

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **February 28, 2013**
Time: **6:30 P.M.**
Place: **John Dimit 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 (December 13, 2012, January 17, 2013)
5. Continued Public Hearings

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

Case 732-AT-12 Petitioner: **Zoning Administrator**

Request: **Amend the Champaign County Zoning Ordinance as follows:**

Part A. Revise paragraph 7.1.2B. as follows:

- (1) Strike “non-family” and replace with “non-resident”.
- (2) Revise subparagraph 7.1.2B.i. to strike “five acres” and replace with “two acres in area”; and renumber the subparagraph to 7.1.2B.(1).
- (3) Revise subparagraph 7.1.2B.ii. to strike “five acres” and replace with “that are two acres in area”; add the phrase “and provided that”; and renumber the subparagraph to 7.1.2B.(2).
- (4) Add new subparagraph 7.1.2B.(3) to authorize that all employees may be present and working on the premises for no more than 5 days with any 30day period due to inclement weather or as necessitated by other business considerations.
- (5) Add new subparagraph 7.1.2B.(4) to authorize that family members who are residents of the property when the HOME OCCUPATION is operating but who subsequently move from the premises may remain active in the HOME OCCUPATION and shall not be counted as a non-resident employee as long as their participation in the HOME OCCUPATION continues.

Part B. Revise paragraph 7.1.2E. as follows:

- (1) Strike “Second Division vehicle as defined by the Illinois Vehicle Code” and replace with “MOTOR VEHICLES”; and add the phrase “and parked at”.
- (2) Add new subparagraph 7.1.2E.(1) to require that the number of MOTOR VEHICLES and licensed trailers displaying the name of the RURAL HOME OCCUPATION or used in any way for the RURAL HOME OCCUPATION shall be within the limits established.
- (3) Renumber subparagraph 7.1.2E.i. to be 7.1.2E.(2) and strike “vehicles over 8,000 lbs. gross weight” and replace with “MOTOR VEHICLES that are either a truck tractor and/or a MOTOR VEHICLE with tandem axles, both as defined by the Illinois Vehicle Code (625 ILCS 5/1 et seq)”; and add the phrase “and all MOTOR VEHICLE loads and weights shall conform to the Illinois Vehicle Code (625 ILCS 5/15-111)”. Case 732-AT-12 cont:
- (4) Renumber subparagraph 7.1.2E.ii. to be 7.1.2E.(3) and strike “vehicles” and replace with “MOTOR VEHICLES”; and strike “vehicles under 8,000 lbs. gross vehicle weight”; and insert “licensed”; and strike “and off-road vehicles”; and insert the phrase “or owner”.
- (5) Renumber subparagraph 7.1.2E.iii. to be 7.1.2E.(4) and strike “Second Division vehicles” and replace with “MOTOR VEHICLES and licensed trailers”; and strike “indoors” and replace with “in an enclosed building”; and add “outdoors subject to the following minimum separations for outdoor parking:”; and add the following subparagraphs:

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Case 732-AT-12 cont:

- (a) Add subparagraph 7.1.2E.(4)(a) to require that no more than 1 motor vehicle may be parked outdoors less than five feet from a side rear property line or less than 10 feet from a front property line.
- (b) Add subparagraph 7.1.2E.(4)(b) to require that outdoor parking for more than one motor vehicle shall be no less than 50 feet from any lot line and no less than 100 feet from any offsite dwelling.
- (c) Add subparagraph 7.1.2E.(4)(c) to require that outdoor parking for more than one motor vehicle that does not meet certain requirements shall be at least 10 feet from any lot line and be screened.
- (6) Add subparagraph 7.1.2E.(5) to require that paragraphs 7.1.2E. and 7.1.2F. apply to all new RURAL HOME OCCUPATION and to any expansion of a RURAL HOME OCCUPATION that is filed after September 1, 2012.
- (7) Add subparagraph 7.1.2E.(6) (a) and (b) to require the following:
 - (a) Any MOTOR VEHICLE or licensed trailer or piece of equipment that was included on an application for a RURAL HOME OCCUPATION that was received before September 1, 2012, may continue to be used provided that the total number of vehicles are not more than 10 and no more than 3 may be truck tractors or MOTOR VEHICLES with tandem axles as defined by the Illinois Vehicle Code.
 - (b) Any RURAL HOME OCCUPATION that complies with 7.1.2E.(6) shall be authorized to have the same number of motor vehicles or licensed trailers or pieces of equipment as long as it continues in business at that location and any MOTOR VEHICLE or licensed trailer or piece of equipment may be replaced with a similar motor vehicle or licensed trailer or piece of equipment.

Part C. Add new paragraph 7.1.2F. as follows:

- (1) Limit the number of motorized or non-motorized complete pieces of non-farm equipment in outdoor storage to 10 complete pieces, provided that the number of pieces of equipment that may be in outdoor storage shall be reduced by the number of MOTOR VEHICLES and licensed trailers that are also parked outdoors.
- (2) Require that equipment in outdoor storage meet the same separations required for MOTOR VEHICLES in 7.1.2E.(4)(b) and 7.1.2E.(4)(c).

Part D. Revise paragraph 7.1.2H. to require that more than four vehicles for patrons and onsite employees shall be screened; and also provide that loading berths are not required for RURAL HOME OCCUPATIONS.

Part E. Revise paragraph 7.1.2K. as follows:

- (1) Add the phrase "for other than equipment used in any RURAL HOME OCCUPATION"; and strike the phrase "screened as provided by Section 7.6, and replace with the phrase "shall be provided as follows:".
- (2) Add subparagraph 7.1.2K.(1) to require that no outdoor storage be located in any required off street parking spaces.
- (3) Add subparagraph 7.1.2K.(2) to require screening if outdoor storage occurs in any yard within 1,000 feet of certain specified uses of surrounding property.

Case 734-AT-12 Petitioner: Zoning Administrator
Request: Amend the Champaign County Zoning Ordinance as follows:

Part A. Amend the Table of Authorized Principal Uses in Section 5.2 by adding "Contractors Facilities (with no Outdoor STORAGE Nor Outdoor OPERATIONS)" as an authorized principal use permitted by right in the B-1 Zoning District.

Part B. Amend the Table of Authorized Principal Uses in Section 5.2 by adding "Contractors Facilities (with Outdoor STORAGE and/or Outdoor OPERATIONS)" as an authorized principal use permitted by Special Use Permit in the B-5 Zoning District; and by right in the B-1 Zoning District; and add Special Use Permit Standard Conditions to Section 6.1.3.

6. New Public Hearings

*Case 736-V-12 Petitioner: Matthew and Katie Warren
Request: Authorize the following in the R-1 Zoning District:

- Part A. Variance for a lot are of 7,507.5 square feet in lieu of the minimum required 20,000 square feet required for lots connected to public water supply, but without a connected public sanitary sewer system and created after September 21, 1993.
- Part B. Variance for a front setback for an existing nonconforming dwelling of 33.5 feet from the centerline of Independence Street in lieu of the minimum required 55 feet.
- Part C. Variance for a lot depth of 75 feet in lieu of the minimum required 80 feet on the subject property described below.

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***Case 737-V-12 Petitioner: Matthew and Katie Warren**

Request: Authorize the following in the R-1 Zoning District:

Part A. Variance for a lot area of 7,507.5 square feet in lieu of the minimum required 20,000 square feet required for lots connected to a public water supply, but without a connected public sanitary sewer system and created after September 21, 1993.

Part B. Variance for a front setback for an existing nonconforming dwelling of 33.5 feet from the centerline of Independence Street in lieu of the minimum required 55 feet.

Part C. Variance for a depth of 75 feet in lieu of the minimum required 80 feet on the subject property described below.

Location for Cases 736-V-12 and 737-V-12:

Lot 7 of Block 2 of B.R. Hammer's Addition in the Northwest Quarter of Section 34 of East Bend Township and commonly known as the dwellings at 317 Independence, Dewey, and 318 Railroad Street, Dewey.

***Case 738-S-12 Petitioner: Terry W. Plampin**

Request: Authorize a Therapeutic Riding Center as a "Riding Stable" as a Special Use with Waivers of Special Use standard conditions for:

- (1) a minimum fence height of 5 feet;**
- (2) a minimum front setback of 55 feet from the centerline of CR 700E;**
- (3) a minimum front yard of 25 feet in the AG-1 Agriculture Zoning District.**

Location: A 5 acre tract in the Southwest Quarter of the Northwest Quarter of the Northwest Quarter in Section 17 of Pesotum Township and commonly known as the home and buildings at 378 CR 700E, Pesotum.

7. Staff Report

8. Other Business

A. Review of Docket

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

10. Adjournment

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

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 **1776 E. Washington Street**

4 **Urbana, IL 61802**

5 **DATE: December 13, 2012**

6 **PLACE: Lyle Shields Meeting Room**
7 **1776 East Washington Street**
8 **Urbana, IL 61802**

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

10 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren, Brad
11 Passalacqua, Roger Miller

12 **MEMBERS ABSENT :** None

13 **STAFF PRESENT :** Lori Busboom, John Hall, Andrew Kass

14 **OTHERS PRESENT :** Wayne Ward, William J. Jones, Keith Padgett, Alan Singleton, Julia K Hall,
15 Larry Hall, Sara Jones, Phillip Jones, Ben Shadwick, Carl Brown, Dixie
16 Christian, Jerry Christian, Martha Gast, Rhys Baker, Angela Weddle, Rob
17 Weddle, Ruth Mitchell, Jean Fisher, Linda Schumm, Mark Fisher, Elista
18 Dimitrova, John Belleville, Patricia Belleville, Earl Williams, Stephen Gast,
19 Letha Gast, Deborah Romine, Garry Ohlsson, Daniel Williams, Susan
20 Kovacs, Richard Barker, Denny Anderson

21 **1. Call to Order**

22 The meeting was called to order at 6:37 p.m.

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

24 The roll was called and a quorum declared present with one member absent and one Board seat vacant.

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

28 **3. Correspondence**

29 None

DRAFT

30 **4. Approval of Minutes (August 16, 2012, August 30, 2012, September 13, 2012, October 11, 2012)**

31 Mr. Thorsland entertained a motion to approve the August 16, 2012, August 30, 2012, September 13, 2012,

1 and October 11, 2012, minutes as submitted.
2
3 **Mr. Passalacqua moved, seconded by Mr. Courson to approve the August 16, 2012, August 30, 2012,**
4 **September 13, 2012, October 11, 2012, minutes as submitted.**
5
6 Mr. Thorsland asked the Board if there were any additions, deletions or corrections required to the minutes
7 and there were none.
8
9 **The motion carried by voice vote.**
10
11 Mr. Thorsland entertained a motion to re-arrange the docket and hear Cases 687-AM-11 and 688-S-11 first,
12 as indicated, and hear Case 715-V-12 prior to Cases 707-S-12 and 725-S-12.
13
14 **Ms. Capel moved, seconded by Mr. Passalacqua to re-arrange the docket and hear Cases 687-AM-11**
15 **and 688-S-11 first, as indicated, and hear Case 715-V-12 prior to Cases 707-S-12 and 725-S-12. The**
16 **motion carried by voice vote.**
17
18 Mr. Roger Miller, ZBA Board member, arrived at 6:40 p.m.
19
20

21 **5. Continued Public Hearing**
22

23 **Case 687-AM-11 Petitioner: Phillip W. and Sarabeth F. Jones Request to amend the Zoning Map to**
24 **change the zoning district designation from CR Conservation Recreation to AG-1 Agriculture.**
25 **Location: An approximately 14 acre tract of land that is located in the North Half of the South Half of**
26 **the Northeast Quarter of Section 27 of Crittenden Township and located on the west side of Illinois**
27 **Route 130 (CR1600E) and 1,328 feet south of the intersection of Illinois Route 130 and CR 200N and**
28 **County Highway 16 and commonly known as the property at 175N CR 1600E, Villa Grove.**
29

30 **Case 688-S-11 Petitioner: Phillip W. and Sarabeth F. Jones Request to authorize the construction and**
31 **use of a “Restricted Landing Area” for use by airplanes consistent with Illinois Department of**
32 **Transportation regulations and helicopter use for public safety assistance as needed and with limited**
33 **helicopter use for personal use, as a Special Use on land that is proposed to be rezoned to the AG-1**
34 **Agriculture Zoning District from the current CR Conservation Recreation Zoning District in related**
35 **zoning case 687-AM-11; and with a waiver of a Special Use standard condition required by Section 6.1**
36 **that requires compliance with Footnote 11 of Section 5.3. Location: An approximately 14 acre tract of**
37 **land that is located in the North Half of the South Half of the Northeast Quarter of Section 27 of**
38 **Crittenden Township and located on the west side of Illinois Route 130 (CR1600E) and 1,328 feet**
39 **south of the intersection of Illinois Route 130 and CR 200N and County Highway 16 and commonly**
40 **known as the property at 175N CR 1600E, Villa Grove.**
41

1 Mr. Thorsland called Cases 687-AM-11 and 688-S-11 concurrently.

2

3 Mr. Thorsland informed the audience that Case 688-S-11 is an Administrative Case and as such the County
4 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
5 show of hands for those who would like to cross examine and each person will be called upon. He requested
6 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
7 that those who desire to cross examine are not required to sign the witness register but are requested to
8 clearly state their name before asking any questions. He noted that no new testimony is to be given during
9 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
10 exempt from cross examination.

11

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

15

16 Mr. Thorsland asked the petitioner if they would like to make a statement outlining the nature of their
17 request prior to introducing evidence.

18

19 Mr. Alan Singleton, attorney for the petitioners, thanked the Board for the opportunity to present evidence
20 at this public hearing. He distributed a packet for the Board's review regarding Cases 687-AM-11 and
21 688-S-11. He said that his office received the Planning and Zoning staff's Supplemental Memorandum
22 on December 10th and he provided a response to some of the issues that were raised in that memorandum.
23 He called the Board's attention to a letter dated December 13, 2012, from himself to the Board
24 which highlights the points that he would like to make tonight.

25

26 Mr. Singleton stated that there are materials that, for whatever reason, were not included as Documents of
27 Record and those documents are as follows: 1. (Tab 1 of the distributed packet) Letter from JC Crawford
28 dated November 11, 2011, withdrawing his support from the petition in opposition of the proposed RLA and
29 questioning the petition's validity. Mr. Singleton stated that Mr. Crawford indicated in his letter that Mr.
30 Larry Hall's statements during his visit were grossly untrue and exaggerated and that Mr. Larry Hall's
31 approach was very intimidating and forceful. Mr. Singleton stated that Mr. Crawford is requesting that his
32 name be removed from the petition.

33

34 Mr. Singleton stated that the second document that has not been included as a Document of Record is as
35 follows: 2. (Tab 2 of the distributed packet) Letter from Jongin Kim Craggs of Craggs' Appraisal Services,
36 Ltd. Dated November 15, 2011, expressing her professional opinion that, given the current nature of the
37 neighborhood, allowing an RLA would not cause the value of the properties in the area to decrease and
38 might actually cause them to increase, given the greater community safety provided in the form of assistance
39 to law enforcement officials. He said that Tab 3 includes a letter dated February 24, 2012, from IDOT,
40 Division of Aeronautics.

41

1 Mr. Singleton stated that staff has mentioned the possibility of imposing some additional setback from the
2 runway safety area which is over and above what IDOT requires. He said that his office completed some
3 research on similar previous cases and it appears that adding additional safety precautions, such as an
4 additional setback which is not contained within the IDOT standards, is not permissible by Illinois law. He
5 said that the previous cases that he is referring to in his testimony are included in the packet under Tabs 4, 5,
6 and 6.

7
8 Mr. Singleton stated that Dr. Jones and his family recognize that they have neighbors and they intend to be
9 good neighbors and are sensitive to the concerns that the neighbors may have therefore they are proposing
10 some special conditions to the RLA that would mitigate any negative effects that may occur due to an RLA
11 being located at this site. Mr. Singleton stated that Tab 7 includes the proposed special conditions by Dr.
12 Jones and at this time he would like to review those special conditions with the Board.

13
14 Mr. Singleton stated that proposed special condition 1. is in regard to traffic patterns and reads as follows:
15 (a) All landing traffic patterns will be flown exclusively south of the RLA, thus maximizing the distance
16 between the aircraft and neighboring residential properties to the north. Mr. Singleton stated that special
17 condition 1(a) will assure that no aircraft would be flown over Larry Hall's house therefore mitigating the
18 effect of the RLA on the Hall's home. He said that a tight northbound departure from the RLA could
19 possibly take it closer to Mr. Hall's home therefore special condition 1(b) indicates there will be no tight
20 northbound departures below 1000 feet.

21
22 Mr. Singleton stated that proposed special condition 2 reads as follows: There will be an increased traffic
23 pattern altitude of 1500 ft AGL (above ground level) as opposed to the standard 1000 feet AGL altitude. He
24 said that any minimal traffic pattern that would occur would occur at a higher level and would be 500
25 additional feet away from the home than what is standard.

26
27 Mr. Singleton stated that special condition 3 reads as follows: All pre-operation run-up procedures will be
28 conducted at the furthest practicable location away from neighboring properties, provided that any pre-
29 operation run-up procedure that is conducted at least as far west as the location of the proposed hanger will
30 be deemed to meet this restriction. He said that this special condition suggests that any pre-operation
31 procedures will be conducted as far away as practical from the Hall home and as far away as the proposed
32 hanger.

33
34 Mr. Singleton stated that special conditions 5 and 6 are limitations on helicopter and fixed wing aircraft use.
35 He said that staff proposed two helicopter take-offs and landings every twenty-eight days. He said that he
36 and Dr. Jones annualized staff's proposed limitation and he and Dr. Jones propose the limited use of any
37 helicopter to no more than twenty-five take-offs and twenty-five landings in any twelve-month period which
38 is one less take-off and landing from what staff proposed. Mr. Singleton said that in regards to limitations of
39 fixed-wing aircraft, he and Dr. Jones are proposing that, except in cases of assistance for public safety, the
40 owners will limit the use of any fixed-wing aircraft to no more than thirty-eight take-offs and thirty-eight
41 landings in any 12-month period.

1

2 Mr. Singleton stated that in regards to insurance, he and Dr. Jones proposed a special condition 7 which
3 indicates that at any time when take-offs or landings occur, a minimum of five million dollars of liability
4 insurance coverage shall be maintained. He said that one never knows what life might bring to us and as we
5 all hope to stay active in the hobbies that we are involved in but sometimes financial situations change due to
6 health issues, etc. therefore there might be a time when liability insurance might be a financial burden. He
7 said that even with the financial burden there is always hope that there might be a time when life will return
8 to normal and the RLA can be used again. He said that Mr. and Mrs. Jones desire to mitigate any effects on
9 the neighbors and the seven special conditions are their way in doing so.

10

11 Mr. Singleton stated that Tab 8 of the distributed packet includes the names of 16 existing RLAs in
12 Champaign County and surrounding counties, as well as, Sectional Aeronautical maps and Google Aerial
13 maps. He said that the aerial maps indicate that there are buildings next to the RLAs and no information has
14 been discovered indicating any conflicts. He said that one of the main problems currently is the fear of what
15 we do not understand or are not familiar with yet there are existing RLAs which have had no problems.

16

17 Mr. Singleton stated that Tab 9 of the distributed packet includes an article dated August 31, 2011, from *The*
18 *News Gazette* which discusses Hurricane Irene and how the residents of the afflicted towns received
19 assistance by the service of helicopters and how satisfied the residents were by this needed service. He said
20 that Tab 10 of the distributed packet includes an article dated October 26, 2011, from *The News Gazette*
21 which discusses a land based motor vehicle crash into a school. He said that the vehicle drove through the
22 glass doors and passed through the cafeteria and hit the gymnasium wall. He said that luckily no students
23 were injured. He said that motor vehicles are a very familiar part of everyone's daily life yet there are risks
24 associated with these familiar land based vehicles.

25

26 Mr. Singleton stated that the traffic pattern for Route 130 has to be considered when the Board considers the
27 nature of the neighborhood. He said that the Illinois Secretary of State website provides information
28 indicating that a fully loaded 5-axle semi-truck can carry up to 80,000 pounds. He said that Route 130 is
29 approximately 170 feet from Larry Hall's home. Mr. Singleton said that if you compare a fully loaded semi-
30 truck at 80,000 pounds to the petitioner's flying equipment, which the heaviest aircraft weighs less than
31 5,000 pounds when fully loaded. He said that for comparison, Ford Motor Company reports the gross
32 vehicle weight of its Ford F150 ranges from 6,450 pounds to 8,200 pounds, depending on the model
33 therefore the petitioner's flying equipment weighs less than the Ford F150 pick-up truck.

34

35 Mr. Singleton stated that the nature of the neighborhood involves dog training on the Fisher property and
36 previously submitted photographs indicated the dog training equipment on that property. He said that dog
37 training is a great sport that he has personally been involved in although it is a noisy sport and the use of ear
38 plugs were in order.

39

40 Mr. Singleton stated that there has been previous testimony, even by Mr. Larry Hall, regarding the discharge
41 of firearms in the neighborhood. Mr. Singleton stated that part of living in a rural area is the discharge of

1 firearms, but if they are discharged on a regular basis for targets or shooting of clay birds then the activity
2 becomes noisy and ear protection is required. He said that the nature of the neighborhood is the proposed
3 RLA. He said that if the frequency of traffic for the RLA is compared to the frequency of traffic for Route
4 130 it would be found that there will be less than 50 take-offs and landings in one year for the RLA in
5 comparison to the possibility of 50 vehicles per hour traveling Route 130. He requested that the Board to
6 keep things in perspective.

7
8 Mr. Singleton stated that it is the petitioner's position that adding on some sort of setback arbitrarily to how
9 far the runway would need to be from Larry Hall's home is not in compliance with Illinois law and what the
10 petitioners are proposing to do, including the proposed special conditions, is fitting with the overall
11 neighborhood. He thanked the Board for their time and apologized for the depth of the distributed packet.

12
13 Mr. Thorsland called John Hall.

14
15 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum for Case 688-S-11 to
16 the Board for review. He said that the memorandum includes the format for the requested waiver of standard
17 condition. He said that staff did not have time to include the waiver in the Draft Finding of Fact therefore if
18 and when the Board gets to the Draft Finding of Fact tonight this is the format that staff would recommend.

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

21
22 Mr. Thorsland called Wayne Ward to testify.

23
24 Mr. Wayne Ward, who resides at 977 North County Road 1500E, Camargo, stated that he is a Registered
25 Professional Engineer and was hired by the petitioners to create the submitted site plan for the proposed
26 RLA. He said that the site plan has been updated and the Board has received a copy for review. He said that
27 to the best of his knowledge and his understanding of the requirements of the Illinois Department of
28 Transportation Division of Aeronautics and the Federal Aviation Administration, the proposed RLA meets
29 those requirements. He said that the revised site plan includes additional requirements by the ZBA and staff
30 regarding the side yards that he was not aware of when creating the previous site plan. He said that the
31 runway safety areas are in compliance as well as the side transition areas are in compliance with the
32 exception, as shown on the plans, of an additional 13.35 feet side yard area on the Bragg property that is
33 strictly farmland and is used for row crop farming. He said that he prepared the site plan with everything
34 being from the right-of-way line because he was not sure if the measurements were to be taken from the
35 right-of-way line or the centerline of Route 130. He said that if the measurements could be taken from the
36 centerline of Route 130 an additional 40 feet of runway would be provided. He said that the way that the site
37 plan is drawn from the right-of-way line the proposed RLA meets all of the requirements. He said that the
38 only thing that he is aware of not meeting the requirements at this time and could be eliminated in five
39 minutes is the sign over Dr. Jones' driveway. He said that the sign does not comply with the height
40 requirement and is too close to the runway although there is no issue with its proximity to the existing home.

41

- 1 Mr. Thorsland asked the Board if there were any questions for Mr. Ward and there were none.
2
- 3 Mr. Thorsland asked if staff had any questions for Mr. Ward and there were none.
4
- 5 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Ward. He reminded the audience
6 that they may only ask questions which are based on the Mr. Ward's testimony.
7
- 8 Mr. Mark Fisher stated that Mr. Ward has indicated that the measurement from Route 130 to the trees is
9 2590 feet. He asked Mr. Ward to indicate what part or area of the trees he used for this measurement.
10
- 11 Mr. Ward stated that he measured to the face of the trees where the brush starts.
12
- 13 Mr. Fisher asked Mr. Ward if the face of the trees where the brush starts is located at the south or north side
14 of the property.
15
- 16 Mr. Ward stated that he measured to the center of the runway.
17
- 18 Mr. Thorsland asked the audience if anyone else would like to cross examine Mr. Ward and there was no
19 one.
20
- 21 Mr. Thorsland called William J. Jones to testify.
22
- 23 Mr. William J. Jones declined to testify at this time.
24
- 25 Mr. Thorsland called Larry Hall to testify.
26
- 27 Mr. Larry Hall, who resides at 177 County Road 1600E, Villa Grove, stated that over the course of the
28 hearings there have been multiple maps submitted and some of the maps have been hand drawn or have not
29 been to scale. He presented a drawing of the proposed runway to be displayed for the Board's review during
30 his testimony.
31
- 32 Mr. Larry Hall stated that when he and his wife discovered that there would be new maps of the proposed
33 runway submitted they had anticipated, because of all of their safety concerns, a further setback from their
34 property although to their surprise the new plans indicate that the runway is actually closer to their property.
35 He said that due to the newly submitted map he cannot imagine that anyone would expect that he and his
36 wife would be less concerned than they were before. He said that his display map indicates the previous
37 plans for the runway, indicated in blue, and the new plans, indicated in red. He said that the red lines for the
38 new plans demonstrate that the runway will actually be closer to his home.
39
- 40 Mr. Larry Hall stated that he and his wife did not receive their mailing packet until Monday, December 10th
41 therefore they have not had sufficient time to address any concerns that they may have with the new plans.

1 He said that they received the informational packet from Mr. Singleton, attorney for the petitioners, at
2 tonight's meeting and would like to have the opportunity to fully review that information as well.

3
4 Mr. Larry Hall stated that in being so close to the runway they are naturally concerned about any accidental
5 circumstance that would cause any aircraft to veer towards their house as opposed to having a perfect
6 landing. He said that he has completed some research about crosswind landings. He said that on many
7 occasions southern Champaign County experiences high winds and he would assume that the lighter the
8 plane the higher the impact of the winds. He said that the *Boeing Flight School Training Manual* and
9 information from the CEO/Pilot Trainer of the Best in Flight in Edgar County indicates the following:
10 Aircraft in flight are subject to the direction of the wind in which the aircraft is operating. An aircraft in
11 flight that is pointed directly north along its axis will generally fly in that northerly direction, however, if
12 there is a west wind or side wind in which the aircraft is flying then the actual trajectory of the aircraft will
13 be slightly to the east or north. Mr. Larry Hall stated that in his case he is talking of winds from the south
14 tending to cause a trajectory to the north which is the location of the house which is close to the runway. He
15 said that it appears that there is no room for error. He said that he has discussed the issue of crosswinds with
16 other pilots and they indicated that there are methods that they use such as crabbing, de-crabbing and side
17 slipping to deal with crosswinds. He said that crosswinds could be a circumstance which increases his
18 property and his family's exposure to risk.

19
20 Mr. Larry Hall stated that the manual indicates the following: If a crosswind landing is not executed
21 properly the aircraft may experience wing strike in which the wing hits the runway. Mr. Larry Hall stated
22 that he is concerned about any wing strike hitting the runway near his home.

23
24 Mr. Larry Hall stated he assumes that Item 8.J. on Page 8 Draft Summary of Evidence for Case 688-A-11 are
25 to illustrate that the runway property will be used for agricultural production. Mr. Larry Hall said that Item
26 8.J states that the runway is currently planted in bluegrass and fescue which will be used for Dr. Jones' cattle
27 and horses, there will be no tillage of the ground but the hay will be baled, and the grass on the runway will
28 be kept at about 6 to 8 inches. Mr. Larry Hall stated that since he is not a pilot he completed research and
29 found an article from *Sport Aviation Magazine* which quotes the *Civil Aviation Authority (CAA) Safety*
30 *Brochure* as follows: "If the grass height is more than 30% of the wheel, which is outside diameter top to
31 bottom of the tire, then it is a NO GO." He said that the photograph at the top of the page of the brochure
32 indicates the following: "Do not land if the grass is 30% of wheel height." Mr. Larry Hall stated that the
33 Cessna aircrafts that were identified during a previous meeting requires a 600 x 6 tire with a 17 inch height
34 and 30% of that height is 5.1 inches. He stated that if the grass runway is going to be maintained at 6 to 8
35 inches and the intention is to operate the runway in a safe manner he would assume that Dr. Jones would
36 adhere to the recommendations of the safety manuals and maintain the grass runway at 5 inches. Mr. Larry
37 Hall asked if the runway is maintained at 5 inches, which is equal to a mowed residential yard, where will
38 the hay come from for Dr. Jones' livestock. He said that if the grass hay cannot be harvested from the
39 runway area, which is the subject of the rezoning, removing the runway area will take a substantial amount
40 of land out of agricultural use therefore how can it be claimed agricultural use when we already know what
41 the end use of the property will be.

