

1 **MINUTES OF REGULAR MEETING**

2
3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 1776 E. Washington Street
5 Urbana, IL 61801

7 **DATE:** July 28, 2011

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

8
9
10 **TIME:** 7:00 p.m.

11 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Roger Miller, Melvin Schroeder,
12 Eric Thorsland, Brad Passalacqua

13
14 **MEMBERS ABSENT :** Paul Palmgren

15
16 **STAFF PRESENT :** Connie Berry, John Hall

17
18 **OTHERS PRESENT :** Rollae D. Keller, Joanne Keller, Kevan Parrett, Kelly Dillard,
19 Ramona Dillard, Charles P. Thompson, Ryan Beckley, Byron
20 Beckley, Melody Pinks, Bruce Pinks

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

24
25 The meeting was called to order at 7:00 p.m.

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

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

30
31 **3. Correspondence**

32
33 None

34
35 **4. Approval of Minutes**

36
37 None

38
39 **Ms. Capel moved, seconded by Mr. Courson to acknowledge the Addendum to the Agenda and**
40 **re-arrange the agenda by hearing Case 692-V-11, Rollae Keller first. The Board will then**
41 **move into Closed Session. Upon completion of Closed Session the Board will hear Case 695-I-**
42 **11, Zoning Administrator and then hear Case 685-AT-11, Zoning Administrator as the last**
43 **case of the meeting. The motion carried by voice vote.**

44
45 **5. Continued Public Hearing**

46
47 **Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the**

DRAFT

1 **Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions**
2 **required for any County Board approved special use permit for a Rural Residential**
3 **Development in the Rural Residential Overlay district as follows: (1) require that each**
4 **proposed residential lot shall have an area equal to the minimum required lot area in the**
5 **zoning district that is not in the Special Flood Hazard Area; (2) require a new public street to**
6 **serve the proposed lots in any proposed RRO with more than two proposed lots that are each**
7 **less than five acres in area or any RRO that does not comply with the standard condition for**
8 **minimum driveway separation; (3) require a minimum driveway separation between**
9 **driveways in the same development; (4) require minimum driveway standards for any**
10 **residential lot on which a dwelling may be more than 140 feet from a public street; (5) require**
11 **for any proposed residential lot not served by a public water supply system and that is located**
12 **in an area of limited groundwater availability or over a shallow sand and gravel aquifer other**
13 **than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and**
14 **contract the services of the Illinois State Water Survey (ISWS) to conduct or provide a review**
15 **of the results; (6) require for any proposed RRO in a high probability area as defined in the**
16 **Illinois State Agency Historic Preservation Agency (ISHPA) about the proposed RRO**
17 **development undertaking and provide a copy of the ISHPA response; (7) require that for any**
18 **proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois**
19 **Department of Natural Resources and provide a copy of the agency response.**

20
21 Mr. Hall distributed a new Supplemental Memorandum dated July 28, 2011, for the Board's review.
22 He said that the new memorandum has the following four attachments: A. Comparison of proposed
23 RRO SUP Conditions to Existing Requirements; and B. excerpts from the Champaign County
24 Subdivision Ordinance; and C. excerpt from NFPA Publication 1141; and D. Proposed site plan for
25 Case 565-AM-06 (withdrawn). He reviewed Attachment A. with the Board. He said that the table
26 lists the standard conditions that are proposed and then compares it to any similar requirement in the
27 Ordinance for by-right uses. The table then compares it to the Subdivision Ordinance for any similar
28 requirements for a subdivision and then it lists the proposed RRO SUP Standard in more detail. He
29 said that the last column of the table is for notes. He said that at the previous meeting for this case
30 the Board discussed how, in regards to the floodplain, someone could do some things by-right and
31 there are things that the Subdivision Ordinance has as part of the minimum subdivision standards
32 and now we are establishing a third tier for the RRO. He said that by-right someone could build
33 anywhere provided that they build so that they minimize flood damage. He said that someone could
34 build where the flood waters are 12 feet deep provided that they minimize flood damage. He said
35 that the minimum subdivision standards in the Subdivision Ordinance indicate that a requirement for
36 a subdivision is that no part of the minimum required lot area is more than one foot below the base
37 flood elevation. He said that there are a lot of places in Champaign County where it is more than one
38 foot below so in order to get a subdivision lot a waiver of that standard would be required. He said
39 that the Board may ask why someone would need a subdivision lot versus doing something by-right
40 and that can be answered by understanding that the Zoning Ordinance only allows so many lots to be
41 created without going through the rezoning process. He said that of those lots the Illinois Plat Act
42 allows only certain lots to be created by means of a written legal description or a survey or a

1 subdivision plat which the County Board must approve. He said someone would not want to take a
2 subdivision plat to the County Board if it is more than one foot below the base flood elevation and
3 that is true even before this standard because there will be questions. He said that for an RRO where
4 someone has to go through the rezoning process where there is a higher level of scrutiny, staff
5 proposed to the County Board to just establish a condition that any lot requiring RRO approval has to
6 have the entire minimum lot area outside of the special flood hazard area which is to say high enough
7 so that it never floods. He said that someone may have a two acre lot but there had better be one acre
8 of the two acres that is above the base flood elevation and the County Board agreed with this
9 standard. He said that this standard will be more restrictive than the subdivision standard and if an
10 RRO is approved then there should be no issues in getting the plat approved.
11

12 Mr. Hall stated that the second standard condition requires minimum driveway separations for new
13 lots on existing streets. He said that currently there are no standards in the Ordinance for driveways.

14 He said that there is a standard that if a lot is a flag lot that the thin portion of the lot be wide enough
15 to physically be wide enough to install a ten foot wide driveway but the ten foot wide driveway is not
16 required. He said that the only thing about driveways in the Subdivision Ordinance is that driveways
17 must be centralized as much as possible and many times when only one lot is being proposed it is not
18 possible so it is not required. He said that for the RRO staff proposes that the driveways be
19 centralized and requiring that the driveway locations be at least 600 feet apart. He said that
20 originally when this was being proposed to the County Board the 600 feet separation was taken out
21 of the air but something about it seemed to make sense. He said that the notes column indicates the
22 following in regards to the minimum driveway separations: 1. The proposed RRO standard
23 condition is more restrictive than any existing requirement; and 2. "the same development" is
24 intended to mean "the same RRO: and even "all RRO's from the same parent tract;" and 3. A
25 separation of 600 feet will result in 8 driveway locations per mile per side of roadway for a total of
26 16 driveway locations that is equivalent to one driveway location per 40 acres. Since each driveway
27 location can contain two driveways that allows up to 32 lots per square mile which is the equivalent
28 of 20 acre lots. He said that if driveways occurred in one per 40 acres twice as many driveways
29 could be squeezed in with the 600 foot separation. He said that some people would like to see lot
30 development limited to one lot per 40 acres but that is not going to happen any time soon but if it did
31 it would be roughly equivalent to one driveway every 600 feet. He said that the development would
32 be meeting a very restrictive standard but recognizing that another driveway can be slipped in at
33 every location therefore it is not as restrictive. He said that this only applies to RRO's and it is very
34 unlikely that anyone is going to divide a two acre lot by means of an RRO but it may happen. He
35 said that if a two acre lot, created by the RRO process, was purchased it could be further divided by
36 an RRO although it probably does not have 600 feet of frontage therefore it would require a waiver.
37 He said that he believes that more specification is required for this condition.
38

39 Mr. Hall stated that the standard condition requiring a new street is required in an RRO. He said that
40 the Zoning Ordinance does not require this and the Subdivision Ordinance doesn't require a street
41 but does give the standards for the street when it is required. He said that the proposed standard
42 condition will make clear when a street is required.

1
2 Mr. Hall stated that Attachment D of the Supplemental Memorandum is a map of a withdrawn RRO
3 case. He said that the map indicates a narrow 30 acres that was proposed to be divided into the
4 maximum number of lots possible for approval. He said that the minimum lot size is one acre
5 therefore the engineer began drawing one acre lots with access to new streets where required and
6 because it is a narrow tract of land they were able to squeeze in two lots between the proposed street
7 and the existing street and some of the lots will front on the existing street and at the time there was
8 no prohibition against that. He said that with the new standard all of the lots which are proposed to
9 front on an existing street would either need waivers or the Board could deny them. He said that if
10 you are a landowner with a narrow tract of land you will want to know what the County really wants
11 to have happen if they are going to approve your request. He said it is not clear what the County
12 wants to have happen on a narrow tract of land but he does know that Lots 13 and 14 could be
13 combined into a two acre lot which would meet all of the maximum lot size requirements and would
14 front on the new proposed road. He said that if Lots 14 and 15 were combined it would create a lot
15 that fronts on two parallel streets and double frontage lots are not allowed in the Subdivision
16 Ordinance. He said that he does not know why double frontage lots are not allowed but they are not
17 allowed. He said that on a narrow tract of land a double frontage lot is not allowed and now a
18 requirement is being added that each lot less than five acres has to front on a new street along with
19 the two acre maximum lot area on best prime farmland. He said that a set of regulations may be
20 proposed which have no easy resolution and perhaps that is okay because the County is not in the
21 business of selling off best prime land for lots but it would be nice if the regulations were
22 coordinated. He said that he is not sure what the resolution should be for this group of requirements
23 and there may not be a resolution which could be okay because the purpose of the RRO is to limit the
24 numbers of new lots that are created. He said that there are a thousand square miles out there to
25 create new lots upon so he does not believe that we are going to be short on lots. He said that it
26 would be good if the Subdivision Ordinance and the Zoning Ordinance coordinated as well as
27 possible.

