a letter from Dale Rust, Flight Safety Coordinator, with IDOT/DOA, dated April 21, 2009, that indicates Mr. Rust performed the initial inspection and has indicated a favorable result. There is no information regarding the FAA airspace determination, but Mr. Rust did indicate that a negative determination is unlikely.

- (e) RLA's are also required to meet minimum runway dimensions and to have imaginary surfaces of specified slope on all four sides of the runway that are free from obstruction by any structures or natural obstructions, as follows:
 - i. An RLA runway is required to be a minimum of 100 feet wide and to have a minimum length of 1600 feet. It is possible that due to certain obstructions a runway may be longer than 1600 feet but only for landings or take offs in certain directions.

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The petitioner has indicated on the site plan and application that the runway will be 1871 feet long and separated from CR 0N by 300 feet.

- ii. There are also requirements for separation distances between a runway, taxiway, and aircraft parking, but the petitioner has not indicated any taxiway or aircraft parking on the site plan.
- iii. At either end of the runway a 15:1 slope extending 3,000 feet beyond the end of the runway.

The only obstruction near the runway that appears to require a minimum clearance is CR 0N, which requires a 15 feet clearance according to IDOT/DOA requirements. The runway is located 300 feet north of the street providing 20 feet of clearance.

- iv. On either side of the runway a 4:1 slope extending 135 feet from the centerline of the runway.

There does not appear to be any obstruction that would interfere with the side transition slopes.

- (f) Overall it appears that if the petitioners obtain a positive airspace determination from the FAA they will meet all state and federal requirements for establishing an RLA. There are also numerous requirements for safe operation of an RLA, which the petitioners are also required to meet or be in violation of their SUP.

- (4) The RESTRICTED LANDING AREA shall provide for a runway plus a runway safety area both located entirely on the LOT. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond each end of the runway.

The petitioner has indicated the required runway safety area on the site plan,

- (5) No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B District nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located:
 - i. Within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or
 - ii. The Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the Primary Surface, 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the primary surface.
 - iii. These areas are not indicated on the site plan, but they are not required to be entirely contained on the subject property and there are no structures within the described areas.

- (6) After a RESTRICTED LANDING AREA is established, the requirements in Section 4.3.7 and Table 5.3 note (12) shall apply.

This condition does not appear to be a requirement on the petitioners, but instead on anyone who is building a structure of some sort close enough to the RLA that it might be a hazard to aircraft.

- C. Regarding compliance with the *Stormwater Management Policy*, the proposed use will not require any stormwater detention.
- D. Regarding the Special Flood Hazard Areas Ordinance and Subdivision Regulations:
(1) The subject property does not appear to be located in a 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 AG-1 Zoning District, the RLA is proposed to support agricultural activities.

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. A “RESTRICTED LANDING AREA” may be authorized in the AG-1 Agriculture Zoning District as a Special Use provided all other zoning requirements are met.
- B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
(1) Subsection 5.1.7 of the Ordinance states the general intent of the AG-1 District and states as follows (capitalized words are defined in the Ordinance):

The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.
- (2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-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 full compliance with those requirements.
 - (b) The proposed RLA *{ with the special conditions will provide adequate safety / will not provide adequate safety due to the inability to ensure adequate separation from a proposed wind farm in Douglas County and within one and one half miles of the Village of Allerton }*.
- (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 likely have a negligible effect on property value provided that those properties are not restricted in their ability to lease ground for wind farm turbine towers.
 - (b) With regard to the value of the subject property, the proposed Special Use Permit will likely have a negligible effect on property value

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

The current IDOT traffic count is from 2001, and indicates that CR 2700E could handle a 200% increase in traffic.

- (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.
 - (c) The proposed RLA *{ with the special conditions will provide adequate safety / will not provide adequate safety due to the inability to ensure adequate*

separation from a proposed wind farm in Douglas County and within one and one half miles of the Village of Allerton}.

- (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 appears to be in full compliance.

- (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. No special conditions appear to be necessary

- (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 relates to nonconforming buildings, structures, or uses that existed on the date of the adoption of the Ordinance and the proposed Special Use is not an existing nonconforming use.

- (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 types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-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.

- (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.

There are no natural areas on 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 purpose is not relevant to the proposed Special Use Permit because the AG-1 District is not for urban development.

- (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.

The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-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.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. The proposed Special Use is an existing NONCONFORMING USE because the existing use has been on the subject property since before the adoption of the *Zoning Ordinance* on October 10, 1973.
A. The Petitioner has testified on the application, “**Does not apply**”

GENERALLY REGARDING ANY SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:
(Note: Conditions 12.A. and 12.B. are only recommended if supplemental evidence is provided regarding the testimony of pilot Rick Reed about public safety at the June 25, 2009, public hearing.)

- A. The applicant is not a pilot and does not have a plane and does not plan to use the proposed RLA for recreational flying. The proposed RLA is intended to be used for the applicant’s agricultural aerial applicator (and other agricultural aerial applicators) in servicing the surrounding farmland. Agricultural aerial applicators increasingly have to navigate around wind farms in conducting their aerial applications. The following special condition will ensure that the proposed RLA is used primarily only by agricultural aerial applicators:

The proposed RLA may only be used by agricultural aerial applicators except as may be necessary for emergency landings when it may be used by anyone.

The condition above is necessary to ensure that:

The proposed RLA is principally used by skilled agricultural aerial applicators.

- B. In the event that a wind farm is developed around the proposed RLA, requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one-half miles of the Village of Allerton. The following special condition will ensure that the RLA will not result in unreasonable limitations for the RLA neighbors in the Champaign County wind farm zoning jurisdiction:

The petitioner shall not oppose a waiver of the minimum required RLA wind farm separation (as otherwise required by subpar. 6.1.4 C. 11. of the Champaign County Zoning Ordinance) in any proposed wind farm county board special use permit.

The condition above is necessary to ensure that

The presence of the RLA does not unreasonably limit adjacent Champaign County landowners in their ability to host wind farm turbine towers.

- C. The proposed RLA must receive a Certificate of Approval for operation from the Illinois Department of Transportation Division of Aeronautics (IDOT). Likewise, IDOT requires the RLA to have any necessary county zoning approvals. The following condition will ensure that the proposed RLA must be in conformance with IDOT in order to remain in conformance with the Champaign County Zoning Ordinance:

The Restricted Landing Area must be used in compliance with the approved Certificate of Approval for operation from the Illinois Department of Transportation Division of Aeronautics

The above condition is necessary to ensure that:

The proposed RLA is operated so as to ensure public safety.

DOCUMENTS OF RECORD

1. Special Use Permit Application from Robert and Barbara Gerdes received on April 24, 2009, with attachments:
 - A Proposed site plan
2. Letter from Dale Rust, Flight Safety Coordinator, to Jed Gerdes dated April 21, 2009
3. Preliminary Memorandum for Case 645-S-09, with attachments:
 - A Zoning Case Maps (Location, Land Use, Zoning)
 - B Proposed site plan received April 24, 2009
 - C Letter from Dale Rust, Flight Safety Coordinator, to Jed Gerdes dated April 21, 2009
 - D Excerpts of *Illinois Aviation Safety Rules (92 Ill. Admin. Code Part 14)*
 - E IDOT Traffic Map of vicinity of subject property
 - F Preliminary Draft Summary of Evidence for Case 645-S-09
4. Staff handouts at June 11, 2009 meeting
5. Letter from Carole Horst submitted at the June 11, 2009, ZBA meeting
6. Supplemental Memorandum for Case 645-S-09, dated July 24, 2009
7. Supplemental Memorandum for Case 645-S-09, dated July 30, 2009, with attachments:
 - A Revised Wind Farm Separations
8. Gerdes Farm Map submitted by Jed Gerdes on July 30, 2009
9. Letter from Rick Reed, received at July 30, 2009, ZBA meeting
10. Mark up of imaginary surfaces submitted by Jed Gerdes on July 30, 2009
11. Supplemental Memorandum for Case 645-S-09, dated November 25, 2009, with attachments:
 - A Excerpt of Minutes ZBA meeting on January 26, 1989
 - B Excerpt of Minutes of ZBA meeting on August 15, 1990
 - C Mark up of imaginary surfaces submitted by Jed Gerdes on July 30, 2009 (included separately)
 - D Gerdes Farm Map submitted by Jed Gerdes on July 30, 2009 (included separately)
 - E Revised Draft Summary of Evidence for Case 645-S-09, dated November 25, 2009

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 645-S-09 held on **June 11, 2009, and July 30, 2009**, 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 / WILL NOT }* 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 }* *{because:¹}* _____

 - 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 *{because:¹}* _____

 - e. Surface and subsurface drainage will be *{ ADEQUATE / INADEQUATE }* *{because:¹}* _____

 - f. Public safety will be *{ ADEQUATE / INADEQUATE }* *{because:¹}* _____

 - g. The location *{ IS / IS NOT }* suitable for the proposed onsite wastewater system *{because:¹}* _____

 - h. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*

1. In each case the Board may add supporting reasoning if desired.

FINDINGS OF FACT, CONTINUED.

- 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.
- 3b. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** preserves 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 }**.
 - d. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*
-
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 / 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 / DOES NOT }** preserves the essential character of the DISTRICT in which it is located.
 - e. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*
-
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: }**

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/HAVE NOT}* 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 645-S-09 is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners **Robert and Barbara Gerdes** to authorize the construction and use of a “Restricted Landing Area” as a Special Use in the AG-1 Agriculture Zoning District.

{SUBJECT TO THE FOLLOWING SPECIAL CONDITION(S)}

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

CASE NO. 663-V-10

PRELIMINARY MEMORANDUM

April 9, 2010

Petitioners: **Dan and Debra Johnson**

Champaign
County
Department of



Site Area: **4,935 sq. ft.**

Time Schedule for Development:
Immediate

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

(217) 384-3708

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

Request: **Authorize the following variances in the R-3 Two Family Residence Zoning District:**

- A. Replacement and use of an existing dwelling with the following variances:**
- 1. A front yard of 16 feet, six inches and a setback of 36 feet, six inches in lieu of the minimum required front yard of 25 feet and minimum setback of 55 feet in regard to Carroll Avenue, a minor street.**
 - 2. A rear yard of 12 feet, six inches in lieu of the minimum required 20 feet rear yard.**
 - 3. Lot coverage of 36% in lieu of the maximum allowed 30% lot coverage.**
- B. Replacement and use of an existing detached garage with side and rear yards of zero feet in lieu of the minimum required side and rear yards of five feet for detached accessory buildings.**

Location: **An approximately 5,000 square foot lot that is the North 47 feet of the South 241 feet of Lot 46 of Fred C. Carroll's Subdivision of the East Half of the Northwest Quarter of Section 9, Township 19 North, Range 9 East of the Third Principal Meridian, and commonly known as the manufactured home at 1507 Carroll Avenue, Urbana**

BACKGROUND

The petitioner first contacted the Department regarding replacement of the existing manufactured home on January 21, 2010, and was told that they should contact the City of Urbana to find out if replacement of the home would require a new sanitary sewer permit. The City determined that replacement of the existing home would require a new sewer permit, which would also require an annexation agreement, however, they wanted the petitioner to obtain any necessary variances from the County first.

