

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **December 13, 2012**
Time: **6:30 P.M.**
Place: **Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802**

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

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

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

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (August 16, 2012, August 30, 2012, September 13, 2012, October 11, 2012)
5. Continued Public Hearings

*Note: The full ZBA packet is now available
on-line at: www.co.champaign.il.us.*

NOTE: MEETING TIME AT 6:30 P.M.

Cases 687-AM-11 and 688-S-11

Petitioners: **Dr. Phillip Jones and Sarabeth Jones**

Case 687-AM-11 Request: **Amend the Zoning Map to change the zoning district designation from the CR Conservation-Recreation Zoning District to the AG-1 Agriculture Zoning District in order to operate the proposed Special Use in related Zoning Case 688-S-11.**

* Case 688-S-11 Request: **Authorize the construction and use of a "Restricted Landing Area" for use by airplanes consistent with Illinois Department of Transportation regulations and also for helicopter use for public safety assistance as needed and with limited helicopter use for personal use, as a Special Use on land that is proposed to be rezoned to the AG-1 Agriculture Zoning District from the current CR Conservation Recreation Zoning District in related Zoning Case 687-AM-11; and with a waiver of a Special Use standard condition required by Section 6.1 that requires compliance with Footnote 11 of Section 5.3.**

Location for Cases 687-AM-11 and 688-S-11:

An approximately 14 acre tract of land that is located in the North Half of the South Half of the Northeast Quarter of Section 27 of Crittenden Township and located on the west side of Illinois Route 130 (CR1600E) and 1,328 feet south of the intersection of Illinois Route 130 and CR 200N and County Highway 16 and commonly known as the property at 175N CR1600E, Villa Grove.

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
NOTICE OF REGULAR MEETING
DECEMBER 13, 2012**

***Case 707-S-12 Petitioner: Daniel Williams and landowner Fran Williams**

Request: Authorize the use of an existing Paintball Facility as an "Outdoor Commercial Recreational Enterprise" as a Special Use on 5.2 acres that is part of a 35 acre tract in the CR Conservation-Recreation Zoning District.

Location: A 35 acre tract in the Southeast Quarter of the Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home 2453 CR 600E, Dewey.

***Case 715-V-12 Petitioner: John Behrens Estate and Anne and Denny Anderson**

**Request: Authorize the following in the R-1 Single Family Residence Zoning District.
Part A. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;
Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet.**

Location: Lot 1 of Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and commonly known as the home at 1 Willowbrook Court, Champaign.

***Case 725-V-12 Petitioner: Daniel Williams**

**Request: Authorize the following in the CR Conservation-Recreation Zoning District for a Special Use proposed in Case 707-S-12:
Part A. Variance for a rear yard of 0 feet in lieu of the minimum required 25 feet
Part B. Variance for a side yard of 0 feet in lieu of the minimum required 15 feet
Part C. Variance from a minimum separation from a front property line for parking spaces of 0 feet in lieu of the minimum required 10 feet.**

Location: A 35 acre tract in the Southeast Quarter of the Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home 2453 CR 600E, Dewey.

6. New Public Hearings
7. Staff Report
8. Other Business
 - A. October and November 2012 Monthly Reports
 - B. Review of Docket
 - C. Zoning Case Closeout Progress Report
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

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

1 **and rear yard of an existing shed of 1 foot in lieu of the minimum side yard and rear yard of 5 feet;**
2 **and Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear**
3 **yard of 5 feet; and Part C. Variance from Section 4.2.D. requirement that no construction shall take**
4 **place in a recorded utility easement; and Part D. Variance from a minimum separation from a rear**
5 **property line for parking spaces of 1 foot in lieu of the minimum required 5 feet. Location: Lot 1 of**
6 **Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and**
7 **commonly known as the home at 1 Willowbrook Court, Champaign.**

8
9 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
10 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
11 of hands for those who would like to cross examine and each person will be called upon. He requested that
12 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
13 those who desire to cross examine are not required to sign the witness register but are requested to clearly
14 state their name before asking any questions. He noted that no new testimony is to be given during the cross
15 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
16 from cross examination.

17
18 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

19
20 Mr. Denny Anderson, who resides at 1 Willowbrook Ct, Champaign, stated that in an attempting to comply
21 with not only his wishes but the neighborhood's wishes in getting the property cleaned up. He said that it is
22 his understanding that the neighbors are concerned about the materials that are being stored outside and his
23 intent is to get the scouting materials and equipment indoors. He said that he would like to make reasonable
24 use of the property as it exists and the proposal complies with that desire. He said that noted on the site plan
25 is the location of a 60 foot Sycamore tree and it is the biggest tree in the neighborhood. He said that during
26 the last wind storm a 400 pound limb, as well as others, fell on the ground and it is not sensible to place a
27 structure or vehicles underneath it therefore his request is consistent. He said that there is a square in the
28 back of his property which is approximately 15' x 45' which would not require a variance although it is the
29 only backyard that he has and to construct in that area is not desirable. He said that he has taken the time to
30 look around the neighborhood and of the 20 closest homes near his property there are six storage sheds
31 located within the five foot easement. He said that people do not want to place a storage area in the middle

1 of their yard and waste the strip along the outside edge of the yard. He said that his neighbor to the east has a
2 utility shed which is located within one foot of their 20-30 year old fence. He said that his neighbors to the
3 south also have a 6 foot by 6 foot utility shed which is within one foot of their property line and several other
4 neighbors in the community have similar situations and at least one of those neighbor's sheds is also in the
5 utility easement. He said that he sees no reason why his request should be denied if there is equitable
6 application of the rules of the law. He said that the Ameren representative has indicated that locating his
7 shed underneath the utility area is not a problem but if there is a problem, such as placement of a guy wire,
8 then Ameren will bill him. Mr. Anderson stated that Ameren wanted to make sure that the height of the
9 building was not within 15 feet of the main power line, which is at the top of the pole, and Ameren
10 Representative Chris Estes determined that it was not. Mr. Anderson stated that Ameren indicated that at
11 most a guy wire may be required and if so he would be happy to pay for that installation.

12
13 Mr. Anderson stated that a photograph in the mailing packet indicates his neighbor's to the east storage area
14 and his storage area. Mr. Anderson stated that his storage area appears huge next to the neighbor's storage
15 area but his property is also three feet higher than the neighbor's. He said that another photograph dated
16 August 3, 2012, indicates the pole, the neighbor's property where the sewer's manhole is located, and his
17 property which is obviously three feet higher. He said that the neighbor to the south, whose property is even
18 higher than his, has four dogs and he is trying to create a buffer between the two properties by installing a six
19 foot fence. He said that while he was installing the fence one of the dogs jumped up and grabbed his sleeve
20 and ripped it therefore a barrier in that area is required and there is no sense in having a five foot corridor
21 along that side of the building. He said that the utility companies do not object to the shed being in the
22 easement area and have indicated that if there is a problem that they will bill him for any services to remedy
23 the problem and he is fine with that arrangement.

24
25 Mr. Anderson stated that three photographs indicate his vehicles which are clearly across the sidewalk
26 although this was a once in a blue moon occasion and he does not know how someone managed to
27 photograph that occasion without the inclusion of the neighbor's two cars as well. He said that if anyone
28 sees his van blocking the sidewalk again then he would encourage them to call the Sheriff. He said that his

1 neighbors, who consists of four guys, park their cars on the sidewalk every day which blocks the view of the
2 cul-de-sac.

3
4 Mr. Anderson stated that testimony was previously given indicating concern about exposed insulation. He
5 said that the insulation would have been covered up although he was ordered by the County to stop
6 construction. He said that he has no desire to have the insulation exposed for his neighbor's viewing but he
7 was told to stop construction and he complied, although he would prefer to have it covered.

8
9 Mr. Anderson stated that item 6.E on page 5 of 19 of the Revised Draft Summary of Evidence dated August
10 30, 2012, refers to Section 4.2.2D and indicates the requirement that no use shall be established, construction
11 undertaken nor fill placed in any recorded drainage or utility easement that would interfere with the function
12 of the easement. He said that Ameren has indicated that there will be no interference with the function of the
13 easement, which was proven when they replaced the pole, and the sewer company also has also indicated
14 that they have no issue with the placement of the shed near their auxiliary line and if there is an issue they
15 will send him the bill. He said that to move the shed and utilize the little bit of his backyard does not seem
16 reasonable because it is wasted property.

17
18 Mr. Anderson stated that item 8.D(3) on page 7 of 19 of the Revised Draft Summary of Evidence dated
19 August 30, 2012, states that although the shed meets the distance requirements Ameren would prefer that the
20 shed not be within the easement, but they have no ground to require Mr. Anderson to move the shed. Mr.
21 Anderson stated that item 8.E(1) on the same page indicates that Mark Radi, Director of Engineering
22 Services for the Urbana-Champaign Sanitary District (UCSD) conveyed on August 22, 2012, that the shed is
23 not a big concern for them because they do not consider it a permanent structure. Mr. Anderson stated that
24 this is proof that there is no concern from the two utilities that would use the easement and they have clearly
25 indicated that if there is a problem that they will bill him for those services and he is willing to pay for those
26 services.

27
28 Mr. Anderson stated that he concreted over a graveled two-track which was located on the south edge of his

1 property so that vehicles could be parked on the southern portion of his property. He said that item 10.C on
2 page 9 of 19 of the Revised Draft Summary of Evidence states that one of the things that the side yard is
3 intended to do is ensure adequate light and air. He said that he designs and builds energy efficient homes
4 and he has a lot of glass on the south side of the home and any structure which is built or moved in front of
5 the home will block the light and air that helps heat the home and would also violate the separation distance
6 between structures. He said that having the structure in its current placement keeps it away from anything
7 else should there be a problem.

8
9 Mr. Anderson stated that item 10.D on page 10 of 19 states that a rear yard is presumably intended to ensure
10 a minimum amount of onsite recreational area. He said that if the shed is moved within the 15' x 40' vacant
11 area in his yard it would eliminate the only recreational area that he has for his property. He noted that item
12 10.F indicates that the requested variance is not prohibited by the Zoning Ordinance.

13
14 Mr. Anderson stated that a little bit of mudslinging has been done during the public hearing process which is
15 normal when someone objects to a request. He said that it was mentioned that the exposed insulation is a
16 fire hazard however if he had not been ordered to stop construction the current exposed insulation would
17 have been covered. He said that it was mentioned that he blocks the public sidewalk and his vehicles extend
18 out into the cul-de-sac however it is not him that does this practice but it is his neighbors who routinely do
19 this. He said that it was also mentioned that his property his hurting property values in the neighborhood
20 especially the property to the east of the subject property. He said that three years ago the family who
21 resided in the property to the east was evicted because they could not make their payments and a notice was
22 posted to the front door and remained there for three years. He said that the yard was not mowed and no care
23 was taken for the house.

24
25 Mr. Thorsland informed Mr. Anderson that this portion of the public hearing is to indicate his intent only
26 and not to present addition testimony. He said that at a later time during the public hearing he will be called
27 upon again to present any new testimony relevant to his case. He asked Mr. Anderson if there was anything
28 that he would like to summarize at this point.

1

2 Mr. Anderson stated that things were previously mentioned at the public hearings that he needs to address,
3 such as, inoperable vehicles. He said that he does not have any inoperable vehicles or stored tires.

4

5 Mr. Thorsland thanked Mr. Anderson for his comments and requested that he present his additional
6 testimony during a later time during the public hearing.

7

8 Mr. Thorsland called John Hall.

9

10 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum A. date August 30,
11 2012, for the Board's review. He said that the memorandum reviews accessory structures in the surrounding
12 neighborhood and a map indicates staff's quick assessment. He said that it appears that Mr. Anderson is
13 correct regarding other accessory structures in the surrounding area which appear to be located in the
14 easement area. He said that the Champaign Township Map, titled "Neighborhood Analysis Map", identifies
15 nine accessory structures within the blue line that appear to have been built within a recorded utility
16 easement and nine other accessory structures appear to be too close to a property line and the shed which is
17 located east of Mr. Anderson's property is also in the same utility easement. He said that the utility shed
18 which is east of Mr. Anderson's property appears to be the type of shed which, at one time, could be moved
19 although sheds such as this tend to stay in one place and somewhat grow in to that location therefore it could
20 probably not be moved in one piece.

21

22 Mr. Hall stated that page 2 of the memorandum indicates the impact of the larger shed on the utility
23 easement. He said that if the shed has a concrete floor and a concrete footing it will be very difficult to move
24 or dismantle at any point that perhaps the UCSD needs to get to the interceptor sewer, not side sewer that is
25 within the easement. He said that there is only a few square feet of concrete slab inside the shed at this point
26 and there is no perimeter of concrete footing which may be the reason why Mark Radi, of the UCSD, did not
27 consider it as a permanent structure. Mr. Hall stated that if the Board is inclined to allow the structure to
28 stay in its current location an important condition would be to prohibit any more concrete but as a practical

1 matter he is not sure how this condition could be enforced. He said that the more concrete that is within the
2 structure the more public costs that are incurred if it ever needs to be removed although Mr. Anderson has
3 indicated that he is willing to incur those costs although if the structure remains for fifty years it will
4 probably not be Mr. Anderson who owns it at that point and that owner may not be aware of the situation.
5 He said that at a staff level he could imagine a lot of conditions that staff would recommend to impose if the
6 Board is contemplating on leaving the structure in its current location and one of those being a miscellaneous
7 document recorded with the Champaign County Recorder of Deeds so that anyone who may purchase this
8 property in the future would be aware of the variance.

9
10 Mr. Hall stated that the new memorandum proposes new evidence and revisions for items 7, 8, 10.C(2), and
11 10.G. He said that item 7 is regarding special circumstances therefore a new item 7.I is proposed as follows:
12 The adjacent property to the east also has a shed that is located in the same utility easement. That shed
13 appears to be approximately 10 feet by 12 feet in area and may not be anchored into the ground by footings.
14 Sheds smaller than 150 square feet in area are only exempt from the fees for a Zoning Use Permit but they
15 are required to meet all other requirements of the Zoning Ordinance. He said that item 8 is regarding the
16 criteria that discusses practical difficulties or hardships in carrying out the strict letter of the regulations
17 therefore a new item 8.J is proposed as follows: An aerial photo analysis of the surrounding neighborhood
18 of the subject property was conducted, during this analysis staff found 9 accessory structures that appear to
19 have been built within a recorded utility easement, including a shed which is immediately to the east of the
20 subject property. Staff also found 9 accessory structures that appear to have been built too close to a
21 property line. Without a field survey staff could not verify this, but it appears that the sheds that are subject
22 to Parts A, B, and C of this variance are likely not the only sheds in the neighborhood built within a recorded
23 utility easement or too close to a property line. He noted that he cannot stress enough that there are other
24 zoning violations in the neighborhood and staff will follow up on those violations after this hearing and it
25 may be that the Board will see many of those property owners for variances. He said that regardless of the
26 outcome of this case staff will be completing that follow-up.

27
28 Mr. Hall stated that item 10 is in regard to the criteria whether the variance is in harmony with the general

1 purpose and intent of the Ordinance therefore item 10.C.(2) is proposed as follows: Separation of structures
2 to prevent conflagration: The subject property is within the Savoy Fire Protection District and the station is
3 approximately 2 miles from the subject property. The nearest structure to the largest shed (Parts A and C of
4 the Variance) is a shed on the property to the east. The shed is in close proximity and it is difficult to
5 estimate how close the shed is from an aerial photograph, based on a site visit to the subject property on
6 August 29, 2012, staff estimated that there is approximately 2 to 3 feet between the two shed. The nearest
7 structure to the smaller shed (Part B of the Variance) is the dwelling on the property to the south and the
8 dwelling is approximately 14 feet (estimated from an aerial photo) from the smaller shed. The minimum
9 separation required by the Ordinance in the R-1 District between an accessory building on one lot and a
10 principal building on an adjacent lot is 15 feet. He said that there is almost a minimum expected separation
11 there even though of that approximately 13 feet is on the property to the south, the point being, that the
12 concern about conflagration is not valid because there is enough separation already.

13
14 Mr. Hall stated that new item 10.G is in regard to the considerations related to the prohibition on
15 construction in drainage easements and utility easements and is proposed as follows: (1) The prohibition on
16 construction in drainage easements and utility easements in paragraph 4.2.2 D. were added to the Zoning
17 Ordinance in Ordinance No. 544 (Case 105-AT-97 Part D) that was adopted on November 18, 1997. The
18 evidence, testimony, and Finding of Fact for Case 105-AT-97 Part D merely discussed that the amendment
19 gave the Zoning Administrator the authority to prevent construction in these areas where construction is not
20 supposed to occur; and (2) If the larger shed is allowed to remain in the utility easement the shed may result
21 in additional costs for any utility that needs to access something within the easement such as the interceptor
22 sewer line. And, provided that the property owner reimburses that utility for any additional costs incurred,
23 allowing the shed to remain may be acceptable. However, the presence of the shed in the utility easement is
24 a hidden cost for any future owner of the property and a future owner might be less agreeable about paying
25 those costs. If the Zoning Board allows the shed to remain in the easement the Board may require a
26 Miscellaneous Document to be filed with the Recorder of Deeds and the Document could make any future
27 owner of this property aware of this zoning case and any and all conditions that apply to the shed. The actual
28 text of that Document should be established in the public hearing.

1

2 Mr. Hall distributed a new Supplemental Memorandum B. dated August 30, 2012, to the Board for review.
3 He said that the memorandum corrects item 10.A of the Summary of Evidence as follows: The petitioner
4 has testified on the application, "Granting the variance will: a.) provide a buffer for the neighbors four dogs;
5 and b.) allow backyard room to park Boy Scout trailer and work trailer; and c.) allow enclosed storage space
6 for construction materials; and d.) allow sunlight to greenhouse; and 3.) allow runoff water to North and
7 East. Mr. Hall stated that staff had made a mistake in transcribing the petitioner's response in that the
8 petitioner had inserted the four dogs in the line above and staff thought that it applied to the line below
9 therefore it was an honest mistake.

10

11 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

12

13 Mr. Thorsland asked Mr. Hall if the 14 feet was within an Administrative Variance therefore the Board
14 would not need to address that issue.

15

16 Mr. Hall stated yes, however, staff has not granted an Administrative Variance and in an Administrative
17 Variance all it takes is one objecting neighbor, for no particular variance, and that objection would require a
18 full variance. He said that if the Board is inclined to only approve that portion of the variance it would raise
19 a legal question. He asked if that would mean that Mr. Anderson would have to agree to modify the petition
20 because the Board could approve that portion and deny the remaining otherwise the Board would have to
21 deny everything and require Mr. Anderson to apply for an Administrative Variance which could end up
22 being a another entire variance request. He said that this is a very complicated situation and he would not
23 want anyone to be surprised by the outcome therefore he would request that the Board consider this situation
24 carefully before taking any action.

25

26 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall and there were none.

27

28 Mr. Thorsland called Denny Anderson to testify.

1

2 Mr. Denny Anderson stated that as a point of clarification there is a main shed that has storage for the Boy
3 Scout materials and there is another shed that is the length of the fence, 4-1/2 feet wide and 20⁺ feet long and
4 that second lower shed is the shed that is within 14 feet of the house and it was never his intention make that
5 a permanent shed. He said that he is perfectly willing to withdraw that and he has already begun removing
6 materials and there is one photograph showing some materials being stored in the front of his home and
7 those materials are now gone. He said that if it would simplify the application process to simply remove that
8 portion of it and a reasonable amount of time allowed for its removal he would be glad to do so and he has
9 received permission to begin moving the materials to Camp Drake. He said that will not build any more tree
10 houses for the Boy Scouts on his property.

11

12 Mr. Anderson stated that testimony included the existence of a school bus on his property. He said that there
13 was a situation, after purchasing the school bus for the Boy Scout Troop, that a neighbor came to him to
14 report an issue with the bus. Mr. Anderson stated that he is aware that the existence of the school bus on his
15 property is a potential problem for the neighbors although it is not illegal to own a school bus or have it
16 parked on his property. He said that four years ago he took the school bus to a storage area, AAA Storage,
17 and paid a monthly fee for that storage and if he was not trying to be a good neighbor he would not have
18 done such to mitigate the impact on his neighborhood by the existence of the school bus. He said that there
19 is no law that indicates that he to keep the school bus in a storage facility.

20

21 Mr. Anderson stated that he did mention during his previous statement that the house to the east of his
22 property is vacant. He said that the home has been vacant with no curtains and no lights for almost three
23 years and twice he had reported a sink hole on the property to the water company. He said that the home was
24 unkept and it was not desirable for him to live next to the property and the water company refused to fix the
25 sink hole in the front yard because it was the property owner's responsibility. He said that whoever recently
26 purchased the home has spent a lot of money on the home and they have fixed the sink hole. He said that a
27 grad-student knocked on his door the other day indicating an interest in the house and stated that new
28 windows, doors and new drywall had been installed and the interior had been painted. Mr. Anderson stated

1 that the reason that the house was vacant for three years was not due to wrong doing of his but because there
2 was no attempt to sell it. He said that there was an eviction notice on the front door and a swamp in the front
3 yard.

4
5 Mr. Anderson stated that he does not have any inoperable vehicles on his property. He said that he has read
6 the proposed special conditions for approval and he finds those special conditions reasonable.

7
8 Mr. Thorsland stated that it appears that the materials are being moved to indoor storage or are being
9 removed completely from the property therefore he assumes that the temporary small shed will also be
10 removed.

11
12 Mr. Anderson stated yes, the 4-1/2 foot shed will go way.

13
14 Mr. Thorsland stated that Mr. Hall indicated that the larger structure does have a partial concrete floor. He
15 asked Mr. Anderson if he agrees to the proposed special condition prohibiting further addition to the existing
16 concrete slab inside of the shed.

17
18 Mr. Anderson stated that if not continuing the floor is a condition for having the shed at least within the
19 utility easement then that is fine. He said that he will not pour a permanent concrete floor in the shed.

20
21 Mr. Kass, Associate Planner, stated that he visited the property on August 29, 2012, and the concrete pad is
22 located in the northeast corner of the shed which would be part of the shed that is located in the utility
23 easement. He noted that the existing concrete pad is not a large pad.

24
25 Mr. Anderson stated that he agrees with the proposed special condition to not pour any additional permanent
26 concrete in the shed inside of the easement area.

27
28 Mr. Passalacqua asked Mr. Anderson if the temporary shed serves as a buffer between his property and the

1 four dogs.

2

3 Mr. Anderson stated that the fence, which was the back side of the temporary structure, would remain and
4 serve as a buffer.

5

6 Mr. Passalacqua asked Mr. Anderson if he had ever filed a complaint with Champaign County Animal
7 Control regarding the four dogs since one of the dogs jumped up upon the fence and attempted to bite him,.

8

9 Mr. Anderson stated no. He said that the dog only got grabbed his sleeve and did not bit him although it did
10 scare him.

11

12 Mr. Passalacqua asked Mr. Anderson if the only reason why he stopped construction and did not cover the
13 exposed insulation was because he was informed that he did not have a permit.

14

15 Mr. Anderson stated that Mr. Passalacqua was correct.

16

17 Mr. Passalacqua stated that the nature of much of Mr. Anderson's testimony indicated that everyone else has
18 sheds or structures, for reasonable purposes or not, in the easement therefore why can't he do the same.

19

20 Mr. Anderson stated no, he only wants equitable treatment.

21

22 Mr. Passalacqua stated that staff will also address those sheds and structures which are also in violation of
23 the Zoning Ordinance.

24

25 Mr. Anderson stated that if it is determined that any structure within five foot must be removed then it would
26 be reasonable for him to follow suit but it would be more reasonable to expect that people would place a
27 storage shed in places that are out of the way rather than in the middle of their yard to leave a five foot path
28 around it. He said that this situation is not occurring in just his neighborhood but in any neighborhood in the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

County.

Mr. Passalacqua stated that these situations is why zoning exists and just because these sheds are out of compliance does not give justification for his shed to be located in its current location.

Mr. Anderson stated that he understands Mr. Passalacqua’s comments.

Mr. Thorsland asked the Board if there were any additional questions for Mr. Anderson.

Mr. Courson asked Mr. Anderson if previously testified that he was a general contractor.

Mr. Anderson stated yes.

Mr. Courson asked Mr. Anderson if he had a business location.

Mr. Anderson stated that he provides services from his vehicle.

Mr. Courson asked Mr. Courson if he operates his business out of his home.

Mr. Anderson stated that he calls his vehicle his office. He said that he doesn’t have an office in his home although he does store some of his tools in his garage.

Mr. Thorsland asked the Board if there were any additional questions for Mr. Anderson and there were none.

Mr. Thorsland asked if staff had any questions for Mr. Anderson and there were none.

Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Anderson.

1 Mr. Thorsland called Charlotte Padgett to the cross-examination microphone.

2

3 Ms. Charlotte Padgett asked Mr. Anderson if he testified that there was not much space along the east of his
4 house for a backyard.

5

6 Mr. Anderson stated that his home is located on a corner lot and his backyard is indicated on the site plan as
7 a 15' x 45' area.

8

9 Ms. Padgett asked Mr. Anderson if he believes that the 15' x 45' area is too small to really do anything upon.

10

11 Mr. Anderson stated that if the shed were built in that area it would eliminate the only recreational space that
12 is available on his lot.

13

14 Ms. Padgett asked Mr. Anderson to indicate how long he has resided on the subject property.

15

16 Mr. Anderson stated that he has resided upon the property for approximately five years.

17

18 Mr. Thorsland asked the audience if anyone else desired to cross examine Mr. Anderson at this time.

19

20 Mr. Thorsland called Patti Belleville to testify.

21

22 Ms. Patti Belleville, who resides at 511 Park Lane Drive, Champaign, stated that she is the Chair of the
23 Windsor Park Homeowner's Association and is present at the public hearing to represent the neighborhood.
24 She said that she received a call from Ms. Susan Marten, who resides at 2403 Lyndhurst Drive, Champaign,
25 and Ms. Marten indicated that she would not be able to attend tonight's meeting due to health issues. Ms.
26 Belleville stated that Ms. Marten indicated that she would be happy to testify by telephone if the Board
27 desired to call her during this meeting. Ms. Belleville stated that she informed Ms. Marten that she would
28 convey Ms. Marten's concerns to the Board.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Ms. Belleville stated that Ms. Marten indicated that she had called the Champaign County Planning and Zoning office several times to complain about the construction of Mr. Anderson's shed. Ms. Belleville said that Ms. Marten also indicated that in January she had a problem with her cable and when Comcast responded to Ms. Marten's call Comcast could not get to the pole with their cable because Mr. Anderson's shed had been built around the pole. She said that Comcast came back later and removed their cable lines and buried them in the ground. Ms. Belleville stated that when Mr. Anderson built his shed he removed the guy wires for the utility pole and Ameren has become aware of this removal and will be relocating the wires but unfortunately Ameren is considering relocating those guy wires in Ms. Marten's back yard in her goldfish pond which will destroy the landscaping that Ms. Marten's has had completed on her property.

Ms. Belleville stated that she would be happy to work with the County with informing the residents of her community about any shed violations that may have occurred in the neighborhood. She said that a number of the homes that were indicated on the map have changed ownership and many of those owners are probably unaware that the sheds are in violation of the easements.

Mr. Thorsland asked the Board if there were any questions for Ms. Belleville and there were none.

Mr. Thorsland asked if staff had any questions for Ms. Belleville and there were none.

Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Belleville.

Mr. Denny Anderson asked Ms. Belleville if she indicated that guy wires had been removed.

Ms. Belleville stated yes. She said that Steve Estes, representative for Ameren, informed her that guy wires which had supported the utility pole had been removed and would have to be replaced to support the power pole.

1 Mr. Anderson asked Ms. Belleville if she is sure that the Ameren representatives name was Steve Estes.

2

3 Ms. Belleville stated yes.

4

5 Mr. Thorsland called Charlotte Padgett to testify.

6

7 Ms. Charlotte Padgett, who resides at 1 Lyndhurst Place, Champaign, stated that has a concern about the 14
8 feet between the structures although if the other structure is removed it would remove her concern. She said
9 that she does have concern regarding the size of the building, not the height, and how significantly different
10 it is in length in comparison to the size of a normal portable shed. She said that should the variance be
11 approved his property will be re-assessed.

12

13 Mr. Thorsland asked the Board if there were any questions for Ms. Padgett and there were none.

14

15 Mr. Thorsland asked if staff had any questions for Ms. Padgett.

16

17 Mr. Hall asked Ms. Padgett if the re-assessment would be the typical re-assessment that would be completed.

18

19 Ms. Padgett stated yes. She said that she and the Champaign Township Assessor would drive through the
20 neighborhood and review every property. She said that they typically review every property in the township,
21 which consists of approximately 5,000 properties, every four years and this is their quad year. She said that
22 she is currently inputting all of the property's information in Champaign Township into a new computer
23 system therefore she reviews the current records and compares those records to the GIS map and anything
24 that differs requires a site visit to the property.

25

26 Mr. Thorsland asked if anyone desired to cross examine Ms. Padgett and there was no one.

27

28 Mr. Thorsland asked Mr. Anderson if he would like to respond to Ms. Padgett's testimony or present further

1 information.

2

3 Mr. Anderson stated yes.

4

5 Mr. Thorsland called Denny Anderson to testify.

6

7 Mr. Anderson stated that Ms. Belleville's testimony is inaccurate because there have been no guy wires
8 removed from the utility pole and the Ameren representative's name is Chris Estes not Steve Estes. He said
9 that Mr. Estes did visit the property several times and discussed alternatives in detail. He said that the top of
10 the pole shifts toward his property about five feet therefore a guy wire does come down through there and
11 two alternatives were discussed. He said that the guy wire could be exteriorized or a pocket made so that the
12 wire would come down and be seen. He said that he does not understand Ms. Belleville's comment because
13 he does not believe that Mr. Estes would have said such a thing therefore he believes that her statement is
14 false. He said that the one alternative, which would prevent ruining Ms. Marten's goldfish pond, is to extend
15 a wire to the north. He said there is a pole to the north and a horizontal wire to that pole would be the
16 desired route because that pole already has a guy wire therefore eliminating the guy wire on his property. He
17 said that he had the cable company and the other utility companies visit his property to mark their easements
18 and it was determined that nothing is located on the eastern portion of the property.

19

20 Mr. Thorsland asked the Board if there were any questions for Mr. Anderson.

21

22 Mr. Palmgren asked Mr. Anderson when the shed was constructed.

23

24 Mr. Anderson stated that he began construction a few months ago and was then notified that he had to have a
25 permit from the County.

26

27 Mr. Palmgren asked Mr. Anderson if discussed his plans with Mr. Estes prior to the construction.

28

1 Mr. Anderson stated no. He said that later Mr. Estes did approve the extension of a horizontal wire down to
2 the next pole therefore eliminating a guy wire on his property and the need for a pocket area.

3

4 Mr. Thorsland asked Mr. Anderson if he did call J.U.L.I.E. and they indicated utilities with markings on the
5 ground.

6

7 Mr. Anderson stated yes.

8

9 Mr. Hall asked Mr. Anderson if he had photographs of those markings.

10

11 Mr. Anderson stated that he does have photographs on his cell phone and he could e-mail them to staff
12 within the next few minutes.

13

14 Mr. Hall stated that there have been two people from Ameren which have been mentioned during testimony,
15 Chris Elliot and Steve Estes.

16

17 Mr. Thorsland asked the Board if there were any further questions for Mr. Anderson and there were none.

18

19 Mr. Thorsland stated that if possible, the Board should review the photographs regarding the markings by
20 J.U.L.I.E. He said the staff has presented a couple of options: 1. Miscellaneous Document to be recorded at
21 the Recorder of Deeds. This would make any potential homeowner aware that they are responsible for
22 paying for any services that may be needed within the utility easements; and 2. At which point when Mr.
23 Anderson no longer owns the property the shed must be removed or if something were to happen to the shed
24 it could not be reconstructed in its current location.

25

26 Mr. Thorsland called for a five minute break.

27

28 **The Board recessed at 7:52 p.m.**

1 **The Board resumed at 8:02 p.m.**

2

3 Mr. Thorsland stated that Mr. Anderson has indicated that he is in agreement with the proposed special
4 conditions and he has indicated that he will not expand the concrete floor.

5

6 Mr. Hall stated that if the Board is contemplating allowing the shed to remain in the easement then a
7 condition should be included prohibiting further concrete from being placed in the easement and a condition
8 regarding the recording of a miscellaneous document. He said that apparently there are nine more structures
9 which are located in easements that require staff follow-up and he doubts that any of those structures are as
10 large as Mr. Anderson's and he doubts that any of those structures have concrete. He said that perhaps the
11 Board would rather wait until staff investigates these other structures.

12

13 Mr. Thorsland asked how long that review will take.

14

15 Mr. Hall stated that staff could prioritize that as much as they have prioritized flood map modernization in
16 the past 30 days which means that staff can do a lot if they only work on one thing.

17

18 Mr. Passalacqua stated that he is having a hard time in approving this request just because there are other
19 structures within the easements as well. He said that he understands that the other structures must be
20 addressed but it does not justify the violation.

21

22 Mr. Thorsland stated that his thoughts are not so much, "forgive me because."

23

24 Mr. Hall stated that Edgewood Subdivision has a lot of trouble with small sheds being placed too close to
25 the property lines and they have tried to deal with it and this is a common problem that is wide spread
26 throughout the County. He said that he is not sure if sheds being located in utility easements is a common
27 problem throughout the County but every subdivision does have utility easements around most of the lot
28 lines.

1

2 Mr. Thorsland stated that if the Board decides to impose a condition regarding the floor it is a condition that
3 must be imposed on the other structures as well.

4

5 Mr. Hall stated that realistically preparing ten notices, sending them out in the mail and waiting two weeks
6 for a response would not indicate that a month is enough time to report any results to the Board. He said that
7 he would imagine that two months would be more than adequate and there is plenty of time on the docket for
8 this case to be continued. He said that he does not know if the side shed could be improved even further in
9 two months.

10

11 Mr. Thorsland asked Mr. Hall if a building permit has been submitted for the shed.

12

13 Mr. Hall stated yes, but staff only requires fees for those things that will remain.

14

15 Mr. Thorsland asked Mr. Hall if Mr. Anderson could be allowed to make the structure weather tight.

16

17 Mr. Hall stated that staff has never made a problem for any construction that is outside of the five foot
18 utility easement and placing a roof on anything outside of the easement is not an issue.

19

20 Mr. Thorsland asked Mr. Anderson if he understands Mr. Hall's statement.

21

22 Mr. Anderson stated yes.

23

24 Mr. Kass distributed the photographs indicating the results of the J.U.L.I.E. visit on Mr. Anderson's property
25 for the Board's review.

26

27 Mr. Courson stated if the City marked "ok" then it would appear that they do not have any lines in the area.

28 He said that it appears that someone just took some spray paint and painted "ok" for Ameren and the City.

1 He said that normally the paints would not match for each utility because they are painted by separate
2 people.

3

4 Mr. Hall stated that he does not believe that the City has jurisdiction over interceptor sewers and that
5 interceptor sewers were under the jurisdiction of the sanitary district.

6

7 Mr. Courson stated that there is no indication of “ok” by the sanitary district. He asked Mr. Hall if there is
8 indeed a sanitary line located within this easement because if there is he does not know how the photographs
9 could be accurate.

10

11 Mr. Hall stated yes.

12

13 Mr. Thorsland stated that the yellow flag and paint is indicated in the photograph.

14

15 Mr. Thorsland asked Mr. Anderson to explain the photograph.

16

17 Mr. Anderson stated that a green flag, representing UCSD, is located near the fence in the vertical
18 photograph which is indicating the location of the sewer. He said that the red flag and paint indicates electric
19 service, orange indicates cable and yellow indicates gas.

20

21 Mr. Kass asked Mr. Anderson if he has a better photo of the green flag.

22

23 Mr. Anderson stated no, but the flag is still there and the green paint is still apparent.

24

25 Mr. Thorsland asked the Board if there were any additional questions for Mr. Anderson and there were none.

26

27 Mr. Thorsland asked if staff had any additional questions for Mr. Anderson and there were none.

28

1 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Anderson and there was no one.

2

3 Mr. Thorsland asked the Board if they would like to continue the case to a later date or move forward
4 tonight.

5

6 Mr. Passalacqua stated that he does not believe that the other sheds which are in violation will have any
7 bearing on this case.

8

9 Mr. Thorsland stated that the results of this case will have bearing on the other sheds which are in violation.

10

11 Ms. Capel stated that the Board will be setting a precedent with this case.

12

13 Mr. Thorsland stated that if there are other sheds with concrete the conditions which are approved for this
14 case will be relevant for those future cases as well.

15

16 Ms. Capel stated that this case will have bearing beyond this particular neighborhood.

17

18 Mr. Passalacqua stated that zoning exists and whether or not this shed was built or not there are other sheds
19 that are out of compliance. He said that maybe people do not have to obtain a permit for one that is less than
20 150 square feet but they still have to comply with the requirements of the Zoning Ordinance and if they are
21 outside of the Ordinance then they are outside of the Ordinance.

22

23 Mr. Courson stated that he would imagine that most of the sheds are probably portable garden sheds and
24 should be relatively easy. He said that he is going to have a problem getting past Finding of Fact 3. He said
25 that if the petitioner had submitted a building permit prior to construction then he would have known about
26 all of the setbacks and could have worked around those setbacks before beginning construction. He said that
27 he is going to have a hard time getting past his asking for forgiveness after the fact on something that he
28 should have known about since he is a builder himself. He said that if this shed was built within the City of

1 Champaign, which is across the street to the north, the shed would not comply.

2
3 Mr. Thorsland asked the Board if they wanted to move forward or continue to a later date.

4
5 Mr. Hall stated that he can imagine three portions of this variance not being approved. He said that staff
6 advertised this case in parts to allow for flexibility for the Board and the petitioner but if the petitioner is not
7 willing to accept that flexibility then he does not believe that the Board can grant it. He said that if the
8 petitioner is not willing to drop those parts of the variance that the Board has made clear that they are not
9 inclined to approve then the entire variance will be denied. He said that the Board needs to ask the petitioner
10 if he is willing to modify his request.

11
12 Mr. Thorsland stated the perhaps the Board should walk through the finding to determine where there are
13 problems. He asked Mr. Courson if there is any condition which would assist with the parts of the request
14 that he has concerns about.

15
16 Mr. Courson stated that he cannot answer finding #3 in any other manner than DO.

17
18 Mr. Hall stated that, as staff always advises the Board in these situations, what if this had been presented to
19 the Board as a proposed plan with the justification being that the lot is a corner lot with not much backyard
20 and the desire to build in this area for these reasons. He said that if the reasons are sound then they are
21 sound now. He said that the fact that the shed currently exists is irrelevant and what the facts suggest that
22 whether this could have been approved if the proper process had been followed in the beginning. He said
23 that the fact the process wasn't followed is irrelevant.

24
25 Mr. Courson stated that he would not have approved it either way. He said that simply building around a
26 utility pole on a utility easement is not something that he would ever approve.

27
28 Mr. Passalacqua stated that this is very similar to the Wilbur Heights storage shed proposal that was before

1 the Board in that no space could be found to locate a functional building in the given space. He said that he
2 has a problem with the size of the shed and the placement being located around the utility pole and within
3 the easement.

4
5 Mr. Hall stated that the four feet that will be lost in the utility easement could be made up easily because it is
6 a small amount of space. He said that the total area that is too close to both property lines could easily be
7 made up although there is a question in his mind if that is enough area to enclose everything on the property
8 but that remains to be seen.

9
10 Mr. Passalacqua stated that he does not believe that he could approve this regardless whether or not it is
11 already built. He said that does not believe that just because there are other structures in the neighborhood
12 which are in violation does not give reason to approve this request.

13
14 Mr. Thorsland asked Mr. Passalacqua if he would be willing to continue the case to see if Mr. Anderson can
15 reduce or eliminate the need for most of the variances.

16
17 Mr. Passalacqua stated that Mr. Anderson could probably answer that tonight.

18
19 Mr. Thorsland stated that if the Board moved forward and the first three findings were denied would he be
20 willing to modify the structure so that only Part D would be required.

21
22 Mr. Anderson stated that if the utility easement is the portion of the request that the Board has issue with
23 then he would be willing to move the building four feet west but still be within the five foot setback next to
24 the neighbor to the south because it would be no more of an intrusion than a six foot solid fence in that
25 location.

26
27 Mr. Thorsland stated that the utility easement is the portion that he is uncomfortable therefore would Mr.
28 Anderson's remediation be acceptable.

1

2 Mr. Courson stated yes.

3

4 Mr. Passalacqua stated yes. He asked if there is a functional square footage of the shed that will fit into the
5 perimeters of the Ordinance and does moving the shed to the west make it connected to the house.

6

7 Mr. Anderson stated that he could put the shed on rollers and move it to the west. He said that there will be
8 a small separation from the house.

9

10 Mr. Thorsland stated that the biggest problem is the utility easement and it appears that there are other sheds
11 in the neighborhood, although not as large, with the same problem and granting the variance for the other
12 side of the shed is not as big a problem because the Board does have a precedent for doing so. He said that
13 moving the shed four feet to the west and removing it from the utility easement would make this a much
14 simpler case.

15

16 Mr. Hall stated that with the site plan that the Board has in front of them currently the petitioner can expect
17 either denial for complete approval. He said that the submitted site plan is not accurate enough to do
18 anything in between the two.

19

20 Mr. Passalacqua stated that he would not suggest that the petitioner move any sheds until he returns to this
21 Board with an updated site plan indicating what the setbacks will be after they would be moved. He said that
22 the petitioner has already spent enough money without having the sheds permitted and building out of
23 compliance so moving the sheds might be more money wasted therefore another hearing is very necessary.