28
29 Mr. Hall stated that the fourth proposed standard requires minimum driveway standards when a
30 dwelling is more than 140 feet from a public street. He said that staff received approval from the
31 County Board to proceed with the proposed text amendments therefore the amendment has to be
32 drafted before staff seeks direction because there are so many questions about what is being asked.
33 He said that staff missed the ball during the early work for this amendment. He read the note section
34 of the table for the fourth proposed standard: 1. The proposed standard is intended to provide
35 adequate emergency access to the dwelling. The 140 feet is intended to be roughly equivalent to
36 three times the length of a fire protection district truck and is presumably a length at which it is
37 quicker to turnaround than back up to get back to the street; and 2. NFPA 1141 *Fire Protection in*
38 *Planned Building Groups 1985* requires at least three perimeter walls of structures and all exterior
39 doors into structures constructed as part of a planned building group to be within 200 feet of an
40 approved fire lane. An approved fire lane shall be at least 20 feet wide and come no closer than to
41 within 10 feet of a structure. See the excerpt from NFPA 1141. He said that planned building
42 groups are not discussed in the Zoning Ordinance and in fact planned building groups are not

1 allowed. He said that this is a NFPA standard for when you are building buildings on one tract of
2 land so there is not good street access and they have a standard to guarantee that there is good fire
3 truck access. He said that the NFPA standard requires at least three perimeter walls of structures and
4 all exterior doors that are part of a planned building group to be within 200 feet of an approved fire
5 lane which is at least 20 feet wide and comes no closer than within 10 feet of a structure. He said
6 that the minimum driveway standard is 20 feet wide with six inches of all weather paving. He said
7 that NFPA 1141 does not deal with driveway length but it is a similar situation. He said that the
8 NFPA limits fire lane length to 200 feet and that is not what is being discussed because we are trying
9 to find what is a good standard for a driveway width for when there is a house more than a certain
10 distance from a public street. He said that he believes that the distance should be increased from 140
11 feet to 200 feet. He said the typical depth of a minimum size lot is 215 feet and 200 feet wide. He
12 said that if there is a lot in the back of another lot 200 feet is a good point to indicate that a 20 foot
13 wide driveway is required. He said that it is longer than 140 feet therefore it is less restrictive and
14 the case does not need to be re-advertised and perhaps it will get better support at the County Board
15 because he believes that it provides adequate protection therefore the driveway length should be
16 changed from 140 feet to 200 feet.

17
18 Mr. Hall stated that the other three standard conditions are the exact same things that are required
19 during the RRO process therefore they are not a duplication but one copy that applies to both the
20 map amendment and special use permit. He said that eventually he believes that things like this
21 should not be required for the map amendment once the special permit is in place. He said that
22 based on this, if the Board accepts what he is suggesting the driveway length would go from 140 to
23 200 feet and there is a good basis for that, provided that people understand what is being said. He
24 said that he does not know what to do about this thing about every lot less than five acres having to
25 access a new street but on one hand he does not believe that it is a big issue but it will be criticized.
26 He said that it will be criticized everything doesn't work out clean and easy when laying out the
27 division of a narrow tract of land. He said that if the Board desires to have him work on this issue
28 then he can but he already has and he doesn't see how those problems can be resolved. He said that
29 all this evidence needs to be added to the Finding of Fact so this case is not ready for final action. He
30 said that the case could be continued to the October 13th meeting or continue it to August 11th. He
31 said that at the August 11th meeting he could present the case to the Board with just the Finding of
32 Fact for the case that it is currently and either the Board is ready to take action or not. He said that
33 this case could be the last case of the meeting and if the Board does not get to it then it is not the end
34 of the world.

35
36 Mr. Thorsland asked Mr. Hall if the 200 foot change would be included in his presentation on
37 August 11th.

38
39 Mr. Hall stated yes.

40
41 Ms. Capel stated that she would like to continue this case to the October 13th meeting although it
42 appears to be a very busy therefore perhaps November 10th would be a better continuance date.

1
2 Mr. Hall stated that, if the Board suspended the 100-day limit, continuing this case to either meeting
3 date would not be an issue.
4

5 **Ms. Capel moved, seconded by Mr. Courson to suspend the 100-day limit for a continuance for**
6 **Case 685-AT-11. The motion carried by voice vote.**
7

8 **Mr. Courson moved, seconded by Ms. Capel to continue Case 685-AT-11 to the November 10,**
9 **2011, meeting. The motion carried by voice vote.**
10

11 6. New Public Hearings

12

13 ***Case 692-V-11 Petitioner: Rollae Keller Request: Authorize the division of a lot that is 4.03**
14 **acres in area into two lots in total in lieu of the requirement that a lot to be divided must be**
15 **more than five acres in area, in the AG-1 Zoning District. Location: A 4.03 acre lot in the**
16 **North Half of the Northeast Quarter of Section 32 of Newcomb Township and commonly**
17 **known as the house at 169 CR 2500N, Mahomet.**
18

19 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the
20 witness register. He reminded the audience that when they sign the witness register they are
21 signing an oath.
22

23 Mr. Hall stated that there is no new information regarding this case. He said that the Petitioner
24 has obtained a permit to establish the decommissioned home on the property as a storage shed.
25 He said that if the case is approved the home will be reconverted back into a dwelling. He said
26 the Zoning Ordinance offers no guidance for what is at issue in this case and it is presumed that
27 what is at issue are the same factors that are at issue in an RRO case which are the factors that the
28 County reviews anytime someone desires to create a new lot beyond what they can create by right.
29 He said that it is difficult to have one lot that is going to make or break one of those factors. He said
30 that for this case staff determined that of the ten factors that are compared in an RRO, at a minimum,
31 things were "typical" and there was one which was "nearly ideal" and three "much better than
32 typical." He said that there are no conditions proposed for this case and the petitioner indicated that
33 they were willing to have a shared driveway but as a practical matter each lot is required to have its
34 own driveway. He said that the Zoning Ordinance requires that each lot must have its own right of
35 access and the Board could limit the location as to where the new driveway is going to be located but
36 it is still going to be a new driveway and it isn't clear that there is any location that is better than any
37 other. He said that no other possible special conditions occurred to him as he was preparing the
38 memorandum although he was rushed and he could have overlooked something.
39

40 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County
41 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will
42 ask for a show of hands for those who would like to cross examine and each person will be called

1 upon. He requested that anyone called to cross examine go to the cross examination microphone to
2 ask any questions. He said that those who desire to cross examine are not required to sign the
3 witness register but are requested to clearly state their name before asking any questions. He noted
4 that no new testimony is to be given during the cross examination. He said that attorneys who have
5 complied with Article 6.5 of the ZBA By-Laws are exempt from cross examination.
6

7 Mr. Thorsland called Rollae Keller to testify.
8

9 Mr. Rollae Keller declined to speak at this time.
10

11 Mr. Thorsland called Joanne Keller to testify.
12

13 Ms. Joanne Keller, who resides at 378 CR 2425N, Mahomet, Illinois stated that the subject property
14 for this case is property which they own but their other son lives there. She said that if an additional
15 driveway is required then they will gladly put one in but if it is not then they plan to share the
16 driveway. She said that they did have the property surveyed.
17

18 Mr. Schroeder stated that someday the other son may decide that he would prefer his own driveway.
19

20 Ms. Keller stated that she could imagine that in the future their son may prefer his own driveway but
21 for now it is not an issue.
22

23 Mr. Schroeder stated that he would prefer that the separate driveway be required for the second lot.
24

25 Ms. Keller stated that if the Board requires a separate driveway then they will comply. She said that
26 they would like to have the variance approved because their son is currently living with a friend and
27 needs a place of his own to live. She said that they did not realize the circumstances of placing the
28 modular home on the property until they were contacted by staff.
29

30 Mr. Thorsland asked Ms. Keller if the original intention was to have someone live in the modular
31 home.
32

33 Ms. Keller stated yes. She said that once they realized that they could not have their son live in the
34 modular home they decided to decommission the modular home and use it as a storage shed. She
35 said that the kitchen has been removed and nothing else has been done to it.
36

37 Mr. Thorsland asked Ms. Keller to indicate the location of the modular home.
38

39 Ms. Keller distributed copies of the survey for the Board's review and as a Document of Record.
40

41 Mr. Thorsland asked Ms. Keller if the modular home is located on the lot to the east.
42

1 Ms. Keller stated yes. She said that currently the modular home is sitting in the middle of the lot.

2
3 Mr. Thorsland asked Ms. Keller if the variance was approved what will be done in regards to a well
4 and septic.