The subject property is a nonconforming lot of record that does not meet the current standards for lot area or lot width, and replacement of the existing home will require variances for front yard and setback, rear yard, and lot coverage. There is also a nonconforming detached garage on the subject property that is part of the variance so that if it ever needs to be replaced the petitioners can do so without another public hearing.

The petitioners submitted their application for variance on March 1, 2010.

EXTRATERRITORIAL JURISDICTION

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

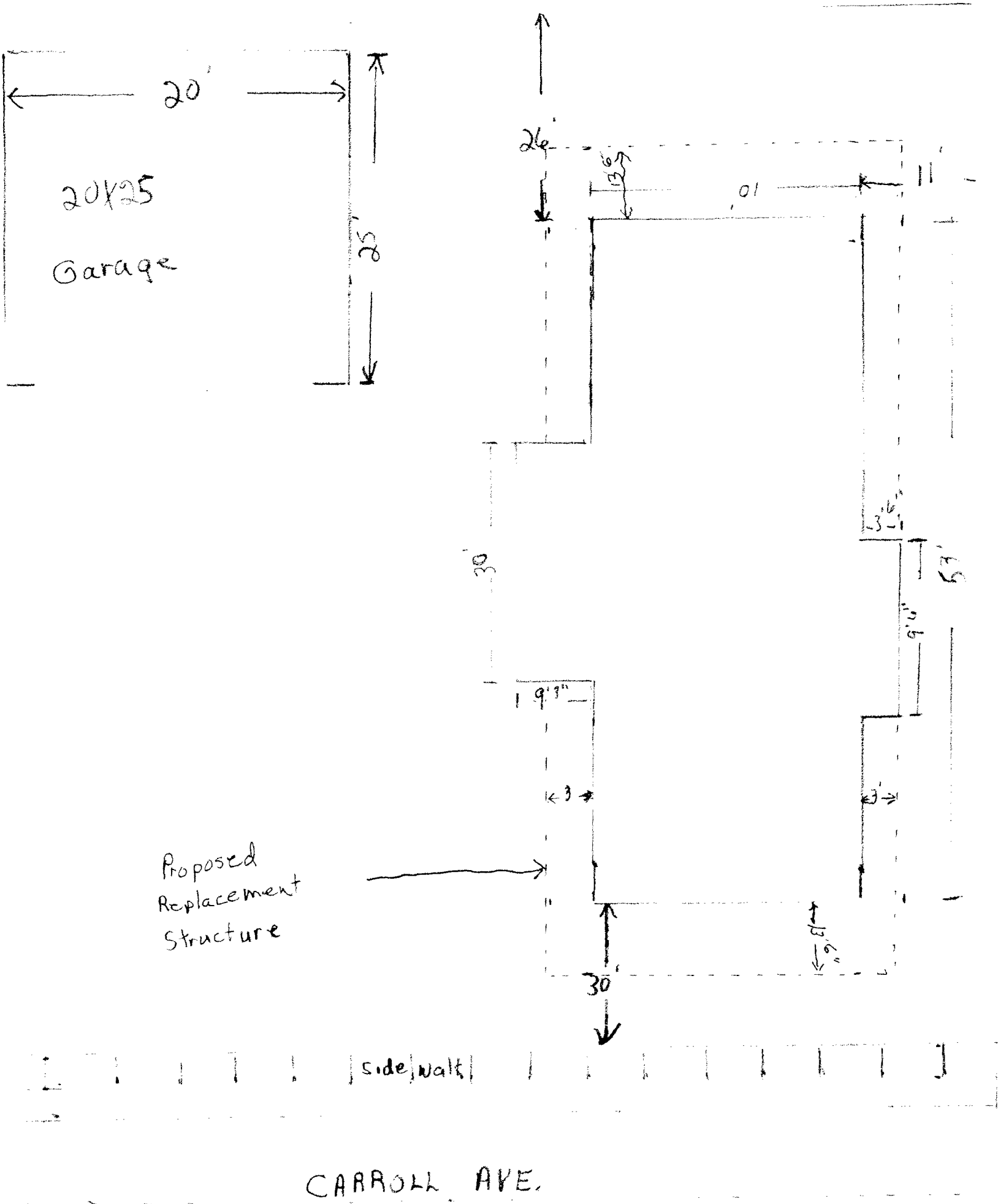
EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	R-3 Two Family Residence
North	Single Family Dwelling	R-3 Two Family Residence
East	Single Family Dwelling	R-3 Two Family Residence
West	Single Family Dwelling	R-3 Two Family Residence
South	Single Family Dwelling	R-3 Two Family Residence

ATTACHMENTS

- A Petitioner site plan, received on March 1, 2010
- B Draft Summary of Evidence for Case 663-V-10



PRELIMINARY DRAFT

663-V-10

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

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

Date: April 9, 2010

Petitioners: Dan and Debra Johnson

- Request: Authorize the following variances in the R-3 Two Family Residence Zoning District:
- A. Replacement and use of an existing dwelling with the following variances:
 - 1. A front yard of 16 feet, six inches and a setback of 36 feet, six inches in lieu of the minimum required front yard of 25 feet and minimum setback of 55 feet in regard to Carroll Avenue, a minor street.
 - 2. A rear yard of 12 feet, six inches in lieu of the minimum required 20 feet rear yard.
 - 3. Lot coverage of 36% in lieu of the maximum allowed 30% lot coverage.
 - B. Replacement and use of an existing detached garage with side and rear yards of zero feet in lieu of the minimum required side and rear yards of five feet for detached accessory buildings.

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 15, 2010**, the Zoning Board of Appeals of Champaign County finds that:

- 1. The petitioners, Dan and Debra Johnson, owns the subject property.
- 2. The subject property is an approximately 5,000 square foot lot that is the North 47 feet of the South 241 feet of Lot 46 of Fred C. Carroll's Subdivision of the East Half of the Northwest Quarter of Section 9, Township 19 North, Range 9 East of the Third Principal Meridian, and commonly known as the manufactured home at 1507 Carroll Avenue, Urbana.
- 3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana. Municipalities do not have protest rights in variance cases and are not notified of such cases. This case is pursuant to an annexation agreement with the City of Urbana, which is currently scheduling a public hearing on the annexation agreement, but requested the petitioner obtain all necessary variances from the County first.

PRELIMINARY DRAFT

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 R-3 Two Family Residence, and is part of Lot 46 of Fred C. Carroll's Subdivision in use as a single family dwelling.
 - B. Land on all sides of the subject property is zoned R-3 Two Family Residence, and is in use as single family dwellings.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the proposed site plan, the subject property is 47 feet wide by 105 feet deep, which gives a lot area of 4,935 square feet, and it contains the following structures:
 - A. An existing manufactured home that is approximately 22 feet, nine inches wide by 53 feet long, and which is proposed to be replaced by a new manufactured home 16 feet wide by 80 feet long, which will reduce the front and side yards as follows:
 - (1) The existing nonconforming setback of 50 feet will be reduced to 36 feet, six inches, and the existing front yard of 30 feet will be reduced to 16 feet, six inches.
 - (2) The existing rear yard of 26 feet will be reduced to 12 feet, six inches.
 - (3) The proposed manufactured home will also increase the building area on the lot from 1,340.75 square feet to 1,780 square feet, which will increase the lot coverage from approximately 27% to 36%.
 - B. A detached garage that is 20 feet wide by 25 feet long, with a nonconforming side yard of 0 feet and a nonconforming rear yard of 0 feet. These yards are proposed to be authorized to allow replacement of the garage if it were ever necessary.

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 variances (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) "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.

ITEM 6.A. CONTINUED

- (3) "AREA, LOT" is the total area within the LOT LINES.
- (4) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
- (5) "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.
- (6) "COVERAGE" is the percentage of the LOT AREA covered by the BUILDING AREA.
- (7) "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.
- (8) "LOT DEPTH" is the distance between the midpoint of the FRONT LOT LINE and the midpoint of the REAR LOT LINE or LINES.
- (9) "LOT LINE, FRONT" is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
- (10) "LOT LINE, REAR" is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE. In the case of a triangular or gore shaped lot or where the lot comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at a maximum distance from the FRONT LOT LINE or said tangent.
- (11) "LOT LINES" are the lines bounding a LOT.
- (12) "LOT WIDTH, AVERAGE" is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
- (13) "MANUFACTURED HOME" is a factory assembled DWELLING UNIT designed and constructed to be transported in one or more parts by truck or by towing on wheels temporarily or permanently attached to its frame. This definition shall include mobile homes and modular homes or housing units and shall exclude MOTOR VEHICLES and TRAVEL TRAILERS.
- (14) "NONCONFORMING LOT, STRUCTURE, OR USE" is a LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.

PRELIMINARY DRAFT

ITEM 6.A. CONTINUED

- (15) "OWNER, OWNERSHIP" is an individual, firm, association, syndicate, partnership, corporation, company, organization, trust, or any other legal entity having a proprietary interest in a USE, STRUCTURE, PREMISES, LOT or tract of land.
 - (16) "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.
 - (17) "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.
 - (18) "SETBACK LINE" is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
 - (19) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or Zoning Board of Appeals are permitted to grant.
 - (20) "YARD, FRONT" is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
 - (21) "YARD, REAR" is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
 - (22) "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. In the *Zoning Ordinance*, setback requirements are established in two sections, as follows:
- (1) Subsection 4.3.2. Setback Line states, "All BUILDINGS and all MAIN or PRINCIPAL STRUCTURES shall be positioned in conformance with the SETBACK LINE regulations and standards specified hereinafter for the DISTRICT in which they are located," and drawings in 4.3.2 further specify that in the case of a MINOR STREET the required setback is 55 feet with a front yard of 25 feet.

ITEM 6.B. CONTINUED

- (2) Section 5.3 is the Schedule of Area, Height, and Placement Regulations by District and indicates that the setback from a MINOR STREET is 55 feet and footnote 3 further specifies that in no case shall the FRONT YARD be less than 25 feet from a MINOR STREET.

- C. Section 5.3 establishes the maximum allowed LOT COVERAGE for the R-3 Two-Family Residence District as 30%.

- D. Section 7.2.2 establishes the minimum required separation from side and rear property lines for ACCESSORY BUILDINGS in the R-1, R-2, R-3, and R-4 Districts at five feet.

- E. 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.

- F. 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.

PRELIMINARY DRAFT

ITEM 6. CONTINUED

- G. 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 Petitioner has testified on the application that, **“Lot size is slightly smaller than zoning requires and is conforming.”**
- B. Regarding the size of the subject property:
- (1) A staff review of the Supervisor of Assessment tax records indicated that the subject property is a nonconforming lot of record that was created prior to the effective date of the Zoning Ordinance on October 10, 1973.
- (2) The subject property has a nonconforming average lot width of only 47 feet.
- C. The existing dwelling on the subject property was placed in that location by a previous owner prior to the effective date of the Zoning Ordinance on October 10, 1973.
- D. The existing detached garage was constructed in its current location by a previous owner prior to the effective date of the Zoning Ordinance on October 10, 1973.
- E. Replacement of the existing manufactured home on the subject property will require a permit for a new sewer connection by the Urbana-Champaign Sanitary District (UCSD), and will also require a pre-annexation agreement with the City of Urbana.
- F. The existing manufactured home has a nonconforming setback of 50 feet because the Carroll Avenue right-of-way is only 40 feet wide where the Zoning Ordinance anticipates that all minor streets will have at least a 60 foot wide right-of-way.