24

25 Mr. Thorsland stated that a new site plan addressing the Board's concerns is very necessary. He said that it
26 the biggest concern is the utility easement so that could be the starting point and he would suggest that Mr.
27 Anderson discuss any questions for comments with staff. He said that perhaps the case could be continued
28 to the October 11, 2012, public hearing.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Hall stated that October 11th is a possibility.

Mr. Passalacqua moved, seconded by Mr. Courson to continue Case 715-V-12 to the October 11, 2012, meeting. The motion carried by voice vote.

Mr. Courson asked if a condition should be imposed indicating that the structure should comply with the National Building Code.

Mr. Hall stated that when the state law requires it is when staff adds it as a condition so that it is clear to the petitioner. He said that the Residential Building Code Act only applies to new dwellings and does not apply to accessory buildings. He said that this Board can add any special condition that it believes is warranted. He said that there have been variances within the Urbana ETJ for very small side yards which required fireproofing on that portion of the structure that was within three feet of the lot line. He said that staff could check with the City of Champaign or the Village of Savoy to see what they would require. He noted that this property is within the Village of Savoy annexation area therefore the property will never be within the City of Champaign.

Mr. Courson would like staff to check with the Village of Savoy.

Mr. Thorsland entertained a motion to rearrange the docket and hear Cases 710-AT-12 and 711-AT-12 prior to Case 685-AT-11.

Mr. Palmgren moved, seconded by Ms. Capel to hear Cases 710-AT-12 and 711-AT-12 prior to Case 685-AT-11. The motion carried by voice vote.

Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required

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

18
19 **Case 710-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
20 **Ordinance by amending the Champaign County Land Evaluation and Site Assessment (LESA)**
21 **System that is referred to in Section 3; and Footnote 13 in Section 5.3; and subsection 5.4 as follows:**
22 **Part A. Revise the Land Evaluation (LE) part as follows: 1. Revise all soil information to match the**
23 **corresponding information in the *Soil Survey of Champaign County, Illinois* 2003 edition. 2. Revise all**
24 **existing soil productivity information and replace with information from *Bulletin 811 Optimum Crop***
25 ***Productivity Rating for Illinois Soils* published August 2000 by the University of Illinois College of**
26 **Agricultural, Consumer and Environmental Sciences Office of Research. 3. Delete the 9 existing**
27 **Agriculture Value Groups and existing Relative Values ranging from 100 to 0 and add 18 Agriculture**
28 **Value Groups with Relative LE ranging from 100 to 0. Part B. Revise the Site Assessment (SA) part**
29 **as follows: 1. Add definitions for “agriculture”; “agricultural production”; “animal units”; “best**
30 **prime farmland”; “farm dwelling”; “livestock management facility”; “non-farm dwelling”; “principal**
31 **use”; and “subject site”.; and 2. Delete SA Factors A.2.; A.3.; B.2.; B.3.; C.2.; D.2.; E.1.; E.2.; E.3.;**
32 **E.4.; F.1.; F.2.; F.3.; F.4.; and F.5.; and 3. Revise SA Factor A.1. to be new Factor 8; Factor B.1. to be**
33 **new Factor 7; Factor C.1. to be new Factor 5; Factor D.1. to be new Factor 1; and revise scoring**
34 **guidance for each revised Factor, as described in the legal advertisement; and 4. Add new SA Factors**

1 2a.; 2b.; 2c.; 3.; 4.; 6.; 9.; 10.; and scoring guidance for each new Factor, as described in the legal
2 advertisement. Part C. Revise the Rating for Protection as described in the legal advertisement. Part
3 D. Revise the general text and reformat.
4

5 **Case 711-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
6 **Ordinance as follows: Part A. In Section 3, revise the definition of “best prime farmland” as follows:**
7 **a) delete “Relative Value of 85” and “Land Evaluation rating of 85” and replace with “average Land**
8 **Evaluation rating of 91 or higher”; and b) add “prime farmland soils and under optimum**
9 **management have 91% to 100% of the highest soil productivities in Champaign County, on average,**
10 **as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*”; and c) add “soils**
11 **identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation**
12 **and Site Assessment (LESA) System”; and d) add “Any development site that includes a significant**
13 **amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3**
14 **and/or 4 soils:. Part B. Revise Footnote 13 of Section 5.3 to strike references to “has a Land Score**
15 **greater than or equal to 85 on the County’s Land Evaluation and Site Assessment System” and**
16 **replace with “is made up of soils that are BEST PRIME FARMLAND” Part C. Revise paragraph**
17 **5.4.4 to strike references to “has a Land Evaluation score greater than or equal to 85 on the County’s**
18 **Land Evaluation and Site Assessment System” and replace with “is made up of soils that are BEST**
19 **PRIME FARMLAND”**
20

21 Mr. Thorsland asked the petitioner if there was any new information to share with the Board regarding Cases
22 710-AT-12 and 711-AT-12.
23

24 Mr. John Hall, Zoning Administrator, distributed Supplemental Memorandums dated August 30, 2012, for
25 Cases 710-AT-12 and 711-AT-12 to the Board for review. He said that the memorandums include the
26 Preliminary Draft Finding of Facts for each case. He said that attached to the Supplemental Memorandum
27 for Case 710-AT-12 is the proposed amendment as it would go to the County Board. He said that both of the
28 findings have new evidence that has been added and is underlined. He said that the Board has seen most of
29 the evidence for Case 710-AT-12 previously but there is some new evidence for review. He said that the
30 Board has not seen formatted evidence for Case 711-AT-12 but has seen a lot of the information therefore
31 everything that is in the summary has been handed to the Board on memos and only the things that are
32 underlined are what the Board has not seen previously. He said that he does not believe that the Board is
33 ready for final action but the Finding of Facts are ready for final action. He said that if cases progress, which
34 he assumes they will, we will be adding to these findings.
35

8/30/12

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 Mr. Thorsland informed the audience that anyone wishing to testify in these cases must sign the witness
2 register by which they solemnly swear that the evidence that they present will be the truth, the whole truth,
3 and nothing but the truth. He asked the audience if anyone desired to sign the witness registers at this time.

4
5 Mr. Thorsland stated at a previous meeting Kevin Donoho discussed that the LESA is about the soil and he
6 agrees with Mr. Donoho. Mr. Thorsland stated that the SA portion is about the site and not just about the
7 soil that is on that site. He said that there are questions regarding how many houses are around the site and
8 there are questions whether or not the site is located in the CUGA. He said that these questions are not about
9 soil but about site assessment and what that site entails. He said that at the last hearing he suggested
10 additional points for site management and Mr. Passalacqua suggested that he share those suggestions with
11 the Board tonight. Mr. Thorsland distributed a handout titled, LESA Score Suggestions, to the Board for
12 review.

13
14 Mr. Thorsland stated that in his handout he discusses production area which is stuff that is actually
15 happening on the site. He said that he has 38 acres but his actual production is only on approximately 25 of
16 those acres because he has a lot of waterway and stuff that he would call his own CRP. He said that as a
17 certified organic farmer he is required to have a 30 foot buffer around everything and his buffer is in grass
18 and hay. He said he does not consider the grass and hay as production but he could argue that it is because
19 he bales the grass and hay and feeds it to his animals. He said that he will begin with the addition of LE
20 section points based on certified organic production on all soil types. He said that if someone could show
21 that they have more than 50% of production area as certified organic, proven by the certificate issued by the
22 State, that 2 additional points should be added to the final LE score. He said that at a farmer's market many
23 people will indicate that they are organic although if you are unsure if this is true ask the producer to show
24 you their certificate. He said that if less than 50% of production area is certified organic then only 1
25 additional point should be added to the final LE score. He said that the additional points would give any soil
26 a boost for organic management and the only reference that he has for his suggestions is from what happens
27 on his farm.

28

8/30/12

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 Mr. Thorsland stated that his second suggestion is in regards to the addition of SA section points for
2 production specific infrastructure. He said that if someone can prove that their site is a food plot, not a large
3 garden on their site, with direct sales to consumers then 2 points should be added to the total score of Factor
4 5. He said that Factor 5 questions the distance the subject site is from the nearest village or city limits. He
5 said that his continuous argument has been that the food plots farms need to be close to the people who eat
6 the food. He said that there is no minimum acreage specified for a food plot but one could be easily added
7 such as someone who has a two acre plot with wild raspberries does not qualify as a food plot. He said that
8 if someone has irrigation available 365 days per year on their food plot for 50% or more of production area
9 then 2 points should be added to Factor 6. He said that there are a lot of people who have Equip Grants for
10 irrigation from the USDA for either livestock or food and that irrigation will stay with the ground because
11 someone will not come in and tear out an irrigation system that has been placed four foot underground. He
12 said that the irrigation is a benefit to food production. He said that he placed this suggestion with Factor 6
13 because Factor 6 has to do with production in the last five years. He said that if someone has installed an
14 irrigation system they are intending that the site be used for food production. He said that if there are
15 managed waterways on 50% or more of production area then 2 points should be added to Factor 6 as well.
16 He said that a managed waterway is very easy to verify and an active waterway is very important for the
17 water quality on the site as well as the surrounding area or watershed. He said that everyone who is
18 downstream from the subject site is benefited from a managed waterway. He said that his site takes in water
19 from non-organic farms and the only reason why he can keep his land certified organic is because he directs
20 that water through a managed waterway from a non-organic field through his organic field. Mr. Thorsland
21 said that his certifier has indicated that if Mr. Thorsland would just allow the water from the non-organic
22 field meander through his organic field his recertification would be denied. He said that if a site has
23 permanent facilities for management of livestock intended for consumption then 1 point should be added to
24 Factor 10. He said that this could include fences, irrigation and buildings clearly used for livestock
25 management for consumption. He said that there are many people who call their property a farm because
26 they have two horses in the backyard and they would not be included in his suggestions. He said that this is
27 for people who raise livestock for food whether it is chickens, cattle, pigs, etc. He said that if all of the
28 points are added together there are not too many sites that would suddenly jump up from low protection to

1 very high protection but it is an acknowledgement of the importance of good practice and food production
2 and how it does not always have to occur on a large piece of land. He said that it is about the dirt and what is
3 practiced on top of the dirt and it is about the site.

4
5 Mr. Thorsland stated that Tod Satterthwaite, Chair of the Champaign County Local Food Policy Council
6 submitted Resolution 2012-1 from the Champaign County Local Food Policy Council. He read that
7 resolution as follows:

8 A resolution encouraging the protection of agricultural parcels in Champaign County, Illinois
9 that are suitable for local food production.

10 Whereas, the Illinois Food, Farm and Jobs Act of 2007 calls for “expanding and supporting a State
11 local and organic food system” as well as “assessing and overcoming obstacles to an increase in
12 locally grown food and local organic food production”; and,

13
14 Whereas, the Champaign County Board created the Champaign County Local Foods Policy Council
15 to “encourage the offering of better and fresher food available locally” and to “encourage the
16 efficient use of land, and preservation and conservation of agriculture”; and,

17
18 Whereas, good sites for farms that produce locally grown food may easily be less than 25 acres and it
19 can be an advantage for them to be close to populous or urbanized areas for easy access to markets.

20
21 Now, therefore, be it resolved by the Champaign County Local Foods Policy Council to encourage
22 the Champaign County Zoning Board of Appeals and the Champaign County Board to protect not
23 only large agricultural land parcels generally used for growing row crops, but also to protect
24 agricultural land parcels that could be best suited for local food production.

25
26 Passed by the Champaign County Local Food Policy Council this 22nd day of August, 2012. Signed
27 by Tod Satterthwaite, Chair of the Champaign County Local Foods Policy Council.

1 Ms. Capel informed that she is on the Champaign County Local Foods Policy Council and abstained from
2 voting on the resolution.

3

4 Mr. Thorsland called Norman Stenzel to testify.

5

6 Mr. Norman Stenzel, who resides at 545A CR 1900N, Champaign, stated that he provided information at the
7 last public hearing regarding these cases which might coincide with the suggestions the Mr. Thorsland
8 previously provided regarding the nature certified type farming. He said that one of the documents that he
9 provided was a characterization in response to what had been happening in the LESA Committee. He said
10 that the characterization of productive farming only being row crop is probably very different than what
11 actually happens as far as farming is concerned. He said that at the last meeting Mr. Thorsland pointed out
12 that there is a variety of activities that a farm might incorporate and those activities may take place on a
13 variety of different soils and soil conditions. He said that pastures may not be on prime soil and may be on
14 rocky soil, which makes no difference to some livestock, but it doesn't mean that the site is not good for
15 being considered a farm. He said that it isn't just best prime farmland that makes up a farm and it isn't just
16 row crops that make viable farms. He said that the federal law asks you to consider the viability of farms
17 and what happens when a piece of land is converted and asks you to think about neighbors which is why one
18 of the ideas that he presented the Board dealt with the idea of neighbors. He said that it is not just the site
19 that has an impact or is impacted by a change but also how the neighboring properties are impacted
20 immediately or in the future. He said that the Federal LESA has examples of how the federal program tries
21 to consider the impact of conversion on neighboring properties and businesses that support agriculture. He
22 said that neither the state nor the local LESA's consider these kinds of things which is why he indicated that
23 they are not valid because they did not consider local food production. He said that the Board has raised
24 issues regarding the difference between row crop and local agriculture and those are not considered even
25 though the definition of agriculture presented in the local LESA includes food production. He said that if
26 that definition is used then the local instrument is not valid because it does not do what it is suppose to do
27 even in its own definition. He urged the Board to request a reconsideration of the whole thing and not just
28 piece meal it. He said that there are some contents of the present LESA that shouldn't be ignored such as the

1 2.C. He said that if someone has a large tract of super prime farmland then no points are awarded which is
2 an unfortunate conclusion in the proposed LESA. He said that the lack of consideration for enhanced soils
3 that organic agriculture provides is omitted. He said that tinkering around the edges will not do it and the
4 entire thing must be reconsidered and reconfigured.

5
6 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Stenzel and there were none.

7
8 Mr. Thorsland called Kevin Donoho to testify.

9
10 Mr. Kevin Donoho, District Conservationist with the CCNRCS, which is part of the USDA, stated that a lot
11 of issues have been brought up and we all have our opinions about all of the issues which are being
12 discussed. We said that we can talk about the differences amongst existing row crop production systems,
13 conventional tillage, reduced tillage, mulch tillage, ridge tillage, strip tillage, conservation tillage versus non-
14 conservation tillage, etc. He said that all of those different types of management practices can be discussed
15 but they do not change the soil or the fact that Drummer is still Drummer, Dana is still Dana and the tools
16 that we have to identify those things exist and can be identified and referenced to *Bulletin 811* that was
17 referenced earlier in the reading. He said that management practices and things that we do to the soils such
18 as drainage introduction of cover crops, use of cover crops, green manure, regular crop manures, longer crop
19 rotations, introducing hay into rotations, can have lasting positive benefits to soils but they do not change the
20 soils. He said that you can make the same soils better by those management practices and those practices are
21 encouraged. He said that part of his job is to strongly promote cover crops and their use but it is hard to get
22 people with large acreages to think about something else that is going to take time to do therefore requiring
23 more management on their part. He said that excellent points have been made and he can see some value to
24 a lot of those points such as adding points to certain things within a category however there is a maximum
25 point score, period. He said that there is a maximum point score for the LE and the SA and the maximum
26 cannot be exceeded. He said that if anything were done in the future regarding the points within any one
27 particular category he would not be adverse to but it is beyond him and he cannot speak for the whole
28 Committee. He said that the Committee's decision was made as a Committee and that decision is before this

8/30/12

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 Board for review now. He said that the Board gets to hear the Committee's points and arguments as to how
2 they got to this point where the document can be at this Board. He said that the document is not perfect and
3 the Committee has indicated such many times but the tool that was developed years ago was also not perfect
4 because we are redoing it now. He said that a great deal of effort was put into the creation of the tool that is
5 before this Board and he encouraged the Board to discuss it as much as the Board desires but understand the
6 purpose of the tool, why it was developed, the purpose of its function and what is to gain by it in the end.

7
8 Mr. Donoho stated that adding points to categories is great but does it change after ten years after the land is
9 sold to someone else because they may not see things as the previous landowner did and they may not
10 choose to be organic and use a different practice. He said that regardless of the practice the soil remains as it
11 is and the land remains where it is.

12
13 Mr. Donoho stated that he is available to address any questions or comments that the Board may have.

14
15 Mr. Thorsland asked the Board if there were any questions for Mr. Donoho.

16
17 Ms. Capel asked Mr. Donoho if he is only addressing the LE with his comments.

18
19 Mr. Donoho stated no, he is addressing both the LE and the SA.

20
21 Ms. Capel stated that as people move in to the area your score will be changed although it will not be by the
22 property owner's choice.

23
24 Mr. Donoho stated yes, but the land itself does not change and the location of the site does not change.

25
26 Ms. Capel stated that the location itself does not change but the external factors that affect the site do
27 change.

28

8/30/12

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 Mr. Hall stated that if someone is located on best prime farmland this system does not consider anything
2 after 2011. He said that the “creep” is under control under item 8 of the SA.

3

4 Mr. Thorsland asked the Board if there were any additional questions for Mr. Donoho.

5

6 Mr. Thorsland stated that if someone else took over his property and they discontinued his current practice
7 the next evaluation would be diminished.

8

9 Mr. Hall asked when a LESA assessment would be completed under one manager and not under another.

10

11 Mr. Donoho stated that this is his point in not being in favor of anything other than the way that the proposed
12 LESA has been presented to this Board. He said that it addresses the issues that have been discussed about
13 playing favorites to someone who manages well, does not manage well, etc. He said that the soil erosion
14 that has occurred on a property has already been identified on the soil map. He said that erosion is a number
15 indicated at the end and if there is no number then there is only slight erosion. He said that erosion is a crude
16 way of measuring management over an extended period of time, such as fifty to seventy-five years.

17

18 Mr. Thorsland asked if this is the time frame that the erosion number indicates.

19

20 Mr. Donoho stated that the timeframe is since the land has been farmed because under natural conditions if it
21 were all timber and/or grass there would be no numbers.

22

23 Mr. Thorsland stated that if Drummer soil washes on to his Xenia soil is his Xenia soil now Drummer soil.

24

25 Mr. Donoho stated no, he would have Xenia soil with Drummer soil on top.

26

27 Mr. Thorsland stated that there is a fair amount of new information and he believes that there is still a lot of
28 discussion that is required. He said that he would like adequate time to read the information again prior to a

1 final determination. He requested a continuance date for Cases 710-AT-12 and 711-AT-12.

2

3 Mr. Thorsland noted that he may absent for the September 27th meeting therefore he would prefer to not
4 continue these cases to that date.

5

6 Mr. Thorsland entertained a motion to continue these cases to October 11th.

7

8 **Ms. Capel moved, seconded by Mr. Palmgren to continue Cases 710-AT-12 and 711-AT-12 to the**
9 **October 11, 2012, meeting. The motion carried by voice vote.**

10

11 Mr. Passalacqua asked if continuing these cases to the October 11th meeting is being very bold since the
12 Anderson case is also scheduled for that meeting. He asked if the October 11th meeting will be held at 6:00
13 p.m. rather 7:00 p.m.

14

15 Mr. Thorsland stated that the time of the meeting will be discussed at a later time. He asked Mr. Passalacqua
16 if he would be more comfortable in continuing these cases to the September 13th meeting instead of the
17 October 11th.

18

19 Mr. Hall stated that regardless of when the case is continued he has no idea what staff is supposed to be
20 doing which is actually a good thing because the Board could have a special meeting at a different location
21 to deal with just Cases 710-AT-12 and 711-AT-12.

22

23 Mr. Thorsland asked Mr. Hall if the budget would allow for a special meeting.

24

25 Mr. Hall stated that he knows several County Board members who would like to see these cases at the
26 County Board no later than the October Committee meeting.

27

28 Mr. Thorsland asked if the Board could meet on September 6th.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Hall asked what one week gives the Board.

Ms. Capel stated that one week is not enough time.

Mr. Thorsland asked if the Board has to meet on a Thursday.

Mr. Hall stated no.

Mr. Thorsland asked the Board if they were available for September 18th.

Mr. Palmgren stated that he would not be available for a meeting on September 18th.

Mr. Thorsland asked the Board if they were available for September 12th.

Mr. Passalacqua stated that he would not be available for a meeting on September 12th.

Mr. Thorsland asked the Board if they would be available for a meeting on September 19th.

Mr. Hall noted that there have been ZBA meetings held on Friday mornings in the past.

Mr. Thorsland stated that perhaps those meetings were attended by people who did not have jobs. He asked the Board if they would be available for a special meeting to be held on Wednesday, September 19th at 7:00 p.m.

Mr. Thorsland entertained a motion to continue Cases 710-AT-12 and 711-AT-12 to a special meeting to be held on Wednesday, September 19th at 7:00 p.m.

1 Mr. Passalacqua moved, seconded by Mr. Courson to continue Cases 710-AT-12 and 711-AT-12 to a
2 special meeting to be held on Wednesday, September 19th at 7:00 p.m. The motion carried by voice
3 vote.

4
5 Mr. Thorsland called Case 685-AT-11. He entertained a motion to continue Case 685-AT-11 to the October
6 25th meeting.

7
8 Mr. Courson moved, seconded by Mr. Passalacqua to continue Case 685-AT-11 to the October 25th
9 meeting. The motion carried by voice vote.

10

11 **6. New Public Hearings**

12 None

13

14 **7. Staff Report**

15
16 Mr. Hall stated that the two map amendments that were referred to the County Board last month were
17 approved by the County Board on their Consent Agenda. He said that the Board received a copy of the
18 Hensley Township Protest for the last map amendment, Case 699-AM-12. He said that the case has been
19 placed on the Committee agenda for Tuesday evening.

20

21 **8. Other Business**

22 **A. Review of Docket**

23
24 Mr. Thorsland stated that staff has reviewed the docket with the Board during discussions of continuing
25 cases for this meeting therefore no further review is necessary. He said that he would appreciate it if the
26 Board would receive notification as soon as staff has confirmed the use of the meeting room for the special
27 meeting.

28

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

30
31 None

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

10. Adjournment

Mr. Thorsland entertained a motion to adjourn the meeting.

Mr. Courson moved, seconded by Ms. Capel to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 9:20 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Hall stated that staff has a standard protocol for sending notices to townships and every township is treated equally. He said that staff intends to follow that standard protocol in the future.

4. Approval of Minutes

None

Mr. Thorsland entertained a motion to re-arrange the docket.

Mr. Palmgren moved, seconded by Ms. Capel to re-arrange the docket and hear Case 720-V-12, Robert Dorsey and Elizabeth Buck and Case 722-S-12, Dr. Michael Boero prior to Cases 707-S-12 and 725-V-12, Daniel Williams and Cases 710-AM-12 and 711-AM-12, Zoning Administrator. The motion carried by voice vote.

5. Continued Public Hearing

Case 707-S-12 Petitioner: Daniel Williams and landowner Fran Williams Request to authorize the use of an existing Paintball Facility as an “Outdoor Commercial Recreation Enterprise” as a Special Use on 5.2 acres that is part of a 35 acre tract in the CR Conservation-Recreation Zoning District. Location: A 35 acre tract in the Southeast Quarter of the Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453 CR 600E, Dewey.

Case 720-V-12 Petitioner: Robert Dorsey and Elizabeth Buck Request to authorize the following in the R-2 Single Family Residence Zoning District: Part A. Variance from Section 4.2.1G. requirement that no accessory use or structure be established prior to a main or principal use or structure; and Part B. Variance from a maximum height of an accessory structure of 18.5 feet in lieu of the maximum 15 feet. Location: Lots 4, 5, 6, 7, and 8 of Block 4 of S.H. Busey’s First Addition to the Town of

1 **Penfield in the Southwest Quarter of Section 4 of Compromise Township and commonly known as the**
2 **dwelling at 209 Main Street, Penfield and appurtenant property a the location formerly known as 216**
3 **East Street, Penfield.**

4
5 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
6 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
7 of hands for those who would like to cross examine and each person will be called upon. He requested that
8 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
9 those who desire to cross examine are not required to sign the witness register but are requested to clearly
10 state 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 7.6 of the ZBA By-Laws are exempt
12 from cross examination.

13
14 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
15 sign the witness register for that public hearing. He reminded the audience that when they sign the
16 witness register they are signing an oath.

17
18 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

19
20 Ms. Betty Buck, who resides at 209 Main Street, Penfield, stated that she and her husband desire to build
21 a shed across the alley on property that they own which is adjacent from their home. She submitted
22 photographs and comments in response to Lucy Sparks and Renee Willcoxen’s testimony at the last
23 hearing. She said that on August 23rd she submitted a petition of support which was signed by 75% to
24 80% of the landowners in Penfield.

25
26 Ms. Buck stated that the minutes from the last meeting indicate that Ms. Sparks testified that she has
27 lived at her residence since 1976 although she has only resided there since August of 2007 and before that
28 Ms. Sparks lived at 323 Franklin in Penfield. Ms. Buck stated that Ms. Willcoxen has resided at her

1 current residence since 2005. Ms. Buck stated that she moved into her house in October 1972.

2

3 Mr. Thorsland asked the Board if there were any questions for Ms. Buck.

4

5 Mr. Palmgren stated that previous testimony indicated that at one time there were two houses on the site and
6 one was removed due to a fire and the other house was removed due to its poor condition.

7

8 Ms. Buck stated yes. She said that Mr. Dorsey's mother resided in the house that was in poor condition and
9 the property has been in the Dorsey family for years. She said that the house was in bad shape and Mr.
10 Dorsey did not want to rent it therefore due to insurance purposes and taxes he did not want to maintain a
11 house that was of no use to them. She said that they did not realize that the home was required to stay on the
12 lot.

13

14 Mr. Thorsland asked the Board if there were any questions for Ms. Buck and there were none.

15

16 Mr. Thorsland asked if staff had any questions for Ms. Buck and there were none.

17

18 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Buck and there was no one.

19

20 Mr. Thorsland called John Hall to testify.

21

22 Mr. John Hall, Zoning Administrator, stated that there are no new memorandums for this case tonight. He
23 said that everything that was included in the mailing is all of the new information that is available at this
24 time. He said that when Ms. Buck dropped off the site plan indicating the trees he worked with her at the
25 counter for a while and white pine trees based at 16 feet on center will not form a screen for a long time. He
26 said that the trees will be beautiful when they mature but that will be some time in the future. He said that
27 given that the side yard is only 18 feet wide he does not believe that it is possible to actually have a
28 vegetative screen established anytime soon unless the Board requires a pretty intensive mixture of shrubs,

1 trees and other vegetation. He said that he is not sure what the ZBA intends the trees to do although they
2 were originally a reaction to the concerns of the neighbors and he recommended the trees but if the ZBA
3 wants the proposed building to be screened sooner than 15 years the white pine trees will not be sufficient.
4 He said that the white pines were not chosen because the petitioners are trying to scrimp and not put in
5 enough vegetation but the white pines will only get to 30 to 50 feet in diameter when they mature. He said
6 that the site plan indicates very close spacing but even at the proposed spacing the white pines will not form
7 a screen for a long time.

8

9 Mr. Courson stated that a double row of arborvitae would probably be a better choice for screening.

10

11 Mr. Hall stated one would probably expect to pay the same amount for an arborvitae as for a white pine.

12

13 Mr. Courson stated that depending upon the variety the arborvitae would probably be cheaper.

14

15 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

16

17 Mr. Thorsland thanked Ms. Buck for answering the photographs that were submitted by Ms. Willcoxon at
18 the last meeting. He asked the Board if there were any questions for Ms. Buck regarding the submitted
19 photographs.

20

21 Mr. Thorsland asked Ms. Buck and Mr. Dorsey if they heard the conversation regarding the white pines for
22 screening.

23

24 Ms. Buck and Mr. Dorsey stated yes.

25

26 Mr. Thorsland asked Ms. Buck if she had any idea of what type of vegetation that they would agree to
27 purchase for the screening.

28

1 Mr. Robert Dorsey, who resides at 209 Main Street, Penfield, stated that they had discussed the white pines
2 but as Mr. Hall indicated it will take time for them to mature. He said that he and Ms. Buck had thought
3 about placing a fence for screening but seven feet is the highest panel that they can purchase. He said that
4 they would agree to the arborvitae but they thought that a white “pvc” type fence would be more preferred by
5 the Board.

6
7 Mr. Thorsland asked Mr. Dorsey if he and Ms. Buck would prefer the fence over the trees.

8
9 Mr. Dorsey stated that the fence would not hide the roof of the shed although it would be more economical
10 for them because the arborvitae or white pines would require a consistent watering schedule or they would
11 die and require replacement.

12
13 Mr. Courson stated that he thought that the screening was to make this tie into the residential neighborhood
14 and not have it look like an industrial zoned property. He said that the fence may be more economical for
15 the petitioners but when it is up against the building it will still appear industrial. He said that the trees
16 would provide a more natural appearance.

17
18 Mr. Dorsey stated that he agrees.

19
20 Ms. Dorsey stated that screening already exists on the property.

21
22 Mr. Thorsland stated that testimony from the neighbors indicate that they would prefer a vegetative
23 screening such as the arborvitae.

24
25 Mr. Dorsey stated that he would prefer the vegetation.

26
27 Mr. Thorsland stated that the Board will need to revise the special condition regarding screening and also the
28 Item 5.C.(1) of the Summary of Evidence.

1

2 Mr. Thorsland asked the Board if there were any additional questions for Mr. Dorsey or Ms. Buck and there
3 were none.

4

5 Mr. Thorsland proposed that Item 5.C.(1) be revised as follows: Proposed a planting of arborvitae along the
6 north property line.

7

8 Mr. Hall stated that at a staff level it is imperative to have a number of arborvitae to check for during the
9 inspections.

10

11 Mr. Courson stated that it would depend upon the variety of arborvitae that is being purchased.

12

13 Mr. Hall asked the Board if they desire to have the screening mirror the length of the building or beyond the
14 building.

15

16 Mr. Courson stated that the length of the building should be sufficient unless there will be storage outside of
17 the building. He said that it would be beneficial for the petitioner to extend the screening past the building to
18 minimize the impact of outdoor storage on the neighbors. He said that a single row of arborvitae planted 10
19 feet apart would be sufficient although it will take six to eight years for it to reach a height of 15 feet.

20

21 Mr. Hall stated that normally if the screening was required to meet the Ordinance the trees would have to be
22 planted in a staggered row so that there is less space to fill in and there is 50% of growth within 2 years. He
23 said that it is up to the Board to determine what is required to address the concerns of the neighbors.

24

25 Mr. Thorsland stated that for the findings the Board needs to indicate that there is a proposed planting of
26 arborvitae along the north property line, as pointed out in the special conditions.

27

28 Mr. Hall stated that at this point he is mainly interested in the special condition.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Thorsland stated that he is trying to work on Item 5.C.(1) of the Summary of Evidence and indicating that a planting of vegetation screening is proposed along the north property line and striking the text regarding the three Eastern White Pines.

Ms. Capel stated that perhaps a special condition should state the following: Landscape screening that is staggered and 50% opaque as indicated on the approved site plan shall be maintained at all times.

Mr. Hall stated that the special condition should be as specific as possible but Ms. Capel’s suggestion may be too specific because he cannot guarantee that such a condition is feasible. He said that it may be better if the petitioner agrees to talk about the vegetative screen that provides maximum screening as quickly as possible, given the space that is available for the trees, and later reasonable people could agree as to what that is. He said that perhaps the Board will want 50% in two years or 50% in four years would be provide more flexibility for the petitioner.

Ms. Capel agreed with Mr. Hall regarding the screening.

Mr. Hall stated that perhaps the Board would agree to the screening being 50% opaque and a height of 8 feet in four years or would the Board be comfortable with the petitioner doing the best possible given the 18 feet to work with and presumably the type of vegetation would be 50% in four years.

Mr. Dorsey stated that the arborvitae would be fine. He said that if the same species is planted and a blight or disease is contracted the entire screen can be affected. He said that normally varieties of vegetation are mixed so that one species is not wiped out by disease.

Ms. Capel stated that it should be up to Mr. Dorsey and Ms. Buck as to what type of vegetation will be used for the screen.

1 Mr. Dorsey stated that he will further investigate this matter.

2
3 Mr. Hall asked Mr. Dorsey if, given the amount of space available, he could put together a vegetative screen
4 that would be 50% opaque in four years. He said that 50% of the building will need to be screened in four
5 years.

6
7 Mr. Palmgren asked if the screening includes the height and the width of the building.

8
9 Mr. Hall stated that the 50% would be from eight feet on either side of the building and the entire length of
10 the building in four years.

11
12 Mr. Thorsland stated that his revision of the special condition regarding screening is as follows: Landscape
13 screening that is 50% opaque in four years and covering the length of the shed as approved on the site plan
14 for Case 720-V-12 and shall be maintained at all times. He said that his version of the condition makes it
15 simple and leaves it open ended enough for the petitioner if he needs to plant additional vegetation to
16 achieve the required screening.

17
18 Mr. Dorsey stated that depending upon the type of species that they purchase the trees could extend over the
19 sidewalk.

20
21 Mr. Thorsland stated that the Board is requesting that the screening go the entire length of the shed and not
22 past it. He said that the screening must be 50% opaque for the length of the shed in four years.

23
24 Mr. Thorsland stated that Item #5.C.(1) should read as follows: A Screening Plan was received on
25 September 13, 2012, and indicates the following: (1) A proposed landscape screening the length of the shed
26 that is 50% opaque.

27
28 Mr. Hall stated that he would prefer that Item #5.C.(1) remain as written and in the Board's condition it can

1 be specified that a vegetative screen is required which will provide 50% screening to the eight foot height in
2 four years for the length of the structure.

3

4 Mr. Thorsland agreed.

5

6 Mr. Courson stated that the submitted photographs indicate that north of the proposed shed's location there
7 are two small buildings which are side by side. He asked the petitioners if the small buildings will be
8 removed once the shed is constructed.

9

10 Ms. Buck stated no. She said that the two small sheds will remain on the property and will have new siding
11 which will match the new shed.

12

13 Mr. Courson stated that removal of the sheds would eliminate the neighbor's concern regarding the clutter.
14 He asked Mr. Hall if the lot would become unbuildable for a dwelling if the proposed shed is constructed.

15

16 Mr. Hall stated that it appears that the area for a principal dwelling would be very tight but there was a home
17 on the property before and he would presume that if someone wanted to they could place a dwelling in the
18 same location of the previous home.

19

20 Ms. Buck asked Mr. Hall if someone bought all three of the lots there would be adequate room on the south
21 side for a dwelling.

22

23 Mr. Hall stated that the lots on that side of the street will need to remain in common ownership.

24

25 Ms. Buck stated if the property owner of the house to the south wanted to purchase their lots and buildings
26 could they be sold to them legally since they have a house on their property.

27

28 Mr. Hall stated that this is a very good question for the Board. He said that if all of those lots on the east

1 side were sold to people on either side then that sale would be completely consistent with the Ordinance but
2 the problem is if the petitioners started selling the lots individually they might wind up in the future with
3 something that is way too small to use on its own. He said that the Board can address this situation with this
4 variance request or leave it to a time in the future.

5
6 Ms. Capel stated a lot of this situation is due to the small lot sizes in Penfield and it appears that there is a
7 limit as to what the ZBA can do.

8
9 Mr. Hall stated yes. He said that if the three lots are sold off a situation could be created that may be even
10 more difficult for a future ZBA. He said that the petitioners can certainly sell the southern lot but such
11 would make Mr. Courson's concern even greater.

12
13 Mr. Courson stated that he is concerned that the residential lots will not be able to have a residence based
14 upon the size of the shed.

15
16 Mr. Hall stated that there was a house on the south side of the property previously and a new house could be
17 rebuilt provided that they had a septic system. He said that the shed has nothing to do with a new house
18 being placed on that lot because all of the space that was there before is still there on the south side.

19
20 Ms. Capel stated that the aerials appear to indicate that the homes overlap the property lines.

21
22 Mr. Hall stated that the aerials are not completely accurate but the overlapping of property lines is a normal
23 occurrence with most small villages in the County.

24
25 Mr. Thorsland asked if the photographs of other structures located in Penfield were taken by staff.

26
27 Mr. Hall indicated no, the photographs were taken by Ms. Buck and submitted to staff on August 23, 2012.

28

1 Mr. Palmgren stated that the lot where the house was torn down it appears that only a small home could be
2 placed on it.

3

4 Mr. Thorsland asked Mr. Palmgren if a special condition is necessary for that lot.

5

6 Mr. Thorsland asked Mr. Palmgren if he is concerned that unless the three lots stay tied together there is no
7 room, except on the south part of the three lots, where a house could be constructed.

8

9 Mr. Palmgren stated yes.

10

11 Mr. Hall stated that it would be reasonable, provided that the petitioners agree, to add a fourth condition that
12 would void the variance and that would be the following: If any part of lots 4, 5 and 6 are sold off without a
13 dwelling being established on the remaining portion of the property. He said that this may go a bit far
14 because it would be fine if the house on the north, where Ms. Sparks resides, would buy some of the property
15 and the neighbor on the south would purchase the rest of the property all of the property would be distributed
16 with existing dwellings.

17

18 Mr. Thorsland stated that the Board could look away currently and allow the problem to resolve itself in the
19 future. He asked what would happen if the owner of the shed which occupies Lot 4 constructs a dwelling
20 unit in the proposed building, is it a legal lot at that point.

21

22 Mr. Hall stated yes, but the septic requirements will be a challenge. He said that the open space on these two
23 lots is bisected by the existing big shed in the middle and that really does hurt the feasibility of ever
24 obtaining a septic system on the property. He said that placing the proposed shed on the north does not make
25 it any worse because he could imagine a house on the side with a septic system and a house on the south, Lot
26 6, with a septic system on Lot 4 and a septic system in between.

27

28 Mr. Thorsland stated that he does not want to take the scenario discussed by Mr. Hall away by a condition.

1 He said that the petitioner testified that the structure is necessary for the storage of their camper and other
2 equipment. He said that the petitioner has also testified that they are reluctant to remove the small storage
3 sheds because they have an investment in these buildings. He said that he is not in favor of adding a Part 4
4 to Condition A. because this is a known problem that the petitioners will have if and when they decide to sell
5 their property.

6

7 Ms. Capel asked how staff would enforce such a condition.

8

9 Mr. Hall stated that the only reason that the Board would impose such a condition would be to sway such an
10 occurrence from happening because then no one could claim later that it was a known problem.

11

12 Mr. Thorsland stated that this information would be filed with the Recorder's Office therefore when a title
13 search was completed this information would be discovered.

14

15 Mr. Hall stated that #(4) of Condition A could read as follows: If any part of lots 4, 5 and 6 are sold off
16 without a dwelling being established on the remaining portion of the property. He said that this makes it
17 clear that if the owner can dispose of all of the property so that there is no problem it can be done otherwise
18 lots 4, 5 and 6 must remain in total.

19

20 Mr. Thorsland stated that he would be comfortable with the addition of (4).

21

22 Ms. Capel agreed to the addition of #(4) to Condition A.

23

24 Mr. Thorsland read the proposed special conditions as follows:

25

A. The Variance shall be deemed void if any of the following occur:

26

- (1) **If the petitioners sell either the current home or the garage property to a buyer who does not also purchase the other property, except that concurrent sale of both properties can happen provided the garage property shall have a dwelling.**

27

28

1 (2) If at least a 20 feet length of the alley between the relevant properties is ever
2 vacated.

3 (3) If any building on the eastern portion of the property is ever converted to
4 include a dwelling unit with a septic system.

5 (4) If any part of lots 4, 5, and 6 are sold off without a dwelling being established on
6 the remaining portion of the property.

7 The special condition stated above are required to ensure the following:

8 That the variance is void should it not ever be necessary and ensures that the
9 properties will be in common ownership.

10
11 Mr. Thorsland asked the petitioners if they agreed to Special Condition A.

12
13 Mr. Dorsey and Ms. Buck agreed to Special Condition A.

14
15 B. The garages on the subject property shall not be rented out as storage space.

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

17 That the storage buildings on the subject property do not become warehouses of any
18 kind, which are not authorized in the R-2 Zoning District.

19
20 Mr. Thorsland asked the petitioners if they agreed to Special Condition B.

21
22 Mr. Dorsey and Ms. Buck agreed to Special Condition B.

23
24 C. Landscape screening on the north side of the proposed shed sufficient to provide a 50%
25 opaque screen to a height of 8 feet in 4 years for the length of the shed shall be
26 maintained at all times.

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

28 That the proposed shed is properly screened from neighboring properties.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Thorsland asked the petitioners if they agreed to Special Condition C.

Mr. Dorsey and Ms. Buck stated that they agreed to Special Condition C.

D. The petitioners shall file a miscellaneous document with the Champaign County Recorder of Deeds documenting the Special Conditions proscribed in Zoning Case 720-V-12.

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

That future landowners are aware of the conditions imposed in Zoning Case 720-V-12.

Mr. Thorsland asked the petitioners if they agreed to Special Condition D.

Mr. Dorsey and Ms. Buck stated that they agreed to Special Condition D.

Mr. Thorsland entertained a motion to approve the special conditions as read.

Mr. Courson moved, seconded by Ms. Capel to approve the special conditions as read. The motion carried by voice vote.

Mr. Thorsland asked staff if there were any new Documents of Record.

Mr. Hall and Mr. Kass indicated that there were no new Documents of Record.

Findings of Fact for Case 720-V-12:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 720-V-12 held on July 12, 2012 and September 13, 2012, the Zoning Board of Appeals of Champaign

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Kass read the Board’s findings as follows:

- The proposed building location will not hinder traffic visibility
- The proposed building will clean up the property by providing additional storage
- The proposed building will have screening on the north side
- The road commissioner and the fire district had no comments.