5
6 Ms. Keller stated that a separate septic system will be installed but the existing well will be shared
7 between the two homes.

8
9 Mr. Thorsland asked if staff had any questions for Ms. Keller.

10
11 Mr. Hall asked Ms. Keller if the existing septic system for the existing home has any known issues
12 that would suggest that the new septic system would have similar issues.

13
14 Ms. Keller stated that she is not sure but she can have the system checked.

15
16 Mr. Passalacqua asked Ms. Keller if she resides in the existing home.

17
18 Ms. Keller stated no. She said that her other son resides in the existing home.

19
20 Mr. Thorsland asked the Board if there were any questions for Ms. Keller and there were none.

21
22 Mr. Thorsland asked if staff had any questions for Ms. Keller and there were none.

23
24 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Keller and there was no
25 one.

26
27 Mr. Thorsland called Kevan Parrett to testify.

28
29 Mr. Kevan Parrett, who resides at 180 CR 2400N, Mahomet, Illinois stated that his home is one mile
30 south of the subject property. He said that he has several concerns regarding the requested variance.
31 He said that there is a sizable livestock operation to the north of the subject property which serves 50
32 to 100 cattle. He said that he is concerned with the increased road traffic that another household
33 would add to the neighborhood. He said that even though the subject property is located on
34 CR2500N there has been considerable development in the area along 200N which is only one-quarter
35 of a mile to the east. He said that four or five lots have been constructed upon 200N in the last four
36 or five years which has added to his dismay because those lots are also five acres and it is possible
37 that they too will request variances to divide their lots. He said that there is potential for ten
38 additional lots for homes and the roads are not built to handle the additional traffic. He said that he
39 would not like to see the ZBA set precedence that all of the lots could be subdivided.

40
41 Mr. Thorsland asked the Board if there were any questions for Mr. Parrett and there were none.

1 Mr. Thorsland asked if staff had any questions for Mr. Parrett.

2
3 Mr. Hall asked Mr. Parrett how many of the existing lots which he referred to may be on land where
4 there are easements for the gas company.

5
6 Mr. Parrett stated that there are gas well lines in the area which was a concern when the lots were
7 created. He said that he does believe that all of the lots are on the opposite side of the gas line
8 therefore he is not sure if the easements would affect those lots or not.

9
10 Mr. Hall stated that no RRO lot can be created within a Pipeline Impact Radius (PIR) although this is
11 not an RRO process and is a variance process. He said that if someone had a lot like the subject
12 property, located in the Pipeline Impact Radius, the Ordinance would allow it to be divided if a
13 variance is approved. He said that there is a possibility that the ZBA would grant variances but his
14 impression is that lots which are located in the Pipeline Impact Radius probably will not have much
15 of a chance of having a variance granted. He said that the subject property is not affected by a
16 Pipeline Impact Radius so to that extent it is different than the lots that are within the PIR but it
17 would depend on the exact lots in question.

18
19 Mr. Thorsland asked the Board if there were any questions for Mr. Parrett and there were none.

20
21 Mr. Thorsland asked if staff had any questions for Mr. Parrett and there were none.

22
23 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Parrett and there was no
24 one.

25
26 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
27 regarding this case and there was no one.

28
29 Mr. Thorsland stated that after reviewing the soil types an additional septic system is a concern.

30
31 Mr. Hall stated that if this was an RRO case there would be concerns raised about the creation of
32 new lots on Drummer soil because septic systems on Drummer soil will almost certainly fail at some
33 point. He said that with a lot which is 4.03 acres to begin with the soil survey is most likely
34 inaccurate due to the scale. He said that most of the new lot will be located on Drummer soil.

35
36 Mr. Miller asked if the Board would be allowing the shed to become a residence by approving the
37 variance.

38
39 Mr. Hall stated no. He said that only a dwelling can be a residence but once a dwelling has a kitchen
40 decommissioned it becomes a shed and not a dwelling. He said that if the necessary approvals are
41 obtained the shed could be reconverted back into a dwelling. He said that it is very common for
42 landowners to obtain a permit for a pole barn and include a dwelling unit inside it with hopes in the

1 future of building a house and then decommissioning the kitchen in the pole barn.

2
3 Mr. Thorsland clarified that the double wide that is in question was moved to the lot as a dwelling
4 but the kitchen was decommissioned therefore it was permitted as a storage unit.

5
6 Mr. Thorsland asked Mr. Schroeder if he desired to have a condition that a separate driveway is
7 required.

8
9 Mr. Schroeder stated yes.

10
11 Mr. Thorsland stated that the petitioner indicated that they were willing to share the driveway,
12 mailbox and the well.

13
14 Mr. Hall stated that the Ordinance has no requirement for a driveway on lots which are created by-
15 right. He said that the Board would not want to require a condition that there be no driveway. He
16 said that as long as the Board allows a driveway the lot would be no different than any other lot
17 therefore requiring a driveway would not be worth the effort.

18
19 Mr. Schroeder stated that he does not want this issue to come back to the Board at a later date.

20
21 Mr. Hall stated that if this was an RRO case the Board would normally receive a map of livestock
22 facilities in the area and it would also indicate all non-farm dwellings in the area. He said that an
23 RRO, where multiple lots would be created, could easily change the livestock management facility
24 requirements for any existing facility or could inhibit the development of new facilities. He said that
25 he has not put the time into this case that he would have for an RRO therefore the map is not
26 available. He said that the livestock facility which Mr. Parrett referred to during his testimony was
27 discussed during the Bateman RRO case and in fact there are several livestock facilities in the area as
28 well as a lot of non-farm dwellings.

29
30 Mr. Passalacqua asked if the creation of the proposed lot would create a larger buffer zone to the
31 previously mentioned livestock facility.

32
33 Mr. Hall stated that since the creation of the Bateman RRO he does not believe that one more lot
34 would change any of the standards but it is one more dwelling which could file complaints about the
35 livestock facility.

36
37 Mr. Thorsland stated that he shares Mr. Hall's concern that this situation is not the only one in the
38 area. He said that if 50% of the current property owners applied for a variance to divide their five
39 acre parcels then it would have an effect on a lot of things such as traffic and the livestock facility.
40 He said that at this point it appears that a condition for a separate driveway is not necessary because
41 if the lot is approved the driveway would be implied.

1 Mr. Thorsland asked the Board if they desired to have staff treat the creation of this one lot as if it
2 were an RRO to find out what impacts it would have to adjacent agriculture.

3
4 Mr. Passalacqua stated that he would like to know if the creation of the lot will change the buffer
5 zone for the livestock facility.

6
7 Mr. Thorsland stated that the tentative answer is no, but if a firm answer is required then staff can
8 review this issue and report back to the Board at the next meeting.

9
10 Ms. Capel requested a more specific site plan indicating the location of the home with dimensions,
11 the location of the proposed septic system, setback information, etc.

12
13 Mr. Hall stated that the site plan should indicate the location of the septic system and well, which is
14 to be shared. He said that it appears that the case will be continued to a later date therefore the
15 petitioner should be requested to provide information regarding septic system feasibility. He said
16 that the petitioner can contact the County Health Department so that they can conduct their own
17 percolation tests or they could contact a soil investigator to complete a soil investigation or they
18 could contact a septic system installer and let that person do whatever they would do prior to
19 installing a system. He said that when the Board meets again they will have the livestock
20 information and the septic system information and those would be the principal concerns if this were
21 an RRO. He said that staff could investigate where other lots are located within a one-mile radius
22 which could be further divided and report back to the Board. He said that during that investigation
23 staff could also determine if those lots are located in the Pipeline Impact Radius area because if they
24 are it is his assumption that the Board will not be approving any variances in those areas.

25
26 Mr. Thorsland noted that the submitted site plan does indicate where the existing well and septic are
27 located.

28
29 Mr. Passalacqua stated that he believes that this information is required so that the Board can make
30 an accurate determination.

31
32 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
33 regarding this case and there was no one.

34
35 Mr. Thorsland closed the witness register for tonight's meeting.

36
37 Mr. Thorsland stated that the Board has requested that staff investigate the location of other potential
38 lots that might be in the Pipeline Impact Radius area, existing livestock facilities in the area. He
39 requested that staff remind the petitioner that a complete site plan is required.