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 Petitioner has testified on the application that, **“The existing structure is older and is need of continual maintenance.”**
- B. There is no land available for purchase to increase the size of the lot because the subject property is located in a developed subdivision.

ITEM 8. CONTINUED

- C. Property located in the R-3 District under the Champaign County Zoning Ordinance is translated to the City of Urbana's R-3 District under annexation agreement. The proposed single family dwelling will conform to the Urbana Zoning Ordinance requirements for their R-3 District, as follows:
- (1) The Urbana R-3 District allows a front yard of only 15 feet, the petitioner is proposing a front yard of 16.5 feet.
 - (2) The Urbana R-3 District allows a rear yard of 10 feet, the petitioner is proposing a rear yard of 16.5 feet.
 - (3) The Urbana Zoning Ordinance does not have a maximum Lot Coverage standard that exactly mimics the standard in the County Zoning Ordinance, as follows:
 - (a) The most similar standard in the Urbana Zoning Ordinance is Floor Area Ratio. However, this standard is only equivalent to Lot Coverage when dealing with one story buildings.
 - (b) Both buildings on the subject property are a single story, so a maximum allowed Floor Area Ratio of 0.40 equates to a maximum allowed Lot Coverage of 40%. The petitioner is proposing a Lot Coverage of 36%.
- D. The 40 foot wide right-of-way for Carroll Avenue is narrower than the Zoning Ordinance anticipates for minor streets and makes it very difficult to meet the 55 foot setback requirement on the subject property.

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 Petitioner has testified on the application that, "**No.**"
 - B. The size of the subject property was determined when Lot 46 of Fred C. Carroll's Subdivision was subdivided before the effective date of the Zoning Ordinance on October 10, 1973. A staff review of the Supervisor of Assessments tax records indicate that all the lots created by the subdivision of Lot 46 were in separate use before October 10, 1973.
 - C. All land surrounding the subject property has been developed and is not available for purchase. However, the petitioner does own one of the lots to the north of the subject property, but the location of the house on the lot to the north prevents the lot line from being moved any farther north.

PRELIMINARY DRAFT

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 Petitioner has testified on the application that, **“It would enhance the neighborhood by allowing a newer home and would be more energy efficient also.”**
 - B. The Zoning Ordinance does not clearly state the considerations that underlay the setback and front yard requirements. In general, the setback is presumably intended to ensure the following:
 - (1) Right of way acquisition: The subject property is located in Fred C. Carroll’s Subdivision on a minor street. As Fred C. Carroll’s Subdivision is a fully developed subdivision and Carroll Avenue is a minor street it is unlikely the right-of-way will ever need to be expanded in the future.
 - (2) Off-street parking: The subject property provides the required amount of off-street parking outside of the setback.
 - (3) Aesthetics: Aesthetic benefit may be a consideration for any given front yard and setback but can be very subjective.
 - C. The subject property is a nonconforming lot of record and is nonconforming with regards to average lot width and lot area, but conforms to all other zoning requirements.
 - D. The requested amounts of variance are as follows:
 - (1) In Part A of the proposed variance:
 - (a) The proposed front yard of 16.5 feet is 66% of the required 25 feet for a variance of 34%, and the proposed setback of 36 feet is 65.5% of the required 55 feet for a variance of 34.5%.
 - (b) The proposed rear yard of 12.5 feet is 62.5% of the required 20 feet for a variance of 37.5%.
 - (c) The proposed lot coverage of 36% is 120% of the maximum allowed 30% for a variance of 20%.
 - (2) In Part B of the proposed variance the proposed side and rear yards of zero feet are 0% of the required five foot side and rear yards for detached accessory buildings for a variance of 100%.
 - E. Reducing the amount of variance is one way to ensure that any variance is more in harmony with the general intent and purpose of the Ordinance, as follows:
 - (1) The front yard, rear yard, and setback variances in Part A could only be reduced by moving the location of the proposed manufactured home, which would increase the variance at the other end of the building.

ITEM 10.E. CONTINUED

- (2) The side and rear yard variances in Part B could only be reduced by moving the detached garage, which has been in its current location since before the effective date of the Zoning Ordinance on October 10, 1973.
- (3) Purchase of additional land that would increase the size of the subject property is not possible because the subject property is located in a developed subdivision.

F. The requested variance is not prohibited by the *Zoning Ordinance*.

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 Petitioner has testified on the application that, **“It would be a much newer structure. It will be more up to code as far as electrical, plumbing, etc.”**
 - B. The Township Highway Commissioner has been notified of this variance but no comments have been received.
 - C. The Fire Protection District has been notified of this variance but no comments have been received.
- 12. On the application the Petitioner has also testified that, **“I feel this variance will allow me to improve the neighborhood and it would be a much more energy efficient home and it would also be the best use for this lot.”**

GENERALLY REGARDING PROPOSED CONDITIONS OF APPROVAL

- 13. No special conditions of approval are proposed at this time.

DOCUMENTS OF RECORD

1. Variance Application from Dan and Debra Johnson, received on March 1, 2010, with attached site plan and photograph of subject property
2. Preliminary Memorandum for Case 663-V-10, with attachments:
 - A Case Maps (Location, Land Use, Land Use Detail, Zoning)
 - B Petitioner site plan, received on March 1, 2010
 - C Annotated Site Plan

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **663-V-10** held on **April 15, 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: _____

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: _____

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

4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: _____

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

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: _____

7. ***{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:}***

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 663-V-10 is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioner, **Dan and Debra Johnson**, to authorize **the construction of an addition to an existing house with a front yard of 18 feet and a setback of 48 feet in lieu of the required 25 feet front yard and 55 feet setback, in regards to Pond Ridge Lane, a minor street in the R-1 Single Family Residence Zoning District.**

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

CASE NO. 667-S-10

PRELIMINARY MEMORANDUM

March 5, 2010

Petitioners: **Leslie Cooperband and Wesley Jarrell**

Request: **Authorize a Major Rural Specialty Business in the AG-2 District with waivers of standard conditions including, but not limited to, the prohibition of sales of alcohol not produced on the premises**

Site Area: **approx. 7 acres**

Time Schedule for Development:
N/A

Location: **Lot 1 of Jamestown Subdivision in the Northeast Quarter of the Southeast Quarter of Section 29 of Somer Township and commonly known as Prairie Fruits Farm at 4410 North Lincoln Avenue, Champaign**

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

Champaign
County
Department of



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

(217) 384-3708

BACKGROUND

The Petitioners first submitted an application for ZUPA 262-08-02 on September 16, 2008, for a Temporary Use Permit for a one day event that took place on December 12, 2009, and was the last such event for the 2009 season. The permit was approved on November 30, 2009. On March 4, 2010, Lori Busboom, Zoning Technician, inspected the subject property for the Zoning Compliance Certificate pursuant to ZUPA 262-08-02. The Zoning Compliance Certificate indicated that future events on the subject property would require new Temporary Use Permits and possible Liquor Licenses and Recreation and Entertainment Licenses.

The petitioners submitted an application for Special Use Permit on March 10, 2010. At this time the petitioners' application does not include adequate information for the Board to take final action. A more detailed site plan of the entire subject property and additional information regarding Public Health licensing for the commercial kitchen and onsite wastewater treatment and disposal, peak attendance for the farm dinners, and off-street parking capacity.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Urbana. Municipalities with zoning do not have protest rights on Special Use Permits, but they are notified of such cases and invited to comment

EXISTING LAND USE AND ZONING

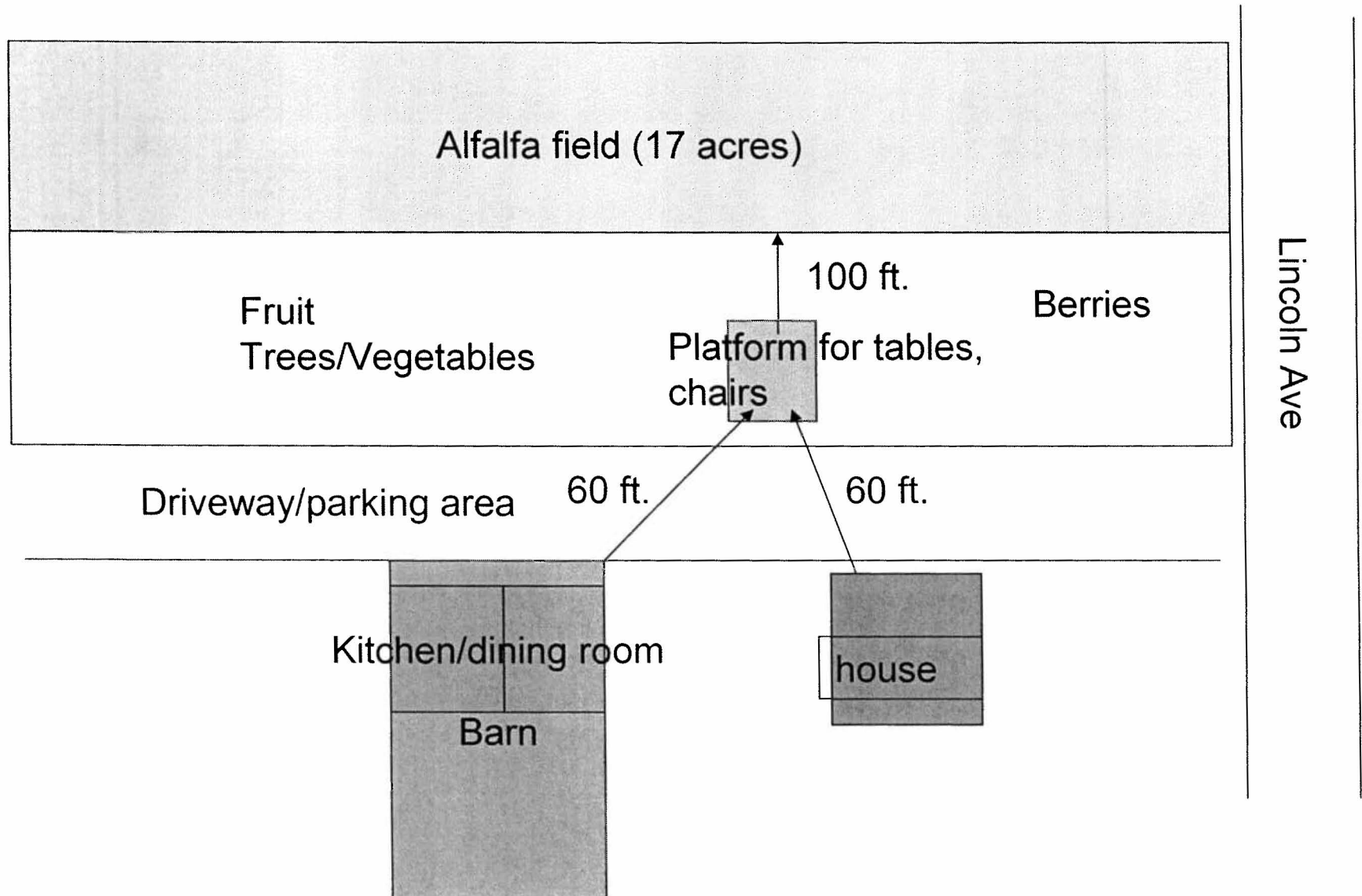
Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Prairie Fruits Farm	AG-2 Agriculture
North	Agriculture	AG-2 Agriculture
East	Agriculture	AG-2 Agriculture
West	Agriculture/Single Family Dwelling	AG-2 Agriculture
South	Agriculture	AG-2 Agriculture

ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site plan received on March 12, 2010
- C Annotated site plan received on March 12, 2010
- D Information regarding Farm Dinners and Farm Open Houses from www.prairiefruitsfarm.com
- E Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 662-S-10

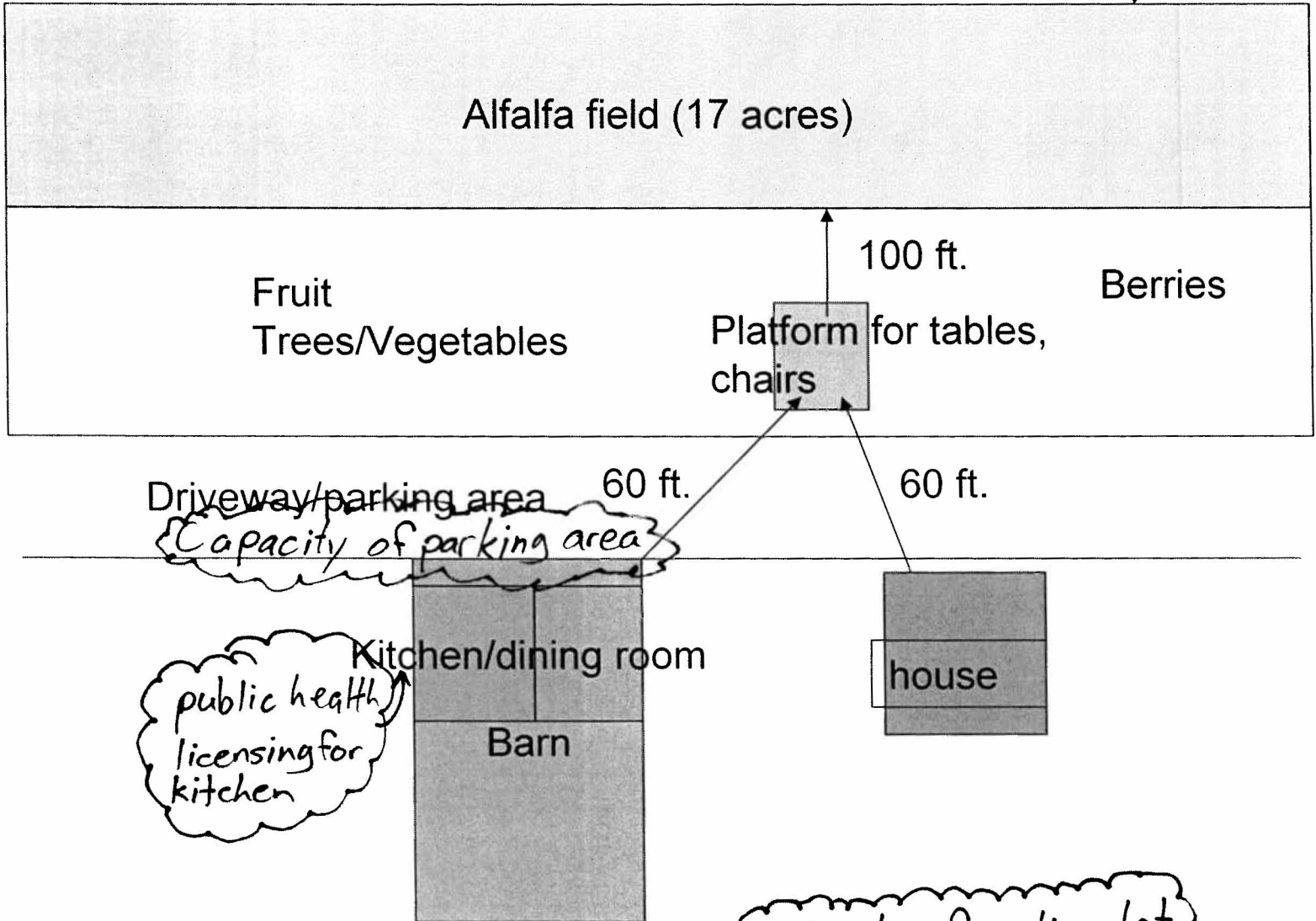
Map Showing location of farm dinners, etc.



ANNOTATED

Map Showing location of farm dinners, etc.

additional information required



Lincoln Ave



extent of entire lot

[Prairie Fruits Farm](#)[The experience](#)[Our products](#)[Dinners on the Farm](#)[Interact](#)

4/9/2010

Dinners on the Farm



Come dine with us on the farm and experience the essence and pleasures of eating locally and sustainably. With our on-farm certified kitchen and our Culinary Institute of America-trained chef, Alisa DeMarco, we are creating four to five course meals crafted from the freshest local ingredients. Many of the vegetables and fruits served are grown organically on our farm. The meats and other products come from neighboring farms. We invite many of these farmers as guests so that diners can meet them and learn about their farming practices. *We offer a vegetarian main course for those requesting a vegetarian meal.* Of course, we try to weave in our award winning cheeses into many of the courses. We ask you to bring your own wine or alcoholic beverage of your choice since we don't have a license to sell or serve alcoholic beverages on the farm.

We'll kick off the 2010 season on May 22nd with an ode to spring. In total, we will be hosting 14 dinners every two weeks well into the late fall. For inclement weather dinners, we now have a newly furnished "dining room" inside our barn. Using recycled barn siding to line the walls, you're sure to feel cozy.

Most of the dinners are held on Saturdays, except where noted in the descriptions. Guests arrive at 4PM and are greeted with hors d'oeuvres and a refreshing non-alcoholic drink prepared from herbs, fruits and honey produced on the farm. We offer a tour of the farm from 4:30 to 5PM. Feel free to bring a lawn chair if you would prefer to just sit in the orchard and enjoy your hors d'oeuvres and drinks before dinner.

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Prairie Fruits Farm and Creamery

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What's New

4/8/10 Farm News and Farmers
Market Sales

4/6/10 Farm Open House
Saturdays & Breakfasts



- [3/31/10 Saturday Cheese Sales, Farm Breakfasts and Spring](#)
- [3/25/10 Breakfast Menu for March 27th](#)
- [3/23/10 This Saturday's Cheese Sales, Breakfasts and Blue Moon Farm](#)
- [3/19/10 The 2010 Dinner Season at a Glance](#)
- [3/19/10 First On Farm Cheese Sales, Breakfasts and Farm Dinner Dates At Last](#)
- [3/17/10 Goats for Sale](#)
- [3/9/10 Prairie Fruits Farm to Host Open House this Sunday](#)
- [3/8/10 Help us Stop Olympian Drive Expansion](#)

Mailing list signup

Name:

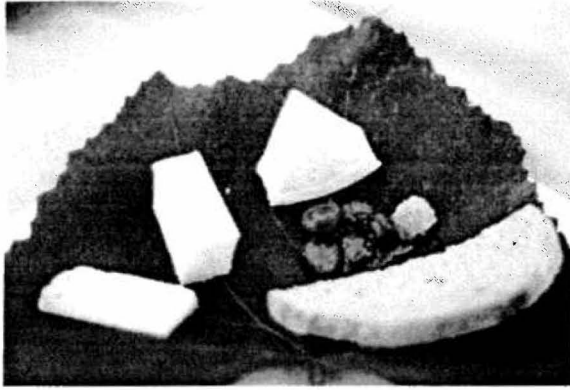
Email:



We serve dinner starting at around 5PM and expect to end the meal around 8PM.



While we strive to create an elegant, peaceful and delicious evening for our guests, we need to acknowledge that this is a **farm and the meal is served outdoors**. As many of you know, farms come with occasional odors, insects, wind and dirt. Outdoor events can be subject to inclement weather as well. We will try to complete the meal before it gets too dark and biting insects become a problem. However, if you're attractive to biting insects, we encourage you to bring the repellent of your choice.



Our events will be held RAIN OR SHINE. If rain is forecast, we will shelter you either under a tent or inside our pole barn.



Because we believe that the full flavors of local foods are best savored outdoors, we want you to be prepared for the 'darker' side of the outdoor elements. It could be a hot sultry evening, it could be windy, it could rain or in the fall, it could get chilly. Please wear or bring appropriate clothing and hats for the weather of the day. If the forecast calls for significant really nasty weather, we will move the dinner inside our newly outfitted pole barn.

To make reservations for one or more of the dinners, please go to the section of the website entitled "Buy Farm Dinners." **You must pay with a credit card using Google Checkout to reserve seats.**

Our policy regarding children and pricing: Given the limited number of seats for each dinner, we are not able to offer a reduced price on meals for children. We don't discourage people from bringing their children; however they would have to pay the full price. Understanding that most children don't eat like adults, we offer a lower priced meal every year (this year, it is the Native American Harvest Dinner--a Sunday afternoon meal) to encourage families with children to attend.

CANCELLATION POLICY: You can receive a full refund if you cancel your reservation *one week prior to the date* of the dinner you are scheduled to attend. Please email or call us as soon as possible, if you need to cancel (prairiefruits@gmail.com or 217-643-2314). If you cancel less than one week prior to the dinner, we won't be able to issue you a refund.

[Main Page](#) | [News](#) | [Event calendar](#) | [Milking the goats](#) | [Making cheese](#) | [The orchard](#) | [Farm Open House Saturdays & Breakfasts](#) | [Visiting the farm](#) | [Summer Scenes at Prairie Fruits Farm](#) | [The 100 yard Dinner](#) | [Our Cheeses](#) | [Our Fruits](#) | [Goats for Sale](#) | [Wholesale sales](#) | [Dinners on the Farm](#) | [The 2010 Dinner Season at a Glance](#) | [Dinner Descriptions and Make Reservations](#) | [Contact us](#) | [Mailing list](#) | [Community Supported Goat Share Program](#) | [CSG Member Sign up](#) | [Help Us Stop Olymplan](#) | [Ornament Expressions](#) | [Directions to the farm](#) |

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4/9/2010

Farm Open House Saturdays & Breakfasts

Pre-Farmers' Market On Farm Sales and Local Food Breakfasts

2010 marks our second season of hosting Saturday "Farm Open House." Starting on **March 20, 2010 and running every Saturday through the end of April, 2010**, we offer on farm sales of our cheeses and other products, local food breakfasts and a chance for folks to come visit the farm and see the baby goats (and their mothers of course). **Hours are from 9AM to 12 Noon.** Both Tomahnous Farm (Mahomet) and Blue Moon Farm (Rural Urbana) will be here as well with spring delectables such as kale, Swiss Chard, spinach, spring onions, shitake mushrooms and eggs.



Breakfasts include 3-4 items to choose from ranging from scones, cinnamon buns or freshly made doughnuts to Prairie Fruits Farm chickens' egg and Blue Moon Farm spinach fritatta, or a fried egg with Triple S Farm bacon sandwich. We offer Fair Trade Coffee, Chef Molly's Mexican style Hot Chocolate and Herbal teas. All food is first come-first served. **YOU DON'T NEED RESERVATIONS.** Just come and enjoy!