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

Ms. Capel stated that the requested variance, subject to the proposed conditions, IS the minimum variation that will make reasonable use of the land/structure because the variance is the minimum variance that will allow a structure of this height to be built on a lot without a principal dwelling.

Mr. Kass read the Board’s finding as follows:

- The variance is the minimum variance that will allow the structure to be built with this height on a lot that has no principal dwelling.

7. The special conditions imposed herein are required to ensure compliance with the criteria for special use permits and for the particular purposes described below:

A. The Variance shall be deemed void if any of the following occur:

- (1) If the petitioners sell either the current home or the garage property to a buyer who does not also purchase the other property, except that concurrent sale of both properties can happen provided the garage property shall have a dwelling.**

- 1 (2) **If at least a 20 feet length of the alley between the relevant properties is**
- 2 **ever vacated.**
- 3 (3) **If any building on the eastern portion of the property is ever converted**
- 4 **to include a dwelling unit with a septic system.**
- 5 (4) **If any part of lots 4, 5, and 6 are sold off without a dwelling being**
- 6 **established on the remaining portion of the property.**

7 The special condition stated above are required to ensure the following:

8 **That the variance is void should it not ever be necessary and ensures that the**

9 **properties will be in common ownership.**

10

11 **B. The garages on the subject property shall not be rented out as storage space.**

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

13 **That the storage buildings on the subject property do not become warehouses of any**

14 **kind, which are not authorized in the R-2 Zoning District.**

15

16 **C. Landscape screening on the north side of the proposed shed sufficient to provide a 50%**

17 **opaque screen to a height of 8 feet in 4 years for the length of the shed shall be**

18 **maintained at all times.**

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

20 **That the proposed shed is properly screened from neighboring properties.**

21

22 **D. The petitioners shall file a miscellaneous document with the Champaign County**

23 **Recorder of Deeds documenting the Special Conditions proscribed in Zoning Case 720-**

24 **V-12.**

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

26 **That future landowners are aware of the conditions imposed in Zoning Case 720-V-12.**

27

28 Mr. Thorsland entertained a motion to approve the Findings of Fact for Case 720-V-12 as amended.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Courson moved, seconded by Mr. Palmgren to approve the Findings of Fact for Case 720-V-12 as amended. The motion carried by voice vote.

Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of Facts as amended.

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

Mr. Thorsland entertained a motion to move to the final determination.

Mr. Courson moved, seconded by Ms. Capel to move to the final determination. The motion carried by voice vote.

Mr. Thorsland informed the petitioners that two Board members are absent and one Board member seat was vacant therefore it is at their discretion to either continue Case 720-V-12 until a full Board is present or request that the present Board move forward to the Final Determination. He informed the petitioners that four affirmative votes are required for approval.

Mr. Hall informed the petitioners that the findings are all positive and the Board has adopted findings which would indicate that one could expect that the variance will be granted and there is not room for error. He said that all of the Board members participated in the findings and as the Zoning Administrator all he can tell the petitioners is that if they can wait then perhaps they should because there have been petitioners in other cases who should have waited for a full Board.

Mr. Courson informed the petitioners that if four affirmative votes are not received tonight then their case is denied.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Dorsey and Ms. Buck requested that the final determination for Case 720-V-12 be deferred to a continued meeting when a full Board may be present.

Mr. Thorsland requested a continuance date from staff.

Mr. Hall stated that Case 720-V-12 could be heard at the special meeting which is to be held on September 19th.

Mr. Thorsland asked the petitioners if they would be available for the September 19th special meeting.

Mr. Dorsey and Ms. Buck stated that they will be available on September 19th.

Mr. Thorsland informed the petitioners that if they attend the September 19th special meeting and only four members are present they may request another continuance or move forward to the final determination.

Mr. Thorsland entertained a motion to continue Case 720-V-12 to the September 19, 2012, special meeting.

Mr. Palmgren moved, seconded by Mr. Courson to continue Case 720-V-12 to the September 19, 2012, special meeting. The motion carried by voice vote.

Mr. Thorsland called for a five minute recess.

The Board recessed at 8:20 p.m.

The Board resumed at 8:25 p.m.

Case 722-S-12 Petitioner: Dr. Michael Boero Request to authorize an equine veterinary surgery clinic and performance problem evaluation facility as a “Veterinary Hospital” as a Special Use on 4.5 acres

1 **that is part of a 22 acre property previously authorized as a stable in Case 719-S-90 and located in the**
2 **CR Conservation-Recreation Zoning District. Location: A 22 acre parcel in the West Half of the**
3 **Southeast Quarter of the Southwest Quarter of Section 26 of Newcomb Township and commonly**
4 **known as the home and stable at 430 CR 2500N, Mahomet.**

5
6 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
7 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
8 of hands for those who would like to cross examine and each person will be called upon. He requested that
9 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
10 those who desire to cross examine are not required to sign the witness register but are requested to clearly
11 state their name before asking any questions. He noted that no new testimony is to be given during the cross
12 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
13 from cross examination.

14
15 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
16 sign the witness register for that public hearing. He reminded the audience that when they sign the
17 witness register they are signing an oath.

18
19 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of their request.

20
21 Dr. Boero, who resides at 430 CR 2500N, Mahomet, stated that he has remodeled an existing stall barn and
22 converted the wash stalls into a surgery room and left two of the stalls as recovery stalls. He said that when
23 he left the University of Illinois he had a rural surgery practice by which he would travel to other clinics and
24 performed procedures that they were not able to complete. He said that he had a surgery trailer constructed
25 which stored his surgical equipment and he had hoped to have the trailer at the Illinois State Fairgrounds but
26 that idea did not work out as planned. He said that his practice has gradually switched from a traveling
27 surgical unit to his current residence.

28

1 Mr. Thorsland asked the Board if there were any questions for Dr. Boero.

2

3 Ms. Capel asked Dr. Boero if he sold the surgical trailer.

4

5 Dr. Boero stated yes.

6

7 Mr. Thorsland asked the Board if there were any additional questions for Dr. Boero and there were none.

8

9 Mr. Thorsland called John Hall to testify.

10

11 Mr. John Hall, Zoning Administrator, stated that there are no new memorandums for Case 722-S-12 tonight.
12 He said that the Supplemental Memorandum dated September 7, 2012, included an e-mail from Douglas
13 Gamble, Accessibility Specialist for the Illinois Capital Development Board. He said that in all fairness, in
14 this instance, for some reason Mr. Gamble is treating this case differently than he has treated other cases
15 although Mr. Gamble is the final authority on the Illinois Accessibility Code and it is not the County's
16 Ordinance therefore staff must defer to Mr. Gamble.

17

18 Mr. Hall stated that there are two proposed special conditions and neither one of those conditions are in the
19 Ordinance but are to ensure compliance with applicable state requirements.

20

21 Mr. Thorsland asked Mr. Hall if staff had received any documentation from the Illinois Environmental
22 Protection Agency regarding the composting.

23

24 Mr. Kass stated no. He said that he did contact Mike Mullins, Environmental Protection Specialist, and the
25 IEPA wanted a letter from Dr. Boero sent to Springfield although staff has not received any information
26 regarding a determination from the IEPA.

27

28 Ms. Capel noted that the August 10, 2012, Preliminary Memorandum indicates that the subject property is

1 located two miles from the City of Champaign which is incorrect. She said that the sentence should read as
2 follows: The subject property is within the one-and-one half mile extraterritorial jurisdiction (ETJ) of the
3 Village of Mahomet, a municipality with zoning and is not located 2 miles from the City of Champaign.

4
5 Mr. Thorsland asked Dr. Boero if he sent the IEPA a letter.

6
7 Dr. Boero stated that he spoke to the IEPA office on the telephone and explained the situation and the
8 person that he spoke with indicated that they did not believe that he needed a license. He said that the IEPA
9 office requested a letter explaining his composting practices because all of the compost is generated and used
10 on the subject property.

11
12 Mr. Thorsland stated that the Board may add a note to the proposed special condition.

13
14 Mr. Thorsland asked the Board if there were any additional questions for Dr. Boero and there were none.

15
16 Mr. Thorsland asked if staff had any questions for Dr. Boero and there were none.

17
18 Mr. Thorsland asked Mr. Hall if he is happy with the submitted site plan.

19
20 Mr. Hall stated yes.

21
22 Mr. Thorsland read the proposed special conditions as follows:

- 23 **A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
24 **authorizing operation of the proposed Special Use Permit until the petitioner has**
25 **provided documentation of registration of the composting operation and compliance**
26 **with the Illinois EPA or submitted documentation indicating that the composting**
27 **operation does not need to be registered.**

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

1 **That the composting practices are conducted pursuant to the regulations of the Illinois**
2 **Environmental Protection Agency guidelines.**

3
4 **B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
5 **authorizing operation of the proposed Special Use Permit until the petitioner has**
6 **verified that the proposed Special Use complies with the Illinois Accessibility Code or**
7 **the petitioner submits documentation from the Illinois Capital Development Board**
8 **verifying that the proposed use does not have to comply with the Illinois Accessibility**
9 **Code.**

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

11 **That the proposed Special Use meets applicable state requirements for accessibility.**

12
13 Mr. Thorsland asked Dr. Boero if he understood the proposed special conditions.

14
15 Dr. Boero stated that he does not believe that there is any problem with the two proposed special conditions
16 although his attorney is ill and he does not have the opportunity to speak with him. He said that he does not
17 believe that there will be an issue although if this could be deferred to a later date so that he can have the
18 documentation regarding the composting and the accessibility.

19
20 Mr. Thorsland stated that the letter from the IEPA has to be submitted prior to the issuance of a Zoning
21 Compliance Certificate. He said that if Dr. Boero desires to request a continuance then the Board can
22 consider the request. He said that the Board reviews the proposed special conditions during their review of
23 the Summary of Evidence therefore if Dr. Boero would like additional time to review the conditions with
24 his attorney then the Board can continue the case to a later date.

25
26 Dr. Boero stated that he agrees to the proposed Special Condition A. He said that he has questions
27 regarding the accessibility, such as, parking, entrances, etc.

28

1 Mr. Hall stated that staff can assist Dr. Boero and indicate what staff's understanding is regarding the
2 accessibility requirements. He said that Dr. Boero has established a surgery clinic in a building which
3 already exists and there are specific guidelines as to how much of a remodeled property has to be made
4 accessible based on the dollar value of the remodeling as a percentage of the original dollar value. He said
5 that many times when people contact the Capital Development Board it is determined that it is pre-existing
6 and that there are no accessibility requirements. Mr. Hall stated that he was surprised by the reply received
7 from Doug Gamble but that is what he will follow.

8
9 Dr. Boero stated that he has not had very good communication with Mr. Gamble due to the fact that he was
10 talking to him on the cell phone while he was traveling down the road. He said that he received the same e-
11 mail that Mr. Hall received with no details evaluating his existing building or what he needs to do make it
12 compliant.

13
14 Mr. Hall stated that Doug Gamble is the only employee of the Capital Development Board that serves the
15 entire State of Illinois therefore any day that you make contact with Doug Gamble is a good day. Mr. Hall
16 stated that staff will assist Dr. Boero as much as possible.

17
18 Mr. Courson stated that perhaps an architect could address Dr. Boero's questions.

19
20 Mr. Boero stated that he is not sure how what exists currently will meet the requirements for accessibility.

21
22 Mr. Thorsland stated that the special conditions will not stop Dr. Boero from doing what he is currently
23 doing on the property and it gives him time to ask any questions and obtain answers. He said that if Dr.
24 Boero wants the Board to continue with the finding then the Board could get through the entire case tonight
25 but Dr. Boero has to agree to the two proposed conditions first.

26
27 Dr. Boero stated that he is comfortable with Condition A but would appreciate more information regarding
28 Condition B. He requested that the meeting be continued to a later date.

1
2 Mr. Thorsland stated that he does not believe that it will take a long time to finish the case at the next
3 meeting. He requested a continuance date from staff.
4
5 Mr. Hall recommended that the case be continued to the October 25th meeting because this is the kind of
6 thing where staff wants to be able to give this matter its full attention and speak with Mr. Gamble and then
7 allow Dr. Boero time to consider the information.
8
9 Ms. Berry reminded Mr. Hall that due to the tax sale the October 25th meeting either needs to be rescheduled
10 to a different date or be held in a alternative meeting room.
11
12 Mr. Thorsland asked if the John Dimit Meeting Room is available.
13
14 Mr. Hall stated that staff will check on the availability of the John Dimit Meeting Room for the October 25th
15 meeting although there is an RPC meeting scheduled for October 26th and it unlikely that the Regional
16 Planning Commission will allow the room to be used prior to that meeting.
17
18 Ms. Berry stated that the meeting room calendar indicates that the John Dimit Meeting Room is available
19 on Wednesday, October 24, 2012.
20
21 Mr. Thorsland requested that staff check with the appropriate entities to determine availability of the John
22 Dimit Meeting Room or the Lyle Shields Meeting Room for Wednesday, October 24, 2012. He said that if
23 neither meeting room is available the alternative date to continue Case 722-S-12 is December 13th.
24 He informed Mr. Boero that staff will contact him as soon as possible regarding where and when the
25 meeting will be held.
26
27 Mr. Thorsland entertained a motion to continue Case 722-S-12 to Wednesday, October 24, 2012, with an
28 alternative date of Thursday, December 13, 2012.

1
2 **Mr. Courson moved, seconded by Ms. Capel to continue Case 722-S-12 to continue Case 722-S-12 to**
3 **Wednesday, October 24, 2012, with an alternative date of Thursday, December 13, 2012. The motion**
4 **carried by voice vote.**

5
6 **6. New Public Hearings**

7
8 **Case 725-V-12 Petitioner: Daniel Williams Request to authorize the following in the CR Conservation-**
9 **Recreation Zoning District for a Special Use proposed in Case 707-S-12: Part A. Variance for a rear**
10 **yard of 0 feet in lieu of the minimum required 25 feet; and Part B. Variance for a side yard of 0 feet in**
11 **lieu of the minimum required 15 feet; and Part C. Variance from a minimum separation from a front**
12 **property line for parking spaces of 0 feet in lieu of the minimum required 10 feet. Location: The same**
13 **5.2 acre tract identified in Case 707-S-12 that is part of a 35 acre tract in the Southeast Quarter of the**
14 **Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453**
15 **CR 600E, Dewey.**

16
17 Mr. Thorsland called Cases 707-S-12 and 725-V-12 concurrently.

18
19 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
20 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
21 of hands for those who would like to cross examine and each person will be called upon. He requested that
22 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
23 those who desire to cross examine are not required to sign the witness register but are requested to clearly
24 state their name before asking any questions. He noted that no new testimony is to be given during the cross
25 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
26 from cross examination.

27
28 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must

1 sign the witness register for that public hearing. He reminded the audience that when they sign the
2 witness register they are signing an oath.

3
4 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

5
6 Mr. Daniel Williams, who resides at 2453 CR 600E, Dewey, stated that for the last ten years he has been the
7 owner of Firemark Paintball and he is requesting a special use permit and variances to continue the
8 operation.

9
10 Mr. Thorsland called Mr. John Hall to testify.

11
12 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated September 13,
13 2012, for Case 725-V-12 and a new Supplemental Memorandum dated September 13, 2012, with an
14 attached revised Finding of Fact for Case 707-S-12 to the Board for review. He said that the memorandum
15 for Case 725-V-12 includes a letter that from the landowner to the north and the landowner objects to the
16 variance of 0 feet for the side yard. Mr. Hall stated that the landowner indicated in their letter that it would
17 be more acceptable if the side yard was 15 feet. Mr. Hall stated that it is up to the Board to determine what
18 they want to do but the petitioner has requested a 0 feet variance and the petitioner would have to agree to
19 anything other than the requested 0 feet variance.

20
21 Mr. Hall stated that regarding Case 707-S-12 the revised Summary of Evidence is attached to the new
22 Supplemental Memorandum dated September 13, 2012. He said that Mr. Kass reviewed the minutes from
23 the previous public hearing and tried to get everything consistently answered. He said that the memorandum
24 that was included in the mailing included the Firemark Paintball Orientation sheet which is distributed to
25 everyone that plays. Mr. Hall stated that he was surprised to find that there is no mention in the orientation
26 regarding property lines and not trespassing upon adjacent property. He said that there is a lot of good
27 information in the orientation because he did not realize the things that a paintball gun can do. He said that
28 the orientation does not include a lot of the information that the Board was looking for. He said that the

1 Board will have to decide if they are very concerned about trespass or if trespass is typical in a rural setting.
2 He said that a lot of the items which were brought up at the previous hearing were not addressed with any
3 new information therefore there are still a lot of questions that are unanswered. He said that the petitioner
4 indicated that he intends to use t-posts to secure things in the floodplain but he did not indicate how he
5 would attach things to the t-posts so that they do not float off. He said that he does not know if the Board
6 believes that the arrangements for hunting season are adequate.

7

8 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

9

10 Mr. Thorsland called Daniel Williams to testify and address the Board's questions.

11

12 Mr. Thorsland stated that he is not sure if the current rope border is going to work to eliminate trespassing
13 onto adjacent property therefore it would be better if a new four foot field fence was constructed to prevent
14 clients from leaving the property. He said that a rope indicates that the client is leaving the gaming area but
15 not necessarily the property but a fence would indicate the property boundaries. He said that the field fence
16 would also assist in the some of the flood issues. He said that he understands the idea of the T-posts and
17 wire anchors to maintain the structures in their place but a fence would stop a lot of the small stuff from
18 leaving the property.

19

20 Mr. Williams asked Mr. Thorsland if he is indicating that he should construct a chain-link fence on the
21 property lines.

22

23 Mr. Thorsland stated that a woven fence would be sufficient. He said that the big issue that he recalls from
24 the last meeting is the concern about clients removing themselves from the petitioner's property while
25 playing the games and how close to the border the games are played. He said that the petitioner has
26 submitted a request for a variance for the required side yard setback and testimony has been received from
27 the adjacent neighbors indicating their objections to the side yard request. He said that he believes that it is
28 feasible for the petitioner to pull in some of the obstacles and maybe delineate the property line and then set

1 the gaming area back 15 feet with the rope. He said that there are a lot of pictures which indicate what is
2 located in the back of the property near the woods and there is an issue of knowing where the property ends
3 and the adjacent landowner's property begins in that area. He said that personally he has no issue with Mr.
4 Williams' operation but there is an issue with clients traveling outside of the gaming area or trespassing onto
5 adjacent property not owned by Mr. Williams. He said that without appropriate fencing there could be
6 people trespassing onto Mr. Williams' property which is also a concern. He said that he realizes that the
7 fencing will be expensive but it may be a big part of the entire case.

8
9 Mr. Williams stated that it is his understanding that even with the rope no one can be between the rope and
10 the proposed fence.

11
12 Mr. Thorsland stated that the clients cannot play within that area and should be informed that the rope is the
13 end of the gaming area.

14
15 Mr. Williams stated that if someone is eliminated they normally would go to the sideline along the backside
16 but it appears that Mr. Thorsland is indicating that they cannot enter that area.

17
18 Mr. Thorsland stated that you can walk to the edge of your property and stand beside the fence post all day
19 long. He said that the objects and structures cannot be located within the 15 feet.

20
21 Mr. Williams asked if the Board is thinking a 15 or 25 feet side yard.

22
23 Mr. Kass clarified that in the CR District the side yard requirement is 15 feet and the rear yard requirement is
24 25 feet.

25
26 Mr. Thorsland stated that Mr. Williams has a lot of space on the property and he realizes that Mr. Williams
27 is trying to put in as many playing fields as possible but 25 feet is not that much and it may benefit his case
28 to be comfortable with the CR District's setback as they are indicated. He said that he does not believe that

1 it precludes people from being there but it stops people from playing an active game in that area.

2
3 Mr. Hall stated that the variance could be approved as playing would stop so many feet from the property
4 line but an eliminated player may be in that zone which is much better than someone playing right up to the
5 property line.

6
7 Mr. Williams stated that such would be more acceptable. He said that previously he understood that no one
8 could be in that area and that they must remain in a designated area.

9
10 Mr. Hall stated that the variance is only relevant to the paintball activities and has nothing to do with where
11 Dan Williams goes on the property.

12
13 Mr. Williams stated that the players are told that they are not go over a given line and that they must stay in a
14 designated area. He said that it is not included in the orientation sheet because the players would not
15 remember it anyway therefore they are verbally informed about the designated areas on the field. He said
16 that the players are told that when they are in the last field that they must stay on a certain side of the field
17 because if they were to step to the other side they would be on the neighbors boundary line.

18
19 Mr. Thorsland stated that a fence would be helpful to prevent the opportunity of trespassing onto adjacent
20 property.

21
22 Mr. Williams asked if the side yard is 15 feet or 25 feet because the agenda indicates 25 feet.

23
24 Mr. Thorsland stated that the agenda is incorrect and shall be revised to indicate a side yard of 15 feet. He
25 said that the neighbor to the north indicated in their letter that they would be very happy with a side yard of
26 15 feet. He recommended that Mr. Williams research fence laws as well.

27
28 Mr. Courson stated that he shares Mr. Thorsland's concerns regarding fencing. He said that he would also

1 recommend signage which indicates “No access beyond this point” placed upon or beside the fence because
2 if there is no barrier they will trespass. He said that he enjoys outdoor sports and everywhere that he goes
3 has a fence with signage indicating barriers. He said that he is also concerned with hunting season in the CR
4 District. He said that if games are not restricted during hunting season then perhaps waivers should be
5 required informing the players that there are people in the woods near the playing fields with shotguns and
6 there is a potential that they could be injured. He said that the players should be protected somehow.

7
8 Mr. Thorsland stated that there is a new “Purple Paint Law” in Illinois therefore he would recommend that
9 Mr. Williams paint as many trees on the perimeter as possible indicating that no hunting is allowed on the
10 subject property. He said that perhaps some sort accommodations could be worked out with the neighbors
11 regarding the operation of the paintball business during the firearm hunting season. He said that hunting
12 season does not consist of a lot of time but there are a lot of people who live all year to experience the
13 hunting season. He said that he is not concerned about bow hunting season but he is concerned about
14 firearm hunting season. He said that perhaps the hours of operation could be adjusted or limited during the
15 hunting season weekends.

16
17 Mr. Williams asked if there was a timeframe as to when hunting was allowed.

18
19 Mr. Thorsland stated that hunters can sit in the woods and hunt all day during the hunting season but not at
20 night. He said that perhaps Mr. Williams can arrange the playing times during the middle of the day during
21 shotgun season because the prime time is morning and evening. He said that the hunters are not suppose to
22 be hunting on Mr. Williams property therefore the fence, signage and purple paint will deter that practice.
23 He asked Mr. Courson if he was proposing a condition regarding hunting.

24
25 Mr. Courson stated no. He said that people should be made aware and the ZBA’s job is to protect the public
26 although the Board has no control over the public’s choices.

27
28 Mr. Thorsland stated that he would still like to see a fence required which will define the perimeter of the

1 property. He said that the expense of the fence will probably save Mr. Williams a world of expense later.
2 He asked Mr. Williams to explain the T-post option for maintaining objects in their current location.

3
4 Mr. Williams stated that he has extra paintball netting that he is making it into obstacles by attaching it to T-
5 posts and "pace" pipe. He said that the netting allows water to flow through it. He said that if he cannot tie
6 the barrels to a tree then they will be removed from the playing field.

7
8 Mr. Thorsland stated that Mr. Williams is minimizing things that move and float by making the virtual
9 barriers.

10
11 Mr. Williams stated yes.

12
13 Mr. Thorsland asked the Board if there were any questions for Mr. Williams and there were none.

14
15 Mr. Thorsland asked if staff had any questions for Mr. Williams and there were none.

16
17 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Williams and there was no one.

18
19 Mr. Thorsland called Mr. Earl Williams.

20
21 Mr. Earl Williams stated that he had no comments at this time.

22
23 Mr. Thorsland called Tim Woodard to testify.

24
25 Mr. Tim Woodard, who resides at 2490 CR 550E, Dewey, stated that he has had previous issues with
26 trespassing and the suggestion of a field fence with signage would be a helpful solution to those issues. He
27 said that the field fence would assist with the debris which normally floats on to his property and the
28 petitioner has indicated that he is trying to reduce the amount of debris that can float about. He encouraged

1 the petitioner to eliminate the usage of barrels and wooden spools and if they are going to exist he would
2 suggest that they be connected to a post with chains to secure them in place.

3
4 Mr. Woodard stated that he has previously indicated that he is concerned about the operation of the paintball
5 gaming occurring during hunting season. He said that placing the purple paint around the property will help
6 with his concern although even if hunters are on adjacent properties their bullets do not pay attention to
7 property lines or color. He said that if there are patrons participating on the subject property he would
8 suggest that they are required to wear orange during shotgun season so that the hunters on adjacent properties
9 can see them. He said that perhaps a restriction of hours for gaming times or restricting the days that the
10 operation is open could be utilized for the public's safety. He said that outside of what he has mentioned
11 tonight all other concerns have been addressed by the petitioner.

12
13 Mr. Thorsland asked the Board if there were any questions for Mr. Woodard.

14
15 Mr. Thorsland asked Mr. Woodard if he allows a lot of people to hunt on him property and if so does he
16 inform them that there maybe people out there who are not well versed about the ways of the woods.

17
18 Mr. Woodard stated that typically he will have five or six family members hunt in the woods. He said that
19 he is the person who sits in the deer stand located on the southeast corner of his property because that is the
20 best way to control the concern related to the adjacent paintball operation. He said that there is a property
21 between his property and the subject property upon which he has no control over.

22
23 Mr. Thorsland suggested that the petitioner speaks to everyone that owns property around the subject
24 property. Mr. Thorsland stated that he does not expect the people who reside next to his property to duck
25 because he is in hot pursuit of a deer. He said that he does not believe that it would be entirely reasonable
26 for Mr. Williams to shut his business completely down because someone could shoot from an adjacent
27 property but it is wise that Mr. Williams be fully aware of the possibility. Mr. Thorsland stated that he does
28 not wear hunter's orange when he feeds his livestock just because his neighbor is hunting on his own

1 property but Mr. Thorsland does put it on when he goes out to hunt near his property's border. He said that
2 there is a point where we do not want to chase the petitioner back into his own house but there is also a point
3 where someone could be hunting on adjacent land and be clueless that there is a paintball operation on the
4 adjacent property. He said that accidents happen during every hunting season and purposely placing people
5 in the woods at dusk playing paintball in black clothing is a terrible idea but he does not want to restrict the
6 petitioner completely to a point where he would have to shut down during those two weekends. He said that
7 it would be advisable for Mr. Williams to speak to his neighbors and become educated about the hunting
8 season and the times so that he knows when hunters will be present in the adjacent woods. He said that any
9 responsible hunter knows not to point his weapon at the neighbor's property within so many yards because
10 bullets do not recognize color and the field fence will not stop a bullet.

11
12 Mr. Woodard stated that if he is out and about in his woods it is with a small group of people but during
13 hunting season there could be a lot of people in the woods which exacerbates the concern.

14
15 Mr. Thorsland stated that he and his neighbors could probably work most of these concerns out without
16 having the burden of the County having to proceed with enforcement during hunting season but he does not
17 want to see anyone get injured either. He said that the subject property is located in a wooded area and
18 regardless of the requested use there will always be an argument regarding who is shooting what where.

19
20 Mr. Hall asked the Board if they are comfortable with 100 people entering the woods during deer hunting
21 season without requiring that they wear blaze orange.

22
23 Mr. Thorsland stated no. He said that limited hours, less noise, educating the patrons may be helpful and it
24 may be feasible that the employees of Firemark Paintball wear the blaze orange while they walk the dead
25 zone to make the hunters aware of their presence. He said that it would only take one or two people in blaze
26 orange to take care of a couple of hundred feet of property.

27
28 Mr. Woodard agreed.

1 **parking space with appropriate markings for use by handicapped patrons.**

2 The special conditions stated above are required to ensure the following:

3 **That the proposed Special Use meets applicable state requirements for**
4 **accessibility.**

5

6 Mr. Thorsland asked Mr. Williams if he agreed to proposed Special Condition A.

7

8 Mr. Williams stated that he agrees to proposed Special Condition A(1) but he is not sure about A(2). He
9 said that the requirement in A(2) is not something that he recalls Mr. Gamble requiring.

10

11 Mr. Thorsland asked if there was any documentation regarding Mr. Gamble’s determination.

12

13 Mr. Williams stated that there was an e-mail from Mr. Gamble submitted to staff.

14

15 Mr. Thorsland stated that Mr. Gamble’s e-mail indicated the following: when the parking area is altered
16 (new rock, etc) pave one accessible space with a paved accessible route to the beginning of the paint ball
17 area. The ADA indicates that you should provide a person with a disability the opportunity to experience
18 paintball, even if it is a very limited area. Provide this when you are doing the other updates to your parking
19 lot.

20

21 Mr. Hall stated that this is area where Mr. Gamble has given the Board flexibility. He said that adding a new
22 accessible parking could be the altering or improving the existing arrangement of the parking could require
23 the accessible space. He asked Mr. Williams if he had any intention of graveling the parking area.

24

25 Mr. Williams stated no. He said that he informed Mr. Gamble that the parking area was going to remain as it
26 currently exists and he indicated that such was perfectly fine. Mr. Williams said that it dealt with something
27 before 2010 and that he had just made it under the wire or something and that there were no changes.

28

1 Mr. Hall asked Mr. Williams if he informed Mr. Gamble that he had been in operation for ten years.

2

3 Mr. Williams stated yes. He said that he has never had any handicap people request to play but he has had
4 people with a broken leg or broken arm play with their cast on. He said that he knew that the person with the
5 broken leg or arm was coming to participate therefore he made accommodations for them and allowed them
6 to pull up to the playing area for drop-off.

7

8 Mr. Thorsland stated that Mr. Gamble's e-mail indicates that if no changes are made to the parking area then
9 Mr. Williams is not obligated but the minute he does make any changes he must make a handicap spot and a
10 proposed route to the paintball playing field.

11

12 Mr. Williams stated that he understood.

13

14 Mr. Hall stated that proposed Special Condition A(2) needs to be revised and perhaps refer to Mr. Gamble's
15 e-mail.

16

17 Mr. Thorsland read proposed Special Condition B. as follows:

18 **B. All obstacles used in the play of paintball shall be removed from the property if the**
19 **business ceases operations for longer than 180 consecutive days unless the business is**
20 **being actively marketed for sale.**

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

22 **That the subject property is properly maintained and does not become a nuisance.**

23

24 Mr. Thorsland asked Mr. Williams if he agreed to proposed Special Condition B.

25

26 Mr. Williams stated yes.

27

28 Mr. Thorsland read proposed Special Condition C. as follows:

1

2 **C. Enclosed gaming structures intended to be temporarily occupied by players shall not be**
3 **larger than 150 square feet in area.**

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

5 **That existing and future structures are small enough in size where life safety**
6 **consideration are not a concern or necessary.**

7

8 Mr. Thorsland asked Mr. Williams if he agreed to proposed Special Condition C.

9

10 Mr. Williams asked if the special condition includes the mobile home.

11

12 Mr. Hall asked Mr. Williams if the mobile home is intended to be utilized as a gaming structure.

13

14 Mr. Williams stated yes.

15

16 Mr. Hall stated that the Board could determine that since this was originally constructed as a home that
17 making it into a gaming structure is not the same thing as cobbling up a new gaming structure the size of the
18 mobile home.

19

20 Ms. Capel asked, if life safety considerations means if the mobile home falls upon someone.

21

22 Mr. Hall stated yes, or a player becoming trapped in the mobile home while it is on fire. He said that the life
23 considerations are more so with the mobile home than with barrels and wooden spoons.

24

25 Mr. Williams stated that originally the mobile home was to be utilized as a home but that did not work out
26 therefore he is going to take out the windows and doors and install a floor and move it into playing field #1
27 as a centerpiece for players to go inside or around it. He said that there are many customers who would
28 appreciate this obstacle to be an option on their playing field.

1

2 Mr. Hall asked Mr. Williams if the mobile home is located in playing field #1.

3

4 Mr. Williams stated that it is not there yet but the plan is to place it there.

5

6 Mr. Hall stated that if the mobile home is placed in playing field #1 then it will no longer be located in the
7 floodplain.

8

9 Mr. Williams stated yes.

10

11 Mr. Hall stated that the Board could exempt the mobile home from Special Condition C. unless the Board
12 feels that the issue remains the same.

13

14 Mr. Thorsland stated that by nature the mobile home has two very large doors.

15

16 Mr. Williams stated that the windows will be removed.

17

18 Mr. Thorsland stated that the mobile home should be exempted from the proposed condition. He asked Mr.
19 Williams if all of the other structures are under 150 square feet.

20

21 Mr. Williams stated yes.

22

23 Mr. Thorsland asked Mr. Williams if the mobile home is still on wheels.

24

25 Mr. Williams stated that the mobile home will remain on the wheels but a frame will be constructed around
26 the mobile home to prevent players from going underneath the mobile home.

27

28 Mr. Hall stated that the approved site plan would ideally show that mobile home in playing field #1 although

1 currently the submitted plan does not. He said that proposed special condition C. could be revised as
2 follows: Enclosed gaming structures intended to be temporarily occupied by players shall not be larger than
3 150 square feet in area except that the mobile home may be modified for use as a gaming structure in playing
4 field #1, as depicted on the approved site plan.

5
6 Mr. Thorsland stated that the Board will not get through this entire case tonight and it would not take a lot of
7 work for Mr. Williams to revise the site plan indicating the location of the mobile home in playing field #1.
8 He said that his worry is two-fold in exempting the mobile home and assuring that it does not wind up
9 anywhere within the setback.

10
11 Mr. Thorsland asked Mr. Williams if he agreed to proposed Special Condition C. as amended.

12
13 Mr. Williams stated that he agreed to proposed Special Condition C. as amended.

14
15 Mr. Thorsland read proposed Special Condition D. as follows:

- 16
17 **D. Regarding structures and obstacles in the floodplain:**
18 **(1) Structures and obstacles used in the play of paintball shall be secured to the**
19 **ground with a T-post with wire or chain.**
20 **(2) Storage of obstacles and structures not being used in the play of paintball shall**
21 **not occur within the floodplain.**

22 The special conditions stated above are required to ensure the following:
23 **That effects on neighboring properties are mitigated and that storage does not occur**
24 **within the mapped floodplain.**

25
26 Mr. Thorsland asked Mr. Williams if he agreed to proposed Special Condition D.

27
28 Mr. Williams stated that he agreed with proposed Special Condition D.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Thorsland read proposed Special Condition E. as follows:

E. The petitioner and any future owner of Firemark Paintball shall have in place and maintain a rope to delineate the exterior boundaries of the play fields at all times.

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

To prevent trespass of Firemark Paintball patrons onto neighboring properties.

Mr. Hall stated that this condition requires revision. He said that the approved site plan needs to call out the fence and the rope.

Mr. Thorsland stated that the rope will indicate where the playing field ends the fence will indicate where the property ends.

Mr. Thorsland read proposed Special Condition F. as follows:

F. This Special Use Permit shall be void if the business has ceased operations for 12 consecutive months without the business being actively marketed for sale.

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

That the subject property is properly maintained and does not become a nuisance.

Mr. Thorsland asked Mr. Williams if he agreed to proposed Special Condition F.

Mr. Williams stated that he agreed to proposed Special Condition F.

Mr. Hall stated that the Board has requested a special condition regarding hunting.

Mr. Thorsland stated that he had mentioned the idea that one or two of the referees in active fields wears

1 blaze orange while in the boundary area so that they are very visible.

2

3 Mr. Williams stated that he has no issue with Mr. Thorsland's suggestion.

4

5 Mr. Thorsland asked Mr. Hall if he would have time to construct a proposed condition and discuss it with
6 the petitioner prior to the next meeting.

7

8 Mr. Hall stated yes.

9

10 Mr. Thorsland stated that proposed special conditions A(2), E, and G.

11

12 Mr. Thorsland asked Mr. Williams if he had ever had anyone wander off his property or wander onto his
13 property.

14

15 Mr. Williams stated that he has had people wander off of the property but no one wandering onto the
16 property.

17

18 Mr. Thorsland recommended that Mr. Williams read up on the Purple Paint Law and investigate his fencing
19 options. He suggested that Mr. Williams continue working on anchoring and modifying his structures so
20 that they remain on his property.

21

22 Mr. Williams stated that he is working on that now.

23

24 Mr. Thorsland entertained a motion to continue Cases 707-S-12 and 725-V-12 to the December 13, 2012,
25 meeting.

26

27 **Mr. Courson moved, seconded by Ms. Capel to continue Cases 707-S-12 and 725-V-12 to the**
28 **December 13, 2012, meeting. The motion carried by voice vote.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. Continued Text Amendment Cases

Case 710-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning Ordinance by amending the Champaign County Land Evaluation and Site Assessment (LESA) System that is referred to in Section 3; and Footnote 13 in Section 5.3; and subsection 5.4 as follows:

Part A. Revise the Land Evaluation (LE) part as follows: 1. Revise all soil information to match the corresponding information in the *Soil Survey of Champaign County, Illinois* 2003 edition. 2. Revise all existing soil productivity information and replace with information from *Bulletin 811 Optimum Crop Productivity Rating for Illinois Soils* published August 2000 by the University of Illinois College of Agricultural, Consumer and Environmental Sciences Office of Research. 3. Delete the 9 existing Agriculture Value Groups and existing Relative Values ranging from 100 to 0 and add 18 Agriculture Value Groups with Relative LE ranging from 100 to 0. Part B. Revise the Site Assessment (SA) part as follows: 1. Add definitions for “agriculture”; “agricultural production”; “animal units”; “best prime farmland”; “farm dwelling”; “livestock management facility”; “non-farm dwelling”; “principal use”; and “subject site”.; and 2. Delete SA Factors A.2.; A.3.; B.2.; B.3.; C.2.; D.2.; E.1.; E.2.; E.3.; E.4.; F.1.; F.2.; F.3.; F.4.; and F.5.; and 3. Revise SA Factor A.1. to be new Factor 8; Factor B.1. to be new Factor 7; Factor C.1. to be new Factor 5; Factor D.1. to be new Factor 1; and revise scoring guidance for each revised Factor, as described in the legal advertisement; and 4. Add new SA Factors 2a.; 2b.; 2c.; 3.; 4.; 6.; 9.; 10.; and scoring guidance for each new Factor, as described in the legal advertisement. Part C. Revise the Rating for Protection as described in the legal advertisement. Part D. Revise the general text and reformat.

Case 711-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning Ordinance as follows: Part A. In Section 3, revise the definition of “best prime farmland” as follows: a) delete “Relative Value of 85” and “Land Evaluation rating of 85” and replace with “average Land Evaluation rating of 91 or higher”; and b) add “prime farmland soils and under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average,

1 as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*"; and c) add "soils
2 identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation
3 and Site Assessment (LESA) System"; and d) add "Any development site that includes a significant
4 amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3
5 and/or 4 soils:. Part B. Revise Footnote 13 of Section 5.3 to strike references to "has a Land Score
6 greater than or equal to 85 on the County's Land Evaluation and Site Assessment System" and
7 replace with "is made up of soils that are BEST PRIME FARMLAND" Part C. Revise paragraph
8 5.4.4 to strike references to "has a Land Evaluation score greater than or equal to 85 on the County's
9 Land Evaluation and Site Assessment System" and replace with "is made up of soils that are BEST
10 PRIME FARMLAND."

11
12 Mr. John Hall, Zoning Administrator, stated that the Supplemental Memorandum dated September 6, 2012,
13 includes two documents which were submitted at the last public hearing for Case 710-AT-12. He said that
14 the two documents are the Champaign County Local Foods Policy Council Resolution 2012-1 and the LESA
15 Score Suggestions submitted by Eric Thorsland. Mr. Hall stated that after reviewing the documents and
16 thinking about how much time this Board has spent discussing this topic it seemed staff needed to make a
17 sincere attempt to incorporate local foods into the Draft LESA. He said that the memorandum indicates five
18 good reasons why it would be difficult to do anything at this point but it does say that Site Assessment
19 Factors 4, 8 and 10 would be relatively easy to modify to take into account not just the principal use of
20 agriculture on adjacent properties or within one mile but also principal use of agriculture that produces local
21 foods. He said that you can't put many points into local foods as part of the LESA assessment without
22 taking away protection for prime farmland in general.

23
24 Mr. Hall stated that the memorandum proposes a total of ten points and that ten points came from Site
25 Assessment Factor #1, What size is the subject site, and reduces it to five points and takes five points away
26 from Site Assessment #5, Distance from the subject site to the nearest city or village limits. He said that this
27 reduction is a total of ten points out of 200 Site Assessment points and that will reduce the overall
28 assessment totals for any prime farmland tract but it is only 5%. He said that Site Assessment #4, Amount of

1 the perimeter of the subject site that is adjacent to parcels with a principal use of agriculture, would have a
2 new consideration as follows: c) if there are adjacent parcels with a principal use of agriculture that produce
3 any local foods, add the following bonus points based on the amount of the perimeter of the subject site that
4 is bordered by local foods production: (1) 10% or less of the perimeter (but more than zero), add 2 points;
5 and (2) More than 10% of the perimeter, add 4 points. He said that Site Assessment #8, Percentage of area
6 within one mile of a subject site which consists of parcels with a principal use of agriculture would have new
7 a new consideration as follows: c) if the amount of the area within one mile of the subject site which consists
8 of parcels with a principal use of agriculture that are producing any local foods is as follows add the
9 following bonus points: (1) 1% or less of the area (but more than zero), add 2 points; and (2) more than 1%
10 of the area, add 4 points. He said that new item (d) should be added to Site Assessment #10, If there are any
11 livestock management facilities within one mile of the subject site that produce livestock that are marketed
12 as local food, add the following bonus points based on the distance of that local food production from the
13 subject site: (1) .25 mile or less from the subject site, add 2 points; and (2) more than .25 mile but no more
14 than one mile, add one point. He said that there may be a 400 animal unit facility within a certain distance,
15 which gives a certain amount of points, but if there is also local foods there were also be an addition. He
16 said that even if a property received the most on these three factors it will only be ten points and generally
17 will not make a difference and the one problem that exists is that there is no definition for "local foods."