40
41 Mr. Hall stated that the septic system information should be submitted by the petitioner for review by
42 staff and the Board.

1
2 Mr. Thorsland stated that it appears that this case will be continued to a later date and the next
3 available date on the ZBA Docket is October 13th which is past the 100 day limit for a continuance.
4

5 **Ms. Capel moved, seconded by Mr. Schroeder to suspend the 100 day rule for a continuance**
6 **date for Case 692-V-11. The motion carried by voice vote.**
7

8 **Ms. Capel moved, seconded by Mr. Courson to continue Case 692-V-11, Rollae Keller to the**
9 **October 13, 2011, meeting. The motion carried by voice vote.**
10

11 Mr. Thorsland requested a motion for the Board to go into closed session.
12

13 **Mr. Miller moved that the Board enter into closed session pursuant to 5 ILCS 120/2 (c) (11) to**
14 **consider pending litigation against Champaign County. Mr. Miller further moved that the**
15 **following individuals remain present: County's legal counsel, John Hall, Planning and Zoning**
16 **Administrator, Connie Berry, Planning and Zoning Technician and Lori Busboom, Planning**
17 **and Zoning Technician. The motion was seconded by Ms. Capel and carried by voice vote.**
18

19 **The Board entered into closed session at 7:35 p.m. and resumed open session at 7:57 p.m.**
20

21 **The roll was called and a quorum declared present.**
22

23 **Case 695-I-11 Petitioner: Zoning Administrator Request: Determine if the requirement of**
24 **paragraph 7.1.2 E. limiting vehicles that may be used in a Rural Home Occupation is as**
25 **follows: (1) Considers a vehicle to be any motorized or non-motorized device used to carry,**
26 **transport, or move people, property or material either on road or primarily off road; or a**
27 **piece of mechanized equipment on which a driver sits; and (2) Limits the number of non-farm**
28 **vehicles to no more than 10 vehicles in total, including vehicles under 8,000 pounds gross**
29 **vehicle weight, including trailers and off-road vehicles but excluding patron or employee**
30 **personal vehicles; and (3) Limits the number of vehicles weighing more than 8,000 pounds**
31 **gross vehicle weight to no more than three self-propelled vehicles. Location: Lot 1 of Orange**
32 **Blossom Estates in Section 18 of Hensley Township and commonly known as the house and**
33 **shed at 700 County Road 2175N, Champaign.**
34

35 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the
36 witness register. He reminded the audience that when they sign the witness register they are
37 signing an oath.
38

39 Mr. Hall stated that the Board does not hear interpretation cases often and in this case he offered to
40 bring this case to the Zoning Board because he agrees with Mr. Kelly Dillard, the owner of the
41 property in question, that 7.1.2 E. of the Ordinance is very poorly written. Mr. Hall said that
42 Paragraph 7.1.2 E. is attached to the Preliminary Memorandum dated July 22, 2011. He said that he

1 implements Paragraph 7.1.2 E. the way that the request was read and it would be fair to say that
2 when Paragraph 7.1.2 E. is read it isn't clear what is meant. He said that Attachment B. of the
3 Preliminary Memorandum reviews the background of why this case is before the ZBA. He said that
4 understanding why the interpretation is before the Board is partly related to the background of the
5 case. He said that Mr. Dillard has a Rural Home Occupation and Rural Home Occupations are one
6 of the most difficult uses. He said that staff asks the applicant many questions which eventually
7 appears to be prying into their business although staff does not pry any more than they are allowed.
8 He said that staff has the right to pose the questions to the applicant to assure conformance with the
9 Ordinance. He said that Attachment C-H are various documents related to the background included
10 in Attachment B.

11
12 Mr. Hall stated that color photographs were distributed to the Board for review which indicates the
13 things that he is calling vehicles, although Mr. Dillard disagrees. He said that black and white
14 photographs were marked up to indicate the number of vehicles on the subject property. He said that
15 the photographs indicate that there are more vehicles on the property than what is allowed under a
16 Rural Home Occupation and three times staff has requested that the applicant indicate the number of
17 vehicles on the property. Mr. Hall stated that finally the applicant submitted the number of vehicles
18 and staff disagreed therefore triggering this interpretation case.

19
20 Mr. Hall stated that the current Rural Home Occupation requirements were added in Case 794-AT-
21 92 and adopted in 1993. He said that he was not the Zoning Administrator in 1992 and was not the
22 current planner but he was on staff with little involvement in that case. He said that the amendment
23 was adopted in 1993 and Frank DiNovo was the Zoning Administrator at the time and continued to
24 be until 2002. Mr. Hall stated that he, Jamie Hitt, Zoning Officer, and Lori Busboom, Zoning
25 Technician have been in the department since 1993 and the rules have not been changed since they
26 were adopted. He said that this is the first time that there has been a disagreement like this due to the
27 number of vehicles on a property. He said again, that he agrees that Paragraph 7.1.2 E. is poorly
28 written but he believes that Paragraph 7.1.2 E. is so poorly written that the way that staff has always
29 administered it is legal. He said that Paragraph 7.1.2 E. starts off by suggesting that the paragraph
30 relates to all non-farm, second division vehicles as defined by the Illinois Vehicle Code. He said that
31 Kelly Dillard wrote a letter to Pius Weibel, Champaign County Board Chair that included an excerpt
32 from the Illinois Vehicle Code which reads as follows: Those motor vehicles which are designed for
33 carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor
34 vehicles which are designed for pulling or carrying freight, cargo or implements of husbandry, and
35 those motor vehicles of the First Division remodeled for use and used as motor vehicles of the
36 Second Division.

37
38 Mr. Hall stated that a pick-up painted with a company name becomes a Second Division vehicle. He
39 said that Paragraph 7.1.2 E. includes three subparagraphs and subparagraph iii. begins with all
40 Second Division vehicles which is confusing because it was thought that all three of the
41 subparagraphs relates to Second Division vehicles therefore why do they point out in the third
42 subparagraph that all Second Division vehicles shall be stored indoors. He said that there are a lot of

1 inconsistencies in Paragraph 7.1.2 E. He said that subparagraph ii indicates that no more than 10
2 vehicles in total, including vehicles under 8,000 pounds gross vehicle weight, trailers and off-road
3 vehicles shall be permitted excluding patron or employee personal vehicles. He said that again
4 subparagraph ii indicates no more than 10 vehicles in total and it discusses vehicles which weigh less
5 than 8,000 pounds and it makes it clear that trailers and off-road vehicles are included but not
6 exempted and they fall into the limit of 10 vehicles. He said that if subparagraph ii only discussed
7 Second Division vehicles then why exclude personal vehicles because personal vehicles are by
8 definition not Second Division vehicles. He said that subparagraph i indicates that no more than
9 three self propelled vehicles over 8,000 pounds gross vehicle weight shall be permitted. He said that
10 it is his interpretation that a self-propelled vehicle could be a semi-tractor, pick-up truck with the
11 business name painted on the side, caterpillar, bulldozer, road grader, and a trailer for hauling
12 equipment for the business. He said that the term vehicles is not capitalized in Paragraph 7.1.2 E
13 because it is not being used as the defined term in the Ordinance. He said that the Ordinance has the
14 definition of motor vehicle which is a very restrictive definition. He said that Paragraph 7.1.2.E does
15 not use the term motor vehicle and it is not capitalized.
16

17 Mr. Hall stated that he previously informed the Board that since 1993 three people have worked in
18 the office under Frank DiNovo and this is how Mr. DiNovo operated. Mr. Hall said that he
19 distributed the information from Case 794-AT-92 and in the Preliminary Memorandum he referred to
20 four places in that attachment. He said that page 6, Line 17 of the minutes from the December 14,
21 1992, meeting indicates the following statement from Frank DiNovo: What is now being proposed
22 is to limit the number of self-propelled vehicles over 8,000 lbs to 3; to limit the total number of
23 vehicles, including trailers, off-road vehicles and pick-up trucks, to 10. Mr. Hall stated that he
24 believes that off-road vehicles is not a good phrase but he does know that staff was not concerned
25 about dune-buggies. He said that the off-road vehicles that were being considered in 1992 were
26 referring to equipment which was being driven off-road such as bull-dozers, road graders,
27 excavators, etc.
28