1

2 Mr. Larry Hall stated that Item 8.K(1) stated the following: (a) the trees in the adjacent CR District were
3 measured and the highest tree is 50 feet above the ground at that elevation and the elevation at that location
4 is eight feet below the runway; and (b) there is a lot of room for the trees to continue to grow but to his best
5 guess the trees are fully mature and are probably at their maximum height; and (c) if the trees grew to 66 feet
6 tall they might be a problem; and (d) the trees will not be damaged, touched, or violated in any way during
7 the use of the proposed RLA. Mr. Larry Hall stated that according to Sandy Mason, Extension Educator for
8 Horticulture at the University of Illinois Extension Office, the five most common trees in Champaign County
9 along river banks are Sycamore, Silver Maple, Red Oak, Green Ash and Basswood with the average mature
10 height being 60 to 175 feet for the Sycamore, 70 feet for the Silver Maple, 70 to 90 feet for the Red Oak, 70
11 feet for the Green Ash and 60 to 125 feet for the Basswood. He said that he highly doubts that the trees have
12 peaked at their mature height and they may be there today and he believes that there could be future
13 problems and it isn't practical to believe that someone is going to maintain the tops of the trees on a regular
14 basis. He said that item 8.K(1)(d) indicates that the trees will not be damaged, touched, or violated in any
15 way during the use of the proposed RLA. He said that he believes that item 8.K(1)(d) should mean that not
16 only from the use during the flying in and out but during the construction of the RLA. He said that item
17 10.C(10)(b) indicates that the proposed hangar, if constructed, would require some of the wooded area on the
18 subject property to be cut down. He said that by use of the map which indicates the tree line that abuts the
19 transition area and applying Mr. Ward's measurements of the hangar, the approach to the hanger and what he
20 has designated as the approach to the hangar (205 x 150) approximately a 30,750 square foot area of trees
21 would be removed from the property. Mr. Larry Hall stated that the removal of the trees would destroy a
22 substantial habitat and conservation environment. He said that previous testimony had indicated concern
23 about the removal of trees and the disturbance of the natural wildlife habitat. He said that such a disturbance
24 is a valid concern because the natural areas for the wildlife are part of the aesthetics of the neighborhood. He
25 said that the combination of the runway, which comprises approximately two acres, and the 30,750 square
26 feet for the hangar and hangar approach would take almost three acres out of agricultural and conservation
27 use.

28

29 Mr. Larry Hall presented the Board with a photograph of the subject property indicating a visual of where the
30 transition area for the proposed runway abuts his property line. He said that the photograph indicates the
31 Hall house, Dr. Jones' driveway, the proposed runway, transition area and the additional transition area to
32 the south of the runway.

33

34 Mr. Larry Hall read Item 9.B.5(a) on page 13 of 29 as follows: No part of a building or structure intended
35 for regular human occupancy located within a R or B District nor any public assembly or institutional use
36 may be located within a primary surface area, an area 250 feet wide centered on the runway centerline and
37 extending 200 feet beyond each end of the runway. Mr. Larry Hall acknowledged that his house is not
38 located in a R or B District but his home and the neighbor's homes are located in a subdivision and in nature
39 the area is strictly residential. He asked the Board why he and his neighbor's homes should be allotted less
40 safety precautions than someone located in a residentially zoned district. Mr. Larry Hall stated that the map
41 indicates that the distance from his house to the proposed RLA at 34 feet which is substantially less than the

- 1 250 feet separation distance awarded by the Zoning Ordinance to other residential citizens of the County.
2 Mr. Larry Hall stated that Item 21.I on page 21 of 29 indicates that there shall be a minimum separation
3 distance of at least 230 feet between the nearest point of the RLA and the nearest dwelling. He said that
4 there is a substantial difference between the 230 feet, recommended in the special condition, and the 34 feet
5 indicated on the revised map. He asked the Board why he and his neighbors should receive fewer safety
6 considerations than someone who lives in the city or is zoned residential. He requested equal safety
7 considerations for his family and his neighbors.
8
- 9 Mr. Thorsland asked the Board if there were any questions for Mr. Larry Hall and there were none.
10
- 11 Mr. Thorsland asked if staff had any questions for Mr. Larry Hall.
12
- 13 Mr. John Hall stated that Mr. Larry Hall is misreading the description of the primary surface area. Mr. John
14 Hall stated that the property that is proposed for rezoning is 256 feet wide and is somewhat wider than the
15 primary surface area therefore no part of the primary surface area crosses over onto Mr. Larry Hall's
16 property.
17
- 18 Mr. Larry Hall stated that he agrees that the primary surface area does not cross over onto his property but it
19 does abut it.
20
- 21 Mr. John Hall stated that Mr. Larry Hall's property is receiving as much protection as if the property was
22 located in a residential district. He said that the Item 9.B.5(a) states that no building shall be located in the
23 primary surface area and Mr. Larry Hall's house is not located in that area. He said that Item 9.B.5(a) does
24 not mention that no part of the lot may be located within the primary surface area and even if it did Mr. Larry
25 Hall's lot is not located in that area either.
26
- 27 Mr. Larry Hall asked Mr. John Hall if the primary surface area refers to the landing strip.
28
- 29 Mr. John Hall stated that the primary surface area is the area which is 250 feet wide centered on the runway.
30
- 31 Mr. Larry Hall asked if that extends out to the edge of the transition area.
32
- 33 Mr. John Hall stated that on the north side it includes all of the transition area.
34
- 35 Mr. Larry Hall asked Mr. John Hall to indicate the distance of the transition area to his property line.
36
- 37 Mr. John Hall stated that the transition area abuts Mr. Larry Hall's property line.
38
- 39 Mr. Larry Hall stated that he agrees. He said that the edge of the transition area is 34 feet from his home.
40
- 41 Mr. John Hall stated that Mr. Larry Hall testified that his property is receiving less protection than what this

1 part of the Ordinance would provide for someone in the R District. He said that Mr. Larry Hall's property is
2 not receiving any more or less protection than anyone in the R District and he is not suggesting that this
3 point should make it all right. He noted that the primary surface area is 250 feet wide centered on the
4 runway so the north edge of the primary surface is 125 feet from the centerline of the runway. He said that
5 these dimensions point out that Mr. Larry Hall's property is 135 feet from the center of the runway so the
6 primary surface area is 10 feet south of Mr. Larry Hall's lot line.
7

8 Mr. Larry Hall stated that the primary surface area is 47 feet from his house and he appreciates Mr. John
9 Hall's clarification although he is not less concerned. He said that all of the information and dimensions are
10 very difficult to follow when you are a layman and you have concerns. He said that he is extremely
11 concerned about the statement that was included in Mr. Singleton's distributed packet indicating that he had
12 pressured someone to sign the opposing petition. He assured that Board that in no way did he pressure
13 anyone to sign the opposing petition and the person who made the claim offered his signature without
14 coming to his home.
15

16 Mr. John Hall asked Mr. Larry Hall if he intended to submit the presented map and photographs as
17 Documents of Record.
18

19 Mr. Larry Hall stated that he will submit the presented information as Documents of Record although he
20 would like to keep the photograph because it is a nice picture and it was expensive. He said that if the
21 photograph must be kept he would like to have the opportunity to receive it back once it is no longer
22 required for the case.
23

24 Mr. John Hall asked Mr. Larry Hall if he had a written document from Sandy Mason that could be submitted
25 at tonight's public hearing.
26

27 Mr. Larry Hall stated no. He said that he spoke to Ms. Mason on the telephone.
28

29 Mr. John Hall stated that he did not realize that Basswood trees matured at 125 feet although the other tree
30 heights seemed reasonable.
31

32 Mr. Larry Hall stated that the information regarding the tree heights were from Google but the other
33 information was from his personal conversation with Ms. Mason.
34

35 Mr. John Hall stated that at this point, Mr. Larry Hall's personal conversation with Ms. Mason should be
36 considered hearsay. He said that Mr. Larry Hall's testimony included information from an article from *Sport*
37 *Aviation Magazine*. He asked Mr. Larry Hall if he could submit a copy of that article to the Board as a
38 Document of Record tonight.
39

40 Mr. Larry Hall stated yes and submitted the article as a Document of Record.
41

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

2

3 Mr. Thorsland called Julia Hall to testify.

4

5 Ms. Julia K. Wright-Hall, who resides at 177 County Road 1600E, Villa Grove, stated that she lives next to
6 the proposed RLA and has presented testimony at previous hearings regarding the proposed RLA. She said
7 that she has no personal vendetta against Phillip and Sara Beth Jones and would rather be anywhere than
8 where she is right now. She said that the only reason why she is before the Board tonight is to protect her
9 home, property value, serenity and safety of her family. She said that she has submitted numerous facts,
10 documents, photographs, and objections to the Board regarding the proposed RLA. She said that the
11 proposed RLA will be located less than 40 feet from the yard where she and her granddaughter play
12 badminton and she does not believe that it is a safe situation to have a plane land so near to her home. She
13 begged the Board to not allow the proposed RLA to be placed this close to her bedroom window and thanked
14 the Board for their service.

15

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

17

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

19

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

21

22 Mr. Thorsland called Sarabeth Jones to testify.

23

24 Ms. Sarabeth Jones declined to testify at this time.

25

26 Mr. Thorsland called Phillip Jones to testify.

27

28 Dr. Phillip Jones, who resides at 175 County Road 1600E, Villa Grove, stated that all of the evidence has
29 been presented and it should be easy to address what evidence is reasonable and what is not. He said that he
30 has planted over 2,500 native hardwood trees on his property therefore to indicate that he is creating a
31 conservation problem is unfounded. He said that Larry Hall's photograph indicates the beautiful stand of
32 native grasses, the new trees that have been planted, and the wildlife habitat that has been created. He said
33 that he has been flying for over 20 years and has never had a close incident of any kind and the argument
34 regarding crosswinds is not an issue. He said that Larry Hall's house is further away than almost all airport
35 hangers to a landing strip and it is impossible to drive a plane through the five foot of grass that is near Mr.
36 Hall's property. He said that an airplane's engine is on idle when it lands therefore his aircraft will be
37 quieter than his diesel truck is when he drives down his lane. He said that there may be a little noise noticed
38 when the aircraft takes off but he will be 1,000 feet in the air when he passes Mr. Hall's house.

39

40 Dr. Jones stated that he appreciates the Board's time and he would appreciate getting these cases resolved so
41 that everyone can move forward with other important issues.

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

Mr. Courson asked Dr. Jones if he had pursued purchasing additional land to the south for the landing strip.

Dr. Jones stated that the land that the land that is next to his property is zoned CR therefore he would need to purchase 60 and an additional 80 acres which would require a substantial amount of money.

Mr. Courson asked Dr. Jones if no is his answer.

Dr. Jones stated that he has spoken with the owner of the adjacent property although that property is also zoned CR. He said that he has not made any movement in purchasing any other property.

Mr. Thorsland asked if staff had any questions for Dr. Jones.

Mr. John Hall asked Dr. Jones how his helicopter and the noise that it creates compares to the noise that is created by a typical helicopter that would land on top of Carle Hospital. He said that he understands that acoustics in the city are much different than the acoustics in the CR district.

Dr. Jones stated that the helicopter that lands at Carle Hospital has two 650 horse power engines but his has one 315 horse power engine. He said that the helicopter for Carle has four times the horsepower that his helicopter therefore it is like comparing a Nissan car to a semi-truck and the noise is much less.

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

Mr. Thorsland called Ben Shadwick to testify.

Mr. Ben Shadwick declined to testify at this time.

Mr. Thorsland asked Mr. Singleton if he would like to add any new information at this time.

Mr. Singleton stated no.

Mr. Thorsland called Jean Fisher to testify.

Ms. Jean Fisher, who resides at 195 County Road 1600E, Villa Grove, stated that she lives in the subdivision that Mr. Larry Hall spoke about. She thanked the Board for allowing the neighbors to express their concerns about the proposed RLA. She said that some of the biggest issues that the Board has to address and examine are, private and public safety, environmental effects and the impact on local homeowners and the homeowner's right to live safely and peacefully within a rural setting. She asked the Board which of the two safety issues, private or public, is of the upmost importance. She asked if it is the risk factor of any potential

1 aircraft accidents to neighboring households where the owners would indicate that they did not consider the
2 possibility of such a risk when they purchased their property or is it the Board's priority to allow someone
3 with a hobby to offer their services to an unknown variable, such as, emergency services. She said that by
4 indicating unknown she means when, if ever, the services may be required. She said that it is not a proven
5 need when those who are trained, certified and held financially liable should any accident occur are
6 employed to perform those demands on a needed basis. She said that it appears more than reasonable that
7 those closest in proximity have everything to risk and 37 people have indicated that they do not accept the
8 risk of any accidents to them due to the proposed rezoning and RLA. She said that by definition risk is as
9 follows: 1. Noun: a situation involving exposure to danger; and 2. Verb: expose someone or something
10 valued to harm or loss and 3. Synonyms: hazard, peril, jeopardy, danger, venture and chance. She said that
11 the homeowners do not want that risk or hazard and they do not see the need for it.
12

13 Ms. Fisher stated that after discussing RLAs extensively with IDOT personnel it was discovered that any
14 aircraft that experiences an in-flight emergency could be directed to land at the proposed RLA. She said that
15 these instances do and could occur therefore why would any residence, especially the residence owned by
16 Mr. and Mrs. Hall, be forced to endure this hazard.
17

18 Ms. Fisher stated that the environmental effects, sound, water and air quality, would or could be forever
19 damaged. She said that the Morton Arboretum website, [http://www.mortonarb.org/tree-plant-](http://www.mortonarb.org/tree-plant-advice/article/859/native-trees-of-the-midwest.html)
20 [advice/article/859/native-trees-of-the-midwest.html](http://www.mortonarb.org/tree-plant-advice/article/859/native-trees-of-the-midwest.html) references Native Trees of the Midwest. She said that
21 the reference describes the uses of trees such as food, shelter for wildlife and advantages of trees in the
22 landscape. She said that the website chart shows a graph of common name, botanical name, height, spread,
23 form, growth rate, zone and cultural comments. She said that many of the common trees, such as,
24 Sycamore, Oak, Maple, Basswood, Hickory, Pines and River Birch, grow to heights of 40 to 100 feet and are
25 characterized as either fast or slow growing. She said that the fast growing trees may average up to 25+
26 inches per year, the medium growing trees may average 13 to 22 inches per year and the slow growing trees
27 may average less than 12 inches per year. Ms. Fisher submitted the Morton Arboretum article as a
28 Document of Record.
29

30 Ms. Fisher stated some of the trees that were referenced during Mr. Larry Hall's conversation with Sandy
31 Mason are referenced in the submitted article. Ms. Fisher stated that Ms. Mason confirmed that these
32 species of trees and their growth in running river basins in Champaign County are important. She said that
33 trees located along the river basin provide habitat for wildlife, stabilize ground, filter watershed, and improve
34 water quality and air quality. She said that Dr. Jones has indicated that no trees would be harmed in any way
35 regarding the RLA request. She asked how such can be accomplished when trees have grown in the flight
36 path, safety zone, or RLA and aircraft hanger construction. She said that Illinois is a home rule state and the
37 Illinois Municipal League website mentions that Champaign is in home rule therefore she wonders if that
38 would apply to Mr. Singleton's statements that the safety areas or special considerations that staff
39 recommended wasn't allowed by state law. She said that she wonders if the home rule may apply to this
40 situation since Champaign is a home rule municipality.
41

1 Ms. Fisher stated that if the area homeowners, especially Larry Hall, decided to sell their property they
2 would have to fully disclose that the property abuts an RLA and she would imagine that this disclosure
3 would affect the property's value. She said that the proximity of an RLA near a home that is for sale could
4 be a deal breaker to a potential buyer which would be detrimental to the seller.
5

6 Ms. Fisher stated that Dr. Jones is fighting for what he wants and the neighboring homeowners are fighting
7 for what they already have and deserve to maintain. She said that the Board has the decision placed upon
8 them to determine if the risk or hazard is being placed as a burden to the Hall family as well as the adjacent
9 property owners and 37 people in opposition. She respectfully requested that Dr. Jones' requests be denied.
10

11 Ms. Fisher stated that she is not sure how the Board should perceive this information but the 2010 article
12 from *The News Gazette*, which references Dr. Jones' assistance for emergency services, indicated that Dr.
13 Jones had been flying for ten years although tonight Dr. Jones indicated that he has been flying for 20 years.
14

15 Ms. Fisher thanked the Board for their time and requested that they consider the effects of the proposed RLA
16 on the existing neighboring homeowners.
17

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

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

22 Mr. Thorsland asked the audience if they desired to cross examine Ms. Fisher.
23

24 Mr. Mark Fisher asked Ms. Fisher if she intended to provide the tree height information to the Board as
25 Documents of Record.
26

27 Ms. Fisher stated yes.
28

29 Mr. Thorsland informed Ms. Fisher and Mr. Larry Hall that if they intend to reference the conversation with
30 Ms. Sandy Mason then they should obtain a written document from Ms. Mason documenting the information
31 disclosed during that conversation and submit that documentation to the Board as a Document of Record.
32 He said that Ms. Mason can present the information to the Board directly. He said that until one of those
33 two things occur any references to the conversation with Ms. Mason will be considered hearsay.
34

35 Mr. Thorsland called Mark Fisher to testify.
36

37 Mr. Mark Fisher, who resides at 195 County Road 1600E, Villa Grove, stated that he is still confused and
38 may disagree with Mr. John Hall. He requested that the Board review Item 3 on page 2 of the letter dated
39 February 24, 2012, from IDOT to John Hall, included as Tab 3 of Mr. Singleton's distributed packet. Mr.
40 Fisher read Mr. Hall's question to IDOT in item 3 as follows: Is this proximity to an adjacent dwelling
41 under different ownership considered good practice? Would this comply with the recommendations or

1 guidelines for residential airports or would it have been allowed under the old IDOT residential airport
2 guidelines. Mr. Fisher read IDOT's response to Mr. Hall's question as follows: The Illinois Aviation Safety
3 Rules require a 4:1 side transition for RLAs starting at the edge of the runway and extending for 85 feet.
4 Beyond this distance there is no obstruction clearance requirement. You noted that the neighbor's house is
5 128 feet from the edge of the runway. This meets our requirement for a side transition. We currently do not
6 have a separate set of requirements for a residential airport. They currently fall under the requirements for a
7 private-use airport. A private-use airport has a 7:1 side transition which starts 50 feet beyond the edge of the
8 runway and extends for 5,000 feet from the runway centerline. In addition, no obstacles over 150 feet above
9 the height of the runway are allowed in the side transition area. Using these requirements, the neighbor's
10 house could be no more than 12 feet above the height of the runway.

11

12 Mr. Fisher stated that he does disagree with Mr. John Hall's statement that there are no separate safety rules
13 for residential in an RLA IDOT airport. He said that the only way that he can see why there would be stricter
14 requirements for a residential or private use airport is for safety concerns for people in houses. He asked Mr.
15 Hall if he is reading this information incorrectly.

16

17 Mr. John Hall stated that there are different requirements and this is not a private-use airport and that is not
18 what has been requested. He said that the RLA restrictions do not impose any height limit on the neighbor's
19 house. He said that if the request was for a private use airport then there would be a height limit.

20

21 Mr. Fisher asked Mr. John Hall why IDOT has two standards.

22

23 Mr. John Hall stated that Mr. Fisher would need to ask IDOT that question.

24

25 Mr. Fisher stated that it appears that if this is for a residential area then IDOT is probably considering people
26 in houses. He said that this is the reason, that he can think of, why IDOT would have stricter requirements.

27

28 Mr. John Hall stated that he believes that it is just the opposite. He said that a private use airport is
29 presumably a greater investment than an RLA and one would only seek approval for an airport if they really
30 needed to have an airport. He said that once you have an approval for an airport you expect the investment
31 to be protected. He said that an RLA has very low costs, very low and smaller traffic, and has different
32 requirements and expectations therefore the reason for two different sets of rules. He said that one set
33 applies to this case and the other does not for a whole range of reasons.

34

35 Mr. Fisher stated that if it is classified as a private-use airport, which IDOT determined that the RLA would
36 be placed under because it does not have requirements for a residential airport, the Larry Hall house would
37 be an issue but under the 4:1 requirement it would not be a problem. He said that he does not see how this
38 would have anything to do with the investment in the airport especially if it doesn't protect the airport
39 owner/operator but protects the residents. He said that the reason why there would be a greater side
40 transition for one and not for the other would be to protect the people who live near the airport.

41

1 Mr. Thorsland stated that Mr. Fisher's question is a good question for IDOT.
2
3 Mr. Fisher agreed.
4
5 Mr. Thorsland asked the Board if there were any questions for Mr. Fisher and there were none.
6
7 Mr. Thorsland asked if staff had any questions for Mr. Fisher and there were none.
8
9 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Fisher and there was no one.
10
11 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony at this
12 time.
13
14 Mr. Thorsland called Sara Beth Jones to testify.
15
16 Ms. Sarabeth Jones, who resides at 175 N County Road 1600E, Villa Grove, stated that she would like to
17 address a few items that have been brought up during tonight's public hearing. She said that she rides her
18 horse on the entirety of their property and to her knowledge there are no Sycamore trees or the type of Oak
19 trees mentioned although they do have White Oak trees on the property. She said that in terms of the
20 environmental impact that the cutting of any trees would create, she cannot believe that the cutting of the
21 trees would cause more damage than what they have added to the property. She said that she and her
22 husband have enhanced the area by adding prairie and habitat areas for the different wildlife. She said that
23 she brings her students to the property to experience and learn about the environment.
24
25 Ms. Jones stated that she would like to clarify the confusion regarding how many years Dr. Jones has been a
26 pilot. She said that he has indeed been flying an airplane for 20 years but has only been flying a helicopter
27 for 10 years. She said that through all of these hearings her husband has been somewhat attacked and
28 deemed as an unsafe pilot and she does not agree because she and her children fly with him. She said that
29 her two most precious possessions are her two boys and Mr. and Mrs. Fisher allowed their two boys to ride
30 with Phillip in his helicopter. She said that Mr. and Mrs. Fisher have expressed their concerns about
31 accidents that may occur although they allowed their boys to fly with Phillip. She said that at times it is very
32 difficult to sit and listen to the negative comments from the neighbors therefore she thought that it should be
33 noted that they trusted Phillip with their children's lives.
34
35 Mr. Thorsland asked the Board if there were any questions for Ms. Jones and there were none.
36
37 Mr. Thorsland asked if staff had any questions for Ms. Jones.
38
39 Mr. John Hall stated that the purpose of the public hearing is to obtain the best evidence for the public record
40 so that when the rezoning is forwarded to the County Board there is a clear record supporting the ZBA's
41 recommendation and the petitioner's request. He said that Dr. Jones indicated tonight that he has planted

1 over 2,500 trees on the property although he did not specify what type of trees were planted or their location.
2 Mr. Hall said that he had previously asked Dr. Jones if there was a management plan for the property and
3 Dr. Jones indicated that there was not. Mr. Hall stated that he cannot stress enough how important it is to
4 place that type of information on the record and if there is no management plan then the petitioner can only
5 claim so far that they are actually trying to improve the land.
6

7 Ms. Jones asked Mr. Hall to explain what a management plan contains.
8

9 Mr. John Hall stated that a management plan is a document that explains how the petitioner will achieve a
10 good stand of native vegetation versus a stand of thistle and anything else that wants to grow. He said that if
11 the petitioner has been trying to make the property better for conservation purposes the Board must obtain
12 that documentation because such evidence is very relevant to the case.
13

14 Ms. Jones asked Mr. Hall if photos should be submitted or is a site visit necessary with an expert to prove
15 that the photo is not thistle but actual native grasses.
16

17 Mr. Hall stated that the purpose is to get evidence that will be available to the County Board for review when
18 this case is forwarded to them. He said that the evidence should be in writing identifying what species were
19 planted and a map that indicates where the 2,500 trees were planted. He asked Ms. Jones if she knows how
20 tall a White Oak tree will grow.
21

22 Ms. Jones stated no, but she knows that a lot of the White Oak trees are dying faster than they are growing at
23 this point.
24

25 Mr. Hall stated that White Oak trees are magnificent trees and they grow much higher than 66 feet. He said
26 that to say that they will not be a problem for the approach area and to say that they will not grow more than
27 66 feet is not consistent. He said that he suspects that the White Oak trees may be a problem although he is
28 not sure that the ZBA needs to deal with it but the idea is to get evidence for the County Board to review.
29 He suggested that the petitioner provide better evidence.
30

31 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Jones.
32

33 Ms. Jean Fisher asked Ms. Jones if at the time that her children rode with Phillip in the helicopter was the
34 helicopter zoned to land on the property.
35

36 Ms. Jones stated yes. She said that a helicopter may land on the property of which the pilot owns.
37

38 Ms. Fisher stated that the helicopter landing was legal for Champaign County.
39

40 Ms. Jones stated that it is her understanding that it is completely legal. She said that when she mentioned
41 that Ms. Fisher's children rode with Phillip in the helicopter she was not indicating that the helicopter

1 landing on the property was legal but was indicating that at the time Ms. Fisher trusted Phillip with her two
2 children for a ride in the helicopter.

3

4 Mr. Thorsland asked the audience if anyone else desired to cross examine Ms. Jones.

5

6 Mr. Larry Hall stated that Ms. Jones referenced to the planting of 2,500 trees. He asked Ms. Jones if
7 approximately 500 trees, 20% of the 2,500 reportedly planted, were planted on top of the berm which was
8 constructed behind the existing adjacent homes and if so were those trees planted to improve conservation.

9

10 Ms. Jones stated that any tree planted will provide a habitat for wildlife.

11

12 Mr. Thorsland asked the audience if anyone else desired to cross examine Ms. Jones at this time and there
13 was no one.

14

15 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
16 testimony regarding these two cases.

17

18 Mr. Thorsland called Linda Schumm to testify.

19

20 Linda Schumm, Bureau Chief, for IDOT Division of Aeronautics Safety Aviation, stated that there was a
21 question regarding a restricted landing area versus an airport. She submitted a copy of the *Illinois Aviation*
22 *Safety Rules* as a Document of Record and read the definition of an airport, public or private, as follows:
23 "Airport" means any area of land, water or both, except a restricted landing area, that is designated for the
24 landing and takeoff of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of
25 aircraft, or for receiving or discharging passengers or cargo; and, all appurtenant areas used or suitable for
26 airport buildings or other airport facilities, and all appurtenant rights-of-way, whether established before or
27 after the effective date of this Part. (Various airport classifications may be found in Subpart E, Subpart F and
28 Subpart H of this Part.) (See Section 6 of the Act.) She read the definition of a restricted landing area as
29 follows: "Restricted Landing Area RLA" means any area of land, water, or both that is used or is made
30 available for the landing and takeoff of aircraft that is intended for private use. (See Section 8 of the Act.)

31

32 Ms. Schumm stated that it is kind of a misnomer that in Illinois we define public use airports, private use
33 airports and restricted landing areas and the Federal Aviation Administration looks at it somewhat
34 differently. She said that typically a restricted landing area is for the use of the certificate holder which is
35 why it is referred to as private. She said that a private use airport is typically for a greater number of aircraft
36 but is not open to the public generally for liability purposes because they don't want everyone from the entire
37 world coming in to land as they please which is why IDOT characterizes residential landing areas as private
38 use airports. She said that some of this information was included in her letter dated February 24, 2012, to
39 John Hall indicating restrictions for the two types of landing areas such as the number of based aircraft and
40 type of operations and whether or not one can do commercial maintenance, fly instruction, etc. She said that
41 most of those, other than the limit of 6 based aircraft in a restricted landing area, no commercial operations,

- 1 no flying instructions, no aircraft maintenance where as in a private use airport you would be allowed those
2 things with a greater number of aircraft. She said that she wanted to clarify some of the information that was
3 asked earlier.
4
- 5 Mr. Thorsland asked Ms. Schumm that regardless of the designation as an RLA, private or public airport are
6 they a landing site for an aircraft in emergency.
7
- 8 Ms. Schumm stated that a cornfield is a landing site for an aircraft in emergency. She said that earlier it was
9 stated that air traffic control would direct someone to land in a restricted landing area. She said that she is a
10 flight instructor and pilot and air traffic control is not going to tell a pilot to land in a restricted landing area
11 but will tell the pilot that there is a runway in the area if you can make it because it is always safer to land on
12 a runway than on a cornfield or road. She said that air traffic control will give the pilot advice but they
13 cannot direct someone to land anywhere and can only give advice as to what is available in the area.
14
- 15 Mr. Thorsland asked Ms. Schumm if air traffic control would be aware of the restricted landing area at this
16 location.
17
- 18 Ms. Schumm stated yes. She said that all restricted landing areas are charted in the FAA data base although
19 they may not show up on the FAA navigation chart because sometimes the landowners do not want them
20 published because of liability purposes. She said that everything is in the National Airspace Data Base.
21
- 22 Mr. Thorsland asked the Board if there were any questions for Ms. Schumm.
23
- 24 Mr. Courson stated that Ms. Schumm indicated that the RLA could only be used by the certificate holder.
25 He asked Ms. Schumm who would be included on the certificate, friends, family members, etc.
26
- 27 Ms. Schumm stated that the RLA is to be used by the certificate holder or anyone that they give permission
28 to land. She said that if someone owned an RLA they could give permission to land on the landing strip.
29 She said that the RLA is not for use of the public which is uninvited and are typically only for the use of the
30 owner.
31
- 32 Mr. Passalacqua asked Ms. Schumm if she aware whether an RLA will affect the neighboring property's
33 insurance rates.
34
- 35 Ms. Schumm stated that she has no idea and cannot voice any opinions.
36
- 37 Mr. Thorsland asked if staff had any questions for Ms. Schumm and there were none.
38
- 39 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Schumm.
40
- 41 Mr. Larry Hall asked Ms. Schumm if there was an aircraft in the area that was in a distressed situation, they

1 could be made aware of the fact that there was a landing strip available for landing.

2
3 Ms. Schumm stated that this is not an IDOT question. She said that as an experienced pilot, if there is an
4 airliner coming in the air traffic control operator will not direct them to this landing strip because it will not
5 do them any good. She said that if it is something that could help the pilot have a safe uneventful landing
6 then air traffic control will inform the pilot that within a certain distance there is an adequate landing strip at
7 an airport.

8
9 Mr. Larry Hall asked Ms. Schumm if the aircraft was in a distress situation might that slightly increase the
10 chance that an eventful landing could take place at the landing strip.