Facebook

Prairie Fruits Farm and Creamery



12 likes
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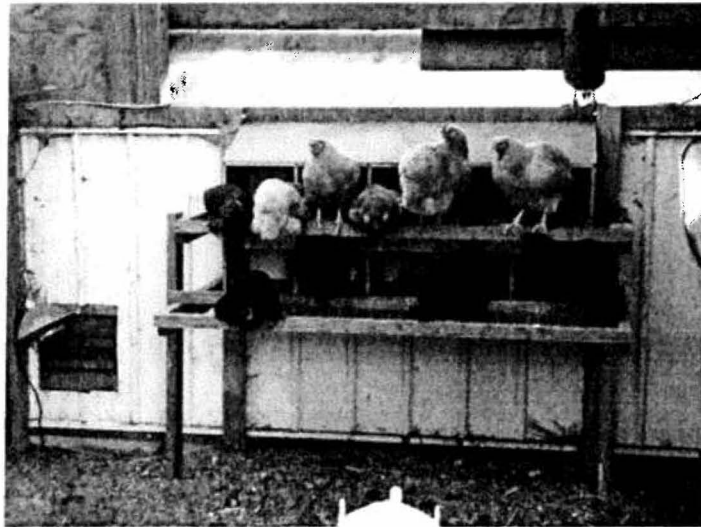
No Recent Updates

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Promote Your Page Too

What's New

- 4/8/10 Farm News and Farmers' Market Sales
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- [3/8/10 Help Us Stop Olympian Drive Expansion](#)

Mailing list signup

Name:

Email:

In general, prices range from \$2.00-\$7.00, depending on what item(s) you choose. Menus change each week, featuring food that is fresh and in season.

It's a perfect way to celebrate the spring--bring your family, friends, your kids. *Put on your muck boots and come on out for a peaceful and delicious Saturday morning on the farm!*

[Main Page](#) | [News](#) | [Event calendar](#) | [Milking the goats](#) | [Making cheese](#) | [The orchard](#) | [Farm Open House Saturdays & Breakfasts](#) | [Visiting the Farm](#) | [Summer Scenes at Prairie Fruits Farm](#) | [The 100 yard Dinner](#) | [Our Cheeses](#) | [Our Fruits](#) | [Goats for Sale](#) | [Wholesale Sales](#) | [Dinners on the Farm](#) | [The 2010 Dinner Season at a Glance](#) | [Dinner Descriptions and Make Reservations](#) | [Contact us](#) | [Mailing list](#) | [Community Supported Goat Share Program](#) | [CSG Member Sign up](#) | [Help Us Stop Olympian Drive Expansion](#) | [Directions to the farm](#) |

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PRELIMINARY DRAFT

667-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: April 15, 2010

Petitioners: Leslie Cooperband and Wesley Jarell d.b.a. Prairie Fruits Farm

Request: Authorize a Major Rural Specialty Business in the AG-2 District with waivers of standard conditions including, but not limited to, the prohibition of sales of alcohol not produced on the premises

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 15, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, Leslie Cooperband and Wesley Jarell, own the subject property.
2. The subject property is Lot 1 of Jamestown Subdivision in the Northeast Quarter of the Southeast Quarter of Section 29 of Somer Township and commonly known as Prairie Fruits Farm at 4410 North Lincoln Avenue, Champaign.
3. The subject property is located within the one-and-one-half mile extraterritorial jurisdiction (ETJ) of the City of Urbana. 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 AG-2 Agriculture and is in use as Prairie Fruits Farm.
 - B. Land on all sides of the subject property is zoned AG-2 Agriculture, and is in use as agriculture.
 - C. On the west side of the subject property there is a smaller parcel that is bordered by the subject property on three sides. That parcel is zoned AG-2 Agriculture and is in use as a single family dwelling.

PRELIMINARY DRAFT

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding site plan and operations of the proposed Major Rural Specialty Business:
 - A. The subject property is a 7.2002 acre lot created in Jamestown Subdivision No. 1. The proposed site plan shows the area of the subject property that is used for the dinners, as follows:
 - (1) The subject property accesses Lincoln Avenue, and the driveway is also proposed to be used as the parking area.
 - (2) There is a single family dwelling located east of Lincoln Avenue.
 - (3) A barn located east of the dwelling that contains a kitchen and dining area.
 - (4) A platform where the farm dinners are served is located across the driveway from the barn in an area indicated to be planted with berries, fruit trees, and vegetables.
 - B. Information regarding the operations of Prairie Fruits Farm is provided on their website (www.prairiefruitsfarm.com), and is summarized as follows:
 - (1) They offer farm dinners of four to five courses prepared with local ingredients prepared by Alisa DeMarco, a Culinary Institute of America-trained chef.
 - (2) The 2010 dinner season starts on May 22, and they are hosting 14 farm dinner events throughout the year.
 - (3) Most of the dinners are held on Saturdays.
 - (4) Guests arrive at 4 PM when hors d'oeuvres are served, and a farm tour is given at 4:30.
 - (5) Dinner is served at 5 PM and service is completed at 8 PM.
 - (6) The meal is served outdoors and guests are advised that the subject property is a farm with occasional odors, insects, wind, and dirt.
 - (7) In case of inclement weather the dinner is either served in a tent or inside the pole barn dining area.
 - (8) Guests are invited to bring the alcoholic beverage of their choice because Prairie Fruits Farm does not have a license to sell or serve alcohol.
 - (9) 2010 is their second season of hosting Saturday morning "Farm Open Houses."
 - (10) In 2010 the open houses start on March 22, 2010, and run until the end of April.
 - (11) The hours are from 9 AM to noon.
 - (12) Other farms sell products at the open houses.

- (13) Breakfasts include three to four items chosen from a selection that is varied at each given open house.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding authorization for a Major Rural Specialty Business as a Special Use in the AG-2 Agriculture Zoning District in the *Zoning Ordinance*:

A. Section 5.2 authorizes Major Rural Specialty Business as a Special Use only in the CR, AG-1, and AG-2 Zoning Districts, and by-right in the B-1, B-3 and B-4 Zoning Districts.

B. Footnote 8 to Section 5.2 indicates that a Rural Specialty Business (RSB) shall only be considered a Minor RSB if meets the following conditions:

- (1) The total area of the site occupied by any part of the business not otherwise qualifying as AGRICULTURE shall not exceed one acre;

Based on the current site plan the proposed use does not appear to exceed this limit.

- (2) The total sales DISPLAY area shall not exceed 2,000 square feet, no more than half of which may be indoors;

Based on the current site plan the proposed use does not appear to exceed this limit.

- (3) No business may include a food service establishment except food stores as defined by Section 5.4.6 of the Champaign County Health Ordinance;

The proposed use does meet the definition of a food service establishment in the Champaign County Health Ordinance, and would be considered a Major Rural Specialty Business.

- (4) Businesses located in the CR, AG-1, or AG-2 Districts shall not ACCESS STREETS located within a recorded SUBDIVISION;

The subject property accesses North Lincoln Avenue, which is not locate within a subdivision.

- (5) Alcoholic beverages not produced on the PREMISES shall not be sold; and

No alcoholic beverages are sold on the premises.

- (6) No outdoor entertainment requiring the use of sound amplification equipment shall be permitted unless a Temporary Use Permit and Entertainment and Recreation License shall have been obtained.

The petitioners have not indicated any outdoor entertainment requiring sound amplification equipment on their website.

PRELIMINARY DRAFT

- C. 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 requirements from Subsection 6.1 are as follows:
- (1) Paragraph 6.1.2 A. indicates 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 indicates the following standard conditions for Major Rural Specialty Businesses:
 - (a) Minimum Lot Area of five acres;
 - (b) The total BUILDING AREA devoted to sales DISPLAY or recreational commercial USE shall not exceed 5,000 square feet;
 - (c) Outdoor entertainment requiring the use of sound amplification equipment shall be permitted not more often than 5 consecutive or non-consecutive days in any three month period and only if a Recreation and Entertainment License shall have been obtained as provided in Champaign County Ordinance No. 55 Regulation of Businesses Offering Entertainment and/or Recreation;
 - (d) The site shall not be located within 500 feet of a Residential zoning District;
 - (e) Businesses located in the CR, AG-1, or AG-2 Zoning Districts shall not ACCESS STREETS located within a recorded SUBDIVISION; and
 - (f) Alcoholic beverages not produced on the PREMISES shall not be sold.
- D. 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 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.

E. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):

- (1) "ACCESS" is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
- (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) "AGRICULTURE" is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.
- (4) "DISPLAY" is the placement or arrangement of products or materials for sale or lease excluding items which are being stored while awaiting maintenance, or repair or other STORAGE.
- (5) "RURAL SPECIALTY BUSINESSES" are establishments that sell, principally at retail, agricultural products, foods or traditional handicrafts produced on the PREMISES together with ACCESSORY recreational or educational activities and which may also sell related goods produced off of the PREMISES provided that sale of such goods constitute less than 50 percent of the total gross business income, that such goods constitute less than 50 percent of the total stock in trade, that less than 50 percent of the total LOT AREA is devoted to commercial BUILDING AREA, parking or loading areas or outdoor sales DISPLAY.

PRELIMINARY DRAFT

- (6) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
- (7) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (8) "SUBDIVISION" is any division, development, or re-subdivision of any part, LOT, area, or tract of land by the OWNER or agent, either by LOTS or by metes and bounds, into LOTS two or more in number, for the purpose, whether immediate or future, of conveyance, transfer, improvement, or sale, with the appurtenant STREETS, ALLEYS, and easements, dedicated or intended to be dedicated to public use or for the use of the purchasers or OWNERS within the tract subdivided. The division of land for AGRICULTURAL purposes not involving any new STREET, ALLEY, or other means of ACCESS, shall not be deemed a SUBDIVISION for the purpose of the regulations and standards of this ordinance.

F. 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.

G. 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, **“We host on farm sales before farmer’s market season begins. We host farm dinners from late May thru December as part of our farm business.”**
- B. The proposed Major Rural Specialty Business has been an existing business on the subject property for four years.

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, **“Having our customers be able to visit the farm to purchase products and enjoy an outdoor farm meal prepared in an licensed commercial kitchen.”**
 - B. Regarding surface drainage, the subject property is located in Jamestown Subdivision No. 1 which was approved on December 30, 2002. The drainage statement for the subdivision is as follows:

To the best of my knowledge and belief, the drainage of surface waters will not be changed by the construction of Jamestown Subdivision No. 1 or any part thereof, or, if such surface water drainage will be changed adequate provisions have been made for the collection and diversion of surface waters into public areas, or drains which the subdivider has the right to use, and that such surface waters will not be deposited on the property of adjoining land owners in such concentrations as may cause damage to the adjoining property because of the construction of Jamestown No. 1.

- C. The subject property is accessed from North Lincoln Avenue on the west side of the property. Regarding the general traffic conditions on North Lincoln Avenue 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 North Lincoln Avenue was last measured in 2006, and is 400 where it passes the subject property.
 - (2) North Lincoln Avenue is indicated as a Minor Arterial Street by the Urbana Comprehensive Plan.
 - (3) The Township Road Commissioner has been notified of this case, but no comments have been received as yet.