29 Mr. Hall stated that page 7, Line 9 of the December 14, 1992, meeting indicates that Mr. DiNovo
30 stated that if the person is operating from the home premises, they can have 3 tractors and 7 trailers,
31 which is consistent with having one family member as a driver and 2 employees. Mr. Hall stated that
32 within the same paragraph there is discussion if a Special Use Mechanism was necessary and that
33 violation of this provision would not be likely be a problem unless it became a regular occurrence
34 and the office would probably only become aware of the violation if it was reported as a complaint.
35 Mr. Hall stated that at the bottom of page 7, Line 40 begins a discussion between Ms. Weckel and
36 Mr. DiNovo regarding Section E regarding the number of vehicles allowed. Mr. Hall stated that Mr.
37 DiNovo explains that in Section E, it is proposed that there can be 3 trucks over 8,000 and up to 7
38 more under 8,000 pounds. Mr. Hall stated that the same paragraph indicates that there was
39 discussion of deleting 7.1.2 I (iv) which created what is before the Board tonight.
40

41 Mr. Hall stated that what he has shown the Board with the previous hearing minutes is a discussion
42 that is consistent with the way that he administers this portion of the Ordinance and it has been

1 administered this way since 1993. He said that Second Division as defined in the Illinois Vehicle
2 Code would not relate to equipment such as bulldozers and road graders that are not Second Division
3 Vehicles but they are motorized things that people ride on that are used in Mr. Dillard's Rural Home
4 Occupation therefore it is Mr. Hall's belief that it is reasonable to consider those things in the
5 number of vehicles allowed on the property.
6

7 Mr. Hall stated that if the Board is interested in viewing the types of vehicles that are in question
8 then he would suggest that the Board review the staff photographs.
9

10 Mr. Hall noted that Jamie Hitt, Zoning Officer sends her apologies for not being in attendance
11 tonight but she had a vacation scheduled prior to the scheduling of the docket for this case. He said
12 that Lori Busboom, Zoning Technician, who has been with the department since 1993, is present
13 tonight to answer any questions. He said that the Board is aware that the Zoning Technicians are
14 aware of the rules as well as anyone else in the department.
15

16 Mr. Thorsland stated that it is his understanding that the Board received a letter from Mr. Dillard
17 which was similar to Mr. Weibel's letter.
18

19 The Board agreed that they did indeed receive Mr. Dillard's letter.
20

21 Mr. Thorsland called Mr. Kelly Dillard to testify.
22

23 Mr. Dillard, who resides at 700 CR 2175N, Champaign, Illinois, stated that he is not sure how to
24 address the Board regarding this case because Mr. Hall has made the issue at hand about him rather
25 than how staff interprets the Ordinance. Mr. Dillard said that if the case is going to be about me then
26 we need to talk about the other 21 omissions and errors that the zoning staff has made in regards to
27 this issue. He said that there have been mistakes and misstatements by staff and he can either go into
28 that or just keep it to the Ordinance.
29

30 Mr. Thorsland asked Mr. Dillard if when he talks about misstatements if he is discussing the
31 particular paragraph that is in discussion.
32

33 Mr. Dillard stated that some of the misstatements are in regards to the paragraph.
34

35 Mr. Thorsland asked Mr. Dillard if he has his comments in written form which could be entered as
36 Documents of Record.
37

38 Mr. Dillard stated yes.
39

40 Mr. Thorsland asked Mr. Dillard to summarize the ones that pertain to Paragraph 7.1.2.
41

42 Mr. Dillard stated that the Rural Home Occupation handout that he received from staff indicates the

1 following under Item D: Non-farm commercial vehicles (Second Division vehicles are defined by the
2 Illinois Vehicle Code), used in any rural home occupation are limited to. He said the Ordinance that
3 this speaks to says nothing about commercial vehicles therefore staff has changed the statement to
4 include commercial vehicles. He said that there are at least four other places in the paperwork that
5 he was given refers to commercial vehicles although, again, the Ordinance does not. He said that the
6 Ordinance is very clear for anyone who wants to read it unless it doesn't say what they want it to say.
7

8 Mr. Dillard stated that the letter that he sent to the Board members indicated his concerns regarding
9 Paragraph 7.1.2 E.
10

11 Mr. Hall noted that the Board received a copy of the Rural Home Occupation handout as well as a
12 copy of the regulations so that the Board can compare the information within the two documents.
13

14 Mr. Dillard stated that Mr. Hall refers to the Ordinance in Paragraphs and Subparagraph although the
15 Ordinance is not in paragraphs but is all in one sentence. He said that he knows how to read the
16 English language and the sentence, Non-farm, Second Division vehicles as defined by the Illinois
17 Vehicle Code, used in any Rural Home Occupations shall be limited as follows, has a colon after it.
18 He said that a colon, as defined in the dictionary, as a rule informs the reader that what follows the
19 colon proves, explains or simply provides elements of what comes before the colon. He said that
20 everything after the colon in 7.1.2 E refers to Second Division vehicles. He said that a Second
21 Division vehicle is a motor vehicle that operates on a highway therefore the only thing that can be a
22 Second Division vehicle has to have a motor and cannot be a trailer.
23

24 Mr. Dillard stated that Mr. Hall stated that the Ordinance exempts personal vehicles and that they
25 cannot be Second Division vehicles although it is very clear in the Ordinance that any pick-up truck
26 can be a Second Division vehicle because it hauls cargo. He said that a pick-up is not taxed in the
27 State of Illinois as a Second Division vehicle but it is considered a Second Division vehicle. He said
28 that each portion of 7.1.2 of the Ordinance can be read with Second Division in each of its sentences.
29 He said that since the issue is about Second Division vehicles, and Second Division vehicles are
30 motor vehicles, the Ordinance indicates that a motor vehicle is a vehicle that operates on a highway,
31 a licensed vehicle. He said that a licensed vehicle is not a bulldozer or a road-grader because there is
32 nothing in the Ordinance which refers to heavy equipment because they wanted to exempt farm type
33 equipment. Mr. Dillard stated that all of his equipment is equipment that some farmers use on their
34 farm. He said that if the Board intends to say that a backhoe or excavator are not farm equipment
35 then the farmers of Champaign County will have to told that they cannot have that equipment either.

36 He said that the Ordinance is very clear and he is operating within the Ordinance as he understands
37 it. He said that he has three Second Division vehicles which are over 8,000 pounds, two parked in
38 his shed and one parked outside in a parking area that is 50 feet from any property line. He said that
39 he has spent several thousands of dollars installing a tree berm around the parking area so that all of
40 the vehicles will eventually be hidden from view. He said that the Ordinance required screening
41 therefore he planted 20 arborvitae trees around the parking area in a position that was approved by
42 Mr. Hall. Mr. Dillard stated that the screening would take care of any outdoor storage issues and

1 vehicle parking issues therefore he was very surprised when staff contacted him for an inspection and
2 indicated that they were concerned about the number of vehicles that were stored inside the shop and
3 outside. He said that he has nine vehicles outside and only one is a Second Division vehicle.
4

5 Mr. Dillard stated that from the time that he constructed the building on his property until now every
6 time he receives a letter from staff it has some new unexpected requirements. He said that originally
7 he received letters regarding garbage and debris outside of the building but there was no garbage
8 only building materials, rock piles, normal items that would be seen that a contractor might have. He
9 said that they worked diligently to clean up what they called garbage and debris and currently there is
10 nothing stored outside other than a few Bobcat buckets, some equipment and one Second Division
11 vehicle. He said that they have moved all of the building materials, bricks and blocks, inside the
12 building. He said that it was his understanding, until the time of the inspection, that the zoning
13 department did not care what was inside the building but once the inspection was completed he was
14 informed that the lift, forklift, Bobcat, etc. were vehicles although there is nothing in the Ordinance
15 which discusses this type of equipment.
16

17 Mr. Dillard stated that he is asking the Board to interpret 7.1.2 as it was written. He said that 7.1.2
18 does not consist of four paragraphs but is only one sentence with a period at the end. He said that
19 7.1.2 discusses Second Division vehicles only.
20

21 Mr. Dillard stated that Mr. Hall included the minutes from a previous hearing in the mailing packet.
22 He said that the minutes only indicate a discussion about this Ordinance. Mr. Dillard stated that a
23 trailer, in any sense of the word, is not a motor vehicle under the *Champaign County Zoning*
24 *Ordinance* or the Illinois Vehicle Code therefore a trailer cannot be a Second Division vehicle.
25

26 Mr. Dillard stated that during discussions with staff it was indicated that his property is located in a
27 residential area although his property is located in the AG-1 Zoning District therefore the area is not
28 residential but rural. He said that the area was rural when he built his home in 1972. He said that it
29 is true that other homes were built around his property but those houses were being built at the same
30 time that he built his shed. He said that the area is rural in that there are corn and soybean fields
31 surrounding the properties. He said that his property is not trashy and it is true that he has heavy
32 equipment due to his excavation business and he indicated such in his Rural Home Occupation
33 application.
34

35 Mr. Dillard stated that when he applied for a Zoning Use Permit to build his shed he was told that the
36 *American's with Disabilities Act (ADA)* applied although it does not. He said that he has a storage
37 building and a repair shop that he works in with no retail. He said that no public customers visit the
38 site. He said that he spent several thousands of dollars to make his building *ADA* accessible that he
39 should not have had to spend but he did so because he was told by the zoning department that he was
40 required to do so. He said that staff informed him that the building had to be set back 100 feet from
41 the road which is also incorrect because the building only needs to be set back 15 feet from the road.
42 He said that staff assumed that the east side of his building was his front yard and it is not. He said

1 that the Ordinance indicates that when you live on a corner you can only have one front lot line and
2 his front lot line is located on CR 2175N. He said that he brought this matter to Mr. Hall's attention
3 and Mr. Hall informed him that he needed to decide which lot line was his front lot line and he
4 indicated such. He said that after this matter was completed he received a letter indicating that he
5 should not park vehicles at the east side of his building because it appeared that the east side was a
6 front yard even though it was a side yard. He said that the letter specifically indicated that even
7 though the east side was a side yard it was still considered a front yard.