11
12 Ms. Schumm stated that she cannot comment on such because Mr. Larry Hall is asking her for her opinion.

13
14 Mr. Thorsland asked the audience if anyone else desired to cross examine Ms. Schumm.

15
16 Mr. Mark Fisher asked Ms. Schumm to explain why there are two types of side transitions for an RLA and a
17 private use airport.

18
19 Ms. Schumm stated that generally that applies to the uses allowed for those airports. She said that for a
20 private use airport the aircraft can carry passengers therefore people can be in the area of the airplanes,
21 commercial maintenance, and parachute operations can occur. She said that there are a number of uses for a
22 private use airport that would not be allowed for an RLA and that comes down to a safety issue for the
23 people and the buildings. She said that if she is going to put a hanger right where there will be a greater
24 number of operations, because it is private use, then there will be higher restrictions.

25
26 Mr. Fisher asked Ms. Schumm if the 7:1 side yard transition would provide a greater protection for the
27 surrounding properties.

28
29 Mr. Thorsland informed Mr. Fisher that Ms. Schumm did not discuss the 7:1 side transition during her
30 testimony. He informed Ms. Schumm that even though everyone is curious about her answer she is not
31 obligated to answer Mr. Fisher's question.

32
33 Ms. Schumm stated that it really does have to do with the greater types of operations and safety.

34
35 Mr. Thorsland asked the audience if anyone else desired to cross examine Ms. Schumm. He reminded the
36 audience that they can only ask Ms. Schumm about information that was included in her testimony and
37 cannot give new testimony.

38
39 Ms. Jean Fisher asked Ms. Schumm what types of aircraft or aeronautical things could land on the RLA.

40
41 Ms. Schumm stated that there are different types of RLAs, such as, an RLA for a hospital, an RLA for a

1 heliport or an RLA for a landing strip. She said that in this case we are referring to a landing strip and there
2 are no restrictions for a landing strip therefore an airplane, helicopter, hot air balloon, a skydiver, ultra-light.
3 She said that if the request was for a heliport then obviously an airplane could not land there and that is not a
4 state rule.

5
6 Ms. Fisher asked Ms. Schumm if someone had permission from the RLA owner then multiple types of
7 aircraft could land at this location.

8
9 Ms. Schumm stated yes.

10
11 Ms. Fisher asked if the hot air balloons, ultra-lights, etc. have the potential to cause harm.

12
13 Mr. Thorsland informed Ms. Schumm that she was not required to answer Ms. Fisher's question.

14
15 Ms. Schumm stated that such a question would only receive a subjective answer.

16
17 Mr. Thorsland asked the audience if anyone else desired to cross examine Ms. Schumm and there was no
18 one.

19
20 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
21 testimony regarding these cases.

22
23 Mr. Alan Singleton requested the opportunity to present testimony.

24
25 Mr. Thorsland called Alan Singleton to testify.

26
27 Mr. Alan Singleton, attorney for the petitioner, stated that he has planted more than 1,000 trees on his own
28 property. He said that if you look at a cornfield you will notice that the corn on the outer edge of the field is
29 shorter than the rest of the corn and that is the same situation that happens with trees. He said that in the
30 wooded area where his parents reside the trees in the middle of the forest are tall but the trees on the outside
31 of the forest are shorter because they do not have to reach up as far for light. He said that as we think about
32 the trees that might infringe upon the proposed RLA, those are on the edge and have no reason to grow taller
33 because they have all of the light that they want.

34
35 Mr. Thorsland asked the Board if there were any questions for Mr. Singleton and there were none.

36
37 Mr. Thorsland asked if staff had any questions for Mr. Singleton and there were none.

38
39 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Singleton and there was no one.

40
41 Mr. Thorsland stated that the Board has heard hearsay evidence from Sandy Mason about the trees. He said

1 that he would like to have testimony from an expert to personally present information to the Board about the
2 trees which exist on the west end of the landing strip. He said there has been testimony regarding the intent
3 of the trees that have been planted and he encourages the intent to replace trees that may be removed for the
4 RLA and Mr. Hall requested a maintenance plan from the petitioners.

5

6 Mr. Thorsland stated that at tonight's meeting the Board received a packet of evidence from Mr. Singleton
7 and he would like the opportunity to read through the evidence. He asked the Board if there was any
8 additional information that they would like to review for these cases.

9

10 Mr. Passalacqua stated that he would be curious to know if Larry Hall's homeowner's insurance agent would
11 have new insurance premium information for his property if it becomes adjacent to an RLA. He said that he
12 is sure that Dr. Jones knows what the insurance rates are for owning and flying aircraft but he is not sure if
13 Dr. Jones' neighbors know what they might be in for regarding their insurance rates.

14

15 Mr. Thorsland stated that such information would be requiring personal information therefore the Board can
16 only suggest investigating such with his insurance agent.

17

18 Mr. Palmgren stated that, from personal experience, the insurance premium for a home that is located
19 adjacent to an RLA is not any more expensive than anyone else's homeowner's insurance premium although
20 they do carry an optional extra umbrella policy.

21

22 Mr. Thorsland informed the audience that Mr. Palmgren does reside adjacent to a residential airport.

23

24 Mr. Palmgren stated that he does reside adjacent to the only residential airport in the County. He said that
25 during the 25 years of the residential airport's existence there has only been one aircraft incident. He said
26 that the airplane went on its back because the pilot applied the brakes and the aircraft flipped over on the
27 runway and no injuries were incurred. He said that no one is allowed to use the airstrip unless they are
28 invited because it is a private use airstrip. He said that five of the homeowners, half of the residents, do not
29 have any interest in aviation at all other than they enjoy watching the airplanes and two of those residents
30 live within 100 feet of the runway. He said that it is his view that as long as the use of the landing strip is
31 restricted for other pilots the safety issue may not be as big a problem as once thought.

32

33 Mr. Courson stated that before the Board requests more information about the RLA he would like to poll the
34 Board on the map amendment because if the map amendment does not pass the RLA is moot.

35

36 Mr. Thorsland stated that part of his question regarding the trees and requesting additional information is in
37 relation to the map amendment as well. He said that he understands Mr. Courson's point in that the Board
38 should proceed with the map amendment case prior to dealing with the RLA but he would like to hear
39 testimony regarding the trees on the west end and view the petitioner's management plan.

40

41 Mr. Courson stated that he has reservations about taking a piece of property and rezoning it so that the

1 petitioner can do something on it that wasn't allowed in its current zoning. He said that such a request is
2 "spot zoning" because the petitioner has requested to take the center out of the CR zoning district so that an
3 RLA would be allowed. He said that he knows that the petitioners have asked to have the property rezoned
4 to AG-1 for agricultural purposes but agricultural purposes are allowed in the CR District and the production
5 of hay can continue in that district. He said that there is very little CR in the County and this particular
6 portion of the CR District has been developed and if the Board allows people to request continuous
7 rezonings then why does the County have zoning classifications in the first place.

8
9 Mr. Hall stated that he does not understand why Mr. Courson feels that this would be "spot zoning." He said
10 that if the property is rezoned it will abut AG-1 at the east end and normally if someone refers to "spot
11 zoning" it means that there will be a spot of new zoning surrounded by the old zoning which is not the case
12 here.

13
14 Mr. Courson stated that the AG-1 land to the east is separated from the subject property by the highway
15 therefore it is not contiguous.

16
17 Mr. Hall stated that Mr. Courson is correct that the two properties are separated by the highway but in terms
18 of AG-1 zoning the two zoning districts meet at the centerline of the highway therefore if the subject
19 property is rezoned there will be AG-1 on one side.

20
21 Mr. Thorsland asked if staff has any questions for the petitioner.

22
23 Mr. Hall stated no. He said that he is interested to know if the Board has any concerns regarding the legality
24 of requiring a minimum separation between the proposed RLA and the adjacent property. He said that the
25 Board has received a lot of documentation tonight indicating that such a separation is completely illegal. He
26 said that he hopes that the Board finds that claim as funny as he does but if not then he must provide new
27 evidence.

28
29 Ms. Capel stated that she would like staff to provide such evidence.

30
31 Mr. Passalacqua stated that he agrees with Mr. Courson's point regarding the rezoning. He said that he
32 understands that staff is not calling the request "spot zoning" but it could be called "reverse spot zoning"
33 because a limited amount of CR is being proposed to be changed to AG-1 to allow an RLA. He said that the
34 Board needs to concentrate on the rezoning first and then move to the special use if necessary.

35
36 Mr. Thorsland informed the petitioner and the witnesses that additional information is required for the trees
37 and the Board would like to have an expert submit testimony, either personally or in written form, to the
38 Board. He said that the petitioner needs to submit a maintenance plan for the subject property. He suggested
39 that someone may like to submit the cost of homeowner's insurance for a property adjacent to or near a
40 landing strip. He said that Mr. Palmgren testified that, personally, his homeowner's insurance did not
41 change but there is an additional umbrella policy that can be purchased for additional coverage. He said that

1 staff has been asked to prepare a response or rebuttal to the information distributed by Mr. Singleton
2 regarding the legality of requiring a greater setback.

3
4 Mr. Thorsland asked the petitioners if a continuance to March 14, 2013, is acceptable.

5
6 Mr. Singleton stated yes, a continuance date of March 14, 2013, appears acceptable at this time.

7
8 Mr. Thorsland entertained a motion to continue Cases 687-AM-11 and 688-S-11 to March 14, 2013.

9
10 **Ms. Capel moved, seconded by Mr. Miller to continue Cases 687-AM-11 and 688-S-11 to March 14,**
11 **2013. The motion carried by voice vote.**

12
13 Mr. Thorsland stated that the Board will take a five minute recess.

14
15 **The Board recessed at 8:30 p.m.**

The Board resumed at 8:37 p.m.

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

26
27 Mr. Thorsland informed the audience that Case 715-V-12 is an Administrative Case and as such the County
28 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
29 show of hands for those who would like to cross examine and each person will be called upon. He requested
30 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
31 that those who desire to cross examine are not required to sign the witness register but are requested to
32 clearly state their name before asking any questions. He noted that no new testimony is to be given during
33 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
34 exempt from cross examination.

35
36 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
37 sign the witness register for that public hearing. He reminded the audience that when they sign the
38 witness register they are signing an oath.

39

1 Mr. Thorsland asked the petitioner if they would like to make a statement outlining the nature of their
2 request prior to introducing evidence.

3
4 Mr. Denny Anderson stated that the current description of his request is for a variance for a rear yard of 1
5 foot in lieu of the minimum required 5 feet. He said that he has no information to add at this time.

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

8
9 Mr. John Hall, Zoning Administrator, distributed a Supplemental Memorandum dated December 13, 2012,
10 to the Board for review. He said that the memorandum indicates that there are no longer two parts to the
11 variance but only one. He said that to be clear there is only one shed that is proposed to remain 1 foot from
12 the rear yard, which is the larger shed, and it is going to have a part removed that is located in the utility
13 easement and an addition will be constructed on the other side of the shed to make up for the lost room. He
14 said that overall the dimensions will remain the same but it is literally going to be removed from the utility
15 easement therefore leaving only one part to the requested variance.

16
17 Mr. Hall stated that staff received an e-mail from Howard and Terri Carr, who reside at 702 Park Lane Drive,
18 Champaign, indicating that they are unable to attend tonight's meeting but are very concerned about Mr.
19 Anderson's request. Mr. Hall said that Mr. and Mrs. Carr requested that the case be tabled to a later date but
20 the petitioner has been working with staff so that the case can be completed.

21
22 Mr. Thorsland asked Mr. Anderson if he would like to present any new testimony at this time regarding his
23 request.

24
25 Mr. Anderson stated no.

26
27 Mr. Thorsland called Patricia Belleville to testify.

28
29 Ms. Patricia Belleville, stated that she serves as Chair of the Windsor Park Homeowner's Association. She
30 said that she would like to submit a letter from William and Clarice Behrens who were unable to attend
31 tonight's meeting.

32
33 Ms. Belleville stated that two years ago neighbors started complaining to the Champaign County Planning
34 Department of Planning and Zoning and the Windsor Park Board about the property located at #1
35 Willowbrook Court. She said that there was a frustration that the property was deteriorating, the number of
36 buildings being placed on the property and what was perceived as zoning violations. She said that we are all
37 in attendance tonight because of those complaints. She said that Mr. Anderson's request is not to build a
38 shed in the backyard but is a request to build a barn in the backyard which will be 14-1/2 feet in height and is
39 not subordinate to the main building. She said that the Board has seen photographs of the building that is in
40 the backyard that is going to be moved over five feet. She said that Mr. Anderson has been in violation of a
41 number of Zoning Ordinance requirements, one of which is the operation of a home business out of his truck

1 that is parked in the driveway. She said that she spoke to the Champaign County Department of Planning
2 and Zoning office on Thursday and was informed that if Mr. Anderson is conducting a business out of his
3 truck that is parked in the driveway then he is operating a home business that is not registered with the
4 County at this time. She said that Mr. Anderson has trailers that are being used for the business parked on
5 the lawn and the trailers have concrete mixers on them. She said that in addition to the trailers Mr. Anderson
6 has a Boy Scout trailer, and a minimum of two vans that hang over the sidewalk, and at times a camper and a
7 school bus appears in the cul-de-sac as well. She said that the Windsor Park Homeowner's Association
8 requests that off-street parking for all vehicles be provided and in order to accommodate this Mr. Anderson
9 has constructed another driveway. She said that Mr. Anderson has building materials stored on the property
10 and he has testified that he has collected building materials with the intention of recycling those materials for
11 other building projects. She said that the accessory building is not subordinate to the main structure and is a
12 dominate feature on the property. She said that activities around the residence indicate that the residence is
13 being used for something other than a residential dwelling.

14
15 Ms. Belleville stated that the neighbors are requesting that no variances whatsoever be granted and requests
16 that Mr. Anderson's variance request be denied. She said that the neighbors request that the Board agree to
17 only allowing regular 6' x 8' garden sheds, which is standard in the neighborhood, to be built on the
18 property.

19
20 Ms. Belleville stated that she has provided letters, e-mails and at every meeting there have been people
21 present from the neighborhood and most of those have been quiet observers and as their representative she is
22 requesting that the Board deny Mr. Anderson's variance request.

23
24 Mr. Thorsland asked the Board if there were any questions for Ms. Belleville.

25
26 Mr. Courson asked Ms. Belleville if the Windsor Park Homeowner's Association has any recorded
27 covenants regarding shed sizes.

28
29 Ms. Belleville stated no.

30
31 Mr. Courson stated that any shed that is proposed on the property needs to comply with the Champaign
32 County Zoning Ordinance. He said that the Board cannot restrict the size of any proposed shed in the
33 neighborhood to the size that the Windsor Park Homeowner's Association is requesting.

34
35 Ms. Belleville stated that when someone moves in to a suburban community they are buying in to the look or
36 aesthetics of that community. She said that if someone lives in a suburban community and their new
37 neighbor constructs a 14 foot structure next to their yard they are not going to be excited about it and she
38 can't imagine that anyone on the Board would be excited about it either.

39
40 Mr. Courson stated that the Board cannot make an exception just because someone lives in town and they
41 don't like the shed.

1
2 Ms. Belleville stated that she does not see how the Board can approve a variance on a building that the
3 neighborhood does not want to be built. She said that complaints have been filed by the neighbors indicating
4 that the existing shed violates the Zoning Ordinance.
5
6 Mr. Courson stated that he did comment on the variance but did not comment on the size of the shed.
7
8 Mr. Thorsland noted that this case is before the Champaign County Zoning Board of Appeals and not the
9 City of Champaign Zoning Board. He said that there may be an expectation if you live in the City of
10 Champaign but the subject property is located in the unincorporated portion of the County which is why this
11 case is before this Board tonight.
12
13 Ms. Belleville asked Mr. Thorsland if it is the ZBA's job to prevent the suburban dwellings that exist in the
14 unincorporated areas from having random buildings upon the property.
15
16 Mr. Thorsland stated that is the reason why Mr. Anderson is before the Board tonight. He said that the
17 County has rules that apply to lots like Mr. Anderson's and the reason why the case is before the Board
18 tonight is because the Board is enforcing those rules. He said that guidelines of the County must be followed
19 unless the Windsor Park Homeowner's Association has a document that restricts the size of a shed on the
20 property.
21
22 Ms. Belleville stated that she was told that the Windsor Park Homeowner's Association rules do not factor
23 into this case.
24
25 Mr. Thorsland stated that the Windsor Park Homeowner's Association rules do not factor into this case and
26 the Association has no legal way to prevent anything that is occurring on the property.
27
28 Ms. Belleville asked if the Windsor Park Homeowner's Association had a legal document restricting the size
29 of a shed would the County enforce that document.
30
31 Mr. Thorsland stated no and such enforcement would be up to the Windsor Park Homeowner's Association.
32 He said that the ZBA is enforcing the County's regulations on the property. He said that Mr. Anderson has
33 requested a variance from the County's requirements.
34
35 Ms. Belleville stated that the neighborhood is requesting that the variance not be granted by the ZBA.
36
37 Mr. Thorsland stated that the neighborhood's request has been understood by the ZBA from the beginning
38 but the neighbors cannot request the County to limit the size of the shed beyond the scope of the Zoning
39 Ordinance.
40
41 Mr. Thorsland asked the Board if there were any questions for Ms. Belleville and there were none.

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

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

Mr. Thorsland reminded the audience that they may only ask questions which are based on testimony and that no new testimony may be presented.

Ms. Deborah Romine asked Ms. Belleville if it was her understanding that the Zoning Ordinance included a limit as to how many buildings could be on a property that was associated with a home business.

Ms. Belleville stated that, after reviewing the materials that were sent to her from the Champaign County Department of Planning and Zoning, it was her understanding that there can be one accessory building. She said that the Zoning Ordinance's definition of an accessory building indicates that it is subordinate to the main building but the building cannot store building supplies.

Ms. Romine asked Ms. Belleville if it was her understanding that this Board has control over a home business.

Ms. Belleville stated yes.

Ms. Romine asked Ms. Belleville if she mentioned information about a permit.

Ms. Belleville stated that she may not have although it is her understanding that, as of last Thursday, Mr. Anderson still does not have a permit.

Ms. Romine asked Ms. Belleville if Mr. Anderson did not have a permit for the home business or the accessory structures.

Ms. Belleville stated that she is not sure if there is a permit for the accessory structures.

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

Mr. Thorsland called Deborah Romine to testify.

Ms. Deborah Romine, who resides at 2505 Stanford Drive, Champaign, stated that for the past couple of years she has observed that there are several structures that have been constructed. She said that she has an addition built upon her property and she was told at that time that she could not begin construction until she obtained a permit from the County. She said that in addition to obtaining a permit she had aerial photographs taken to assure the location of the property line and these photographs were taken prior to any

1 construction.
2
3 Ms. Romine stated that she is concerned that currently the property has more than one structure and is
4 currently the subject of a variance request. She said that prior to the variance request there had been no
5 permit obtained which she finds unusual and what prevents someone else in Windsor Park from building a
6 structure or addition without a permit and then requesting a variance later. She said that the property has
7 undergone a big transformation not only on the main property but also onto the boulevard. She said that it is
8 hard to not see the large logs that have been stripped in the front yard. She said that she did not know that an
9 additional driveway could just be built without a permit and she does not know if a permit is required.
10
11 Mr. Thorsland asked the Board if there were any questions for Ms. Romine and there were none.
12
13 Mr. Thorsland asked if staff had any questions for Ms. Romine and there were none.
14
15 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Romine and there was no one.
16
17 Mr. Thorsland asked the audience if anyone else desired to sign the witness register to present testimony
18 regarding this case.
19
20 Mr. Thorsland called Richard Barker to testify.
21
22 Mr. Richard Barker, who resides at 2501 Bedford Drive, Champaign, stated that at one time he resided at #3
23 Willowbrook Court which is two houses down from the subject property. He said that his biggest concern
24 with the property is the operation of the home business and all of the vehicles and building materials that
25 exist because it is a real detriment to the community. He said that if denying the variance would assist in the
26 cleaning up of the property it would be appreciated because the condition of the property in its current state
27 is causing a drastic decline in property values in the neighborhood. He said that he is a realtor/broker and
28 has been for 26 years and this property can be a real problem for adjacent property owners because their
29 property values can be lowered to the extent of \$20,000 due to its condition. He said that the property to the
30 east went through foreclosure, although it is unknown if it was due to the subject property, and has been
31 purchased and remodeled and has been listed on the market for over six months. He said that the accessory
32 structure is an ugly building that was built around a utility post and is a detriment although running a
33 business from the property is a detriment as well.
34
35 Mr. Thorsland asked the Board if there were any questions for Mr. Barker.
36
37 Mr. Courson asked Mr. Barker if, other than any safety issues and visual impact, he sees any other impacts
38 with the accessory building being one foot off of the property line.
39
40 Mr. Barker stated that only if there was an emergency and the utility company needed to get in that area.
41

1 Mr. Courson noted that Mr. Anderson is removing the building from the utility easement.
2
3 Mr. Barker stated that if Mr. Anderson removes the building from the utility easement then he sees no other
4 impacts.
5
6 Mr. Thorsland asked the Board if there were any further questions for Mr. Barker and there were none.
7
8 Mr. Thorsland asked if staff had any questions for Mr. Barker and there were none.
9
10 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Barker.
11
12 Mr. Denny Anderson asked Mr. Barker if he can see how having a shed on the property to store the materials
13 and trailers in might be an advantage for all parties.
14
15 Mr. Barker stated that the building will not be large enough to store all of the materials and the trailer. He
16 said that there is always a flat-bed trailer parked on the property that is loaded with building materials and
17 there are a lot of additional vehicles. He said that the condition of the property is a detriment to the
18 neighborhood and Mr. Anderson needs to find another location that would be better suited for his use than in
19 a neighborhood like Windsor Park.
20
21 Mr. Anderson asked Mr. Barker if he understands that it would be an advantage to both parties if the shed
22 was large enough to store all of those things that he mentioned.
23
24 Mr. Barker stated yes, it would be an advantage if the shed was large enough.
25
26 Mr. Thorsland asked the audience if anyone else desired to cross examine Mr. Barker and there was no one.
27
28 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
29 testimony regarding this case.
30
31 Mr. Keith Padgett, who resides at #1 Lyndhurst Place, Champaign, stated that the Boy Scouts organization
32 has been involved in this case and that pulls at people's heart strings and when there is a hard case it makes
33 bad law to be sympathetic to that. He said that Mr. Anderson discussed building a larger shed which means
34 having the school bus and trailers still on the property. He said that even though the Windsor Park
35 Homeowner's Association does not have an ordinance, there is no way the school bus is allowed to be
36 parked on the road or in the yard with trailer attached ready to go where ever the Boy Scout activity will be
37 held. He said that this is the wrong location to run a business out of a house and have all of these building
38 materials.
39
40 Mr. Thorsland asked the Board if there were any questions for Mr. Padgett and there were none.
41

- 1 Mr. Thorsland asked if staff had any questions for Mr. Padgett and there were none.
2
- 3 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Padgett and there was no one.
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.
9
- 10 Mr. Passalacqua asked Mr. Hall if staff has a height measurement for the shed.
11
- 12 Mr. Hall stated that staff has reviewed the height of the shed in the office although he cannot find this
13 information in the Summary of Evidence.
14
- 15 Mr. Andy Kass stated that he measured the height of the shed and found that the height was 15 feet to the
16 peak which is within the height limits in the R-1 Zoning District.
17
- 18 Mr. Hall stated that the shed is well within the limit because the average height of the building is what is
19 considered and not the overall height of the building.
20
- 21 Mr. Courson stated that Mr. Anderson testified that the building materials would be relocated to Camp
22 Drake. He asked Mr. Anderson if the building materials have been moved to Camp Drake.
23
- 24 Mr. Anderson stated that the process has been started. He said that he would like to take the opportunity to
25 clarify some false testimony that was given during a previous testimony. He said that the testimony
26 indicated that Tim Menard, Boy Scout Executive, indicated that the building materials could not be moved
27 to Camp Drake because additional tree houses would not be built there although it is not Mr. Menard's
28 purview to make either of those decisions.
29
- 30 Mr. Courson asked Mr. Anderson to indicate what percentage of the building materials have been moved to
31 Camp Drake.
32
- 33 Mr. Anderson stated that approximately 10% of the building materials have been moved to Camp Drake.
34
- 35 Mr. Courson stated that the Board has been working on this case for six months and only 10% of the
36 building materials have been moved.
37
- 38 Mr. Anderson stated that he was told to not move anything.
39
- 40 Mr. Courson asked Mr. Anderson if he has registered his home occupation with the County.
41

- 1 Mr. Anderson stated that he does not have a home occupation at his home because he does not build things
2 at his home.
- 3
- 4 Mr. Courson stated that he runs the business out of his truck.
- 5
- 6 Mr. Anderson stated that he did have a tent set up in the front driveway for an Eagle Scout project but he
7 does not do business at his home.
- 8
- 9 Mr. Passalacqua asked Mr. Anderson if the trailer and concrete mixer, indicated in the photograph dated
10 October 11, 2012, is not related to his business.
- 11
- 12 Mr. Anderson stated that he does use the trailer and the concrete mixer for his business and it is his
13 understanding that he is allowed to do so.
- 14
- 15 Mr. Hall stated that if there are photographs of a trailer and a concrete mixer that is used for a business and it
16 is kept at the home then, by definition, it is part of a home occupation that needs to be registered with the
17 County. He said a home occupation does not allow any outdoor storage.
- 18
- 19 Mr. Anderson stated that the intent of the building is so that he will not have any outdoor storage.
- 20
- 21 Mr. Hall stated that he hopes that is the intent and that is what is achieved. He said that staff has not
22 instructed Mr. Anderson to not store materials inside and has not instructed Mr. Anderson to not remove
23 building materials from the property and has only encouraged it.
- 24
- 25 Mr. Anderson stated that he has moved some things.
- 26
- 27 Mr. Thorsland asked the Board if there were any additional questions for Mr. Anderson and there were none.
- 28
- 29 Mr. Thorsland asked if staff had any additional questions for Mr. Anderson and there were none.
- 30
- 31 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Anderson.
- 32
- 33 Mr. Keith Padgett asked Mr. Anderson to indicate the size of the trailer with the concrete mixer.
- 34
- 35 Mr. Anderson stated that it is a 16 foot trailer.
- 36
- 37 Mr. Padgett asked Mr. Anderson to indicate the size of the other trailer.
- 38
- 39 Mr. Anderson stated that he also has a 14 foot enclosed Scout Trailer.
- 40
- 41 Mr. Padgett asked Mr. Anderson if intends to store the trailers inside of the shed as well.

1
2 Mr. Thorsland informed Mr. Padgett that Mr. Anderson did not testify as to where he intends to place the
3 trailers.
4
5 Mr. Padgett stated that he would like to know how large the shed will need to be to enclose everything so
6 that his business is not exposed in his yard.
7
8 Mr. Anderson stated that the shed that he has planned and is included in the variance is what is required.
9
10 Mr. Padgett asked Mr. Anderson if he can store both trailers in the shed so that no one has to view them.
11
12 Mr. Anderson stated that he did not indicate that he would store both trailers inside the shed.
13
14 Mr. Padgett asked Mr. Anderson if he was still going to leave things out so that people have to look at them
15 all of the time.
16
17 Mr. Anderson stated that he didn't say that either.
18
19 Mr. Padgett stated that it has to be one way or another because the trailers will either be stored inside or
20 outside.
21
22 Mr. Anderson stated that he will store one of the trailers inside the shed.
23
24 Mr. Thorsland asked the Board if they would like to move forward with this case.
25
26 Mr. Courson stated yes.
27
28 Mr. Thorsland read the special conditions as follows:
29 **A. Within 30 days of a Final Determination for Case 715-V-12 the petitioner shall**
30 **complete Zoning Use Permit Application No. 74-12-03 in conformation with the Final**
31 **Determination.**
32
33 The special condition stated above is required to ensure the following:
34
35 **That the existing structures receive proper approvals.**
36
37 Mr. Thorsland asked Mr. Anderson if he agreed to special condition A.
38
39 Mr. Anderson stated yes.
40
41 **B. Regarding the shed that is the subject of Part A of the Variance, all of the larger shed**

1 that is currently within the 5 feet wide utility easement along the east property line
2 shall be removed from the utility easement (including concrete flooring), and the shed
3 may be expanded 4 feet to the west under the remaining portion of part A of the
4 variance within one year from the date of approval of the Variance.
5

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

8 **That the shed wall is removed within a timely manner and that any existing concrete**
9 **within the utility easement does not hinder access to the utility easement.**
10

11 Mr. Thorsland asked Mr. Anderson if he agreed to special condition B.
12

13 Mr. Anderson stated yes.
14

15 **C. The shed that was originally the subject of part B of Variance shall be removed from**
16 **the property by April 12, 2013.**
17

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

20 **That the shed is removed from the property in a timely manner.**
21

22 Mr. Thorsland asked Mr. Anderson if he agreed to special condition C.
23

24 Mr. Anderson stated yes.
25

26 **D. No parking is authorized within 5 feet of the south lot line.**
27

28 The special condition stated above is required to ensure the following:
29

30 **That no parking occurs within the minimum required separation of a parking space**
31 **and a property line.**
32

33 Mr. Thorsland asked Mr. Anderson if he agreed to special condition D.
34

35 Mr. Anderson stated yes.
36

37 Ms. Capel asked if it is appropriate to add a condition about the petitioner registering as a home occupation.
38

39 Mr. Thorsland stated that the Board has received testimony that the parking of the trailers is part of his
40 business and staff has indicated that a permit would be required to do so.
41

1 Mr. Hall stated that it has always seemed to staff that there was a home occupation although each time Mr.
2 Anderson was asked staff was informed that no home occupation existed on the property. He said that the
3 evidence bears that there is activity which appears as a home occupation and the Board could require this as
4 a condition and it would be helpful.