PRELIMINARY DRAFT

- D. Regarding fire protection of the subject property, the subject property is within the protection area of the Eastern Prairie Fire Protection District and is located approximately 4.5 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 the Surveyor's Declaration on the Final Plat of Jamestown Subdivision No. 1.
- 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 does not appear to contain any agricultural field tile.
- H. The hours of operation of the proposed Special Use Permit are described on the website for Prairie Fruits Farm (<http://www.prairiefruitsfarm.com>) as follows:
 - (1) The farm sales and farm breakfasts that take place from March to April are indicated as beginning at 9 AM and continuing until noon.
 - (2) The farm dinners are held May through December and begin at 4 PM, concluding around 8 PM.
- I. Regarding wastewater treatment and disposal on the subject property, ZUPA 262-08-02 indicates that all existing buildings on the subject property use septic systems for wastewater treatment and disposal.
- J. Regarding parking for proposed Major Rural Specialty Business, see Item 9.B.(2)
- K. 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.

- (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. There is no information regarding the cost of the pole barn that is used to house the farm dinners in inclement weather, so it is unclear if that will trigger the requirements of the IEBA.
- (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.

PRELIMINARY DRAFT

- (k) The proposed use of the pole barn as a location for the farm dinners raises some concerns regarding life safety.
- L. Regarding whether the waiver of the standard condition in Section 6.1.3 requiring Major Rural Specialty Businesses prohibiting the sale of alcoholic beverages not produced on the premises will be injurious to the District:
 - (1) The information on Prairie Fruits Farm website regarding the farm dinners indicates, “We ask you to bring your own wine or alcoholic beverage of your choice since we don't have a license to sell or serve alcoholic beverages on the farm.”
 - (2) There is no evidence that allowing consumption of alcoholic beverages on the subject property is injurious to the District.
- M. 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:
 - A. The Petitioner has testified on the application, “**Yes.**”
 - B. Regarding compliance with the *Zoning Ordinance*:
 - (1) Major Rural Specialty Business is authorized by Special Use Permit only in the AG-2 Agriculture Zoning District.
 - (2) Regarding parking on the subject property:
 - (a) Paragraph 7.4.1 C.3.c. requires that retail establishments for the sale of food and/or beverages to be consumed on the premises provide one off-street parking space for every 100 square feet of floor area or portion thereof. However, the farm dinners are not generally served in an indoors area.
 - (b) Paragraph 7.4.1 C.3.b.ii. requires that places of infrequent public assembly that are outdoors or in non-permanent structures used for exhibit, educational, entertainment, recreational, or other purpose involving assemblage of patrons provide one parking space per three patrons based on the estimated number of patrons during peak attendance.
 - (c) There is no information regarding the maximum number of attendees for either the farm breakfasts or farm dinners.

- (d) A staff parking analysis based on an aerial photograph of the subject property will be available at the meeting.
- (3) The definition of a Rural Specialty Business in Section 3.0 of the *Zoning Ordinance* (see Item 6.D.(6), above) states that a Rural Specialty Business must primarily sell goods that are produced on the premises. It lists three requirements that an operation which sells goods not produced on the premises must meet if it can be considered a Rural Specialty Business and granted a Special Use Permit:
 - (a) Any goods not produced on the premises must constitute less than 50 percent of the total gross business income;
 - (b) Any goods not produced on the premises must constitute less than 50 percent of the total stock in trade; and
 - (c) Less than 50 percent of the total lot area shall be devoted to commercial building area, parking or loading areas, or outdoor sales display.
 - (d) The proposed Major Rural Specialty Business appears to sell a very limited amount of items that are produced off-site. The main products, farm produce and farm dinners are produced on site.
- (4) Regarding compliance with standard conditions of approval for Major Rural Specialty Businesses indicated in Section 6.1.3, as follows:
 - (a) The total BUILDING AREA devoted to sales DISPLAY or recreational commercial USE shall not exceed 5,000 square feet.

It is not clear if a waiver of this standard condition is necessary because there is no information regarding the total building area devoted to sales display.
 - (b) Outdoor entertainment requiring the use of sound amplification equipment shall be permitted not more often than five consecutive or non-consecutive days in any three-month period and only if a Recreation & Entertainment License shall have been obtained as provided in the Champaign County Ordinance No. 55 *Regulation of Business Offering Entertainment and/or Recreation*.

A waiver of this standard condition does not appear to be necessary because the Petitioners have not proposed any outdoor entertainment which requires sound amplification equipment.
 - (c) The site shall not be located within 500 feet of a residential zoning district.

A waiver of this standard condition does not seem to be necessary because there is no land in any R districts within 500 feet of the subject property.

PRELIMINARY DRAFT

- (d) Businesses located in the CR, AG-1, or AG-2 Districts shall not access streets located within a recorded subdivision.

A waiver of this standard condition does not appear necessary because the subject property is accessed from North Lincoln Avenue, which is not located within a platted subdivision.

- (e) Alcoholic beverages not produced on the premises shall not be sold.

A waiver of this standard condition may not be necessary because the petitioners have never and do not propose to sell alcohol. Current practice is to allow customers to bring their own alcoholic beverage. However, a Liquor License may still be required.

C. Regarding compliance with the *Stormwater Management Policy*:

- (1) Regarding the requirement of stormwater detention, there is a limited amount of impervious area on the subject property, and no stormwater detention appears to be necessary.
- (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 is located in the City of Urbana subdivision jurisdiction.

E. Regarding the requirement that the Special Use preserve the essential character of the AG-2 Agriculture Zoning District, the proposed use is a Rural Specialty Business, which are defined as establishments that sell agricultural products and trade on a rural ambiance.

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. There is no indication of any accessible parking on the site plan. However, the outdoor nature of the proposed use makes it unclear what may be required to comply with the Illinois Accessibility Code.

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. Major Rural Specialty Businesses may be authorized in the AG-2 Agriculture 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 AG-2 District and states as follows (capitalized words are defined in the Ordinance):

The AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

- (2) The types of uses authorized in the AG-2 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 appears to be in compliance with those requirements.
 - (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, it is unclear what impact the proposed SUP will have on the value of nearby properties.
 - (b) With regard to the value of the subject property, without the Special Use Permit authorization the current use is not in conformance with the Zoning Ordinance because the business involves more than simply a “FOOD STORE” as defined in Section 5.4.6 of the Champaign County Health Ordinance.
 - (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.

It is unlikely that the limited public access to the subject property will contribute to congestion on North Lincoln Avenue. However, there should be no parking related to the proposed SUP in the public right-of-way.

PRELIMINARY DRAFT

- (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 appears to be in compliance with those limits.

- (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 AG-2 Agriculture District and is, by definition, a rural use.

- (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.

The subject property is located in the AG-2 Agriculture District and is, by definition, a rural use.

- (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.

The subject property is located in the AG-2 Agriculture District and is, by definition, a rural use.

PRELIMINARY DRAFT

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. The proposed Special Use is an existing NONCONFORMING USE because it is an existing business that has been in operation without all necessary approvals. 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 business has not been permitted and the following condition makes clear the requirement to complete a Change of Use for the property.

The petitioner shall submit a Zoning Use Permit Application for a Change of Use with fees within 30 days of the Zoning Board of Appeals approval of Case 667-S-10.

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

The Major Rural Specialty Business complies with the approval in Case 667-S-10 in a reasonable and timely manner.

- B. The parking requirements for the proposed use are not clearly defined by the Zoning Ordinance, however, there should be no parking related to the Special Use in the public right-of-way and the following condition makes that clear.

The petitioners shall ensure that no parking related to the special use permit shall occur in any public right-of-way.

The above special condition is necessary to ensure the following:

There is no unreasonable risk to public safety caused by on street parking.

- C. The proposed use is subject to County Ordinances other than the Zoning Ordinance, and the following condition makes it clear that the proposed use must continue to be operated so as to conform to the requirements of those Ordinances:

The proposed Major Rural Specialty Business shall conform to the following Champaign County Ordinances:

- (1) **The Champaign County Health Ordinance, including, but not limited to, any required licenses for the food service portion of the use, and any required permits for onsite wastewater treatment and disposal.**
- (2) **The Champaign County Liquor Ordinance, including any required liquor license.**

- (3) **The Champaign County Recreation and Entertainment Ordinance, including any required Recreation and Entertainment License.**

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

The Major Rural Specialty Business conforms to all relevant Champaign County Ordinances.

- D. The Major Rural Specialty Business in this case is authorized by Special Use Permit, and must be operated in accordance with the approved site plan and testimony given in this case. The following condition makes that clear.

Any non-agricultural building or use must be fully consistent with the approved site plan, testimony, and evidence give in this public hearing, as required by Section 9.1.11 B.6. of the Zoning Ordinance.

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

The Major Rural Specialty Business conforms to the approved site plan, testimony, and evidence given in the public hearing for Case 667-S-10.

DOCUMENTS OF RECORD

1. Special Use Permit Application from Leslie Cooperband received on March 10, 2010
2. Site plan of area where farm dinners take place and information from <http://www.prairiefruits.com>, received on March 12, 2010
3. Preliminary Memorandum for Case 667-S-10, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site plan received on March 12, 2010
 - C Annotated site plan
 - D Information regarding Farm Dinners and Farm Open Houses from www.prairiefruitsfarm.com
 - E Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 662-S-10

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 667-S-10 held on **April 15, 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}***

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 / HAVE NOT}* 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 667-S-10 is hereby *{ GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED }* to the petitioners **Leslie Cooperband and Wesley Jarrell** to authorize a **Major Rural Specialty Business in the AG-2 District with waivers of standard conditions including, but not limited to, the prohibition of sales of alcohol not produced on the premises.**

{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

ZONING BOARD OF APPEALS

APRIL 15, 2010

DOCUMENTS DISTRIBUTED TO THE ZONING BOARD OF APPEALS AT THE MEETING

Contents:

1. Supplemental Memorandum for Case 645-S-09 dated April 15, 2010
2. Supplemental Memorandum for Case 663-V-10 dated April 15, 2010
3. Supplemental Memorandum for Case 667-S-10 dated April 15, 2010
4. Parking Plan and other information for Special Use Permit, submitted by Wesley Jarrell on April 15, 2010

CASE NO. 645-S-09

SUPPLEMENTAL MEMORANDUM

April 15, 2010

Champaign
County
Department of



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

(217) 384-3708

Petitioners: **Robert and Barbara
Gerdes**

Site Area: **approx. 83 acres**

Time Schedule for Development:
Immediate

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

Request: **Authorize the construction
and use of a "Restricted Landing
Area" as a Special Use in the AG-1
Agriculture Zoning District**

Location: **An approximately 83 acre
tract that is approximately the West
Half of the Southwest Quarter of
Section 33 of Ayers Township and
commonly known as the farm at 52 CR
2700E, Broadlands.**

STATUS

This is the fifth meeting for this case, it was continued from the January 14, 2010, ZBA meeting.

On Monday, April 12, 2010, Carl Smith, who farms land adjacent to the subject property, indicated to John Hall, Zoning Administrator, that a row of trees had been planted along the east property line of the subject property and another row of trees had been planted across CR 0N from the south property line of the subject property.

Staff inspected the rows of trees on Tuesday, April 13, 2010, and a diagram that illustrates the location of the trees and their impact on the proposed RLA is attached. No condition has been proposed for this private matter.

ATTACHMENT

A Proposed Gerdes RLA & Recently Planted Trees

Proposed Gerdes RLA & Recently Planted Trees

645-S-09

APRIL 15, 2010



Dots (●) indicate the approximate position of the recently planted trees.