8
9 Mr. Dillard stated that three years and six months after the building was complete and it was
10 assumed that everything was fine he was notified by staff that he was supposed to have the building
11 substantially completed within 365 days. He said that each time he receives a letter from the zoning
12 department the letter is mean spirited indicating that if he does not do what staff indicates in the
13 letter they will send the matter to the State's Attorney for an injunction. He said that the entire time
14 he has done nothing but accommodated staff's requests.

15
16 Mr. Dillard stated that on September 24, 2010, he received a letter that there was garbage piled up
17 around his property but there was no garbage anywhere on his property. He said that the garbage that
18 was indicated in the letter was on the property to the north of his property and had nothing to do with
19 him. He said that they cleaned up the property and it looked good. He said that the brick piles that
20 were included in a complaint were used to trim around his building which was their intended use.
21 He said that upon staff's request he built a berm and a parking lot although it was covered with the
22 wrong type of material. He said that he then planted the screening to hide the re-ground asphalt
23 because it was not considered an appropriate look for the neighborhood. He said that the area is a
24 rural area and he uses re-ground asphalt on a weekly basis upon driveways around the County.

25
26 Mr. Dillard stated that the Ordinance indicates that his building had to be substantially completed
27 within 365 days and it was substantially completed long before 365 days. He said that staff's
28 interpretation of substantial was completely done with everything as they wanted it to be but that is
29 not what substantial means. He said that four years after he built the building this was not an issue at
30 all but now there is a threat that he cannot operate out of the building because he doesn't have his
31 compliance certificate and the reason why he doesn't have his compliance certificate is because he
32 believes staff is misinterpreting 7.1.2.

33
34 Mr. Dillard stated that he again received a letter from staff indicating that there was garbage and
35 debris on his property although there was not.

36
37 Mr. Dillard stated that the Rural Home Occupation application requests a list of commercial
38 vehicles. He asked why a list of commercial vehicles is necessary because there is no mention in the
39 Ordinance about commercial vehicles and what should be listed are Second Division vehicles.

40
41 Mr. Dillard stated that on May 5, 2011, he was notified that he was required to screen licensed
42 vehicles that were located on the east side of his building. He said that there is no reason why he has

1 to screen these vehicles because the licensed vehicles are not considered outside storage although he
2 did move everything, other than one or two trailers, to the west side of the building. He said that up
3 to this meeting he has done everything that staff has asked and has done his best to get through this
4 matter but he now has a fear that since he is opposing Mr. Hall's determination that he will receive
5 even more harassment.
6

7 Mr. Dillard stated that on June 7, 2011, he received a letter indicating that the only violation that was
8 unresolved was the number of vehicles on the lot. He said that the letter indicated that there were as
9 many as 22 vehicles on his lot which is untrue. He said that he does not own 22 vehicles or 22 of
10 anything. He said that the letter also indicated that a 20,000 pound trailer was considered a Second
11 Division vehicle but he disagrees because obviously if it is not self-propelled it is not a Second
12 Division vehicle. He said that in the same letter staff misquoted 7.1.2 E(2) by leaving out the text
13 indicating that trailers and off-road vehicles shall be permitted.
14

15 Mr. Dillard stated that the last letter that he received from staff was dated July 24, 2011, which
16 indicated that there were 17 vehicles located on his property which was again untrue. He said that
17 there are two vehicles on the property next door which is not his property and is not his concern. He
18 said that his neighbor was using two pieces of his equipment, which are not vehicles, and if staff
19 desires to count all of his equipment then they will have to go to Vermilion and Piatt counties to do
20 so. He said that Mr. Hall has indicated that he has been on staff for twenty years therefore he should
21 know the Ordinance inside and out and part of his job is to read and understand the English
22 language. He said that the Ordinance is written very clearly and all you have to do is put the
23 punctuation in the right location. He said that it is very clear that 7.1.2 is only about Second Division
24 vehicles which is defined in the letter that he sent the Board for review.
25

26 Mr. Dillard stated that after several thousands of dollars, which he should not have had to spend to
27 begin with, and many sleepless nights worrying about whether or not Mr. Hall is going to shut down
28 his business or send this matter to the State's Attorney, he is requesting that the Board apply the law
29 as the Ordinance is written in regards to Second Division vehicles.
30

31 Mr. Thorsland asked the Board if there were any questions for Mr. Dillard and there were none.
32

33 Mr. Thorsland asked if staff had any questions for Mr. Dillard.
34

35 Mr. Hall stated that he has many questions although he is not sure where he would begin therefore he
36 will hold them for now.
37

38 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
39 regarding this case.
40

41 Mr. Thorsland called Ms. Melody Pinks to testify.
42

1 Ms. Melody Pinks, who resides at 696 CR 2175N, Champaign, Illinois, stated that her property
2 borders the Dillard property on the west side. She said that she grew up on a farm and she never saw
3 farm equipment like Mr. Dillard's equipment. She said that her farm had cultivators, disks, manure
4 spreaders and tractors but not bulldozers, backhoes and road graders. She said that the heavy
5 equipment creates damage to the Hensley Township roads and there was a lot of unsightly stuff next
6 to her lot line for several years and it was horrible to look at it every morning. She said that there
7 was an unlicensed vehicle that said "Dig It" on the side of it which sat there for three years. She said
8 that she was not the original person who complained to the Board and did not even know that she
9 had that opportunity until she was informed by someone else. She said that after she filed her
10 complaint the unlicensed vehicle was moved which is a blessing and the property does look 100%
11 better than when the business originally started there. She said that as to the neighbor next to Mr.
12 Dillard's property there was a lot of construction material on both properties because it appeared that
13 they were sharing their lot lines for storage. She said that there were tires, construction materials,
14 broken concrete and things of that nature between the two properties and it was very depressing to
15 look at every morning. She said that many times she would sit and cry over the situation. She said
16 that she contacted Mrs. Dillard and she indicated that she understood her complaint and at one time
17 she had discussed the situation with her husband but he got very upset therefore she does not
18 mention it anymore. Ms. Pinks stated that due to the unfortunate situation they are no longer on
19 speaking terms with the Dillards. She said that all they would like the Dillards to do is to abide by
20 the Ordinance regulations. She said that she did not realize that the Dillard property was going to be
21 built up but numerous semi-loads of dirt were brought on to the property and now their home is in
22 the valley in comparison to the Dillard property. She said that the building which is located on the
23 Dillard property is much higher than the property lines. She said that when Mr. Dillard built the
24 asphalt lot to the west of the building she did not realize that it was because he was required to move
25 the equipment to the back. She said that where Mr. Dillard planted the eight foot arborvitae trees the
26 tips of those trees barely gets to the tires. She said that Mr. Dillard informed Mr. Hall that the
27 arborvitae trees are fast growing and they should be screening everything within a few years but a tag
28 off of her arborvitae trees indicates that the growth rate is slow. She said that she has been very
29 disappointed and has tried to speak with the Dillards about the situation and the matter only seems to
30 gets worse. She requested the Board's assistance with this matter.

31

32 Mr. Thorsland asked the Board if there were any questions for Ms. Pinks.

33

34 Mr. Courson asked Ms. Pinks if the site is cleaned up.

35

36 Ms. Pinks stated yes and it looks much better.

37

38 Mr. Courson asked Ms. Pink to indicate what else she would like to see done on the site.

39

40 Ms. Pinks stated that she does not like seeing the 17 pieces of equipment sitting on the property.
41 She said that once Mr. Dillard received the letter he moved some of the pieces of equipment to a
42 different location.

1
2 Mr. Courson asked Ms. Pinks if her main concern right now is the equipment on the property.

3
4 Ms. Pinks stated yes.

5
6 Mr. Thorsland asked the Board if there were any additional questions for Ms. Pinks and there were
7 none.

8
9 Mr. Thorsland asked if staff had any questions for Ms. Pinks and there were none.