5
6 Ms. Capel stated that if the variances are granted for Mr. Anderson to place all of his materials for the home
7 occupation inside then perhaps he should have a home occupation permit registered with the County.

8
9 Mr. Hall stated that the home occupation application should be completed at the same time that he completes
10 the Zoning Use Permit Application. He said that special condition A. should be revised to include the
11 completion of the home occupation application.

12
13 Mr. Passalacqua asked if it were a home occupation which part of the vehicles and trailers would be required
14 to be stored inside.

15
16 Mr. Hall stated that a trailer and vehicle, when it's outside, in his view is that it is parked but storing a
17 concrete mixer on a trailer outside is definitely storage and is not parking. He said that no more than one
18 commercial vehicle is allowed for a home occupation and it can be no more than 25 feet in length and no
19 more than 36,000 pounds. He said that if Mr. Anderson has a trailer connected to a vehicle and the
20 combination of the two is no more than 25 feet long then it is considered one vehicle. He said that if the
21 vehicle and the trailer are parked separately then it is arguably two vehicles. He said that he has lost track of
22 the number of vehicles that have been mentioned. He said that the Boy Scout activities constitutes a home
23 occupation even though he is not doing it for income because it is an activity and it is different than just
24 living there and it brings things to the property that should be thought of as a home occupation. He said that
25 he needs more time to consider the number of vehicles. He said that my impression is that recently the bus
26 has not been kept at the property permanently therefore it is incidental and infrequent.

27
28 Mr. Passalacqua asked if we have basically started a second case.

29
30 Mr. Hall stated that he is not ready to state that at this time.

31
32 Mr. Thorsland asked if staff needs time to work on special condition A.

33
34 Mr. Hall stated that he believes that the home occupation condition is fine but what remains to be seen is if
35 the number of vehicles can be kept within those limits. He said that there could be a need for a variance in
36 the future for the number of vehicles but the petitioner has not requested such at this time and staff has not
37 received enough hard evidence to prove that a variance is absolutely necessary and what he is most
38 concerned about is going forward rather than worrying about what has happened in the past.

39
40 Mr. Thorsland read revised special condition A.

1 A. **Within 30 days of a Final Determination for Case 715-V-12 the petitioner shall**
2 **complete Zoning Use Permit Application No. 74-12-03 and complete a Neighborhood**
3 **Home Occupation Application in conformation with the Final Determination.**

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

6
7 **That the existing structures received proper approvals.**

8
9 Mr. Thorsland asked Mr. Anderson if he agreed to revised special condition A.

10
11 Mr. Anderson stated yes.

12
13 Mr. Thorsland stated that the details of that and the vehicles that Mr. Hall discussed is not relevant to this
14 condition but is relevant to the enforcement of the home occupation permit.

15
16 Mr. Courson asked if it is determined that Mr. Anderson is operating a Neighborhood Home Occupation and
17 he is not registered would he be non-compliant at that point and if he is non-compliant can the Board issue a
18 variance on a property that is non-compliant.

19
20 Mr. Hall stated that the Board can issue a variance if part of the variance is correcting that non-compliance,
21 which it will.

22
23 Mr. Thorsland entertained a motion to approve the special conditions as amended.

24
25 **Mr. Courson moved, seconded by Mr. Palmgren to approve the special conditions as amended. The**
26 **motion carried by voice vote.**

27
28 Mr. Hall stated that the following items should be added to the Documents of Record: 19. Supplemental
29 Memorandum dated December 13, 2012; and 20. Email from Teri and Howard Carr received December 13,
30 2012; and 21. Letter from William and Clarice Behrens submitted by Patricia Belleville at the December 13,
31 2012, public hearing.

32
33 Mr. Thorsland entertained a motion to extend the meeting to 10:00 p.m.

34
35 **Finding of Fact for Case 715-V-12:**

36
37 From the documents of record and the testimony and exhibits received at the public hearing for Zoning Case
38 715-V-12 held on June 18, 2012, August 30, 2012, October 11, 2012, and December 13, 2012, the Zoning
39 Board of Appeals of Champaign County finds that:

40
41 1. **Special conditions and circumstances DO exist which are peculiar to the land or**

1 **structure involved, which are not applicable to other similarly situated land and**
2 **structures elsewhere in the same district.**

3
4 Mr. Palmgren stated that special conditions and circumstances DO exist which are peculiar to the land or
5 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
6 same district because the subject property is a small corner lot with sloped ground on the east side of the
7 property. He said that corner lot setback requirements are additional requirements.

8
9 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
10 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of**
11 **the land or structure or construction.**

12
13 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
14 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
15 or construction because without the variance the petitioner cannot construct a shed large enough to store the
16 materials that need to be stored inside of it.

17
18 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
19 **result from actions of the applicant.**

20
21 Ms. Capel stated that special conditions, circumstances, hardships, or practical difficulties DO NOT result
22 from actions of the applicant because the topography and the fact that it is a corner lot are what affect the
23 buildable area.

24
25 Mr. Courson stated that there is a utility easement along the east property line which prohibits construction
26 within it reducing the buildable area.

27
28 **4. The requested variance, subject to the proposed special condition, IS in harmony with**
29 **the general purpose and intent of the Ordinance.**

30
31 Ms. Capel stated that the requested variance, subject to the proposed special condition, IS in harmony with
32 the general purpose and intent of the Ordinance because it allows for permitted use of the property.

33
34 **Ms. Capel moved, seconded by Mr. Miller to extend the meeting to 10:00 p.m. The motion carried by**
35 **voice vote.**

36
37 **5. The requested variance, subject to the proposed special condition, WILL NOT be**
38 **injurious to the neighborhood or otherwise detrimental to the public health, safety, or**
39 **welfare.**

40
41 Mr. Miller stated that the requested variance, subject to the proposed special condition, WILL be injurious to

1 the neighborhood or otherwise detrimental to the public health, safety, or welfare because based on
2 testimony from neighbors and from a realtor, existing property values may be reduced.

3
4 Mr. Hall noted that if one of the findings is not supportive of granting the variance the variance cannot be
5 approved.

6
7 Ms. Capel stated that the requested variance, subject to the proposed special condition, WILL NOT be
8 injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the
9 intent of granting the variance with the condition imposed requiring the Neighborhood Home Occupation
10 will improve the character of the property, especially in regard to the storage of vehicles and construction
11 materials.

12
13 Mr. Miller stated that even though that may be the intent there has been nothing suggesting that such will
14 happen because he has seen nothing but neglect. He said that dating back to June 28, 2012, the Board has
15 seen little progress in improving the property and relocating vehicles, trailers and construction materials.

16
17 Mr. Passalacqua stated that he agreed with Mr. Miller.

18
19 Mr. Thorsland stated that the variance does not relate to the vehicles, except for the parking which is
20 addressed in the condition. He said that the Board needs to think more about the variance and how it applies
21 to the shed. He said that he understands Mr. Miller's point but the Board needs to make sure that it is
22 consistent with the case. He said that the Board addressed the requirement for a home occupation and a
23 Zoning Use Permit Application in special condition A. and addressed the parking of the vehicles.

24
25 Mr. Hall reminded the Board that it is well documented that there are at least nine other instances in the
26 neighborhood where there are sheds located in the utility easement therefore by no means is Mr. Anderson's
27 shed the only one.

28
29 Mr. Courson asked Mr. Hall if the conditions would give staff more power to enforce any violations. He
30 said that whether the Board grants the variance or not staff is going to receive calls and visits will be
31 required for enforcement.

32
33 Mr. Hall stated absolutely. He said that getting the home occupation is a big improvement and he thought
34 that Mr. Anderson needed a home occupation from day one. He said that, as the special condition that the
35 Board mentioned in the first finding, this is a corner lot and the petitioner does not need a variance for lot
36 coverage limit because it is well within the lot coverage limit it's just the fact that so much of the lot is not
37 buildable. He said that the Board is aware of the fact the variances for accessory buildings are granted often
38 and, yes, this is a bigger footprint than most but there is no limit on how large an accessory building can be
39 in terms of building area because the Ordinance does not control that. He said that the building is well
40 within the limit for height. He said that if the Board is successful in controlling the outdoor storage, because
41 now there will be a home occupation which prohibits outdoor storage unless there is a variance, and if we are

1 successful it isn't that the petitioner can't park five feet from the lot line it is that they have to be five feet
2 from the lot line. He said that at one time the County Board tried to add a prohibition on parking in yards and
3 could not get it done therefore the County has no prohibition from someone parking in their yard provided
4 that they are five feet from the lot line. He said that the way the Board is headed towards these conditions
5 things are going to improve a lot but not everything is going to change. He said that the Board could deny
6 the variance and still could not do anything about vehicles being parked five feet from the lot line.
7

8 Ms. Capel stated that the Board isn't going to do anything about the shed either, other than Mr. Anderson
9 may move this wall four feet and that wall a few feet to meet the requirements. She said that the best effect
10 that the Board can have at this time is to grant the variance with special conditions.
11

12 Mr. Hall stated that it is a corner lot and the second setback takes away a lot of buildable area and there is
13 very little backyard to manage. He said that it is the Board's finding but with the one finding as it is the
14 variance cannot be approved.
15

16 Mr. Thorsland stated that Mr. Hall makes a good point and Mr. Miller makes a good point and he is sure that
17 Mr. Anderson has heard those points but this is a somewhat odd situation in that by granting the variance
18 would make the situation on the property better.
19

20 Mr. Miller stated that the problem is that the current condition of the property is already injurious to the
21 neighborhood. He said that hopefully granting the variance will improve the property.
22

23 Ms. Capel stated that in order to approve the variance the finding for #5 needs to indicate WILL NOT.
24

25 Mr. Thorsland stated that Ms. Capel is correct because in order to grant the variance all of the findings need
26 to be positive.
27

28 Mr. Miller stated that he does not believe WILL NOT is accurate but he does understand what needs to be
29 done.
30

31 Mr. Thorsland stated that one of the big tools for enforcement on the property is the home occupation.
32

33 Mr. Hall stated that the home occupation is a separate requirement so it can be enforced. He said that if the
34 Board wants to deny this variance, even though he does not believe that the Board would be in a strong legal
35 position due to all the other instances of the other buildings in the neighborhood like this even though some
36 are smaller and shorter, the Board needs to do what the Board believes is right. He said that he does not
37 want the Board to believe that it has to approve the variance to get the home occupation into compliance.
38

39 Mr. Passalacqua asked Mr. Hall to explain to him why, since everyone is doing it, makes it okay.
40

41 Mr. Hall stated that the point is that since everyone else is doing it the only way to prove that the Board is

1 being fair is to make everybody else remove their shed from the easement as well. He said that the Board
 2 must be aware that making everybody else remove their shed from the easement is going to take some time
 3 but it will be done. He said that if the Board believes that the finding is accurate then the Board should deny
 4 the variance and the case will be over.

5
 6 Mr. Passalacqua stated that staff is complaint driven therefore what gives staff the best tool to make this a
 7 better situation. He said that he agrees with Mr. Miller in that this is injurious to the district but the goal is to
 8 make it better for everyone and with the variance and the home occupation, does the Zoning Administrator
 9 have the tools to make this a better situation.

10
 11 Mr. Hall stated that he believes that the main issue for this case is that everyone does not live with the same
 12 values and there is no way that the Board can make that happen and shouldn't even try. He said that if the
 13 Board believes that the variance is unreasonable, given all of the other variances that this Board has worked
 14 on, then finding #5 is accurate.

15
 16 Mr. Miller stated that his statement regarding the progress of relocating the trailers, vehicles and construction
 17 materials can be deleted.

18
 19 Mr. Hall stated that Mr. Miller is correct. He said that little progress to date is irrelevant because we are not
 20 trying to penalize the petitioner for what he has or has not done but set the rules to guarantee that things will
 21 get better.

22
 23 Ms. Capel stated that granting the variance with the conditions will improve the conditions on the property.

24
 25 Mr. Thorsland stated that everyone has a valid point but the intent of the variance is to make things better
 26 and the intent of the condition is to give some teeth in making things better. He said that the home
 27 occupation is only one of those teeth and Mr. Hall stated that the home occupation can be obtained anyway.
 28 He said that the variance forces permits for the building and the petitioner has agreed to remove part of the
 29 subject building and the other accessory building.

30
 31 Mr. Kass read the finding for #5 as follows: Based on testimony from neighbors and from a realtor, existing
 32 property values may be reduced. The intent of granting the variance with conditions is to improve the
 33 property.

34
 35 **6. The requested variance, subject to the proposed special conditions, IS the minimum**
 36 **variation that will make possible the reasonable use of the land/structure.**

37
 38 Ms. Capel stated that the requested variance, subject to the proposed special conditions, IS the minimum
 39 variation that will make possible the reasonable use of the land/structure because it allows for the shed to be
 40 the size necessary to store the items that need to be stored inside it.

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7. The special conditions imposed herein are required 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 and complete a Neighborhood Home Occupation Application in conformation with the Final Determination.

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

That the existing structures received 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.

Mr. Thorsland entertained a motion to approve the Findings of Fact as amended.

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Ms. Capel moved, seconded by Mr. Courson to approve the Findings of Fact 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 Fact as amended.

Mr. Courson moved, seconded by Mr. Palmgren to adopt 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 for Case 715-V-12..

Mr. Courson moved, seconded by Ms. Capel to move to the final determination for Case 715-V-12. The motion carried by voice vote.

Final Determination for Case 715-V-12:

Ms. Capel moved, seconded by Mr. Palmgren that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C HAVE 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 WITH CONDITIONS to the petitioner John Behrens Estate & Anne and Denny Anderson to authorize a rear yard of 1 foot in lieu of the minimum required 5 feet in the R-1 Single Family Zoning District. Subject to the following special conditions:

- 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 and complete a Neighborhood Home Occupation Application in conformation 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.**

1 **D. No parking is authorized within 5 feet of the south lot line.**

2
3 Mr. Thorsland requested a roll call vote.

4
5 The roll was called:

6
7 **Capel-yes Courson-yes Miller-yes**
8 **Palmgren-yes Passalacqua-yes Thorsland-yes**

9
10 Mr. Hall informed Mr. Anderson that he has received an approval for his request. He said that in order to
11 keep the project moving staff will be in contact with the appropriate paperwork for completion.

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

18
19 **Case 725-V-12 Petitioner: Daniel Williams Request to authorize the following in the CR Conservation-**
20 **Recreation Zoning District for a Special Use proposed in Case 707-S-12: Part A. Variance for a rear**
21 **yard of 0 feet in lieu of the minimum required 25 feet; and Part B. Variance for a side yard of 0 feet in**
22 **lieu of the minimum required 15 feet; and Part C. Variance from a minimum separation from a front**
23 **property line for parking spaces of 0 feet in lieu of the minimum required 10 feet. Location: The same**
24 **5.2 acre tract identified in Case 707-S-12 that is part of a 35 acre tract in the Southeast Quarter of the**
25 **Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453**
26 **CR 600E, Dewey.**

27
28 Mr. Thorsland apologized to Mr. Williams and indicated that the Board only has approximately five minutes
29 left until the end of the meeting. He said that the Board can continue the case to the January 17, 2013,
30 meeting.

31
32 Mr. Williams stated that a continuance to January 17, 2013, would be fine.

33
34 Mr. Thorsland entertained a motion to continue Cases 707-S-12 and 725-V-12 to the January 17, 2013,
35 meeting.

36
37 **Mr. Courson moved, seconded by Mr. Miller to continue Cases 707-S-12 and 725-V-12 to the January**
38 **17, 2013, meeting. The motion carried by voice vote.**

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40 **6. New Public Hearings**

41 None

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7. Staff Report

Mr. Hall distributed the Draft 2013 Zoning Board of Appeals Calendar for the Board’s review. He said that April 11th would normally be a ZBA meeting date but staff is aware that the meeting room will not be available therefore no ZBA meeting is scheduled for that date. He said that there will only be one ZBA meeting held in April. He said that there is only one ZBA meeting scheduled in November due to the Thanksgiving holiday. He said that staff has included a ZBA on December 26th. He said that the Board may decide to keep the December 26th meeting on the calendar and end up cancelling it at a later date or just remove it because it is an unrealistic date.

Mr. Hall stated that the calendar will be placed on the January 17, 2013, meeting agenda for approval.

8. Other Business

A. October and November 2012 Monthly Reports

Mr. Hall distributed the October 2012 Monthly Report for the Board’s review.

B. Review of Docket

C. Zoning Case Closeout Progress Report

Mr. Kass stated that due to the time span between meetings he has made significant progress in completing approved finding of facts. He said that the approved findings of fact require review and signature from the Chair.

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

None

10. Adjournment

Mr. Thorsland entertained a motion to adjourn the meeting.

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

The meeting adjourned at 10:00 p.m.

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Respectfully submitted

Secretary of Zoning Board of Appeals

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 **1776 E. Washington Street**

4 **Urbana, IL 61802**

5 **DATE: January 17, 2013**

6 **PLACE: Lyle Shields Meeting Room**
7 **1776 East Washington Street**
8 **Urbana, IL 61802**

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

10 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren, Brad
11 Passalacqua, Roger Miller

12 **MEMBERS ABSENT :** None

13 **STAFF PRESENT :** Connie Berry, John Hall, Andrew Kass

14 **OTHERS PRESENT :** Jedd Swisher, Daniel Williams, Earl Williams, Dean Rose, Chris Barshney

15 **1. Call to Order**

16 The meeting was called to order at 6:33 p.m.

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

18 The roll was called and a quorum declared present with one member absent and one vacant Board
19 seat.

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

23 **3. Correspondence**

24 None

DRAFT

25 **4. Approval of Minutes (September 19, 2012 and October 24, 2012)**

26 Mr. Passalacqua moved, seconded by Mr. Miller to approve the September 29, 2012 and October 24,
27 2012, minutes as submitted. The motion carried by voice vote.

28 **5. Continued Public Hearing**

29 **Case 707-S-12 Petitioner: Daniel Williams and landowner Fran Williams Request to authorize the**

1 **Newcomb Township and commonly known as the home at 2453 CR 600E, Dewey.**

2
3 **Case 725-V-12 Petitioner: Daniel Williams Request to authorize the following in the CR Conservation-**
4 **Recreation Zoning District for a Special Use proposed in Case 707-S-12: Part A. Variance for a rear**
5 **yard of 0 feet in lieu of the minimum required 25 feet; and Part B. Variance for a side yard of 0 feet in**
6 **lieu of the minimum required 15 feet; and Part C. Variance from a minimum separation from a front**
7 **property line for parking spaces of 0 feet in lieu of the minimum required 10 feet. Location: The same**
8 **5.2 acre tract identified in Case 707-S-12 that is part of a 35 acre tract in the Southeast Quarter of the**
9 **Northeast Quarter of Section 36 of Newcomb Township and commonly known as the home at 2453**
10 **CR 600E, Dewey.**

11
12 Mr. Thorsland called Cases 707-S-12 and 725-V-12 concurrently.

13
14 Mr. Thorsland informed the audience that Cases 707-S-12 and 725-V-12 are Administrative Cases and as
15 such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time
16 he will ask for a show of hands for those who would like to cross examine and each person will be called
17 upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any
18 questions. He said that those who desire to cross examine are not required to sign the witness register but
19 are requested to clearly state their name before asking any questions. He noted that no new testimony is to
20 be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the
21 ZBA By-Laws are exempt from cross examination.

22
23 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
24 sign the witness register for that public hearing. He reminded the audience that when they sign the
25 witness register they are signing an oath.

26
27 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

28
29 Mr. Dan Williams stated that he is seeking a permit to allow the continued use of his existing paintball
30 facility.

31
32 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated January 17, 2013,
33 for Cases 707-S-12 and 725-V-12. He said that the new memorandum includes new information submitted
34 by the petitioner on January 15, 2013, regarding the following: 1. Purple paint has been put on trees to
35 indicate no hunting or trespassing; and 2. Referees are wearing orange during state regulated hunting
36 seasons; and 3. One-third of the woven wire fence has been installed; and 4. One-fifth of the bunkers have
37 been rebuilt for the floodplain area. Mr. Hall stated that the petitioner also provided a revised Firemark
38 Paintball Orientation, which is a handout that is provided to each player. Mr. Hall said that the first
39 paragraph of the Orientation includes the following notes: Note 1: Trespassing onto neighboring properties
40 is strictly prohibited! Make point about woven fence; and Note 2: There is target shooting on adjacent
41 properties. Furthermore, hunting occurs on adjacent properties during state regulated hunting seasons.

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Mr. Hall stated that staff has proposed to update the description of the site plan and the operations and revise Item 5 of the Summary of Evidence. He said that in previous versions of the Summary of Evidence for Cases 707-S-12 and 725-V-12 they were slightly different but obviously this is the same site plan and same operations therefore the item 5.C. should be the same for both cases. He said that Item 5.B. should indicate the revised site plan submitted on January 15, 2012 and new Item 5.B(15) should read as follows: The proposed location of the existing 14' x 60' mobile home in playing Field #2 is proposed to be 142 feet from the north property line; and new Item 5.B(16) should read as follows: An indication that a fence 4 feet in height will run along the side and rear property lines for the length of the playing fields.

Mr. Hall noted that the Board should remember to obtain conclusive evidence regarding whether or not there is in fact a 15 foot side yard proposed along the north lot line. He said that staff believes that there is a 15 foot side yard proposed along the north lot line but no documentation has been received from the petitioner to indicate such.

Mr. Hall asked Mr. Andrew Kass, Associate Planner, if there was any additional information regarding the site plan.

Mr. Kass stated that to assure compliance with the side yard requirement the petitioner needed to indicate the distance of the mobile home, which is proposed to be placed in the playing field, to the north property line.

Mr. Hall stated that the Summary of Evidence for both cases includes new Items 5.D(10) and 5.D(11) as follows: Item 5.D(10): Trespass onto neighboring properties is strictly prohibited; and Item 5.D(11): Target shooting and hunting during state regulated hunting seasons occurs on adjacent properties. He said that Item 5.E.2 of the Summary of Evidence for both cases has been revised as follows: A rope will be used to delineate the property boundaries. On January 15, 2013, the petitioner indicated in an update to staff that a woven wire fence is being installed to delineate the property boundaries.

Mr. Hall stated that the last attachment to the January 17th memorandum is an e-mail dated January 12, 2013, from Timothy Woodard, former neighbor of the subject property. Mr. Hall said that Mr. Woodard's e-mail is in response to the January 11, 2013, Supplemental Memorandum, which indicated that no new information had been submitted by the petitioner. Mr. Hall stated that Mr. Woodard's e-mail is no longer relevant since the petitioner did submit an update on January 15th and it was distributed to the Board.

Mr. Hall stated that the Board will be using the Draft Summary of Evidence dated December 13, 2012, for each case.

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

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

1 Mr. Thorsland asked Mr. Williams if a fence will be installed 15 feet from the north property line or is a rope
2 going to be installed 15 feet from the north property line.

3
4 Mr. Williams stated that it is his understanding that the 15 feet was supposed to be for the border and a rope
5 from the inside of that. He said that he has not completed the measurement yet because he is only 2/3rd's
6 done with the installation but he would guess that it is 15 feet. He said that he would hope to have the final
7 1/3rd of the installation completed tomorrow. He said that once entire fence along the back half and the side
8 is completed he will measure off 15 feet and install the rope border. He said that the original rope that
9 already exists is almost 15 feet from the property line already. He said that he does not have a rope in Field
10 #1 therefore he must continue the existing rope into that playing field.

11
12 Mr. Thorsland asked the Board if there were any further questions for Mr. Williams and there were none.

13
14 Mr. Thorsland asked if staff had any questions for Mr. Williams.

15
16 Mr. Hall stated that the description of Case 725-V-12 included a Part B, indicates a variance for a side yard
17 of zero feet in lieu of the minimum required 15 feet. He said that it is up to the Board whether or not Part B.
18 is still required but he does not know that installation of the rope and allowing players to cross the rope once
19 they are out of the game is a valid reason to not require it. He said that Part B could remain with the
20 understanding that there is a rope and playing activities are not supposed to be closer than 15 feet from the
21 property line but once a player is tagged out the area beyond the rope can be used. He said that he does not
22 believe that a full variance is needed but maybe a partial variance.

23
24 Mr. Thorsland asked the Board if they would be interested in explaining such in Orientation at a Note 3.

25
26 Mr. Williams stated that technically this information is already in there and if it is not written it is discussed.
27 He said that if a player steps outside of the rope boundary line they are automatically out of the game.

28
29 Mr. Thorsland asked Mr. Williams if the referees understood the rule as well.

30
31 Mr. Williams stated that the referees absolutely understand the rules and they do enforce them. He said that
32 once a player steps outside of the rope they are not allowed to shoot because they are eliminated. He said
33 that during the discussions the players are told that even though they are eliminated their barrel covers and
34 safety should be on and if they are close to a referee they are reminded to keep their masks on.

35
36 Mr. Thorsland called Earl Williams to testify.

37
38 Mr. Earl Williams, who resides at 2453 CR 600E, Dewey, stated that he has no new information to add at
39 this time.

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

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2 Mr. Thorsland asked if staff had any questions for Mr. Williams and there were none.
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4 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Williams and there was no one.
5
6 Mr. Thorsland called Chris Barshney to testify.
7
8 Mr. Chris Barshney, who resides at 606 W. Louisiana, Champaign, stated that he is a volunteer referee for
9 the paintball facility and is available to answer any questions that the Board may have regarding these cases.
10
11 Mr. Thorsland asked Mr. Barshney if he wore an orange vest during the state hunting season.
12
13 Mr. Barshney stated yes. He said that he wore a blaze orange vest and mask.
14
15 Mr. Thorsland asked Mr. Barshney if he understood the Board's previous conversation regarding the
16 variance requested in Part B. and that if a player steps outside of the rope they are eliminated.
17
18 Mr. Barshney stated that paintball is much like any other sport in that if a player steps outside of the
19 boundary they are eliminated.
20
21 Mr. Thorsland stated that the purple paint that has been discussed and placed on the property assists people
22 that may come onto the property that they may not trespass or hunt. He asked Mr. Barshney if the fence on
23 the property line is the part of the discussion with the players.
24
25 Mr. Barshney stated yes. He said that he has been assisting Mr. Williams with the installation of the woven
26 wire fence and Mr. Williams has painted all of the trees along the property line with purple paint.
27
28 Mr. Thorsland asked the Board if there were any questions for Mr. Barshney and there were none.
29
30 Mr. Thorsland asked if staff had any questions for Mr. Barshney and there were none.
31
32 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Barshney and there was no one.
33
34 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
35 regarding these cases and there was no one.
36
37 Mr. Thorsland closed the witness register.
38
39 Ms. Capel arrived at 6:48 p.m.
40
41 Mr. Thorsland stated that the Board will now review the Finding for Case 707-S-12. He said that the

1 Supplemental Memorandum dated January 17, 2013, includes proposed and revised evidence.

2

3 Mr. Williams read a letter dated August 11, 2012, from Carl and James Breedlove, adjacent land owners to
4 the subject property, as follows: "Let it be known by all interested parties that Carl and Jim Breedlove
5 condone and approve the use of Earl and Fran Williams farmland for use up to our property line including
6 the identified County 25 foot setback area by Firemark Paintball, owned and operated by Dr. Daniel
7 Williams. This approval is given freely without compensation, coercion, or any restriction. It is understood
8 that there will be players shooting paintballs, lasers, etc. also that there may be obstacles (bunkers) and other
9 apparatus in the area." Mr. Williams submitted the letter as a Document of Record. He said that he has
10 known Mr. Breedlove for many years and they have come to an agreement that during hunting season Mr.
11 Breedlove is out of his wooded area by 10:00 a.m. and Mr. Williams' players can begin after 10:00 a.m. He
12 noted that the letter is mainly in regards to Part A.

13

14 Mr. Hall asked Mr. Williams if he had received this letter in August, 2012, but only submitted it to the Board
15 tonight.

16

17 Mr. Williams stated that the date of the letter is August, 2012 but James Breedlove is on the road a lot and it
18 has been difficult to catch him on a weekend when he could sign the letter.

19

20 Mr. Thorsland clarified that the letter was written in August, 2012 but James and Carl Breedlove were just
21 now able to sign it.

22

23 Mr. Williams stated yes.

24

25 Mr. Hall stated that revised Item 5, as indicated in the January 17, 2013, Supplemental Memorandum should
26 replace existing Item 5 included in the Summary of Evidence dated December 13, 2012, and renumbered as
27 necessary.

28

29 Mr. Thorsland stated that the Board will now review the proposed special conditions. He said that no new
30 additions have been proposed to the special conditions.

31

32 Mr. Kass agreed, although special condition #13 should be revised to indicate October 31, 2013, and not
33 October 31, 2012.

34

35 Mr. Thorsland informed Mr. Williams that he will read the special conditions and Mr. Williams can simply
36 indicate his agreement or disagreement.

37

38 Mr. Williams stated that it has been a while since he has reviewed the special conditions and would
39 appreciate review of those conditions with the Board.

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41 Mr. Thorsland read Special Condition A:

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- 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.

Mr. Williams indicated that he agreed to Special Condition A.

Mr. Thorsland read Special Condition B:

- 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.

Mr. Williams indicated that he agreed to Special Condition B.

Mr. Thorsland read Special Condition C.

- 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.

Mr. Williams indicated that he agreed to Special Condition C.

Mr. Thorsland read Special Condition D.

- D. Regarding structures and obstacles in the floodplain:**

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- (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.

Mr. Williams indicated that he agreed to Special Condition D.

Mr. Thorsland read Special Condition E.

- 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.

Mr. Williams indicated that he agreed to Special Condition E.

Mr. Thorsland read Special Condition F.