Solid Black Lines (——) indicate the proposed location of the RLA & RLA Safety Area

Thin Dashed Lines (-----) indicate the extent of the IDOT approach slopes and side transition slopes, and are not indicated more than once for ease of reading the map.

Thin Dashed Lines with 1 Dot (·-·-·) indicate the extent of the tree crown at 60 feet of height and the position of the RLA necessary to prevent any encroachment into the IDOT approach slopes or side transition slopes when the newly planted trees eventually reach a height of 60 feet.

Thick Dashed Lines (---) indicate the position of the RLA necessary to prevent any encroachment into the IDOT approach slopes or side transition slope when the newly planted trees eventually reach a height of 120 feet.

1 inch = 400 feet

CASE NO. 663-V-10

PRELIMINARY MEMORANDUM

April 9, 2010

Petitioners: **Dan and Debra Johnson**

Champaign
County
Department of



Brookens

Administrative Center

1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Site Area: **4,935 sq. ft.**

Time Schedule for Development:

Immediate

Prepared by: **J.R. Knight**

Associate Planner

John Hall

Zoning Administrator

Request: **Authorize the following variances in the R-3 Two Family Residence Zoning District:**

- A. Replacement and use of an existing dwelling with the following variances:**
- 1. A front yard of 16 feet, six inches and a setback of 36 feet, six inches in lieu of the minimum required front yard of 25 feet and minimum setback of 55 feet in regard to Carroll Avenue, a minor street.**
 - 2. A rear yard of 12 feet, six inches in lieu of the minimum required 20 feet rear yard.**
 - 3. Lot coverage of 36% in lieu of the maximum allowed 30% lot coverage.**
- B. Replacement and use of an existing detached garage with side and rear yards of zero feet in lieu of the minimum required side and rear yards of five feet for detached accessory buildings.**

Location: **An approximately 5,000 square foot lot that is the North 47 feet of the South 241 feet of Lot 46 of Fred C. Carroll's Subdivision of the East Half of the Northwest Quarter of Section 9, Township 19 North, Range 9 East of the Third Principal Meridian, and commonly known as the manufactured home at 1507 Carroll Avenue, Urbana**

STATUS

This is the first meeting for this case. After the mailing, staff realized that Section 8 of the Zoning Ordinance does not allow variances of the type proposed in this case. Staff discussed the situation with the City of Urbana and decided that the petitioner should withdraw the case and the City should go ahead with the related pre-annexation agreement.

At their April 12, 2010, meeting the Urbana City Council's Committee of the Whole voted to forward the pre-annexation agreement to the City Council with a recommendation for approval.

ATTACHMENT

- A Statement from Dan Johnson withdrawing Case 663-V-10, received on April 12, 2010

Q Dan Johnson do withdraw my variance
application with Champaign Co. for case # 663-VIC

D. Johnson

04-12-10

CASE NO. 667-S-10

SUPPLEMENTAL MEMORANDUM

April 15, 2010

Champaign
County
Department of



Brookens

Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Petitioners: **Leslie Cooperband and
Wesley Jarrell**

Site Area: **approx. 7 acres**

Time Schedule for Development:
N/A

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

Request: **Authorize a Major Rural
Specialty Business in the AG-2 District
with waivers of standard conditions
including, but not limited to, the
prohibition of sales of alcohol not
produced on the premises**

Location: **Lot 1 of Jamestown
Subdivision in the Northeast Quarter
of the Southeast Quarter of Section 29
of Somer Township and commonly
known as Prairie Fruits Farm at 4410
North Lincoln Avenue, Champaign**

STATUS

This is the first meeting for this case. Staff received an email in opposition to the proposed Special Use Permit on Monday, April 12, 2010, from William Bates, who farms land in the vicinity of the subject property. The email included six photographs which are attached along with the email.

ATTACHMENTS

- A Email from William Bates, received on April 12, 2010
- B Photographs (numbered 1-6 by staff) submitted by William Bates on April 12, 2010

James R. Knight

From: William Bates [willb425425@msn.com]
Sent: Monday, April 12, 2010 10:55 AM
To: James R. Knight
Subject: Goat Farm Photos.

Champaign County Planning and Zoning Department

J.R. Knight,

Here are some pictures taken at the goat farm on Friday and Saturday on North Lincoln Avenue. The piles of goat manure in the distance are at least five feet high and run for 40-50 feet. As on of the goat farm owner stated (Leslie Cooperband) "this is a wetlands area" YES...which runoff goes into the Saline Branch Creek which runs under the freeway, into the Urbana County Club and into Chrystal Lake Park and beyond. Additionally, the water wells in the area will be contaminated with goat feces, veterinary medicines used on the goats...and if goats are buried on the property it amplifies the situation.

The remaining picture is the long lines of cars...for approximately one-half mile on North Lincoln Avenue, which is a Township road with no centerline or shoulder...there are close to 150 cars on the property and on the road. No farm equipment was able to come around the curve to get into their fields. This is the most important time of the year for getting the seed in the ground. This is deliberately and defiantly being done without receiving a special permit, and, in itself it a violation. If these continues I would think the Champaign County Sheriffs Office should be notified.

Can you please point these concern out to the County Board prior to the hearing this Thursday for a special permit hearing?

Many thanks,

William Bates

1



2



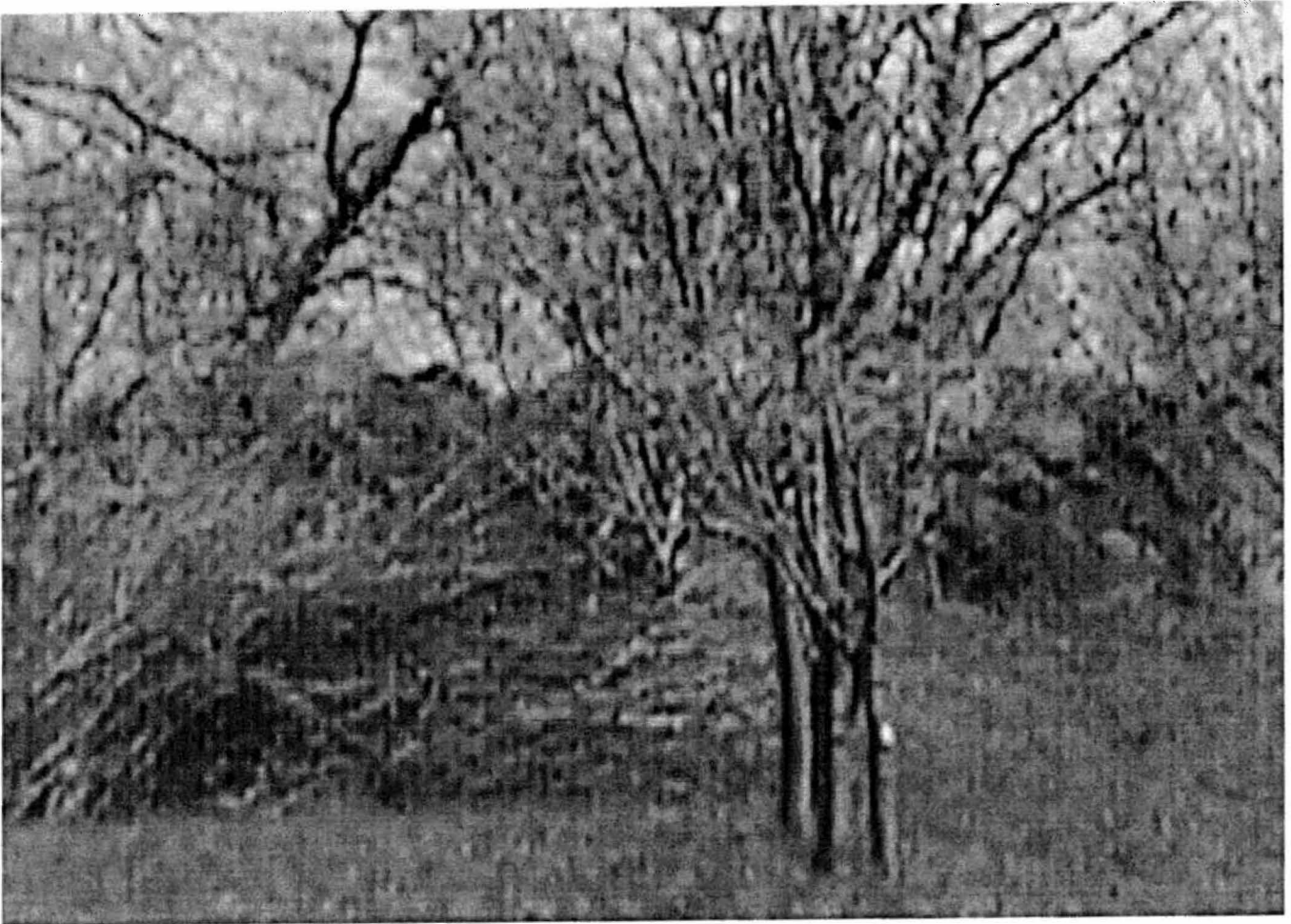
3



4



5



6



Prairie Fruits Farm
4410 N. Lincoln Ave
Champaign, IL 61822
Wes Jarrell and Leslie Cooperband

Parking Plan and other information for Special Use Permit, Champaign County
April 15, 2010

1. Dinner attendance: from 45 – 50 guests
Peak attendance for other events (farm open houses in spring): 100 people
2. Staff parking in far east section of lot.
3. Three NO PARKING signs placed along front of property, on east side of road
4. Cars parked as shown in Fig. 1:
 - a. Angled on north side of driveway, 10 ft per car, total of 20 cars (240')
 - b. Parallel parking on south side of driveway, 18 feet per car, 10 cars (180')
 - c. Head- in parking on south side of barn, 10 feet per car
 - i. 8 cars facing south (84')
 - ii. 5 cars facing east (68')
 - d. Overflow lot on northwest corner of property capable of three rows of 10 cars each, total of 30 cars

Totals, main area: $20 + 10 + 8 + 5 = 43$ **spaces** (sufficient for **129 guests** at peak attendance)

Total including overflow lot: $43 + 30 = 73$ **potential spaces** (sufficient for **219 guests** at peak attendance)