18

19 Ms. Capel stated that no one has a definition for "local foods."

20

21 Mr. Hall stated that a definition is needed for "local foods" but unfortunately not even the Local Foods
22 Policy Council has formally adopted a definition. He said that he floated the definition in item #1 on page 2
23 of the memorandum as follows: "local foods" shall be considered as "agricultural products that are locally
24 grown at a scale greater than a home garden, locally processed as needed, and marketed directly to the
25 consumer as food at local markets or by other formal marketing means.

26

27 Mr. Thorsland stated that the State of Illinois does not allow someone to process anything bigger than
28 chickens on your property or a local food producing property but that does not mean that the food is not sold

1 locally.

2

3 Mr. Hall stated that the other problem is that in the assessment in identifying these things it would be easier
4 if we had a list of local foods producers.

5

6 Ms. Capel stated that she likes the idea of having a separate factor rather than writing it into LESA. She said
7 that the LESA is one of the factors that are considered when the Board is approached in regards to changing
8 the zoning of a property. She said that if there was a local foods evaluation sheet or some way to do a local
9 foods analysis on an area where the site is located would carry a lot more weight than including it in the
10 LESA. She said that this is one of the issues that the Local Foods Policy Council can work with the County
11 Board on and municipalities.

12

13 Mr. Thorsland asked Ms. Capel if the Local Foods Policy Council was aware of the special meeting which
14 will be held on September 19th.

15

16 Ms. Capel stated that she did not know if they were aware of the special meeting.

17

18 Mr. Thorsland stated that he likes Mr. Hall's approach better than his suggestions because it rolls parallel
19 with the livestock issue around the parcel. He said that he also likes Ms. Capel's idea but he is not sure how
20 it would be done.

21

22 Ms. Capel stated that the issue of local foods is going to take a lot more time if it is going to be incorporated
23 into the LESA therefore perhaps it could be considered in the future when the LESA is reconsidered.

24

25 Mr. Thorsland stated that staff supplied all of the minutes from the LESA meetings therefore it would be
26 helpful if the Board would review those minutes prior to the next meeting.

27

28 Mr. Thorsland called Kevin Donoho to testify.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Kevin Donoho, District Conservationist with the Champaign County USDA-NRCS, stated that he is available to answer any questions that the Board or staff may have regarding the proposed LESA. He said that he appreciates the discussion that the Board has already had this morning and it appears that this Board is going in the same circles that the LESA Committee did during their review.

Mr. Thorsland informed Mr. Donoho that a special meeting is being held on September 19th for review of the LESA and hopefully its completion.

Mr. Thorsland asked the Board if there were any questions for Mr. Donoho and there were none.

Mr. Thorsland asked if staff had any questions for Mr. Donoho and there were none.

Mr. Thorsland asked the audience if anyone else desired to sign the witness register to present testimony regarding Cases 710-AT-12 and 711-AT-12 and there was no one.

Mr. Thorsland requested that all Board members be in attendance at the September 19th meeting.

8. Staff Report

None

9. Other Business

A. Review of docket

Mr. Hall stated that the Lyle Shields Meeting Room is not available for the entire month of November therefore other arrangements are being made for the County Board. He asked the Board if they would prefer to cancel the November 15th meeting and reschedule all of the cases accordingly.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Thorsland entertained a motion to cancel the November 15th meeting.

Ms. Capel moved, seconded by Mr. Palmgren to cancel the November 15, 2012, meeting. The motion carried by voice vote.

Mr. Thorsland entertained a motion to continue Cases 687-AM-11 and 688-S-11, Dr. Philip Jones, to the December 13, 2012, meeting.

Mr. Hall asked Mr. Kass if Case 731-S-12, Warner Brothers, will be ready to be heard on December 13th.

Mr. Kass stated that he placed Case 731-S-12 on the December 13th meeting as a tentative date.

Mr. Courson moved, seconded by Mr. Palmgren to continue Cases 687-AM-11 and 688-S-11, Dr. Philip Jones, to the December 13, 2012, meeting. The motion carried by voice vote.

B. August 2012 Monthly Report

Mr. Hall stated that 26 cases have been filed this year in comparison to 16 in 2011 and 17 cases have been completed in comparison to 12 last year.

C. September 19, 2012, Special meeting

Mr. Thorsland reminded the Board of the special meeting which will be held on September 19th at 7:00 p.m. and requested full attendance by the Board.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

None

11. Adjournment

Mr. Thorsland entertained a motion to adjourn the public hearing.

Mr. Courson moved, seconded by Mr. Palmgren to adjourn the September 13, 2012, meeting. The motion carried by voice vote.

Respectfully submitted

Secretary of Zoning Board of Appeals

1 **4. Approval of Minutes (July 26, 2012 and August 16, 2012)**

2

3 Mr. Thorsland stated that the July 26, 2012, and August 16, 2012, minutes were included on the agenda but
4 were not included in the mailing packet for review.

5

6 Mr. Thorsland entertained a motion to re-arrange the agenda.

7

8 **Mr. Miller moved, seconded by Ms. Capel to re-arrange the agenda and hear Case 728-AM-12 prior**
9 **to Cases 715-V-12, 717-AM-12, 718-S-12 and 719-V-12. The motion carried by voice vote.**

10

11 **5. Continued Public Hearing**

12

13 **Case 715-V-12 Petitioner: John Behrens Estate and Anne and Denny Anderson Request to authorize**
14 **the following in the R-1 Single Family Residence Zoning District: Part A. Variance for a side yard**
15 **and rear yard of an existing shed of 1 foot in lieu of the minimum side yard and rear yard of 5 feet;**
16 **and Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear**
17 **yard of 5 feet; and Part C. Variance from Section 4.2.D. requirement that no construction shall take**
18 **place in a recorded utility easement; and Part D. Variance from a minimum separation from a rear**
19 **property line for parking spaces of 1 foot in lieu of the minimum required 5 feet. Location: Lot 1 of**
20 **Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and**
21 **commonly known as the home at 1 Willowbrook Court, Champaign.**

22

23 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
24 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
25 of hands for those who would like to cross examine and each person will be called upon. He requested that
26 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
27 those who desire to cross examine are not required to sign the witness register but are requested to clearly
28 state their name before asking any questions. He noted that no new testimony is to be given during the cross

1 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
2 from cross examination.

3
4 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
5 sign the witness register for that public hearing. He reminded the audience that when they sign the
6 witness register they are signing an oath.

7
8 Mr. Thorsland informed Ms. Astrid Berkson that he cannot allow her to testify for this case because she is
9
10 member of the County Board and our governing body.

11
12 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

13
14 Mr. Denny Anderson, who resides at #1 Willowbrook Ct, Champaign, stated that it has been made clear that
15 his request will not go forward unless he moves the wall four feet therefore he will agree to move the wall
16 four feet to remove anything in the utility easement.

17
18 Mr. John Hall, Zoning Administrator, stated that there are no new memorandums for this case tonight. He
19 said that it is important to go on record that Mr. Anderson is revising his petition at tonight's public hearing.
20 Mr. Hall stated that if the east wall of the shed that is within the utility easement is moved four feet Part C.
21 and most of Part A would be eliminated. He said that the south side of the shed would still have a one foot
22 yard. Mr. Hall stated that during previous meetings Mr. Anderson has stated that the other shed, which is the
23 shed included in Part B, is the shed that he will have no use for once the materials are relocated to Camp
24 Drake. He said that the Board could condition that variance to be only for a certain amount of time. He said
25 that Mr. Anderson's testimony places a totally different spin on the case tonight and the memorandum which
26 went out in the mailing made a clear affirmation that there was no intent to revise the site plan. Mr. Hall
27 stated that if Mr. Anderson does intend to revise his petition then the Summary of Evidence would merit a
28 lot of scrutiny tonight to make sure that it is accurate.

1

2 Mr. Thorsland stated that the October 5, 2012, Supplemental Memorandum indicates that no new site plan
3 had been received and that Mr. Anderson had no intention to move the shed although tonight he has
4 indicated that he wants to move the shed. He asked Mr. Anderson if he is correct.

5

6 Mr. Anderson stated that Mr. Thorsland used the word "want" in his statement. He said that he was clearly
7 told that the request would not be approved if the four foot remained in the easement. He said that he will
8 move the shed wall four foot if that is the only chance for a positive outcome.

9

10 Mr. Hall asked Mr. Anderson to indicate his intent for the south shed.

11

12 Mr. Anderson stated that he has earlier stated that the south shed is only there in a temporary fashion to store
13 materials. He said that the materials are being moved and it is his guess that the shed will be removed within
14 the next three months.

15

16 Mr. Hall stated that Part D is in regard to the parking along the south lot line. He asked Mr. Anderson if he
17 still wants Part D to part of the variance request.

18

19 Mr. Anderson stated that it seems reasonable to him. He said that there was an old existing two track located
20 there and he would like to have the variance. He said that currently there is a scout trailer parked there and it
21 is approximately three feet from the property line. He said that, if required, he will move or widen the track
22 an additional 24 inches although it seems silly to do so.

23

24 Mr. Hall stated that he understands that it may seem silly but if it is moved then the variance is not required
25 and the Board will have no control as to what he parks there.

26

27 Mr. Anderson stated that he will move it therefore it will not be an issue.

28

- 1 Mr. Thorsland asked if the Board has any questions for Mr. Anderson.
- 2
- 3 Mr. Palmgren stated that notes have been placed on the site plan that Mr. Anderson submitted indicating that
4 if he moves the shed four feet then no variance would be required.
- 5
- 6 Mr. Thorsland informed Mr. Palmgren that the notes on the site plan were from staff and not Mr. Anderson.
- 7
- 8 Mr. Passalacqua stated that the Board still does not have a revised site plan.
- 9
- 10 Mr. Anderson stated that at the end of the last meeting he offered to move the shed four feet and he was told
11 not to do anything. He said that he is reaffirming that he will move the shed four feet.
- 12
- 13 Mr. Passalacqua stated that he suggested that Mr. Anderson not move the shed until he submitted a new site
14 plan to the Board for review. He said that the memorandum indicated that Mr. Anderson had no intention of
15 submitting a new site plan.
- 16
- 17 Mr. Anderson stated that during his last visit to the office it was made very clear that he would not receive a
18 positive outcome therefore he should reconsider moving the building four feet.
- 19
- 20 Mr. Passalacqua stated that he is still requesting a new site plan.
- 21
- 22 Mr. Thorsland asked Mr. Anderson if he willing to submit a new site plan.
- 23
- 24 Mr. Anderson stated yes.
- 25
- 26 Mr. Thorsland informed Mr. Anderson that the site plan should include the movement of the east wall four
27 feet and how Part D, regarding the parking, will be eliminated. He said that Mr. Anderson has indicated that
28 the small shed will be removed from the property within the next three months. He asked Mr. Anderson if a

1 condition was proposed for removal of the shed to be complete by January 1st would be acceptable.

2

3 Mr. Anderson stated that it is hard to guarantee that the shed would be moved within a three month period or
4 January 1st. He said that he does not have a crystal ball to guarantee the weather for removal.

5

6 Mr. Thorsland stated that the Board will probably give him some time to revise and submit a new site plan
7 for the Board's review. He stated that he would appreciate a timeline for removal of the small shed to be
8 included with the submitted information.

9

10 Mr. Hall stated that he appreciates that someone might be able to move the shed within three months but he
11 does not see that much good that a short deadline serves and a short deadline is likely to result in more
12 problems. He said that he would hope that the Board would entertain an allowance of six months for
13 removal of the shed which would give Mr. Anderson a couple of months of good weather to get the shed
14 moved and he cannot think of a valid excuse for not having the shed moved within that time.

15

16 Mr. Anderson stated that he appreciates Mr. Hall's suggestion of six months.

17

18 Mr. Hall asked Mr. Anderson when he could submit a new site plan for the Board's review.

19

20 Mr. Anderson stated that if 30 days would suffice then he will have a new site plan to staff within 30 days.
21 He said that if staff needs it within a week then he will get it to staff within one week.

22

23 Mr. Hall stated that one week is not necessary. He said that the meeting schedule is such that the Board
24 meets again on October 24th which is a very full agenda. He said that the next opportunity after the October
25 24th meeting is December 13th because all ZBA meetings have been cancelled for November. He said from
26 a staff perspective having this case return for the October 24th meeting would make that meeting even more
27 difficult than it is right now.

28

1 Mr. Thorsland stated that he would prefer that the case be continued to the December 13th meeting.

2

3 **Mr. Courson moved, seconded by Mr. Palmgren to continue Case 715-V-12 to the December 13, 2012,**
4 **meeting. The motion carried by voice vote.**

5

6 Mr. Passalacqua asked if there were any witness

7

8 Mr. Thorsland called Ms. Patricia Belleville to testify.

9

10 Ms. Patricia Belleville, who resides at 511 Park Lane Drive, Champaign, stated that she is the Chair of the
11 Windsor Park Homeowner’s Association. She said that she spoke with Tim Menard, Scout Leader at Camp
12 Drake, and he informed her that only one tree house was ever built and there will be no other trees houses
13 constructed. She said that Mr. Menard also indicated that they do not allow scout masters to store any
14 building materials or equipment at Camp Drake and he has agreed to send a letter or e-mail to verify his
15 statement. She submitted photographs of the subject property as Documents of Record.

16

17 Ms. Belleville stated that some of the neighbors are present tonight because they are concerned that the sheds
18 and storage materials are not being used for the scout projects but are being used for Mr. Anderson’s
19 business. She said that Mr. Anderson has indicated that he operates a construction business or does
20 construction work therefore the neighbors are concerned that the shed will be used for other uses that may
21 not fall within the zoning requirements.

22

23 Mr. Thorsland requested that Mr. Menard send a letter or e-mail to staff confirming his statement.

24

25 Ms. Belleville stated that she will contact Mr. Menard and have him send a letter or e-mail to Mr. Hall’s
26 office.

27

28 Mr. Thorsland informed the audience that if they are residents of the neighborhood and they have concerns

1 regarding Mr. Anderson's request then they should testify personally to give more weight to their concerns.

2

3 Mr. Thorsland asked if staff had any questions for Ms. Belleville.

4

5 Mr. Hall pointed out that Neighborhood Home Occupations are allowed in residential zoning districts and
6 they do allow one accessory building to be devoted to the home occupation. He said that if the Board
7 approved Mr. Anderson's variance to keep one shed on the property the Board could not prohibit the use of
8 the shed for something that is already authorized by the Ordinance. He said that the approval of the home
9 occupation is done on a permit basis over the counter and there is no public hearing and no notices are
10 mailed to neighbors. He said that his advice to the neighbors would be that if they see things that appear like
11 business activities they should call the office so that staff can investigate those activities. He said that there
12 is not prohibition against running a business from your home provided that the requirements of Section 7.1.1
13 of the Zoning Ordinance are met. He said that staff can provide a handout regarding a Neighborhood Home
14 Occupation to Ms. Belleville to assist with the understanding of what could be expected on neighboring
15 properties.

16

17 Ms. Belleville stated that she would appreciate receipt of the handout.

18

19 Mr. Passalacqua stated that outdoor storage is prohibited.

20

21 Mr. Hall stated yes.

22

23 Ms. Belleville stated that prior testimony indicated that building materials were being stored on the property
24 that were not being used for the homeowner's business therefore creating a violation of the Nuisance
25 Ordinance.

26

27 Mr. Hall stated that Ms. Belleville was correct.

28

1 Ms. Belleville stated that Mr. Anderson could run a business but he could not store building materials that
2 would be used for his business on the property.

3
4 Mr. Hall stated that Mr. Anderson could not store the building materials outside but he could store them
5 inside of the designated shed for the business.

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

8
9 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Belleville and there was no one.

10
11 Mr. Thorsland called Ruth Mitchell to testify.

12
13 Ms. Ruth Mitchell, who resides at 3 Regent Court, Champaign, stated that there are numerous vehicles on
14 the subject property that appear to be commercial type vehicles. She said that a complaint has been received
15 from a neighbor who lives on Willowbrook Court regarding these vehicles therefore she thought that now
16 would be a good opportunity to ask about those vehicles and how they fall into this picture.

17
18 Mr. Hall stated that the Neighborhood Home Occupation Section 7.1.1. allows no more than one commercial
19 vehicle less than or equal to 36,000 pounds gross vehicle weight and no more than 25 feet in length shall be
20 permitted on lots within a residential zoning district. He said that one vehicle is allowed and a van and a
21 licensed trailer would be two vehicles.

22
23 Mr. Thorsland asked the Board if there were any questions for Ms. Mitchell and there was no one.

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

26
27 Mr. Thorsland asked Ms. Belleville if the submitted photographs were taken today.

28

1 Ms. Belleville stated that the photographs were taken this morning.

2

3 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
4 testimony regarding this case and there was no one.

5

6 Mr. Thorsland closed the witness register for tonight's meeting. He reminded the audience that the case has
7 been continued to December 13th.

8

9 **Case 717-AM-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General**
10 **Manager and landowner Parkhill Enterprises. Request to amend the zoning Map to change the**
11 **district designation from the R-4 Multiple Family Residence Zoning District to the AG-2 Agriculture**
12 **Zoning District. Location: Approximately 2.9 acres of an approximately 3.6 acre tract located in the**
13 **South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 12**
14 **of Mahomet Township and commonly known as the Sangamon Valley Public Water District**
15 **treatment plant at 709 North Prairieview Road, Mahomet and subject to the proposed Special Use**
16 **Permit in related Case 718-S-12 and the variance requested in related Case 719-V-12.**

17

18 **Case 718-S-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General**
19 **Manager and landowner Parkhill Enterprises. Request to authorize the following on land that is**
20 **proposed to be rezoned to the AG-2 Zoning District in related Case 717-AM-12 subject to the required**
21 **variance in related Case 719-V-12. Part A. Authorize expansion and use of a non-conforming water**
22 **treatment plant as a Special Use with waivers (variance) of standard conditions; and Part B.**
23 **Authorize the replacement of a non-conforming water treatment tower that is 131 feet in height as a**
24 **Special Use with waivers (variance) of standard conditions. Location: An approximately 3.6 acre tract**
25 **located in South Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of**
26 **Section 12 of Mahomet Township and commonly known as the Sangamon Valley Public Water**
27 **District treatment plant a 709 North Prairieview Road, Mahomet.**

28

1 **Case 719-V-12 Petitioner: Sangamon Valley Public Water District and Kerry Gifford, General**
2 **Manager and landowner Parkhill Enterprises. Request to authorize the following for expansion of a**
3 **non-conforming water treatment plant in related Case 718-S012 on land that is proposed to be**
4 **rezoned to the AG-2 Zoning District in related Case 717-AM-12: Part A. The expansion of a non-**
5 **conforming lot of record that does not abut and have access to a public street right of way and does**
6 **not abut a private accessway as required by Zoning Ordinance paragraph 4.2.1H; and Part B. The**
7 **use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3 acres on best prime**
8 **farmland in the AG-2 District for the construction and use of a water treatment plant in related**
9 **Special Use Permit Case 718-S-12. Part C. Waiver (variance) of standard conditions for a lot area of**
10 **3.6 acres in lieu of the required 5 acres; a front yard of 17 feet in lieu of the required 55feet; a side**
11 **yard of 46 feet in lieu of the required 50 feet; and Part D. Waiver (variance) for a elevated water**
12 **storage tank that is 131 feet in height in lieu of the maximum allowed 50 feet. Location: An**
13 **approximately 3.6 acre tract located in South Half of the Southwest Quarter of the Northwest Quarter**
14 **of the Southwest Quarter of Section 12 of Mahomet Township and commonly known as the Sangamon**
15 **Valley Public Water District treatment plant a 709 North Prairieview Road, Mahomet.**

16
17 Mr. Thorsland informed the audience that Cases 718-S-12 and 719-V-12 are Administrative Cases and as
18 such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time
19 he will ask for a show of hands for those who would like to cross examine and each person will be called
20 upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any
21 questions. He said that those who desire to cross examine are not required to sign the witness register but
22 are requested to clearly state their name before asking any questions. He noted that no new testimony is to
23 be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the
24 ZBA By-Laws are exempt from cross examination.

25
26 Mr. Thorsland informed the audience that anyone wishing to testify for these public hearings tonight must
27 sign the witness registers. He reminded the audience that when they sign the witness register they are
28 signing an oath. He asked the audience if anyone desired to sign the witness registers at this time.

1

2 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

3

4 Mr. Gifford stated that he has no new information to present at this time. He said that the memorandums
5 indicate the status of the case to-date.

6

7 Mr. Thorsland called John Hall to testify.

8

9 Mr. John Hall, Zoning Administrator, distributed three new memorandums to the Board for review. He said
10 that there are two memorandums for Case 717-AM-12. He said that Supplemental Memorandum A
11 proposes to correct the land use and zoning information on the Finding of Fact. He said that on the back
12 page of the memorandum is an illustration of the Village of Mahomet zoning which was provided at the last
13 meeting by Robert Mahrt. He said that the land on the south is in residential use and agricultural production
14 and is located within the Village of Mahomet Village limits and is zoned RU Residential Urban, R-2
15 Residential Two Family, and R-3 Residential Multiple Family. He said that the land to the west of the
16 subject property is in residential use and is located within the Village of Mahomet Village limits and is
17 zoned R-1 Residential Single Family.

18

19 Mr. Hall stated that Supplemental Memorandum B for Case 717-AM-12 includes evidence which is
20 proposed to be added to item 3 of the Finding of Fact which is the finding regarding the Village of Mahomet.
21 He said that the new evidence was taken from the draft minutes which were included in the mailing and
22 summarizes the statements made by Robert Mahrt, Village Planner for the Village of Mahomet. He said that
23 item 3.B. is a review of the Village of Mahomet's Zoning Ordinance requirements for conditional uses. He
24 said that Mr. Mahrt explained that if this use were in the Village it could be authorized as a public building
25 erected by any governmental agency as a conditional use. He said that the items of evidence reviews that
26 there are no specific standards for a public building erected by an governmental agency as a conditional use
27 but the Village of Mahomet Zoning Ordinance requires a public hearing for any conditional use and
28 authorizes special conditions to be imposed to insure that the five following things are met: a. the

1 establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the
2 public health, safety, morals, comfort, or general welfare; and b. the conditional use will not be injurious to
3 the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor
4 substantially diminish and impair property values in the neighborhood; and c. the establishment of the
5 conditions use will not impede the normal and orderly development and improvement of surrounding
6 property for uses permitting the in the district; and d. adequate utilities, access roads, drainage, and/or other
7 necessary facilities will be provided; and e. adequate measures will be taken to provide ingress and egress
8 and egress so designed as to minimize traffic congestion in the public streets; and f. the conditional use shall
9 in all other respects conform to the applicable regulations of the district in which it is located and the Board
10 shall find that there is a public necessity. He said that attached to Supplemental Memorandum B is Section
11 9.1 from the Village of Mahomet zoning Ordinance received October 25, 2001. He said that it is possible
12 that something may have changed but these kinds of things rarely change and are very similar and he would
13 dare say that they are intended to be identical to the same findings that this Board will have to make in the
14 special use permit case.

15
16 Mr. Hall stated that the new memorandum for Cases 718-S-12 and 719-V-12 includes the draft minutes from
17 the September 27th public hearing and the new site plan is included separately. He said that the new site plan
18 shows a berm on the north line of the property and the berm stops at a dashed line which is called out as the
19 future extension of the south right-of-way line of Middleton Drive. He said that item 6 on the site plan reads
20 as follows: Middleton Drive south right-of-way line to be extended through property with future
21 development (by others) fence to be relocated at time of development. He said that the fence does go around
22 the perimeter of the proposed property and Board members will recall that this was discussed at the last
23 meeting. He said that the site plan is not proposing to extend Middleton Drive but is intended to make it
24 clear that this plan anticipates an extension of Middleton Drive, more or less as indicated, and states that it
25 will move the fence as required. He said that he wants to make it clear that the site plan indicates the
26 proposed setback line 55 feet away from the perimeter of the property but it also includes that setback line to
27 the middle of the property. He said that the Zoning Ordinance would not require a setback line anywhere
28 other than around the perimeter and he doubts that this will ever become an issue for this case. He said that

1 he just wanted to make it clear that the Zoning Ordinance doesn't require that setback line where it angles off
2 of the west property line and then goes over to the setback line to the east. He said that he does not believe
3 that it creates a problem on the site plan but he wanted to let the Board know that it is not required by the
4 Ordinance and the Board is not intending to require it. He said that the petitioner has done everything that
5 the Board has asked them to do and they have done everything that they can to make the new construction
6 comply with the standards and petitioned for a variance for the existing structures that do not meet the
7 standards.

8

9 Mr. Hall stated that the new memorandum has the same evidence regarding the description of the Village of
10 Mahomet's zoning and summarizes the changes made to the site plan which consists of the screening berm
11 on the north side and the notes regarding the right-of-way for Middleton Drive. He said that the other
12 evidence is in other areas of the Summary of Evidence where staff discusses the site plan. He said that the
13 memorandum for Case 717-V-12 staff excerpted the testimony of Robert Mahrt from the draft minutes and
14 staff has made no attempt to correct typos or any other required corrections. He said that the minutes are
15 only included to remind everyone as to what was discussed at the last hearing.

16

17 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

18

19 Mr. Thorsland stated that he has witness registers for each case by which the same people have signed. He
20 requested that when a witness is called upon that they indicate which case they are referring to at that time or
21 if their testimony refers to all of the cases.

22

23 Mr. Thorsland called Phillip VanNess to testify.

24

25 Mr. Phillip VanNess, attorney for the petitioner, stated that his purpose here today is to basically answer any
26 questions that the Board or staff may have regarding their requests. He said that they have presented the
27 evidence that they have and have made all of the changes that the Board has requested therefore they urge
28 the Board to approve that application as submitted and move the map amendment case forward to the

1 County Board. He said that the petitioner understands that they have to deal with the Village of Mahomet
2 and they have initiated contact with the Village of Mahomet and will let those issues deal with themselves
3 and not deal with them at the ZBA.

4
5 Mr. Thorsland asked the Board if there were any questions for Mr. VanNess and there were none.

6
7 Mr. Thorsland asked if staff had any questions for Mr. VanNess and there were none.

8
9 Mr. Thorsland called Kerry Gifford to testify.

10
11 Mr. Kerry Gifford, General Manager for Sangamon Valley Public Water District, stated that he is present
12 tonight to any questions that the Board or staff may have and to request support of their requests.

13
14 Mr. Thorsland asked the Board if there were any questions for Mr. Gifford and there were none.

15
16 Mr. Thorsland asked if staff had any questions for Mr. Gifford and there were none.

17
18 Mr. Thorsland called Mike Buzicky to testify.

19
20 Mr. Mike Buzicky, engineer with Sodeman and Associates, stated that Sodeman and Associates was the
21 engineers of record for the preliminary site plan and revised the site plan as requested. He said that they
22 made a note and line drawings for the Middleton Drive extension through the property and added an Ameren
23 easement line and extended the berm per the request of the adjacent church. He said that he would be happy
24 to answer any questions that the Board or staff may have regarding their requests.

25
26 Mr. Thorsland asked the Board if there were any questions for Mr. Buzicky and there were none.

27
28 Mr. Thorsland asked if staff had any questions for Mr. Buzicky and there were none.

1

2 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Buzicky and there was no one.

3

4 Mr. Thorsland asked the audience if anyone else desired to sign the witness register and there was no one.

5

6 Mr. Thorsland stated that the two new memorandums for Case 717-AM-12 indicate new evidence to be
7 added to item 3 of the Finding of Fact. He asked the Board if there were any changes to the proposed
8 evidence and there were none.

9

10 Mr. Hall stated that item 2 of the Finding of Fact should be revised as follows: The subject property is an
11 approximately 3.6 acre tract located in the South Half of the Southwest Quarter of the Northwest Quarter of
12 the Southwest Quarter of Section 12 of Mahomet Township less the original .70 acre parcel and commonly
13 known as the Sangamon Valley Public Water District treatment plant at 709 North Prairieview Road,
14 Mahomet.

15

16 Mr. Thorsland read LRMP Goal 1. He said that staff has recommended that LRMP Goal is NOT
17 RELEVANT to the proposed rezoning and the Board agreed.

18

19 Mr. Thorsland read LRMP Goal 2. He said that staff has recommended that the proposed amendment WILL
20 HELP ACHIEVE Goal 2 and WILL HELP ACHIEVE Objective 2.1 and Policy 2.1.2 and the Board agreed.

21

22 Mr. Thorsland read LRMP Goal 3. He said that staff has recommended that the proposed amendment WILL
23 NOT IMPEDE achievement of Goal 3 and the Board agreed.

24

25 Mr. Thorsland read LRMP Goal 4. He said that staff has recommended that the proposed amendment WILL
26 HELP ACHIEVE Goal 4. He said that staff has also recommended that the proposed rezoning WILL HELP
27 ACHIEVE Objective 4.1, Policy 4.1.1, Policy 4.1.6, Objective 4.2, Policy 4.2.2, Policy 4.2.3, Policy 4.2.4,
28 Objective 4.3, Policy 4.3.2, Policy 4.3.3, Policy 4.3.4, and Policy 4.3.5. The Board agreed with staff's

1 recommendations.

2

3 Mr. Passalacqua stated that he agrees with staff's recommendations because this is an expansion as opposed
4 to a separate location.

5

6 Mr. Thorsland read LRMP Goal 5. He said that staff has recommended that the proposed amendment WILL
7 HELP ACHIEVE Goal 5. He said that staff has recommended that the proposed rezoning WILL HELP
8 ACHIEVE Objective 5.1. and WILL NOT IMPEDE Policy 5.1.1. He said that staff recommended that the
9 proposed rezoning WILL HELP ACHIEVE Policy 5.1.3, Policy 5.1.5, 5.1.6, Objective 5.2, Policy 5.2.2,
10 Objective 5.3, Policy 5.3.1, and Policy 5.3.2. He said that staff recommends that the proposed rezoning
11 WILL NOT IMPEDE Policy 5.2.3. The Board agreed with staff's recommendations.

12

13 Mr. Passalacqua stated that he agrees with staff's recommendations because the petitioner is using the
14 property effectively and efficiently and is containing the expansion on one site.

15

16 Mr. Thorsland read Goal 6. He said that staff recommends that the proposed amendment WILL HELP
17 ACHIEVE Goal 6. He said that staff recommends that the proposed rezoning WILL HELP ACHIEVE
18 Objective 6.1, Policy 6.1.3, and Objective 6.3. The Board agreed with staff's recommendations.

19

20 Mr. Thorsland read Goal 7. He said that staff recommends that the proposed amendment WILL NOT
21 IMPEDE Goal 7.

22

23 Mr. Passalacqua stated that the willingness to make the accommodations for Middleton Drive indicates that
24 the proposed amendment WILL HELP ACHIEVE Goal 7.

25

26 Mr. Thorsland asked the Board if they agreed with Mr. Passalacqua's recommendation that the proposed
27 amendment WILL HELP ACHIEVE Goal 7 and the Board agreed.

28

1 Mr. Thorsland read Goal 8. He said that staff recommends that the proposed amendment WILL HELP
2 ACHIEVE Goal 8 and that Objectives 8.3, 8.4, 8.5, 8.6, 8.7, 8.8 and 8.9 are NOT RELEVANT to the
3 proposed amendment. He said that the proposed rezoning WILL NOT IMPEDE Policy 8.1.3 and WILL
4 HELP ACHIEVE Objective 8.2, and Policy 8.2.1 and the Board agreed with staff's recommendations.

5

6 Mr. Thorsland read LRMP Goal 9. He said that staff recommends that the proposed amendment WILL NOT
7 IMPEDE the achievement of Goal 9 and the Board agreed.

8

9 Mr. Thorsland read LRMP Goal 10. He said that staff recommends that the proposed amendment IS NOT
10 RELEVANT to the proposed amendment and the Board agreed.

11

12 Mr. Thorsland stated that item 20 of the Finding of Fact discusses the *LaSalle Factors*.

13

14 Mr. Hall stated that the only comments regarding the *LaSalle Factors* are in the Summary Finding of Fact.

15

16 Ms. Capel asked if Table 1: Land Use and Zoning Summary requires revision due to the evidence included
17 in Supplemental Memorandum A.

18

19 Mr. Hall stated that the land use to the south is Agriculture/Residential and the zoning is Village of Mahomet
20 RU Residential Urban, R-2 Residential Two Family, and R-3 Residential Multiple Family. He said that the
21 land to the west is Residential and the zoning is Village of Mahomet R-1 Residential Single Family.

22

23 Mr. Thorsland stated that there are two proposed special conditions for approval.

24

25 Mr. Hall reminded the Board that at the last meeting proposed Special Condition B was discussed and it is at
26 the Board's discretion whether or not to require it. He said that there are two views regarding proposed
27 Special Condition B. He said that one view is that compliance with the Village of Mahomet subdivision
28 regulations is already required therefore why call it out and the other view is that it is known that it is

1 required therefore why not call it out so that the requirement is not overlooked. He said that either approach
2 is entirely valid and the Board normally calls things out so that they are not overlooked.
3

4 Mr. Passalacqua stated that it is very clear that these things are already ongoing in the process and the
5 Village of Mahomet is being represented very well therefore he sees no reason to include the requirement as
6 a condition for approval.
7

8 Mr. Thorsland stated that testimony has been received that the petitioner and the Village of Mahomet are
9 discussing the subdivision requirement.
10

11 Mr. Passalacqua stated that he does not believe that the subdivision requirement needs to be included
12 therefore he would suggest that proposed Special Condition B be stricken.
13

14 Mr. Palmgren concurred with Mr. Passalacqua.
15

16 Mr. Thorsland read proposed Special Condition A as follows: **The owners of the subject property hereby**
17 **recognize and provide for the right of agricultural activities to continue on adjacent land consistent**
18 **with the Right to Farm Resolution 3425 to ensure conformance with policies 4.2.3 and 5.1.5.**
19

20 Mr. Thorsland asked the petitioners if they agreed with proposed Special Condition A and the petitioner
21 indicated that agreed.
22

23 Mr. Thorsland stated that it appears that proposed Special Condition B should be removed due to
24 redundancy although he encourages the Village of Mahomet and the petitioner to work on this issue.
25

26 Ms. Capel asked Mr. Hall if the Zoning Compliance Certificate can be issued prior to the subdivision
27 requirement being met.
28

1 Mr. Hall stated that this issue will come up during the permitting process and if the subdivision has not been
2 completed by permitting a condition will be included on the permit indicating the proof of completion will
3 be required prior to the issuance of a Zoning Compliance Certificate. He said that he will contact the Village
4 of Mahomet during the time of permitting and before any construction is authorized staff must be informed
5 that the subdivision process is well under way.

6
7 Mr. Thorsland asked the petitioner if they understood Mr. Hall's statement and the petitioner indicated yes.

8
9 Mr. Thorsland entertained a motion to approve proposed Special Condition A.

10
11 **Ms. Capel moved, seconded by Mr. Passalacqua to approve proposed Special Condition A. The**
12 **motion carried by voice vote.**

13
14 Mr. Thorsland stated that the following Documents of Record should be added: 17: Woods Subdivision
15 Area General Plan received July 13, 2012; and 18: Supplemental Memorandum for Case 717-AM-12 dated
16 September 27, 2012, with attachments: A. Tax Maps (2000, 2001, 2005, and 2011; and B. Letter dated
17 January 4, 2003, from Teri Legner, Village of Mahomet Administrator, to Ivan Sherburn, Sangamon Valley
18 Public Water District; and C. The Woods General Area Plan. He continued with new item 19: Village of
19 Mahomet Zoning Map submitted by Robert Mahrt at the September 27, 2012, public hearing; and 20: Letter
20 from Rick Smith, Mahomet Christian Church, received October 2, 2012; and 21: Supplemental
21 Memorandum for Case 717-AM-12 dated October 5, 2012, with attachment: A. Letter from Rick Smith,
22 Mahomet Christian Church, received October 2, 2012; and 22: Revised Site Plan received October 8, 2012,
23 and 23: Revised Site Plan received October 10, 2012; and 24: Supplemental Memorandum for Case 717-
24 AM-12 dated October 11, 2012, with attachment: A. Village of Mahomet Zoning Map; and 25:
25 Supplemental Memorandum B for Case 717-AM-12 dated October 11, 2012, with attachment: A. Section
26 9.1 from the Village of Mahomet Zoning Ordinance received October 25, 2001; and 26: Supplemental
27 Memorandum for Cases 718-S-12 and 719-V-12 dated October 11, 2012, with attachments: A. Revised Site
28 Plan received October 10, 2012; and B. Draft minutes of public hearing on September 27, 2012.

1

2 **Summary Finding of Fact for Case 717-AM-12:**

3

4 From the documents of record and the testimony and exhibits received at the public hearing conducted on
5 June 28, 2012, September 27, 2012, and October 11, 2012, the Zoning Board of Appeals of Champaign
6 County finds that:

7 1. The proposed Zoning Ordinance map amendment **WILL HELP ACHIEVE** the Land
8 Resource Management Plan because:

9

10 A. The proposed Zoning Ordinance map amendment **WILL HELP ACHIEVE** the
11 following LRMP goals:

- 12 • 2, 4, 5, 6, 7, and 8

13 B. The proposed Zoning Ordinance map amendment **WILL NOT IMPEDE** the
14 achievement of the other LRMP goals:

- 15 • 3 and 9

16 C. The proposed Zoning Ordinance map amendment is **NOT RELEVANT** to the
17 following goals:

- 18 • 1 and 10

19

20 Mr. Thorsland entertained a motion to approve the Summary Finding of Fact as read.

21

22 **Mr. Miller moved, seconded by Mr. Courson to approve the Summary Finding of Fact as read. The**
23 **motion carried by voice vote.**

24

25 2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair*
26 factors.

27

28 Mr. Thorsland entertained a motion to approve that the proposed Zoning Ordinance map amendment **IS**

1 consistent with the *LaSalle* and *Sinclair* factors.

2

3 **Mr. Courson moved, seconded by Mr. Palmgren that the proposed Zoning map amendment IS**
4 **consistent with the *LaSalle* and *Sinclair* factors. The motion carried by voice vote.**

5

6 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
7 of Fact as amended.

8

9 **Mr. Courson moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of**
10 **Record and Findings of Fact as amended. The motion carried by voice vote.**

11

12 Mr. Thorsland entertained a motion to move to the Final Determination for Case 717-AM-12.

13

14 **Mr. Courson moved, seconded by Mr. Palmgren to move to the Final Determination for Case 717-**
15 **AM-12. The motion carried by voice vote.**

16

17 Mr. Thorsland informed the petitioner that a full Board is present tonight and four affirmative votes are
18 required for approval.

19

20 **Final Determination for Case 717-AM-12:**

21

22 **Mr. Courson moved, seconded by Ms. Capel that pursuant to the authority granted by Section 9.2 of**
23 **the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Appeals of Champaign**
24 **County finds that the Zoning Ordinance Map Amendment requested in Case 717-AM-12 should BE**
25 **ENACTED by the County Board in the form hereto subject to the following special condition:**

26

- 27 **A. The owners of the subject property hereby recognize and provide for the right of**
- 28 **agricultural activities to continue on adjacent land consistent with the Right to Farm**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Resolution 3425 to ensure conformance with policies 4.2.3 and 5.1.5.

Mr. Thorsland requested a roll call vote.

Palmgren-yes	Passalacqua-yes	Capel-yes
Courson-yes	Miller-yes	Thorsland-yes

Mr. Hall informed the petitioners that the request has received a recommendation of approval and the case will be forwarded to the Committee of the Whole meeting on November 8, 2012, at the ILEAS building on East Main Street, Urbana.

Mr. Thorsland requested a five minute recess.

The Board recessed at 8:35 p.m.
The Board resumed at 8:42 p.m.

Mr. Thorsland stated that the Board will now review the Revised Draft Summary of Evidence for Cases 718-S-12 and 719-V-12. He said that the Supplemental Memorandum dated October 11, 2012, proposes revisions to Item 4.B(2) and 4.B(4) of the Summary of Evidence as follows: 4.B(2): Land on the south is in residential use and agricultural production and is located within the Village of Mahomet Village limits and is zoned RU Residential Urban, R-2 Residential Two Family, and R-3 Residential Multiple Family.

Mr. Thorsland stated that the memorandum also proposes the following revision and additions to Item 5: 5.A: The site plan received June 19, 2012, and revised on August 16, 2012, and October 10, 2012; and 5A(3)(e): The locations of proposed 6' to 8' height fencing and landscape screening. The landscape screening consists of a berm on the east side and a berm along the north property line. Existing trees on the west side will be utilized as well; and new Item 5.A(3)(i): The location of the future south right-of-way line of Middletown Drive in the northeast corner of the subject property; and new Item 5.A(4): an existing 50 feet

1 wide Ameren easement in the southwest corner of the subject property; and 5.A(5): a note indicating that the
2 proposed treatment plant will utilize a lighting system conforming to the Champaign County lighting
3 requirements; and 5.A(6): a note indicating that the fence will be relocated when the south right-of-way line
4 of Middleton Drive is extended through the property.