- 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.

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Mr. Williams indicated that he agreed to Special Condition F.

Mr. Thorsland read Special Condition G.

- 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.

Mr. Williams indicated that he agreed to Special Condition G.

Mr. Thorsland read Special Condition H.

- H. No later than October 31, 2013, 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.

Mr. Williams indicated that he agreed to Special Condition H.

Mr. Thorsland read Special Condition I.

- 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.

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Mr. Williams requested clarification of Special Condition I.

Mr. Hall stated that when a new special use is authorized a Change of Use Permit is required to record the use in a permit. He said that the Change of Use Permit can be combined with the Zoning Use Permit that is discussed in Special Condition J.

Mr. Kass noted that the Change of Use and Zoning Use Permit are processed through the Planning and Zoning Department and not the ZBA.

Mr. Williams indicated that he agreed to Special Condition I.

Mr. Thorsland read Special Condition J.

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.

Mr. Williams indicated that he agreed to Special Condition J.

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

Mr. Miller moved, seconded by Mr. Palmgren to approve the special conditions as read. The motion carried by voice vote.

Mr. Hall stated that the following items should be added to the Documents of Record: 17. Supplemental Memorandum for Cases 707-S-12 and 725-V-12 dated January 11, 2013; and 18. Supplemental Memorandum for Cases 707-S-12 and 725-V-12 dated January 17, 2013, with attachments: A. Progress Update received January 15, 2013; and B. Firemark Paintball Orientation received January 15, 2013; and C. Revised site plan received January 15, 2013; and D. E-mail from Timothy Woodard dated January 12, 2013. He said that new item 20 should be added as follows: Statement from Carl Breedlove and James Breedlove received January 17, 2013.

Finding of Fact for Case 707-S-12:

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, December 13, 2012, and January 17, 2013, the Zoning

1 Board of Appeals of Champaign County finds that:

2

3 **1. The requested Special Use Permit, subject to the special conditions imposed herein,**
4 **IS necessary for the public convenience at this location.**

5

6 Mr. Palmgren stated that the requested Special Use Permit, subject to the special conditions imposed herein,
7 IS necessary for the public convenience at this location because it is the only facility of its kind in
8 Champaign County and the facility will bring business to the County.

9

10 Mr. Courson stated that the facility is located in the CR District which offers a topographical layout with its
11 trees as covers and open fields which is conducive to a paintball business.

12

13 Mr. Thorsland stated that the facility offers programs for local youth organizations.

14

15 Mr. Kass read the Board’s findings as follows: 1. It is the only facility of its kind located in Champaign
16 County and will provide business to the County; and 2. It is located in a CR District and it offers conditions
17 that are conducive to the paintball business by providing open fields and tree cover; and 3. It offers programs
18 for local youth organizations.

19

20 Mr. Hall noted that there is one other paintball facility in Champaign County but it is located within the
21 jurisdiction of St. Joseph. He said that the Board can leave the finding as indicated or insert
22 “unincorporated” into finding.

23

24 The Board agreed to revise the finding as follows: 1. It is the only facility of its kind located in
25 unincorporated Champaign County and will provide business to the County.

26

27 **2. The requested Special Use Permit, subject to the special conditions imposed herein, is**
28 **so designed, located, and proposed to be operated so that it WILL NOT be injurious to**
29 **the district in which it shall be located or otherwise detrimental to the public health,**
30 **safety and welfare because:**

31

32 **a. The street has ADEQUATE traffic capacity and the entrance location has**
33 **ADEQUATE visibility.**

34

35 Mr. Courson stated that the street has ADEQUATE traffic capacity and the entrance location has
36 ADEQUATE visibility.

37

38 **b. Emergency services availability is ADEQUATE.**

39

40 Mr. Palmgren stated that emergency services availability is ADEQUATE.

41

1 **c. The Special Use WILL be compatible with adjacent uses.**

2
3 Mr. Courson stated that the Special Use WILL be compatible with adjacent uses.

4
5 **d. Surface and subsurface drainage will be ADEQUATE.**

6
7 Mr. Palmgren stated that surface and subsurface drainage will be ADEQUATE because drainage patterns
8 will be relatively unchanged.

9
10 **e. Public safety will be ADEQUATE.**

11
12 Ms. Capel stated that public safety will be ADEQUATE.

13
14 **f. The provisions for parking will be ADEQUATE.**

15
16 Mr. Palmgren stated that the provisions for parking will be ADEQUATE.

17
18 **g. The property IS SUITED OVERALL for the proposed improvements.**

19
20 Mr. Courson stated that the property IS SUITED OVERALL for the proposed improvements.

21
22 **h. Existing public services ARE available to support the proposed Special Use**
23 **without undue public expense.**

24
25 Ms. Capel stated that existing public services ARE available to support the proposed Special Use without
26 undue public expense.

27
28 **i. Existing public infrastructure together with the proposed development IS**
29 **adequate to support the proposed development effectively and safely without**
30 **undue public expense.**

31
32 Mr. Courson stated that existing public infrastructure together with the proposed development IS adequate to
33 support the proposed development effectively and safely without undue public expense.

34
35 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
36 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in
37 which it shall be located or otherwise detrimental to the public health, safety and welfare.

38
39 **3a. The requested Special Use Permit, subject to the special conditions imposed herein,**
40 **DOES conform to the applicable regulations and standards of the DISTRICT in which**
41 **it is located, subject to Case 725-V-12.**

1
2 Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein,
3 DOES conform to the applicable regulations and standards of the DISTRICT in which it is located, subject
4 to Case 725.-V-12.

- 5
6 **3b. The requested Special Use Permit, subject to the special conditions imposed herein,**
7 **DOES preserve the essential character of the DISTRICT in which it is located because:**
8 **a. The Special Use will be designed to CONFORM to all relevant County**
9 **Ordinances and codes, subject to Case 725-V-12.**

10
11 Mr. Passalacqua stated that the Special Use will be designed to CONFORM to all relevant County
12 Ordinances and codes, subject to Case 725-V-12.

- 13
14 **b. The Special Use WILL be compatible with adjacent uses.**

15
16 Mr. Passalacqua stated that the Special Use WILL be compatible with adjacent uses.

- 17
18 **c. Public safety will be ADEQUATE.**

19
20 Mr. Courson stated that public safety will be ADEQUATE.

21
22 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,
23 DOES preserve the essential character of the DISTRICT in which it is located.

- 24
25 **4. The requested Special Use Permit, subject to the special conditions imposed herein, IS**
26 **in harmony with the general purpose and intent of the Ordinance because:**

- 27
28 **a. The Special Use is authorized in the District**

- 29
30 **b. The requested Special Use Permit IS necessary for the public convenience at this**
31 **location.**

32
33 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
34 location.

- 35
36 **c. The requested Special Use Permit, subject to the special conditions imposed**
37 **herein, is so designed, located, and proposed to be operated so that it WILL**
38 **NOT be injurious to the district in which it shall be located or otherwise**
39 **detrimental to the public health, safety and welfare.**

40
41 Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein,

1 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in
2 which it shall be located or otherwise detrimental to the public health, safety and welfare.

- 3
4 **d. The requested Special Use Permit, subject to the special conditions imposed**
5 **herein, DOES preserve the essential character of the DISTRICT in which it is**
6 **located.**

7
8 Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein,
9 DOES preserve the essential character of the DISTRICT in which it is located.

10
11 Mr. Passalacqua stated that the requested Special Use Permit, subject to the special conditions imposed
12 herein, IS in harmony with the general purpose and intent of the Ordinance.

- 13
14 **5. The requested Special Use IS NOT an existing nonconforming use.**

15
16 Mr. Hall stated that "subject to Case 725-V-12" should be added to findings 3a. and 3.b(a) and the Board
17 agreed.

- 18
19 **6. The special conditions imposed herein are required to ensure compliance with the**
20 **criteria for Special Use Permits and for the particular purposes described below:**

21
22 **A. Regarding State of Illinois accessibility requirements:**

23 **(1) An accessible portable toilet shall be provided;**

24 **(2) The petitioner shall provide a paved accessible parking space with appropriate**
25 **markings and a paved accessible route to the paintball area when the existing**
26 **parking area is expanded or resurfaced as indicated by Doug Gamble,**
27 **Accessibility Specialist, Illinois Capital Development Board.**

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

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

- 31
32 **B. All obstacles used in the play of paintball shall be removed from the property if the**
33 **business ceases operations for longer than 180 consecutive days unless the business is**
34 **being actively marketed for sale.**

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

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

- 37
38 **C. Enclosed gaming structures intended to be temporarily occupied by players shall not be**
39 **larger than 150 square feet in area except that the mobile home may be modified for**
40 **use as a gaming structure in playing field #2, as depicted on the approved site plan.**

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

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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:

1 To prevent patrons from trespassing onto neighboring properties and to ensure that
2 patrons are aware that hunting occurs on adjacent properties.

3
4 **H. No later than October 31, 2013, the petitioner shall mark trees or install marked posts
5 along the side and rear property lines with purple paint in accordance with Illinois
6 Public Act 97-0477 and allow inspection by the Zoning Administrator.
7 The special condition stated above is required to ensure the following:
8 To prevent trespass from neighboring properties.**

9
10 **I. A Change of Use Permit shall be applied for within 30 days of the approval of Cases
11 707-S-12 and 725-V-12 by the Zoning Board of Appeals.
12 The above special condition is required to ensure the following:
13 The establishment of the proposed use shall be properly documented as required by the
14 Zoning Ordinance.**

15
16 **J. A Zoning Use Permit Application for the semi-trailer utilized for storage shall be
17 applied for within 30 days of the approval of Cases 707-S-12 and 725-V-12 by the
18 Zoning Board of Appeals.
19 The above special condition is required to ensure the following:
20 That the storage structure is in compliance with the Zoning Ordinance.**

21
22 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Finding
23 of Facts as amended.

24
25 **Mr. Palmgren moved, seconded by Mr. Courson to adopt the Summary of Evidence, Documents of
26 Record and Findings of Fact as amended. The motion carried by voice vote.**

27
28 Mr. Thorsland entertained a motion to move to the Final Determination for Case 707-S-12.

29
30 **Mr. Courson moved, seconded by Ms. Capel to move to the Final Determination for Case 707-S-12.
31 The motion carried by voice vote.**

32
33 **Final Determination for Case 707-S-12:**

34
35 **Mr. Courson moved, seconded by Mr. Miller that the Champaign County Zoning Board of Appeals
36 finds that, based upon the application, testimony, and other evidence received in this case, the
37 requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted
38 by Section 9.1.6B of the Champaign County Zoning Ordinance determines that the Special Use
39 requested in Case 707-S-12 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicants to
40 Daniel Williams and landowner Fran Williams to authorize the use of an existing Paintball Facility as
41 an "Outdoor Commercial Recreational Enterprise" as a Special Use, subject to the following special**

1 conditions:

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- 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 (1) Paintball referees shall wear blaze orange clothing at all times while refereeing
- 2 paintball games.
- 3 (2) The petitioner shall coordinate with neighboring property owners during
- 4 hunting seasons regarding when and where hunters will be on neighboring
- 5 property so that the petitioner can alter the operational hours of the paintball
- 6 park if hunters will be in the immediate vicinity during business hours.
- 7 (3) The proposed Special Use shall be void if any injuries to patrons, employees, or
- 8 volunteers of the paintball park are the result of gunfire (rifles, handguns,
- 9 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.

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14
15 **G. As soon as possible the petitioner shall revise the Firemark Paintball Orientation**

- 16 **overview/ handout to include the following information and send a copy of the revised**
- 17 **handout to the Zoning Administrator:**
- 18 (1) **Trespassing onto neighboring property is strictly prohibited.**
- 19 (2) **Hunting occurs on adjacent properties during State regulated hunting seasons.**
- 20 (3) **The petitioner shall provide a copy of the revised Orientation handout/overview**
- 21 **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.

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25
26 **H. No later than October 31, 2013, 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.

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32 **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.

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38 **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.

Mr. Thorsland requested a roll call vote.

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

Mr. Hall informed the petitioner that he has received an approval for Case 707-S-12.

Mr. Thorsland stated that the Board will now review the Summary of Evidence for Case 725-V-12.

Mr. Hall stated that a new Item #5.C.(2)(a) be added to the description of the variance included in the December 13, 2012, Finding of Fact. He said that new Item #5.C.(2)(a) should read as follows: Testimony received at the January 17, 2013, public hearing petitioner Dan Williams testified that play will not be closer than 15 feet of the north property line but once a player is tagged out they can cross the rope and stand in the 15 foot side yard. Mr. Hall stated that the addition of new Item # 5.C.(2)(a) will assure that the petitioner’s testimony was captured and would make it clear that there is really only a partial variance for the 15 foot side yard and applies to the active play and does not apply to a player that has been tagged out.

Mr. Thorsland asked the Board if they agreed to Mr. Hall’s suggested new item of evidence and the Board agreed.

Mr. Thorsland read proposed Special Condition A as follows:

- A. The petitioner and any future owner of Firemark Paintball shall have in place and maintain a rope 15 feet from only the north property line to delineate the exterior boundaries of the play fields at all times and a 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.

Mr. Williams indicated that he agreed to proposed Special Condition A.

Mr. Thorsland entertained a motion to approved Special Condition A, as amended.

Mr. Passalacqua moved, seconded by Mr. Courson to approve Special Condition A, as amended. The motion carried by voice vote.

Mr. Thorsland stated that the Documents of Record for Case 725-V-12 are identical to the Documents of Record for Case 707-S-12 and staff will amend Case 725-V-12 accordingly.

1 Mr. Kass stated that Mr. Thorsland was correct.

2

3 **Finding of Fact for Case 725-V-12:**

4

5 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
6 725-V-12 held on September 13, 2012, December 13, 2012, and January 17, 2013, the Zoning Board of
7 Appeals of Champaign County finds that:

8

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

12

13 Mr. Thorsland stated that special conditions and circumstances DO exist which are peculiar to the land or
14 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
15 same district because removing 25 feet from the back of the property would take a substantial amount of area
16 from play which is necessary for the paintball business to operate and moving the fields in would require
17 productive farmland to be utilized for play.

18

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

22

23 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of the
24 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
25 or construction because it would limit the size of the playing fields.

26

27 Ms. Capel stated that by carrying out the strict letter of the regulations would cause the desirable terrain to
28 not be usable for play.

29

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

32

33 Ms. Capel stated that special conditions, circumstances, hardships, or practical difficulties DO NOT result
34 from actions of the applicant because the play fields utilize the terrain and natural features that would
35 otherwise be located in the minimum required rear yard.

36

37 Mr. Thorsland stated that the playing fields are located on non-productive land, therefore not taking any
38 active farmland out of production.

39

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

1
2 Mr. Thorsland stated that the requested variance, subject to the proposed special condition, IS in harmony
3 with the general purpose and intent of the Ordinance because there will still be more than 600 feet to the
4 nearest dwelling and that landowner has provided a letter of approval for the proposed variance.

- 5
6 **5. The requested variance, subject to the proposed special condition, WILL NOT be**
7 **injurious to the neighborhood or otherwise detrimental to the public health, safety, or**
8 **welfare.**
9

10 Mr. Miller stated that the requested variance, subject to the proposed special condition, WILL NOT be
11 injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because the
12 existing activities are non-invasive to bordering properties and will not create any health or safety issues.

13
14 Mr. Courson stated that the petitioner has constructed fencing to prevent trespass onto the neighboring
15 properties.

16
17 Ms. Capel stated that the petitioner notifies patrons that trespass is prohibited.

- 18
19 **6. The requested variance, subject to the proposed special condition, IS the minimum**
20 **variation that will make possible the reasonable use of the land/structure.**
21

22 The Board had no comments for Finding #6.

- 23
24 **7. The special condition, imposed herein is required for the particular purpose described**
25 **below:**
26

- 27 **A. The petitioner and any future owner of Firemark Paintball shall have in place**
28 **and maintain a rope 15 feet from only the north property line to delineate the**
29 **exterior boundaries of the play fields at all times and a 4 feet tall woven wire**
30 **fencing with signs stating “DO NOT GO BEYOND FENCE” to indicate the end**
31 **of the property as indicated on the approved site plan.**

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

33 **To prevent trespass of Firemark Paintball patrons onto neighboring properties.**
34

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

37
38 **Mr. Courson moved, seconded by Mr. Miller to adopt the Summary of Evidence, Documents of**
39 **Record and Finding of Facts as amended. The motion carried by voice vote.**
40

41 Mr. Thorsland entertained a motion to move to the Final Determination for Case 725-V-12.

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Ms. Capel moved, seconded by Mr. Courson to move to the Final Determination for Case 725-V-12. The motion carried by voice vote.

Final Determination for Case 725-V-12:

Mr. Courson moved, seconded by Mr. Miller that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted in Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County finds that the Variance requested in Case 725-V-12 is hereby GRANTED WITH CONDITIONS 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; and Part B. Variance for a side yard of zero 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 zero feet in lieu of the minimum required 10 feet, subject to the following special condition:

- A. The petitioner and any future owner of Firemark Paintball shall have in place and maintain a rope 15 feet from only the north property line to delineate the exterior boundaries of the play fields at all times and a 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.

Mr. Thorsland requested a roll call vote.

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

Mr. Hall informed the petitioner that he has received an approval for Case 725-V-12.

Mr. Thorsland stated that the Board will take a five minute recess prior to hearing Case 724-V-12.

The Board recessed at 7:42 p.m.

The Board resumed at 7:47 p.m.

6. New Public Hearings

Case 724-V-12 Petitioner: Jedd Swisher Request to authorize the following in the CR Conservation-Recreation Zoning District: Part A. Authorize the following on Lot 2 of Phillips Acres Subdivision:

1 **1. Variance for a lot area of .78 acre in lieu of the minimum required 1 acre; and 2. Variance for an**
2 **average lot width of 104.15 feet in lieu of the minimum required 200 feet; and 3. Variance to authorize**
3 **the use of Lot 2 separately from Lot 3 in lieu of the requirement that when two or more contiguous**
4 **lots that do not meet any dimensional, geometric, lot access or other standards are brought into**
5 **common ownership the lots shall be considered one lot, on the subject property. Part B. Authorize the**
6 **following on Lot 3 of Phillips Acres Subdivision: 1. Variance for a lot area of .77 acre in lieu of the**
7 **minimum required 1 acre; and 2. Variance for an average lot width of 104.40 feet in lieu of the**
8 **minimum required 200 feet; and 3. Variance to authorize the use of Lot 3 separately from Lot 2 in lieu**
9 **of the requirement that when two or more contiguous lots that do not meet any dimensional,**
10 **geometric, lot access or other standards are brought in to common ownership the lots shall be**
11 **considered one lot, on the subject property. Location: Lots 2 and 3 of Phillip's Acres Subdivision in**
12 **the Northeast Quarter of Section 12 of Urbana Township and commonly known as the dwelling at**
13 **1762 CR 1650N, Urbana.**

14
15 Mr. Thorsland informed the audience that Case 724-V-12 is an Administrative Case and as such the County
16 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
17 show of hands for those who would like to cross examine and each person will be called upon. He requested
18 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
19 that those who desire to cross examine are not required to sign the witness register but are requested to
20 clearly state their name before asking any questions. He noted that no new testimony is to be given during
21 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
22 exempt from cross examination.

23
24 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
25 sign the witness register for that public hearing. He reminded the audience that when they sign the
26 witness register they are signing an oath.

27
28 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

29
30 Mr. Jedd Swisher, who resides at 1762 CR 1650N, Urbana, stated that he owns the two lots which are the
31 subject of this case. He said that his twenty-two year old daughter has a five year old son and due to her
32 employment Mr. Swisher and his wife will care for their grandson during the week and on weekends. He
33 said that instead of his daughter getting a place somewhere else they decided that it would be better to build
34 a home on the empty lot next to their home. He said that the property is located within the St. Joseph School
35 District which is the district that his daughter desires for her son to attend.

36
37 Mr. Thorsland asked the Board if there were any questions for Mr. Swisher and there were none.

38
39 Mr. Thorsland asked if staff had any questions for Mr. Swisher and there were none.

40
41 Mr. Passalacqua asked Mr. Hall if any construction has occurred on the empty lot.

1

2 Mr. Hall stated no.

3

4 Mr. Hall stated that this is one of those rare cases where the facts are pretty simple. He said that this is an
5 old subdivision and the Land Use Map indicates that there are separate dwellings on almost every lot that
6 was platted. He said that he does not know how Mr. Swisher came to be the lucky owner of one of the lots
7 which remained vacant but the lot is not one acre and is does not have an average lot width of 200 feet
8 therefore the variances are required. Mr. Hall said that Mr. Swisher has provided evidence that he has
9 already received a septic permit for the vacant lot and there is plenty of buildable area outside of the mapped
10 floodplain. Mr. Hall stated that permitting a house on the vacant lot would prevent the use of farmland
11 anywhere else for a home. He said that this variance is very straight forward and the petitioner has done his
12 homework by obtaining the permit for the septic system.

13

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

15

16 Mr. Courson stated that he noticed that the site plan indicates that the water line which crosses the septic
17 field which is not allowed by the health department.

18

19 Mr. Swisher stated that he had Sims Well Drilling Company at the site yesterday and they informed him that
20 the water line would cross the new septic system and his existing septic system as well therefore the water
21 line will be directed to the front of the lot and then back to the new home. He said that he has not had a
22 chance to revise the site plan to indicate the new location of the water line.

23

24 Ms. Capel asked Mr. Swisher if there would be an issue with the shared well if both properties are sold.

25

26 Mr. Swisher stated no. He said that Sims Well Drilling Company informed him that the one well is capable
27 of supplying four homes with water service.

28

29 Mr. Kass stated that it is common practice for modern subdivisions to share a well and some even share
30 septic systems.

31

32 Mr. Swisher stated that he was informed by the Champaign County Health Department that both homes
33 could share the well but could not share the septic system.

34

35 Mr. Thorsland thanked Mr. Swisher for obtaining the septic permit and for not constructing anything on the
36 lot prior to this hearing.

37

38 Mr. Passalacqua asked Mr. Swisher if he could revise the annotated site plan tonight indicating the new
39 location for the water line.

40

41 Mr. Swisher stated yes. He said that he purchased Lot 3, his residence, from the deceased owner of Cross

1 Construction and four years later he purchased Lot 2 separately. He said that the two lots have separate real
2 estate tax bills therefore he believed that he had two separate buildable lots but when he visited the Planning
3 and Zoning Department he was informed that the lots were treated as one lot because he owned them both.
4

5 Mr. Passalacqua asked Mr. Kass if any communication from the neighbors has been received by staff.
6

7 Mr. Kass stated no.
8

9 Mr. Swisher stated that he spoke with his neighbors about his proposal and they indicated no opposition.
10

11 Ms. Capel stated that the proposed use of the lot would be within the characteristic of the neighborhood.
12

13 Mr. Thorsland stated that this is a better use for the vacant lot rather than utilizing productive farmland for a
14 home somewhere else in the County.
15

16 Mr. Thorsland asked the Board if there were any additional questions or comments for Mr. Swisher or staff
17 and there were none.
18

19 Mr. Thorsland read the proposed special condition as follows:

- 20 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate**
21 **for the proposed construction until the petitioner has received a Zoning Use**
22 **Permit for the existing shed on Lot 2.**

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

24 **That the storage structure is in compliance with the Zoning Ordinance.**
25

26 Mr. Swisher stated that the shed existed on the property when he purchased it. He said that Mr. Kass
27 informed him that a permit was required for the shed's construction and no permit was issued therefore
28 before a Zoning Compliance Certificate for the proposed house could be issued on Lot 2 he would need to
29 obtain a permit for the shed. He said that he intends to keep the shed for personal storage therefore he has no
30 issue with obtaining the permit.
31

32 Mr. Thorsland asked Mr. Swisher if he agreed to Special Condition A.
33

34 Mr. Swisher stated yes.
35

36 Mr. Thorsland entertained a motion to approve the condition as read.
37

38 **Mr. Passalacqua moved, seconded by Mr. Courson to approve Special Condition A as read. The**
39 **motion carried by voice vote.**
40

41 Mr. Thorsland stated that there are no new documents to add to the Documents of Record therefore the

1 Board will move the Findings of Fact.

2

3 **Findings of Fact for Case 724-V-12:**

4

5 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
6 724-V-12 held on January 17, 2013, the Zoning Board of Appeals of Champaign County finds that:

7

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

11

12 Mr. Courson stated that special conditions and circumstances DO exist which are peculiar to the land or
13 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
14 same district because the subdivision was platted prior to zoning in 1973.

15

16 Mr. Thorsland stated that no additional land is available on either side to allow room for expansion.

17

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

21

22 Mr. Courson stated that practical difficulties or hardships created by carrying out the strict letter of the
23 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
24 or construction because under the Zoning Ordinance the lot is non-conforming therefore no permit could be
25 issued, rendering the lot unbuildable.

26

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

29

30 Mr. Palmgren stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
31 result from actions of the applicant because the subdivision was platted in 1963 which was prior to zoning.
32 He said that the lot has an area located in the floodplain which limits the buildable area.

33

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

36

37 Mr. Thorsland stated that the requested variance, subject to the proposed special conditions, IS in harmony
38 with the general purpose and intent of the Ordinance because it allows construction consistent with the
39 surrounding area and does not force construction onto adjacent farmland.

40

- 41 **5. The requested variance, subject to the proposed special condition, WILL NOT be**

injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.

Mr. Passalacqua stated that the requested variance, subject to the proposed special condition, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the building is consistent with neighboring properties.

Mr. Thorsland stated that the petitioner has obtained a septic permit for the new construction on Lot 2 from the County Health Department.

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

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

7. The special condition imposed herein is required for the particular purpose described below:

A. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed construction until the petitioner has received a Zoning Use Permit for the existing shed on Lot 2.

The above special condition is required to ensure the following:

That the storage structure is in compliance with the Zoning Ordinance.

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

Mr. Palmgren moved, seconded by Mr. Courson to adopt 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 for Case 724-V-12.

Mr. Passalacqua moved, seconded by Mr. Courson to move to the Final Determination for Case 724-V-12. The motion carried by voice vote.

Final Determination for Case 724-V-12:

Mr. Courson moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C HAVE 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

1 **Champaign County determines that the Variance requested in Case 724-V-12 is hereby GRANTED**
 2 **WITH CONDITIONS to the petitioner Jedd Swisher to authorize the following in the CR**
 3 **Conservation Zoning District: Part A. Authorize the following on Lot 2 of Phillips Acres**
 4 **Subdivision: 1. Variance for a lot area of .78 acre in lieu of the minimum required 1 acre; and 2.**
 5 **Variance for an average lot width of 1.04.15 feet in lieu of the minimum required 200 feet; and 3.**
 6 **Variance to authorize the use of Lot 2 separately from Lot 3 in lieu of the requirement that when two**
 7 **or more contiguous lots that do not meet any dimensional, geometric, lot access or other standards are**
 8 **brought into common ownership the lots shall be considered on lot. Part B. Authorize the following**
 9 **on Lot 3 of Phillips Acres Subdivision: 1. Variance for a lot area of .77 acre in lieu of the minimum**
 10 **required 1 acre; and 2. Variance for an average lot width of 104.40 feet in lieu of the minimum**
 11 **required 200 feet; and 3. Variance to authorized the use of Lot 3 separately from Lot 2 in lieu of the**
 12 **requirement that when two or more contiguous lots that do not meet any dimensional, geometric, lot**
 13 **access or other standards are brought into common ownership the lots shall be considered one lot.**
 14 **Subject to the following special condition:**

15 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate**
 16 **for the proposed construction until the petitioner has received a Zoning Use**
 17 **Permit for the existing shed on Lot 2.**

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

19 **That the storage structure is in compliance with the Zoning Ordinance.**
 20

21 Mr. Thorsland requested a roll call vote.
 22

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

25
 26 Mr. Hall informed the petitioner that he has received an approval for Case 724-V-12.
 27

28 **7. Staff Report**

29
 30 None
 31

32 **8. Other Business**

33 **A. November and December 2012 Monthly Reports**

34 None

35 **B. Review of Docket**

36 Mr. Hall stated that currently staff is docketing for the March 28th meeting. He said that several text
 37 amendments will be heard at the next meeting.
 38

39 **C. Review and approval of 2013 ZBA Meeting Calendar**

40 Ms. Capel noted that she will be absent from the February 14, 2013, meeting.
 41

1 Mr. Thorsland requested that the Board review the calendar as submitted. He asked the Board if they
2 desired to cancel the December 26, 2013, meeting.

3
4 Ms. Capel stated that the Board normally cancels this meeting anyway therefore it would make sense to just
5 go ahead and cancel now so that it can be removed from the approved calendar.

6
7 Mr. Thorsland entertained a motion to cancel the December 26, 2013, meeting.

8
9 **Ms. Capel moved, seconded by Mr. Palmgren to cancel the December 26, 2013, meeting. The motion**
10 **carried by voice vote.**

11
12 Mr. Thorsland entertained a motion to approve the 2013 Planning and Zoning Calendar as amended.

13
14 **Ms. Capel moved, seconded by Mr. Passalacqua to approve the 2013 Planning and Zoning Calendar**
15 **as amended. The motion carried by voice vote.**

16
17 **9. Audience Participation with respect to matters other than cases pending before the Board**

18
19 None

20
21 **10. Adjournment**

22
23 Mr. Thorsland entertained a motion to adjourn the meeting.

24
25 **Mr. Courson moved, seconded by Mr. Palmgren to adjourn the January 17, 2013, meeting. The**
26 **motion carried by voice vote.**

27
28 The meeting adjourned at 8:17 p.m.