10
11 Mr. Thorsland closed the witness register for tonight's meeting.

12
13 Mr. Hall stated that he can appreciate the fact that the Board may have many questions based on Mr.
14 Dillard's testimony. He said that he does have the case file with him tonight and the Board is
15 welcome to review any notice that staff has sent Mr. Dillard. He requested questions from the Board
16 because there were many statements made by Mr. Dillard that could be flushed out.

17
18 Mr. Passalacqua stated that some of the vehicles are being described as farm vehicles but the
19 definition of Second Division vehicles includes implements of husbandry. He said that he would
20 categorize implements of husbandry as a backhoe and road-grader.

21
22 Mr. Hall stated that over the past few weeks he spent a lot of time reviewing the Motor Vehicle Code
23 and he can say that he is not expert on that code. He said that whatever the outcome of this case may
24 be he would like to see the County strike "Second Division" vehicles and talk about "vehicles that
25 are used in a business" because that is what is being discussed tonight. He said that there is no need
26 to use Second Division vehicles and then make everyone decide what it means. He said that he
27 assumes that the way that he has been enforcing this is the way that the County wants it enforced.
28 He said that regardless of the Board's decision regarding this case the issue is what are the rules that
29 the County wants to enforce. He said that the rules must be as clear as possible because currently
30 they are not clear.

31
32 Mr. Passalacqua stated that if the Board gets to the bare simplicity the RHO indicates that no more
33 than 10 vehicles in total are allowed.

34
35 Mr. Courson stated that 7.1.2E.ii needs to be defined more clearly because a bicycle could be
36 considered a vehicle. He said that the definition needs to be more specific. He asked Mr. Hall if he
37 contacted IDOT requesting the definition of a vehicle.

38
39 Mr. Hall stated that he printed off pages and pages of definitions therefore he knows what the
40 definitions are. He said that Mr. Dillard provided the Board the two most important definitions in
41 his letter. He said that a Second Division vehicle can be a First Division vehicle used in the course
42 of business but it is very clear that the author of this amendment intended it to apply to trailers. He

1 said that the minutes from the previous hearing regarding this issue are the minutes which went to
2 the County Board when they voted on this amendment and there is no question that the County
3 Board wanted trailers to be part of this.

4
5 Mr. Thorsland asked Mr. Hall if there is a definition of a vehicle in the Ordinance.

6
7 Mr. Hall stated that the Ordinance has a definition for motor vehicle and, as the Board is aware,
8 when defined terms are used in the Ordinance they are capitalized.

9
10 Mr. Thorsland stated that early on Mr. Hall stated that the description of the case was more in line of
11 what he thought 7.1.2 E should say and that he took out Second Division vehicles.

12
13 Mr. Hall stated yes.

14
15 Mr. Thorsland stated that case description is how Mr. Hall is interpreting it.

16
17 Mr. Hall stated that his error is that he worked under Frank DiNovo from 1990 to 2002 and he
18 witnessed how Mr. DiNovo interpreted what he wrote. He said that if he was a new Zoning
19 Administrator coming in and read 7.1.2 E, he would still have questions and he might have reacted
20 differently. He said that even a new Zoning Administrator could read the minutes of the case that
21 went to the County Board prior to adoption of the amendment and understand that they were
22 referring to all kinds of vehicles and not just literally Second Division vehicles. He said that he
23 would argue that he has been speaking the English language for at least 55 years and he knows what
24 a colon means and that most things are not that simple. He said that he believes it is fair to interpret
25 this amendment as 10 vehicles in total that are used in the course of business.

26
27 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall.

28
29 Mr. Hall stated that if the Board supports his decision then there needs to be a variance or special use
30 permit required for Mr. Dillard or a change in the total number of vehicles. He said that the total
31 number of vehicles does not matter if they are stored in the shed or not and it doesn't matter if they
32 are screened or not but what does matter is how many vehicles are on the property that are used in
33 the business.

34
35 Ms. Capel asked Mr. Hall to indicate what options are available for Mr. Dillard.

36
37 Mr. Hall stated that Mr. Dillard could apply for a contractor's facility which is a special use in the
38 AG-1 District.

39
40 Mr. Hall stated that what is really at issue, regardless of all of the other testimony that the Board has
41 heard tonight, is has this issue regarding the number of vehicles been enforced properly. He said that
42 this interpretation is not about the *ADA* requirements or screening but again is about the number of

1 vehicles and has it been enforced properly.
2

3 Mr. Miller asked Mr. Hall if this was a farmstead and the equipment was tillage tools, tractors and
4 combines then the equipment would be exempt from zoning.
5

6 Mr. Hall stated yes.
7

8 Mr. Courson stated that he visited the site and noticed that one house had a trailer in the driveway
9 and some houses had debris and trash around the houses. He said that one house had an outbuilding,
10 boat and camper and down the road there is a trucking company which had several trucks and trailers
11 parked outdoors. He said that one of the homes in the neighborhood had a motor-grader sitting in the
12 yard as well as a boat and another trailer. He said that almost everyone in the neighborhood has
13 either boats or trailers parked outside. He said that he does not believe that a backhoe or road-grader
14 is a Second Division vehicle because he cannot see that equipment being any different than someone
15 having 10 lawnmowers in their shed for a mowing business. He said that he considers the difference
16 for a Second Division vehicle is that it is something that can be driven on the highway. He said that
17 many of the definitions regarding Second Division vehicles has to do with buses or semi-trailers but
18 not a backhoe or road-grader.
19

20 Mr. Hall asked Mr. Courson to describe off-road vehicles.
21

22 Mr. Courson stated that he is at a loss as to what an off-road vehicle would be unless it was a quad-
23 runner and he would not consider it to be a Second Division vehicle either. He said that he would
24 like clarification of the definition for an off-road vehicle but he cannot see where a bulldozer would
25 be considered as such.
26

27 Mr. Hall asked Mr. Courson if he thinks that the Ordinance does not limit how many bulldozers
28 someone could have at their home occupation.
29

30 Mr. Hall noted that enforcement action has been taken against the trucking company and they are
31 well aware of where they are supposed to be parking on the property. He said that the Second
32 Division vehicles are required to be parked 50 feet from the lot line.
33

34 Mr. Courson stated that the trucks and trailers appeared to be further than 50 feet from the lot line.
35

36 Mr. Thorsland stated that he drives by the subject property everyday and he will say that the property
37 has been greatly improved. He said that the number of vehicles seems to fluctuate and he did realize
38 that when new homes were built to the east there would probably be conflict and unfortunately he
39 was correct. He said that the Board has worked very diligently on other cases, such as the producing
40 of smoked meat in the CR District, and the Board managed to find a way to satisfy everyone
41 involved whether or not that was the course that the petitioner wanted to take to get their approval.
42 He said that the details of the Illinois Vehicle Code may be something that this Board will work on in

1 the future in implementing that code into the Ordinance more clearly.

2
3 Mr. Courson stated that the definition of off-road vehicles must be clarified.

4
5 Mr. Passalacqua stated that a pick-up cannot be considered in the same class as a backhoe.

6
7 Mr. Courson stated that he believes that the State of Illinois only finds a trailer as a vehicle when it is
8 hooked up to a truck but not when it is sitting alone.

9
10 Ms. Capel stated that it appears that the other issue at hand is whether this business qualifies as a
11 home occupation or a contractor's facility. She said that the intent of the Ordinance is clear but the
12 semantics however confuses the issue. She said that to be consistent with the RHO 15 graders and
13 bulldozers on a property is more than just a RHO and is a contractor's facility.

14
15 Mr. Thorsland stated that there is a question if the business has moved from a home occupation into
16 a contractor's facility and that question may exist due to the confusion of the definitions. He said
17 that the Board needs to decide whether staff's interpretation of 7.1.2 E to mean 10 vehicles total and
18 not so much the list of 17 existing vehicles on the property is truly 17 or is it 10. He said that he
19 only counts 10 vehicles because he would argue that where he lives there are a lot of people who
20 have a lot of equipment and trailers on their property and they have not applied for a home
21 occupation. He asked the Board if they desired to make a final determination tonight or continue the
22 case to a future date.

23
24 Mr. Schroeder stated that with all of the information that has been received tonight he believes that
25 Mr. Hall is trying to keep these types of uses under control. He said that he has seen some messes in
26 the County that the County cannot control but for those that the County can control we must make
27 sure that we are controlling them in the right way.