5
6 Mr. Thorsland stated that the following revisions and proposed evidence should be added to Item 8.F:
7 Regarding outdoor lighting on the subject property , the revised site plans received August 16, 2012,
8 and October 10, 2012, indicates the following: (1) The Sangamon Valley Public Water District utilizes two
9 overhead pole mounted lighting units located along the existing access road, one at the entrance at
10 Prairieview Road and one at the plant gate. The locations of these two overhead lights are indicated on the
11 site plan; and (2) The new water plant will utilize a lighting system conforming to the Champaign County
12 lighting regulations.

13
14 Mr. Thorsland stated that the following revisions and proposed evidence should be added to Item 9.C(2)(e):
15 The site plans received on August 16, 2012, and October 10, 2012, indicates that there will be a total of 15
16 parking spaces, including 2 handicap accessible spaces located on the subject property. Screening has been
17 indicated on the site plan as a landscaped berm and an 8 feet in height opaque fence along the east property
18 line. There are some trees located in the southwest corner of the subject property that could provide
19 screening. In addition a landscaped berm along the north property line is indicated. He said that the
20 following revisions and addition of proposed evidence should be added to Item 9.C.(3)(c): The site plans
21 received August 16, 2012, and October 10, 2012, indicates that a 15' x 40' loading berth will be located next
22 to the proposed treatment plant. The existing water treatment plant has received deliveries since 1973 so
23 there is an unloading area on the property. There are some trees located in the southwest corner of the
24 subject property that could provide screening.

25
26 Mr. Thorsland stated that only one special condition is proposed Cases 718-S-12 and 719-V-12 and this
27 special condition was stricken from Case 717-AM-12. He said that proposed special condition is in regard
28 to the Village of Mahomet Subdivision Regulation. He asked the Board if they agreed that the proposed

1 special condition should be stricken from Cases 718-S-12 and 719-V-12 as well and the Board agreed.

2

3 Mr. Thorsland stated that the Documents of Record for Cases 718-S-12 and 719-V-12 are identical to the
4 revised Documents of Record for Case 717-AM-12.

5

6 **Finding of Fact for Case 718-S-12:**

7

8 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
9 718-S-12 held on June 28, 2012, September 27, 2012 and October 11, 2012, the Zoning Board of Appeals of
10 Champaign County finds that:

11

12 **1. The requested Special Use Permit IS necessary for the public convenience at this**
13 **location.**

14

15 Mr. Passalacqua stated that the requested Special Use Permit IS necessary for the public convenience at this
16 location because it makes available safe drinking water in an appropriate quantity.

17

18 Ms. Capel stated it is an expansion of the current plant.

19

20 **2. The requested Special Use Permit is so designed, located, and proposed to be operated**
21 **so that it WILL NOT be injurious to the district in which it shall be located or**
22 **otherwise detrimental to the public health, safety and welfare.**

23

24 **a. The street has ADEQUATE traffic capacity and the entrance location has**
25 **ADEQUATE visibility.**

26

27 Mr. Courson stated that the street has ADEQUATE traffic capacity and the entrance location has
28 ADEQUATE visibility.

1

b. Emergency services availability is ADEQUATE.

3

Mr. Courson stated that emergency services availability is ADEQUATE.

5

c. The Special Use WILL be compatible with adjacent uses.

7

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

9

d. Surface and subsurface drainage will be ADEQUATE.

11

Ms. Capel stated that surface and subsurface drainage will be ADEQUATE.

13

e. Public safety will be ADEQUATE.

15

Ms. Capel stated that public safety will be ADEQUATE.

17

f. The provisions for parking will be ADEQUATE.

19

Mr. Courson stated that the provisions for parking will be ADEQUATE.

21

And except that in the CR, AG-1, and G-2 DISTRICTS the following additional criteria shall also apply:

23

24

g. The property is BEST PRIME FARMLAND and the property with the proposed improvements IS WELL SUITE OVERALL.

25

26

27

Mr. Thorsland stated that property is BEST PRIME FARMLAND and the property with the proposed

28

1 improvements IS WELL SUITE OVERALL.

2

3 **h. The existing public services ARE available to support the proposed special use**
4 **effectively and safely without undue public expense.**

5

6 Mr. Courson stated that the existing public services ARE available to support the proposed special use
7 effectively and safely without undue public expense.

8

9 **i. The existing public infrastructure together with proposed improvements IS**
10 **adequate to support the proposed development effectively and safely without**
11 **undue public expense.**

12

13 Mr. Passalacqua stated that the existing public infrastructure together with proposed improvements IS
14 adequate to support the proposed development effectively and safely without undue public expense.

15

16 Mr. Courson stated that the requested Special Use Permit is so designed, located, and proposed to be
17 operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise
18 detrimental to the public health, safety and welfare

19

20 **3a. The requested Special Use Permit DOES conform to the applicable regulations and**
21 **standards of the DISTRICT in which it is located.**

22

23 Mr. Passalacqua stated that the requested Special Use Permit DOES conform to the applicable regulations
24 and standards of the DISTRICT in which it is located.

25

26 **3b. The requested Special Use Permit DOES preserve the essential character of the**
27 **DISTRICT in which it is located because:**

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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.

Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

c. Public safety will be ADEQUATE.

Mr. Thorsland stated that public safety will be ADEQUATE.

Ms. Capel stated that the requested Special Use Permit DOES preserve the essential character of the DISTRICT in which it is located.

4. The requested Special Use Permit IS 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 necessary for the public convenience at this location.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(2) Special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

Mr. Thorsland stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

(3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure.

Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure.

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

Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.

(5) The requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure.

Mr. Courson stated that the requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

B. Regarding the requested waiver of the standard condition in Section 6.1.3 for a water treatment plant for a front yard of 17 feet in lieu of the Standard Condition front yard of 55 feet for the elevated water storage tank:

(1) The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety and welfare.

Mr. Courson stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety and welfare.

(2) Special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

Mr. Courson stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

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

Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.

(4) The special conditions, circumstances, hardships or practical difficulties

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DO NOT result from actions of the applicant.

Ms. Capel stated that the special conditions, circumstances, hardships or practical difficulties DO NOT result from actions of the applicant.

(5) The requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure.

Mr. Passalacqua stated that the requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure.

C. Regarding the waiver of the standard condition in Section 6.1.3 for a water treatment plant for a side yard of 36 feet in lieu of the Standard Condition side yard of 50 feet for the existing accessory building:

(1) The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health safety, and welfare.

Mr. Passalacqua stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health safety, and welfare.

(2) Special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the

1 same district.

2

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

6

7 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
8 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
9 or construction.

10

11 **(4) The special conditions, circumstances, hardships, or practical difficulties**
12 **DO NOT result from actions of the applicant.**

13

14 Mr. Courson stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
15 result from actions of the applicant.

16

17 **(5) The requested waiver IS the minimum variation that will make possible**
18 **the reasonable use of the land/structure.**

19

20 Mr. Thorsland stated that the requested waiver IS the minimum variation that will make possible the
21 reasonable use of the land/structure.

22

23 **D. Regarding the requested waiver of the standard condition in Section 6.1.3 for a**
24 **water treatment plant for an elevated water storage tank that is 131 feet in**
25 **height in lieu of the Standard Condition of 50 feet:**

26

27 **(1) The waiver IS in accordance with the general purpose and intent of the**
28 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

to the public health, safety, and welfare.

Mr. Courson stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.

(2) Special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

Mr. Courson stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

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

Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.

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

Mr. Thorsland stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.

(5) The requested waiver IS the minimum variation that will make possible

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

the reasonable use of the land/structure.

Mr. Courson stated that the requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure.

7. No special conditions are hereby imposed.

Mr. Thorsland stated that the Board will now review the Findings of Fact for Case 719-V-12.

Findings of Fact for Case 719-V-12:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 719-V-12 held on June 28, 2012, September 27, 2012 and October 11, 2012, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Palmgren stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because it is an existing facility built prior to the adoption of the Zoning Ordinance, there are limited options for expansion and the petitioner desires to build on the same site.

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

1 Mr. Palmgren stated that practical difficulties or hardships created by carrying out the strict letter of the
2 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
3 or construction because the facility will not be able to expand for the needed services and water quantity and
4 quality will be diminished.

5
6 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
7 **result from actions of the applicant.**

8
9 Mr. Palmgren stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
10 result from actions of the applicant because it was developed before the adoption of the Zoning Ordinance
11 and expanded on the same site and the well is located on the property.

12
13 **4. The requested variance IS in harmony with the general purpose and intent of the**
14 **Ordinance.**

15
16 Mr. Thorsland stated that requested variance IS in harmony with the general purpose and intent of the
17 Ordinance because it allows expansion of the plant in a compact and contiguous manner.

18
19 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
20 **detrimental to the public health, safety or welfare.**

21
22 Mr. Courson stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
23 detrimental to the public health, safety or welfare because the design of the site plan provides for screening
24 berms to minimize impact on surrounding properties and the site plan also indicates the future expansion of
25 Middleton Drive for future development across the northeast corner of the property.

26
27 **6. The requested variance IS the minimum variation that will make possible the**
28 **reasonable use of the land/structure.**

1

2 Mr. Passalacqua stated that the requested variance IS the minimum variation that will make possible the
3 reasonable use of the land/structure because it is an expansion of an existing facility on a minimum sized lot
4 with minimal disruption of surrounding area.

5

6 **7. No special conditions are imposed.**

7

8 Mr. Thorsland entertained a motion to approve Findings of Fact for Cases 718-S-12 and 719-V-12 as
9 amended.

10

11 **Mr. Passalacqua moved, seconded by Mr. Courson to approve the Findings of Facts for Cases 718-S-
12 12 and 719-V-12 as amended. The motion carried by voice vote.**

13

14 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
15 of Fact for Cases 718-S-12 and 719-V-12 as amended.

16

17 **Mr. Courson moved, seconded by Mr. Palmgren to adopt the Summary of Evidence, Documents of
18 Record and Finding of Fact for Cases 718-S-12 and 719-V-12 as amended. The motion carried by
19 voice vote.**

20

21 Mr. Thorsland entertained a motion to move to the final determination for Cases 718-S-12 and 719-V-12.

22

23 **Mr. Courson moved, seconded by Mr. Palmgren to move to the final determination for Cases 718-S-12
24 and 719-V-12. The motion carried by voice vote.**

25

26 **Final Determination for Case 718-S-12:**

27

28 **Ms. Capel moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals**

1 finds that, based upon the application, testimony, and other evidence received in this case, that the
 2 requirements for approval of Section 9.1.11B. HAVE been met and pursuant to the authority granted
 3 by Section 9.1.6B. of the Champaign County Zoning Ordinance, determines that the Special Use
 4 requested in Case 718-S-12 is hereby GRANTED to the petitioners Sangamon Valley Public Water
 5 District and Parkhill Enterprises, LLC to authorize: Part A. Authorize the expansion and use of a
 6 non-conforming water treatment plant as a Special Use with waivers (variance) of standard
 7 conditions; and Part B. Authorize the replacement of a non-conforming water tower that is 131 feet in
 8 height as a Special Use with waivers (variance) of standard conditions.

9

10 Mr. Thorsland requested a roll call vote.

11

12	Miller-yes	Palmgren-yes	Passalacqua-yes
13	Capel-yes	Courson-yes	Thorsland-yes

14

15 **Final Determination for Case 719-V-12:**

16

17 Mr. Courson moved, seconded by Mr. Palmgren that the Champaign County Zoning Board of
 18 Appeals finds that, based upon the application, testimony, and other evidence received in this case,
 19 that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority
 20 granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals
 21 of Champaign County determines that the Variance requested in Case 719-V-12 is hereby GRANTED
 22 to the petitioner Sangamon Valley Public Water District and Parkhill Enterprises, LLC to authorize:

23

24 **Part A. The expansion of a nonconforming lot of record that does not abut a private accessway**
 25 **as required by Zoning Ordinance paragraph 4.2.1H.**

26 **Part B. The use of a 3.6 acre lot on best prime farmland in lieu of the maximum lot size of 3**
 27 **acres on best prime farmland in the AG-2 District for the construction and use of a**
 28 **water treatment plant in related Special Use Permit Case 718-S-12.**

- 1 **Part C. Waiver (variance) of standard conditions for a lot area of 3.6 acres in lieu of the**
- 2 **required 5 acres; a front yard of 17 feet in lieu of the required 55 feet; a side yard of**
- 3 **46 feet in lieu of the required 50 feet.**
- 4 **Part D. Waiver (variance) for an elevated water storage tank that is 131 feet in height in lieu**
- 5 **of the maximum allowed 50 feet.**

6

7 Mr. Thorsland requested a roll call vote.

8

9	Miller-yes	Palmgren-yes	Passalacqua-yes
10	Capel-yes	Courson-yes	Thorsland-yes

11

12 Mr. Hall congratulated the petitioners because it gets no more difficult than a special use permit with

13 variances and they have made it through it all. He said that the ZBA is the final authority on special use and

14 variance cases.

15

16 6. New Public Hearing

17

18 **Case 728-AM-12 Petitioner: K & S Property Management Request to amend the zoning map to**

19 **change the zoning district designation from the AG-1, Agriculture Zoning District to the R-4, Multiple**

20 **Family Residence Zoning District to allow the re-establishment of a multi-family use in an existing**

21 **Building (variances will be required) for which the nonconforming rights have expired. Location: A**

22 **1.5 acre tract in the Southwest Quarter of the Southwest Quarter of Section 15 of Rantoul Township**

23 **and commonly known as the Jones Building at 1518B CR 2700N, Rantoul.**

24

25 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows

26 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show

27 of hands for those who would like to cross examine and each person will be called upon. He requested that

28 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that

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

5
6 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
7 sign the witness register for that public hearing. He reminded the audience that when they sign the
8 witness register they are signing an oath.

9
10 Mr. Thorsland informed the audience that the petitioner is not present tonight although the Board will take
11 witness testimony. He said that Case 728-AM-12 will be continued to a later date.

12
13 Mr. Thorsland asked Mr. William Morfey if he would like to present testimony at tonight's public hearing
14 or withhold his testimony until the next hearing.

15
16 Mr. Morfey stated that he would like to present his testimony at tonight's public hearing.

17
18 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated October 11, 2012,
19 to the Board for review. He said that the new memorandum has a letter dated October 10, 2012, from Mr.
20 Rick Stone attached. Mr. Hall stated that Mr. Stone had arranged to be out of town tonight and even if he
21 had been available he has not submitted a site plan, floor plan, or any information regarding the buildings.
22 Mr. Hall said that he has no new information to report and would like to see the Board entertain Mr. Stone's
23 request for a continuance. Mr. Hall said that Mr. Stone has suggested a 60 or 75 day continuance although
24 under the By-laws the Board can continue a hearing for up to 100 days which would be January 17, 2013,
25 although the 2013 meeting calendar has not been prepared yet. Mr. Hall stated that 75 days would place the
26 case in December and the Board already has a full meeting on December 13th. He said that if the Board
27 would like to hold a meeting on December 27th the case could be continued to that meeting date.

28

1 Ms. Capel stated no.

2

3 Mr. Passalacqua stated that he will be out of town on the December 27th.

4

5 Mr. Thorsland called William Morfey to testify.

6

7 Mr. William Morfey, who resides at 1520 CR 2700N, Rantoul, stated that he resides on one property east of
8 the junk apartment that the Board is being asked to vote on. He said that he feels that Champaign County
9 does not need another problem multi-family building on this problem. He said that ever since he has resided
10 at his property the subject property has been a problem. He said that Rantoul is less than two miles away and
11 has plenty of rental properties available and are tearing down some of their problem multi-family residences
12 and the City of Urbana is doing the same thing.

13

14 Mr. Morfey stated that subject property has never been kept up and the present owner sold the property to
15 Mr. Ramos who also owns the Cherry Orchard apartments, which have been nothing but a problem as well.
16 He said that if Mr. Stone sold the property to Mr. Ramos then it is obvious that Mr. Stone realized that the
17 subject property was not a good investment and did not want the property. Mr. Morfey stated that if Mr.
18 Stone had kept the property and kept it up the correct way, as people would desire to see multi-family
19 residences maintained, the Board would not have this case before them tonight.

20

21 Mr. Morfey stated that he visited the property on Tuesday, October 9, 2012, and took pictures of the property
22 to show how it has been maintained. He said that the yard was kept mowed during the summer months but
23 they began mowing late in the summer. He said that no trimming of the grass was done and the trash and
24 debris was moved from around the building to the middle of the driveway and parking area which faces his
25 property. He said that he took the photographs on Tuesday morning and while he was out in the yard with
26 his dogs the owner pulled in and mowed the yard, trimmed the brush, used the weed-eater therefore making
27 the place look a lot better. He said that he views the subject property from his backyard every day. He said
28 that he has lived in Champaign County all of his life and will continue to do so and will probably be buried

1 in Champaign County. He said that he has never met the owner of the subject property and he does not
2 know what kind of person the owner is but at least he has been up front about how he intends to take care of
3 the property because he hasn't done much other than clean it up a little bit prior to this hearing. He said that
4 he is surprised that there are not more neighbors in attendance tonight regarding this case. He said that he
5 does not believe that the subject property should be rezoned R-4 Multiple Family because the owner is not
6 going to live there and it will just be a rental property that he needs to paint and fill with people and then
7 allow it to go back to the quality property that it is now.

8

9 Mr. Thorsland asked Mr. Morfey if he would like to submit the photographs as Documents of Record.

10

11 Mr. Morfey stated yes.

12

13 Mr. Thorsland asked if staff had any questions for Mr. Morfey.

14

15 Mr. Hall asked Mr. Morfey if it is just the condition of the property that he is concerned about. He asked
16 Mr. Morfey if he would be more in favor of the rezoning if the property were maintained under a modern and
17 contemporary maintenance program with annual inspections.

18

19 Mr. Morfey stated that he is concerned about the current and future property maintenance of the property as
20 well as some of the clientele. He said that there are people who desire to move away from the cities and into
21 the rural areas because they assume that they can get away with more in the rural area.

22

23 Mr. Hall stated that the only thing that staff can promise is enforcement of the Nuisance Ordinance and not
24 who rents the property.

25

26 Mr. Morfey stated that when he first moved to his current residence the lady who owned the subject property
27 lived on the property and the property was in pretty good shape. He said that when he moved to his property
28 he was well aware that he was going to deal with the declining property called Cherry Orchard Apartments.

1 He said that shortly after he purchased his property the lady sold the subject property and another group
2 moved on the property. He said that he is sure that METCAD's records could indicate how many calls they
3 received regarding the activities that were occurring on the property. He said that the County finally shut
4 down the apartments and possibly that is when the new owner picked up the property put a new roof on the
5 building and tried to fix it up. He said that he is concerned that the owner sold it to Mr. Ramos and he should
6 have seen how Mr. Ramos was maintaining their property at the time of the sale which appears to be an
7 indication that the current owner was trying to get out of the situation.

8

9 Mr. Hall stated that staff will add Mr. Morfey to the mailing list and as long as this case is before the Board
10 staff will try to find the conditions under which the property could be improved. He said that it may prove
11 that the conditions are too restrictive and will not be accepted in which case the outcome is pretty
12 guaranteed. He said that he would like to obtain Mr. Morfey's comments regarding anything that could be
13 posed as a condition to make sure that the Board is meeting the concerns of the neighbors as much as
14 possible.

15

16 Mr. Morfey stated that he works for the City of Urbana Fire Department and they perform multi-family and
17 commercial inspections therefore he has an idea of how the buildings should be maintained. He said that if
18 the property is rezoned to R-4 Multi-family then he will have no issue with that as long as the property is
19 maintained. He said that he plans on being a good neighbor.

20

21 Mr. Thorsland asked the Board if there were any questions for Mr. Morfey.

22

23 Mr. Palmgren asked Mr. Morfey if the building was built as it currently exists with the staircases.

24

25 Mr. Morfey stated yes. He said that the staircases go to two units each and there are sixteen units in the
26 entire complex.

27

28 Mr. Thorsland asked the Board if there were any additional questions for Mr. Morfey and there were none.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mr. Thorsland requested a continuance date for Case 728-AM-12. He said that it appears that the case will be continued to the first or second meeting in January 2013.

Mr. Hall stated that if the second meeting in January is within the 100-day limit then he would recommend that the case be continued to that meeting. He said that it would be possible to have this case on the same agenda as one or all of the text amendment cases. He said that the County Board schedule in 2013 is unknown therefore it is also unknown as to when the ZBA will meet in 2013.

Mr. Thorsland stated that if the case is placed on the docket for the second meeting in January and staff discovers that the continuance date is outside of the 100-day limit the Board can reschedule the case at the December 13th meeting.

Mr. Thorsland entertained a motion to continue Case 728-AM-12 to the second meeting in January 2013.

Mr. Passalacqua moved, seconded by Mr. Palmgren to continue Case 728-AM-12 to the second meeting in January 2013. The motion carried by voice vote.

Mr. Thorsland stated that the Board will now go back to the regular agenda and hear Case 715-V-12.

7. Staff Report

None

8. Other Business

 A. Review of Docket

Mr. Hall stated that there have been a few more text amendments added to the docket. He said that Board

1 members may recall the limits on vehicles for rural home occupations and finally the Committee of the
 2 Whole has agreed to allow this text amendment to proceed. He said that there is also a text amendment to
 3 add an AG Drainage Contractors Facility to the Ordinance and a text amendment to amend Contractor's
 4 Facility as it is currently authorized in the Ordinance and adding it to the B-1 and B-5 Districts. He said that
 5 the request was made by some constituents and the Committee of the Whole agreed to allow those text
 6 amendments to proceed.

7

8 B. September 2012 Monthly Report

9

10 Mr. Hall stated that at the end of September there have been 27 cases filed this year compared to 17 cases
 11 completed in 2011. He said that the Board has completed 21 cases compared to 12 cases completed in 2011
 12 and there are almost the same amount of cases pending which is why this year has been such a busy year. He
 13 said that the same thing holds true for Zoning Use Permits. He said that in September staff exceeded the
 14 number of permits, the value for permits and fees for the five-year average. He said that in terms of
 15 complaints there have only been 76 received this year and 58 have been resolved.

16

17 C. October 24, 2012, meeting

18

19 Mr. Hall reminded the Board that the next public hearing will be held on Wednesday, October 24th.

20

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

22

23 None

24

25 10. Adjournment

26

27 Mr. Thorsland entertained a motion to adjourn the meeting.

28

1 **Mr. Courson moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried by**
2 **voice vote.**

3

4 The meeting adjourned at 9:30 p.m.

5

6

7

8

9

10 Respectfully submitted

11

12

13

14

15 Secretary of Zoning Board of Appeals

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

CASE NO. 715-V-12

SUPPLEMENTAL MEMORANDUM

December 5, 2012

Champaign
County
Department of

**PLANNING &
ZONING**

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

(217) 384-3708

Petitioner: John Behrens Estate & Anne and Denny Anderson

Request: Authorize the following in the R-1 Single Family Residence Zoning District:

Part A. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;

Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet, on the following property:

Location: Lot 1 of Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and commonly known as the home at 1 Willowbrook Court, Champaign.

Site Area: 11,500 square feet

Time Schedule for Development: Existing Structures

Prepared by: **Andy Kass**
Associate Planner

John Hall
Zoning Administrator

STATUS

This case was continued from the October 11, 2012, public hearing. New evidence and revisions have been added to the Summary of Evidence, Finding of Fact, and Final Determination that is attached (see underlined and strikethrough text). Revisions to Proposed Special Condition A and additional proposed conditions are include below.

The petitioner has submitted a revised site plan and it is reviewed below.

REVISED SITE PLAN

On December 3, 2012, the petitioner submitted a revised site plan indicating the following revisions:

- All of the larger shed that is currently within the 5 feet wide utility easement along the east property line shall be removed from the utility easement (including concrete flooring) thereby eliminating Part C and the side yard portion of Part A of the Variance, and the shed may be expanded 4 feet to the west under the remaining portion of Part A of the variance. See the Annotated Site Plan for an illustration.
- The smaller shed that is part of Part B of the Variance will be removed within 6 months from October 11, 2012.
- The parking (Part D of the Variance) area will be relocated to be five feet from the rear property line.

The revisions will eliminate the 1 foot side yard request of Part A and will wholly eliminate the request to allow construction within a recorded utility easement (Part C) and to allow parking within 1 foot of the rear property line (Part D) of the initial request.

REVISED SPECIAL CONDITIONS OF APPROVAL

- A. Within 30 days of a Final Determination for Case 715-V-12 the Petitioner shall complete Zoning Use Permit Application No. 74-12-03 in conformance with the Final Determination.**

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

That the existing structures receive proper approvals.

- B. Regarding the shed that is the subject of Part A of the Variance, all of the larger shed that is currently within the 5 feet wide utility easement along the east property line shall be removed from the utility easement (including concrete flooring), and the shed may be expanded 4 feet to the west under the remaining portion of Part A of the variance within one year from the date of approval of the Variance.**

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

That the shed wall is removed within a timely manner and that any existing concrete within the utility easement does not hinder access to the utility easement.

- C. The shed that was originally the subject of Part B of Variance shall be removed from the property by April 12, 2013.**

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

That the shed is removed from the property in a timely manner.

- D. No parking is authorized within 5 feet of the south lot line**

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

That no parking occurs within the minimum required separation of a parking space and a property line.

ATTACHMENTS

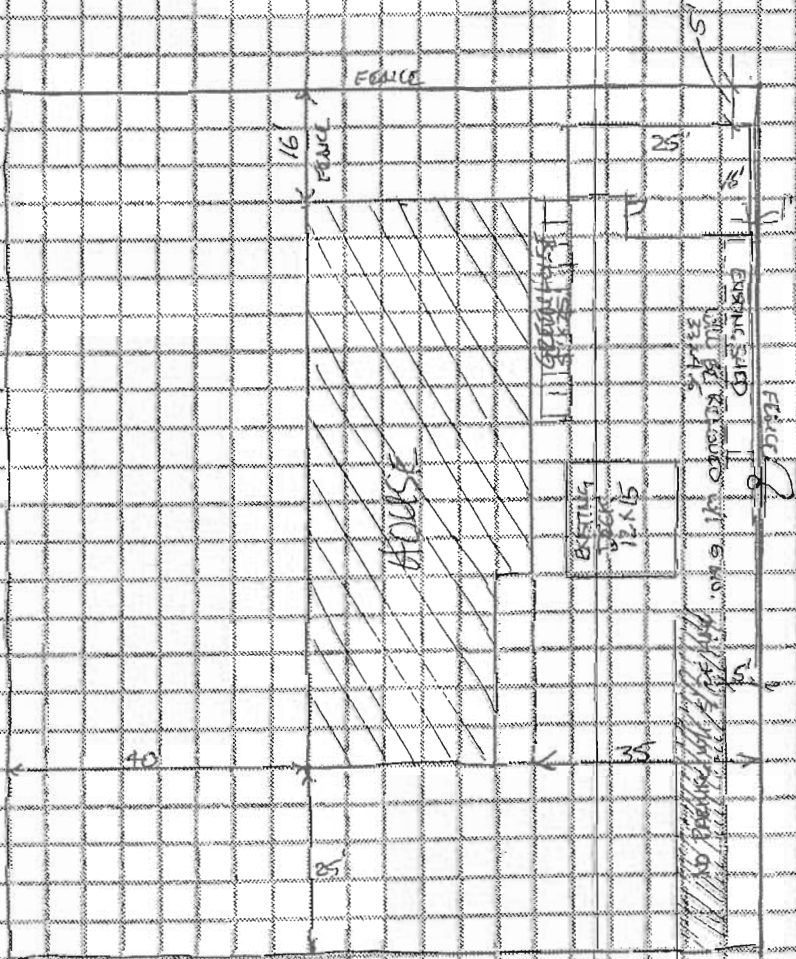
- A Revised Site Plan received December 3, 2012
- B Annotated Site Plan
- C Photos submitted by Patricia Belleville at the October 11, 2012, public hearing
- D Excerpt of Draft Minutes from October 11, 2012, public hearing (included separately)
- E Revised Summary of Evidence, Finding of Fact, and Final Determination (included separately)

RECEIVED

DEC. 03 2012

CHAMPAIGN CO. P&Z DEPARTMENT

WINSOR RD



WINDOWBROOK CT

RECEIVED

DEC. 0.8.2012

CHAMPAIGN CO. P & Z DEPARTMENT

Annotated Site Plan

WINSOR RD



Windowbrook CT

10-11-12 by P. Bellevue



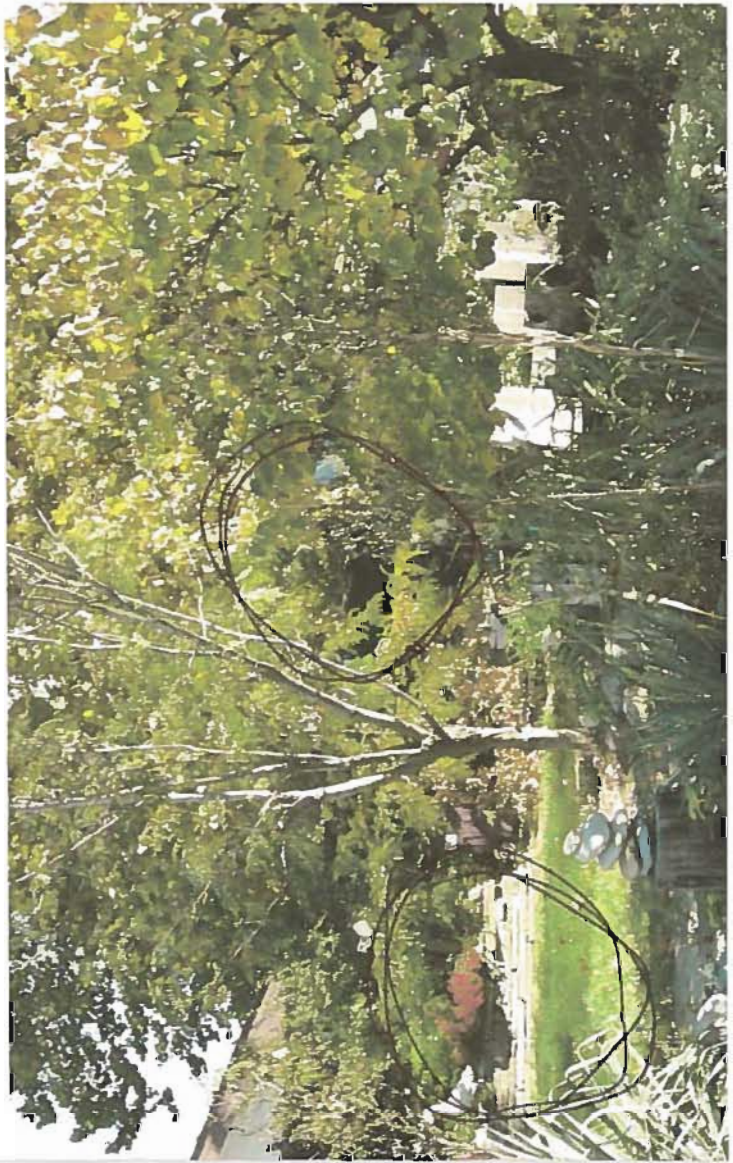






0.0000





REVISED DRAFT

715-V-12

**FINDING OF FACT
AND FINAL DETERMINATION
of**

Champaign County Zoning Board of Appeals

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

Date: **December 13, 2012**

Petitioners: **The Estate of John Behrens and Anne and Denny Anderson**

Request: Authorize the following in the R-1 Single Family Residence Zoning District:

Part A. Variance for a ~~side yard and~~ rear yard of an existing shed of 1 foot in lieu of the minimum required ~~side and~~ rear yard of 5 feet;

Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;

~~Part C. Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement;~~

~~Part D. Variance from a minimum separation from a rear property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.~~

Table of Contents

General Application Information	2-3
Requested Variance	3-4
Specific Ordinance Requirements	4-6
Variance Evidence	7-18
Documents of Record	19-20
Case 715-V-12 Findings of Fact.....	21-23
Case 715-V-12 Final Determination.....	24-25

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 28, 2012, August 30, 2012, October 11, 2012, and December 13, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioner, Denny Anderson is married to Anne Anderson, a daughter of former owner John Behrens who is deceased. Anne Anderson expects to eventually acquire the property from the John Behrens estate. Anne and Denny Anderson currently reside on the property.
2. The subject property is Lot 1 of Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and commonly known as the home at 1 Willowbrook Court, Champaign.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign, a municipality with zoning. Municipalities do not have protest rights regarding variances, and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned R-1 Single Family Residence, and is in residential use.
 - B. Land to the north is in the City of Champaign and is in commercial use.
 - C. Land to the south of the subject property is zoned R-1 Single Family Residence, and is in residential use.
 - D. Land to the east and west of the subject property is zoned R-1 Single Family Residence, and is in residential use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject site:
 - A. The subject property is a 11,500 square feet (.26 acre) lot.
 - B. The Site Plan received March 15, 2012, amended June 8, 2012, and revised on December 3, 2012, includes the following:
 - (1) Location of the existing 1,850 square feet home.
 - (2) Location of an existing ~~20'x12'~~ 12' x 15' deck that is currently being used to store building materials under a tarp. As long as the tarp remains in place this deck requires a Zoning Use Permit.
 - (3) Location of an existing 25' x 16' shed that is the subject of Part A ~~and C~~ of the variance that was constructed without a Zoning Use Permit. Currently a portion of

the northeast corner of this shed has a concrete floor that was poured by the petitioner. No further concrete flooring has been poured since the petitioner ceased construction of the shed. The site plan received on December 3, 2012, indicates that all of the larger shed that is currently within the 5 feet wide utility easement along the east property line shall be removed from the utility easement (including concrete flooring) thereby eliminating Part C and the side yard portion of Part A of the Variance, and the shed may be expanded 4 feet to the west under the remaining portion of Part A of the variance.

- (4) Location of an existing 33' × 4½' wood storage shed that is the subject of Part B of the variance that was constructed without a Zoning Use Permit. The site plan received December 3, 2012, indicates that this shed will be removed from the property within six months from the October 11, 2012, ZBA meeting (April 12, 2013).
- ~~(5) Parking area in the southeast corner of the property that is the subject of Part D of the variance.~~
- (5) The site plan received December 3, 2012, indicates that no parking in the southeast corner of the property will occur within 5 feet of the property line. Moving the parking 4 feet to the north will eliminate the initial request in Part D of the variance to allow parking 1 foot from the rear property line.
- (6) Location of a 5' × 25' greenhouse addition to the home that was constructed without a Zoning Use Permit and for which a Zoning Use permit is still required.

C. The initial requested variance was as follows:

- (1) Variance for a side yard and rear yard of an existing shed of 1 foot in lieu of the minimum required side and rear yards of 5 feet;
- (2) Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;
- (3) Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement;
- (4) Variance from a minimum separation from a rear property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.

REVISED DRAFT

D. The variance request revised on December 3, 2012, is as follows:

- (1) Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;
- (2) Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:

A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested 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, LOT" is the total area within the LOT LINES.
- (3) "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.
- (4) "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.
- (5) "LOT LINES" are the lines bounding a LOT.
- (6) "RIGHT-OF-WAY" is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (7) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
 - (a) MAJOR STREET: Federal or State highways
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.

- (8) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
 - (9) “YARD” is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
 - (10) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- C. Minimum side and rear yards for DETACHED ACCESSORY BUILDINGS and STRUCTURES in the R-1 District are established in Section 7.2.2 of the *Zoning Ordinance* as follows:
- (1) The minimum side yard in the R-1 Zoning District is listed in Section 7.2.2B. as 5 feet.
 - (2) The minimum rear yard in the R-1 Zoning District is listed in Section 7.2.2C. as 5 feet.
- D. Minimum separation distances for parking spaces from a side and rear property line are established in Section 7.4.1A. of the *Zoning Ordinance* as follows:
- (1) No such space shall be located less than five feet from any side or REAR LOT LINE.
- E. Section 4.2.2D. establishes the requirement that no USE shall be established, CONSTRUCTION undertaken, nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement.
- 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 9.1.9 C. 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.

REVISED DRAFT

- (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.
- 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, **“Corner lot setbacks seriously limit backyard space. East side yard is narrow and sloped down to the North and East 30 degrees down making it inaccessible and unbuildable.”**
 - B. The subject property is a corner lot and the visibility triangle requirements require that 1,250 square feet of a corner lot not be encroached upon by development to keep the corner of two intersecting streets free from sight obstruction. The subject property is 11,500 square feet in area.
 - C. The sheds are used to store building materials. At least some of the building materials are used by Denny Anderson to construct structures at Camp Drake for the Boy Scouts (see Attachment D to the Preliminary Memorandum). Building materials are also stored on the deck under tarpaulins and uncovered in the side and rear yard. Other items are also stored outdoors on the property such as canoes and coolers.
 - D. Staff conducted a site visit on May 8, 2012, and at that time the petitioner indicated that the utility company does not use the 5 feet wide recorded utility easement along the east property line, but rather accesses the utility pole at the southeast corner of the property from a neighboring property. The petitioner also indicated that the utility company has installed a new utility pole and has vacated the original utility pole which the large shed

has been built around. No evidence has been received that affirms the vacation of the utility pole.

- E. The south parking area is used to park a Boy Scout trailer and a work trailer.
- F. At the June 28, 2012, public hearing Denny Anderson, petitioner, testified:
 - (1) A few years ago the utility pole was replaced and at that time Ameren discovered that they could not access the front of the property because of the 30 degree slope of the area within the easement therefore they had to access the backyard through a neighbors yard.
 - (2) Ameren has not vacated the easement, but he spoke with Chris Elliott, Engineering Representative with Ameren and he indicated that there was no issue.
- G. The Urbana-Champaign Sanitary District (UCSD) sewer map indicates that an interceptor sewer line is located within the recorded utility easement on the subject property.
- H. On August 3, 2012, staff conducted a site visit and verified that a manhole does exist on the subject property as indicated on the UCSD sewer map.
- I. The adjacent property to the east also has a shed that is located in the same utility easement. That shed appears to be approximately 10 feet by 12 feet in area and may not be anchored into the ground by footings. Sheds smaller than 150 square feet in area are only exempt from the fees for a Zoning Use Permit but they are required to meet all other requirements of the Zoning Ordinance.

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, **“Proposed structure will not fit any other area reasonably. Reduced size will make it unusable for intended storage. Existing power line would touch proposed shed roof if moved any further West. Line cannot be further tensioned. All adjacent land is fenced and storage building occupied.”**
 - B. Without the proposed variance, the large shed (Part A and C of the variance) on the subject property could be no larger than approximately 12' × 21'. This is the size of a shed that would not require variance from side and rear yard requirements or from construction within a recorded utility easement. The shed could be reconstructed 4 feet to the west and

REVISED DRAFT

shortened by 4 feet on the south to not require any variance although the shed would be approximately 1 foot away from the greenhouse attached to home on the subject property. The shed could also be expanded or deconstructed and a new shed could be built in the backyard west of the existing shed that would meet all yard requirements and not be within the easement. Staff estimates that this shed could be as large as 45' × 15' which would be an increase in square footage compared to the existing shed. There is an existing power line that runs through the backyard of the subject property. Special care would have to be taken and the shed would likely have to be shorter than the height of the proposed shed so as to not interfere with the existing power line.

- C. The smaller shed (Part B of the variance) would not have to be reduced in size, but moved 4 feet to the north in order for the variance to not be required. The site plan received December 3, 2012, indicates that this shed will be removed from the property within six months. A special condition has been proposed to ensure the removal of the shed within the six month time period.
- D. In a phone conversation between Chris Elliott, Engineering Representative for Ameren and Andy Kass, Associate Planner, on August 22, 2012, Mr. Elliott conveyed the following information:
- (1) The shed meets all of the minimum distances from power lines.
 - (2) The shed is built around a guy wire, but the wire will be cut and re-routed at the expense of Mr. Anderson.
 - (3) Although the shed meets the distance requirements, Ameren would prefer that the shed not be within the easement, but they have no grounds to require Mr. Anderson to move the shed.
- E. In a phone conversation between Mark Radi, Director of Engineering Services for the Urbana-Champaign Sanitary District (UCSD), and Andy Kass, Associate Planner, on August 22, 2012, Mr. Radi conveyed the following information:
- (1) The shed is not a big concern for them because they do not consider it a permanent structure.
 - (2) In the event that the UCSD would have to access the easement to do work Mr. Anderson could be charged for any work that would be required because of the location of the shed.
- F. At the June 28, 2012, public hearing Denny Anderson, petitioner, testified:
- (1) He builds tree houses for the Boy Scouts and the materials located on his property are for the next tree house. There are plans to build more tree houses, but because of the Variance process he does not want to be a storage facility so all of the materials will be moved to Camp Drake in Vermillion County.

- (2) After the next tree house is built all of the building materials will be removed from the property.
 - (3) The shed will still be required because he has a lot of Boy Scout troop equipment and a trailer.
- G. An aerial photo analysis of the surrounding neighborhood of the subject property was conducted, during this analysis staff found 9 accessory structures that appear to have been built within a recorded utility easement, including a shed which is immediately to the east of the subject property. Staff also found 9 accessory structures that appear to have been built too close to a property line. Without a field survey staff could not verify this, but it appears that the sheds that are subject to Parts A, B, and C of this variance are likely not the only sheds in the neighborhood built within a recoded utility easement or too close to a property line.