29
30
31
32 Respectfully submitted

33
34
35
36
37 Secretary of Zoning Board of Appeals

38
39
40
41

CASE NO. 738-S-12

PRELIMINARY MEMORANDUM

February 22, 2013

Petitioners: Terry W. Plampin

Champaign
County
Department of

PLANNING &
ZONING

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

(217) 384-3708

Site Area: 5 acres

Time Schedule for Development: **First Quarter 2013**

Prepared by: **Andy Kass**
Associate Planner

John Hall
Zoning Administrator

Request: Authorize a Therapeutic Riding Center as a "Riding Stable" as a Special Use with waivers of Special Use standard conditions for (1) a minimum fence height of 5 feet; (2) a minimum front setback of 55 feet from the centerline of CR 700E; and (3) a minimum front yard of 25 feet in the AG-1 Agriculture Zoning District.

Location: A 5 acre tract in the Southwest Quarter of the Northwest Quarter of the Northwest Quarter in Section 17 of Pesotum Township and commonly known as the home and buildings at 378 CR 700E, Pesotum.

BACKGROUND

The petitioner requests a Special Use Permit to authorize the operation of a Therapeutic Riding Center to provide equine assisted therapy by instructing individuals with physical, emotional, or mental disabilities/ailments how to ride horses. The proposed use will operate in an existing building that houses a 6-stall stable and the remaining portion will be converted to an indoor arena. This building was previously authorized by ZUPA No. 169-92-02 as an agricultural building. At times a fenced outdoor arena will be used as an area for dressage exercises. All horses used in the operation of the proposed use are owned by the petitioner and no horses will be brought from offsite. The only employees of the proposed use will be the petitioner and his wife, and volunteers will provide assistance on an as needed basis. The petitioner has indicated that the hours of operation will depend upon the availability of clients.

The animal waste is composted onsite using a compost bin. It is unclear whether the petitioner needs to register with the Illinois EPA (IEPA) regarding the composting of the manure. Staff has referred the petitioner to the IEPA to receive a determination.

REGISTRATION WITH THE ILLINOIS DEPARTMENT OF AGRICULTURE

With only 6 horses on site (one horse is being temporarily housed onsite) the stable is not required to meet setbacks, have a waste management plan, or have a livestock manager certification under the rules of the Illinois Live Stock Management Facilities Act. The Act does require that the petitioner file a notice of intent with the Department of Agriculture. Section 900.302 of the Act is as follows:

An owner or operator shall file, on a form provided by the Department, a notice of intent to construct for a livestock management facility or livestock waste handling facility with the Department prior to construction to establish a base date, which shall be valid for one year, for determination of setbacks in compliance with setback distances or, in the case of construction that is not a new facility or a facility of less than 50 animal units, with the maximum feasible location requirements of Section 35 of the Livestock Management Facilities Act. [510 ILCS 77/11(a)]

EXTRATERRITORIAL JURISDICTION

The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential	AG-1 Agriculture
	----- Agriculture	
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture
	----- Residential	

REQUESTED WAIVERS

The petitioner has requested a waiver from the minimum fencing requirement of: 5 feet high; posts equivalent to 4" x 4" timber located 8 feet apart with rails equivalent to 2" x 6" timber or wire stock panels 8 inches apart with three rails. The fencing of the outdoor arena is 4½ feet in height with wooden posts 12 feet on center with steel T-posts in between with 6½" x 7" wire fabric and a strand of high tensile wire and white electrified tape at the top on the north and west sides of the arena. The south and east sides of the arena consist of three strand high tensile electrified wire with white electrified tape at the top and steel T-posts. The pastures which are not proposed to be used in the operation of the proposed use on the subject property are fenced with steel T-posts and three strand high tensile electrified wire with white electrified tape at the top

The petitioner has also requested a waiver from the standard condition for a front setback of 55 feet and for a minimum front yard of 25 feet. The necessity for these waivers is not due to any existing or proposed structures, it is because during the use of the outdoor arena it is likely that riders will encroach into these areas.

PROPOSED SPECIAL CONDITIONS OF APPROVAL

- A. This Special Use Permit shall be void if the Therapeutic Riding Center has ceased operations for 12 consecutive months without the Therapeutic Riding Center 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.

-
- B. Clients of the Therapeutic Riding Center shall not be present on the subject property between the hours of 10 p.m. and 6 a.m.**

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

That the Therapeutic Riding Center does not have clients visiting the property at irregular hours of the day.

- C. A Change of Use Permit shall be applied for within 30 days of the approval of Case 738-S-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.

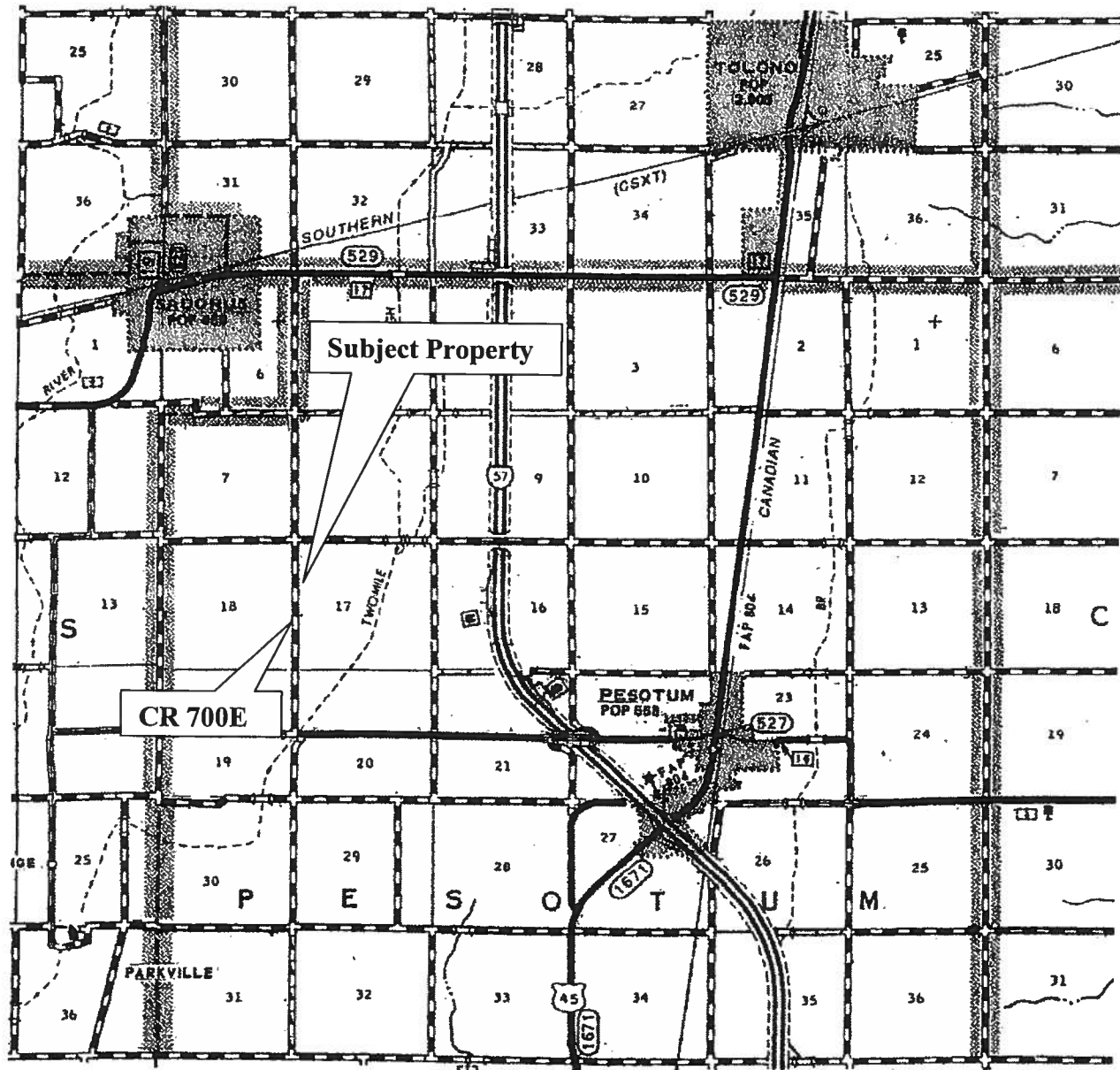
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received October 29, 2012 (included separately)
 - C Illinois Livestock Management Facilities Act General Requirements.
 - D Excerpt of the Illinois Livestock Management Facilities Act
 - E Site Visit Photos (included separately to the petitioner and Board members, photos are available on the County website)
 - F Draft Summary of Evidence, Finding of Fact, and Final Determination (included separately)
-

ATTACHMENT A. LOCATION MAP

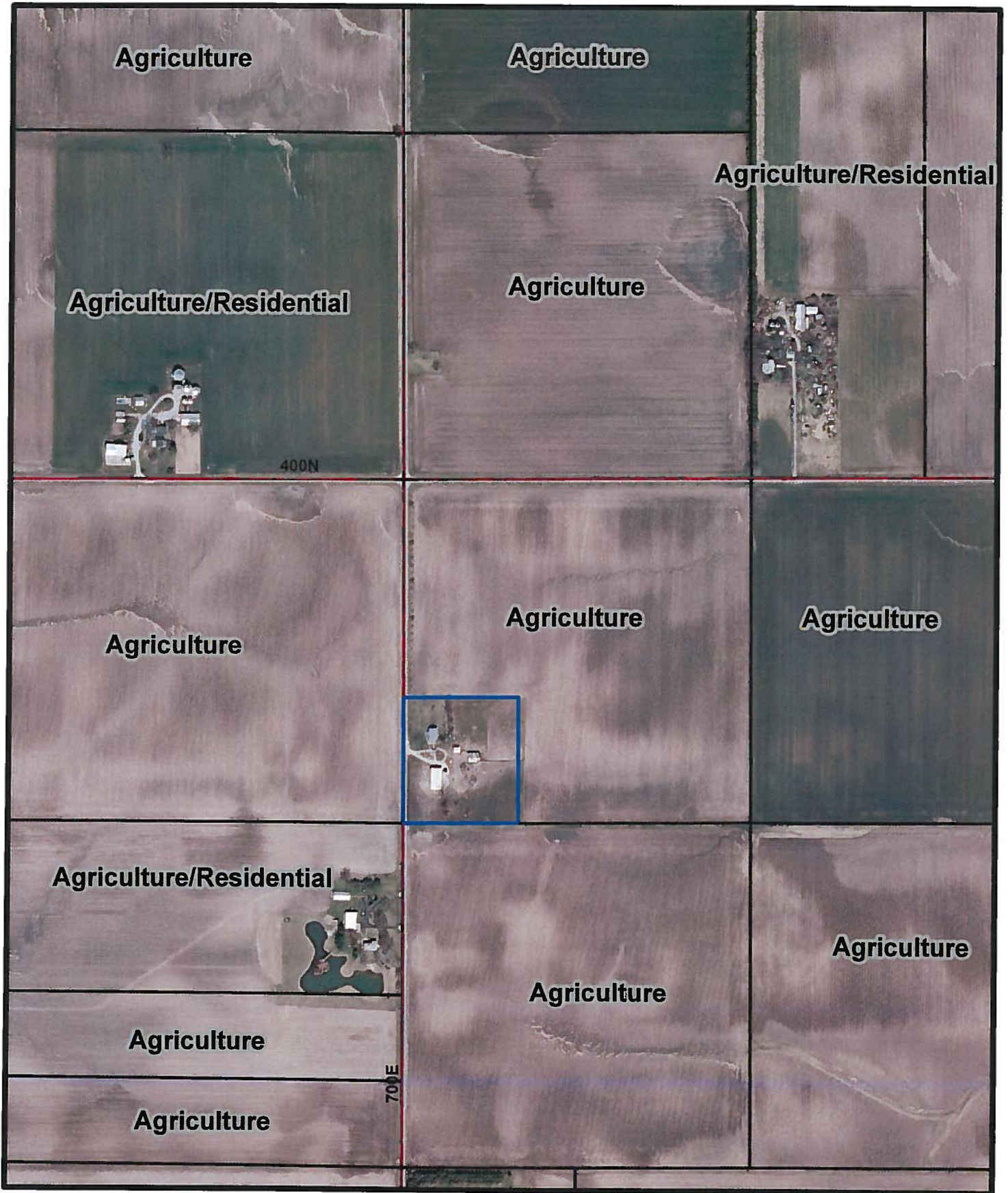
Case 738-S-12

February 22, 2013



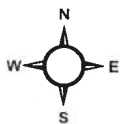
Champaign
County
Department of
**PLANNING &
ZONING**

Attachment A: Land Use Map
Case 738-S-12
February 22, 2013



 Subject Property

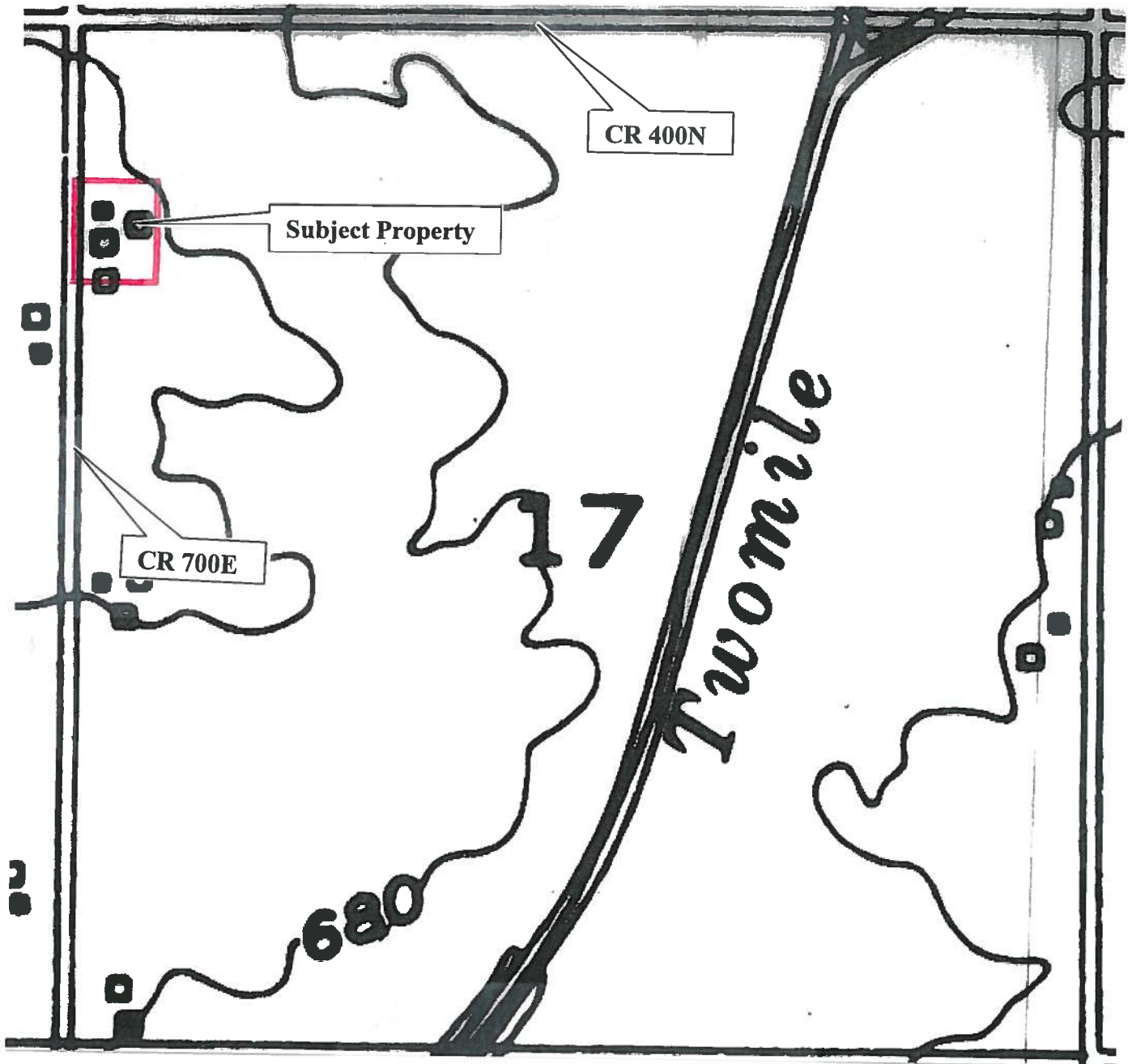
1 inch = 500 feet



ATTACHMENT A. ZONING MAP

Case: 738-S-12

February 22, 2013



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

Illinois Livestock Management Facilities Act (510 ILCS 77/et seq.)
General Requirements Related to Size of Facility

Number of Animal ¹ Units	Setbacks for New Facilities	Waste Management Plan	Livestock Manager Certification ³
Less than 50 animal units (less than 25 horses; or less than 50 cows; or less than 125 hogs over 55 lbs.)	Not Required	Not Required	Not Required
50 to 1,000 animal units (between 25 and 500 horses; or between 50 and 1,000 cows; or between 750 - 2,500 hogs)	1/4 Mile from Non-farm Residence 1/2 Mile from Populated Area ²	Not Required	Not Required
1,000 - 7,000 (between 500 to 3,500 horses; or 1,000 and 7,000 cows; or between 2,500 -17,500 hogs over 55 lbs.)	1/4 Mile + 220' for each additional 1,000 AU's from Non-farm Residence 1/2 Mile + 440' for each additional 1,000 AU's from Populated Area	General Plan Required (1,000 - 5,000 animal units) Detailed Plan Required (More than 5,000 animal units)	Training Required
More than 7,000 animal units (more than 3,500 horses; or more than 7,000 cows; or more than 17,500 hogs)	1/2 Mile from Any Residence 1 Mile from a Populated Area	Detailed Plan Required	Training Required
<p>NOTES:</p> <ol style="list-style-type: none"> 1. An Animal Unit is roughly equivalent to 1,000 lbs. of animal body weight. The Act specifies a conversion for different types of animals. 1,000 AU's is equivalent to 500 horses, 1,000 cows, 2,500 hogs over 55 lbs. or 33,300 hogs under 55 lbs. 2. A Populated Area is an area containing a public assembly use like a church or 10 or more non-farm dwellings. 3. Certain Livestock Management Facilities are required to be supervised by a certified livestock manager. 			

- 4) When such a decrease from the setbacks is requested, the Department must maintain a file which includes all supporting data and justification concerning the setback decrease. This file is subject to public inspection.

Section 900.203 Penalties

- a) For violations of the setback distance requirements, the Department may issue one of the following to the owner or operator of the livestock management facility or livestock waste handling facility:
 - 1) If during construction, a cease and desist order which prohibits further construction of the livestock management facility or livestock waste handling facility, prohibits entry of livestock into the livestock management facility, and prohibits use of the livestock waste handling facility; or
 - 2) An operational cease and desist order.
- b) A cease and desist order issued by the Department pursuant to subsection (a) of this Section shall be canceled by the Department pursuant to the following:
 - 1) Submission to the Department of a valid waiver as provided for in Section 900.202(g) of this Subpart by the livestock management facility owner or operator or the livestock waste handling facility owner or operator; or
 - 2) Verification by the Department of compliance with the appropriate setback distances as described in Section 35 of the Livestock Management Facilities Act [510 ILCS 77/35].

SUBPART C: NOTICE OF INTENT TO CONSTRUCT

Section 900.301 Applicability

This Subpart applies to any owner or operator who proposes to construct a livestock management facility or livestock waste handling facility.

Section 900.302 Filing

An owner or operator shall file, on a form provided by the Department, a notice of intent to construct for a livestock management facility or livestock waste handling facility with the Department prior to construction to establish a base date, which shall be valid for one year, for determination of setbacks in compliance with setback distances or, in the case of construction that is not a new facility or a facility of less than 50 animal units, with the maximum feasible location requirements of Section 35 of the Livestock Management Facilities Act. [510 ILCS 77/11(a)]

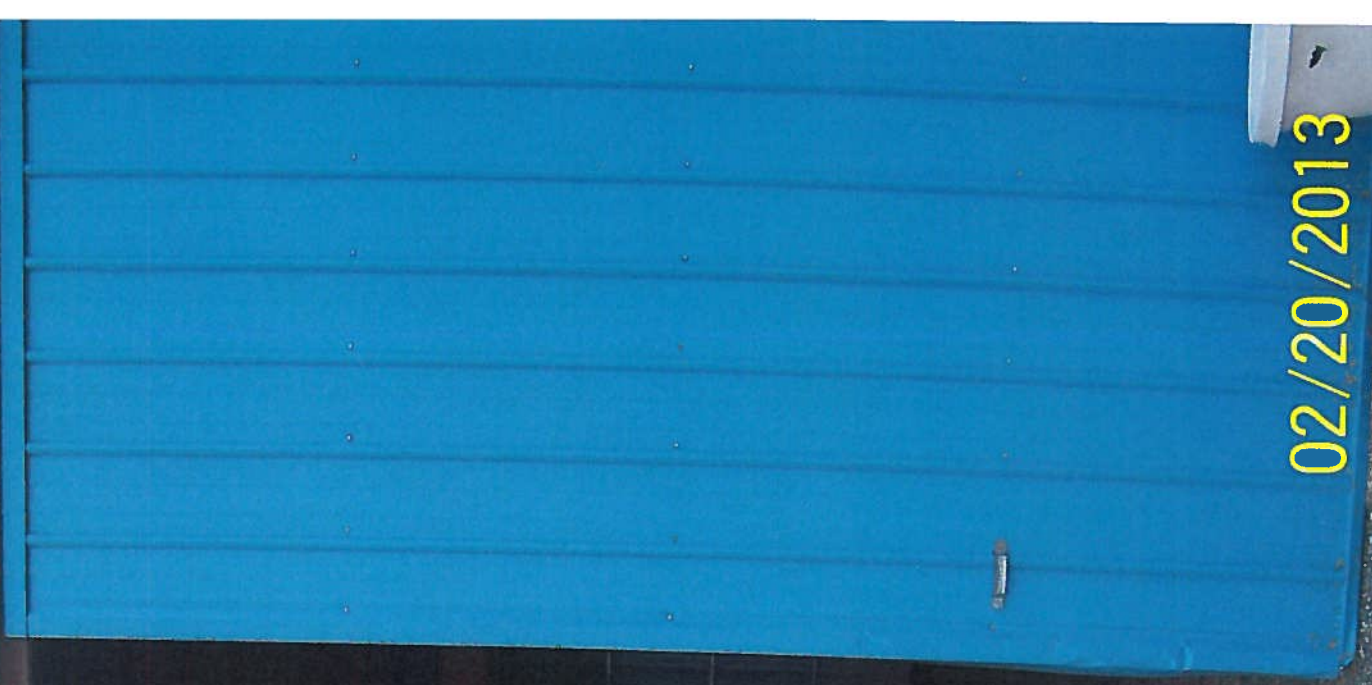
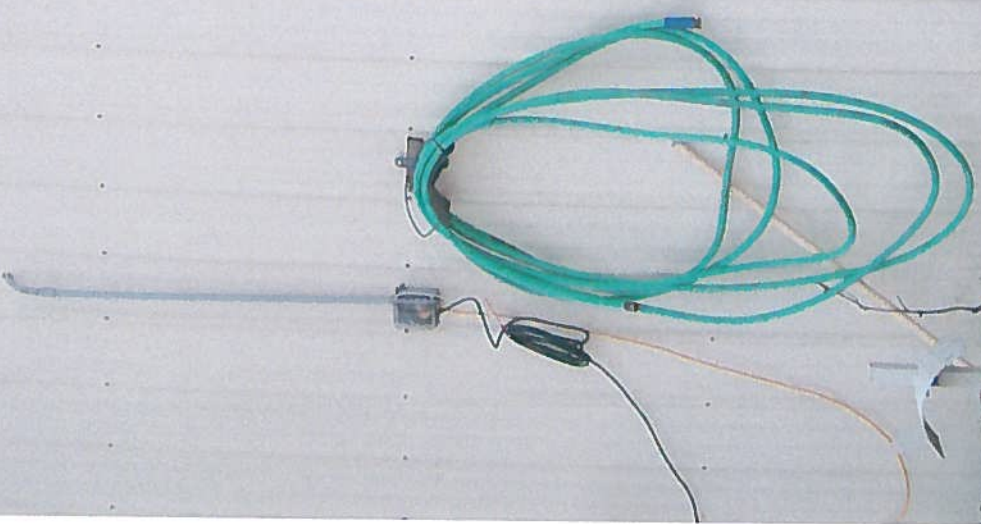
Section 900.303 Procedures

- a) The notice of intent to construct shall contain the following items:
 - 1) A legal description of the land on which the livestock facility will be constructed;



02/20/2013

02/20/2013

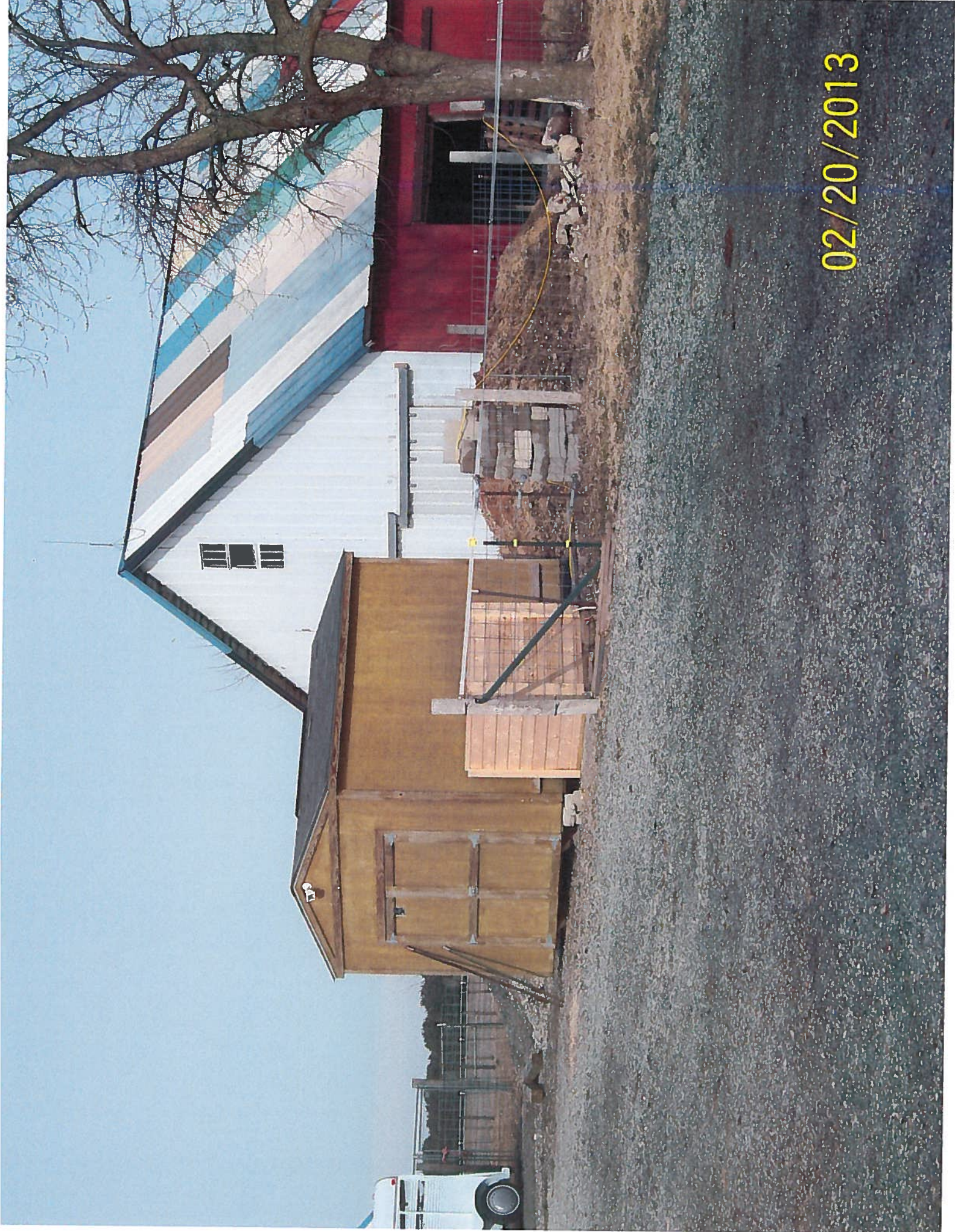




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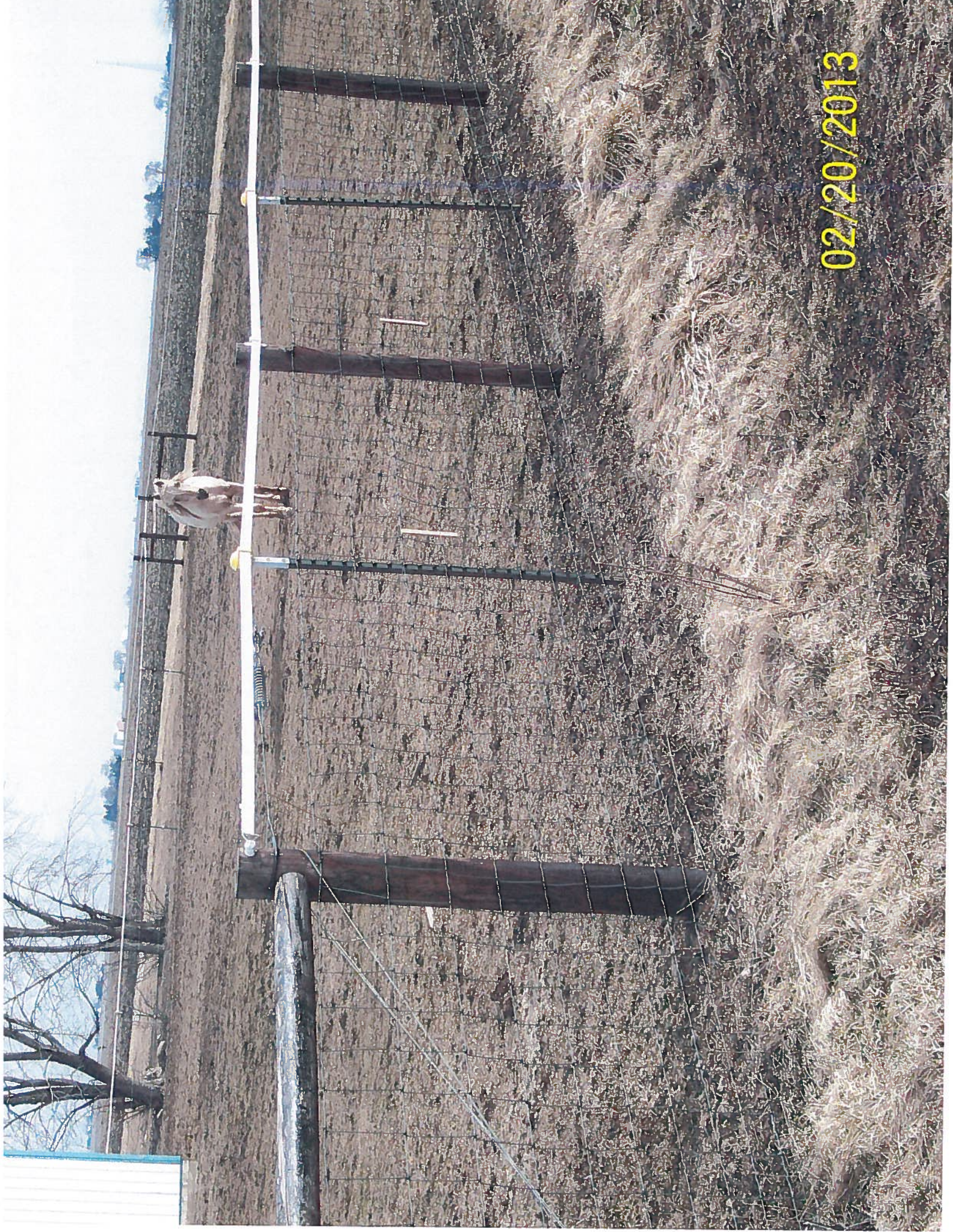