28
29 Mr. Hall stated that if the Board upholds his decision then Mr. Dillard can apply for a variance and
30 pursue the argument that everything is properly screened and what other issues may come up. He
31 said that it is not like that there can absolutely be no more than 10 vehicles but if there are to be more
32 than 10 vehicles then the owner needs to be authorized by a variance or special use permit. He said
33 that people go through this process every two weeks of the year before this Board. He said that this
34 is not the end of Dig It Excavation but there is one more step to go through. He said that he
35 informed Mr. Dillard that it appears that his screening will work and he planted a different type of
36 arborvitae than what one would normally find and if the nursery information is accurate there should
37 be a beautiful screen there in the future. He said that if the Board does not believe that Mr. Dillard
38 needs a variance then that is a different thing and if the Board believes that the business is fine the
39 way it is then the issue is settled.

40
41 Mr. Schroeder stated that he is confused about what Mr. Dillard has done and what he should have
42 already done or what could be done. He said that he would like information as to what Mr. Dillard

1 must do to be in compliance with the Ordinance.

2
3 Mr. Miller stated that it is obvious that the Board is not ready to make a final determination
4 regarding this case at tonight's meeting.

5
6 Mr. Passalacqua stated that the Board needs more information as to what trucks and backhoes count
7 as under the vehicle code.

8
9 Mr. Hall stated that he does not know how the Board is going to get any more information. He said
10 that the Board has what the Ordinance indicates and what the County Board reviewed when they
11 voted on the amendment. He said that it has been established that this thing is very confusing but he
12 can appreciate that the Board needs more time.

13
14 Mr. Thorsland stated that staff has submitted all of the information that is available for the Board to
15 review for this case. He said that he does not believe that staff can give the Board anything further
16 because they have provided the Board with everything that they can and in addition Mr. Dillard and
17 Ms. Pinks have given their testimony. He said that Mr. Courson has visited the area and he drives by
18 the property everyday therefore two Board members are aware of the property. He said that he does
19 not believe that no course of events will be changed if the Board does not make a final determination
20 at tonight's meeting.

21
22 Mr. Schroeder asked Mr. Hal if he could give the Board any more direction for their determination.

23
24 Mr. Hall stated that the Board has everything in front of them to make a determination. He said that
25 the Board has a copy of the Ordinance and the minutes of the adoption of the amendment. He said
26 that the Board needs to determine how they would enforce this issue and vote the way the Board
27 feels. He said that the fact that he has been on staff for 20 years is irrelevant and if the Board
28 believes that he is wrong then the Board owes it to him to tell him that.

29
30 Mr. Schroeder stated that it appears that the Ordinance is pretty cut and dry.

31
32 Mr. Hall stated that he disagrees because there is a lot of room in the Ordinance for disagreement.
33 He said that he may be putting too much emphasis on the minutes but that is why minutes are sent to
34 the County Board, which is to see the ZBA's discussion.

35
36 Mr. Schroeder asked Mr. Hall if he feels that the Board has discussed this issue enough to make a
37 decision or does he believe that the Board is just pussy-footing around.

38
39 Mr. Hall stated that he sees this Board reacting the way it normally reacts when it has a difficult
40 decision in front of them. He said that it is reasonable for the Board to make sure that they are
41 comfortable with their decision but he cannot bring back any further information that would
42 enlighten the Board any further. He said that the County could hire a consultant to interpret the

1 Illinois Vehicle Code but he does not believe that is the issue although the Board may. He said that
2 he would like to stay away from the Illinois Vehicle Code because it is very complicated.

3
4 Mr. Passalacqua stated that the original application for the RHO, which Mr. Hall approved, it
5 describes three commercial vehicles and then describes 9 more at the bottom.

6
7 Mr. Hall stated that when the application was approved it was his opinion that there were 10 vehicles
8 involved in the business. He said that under Item #8 of the application there were three commercial
9 vehicles listed and at the time of approval the four trailers were not listed. He said that listed at the
10 bottom, per a phone call to Kelly Dillard on April 24, 2007, by Jamie Hitt the following equipment is
11 listed: Bobcat, backhoe, grader, tractor, 2-excavator, small excavator, trencher, etc. He said that
12 when the application was approved he counted nine vehicles in total and he did not count small
13 excavating equipment. He said that in error he did overlook the Cat311 which would make the total
14 10 but it does state that the large excavator would never be stored on the property. He said that at the
15 time he believed that the home occupation was in conformance with the Ordinance.

16
17 Mr. Passalacqua stated that Item #11 of the application indicates text which was stricken which
18 stated that nothing will be stored outside.

19
20 Mr. Hall stated yes, but subsequently Mr. Dillard did decide to store things outside.

21
22 Mr. Thorsland stated that if the Board does not desire to make a final determination tonight then a
23 continuance date must be determined. He said that the docket is very full until October 13th, which is
24 beyond the 100-day limit for a continuance.

25
26 **Mr. Courson moved, seconded by Mr. Passalacqua to suspend the 100-day limit for a**
27 **continuance for Case 695-I-11. The motion carried by voice vote.**

28
29 **Mr. Courson moved, seconded by Mr. Schroeder to continue Case 695-I-11 to the October 13,**
30 **2011, meeting. The motion carried by voice vote.**

31
32 Mr. Courson asked Mr. Hall if staff presented the applicant with other options.

33
34 Mr. Hall stated yes, staff presented the applicant with other options several times.

35
36 Mr. Passalacqua asked Mr. Hall what would be involved in making the business a contractor's
37 facility and would it be very prohibitive.

38
39 Mr. Hall stated that such a decision will be up to the Board because there are no standard conditions
40 for a contractor's facility.

41
42 Mr. Thorsland stated that at this time the Board will take a five minute recess.

1
2 **The Board recessed at 9:07 p.m.**

3 **The Board resumed at 9:16 p.m.**

4
5 Mr. Thorsland stated that the Board will now hear Continued Case 685-AT-11. Zoning
6 Administrator.

7
8 **7. Staff Report**

9 Mr. Hall stated that August 25th is the first meeting date for the special use hearing for the proposed
10 wind farm. He said that the legal advertisements were sent in today for publication. He said that
11 there are four hearings scheduled for the wind farm case therefore he is not sure what the Board's
12 September is shaping up to be but it is real, here and moving.

13
14 He thanked Connie Berry and Lori Busboom for the assistance over the past two weeks because for
15 the past two weeks they have worked almost entirely on the wind farm. He said that Connie and Lori
16 are Zoning Technicians and not planners but they have been doing an admirable job and the legal
17 advertisements would not have been sent today if it were not for them. He said that when a County
18 has zoning it is required to submit a legal advertisement which is accurate for what is met and what
19 is not met therefore all of the work has to be done before sending in the legal and luckily we were
20 able to meet that high standard.

21
22 Mr. Thorsland noted that the Board should review the docket and make the necessary adjustments to
23 their schedule so that a full Board can be in attendance.

24
25 Mr. Hall stated that as part of the RPC's services to their member agencies, Champaign County
26 being one of those agencies, has arranged for a Planning and Zoning Institute on Wednesday,
27 September 14th, with a buffet dinner by Minneci's and a presentation starting at 6:00 p.m. He
28 said that there is no charge for the buffet dinner or the presentation and hopefully the County's
29 ZBA will be in attendance. He said that the plan commissions for the cities of Urbana and
30 Champaign and the Villages of Mahomet and St. Joseph are invited. He said that this is an
31 unusual event because these institutes do not occur often. He said that Michael Blue, FAICP,
32 Director of Community Development for the City of Highland Park, Illinois and currently the
33 Planning Officials Development Officer for the Illinois Chapter of the APA will be a speaker at
34 the 2.5 hour workshop as well as City of Champaign Attorney Joe Hooker.

35
36 **8. Other Business**

37 **A. Proposed ZBA Bylaws Amendments**

38 Mr. Hall stated the State's Attorney has reviewed the ZBA Bylaws therefore if there are no further
39 questions the Board will make a final determination at the August 11th meeting. He said that there is
40 plenty of time for the Bylaws to be adopted prior to the wind farm hearings therefore if the Board
41 notices something that needs tweaked a little more the Board needs to notify staff immediately
42 otherwise the Bylaws will be adopted at the next meeting. He said that if the Board finds something

7-28-11

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 between now and the next meeting the Bylaws could be adopted on August 25th and it wouldn't be
2 the end of the world.

3
4 Mr. Thorsland stated that Board members should contact staff with any questions or comments
5 regarding the Bylaws.

6
7 **B. Review of Docket**

8
9 **A.9. Closed Session**

10
11 The Board entered into closed session at 7:35 p.m. and resumed open session at 7:57 p.m.

12
13 **10. Audience Participation with respect to matters other than cases pending before the**
14 **Board.**

15
16 None

17
18 **11. Adjournment**

19
20 **Mr. Passalacqua moved, seconded by Mr. Schroeder to adjourn the meeting. The motion**
21 **carried by voice vote.**

22
23
24
25 The meeting adjourned at 9:47 p.m.

26
27
28 Respectfully submitted

29
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32
33 Secretary of Zoning Board of Appeals
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