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, “**No.**”
 - B. The subject property is a corner lot and the visibility triangle requirements require that 1,250 square feet of a corner lot not be encroached upon by development to keep the corner of two intersecting streets free from sight obstruction. The subject property is 11,500 square feet in area.
 - C. On May 8, 2012, staff conducted a site visit to the subject property and at that time the Petitioner indicated that the parking area along the rear property line was constructed because a narrow strip of pavement existed and then he added the strip of pavement closest to rear property line to allow for additional parking. Staff researched the petitioner’s claim and found that aerial photos from 1973 do not indicate a paved parking area along the rear property line.
 - D. A Notice of Violation was sent to the petitioner after complaints were received from neighbors and an off-site inspection by the Zoning Officer (see Attachment E to the Preliminary Memorandum). The violations cited were as follows:
 - (1) Construction without a permit.
 - (2) Parking too close to the lot line.

REVISED DRAFT

- (3) Outdoor storage (a *Nuisance Ordinance* violation).
- E. At the August 30, 2012, public hearing the petitioner proposed that he would remove the part of the shed in the utility easement and meet the minimum side yard requirement on that side. Zoning Board of Appeals members requested that the petitioner submit a revised site plan indicating this proposal. On September 27, 2012, the petitioner indicated to staff that he did not intend to submit a revised site plan and no longer intended to remove the portion of the shed in the utility easement.
- F. At the October 11, 2012, public hearing Denny Anderson, petitioner, testified. His testimony is summarized as follows:
- (1) He will move the shed that is the subject of Parts A and C of the Variance so that it will not be within the recorded utility easement or the side yard.
- (2) The parking area that is the subject of Part D of the Variance will be widened so that the parking of vehicles too close to the property line will not be an issue.
- (3) The shed that is the subject of Part B of the Variance is only there in a temporary fashion to store materials and that the materials will be moved and the shed will be removed.

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, **“Granting variance will: a.) provide buffer for neighbors four dogs; and b.) allow backyard room to park Boy Scout trailer and work trailer; and c.) allow enclosed storage space for construction materials; and d.) allow sunlight to greenhouse; and e.) allow runoff water to North and East.”**
- B. The requested variance is as follows:
- (1) A ~~side and~~ rear yard of 1 foot for an existing shed is 20% of the minimum required 5 feet for a variance of 80% (Part A).
- (2) A rear yard of 1 foot for an existing shed is 20% of the minimum required 5 feet for a variance of 80% (Part B).
- ~~(4) The requested variance from Section 4.2.2D. requirements is a 100% variance (Part C).~~
- ~~(5) The requested variance from minimum separation distance of a parking space from a rear property line of 1 foot is 20% of the minimum required 5 feet for a variance of 80% (Part D).~~

- C. The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In general, the side yard is presumably intended to ensure the following:
- (1) Adequate light and air: The subject property is in residential use. The properties to the south, east, and west are in residential use.
 - (2) Separation of structures to prevent conflagration: The subject property is within the Savoy Fire Protection District and the station is approximately 2 miles from the subject property. The nearest structure to the largest shed (Parts A and C of the Variance) is a shed on the property to the east. The shed is in close proximity and it is difficult to estimate how close the shed is from an aerial photograph, based on a site visit to the subject property on August 29, 2012, staff estimated that there is approximately 2 to 3 feet between the two sheds. The nearest structure to the smaller shed (Part B of the Variance) is on the property to the south and is approximately 14 feet from the smaller shed.
 - (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
- D. The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In addition to all of the considerations listed for a side yard, a rear yard is presumably also intended to ensure the following:
- (1) A minimum amount of onsite recreational area.
 - (2) Area for a septic system, when necessary. The subject property is in an area with sanitary sewers and this consideration does not apply.
- E. The subject property looks very similar to a building contractor facility and should be registered as a home occupation but as a home occupation the outdoor storage is not authorized unless approved as a variance. The current variance does not include any request for outdoor storage.
- F. The requested variance is not prohibited by the *Zoning Ordinance*.
- G. Regarding the considerations related to the prohibition on construction in drainage easements and utility easements:
- (1) The prohibition on construction in drainage easements and utility easements in paragraph 4.2.2 D. were added to the Zoning Ordinance in Ordinance No. 544 (Case 105-AT-97 Part D) that was adopted on November 18, 1997. The evidence, testimony, and Finding of Fact for Case 105-AT-97 Part D merely discussed that

REVISED DRAFT

the amendment gave the Zoning Administrator the authority to prevent construction in these areas where construction is not supposed to occur.

- (2) If the larger shed is allowed to remain in the utility easement the shed may result in additional costs for any utility that needs to access something within the easement such as the interceptor sewer line. And, provided that the property owner reimburses that utility for any additional costs incurred, allowing the shed to remain may be acceptable. However, the presence of the shed in the utility easement is a hidden cost for any future owner of the property and a future owner might be less agreeable about paying those costs. If the Zoning Board allows the shed to remain in the easement the Board may require a Miscellaneous Document to be filed with the Recorder of Deeds and the Document could make any future owner of this zoning case and any and all conditions that apply to the shed. The actual text of that Document should be established in the public hearing.

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, **“Fences and hedge buffer the area, Power Company replaced corner pole in 2007 thru unsloped east backyard, runoff will be unaffected, no traffic or visibility negatives, only positive effects.”**
 - B. The Township Road Commissioner has received notice 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.
 - D. As reviewed in Item 9.D. the petitioner received a Notice Violation based on complaints from neighbors.
 - E. At the June 28, 2012, public hearing Charlotte Padgett a resident of Windsor Park and Deputy Assessor for Champaign Township testified. Her testimony is summarized as follows:
 - (1) The roof of the large shed appears to be a fire hazard because of exposed insulation.
 - (2) The petitioner parks a van which blocks the public sidewalk and extends out into the cul-de-sac.
 - (3) The subject property is hurting property values in the neighborhood.

- F. At the June 28, 2012, public hearing Patricia Belleville, Chair of the Windsor Park Homeowners Association testified. Her testimony is summarized as follows:
- (1) Concerns and complaints have been submitted to the homeowners association regarding the subject property.
 - (2) She spoke with Steve Estes with Ameren and Mr. Estes indicated that Ameren would be happy to see the buildings removed because it restricts access to the lines and they prefer to not have any structures under the power lines.
 - (3) Residents of Windsor Park are concerned about property values being affected by the condition of the subject property.
 - (4) The neighborhood covenants state that no storage of building materials is allowed on the property and that similar to the County Ordinance the covenants indicate that structures must be placed away from power lines and property lines.
- G. At the June 28, 2012 public hearing Patricia Belleville submitted 10 letters in opposition (one letter provided no name or address) to the granting of the variance request. The following people provided letters or signed a letter of opposition:
- (1) Dick Barker, 2501 Bedford Drive, Champaign.
 - (2) Robert and Angela Weddle, #3 Willowbrook Court, Champaign.
 - (3) Mike and Teri McKenzie, 2 Lyndhurst Place, Champaign.
 - (4) Diane Ore, 2508 Bedford Drive, Champaign.
 - (5) Debbie Romine, 2505 Stanford Drive, Champaign.
 - (6) David Dupre, 2511 Lyndhurst Drive, Champaign.
 - (7) Sue and Tom Kovacs, 2502 Stanford Drive, Champaign.
 - (8) Gladys and Paul Hemp, 711 Park Lane Drive, Champaign.
 - (9) Karen Peck, 2507 Stanford Drive, Champaign.
 - (10) Cynthia McKendall, 2509 Stanford Drive, Champaign.
 - (11) Greg Perkins, 802 Park Lane Drive, Champaign.
 - (12) Ryan and Elizabeth Squire, 2504 Stanford Drive, Champaign.
 - (13) Janice Bahr, 2506 Stanford Drive, Champaign.
- H. At the June 28, 2012, public hearing Patricia Belleville submitted one letter of no objection to the granting of variance from Jack Davis, 408 Park Lane Drive, Champaign.
- I. At the June 28, 2012, public hearing Denny Anderson, petitioner, testified the following:
- (1) The first thing he will do if he is given permission to finish the shed is to install a metal roof on the shed.

REVISED DRAFT

- (2) When he has time to get everything situated and the troop trailer parked in back, the van will be relocated so as to not block the sidewalk.
 - (3) The sponsor organization for the Boy Scout troop is Thrivent Financial for Lutherans and they have no property for the troop to store equipment and materials at.
- J. A letter written by Robert and Angela Weddle, nearby residents of the subject property was submitted by Patricia Belleville at the June 28, 2012, public hearing and is summarized as follows:
- (1) Several vehicles and trailers park in the two driveways on the property and in the side yard.
 - (2) The driveway along their neighbor's property line was put in when the previous neighbor had moved out, but was still trying to sell the property.
 - (3) The vehicles park across the sidewalks and down to the curb which makes it difficult to see.
 - (4) A school bus is sometimes parked in the driveway and the previous neighbor had to pay Mr. Anderson to keep it out of the cul-de-sac so that he would have a better chance of selling the property.
- J. A letter written by Dick Barker, 2501 Bedford Drive, Champaign, was submitted by Patricia Belleville at the June 28, 2012, public hearing and is summarized as follows:
- (1) Property values of homes around the subject property will be greatly depressed and could make a sale impossible.
 - (2) The home immediately east of the subject property was foreclosed because the home could not be sold.
- K. There is an existing Zoning Enforcement Case (ZN-12-07/20) on the property. The variance can be approved by the ZBA per Section 13.2.1 of the *Zoning Ordinance* because the Variance will facilitate correction of some part of the violation. The following violations on the subject property are as follows:
- (1) A Zoning Use Permit has not been issued or authorized by the Zoning Administrator for accessory structures and buildings on the subject property.
 - (2) The off-street parking area along the rear property line is 1 foot from the rear property line in lieu of the minimum required 5 feet. In addition vehicles parked in this parking area park too close to the front property line. Vehicle may be parked no closer than 10 feet from a front property line.
 - (3) A shed has been built where it has a 1 foot side and rear yard in lieu of the minimum 5 feet side and rear yard for an accessory building or structure. In addition this same shed has also been built within recorded utility easement which

the Zoning Ordinance prohibits in Section 4.2.2 D.

- (4) An additional shed has been constructed with a rear yard of 1 foot in lieu of the minimum required 5 feet.
 - (5) Outdoor storage of building materials, equipment, and other materials occurs onsite.
 - (6) Outdoor storage of inoperable vehicles, and equipment or parts occurs onsite.
- L. In order to resolve the existing violations and Zoning Enforcement Case ZN-12-07/20 on the property the following action is required to correct the violations:
- (1) Apply for and receive a Zoning Use Permit authorizing the structures and buildings of the subject property. The petitioner has submitted a Zoning Use Permit Application but no fee has been paid and if the Variance is approved the Permit fee must be paid.
 - (2) Remove, obtain a Variance from the Zoning Board of Appeals, or move the parking area along the rear property line to be at least 5 feet from the rear property line and not park vehicle within 10 feet of the front property line. This is Part D of the Variance.
 - (3) Remove and properly store inside a fully enclosed building all building materials, recyclable materials, equipment, fire wood (except in reasonable quantities for domestic use on-site), packaging materials and similar items.
 - (4) Remove and properly store inside a fully enclosed building all vehicle equipment and/or vehicle parts including any tires stored outdoors.
 - (5) Move, deconstruct, or obtain a Variance from the Zoning Board of Appeals for two accessory structures that do not meet side and rear yard requirements. This is Parts A and B of the Variance.
 - (6) Move, deconstruct, or obtain a Variance from the Zoning Board of Appeals for an accessory structure built within a recorded utility easement. This is Part C of the Variance.
- M. An aerial photo analysis of the surrounding neighborhood of the subject property was conducted, during this analysis staff found 9 accessory structures that appear to have been built within a recorded utility easement, including a shed which is immediately to the east of the subject property. Staff also found 9 accessory structures that appear to have been built too close to a property line. Without a field survey staff could not verify this, but it appears that the sheds that are subject to Parts A, B, and C of this variance are likely not the only sheds in the neighborhood built within a recoded utility easement or too close to a property line.

REVISED DRAFT

- N. The adjacent property to the east also has a shed that is located in the same utility easement. That shed appears to be approximately 10 feet by 12 feet in area and may not be anchored into the ground by footings. Sheds smaller than 150 square feet in area are only exempt from the fees for a Zoning Use Permit but they are required to meet all other requirements of the Zoning Ordinance.
- O. At the August 30, 2012, public hearing ZBA members requested information regarding what fireproofing standards a shed would have to meet in a building code jurisdiction. Staff contacted Dan Davies, Zoning Administrator/Building Official, Village of Savoy, regarding this question. Mr. Davies indicated that if the shed was in his jurisdiction it would require the following:
- (1) Fire rate the interior of the shed with 5/8" Type X Drywall. This type of drywall allows for a minimum of 1 hour of fire protection.
 - (2) A fire alarm system connected to a monitoring service.
 - (3) If any hazardous materials were to be stored inside the shed they would need to be identified and stored in a fireproof cabinet. A KNOX Box would also be recommended for fire department access.
 - (4) Since the shed is so close to the property lines and adjacent buildings proof of proper liability insurance would be required.
- P. At the October 11, 2012, public hearing Patricia Belleville, Chair of the Windsor Park Homeowners Association testified. Her testimony is summarized as follows:
- (1) She contacted Tim Menard who is a Scout Leader at Camp Drake. Mr. Menard informed her that only one tree house was built and no other tree houses will be built. Mr. Menard also told her that scout masters are not allowed to store materials at Camp Drake.
 - (2) Neighbors present at the meeting are concerned that the sheds and materials are not being used for scout projects, but are being used for Mr. Anderson's business.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:

- ~~A. This Variance does not authorize reconstruction or replacement of either or both of the sheds if any of the following occur:~~
- ~~(1) If the petitioner or any future owner of the subject property deconstructs either or both of the sheds for any reason.~~

- ~~(2) If either or both of the sheds becomes dilapidated or are destroyed by fire, weather, or natural disaster.~~
- ~~(3) If either or both of the sheds need to be deconstructed for the purpose of a public utility needing to access a buried utility line within the recorded utility easement.~~

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

~~That either or both sheds are not replaced or reconstructed in the event of deconstruction or damage from weather, fire, or natural disaster.~~

- A. Within 30 days of a Final Determination for Case 715-V-12 the Petitioner shall complete Zoning Use Permit Application No. 74-12-03 in conformance with the Final Determination.**

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

That the existing structures receive proper approvals.

- B. Regarding the shed that is the subject of Part A of the Variance, all of the larger shed that is currently within the 5 feet wide utility easement along the east property line shall be removed from the utility easement (including concrete flooring), and the shed may be expanded 4 feet to the west under the remaining portion of Part A of the variance within one year from the date of approval of the Variance.**

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

That the shed wall is removed within a timely manner and that any existing concrete within the utility easement does not hinder access to the utility easement.

- C. The shed that was originally the subject of Part B of Variance shall be removed from the property by April 12, 2013.**

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

That the shed is removed from the property in a timely manner.

- D. No parking is authorized within 5 feet of the south lot line.**

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

That no parking occurs within the minimum required separation of a parking space and a property line.

DOCUMENTS OF RECORD

1. Variance Application received on March 15, 2012, with attachment:
 - A Site Plan
 - B Newspaper Article
 2. Site Plan amended June 8, 2012
 3. Preliminary Memorandum dated June 22, 2012, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received March 15, 2012 and amended June 8, 2012
 - C Annotated Site Plan
 - D Photos of Subject Property
 - E News-Gazette Article regarding Denny Anderson's activities with the Boy Scouts, dated October 23, 2011
 - F First Notice of Violation for Enforcement Case ZN-12-07/20
 - G Draft Summary of Evidence, Finding of Fact, and Final Determination (attached separately)
 4. Email and photos from Dick Barker received June 27, 2012
 5. Supplemental Memorandum dated June 28, 2012, with attachments:
 - A Email from Dick Barker with photos
 6. Letters of support and objection submitted by Patricia Belleville at the June 28, 2012, public hearing
 7. Photos submitted by Charlotte Padgett at the June 28, 2012, public hearing
 8. Site Visit Photos from May 8, 2012, June 21, 2012, August 3, 2012, and August 29, 2012
 9. Supplemental Memorandum dated August 24, 2012, with attachments:
 - A Letters and emails submitted by Patricia Belleville at the June 28, 2012, public hearing
 - B Illustrative Site Plan
 - C UCSD Sewer Map (2 sheets)
 - D August 3, 2012 Site Visit Photos
 - E Photos submitted by Charlotte Padgett at June 28, 2012, public hearing
 - F Revised Summary of Evidence, Finding of Fact, and Final Determination
 10. Supplemental Memorandum dated August 30, 2012, with attachments:
 - A Neighborhood Analysis Map
 - B Photo submitted by Charlotte Padgett at June 28, 2012, public hearing
-

- C Photo from Staff Site Visit on August 29, 2012
- 11. Supplemental Memorandum B dated August 30, 2012
- 12. Photos of JULIE markings submitted by Denny Anderson at the August 30, 2012, public hearing
- 13. Supplemental Memorandum dated October 5, 2012 with attachments:
 - A Excerpt of Draft Minutes from August 30, 2012, public hearing
 - B Revised Summary of Evidence, Finding of Fact, and Final Determination
- 14. Zoning Use Permit Application No. 74-12-03 (total fee paid \$65)
- 15. Zoning Enforcement Case File No. ZN-12-07/20
- 16. Photos submitted by Patricia Belleville at the October 11, 2012, public hearing
- 17. Revised Site Plan received December 3, 2012
- 18. Supplemental Memorandum dated December 5, 2012, with attachments:
 - A Revised Site Plan received December 3, 2012
 - B Annotated Site Plan
 - C Photos submitted by Patricia Belleville at the October 11, 2012, public hearing
 - D Excerpt of Draft Minutes from October 11, 2012, public hearing
 - E Revised Summary of Evidence, Finding of Fact, and Final Determination

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **715-V-12** held on **June 28, 2012, August 30, 2012, October 11, 2012, and December 13, 2012**, 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:}*

- A. **Within 30 days of a Final Determination for Case 715-V-12 the Petitioner shall complete Zoning Use Permit Application No. 74-12-03 in conformance with the Final Determination.**

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

That the existing structures receive proper approvals.

- B. **Regarding the shed that is the subject of Part A of the Variance, all of the larger shed that is currently within the 5 feet wide utility easement along the east property line shall be removed from the utility easement (including concrete flooring), and the shed may be expanded 4 feet to the west under the remaining portion of Part A of the variance within one year from the date of approval of the Variance.**

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

That the shed wall is removed within a timely manner and that any existing concrete within the utility easement does not hinder access to the utility easement.

- C. **The shed that was originally the subject of Part B of Variance shall be removed from the property by April 12, 2013.**

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

That the shed is removed from the property in a timely manner.

- D. **No parking is authorized within 5 feet of the south lot line.**
-

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

That no parking occurs within the minimum required separation of a parking space and a property line.

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 for approval in 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 715-V-12 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **John Behrens Estate & Anne and Denney Anderson** to authorize the following in the R-1 Zoning District:

- Part A.** Variance for a ~~side yard and rear yard~~ of an existing shed of 1 foot in lieu of the minimum required ~~side and rear yard~~ of 5 feet;
- Part B.** Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;
- ~~**Part C.** Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement;~~
- ~~**Part D.** Variance from a minimum separation from a rear property line for parking spaces of 1 foot in lieu of the minimum required 5 feet.~~

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A.** Within 30 days of a Final Determination for Case 715-V-12 the Petitioner shall complete Zoning Use Permit Application No. 74-12-03 in conformance with the Final Determination.
- B.** Regarding the shed that is the subject of Part A of the Variance, all of the larger shed that is currently within the 5 feet wide utility easement along the east property line shall be removed from the utility easement (including concrete flooring), and the shed may be expanded 4 feet to the west under the remaining portion of Part A of the variance within one year from the date of approval of the Variance.
- C.** The shed that was originally the subject of Part B of Variance shall be removed from the property by April 12, 2013.
- D.** No parking is authorized within 5 feet of the south lot line.

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

EXCERPT OF DRAFT MINUTES FOR CASE 715-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 10/11/12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Mr. Denny Anderson, who resides at #1 Willowbrook Ct, Champaign, stated that it has been made clear that his request will not go forward unless he moves the wall four feet therefore he will agree to move the wall four feet to remove anything in the utility easement.

Mr. John Hall, Zoning Administrator, stated that there are no new memorandums for this case tonight. He said that it is important to go on record that Mr. Anderson is revising his petition at tonight's public hearing. Mr. Hall stated that if the east wall of the shed that is within the utility easement is moved four feet Part C and most of Part A would be eliminated. He said that the south side of the shed would still have a one foot yard. Mr. Hall stated that during previous meetings Mr. Anderson has stated that the other shed, which is the shed included in Part B, is the shed that he will have no use for once the materials are relocated to Camp Drake. He said that the Board could condition that variance to be only for a certain amount of time. He said that Mr. Anderson's testimony places a totally different spin on the case tonight and the memorandum which went out in the mailing made a clear affirmation that there was no intent to revise the site plan. Mr. Hall stated that if Mr. Anderson does intend to revise his petition then the Summary of Evidence would merit a lot of scrutiny tonight to make sure that it is accurate.

Mr. Thorsland stated that the October 5, 2012, Supplemental Memorandum indicates that no new site plan had been received and that Mr. Anderson had no intention to move the shed although tonight he has indicated that he wants to move the shed. He asked Mr. Anderson if he is correct.

Mr. Anderson stated that Mr. Thorsland used the word "want" in his statement. He said that he was clearly told that the request would not be approved if the four foot remained in the easement. He said that he will move the shed wall four foot if that is the only chance for a positive outcome.

Mr. Hall asked Mr. Anderson to indicate his intent for the south shed.

EXCERPT OF DRAFT MINUTES FOR CASE 715-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 10/11/12

1

2 Mr. Anderson stated that he has earlier stated that the south shed is only there in a temporary fashion to store
3 materials. He said that the materials are being moved and it is his guess that the shed will be removed within
4 the next three months.

5

6 Mr. Hall stated that Part D is in regard to the parking along the south lot line. He asked Mr. Anderson if he
7 still wants Part D to part of the variance request.

8

9 Mr. Anderson stated that it seems reasonable to him. He said that there was an old existing two track located
10 there and he would like to have the variance. He said that currently there is a scout trailer parked there and it
11 is approximately three feet from the property line. He said that, if required, he will move or widen the track
12 an additional 24 inches although it seems silly to do so.

13

14 Mr. Hall stated that he understands that it may seem silly but if it is moved then the variance is not required
15 and the Board will have no control as to what he parks there.

16

17 Mr. Anderson stated that he will move it therefore it will not be an issue.

18

19 Mr. Thorsland asked if the Board has any questions for Mr. Anderson.

20

21 Mr. Palmgren stated that notes have been placed on the site plan that Mr. Anderson submitted indicating that
22 if he moves the shed four feet then no variance would be required.

23

24 Mr. Thorsland informed Mr. Palmgren that the notes on the site plan were from staff and not Mr. Anderson.

25

26 Mr. Passalacqua stated that the Board still does not have a revised site plan.

EXCERPT OF DRAFT MINUTES FOR CASE 715-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 10/11/12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Mr. Anderson stated that at the end of the last meeting he offered to move the shed four feet and he was told not to do anything. He said that he is reaffirming that he will move the shed four feet.

Mr. Passalacqua stated that he suggested that Mr. Anderson not move the shed until he submitted a new site plan to the Board for review. He said that the memorandum indicated that Mr. Anderson had no intention of submitting a new site plan.

Mr. Anderson stated that during his last visit to the office it was made very clear that he would not receive a positive outcome therefore he should reconsider moving the building four feet.

Mr. Passalacqua stated that he is still requesting a new site plan.

Mr. Thorsland asked Mr. Anderson if he willing to submit a new site plan.

Mr. Anderson stated yes.

Mr. Thorsland informed Mr. Anderson that the site plan should include the movement of the east wall four feet and how Part D, regarding the parking, will be eliminated. He said that Mr. Anderson has indicated that the small shed will be removed from the property within the next three months. He asked Mr. Anderson if a condition was proposed for removal of the shed to be complete by January 1st would be acceptable.

Mr. Anderson stated that it is hard to guarantee that the shed would be moved within a three month period or January 1st. He said that he does not have a crystal ball to guarantee the weather for removal.

Mr. Thorsland stated that the Board will probably give him some time to revise and submit a new site plan

EXCERPT OF DRAFT MINUTES FOR CASE 715-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 10/11/12

1 for the Board's review. He stated that he would appreciate a timeline for removal of the small shed to be
2 included with the submitted information.

3
4 Mr. Hall stated that he appreciates that someone might be able to move the shed within three months but he
5 does not see that much good that a short deadline serves and a short deadline is likely to result in more
6 problems. He said that he would hope that the Board would entertain an allowance of six months for
7 removal of the shed which would give Mr. Anderson a couple of months of good weather to get the shed
8 moved and he cannot think of a valid excuse for not having the shed moved within that time.

9
10 Mr. Anderson stated that he appreciates Mr. Hall's suggestion of six months.

11
12 Mr. Hall asked Mr. Anderson when he could submit a new site plan for the Board's review.

13
14 Mr. Anderson stated that if 30 days would suffice then he will have a new site plan to staff within 30 days.
15 He said that if staff needs it within a week then he will get it to staff within one week.

16
17 Mr. Hall stated that one week is not necessary. He said that the meeting schedule is such that the Board
18 meets again on October 24th which is a very full agenda. He said that the next opportunity after the October
19 24th meeting is December 13th because all ZBA meetings have been cancelled for November. He said from
20 a staff perspective having this case return for the October 24th meeting would make that meeting even more
21 difficult than it is right now.

22
23 Mr. Thorsland stated that he would prefer that the case be continued to the December 13th meeting.

24
25 **Mr. Courson moved, seconded by Mr. Palmgren to continue Case 715-V-12 to the December 13, 2012,**
26 **meeting. The motion carried by voice vote.**

EXCERPT OF DRAFT MINUTES FOR CASE 715-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 10/11/12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Mr. Passalacqua asked if there were any witness

Mr. Thorsland called Ms. Patricia Belleville to testify.

Ms. Patricia Belleville, who resides at 511 Park Lane Drive, Champaign, stated that she is the Chair of the Windsor Park Homeowner’s Association. She said that she spoke with Tim Menard, Scout Leader at Camp Drake, and he informed her that only one tree house was ever built and there will be no other trees houses constructed. She said that Mr. Menard also indicated that they do not allow scout masters to store any building materials or equipment at Camp Drake and he has agreed to send a letter or e-mail to verify his statement. She submitted photographs of the subject property as Documents of Record.

Ms. Belleville stated that some of the neighbors are present tonight because they are concerned that the sheds and storage materials are not being used for the scout projects but are being used for Mr. Anderson’s business. She said that Mr. Anderson has indicated that he operates a construction business or does construction work therefore the neighbors are concerned that the shed will be used for other uses that may not fall within the zoning requirements.

Mr. Thorsland requested that Mr. Menard send a letter or e-mail to staff confirming his statement.

Ms. Belleville stated that she will contact Mr. Menard and have him send a letter or e-mail to Mr. Hall’s office.

Mr. Thorsland informed the audience that if they are residents of the neighborhood and they have concerns regarding Mr. Anderson’s request then they should testify personally to give more weight to their concerns.

EXCERPT OF DRAFT MINUTES FOR CASE 715-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 10/11/12

1 Mr. Thorsland asked if staff had any questions for Ms. Belleville.

2

3 Mr. Hall pointed out that Neighborhood Home Occupations are allowed in residential zoning districts and
4 they do allow one accessory building to be devoted to the home occupation. He said that if the Board
5 approved Mr. Anderson's variance to keep one shed on the property the Board could not prohibit the use of
6 the shed for something that is already authorized by the Ordinance. He said that the approval of the home
7 occupation is done on a permit basis over the counter and there is no public hearing and no notices are
8 mailed to neighbors. He said that his advice to the neighbors would be that if they see things that appear like
9 business activities they should call the office so that staff can investigate those activities. He said that there
10 is not prohibition against running a business from your home provided that the requirements of Section 7.1.1
11 of the Zoning Ordinance are met. He said that staff can provide a handout regarding a Neighborhood Home
12 Occupation to Ms. Belleville to assist with the understanding of what could be expected on neighboring
13 properties.

14

15 Ms. Belleville stated that she would appreciate receipt of the handout.

16

17 Mr. Passalacqua stated that outdoor storage is prohibited.

18

19 Mr. Hall stated yes.

20

21 Ms. Belleville stated that prior testimony indicated that building materials were being stored on the property
22 that were not being used for the homeowner's business therefore creating a violation of the Nuisance
23 Ordinance.

24

25 Mr. Hall stated that Ms. Belleville was correct.

26

EXCERPT OF DRAFT MINUTES FOR CASE 715-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 10/11/12

1 Ms. Belleville stated that Mr. Anderson could run a business but he could not store building materials that
2 would be used for his business on the property.

3
4 Mr. Hall stated that Mr. Anderson could not store the building materials outside but he could store them
5 inside of the designated shed for the business.

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

8
9 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Belleville and there was no one.

10
11 Mr. Thorsland called Ruth Mitchell to testify.

12
13 Ms. Ruth Mitchell, who resides at 3 Regent Court, Champaign, stated that there are numerous vehicles on
14 the subject property that appear to be commercial type vehicles. She said that a complaint has been received
15 from a neighbor who lives on Willowbrook Court regarding these vehicles therefore she thought that now
16 would be a good opportunity to ask about those vehicles and how they fall into this picture.

17
18 Mr. Hall stated that the Neighborhood Home Occupation Section 7.1.1. allows no more than one commercial
19 vehicle less than or equal to 36,000 pounds gross vehicle weight and no more than 25 feet in length shall be
20 permitted on lots within a residential zoning district. He said that one vehicle is allowed and a van and a
21 licensed trailer would be two vehicles.

22
23 Mr. Thorsland asked the Board if there were any questions for Ms. Mitchell and there was no one.

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

26

EXCERPT OF DRAFT MINUTES FOR CASE 715-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 10/11/12

1 Mr. Thorsland asked Ms. Belleville if the submitted photographs were taken today.

2

3 Ms. Belleville stated that the photographs were taken this morning.

4

5 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
6 testimony regarding this case and there was no one.

7

8 Mr. Thorsland closed the witness register for tonight's meeting. He reminded the audience that the case has
9 been continued to December 13th.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

CASE NO. 707-S-12

SUPPLEMENTAL MEMORANDUM

December 5, 2012

Champaign
County
Department of

**PLANNING &
ZONING**

Petitioners: **Daniel Williams and Fran Williams**

Site Area: **5.2 acres**

Time Schedule for Development:
Currently in Operation

Prepared by: **Andy Kass**
Associate Planner

John Hall
Zoning Administrator

Request: **Authorize the use of an existing Paintball Facility as an "Outdoor Commercial Recreational Enterprise" as a Special Use on 5.2 acres that is part of a 35 acre tract in the CR Conservation-Recreation Zoning District.**

Location: **A 35 acre tract in the Southeast Quarter of the Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453 CR 600E, Dewey.**

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

(217) 384-3708

STATUS

This case was continued from the September 13, 2012, public hearing. A revised Summary of Evidence, Finding of Fact, and Final Determination is attached. A copy of Illinois Public Act 97-0477, the "Purple Paint" law is also attached.

The petitioner has amended the site plan and those changes are discussed below.

AMENDED SITE PLAN

The petitioner amended the site plan on November 19, 2012, to include the following:

- A 4 feet high fence running along the side property line and the rear property line.
- The proposed location of the 14' x 60' mobile home in Field #2.

Staff requested that the petitioner indicate the rope that will delineate the exterior boundaries of the playing fields along the property lines but that has not been indicated on the site plan. A special condition has been proposed to place the rope 15 feet from the property lines. Staff has also requested the distance that the mobile home will be from the side property line be indicated to ensure that it will meet the minimum required side yard of 15 feet, but the petitioner has not provided that information.

PETITIONER UPDATES

On November 19, 2012, the petitioner indicated to staff that he is in the process of installing a four feet high fence along the side and rear property lines of the subject property. The petitioner also indicated that

paintball referees are wearing blaze orange clothing so that they are visible to hunters and that he is still looking into the "Purple Paint" law.

PROPOSED LOCATION OF THE MOBILE HOME

At the September 13, 2012, public hearing the petitioner indicated that he would like to utilize the existing mobile home on the property as an obstacle in one of the playing fields. The petitioner indicated the proposed location of the 14' x 60' mobile home in Field #2 on the amended site plan received November 19, 2012. The location indicated appears to be more of a general location than specific because the petitioner has not provided any specific dimensions that support that it will be the exact location where the mobile home is to be placed.

Most of Field #2 is located in the mapped floodplain and a staff analysis utilizing Panel 100 of the official Flood Insurance Rate Maps of Champaign County indicates that the general area where the petitioner has proposed to locate the mobile home is highly likely to be within the floodplain. Staff also conducted the same analysis utilizing the preliminary flood maps that will be adopted sometime in 2013 and it appears that the general area will probably not be within the floodplain. The petitioner should provide specific measurements to staff prior to placing the home in Field #2 to determine if the location is within the floodplain, if so a Floodplain Development Permit will required.

REVISED SPECIAL CONDITIONS

Revisions to existing conditions and new conditions are as follows:

- A. Regarding State of Illinois accessibility requirements:
- (1) An accessible portable toilet shall be provided;
 - ~~(2) The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the Zoning Administrator has verified that the Petitioner has provided a paved accessible parking space with appropriate markings for use by handicapped patrons.~~
 - (2) The petitioner shall provide a paved accessible parking space with appropriate markings and a paved accessible route to the paintball area when the existing parking area is expanded or resurfaced as indicated by Doug Gamble, Accessibility Specialist, Illinois Capital Development Board.

The special conditions stated above are required to ensure the following:

That the proposed Special Use meets applicable state requirements for accessibility.

- B. Enclosed gaming structures intended to be temporarily occupied by players shall not be larger than 150 square feet in area except that the mobile home may be modified for use as a gaming structure in playing field #2, as depicted on the approved site plan.

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

That existing and future structures are small enough in size where life safety considerations are not a concern or necessary.

- C. **Regarding operations of the proposed Special Use during hunting seasons the following conditions are to be implemented by the petitioner immediately:**
- (1) **Paintball referees shall wear blaze orange clothing at all times while refereeing paintball games.**
 - (2) **The petitioner shall coordinate with neighboring property owners during hunting seasons regarding when and where hunters will be on neighboring property so that the petitioner can alter the operational hours of the paintball park if hunters will be in the immediate vicinity during business hours.**
 - (3) **The proposed Special Use shall be void if any injuries to patrons, employees, or volunteers of the paintball park are the result of gunfire (rifles, handguns, shotguns).**

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

That the petitioner implements proper measures to ensure the safety of patrons, employees, and volunteers during hunting seasons and to ensure hunters on surrounding properties are aware that there are other people in the area.

- D. **As soon as possible the petitioner shall revise the Firemark Paintball Orientation overview/handout to include the following information: and send a copy of the revised handout to the Zoning Administrator:**
- (1) **Trespassing onto neighboring property is strictly prohibited.**
 - (2) **Hunting occurs on adjacent properties during State regulated hunting seasons.**
 - (3) **The petitioner shall provide a copy of the revised Orientation handout/overview to the Zoning Administrator after the revisions have been made.**

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

To prevent patrons from trespassing onto neighboring properties and to ensure that patrons are aware that hunting occurs on adjacent properties.

- E. **No later than October 31, 2012, The petitioner shall mark trees or install marked posts along the side and rear property lines with purple paint in accordance with Illinois Public Act 97-0477 and allow inspection by the Zoning Administrator.**

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

To prevent trespass from neighboring properties.

- F. A Change of Use Permit shall be applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the Zoning Board of Appeals .**

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

- G. A Zoning Use Permit Application for the semi trailer utilized for storage shall be applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the Zoning Board of Appeals.**

The above special condition is required to ensure the following:

That the storage structure is in compliance with the Zoning Ordinance.

ATTACHMENTS

- A Amended Site Plan received November 19, 2012
- B Illinois Public Act 97-0477
- C Excerpt of minutes from September 13, 2012, public hearing (included separately)
- D Revised Summary of Evidence, Finding of Fact, and Final Determination (included separately)

* amended by Daniel Willison Nov 19 2012

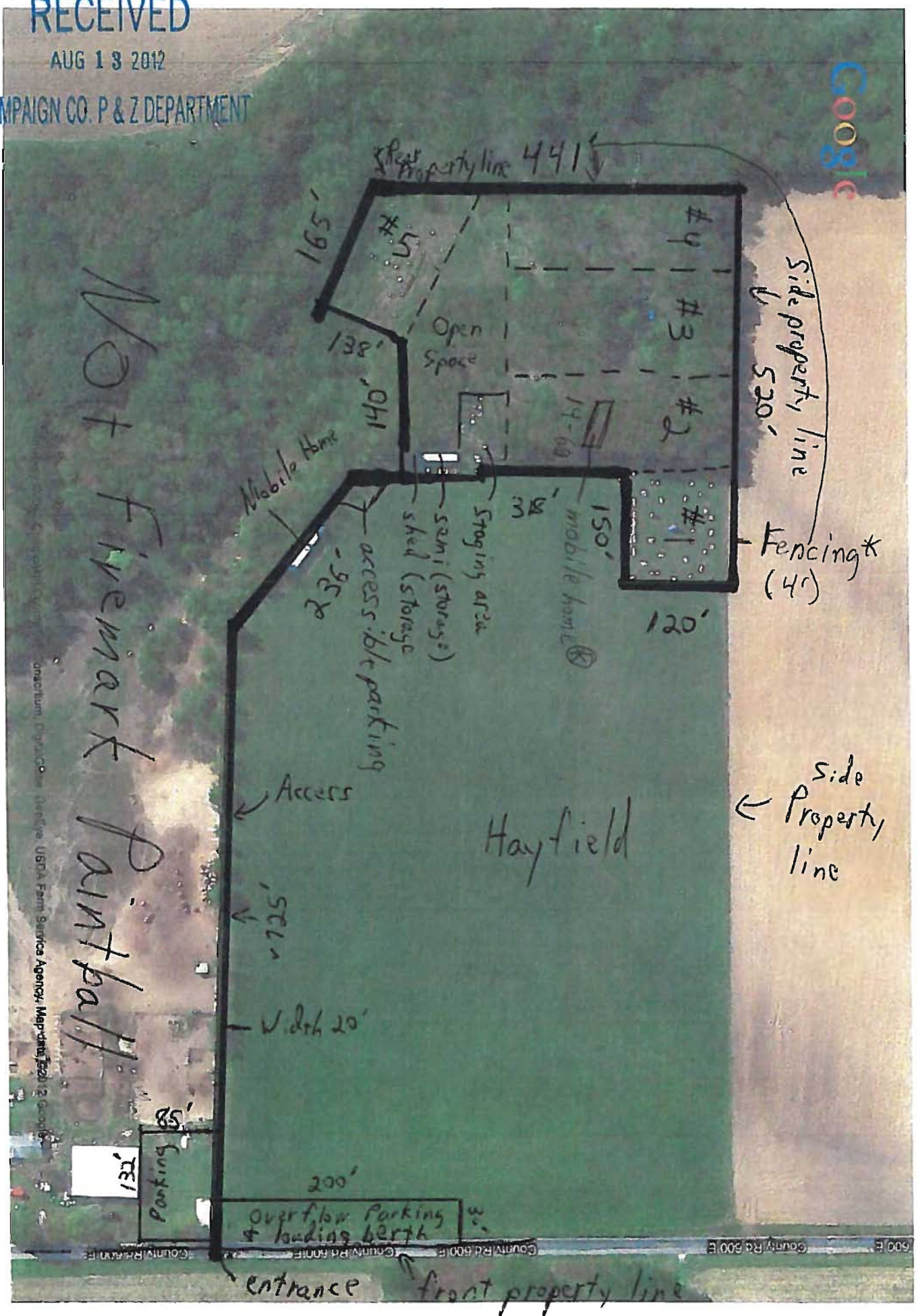
RECEIVED

AUG 13 2012

CHAMPAIGN CO. P & Z DEPARTMENT

Google

Not Firemark Paintball



USDA Farm Service Agency, Mapping 7/2012

500 E County Rd 500 E County Rd 500 E County Rd 500 E

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Criminal Code of 1961 is amended by changing Section 21-3 as follows:

(720 ILCS 5/21-3) (from Ch. 38, par. 21-3)

Sec. 21-3. Criminal trespass to real property.

(a) Except as provided in subsection (a-5), whoever:

(1) knowingly and without lawful authority enters or remains within or on a building; or

(2) enters upon the land of another, after receiving, prior to such entry, notice from the owner or occupant that such entry is forbidden; or

(3) remains upon the land of another, after receiving notice from the owner or occupant to depart; or

(3.5) presents false documents or falsely represents his or her identity orally to the owner or occupant of a building or land in order to obtain permission from the owner or occupant to enter or remain in the building or on the land;

commits a Class B misdemeanor.

For purposes of item (1) of this subsection, this Section shall not apply to being in a building which is open to the

public while the building is open to the public during its normal hours of operation; nor shall this Section apply to a person who enters a public building under the reasonable belief that the building is still open to the public.

(a-5) Except as otherwise provided in this subsection, whoever enters upon any of the following areas in or on a motor vehicle (including an off-road vehicle, motorcycle, moped, or any other powered two-wheel vehicle) after receiving, prior to that entry, notice from the owner or occupant that the entry is forbidden or remains upon or in the area after receiving notice from the owner or occupant to depart commits a Class A misdemeanor:

(1) A field that is used for growing crops or that is capable of being used for growing crops.

(2) An enclosed area containing livestock.

(3) An orchard.

(4) A barn or other agricultural building containing livestock.