02/20/2013



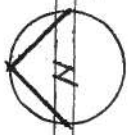
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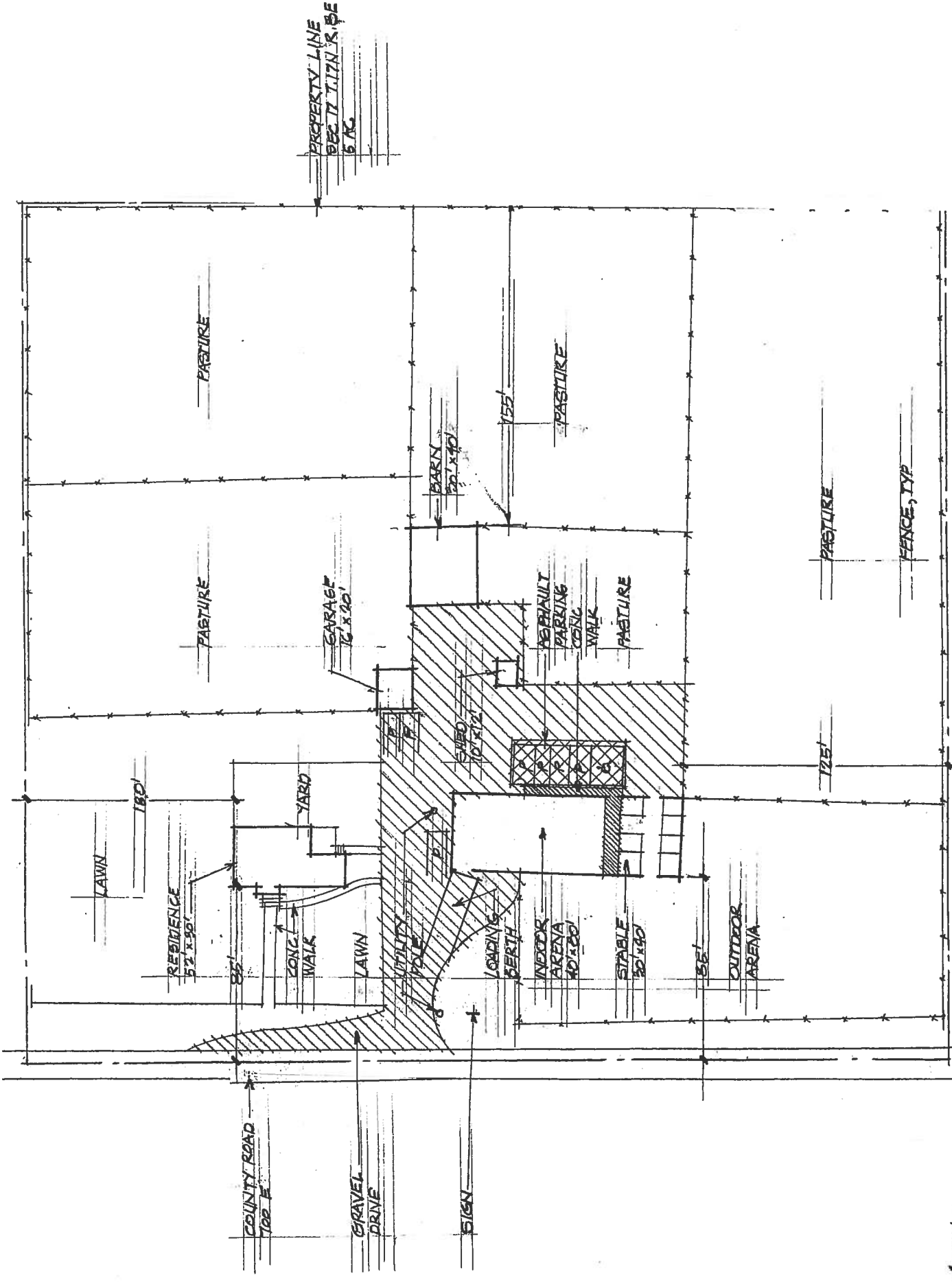
02/20/2013



02/20/2013



SCALE: 1"=40'
0 10 20 40 60



SITE PLAN FOR
HEALING HORSE STABLES

RECEIVED
OCT 29 2012
CHAMPAIGN CO. P & Z DEPARTMENT

PRELIMINARY DRAFT

738-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: February 28, 2013

Petitioners: Terry W. Plampin

Request: Authorize a Therapeutic Riding Center as a “Riding Stable” as a Special Use with waivers of Special Use standard conditions for:
(1) a minimum fence height of 5 feet;
(2) a minimum front setback of 55 feet from the centerline of CR 700E; and
(3) a minimum front yard of 25 feet in the AG-1 Agriculture Zoning District.

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6. Regarding necessary waivers of standard conditions:
- A. Regarding the requested waiver of the standard condition in Section 6.1.3 from the minimum required fencing requirements:
- (1) The waiver ***{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}*** in accordance with the general purpose and intent of the Zoning Ordinance and ***{WILL / WILL NOT}*** be injurious to the neighborhood or to the public health, safety, and welfare. ***{Because*}***:
 - (2) 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*}***:
 - (3) 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*}***:
 - (4) The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant. ***{Because*}***:
 - (5) The requested waiver ***{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure. ***{Because*}***:
- B. Regarding the requested waiver of the standard condition in Section 6.1.3 from the minimum required front setback for a Riding Stable:
- (1) The waiver ***{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}*** in accordance with the general purpose and intent of the Zoning Ordinance and ***{WILL / WILL NOT}*** be injurious to the neighborhood or to the public health, safety, and welfare. ***{Because*}***:
 - (2) 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*}***:
 - (3) 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*}***:
 - (4) The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant. ***{Because*}***:
-

PRELIMINARY DRAFT

- (5) The requested waiver ***{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure. ***{Because*}***:

- C. Regarding the requested waiver of the standard condition in Section 6.1.3 from the minimum required front yard for a Riding Stable:
 - (1) The waiver ***{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}*** in accordance with the general purpose and intent of the Zoning Ordinance and ***{WILL / WILL NOT}*** be injurious to the neighborhood or to the public health, safety, and welfare. ***{Because*}***:

 - (2) 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*}***:

 - (3) 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*}***:

 - (4) The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant. ***{Because*}***:

 - (5) The requested waiver ***{SUBJECT TO THE PROPOSED SPECIAL 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}***

*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 **738-S-12** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED }* to the applicant to **Terry W. Plampin** to authorize: a **Therapeutic Riding Center** as a “**Riding Stable**” as a Special Use with waivers of Special Use standard conditions for (1) a minimum fence height of 5 feet; (2) a minimum front setback of 55 feet from the centerline of CR 700E; and (3) a minimum front yard of 25 feet in the AG-1 Agriculture Zoning District.

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 28, 2013**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner Terry W. Plampin, 378 CR 700E, Pesotum, owns the subject property.
2. The subject property is a 5 acre tract in the Southwest Quarter of the Northwest Quarter of the Northwest Quarter in Section 17 of Pesotum Township and commonly known as the home and buildings at 378 CR 700E, Pesotum.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is zoned AG-1 Agriculture and is in agricultural/residential use.
 - B. Land on the north, south, east, and west of the subject property is also zoned AG-1 Agriculture and is in use as follows:
 - (1) Land on the north is in agricultural production.
 - (2) Land on the south is in agricultural/residential use.
 - (3) Land east of the subject property is in agricultural production.
 - (4) Land west of the subject property is in agricultural production.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding site plan and operations of the Therapeutic Riding Center:
 - A. The site plan received October 29, 2012, shows the entirety of the 5 acre subject property and indicates the following:
 - (1) The location of an existing 52' × 30' home.
 - (2) The location of an existing 110' × 40' shed with an indoor arena and a 6-stall horse stable that was originally authorized by ZUPA No. 169-92-02 as an agricultural building.
 - (3) The location of an existing 10' × 20' shed.
 - (4) The location of an existing 16' × 20' detached garage.

- (5) The location of an existing 30' × 40' barn.
 - (6) The locations of the proposed parking spaces and loading berth.
 - (7) The location of an outdoor arena and 5 pastures.
 - (8) The location of fencing surrounding the subject property.
- B. The petitioner has provided the following information regarding the operations of the proposed Special Use verbally to staff:
- (1) There will only be two employees, the petitioner and his wife.
 - (2) No horses will be brought from offsite to be used in the conduct of the proposed special use. There are currently 6 horses on the subject property, but only 5 of the horses are owned by the petitioner will be used in the operation of the proposed use. The sixth horse is owned by someone else and is only being kept on the property temporarily.
 - (3) The hours and days of operation of the proposed Special Use will depend upon the availability of clients.
 - (4) Activities of the proposed special use will only take place in the indoor arena and during favorable weather conditions in the outdoor arena where dressage activities are intended to take place.
 - (5) Manure from the horses is composted onsite in a compost bin.
 - (6) There is a possibility that a program with the Champaign Park District will be set-up for the Park District to bring 5-10 participants to the proposed use on Saturdays.
- C. The petitioner has requested the following waivers of standard conditions for a Riding Stable:
- (1) Waiver from the minimum fencing requirements.
 - (2) Waiver from the minimum required front setback of 55 feet from the centerline of the road.
 - (3) Waiver from the minimum required front yard of 25 feet from the street right-of-way.

- D. The subject property is considered BEST PRIME FARMLAND with a Land Evaluation (LE) rating of 100. The subject property consists of Drummer (152A) and Flanagan (154A) soils. The proposed Special Use does not intend to take any farmland out of agricultural production.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding authorization for a Riding Stable as a Special Use in the AG-1 Agriculture Zoning District in the *Zoning Ordinance*:
- A. Section 5.2 authorizes a Riding Stable as a Special Use in the CR Conservation-Recreation, AG-1 Agricultural, AG-2 Agriculture, and R-1 Single Family Residence 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 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 the following standard conditions for a Riding Stable:
- (a) 5 feet high; posts equivalent to 4" × 4" timber located 8 feet apart with rails equivalent to 2" × 6" timber or wire stock panels 8 feet apart with three rails.

- (b) Not permitted within 100 feet 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) “AGRICULTURE” is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.
 - (3) “BEST PRIME FARMLAND” is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
 - a. Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County LESA system;
 - b. Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA system;
 - c. Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils as determined by the Champaign County LESA system.
 - (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

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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) "STRUCTURE" is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
- (8) "STRUCTURE, ATTACHED" is a STRUCTURE connected to another STRUCTURE.
- (9) "STRUCTURE, DETACHED" is a STRUCTURE not connected to another STRUCTURE.
- (10) "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.
- (11) "SUITED OVERALL" is a discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be SUITED OVERALL if the site meets these criteria:
 - a. The site features or site location will not detract from the proposed use;
 - b. The site will not create a risk to health, safety, or property of the occupants, the neighbors or the general public.
 - c. The site is not clearly inadequate in one respect even if it is acceptable in other respects;
 - d. Necessary infrastructure is in place or provided by the proposed development; and
 - e. Available public services are adequate to support the proposed development effectively and safely.
- (12) "WELL SUITED OVERALL" is a discretionary review performance standard to describe the site on which a development is proposed. A site may be found WELL SUITED OVERALL if the site meets these criteria:
 - a. The site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public; and

- b. The site is reasonably well-suited in all respects and has no major defects.
- (13) “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.
- 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.
 - (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:

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- (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, **“Although there are riding stables, none are dedicated to providing equine assisted therapies.”**
 - B. The subject property is located approximately 3.2 road miles from U.S. 45 and approximately 5.6 road miles from the I-57 – U.S. 45 interchange.

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 property is surrounded by crop fields. The facility is completely fenced pasture save for the residence. Parking will be out of view of 700 Road.”**
 - B. Regarding surface drainage, surface drainage on the subject property should not change due to the proposed use because no additional structures are proposed. The property appears to drain to the east.
 - C. The subject property is accessed from CR 700E on the west side of the property. Regarding the general traffic conditions on CR 700E at this location and the level of existing traffic and the likely increase from the proposed Special Use:
 - (1) The Annual Average Daily Traffic (AADT) for CR 700E is 125 AADT.
 - (2) CR 700E is a Minor Street as indicated in the Champaign County Zoning Ordinance.
 - (3) Pavement width in front of the subject property is approximately 16 feet.
 - (4) The Township Highway Commissioner has been notified of this case.
 - (5) Regarding the proposed special use and the anticipated traffic impacts:
 - (a) A significant traffic increase is not expected to the subject property.
 - (6) The subject property is located approximately 3.2 road miles from U.S. 45 and approximately 5.6 road miles from the I-57 – U.S. 45 interchange.
 - D. Regarding fire protection of the subject property, the subject property is within the protection area of the Pesotum Fire Protection District and is located approximately 4.3 road miles from the fire station. The Fire Protection District Chief has been notified of this request, but no comments have been received at this time.
 - E. The subject property is not located within a Special Flood Hazard Area.
 - F. Regarding outdoor lighting on the subject property, no outdoor lighting has been indicated on the site plan.
 - G. Regarding wastewater treatment and disposal on the subject property:
 - (1) It is unclear how the petitioner intends to provide restroom facilities to clients.

- K. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
 - (a) The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
 - (b) The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
 - (c) The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
 - (d) Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
 - (e) Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
 - (f) The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required. There is no information regarding the cost of the pole barn that is used to house the farm dinners in inclement weather, so it is unclear if that will trigger the requirements of the IEBA.
 - (g) The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.

- (h) The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - (i) When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
 - (j) Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits 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.
- (2) Illinois Public Act 96-704 requires that in a non-building code jurisdiction no person shall occupy a newly constructed commercial building until a qualified individual certifies that the building meets compliance with the building codes adopted by the Board for non-building code jurisdictions based on the following:
- (a) The 2006 or later editions of the following codes developed by the International Code Council:
 - i.* International Building Code;
 - ii.* International Existing Building Code; and
 - iii.* International Property Maintenance Code
 - (b) The 2008 of later edition of the National Electrical Code NFPA 70.
- O. 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) A Riding Stable is authorized as a Special Use in the CR Conservation-Recreation, AG-1 Agricultural, AG-2 Agriculture, and R-1 Single Family Residence Zoning District.
 - (2) Regarding compliance with the standard conditions:
 - (a) The petitioner has requested a waiver of the minimum required fencing because the fence is 4½ feet in height and the fencing is a mixture of three stand high tensile electrified fencing with steel T-posts and wooden posts 12 feet on center with 6½” × 7” wire panels with metal T-posts in between.
 - (b) The petitioner has requested a waiver from the standard condition for minimum front setback and front yard because when the outdoor arena is being used the use may occur within the required setback of 55 feet or the front yard of 25 feet. No structures are proposed for this area so it would it would only be when the outdoor arena is being used
 - (3) All structures meet setback and front, side and rear yard requirements.
 - (4) Regarding parking for the proposed use:
 - (a) Riding Stables require one space per three horses boarded, one space for each horse trailer stored onsite, one for each riding arena, and one for each employee. Based on the proposed use 8 parking spaces are required and the petitioner has indicated 8 parking spaces on the site plan including an accessible space.
 - (b) One loading berth is required for the proposed use and there is ample area on the property for a loading berth. A loading berth has been indicated on the site plan.
 - (5) Regarding the maximum lot size on BEST PRIME FARMLAND, this 5 acre parcel existed on 1/1/1996 and is nonconforming.

- C. Regarding compliance with the *Stormwater Management Policy*:
 - (1) The proposed special use is exempt from the *Stormwater Management Policy* because no additional impervious area is proposed to be constructed.
- D. Regarding the Special Flood Hazard Areas Ordinance, no part of the subject property is located in the Special Flood Hazard Area.
- E. Regarding the Subdivision Regulations, the subject property is located in the Champaign County subdivision jurisdiction and no subdivision is proposed or required.
- F. Regarding the requirement that the Special Use preserve the essential character of the AG-1 Agriculture Zoning District:
 - (1) A Riding Stable is authorized as a Special Use in the CR Conservation-Recreation, AG-1 Agricultural, AG-2 Agriculture, and R-1 Single Family Residence Zoning District.
- 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.

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

- 10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
 - A. A Riding Stable is authorized as a Special Use in the CR Conservation-Recreation, AG-1 Agricultural, AG-2 Agriculture, and R-1 Single Family Residence Zoning District.
 - B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.14 of the Ordinance states the general intent of the AG-1 District and states as follows (capitalized words are defined in the Ordinance):

The AG-1, Agriculture DISTRICT is intended to protect areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURE pursuits.
 - (2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are

determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

- C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:
- (1) Paragraph 2.0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.
 - (a) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those requirements.
 - (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY. In regards to the value of nearby properties:
 - (a) A decrease in nearby property values is not expected as a result of the proposed Special Use.
 - (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:
 - (a) A significant increase in traffic is not anticipated as a result of the requested Special Use Permit.
 - (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) Stormwater runoff from the property onto adjacent properties should not be an issue and the proposed Special Use complies with the *Stormwater Management Policy*.
 - (b) The subject property is not located in the special flood hazard area.
 - (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 currently located in the AG-1 Agriculture District and is, by definition a rural use.

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

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The subject property does not contain any natural features other than best prime farmland and there are no natural features other than best prime farmland in the vicinity of the subject property.

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

The subject property is currently located in the AG-1 Agriculture District and is, by definition a rural use.

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

The subject property is currently located in the AG-1 Agriculture District and is, by definition a rural use.

- (13) Paragraph 2.0 (r) of the Ordinance states that one purpose of the Ordinance is providing for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The subject property is currently located in the AG-1 Agriculture 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, "N/A."

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed Special Conditions of Approval:
- A. **This Special Use Permit shall be void if the Therapeutic Riding Center has ceased operations for 12 consecutive months without the Therapeutic Riding Center 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.

- B. Clients of the Therapeutic Riding Center shall not be present on the subject property between the hours of 10 p.m. and 6 a.m.**

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

That the Therapeutic Riding Center does not have clients visiting the property at irregular hours of the day.

- C. A Change of Use Permit shall be applied for within 30 days of the approval of Case 738-S-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.

DOCUMENTS OF RECORD

1. Special Use Permit Application received October 29, 2012, with attachments:
 - A Warranty Deed
 - B Site Plan

2. Preliminary Memorandum dated February 22, 2013, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received October 29, 2012
 - C Illinois Livestock Management Facilities Act General Requirements.
 - D Excerpt of the Illinois Livestock Management Facilities Act
 - E Site Visit Photos
 - F Draft 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 738-S-12 held on February 28, 2012, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{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*}*:

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

And except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall also apply:

g. The property in BEST PRIME FARMLAND and the property with the proposed improvements *{IS/IS NOT}* WELL SUITED OVERALL.

- h. The existing public services *{ARE/ARE NOT}* available to support the proposed special use effectively and safely without undue public expense.
- i. The only existing public infrastructure together with proposed improvements *{ARE/ARE NOT}* adequate to support the proposed development effectively and safely without undue public expense.

*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: *}*

CASE NO. 736-V-12 & 737-V-12

PRELIMINARY MEMORANDUM

February 22, 2013

Champaign
County
Department of

PLANNING &
ZONING

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

(217) 384-3708

Petitioners: Matthew & Katie Warren

Request: Authorize the following in the R-1 Single Family Residence Zoning District:

CASE: 736-V-12

Part A. Variance for a lot area of 7,507.5 square feet in lieu of the minimum required 20,000 square feet required for lots connected to a public water supply, but without a connected public sanitary sewer system and created after September 21, 1993.

Part B. Variance for a front setback for an existing nonconforming dwelling of 33.5 feet from the centerline of Independence Street in lieu of the minimum required 55 feet.

Part C. Variance for a lot depth of 75 feet in lieu of the minimum required 80 feet.

CASE: 737-V-12

Part A. Variance for a lot area of 7,507.5 square feet in lieu of the minimum required 20,000 square feet required for lots connected to a public water supply, but without a connected public sanitary sewer system and created after September 21, 1993.

Part B. Variance for a front setback for an existing nonconforming dwelling of 33.5 feet from the centerline of Independence Street in lieu of the minimum required 55 feet.

Part C. Variance for a lot depth of 75 feet in lieu of the minimum required 80 feet.

Subject Property: Lot 7 of Block 2 of B.R. Hammer's Addition in the Northwest Quarter of Section 34 of East Bend Township and commonly known as the dwellings at 317 Independence, Dewey, and 318 Railroad Street, Dewey.

Site Area: 15,015 square feet (total area)

Time Schedule for Development: Existing

Prepared by: Andy Kass
Associate Planner

John Hall
Zoning Administrator

BACKGROUND

The subject property has two existing nonconforming dwellings on the same lot. The 15,015 square feet lot is located in a subdivision that was platted prior to the adoption of zoning on October 10, 1973. The petitioners have requested the Variance to authorize the division of the property to allow for the creation of a separate lot for each home. Each lot is proposed to be 7,507.5 square feet (100' × 75') in area. The Variance is intended to allow the petitioners to sell either or both homes in the future, and replace either or both homes if they are destroyed or demolished.

EXTRATERRITORIAL JURISDICTION

The subject property is not located within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential	R-1 Single Family Residence
North	Agriculture	R-1 Single Family Residence
East	Residential	R-1 Single Family Residence
West	Residential	R-2 Single Family Residence
South	Industrial/Commercial	AG-1 Agriculture/I-1 Light Industry

SEPTIC SYSTEMS

Staff has consulted with the Illinois Department of Public Health and the Champaign County Health Department regarding the age of the existing subsurface septic systems that serve each dwelling. No records were found regarding these systems which likely means they were installed prior to July 1986. The petitioners have had the location of each septic tank identified and have indicated the locations on the site plan. The petitioners have indicated verbally to staff that each system (tank and leach field) will be wholly contained on each proposed lot, but have not actually documented this with a field investigation.

Paragraph 4.3.4 of the Zoning Ordinance requires that a lot created after September 21, 1993, with a connected public water supply, but no connection to a sanitary sewer, be a minimum of 20,000 square feet in area and 100 feet wide. The proposed Variance is 62.5% of that minimum requirement.

The proposed 7,507.5 square feet lots create a concern regarding available area for future replacement of the existing septic systems, if necessary. Michael Flanagan, Environment Health Specialist, Champaign County Health Department, has provided comments regarding the proposed lot division and his comments are summarized as follows:

- Based on current regulations, the replacement of these systems with a surface discharging system would not be an issue, but in the near future an NPDES Permit will be required for a surface discharging system, and the ability to obtain this permit at this time is unknown.
- Based on his experience, the size of the proposed lots would not have adequate area for a new subsurface system, but this cannot be determined without a proper soil evaluation.

The petitioners have indicated to staff that they are going to have soil testing done on the subject property, but staff has not received a soil evaluation report.

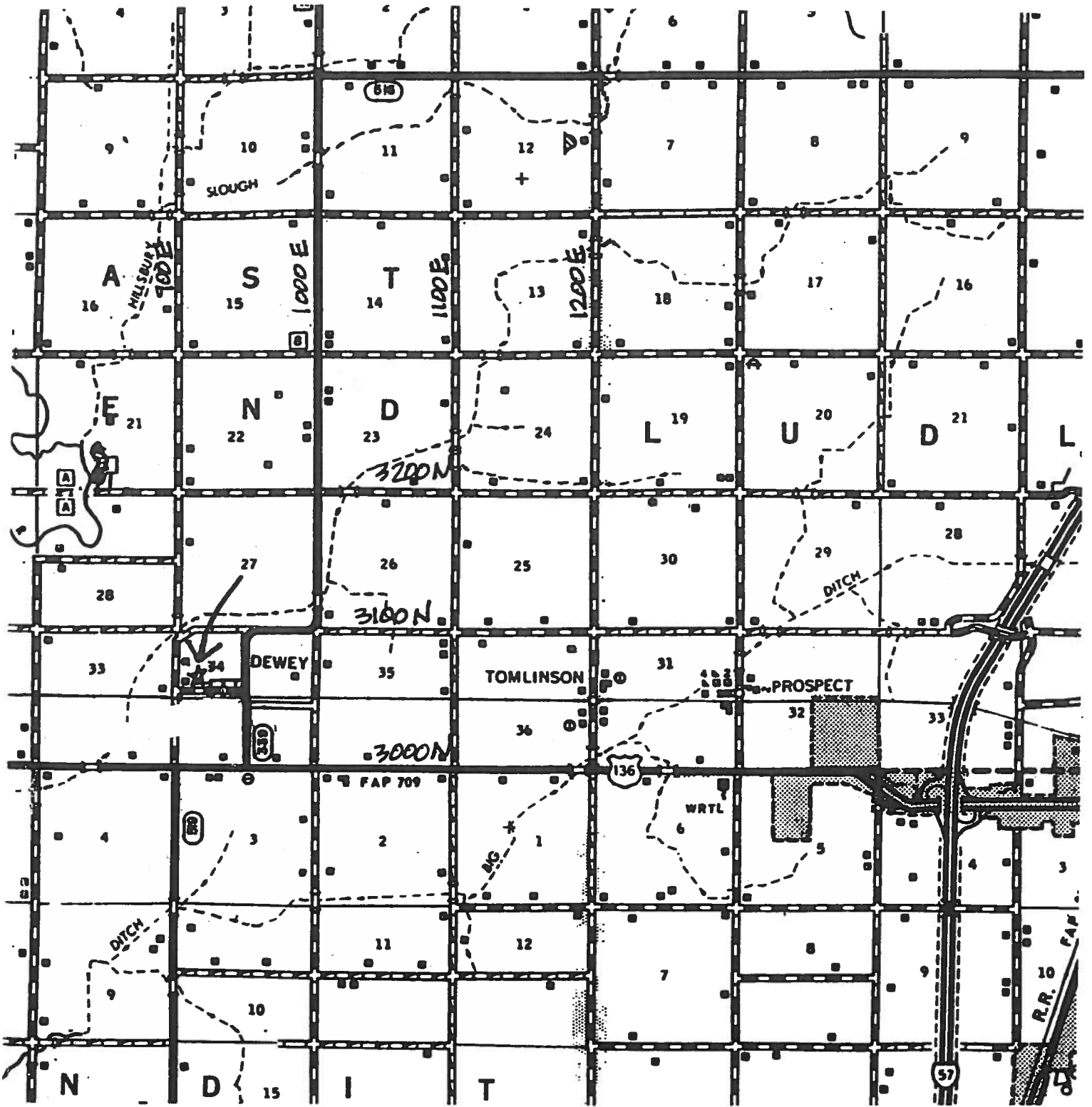
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received December 27, 2012
- C Annotated Site Plan
- D Email from Michael Flanagan dated January 29, 2013
- E Site Visit Photos (included separately to the petitioner and Board members photos are available on the County website)
- F Draft Summary of Evidence, Finding of Fact, and Final Determination (included separately)