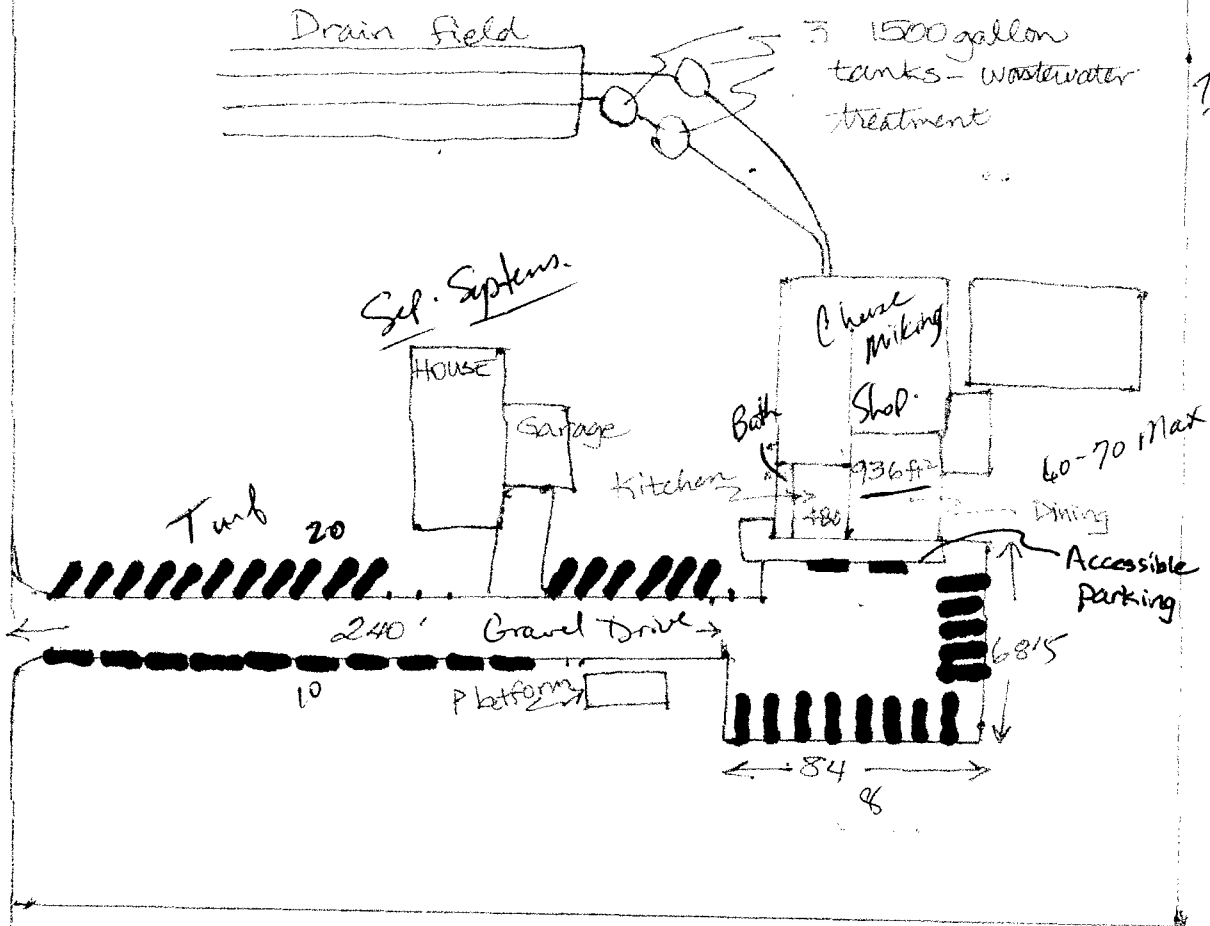
Accessibility parking: **2 spaces** next to cement pad outside dining area

Lighting: Candle light and oil lamps at dusk for outdoor dinners; no other lighting is required.

Other information:

1. Total dining/display area: 936 ft²
2. Wastewater treatment: three 1500 gallon tanks as septic system, installed by J and S Waste Water Systems in 2005.
3. Stormwater management: all but small space near garage in permeable surface; Barn and house/garage runoff all infiltrates on site, short distance from downspout.
4. Pt. 11, p. 16: We applied for an received temporary special use permits for dinners in 2008 and 2009; we understand that we now need a permanent Special Use Permit because we are having events more frequently than 5 per three month period.

Figure 1. Parking pattern on lot.

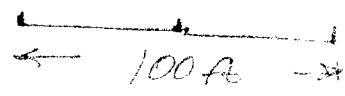


2 Bathrooms
#C Access

Jim Heimburger

1" = 64'

10' width



PRAIRIE FRUITS FARM
4410 N. LINCOLN AVE.
CHAMPAIGN, IL

Google maps

30-40 Cars.

To see all the details that are visible on the screen, use the "Print" link next to the map.

Get Directions My Maps

OVERFLOW PARKING

Print Send Link

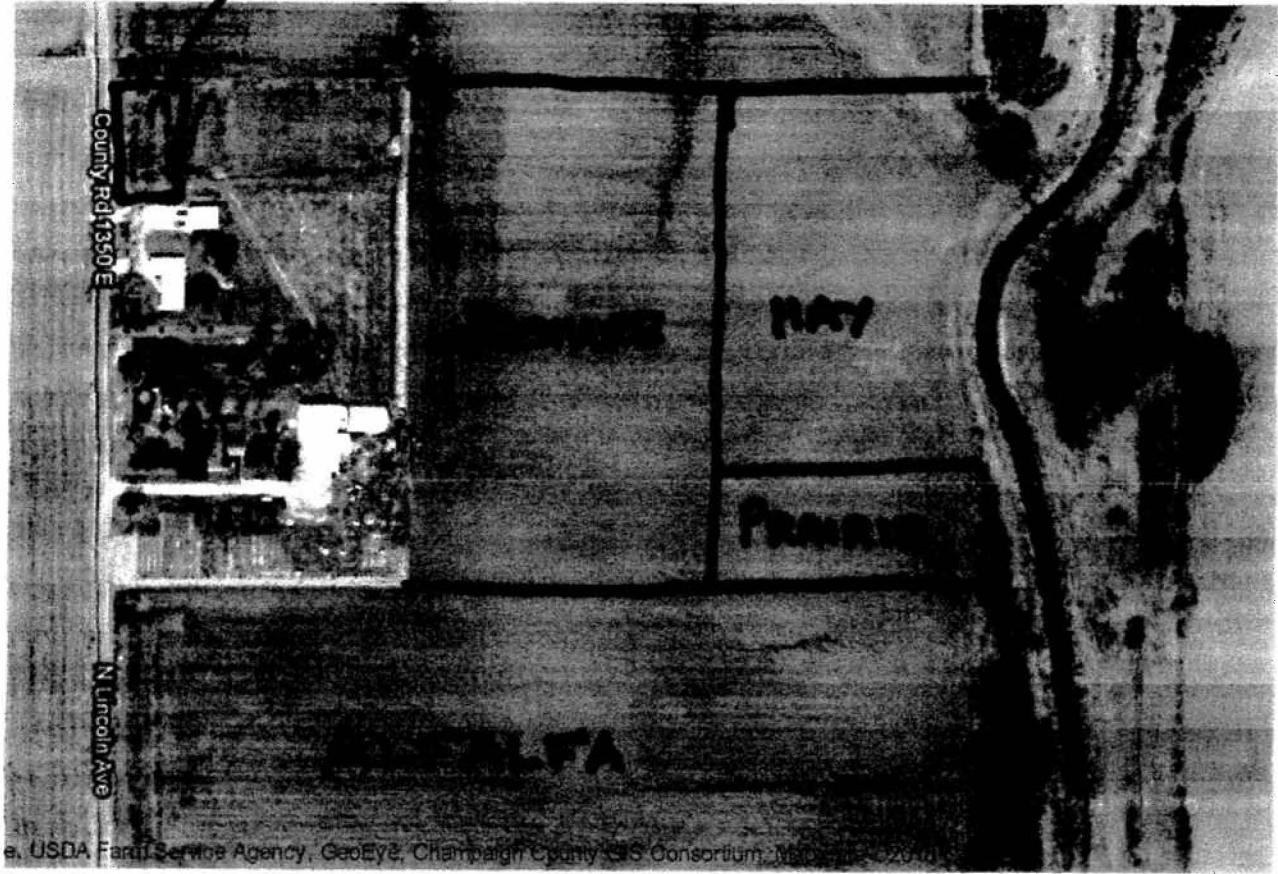


Fig. 2

1" = 228'

3" = 684'

CHAMPAIGN COUNTY PUBLIC HEALTH DEPARTMENT

THIS CERTIFIES THAT A

PERMIT

IS ISSUED TO

Establishment

Prairie Fruits Farm

No. C-1263

Address

4410 N. Lincoln Ave., Champaign

Owner/Operator

Ledie Cooperbard

IN ACCORDANCE WITH AND SUBJECT TO THE PROVISIONS OF THE ORDINANCES OF THE CHAMPAIGN COUNTY (ILLINOIS)
PUBLIC HEALTH DEPARTMENT AS APPROPRIATE TO THE LOCATION HEREIN LICENSED.

PERMIT NOT VALID IN CORPORATE LIMITS OF CHAMPAIGN OR URBANA. PERMIT IS NOT TRANSFERABLE.

2010

Issued by

Jim Roberts

, Director of Environmental Health



PERMIT EXPIRES NOVEMBER 30, 2010

Phone: (217) 363-3269 / www.c-uphd.org

CHA

RTMENT

State of Illinois 1745618
Department of Public Health

LICENSE, PERMIT, CERTIFICATION, REGISTRATION

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes and/or rules and regulations and is hereby authorized to engage in the activity as indicated below.

ERIC E. WHITAKER, M.D.
DIRECTOR

Issued under the authority of
The State of Illinois
Department of Public Health

EXPIRATION DATE	CATEGORY	I.D. NUMBER
03/28/2011	055	01353730

ALISA A DEMARCO
IS CERTIFIED IN FOOD SERVICE
SANITATION BY EXAM ON 03/28/06

ISSUED 05/06/06

BUSINESS ADDRESS

ALISA A DEMARCO
1007 W HILL ST
CHAMPAIGN IL 61821

The face of this license has a colored background. Printed by Authority of the State of Illinois • 4/07 •

Establishment

Address 4410

2009

Issued by J

-1263

OPERBAN



EMBER 30, 200

GRADE A DAIRY FARM PERMIT

003508

State Permit Number _____

Dairy farm of Prairie Fruits Farm
(Full Legal Name)

address is 4410 N. Lincoln Ave. Champaign
(City)

Illinois 61822 Champaign
(State) (Zip Code) (Township) (County)

sig address 4410 N. Lincoln Ave. Champaign
(City)

Illinois 61822
(State) (Zip Code)

hereby approved for the production of Grade A Raw Milk for pasteurization in accordance with the Grade A Pasteurized Milk And Milk
 Acts Act of the State Of Illinois.

BTU Name And Number:

Prairie Fruits Farm Goat Dairy BTU 102137

8/05/2005

Lawrence R Terando
Sanitarian
Illinois Department of Public Health

construction and equipment of this dairy farm meet the standards for Grade A Milk production. Proper maintenance and
ation are the responsibility of the dairyman.

State of Illinois



DEPARTMENT OF PUBLIC HEALTH

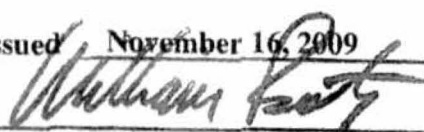
A Dairy Products plant owned by Prairie Fruits Farm, L.L.C. located at (city)Champaign (county)Champaign (state)Illinois having complied with the provision of Acts regulating the handling, processing, labeling and distribution of Dairy Products is issued this -

ILLINOIS CERTIFICATE OF APPROVAL NO. 17-532

GRADE A - MANUFACTURED -

Expiration Date - December 31, 2010

Date Issued November 16, 2009


Acting Chief, Division of Food, Drugs and Dairies

The Illinois Department of Public Health considers that the construction and equipment of this Dairy Plant is such that with proper maintenance and operation, the Dairy Products processed and handled in this plant will be safe for human consumption.

Photos of our Compost Pile



Compost, not manure—contains bedding and manure from our goat barn



Compost windrow located along the fence row to our pasture. 200 yards uphill from Saline Branch.



We manage our compost piles by turning with a skid loader, every couple of weeks. Our land is certified organic, and we must keep records about how we manage our compost piles.