(b) A person has received notice from the owner or occupant within the meaning of Subsection (a) if he has been notified personally, either orally or in writing including a valid court order as defined by subsection (7) of Section 112A-3 of the Code of Criminal Procedure of 1963 granting remedy (2) of subsection (b) of Section 112A-14 of that Code, or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the

forbidden part thereof.

(b-5) Subject to the provisions of subsection (b-10), as an alternative to the posting of real property as set forth in subsection (b), the owner or lessee of any real property may post the property by placing identifying purple marks on trees or posts around the area to be posted. Each purple mark shall be:

(1) A vertical line of at least 8 inches in length and the bottom of the mark shall be no less than 3 feet nor more than 5 feet high. Such marks shall be placed no more than 100 feet apart and shall be readily visible to any person approaching the property; or

(2) A post capped or otherwise marked on at least its top 2 inches. The bottom of the cap or mark shall be not less than 3 feet but not more than 5 feet 6 inches high. Posts so marked shall be placed not more than 36 feet apart and shall be readily visible to any person approaching the property. Prior to applying a cap or mark which is visible from both sides of a fence shared by different property owners or lessees, all such owners or lessees shall concur in the decision to post their own property.

Nothing in this subsection (b-5) shall be construed to authorize the owner or lessee of any real property to place any purple marks on any tree or post or to install any post or fence if doing so would violate any applicable law, rule, ordinance, order, covenant, bylaw, declaration, regulation,

restriction, contract, or instrument.

(b-10) Any owner or lessee who marks his or her real property using the method described in subsection (b-5) must also provide notice as described in subsection (b) of this Section. The public of this State shall be informed of the provisions of subsection (b-5) of this Section by the Illinois Department of Agriculture and the Illinois Department of Natural Resources. These Departments shall conduct an information campaign for the general public concerning the interpretation and implementation of subsection (b-5). The information shall inform the public about the marking requirements and the applicability of subsection (b-5) including information regarding the size requirements of the markings as well as the manner in which the markings shall be displayed. The Departments shall also include information regarding the requirement that, until the date this subsection becomes inoperative, any owner or lessee who chooses to mark his or her property using paint, must also comply with one of the notice requirements listed in subsection (b). The Departments may prepare a brochure or may disseminate the information through agency websites. Non-governmental organizations including, but not limited to, the Illinois Forestry Association, Illinois Tree Farm and the Walnut Council may help to disseminate the information regarding the requirements and applicability of subsection (b-5) based on materials provided by the Departments. This subsection (b-10)

is inoperative on and after January 1, 2013.

(b-15) Subsections (b-5) and (b-10) do not apply to real property located in a municipality of over 2,000,000 inhabitants.

(c) This Section does not apply to any person, whether a migrant worker or otherwise, living on the land with permission of the owner or of his agent having apparent authority to hire workers on such land and assign them living quarters or a place of accommodations for living thereon, nor to anyone living on such land at the request of, or by occupancy, leasing or other agreement or arrangement with the owner or his agent, nor to anyone invited by such migrant worker or other person so living on such land to visit him at the place he is so living upon the land.

(d) A person shall be exempt from prosecution under this Section if he beautifies unoccupied and abandoned residential and industrial properties located within any municipality. For the purpose of this subsection, "unoccupied and abandoned residential and industrial property" means any real estate (1) in which the taxes have not been paid for a period of at least 2 years; and (2) which has been left unoccupied and abandoned for a period of at least one year; and "beautifies" means to landscape, clean up litter, or to repair dilapidated conditions on or to board up windows and doors.

(e) No person shall be liable in any civil action for money damages to the owner of unoccupied and abandoned residential

and industrial property which that person beautifies pursuant to subsection (d) of this Section.

(f) This Section does not prohibit a person from entering a building or upon the land of another for emergency purposes. For purposes of this subsection (f), "emergency" means a condition or circumstance in which an individual is or is reasonably believed by the person to be in imminent danger of serious bodily harm or in which property is or is reasonably believed to be in imminent danger of damage or destruction.

(g) Paragraph (3.5) of subsection (a) does not apply to a peace officer or other official of a unit of government who enters a building or land in the performance of his or her official duties.

(h) A person may be liable in any civil action for money damages to the owner of the land he or she entered upon with a motor vehicle as prohibited under subsection (a-5) of this Section. A person may also be liable to the owner for court costs and reasonable attorney's fees. The measure of damages shall be: (i) the actual damages, but not less than \$250, if the vehicle is operated in a nature preserve or registered area as defined in Sections 3.11 and 3.14 of the Illinois Natural Areas Preservation Act; (ii) twice the actual damages if the owner has previously notified the person to cease trespassing; or (iii) in any other case, the actual damages, but not less than \$50. If the person operating the vehicle is under the age of 16, the owner of the vehicle and the parent or legal

guardian of the minor are jointly and severally liable. For the purposes of this subsection (h):

"Land" includes, but is not limited to, land used for crop land, fallow land, orchard, pasture, feed lot, timber land, prairie land, mine spoil nature preserves and registered areas. "Land" does not include driveways or private roadways upon which the owner allows the public to drive.

"Owner" means the person who has the right to possession of the land, including the owner, operator or tenant.

"Vehicle" has the same meaning as provided under Section 1-217 of the Illinois Vehicle Code.

(Source: P.A. 94-263, eff. 1-1-06; 94-509, eff. 8-9-05; 94-512, eff. 1-1-06; 95-331, eff. 8-21-07.)

Section 99. Effective date. This Act takes effect upon becoming law.

REVISED DRAFT

707-S-12

**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: December 13, 2012

Petitioners: Daniel Williams and Fran Williams

Request: Authorize the following on land in the CR Conservation-Recreation Zoning District:

Authorize the use of an existing Paintball Facility as an “Outdoor Commercial Recreational Enterprise” as a Special Use on 5.2 acres that is part of a 35 acre tract

Table of Contents

General Application Information	2-5
Specific Ordinance Requirements	5-9
Special Use Evidence	9-27
Documents of Record	28-29
Case 707-S-12 Finding of Fact.....	30-34
Case 707-S-12 Final Determination	35-37

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **May 17, 2012, and September 13, 2012, and December 13, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner Daniel Williams, 2453 CR 600E, Dewey, owns and operates the existing paintball business "Firemark Paintball" on the subject property which is owned by Fran Williams, mother of the Petitioner who resides on the property.
2. The subject property is 5.2 acres which is part of a 35 acre tract in the Southeast Quarter of the Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453 CR 600E, Dewey.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet. Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ, they do receive notice of such cases and they are invited to comment.

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 and the larger property on which it is located is currently zoned CR Conservation-Recreation. The rest of the property is in use as a residential property with some of the subject property used for agricultural production.
 - B. Land on the north, south, east, and west of the subject property is zoned and is in use as follows:
 - (1) Land on the north is zoned CR Conservation Recreation and is in agricultural production.
 - (2) Land on the south is zoned CR Conservation-Recreation and is in agricultural production.
 - (3) Land east of the subject property is zoned AG-1 Agriculture and is in agricultural production.
 - (4) Land west of the subject property is zoned CR Conservation-Recreation and is in agricultural production.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding site plan and operations of the Paintball Facility:
- A. The site plan received February 8, 2012, and revised on August 13, 2012, and amended on November 19, 2012, indicates the following:
- (1) Five playing fields for paintball games located in the northwest corner of the property. Four of the game fields are in the wooded area of the property and one game field is in the non-wooded area. There are various obstacles placed throughout the playing fields for patrons to hide behind while the game is in play. The obstacles include large wooded or plastic spools, plastic barrels, plastic tubes, and pallets. There are also equipment storage structures including a 10' × 12' shed, semi-trailer, and mobile home. The total area for the proposed special use is approximately 5.2 acres.
 - (2) An 85' × 132' parking area located on the east side of the property and approximately 961 feet away from the game fields. The entrance to the parking area is located off of CR 600E and is directly north of the parking area.
 - (3) Signage on the property directs customers to walk down a farm lane to get to the playing fields.
 - (4) Areas not associated with Firemark Paintball located south of the proposed special use on the same property.
 - (5) A 200' × 30' overflow parking and loading berth area located on the east side of the subject property.
 - (6) An area of open space located in between paintball fields 2, 3, 4, and 5.
 - (7) ~~A staging area.~~ Location of the staging area for the paintball park.
 - (8) ~~An accessible parking space.~~
 - (8) Location of a where an accessible parking space could be placed in the future if necessary.
 - (9) A hay field located east of the paintball fields.
 - (10) A 961 feet long accessway that is 20 feet wide.
 - (11) The proposed location of the 14' × 60' mobile home in playing Field #2.

REVISED DRAFT

(12) An indication that a fence 4 feet in height will run along the side and rear property line for the length of the playing fields.

(13) Side and rear property lines.

- B. Information regarding the operations of Firemark Paintball is provided on their website (www.firemarkpaintball.com) and by the Petitioner and is summarized as follows:
- (1) Firemark Paintball has been in operation since 2002.
 - (2) A Release of Liability Agreement is available on the website prior to visiting Firemark Paintball. The waiver is required to play each time a player visits Firemark Paintball.
 - (3) Days and hour of operation are Monday, Wednesday, Friday, Saturday, and Sunday. Each day of operation games occur between 10:00 a.m. through 2:00 p.m. and 2:00 p.m. through 6:00 p.m.
 - (4) Safety rules for the park are available and can be summarized as follows:
 - (a) Safety goggles must be worn at all times.
 - (b) No shooting at the head/neck, wildlife, and no blind shooting.
 - (c) No shooting into or out of staging area, neutral zones, or parking areas.
 - (d) No climbing of trees or structures.
 - (e) No physical or verbal abuse.
 - (f) No unauthorized equipment.
 - (g) No alcohol, drugs, or smoking.
 - (5) Dan Williams (one of the Petitioners) is the only employee. There are volunteers who assist with refereeing games on the weekends. Typically there are two referees who help on the weekends.
- C. On August 13, 2012, the petitioner submitted a document titled "Firemark Paintball Orientation" which covers safety and rules of the game. The game rules and safety rules are presented to all patrons of Firemark Paintball and can be summarized as follows:
- (1) Goggles must be work at all times in goggle required areas.

- (2) Paintball gun barrel covers must be in place before leaving the playing field.
 - (3) All personally owned guns must shoot below 300 fps and be semi-automatic.
 - (4) Games last 10 minutes
 - (5) If a paintball hits or breaks on a player the player is out.
 - (6) Players must remain within the designated boundary lines
 - (7) Climbing of trees, shooting blindly, and shooting wildlife is prohibited.
 - (8) No smoking, alcohol, or foul language.
 - (9) All referee decisions are final.
- D. At the May 17, 2012, public hearing Dan Williams, petitioner, testified and is summarized as follows:
- (1) Reservations are required to play at the park.
 - (2) He does have liability insurance for the business.
- E. On August 8, 2012, Dan Williams, petitioner, indicated the following to Planning and Zoning Staff:
- (1) T-posts will be used to secure obstacles to the ground to prevent them from floating away in a flood event.
 - (2) A rope will be used to delineate the property boundaries.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding authorization for an Outdoor Commercial Recreational Enterprise as a Special Use in the CR Conservation-Recreation Zoning District in the *Zoning Ordinance*:
 - A. Section 5.2 authorizes Outdoor Commercial Recreational Enterprise as a Special Use in the CR and AG-2 Zoning District.
 - B. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant 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

REVISED DRAFT

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 establishes standard conditions for an Outdoor Commercial Recreational Enterprise as follows:
- (a) A minimum lot size of 1 acre.
 - (b) Not permitted within 200' of an R DISTRICT or residential or INSTITUTIONAL USE.
- C. 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) "ACCESSORY USE" is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
 - (4) "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.

- (5) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
 - (6) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
 - (7) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
 - (8) "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.
 - (9) "YARD, REAR" is a YARD 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.
 - (10) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- D. 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 except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:
 - (a) The property is either BEST PRIME FARMLAND and the property with proposed improvements in WELL SUITED OVERALL or the property is not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.
 - (b) The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
-

REVISED DRAFT

- (c) The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
 - (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.
- E. 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. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
 - (a) that the waiver is in accordance with the general purpose and intent of the ordinance; and
 - (b) that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
 - (a) Special conditions and circumstances 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.
 - (b) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
 - (c) The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.

- F. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

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

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioner has testified on the application, **“Currently there are no other Paintball Field locations within the Champaign County area. Without Firemark Paintball, players have to travel to Danville, Bloomington, Mattoon, or Joliet. With gas prices rising, the short distance [fifteen miles from Champaign-Urbana] to get to Firemark Paintball will help players decrease expenses. Furthermore, with a top notch facility, players from other counties will come to Firemark Paintball bringing income to Champaign County.”**
- B. The proposed Special Use has been in operation since 2002. Planning and Zoning Staff has been collecting information regarding the existing paintball business on the subject property since 2005.
- C. At the May 17, 2012, public hearing Daniel Williams, petitioner, testified, and is summarized as follows:
- (1) He has seen kid’s lives change after they play paintball because a young man indicated that he played at the facility last year and loved it so much that he purchased his own equipment and he plans to return again this year.
- (2) He has had a day camp operated in conjunction with the YMCA in the past that teaches kids how to play paintball and the camp this year will be a five day long event.
- D. At the May 17, 2012, public hearing Earl Williams, landowner, testified that the area where the paintball fields are located is generally full of weeds and trees therefore he could not utilize the area as a pasture so it is a perfect place for the paintball fields.

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, **“The playing area is well separated from housing of surrounding areas yet close to several cities. Currently, Firemark Paintball has been in operation for the past ten years with no major injuries. The area in use is in the wooded corner of a 40 acre farm. The wooded area is not suitable for grain farming and is a poor grazing option. Although near a creek, it is well out of the flood area evidenced by the owner whose family has owned this land for over 100 years. All paint used is bio-degradable and field materials are mostly recyclable. Abuse of wildlife and animals is forbidden. No alcohol, drugs, or smoking are allowed. Player parking is adequate for current expected customers.”**
 - B. Regarding surface drainage:
 - (1) The subject property drains south and west to the stream that runs through the subject property.
 - (2) The proposed Special Use is exempt from the Stormwater Management Policy because it does not exceed 1 acre of impervious area.
 - C. The subject property is accessed from CR 600E on the west side of the property. Regarding the general traffic conditions on CR 600E 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 CR 600E is indicated as 750 AADT.
 - (2) CR 600E is a Minor Street as indicated in the Champaign County Zoning Ordinance.
 - (3) Pavement width in front of the subject property is approximately 20 feet.
 - (4) The Township Road Commissioner has received notice of the case.
 - (5) Regarding the proposed special use and the anticipated traffic impacts:
 - (a) The proposed Special Use will generate a small amount of traffic that should not create any problems on CR 600E.
 - D. Regarding fire protection of the subject property, the subject property is within the protection area of the Cornbelt Fire Protection District and is located approximately 6.5

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. Portions of the subject property are located in Zone A of the mapped floodplain according to the Flood Insurance Rate Map of Champaign County, Panel 100. A majority of the area which the proposed special use occupies is within the mapped floodplain as follows:
- (1) The elevations received on February 7, 2012, from Vegzyn, Sarver and Associates indicates that the semi trailer, manufactured home, and storage shed are above the Base Flood Elevation (BFE) of 695.6 for Summerfield North Subdivision.
 - (2) The Petitioner has indicated that the obstacles in the paintball fields are secured to the ground or to trees in an effort to prevent them from being swept away by floodwaters.
 - (3) A special condition has been proposed to ensure that obstacles are secured to the ground to prevent floating away in the event of a flood.
 - (4) The petitioner has proposed to move the existing mobile home into Playing Field #2 for paintball players to use as an obstacle. According to the Flood Insurance Rate Map of Champaign County, Panel 100, the area proposed for the location of the mobile home is likely to be within the mapped floodplain. The Illinois State Water Survey has updated the flood maps, but they will not be adopted until sometime in 2013. The preliminary maps indicate that the proposed location will likely not be within the mapped floodplain.
 - (5) At the September 13, 2012, public hearing Daniel Williams, petitioner testified that he is using paintball netting that is attached to T-posts and "pace" pipe as obstacles because the netting allows water to flow through it. The petitioner also indicated that if he cannot tie barrels to a tree then they will be removed from the playing fields.
- F. Regarding outdoor lighting on the subject property:
- (1) No outdoor lighting has been indicated on the site plan.
 - (2) On May 10, 2012, Planning and Zoning Staff conducted a site visit to the subject property. During this visit the Petitioner indicated that solar powered lighting is used at times when daylight is shorter.
 - (3) At the May 17, 2012, public hearing Daniel Williams, petitioner testified that they are looking into solar powered light systems to determine if operations after dark would be feasible.

REVISED DRAFT

- G. Regarding wastewater treatment and disposal on the subject property:
- (1) The Petitioner provides an accessible portable toilet for patrons use. The portable toilet is serviced by Illinois Portable Toilets and is emptied once per week.
- H. Regarding solid waste disposal on the subject property:
- (1) No solid waste agency services the proposed Special Use. Solid waste disposal is conducted by the Petitioner.
- I. Regarding food sanitation and public health considerations related to the proposed Special Use:
- (1) The Petitioner has indicated that prepackaged food such as bottled water, canned soda, bottled Gatorade, chips, and candy bars will be sold to patrons at the proposed Special Use.
 - (2) In an email from Tammy Hamilton, Administrative Assistant at the Champaign-Urbana Public Health District dated January 25, 2012, to the Petitioner, indicates that no health permit is required for the sale of prepackaged foods.
- J. 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.

K. Regarding accessibility requirements of the State of Illinois:

- (a) 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.
- (b) The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
- (c) 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.
- (d) 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.
- (e) 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 is 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.
- (f) The Petitioner has contacted the Illinois Capital Development Board regarding accessibility and received an email from that can be summarized as follows:
 - (1) The storage shed, semi trailer, and mobile home already exist and are not required to be accessible.
 - (2) At least one portable toilet shall be accessible.
 - (3) The parking area already exists and does not need an accessible space. When the parking area is altered (new rock, etc.) one paved accessible space must be provided and accompanied by a paved route to the beginning of the paintball area.

REVISED DRAFT

- (g) At the September 13, 2012, public hearing Daniel Williams, petitioner testified that he has never had handicapped people request to play but he has had people with a broken leg or broken arm play with their casts on and he made accommodations for them and allowed them to drive up to the play area.
- L. On May 10, 2012, Staff visited the subject property and noted that a single rope is used to mark the boundaries of the subject property so that trespass onto adjacent properties is prevented.
- M. The Petitioner has indicated to Staff that the proposed Special Use operates during deer hunting season and that patrons do not wear orange vests or any other hunting safety gear because it would make a player more visible to opposing players. The Petitioner has also indicated that hunting occurs on the adjacent property to the west and that the landowner has agreed to not allow hunting after 10 a.m. on the property so that safety of the patrons is not compromised.
- N. The subject property has an average Land Evaluation score of 75 and is therefore not Best Prime Farmland as defined by the *Zoning Ordinance*.
- O. At the May 17, 2012, public hearing, Tim Woodard, 2490 CR 550E, Dewey, testified, and his testimony is summarized as follows:
- (1) He and his wife request denial of the special use permit because approval of the special use permit would be injurious to the district due to periodic flooding and trespassing and approval of the special use would be detrimental to the public welfare because of the lack of safety precautions.
 - (2) He has consistently had issues with trespassers from the petitioner's property even though there is a boundary.
 - (3) He has caught patrons of the petitioner's business on his property and in his deer hunting tree stand.
 - (4) His son and a friend were hunting on the Woodard property last year with a real gun and were shot by patrons of the petitioner's business with paintball guns.
 - (5) He is concerned about the petitioner's paintball debris floating down the creek during a flood event because the creek flows north and west through the petitioner's property to a neighboring property and then to his.
 - (6) Historically the paintball park has had substantial debris in the floodplain that regularly floats down to his property. A few years ago he spent an entire weekend
-

using a tractor, truck, and trailer picking up utility company spools, pallets, and plastic barrels and returned two trailer loads to the petitioner's property.

- (7) The most critical concern that he and his wife have is that the business currently operates during the shotgun deer season and there are no precautions taken by patrons of the paintball park other than an agreement with Carl Breedlove to not allow hunting on the Breedlove property after 10 a.m. The trespassing that occurs on the adjacent properties and the presence of hunters throughout the area during hunting season is leaving safety to chance and at worse gross negligence.
- (8) He encouraged the Board to do some research on outdoor activity safety during hunting season and if they did they would find that the wearing of blaze orange is highly recommended.
- (9) Many paintball operations shut down during hunting season in order to safe guard their patrons.
- (10) Mr. Woodard indicated that an ideal scenario would be an extended fence with signage on it to delineate property boundaries so that not only is his property protected but Carl Breedlove's property would be also.

P. At the May 17, 2012, public hearing Daniel Williams, petitioner testified, and is summarized as follows:

- (1) He has liability insurance for the facility.
- (2) For the YMCA events kids are transported by bus to the property and the events are one day events once per month for three months with up to 30 kids, but this year he would have a five day event
- (3) 100 people is his total capacity because it is the amount of paintball guns he has available to rent.
- (4) There is a referee with groups at all times.
- (5) The facility is busier on Saturday and Sunday although they are open on Monday and Wednesday.

Q. At the May 17, 2012, public hearing Earl Williams, landowner, testified and is summarized as follows:

- (1) The area where the paintball fields are located is generally full of weeds and trees therefore he could not utilize the area as a pasture so it is a perfect place for the paintball fields.

REVISED DRAFT

- (2) In the fall once the last hay cut has been removed the parking lot for the operation is expanded to that area therefore allowing ample area for parking.
 - (3) He has had debris float onto his property in flooding conditions but he just cleans it up and moves on.
 - (4) He does not allow hunting on the property and has posted signs indicating so, but many times those signs are taken down or shot at. He has had several tree stands placed on his property and he removes them, but nothing seems to stop the trespassing.
- R. The Petitioner has indicated to Staff that the proposed Special Use operates during deer hunting season and that patrons do not wear orange vests or any other hunting safety gear because it would make a player more visible to opposing players. The Petitioner has also indicated that hunting occurs on the adjacent property to the west and that landowner has agreed to not allow hunting after 10 a.m. on that property so that safety of the paintball patrons is not compromised.
- S. On August 13, 2012, the petitioner submitted a document titled "Firemark Paintball Orientation" which covers safety and rules of the game. The game rules and safety rules are presented to all patrons of Firemark Paintball and can be summarized as follows:
- (1) Goggles must be work at all times in goggle required areas.
 - (2) Paintball gun barrel covers must be in place before leaving the playing field.
 - (3) All personally owned guns must shoot below 300 fps and be semi-automatic.
 - (4) Games last 10 minutes
 - (5) If a paintball hits or breaks on a player the player is out.
 - (6) Players must remain within the designated boundary lines
 - (7) Climbing of tress, shooting blindly, and shooting wildlife is prohibited.
 - (8) No smoking, alcohol, or foul language.
 - (9) All referee decisions are final.

- T. At the September 13, 2012, public hearing, Tim Woodard, 2490 CR 550E, Dewey, testified, and his testimony is summarized as follows:
- (1) A field fence with signage would be helpful in solving the trespass issues as well as preventing debris from floating onto neighboring properties.
 - (2) Patrons should be required to wear orange during shotgun season so that hunters on adjacent properties can see them.
 - (3) A restriction of hours for gaming times or restricting the days that the operation is open could be utilized for public safety.
 - (4) Typically he has five or six family members hunt in the woods and that he is the person with the tree stand in the southeast corner of his property because it is the best way to control the concern related to the paintball operation.
- U. There is an existing Zoning Enforcement Case (ZN-11-109/07) on the property. The Special Use Permit can be approved by the ZBA per Section 13.2.1 of the *Zoning Ordinance* because the Special Use Permit will facilitate correction of some part of the violation. The following violation will be corrected upon approval of the Special Use Permit and fulfillment of any special conditions imposed:
- (1) Operation of an Outdoor Commercial Recreational Enterprise (paintball park) in the CR Conservation-Recreation Zoning District without a Special Use Permit authorized by the Champaign County Zoning Board of Appeals.
- V. 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) Regarding the proposed special use:
 - (a) Outdoor Commercial Recreational Enterprise is authorized by Special Use Permit in the CR Conservation-Recreation and AG-2 Agriculture Zoning District.

REVISED DRAFT

- (b) Section 6.1.3 requires the following Standard Conditions:
 - i.* Minimum lot area of 1 acre.
 - ii.* Not permitted within 200' of any R DISTRICT or residential or INSTITUTIONAL use.
 - (c) The proposed Special Use complies with the Standard Conditions.
- (2) Section 5.3 requires a principal use to have a side yard of 15 feet and a rear yard of 25 feet.
- (a) The Petitioner did not indicate side or rear yards for the obstacles on the site plan.
 - (b) Planning and Zoning Staff conducted a site visit to the subject property on May 10, 2012, and found that obstacles along the rear property line did not meet the minimum rear yard requirement.
 - (c) The petitioner has requested a Variance for a side yard of zero feet and a rear yard of zero feet in Case 725-V-12.
- (3) Regarding parking for the proposed Special Use:
- (a) Paragraph 7.4.1 A. requires the minimum size of a parking space be to 9' × 20' and total site area for both parking and maneuvering shall average to at least 300 square feet. Parking spaces shall also be a minimum of 10 feet from a front property line and a minimum of 5 feet from a side or rear property line.
 - (b) Paragraph 7.4.1 C.3.b.ii. requires for outdoor areas, including non-permanent STRUCTURES, used for exhibit, educational, entertainment, recreational, or other purpose involving assemblage of patrons, one PARKING SPACE per three patrons based on the estimated number of patrons during peak attendance on a given day during said USE is in operation.
 - i.* The Petitioner has indicated that peak attendance is 100 people. The required number of parking spaces for 100 people is 33 parking spaces.
 - (c) The site plan received, August 12, 2012, indicates an 85' × 132' parking area. This area is capable of accommodating 37 parking spaces based on an average of 300 square feet per space.
-

- (d) There is currently no indication on the ground in the parking area that identifies how close parking should occur in proximity to CR 600E. Posts could be used to mark the minimum required 10 feet separation from the right-of-way.
- (e) At the May 17, 2012, public hearing Daniel Williams, petitioner testified that there may typically be 20 vehicles in total but in the fall there may be more because they tend to have larger groups during that time. In October the hay field is gone and when larger groups of 100 or more come to play they park in the overflow parking area. Out of the ten years in business he has probably only had three such groups, but typically groups total 50 to 100 per day.
- (f) Section 7.4.1 A.3.a. requires that no such parking space shall be located less than 10 feet from any FRONT LOT LINE.
 - i. The petitioner has requested a Variance authorizing parking spaces to be zero feet from the front lot line in lieu of the minimum required 10 feet in Case 725-V-12.

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

- (1) The proposed Special Use is exempt from for the requirements of the *Stormwater Management Policy*

D. Regarding the Special Flood Hazard Areas Ordinance:

- (1) The subject property is located in Zone A of the mapped floodplain according to the Flood Insurance Rate Map of Champaign County, Panel 100. A majority of the area which the proposed special use occupies is within the mapped floodplain.
- (2) The elevations received on February 7, 2012, from the Vegrzyn, Sarver and Associates indicates that the semi trailer, manufactured home, and storage shed are above the Base Flood Elevation (BFE) of 695.6 for Summerfield North Subdivision.
- (3) The Petitioner has indicated to Staff that the obstacles in the paintball fields are secured to the ground or to trees in an effort to prevent them from being swept away by floodwaters.
- (4) The petitioner has proposed to move the existing mobile home into Playing Field #2 for paintball players to use as an obstacle. According to the Flood Insurance Rate Map of Champaign County, Panel 100, the area proposed for the location of the mobile home is likely to be within the mapped floodplain. The Illinois State Water Survey has updated the flood maps, but they will not be adopted until sometime in 2013. The preliminary maps indicate that the proposed location will

REVISED DRAFT

likely not be within the mapped floodplain. If the petitioner proceeds to move the mobile home into the playing field he should contact staff to determine if the proposed location is in the floodplain.

- (5) At the September 13, 2012, public hearing Daniel Williams, petitioner testified that he is using paintball netting that is attached to T-posts and “pace” pipe as obstacles because the netting allows water to flow through it. The petitioner also indicated that if he cannot tie barrels to a tree then the will be removed from the playing fields.
- E. Regarding the Subdivision Regulations, the subject property is located in the Village of Mahomet subdivision jurisdiction and no subdivision is proposed or required.
- F. Regarding the requirement that the Special Use preserve the essential character of the CR Conservation-Recreation Zoning District:
- (1) An Outdoor Commercial Recreational Enterprise is authorized as a Special Use in the CR and AG-2 Zoning District.
 - (2) The proposed Special Use will not hinder agricultural production because the majority of the area for the proposed use is wooded and not suitable for row-crop production.
 - (3) The proposed Special Use has preserved the trees on the subject property.
- G. 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.
- (1) The Petitioner has contacted the Illinois Capital Development Board regarding accessibility and received an email from that can be summarized as follows:
 - (a) The storage shed, semi trailer, and mobile home are existing and not required to be accessible.
 - (b) At least one portable toilet shall be accessible.
 - (c) The parking area is existing and does not need an accessible space. When the parking area is altered (new rock, etc.) one paved accessible space must be provided and accompanied by a paved route to the beginning of the paintball area.

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. An Outdoor Commercial Recreational Enterprise is authorized as a Special Use in the CR and AG-2 Zoning District.
 - B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.3 of the Ordinance states the general intent of the CR District and states as follows (capitalized words are defined in the Ordinance):

The CR, Conservation-Recreation DISTRICT is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.
 - (2) The types of uses authorized in the CR District are in fact the types of uses that have been determined to be acceptable in the CR 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.
 - (b) The Petitioner has indicated to Staff that the proposed Special Use operates during deer hunting season and that patrons do not wear orange vests or any other hunting safety gear because it would make a player more visible to opposing players. The Petitioner has also indicated that hunting occurs on the adjacent property to the west and that landowner has agreed to not allow hunting after 10 a.m. on that property so that safety of the paintball patrons is not compromised.
 - (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. In regards to the value of nearby properties:
 - (a) It is not clear whether or not the proposed Special Use will have any impact on the value of nearby properties.

REVISED DRAFT

- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS. In regards to congestion in the public STREETS the proposed Special Use will generate a small amount of traffic that should not create any problems on CR 600E.
- (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.
 - (a) The proposed Special Use is exempt from the *Stormwater Management Policy* and should have no impact on flooding.
- (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.
- (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 CR Conservation-Recreation Zoning District and is, by definition, a rural use. The proposed use will not be taking land out of agricultural production.

- (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 contain natural features including woodlands and a stream. The proposed Special Use has preserved the tree on 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 CR Conservation-Recreation Zoning 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 CR Conservation-Recreation Zoning District and is, by definition, a rural use.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
- A. The Petitioner has testified on the application, “**Not Applicable.**”

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:
- A. Regarding State of Illinois accessibility requirements:
- (1) An accessible portable toilet shall be provided;
 - ~~(2) The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the Zoning Administrator has verified that the Petitioner has provided a paved accessible parking space with appropriate markings for use by handicapped patrons.~~
 - (2) The petitioner shall provide a paved accessible parking space with appropriate markings and a paved accessible route to the paintball area when the existing parking area is expanded or resurfaced as indicated by Doug Gamble, Accessibility Specialist, Illinois Capital Development Board.

The special conditions stated above are required to ensure the following:

That the proposed Special Use meets applicable state requirements for accessibility.

- B. All obstacles used in the play of paintball shall be removed from the property if the business ceases operations for longer than 180 consecutive days unless the business is being actively marketed for sale.

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

That the subject property is properly maintained and does not become a nuisance.

- C. Enclosed gaming structures intended to be temporarily occupied by players shall not be larger than 150 square feet in area except that the mobile home may be modified for use as a gaming structure in playing field #2, as depicted on the approved site plan.

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

That existing and future structures are small enough in size where life safety considerations are not a concern or necessary.

D. Regarding structures and obstacles in the floodplain:

- (1) Structures and obstacles used in the play of paintball shall be secured to the ground with a T-post.**
- (2) Storage of obstacles and structures not being used in the play of paintball shall not occur within the floodplain.**

The special conditions stated above are required to ensure the following:

That effects on neighboring properties are mitigated and that storage does not occur within the mapped floodplain.

~~**E. The petitioner and any future owner of Firemark Paintball shall have in place and maintain a rope to delineate the exterior boundaries of the play fields at all times.**~~

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

~~**To prevent trespass of Firemark Paintball patrons onto neighboring properties.**~~

E. This Special Use Permit shall be void if the business has ceased operations for 12 consecutive months without the business being actively marketed for sale.

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

That the subject property is properly maintained and does not become a nuisance.

F. Regarding operations of the proposed Special Use during hunting seasons the following conditions are to be implemented by the petitioner immediately:

- (1) Paintball referees shall wear blaze orange clothing at all times while refereeing paintball games.**
- (2) The petitioner shall coordinate with neighboring property owners during hunting seasons regarding when and where hunters will be on neighboring property so that the petitioner can alter the operational hours of the paintball park if hunters will be in the immediate vicinity during business hours.**

REVISED DRAFT

- (3) The proposed Special Use shall be void if any injuries to patrons, employees, or volunteers of the paintball park are the result of gunfire (rifles, handguns, shotguns).**

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

That the petitioner implements proper measures to ensure the safety of patrons, employees, and volunteers during hunting seasons and to ensure hunters on surrounding properties are aware that there are other people in the area.

- G. As soon as possible the petitioner shall revise the Firemark Paintball Orientation overview/handout to include the following information: and send a copy of the revised handout to the Zoning Administrator:**

(1) Trespassing onto neighboring property is strictly prohibited.

(2) Hunting occurs on adjacent properties during State regulated hunting seasons.

(3) The petitioner shall provide a copy of the revised Orientation handout/overview to the Zoning Administrator after the revisions have been made.

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

To prevent patrons from trespassing onto neighboring properties and to ensure that patrons are aware that hunting occurs on adjacent properties.

- H. No later than October 31, 2012, The petitioner shall mark trees or install marked posts along the side and rear property lines with purple paint in accordance with Illinois Public Act 97-0477 and allow inspection by the Zoning Administrator.**

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

To prevent trespass from neighboring properties.

- I. A Change of Use Permit shall be applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the Zoning Board of Appeals .**

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

J. A Zoning Use Permit Application for the semi trailer utilized for storage shall be applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the Zoning Board of Appeals.

The above special condition is required to ensure the following:

That the storage structure is in compliance with the Zoning Ordinance.

DOCUMENTS OF RECORD

1. Special Use Permit Application received on February 8, 2012, with attachments:
 - A Letter of Intent
 - B Site Plan
 - C Trustees Deed
 - D Email dated January 25, 2012, from Tammy Hamilton
 - E Email dated February 2, 2012, from Doug Gamble
2. Elevation Data received February 7, 2012
3. Preliminary Memorandum for Case 707-S-12 dated May 11, 2012, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received February 8, 2012
 - C Annotated Site Plan
 - D Email dated February 2, 2012, from Douglas Gamble, Accessibility Specialist, Illinois Capital Development Board
 - E Color photos of the subject property (included separately to Board members and the Petitioner, photos are also available on the Champaign County website)
 - F Draft Summary of Evidence, Finding of Fact, and Final Determination
4. Supplemental Memorandum for Case 707-S-12 dated May 17, 2012
5. Photos submitted by Tim Woodard at the May 17, 2012, public hearing
5. Variance Application received on June 28, 2012
6. Revised Site Plan received August 13, 2012
7. Firemark Paintball Orientation (Safety and Rules of the Game) received August 13, 2012
8. Preliminary Memorandum for Case 725-V-12 dated September 7, 2012, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Revised Site Plan received August 13, 2012
 - C Draft Summary of Evidence, Finding of Fact, and Final Determination
9. Supplemental Memorandum for Case 707-S-12 dated September 7, 2012, with attachments:
 - A Revised Site Plan received August 13, 2012
 - B Firemark Paintball Safety and Rules Handout received August 13, 2012
 - C Map and Photos submitted by Tim Woodard at the May 17, 2012, public hearing
 - D Excerpt of minutes from the May 17, 2012, public hearing
10. Supplemental Memorandum for Case 707-S-12 dated September 13, 2012, with attachment:

- A Revised Summary of Evidence, Finding of Fact, and Final Determination
- 11. Supplemental Memorandum for Case 725-V-12 dated September 13, 2012, with attachment:
 - A Letter from Burl Williams received September 13, 2012
- 12. Letter from Burl Williams received September 13, 2012
- 13. Amended Site Plan received November 19, 2012
- 14. Supplemental Memorandum for Case 707-S-12 dated December 5, 2012, with attachments:
 - A Amended Site Plan received November 19, 2012
 - B Illinois Public Act 97-0477
 - C Excerpt of minutes from September 13, 2012, public hearing
 - D Revised Summary of Evidence, Finding of Fact, and Final Determination
- 15. Supplemental Memorandum for Case 725-V-12 dated December 5, 2012, with attachments:
 - A Amended Site Plan received November 19, 2012 (attached to Case 707-S-12 Supplemental Memorandum dated December 5, 2012)
 - B Excerpt of minutes from September 13, 2012, public hearing
 - C Revised Summary of Evidence, Finding of Fact, and Final Determination
- 16. Zoning Enforcement Case ZN-11-109/07 case file

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 707-S-12 held on **May 17, 2012, September 13, 2012, and December 13, 2012**, 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} {because*}**:

 - c. The Special Use **{WILL / WILL NOT}** be compatible with adjacent uses **{because*}**:

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

 - e. Public safety will be **{ADEQUATE / INADEQUATE} {because*}**:

 - f. The provisions for parking will be **{ADEQUATE / INADEQUATE} {because*}**:

 - g. The property **{IS/IS NOT} SUITED OVERALL** for the proposed improvements **{because*}**:

- h. Existing public services *{ARE/ARE NOT}* available to support the proposed SPECIAL USE without undue public expense*{because*}*: _____
-
- i. Existing public infrastructure together with the proposed development *{IS/IS NOT}* adequate to support the proposed development effectively and safely without undue public expense *{because*}*: _____
-

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

*The Board may include additional justification if desired, but it is not required.

- 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}* 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 / 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}* preserve the essential character of the DISTRICT in which it is located.
-

5. The requested Special Use *{IS/ IS NOT}* an existing nonconforming use and the requested Special Use Permit *{WILL/ WILL NOT}* make the existing use more compatible with its surroundings *{because: *}*
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}***

A. Regarding State of Illinois accessibility requirements:

- (1) **An accessible portable toilet shall be provided;**
- (2) **The petitioner shall provide a paved accessible parking space with appropriate markings and a paved accessible route to the paintball area when the existing parking area is expanded or resurfaced as indicated by Doug Gamble, Accessibility Specialist, Illinois Capital Development Board.**

The special conditions stated above are required to ensure the following:

That the proposed Special Use meets applicable state requirements for accessibility.

- B. All obstacles used in the play of paintball shall be removed from the property if the business ceases operations for longer than 180 consecutive days unless the business is being actively marketed for sale.**

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

That the subject property is properly maintained and does not become a nuisance.

- C. Enclosed gaming structures intended to be temporarily occupied by players shall not be larger than 150 square feet in area except that the mobile home may be modified for use as a gaming structure in playing field #2, as depicted on the approved site plan.**

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

That existing and future structures are small enough in size where life safety considerations are not a concern or necessary.

D. Regarding structures and obstacles in the floodplain:

- (1) Structures and obstacles used in the play of paintball shall be secured to the ground with a T-post.**
- (2) Storage of obstacles and structures not being used in the play of paintball shall not occur within the floodplain.**

The special conditions stated above are required to ensure the following:

That effects on neighboring properties are mitigated and that storage does not occur within the mapped floodplain.

E. This Special Use Permit shall be void if the business has ceased operations for 12 consecutive months without the business being actively marketed for sale.

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

That the subject property is properly maintained and does not become a nuisance.

F. Regarding operations of the proposed Special Use during hunting seasons the following conditions are to be implemented by the petitioner immediately:

- (1) Paintball referees shall wear blaze orange clothing at all times while refereeing paintball games.**
- (2) The petitioner shall coordinate with neighboring property owners during hunting seasons regarding when and where hunters will be on neighboring property so that the petitioner can alter the operational hours of the paintball park if hunters will be in the immediate vicinity during business hours.**
- (3) The proposed Special Use shall be void if any injuries to patrons, employees, or volunteers of the paintball park are the result of gunfire (rifles, handguns, shotguns).**

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

That the petitioner implements proper measures to ensure the safety of patrons, employees, and volunteers during hunting seasons and to ensure hunters on surrounding properties are aware that there are other people in the area.

- G. As soon as possible the petitioner shall revise the Firemark Paintball Orientation overview/handout to include the following information: and send a copy of the revised handout to the Zoning Administrator:**
- (1) Trespassing onto neighboring property is strictly prohibited.**
 - (2) Hunting occurs on adjacent properties during State regulated hunting seasons.**
 - (3) The petitioner shall provide a copy of the revised Orientation handout/overview to the Zoning Administrator after the revisions have been made.**

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

To prevent patrons from trespassing onto neighboring properties and to ensure that patrons are aware that hunting occurs on adjacent properties.

- H. No later than October 31, 2012, The petitioner shall mark trees or install marked posts along the side and rear property lines with purple paint in accordance with Illinois Public Act 97-0477 and allow inspection by the Zoning Administrator.**

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

To prevent trespass from neighboring properties.

- I. A Change of Use Permit shall be applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the Zoning Board of Appeals .**

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

- J. A Zoning Use Permit Application for the semi trailer utilized for storage shall be applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the Zoning Board of Appeals.**

The above special condition is required to ensure the following:

That the storage structure is in compliance with the Zoning Ordinance.