ATTACHMENT A. LOCATION MAP

Cases: 736-V-12 & 737-V-12

February 22, 2013

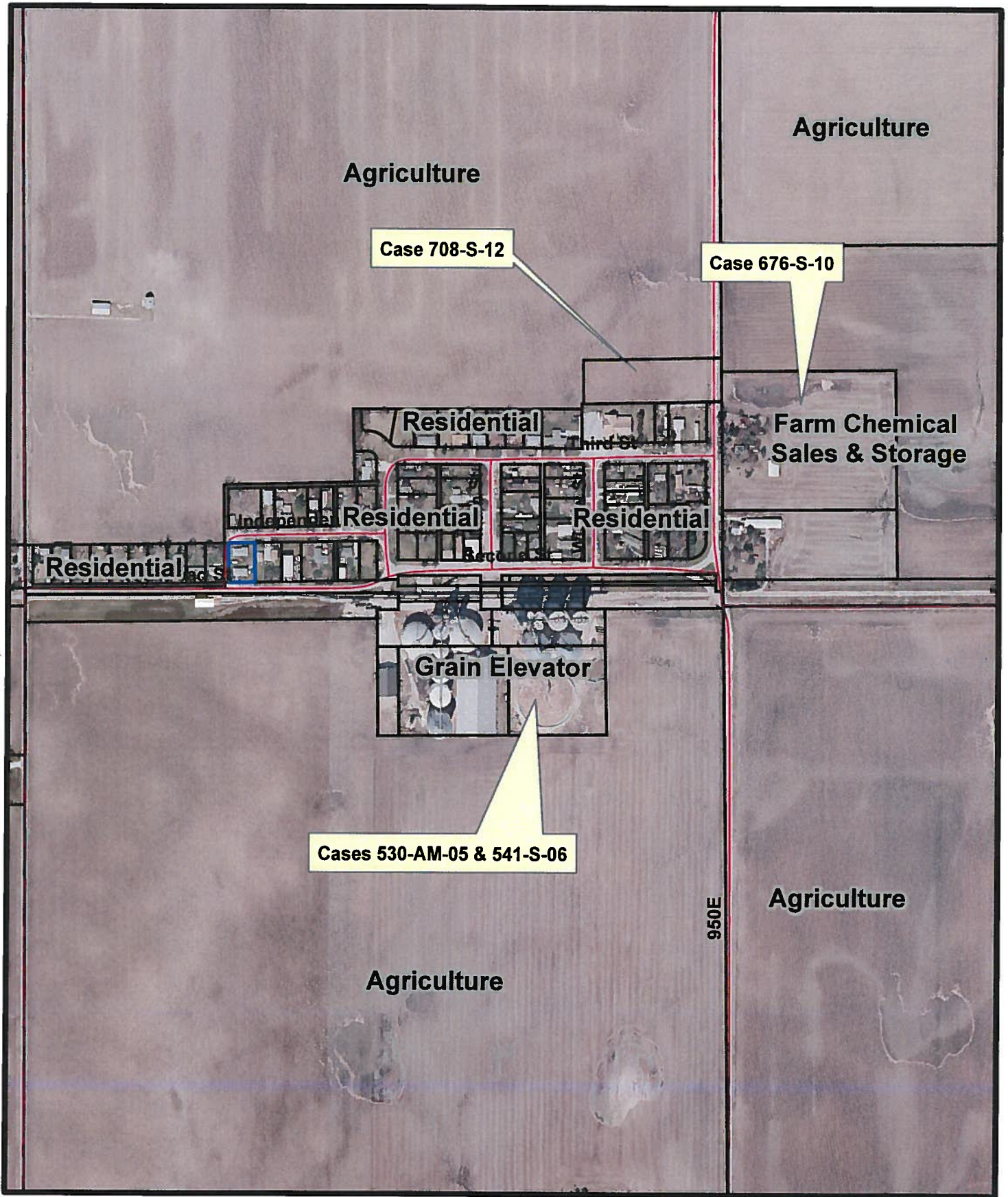


Area of Concern



Champaign
County
Department of
PLANNING &
ZONING

Attachment A: Land Use Map
Cases 736-V-12 & 737-V-12
February 8, 2013



 Subject Property

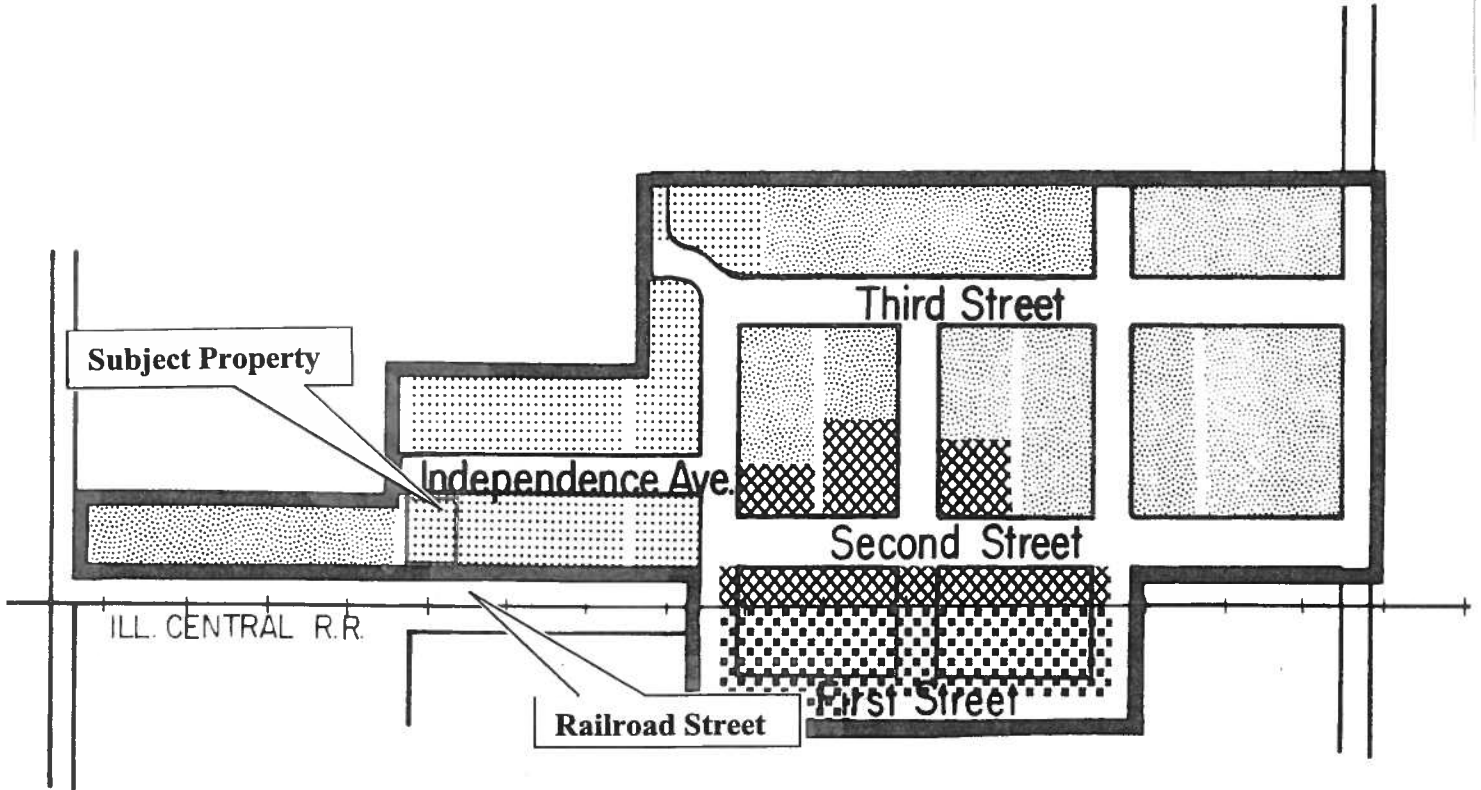
1 inch = 500 feet



ATTACHMENT A. ZONING MAP

Cases: 736-V-12 & 737-V-12

February 22, 2013



DEWEY

(Unincorporated)

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

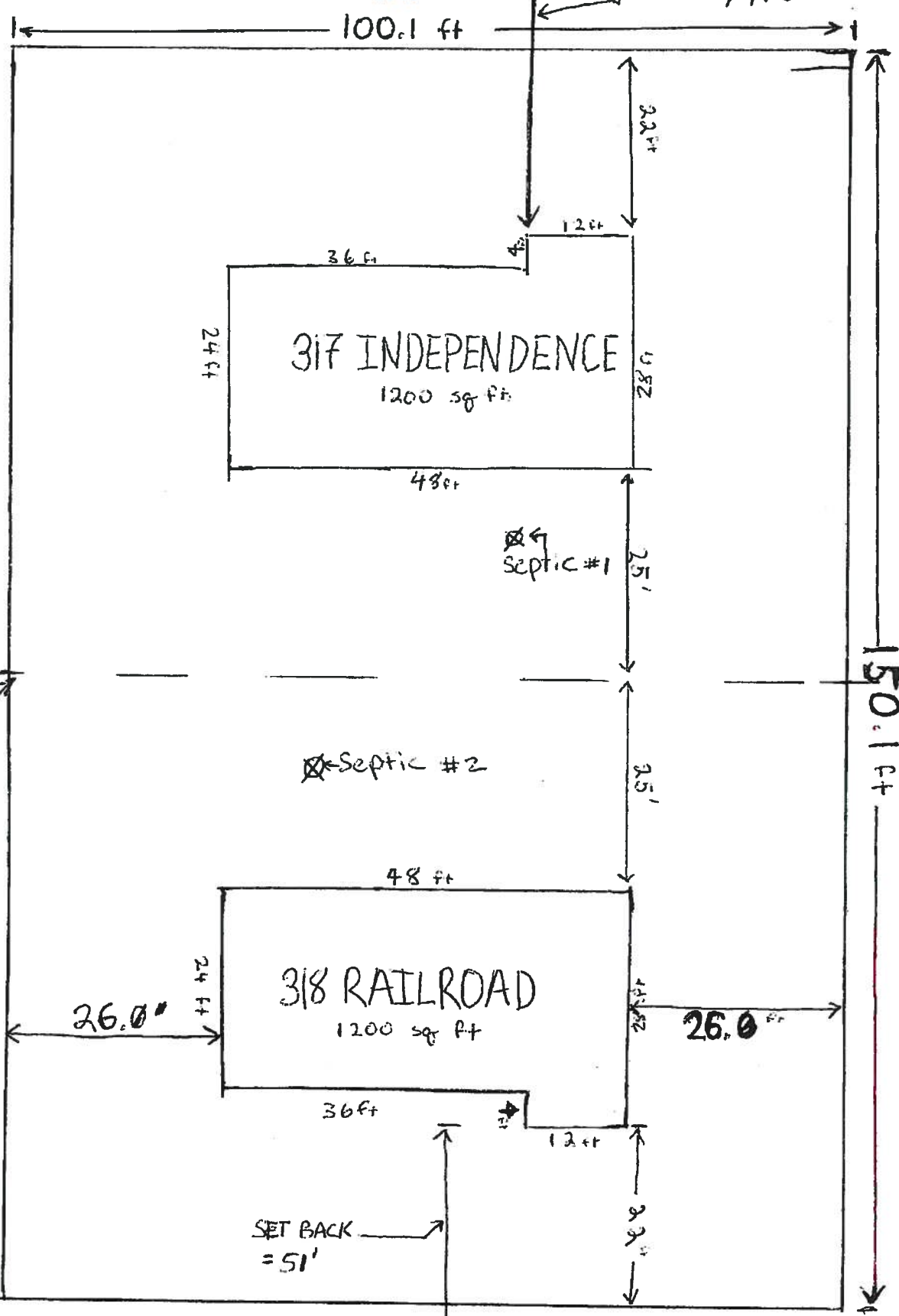
RECEIVED

DEC 27 2012

CHAMPAIGN CO. P & Z DEPARTMENT

□ = 4' x 4'

SET BACK = 44.6'



Requested line of division.

Warren, Dec 13 2012

Annotated SITE Plan

RECEIVED

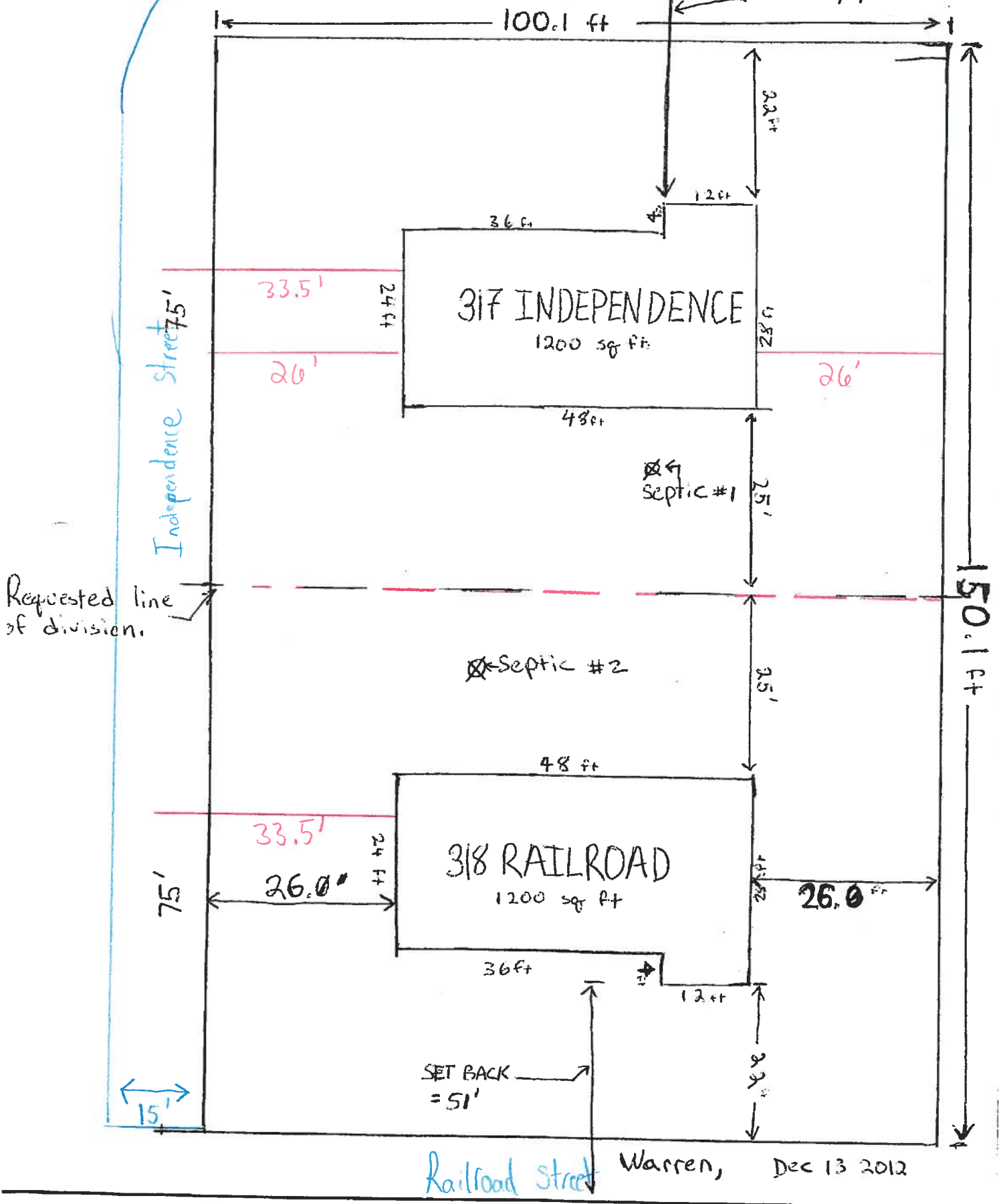
DEC 27 2012

CHAMPAIGN CO. P & Z DEPARTMENT

Independence Street

SET BACK = 44.6'

□ = 4' x 4'



Railroad Street Warren, Dec 13 2012

Andrew Kass

From: Michael Flanagan [mflanagan@c-uphd.org]
Sent: Tuesday, January 29, 2013 9:14 AM
To: Andrew Kass
Cc: mkw3902@yahoo.com
Subject: RE: Variance Case

Andy,

After reviewing the property, the only concern that I would have in approving this lot division is the replacement of a private sewage treatment system for each dwelling, if the need were to ever arise. Based on our current Illinois Private Sewage Disposal Code, the replacement of such a system with a surface discharging system would not be an issue.

However, the State of Illinois will be requiring, in the near future, NPDES permits for any surface discharging system. The ability to obtain such permit is, at this time, unknown. This permit will not be required for any subsurface system which, as indicated, this property currently has. Based on my experience, the size of the proposed lots in question does not have enough room for a new subsurface system, but this cannot be exactly determined without a proper soil evaluation.

Michael Flanagan, BS, LEHP, REHS
Environmental Health Specialist II
Environmental Health Division
Champaign-Urbana Public Health District
201 W. Kenyon Road
Champaign, IL 61820

Phone: (217) 531-2908
Fax: (217) 373-7905
mflanagan@c-uphd.org



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From: Andrew Kass [<mailto:akass@co.champaign.il.us>]
Sent: Wednesday, January 23, 2013 11:33 AM
To: Michael Flanagan
Subject: Variance Case



01/15/2013



01/15/2013

01/15/2013





01/15/2013



01/15/2013



01/15/2013

PRELIMINARY DRAFT

736-V-12 & 737-V-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: **February 28, 2013**

Petitioners: **Matthew & Katie Warren**

Request: **Authorize the following in the R-1 Zoning District:**

CASE: 736-V-12

- Part A. Variance for a lot area of 7,507.5 square feet in lieu of the minimum required 20,000 square feet required for lots connected to a public water supply, but without a connected public sanitary sewer system and created after September 21, 1993.
- Part B. Variance for a front setback for an existing nonconforming dwelling of 33.5 feet from the centerline of Independence Street in lieu of the minimum required 55 feet.
- Part C. Variance for a lot depth of 75 feet in lieu of the minimum required 80 feet.

CASE: 737-V-12

- Part A. Variance for a lot area of 7,507.5 square feet in lieu of the minimum required 20,000 square feet required for lots connected to a public water supply, but without a connected public sanitary sewer system and created after September 21, 1993.
 - Part B. Variance for a front setback for an existing nonconforming dwelling of 33.5 feet from the centerline of Independence Street in lieu of the minimum required 55 feet.
 - Part C. Variance for a lot depth of 75 feet in lieu of the minimum required 80 feet on the subject property described below.
-

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 28, 2013**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners Matthew and Katie Warren, 107 South Scarborough, Sidney, own the subject property.
2. The subject property is Lot 7 of Block 2 of B.R. Hammer's Addition in the Northwest Quarter of Section 34 of East Bend Township and commonly known as the dwellings at 317 Independence, Dewey, and 318 Railroad Street, Dewey.
3. The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.

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 zoned R-1 Single Family Residence, and is in residential use.
 - C. Land to the east is zoned R-1 Single Family Residence, and is in residential use.
 - D. Land to the west is zoned R-2 Single Family Residence, and is in residential use.
 - E. Land to the south is zoned AG-1 Agriculture and I-1 Light Industry, and is use for a railroad and grain elevator.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject site:
 - A. The subject property is approximately 15,015 square feet (100' × 150') in total.
 - B. The Site Plan received December 27, 2012, indicates the following:
 - (1) The proposed dimension for each of the two lots is 100.1' × 75' and each lot is proposed to be 7,507.5 square feet.
 - (2) The location of the existing 1,200 square feet home at 318 Railroad Street.
 - (3) The location of the existing 1,200 square feet home at 317 Independence Street.
 - (4) The location of each existing septic system.

- (5) The yards and setbacks for each existing home.
 - (6) The proposed division line of the property.
- C. The requested variance is as follows:
- (1) Case 736-V-12:
 - (a) Variance for a lot area of 7,507.5 square feet in lieu of the minimum required 20,000 square feet required for lots connected to a public water supply, but without a connected public sanitary sewer system and created after September 21, 1993.
 - (b) Variance for a front setback for an existing nonconforming dwelling of 33.5 feet from the centerline of Independence Street in lieu of the minimum required 55 feet.
 - (c) Variance for a lot depth of 75 feet in lieu of the minimum required 80 feet.
 - (2) Case 737-V-12:
 - (a) Variance for a lot area of 7,507.5 square feet in lieu of the minimum required 20,000 square feet required for lots connected to a public water supply, but without a connected public sanitary sewer system and created after September 21, 1993.
 - (b) Variance for a front setback for an existing nonconforming dwelling of 33.5 feet from the centerline of Independence Street in lieu of the minimum required 55 feet.
 - (c) Variance for a lot depth of 75 feet in lieu of the minimum required 80 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) "AREA, LOT" is the total area within the LOT LINES.
 - (2) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
 - (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) “DWELLING” is a BUILDING or MANUFACTURED HOME designated for non-transient residential living purposes and containing one or more DWELLING UNITS and/or LODGING UNITS.
- (5) “DWELLING UNIT” is one or more rooms constituting all or part of a DWELLING which are used exclusively as living quarters for one FAMILY, and which contains a bathroom and kitchen.
- (6) “DWELLING, SINGLE FAMILY” is a DWELLING containing one DWELLING UNIT.
- (7) “DWELLING, TWO-FAMILY” is a DWELLING containing two DWELLING UNITS with one DWELLING UNIT arranged on the same story or in stories above the other DWELLING UNIT.
- (8) “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.
- (9) “LOT DEPTH” is the distance between the midpoint of the FRONT LOT LINE and the midpoint of the REAR LOT LINE or LINES.
- (10) “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.
- (11) “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.
- (12) “LOT LINES” are the lines bounding a LOT.
- (13) “LOT WIDTH, AVERAGE” is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
- (14) “NONCONFORMING LOT, STRUCTURE, OR USE” is a LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.

- (15) “NONCONFORMING PREMISES” is a NONCONFORMING LOT with a NONCONFORMING STRUCTURE located on it.
 - (16) “PUBLIC SANITARY SEWER SYSTEM” is any system, other than an individual septic tank or tile field that is operated by a municipality, governmental agency, or a public utility for the collection, treatment, and disposal of liquid and solid sewage wastes, other than storm waters.
 - (17) “PUBLIC WATER SUPPLY SYSTEM” is any system, other than an individual well, that is operated by a municipality, governmental agency, or a public utility for the purpose of furnishing potable water.
 - (18) “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.
 - (19) “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.
 - (20) “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.
 - (21) “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.
- H. 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.
- I. Paragraph 4.3.4 of the *Zoning Ordinance* establishes the minimum LOT Dimensions for lots connected to a public water supply, but without a connected public sanitary sewer system and created after September 21, 1993, as a minimum of 20,000 square feet.
 - J. Paragraph 4.3.4E. of the *Zoning Ordinance* establishes the standard that no LOT hereafter or created shall be less than 80 feet in depth except in the B-5, Central Business DISTRICT.
 - K. Section 5.3 of the *Zoning Ordinance* establishes the minimum front setback from the centerline of a MINOR STREET as 55 feet.

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 15,015 square feet size lot has two single family dwellings (built 1970). Property is double frontage to parallel running streets, Railroad Street and Independence Street. Two addresses but one tax parcel.”**
 - B. B.R. Hammer’s Addition was platted prior to the adoption of the *Zoning Ordinance* on October 10, 1973. Prior to the adoption of zoning there was no guidance on minimum lot size or any other minimum lot dimensions.

- C. The existing homes on the property were built prior to the adoption of the *Zoning Ordinance* on October 10, 1973. Prior to the adoption of zoning there was no guidance on the placement of structures or the number of authorized principal buildings on one lot.
- D. Neither the Illinois Department of Public Health nor the Champaign County Public Health Department has any record of either existing septic system on the subject property so it is likely that these systems were installed prior to July 1986. There is concern whether the proposed lot area for the proposed lots will be adequate for the future installation of replacement sewage disposal systems.
- E. Michael Flanagan, Environmental Health Specialist, Champaign County Health Department, provided comments regarding the proposed Variance in an email to Andy Kass, Associate Planner, of January 29, 2013. Mr. Flanagan's comments are summarized as follows:
 - (1) Based on current regulations, the replacement of these systems with a surface discharging system would not be an issue, but in the near future an NPDES Permit will be required for a surface discharging system, and the ability to obtain this permit at this time is unknown.
 - (2) Based on his experience, the size of the proposed lots would not have adequate area for a new subsurface system, but this cannot be determined without a proper soil evaluation.
- F. The west side of the subject property is bordered by Independence Street. This portion of Independence Street was originally intended to be an alley and only has a width of 15 feet. The East Bend Township Highway Department maintains this portion, it is chip sealed, and the Township Highway Commissioner has indicated that he would consider it a street.

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, **"The request is to divide evenly. There is no property adjacent purchasable to accommodate larger tract size."**
 - B. Without the proposed variance it could be difficult for the petitioner's to sell either home due to potential buyers not being able to secure a mortgage for a home on a lot that has another home located on it.
 - C. B.R. Hammer's Addition was platted prior to the adoption of the *Zoning Ordinance* on October 10, 1973. Prior to the adoption of zoning there was no guidance on minimum lot size or any other minimum lot dimensions.

- D. The existing homes on the property were built prior to the adoption of the *Zoning Ordinance* on October 10, 1973. Prior to the adoption of zoning there was no guidance on the placement of structures or the number of authorized principal buildings on one lot.
- F. The west side of the subject property is bordered by Independence Street. This portion of Independence Street was originally intended to be an alley and only has a width of 15 feet. The East Bend Township Highway Department maintains this portion, it is chip sealed, and the Township Highway Commissioner has indicated that he would consider it a street.

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, **“Structures were existing.”**
 - B. B.R. Hammer’s Addition was platted prior to the adoption of the *Zoning Ordinance* on October 10, 1973. Prior to the adoption of zoning there was no guidance on minimum lot size or any other minimum lot dimensions.
 - C. The existing homes on the property were built prior to the adoption of the *Zoning Ordinance* on October 10, 1973. Prior to the adoption of zoning there was no guidance on the placement of structures or the number of authorized principal buildings on one lot.
 - D. The west side of the subject property is bordered by Independence Street. This portion of Independence Street was originally intended to be an alley and only has a width of 15 feet. The East Bend Township Highway Department maintains this portion, it is chip sealed, and the Township Highway Commissioner has indicated that he would consider it a street.

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, **“After division of the lot the property would remain greater than 3:1 width to depth ratio. There would no longer be a double frontage lot in existence at this property. The setback from existing structures to roads would not change.”**
 - B. Regarding the requested Variance is Cases 736-V-12 and 737-V-12:
 - (1) The requested variance for a lot area of 7,507.5 square feet is 37.5% of the minimum required 20,000 square feet for a variance of 62.5%.

- (2) The requested variance for a front setback of 33.5 feet is 61% of the minimum required 55 feet for a variance of 39%.
 - (3) The requested variance for a lot depth of 75 feet is 94% of the minimum required 80 feet for a variance of 6%.
- C. Regarding the minimum required lot area:
- (1) The County reviewed the minimum lot area and minimum average lot width requirements in Case 847-AT-93. That case established the importance of accommodating onsite wastewater treatment on lots without connection to a sanitary sewer system. As amended, following Case 847-AT-93, the Ordinance requires a minimum lot area of 30,000 square feet and a minimum average width of 150 feet in the R-1 District if there is no sanitary sewer and no public water supply. Further, if a connected public water supply system is available, Paragraph 4.3.4.B. only requires a minimum lot area of 20,000 square feet and a minimum average lot width of 100 feet.
 - (2) Besides the importance of accommodating onsite wastewater treatment and disposal as part of the basis for the minimum lot area requirement, other considerations are as follows:
 - (a) Adequate light and air: The subject property has two existing single family homes on the lot. There are residential uses to the east, west, and north of the property and industrial/commercial uses to the south.
 - (b) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is within the Sangamon Valley Fire Protection District and the station is approximately 4.3 road miles from the subject property.
 - (c) Aesthetics may also play a part in the minimum lot area requirement.
- D. Generally regarding the minimum required lot depth:
- (1) The minimum required lot depth of 80 feet has been in the *Zoning Ordinance* since its adoption in 1973.
 - (2) Presumably the intention of this standard is to provide for considerations such as adequate yards, loading and parking areas, and open spaces.
- E. TWO-FAMILY DWELLINGS are authorized in the R-1 District by Special Use Permit. The minimum lot size for a lot created after September 21, 1993 with public water but no connected PUBLIC SANITARY SEWER SYSTEM is 27,000 square feet with a minimum average lot width of 100 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: **“Granting the requested variance will promote individual owner occupied status of the dwellings, and also increase property value. No other adjacent properties would be affected.”**
 - 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.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:

No Special Conditions are proposed at this time.

DOCUMENTS OF RECORD

1. Variance Application (Case 736-V-12) received on October 25, 2012, with attachments:
 - A Septic Invoice
 - B Site Plan

 2. Variance Application (Case 737-V-12) received on October 25, 2012, with attachments:
 - A Septic Invoice
 - B Site Plan

 3. Revised Site Plan received December 27, 2013

 4. Preliminary Memorandum for Cases 736-V-12 & 737-V-12 dated February 22, 2013 with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received December 27, 2012
 - C Annotated Site Plan
 - D Email from Michael Flanagan dated January 29, 2013
 - E Site Visit Photos
 - F Draft 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 cases 736-V-12 and 737-V-12 held on February 28, 2013, 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 FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements 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 736-V-12 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Matthew & Katie Warren** to authorize the following in the R-1 Single Family Residence Zoning District:

- Part A. Variance for a lot area of 7,507.5 square feet in lieu of the minimum required 20,000 square feet required for lots connected to a public water supply, but without a connected public sanitary sewer system and created after September 21, 1993.**
- Part B. Variance for a front setback for an existing nonconforming dwelling of 33.5 feet from the centerline of Independence Street in lieu of the minimum required 55 feet.**
- Part C. Variance for a lot depth of 75 feet in lieu of the minimum required 80.**

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date

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 737-V-12 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Matthew & Katie Warren** to authorize the following in the R-1 Single Family Residence Zoning District:

- Part A. Variance for a lot area of 7,507.5 square feet in lieu of the minimum required 20,000 square feet required for lots connected to a public water supply, but without a connected public sanitary sewer system and created after September 21, 1993.**
- Part B. Variance for a front setback for an existing nonconforming dwelling of 33.5 feet from the centerline of Independence Street in lieu of the minimum required 55 feet.**
- Part C. Variance for a lot depth of 75 feet in lieu of the minimum required 80.**

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date