*The Board may include additional justification if desired, but it is not required.

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval *{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 707-S-12 is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED}* to the applicants to Daniel Williams and landowner Fran Williams to authorize the use of an existing Paintball Facility as an “Outdoor Commercial Recreational Enterprise” as a Special Use

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

- A. **Regarding State of Illinois accessibility requirements:**
 - (1) **An accessible portable toilet shall be provided;**
 - (2) **The petitioner shall provide a paved accessible parking space with appropriate markings and a paved accessible route to the paintball area when the existing parking area is expanded or resurfaced as indicated by Doug Gamble, Accessibility Specialist, Illinois Capital Development Board.**
- B. **All obstacles used in the play of paintball shall be removed from the property if the business ceases operations for longer than 180 consecutive days unless the business is being actively marketed for sale.**
- C. **Enclosed gaming structures intended to be temporarily occupied by players shall not be larger than 150 square feet in area except that the mobile home may be modified for use as a gaming structure in playing field #2, as depicted on the approved site plan.**
- D. **Regarding structures and obstacles in the floodplain:**
 - (1) **Structures and obstacles used in the play of paintball shall be secured to the ground with a T-post.**
 - (2) **Storage of obstacles and structures not being used in the play of paintball shall not occur within the floodplain.**
- E. **This Special Use Permit shall be void if the business has ceased operations for 12 consecutive months without the business being actively marketed for sale.**
- F. **Regarding operations of the proposed Special Use during hunting seasons the following conditions are to be implemented by the petitioner immediately:**

REVISED DRAFT

- (1) **Paintball referees shall wear blaze orange clothing at all times while refereeing paintball games.**
 - (2) **The petitioner shall coordinate with neighboring property owners during hunting seasons regarding when and where hunters will be on neighboring property so that the petitioner can alter the operational hours of the paintball park if hunters will be in the immediate vicinity during business hours.**
 - (3) **The proposed Special Use shall be void if any injuries to patrons, employees, or volunteers of the paintball park are the result of gunfire (rifles, handguns, shotguns).**
- G. As soon as possible the petitioner shall revise the Firemark Paintball Orientation overview/handout to include the following information: and send a copy of the revised handout to the Zoning Administrator:**
- (1) **Trespassing onto neighboring property is strictly prohibited.**
 - (2) **Hunting occurs on adjacent properties during State regulated hunting seasons.**
 - (3) **The petitioner shall provide a copy of the revised Orientation handout/overview to the Zoning Administrator after the revisions have been made.**
- H. No later than October 31, 2012, The petitioner shall mark trees or install marked posts along the side and rear property lines with purple paint in accordance with Illinois Public Act 97-0477 and allow inspection by the Zoning Administrator.**
- I. A Change of Use Permit shall be applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the Zoning Board of Appeals .**
- J. A Zoning Use Permit Application for the semi trailer utilized for storage shall be applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the Zoning Board of Appeals.**

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

CASE NO. 725-V-12

SUPPLEMENTAL MEMORANDUM

December 5, 2012

Champaign
County
Department of

**PLANNING &
ZONING**

Petitioners: Daniel Williams

Request: Authorize the following in the CR Conservation-Recreation Zoning District for a Special Use proposed in Case 707-S-12:

- Part A. Variance for a rear yard of zero feet in lieu of the minimum required 25 feet;
- Part B. Variance for a side yard of zero feet in lieu of the minimum required 15 feet;
- Part C. Variance from a minimum separation from a front property line for parking spaces of zero feet in lieu of the minimum required 10 feet, on the following property:

Subject Property: The same 5.2 acre tract identified in Case 707-S-12 that is part of a 35 acre tract in the Southeast Quarter of the Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453 CR 600E, Dewey.

Site Area: 5.2 acres

Time Schedule for Development: Existing

Prepared by: **Andy Kass**
Associate Planner

John Hall
Zoning Administrator

STATUS

This case was continued from the September 13, 2012, public hearing. A revised Summary of Evidence, Finding of Fact, and Final Determination is attached.

The petitioner has submitted an amended site plan and it is attached to the Supplemental Memorandum for related Case 707-S-12.

PETITIONER UPDATE

In a phone conversation on December 4, 2012, the petitioner indicated to staff that he would agree to the 15 foot side yard along the north property line, but that he maintains his request for a zero feet rear yard along the west property line because meeting the minimum requirement or even reducing the amount of the request would significantly alter the playing fields.

PROPOSED SPECIAL CONDITION

The following special condition has been prepared to provide for a decision by the Board but the petitioner must agree with the special condition:

- A. The petitioner and any future owner of Firemark Paintball shall have in place and maintain a rope 15 feet from {THE NORTH AND WEST / ONLY THE NORTH} property line(s) to delineate the exterior boundaries of the play fields at all times and 4 feet tall woven wire fencing with signs stating "Do Not Go Beyond Fence" to indicate the end of the property as indicated on the approved site plan.**

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

To prevent trespass of Firemark Paintball patrons onto neighboring properties.

ATTACHMENTS

- A Amended Site Plan received November 19, 2012 (attached to Case 707-S-12 Supplemental Memorandum dated December 5, 2012)
B Excerpt of minutes from September 13, 2012, public hearing (included separately)
C Revised Summary of Evidence, Finding of Fact, and Final Determination (included separately)

DRAFT

725-V-12

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

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

Date: **December 13, 2012**

Petitioners: **Daniel Williams**

Request: Authorize the following in the CR Conservation-Recreation Zoning District for a Special Use proposed in Case 707-S-12:

- Part A. Variance for a rear yard of zero feet in lieu of the minimum required 25 feet;
- Part B. Variance for a side yard of zero feet in lieu of the minimum required 15 feet;
- Part C. Variance from a minimum separation from a front property line for parking spaces of zero feet in lieu of the minimum required 10 feet.

Table of Contents

General Application Information	2-3
Requested Variance	3
Specific Ordinance Requirements	3-6
Variance Evidence	7-12
Documents of Record	13-14
Case 725-V-12 Findings of Fact.....	15-16
Case 725-V-12 Final Determination.....	17-18

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 13, 2012, and December 13, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioner, Daniel Williams is the son of Earl and Fran Williams, owners of the subject property.
2. The subject property is the same 5.2 acre tract identified in Case 707-S-12 that is part of a 35 acre tract in the Southeast Quarter of the Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453 CR 600E, Dewey.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights regarding variances, and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned CR Conservation recreations and is in agricultural and residential use.
 - B. Land on the north is zoned CR Conservation Recreation and is in agricultural production.
 - C. Land on the south is zoned CR Conservation-Recreation and is in agricultural production.
 - D. Land east of the subject property is zoned AG-1 Agriculture and is in agricultural production.
 - E. Land west of the subject property is zoned CR Conservation-Recreation and is in agricultural production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject site:
 - A. The subject property is a 35 acre lot with approximately 5.2 acres being used for the proposed Special Use in Case 707-S-12 and is the subject of the variance in this case.
 - B. The Site Plan received August 13, 2012, and amended on November 19, 2012, includes the following:
 - (1) Dimensions of the area of the proposed Special Use (approximately 5.2 acres) in related Case 707-S-12.
 - (2) Location of an existing an existing mobile home on the property.

- (3) Location of a storage shed and semi trailer which is used for storage as well.
- (4) Location of the staging area for the paintball park.
- (5) A 132' × 85' parking area that is the subject of Part C of the variance.
- (6) A 200' × 30' overflow parking and loading berth area.
- (7) A 961 feet long accessway that is 20 feet wide.
- (8) Areas not associated with Firemark Paintball located south of the proposed special use in Case 707-S-12 on the same property.
- (9) Location of a where an accessible parking space could be placed in the future if necessary.
- (10) Numbered playing fields with boundaries.
- (11) Side and rear property lines.
- (12) A hay field.
- (11) The proposed location of the 14' × 60' mobile home in playing Field #2.
- (12) An indication that a fence 4 feet in height will run along the side and rear property line for the length of the playing fields.

C. The requested variance is as follows:

- (1) Variance for a rear yard of zero feet in lieu of the minimum required 25 feet.
- (2) Variance for a side yard of zero feet in lieu of the minimum required 15 feet.
- (3) Variance from a minimum separation from a front property line for parking spaces of 0 feet in lieu of the minimum required 10 feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
 - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):

DRAFT

- (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, LOT" is the total area within the LOT LINES.
- (3) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
- (4) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
- (5) "CONSTRUCTION" is the excavation of earth to provide for a foundation, basement or cellar; and/or, the act of placing or affixing a component of a STRUCTURE upon the ground or upon another such component; and/or, the placing of CONSTRUCTION materials in a permanent position and fastening in a permanent manner; and/or, the demolition, elimination, and/or removal of an existing STRUCTURE in connection with such CONSTRUCTION.
- (6) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (7) "LOT 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.
- (8) "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.
- (9) "LOT LINES" are the lines bounding a LOT.
- (10) "RIGHT-OF-WAY" is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (11) "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.

- (12) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
 - (a) MAJOR STREET: Federal or State highways
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.
- (13) "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- (14) "USE" is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted USE" or its equivalent shall not be deemed to include any NONCONFORMING USE.
- (15) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- (16) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
- (17) "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.
- (18) "YARD, REAR" is a YARD 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.

DRAFT

- (19) "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.
- C. Minimum side and rear yards for PRINCIPAL BUILDINGS and STRUCTURES in the CR District are established in Section 5.3 of the *Zoning Ordinance* as follows:
- (1) The minimum side yard in the CR Zoning District is listed in Section 5.3 as 15 feet.
 - (2) The minimum rear yard in the CR Zoning District is listed in Section 5.3 as 25 feet.
- D. Minimum separation distances for parking spaces from a front property line are established in Section 7.4.1A. of the *Zoning Ordinance* as follows:
- (1) No such space shall be located less than 10 feet from any FRONT LOT LINE.
- E. 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 9.1.9 C. 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.
- F. 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, **“The neighbor (Jim and Carl Breedlove) for the back border line has allowed Firemark Paintball to use his land in the past for groups to play. Therefore, has no problem using the 25’ space in question. The 10’ area on the front border would give no hindrance to normal use of the county road way or maintenance.”**
 - B. The parking area where patrons of Firemark Paintball park is presumably located where it is so that the petitioner does not have to maintain or surface an access that is approximately 961 feet long. In addition, the access is grassed and the petitioner’s parents use this area for the growing of hay for their horses.
 - C. The minimum required side and rear yards would require that approximately .27 acre not be used in the play of paintball which is approximately 9% of the total area used for the play of paintball at the facility. The required yards affect all playing fields, particularly along the rear property line.

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, **“Landlord has given limited space for the front border for parking and can only use overflow when needed. The back borderline 25’ rule would cut down 2 of the five fields in size dramatically rendering them useless causing approximately 50% of profit loss.”**
 - B. The proposed Special Use in Case 707-S-12 would be the principal use on this property, therefore the obstacles used in the play of paintball as well as paintball activities must meet the minimum required side and rear yards. Strictly applying these requirements would reduce the area available for the patrons of Firemark Paintball to use in the fields operated by Firemark Paintball.
 - C. The parking area where patrons of Firemark Paintball park is presumably located where it is so that the petitioner does not have to maintain or surface an access that is approximately 961 feet long. In addition, the access is grassed and the petitioner’s parents use this area for the growing of hay for their horses.

- D. The minimum required side and rear yards would require that approximately .27 acre not be used in the play of paintball which is approximately 9% of the total area used for the play of paintball at the facility. The required yards affect all playing fields, particularly along the rear property line.

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, **“Yes, I put the business there, but due to the limited area of the playing fields.”**
- B. The existing use was established 10 years ago without a Special Use Permit or a Change of Use Permit.

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, **“The fields and parking area have been in place for the past 10 years and will continue to provide the needed space for the amount of players to play. There are no known present or future hindrances planned or known future events to change that.”**
- B. The requested variance is as follows:
- (1) A rear yard of zero feet is 0% of the minimum required 25 feet for a variance of 100% (Part A).
- (2) A side yard of zero feet is 0% of the minimum required 15 feet for a variance of 100% (Part B).
- (3) The requested variance from minimum separation distance of a parking space from a front property line of zero feet is 0% of the minimum required 10 feet for a variance of 100% (Part C).
- C. The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In general, the side yard is presumably intended to ensure the following:
- (1) Adequate light and air: The subject property is in residential use. The properties to the south, east, and west are in residential use.

- (2) Separation of structures to prevent conflagration: The subject property is within the Cornbelt Fire Protection District and the station is approximately 6.5 miles from the subject property. The nearest residential structure to the existing paintball park is on the property to the west and is approximately 670 feet from rear property line.
 - (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
- D. The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In addition to all of the considerations listed for a side yard, a rear yard is presumably also intended to ensure the following:
- (1) A minimum amount of onsite recreational area for a typical residential use.
 - (2) Area for a septic system, when necessary. A septic system is not required for the paintball park.
- E. The following are the Standard Conditions for an Amusement Park, Resort or Organized Camp, and Fairgrounds:
- (1) Standard Conditions for an Amusement Park are as follows:
 - (a) Minimum Lot Size of 10 acres.
 - (b) 100 feet setback from all streets.
 - (c) Minimum side yard of 50 feet.
 - (d) Minimum rear yard of 50 feet.
 - (e) Not permitted closer than 500 feet from any Residential District or residential or institutional use.
 - (2) Standard Conditions for a Resort or Organized Camp are as follows:
 - (a) Minimum Lot Size of 5 acres.
 - (b) 100 feet setback from all streets.
 - (c) Minimum side yard of 50 feet.
 - (d) Minimum rear yard of 50 feet.
 - (3) Standard Conditions for Fairgrounds are as follows:
 - (a) 6 feet high wire mesh fencing.

- (b) Minimum Lot Size of 20 acres.
- (c) 100 feet setback from all streets.
- (d) Minimum side yard of 50 feet.
- (e) Minimum rear yard of 50 feet.

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, **“The parking area has been in place for the past 10 years with no incident. Playing fields have been in place for 10 years. Carl Breedlove who is the immediate neighbor has no issues with the paintball field. My other neighbor is beyond the effective range of the discharge of the paintballs.”**
 - B. The Township Road Commissioner has received notice 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.
 - D. At the May 17, 2012, public hearing, Tim Woodard, 2490 CR 550E, Dewey, testified in related Case 707-S-12, and his testimony is summarized as follows:
 - (1) He has consistently had issues with trespassers from the petitioners property even though there is a boundary.
 - (2) He has caught patrons of the petitioner’s business on his property and in his deer hunting tree stand.
 - (3) His son and a friend were hunting on his property last year with a real gun and were shot by patrons of the petitioner’s business with paintball guns.
 - E. In a letter received from Burl Williams, absentee adjacent landowner, on September 13, 2012, is summarized as follows:
 - (1) They do not have comments regarding Parts A and C of the requested Variance.

- (2) After looking at a satellite image they feel that one of the petitioner's structures does not meet the 15 feet minimum yard, but if the petitioner is willing to use that structure as the minimum distance from their shared lot line it would be fine with them.
- (3) They will not accept the 0 feet request (Part B).

F. At the September 13, 2012, public hearing, Tim Woodard, 2490 CR 550E, Dewey, testified, and his testimony is summarized as follows:

- (1) A field fence with signage would be helpful in solving the trespass issues as well as preventing debris from floating onto neighboring properties.
- (2) Patrons should be required to wear orange during shotgun season so that hunters on adjacent properties can see them.
- (3) A restriction of hours for gaming times or restricting the days that the operation is open could be utilized for public safety.
- (4) Typically he has five or six family members hunt in the woods and that he is the person with the tree stand in the southeast corner of his property because it is the best way to control the concern related to the paintball operation.

G. There is an existing Zoning Enforcement Case (ZN-11-109/07) on the property. The Special Use Permit requested in related Case 707-S-12 can be approved by the ZBA per Section 13.2.1 of the Zoning Ordinance because the Special Use Permit will facilitate correction of some part of the violation. The following violation will be corrected upon approval of the Special Use Permit and fulfillment of any special conditions imposed:

- (1) Operation of an Outdoor Commercial Recreational Enterprise (paintball park) in the CR Conservation-Recreation Zoning District without a Special Use Permit authorized by the Champaign County Zoning Board of Appeals.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:

- A. The petitioner and any future owner of Firemark Paintball shall have in place and maintain a rope 15 feet from {THE NORTH AND WEST / ONLY THE NORTH} property line(s) to delineate the exterior boundaries of the play fields at all times and 4 feet tall woven wire fencing with signs stating "Do Not Go Beyond Fence" to indicate the end of the property as indicated on the approved site plan.

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

To prevent trespass of Firemark Paintball patrons onto neighboring properties.

DOCUMENTS OF RECORD

1. Special Use Permit Application received on February 8, 2012, with attachments:
 - A Letter of Intent
 - B Site Plan
 - C Trustees Deed
 - D Email dated January 25, 2012, from Tammy Hamilton
 - E Email dated February 2, 2012, from Doug Gamble
2. Elevation Data received February 7, 2012
3. Preliminary Memorandum for Case 707-S-12 dated May 11, 2012, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received February 8, 2012
 - C Annotated Site Plan
 - D Email dated February 2, 2012, from Douglas Gamble, Accessibility Specialist, Illinois Capital Development Board
 - E Color photos of the subject property (included separately to Board members and the Petitioner, photos are also available on the Champaign County website)
 - F Draft Summary of Evidence, Finding of Fact, and Final Determination
4. Supplemental Memorandum for Case 707-S-12 dated May 17, 2012
5. Photos submitted by Tim Woodard at the May 17, 2012, public hearing
5. Variance Application received on June 28, 2012
6. Revised Site Plan received August 13, 2012
7. Safety and Rules Handout received August 13, 2012
8. Preliminary Memorandum for Case 725-V-12 dated September 7, 2012, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Revised Site Plan received August 13, 2012
 - C Draft Summary of Evidence, Finding of Fact, and Final Determination
9. Supplemental Memorandum for Case 707-S-12 dated September 7, 2012, with attachments:
 - A Revised Site Plan received August 13, 2012
 - B Firearm Paintball Safety and Rules Handout received August 13, 2012
 - C Map and Photos submitted by Tim Woodard at the May 17, 2012, public hearing
 - D Excerpt of minutes from the May 17, 2012, public hearing

10. Letter of opposition from adjacent property owner Burl Williams received September 13, 2012
11. Supplemental Memorandum for Case 725-V-12 dated September 13, 2012, with attachment:
 - A Letter from Burl Williams received September 13, 2012
12. Supplemental Memorandum for Case 707-S-12 dated September 13, 2012, with attachment:
 - A Revised Summary of Evidence, Finding of Fact, and Final Determination
13. Amended Site Plan received November 19, 2012
14. Supplemental Memorandum for Case 707-S-12 dated December 5, 2012, with attachments:
 - A Amended Site Plan received November 19, 2012
 - B Illinois Public Act 97-0477
 - C Excerpt of minutes from September 13, 2012, public hearing
 - D Revised Summary of Evidence, Finding of Fact, and Final Determination
15. Supplemental Memorandum for Case 725-V-12 dated December 5, 2012, with attachments:
 - A Amended Site Plan received November 19, 2012 (attached to Case 707-S-12 Supplemental Memorandum dated December 5, 2012)
 - B Excerpt of minutes from September 13, 2012, public hearing
 - C Revised Summary of Evidence, Finding of Fact, and Final Determination
16. Zoning Enforcement Case ZN-11-109/07 case file

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 725-V-12 held on **September 13, 2012, and December 13, 2012**, 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:}*

A. **The petitioner and any future owner of Firemark Paintball shall have in place and maintain a rope 15 feet from *{THE NORTH AND WEST / ONLY THE NORTH}* property line(s) to delineate the exterior boundaries of the play fields at all times and 4 feet tall woven wire fencing with signs stating “Do Not Go Beyond Fence” to indicate the end of the property as indicated on the approved site plan.**

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

To prevent trespass of Firemark Paintball patrons onto neighboring properties.

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 for approval in 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 725-V-12 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Daniel Williams** to authorize the following in the CR Zoning District:

- Part A. Variance for a rear yard of zero feet in lieu of the minimum required 25 feet.**
- Part B. Variance for a side yard of zero feet in lieu of the minimum required 15 feet.**
- Part C. Variance from a minimum separation from a front property line for parking spaces of zero feet in lieu of the minimum required 10 feet.**

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. The petitioner and any future owner of Firemark Paintball shall have in place and maintain a rope 15 feet from *{THE NORTH AND WEST / ONLY THE NORTH}* property line(s) to delineate the exterior boundaries of the play fields at all times and 4 feet tall woven wire fencing with signs stating “Do Not Go Beyond Fence” to indicate the end of the property as indicated on the approved site plan.**

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Case 725-V-12
Page 18 of 18

DRAFT

Date

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

5. Continued Public Hearing

Case 707-S-12 Petitioner: Daniel Williams and landowner Fran Williams Request to authorize the use of an existing Paintball Facility as an “Outdoor Commercial Recreation Enterprise” as a Special Use on 5.2 acres that is part of a 35 acre tract in the CR Conservation-Recreation Zoning District. Location: A 35 acre tract in the Southeast Quarter of the Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453 CR 600E, Dewey.

Case 725-V-12 Petitioner: Daniel Williams Request to authorize the following in the CR Conservation-Recreation Zoning District for a Special Use proposed in Case 707-S-12: Part A. Variance for a rear yard of 0 feet in lieu of the minimum required 25 feet; and Part B. Variance for a side yard of 0 feet in lieu of the minimum required 15 feet; and Part C. Variance from a minimum separation from a front property line for parking spaces of 0 feet in lieu of the minimum required 10 feet. Location: The same 5.2 acre tract identified in Case 707-S-12 that is part of a 35 acre tract in the Southeast Quarter of the Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453 CR 600E, Dewey.

Mr. Thorsland called Cases 707-S-12 and 725-V-12 concurrently.

Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any questions. He said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. He noted that no new testimony is to be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. He reminded the audience that when they sign the witness register they are signing an oath.

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1
2 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

3
4 Mr. Daniel Williams, who resides at 2453 CR 600E, Dewey, stated that for the last ten years he has been the
5 owner of Firemark Paintball and he is requesting a special use permit and variances to continue the
6 operation.

7
8 Mr. Thorsland called Mr. John Hall to testify.

9
10 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated September 13,
11 2012, for Case 725-V-12 and a new Supplemental Memorandum dated September 13, 2012, with an
12 attached revised Finding of Fact for Case 707-S-12 to the Board for review. He said that the memorandum
13 for Case 725-V-12 includes a letter that from the landowner to the north and the landowner objects to the
14 variance of 0 feet for the side yard. Mr. Hall stated that the landowner indicated in their letter that it would
15 be more acceptable if the side yard was 15 feet. Mr. Hall stated that it is up to the Board to determine what
16 they want to do but the petitioner has requested a 0 feet variance and the petitioner would have to agree to
17 anything other than the requested 0 feet variance.

18
19 Mr. Hall stated that regarding Case 707-S-12 the revised Summary of Evidence is attached to the new
20 Supplemental Memorandum dated September 13, 2012. He said that Mr. Kass reviewed the minutes from
21 the previous public hearing and tried to get everything consistently answered. He said that the memorandum
22 that was included in the mailing included the Firemark Paintball Orientation sheet which is distributed to
23 everyone that plays. Mr. Hall stated that he was surprised to find that there is no mention in the orientation
24 regarding property lines and not trespassing upon adjacent property. He said that there is a lot of good
25 information in the orientation because he did not realize the things that a paintball gun can do. He said that
26 the orientation does not include a lot of the information that the Board was looking for. He said that the

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1 Board will have to decide if they are very concerned about trespass or if trespass is typical in a rural setting.
2 He said that a lot of the items which were brought up at the previous hearing were not addressed with any
3 new information therefore there are still a lot of questions that are unanswered. He said that the petitioner
4 indicated that he intends to use t-posts to secure things in the floodplain but he did not indicate how he
5 would attach things to the t-posts so that they do not float off. He said that he does not know if the Board
6 believes that the arrangements for hunting season are adequate.

7
8 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

9
10 Mr. Thorsland called Daniel Williams to testify and address the Board's questions.

11
12 Mr. Thorsland stated that he is not sure if the current rope border is going to work to eliminate trespassing
13 onto adjacent property therefore it would be better if a new four foot field fence was constructed to prevent
14 clients from leaving the property. He said that a rope indicates that the client is leaving the gaming area but
15 not necessarily the property but a fence would indicate the property boundaries. He said that the field fence
16 would also assist in the some of the flood issues. He said that he understands the idea of the T-posts and
17 wire anchors to maintain the structures in their place but a fence would stop a lot of the small stuff from
18 leaving the property.

19
20 Mr. Williams asked Mr. Thorsland if he is indicating that he should construct a chain-link fence on the
21 property lines.

22
23 Mr. Thorsland stated that a woven fence would be sufficient. He said that the big issue that he recalls from
24 the last meeting is the concern about clients removing themselves from the petitioner's property while
25 playing the games and how close to the border the games are played. He said that the petitioner has
26 submitted a request for a variance for the required side yard setback and testimony has been received from

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1 the adjacent neighbors indicating their objections to the side yard request. He said that he believes that it is
2 feasible for the petitioner to pull in some of the obstacles and maybe delineate the property line and then set
3 the gaming area back 15 feet with the rope. He said that there are a lot of pictures which indicate what is
4 located in the back of the property near the woods and there is an issue of knowing where the property ends
5 and the adjacent landowner's property begins in that area. He said that personally he has no issue with Mr.
6 Williams' operation but there is an issue with clients traveling outside of the gaming area or trespassing onto
7 adjacent property not owned by Mr. Williams. He said that without appropriate fencing there could be
8 people trespassing onto Mr. Williams' property which is also a concern. He said that he realizes that the
9 fencing will be expensive but it may be a big part of the entire case.

10
11 Mr. Williams stated that it is his understanding that even with the rope no one can be between the rope and
12 the proposed fence.

13
14 Mr. Thorsland stated that the clients cannot play within that area and should be informed that the rope is the
15 end of the gaming area.

16
17 Mr. Williams stated that if someone is eliminated they normally would go to the sideline along the backside
18 but it appears that Mr. Thorsland is indicating that they cannot enter that area.

19
20 Mr. Thorsland stated that you can walk to the edge of your property and stand beside the fence post all day
21 long. He said that the objects and structures cannot be located within the 15 feet.

22
23 Mr. Williams asked if the Board is thinking a 15 or 25 feet side yard.

24
25 Mr. Kass clarified that in the CR District the side yard requirement is 15 feet and the rear yard requirement is
26 25 feet.

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1
2 Mr. Thorsland stated that Mr. Williams has a lot of space on the property and he realizes that Mr. Williams
3 is trying to put in as many playing fields as possible but 25 feet is not that much and it may benefit his case
4 to be comfortable with the CR District's setback as they are indicated. He said that he does not believe that
5 it precludes people from being there but it stops people from playing an active game in that area.

6
7 Mr. Hall stated that the variance could be approved as playing would stop so many feet from the property
8 line but an eliminated player may be in that zone which is much better than someone playing right up to the
9 property line.

10
11 Mr. Williams stated that such would be more acceptable. He said that previously he understood that no one
12 could be in that area and that they must remain in a designated area.

13
14 Mr. Hall stated that the variance is only relevant to the paintball activities and has nothing to do with where
15 Dan Williams goes on the property.

16
17 Mr. Williams stated that the players are told that they are not go over a given line and that they must stay in a
18 designated area. He said that it is not included in the orientation sheet because the players would not
19 remember it anyway therefore they are verbally informed about the designated areas on the field. He said
20 that the players are told that when they are in the last field that they must stay on a certain side of the field
21 because if they were to step to the other side they would be on the neighbors boundary line.

22
23 Mr. Thorsland stated that a fence would be helpful to prevent the opportunity of trespassing onto adjacent
24 property.

25
26 Mr. Williams asked if the side yard is 15 feet or 25 feet because the agenda indicates 25 feet.

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1

2 Mr. Thorsland stated that the agenda is incorrect and shall be revised to indicate a side yard of 15 feet. He
3 said that the neighbor to the north indicated in their letter that they would be very happy with a side yard of
4 15 feet. He recommended that Mr. Williams research fence laws as well.

5

6 Mr. Courson stated that he shares Mr. Thorsland's concerns regarding fencing. He said that he would also
7 recommend signage which indicates "No access beyond this point" placed upon or beside the fence because
8 if there is no barrier they will trespass. He said that he enjoys outdoor sports and everywhere that he goes
9 has a fence with signage indicating barriers. He said that he is also concerned with hunting season in the CR
10 District. He said that if games are not restricted during hunting season then perhaps waivers should be
11 required informing the players that there are people in the woods near the playing fields with shotguns and
12 there is a potential that they could be injured. He said that the players should be protected somehow.

13

14 Mr. Thorsland stated that there is a new "Purple Paint Law" in Illinois therefore he would recommend that
15 Mr. Williams paint as many trees on the perimeter as possible indicating that no hunting is allowed on the
16 subject property. He said that perhaps some sort accommodations could be worked out with the neighbors
17 regarding the operation of the paintball business during the firearm hunting season. He said that hunting
18 season does not consist of a lot of time but there are a lot of people who live all year to experience the
19 hunting season. He said that he is not concerned about bow hunting season but he is concerned about
20 firearm hunting season. He said that perhaps the hours of operation could be adjusted or limited during the
21 hunting season weekends.

22

23 Mr. Williams asked if there was a timeframe as to when hunting was allowed.

24

25 Mr. Thorsland stated that hunters can sit in the woods and hunt all day during the hunting season but not at
26 night. He said that perhaps Mr. Williams can arrange the playing times during the middle of the day during

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1 shotgun season because the prime time is morning and evening. He said that the hunters are not suppose to
2 be hunting on Mr. Williams property therefore the fence, signage and purple paint will deter that practice.
3 He asked Mr. Courson if he was proposing a condition regarding hunting.

4
5 Mr. Courson stated no. He said that people should be made aware and the ZBA's job is to protect the public
6 although the Board has no control over the public's choices.

7
8 Mr. Thorsland stated that he would still like to see a fence required which will define the perimeter of the
9 property. He said that the expense of the fence will probably save Mr. Williams a world of expense later.
10 He asked Mr. Williams to explain the T-post option for maintaining objects in their current location.

11
12 Mr. Williams stated that he has extra paintball netting that he is making it into obstacles by attaching it to T-
13 posts and "pace" pipe. He said that the netting allows water to flow through it. He said that if he cannot tie
14 the barrels to a tree then they will be removed from the playing field.

15
16 Mr. Thorsland stated that Mr. Williams is minimizing things that move and float by making the virtual
17 barriers.

18
19 Mr. Williams stated yes.

20
21 Mr. Thorsland asked the Board if there were any questions for Mr. Williams and there were none.

22
23 Mr. Thorsland asked if staff had any questions for Mr. Williams and there were none.

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

26

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1 Mr. Thorsland called Mr. Earl Williams.

2

3 Mr. Earl Williams stated that he had no comments at this time.

4

5 Mr. Thorsland called Tim Woodard to testify.

6

7 Mr. Tim Woodard, who resides at 2490 CR 550E, Dewey, stated that he has had previous issues with
8 trespassing and the suggestion of a field fence with signage would be a helpful solution to those issues. He
9 said that the field fence would assist with the debris which normally floats on to his property and the
10 petitioner has indicated that he is trying to reduce the amount of debris that can float about. He encouraged
11 the petitioner to eliminate the usage of barrels and wooden spools and if they are going to exist he would
12 suggest that they be connected to a post with chains to secure them in place.

13

14 Mr. Woodard stated that he has previously indicated that he is concerned about the operation of the paintball
15 gaming occurring during hunting season. He said that placing the purple paint around the property will help
16 with his concern although even if hunters are on adjacent properties their bullets do not pay attention to
17 property lines or color. He said that if there are patrons participating on the subject property he would
18 suggest that they are required to wear orange during shotgun season so that the hunters on adjacent properties
19 can see them. He said that perhaps a restriction of hours for gaming times or restricting the days that the
20 operation is open could be utilized for the public's safety. He said that outside of what he has mentioned
21 tonight all other concerns have been addressed by the petitioner.

22

23 Mr. Thorsland asked the Board if there were any questions for Mr. Woodard.

24

25 Mr. Thorsland asked Mr. Woodard if he allows a lot of people to hunt on him property and if so does he
26 inform them that there maybe people out there who are not well versed about the ways of the woods.

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1
2 Mr. Woodard stated that typically he will have five or six family members hunt in the woods. He said that
3 he is the person who sits in the deer stand located on the southeast corner of his property because that is the
4 best way to control the concern related to the adjacent paintball operation. He said that there is a property
5 between his property and the subject property upon which he has no control over.

6
7 Mr. Thorsland suggested that the petitioner speaks to everyone that owns property around the subject
8 property. Mr. Thorsland stated that he does not expect the people who reside next to his property to duck
9 because he is in hot pursuit of a deer. He said that he does not believe that it would be entirely reasonable
10 for Mr. Williams to shut his business completely down because someone could shoot from an adjacent
11 property but it is wise that Mr. Williams be fully aware of the possibility. Mr. Thorsland stated that he does
12 not wear hunter's orange when he feeds his livestock just because his neighbor is hunting on his own
13 property but Mr. Thorsland does put it on when he goes out to hunt near his property's border. He said that
14 there is a point where we do not want to chase the petitioner back into his own house but there is also a point
15 where someone could be hunting on adjacent land and be clueless that there is a paintball operation on the
16 adjacent property. He said that accidents happen during every hunting season and purposely placing people
17 in the woods at dusk playing paintball in black clothing is a terrible idea but he does not want to restrict the
18 petitioner completely to a point where he would have to shut down during those two weekends. He said that
19 it would be advisable for Mr. Williams to speak to his neighbors and become educated about the hunting
20 season and the times so that he knows when hunters will be present in the adjacent woods. He said that any
21 responsible hunter knows not to point his weapon at the neighbor's property within so many yards because
22 bullets do not recognize color and the field fence will not stop a bullet.

23
24 Mr. Woodard stated that if he is out and about in his woods it is with a small group of people but during
25 hunting season there could be a lot of people in the woods which exacerbates the concern.

26

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1 Mr. Thorsland stated that he and his neighbors could probably work most of these concerns out without
2 having the burden of the County having to proceed with enforcement during hunting season but he does not
3 want to see anyone get injured either. He said that the subject property is located in a wooded area and
4 regardless of the requested use there will always be an argument regarding who is shooting what where.

5
6 Mr. Hall asked the Board if they are comfortable with 100 people entering the woods during deer hunting
7 season without requiring that they wear blaze orange.

8
9 Mr. Thorsland stated no. He said that limited hours, less noise, educating the patrons may be helpful and it
10 may be feasible that the employees of Firemark Paintball wear the blaze orange while they walk the dead
11 zone to make the hunters aware of their presence. He said that it would only take one or two people in blaze
12 orange to take care of a couple of hundred feet of property.

13
14 Mr. Woodard agreed.

15
16 Mr. Thorsland stated that Mr. Williams could purchase blaze orange hats and vests for his patrons, and
17 perhaps he will, but it should not be a condition that he is required to do so. He said that he could see the
18 Board require that the employees wear blaze orange to alert the presence of people on the subject property
19 and it is possible that the referees, wearing blaze orange, could manage the game and the required space
20 between the playing field and the property border. He said that generally a paintball game is not very quiet
21 therefore the hunters will know that the players are present and so will the deer.

22
23 Mr. Thorsland asked the Board if there were any questions for Mr. Woodard and there were none.

24
25 Mr. Thorsland asked if staff had any questions for Mr. Woodard and there were none.

26

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1 Mr. Thorsland asked if there was any documentation regarding Mr. Gamble's determination.

2

3 Mr. Williams stated that there was an e-mail from Mr. Gamble submitted to staff.

4

5 Mr. Thorsland stated that Mr. Gamble's e-mail indicated the following: when the parking area is altered
6 (new rock, etc) pave one accessible space with a paved accessible route to the beginning of the paint ball
7 area. The ADA indicates that you should provide a person with a disability the opportunity to experience
8 paintball, even if it is a very limited area. Provide this when you are doing the other updates to your parking
9 lot.

10

11 Mr. Hall stated that this is area where Mr. Gamble has given the Board flexibility. He said that adding a new
12 accessible parking could be the altering or improving the existing arrangement of the parking could require
13 the accessible space. He asked Mr. Williams if he had any intention of graveling the parking area.

14

15 Mr. Williams stated no. He said that he informed Mr. Gamble that the parking area was going to remain as it
16 currently exists and he indicated that such was perfectly fine. Mr. Williams said that it dealt with something
17 before 2010 and that he had just made it under the wire or something and that there were no changes.

18

19 Mr. Hall asked Mr. Williams if he informed Mr. Gamble that he had been in operation for ten years.

20

21 Mr. Williams stated yes. He said that he has never had any handicap people request to play but he has had
22 people with a broken leg or broken arm play with their cast on. He said that he knew that the person with the
23 broken leg or arm was coming to participate therefore he made accommodations for them and allowed them
24 to pull up to the playing area for drop-off.

25

26 Mr. Thorsland stated that Mr. Gamble's e-mail indicates that if no changes are made to the parking area then

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Mr. Thorsland asked Mr. Williams if he agreed to proposed Special Condition C.

Mr. Williams asked if the special condition includes the mobile home.

Mr. Hall asked Mr. Williams if the mobile home is intended to be utilized as a gaming structure.

Mr. Williams stated yes.

Mr. Hall stated that the Board could determine that since this was originally constructed as a home that making it into a gaming structure is not the same thing as cobbling up a new gaming structure the size of the mobile home.

Ms. Capel asked, if life safety considerations means if the mobile home falls upon someone.

Mr. Hall stated yes, or a player becoming trapped in the mobile home while it is on fire. He said that the life considerations are more so with the mobile home than with barrels and wooden spools.

Mr. Williams stated that originally the mobile home was to be utilized as a home but that did not work out therefore he is going to take out the windows and doors and install a floor and move it into playing field #1 as a centerpiece for players to go inside or around it. He said that there are many customers who would appreciate this obstacle to be an option on their playing field.

Mr. Hall asked Mr. Williams if the mobile home is located in playing field #1.

Mr. Williams stated that it is not there yet but the plan is to place it there.

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1
2 Mr. Hall stated that if the mobile home is placed in playing field #1 then it will no longer be located in the
3 floodplain.
4
5 Mr. Williams stated yes.
6
7 Mr. Hall stated that the Board could exempt the mobile home from Special Condition C. unless the Board
8 feels that the issue remains the same.
9
10 Mr. Thorsland stated that by nature the mobile home has two very large doors.
11
12 Mr. Williams stated that the windows will be removed.
13
14 Mr. Thorsland stated that the mobile home should be exempted from the proposed condition. He asked Mr.
15 Williams if all of the other structures are under 150 square feet.
16
17 Mr. Williams stated yes.
18
19 Mr. Thorsland asked Mr. Williams if the mobile home is still on wheels.
20
21 Mr. Williams stated that the mobile home will remain on the wheels but a frame will be constructed around
22 the mobile home to prevent players from going underneath the mobile home.
23
24 Mr. Hall stated that the approved site plan would ideally show that mobile home in playing field #1 although
25 currently the submitted plan does not. He said that proposed special condition C. could be revised as
26 follows: Enclosed gaming structures intended to be temporarily occupied by players shall not be larger than

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Mr. Thorsland read proposed Special Condition E. as follows:

E. The petitioner and any future owner of Firemark Paintball shall have in place and maintain a rope to delineate the exterior boundaries of the play fields at all times.

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

To prevent trespass of Firemark Paintball patrons onto neighboring properties.

Mr. Hall stated that this condition requires revision. He said that the approved site plan needs to call out the fence and the rope.

Mr. Thorsland stated that the rope will indicate where the playing field ends the fence will indicate where the property ends.

Mr. Thorsland read proposed Special Condition F. as follows:

F. This Special Use Permit shall be void if the business has ceased operations for 12 consecutive months without the business being actively marketed for sale.

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

That the subject property is properly maintained and does not become a nuisance.

Mr. Thorsland asked Mr. Williams if he agreed to proposed Special Condition F.

Mr. Williams stated that he agreed to proposed Special Condition F.

Mr. Hall stated that the Board has requested a special condition regarding hunting.

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Mr. Thorsland stated that he had mentioned the idea that one or two of the referees in active fields wears blaze orange while in the boundary area so that they are very visible.

Mr. Williams stated that he has no issue with Mr. Thorsland's suggestion.

Mr. Thorsland asked Mr. Hall if he would have time to construct a proposed condition and discuss it with the petitioner prior to the next meeting.

Mr. Hall stated yes.

Mr. Thorsland stated that proposed special conditions A(2), E, and G.

Mr. Thorsland asked Mr. Williams if he had ever had anyone wander off his property or wander onto his property.

Mr. Williams stated that he has had people wander off of the property but no one wandering onto the property.

Mr. Thorsland recommended that Mr. Williams read up on the Purple Paint Law and investigate his fencing options. He suggested that Mr. Williams continue working on anchoring and modifying his structures so that they remain on his property.

Mr. Williams stated that he is working on that now.

Mr. Thorsland entertained a motion to continue Cases 707-S-12 and 725-V-12 to the December 13, 2012,

EXCERPT OF DRAFT MINUTES FOR CASES 707-S-12 & 725-V-12

ZBA DRAFT SUBJECT TO APPROVAL DRAFT 9/13/12

1 meeting.

2

3 **Mr. Courson moved, seconded by Ms. Capel to continue Cases 707-S-12 and 725-V-12 to the**
4 **December 13, 2012, meeting. The motion carried by voice vote.**

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36